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When recorded return to:  
C&N Investment Properties, LLC  
1835 S Highway 89  
Perry, Utah 84302

ENT 148659:2021 PG 1 of 11  
ANDREA ALLEN  
UTAH COUNTY RECORDER  
2021 Aug 26 8:48 am FEE 40.00 BY JR  
RECORDED FOR LEADING TECH CONSTRUCTIO

### RESTRICTIONS AND EASEMENTS AGREEMENT

THIS RESTRICTIONS AND EASEMENTS AGREEMENT (the "Agreement") is made and entered into this 18<sup>th</sup> day of March, 2021 by C & N Eagle Mountain 3, LLC, a Utah limited liability company, and C & N Eagle Mountain DT, LLC, a Utah limited liability company and C & N Eagle Mountain, LLC a Utah limited liability company, or their assigns (collectively referred to herein as the "Parties").

### RECITALS

WHEREAS, C & N Eagle Mountain 3, LLC is the owner of that certain real property legally described in **Exhibit "A"** attached hereto and incorporated herein (the "**O'Reilly Property**") located in Eagle Mountain, Utah;

WHEREAS, C & N Eagle Mountain DT, LLC is the owner of that certain real property legally described in **Exhibit "B"** attached hereto and incorporated herein located in Eagle Mountain, Utah;

WHEREAS, C & N Eagle Mountain, LLC is the owner of that certain real property legally described in **Exhibit "C"** attached hereto and incorporated herein located in Eagle Mountain, Utah, and C&N Eagle Mountain, LLC has leased all or a portion of the its property to 7-Eleven, Inc., a Texas corporation ("**7-Eleven**");

WHEREAS, the property owned by Eagle Mountain DT, LLC and C & N Eagle Mountain, LLC shall hereinafter be referred to as the "**C&N Property**", and the O'Reilly Property and C&N Property are collectively referred to herein as the "**Development**";

WHEREAS, the Parties, in connection with the conveyance of the O'Reilly Property from C & N Eagle Mountain 3, LLC, to C & N Eagle Mountain, LLC, and/or its successors assigns or affiliates, desire to establish certain non-exclusive cross access easements for access over and across the O'Reilly Property and the C&N Property, to achieve harmonious operation of the Development, all for the mutual and reciprocal benefit of the Development, the present and future owners thereof, on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the above premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby declare that the Development and all present and future owners of the Development shall be and hereby are subject to the terms, easements, and conditions hereinafter set forth in this Agreement, so that the Development shall be maintained, kept, sold and used in full compliance with and subject to this Agreement and, in connection therewith, the Parties covenant and agree as follows:

### AGREEMENT

#### 1. Easements

1.1 Grant of Reciprocal Easements: Any record title owner of one or more of the lots described in **Exhibit "A"** and "**B"**, or a portion thereof, is hereinafter an "**Owner**" or

collectively, “Owners”. The Parties hereby declare that the Development shall be benefited and burdened by the below-described nonexclusive, perpetual, and reciprocal easements which are hereby imposed upon the Development and all present and future Owners:

(a) A permanent, non-exclusive easement for reasonable access, ingress, and egress over all paved driveways, roadways, and walkways as presently or hereafter constructed throughout the Development, and specifically designed for vehicular and pedestrian traffic, benefitting the Owners of the Development (collectively “Permittees”) so as to provide for the passage of motor vehicles and pedestrians between all portions of the Development from, between and onto each lot within the Development via all portions of the Development so designed for such motor vehicle or pedestrian traffic, respectively, from time-to-time, and to and from all abutting streets or rights of way furnishing access to the Development. Such easement shall specifically exclude any area on which a building is or may hereafter be located. Such easement shall specifically exclude cross parking rights.

1.2 Insurance. Each Owner shall obtain and maintain at all times commercial general liability insurance insuring against claims on account of death, bodily injury or property damage that may arise from or be occasioned by the condition, use or occupancy of the reciprocal easements granted under Section 1.1 of this Agreement and located on that Owner’s Property. Said insurance shall be obtained and maintained in a reputable insurance company or companies qualified to do business in the State of Utah with a rating in the Best's Key Rating Guide of A- Class XI or better and having limits for bodily injury or death in which the combined single limit shall be not less than Three Million Dollars (\$3,000,000.00) per occurrence. Such insurance shall name each other Owner as an additional insured. From time to time and upon written request by an Owner, a certificate of insurance shall be furnished by the Owner showing the required coverage. Such insurance shall provide that the insurance may not be canceled without at least thirty (30) days prior written notice by the insurer to the Owner named as an additional insured and shall provide for waiver of subrogation rights. Said insurance may be carried under a "blanket" policy or policies.

1.3 Indemnity. Each Owner hereby indemnifies, defends and holds each other Owner, its successors, assigns, and agents harmless for, against, and from any and all claims, liability, losses, costs, charges, or expenses which may be incurred as a result of use of the easements granted under Section 1.1 of this Agreement located on its respective lot. If any action, claim or demand is made against the indemnified Owner for any occurrence on the indemnifying Owner’s lot, the indemnifying Owner agrees to assume the expense and shall pay all costs, charges, attorney fees, settlements, judgment or other expenses incurred by or obtained against the indemnified Owner. The indemnification obligations under this Section 1.3 exclude action, claims, or demands arising from the willful misconduct or gross negligence of an indemnified Owner.

1.4 Maintenance. Each Owner and or its tenants and/or occupants shall be responsible to properly maintain, clean, repair, insure and pay applicable real estate taxes on and for the behalf of any reciprocal access driveways, parking areas and sidewalks and any multi-tenant signs located on its respective property to be maintained in good condition and repair and pay such costs associated therewith. Such maintenance shall include, but not be limited to, sweeping, seal coating, hole patching, snow removal, and trash removal.

## 2. Property Restrictions.

2.1 Open Access. Except for temporary closures solely for a permitted Non-Dedication Period under Section 3.6, Owner shall keep the easternmost access to Pony Express Parkway (“Parkway Access”) open and unobstructed at all times. The Parkway Access shall not be

altered, closed (except for a Non-Dedication Period), or relocated without the prior written consent of all Owners.

2.2 **Enforcement.** In addition to all other remedies available to Owners at law or in equity, Owner(s) may seek injunctive relief through a court of competent jurisdiction to enforce the provisions of this Section 2. In addition, 7-Eleven shall have the right, at its option, to enforce the covenants and conditions of this Agreement.

2.3 **Exclusive.** The Parties hereby agree that no occupant (other than 7-Eleven, Inc.) within the Development shall operate (i) a business which provides or offers, banking or other financial services (including automatic teller machines) except that a retail branch bank or credit union may operate within the LSC Property, (ii) a Convenience Store, (iii) a Motor Fuels Facility or (iii) a business which offers for sale or rental, in connection with all or any part of its business operations, any of the following items (collectively, the “**Exclusive Items**”):

- (i) packaged fluid milk in one quart or larger containers;
- (ii) fresh or commercially packaged bakery or bread products;
- (iii) delicatessen and delicatessen type items, including, but not limited to, packaged lunch meats, pre-prepared sandwiches and foods, chicken wings and chicken fingers, grill items (such as hot dogs), burritos, taquitos, pre-made salads and fruit cups or fruit salad for consumption on or off premises;
- (iv) pizza by the slice;
- (v) grocery items commonly sold from a convenience store;
- (vi) cigarettes and tobacco products, unless vended by machine;
- (vii) beer and wine for off premise consumption;
- (viii) health and beauty care products;
- (ix) chilled, single serve beverages, including frozen or semi-frozen carbonated beverages;
- (x) energy drinks by the case, bottle, or can;
- (xi) beverages in six pack, eight pack, twelve pack, case lots, half, one or two liter bottles;
- (xii) candy, unless sold from a candy store or gift boxed or sold in bulk;
- (xiii) hot beverages by the cup, including coffee or hot chocolate;
- (xiv) newspapers, magazines and paperback books except from a bookstore;
- (xv) packaged or canned motor fuels or petroleum products;
- (xvi) lottery ticket, money orders (except from a bank or credit union), phone cards (except from a phone specialty store); and/or
- (xvii) gift cards (other than gift cards sold by a tenant of the Development for the particular business operated by such tenant within the Development).

The term “**Convenience Store**” shall mean a retail store selling, renting or providing merchandise and/or services customarily sold, rented or provided from time to time at stores operated or franchised by Tenant within the State of Utah, and including by way of example, but not limited to, merchandise and/or services customarily sold, rented or provided from time to time at stores such as a Cumberland Farms, Circle K, Stop N Shop, On the Run, High’s, QuickChek, Store 24, WaWa, and Kwik Stop, and other regional, ethnic or “mom and pop” convenience stores or businesses. The term “**Motor Fuels Facility**” shall mean a self-service and/or full-service facility which provides for the retail sale and dispensing of gasoline and other petroleum products, including the related underground storage tanks, lines, dispensing pumps, meters and measuring devices, in tank monitoring devices, canopies, lights, intercommunication systems, elevated concrete islands and parking strips or pads and related electrical and piping systems, any air/water/vacuum stations, and gas controllers, diagnostic or monitoring equipment, motor fuels POS equipment, and credit card readers necessary for the operation of such Motor Fuels Facility.

Notwithstanding the foregoing, C&N Investment Properties, LLC and/or its affiliates is expressly permitted to lease any property to a dollar or discount variety store, such as Dollar Tree, Family Dollar or Dollar General.

### 3. Miscellaneous

3.1 Amendment. The Parties agree that the provisions of this Agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of the Development, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the applicable county records. Any amendment to this Agreement which would materially affect the rights, obligations and/or operations of 7-Eleven shall require the prior written consent of 7-Eleven.

3.2 Severability. Each provision of this Agreement and the application thereof to all of the lots constituting the Development are hereby declared to be independent of and severable from the remainder of this Agreement. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Agreement. In the event the validity or enforceability of any provision of this Agreement is held to be dependent upon the existence of a specific legal description, the Owner agrees to promptly cause such legal description to be prepared.

3.3 Entire Agreement. This Agreement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations and understandings are superseded hereby.

3.4 Governing Law. The laws of the State of Utah shall govern the interpretation, validity, performance, and enforcement of this Agreement.

3.5 Binding Effect. The easements established, granted, and conveyed herein, including the benefits and burdens, shall run with the land and shall benefit and bind all current and future Owners of the benefitted and burdened parcels of the Development, their heirs, successors, and assigns.

3.6 Disclaimer of Public Dedication. No use of the Development by tenants, employees, service providers, customers, guests, agents, contractors, or the public generally (“**Permittees**”) from and after the date of this Agreement shall be interpreted or construed to be a public dedication, or to ever confer upon the public any right to continue to make such use permanently. In the pursuit of preventing public dedication, the Owners of the Development may each temporarily block access to the easements granted under Section 1.1 of this Agreement, for a period of time reasonably necessary to prevent any such public dedication (“**Non-Dedication Period**”).

3.7 Duration. The easements, covenants, conditions and restrictions contained in this Agreement shall be effective commencing on the date of recordation of this Agreement in the office of the Utah County Recorder and shall remain in full force and effect thereafter in perpetuity, unless this Agreement is modified, amended, canceled or terminated by the written consent of all Owners.

3.8 Modification. This Agreement shall not be modified unless expressly agreed to in writing by each of the parties.

3.9 Notices. Any notice or designation to be given hereunder shall be given by placing the notice or designation in the United States mail, certified or registered, properly stamped and addressed to the address shown below in this Section 5.8 or such other address as the respective party may direct in writing to the other, or by personal delivery to such address by a party, or by a delivery service which documents delivery, and such notice or designation shall be deemed to be received upon such placing in the mails or such delivery. Email notice is also acceptable provided that any notice delivered by email shall be sent with a receipt confirmation request, which the other party shall promptly confirm upon receipt of such email notice. Email notices shall be deemed to be received upon the earlier of (1) sender's receipt of either an automatic or manual receipt confirmation email; or (2) the expiration of one (1) hour after such email notice was transmitted from the sending party's email server.

C & N Eagle Mountain 3, LLC:

C & N Eagle  
Mountain 3, LLC  
1835 S. Hwy 89  
Perry, UT 84302

C & N Eagle Mountain Properties:

C&N Eagle Mountain Properties  
1835 S Hwy 89  
Perry, UT 84302

7-Eleven

7-Eleven Inc.  
Cypress Waters  
3200 Hackberry Road  
Irving, TX 75063  
Attn: Corporate Real Estate Store #41643

*[Remainder of page left intentionally blank.]*  
*[Signatures on the following page.]*

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed the day and year first written above.

C & N Eagle Mountain 3, LLC

By: [Signature]  
Its: Manager

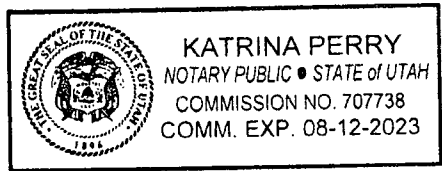
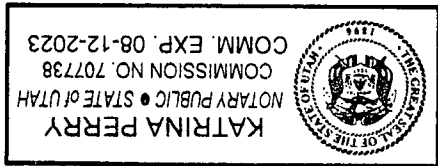
Dated: 3/18/2021

ACKNOWLEDGMENTS

STATE OF UTAH )  
                  Box Elder : ss.  
COUNTY OF SALT LAKE )

On the 18 day of March 2021, before me personally appeared Ryan Forsyth, to me personally known, who being by me duly sworn did say that he is the manager of C&N Eagle Mountain 3, LLC known to be the C&N Eagle Mountain 3, LLC the company that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its Operating Agreement.

[Signature]  
Notary Public



C & N EAGLE MOUNTAIN DT, LLC

By: *Ryan Forsyth*  
Its: Manager

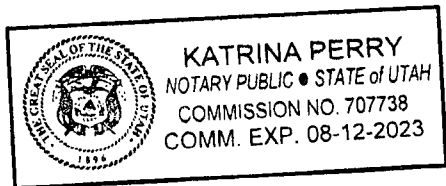
Dated: 3/18/2021

**ACKNOWLEDGMENTS**

STATE OF )  
 ) : ss.  
COUNTY OF Box Elder )

On the 18 day of March 2021, before me personally appeared Ryan Forsyth, to me personally known, who being by me duly sworn did say that he is the manager known to be the manager of C & N Eagle Mountain DT the company that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its Operating Agreement.

*Katrina Perry*  
Notary Public



C & N EAGLE MOUNTAIN, LLC

By: *Ryan Forsyth*  
Its: Manager

Dated: 3/18/2021

ACKNOWLEDGMENTS

STATE OF \_\_\_\_\_ )  
  : ss.  
COUNTY OF Box Elder )

On the 18 day of March 2021, before me personally appeared Ryan Forsyth, to me personally known, who being by me duly sworn did say that he is the manager known to be the manager of C&N Eagle Mountain the company that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its Operating Agreement.

*Katrina Perry*  
Notary Public





**Exhibit "A"**

**LEGAL DESCRIPTION OF C & N EAGLE MOUNTAIN 3 PROPERTY**

**Lot No. 3**

Beginning at a point which is located South 0°37'43" West 49.19 feet along the Section Line and East 419.86 feet from the Northwest Corner of Section 28, Township 5 South, Range 1 West, Salt Lake Base and Meridian;

Thence South 89°09'18" East 175.81 feet;

Thence South 0°35'05" West 212.16 feet;

Thence South 89°59'54" West 175.82 feet;

Thence North 0°35'05" East 214.76 feet to the Point of Beginning

Contains 37,528 Square Feet, more or less

**Exhibit "B"**

**LEGAL DESCRIPTION OF C&N EAGLE MOUNTAIN DT PROPERTY**

**Lot No. 2**

Beginning at a point which is located South 0°37'43" West 45.93 feet along the Section Line and East 198.86 feet from the Northwest Corner of Section 28, Township 5 South, Range 1 West, Salt Lake Base and Meridian;

Thence South 89°09'18" East 220.99 feet;

Thence South 0°35'05" West 214.76 feet;

Thence South 89°59'54" West 218.27 feet;

Thence North 0°07'53" West 218.02 feet to the Point of Beginning

Contains 47,523 Square Feet, more or less

**Exhibit "C"**

**LEGAL DESCRIPTION OF C&N EAGLE MOUNTAIN PROPERTY**

**Lot No. 1**

Beginning at a point which is located South  $0^{\circ}37'43''$  West 43.03 feet along the Section Line and East 2.05 feet from the Northwest Corner of Section 28, Township 5 South, Range 1 West, Salt Lake Base and Meridian;

Thence South  $89^{\circ}09'18''$  East 196.80 feet;

Thence South  $0^{\circ}07'53''$  East 218.02 feet;

Thence South  $89^{\circ}59'54''$  West 184.57 feet;

Thence 23.73 feet along the arc of a 15 foot radius curve to the Right thru a Central Angle of  $90^{\circ}38'21''$  (Chord Bears North  $44^{\circ}40'50''$  West 21.33 feet);

Thence North  $0^{\circ}38'21''$  East 205.77 feet to the point of Beginning

Contains 43,463 Square Feet, more or less