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ADAM GARDINER  
Recorder, Salt Lake County, UT  
MERIDIAN TITLE  
BY: eCASH, DEPUTY - EF 21 P.

When recorded return to:  
Lamont Richardson  
101 South 200 East, Suite 700  
Salt Lake City, Utah 84111

### DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

**THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS**  
(this "Agreement") is made as of the 9<sup>th</sup> day of March, 2018, by ANTHEM CENTER, LLC, a Utah limited liability company (together with its successors and assigns, "Anthem") and THE STATE OF UTAH (together with its successors and assigns, the "State;" and together with Anthem, individually and collectively, as the context may require, the "Declarant").

#### WITNESSETH:

**WHEREAS**, Declarant is the owner of the tracts of land shown on the plat attached hereto as Exhibit A (together the "Additional Developer Tract"), which Additional Developer Tract is more particularly described in Exhibit B attached hereto;

**WHEREAS**, Anthem is the owner of the tracts of land more particularly described in Exhibit A-1 attached hereto and the State is the owner of the tract of land more particularly described on Exhibit A-2;

**WHEREAS**, Anthem executed that certain document entitled Easements with Covenants and Restriction Affecting Land (the "ECR") dated January 20, 2017, which was recorded on January 20, 2017 in the Salt Lake County Recorder's Office (the "Recorder's Office") as Entry No. 12458368 in Book 10522 at Page 342;

**WHEREAS**, the ECR sets forth covenants, restrictions and easements for the Walmart Tract, the Developer Tract, the Outparcels (as such terms are defined in the ECR) and to a lesser extent, the Additional Developer Tract;

**WHEREAS**, Declarant desires to develop the Additional Developer Tract as separate legal parcels (each such portion, a "Parcel"); and

**WHEREAS**, Declarant desires that each of the Parcels in the Additional Developer Tract be developed in conjunction with each other pursuant to a general plan of improvement to form a commercial Shopping Center (sometimes hereinafter referred to as the "Shopping Center"), and further desires that the Shopping Center be subject to the easements and the covenants, conditions and restrictions hereinafter set forth.

**NOW, THEREFORE**, for and in consideration of the premises, easements, covenants, conditions, restrictions, and encumbrances contained herein, the sufficiency of which is hereby acknowledged, Declarant makes the following declarations, creates the following easements and establishes the following covenants and restrictions, all of which apply to bind, affect and run with title to each Parcel.

1. Definitions. In addition to those terms defined elsewhere in this Agreement, the following terms have the following meanings:

1.1 "Backbone Utility Lines" means those Utility Lines which are installed to provide the applicable service to more than one Parcel.

1.2 "Benefitted Parties" means, with respect to a Parcel, the Owners and occupants of that Parcel, and their respective employees, customers, guests, invitees and licensees.

1.3 "Building" means any building or other principal structure erected in the Shopping Center.

1.4 "Common Areas" means all of the Shopping Center except the Buildings.

1.5 "Index" means the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics (the "Bureau") "All Items" for All Urban Consumers, U.S. City Average (1982-84 = 100). Should the Bureau discontinue the publication of the Index, publish the same less frequently or alter the same in some other manner, the most nearly comparable index or procedure as determined by the Owners will be substituted therefor

1.6 "Landscaping" means the landscaping in the Shopping Center excluding any landscaping immediately adjacent to a Building, or between a building and sidewalk.

1.7 "Owner" means the Person that, at the time concerned, is the owner of record in the office of the County Recorder of Salt Lake County, Utah, of a fee interest in any Parcel or portion of any Parcel. In the event that, at any time, more than one Person owns the fee interest in a Parcel, they shall constitute one (1) Owner, and liability of each such Person for performance or compliance with the applicable provisions of this Agreement shall be joint and several.

1.8 "Person" means a natural person or a legal entity.

1.9 "Proportionate Share" shall mean a fraction where the numerator is square feet in a Parcel and the denominator is the lot size of the entire Shopping Center in square feet.

1.10 "Separate Utility Lines" means those Utility Lines which are installed to provide the applicable service to only one Parcel. For the purpose of this Agreement, the portion of a Utility Line extending between a Backbone Utility Line and a single Building shall be considered a Separate Utility Line.

1.11 "Utility Lines" means those facilities and systems for transmissions of utility services, including, but not limited to, storm water drainage and storage systems or structures or both; fire protection, irrigation and domestic water mains and manholes; lift stations; sewer lines and systems; fire and landscape water sprinkler systems (including without limitation, fire risers); telephone lines and manholes; generators and related equipment and switch gear, electrical conduits or systems, gas mains and other public or private utilities.

2. Buildings.

2.1 Use. Buildings in the Shopping Center shall be used for commercial purposes of the type normally found in a retail shopping center including, without limitation, financial institutions, service shops, offices, and retail stores.

2.2 Conversion to Common Areas. Those portions of Shopping Center which are not from time to time used or cannot, under the terms of this Agreement, be used for buildings shall become part of the Common Area for the uses permitted hereunder and shall be improved, kept and maintained as provided herein.

3. Common Areas.

3.1 Grant of Easements. Each Declarant hereby creates on its respective Parcel(s) a nonexclusive easement over, through and around the Additional Developer Tract for roadways, walkways, vehicular and pedestrian access, ingress and egress, parking of motor vehicles (subject to the limitation set forth in Section 4.2 hereof), loading and unloading of commercial and other vehicles, and the use of facilities installed for the comfort and convenience of customers, invitees, licensees, tenants and employees of all businesses and occupants of the Buildings constructed on the Additional Developer Tract.

3.2 Limitations on Use.

(1) Customers. Each Owner shall use reasonable efforts to ensure that its customers and invitees shall not be permitted to park on the Common Areas except while shopping or transacting business in the Shopping Center.

(2) Employees. Each Owner shall use reasonable efforts to ensure that its employees park on the Common Areas of said Owner's Parcel.

(3) General. Any activity within the Common Areas other than its primary purpose of the Common Areas, which is to provide for parking for the customers, invitees and employees of those businesses conducted within the Shopping Center and for the servicing and supplying of such businesses, shall be permitted so long as such activity shall not unreasonably interfere with such primary purpose.

3.3 Utility and Service Easements. Each Declarant hereby establishes and grants with respect to its respective Parcel(s) a nonexclusive easement for the benefit of each Owner, on, across and under the Common Areas, to install, use, maintain and repair public utility services and distribution systems (including storm drains, sewers, utilities and other proper services necessary for the orderly development and operation of the Shopping Center, now upon or hereafter installed on, across or under the Common Areas, to the extent necessary to service such Parcel). Declarant and each Owner shall use their best efforts to cause the installation of such utility and service lines prior to paving of the Common Areas. No

such lines, sewers, utilities or services of one Owner shall be installed within building areas on the other Owner's parcel. The location of any utilities hereafter installed shall be determined by the Owner upon whose Parcel such utilities are to be installed. Any such installed utility services may be relocated by the owner of a Parcel on such owner's Parcel, subject to compliance with applicable laws, at the expense of the owner of that Parcel, provided that such relocation shall not interfere with, increase the cost of, or diminish utility services to any other Parcel.

3.4 Water Flow. Each Declarant hereby establishes and grants with respect to its respective Parcel(s) a nonexclusive easement on the Additional Developer Tract for the benefit of each Owner to use, maintain and repair any storm water drainage system (the "Storm Drainage System") now or hereafter located on any Parcel, together with the right to discharge surface water runoff across portions of any Parcel in accordance with the design of the Storm Drainage System. Any alteration in the natural water flow which may occur as a natural consequence of normal construction activities and the existence of the Owner's improvements substantially as shown on Exhibit A-3 (including without limitation building and building expansion, curbs, drives and paving) shall be permitted.

4. Development, Parking Ratios, Maintenance, and Taxes.

4.1 Development. The arrangement of the Common Areas shall not be changed in a manner inconsistent with the provisions of this Agreement.

4.2 Additional Developer Tract Parking. Each Owner shall independently maintain on its Parcel at least the minimum number of parking stalls required by applicable laws in connection with any Buildings located on such Parcel. Except as set forth below, each Declarant hereby creates reciprocal, non-exclusive easements appurtenant to such Declarant's respective Parcel(s) for the benefit of the Benefitted Parties of the other Parcels for ingress and egress, together with the right of access, over and across the parking areas on each Parcel for pedestrian and vehicular use by the Benefitted Parties of the other Parcels, which easements shall be appurtenant to the other Parcels. Notwithstanding the foregoing, so long as SFP-E, LLC, an Oregon limited liability company ("Les Schwab") purchases the Additional Developer Tract shown as Lot 2 on Exhibit "A," provided the area of such lot may be increased as provided in an agreement between Anthem and Les Schwab (as modified, the "Les Schwab Parcel"), (a) only the Benefitted Parties of the Les Schwab Parcel may park on the Les Schwab Parcel, and (b) the Benefitted Parties of the Les Schwab Parcel may not park on any other Parcel.

4.3 Maintenance.

4.3.1 Maintenance of the Parcels and Common Areas.

(1) Standards. The Parcels shall be kept neat, orderly, planted in grass and trimmed or paved until improved and constructed. Following completion of the improvements on the Common Areas, each Owner shall maintain the Common Areas located on their respective Parcels in good condition and repair. The maintenance is to include, without limitation, the following:

(a) Maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability;

(b) Removing all papers, ice and snow, mud and sand, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

(c) Placing, keeping in repair and replacing any necessary appropriate directional signs, markers and lines;

(d) Operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required;

(e) Maintaining all perimeter and exterior building walls including but not limited to all retaining walls in a good condition and state of repair;

(f) Subject to the provisions of Section 4.3.2 below, maintaining, mowing, weeding, trimming and watering all landscaped areas and making such replacements of shrubs and other landscaping as is necessary;

(g) Maintaining Separate Utility Lines;

(h) Maintaining landscaping which is not maintained pursuant to Section 4.3.2; and

(i) Maintaining elements of the Storm Drainage System.

(2) Expenses. The respective Owners shall pay the maintenance expense of their Parcels.

(3) By Agent. Subject to the mutual agreement of the Owners hereto, a third party may be appointed as an agent of the Owners to maintain the Common Areas in the manner as above outlined. Said third party may receive for such agency a fee that is mutually acceptable to all Owners to cover supervision, management, accounting and similar fees, which sums are to be included in the general maintenance expense paid by the respective owners of the Common Areas.

#### 4.3.2 Maintenance of the Landscaping and Service Drives.

(1) Standards. Anthem shall maintain the Service Drives identified and depicted on Exhibit A-4 attached hereto (the "Service Drives") and the Landscaping in good condition and repair. The maintenance is to include, without limitation, the following:

(a) Maintaining, repairing, resurfacing and replacing, when necessary, the Service Drives in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability and restriping the same; sealcoating not more often than every five (5) years;

(b) Removing all papers, ice and snow, mud and sand, debris, filth and refuse and sweeping the Service Drives to the extent reasonably necessary to keep the area in a clean and orderly condition;

(c) Placing, keeping in repair and replacing any necessary appropriate directional signs, markers and lines;

(d) Maintaining, keeping in repair and replacing all elements and facilities of the Storm Drainage System and Backbone Utility Lines within the Service Drives as designated on Exhibit A-4; and

(e) Subject to local watering restrictions, maintaining and replacing the Landscaping and keeping such landscaping adequately watered and replacing any Landscaping which has died.

(2) Responsibility. So long as Anthem or any affiliate of Anthem owns an interest in the Additional Developer Tract or any property subject to the ECR, responsibility for maintenance of the Landscaping and Service Drives shall be vested in Anthem or an affiliate who shall maintain the Landscaping and Service Drives to the standards set forth in this Section 4.3.2 and shall be entitled to reimbursement for certain costs incurred in connection with such maintenance as set forth in Paragraph 4.3.2(3)(c) below. In the event Anthem no longer owns any portion of the Additional Developer Tract or any property subject to the ECR, the party responsible for the maintenance obligations set forth in this Section 4.3.2 shall be the Person appointed by Anthem in a document of record in the Recorder's Office or, if no such document is recorded, the Owner of the largest Parcel in the Additional Developer Tract.

(3) Payment and Calculation.

(a) Anthem shall expend only such funds as are reasonably necessary (in Anthem's reasonable discretion) for the operation, maintenance, repair, replacement and upkeep of the Landscaping and Service Drives and shall promptly pay such costs ("CAM Costs") when due. For the purpose of this Agreement, CAM Costs shall not include costs and expenses which are not reasonably necessary for the operation and maintenance of the Landscaping and Service Drives. Exclusions from CAM Costs include but are not limited to the following:

(b) i. Any administrative fees, late charges or fees (other than a management fee payable to Anthem in the amount of five percent (5%) of the CAM Costs);

ii. any costs to clean or repair the Landscaping and Service Drives resulting from promotional activities by the Owners on any Parcel, or from construction, maintenance or replacement of Buildings (which cleaning, maintenance and repair shall be performed by the Owner responsible for such promotion or construction, maintenance or replacement of Buildings at such Owner's sole cost and expense);

iii. real property taxes and assessments;

iv. profit, administrative and overhead costs (such as rent, legal, supplies, utilities and wages or salaries paid to management or supervisory personnel) but not the cost for any on-site maintenance office or on-site maintenance personnel;

v entertainment, transportation, meals and lodging of anyone, and plaques, trophies and gift certificates;

vi depreciation and amortization;

vii expenses in connection with services or other benefits which are offered to one or more occupants of the Shopping Center and who are charged directly for such services or other benefits;

viii interest, points and fees on debt or amortization on any mortgage or mortgages encumbering the Shopping Center;

ix all items and services for which an occupant in the Shopping Center reimburses Anthem (other than as a reimbursement of CAM Costs) or which Anthem provides selectively to one or more occupants without reimbursement;

x electrical power costs for which any occupant directly contracts with the local public service company, except for electrical power costs for the Landscaping and Service Drives;

xi all expenses associated with maintenance, repair, replacement, operation and upkeep of Buildings;

xii the cost of acquisition of new land or construction of new Buildings;

xiii except as otherwise permitted pursuant to Paragraph 4.3.2(2) above, any expense representing an amount paid to a corporation, entity, or person related to or affiliated with Anthem or its owners, investors or principals which is not consistent with market rate terms; and

xiv earthquake and/or flood insurance, unless such coverage is available at commercially reasonable rates.

(c) Each Owner shall reimburse Anthem for such Owner's Proportionate Share of CAM Costs incurred in connection with the maintenance of the Landscaping and Service Drives. Anthem shall bill each Owner for the CAM Costs on a quarterly basis in an amount equal to each such Owner's Proportionate Share of the CAM Costs estimated by Anthem and all such invoices shall be due and payable within thirty (30) days of receipt. Any amounts not paid within such thirty (30) day period shall bear interest at a rate of twelve percent (12%) per annum.

(4) For a period of one (1) year after the date of an Owner's receipt of a quarterly billing statement, an Owner shall have the right to audit Anthem's books and records pertaining to the operation and maintenance of the Landscaping and Service Drives. An Owner shall notify Anthem of such Owner's intent to audit at least fifteen (15) days prior to the designated audit date. If such audit shall disclose any error in the determination of CAM Costs, the Owner shall provide Anthem with a copy of the audit, and an appropriate adjustment shall be made forthwith. The cost of any audit shall be paid by the requesting Owner unless that Owner shall be entitled to a refund in excess of five percent (5%) of the amount calculated by Anthem as that Owner's Proportionate Share for the applicable calendar year, in which case Anthem shall pay the cost of such audit. If Anthem disputes such audit,

Anthem and the Owner shall work in good faith to resolve such dispute. If such dispute shall not have been settled by agreement, Anthem and the Owner shall submit the dispute to arbitration within ninety (90) days after the delivery of the results of the audit. If the dispute shall be determined in the Owner's favor, Anthem shall, within thirty (30) days of the dispute, refund to the Owner the amount of overpayment. Anthem agrees to grant each Owner reasonable access to Anthem's books and records for the purpose of verifying the CAM Costs.

4.4 Taxes. Each party agrees to pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against that part of the Common Areas owned by it.

5. Signs. Freestanding identification sign may be erected on each Parcel by the Owner of such Parcel for such Owner's use, subject to complying with applicable laws. There may be erected entrance-exit signs to facilitate the free flow of traffic, which entrance-exit signs shall be of a monument type, and the design and location of such signs shall be approved by Anthem. No signs shall obstruct the ingress and egress shown on Exhibit A-3. Anthem shall construct the pylon signs at the locations depicted on Exhibit A-3 (the "Pylon Signs"). The plans and specifications for the Pylon Signs and the construction contract for the Pylon Signs shall be prepared, and awarded, as applicable, by Anthem. Anthem shall maintain the Pylon Signs structure and all Owners shall maintain and fabricate their own panels. The costs for constructing the Pylon Signs and the cost of maintaining and operating the Pylon Signs shall be allocated pro rata among the Owners displaying signage on the Pylon Signs based on the size of such Owner's sign. The location of each Owner's panel on the Pylon Signs shall be determined by separate agreement between Anthem and such Owner. Anthem may bill said Owners for construction costs upon completion and for maintenance costs not more frequently than quarterly. All billing shall contain all applicable back up documentation and details.

6. Indemnification/Insurance.

6.1 Indemnification. To the fullest extent permitted by law, each Owner shall indemnify and save the other Owners harmless from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from personal injury, death, or property damage and occurring on or from its own Parcel, except if caused by the act or negligence of another Owner.

6.2 Insurance.

(1) Each Owner shall procure and maintain in full force and effect throughout the term of this Agreement general public liability insurance and property damage insurance against claims for personal injury, death or property damage occurring upon, in or about its property, each Owner's insurance to afford protection to the limit of not less than \$5,000,000.00 for injury or death of a single person, and to the limit of not less than \$5,000,000.00 for any one occurrence, and to the limit of not less than \$5,000,000.00 for property damage, which such limit will be increased on January 1, 2025, and on every fifth (5<sup>th</sup>) anniversary of such date (each an "Adjustment Date") throughout the duration of this Declaration, by the percentage increase in the Index (calculated by multiplying the then applicable insurance limit by a fraction, the numerator of which will be the Index for the month which is three months before the subject Adjustment Date and the denominator of which will be the Index for the month which is 63 months before such Adjustment Date). Each Owner shall provide Anthem with certificates of such insurance from time to time upon written request to evidence that such insurance is in force. Such insurance may be written by additional premises



endorsement on any master policy of insurance carried by the Owner which may cover other property in addition to the property covered by this Agreement. Such insurance shall provide that the same may not be canceled without 30 days prior written notice to Anthem.

(2) At all times during the term of this Agreement, each Owner shall keep improvements on its Parcel insured against loss or damage by fire and other perils and events as may be insured against under the broad form of Uniform Extended Coverage Clause in effect from time to time in the state in which the Owners' respective Parcels are located, with such insurance to be for the full replacement value of the insured improvements. The owner of a Parcel shall pay for any increase in the cost of insuring the improvements on the other Parcels if such increase is due to the use by such Owner or its tenant(s).

(3) Policies of insurance provided for in this Section 6 shall name Anthem as an additional insured.

(4) Each Owner for itself and its property insurer hereby releases the other Owners from and against any and all claims, demands, liabilities or obligations whatsoever for damage to property or loss of rents or profits resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by the negligence or the contributory negligence of the Owner being released or by any agent, associate or employee of the Owner being released, this release being to the extent that such damage or loss is covered by the property insurance which the releasing Owner is obligated hereunder to carry, or, if the releasing Owner is not carrying that insurance, then to the extent such damage or loss would be covered if the releasing Owner were carrying that insurance.

6.3 Self Insurance. Any insurance required to be carried by an Owner hereunder (or its tenant or occupant on behalf of such Owner), at such Owner's option, may be carried under one or more insurance policies, pursuant to a master policy of insurance or so-called blanket policy provided, however, that an insuring Owner may only self-insure on the conditions that the combined tangible net, financial worth, according to generally accepted accounting principles, of any Owner and other participants exceeds Fifty Million Dollars (\$50,000,000) which such limit will be increased on each Adjustment Date throughout the duration of this Declaration, by the percentage increase in the Index (calculated by multiplying the then applicable insurance limit by a fraction, the numerator of which will be the Index for the month which is three months before the subject Adjustment Date and the denominator of which will be the Index for the month which is 63 months before such Adjustment Date. In the event that participants' combined tangible net worth falls below Fifty Million Dollars (\$50,000,000) (as adjusted), or if the insuring Owner terminates its program of self insurance, such Owner shall promptly provide written notice of such event accompanied by a certificate of insurance from a third-party insurance company which evidences the existence of the insurance coverage required to be maintained pursuant to the terms of this Section 6.2. Upon a reasonable request from any other Owner, a self-insuring Owner shall provide a letter from a certified public accountant attesting to the Participants' combined tangible, net financial worth.

6.4 Notwithstanding anything in sections 6.2 and/or 6.3 of this Agreement or anything elsewhere in this Agreement to the contrary, it is understood and agreed that the State is exempt from sections 6.2 and/or 6.3 of this Agreement insofar as the State is insured through the Risk Management Fund established in Utah Code Title 63A, Chapter 4, Part 2.

7. Eminent Domain.

7.1 Owner's Right To Award. Nothing herein shall be construed to give either an Owner any interest in any award or payment made to another Owner in connection with any exercise of eminent domain or transfer in lieu thereof affecting said other Owner's Parcel giving the public or any government any rights in said Parcel. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of the Common Areas located in the Shopping Center, the award attributable to the land and improvements of such portion of the Common Areas shall be payable only to the owner thereof, and no claim thereon shall be made by the owners of any other portion of the Common Areas.

7.2 Collateral Claims. All other owners of the Common Areas may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another Owner.

7.3 Tenant's Claim. Nothing in this Section 7 shall prevent a tenant from making a claim against an Owner pursuant to the provisions of any lease between tenant and Owner for all or a portion of any such award or payment.

7.4 Restoration Of Common Areas. The owner of any portion of the Common Areas so condemned shall promptly repair and restore the remaining portion of the Common Areas within its respective Parcel as nearly as practicable to the condition of the same immediately prior to such condemnation or transfer, to the extent that the proceeds of such award are sufficient to pay the cost of such restoration and repair and without contribution from any other owner.

8. Rights And Obligations Of Lenders. Any holder of a first lien on any portion of the Shopping Center, and any assignee or successor in interest of such first lienholder, shall be subject to the terms and conditions of this Agreement.

9. Release from Liability. Any person acquiring fee or leasehold title to any portion of the Shopping Center shall be bound by this Agreement only as to the Parcel or portion of a Parcel acquired by such person. In addition, such person shall be bound by this Agreement only during the period such person is the fee or leasehold owner of such Parcel or portion of the Shopping Center, except as to obligations, liabilities or responsibilities that accrue during said period. Although persons may be released under this Section, the easements, covenants and restrictions in this Agreement shall continue to be benefits to and servitudes upon said tracts running with the land.

10. Breach. In the event of breach or threatened breach of this Agreement, only the Owners, or Declarant so long as it or any affiliate has an interest as owner of any portion of the Additional Developer Tract or any property subject to the ECR, shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach.

11. Rights of Successors. The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitudes running with the land. This Agreement shall bind and inure to the benefit of the Owners, their respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

12. Modification and Cancellation. This Agreement (including exhibits) may be modified or canceled only by the mutual agreement of (a) Anthem as long as it or its affiliate has any interest as either owner or lessee of any Parcel or any property subject to the ECR, or its successors in interest, and (b) the Owners, as long as an Owner or its affiliates has any interest as either owner or lessor of a Parcel in the Additional Developer Tract.

13. Non-Merger. So long as Anthem or its affiliate is owner of the Additional Development Tract or any property subject to the ECR, this Agreement shall not be subject to the doctrine of merger.

14. Duration. Unless otherwise canceled or terminated, all of the easements granted in this Agreement shall continue in perpetuity and all other rights and obligations hereof shall automatically terminate and be of no further force and effect after 99 years from the date hereof.

15. Headings. 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.

16. Entire Agreement. This Agreement constitutes the entire agreement. No Owner may rely upon any statement, promise or representation not herein expressed, and this Agreement once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this document.

17. Transfer of Interests; Notices.

17.1 Transfer of Interests. In the event that any person or entity (the "Acquiring Party") shall acquire a fee or mortgage interest in any portion of the Shopping Center subject to this Agreement, or any portion thereof, the Acquiring Party shall execute and file in the Recorder's Office, a statement setting forth the name of the Acquiring Party, the address of the Acquiring Party to which all notices for the purposes of this Agreement may be sent, the nature of the interest held by the Acquiring Party, and the date that such interest was acquired (the "Notice Statement"). Contemporaneously with such filing, the Acquiring Party shall also send by certified mail, return receipt requested, a copy of such Notice Statement to all other persons or entities then holding fee or mortgage interests in any Parcel subject to this Agreement, or any portion thereof, as reflected by the Notice Statements then of record in the Recorder's Office (the "Existing Interest Holders"). Until such time as an Acquiring Party files and mails such Notice Statement in accordance with the terms of this Section 17.1, it shall not be entitled to receive any notice required or permitted to be given under this Agreement, and the Existing Interest Holders shall have no obligation to give any such notice to the Acquiring Party. Any change of address shall require the filing and mailing of a new Notice Statement.

17.2 Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be mailed by certified or registered mail, postage prepaid, or by Federal Express, Airborne Express, or similar overnight delivery service, addressed as follows:

Anthem: Anthem Center, LLC  
126 Sege Lily Drive, Suite 275  
Sandy, UT 84070  
Attention: Cory Gust  
Telephone: (801) 561-8594

With a copy to:  
Parr Brown Gee & Loveless  
Attention: Lamont Richardson  
101 South 200 East, Suite 700  
Salt Lake City, UT 84111  
Telephone: (801) 532-7840

Notices shall be effective upon receipt or refusal. The telephone numbers listed above are for purposes of providing the same to overnight delivery services and are not to be otherwise used for notice purposes. In the event that any person acquires a fee interest in the Shopping Center said person shall be entitled to provide a request for notice to the addressees listed above, which request, in order to be effective, must also be recorded in the Recorder's Office. Any party shall be entitled to change its address for notice by providing notice of such change and recording a copy of the notice of such change in the Recorder's Office. Until such time as the notice of change is effective pursuant to the terms of this Section 17 and until such time as it is recorded as required above, the last address of said party shall be deemed to be the proper address of said party.

18. Consent. Each Owner agrees that for so long Anthem owns all or a portion of the Additional Developer Tract or any property subject to the ECR, whenever the consent of an Owner is required under the Agreement, such Owner will give such consent only after obtaining Anthem's consent.

19. Obligations of Anthem. Anthem hereby agrees that so long as it owns all or a portion of the Additional Developer Tract or any property subject to the ECR, it will satisfy the obligations of Anthem hereunder, and will hold harmless and indemnify the Owners from any and all loss, damage, expense, fees, claims, costs, and liabilities, including, but not limited to, attorneys' fees and costs of litigation, arising out of this Agreement, except for those arising out of the acts or omissions of the Owner or its employees, agents, contractors or invitees.

20. Counterparts. This Agreement may be executed in one or more counterparts each of which in the aggregate shall constitute one and the same instrument.

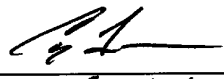
21. Attorney's Fees. In any action or proceeding arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred by such party in enforcing its rights hereunder.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Declarant has executed this Agreement the day and year first written above.

ANTHEM CENTER, LLC, a Utah limited liability company

By: ARBOR COMMERCIAL REAL ESTATE, L.L.C., a Utah limited liability company, its manager


By   
Name CORY GUST  
Title MEMBER / MANAGER

State of Utah

County of Salt Lake

The foregoing instrument was acknowledged before me this 9 day of March, 2018, by Cory Gust, the member/manager of Arbor Commercial Real Estate, L.L.C., a Utah limited liability company, as manager of Anthem Center, LLC, a Utah limited liability company, on behalf of such company.

(Seal and Expiration Date)

  
Notary Public



STATE OF UTAH

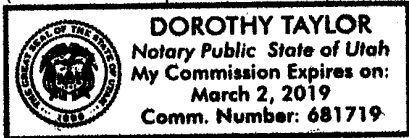
By Lee Fairbourn  
Name: Lee Fairbourn  
Title: Real Estate Manager

State of Utah

County of Salt Lake

The foregoing instrument was acknowledged before me this 1<sup>ST</sup> day of March, 2018, by Lee Fairbourn, the Real Estate Manager of the State of Utah.

(Seal and Expiration Date)




Dorothy Taylor  
Notary Public

APPROVED AS TO FORM:

M. M. M. March 7, 2018  
Assistant Attorney General Date:  
State of Utah

**MORTGAGEES CONSENT**

The undersigned mortgagees hereby consent to the placement of the easements, restrictions, and covenants contained in the foregoing instrument on the parcels of land described therein and further agree that the same shall not be terminated on any foreclosure on any parcel of land covered by the said instrument.

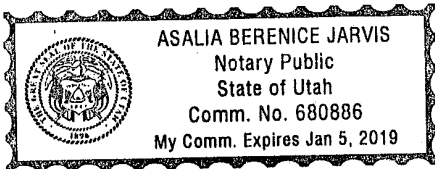
By   
U.S. Bank National Association  
Steve Strong  
Vice President

State of Utah

County of Salt Lake

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of March, 2018, by Steve Strong, Vice President, on behalf of U.S. Bank National Association.

(Seal and Expiration Date)



  
Notary Public





**EXHIBIT A-1**

(Tracts owned by Anthem Center LLC)

Those tracts of land located in Salt Lake County, Utah and more particularly described as follows:

Lot 2, Lot 3, Lot 4, Lot 5, and Lot 6 of the  
Anthem Commercial Lot 1 Amended Subdivision; recorded November 17, 2017.

**EXHIBIT A-2**

(Tracts owned by the State of Utah)

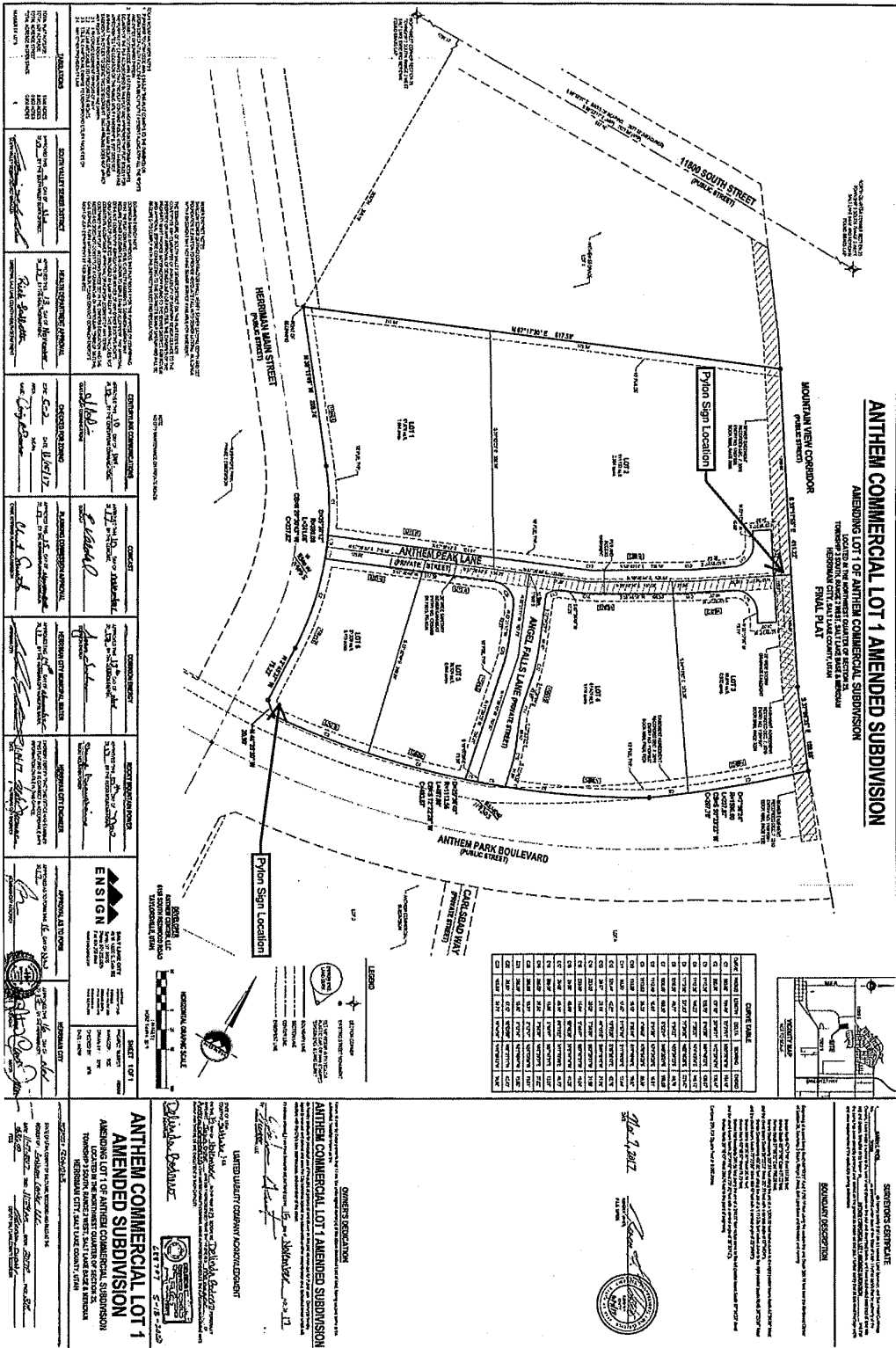
Those tracts of land located in Salt Lake County, Utah and more particularly described as follows:

Lot 1

Anthem Commercial Lot 1 Amended Subdivision; recorded November 17, 2017

EXHIBIT A-3

(Ingress & Egress Areas / Pylon Sign Locations)





**EXHIBIT B**

(Additional Developer Tract legal description)

Lot 1, Lot 2, Lot 3, Lot 4, Lot 5, and Lot 6 of the  
Anthem Commercial Lot 1 Amended Subdivision; recorded November 17, 2017.