

ENT 67441:2015 PG 1 of 17  
Jeffery Smith  
Utah County Recorder  
2015 Jul 28 09:46 AM FEE 47.00 BY SS  
RECORDED FOR First American Title Insurance  
ELECTRONICALLY RECORDED

NCS- 690174

WHEN RECORDED RETURN TO:  
STATIONS WEST - SARATOGA, LLC  
c/o Phillips Edison & Company, Ltd.  
Attn: Diane Schroer, Esq.  
11501 Northlake Drive  
Cincinnati, OH 45249

**DECLARATION**

66:387:0003  
66:387-0004

THIS DECLARATION ("Declaration") is made effective as of the 28<sup>th</sup> day of July, 2015 by STATIONS WEST - SARATOGA, LLC, an Ohio limited liability company ("Declarant").

**RECITALS:**

- A. Declarant is the owner of a certain parcel of property in Saratoga Springs, Utah ("Shopping Center") more particularly described in Exhibit A attached hereto and incorporated herein by reference.
- B. Declarant contemplates sale of a certain parcel of property in Saratoga Springs, Utah (the "Outlot"), currently part of The Shopping Center and more particularly described in Exhibit B attached hereto and incorporated herein by reference.
- C. Declarant desires to establish certain access, utility and other easements over and to establish use and building restrictions with respect to the Shopping Center and the Outlot, and to provide for the sharing of certain costs in connection therewith, and in contemplation of the sale and development of the Outlot.
- D. Any modification of this Declaration shall require consent of the Declarant and the then-owner or owners of the Outlot described in Exhibit B.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, the parties agree as follows:

1. DEFINITIONS.

For purposes hereof

(a) The term “*Common Area*” shall mean the Driveways, landscaped areas and facilities and systems for drainage and storage of storm water located from time to time on the Parcels.

(b) The term “*Driveways*” shall mean the driveways and roadways and related improvements, entrances and exits to and from the public roadways adjoining the same, sidewalks, walkways, and curbing and paving with respect thereto located from time to time on the Parcels.

(c) The term “*Owner*” or “*Owners*” shall mean either or both of Declarant and Outlot Owner, as the case may be, and any and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property benefited or burdened hereby, whether by sale, assignment, inheritance, operation of law, trustee’s sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.

(d) The term “*Parcel*” or “*Parcels*” shall mean either or all of the Shopping Center or the Outlot, as the case may be, and any future subdivisions thereof.

(e) The term “*Permittee*” or “*Permittees*” shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees and licensees of (a) the Owner of such Parcel, and/or (b) such tenant(s) or occupant(s).

(f) The term Site Plan shall mean the Site Plan attached hereto as Exhibit D.

Wheresoever this DECLARATION refers to the obligations, rights or duties of a Parcel, it shall be deemed to refer to the obligations, rights and duties of the respective Owners thereof.

2. EASEMENTS.

(a) Grant of Easements. Subject to any express conditions, limitations or reservations elsewhere contained herein:

i. Declarant hereby grants and conveys, for the benefit of the Outlot and all Owners and Permittees of the Outlot, a nonexclusive, perpetual and reciprocal easement for reasonable access, ingress and egress over the Driveways located upon the Shopping Center so as to provide for the passage of motor vehicles and pedestrians between the Outlot and the public rights of way adjacent to the Shopping Center.

ii. Declarant hereby grants and conveys, for the benefit of the Outlot and all Owners and Permittees of the Outlot, a nonexclusive, perpetual easement in, to, over, under, along and across those portions of the Shopping Center (exclusive of any portion located within any building) necessary for the installation, operation, flow, passage, use, maintenance, connection, repair, replacement, relocation, and removal of facilities and systems for the transmission of utility services serving the Outlot, including without limitation, the right to connect into any retention and detention ponds (collectively, the “*Utility Lines*” and individually, a “*Utility Line*”). Such easement area shall be as set forth of record, and any and all work to be undertaken in connection with this section shall be done in a good, workmanlike and lien free manner. All damage to any asphalt surfaces or landscaping located upon the Shopping Center in connection with any such work shall be promptly restored by Outlot Owner. Declarant shall have sole discretion in scheduling any of such work which shall occur on the Shopping Center. Outlot

Owner shall, notwithstanding anything herein contained to the contrary, indemnify, defend and hold harmless Declarant with respect to all claims, liabilities and expenses (including reasonable attorney's fees) arising from or related to any construction liens filed against the Shopping Center on account of any such work described in this paragraph, or any accidents, injuries, loss or damage to any person or property located on the Shopping Center on account of any such work described in this paragraph.

iii. Outlot Owner hereby grants and conveys, for the benefit of the Shopping Center, and all Owners and Permittees of the Shopping Center, a nonexclusive, perpetual easement in, to, over, under, along and across those portions of the Outlot (exclusive of any portion located within any building) necessary for the installation, operation, flow, passage, use, maintenance, connection, repair, replacement, relocation, and removal of facilities and systems for the transmission of utility services serving the Shopping Center, including without limitation, the right to connect into any retention and detention ponds. Any and all work to be undertaken in connection with this section shall be done in a good, workmanlike and lien free manner. All damage to any asphalt surfaces or landscaping located upon the Outlot in connection with any such work shall be promptly restored by the Owner performing such work. The Declarant if constructing, repairing or replacing any Utility Lines upon the Outlot, shall (a) use commercially reasonable efforts to minimize any disruption to or interference with the use and operation of the business location upon the Outlot; and (b), notwithstanding anything herein contained to the contrary, indemnify, defend and hold harmless the Outlot Owner with respect to all claims, liabilities and expenses (including reasonable attorney's fees) arising from or related to any construction liens filed against the Outlot on account of any such work described in this paragraph, or any accidents, injuries, loss or damage to any person of property located on the Outlot on account of such work described in this paragraph.

iv. Outlot Owner hereby grants and conveys, for the benefit of the Shopping Center, and all Owners and Permittees of the Shopping Center, a nonexclusive, perpetual and reciprocal easement for reasonable access, ingress and egress over the Driveways located upon the Outlot so as to provide for the passage of motor vehicles and pedestrians between the Outlot and the public rights of way adjacent to the Shopping Center.

(b) Indemnification. Outlot Owner shall indemnify and hold harmless Declarant and Permittees from and against any and all claims, liabilities and expenses (including, reasonable attorneys' fees) arising from or relating to accidents, injuries, loss, or damage of or to any person or property located on the Outlot except for those caused by Shopping Center's members, managers, directors, officers, employees, or agents. Declarant shall indemnify and hold harmless Outlot Owner and Permittees from and against any and all claims, liabilities and expenses (including, reasonable attorneys' fees) arising from or relating to accidents, injuries, loss, or damage of or to any person or property located on the Shopping Center except for those caused by Outlot Owner's members, managers, directors, officers, employees, or agents..

(c) Access Openings. The access between the Parcels (the "Access Openings") shall in no event be blocked, closed, altered, changed or removed and shall at all times remain in place unless otherwise approved in writing by Declarant.

### 3. MAINTENANCE.

(a) General. Each Owner shall maintain its Parcel in a clean and neat condition and shall take such measures as are reasonably necessary to control grass, weeds, blowing dust, dirt, litter or debris.

(b) Outlot Common Area Maintenance. Outlot Owner shall operate and maintain, or cause to be operated and maintained, at its expense, the Common Area on the Outlot in good order, condition

and repair, including any signage on the Outlot, as approved hereinafter ("**Outlot Maintenance**"). Outlot Maintenance shall include, without limitation, maintaining and repairing the surface of the Outlot Driveways and parking areas, removing all papers, debris and other refuse from and periodically sweeping all Outlot Driveways and parking areas (including snow and ice removal) to the extent necessary to maintain the same in a clean, safe and orderly condition, maintaining appropriate lighting fixtures for the Outlot Driveways and parking areas, installing and maintaining directional signs, lines and striping on the Outlot as needed, maintaining underground irrigation and landscaping on the Outlot in clean and fresh condition, maintaining signage on the Outlot in good condition and repair, and performing any and all such other duties as are necessary to maintain the Common Area on the Outlot in a clean, safe and orderly condition.

(c) Shopping Center Driveway Maintenance. Declarant covenants at all times during the term hereof, to operate and maintain, or cause to be operated and maintained, at its expense, the Driveways ("**Shopping Center Driveways**") located on the Shopping Center in the area immediately adjacent to the Outlot in good order, condition and repair ("**Shopping Center Driveway Maintenance**"). Shopping Center Driveway Maintenance shall include, without limitation, maintaining and repairing the surface of such Driveways, removing all papers, debris and other refuse from and periodically sweeping such Driveways to the extent necessary to maintain the same in a clean, safe and orderly condition, maintaining appropriate lighting fixtures with respect thereto, installing and maintaining directional signs, lines and striping on thereon as needed, maintaining signage thereon in good condition and repair, and performing any and all such other duties as are necessary to maintain such Driveways in a clean, safe and orderly condition.

(d) Shopping Center Driveway Maintenance Costs. Notwithstanding anything in this Declaration to the contrary, Outlot Owner shall have no obligation to operate and maintain, or cause to be operated and maintained the Shopping Center Common Area or any improvements located on the Shopping Center. However, upon thirty (30) days' written request from Declarant, Outlot Owner shall pay its pro rata share of the cost of the Shopping Center Driveway Maintenance, which shall be calculated at \$0.062 times the actual square footage of the Outlot, which at the time of execution of this Agreement is 34,740 square feet.

(e) Building Appurtenances. Outlot Owner covenants to keep and maintain, at its sole cost and expense and in good order, condition and repair, the building and improvements located from time to time on the Outlot (collectively the "**Outlot Improvements**"). In the event of any damage to or destruction of any Outlot Improvements, Outlot Owner shall, at its sole cost and expense, and with due diligence, repair, restore and rebuild such Outlot Improvements to substantially the condition existing prior to such damage or destruction (or with such changes as shall not conflict with this Declaration), or (ii) demolish and remove all portions of such damaged or destroyed Outlot Improvements then remaining, including the debris resulting therefrom, and otherwise clean and restore the area affected by such casualty to a level, graded condition and seeded or sodded. Nothing contained in this Section shall be deemed to allow Outlot Owner to avoid a more stringent obligation for repair, restoration and rebuilding contained in a lease or other written agreement between Outlot Owner and its Permittee, if any.

#### 4. CONSTRUCTION OF IMPROVEMENTS.

(a) Governmental Regulations. All Outlot Improvements, now or in the future constructed on the Outlot shall be constructed, operated and maintained so that the same is in compliance with all applicable governmental requirements, including sign ordinances.

(b) Parking. Each Parcel shall comply with applicable governmental parking ratio requirements without taking into account the parking on the other Parcel, such that the Outlot and the

Shopping Center shall each be self-sufficient for vehicular parking. The Outlot shall contain at least four (4) parking space per 1,000 square feet of building. Neither Parcel shall have the right to utilize any parking located on the other Parcel.

(c) Use and Operation. The building constructed on the Outlot by Outlot Owner shall be a one-story building, the size of which shall comply with all municipal requirements, and legal restrictions. The Outlot Owner's initial intended use of the Outlot is the construction of a one-story 7,370 square foot building and related improvements and the operation of a retail store selling automotive parts, supplies and accessories (including, but not limited to, Outlot Owner's commercial business which contemplates delivery trucks off-loading/picking up merchandise to/from the Outlot and the subsequent delivery to off-site locations to either customers or other retail stores operated by Outlot Owner.

(d) Commencement of Construction. Outlot Owner shall not commence construction on its Parcel until Outlot Owner has received all requisite municipal permits and approvals and Declarant's prior written consent. Any modifications to the approved plans for any improvements to be constructed on the Outlot shall, in each instance, require Declarant's prior written approval. Once Outlot Owner commences any construction activity on its Parcel, including, but not limited to installation of footers, or grading, Outlot Owner shall work in good faith and with diligence to complete the construction contemplated herein.

(e) Access Roads. Outlot Owner shall never modify any access road, or other drive lanes of the Shopping Center without the prior written approval of Seller.

(f) Outlot Owner shall have the right, subject to all applicable governmental laws, ordinances, and regulations, and approval required by all applicable governmental authorities, construct and maintain a single monument sign on the Outlot, identifying the business operating on the Outlot.

(g) Modification of Shopping Center. Declarant reserves the right to alter, modify, reconfigure, relocate and/or remove the buildings, improvements, and Common Area located from time to time on the Shopping Center, subject to the following conditions: (i) the easement between the Parcels pursuant to Section 2.1 shall not be permanently closed or materially impaired; (ii) the Shopping Center Driveways shall not be altered, modified, relocated, blocked and/or removed without Outlot Owner's prior written approval; and (iii) the Shopping Center Driveways shall not be materially altered, modified, relocated, blocked and/or removed unless reasonable alternate access is provided.

## 5. RESTRICTIONS.

(a) General. Subject to the provisions of Sections 5(b) and 5(c) below, the Parcels shall be used, if at all, only for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of the Parcels which is illegal.

(b) Restrictions. It is expressly agreed that no use of the Outlot shall be permitted if such use would violate Exhibit C attached hereto. Further, no use shall be permitted if such use materially conflicts with another use then existing in the Shopping Center. Building Restrictions. All buildings, signs, canopies, architectural feature, or improvements on the Outlot shall comply with the restrictions of record. All exterior appearances and architectural features, signage, utility plans, landscaping plans and elevations of all buildings and improvements located upon the Outlot and the site plan of the same must be approved in advance, in writing, by Declarant, provided that such approval shall not be unreasonably withheld or delayed if the proposed improvements are (i) consistent with the prototype exterior appearances and architectural features employed by a national or regional brand occupant in its other

locations in the State of Utah; and (ii) are architecturally compatible and consistent with the improvements on the Shopping Center. The exterior appearances and architectural features, signage, utility plans, landscaping plans and elevations of all improvements existing on the Outlot as of the date hereof shall be deemed to have been approved by Declarant.

(c) Drive-Throughs. Any facility on the Outlot for vehicular drive-up or drive-through in which the stopping or standing of motor vehicles in line at a location shall be designed, constructed, used and operated in a manner such that motor vehicles in line at such facility shall not stop or stand, or otherwise interfere with the normal pattern and flow of pedestrian or vehicular traffic on and across, the Shopping Center and/or the Driveways located thereon.

6. INSURANCE.

Each Owner shall procure and at all times maintain general and/or comprehensive public liability and property damage insurance against claims for personal injury (including, for Outlot Owner, contractual liability arising under the indemnity contained in Section 2(b) above), death, or property damage occurring upon such Owner's Parcel, with single limit coverage of not less than an aggregate of \$2,000,000.00, including umbrella coverage, if any, and naming each other Owner as additional insureds. All such insurance policies shall be written on an occurrence basis and procured from companies rated by Best's Rating Guide not less than A-/VII, which are authorized to do business in Utah. If any lease of all or a portion of the Outlot permits the tenant thereunder to self-insure, then such insurance shall satisfy the provisions of this Section.

7. TAXES AND ASSESSMENTS.

Each Owner shall pay all taxes, assessments or charges of any type levied or made by any governmental body or agency with respect to its Parcel before the same commence to accrue interest or penalties.

8. NO RIGHTS IN PUBLIC; NO IMPLIED EASEMENTS.

Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of the Parcels. No easements, except as expressly set forth in Section 2 above, shall be implied by this Declaration. In that regard, and without limiting the foregoing, no easements for parking are granted or implied by virtue of this Declaration, but nothing herein shall impair the operative effect of easements heretofore recorded and of record with respect to a Parcel. Upon written request of either party, both parties will cooperate in any action necessary under governing law to ensure that no public thoroughfare is created.

9. REMEDIES AND ENFORCEMENT.

(a) All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by any Owner or its Permittees of any of the terms, covenants, restrictions or conditions hereof, the other Owner shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance.

(b) Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting party to cure a breach of this Declaration within thirty (30) days following written notice thereof by the other party (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, then, for such period of time as shall be reasonable under the

circumstances), such party shall have the right, but not the obligation, to perform such obligation contained in this Declaration on behalf of the defaulting party and be reimbursed by the defaulting party upon demand for the reasonable costs thereof together with interest at a per annum rate (“**Default Interest**”) equal to the prime rate set forth from time to time in the Money Rates Section of the Wall Street Journal (provided that, in the event the Wall Street Journal no longer publishes such rates or in the event that the Wall Street Journal is no longer published, the prime rate published by a successor national business daily publication reasonably selected by such party), plus two percent (2%) (not to exceed the maximum rate of interest allowed by law) from the date of expenditure until paid. Notwithstanding the foregoing, in the event of (i) an emergency, (ii) blockage or material impairment of the easement rights, and/or (iii) the unauthorized parking of vehicles on the Shopping Center, the Non-Defaulting Owner may immediately cure the same and be reimbursed by the defaulting party upon demand for the reasonable cost thereof together with Default Interest thereon from the date of expenditure until paid.

(c) Lien Rights. Any claim for reimbursement, including Default Interest, and all costs and expenses, including reasonable attorneys’ fees awarded to a Declarant in enforcing any payment in any suit or proceeding under this Declaration, shall be assessed against the Outlot Owner in favor of Declarant and shall constitute a lien (the “**Assessment Lien**”) against the Outlot Parcel until paid, effective upon the recording of a notice of lien in the land title records for Utah County, Utah; provided, however, that any such Assessment Lien shall be subject and subordinate to (i) any first mortgage granted on such Parcel to a bona fide non-affiliated third party lender, (ii) liens for taxes and other public charges which by applicable law are expressly made superior, (iii) all liens recorded in the land title records of Utah County, Utah prior to the date of recordation of said notice of lien, and (iv) all leases entered into, whether or not recorded, prior to the date of recordation of said notice of lien. All other liens recorded subsequent to the recordation of the notice of lien described herein shall be junior and subordinate to the Assessment Lien. Upon the timely curing by Outlot Owner of any default for which a notice of lien was recorded, the Declarant shall record an appropriate release of such notice of lien and Assessment Lien.

(d) Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

(e) No Termination For Breach. No breach hereunder shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any Parcel made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Parcel covered hereby whose title thereto is acquired by foreclosure, trustee’s sale, or otherwise.

(f) Irreparable Harm. In the event of a violation or threat thereof of any of the provisions of Sections 2 and/or 5 of this Declaration, each Owner agrees that such violation or threat thereof shall cause the Non-Defaulting Owner and/or its Permittees to suffer irreparable harm and such Non-Defaulting Owner and its Permittees shall have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of Sections 2 and/or 5 of this Declaration, the Non-Defaulting Owner, in addition to all remedies available at law or otherwise under this Declaration, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of Sections 2 and/or 5 of this Declaration.

(g) Release upon Notice of Transfer. Each Owner shall be liable for the performance of all covenants, obligations and undertakings applicable to the Parcel or portion thereof owned by it that accrue during the period of such ownership, and such liability shall continue with respect to any portion of a Parcel transferred by such Owner until the date of such transfer. Upon the date of any such transfer, the transferring Owner shall be released from all obligations pertaining to the portion of the Parcel transferred arising subsequent to such transfer.

10. TERM.

The easements, covenants, conditions and restrictions contained in this Declaration shall be effective commencing on the date of recordation of this Declaration in the land title records for Utah County, Utah and shall remain in full force and effect thereafter for a period of forty (40) years from the date of its recording, after which time it shall automatically be renewed for successive ten (10) year periods unless this Declaration is modified, amended, canceled or terminated by the written consent of all then record Owners of the Outlot and the Shopping Center in accordance with Section 13(b) below.

11. NOTICES.

Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by nationally recognized overnight courier service, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notices hereunder by like notice to the other party. The current notice addresses are as follows:

If to Declarant: STATIONS WEST - SARATOGA, LLC  
 c/o Phillips Edison & Company  
 11501 Northlake Drive  
 Cincinnati, Ohio 45249

If to Outlot Owner: AutoZone, Inc.  
 123 S. Front Street  
 Memphis, TN 38103  
 Attention: Property Management, Dept. 8700

12. ESTOPPEL.

Any Owner shall, within twenty (20) days after receipt of written request (which shall not be more frequent than two (2) times during any calendar year) from any other Owner, issue to such other Owner 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 Declaration by the requesting Party, and if there are known defaults, specifying the nature thereof in reasonable detail;

(b) Whether this Declaration has been assigned, modified or amended in any way by it and if so, stating the nature thereof in reasonable detail; and

(c) Whether this Declaration 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 Owner 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 Owner 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.

13. MISCELLANEOUS.

(a) Attorneys' Fees. In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party (i.e., the one, if any, which achieves substantially the remedy requested in its initial complaint or counterclaim) after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

(b) Amendment. The provisions of this Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of all of the affected record Owners of the Parcels, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the land title records of Utah County, Utah.

(c) Consents. Wherever in this Declaration the consent or approval is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld, conditioned or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of an Owner under this Declaration, to be effective, must be given, denied or conditioned expressly and in writing.

(d) No Waiver. No waiver of any default of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such default.

(e) No Agency. Nothing in this Declaration shall be deemed or construed by either party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

(f) Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs and personal representatives. Both Owners hereby authorize and direct that this Agreement be recorded with the Office of the Utah County Recorder.

(g) Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original party hereto or from a subsequent Owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee. Upon such conveyance (i) the grantor shall be relieved of all obligations and duties arising, pursuant to this Declaration, from and after the date of such conveyance, and (ii) the grantee shall be obligated to perform all obligations and duties arising pursuant to this Declaration from and after the date of this Declaration (and not prior thereto).

(h) Separability. Each provision of this Declaration and the application thereof to the Parcels are hereby declared to be independent of and severable from the remainder of this Declaration. 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 Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of both Parcels by the same person or entity shall not terminate this Declaration nor in any manner affect or impair the validity or enforceability of this Declaration.

(i) Time of Essence. Time is of the essence of this Declaration.

(j) Entire Agreement. This DECLARATION 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.

(k) Governing Law. The procedural and substantive laws of the State of Utah shall govern the interpretation, validity, performance and enforcement of this Declaration.

(l) Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Parcel, the parties agree that this Declaration shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

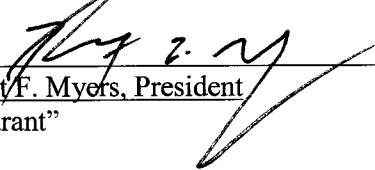
(m) Section Headings. The section headings hereof are generally descriptive only, and do not define or limit the operative effect of any such section.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, Declarant has executed this Declaration.

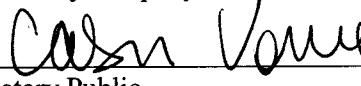
STATIONS WEST - SARATOGA, LLC,  
an Ohio limited liability company  
By: Phillips Edison Limited Partnership,  
its Managing Member

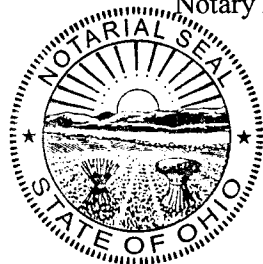
By: Phillips Edison & Company, Inc.,  
its General Partner

By:   
Robert F. Myers, President  
"Declarant"

STATE OF OHIO )  
 ) ss.  
COUNTY OF )  
HAMILTON \_\_\_\_\_ )

The foregoing instrument was acknowledged before me in this 22 day of JULY, 2015,  
by Robert F. Myers, the President of Phillips Edison & Company, Inc., the General Partner of Phillips  
Edison Limited Partnership, the Managing Member STATIONS WEST - SARATOGA, LLC, an Ohio  
limited liability company, on behalf of the limited liability company.

  
\_\_\_\_\_  
Notary Public



Cassie Vome  
Notary Public, State of Ohio  
My Commission Expires 06-18-2019

This document prepared by:  
Richard L. Tranter, Esq.  
c/o Phillips Edison & Company, Ltd.  
11501 Northlake Drive  
Cincinnati, OH 45249

Return to: Same

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security  
number in this document, unless required by law.

Signature: \_\_\_\_\_

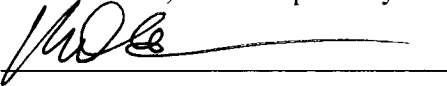
Printed Name: Richard L. Tranter, Esq.

This document prepared by:

Richard L. Tranter, Esq.  
c/o Phillips Edison & Company, Ltd.  
11501 Northlake Drive  
Cincinnati, OH 45249

Return to: Same

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Signature: 

Printed Name: Richard L. Tranter, Esq.

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE SHOPPING CENTER**

**LEGAL DESCRIPTION**

ALL OF LOT 1B STATIONS WEST MINOR SUBDIVISION, AS FOUND IN A PLAT RECORDED AS ENTRY NO. 36842:2012, MAP NO. 13654, OFFICIAL RECORDS; TOGETHER WITH ALL OF LOTS 9 AND 10 OF SARATOGA TOWN CENTER, AS FOUND IN A PLAT RECORDED AS ENTRY NO. 131021:2006, MAP NO. 11899, OFFICIAL RECORDS; SAID LAND BEING PART OF THE NORTH HALF OF SECTION 11, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, IN THE STATE OF UTAH, COUNTY OF UTAH, CITY OF SARATOGA SPRINGS.

LESS AND EXCEPTING THE LAND CONVEYED TO THE UTAH DEPARTMENT OF TRANSPORTATION PURSUANT TO THE WARRANTY DEED RECORDED AS ENTRY NO. 62974:2010 ON JULY 29, 2012, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF COMMERCE DRIVE AS SHOWN ON THE PLAT OF SAID SARATOGA TOWN CENTER SUBDIVISION FILE NUMBER 11899, ON FILE IN THE OFFICE OF THE UTAH COUNTY RECORDER, UTAH; WHICH IS 84.00 FT. PERPENDICULARLY DISTANT EASTERLY FROM THE CENTERLINE OF SAID PROJECT NO. 0066, OPPOSITE ENGINEER STATION 617+64.86, WHICH POINT IS 6.01 FT S89°38'52"W ALONG THE NORTH LINE OF SAID NW1/4 AND 271.17 FT. S00°21'08"E FROM THE NORTH QUARTER CORNER OF SAID SECTION 14; AND RUNNING THENCE S13°44'55"E 6.37 FT.; THENCE S37°56'00"W 29.69 FT. TO A POINT 61.73 FT. PERPENDICULARLY DISTANT EASTERLY FROM THE CENTERLINE OF SAID PROJECT NO. 0068, OPPOSITE ENGINEER STATION 617+39.59 WHICH IS A POINT ON A 4,459.29 FT. RADIUS CURVE TO THE RIGHT (NOTE: RADIUS BEARS S77°50'13"W) THENCE SOUTHERLY ALONG SAID CURVE 241.36 FT.; THENCE S04°07'27"E 27.01 FT. TO A POINT ON A 4,314.00 FT. RADIUS CURVE TO THE RIGHT (NOTE: RADIUS BEARS S82°18'25"W); THENCE SOUTHERLY ALONG SAID CURVE 509.32 FT. TO THE SOUTH LINE OF LOT 1, OS SAID SARATOGA TOWN CENTER SUBDIVISION WHICH IS 64.00 FT. PERPENDICULARLY DISTANT EASTERLY FROM THE CENTERLINE OF SAID PROJECT NO. 0068, OPPOSITE ENGINEER STATION 609+73.51; THENCE N89°27'44"W ALONG SAID SOUTH LINE 13.15 FT. TO THE SOUTHWEST CORNER OF SAID LOT 1, SARATOGA TOWN CENTER SUBDIVISION WHICH IS A POINT ON A 5,789.88 FT. RADIUS CURVE TO THE LEFT (NOTE: RADIUS BEARS S88°03'54"W); THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 1 AND SAID CURVE 798.62 FT. TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE N74°38'31"E 28.08 FT. TO THE POINT OF BEGINNING.

ALSO:

BEGINNING AT A POINT ON THE EAST LINE OF LOT 2, AS SHOWN ON THE PLAT OF SAID SARATOGA TOWN CENTER SUBDIVISION FILE NUMBER 11899 ON FILE IN THE OFFICE OF THE UTAH COUNTY RECORDER, UTAH; WHICH IS 396.68 FT. PERPENDICULARLY DISTANT EASTERLY FROM THE CENTERLINE OF SAID PROJECT NO. 0068, OPPOSITE ENGINEER STATION 607+33.63 WHICH POINT IS 392.28 FT. N89°51'45"E ALONG THE NORTH LINE OF SAID NE1/4 AND 1,317.92 FT. S00°08'15"E FROM THE NORTH QUARTER CORNER OF SAID SECTION 14; AND RUNNING THENCE S85°39'30"E 24.46 FT. TO A POINT 421.08 FT. PERPENDICULARLY DISTANT EASTERLY FROM THE CENTERLINE OF SAID PROJECT NO. 0068, OPPOSITE STATION 607+31.99; THENCE N89°27'46"W 24.40 FT.; THENCE N00°32'16"E 1.62 FT. TO THE POINT OF BEGINNING.

(NOTE: ALL BEARINGS AND DISTANCES BASED UPON THE UTAH STATE PLANE COORDINATE SYSTEM OF 1983 AT GROUND, UTAH CENTRAL ZONE BASED UPON UTAH DEPARTMENT OF TRANSPORTATION SURVEY CONTROL SHEETS FOR FEDERAL AID PROJECT STP-0068(42)26 SR-68 REDWOOD ROAD, BANGERTER HWY TO SARATOGA SPRINGS ENVIRONMENTAL ASSESSMENT STUDY DATED FEBRUARY 8, 2008)

CONTAINS 18.96 ACRES, MORE OR LESS

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**EXHIBIT B****LEGAL DESCRIPTION OF THE OUTLOT**

A PART OF LOT 3, SARATOGA TOWN CENTER NO. 2 SUBDIVISION LOCATED IN THE NORTH HALF OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 1 WEST, OF THE SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 3 SAID POINT BEING LOCATED SOUTH 73°15'07" WEST 237.99 FEET AND SOUTH 54°31'43" WEST 129.50 FEET FROM THE CENTERLINE PT MONUMENT IN COMMERCE DRIVE; RUNNING THENCE THE FOLLOWING TWO (2) COURSES ALONG THE BOUNDARY OF SAID LOT 3: (1) SOUTH 15°15'24" EAST 107.89 FEET; (2) SOUTH 08°38'55" EAST 102.84 FEET; THENCE SOUTH 81°21'05" WEST 174.24 FEET TO THE WEST BOUNDARY LINE OF SAID LOT 3; THENCE ALONG THE BOUNDARY OF SAID LOT 3 THE FOLLOWING FOUR (4) COURSES: (1) ALONG THE ARC OF A 4459.29 FOOT RADIUS CURVE TO THE LEFT 166.08 FEET, CHORD BEARS NORTH 11°05'42" WEST 166.07 FEET; (2) NORTH 37°56'00" EAST 29.69 FEET; (3) NORTH 13°44'55" WEST 6.37 FEET; (4) NORTH 74°39'51" EAST 148.93 FEET TO THE POINT OF BEGINNING. CONTAINING 34,740 SQ.FT.

**EXHIBIT C**

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**OUTLOT PROHIBITED USES**

The Outlot shall never be used for any of the purposes set forth below:

- Any purpose other than for retail sales, retail services, restaurant or office uses;
- The conduct of any illegal, offensive, noisy or dangerous trade, business, activity or operation, (ii) any activity which physically or materially interferes with the business of any other owner or owner's tenants on another parcel, or (iii) any other unreasonable use not compatible with the operation of a retail, office or commercial shopping center, well maintained in accordance with the standards of the Shopping Center;
- A bar, tavern, cocktail lounge, adult book or adult video store, hotel, motel, warehouse, animal kennel, mobile home park or trailer court;
- The renting, leasing or selling of or displaying for the purpose of renting, leasing or selling any boat, motor vehicle or trailer;
- Industrial purposes;
- Any bankruptcy sales or going out of business sales;
- An open or enclosed mall;
- Handling, or storage of hazardous materials (including but not limited to, underground storage tanks, petroleum and petroleum products, asbestos, PCB's, urea-formaldehyde) and any hazardous or toxic substances, pollutants, contaminants, wastes or materials as defined under any Environmental Laws, except in the ordinary course of the business of a typical AutoZone operation, provided such is in compliance with all Environmental Laws.
- Restaurant or food services purposes through October 31, 2026. The term "restaurant or food services" shall apply to any type of food service establishment which serves any amount of the following products: hamburgers or any other type of beef products served in sandwich form; or ground meat or meat substitute, or a combination of ground meat and meat substitute, or any other type of meat products, any of which are served in sandwich form. Also provided that any food service establishment which offers as the primary method of service for all meal times, food and drink orders taken by and served by a waiter or waitress at the customer's table, is excluded from the term "restaurant or food service purposes." In addition, and not by way of example, the following restaurants operating under the listed trade names, or operating under any successor trade names are prohibited to operate on the Outparcel: Burger Chef, Burger king, Carl's Jr., Artic Circle, Crown Burger, Hardee's, In and Out Burgers, Jack-in-the-Box, Olympic Burgers, Checkers, Rally's, Wendy's, White Castle, Dee's, Backyard Burgers;
- A Mexican quick serve restaurant, including but not limited to, Taco Bell, Green Burrito, Taco Maker, Rubio's, Baja Fresh, Taco Time, El Pollo Loco, Taco Del Mar, Maui Tacos, Café Rio, etc...;
- No bakery users including but not limited to Corner Bakery, Paradise Bakery, Zupas and Panera Bread. This restriction shall not apply to coffee or donut shops (including, but not limited to Dunkin Donuts, Tim Horton's, and Krispy Kreme), restaurants having a breakfast or brunch menu, including, but not limited to, International House of Pancakes ("IHOP"), Village Inn, or Jim's Family Restaurant.
- Pornographic bookstore, cinema, or video store.
- Massage parlor, other than a first-class medical massage location.
- Topless/bottomless nightclub or restaurant or similar venue for adult entertainment
- Auction, going out of business, fire or bankruptcy sales or similar merchandise liquidators

- Army-navy surplus store, second-hand store, or salvage or “odd-lot” store
- Roller skating rink
- Video arcade, pool or gaming hall
- Nightclub, bar or dance hall
- Flea market, swap meet or similar enterprise
- Manufacturing or processing plant
- Pawn shop
- Check cashing, cash advance, short term loan or paycheck advance service or any so called “credit service organization”
- Bowling alley
- Cinema or theater
- Sports, health or fitness club
- Gas station
- Bingo parlor
- Offtrack betting parlor
- Funeral home or mortuary
- Any use that is inconsistent with a family-oriented, first class shopping center, including, without limitation, any use of any medium that might constitute a nuisance such as loud speakers, sound amplifiers, phonographs, radios, televisions or any other sound producing device which will carry sound outside of the premises
- Any use that would adversely affect any other occupant of the Saratoga Springs Towne Centre.



**EXHIBIT D**

**SITE PLAN**

