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DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
PERTAINING TO A PORTION OF THE SURFACE
OF BLOCK 57
SALT LAKE CITY, UTAH

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS PERTAINING TO A PORTION OF THE SURFACE
OF BLOCK 57, SALT LAKE CITY, UTAH

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS PERTAINING TO A PORTION OF THE SURFACE OF BLOCK 57, SALT LAKE CITY, UTAH (this "Declaration") is executed this 30th day of June, 1995 by the REDEVELOPMENT AGENCY OF SALT LAKE CITY ("Agency") and AMERICAN STORES PROPERTIES, INC.

RECITALS:

- A. Certain capitalized terms in this Declaration are defined in Article 1.
- B. This Declaration relates to the development of certain real property located in what is known as "Block 57" in downtown Salt Lake City, Utah, which real property is described on Exhibit "A" attached hereto and incorporated herein by reference.
- C. This Declaration is intended to govern the development and use of the entirety of the Property.
- D. Agency exercises its functions and powers and is organized and existing under the Utah Neighborhood Development Act, Section 17A-2-1201, *et seq.*, Utah Code Ann. 1953.
- E. In furtherance of the objectives of the Utah Neighborhood Development Act, Agency has undertaken a program for the reconstruction of blighted areas in Salt Lake City pursuant to which Agency has undertaken to redevelop the Property.
- F. Agency prepared and approved, and the City through its City Council and an ordinance, adopted a Redevelopment Plan effective February 11, 1971, which plan is known as the "C.B.D. Neighborhood Development Plan" as such Redevelopment Plan has been and may be amended from time to time. The Redevelopment Plan covers, among other parcels of real property, Block 57.
- G. The Redevelopment Plan has been filed in the Office of the Salt Lake County Recorder and with the Agency.
- H. The Agency has approved a Master Plan for the Property, revised June 1992, which establishes, among other things, development objectives and a land use plan for the redevelopment and future uses of the Property.
- I. The Master Plan contains general and specific design objectives and controls, which include, among other things, the establishment of an attractive urban environment which blends harmoniously with adjoining areas and provides for optimum amounts of open space in

relation to new buildings, unobtrusive parking facilities, off street parking, and building design and materials which harmonize with adjoining areas.

J. In consideration of the desire of Agency to achieve the objectives of the Master Plan and Redevelopment Plan and to ensure that the Property is developed in accordance with the objectives, guidelines and uses specified in the Master Plan and Redevelopment Plan, Agency desires to execute this Declaration.

K. Agency believes that the redevelopment of the Property pursuant to this Declaration and the Parking Agreements, and the fulfillment generally of this Declaration and the Parking Agreements are in the vital and best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the provisions of applicable State laws and requirements under which the Redevelopment Plan and Master Plan have been undertaken.

L. Agency desires that the Property and every portion thereof be developed in conjunction with each other, for the benefit of persons who may become Owners and Occupants of all or part of the Property and to effectuate the statutory purposes of Agency in placing appropriate restrictions upon the future development of the Property, and accordingly hereby and in the Parking Agreements establishes a general plan for the improvement, protection, development, redevelopment, maintenance and use of the Property.

M. American Stores Properties, Inc. has or is about to purchase Parcel C within the Property.

NOW, THEREFORE, Agency hereby covenants and declares that the Property, and every Parcel or interest therein, is now held and shall hereafter be held, transferred, sold, leased, conveyed and occupied subject to the covenants, conditions, restrictions and easements herein set forth, each and all of which is and are for, and shall inure to the benefit of and pass with, each Parcel and every portion of or interest in the Project and shall apply to every Owner and Occupant thereof, and their successors and assigns. These covenants, conditions, restrictions and easements shall run with the Property and every part thereof.

ARTICLE I

Definitions

Unless defined elsewhere in this Declaration, the capitalized terms used in this Declaration shall have the definitions set forth in this Article I.

1.1 "Agency" is the Redevelopment Agency of Salt Lake City and includes any successor designated by Agency or succeeding to Agency pursuant to law, including but not limited to City. Agency shall only have the right to assign any part or all of its rights, duties and obligations hereunder to City, as permitted by Section 8.6, or to either City or Association, as permitted by Section 13.2, and from and after the date of such assignment and the written assumption by City or Association, as the case may be, of the assigned rights, duties or

obligations, Agency shall have no further obligation with respect to the rights, duties and obligations so assigned.

1.2 "Assessment(s)" are, with respect to an Owner during a Fiscal Year, any and all of the following, together with any interest, late charges and collection costs assessed against such Owner in accordance with Article VIII.

1.2.1 Regular Assessment" means any assessment Association shall levy against all Owners to recover each Owner's Expense Share of Common Area Expenses which are not assessed as an Extraordinary Assessment.

1.2.2 Extraordinary Assessment" means any assessment the Association shall levy solely against an Owner and such Owner's Parcel to reimburse the Association for its costs incurred in bringing such Owner and/or such Owner's Parcel into compliance with the provisions of this Declaration.

1.3 "Assessment Denominator" is the denominator to be used for purposes of calculating Expense Shares and shall equal the sum of the total gross square footage of (i) the One Utah Center Parcel and (ii) the land area of all Parcels Subject to Assessment at the time of computing particular Expense Shares.

1.4 "Association" is an association to be known as "Galiivan Utah Center Owners' Association" (or such other name as Agency shall select), the Members of which shall be as set forth in Article II, which Association shall be incorporated under the laws of Utah as a nonprofit corporation.

1.5 "Association Rules" are such rules as the Association may adopt from time to time pursuant to Article II to govern the operation, maintenance and use of the Project.

1.6 "Benefited Parcel" is any Parcel served and benefited by (a) any easement in, over or on the Common Area of a Burdened Parcel or (b) any restriction on use and/or operation of a Burdened Parcel as specified herein.

1.7 "Board" is the Board of Directors of the Association, including each Person individually who serves as a director thereof with respect to all matters where such Person exercises, in concert with other directors, the Board's powers under the Governing Documents.

1.8 "Budget" is the pro forma operating budget for each Fiscal Year of the Association in which the Board shall estimate in good faith the total Common Area Expenses to be incurred for such year, including, without limitation, reasonable reserves for Capital Expenditures and contingent liabilities, together with the necessary Assessments to be levied in support thereof, as more fully described in Article VIII.

1.9 "Building" is any structure including parking structures now or hereafter constructed on the Property with interior space enclosed by exterior walls and that is designed for human occupancy and/or the conduct of the business of its Owner and/or Occupants (exclusive of any interior improvements or tenant improvements thereto) or for parking of vehicles.

1.10 "Burdened Owner" shall have the meaning set forth in Article III.

1.11 "Burdened Parcel" is any Parcel burdened by and subject to (a) any easement in, over or on the Common Area of such Parcel in favor of the Benefited Parcel or (b) any restriction on use and/or operation of a Burdened Parcel as specified herein.

1.12 "Bylaws" means the Bylaws of the Association, as adopted from time to time by the Owners.

1.13 "Capital Expenditures" are all capital expenditures related to the Common Area for repair and replacement of improvements constructed with respect to the Common Area which are recognized by Section 263(a)(1) or (2) of the Code as interpreted by the Regulations.

1.14 "Certificate of Completion" is a certificate issued by the Agency or Association, as the case may be, that Buildings or other Improvements on a Parcel have been constructed or reconstructed as required by and in compliance with this Declaration and any applicable Development Agreement.

1.15 "Certificate of Occupancy" is a permanent certificate of occupancy or substantial equivalent thereof issued by the City with respect to a Building.

1.16 "City" is Salt Lake City Corporation, a Utah municipal corporation.

1.17 "Code" is the Internal Revenue Code of 1986, in effect as of the date hereof.

1.18 "Common Area" is all portions of the surface of the Property and all Improvements thereon (including the Deck and Improvements above the Deck) which are not occupied by Buildings from time to time and which are available for use by all Owners and Occupants and their Permittees as designated in the site plans attached to Development Agreements pertaining to Parcels to be developed. Common Area shall include, without limitation, walkways, fire lanes, landscaped areas, fountains, benches, bus stops, art features, the Plaza and similar improvements on the Plaza, and if not dedicated as a public street, a vehicular drive ("Plaza Drive") which is generally described and depicted in the Master Plan, a pedestrian walkway ("Pedestrian Walkway") at the location designated by Agency from time to time (which shall be designated prior to the time Agency agrees in writing to convey a Parcel upon which the Pedestrian Walkway is to be located) which traverses the Property from north to south and east to west, and which is generally described in the Master Plan. Common Area shall not include canopies, overhangs, porches or steps attached to Buildings, loading docks, ramps, and other areas adjacent to and exclusively serving the Buildings (which shall be deemed to be part of the Building to which they are attached), and Parking Facilities. For purposes only of Common Area maintenance requirements and calculating Common Area Expenses, all Improvements on the Plaza, including (i) Buildings on the Plaza, (ii) canopies, overhangs, porches or steps attached to such Buildings, (iii) loading docks, ramps, and other areas adjacent to and serving such Buildings, (iv) interior improvements to such Buildings, and (v) furniture, fixtures and equipment located within the interior of such Buildings, but not including Buildings (or the interior improvements to such Buildings or the furniture, fixtures, and equipment located

within such Buildings) located on the Plaza within the envelope area designated on the Site Plan as "Retail/Restaurant Use", shall be deemed Common Area.

1.19 "Common Area Expenses" are all actual and/or estimated costs, whether an expense or Capital Expenditure, Association has and/or will incur in connection with Common Area, including, but not limited to the costs of the following:

1.19.1 The costs of maintaining, repairing, replacing and insuring the Common Area, including the costs and fees of the Common Area Manager and as otherwise provided in Article VII of this Declaration;

1.19.2 Uncollectible collection costs with respect to Assessments;

1.19.3 Reasonable costs of management, administration and performance of Association's duties and obligations hereunder, including, but not limited to, compensation paid to agents or employees of Association and reasonable overhead expenses;

1.19.4 Reasonable costs and fees paid to third parties, including managers, contractors, accountants, attorneys, architects and engineers who provide services and/or otherwise assist the Association in performance of its duties and obligations hereunder;

1.19.5 Reasonable costs of any insurance required or carried by the Association (or the Common Area Manager) pursuant to this Declaration, including, without limitation, directors and officers liability with respect to the Board (if available and at commercially reasonable rates), public liability, casualty, worker's compensation, fidelity coverage and other forms of insurance generally obtained by Persons performing property management functions similar to those of Association;

1.19.6 Association's (or the Common Area Manager's) costs incurred in forming, implementing and/or coordinating programs dealing with crime prevention;

1.19.7 Reasonable reserves for maintenance expenses and Capital Expenditures, as the Association shall establish from time to time; provided, however, Association shall establish a reserve for Capital Expenditures as provided in Section 8.4;

1.19.8 Any other reasonable expenses incurred by or on behalf of the Association in connection with the improvement, maintenance, management, administration, operation, repair and/or replacement of the Common Area; and

1.19.9 The cost of the audit required to be made by the Association under the terms of Article VIII.

1.20 "Common Area Manager" is the Person (whether one or more) designated by the Association to manage, in whole or in part, the Common Area.

1.21 "Construction Documents" shall mean the documents required by the Agency, the Association and/or the Design Review Committee, as the case may be, in connection with the implementation of the Design Guidelines. The Construction Documents may include, among others, schematic design phase drawings, design development phase drawings, preliminary construction documents, and final construction documents for Buildings and Improvements prepared by an Owner in connection with the initial development of a Parcel as required by Agency, and by the Association in connection with any subsequent development, redevelopment, exterior remodelling or exterior signage changes with regard to Buildings and/or Improvements on the Parcels.

1.22 "Cost of Living Factor" shall mean the Cost of Living Index for the second month prior to the month in which an adjustment is to occur.

1.23 "Cost of Living Index" shall mean the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all Urban Wage Earners and Clerical Workers: U.S. City Average, "All Items" (1982-84=100), as amended, or any successor to such index, or in the absence of such index, or successor to such index, any reasonably suitable substitute index or procedure that reflects changes in consumer prices.

1.24 "Cost of Living Fraction" shall mean the Cost of Living Factor divided by the Cost of Living Factor for the prior adjustment, or, in the case of the first adjustment, the Cost of Living Index for December, 1997.

1.25 "Deck" shall mean those areas or portions of the roof of the underground Parking Facilities which serve as the platform for surface Improvements in the Project.

1.26 "Design Guidelines" shall mean the general guidelines set forth in Article VI which shall be used by Agency and the Design Review Committee, among other things, in connection with the initial development of the Parcels and which shall be used by the Association and the Design Review Committee in connection with any subsequent development, redevelopment, exterior remodelling or exterior signage changes in connection with Buildings and/or Improvements on the Parcels.

1.27 "Design Review Committee" is a committee appointed by the Agency (in its discretion) to review and provide recommendations in connection with the Construction Documents with regard to the initial development of the Parcels and the committee appointed by the Association (in its discretion) to review and provide recommendations in connection with the Construction Documents with regard to any subsequent development, redevelopment, exterior remodelling or request for changes in exterior signage with respect to Buildings and/or Improvements on the Parcels. At the option of Agency and Association, as the case may be, the reasonable costs and fees of the Design Review Committee may be passed on to the Owner seeking review of Construction Documents. The recommendations of the Design Review Committee shall be deemed to be advisory only. Agency and the Association, as the case may be, shall have the right to provide final approvals which may not necessarily be consistent with the recommendations of the Design Review Committee. The members of the Design Review Committee appointed by the Association shall include representatives of the Owners and the Project Architect (if any).

1.28 "Developed Parcel" is any Parcel upon which one or more Buildings have been built for which a Certificate of Occupancy has been issued.

1.29 "Development Agreement" means a Development Agreement executed by an Owner and the Agency and which provides certain guidelines and obligations for development of a Parcel.

1.30 "Development Parcel" means Parcel A, Parcel B, and Parcel C or any of such Parcels.

1.31 "Encroachments" is defined in Article III.

1.32 "Environmental Damages" are all claims, demands, orders, judgments, damages, losses, penalties, fines, liabilities, encumbrances, liens, costs and expenses of investigation and defense of any claim related to Environmental Laws, whether or not such claim is ultimately defeated, a good faith settlement of judgment, and attorneys' fees, including without limitation, damages for personal injury, or injury to property or natural resources and consultant and contractor fees.

1.33 "Environmental Laws" means the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Federal Water Pollution Control Act of 1977, 33 U.S.C. § 1251 *et seq.*, as amended by the Water Quality Act of 1987; FIFRA; the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. § 1401 *et seq.*; the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.*; the Noise Control Act of 1972, 42 U.S.C. § 4901 *et seq.*; the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et seq.*, as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*; CERCLA, as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001, and the Radon Gas and Indoor Air Quality Research Act of 1986, 42 U.S.C. § 7401; The Utah Indoor Clean Air Act; RCRA; TSCA; AREA; and NWPA, all as may be amended, with implementing regulations and guidelines. Environmental Laws shall also include all federal, state, regional, county, municipal, and other local laws, regulations, and ordinances regulating any substance, waste or material determined by such governmental agency to be capable of posing a risk of injury to health, safety or property.

1.34 "Expense Share" for an Owner of one or more of the Parcels Subject to Assessment shall be as follows:

1.34.1 All Owners of one or more of the parcels Subject to Assessment, except the Owner of the Plaza shall have an Expense Share equal to the lesser of (i) a fraction whose numerator is the total gross square footage of the land area of such Owner's Parcel at the time of determination and whose denominator is the Assessment Denominator, or (ii) the Fixed Assessment for that Parcel as of the date of determination.

1.34.2 The Owner of the Plaza shall have an Expense Share equal to the difference between the portion of the Common Area Expenses for a particular Fiscal Year payable by the other Owners and the total Common Area Expenses for that Fiscal

Year, subject to the overall limitation on the Expense Share of the Agency, as Owner of the Plaza, provided in Section 8.6.

1.34.3 Once a Parcel has been transferred by Agency to an Owner (by sale or lease), such Owner shall deliver to the Association and Agency a certification from a licensed surveyor or civil engineer certifying the actual square footage of the land area of the Parcel which certificate may be used by the Association for purposes of calculating such Owner's Expense Share. Upon receipt of a certification from a licensed surveyor or civil engineer certifying the actual square footages of the Parcels, Association shall prepare a list of such figures which shall be used for purposes of calculating each Owner's Expense Share and which shall be made available to all Owners for inspection upon request. Association shall have the final authority to determine and declare the actual square footages of all Parcels. In the event an Owner shall fail or refuse to deliver the foregoing certification, the Association shall estimate the square footage of such Owner's Parcel, and such estimate shall be conclusive as to such Parcel's square footage until such time as the Owner provides the certification of square footage required hereby.

1.35 "Fiscal Year" is such annual period as the Association shall adopt to account for Common Area Expenses.

1.36 "Fixed Assessment" for Development Parcel A is \$115,000.00 initially in 1997 dollars and for Development Parcel B, \$65,000.00 initially, in 1997 dollars, such initial assessments to be adjusted in accordance with the percentage change in the Cost of Living Index for January 1997 to January of the year of the initial Fixed Assessment; and for Development Parcel C, \$100,000.00 initially (a "Development Parcel's Initial Fixed Assessment"). On the first day of the month following the third anniversary of the date a particular Development Parcel becomes one of the Parcels Subject to Assessment and each three years thereafter, that Development Parcel's Initial Fixed Assessment shall be increased to the lesser of (i) the amount obtained by increasing the Fixed Assessment for the current period by three percent (3%) per year compounded annually, or (ii) the amount obtained by multiplying the Development Parcel's Fixed Assessment for the current period by the Cost of Living Fraction. Such increased amount shall thereafter be the Fixed Assessment for such Development Parcel until the next adjustment becomes effective. Regular Assessments for a Development Parcel subject to an increase in the Fixed Assessment during a Fiscal Year will be adjusted as provided in Section 8.3.

1.37 "Governing Documents" are the Master Plan, the Redevelopment Plan, this Declaration, any Development Agreement, Association Rules, and the Bylaws; provided, however, if there is any inconsistency between the provisions of this Declaration and those of any of the other Governing Documents, the provisions of this Declaration shall govern to the fullest extent allowed by law.

1.38 "Hazardous Material" means any hazardous substance, pollutant, or contaminant regulated under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq.* ("CERCLA"); oil and petroleum products and by-products and natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable for fuel, urea formaldehyde foam insulation, and chlorofluorocarbons; pesticides regulated under the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136 *et seq.*

("FIFRA"); asbestos, polychlorinated biphenyl, and other substances regulated under the Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 *et seq.* ("TSCA"); chemicals subject to the Occupational Safety and Health Standards, Hazard Communication, 29 C.F.R. § 1910.1200, as amended; source material, special nuclear, by-product materials, and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011 *et seq.* ("AREA"); or the Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. § 10101 *et seq.* ("NWPA"); industrial process and pollution control wastes whether or not hazardous within the meaning of the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 *et seq.* ("RCRA"); and any other hazardous substance, pollutant or contaminant that is regulated or becomes regulated under any other Environmental Laws.

1.39 "Improvements" are all structures and improvements constructed on a Parcel or Common Area or incidental and adjacent to Buildings, of any type or kind, including, but not limited to, utility lines and facilities, sidewalks, driveways, surface drives, fences, screening walls, trash enclosures, retaining walls, landscaping, hardscape, water features, planted trees, lighting fixtures, poles and signs, but excluding all Buildings.

1.40 "Majority" is the number of votes needed for the affirmative approval of a majority of the Members as described in Section 2.5.1.

1.41 "Master Plan" shall mean the Block 57 Master Plan prepared by BRW, Inc. for the Agency, as amended from time to time. The Master Plan is a general guideline for development of the Property but may be amended by Agency at any time in its sole discretion, subject to and in compliance with the requirements of applicable law. The Master Plan shall remain in force and effect until the issuance of a Certificate of Occupancy and Certificate of Completion for the initial development of all of the Parcels in the Project.

1.42 "Member" is every Owner who qualifies for membership and is a member of the Association.

1.43 "Mortgage" is any duly recorded first mortgage or first deed of trust encumbering an Owner's interest in one or more Parcels.

1.44 "Mortgagee" is the holder of a Mortgage.

1.45 "Occupant" is an Owner and any other Person entitled, by fee ownership or leasehold interest, to the exclusive right to occupy all, or any portion of, a Building.

1.46 "One Utah Center Parcel" is that certain tract of property currently owned by Boyer-Block 57 Associates and on which the One Utah Center building has been constructed.

1.47 "One Utah Center Parking Parcel" is that certain tract of property beneath Block 57 which has been developed as a parking facility for the tenants of the 23 story office tower located on the northwest corner of Block 57 and which will constitute a portion of the Parking Facilities.

1.48 "Owner" is, at any particular time, the Person or Persons collectively holding record fee title to a Parcel.

1.49 "Parcel" shall mean any lots or parcels of real property which comprise the surface of the Property, including Parcels A, B and C as described in the Master Plan (or as modified from time to time by Agency), the Plaza and any other Parcels created by Agency from time to time. The One Utah Center Parcel is not a Parcel subject to this Declaration. Agency shall have the right to identify and create and/or reconfigure the boundaries of any Parcels owned by Agency. A Parcel shall be created by the conveyance by Agency to an Owner of a portion of the Property. Parcel shall also mean that portion of the Property owned by Agency prior to conveyance by fee or lease to one or more Owners. At the time Agency conveys a Parcel to an Owner, Agency shall designate those portions of the Parcel upon which Buildings may be constructed and the location of Common Area Improvements such as pedestrian walkways and vehicular drives.

1.50 "Parcel(s) Subject to Assessment" shall mean each of the Developed Parcel(s) within the Property, provided that a Development Parcel shall be included in the Parcels Subject to Assessment only from and after the date that such Development Parcel is sold or leased by Agency to a third party, Agency issues a Certificate of Completion for the Buildings and Improvements initially developed thereon, and a Certificate of Occupancy has been issued for those Buildings and Improvements, and such Development Parcel shall be assessed as provided in Section 8.3.

1.51 "Parking Agreements" include the Parking Lease between the Agency and the owner of the One Utah Center Parcel, and other parking agreements executed from time to time between two or more Parcel Owners or one or more Parcel Owner and the owner of the One Utah Center Parcel.

1.52 "Parking Facilities" shall mean all parking facilities now or hereafter constructed on or beneath the Parcels, including the parking facilities under the Plaza.

1.53 "Permittee" is any customer, patron, employee, concessionaire or other business invitee of an Occupant or Owner.

1.54 "Person" is any individual, partnership, firm, joint venture, association, corporation, limited liability company, any other form of business entity or any public body corporate and politic.

1.55 "Plaza" is that Parcel currently owned by Agency and developed with Improvements and Buildings as an urban plaza. The location of the Plaza is generally depicted in the Master Plan.

1.56 "Plaza Drive" is a vehicular and pedestrian right of way easement for the general public or dedicated street to be located within the real property described in Exhibit "B."

1.57 "Program Assessment" is the share of costs for programming the Plaza to be paid by each Owner, other than the Owner of Parcel C, as more particularly provided in Section 9.3.

1.58 "Program Manager" is the Person employed by Agency, in its discretion, to arrange, manage and supervise all or part of the programming events and activities on the Plaza as more particularly provided in Section 9.2.

1.59 "Project" is the Property, Buildings and Improvements.

1.60 "Project Architect" is an architect hired by Agency or the Association, as the case may be, to review Construction Documents submitted by the Owners of the Parcels, in the case of Agency, in connection with the initial development of the Parcels, or in the case of Association, the subsequent development, redevelopment, exterior remodelling or exterior signage changes in connection with Buildings and/or Improvements on the Parcels. Agency and the Association may pass on the reasonable costs and fees of the Project Architect to Owners seeking review of Construction Documents.

1.61 "Property" shall mean the real property described in Recital B and Exhibit "A" to this Declaration.

1.62 "Redevelopment Plan" shall have the meaning set forth in Recital F to this Declaration.

1.63 "Regulations" are the Regulations promulgated by the United States Treasury Department pursuant to the Code from time to time.

1.64 "Served Owner" shall have the meaning set forth in Article III.

1.65 "Site Plan" is that certain Site Plan attached hereto as Exhibit "C" and incorporated herein by reference which generally depicts the location of the Parcels and other items as provided in this Declaration.

1.66 "Super Majority" is the number of votes needed for the affirmative approval of a super majority of the Members as described in Section 2.5.2.

1.67 "Undeveloped Parcel" is any Parcel which is undeveloped or which is developed with a Building or Improvement for which a Certificate of Occupancy has not yet been issued.

1.68 "Utilities" are any or all of the following: facilities for the supply and/or return of sanitary sewer, storm water drainage, potable water, electricity, natural gas and telephone service.

1.69 "Utility Company" is any public or private company, district or agency that installs, relocates, removes, services, maintains and/or supplies Utilities.

ARTICLE II

Association

2.1 Formation of Association. Prior to the conveyance of any Parcel by Agency, Agency shall cause the Association to be formed and take such steps as may be necessary or appropriate in connection therewith (including the preparation, execution and filing of articles of incorporation and bylaws and the making of all other appropriate filings), for the purpose of operating the Common Area as provided herein and assuming all those rights and duties of the Association set forth in the Governing Documents and under this Declaration and applicable law.

2.2 Membership. Every Owner shall be a Member for so long as it is an Owner and thereafter each Person that becomes an Owner shall thereupon be a Member. The terms and provisions set forth in the Governing Documents shall bind all present and future Owners. Membership of an Owner in the Association shall be appurtenant to, and not be separated from, the interest of such Owner in any Parcel. The sole qualification for membership in the Association shall be a Person's status as an Owner of a Parcel.

2.3 Transfer. An Owner's membership in the Association shall not be transferred, pledged or alienated apart from such Owner's interest in its Parcel. Such membership shall automatically be conveyed to the transferee of a Parcel and, upon such transfer, the transferor shall no longer be a Member as a result of ownership of the transferred Parcel. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring Owner. The Association shall have the right to charge a transferee Owner a reasonable fee (a "Transfer Fee") not to exceed Six Hundred Dollars (\$600.00) through the end of 1997, with such limit being increased on each January 1, commencing in 1998, in an amount equal to the current Transfer Fee limit multiplied by the Cost of Living Fraction, to cover the Association's costs of documentation and clerical services incurred with respect to the transfer of a membership interest in the Association, and, notwithstanding any other provision of this Declaration, an Owner's right to vote shall not vest until such transfer fee has been paid. Notwithstanding the foregoing, an Owner shall have the right to assign, without charge of such fee, its voting rights to one or more Occupants of its Parcel, provided such Owner notifies the Association of all terms and conditions of such assignment, and provided further such assignees shall exercise such Owner's votes in unison.

2.4 Voting Rights of Members. With respect to all matters, each Member shall have that portion of one hundred (100) votes in the Association that equals the percentage of such Owner's Expense Share of all Expense Shares at the time of the vote, with Expense Shares being determined as proportioned by the provisions of Sections 1.34.1(ii) for the Owners of Parcels Subject to Assessment other than the Plaza and 1.34.2 for the Owner of the Plaza. The number of votes held by each Member may change from time to time as the percentage of an Owner's Expense Share in relation to the total varies.

2.5 Approvals and Consents. Unless otherwise specifically provided herein, any provision of this Declaration that requires the affirmative vote or written consent of the voting interests of the Members shall be deemed satisfied by the following:

2.5.1 With respect to a Majority, the affirmative vote of at least fifty one percent (51%) of all votes entitled to be cast by all Members present, in person or by proxy (which affirmative vote must include Agency's affirmative vote or City's affirmative vote, if Agency has transferred its rights and duties to City pursuant to either Section 8.6 or Section 13.2), at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with annual, regular or special meetings of the Members, at which a quorum is present, in person or by proxy, a quorum consisting of Members holding at least fifty one percent (51%) of all votes of the Members entitled to vote;

2.5.2 With respect to a Super Majority, the affirmative vote of at least seventy five percent (75%) of all votes entitled to be cast by all Members present, in person or by proxy (which affirmative vote must include Agency's affirmative vote or City's affirmative vote, if Agency has transferred its rights and duties to City pursuant to either Section 8.6 or Section 13.2), at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with annual or special meetings of the Members, at which a quorum is present, in person or by proxy, a quorum consisting of Members holding at least seventy five percent (75%) of all votes of the Owners entitled to vote; and/or

2.5.3 The written consents signed by Agency and a Majority or Super Majority, as the case may be.

2.6 Specific Powers of the Association. Subject to Section 13.1 and except as otherwise provided in this Declaration, and without limiting the terms and provisions of Section 2.1, the Association shall have the power, in furtherance of the purposes of the Association:

2.6.1 And the obligation to employ the Common Area Manager, subject to the approval of the Agency, to perform certain services as provided in this Declaration on behalf of the Association, including but not limited to management and operation of the Common Area as provided in Article VII. Appropriate fidelity bond coverage shall be required for the Common Area Manager and for any officer, employee and agent of the Common Area Manager who handles funds of the Association. The Association may by written contract delegate in whole or in part to the Common Area Manager such of the duties, responsibilities, functions and powers hereunder of the Association as set forth herein;

2.6.2 But not the obligation, to resolve all disputes concerning membership in the Association;

2.6.3 And the obligation to enforce the provisions of this Declaration;

2.6.4 And the obligation, to obtain either directly or indirectly such insurance coverage as the Association deems reasonably necessary, including, without limitation,

a policy insuring the officers of the Association against any liability for their errors and/or omissions arising from performance of their duties for the Association, if available and at commercially reasonable rates;

2.6.5 But not the obligation, except with the approval of a Super Majority, to borrow such funds as may be required in connection with the discharge by the Association of its powers and duties hereunder at the then prevailing market rates;

2.6.6 But not the obligation, to adopt, amend and repeal Association Rules with the approval of a Majority;

2.6.7 But not the obligation, to enter into contracts, deeds, leases and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers;

2.6.8 But not the obligation, to open bank accounts on behalf of the Association and to designate the signatures therefor;

2.6.9 But not the obligation, to bring, prosecute and settle litigation for itself, the Association and the Project, provided that it shall make no settlement which results in a liability against the Board, the Association or the Owners in excess of Ten Thousand Dollars (\$10,000.00) without the prior approval of a Majority. In no event shall the Association bring, prosecute or settle litigation affecting the Agency without the Agency's prior written approval;

2.6.10 But not the obligation, to own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Owners, items of personal property necessary to or convenient to the management of the business and affairs of the Association and the Board and in the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment and office supplies;

2.6.11 And the obligation, to keep adequate books and records;

2.6.12 And the obligation to do all other acts necessary for the operation and maintenance of the Association.

2.7 Joint Owners. The votes of each Member shall be cast as a unit, if cast at all; fractional votes shall not be allowed. In the event that two or more Persons jointly constitute an Owner, such Persons holding all of the interest of an Owner with respect to or in any Parcel shall jointly be considered a single Member. In order that the Association and other Members shall not be required with respect to such Member to obtain the vote, action or agreement of, or to proceed against, more than one Person in carrying out or enforcing the terms, covenants, provisions and conditions of this Declaration, the Persons holding more than a fifty percent (50%) interest of such Member or in the Parcel or Parcels with respect to which such Persons have the status of an Owner shall designate one of their number, or an institutional lender or trustee, as such Member's agent to act on behalf of all such Persons and deliver a copy of such

designation to the Association. Any such designated agent is hereinafter referred to as the "Member's Agent."

The exercise of any powers and rights of a Member under this Declaration by such Member's Agent shall be binding upon all Persons having an interest in such membership. Such Member's Agent shall, so long as such designation is in effect, be a Member hereunder for the purpose of exercising the rights and powers of a Member and the remaining Persons having an interest in such membership shall be deemed not to be a Member for such purpose. The Association and the other Members shall have the right to deal with and rely upon the acts or omissions of such Member's Agent in the performance of this Declaration; but such designation shall not, however, relieve any Person from the obligations created by this Declaration. Any Person designated a Member's Agent pursuant to the provisions of this Section shall be the agent of his or her principals, upon whom service of any process, writ, summons, order, or other mandate of any nature, of any court in any action, suit or proceeding arising out of this Declaration or any demand for arbitration may be made and service upon such Member's Agent shall constitute due and proper service of any such matter upon his or her principal. Until a successor Member's Agent has been appointed and notice of such appointment has been delivered pursuant to the provisions of this Section 2.7, the designation of a Member's Agent shall remain irrevocable.

ARTICLE III

Easements and Common Area

3.1 Easement: Pedestrian and Vehicular Access. Agency hereby reserves to itself and its successors and assigns for the purpose of granting and hereby grants to each present and future Owner, Occupant and Permittee nonexclusive, mutual and reciprocal surface easements over and upon the designated pedestrian and vehicular traffic circulation patterns as reasonably established over the Common Area by the Agency with regard to Parcels owned by the Agency including easements required by the Agency as a condition to the development of a Parcel by an Owner; additional easements may be added by the Association from time to time with the consent of the Owner of the Parcel over which the easement is to be located; provided, however, that the easement for Plaza Drive will be restricted to the real property described on Exhibit "B." The pedestrian and vehicular traffic circulation patterns shall be as generally depicted on and as contemplated by the Master Plan unless modified by Agency prior to the conveyance of Parcels within the Project, or unless modified by a Super Majority in connection with the reconfiguration of a Parcel, Building(s) or Improvement(s). Agency or Association or the Owner of Parcel C may dedicate Plaza Drive to the City in which case Plaza Drive will no longer be Common Area. If the Association enters into specific easement agreements with the Owners of those Parcels encumbered by Plaza Drive with respect to the Plaza Drive easement, those specific agreements shall control over any inconsistent provisions in this Declaration.

3.2 Easement: Association. Agency hereby reserves to itself and its successors and assigns for the purpose of granting and hereby grants to the Association and Agency a nonexclusive easement under, on and over the Common Area for ingress, egress, passage and performance of their rights and duties under this Declaration.

3.3 Easement: Utilities. Agency hereby reserves to itself and its successors and assigns for the purpose of granting and hereby grants to each present and future Owner nonexclusive easements in the Common Area necessary for the installation, repair, maintenance, replacement, relocation and/or removal of Utilities, together with a right to enter the Common Area to the extent and for such time as may be necessary to exercise any of the foregoing easements; provided, however, except in the event of an emergency repair, the right of any Owner ("Served Owner") to enter upon the Parcel of another Owner ("Burdened Owner") for the exercise of any right pursuant to such easements shall be conditioned upon obtaining the prior written consent of the Burdened Owner, which consent shall not be unreasonably withheld provided that the use of the Burdened Owner's Parcel is not unreasonably interfered with, and provided that such interference is held to as short a time period as is reasonably possible. The Served Owner shall further coordinate such entry and work so as to minimize any inconvenience to the Burdened Owner; provided, further, the Burdened Owner shall have the right, at its sole expense, in cooperation with any applicable Utility Company, to relocate any Utilities on its Parcel to another location thereon to the extent that such relocation is necessary to permit the Burdened Owner to construct new Improvements or expand existing Improvements on such Parcel; provided further that at the request of a Burdened Owner, the Served Owner shall post a bond satisfactory in the Burdened Owner's reasonable discretion, prior to any work being performed; and provided, finally, that a Served Owner under this Section 3.3 shall, at its sole expense, promptly repair any and all damage to the Burdened Parcel or its Improvements arising from the exercise of the foregoing easement. Any Served Owner shall indemnify, defend and protect the Burdened Owner from any and all claims, demands, liabilities, lawsuits, costs and expenses of any nature that the Burdened Owner may incur in connection with the Served Owner's exercise of the foregoing easements.

3.4 Easement: Support. Agency hereby reserves to itself and its successors and assigns for the purpose of granting and hereby grants to each present and future Owner mutual, reciprocal and perpetual easements for the purpose of providing subjacent or sublateral support for underground footings, foundations and similar encroachments or intrusions ("Encroachments") for any Building or Improvement constructed on any Parcel for the benefit of any other adjoining Parcel, including Encroachments having resulted from minor errors occurring in the course of construction or from minor settlement, shifting or movement following such construction, so long as such Encroachments do not materially and adversely affect the reasonable use, occupancy, enjoyment and development of the Burdened Parcel subject to such Encroachment. In the event of any such Encroachment, the Served Owner shall prepare and process a lot line adjustment at its sole cost and expense, if so requested by Agency and/or the Owner of the Burdened Parcel. The easements granted under this Section 3.4 shall remain in effect and shall not terminate as long as the affected Building and/or Improvements exist or are being restored.

3.5 Easement: Light and View. Agency hereby reserves to itself and successor Owners of the Plaza for so long as the Plaza is operated and maintained as a plaza substantially consistent with the Master Plan, an easement for the free and uninterrupted enjoyment of light, air and view over and across the most easterly three hundred fifty feet of Parcel C the location of which is shown on Exhibit "D," beginning at a height of twenty (20) feet above the elevation of the top of the parking structure to be constructed thereon by the Owner of Parcel C, as such height is finally established by the final construction drawings, said easement affecting all space

extending upward from said plane. The parking structure to be constructed on Parcel C may not exceed a height of seven parking levels on and above grade.

3.6 Future Easement: Light and View. Agency hereby grants a future easement to the Owner of Parcel C, which shall arise without the necessity of a further grant of easement at such time as the Plaza is no longer operated and maintained as a plaza substantially consistent with its current design and the Master Plan. Such future easement when and if it comes into existence shall provide for the free and uninterrupted enjoyment of light, air and view over and across that portion of the Plaza shown on Exhibit "D" for all space which lies above a plane which is twenty four (24) feet above the Surface level of the Plaza as it exists as of the date hereof.

3.7 Duration of Easements. The easements granted under Section 3.4 shall remain in effect and shall not terminate as long as the affected Building and/or Improvements exist or are being restored. The access easement granted in Section 3.1 shall exist in perpetuity. The easements granted in Section 3.3 shall survive termination of this Declaration for so long as the Served Owners shall continue their use thereof. The easement granted in Section 3.5 shall continue for the period stated therein, and the future easement granted in Section 3.6 shall come into being upon the occurrence of the event described in Section 3.6 and shall continue in perpetuity thereafter. The easements (except as provided otherwise herein), covenants and restrictions established in this Declaration shall terminate with the expiration or earlier termination of this Declaration.

3.8 Relocation of Common Area. Agency hereby reserves the right to locate, relocate, configure or reconfigure the Common Area on Parcels for the purposes of benefiting the Project; provided that such location, relocation, configuration or reconfiguration may not deprive any Owner of reasonable access for ingress and egress to and from the private or public streets abutting the Property or, without the prior written consent of the affected Parcel Owner (which consent may be given or withheld in such Owner's sole and absolute discretion), alter the location on a particular Parcel where Buildings may be constructed, as designated by Agency pursuant to Section 1.50. Agency may not relocate nor reconfigure the perimeter or footprint of any portion of Common Area in a Parcel which Agency does not own, once final design approval has been granted by the Agency without the prior written consent of the affected Owner of such Parcel, which consent shall not be unreasonably withheld. Agency shall have such conditional right with regard to any Parcel even after such Parcel has been conveyed to parties other than Agency. Upon any such relocation of Common Area, Agency shall have the right, but not the obligation, to execute an amendment to this Declaration, setting forth the change in location of the Common Area and subjecting the relocated Common Area to all the terms, covenants and conditions of this Declaration. Any replacement Common Area and the improvements thereto shall be of comparable quality and construction as the Common Area being replaced. If requested by Agency each Owner and the Association shall execute such documents as deemed necessary by the Agency to terminate such Owners' and the Association's interest in the original Common Area being replaced. If so requested, the Association and the Owners shall also execute an amendment to this Declaration setting forth the change in location of the Common Area and upon recordation of such amendment the rights of the Owners and the Association with respect to the original Common Area shall cease and be null and void and

thereafter shall accrue only with respect to the replacement Common Area. Association, with the approval of a Super Majority, shall have the same rights as Agency with regard to the relocation, configuration or reconfiguration of Common Area as provided for and subject to the terms and conditions set forth in this Section 3.8.

3.9 Certain Licenses For Owners. It is recognized that from time to time during the term of this Declaration the Owners may require temporary licenses to use portions of Undeveloped Parcels, except Parcel C, on which improvements are under construction. Such temporary licenses shall be used only for the purpose of (i) performing maintenance upon, making repairs to, remodeling, demolishing or expanding such Owners' Parcel(s), Buildings and Improvements thereon, (ii) making construction alterations, additions and improvements to, or razing and replacing the whole or any part of, the Building(s), if any, on such Parcel(s), and/or (iii) obtaining access, ingress and egress to and from the Improvements on the other Parcel(s) to carry on other maintenance, repair, construction, and other work required or permitted pursuant to this Declaration. It is further recognized that such licenses must be reasonable in scope, duration and purpose.

3.9.1 Within a reasonable time prior to the commencement of any such work, the Owner desiring to undertake the same shall submit to the Owner of the Undeveloped Parcel to be affected by such temporary license, for its approval (which approval shall not be unreasonably withheld), (i) a description of the work to be performed, an estimated construction schedule for such work and a description of the scope of the license requested; (ii) a plot plan of the affected Undeveloped Parcels on which the submitting Owner shall have delineated those portions of the other Parcel(s) with respect to which it reasonably requires a temporary license in connection with such work and such access, ingress and egress; and (iii) evidence sufficient to satisfy a reasonable person of the submitting Owner's adequate financial responsibility (through insurance or otherwise) to fulfill its obligation to restore all damage to the Undeveloped Parcel(s) as provided below. Each Owner of whom such license is requested shall, within ten (10) days thereafter, notify such submitting Owner whether it approves or disapproves the requested use (and in the case of a disapproval, such Owner shall give specific reasons for such disapproval) and in the absence of such notice, the requested use shall be deemed approved by such Owner.

3.9.2 At all times during the period of exercise of any such temporary license, the licensee shall take all measures reasonably required to protect the other Owners and their Occupants and the property and business of each from injury or damage arising out of or caused by such work, and shall indemnify and hold the Owner of the Parcel(s) subject to such license and such Parcel(s) harmless from any and all such injury or damage. Such licensee shall not use such temporary license so as to unreasonably impair or interfere with the use, occupancy or enjoyment of the other Owner's Parcel(s), or any portion thereof, or any other Parcel, by the other Owners and Occupants. During the period of such use of such temporary license, the licensee shall keep all portions of the affected Parcel(s) free and unobstructed by any equipment, construction materials, debris or loose dirt related to such work, except as permitted under such temporary license.

3.9.3 Upon the earlier of (i) cessation of such work by the licensee for a period of fifteen (15) days (for reasons other than force majeure), or (ii) completion of such work by the licensee, such temporary license shall terminate and such person shall promptly restore the portions of the Parcel(s) so used to the condition in which the same existed prior to the time of commencement of such use. Such person shall also restore all other portions of the Parcel(s) of other Owners which may have been damaged by such maintenance, repair or construction work, promptly upon the occurrence of such damage.

3.10 Temporary Closing of Plaza Drive. During the development of Parcels A and/or B it may be necessary to close off the easterly portion of Plaza Drive from State Street extending westerly to the boundary of Parcel C. An Owner of either of such Parcels shall have the right to temporarily close off such portion of Plaza Drive (but during such closure shall the right to use the portion of Plaza Drive which has not been closed) upon submitting a request to the Owner of the Plaza Parcel for such temporary closure of such portion of Plaza Drive, which request will not be unreasonably denied by the Owner of the Plaza Parcel, provided (i) at least two entries to the One Utah Center Parking Parcel are available for use at all times, (ii) appropriate indemnities, insurance, performance and completion bonds and agreements pertaining to restoration are provided by the Owner which is developing either Parcel A or Parcel B to Agency and the Owner of Parcel C and (iii) the Owner of the Parcel being developed constructs a temporary cul-de-sac or alternatively a vehicle turn around, as approved by the Agency and, if necessary, as also approved by Salt Lake City. The temporary closure shall be limited to a reasonable period of time as determined by Agency, to permit development of such Parcel.

ARTICLE IV

Restrictions

4.1 Permitted Uses Generally. No portion of the Project or any Building or Improvement constructed thereon shall be used for any purpose other than those (i) permitted by the Governing Documents and any other restrictions of record which are consistent with this Declaration and as contemplated by the Design Guidelines. Without limiting the generality of the foregoing, the Project and any Improvements and Buildings constructed thereon shall be used consistently with the contemplated uses set forth in Article VI.

4.2 Anti-Discrimination. Owners, their successors and assigns, and all tenants, subtenants, licensees, contractors, agents and employees of Owners or their successors and assigns shall not discriminate against or with respect to any person or group of persons on the basis of race, color, creed, sex, marital status, age, religion, disability or national origin in the construction, sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or any of the Improvements erected or to be erected thereon, or any part thereof. No Owner itself, or any person claiming by, through or under an Owner, shall establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees or vendees on the Property or any Improvements erected or to be erected thereon, or any part thereof. Owners and their successors and assigns shall insert similar clauses in all leases, deeds, contracts and other instruments executed in connection with the Property.

4.3 Permitted and Prohibited Operations and Uses. The operations and uses designated in the Master Plan for each Parcel shall be the only operations and uses permitted on such Parcels except as otherwise provided herein, and except that Agency may change such permitted operations and uses in its sole discretion prior to the conveyance of a Parcel affected by such change, by fee or lease, to an Owner. In no event, however, may the Agency or any other party change permitted uses to allow any use prohibited under Section 4.4 of this Declaration. Following the initial development of all the Parcels such permitted operations and uses may be changed with the approval of a Majority and the approvals of all governmental authorities having jurisdiction over the same. In no event shall any noxious or offensive activity be permitted on any Parcel or any part of the Project which may be, or become, an annoyance, nuisance or interference with quiet enjoyment, or that may increase the cost of insurance for any Owner or with respect to Common Area. Nothing herein shall prohibit or limit the use of the Plaza as an urban plaza and as contemplated by the Governing Documents.

4.4 Prohibited Uses.

4.4.1 From the date hereof through December 31, 2008 no more than 25% in aggregate of any Building constructed on the Property shall be used to provide a facility the primary purpose of which is retail food and beverage services (excluding grocery stores), automobile sales and service or the provision of recreation or entertainment or for a health, spa facility or fitness center.

4.4.2 From the date hereof through December 31, 2008 no more than 3.4% of any building on Parcel C and otherwise no other portion of the remainder of the Property or any Building may be used for any private or commercial golf course, country club, massage parlor, hot tub facility, racetrack, or other facility used for gambling, any store the principal business of which is the sale of alcoholic beverages for consumption off premises, airplane, consistent or other private luxury box, tennis club, skating facility (including roller skating, skateboard, and ice skating (but excluding the ice skating facility currently located on the plaza), racquet sports facility (including any handball or racquetball court) or suntan facility.

4.5 Restrictions on Retail Uses in Parcel C and Along Plaza Drive. In addition to the uses prohibited in Sections 4.4.1 and 4.4.2, unless waived by mutual agreement of Agency and the Owner of Parcel C, none of the following uses shall be conducted in improvements which front on Plaza Drive and 300 South Street on Parcel C and the Plaza Parcel: (a) any store the principal business of which is the sale of alcoholic beverages for consumption off premises but excluding a wine store; (b) funeral homes; (c) any production, manufacturing, industrial, or storage use of any kind or nature, except for storage and/or production of products incidental to the retail sale thereof; (d) recreational facilities ("recreational facilities" includes, but is not limited to, a bowling alley, skating rink, electronic or mechanical games arcade, theater, billiard room or pool hall; (e) massage parlor; (f) discotheque, dance hall, banquet hall, night club, bar or tavern; (g) "head shop," any book, video, or similar store which offers for sale or rental pornographic material or other material (except cigarettes) which may not be lawfully sold to persons under 18; (h) racquetball court or gymnasium, or other place of public amusement; (i) certain training or educational facilities, including a beauty school, barber college, church, or any other similar operation catering primarily to students or trainees rather than to customers

(but excepting therefrom college and adult learning centers, including educational classrooms, and child care facility, subject to Association's prior approval of points of pedestrian access and parking by customers); (j) car washes, gasoline or service stations, or the displaying, repairing, renting, leasing, or sale of any motor vehicle, boat or trailer; (k) dry cleaner with on-premises cleaning; (l) any use which creates a nuisance or materially increases noise or the emission of dust, odor, smoke, gases, or materially increases fire, explosion or radioactive hazards; (m) any business with drive-up or drive-through lanes; (n) antique, second hand or thrift stores, or flea markets; (o) drug store, supermarket, deli or facility primarily offering food for home consumption; (p) health spa facility or fitness center; and (q) any use involving Hazardous Material, except as may be customary in first class neighborhood shopping centers or first class office buildings in the Salt Lake metropolitan area, provided if a use listed in subheadings (o) and (p) is not conducted on parcel C (excluding retail space on Parcel C constructed by or on behalf of Agency) for a period of twelve 12 consecutive months, the restriction as to such particular use will expire.

4.6 Retail Uses - Parcel C. The Building on Parcel C which will front on Main Street shall contain not less than 10,000 usable square feet of retail space on the ground floor with an entry on Main Street. Subject to the other restrictions set forth in this Article IV, Parcel C retail space may be used for restaurants, cafeterias, banks, supermarket/drug stores, brokerage firms, copy centers, travel agencies, day care, health spas, movie theaters and similar public use facilities.

4.7 Public Parking. The Owner of Parcel C shall at all times operate any facilities erected on Parcel C for parking of motor vehicles, so that not less than one hundred (100) parking stalls at grade level and/or any level below grade are available for paid parking by the general public, of which up to 25 stalls may be designated for visitors to the office tower on Parcel C, and an equal amount shall be designated for customers of retail shops at rates and hours to be determined at the reasonable discretion of the Owner of Parcel C, apart and separate from stalls which are reserved or otherwise made available to persons who work or office in the improvements constructed on Parcel C. The Owner of Parcel C shall make available to retail and restaurant businesses located on Parcel C and the Plaza validations for use of such parking facilities.

4.8 Restrictive Covenant. No supermarket or other major size grocery store may be located on Parcels A and B.

4.9 Hazardous Material. No Owner, Occupant or Person shall produce, release, use, store, transport, handle or dispose of any Hazardous Material within the Project or otherwise knowingly permit the presence of any Hazardous Material on, under or about the Property, except in accordance with all Environmental Laws. Any Owner who acquires knowledge that it is in breach of any of the Environmental Laws shall immediately notify the Association. In the event an Owner shall breach the foregoing prohibition, the Association shall have the right, but not the obligation, to cure such Owner's failure in that regard after the Association shall have given such Owner reasonable notice and an opportunity to cure such failure. Any Owner whose acts or omissions give rise to a violation of this Section 4.8 shall indemnify, defend (with counsel acceptable to the indemnitee), hold harmless and protect Agency, the Association (including all Board members), and all other Owners and Occupants from any and all Environmental Damages arising from such violation. Nothing contained in this Section 4.8 shall

be deemed a limitation on, or a waiver of, any rights or remedies available to Agency, the Association or the Owners at law or in equity for violations of Environmental Laws.

4.10 Landscaping. Each Owner shall initially install landscaping on its Parcel, at its own cost and in accordance with Article V, Article VI and any Development Agreement. Each Owner shall also install utility lines and equipment necessary and appropriate to maintain such landscaping and as otherwise provided in any Development Agreement and by the Agency.

4.11 Grade\Drainage. After the completion of the initial development of a Parcel, the surface grade of any Parcel shall not be substantially modified, altered or otherwise changed without the Association's prior approval. Each Owner shall be responsible for the proper drainage of storm water and landscaping water on its Parcel. No grade of a Parcel may be changed if such new grade would change or impact the drainage of such Parcel or that of any other Parcels without the approval of the affected Owner.

4.12 Vehicles. No motorized vehicle may be dismantled, rebuilt, abandoned, stored (for more than twenty four (24) hours except in connection with programming, e.g., a car show or similar event) or repainted on or about the Project.

4.13 Parking. It is contemplated that the parking for the use of all Owners, Occupants and Permittees shall be within the Parking Facilities and Plaza Drive. The rights of the Owners, Occupants and Permittees to park in the Parking Facilities shall be subject to the Parking Agreements and the Parking Facilities shall be operated, used and managed as provided therein. Overnight parking on the Common Area within the Project is prohibited.

4.14 Public Improvements. All improvements on public property (including, but not limited to, sidewalks, curbs and gutters, lighting, landscaping and drainage facilities but not including property owned by Agency) developed by an Owner in or around the Property ("Public Improvements") shall be developed in accordance with the Governing Documents and the City's standards and design criteria in effect at the time of commencement of construction of such Public Improvements.

4.15 Common Area Rules and Regulations. The Association, subject to the approval of Agency, may establish reasonable rules and regulations pertaining to use of the Common Area. If Plaza Drive is not a dedicated street, any rules and regulations pertaining to the north-south portion of Plaza Drive, including rules and regulations pertaining to (i) ingress and egress over Plaza Drive, and (ii) loading and unloading areas and parking, shall also require the approval of the Owner of Parcel C.

ARTICLE V

Development of the Property and Architectural Control

5.1 Development. Notwithstanding anything to the contrary in this Declaration, all aspects of the initial development of each Parcel with Buildings and other Improvements shall be subject to the prior written approval of Agency. For purposes of this Declaration, "initial

development" of a Parcel (and like terms) will be deemed complete once the parcel first becomes a Developed Parcel. All such development shall be approved by Agency and shall be conducted pursuant to the terms of the Construction Documents and Governing Documents. Each Owner who enters into a Development Agreement with Agency shall be obligated to commence and complete development in accordance with such Development Agreement. Agency may retain the services of the Design Review Committee and a Project Architect to assist in its review of Construction Documents and development generally. Following the initial development of each Parcel with Buildings and other Improvements, subsequent development, redevelopment, exterior remodelling or exterior signage changes with regard to Buildings and other Improvements shall be approved by the Association and shall be completed pursuant to the terms of the Construction Documents and Governing Documents. The Association may retain the services of the Design Review Committee and a Project Architect to assist in its review of Construction Documents and redevelopment.

5.2 Approvals Prior to Construction. Each Owner shall prepare and submit the Construction Documents to Agency or the Association, as the case may be, and the Design Review Committee, if one has been appointed, for review and approval or disapproval of the Construction Documents, all of which shall be consistent with the objectives and guidelines of the Governing Documents. An Owner shall not commence development of a Parcel, or subsequent development, redevelopment, exterior remodelling or exterior signage changes with regard to Buildings and other Improvements, as the case may be, unless the Owner has obtained the written approval of the Agency or the Association, as the case may be, as evidenced by issuance of a written certificate from the Agency or the Association, as the case may be, indicating acceptance of the design of the Buildings and Improvements for a Parcel or the subsequent development, redevelopment, exterior remodelling or exterior signage changes with regard to Buildings and Improvements. Owners shall obtain the written approval of Agency or the Association, as the case may be, to any change that materially affects the design and/or appearance of the Improvements previously approved or which increases or decreases the cost of completing the construction of such Improvements by more than One Hundred Thousand Dollars (\$100,000.00) measured in 1997 dollars, through the end of 1997, with such limit being increased on each January 1, commencing in 1998, to an amount equal to \$100,000.00 multiplied by the Cost of Living Fraction. The Project Architect may act as an advisor to Agency, the Association and any Design Review Committee in evaluation of the Construction Documents submitted by an Owner.

5.3 Certificate of Completion. After completion of all initial construction and development of Buildings and Improvements to be completed by an Owner upon each Parcel as required by the Governing Documents and presentation by Owner of satisfactory evidence, determined solely by Agency, that the Buildings and Improvements have been completed in accordance with the Construction Documents and Governing Documents, Agency shall furnish such Owner with a Certificate of Completion. After completion of any subsequent development, redevelopment, exterior remodelling or exterior signage changes with regard to Buildings and Improvements in accordance with Construction Documents and the Governing Documents, the Association shall issue a Certificate of Completion. The Certificate of Completion shall not constitute a warranty or representation of any kind by Agency or the Association, as the case may be, other than that the Buildings and other Improvements on the Parcel have been constructed or reconstructed as required by and in compliance with this Declaration and any

applicable Development Agreement. Agency and the Association, as the case may be, may retain the services of the Design Review Committee and/or Project Architect to assist in their determination to issue a Certificate of Completion.

5.4 Completion of Construction. After commencement of any construction, the Owner thereof shall diligently prosecute the work thereon, to the end that the Building, Improvement or signage shall not remain in a partly finished condition any longer than reasonably necessary for completion.

5.5 Recordation of Site Plan Upon Completion of Buildings. Agency may record from time to time in the office of the Salt Lake County Recorder, a modified Site Plan depicting the configuration of Parcels and the location of completed Common Area, Buildings and other Improvements thereon.

5.6 Repairs and Reconstruction. The provisions of Article V shall not apply to repairs and reconstruction of any damaged improvement, except and only to the extent that such repair or reconstruction alters the improvement from its condition prior to damage.

ARTICLE VI

Design Guidelines

6.1 Objectives. By creating the Design Guidelines set forth in this Article, it is the intent of the Agency to ensure that the Property be developed consistent with the Master Plan and as a superb urban environment with a strong emphasis on creating a lively pedestrian center for downtown Salt Lake City. To that end, the objectives of the design review process are as follows:

6.1.1 Encourage urban design excellence in the C.B.D.

6.1.2 Establish an urban design relationship between Block 57 and the C.B.D. as a whole.

6.1.3 Achieve a harmony of design and uses among the new Buildings and Improvements on Block 57 and neighboring historic buildings.

6.1.4 Provide for a pleasant, rich and diverse pedestrian experience on Block 57.

6.1.5 Continue to develop a city that is truly a community by using its many features, such as art and fountains, landscaping, plazas, vistas, and gateways to act as a "framework" to emphasize relationships and compatibility between existing features and proposed development.

6.1.6 Assist in creating a twenty four (24) hour Block 57 which is safe, humane and prosperous.

6.1.7 Create a pedestrian walkway system linking the various blocks within the C.B.D.

6.1.8 Since it is not the Agency's intent to prescribe any specific design solution, the Agency, the Association and the Design Review Committee, as the case may be, shall encourage a diversity of imaginative solutions to standards described by the Design Guidelines. The design review procedures provided herein should be viewed as an opportunity for Owners to propose new and innovative designs. The Design Guidelines are not intended to be inflexible requirements. Their mission is to aid project designers in understanding the principal expectations of the Agency and the Association concerning urban design elements of the development of the Property.

6.2 Design Review Committee

6.2.1 Scope of Review. Projects shall be reviewed for conformance to the Design Guidelines, this Declaration, any additional design guidelines adopted by the Agency or the Association, and any additional design guidelines imposed by the Agency in any of its Development Agreements. The Agency, the Association and the Design Review Committee, as the case may be, may address aspects of design which are not covered in the Design Guidelines where they find that such action is necessary to better achieve the goals and objectives of design review.

6.2.2 Waivers of Design Guidelines. The Design Review Committee may make nonbinding recommendations to Agency and Association of a waiver of the Design Guidelines for specific Buildings and Improvements based on reasonable findings that the waiver will better accomplish the goals and objectives. Agency or the Association, as the case may be, shall have the sole discretion to grant or deny a waiver.

6.2.3 Design Review Procedures. Agency, the Association and the Design Review Committee, as the case may be, shall adopt rules and procedures for the review of the proposed development of Parcels, including Buildings and Improvements thereon, which are deemed appropriate to accomplish the objectives set forth in this Article. Such procedures may include requirements for submittal of design concepts and Construction Documents at various stages of completion.

6.3 Design Standards Generally.

6.3.1 The standards and criteria set forth in this Section shall be used to evaluate proposed Buildings and Improvements to be constructed on any Parcel.

6.3.2 The principles and guidelines set forth in the Master Plan, as it may be amended from time to time, are incorporated by reference into the Design Guidelines.

6.3.3 In the event of any conflict in the Design Guidelines and any statutes, rules, regulations, or ordinances of any governmental authority having jurisdiction over the Project, such statutes, rules, regulations and ordinances shall govern.

6.3.4 The approval by Agency, the Association or the Design Review Committee, as the case may be, shall not constitute approval of engineering, structural, building code or similar considerations.

6.3.5 Any submittals by Owners which propose a variance from any standard set forth in the Design Guidelines shall include specific identification of each such proposed variance and the reasons therefor. No approval shall be deemed to include an approval of any such variance unless the variance is identified in the submittal documents.

6.3.6 Architectural plans must be prepared by a qualified professional architect licensed in the State of Utah.

6.3.7 Landscape plans must be prepared by a professional landscape architect practicing within the State of Utah.

6.3.8 The Owner's design team should include a practicing, professional artist.

6.4 Design Standards and Criteria.

6.4.1 Context.

6.4.1.1 The design of Buildings, Improvements and open spaces shall seek to achieve design compatibility between the new Building and existing Buildings, Improvements and open spaces in the Project by using a design vocabulary that adds to the identity and character of the surrounding area.

6.4.1.2 Each Building and its associated building elements such as roofs, entrances, signage and lighting should be designed to form a cohesive composition.

6.4.2 Pedestrian Environment.

6.4.2.1 Buildings, first floor uses, and open spaces shall reinforce a human scale and promote pedestrian activity along the streets, the Plaza, and Plaza Drive.

6.4.2.2 The pedestrian environment shall be developed to include artworks and other visual amenities consistent with an active open space.

6.4.2.3 Building facades at the ground floor shall include aspects that makes the pedestrian experience of walking along the street enjoyable. The use of blank building facade walls and secluded spaces along streets, the Plaza edge, and Plaza Drive are discouraged.

6.4.2.4 Buildings, Improvements and open spaces shall be located and designed with consideration given to the effects of sunlight, precipitation, shadow, glare, reflection, wind and rain on pedestrians and occupants of adjacent properties. The

creation of public spaces that are hidden from public view or in the shadow most of the time shall be avoided.

6.4.2.5 Where appropriate and as indicated in the Master Plan, pedestrian walkways shall be incorporated through Buildings and Improvements to supplement the public right-of-way, Plaza areas, and Plaza Drive.

6.4.2.6 Entrances to Buildings shall be clearly defined and attractive to the pedestrian.

6.4.2.7 Pedestrian amenities along the Main Street and State Street frontages shall be designed to support mass transit.

6.4.2.8 Access for people with physical limitations shall be accommodated in a manner that is integral to Buildings and Improvements and shall not be designed merely to meet minimum building code standards.

6.4.3 Plaza Enclosure. Buildings that front the Plaza shall recognize that the walls fronting the Plaza define the Plaza space and shall sensitively provide their portion of the Plaza enclosure.

6.4.4 Materials and Color.

6.4.4.1 The finishes and color of Buildings and Improvements should relate to significant neighboring Buildings without competing for dominance. Building materials and design features that promote permanence, quality and delight are encouraged.

6.4.4.2 Materials should be chosen which do not create negative environmental influences, such as excessive glare, on pedestrians and occupants of surroundings buildings.

6.4.5 Street Wall.

6.4.5.1 Except with regard to the Plaza extension areas and Plaza Drive areas, the street wall must be maintained along Main Street, State Street, 300 South Street and the Plaza Drive from the natural grade level to at least the top of the third story.

6.4.5.2 Buildings adjacent to the public streets must abut the street right-of-way.

6.4.6 Massing.

6.4.6.1 Each Building should be massed so that more than half of the Building volume is below the midpoint of the Building's height.

6.4.6.2 Massing of Buildings shall promote sculptural building lines and shall enhance the C.B.D. skyline.

6.4.7 Corner Buildings.

6.4.7.1 Corner Buildings shall be visual anchors for Block 57 and activity anchors for the facing intersection.

6.4.7.2 Corner plazas and a setback of Building mass at corners are discouraged.

6.4.8 Views and Vistas.

6.4.8.1 Buildings should frame significant view corridors along the pedestrian and vehicular axes within Block 57, including the central Plaza landmark, the proposed plaza tower, and views of the Wasatch Mountains. Vistas along the pedestrian and vehicular axes to and from the Plaza shall be conserved.

6.4.8.2 Axes and view corridors, such as the Regent Street axis and Plaza Drive, shall terminate with a significant architectural feature.

6.4.9 First Floor Architectural Elements.

6.4.9.1 Bases are required for all Buildings to distinguish such Buildings at the street and pedestrian level. The bases should be two to three stories in height and must wrap the Buildings on the streets, Plaza and Plaza Drive frontages.

6.4.9.2 The first or street level floor of Buildings must have sixty percent (60%) minimum clear glazing on the street, Plaza and Plaza Drive frontages to encourage visibility into the Building and to promote pedestrian "browsing", particularly at retail store fronts.

6.4.9.3 The maximum length of any blank wall at the first floor level shall be fifteen (15) feet.

6.4.10 Roofs.

6.4.10.1 The roof shape, surface materials, and color of each Building, shall be integrated into the total Building design.

6.4.10.2 All mechanical and building equipment (including roof-mounted equipment) shall be enclosed and screened so as to appear to be an integral part of the architectural design of each Building.

6.4.10.3 No radio or television antenna, roof-mounted mechanical equipment, radar equipment, satellite dish or similar item used for the transmission or reception of telephone, television, radio or microwave signals or any other devices that project vertically more than one and one-half (1 1/2) feet above the roof or roof parapet shall be installed on any Building or Improvement within the Project unless the same shall be located so as not to be visible from any point at the ground level on the Project or from the streets, walkways, and driveways within the Project or unless the same are screened

by a visual barrier that is detailed as close as practicable to be consistent with the design of the Building. Nothing herein shall be deemed to forbid the erection or use of temporary power or telephone facilities incidental to the construction or repair of Buildings and Improvements. The provisions contained in this Section shall not apply to the Plaza.

6.4.11 Service Areas.

6.4.11.1 All mechanical and building equipment, trash storage bins, utility boxes, meters and other service areas shall be designed as an integral part of the Building and Parking Facilities (underground and above ground) located on the Property.

6.4.11.2 No exposed (visible from public view) mechanical equipment or exhaust outlets shall be permitted on the first floor levels of Buildings along streets, the Plaza or Plaza Drive frontages or on Building roof tops. There shall be minimal meters, pipes, stacks, grills and/or antenna exposed to public view from the street, Plaza and Plaza Drive. Service doors, loading docks, waste pickup areas and mechanical equipment shall be located away from, or screened from, street, Plaza and Plaza Drive frontages and pedestrian-oriented uses.

6.4.11.3 All Buildings shall have service areas which can accommodate recycling of wastepaper, aluminum, and other commercially recyclable materials generated by the Building users.

6.4.12 Signs.

6.4.12.1 In addition to conforming to the City zoning and sign ordinances, all exterior signs shall be reviewed and approved by Agency, the Association or the Design Review Committee, as the case may be.

6.4.12.2 Sign design and location shall be integral to and a compatible part of each development. A sense of identity to the Project should be developed through the use of an integrated signing and graphic system. Signs within the Project should be reflective of the architectural style of the Buildings and internally consistent, i.e., similar palette of type faces, materials, etc.

6.4.12.3 All signs must be mounted parallel to Building surfaces at either the first floor level or the parapet level. No sign shall be placed so as to project above the parapet, canopy or top of the wall upon which it is mounted or placed. Each Building shall have only one major sign showing the logo of the major tenant, the logo developed for the Building as a whole, or the Building name. Mounting such identification sign on the parapet is discouraged. Only such identification sign and signs identifying the tenants located in the first floor of the Building may be installed at the first floor level.

6.4.12.4 All electrical conduits, transformers, raceways, wires, etc., must be concealed behind the face of the Building or sign.

6.4.12.5 The following exterior signage types are prohibited: audible, canopy (back lit awnings), paper or cardboard, and any sign between the first floor level and the parapet of any Building. Permanent exterior signs shall not advertise products or services. All neon on the exterior of any Building shall conform to the sign guidelines set forth herein.

6.4.13 Plaza and Plaza Drive.

6.4.13.1 Plaza areas on any Parcel should be oriented to receive sunlight, work well with existing and future pedestrian circulation patterns, and accommodate special events to assure the creation of a successful urban open space. Plaza spaces should include elements of visual interest and complexity using landscape, seating areas, furnishings, fountains, changes in grade, art, etc. to add interest and excitement. Plaza spaces should offer variety in the size and character of spaces including small intimate spaces and larger gathering spaces.

6.4.13.2 Each Parcel must develop a minimum of fifteen percent (15%) of the land area thereon in common open space which may include Plaza Drive, whether or not thereafter dedicated. Such open space must contribute to, be contiguous to or provide access to the Plaza or Plaza Drive. Except with regard to Plaza uses for special events, such open space shall be openly accessible, twenty-four (24) hours per day, three hundred sixty-five (365) days per year.

6.4.13.3 A minimum one hundred twenty five foot zone of Plaza extension fronting Main Street and aligning with a mid-block crosswalk shall be provided. Retail structures may be permitted in this zone. Architectural or vertical features intended to continue the street wall effect must be provided along the Plaza extension fronting Main Street. This can be accomplished by the use of columns, trees, lights or other vertical elements. This area may be counted towards the fifteen percent (15%) additional open space requirement described above.

6.4.13.4 The Plaza shall be integrated as an important design consideration into Parcels which are located along the edge of the Plaza, through means such as the composition of architectural and landscape elements, location of windows, doors and attached outdoor areas, and offering accessways for the pedestrian to and along the Plaza's edge.

6.4.13.5 The primary north/south Plaza axis (Regent Street alignment) shall be continued to the Plaza Drive or to the alignment of the southern edge of the Plaza Drive. No enclosed structure shall be permitted within this zone.

6.4.13.6 The Plaza Deck, constructed as the "roof" of the underground parking facilities shall be structured for minimum live loads of 750 lbs./sq. ft., dead loads of 250 lbs./sq. ft. and total loads of 1,000 lbs./sq. ft. for the Plaza Drive and within emergency vehicle access corridors and minimum total loads of 350/lbs./sq.ft. for areas to be finished with landscaping or pavement.

6.4.13.7 The Plaza Drive shall have a minimum width of sixty-five (65) feet, of which twenty-five (25) feet shall be devoted to vehicular circulation and service and twenty (20) feet on each side shall be devoted to pedestrian areas. Pedestrian-oriented improvements and streetscaping shall be provided along walkways perpendicular and paralleling the Plaza Drive.

6.4.14 Plaza Buildings. All new Buildings constructed within the Plaza shall create a unified sense of place through the use of transparent structures, compatible roof-lines, relationship to pedestrian and vehicular axes, and decorative and informational signage.

6.4.15 Parcel Loading Areas. Areas for the loading and unloading of service vehicles necessary and appropriate to serve the businesses to be conducted on each Parcel shall be designated. Such areas shall be sufficient to serve the businesses conducted thereon without using adjacent public streets.

6.4.16 Utility Lines and Antennae. No sewer, drainage or utility lines, or wires or other devices for the communication or transmission of electric power, including telephone, television, radio or microwave signals, shall be constructed, placed or maintained anywhere in or upon any portion of the Property other than inside Buildings or Improvements unless the same shall be contained in conduits or cables constructed, placed or maintained underground or concealed in or under Buildings or Improvements.

6.5 Uses Consistent With Design Guidelines. No portion of the Project of any Building or Improvement thereon shall be used for any purpose or in a manner inconsistent with the uses and purposes contained in or contemplated by the Design Guidelines.

ARTICLE VII

Maintenance, Insurance, Repair and Restoration

7.1 Maintenance and Repair Generally. The Buildings shall be generally maintained, repaired and managed in a first-class condition and consistent with standards of class A Buildings in the Salt Lake County Area and as provided herein.

7.2 Common Area Maintenance and Repair. The Association shall at all times retain (and from time to time fire and rehire so long as the repair and maintenance obligations hereunder are met at all times) a Common Area Manager as provided in its Declaration to repair and maintain all of the Common Area (which shall include, among other things, the Plaza and Buildings and Improvements thereon) in a condition consistent with the standards of City parks and streets. The responsibilities of the Common Area Manager shall include all aspects of maintenance and repair (including those items requiring a Capital Expenditure) not otherwise delegated to Owners. The Common Area Manager's responsibilities shall include the Deck of the Common Area to the extent the Common Area is located above underground Parking Facilities. The Common Area Manager shall repair and replace the Deck in the same manner as provided herein with respect to other Common Area.

7.2.1 Unless otherwise stated herein, the Common Area Manager shall, without limitation, perform the following with respect to Common Area:

7.2.1.1 Maintain, repair and replace, where and when necessary, all asphalt, concrete, paved and other surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as is in all respects equal or superior in quality, use and durability and appears to be same as the surfacing material originally installed; provided, all engraved paver bricks on the Plaza shall be repaired or replaced so as to maintain original engravings;

7.2.1.2 Remove all snow, ice, water, papers, debris, filth, refuse, provide recycling bins and recycle appropriate materials and thoroughly sweep the Common Area to the extent reasonably necessary to keep the Common Area in a safe, clean and orderly condition;

7.2.1.3 Maintain, repair, and replace, where and when necessary, appropriate signage, markers, lights and light poles, directional signs, fixtures and equipment, and directional signs;

7.2.1.4 Keep in clean condition and repair, and replace, where and when necessary, artificial lighting facilities and relamp and reballast as shall be reasonably required;

7.2.1.5 Maintain, repair and where necessary replace all landscaping and sprinkler equipment as required to assure such landscaping remains healthy and attractive, including, but not limited to, the trimming, watering and fertilization and replacement of all grass, ground cover, shrubs and trees, removal of waste or waste material and replacement of any dead or diseased grass, ground cover, shrubs, trees or plants;

7.2.1.6 Maintain, repair, remove graffiti and clean on a regular basis all Common Area Improvements and Buildings on the Plaza (exterior and interior), including, without limitation, furniture, architectural details, sculptures, fountains, water fountains, art and benches, the skating rink/pond, restrooms and all other facilities from time to time located on the Common Area;

7.2.1.7 Maintain, repair and, where and when necessary, replace any and all furniture, fixtures and equipment (whether or not located within Buildings) that serve or are used in connection with the Plaza regardless of where located, including, but not limited to, chillers, pumps, piping, mechanical systems, sound systems, elevators, and lights, to the extent such furniture, fixtures and equipment are not under the control or occupied by concessionaires or tenants;

7.2.1.8 Maintain all performance and payment bonds as determined by the Association.

7.2.2 The Common Area Manager shall provide and maintain security with respect to the Common Area and coordinate such security with the City Police Department.

7.2.3 The Common Area Manager shall coordinate its activities with the Program Manager to make certain that such areas are cleaned by the Common Area Manager promptly after or during programmed events as necessary to keep the Common Area in a clean and orderly condition.

7.2.4 The Common Area Manager shall not (A) cause a violation of Environmental Laws to occur as a result of the performance of its duties hereunder nor (B) modify or restrict the use of the easements granted pursuant to Article III in any material way, without the consent of the affected Served Owner, except temporary restrictions in connection with maintenance, repair or replacement responsibilities hereunder; nor (C) subject to an Owner's responsibility to pay its Expense Share hereunder, cause or permit a mechanic's, materialmen's or laborer's lien to attach to any Common Area of such Owner's Parcel for work performed on the Common Area pursuant to this Declaration.

7.3 Insurance.

7.3.1 Coverages At all times, the Association shall provide or cause the Common Area Manager to obtain and thereafter provide the following minimum insurance coverages:

7.3.1.1 Workers' compensation--statutory limit;

7.3.1.2 Employer's liability--one million dollars;

7.3.1.3 All risk property and casualty insurance, including theft and builder's risk, written at replacement cost value and with replacement cost endorsement, and in any event in an amount sufficient to avoid any coinsurance penalties, covering all of the Common Area and all Improvements thereon, including the Improvements and Buildings on the Plaza. Such insurance shall include earthquake coverage;

7.3.1.4 Comprehensive general and comprehensive automobile liability as follows:

7.3.1.4.1 "Combined single limit" (covering bodily injury liability, death and property damage) in any one occurrence of not less than five million for any one occurrence and ten million dollars in the aggregate in any one policy year.

7.3.1.4.2 "XCU hazard endorsement," if applicable;

7.3.1.4.3 "Broad form" property damage endorsements;

7.3.1.4.4 "Personal injury" endorsements; and

7.3.1.4.5 "Blanket contractual liability" endorsements;

7.3.1.5 "Employee dishonesty" -- fifty thousand dollars;

7.3.1.6 "Errors and omissions" -- five million dollars; and

7.3.1.7 Such other policies of insurance insuring against such risks as Association deems prudent from time to time.

The foregoing minimum policy limits shall be periodically increased to such minimum limits as shall then be customarily carried by owners of comparable properties in the metropolitan Salt Lake City area. In the event the Common Area Manager is the City, it may fulfill its insurance obligations through a written indemnification.

7.3.2 Policy Requirements.

7.3.2.1 All policies of insurance required or permitted hereby shall provide that they will not be cancelled or modified to reduce the limits or scope of coverage below that required hereby unless at least thirty (30) days' prior written notice is given to the Association and each party named as an additional insured. All insurance obtained by the Association shall be primary to and not contributory with any other insurance carried by the Association or any other Person.

7.3.2.2 All Mortgagees, the Owners, Agency, City, the Association, the Common Area Manager and Program Manager, and the Program Manager shall be named, to the extent possible and as appropriate, as an additional insured on each policy (including policies for amounts in excess of the minimum coverage described therein), maintained by the Association. The additional insureds shall be entitled to coverage to the same extent as the insured with respect to operations of the insured. If an entity cannot be named as an additional insured because the policies of a particular insurance company selected do not allow it, then the Association shall provide contractual liability insurance coverage in the face amount of the policy in which such party should have been named as an additional insured. Each policy in which it would be appropriate shall contain a standard mortgagee loss payable endorsement.

7.3.3 Waiver of Subrogation. Each of the Owners, Agency, City, and the Association each hereby waive any and all rights of recovery against any of the others or against the officers, directors, shareholders, members, partners, employees, agents, consultants, accountants, attorneys, successors, assigns, contractors, and invitees of any of the others, on account of any loss or damage occasioned to such waiving party or its property or any property of others under its control to the extent that such loss or damage is insured under the insurance required to be maintained by the Association pursuant to this Declaration. The Association shall give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Declaration and

obtain from the respective carriers an endorsement waiving any right of subrogation in favor of the insurer.

7.3.4 Delivery of Certificates. The Association shall, upon request from an Owner or any other additional insured, obtain and deliver to such Owner or other additional insured a complete and certified copy of the policies of insurance evidencing coverage required by this Declaration.

7.4 Owner's Maintenance Duties.

7.4.1 Each Owner shall maintain, repair and replace all portions of its Parcel not part of the Common Area in a first-class condition in a manner consistent with the standards of first class Buildings in the Salt Lake County area, including, without limitation, all Buildings and other Improvements constructed on its Parcel which do not constitute Common Area, all signage and any facilities for Utilities that serve such Buildings and/or Improvements to the extent that such facilities are not maintained by a Utility Company, sanitation district or other governmental authority. No Owner shall be required to insure or restore its Building(s) in the event of a casualty thereto (but such Owner must insure and replace the Common Area on and under the Parking Facilities located on its Parcel as set forth below and in the Parking Agreements), but any Owner electing not to restore its Building following such a casualty shall with due diligence either (i) rebuild Buildings and Improvements on its Parcel and reinstall landscaping (subject to the approval of the Association) within twenty four (24) months of the casualty, or (ii) demolish all Buildings and Improvements existing at the time of the casualty and landscape the Parcel in a manner which is in harmony with the use and design of the Project (subject to the approval by the Association) within twelve (12) months of the casualty. In the event an Owner elects to landscape its entire Parcel following such casualty, at the election of the Association, either the Common Area Manager shall maintain such landscaping and allocate the increased cost of such maintenance to the Owner of the Parcel or shall require the Owner to maintain the Parcel at the Owner's expense. Any restoration, rebuilding, or landscaping following a casualty shall be made in accordance with requirements for design review provided in this Declaration.

7.4.2 Each Owner shall deliver to the Association a copy of all warranties or a statement of the nature and duration of all warranties pertaining to its initial construction of Common Area Improvements. Each Owner shall assign such warranties to the Association, to the extent assignable. To the extent not assignable, such Owner shall enforce such warranties as requested by the Association and, for the purpose of enforcing such warranties, shall be deemed, as between Association and such Owner, to be obligated for the warranted work or labor, but only to the extent of the warranty.

7.4.3 Each Owner shall be responsible for the removal of all trash and rubbish generated from the Building and Improvements located on its Parcel not constituting Common Area and shall comply with all rules and regulations of the Association, if any, pertaining thereto.

7.4.4 Each Owner shall be responsible to maintain, repair and, where and when necessary, replace any and all perimeter walls, curbs, storm drains, utility lines, sewers and other common services located on such Owner's Parcel as necessary for the efficient operation of the Common Area.

7.4.5 Each Owner shall maintain a policy of general public liability insurance for the benefit of the Common Area Manager, Program Manager, the Agency and the Association (who shall all be named as additional insureds under such Owner's policy) against claims for bodily injury, death or property damage occurring in, on or about the Buildings and Common Area located on such Owner's Parcel, such insurance to afford protection with a combined single limit of liability per occurrence of not less than Five Million Dollars (\$5,000,000.00). The foregoing policy limits shall be periodically increased to such minimum limits as shall then be customarily carried by owners of comparable properties in the metropolitan Salt Lake City area.

7.4.6 Each Owner shall supply to the Association certificates of insurance verifying that it has obtained the insurance coverage required in this Article.

7.4.7 Insurance coverage required to be maintained may contain the following elements, so long as the required coverage is not diminished, the required limits are not reduced, and the elements thereof are otherwise commercially reasonable: The insurance program may include blanket, layered, umbrella, conventional and/or manuscript forms of policies, as well as retention levels and loss reserves which are charged against earnings or otherwise funded, and commercially reasonable deductibles.

7.5 Restoration of Construction and Obligation to Maintain. In each instance where this Declaration imposes a maintenance obligation upon the Association, Common Area Manager, an Owner or other Person, or allocates the cost of maintenance among any of the Owners, such obligation or such cost, as the case may be, shall include the obligation or cost to maintain, repair and restore following a casualty loss.

ARTICLE VIII

Assessments

8.1 Covenant for Payment of Assessments. Agency and each subsequent Owner of a Parcel Subject to Assessment agrees to pay all Regular and Extraordinary Assessments the Association shall assess against such Parcel Subject to Assessment.

8.2 Budget; Payment of Regular Assessments. At least sixty (60) days prior to the beginning of each Fiscal Year, the Association shall deliver to each Owner the Budget for the upcoming Fiscal Year. Each Owner of a Parcel Subject to Assessment shall initially be assessed, as such Owner's Regular Assessment for such Fiscal Year, such Owner's Expense Share (determined as of the first day of the Fiscal Year) of the total Budget amount for the Fiscal Year, subject to the adjustments described in Section 8.3. Commencing on the first day of the first month of the Fiscal Year and continuing thereafter on the first day of each

succeeding month, each Owner shall pay one-twelfth (1/12) of such Owner's Regular Assessment. If no Budget has been delivered to an Owner prior to the commencement of a new Fiscal Year, the Owner shall continue paying its Regular Assessment from the prior Fiscal Year until such time as the Association shall have issued a revised Budget and shall have levied a new Regular Assessment. The Association's failure to prepare and issue the Budget in a timely manner shall not constitute the Association's waiver of its right to levy Assessments nor a release of its duties under this Declaration.

8.3 Changes to Regular Assessments During a Fiscal Year.

8.3.1 If a Parcel becomes one of the Parcels Subject to Assessment on any date other than the first day of a Fiscal Year, the Expense Shares for each of the Parcels Subject to Assessment will be recomputed as of the date such new Parcel became one of the Parcels Subject to Assessment, and the Regular Assessment for each Owner of a Parcel Subject to Assessment (including the new parcel) for the remainder of the Fiscal Year will be appropriately adjusted to take the recomputed Expense Shares into account.

8.3.2 If an increase in a Fixed Assessment becomes effective on any date other than the first day of a Fiscal Year, then (a) the Fixed Assessment for that Fiscal Year will be a pro rata portion of the Fixed Assessment in effect immediately prior to the date of the increase, prorated on the basis of a 365-day year and on the number of days in the Fiscal Year from the beginning of the Fiscal Year to the date of the change, plus a pro rata portion of the Fixed Assessment in effect immediately after the date of the increase, prorated on the basis of a 365-day year and on the number of days in the Fiscal Year from (and including) the date of the change to the end of the Fiscal Year, and (b) the Owner's Expense Share and Regular Assessment for the Fiscal Year shall be recomputed based on the adjusted Fixed Assessment amount.

8.3.3 Subject to the limitations of the Governing Documents and applicable law, if the Association determines, in its sole discretion and for any reason, that the current Regular Assessments are, or shall become, insufficient to meet all Common Area Expenses, the Association shall promptly revise the Budget and levy revised Regular Assessments in support thereof, subject to Section 13.1.

8.3.4 If, during a Fiscal Year, a Parcel Subject to Assessment is reconfigured pursuant to Section 1.50 or any other provision of this Declaration, the Regular Assessment with respect to the old Parcel shall be allocated between each of the new Parcels, based on a square footage basis.

8.4 Operating Account and Capital Expenditures Reserve. Two separate and distinct funds shall be created and maintained by the Association, one as an operating account and one as a reserve for Capital Expenditures. The Capital Expenditure reserve shall be set aside as a reserve against future Capital Expenditures for Common Area; provided, at no time shall such reserve exceed Eight Hundred Fifty Thousand Dollars (\$850,000.00), through the end of 1997, with such reserve limit being increased on each January 1, commencing in 1998, to an amount equal to \$850,000.00 multiplied by the Cost of Living Fraction. Capital Expenditures shall be first paid through the reserve set aside therefor and if additional sums are necessary they shall

be paid as directed by the Association, which may be as an increase in Regular Assessments. Monies paid from the reserve for Capital Expenditures shall be replenished through Regular Assessments, up to the amount provided in this Section.

8.5 Extraordinary Assessments. If the Association incurs any expenses in bringing any Owner's Parcel into compliance with the terms of this Declaration, the expenses thereof shall constitute an Extraordinary Assessment against such Owner and such Owner's Parcel, payable by such Owner to the Association upon demand. Unless otherwise permitted by the Association, an Owner shall pay any Extraordinary Assessment in full within fifteen (15) days after the Association notifies such Owner thereof.

8.6 Limitation on Assessments to Agency; Consequences of Insufficient Funds.

8.6.1 So long as Agency is the Owner of the Plaza and so long as the Owner of the Plaza is the same as the fee owner of the One Utah Center Parking Parcel, the Agency's Expense Share for a particular Fiscal Year shall not exceed eighty five percent (85%) of the annual gross revenues actually received by the Agency during such Fiscal Year as fee owner of the One Utah Center Parking Parcel pursuant to the Parking Lease between the Agency and the Owner of the One Utah Center Parcel, or if such Parking Lease is terminated, then eighty-five (85%) of the annual net revenues actually received by Agency during such Fiscal Year from the Parking Facilities on the One Utah Center Parking Parcel (net of expenses, and capital operating assessments or costs).

8.6.2 If the Expense Share of Agency in a particular Fiscal Year, as Owner of the Plaza (computed without regard to the 85% limitation of this Section 8.6), would exceed the 85% limitation, the Association shall notify City of that fact and shall use its best efforts to reduce Common Area Expenses so that total Common Area Expenses do not exceed total Regular Assessments (computed, in the case of Agency, by taking the 85% limitation into account), and the Association may increase Regular Assessments as contemplated by Section 8.3.3 to obtain sufficient funds to pay the total Common Area Expenses. However, if there are still insufficient funds to pay total Common Area Expenses, the Owner of Parcel C may send a notice to Agency and City, requesting that Agency fund the shortfall, notwithstanding the 85% limitation. If Agency does not fund the shortfall in its next fiscal year, then, commencing with the Fiscal Year following the Fiscal Year for which there is a shortfall and any other provision of this Declaration to the contrary notwithstanding, Parcel C shall no longer be one of the Parcels Subject to Assessment, unless Agency has assigned its duties and obligations as Owner of the plaza to City and City has agreed in writing to assume those duties and obligations including the obligation to fund the shortfall (without regard to the 85% limitation described in this Section 8.6).

8.7 Interest; Late Charge; Costs. If an Owner fails to pay any Assessment within fifteen (15) days of the date such Assessment becomes due, such Assessment shall thereupon be delinquent and shall include, and the Association shall have the right to recover from such Owner, all the following additional amounts:

8.7.1 Reasonable costs incurred in collecting the delinquent Assessment, including reasonable attorneys' fees;

8.7.2 A late charge equal to the greater of One Hundred Dollars (\$100.00) or ten percent (10%) of the delinquent Assessment; and

8.7.3 Interest on all sums due under this Section 8.7, calculated at an annual percentage rate of eighteen percent (18%) simple interest accruing fifteen (15) days after the Assessment became due until such Owner has paid in full the delinquent Assessment and all of the foregoing costs and charges.

8.8 Creation of Lien and Personal Obligation for Assessments. By acceptance of a deed, each Owner shall be deemed to covenant and agree to pay to Association any and all Assessments levied against such Owner's Parcel. From delinquency until paid, all Assessments shall constitute a continuing lien upon the Parcel affected, subject to recordation in accordance with Section 10.1 and may be enforced by lawsuit, by trustee's sale under power of sale (such power being hereby granted to Association as trustee), by judicial foreclosure or by any other method allowed by law. Each such Assessment shall also constitute the personal obligation of the Owner of each Parcel affected at the time that the Assessment becomes due; provided, however, the personal obligation to pay an Assessment shall not pass to the successors and assigns of an Owner unless the same shall have expressly assumed such personal obligation.

8.9 Certificate of Payment. Upon request, the Association shall certify to any Owner liable for an Assessment, or to its Mortgagee, the amount of any delinquency with respect thereto. The Association may collect a charge for its actual costs incurred in providing such certificate, such charge not to exceed Two Hundred Fifty Dollars (\$250.00) through the end of 1997, with such limit being increased on each January 1, commencing in 1998, to an amount equal to \$250.00 multiplied by the Cost of Living Fraction.

8.10 Audit. At the request of any Owner, the Association shall cause an audit of the Association's financial records and books and records of the Budget and Common Area Expenses, not more frequently than every three years, to be conducted and certified by a certified public accounting firm and delivered to the Owners. Such audit shall be at the expense of the Association, as opposed to the requesting Owner. In addition any Owner shall have the right, exercisable on ten (10) days' notice to the Association, to audit the Association's books and records of the Budget and Common Area Expenses during normal business hours and so as not to interfere unreasonably with the Association's conduct of its duties hereunder. Such audit shall be at the Owner's initial expense, and Owner shall reimburse the Association for any reasonable costs the Association may incur in cooperating with such audit unless such audit is conducted by auditors reasonably acceptable to the Association and such audit discloses that such Owner's proper Assessment for the accounting period involved should have been at least five percent (5%) less than the Assessment the Association levied on such Owner, in which case such Owner shall not be responsible for the Association's costs, and the Association shall reimburse the auditing Owner for its reasonable costs in conducting the audit. Notwithstanding anything to the contrary, books and records for any Fiscal Year of the Association shall be deemed correct and may not be challenged by an Owner three (3) years after the end of such Fiscal Year.

ARTICLE IX

Plaza/Programming

9.1 Construction of Improvements. Notwithstanding anything to the contrary in this Declaration, Agency, at its sole and exclusive discretion, but subject to the Design Guidelines and Development Agreements, may construct Buildings and Improvements on the Plaza of whatever nature it chooses. Agency shall have the right and authority to alter, change, demolish and construct additional or alternative Buildings and Improvements on the Plaza, as determined by the Agency from time to time, including but not limited to Buildings and Improvements the Agency deems appropriate to further the purposes of an urban plaza.

9.2 Plaza/Programming. The Plaza is an urban plaza which will require a high degree of programming of events and activities to enhance its enjoyment to visitors and encourage maximum usage. Agency recognizes the significant investment which other Owners have in the properties they own on Block 57, and agrees to use reasonable efforts to minimize (where possible consistent with the concept of an urban plaza), detrimental effects on the use and enjoyment of the other properties of Block 57 by virtue of Plaza events and activities. Subject to the foregoing, Agency or its designee shall program events and activities with respect to the Plaza and other Common Area as it deems appropriate in its sole discretion. Subject to the foregoing, Agency shall cause the Plaza programming schedule to be provided to all Owners on a periodic basis to provide owners with advance notice of plaza events and activities. No event or activity shall emanate noise at the property line for the Plaza Parcel exceeding 55 decibels during the hours of 7:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m. and 70 decibels between 12:00 p.m. and 1:00 p.m., Monday through Friday, excluding state and federal holidays (said hours and days are hereinafter referred to as "Working Hours"). The foregoing is not in lieu of any requirements imposed by Salt Lake County or Salt Lake City noise ordinances. Agency may elect, in its discretion, to enter into contracts with vendors, concessionaires and others to support the programming of the Plaza. Agency may also elect, in its discretion, to employ a Person to arrange, manage, and supervise all or part of programming events and activities ("Program Manager") upon such terms and conditions as Agency determines in its sole discretion. The Agency or its designee may appoint an advisory committee to advise on programming. The committee shall include a representative of each Owner of Parcels Subject to Assessment.

9.3 Program Assessments.

9.3.1 Owners, excepting the Owner of Parcel C, shall contribute to programming costs, by paying Agency annually and on the date and at the location designated by Agency, \$1.50 per square foot of space devoted to retail and restaurant uses fronting the Plaza or Plaza Drive ("Program Assessment"). In lieu of paying any Program Assessment, the Owner of Parcel C shall develop in its Parking Facility 100 stalls of parking for public use as required by Section 4.5. Beginning January 1, 1998 and on each January 1 thereafter, the Program Assessment shall be adjusted annually to the amount determined by multiplying the current Program Assessment by the Cost of

Living Fraction. Agency may use the Program Assessment in any manner it desires so long as it is used in connection with programming and construction, reconstruction, remodelling and operation of the Improvements used in connection with programming.

9.3.2 If an Owner fails to pay any Program Assessment within fifteen (15) days of the date the Program Assessment becomes due, such Program Assessment shall thereupon be delinquent and the Agency shall have the right to recover from such Owner interest, late charges and costs and have a lien against the defaulting Owner under the same terms and conditions as permitted for Assessments as outlined in Articles VIII and X, as if Agency were the Association.

9.3.3 By acceptance of a deed, each Owner, other than the Owner of Parcel C, shall be deemed to covenant and agree to pay to the Agency any and all Program Assessments levied against such Parcel. From delinquency until paid, all Program Assessments shall constitute a continuing lien upon the Parcel affected, subject to recordation in the manner described in Section 10.1 and may be enforced by lawsuit, by trustee's sale under power of sale (such power being hereby granted to Association as trustee), by judicial foreclosure or by any other method allowed by law. Each such Program Assessment shall also constitute the personal obligation of the Owner affected at the time that the Program Assessment becomes due; provided, however, the personal obligation to pay a Program Assessment shall not pass to the successors and assigns of an Owner unless the same shall have expressly assumed such personal obligation.

9.3.4 Upon request, the Agency shall certify to any Owner liable for a Program Assessment, or to its Mortgagee, the amount of any delinquency with respect thereto. The Agency may collect a charge for its actual costs incurred in providing such certificate, such charge not to exceed Two Hundred Fifty Dollars (\$250.00) through the end of 1997, with such limit being increased on each January 1, commencing in 1998, to an amount equal to \$250.00 multiplied by the Cost of Living Fraction.

9.4 Hours of Operation/Use of Plaza and other Common Area for Programming. Subject to the provisions of Sections 9.2, Agency shall determine, in its sole discretion, the hours during which programmed events and activities will occur with respect to the Plaza. Owners and Occupants shall not interfere with or restrict access to the Plaza and Common Area and Agency shall make reasonable efforts not to conduct activities and events in a manner that restricts access to Buildings on Parcels other than the Plaza without the consent of the Owners of such Buildings. Agency may elect in its sole discretion to close off portions of the Plaza and other Common Area (whether or not such Common Area is located on Parcels owned by other Owners) from access for limited periods of time to accommodate special events. Any area closed off on the Common Area other than the Plaza shall be generally within the area depicted on the Site Plan as "Permitted Programming Area."

ARTICLE X

Enforcement

10.1 Recordation of Lien. From the date an Assessment becomes delinquent and for two (2) years thereafter, the Association (and the Agency with regard to Program Assessments) shall have the right to file for record in the office of the County Recorder of Salt Lake County, Utah, a claim of lien signed by the Association or the Agency, as the case may be, containing the following information: (i) a statement of the amount of the unpaid Assessment, including all additional amounts due as specified in Article VIII and Article IX, (ii) a legal description of the Parcel owned by such delinquent Owner, and (iii) the name of the delinquent Owner. Such claim of lien shall be effective to give public notice of the Association's lien against the interest of the delinquent Owner and its Parcel in the amount specified therein.

10.2 Foreclosure. Upon failure of an Owner to cure its default within ninety (90) days following the recording of a claim of lien, the Association or the Agency, as the case may be, shall have the right and authority to foreclose its lien in accordance with the provisions of the Utah law applicable to the exercise of powers of sale in trust deeds or mortgages or in accordance with the provisions of Utah law applicable to judicial foreclosures or mechanics liens or in any other manner permitted by law. The Association, the Agency or any Owner, through their duly authorized agents, shall have the power to bid on the Parcel in foreclosure at any foreclosure sale and to acquire, lease, mortgage and convey the same.

10.3 Release of Lien. Upon the timely curing of any default for which a notice of claim of lien was filed, the Association or the Agency, as the case may be, is hereby authorized to file for recordation an appropriate release of such lien, upon payment by the defaulting Owner of a reasonable fee, to be determined by the lien claimant, to cover the costs of preparation and recordation of such release, together with the payment of such other costs, interest or fees as shall have been incurred. The Assessment lien and the rights to foreclose thereunder shall be in addition to, and not in substitution for, all other rights and remedies that the Association or Agency may have hereunder and by law, including a suit to recover a money judgment for any unpaid Assessment.

10.4 Other Remedies.

10.4.1 In the event of a violation of any provision of this Declaration by an Owner, no breach shall be deemed to have occurred hereunder unless the Owner committing such violation fails to cure within thirty (30) days after written notice to do so by the Association; provided that if such violation cannot be cured within such thirty (30)-day period, no breach shall be deemed to have occurred unless the Owner committing the violation has failed to commence such cure within such thirty (30)-day period and thereafter diligently to prosecute such cure to completion. Notwithstanding the foregoing, in the event a violation by an Owner requires more immediate action in order to avoid damage to property or Persons or risk of damage to property or Persons, such Owner shall immediately cure such default upon receipt of notice from the Association, which notice may be given telephonically, by facsimile, letter or in person.

10.4.2 In the event a default is not cured within the time provided under Section 10.4.1, the Association may, but is not obligated to, cure the default, in which event the defaulting Owner upon demand shall reimburse the Association or the Agency, as the case may be, all costs and expenses incurred in curing the default, including but not limited to reasonable attorneys' fees. The costs and expenses may be levied by the Association as an Extraordinary Assessment. In the event a default is not cured within the time provided under Section 10.4.1, the Association or the Agency, as the case may be, shall be entitled to any and all remedies available at law or in equity including but not limited to a suit for damages, injunctive relief or specific performance.

10.4.3 All rights and remedies granted under this Article X shall be cumulative and the exercise of one or more rights or remedies shall not constitute a waiver or election preventing the use of other rights or remedies provided herein or by law or in equity. The failure of any party to enforce any provisions of this Article shall not constitute a waiver of the right to do so thereafter nor of the right to enforce any other covenant, condition, restriction or easement herein provided.

10.4.4 If Agency or any Owner requests, Association shall pursue any enforcement actions permitted hereunder against any Person in default under this Declaration.

10.4.5 The provisions of this Article X are subject to the provisions of Section 12.18. Notwithstanding anything in this Declaration to the contrary, the Association and any Owner shall have all rights to foreclosure, injunctive relief or specific performance as permitted in law or in equity.

10.5 Nuisances. The result of every action or omission whereby any covenant, condition or restriction herein contained, by reference or otherwise, is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against any Owner, either in public or private, shall be applicable against every such nuisance and, subject to Section 10.4 hereof, may be exercised by Association or by any Owner. The right of enforcement shall not be extended to Occupants who are not also Owners.

10.6 Attorneys' Fees. In any legal or equitable proceeding for the enforcement of, or to restrain the violation of, or otherwise pertaining to a dispute concerning this Declaration or any provision hereof, by reference or otherwise, the prevailing party shall be entitled to an award of reasonable attorneys' fees in such amount as may be fixed by the court in such proceedings. All remedies provided herein at law or in equity shall be cumulative and not exclusive.

ARTICLE XI

Taxes

11.1 Covenant to Pay. Each Owner shall timely pay before delinquency all real property and privilege (as applicable) taxes and assessments which are levied or otherwise assessed against the land, Buildings and Improvements situated within its Parcel, including but

not limited to taxes levied against Common Area on such Owner's Parcel. It is the intent of this Section that no Parcel shall be exempt from property or privilege taxes, except the Plaza and Parcel B, if Parcel B is used for public purposes in accordance with Section 59-4-101, Utah Code Ann. 1953, as amended.

11.2 Right to Contest or Appeal. An Owner may contest or appeal the imposition of taxes and assessments described in this Article; provided, such taxes are timely paid under protest and the Owner takes no actions that would subject the Parcel to foreclosure; and further provided, the Owner provides Agency with prior written notice of its intent to contest or appeal the imposition of taxes and assessments and thereafter provides Agency copies of all notices of hearings, petitions, documents and pleadings in support of or in opposition to the contest or appeal and any written communications by or from the Owner and the body to whom the contest or appeal is made. Upon receiving a final adverse ruling or decision, an Owner shall immediately pay all taxes and assessments, late charges and penalties then due and take such other action as is necessary to ensure that a foreclosure does not subsequently occur. Agency, in its sole discretion, may participate in any hearing before any tax authority and provide evidence and/or take a position in any tax contest or appeal which is either in support of or contrary to the position taken by the Owner in such appeal or contest.

ARTICLE XII

General Provisions

12.1 Nonliability of Agency, Association, Board, City, the Design Review Committee and Project Architect. To the fullest extent permitted by law, neither the Agency, Association, the Board, City, the Design Review Committee, the Project Architect nor any Owner nor any of their appointees, agents, employees, partners, officers, directors, successors or assigns (the "indemnities") shall be liable to any other Owner for any damage, loss or prejudice suffered or claimed on account of any decision, course of action, or failure to reach a decision or take a course of action, whether consciously done or by omission, error, negligence or the like made in good faith and reasonably believed to be within the scope of its duties. To the fullest extent permitted by law, each and every Owner and Occupant, by accepting its interest or title to its interest in any Parcel, agrees to indemnify, defend and protect the indemnities and every other Owner against and from all claims arising out of the construction, use, possession and/or operation of the Building and Improvements not constituting Common Area occupied by, owned by or under the control of such Owner or Occupant. Except as provided in Section 10.4.5 nothing in this Declaration shall be deemed to waive any legal defenses or rights available to Agency as a governmental entity or otherwise.

12.2 Constructive Notice and Acceptance. Every Person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, restriction and easement contained herein, by reference and otherwise, whether or not any reference to this Declaration is contained in the instrument by which such Person acquired an interest in the Project.

12.3 Rights of Mortgagees.

12.3.1 A Mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to an Owner of a Parcel subject to the Mortgagee's Mortgage unless and until such Mortgagee shall have delivered or caused to be delivered to the Association a written notice stating that such Mortgagee is the holder of a Mortgage encumbering such Owner's Parcel within the Project. Thereafter, the Association shall send a copy of any notice to such Owner to such Mortgagee and shall allow the Mortgagee an additional fifteen (15) days to cure any default by such Owner under this Declaration. Such notice from the Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such notice or request remain unchanged or until the Mortgage has been satisfied or otherwise discharged of record.

12.3.2 No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat or render invalid the lien or charge of any Mortgage made in good faith and for value encumbering any Parcel, nor shall any liens or unpaid assessments hereunder be prior to the lien of any Mortgage. All liens and encumbrances of such covenants, conditions and restrictions (including, without limitation, the lien to secure Assessments provided in Article VIII and X and Program Assessments provided in Article IX) arising from and after foreclosure of such Mortgage shall bind the foreclosing Mortgagee and any Owner whose title is derived therefrom.

12.3.3 A Mortgagee, or the immediate transferee of such Mortgagee, who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale under a Mortgage made in good faith and for value, shall acquire title free of any lien or claim for unpaid Assessments and Program Assessments against such Parcel(s) that accrued prior to the time such Mortgage or transferee takes title to such Parcel. In addition, such Mortgagee or transferee shall not be obligated to cure any breach of the provisions of this Declaration which is noncurable or of a type that is impractical or infeasible to cure.

12.4 Mutuality; Reciprocity; Runs With Land. All restrictions, conditions, covenants and easements contained herein, by reference or otherwise, (i) are made for the direct, mutual and reciprocal benefit of each and every portion of the Project, (ii) shall create mutual, equitable servitudes upon each portion of the Project in favor of every other portion, (iii) shall create reciprocal rights and obligations between the respective Owners of all portions of or interests in the Project and privity of contract and estate between all grantees of such portions or interests therein, their heirs, successors and assigns, (iv) and shall, as to each Owner and the heirs, successors and assigns of such Owner, operate as covenants running with the land for the benefit of all other portions of the Project.

12.5 Term of Declaration. This Declaration shall remain in effect from the date upon which this Declaration is first recorded in the Official Records of Salt Lake County until December 31, 2057. However, unless within not more than one (1) year prior to December 31, 2057, and not less than three (3) months prior to December 31, 2057, there shall be recorded an instrument directing the termination of this Declaration, signed by members holding at least

seventy five percent (75%) of the votes (which must include Agency if it is a Member or City if Agency is not a Member and City is a Member), this Declaration, as in effect immediately prior to the expiration date, shall be continued automatically without any further notice for an additional period of ten (10) years and thereafter for successive periods of ten (10) years unless, within not more than one (1) year prior to the expiration of any such period and not less than three (3) months prior to the expiration of any such period, this Declaration is terminated as set forth above in this Section 12.5. Notwithstanding the foregoing, certain Sections of this Declaration shall survive the termination of the Declaration as provided elsewhere herein.

12.6 Article and Section Headings. The Article and Section headings used herein are inserted for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope and intent of the respective Articles and Sections to which they refer.

12.7 Amendments.

12.7.1 Except as provided in Section 12.7.2, Agency shall have the right to amend this Declaration unilaterally as it affects a Parcel prior to the conveyance of such Parcel to a Person. Except as provided in Section 12.7.2, from and after the date that there is an Owner of any portion of the Project other than Agency, this Declaration may be amended with the written approval of Seventy-Five Percent (75%) of all Members, which shall include Agency. To be effective, any amendment that affects or purports to defeat or render invalid the lien of any Mortgage made in good faith and for value must be approved in writing by the record holders of all such Mortgages encumbering the affected portions of the Project at the time of such amendment.

12.7.2 Any amendment to Sections 1.3, 1.34, 1.36 as it pertains to the Fixed Assessment for Parcel C, 1.49, 1.50, 1.61, 2.4, 2.5, 3.6 as it pertains to Parcel C, 3.7, 3.9, 3.10, 4.5, 4.6 4.7, 4.8, 4.9, 4.11, 4.15, Article V and Article VII, Article VIII, 12.5 of this Declaration or to this Section 12.7.2 shall require the prior written consent of the Owner of Parcel C, provided, however, that Articles V and VII shall not be included in this Section and not subject to such restriction at the time all parcels are Parcels Subject to Assessment, and further provided that Section 12.5 shall be a part of this Section 12.7.2 and subject to this restriction only through the year 2020.

12.8 Construction. The provisions of this Declaration shall be liberally construed to accomplish its purpose of creating a uniform plan for the development of the Property. Nothing herein shall be construed to require Agency to develop any portion of the Property.

12.9 Estoppel Certificates. Upon thirty (30) days prior notice, given upon the transfer, financing and/or refinancing of a Parcel, Agency, the Association or an Owner shall provide to any requesting Owner and/or its existing or prospective Mortgagee an estoppel certificate stating, to the actual knowledge of the certifying party: (a) whether the certifying party knows of any defaults under this Declaration and, if so, the nature thereof; (b) whether this Declaration has been assigned, modified or amended in any way and, if so, the nature thereof; and (c) that this Declaration is in full force and effect as of the date of the estoppel certificate. For such statement, such certifying party shall be entitled to charge a fee, not to exceed Two Hundred

Fifty Dollars (\$250.00) through the end of 1997, with such limit being increased on each January 1, commencing in 1998, to an amount equal to \$250.00 multiplied by the Cost of Living Fraction, based upon its actual administrative expenses in rendering the same.

12.10 Leases. All agreements for the leasing or rental of a Parcel or any Building or portion thereof (referred to as a "lease" in this Section 12.10) shall be subject in all respects to the provisions of this Declaration. Any failure by the tenant thereunder to comply with the terms of this Declaration shall be a default under the lease. Any Owner who shall lease its Parcel or Building thereon shall be responsible for assuring its tenant's compliance with the Governing Documents.

12.11 Notices.

12.11.1 Any notice, demand, communication, certification, approval, consent, invoice and/or request (individually referred to as "Notice"), required or allowed hereunder to be given to or by Agency, (including the Board), an Owner or a Mortgagee, shall be made in writing and shall be delivered personally or by reliable, receipted courier service, overnight mail service, facsimile transmission, certified mail (with postage prepaid, return receipt requested), or another commercially recognized means of delivery. Notice shall be deemed given upon the earlier of (i) three (3) days after mailing and (ii) when actually received.

12.11.2 Notice to an Owner or a Mortgagee shall be delivered to the address most recently given by such Owner or Mortgagee to Association in accordance with this Section 12.11 or, if no such address shall have been furnished, then to the street address of such Owner's Parcel.

12.11.3 Notice to Agency shall be delivered to its then current address.

12.11.4 Notice to the Association shall be delivered to its then current address.

12.12 Good Faith. Association shall at all times act in good faith and shall not take any action that is materially detrimental to one Owner while at the same time benefiting other Owner(s), without first obtaining the written consent of the Owner who is adversely affected.

12.13 Invalidity of Provision. If a court of competent jurisdiction should hold any provision of this Declaration, or the application thereof to any Person or any circumstance, to be invalid, void or illegal, the remaining provisions hereof and the application of such provision to any Person and any circumstance other than those as to which it is held to be invalid, void or illegal, shall nevertheless remain in full force and effect to the maximum extent permitted by law and shall not be affected thereby.

12.14 BOMA Standards Used for Computations. All computations of gross square footage of Buildings and Improvements shall be computed in accordance with American National Standard measurements (standards approved by American National Standards Institute, Inc.) or other standards as approved by the Agency.

12.15 Force Majeure. The parties will comply with the time periods set forth in this Declaration; provided, each and every period shall be extended for a period or periods of time equal to any period or periods of delay preventing the performance of any of the parties' obligations, which delays are caused by strikes, lockouts, fire or other casualty, inclement weather, the elements or acts of God, refusal or failure of governmental authorities to grant necessary approvals and permits, war, riot, insurrections or shortages of or inability to obtain essential construction materials or the transportation thereof or other causes, other than financial, beyond their reasonable control.

12.16 No Relationship of Principal and Agent. Nothing contained in this Declaration nor any acts of any parties nor any Owners shall be deemed or construed to create the relationship of principal and agent or of limited or general partnership or of joint venture or of any other similar association between any of the Owners or Agency.

12.17 Governing Law. This Declaration shall be construed, interpreted and applied in accordance with the laws of the State of Utah.

12.18 Limited Liability of Agency. Except for the right of Association to lien any property owned by Agency or its successors as provided in 10.1 notwithstanding anything to the contrary in this Declaration or elsewhere, Agency's liability for any monetary sum pursuant to this Declaration, without regard to the basis for such liability, shall be limited to the net revenues during the Agency's current fiscal year, as and when received by Agency on account of the Parking Lease between Agency and the owner of the One Utah Center Parcel.

ARTICLE XIII

Special Approval and Other Rights

13.1 Certain Matters Requiring Super Majority Approval. Notwithstanding any other provisions of this Declaration to the contrary, a vote of not less than a Super Majority shall be required to approve the following matters:

13.1.1 The Budget for a Fiscal Year but only if such Budget results in the Regular Assessments of the Owners of a Parcel of an amount greater than one hundred and twenty percent (120%) of the Regular Assessments of such Owners for the immediately preceding Fiscal Year; and

13.1.2 Any item of expense not included in the Budget which is in excess of One Hundred Thousand Dollars (\$100,000.00) through the end of 1997, with such limit being increased on each January 1, commencing in 1998, to an amount equal to such current limit multiplied by the Cost of Living Fraction; and

13.1.3 Expenditures in a Fiscal Year exceeding by more than twenty percent (20%) the amount included in the Budget for such item of expenditure.


13.2 Certain Other Agency and Owner Rights. Notwithstanding any other provisions of this Declaration to the contrary, in every instance under this Declaration where an Owner,

Member, Association or any other party has a duty to perform or an obligation under this Declaration and such party fails to perform such duty or obligation, the Agency and the Association shall each separately have the right, but not the obligation, to perform such duty or task and to charge the defaulting party with the cost of such performance. Agency shall have all rights available to Association pursuant to this Declaration. Notwithstanding anything contained herein to the contrary, upon Agency's issuance of a Certificate of Completion for the initial development of all Parcels within the Project, Agency may elect to transfer any duties, rights or obligations it has under this Declaration to the Association or City in an amendment to this Declaration executed solely by Agency so indicating such transfer.

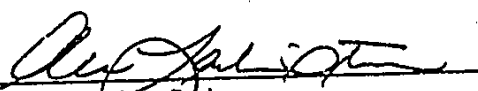
IN WITNESS WHEREOF, Agency has executed this Declaration as of the date first above written.

AGENCY:

REDEVELOPMENT AGENCY OF SALT LAKE CITY, a public agency

By: 
Deedee Corradini
Its Chief Administrative Officer

and

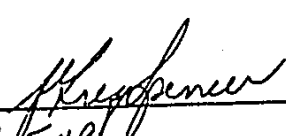
By: 
Alice Larkin Steiner
Its Executive Director

Approved as to Form by
Legal Counsel:

FABIAN & CLENDENIN

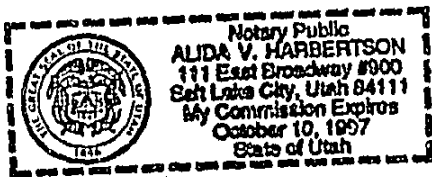
By: 
George D. Melling, Jr.

AMERICAN STORES PROPERTIES, INC.,
a Delaware corporation

By: 
Its: K. K. K. K.

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

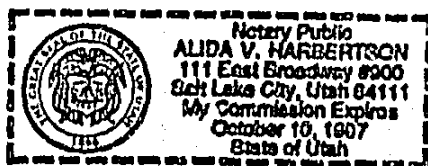
On the 30th day of June, 1995, personally appeared before me Deedee Corradini and Alice Larkin Steiner, who being by me duly sworn did say they are the Chief Administrative Officer and Executive Director of The Redevelopment Agency of Salt Lake City, and that the within and foregoing instrument was signed on behalf of said Agency.



Alida V. Harbertson
NOTARY PUBLIC

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

On this 30th day of June, 1995, personally appeared before me J. Greg Spencer, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he/she is the Senior Vice President of AMERICAN STORES PROPERTIES, INC., a Delaware corporation, and that said document was signed by him/her in behalf of said corporation by authority of its bylaws or of a resolution of its board of directors, and said J. Greg Spencer acknowledged to me that said corporation executed the same.



Alida V. Harbertson
NOTARY PUBLIC

EXHIBIT "A"

Legal Description of the Portion of Block 57
Currently Owned by Agency

Beginning at the Southwest corner of Lot 2 of Block 57, Plat "A", Salt Lake City Survey, said point being North $0^{\circ}00'32''$ West 64.51 feet parallel to the block monument line and South $89^{\circ}59'08''$ East 67.10 feet parallel to the block monument line from the Salt Lake City Block Monument in the intersection of Main Street and 300 South; thence North $0^{\circ}09'09''$ East 451.37 feet along the westerly lines of Lot 2, Lot 3, and part of Lot 4 of said Block 57; thence South $89^{\circ}50'51''$ East 50.25 feet; thence South $50^{\circ}05'13''$ East 31.22 feet; thence South $89^{\circ}50'51''$ East 76.50 feet; thence North $0^{\circ}09'09''$ East 228.79 feet; thence South $89^{\circ}50'40''$ East 509.57 feet to the northeast corner of Lot 6 of said Block 57; thence South $0^{\circ}08'14''$ West 660.22 feet to the southeast corner of Lot 1 of said Block 57; thence North $89^{\circ}50'34''$ West 660.50 feet to the point of beginning.

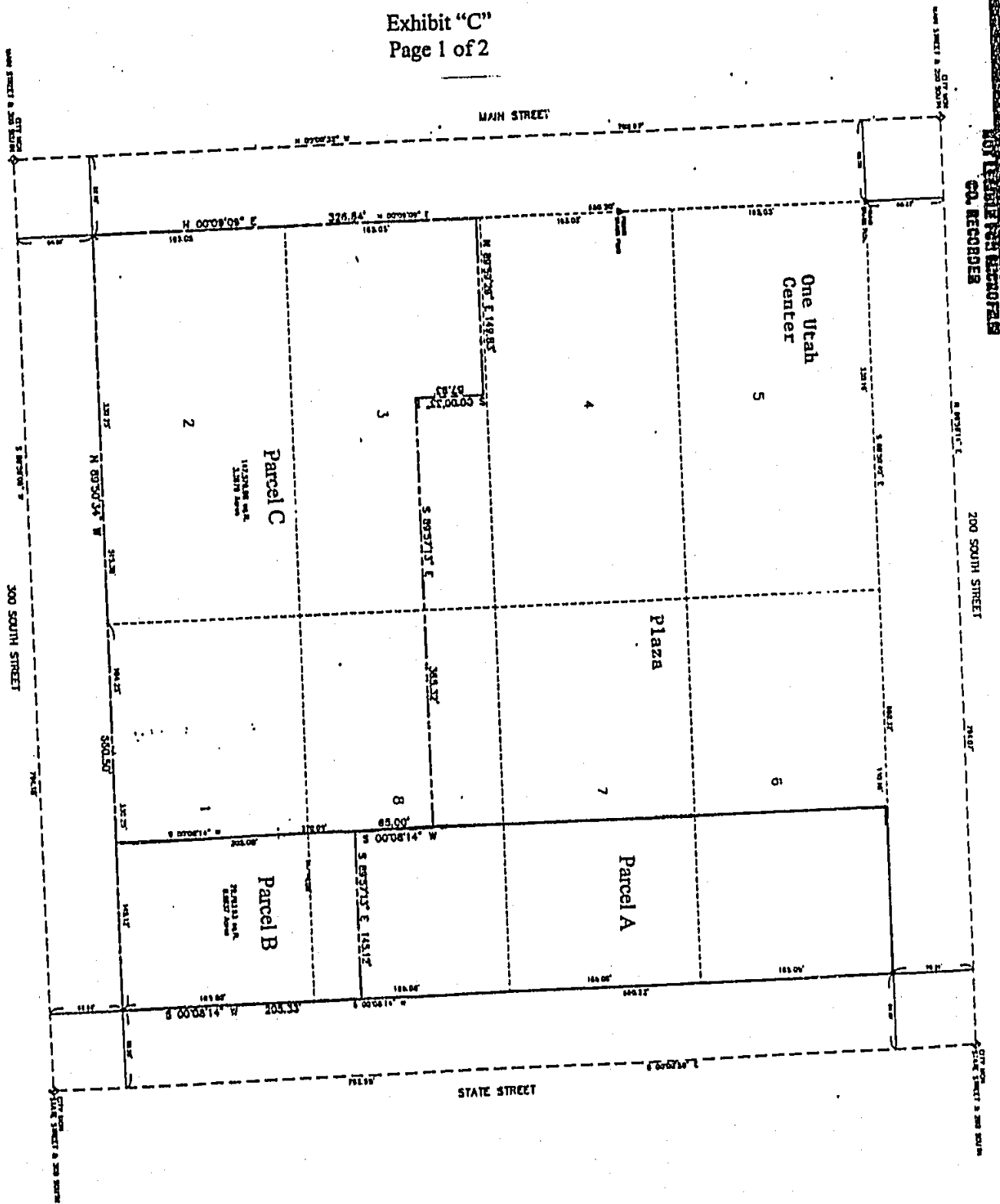
BK 7180Pg 1557

EXHIBIT "B"

Legal Description of Plaza Drive Easement

**[To be determined at a subsequent time and recorded
by an amendment to this Declaration.]**

Exhibit "C"
Page 1 of 2



UTAH COUNTY RECORDER
CO. RECORDER

200 SOUTH STREET

BK 7180 PG 1559

NOT LEGIBLE FOR MICROFILM
CA. RECORDED

EXHIBIT "C"
Page 2 of 2

STATE STREET

200 SOUTH STREET

300 SOUTH STREET

BK 7180Pg 1560

MAIN STREET

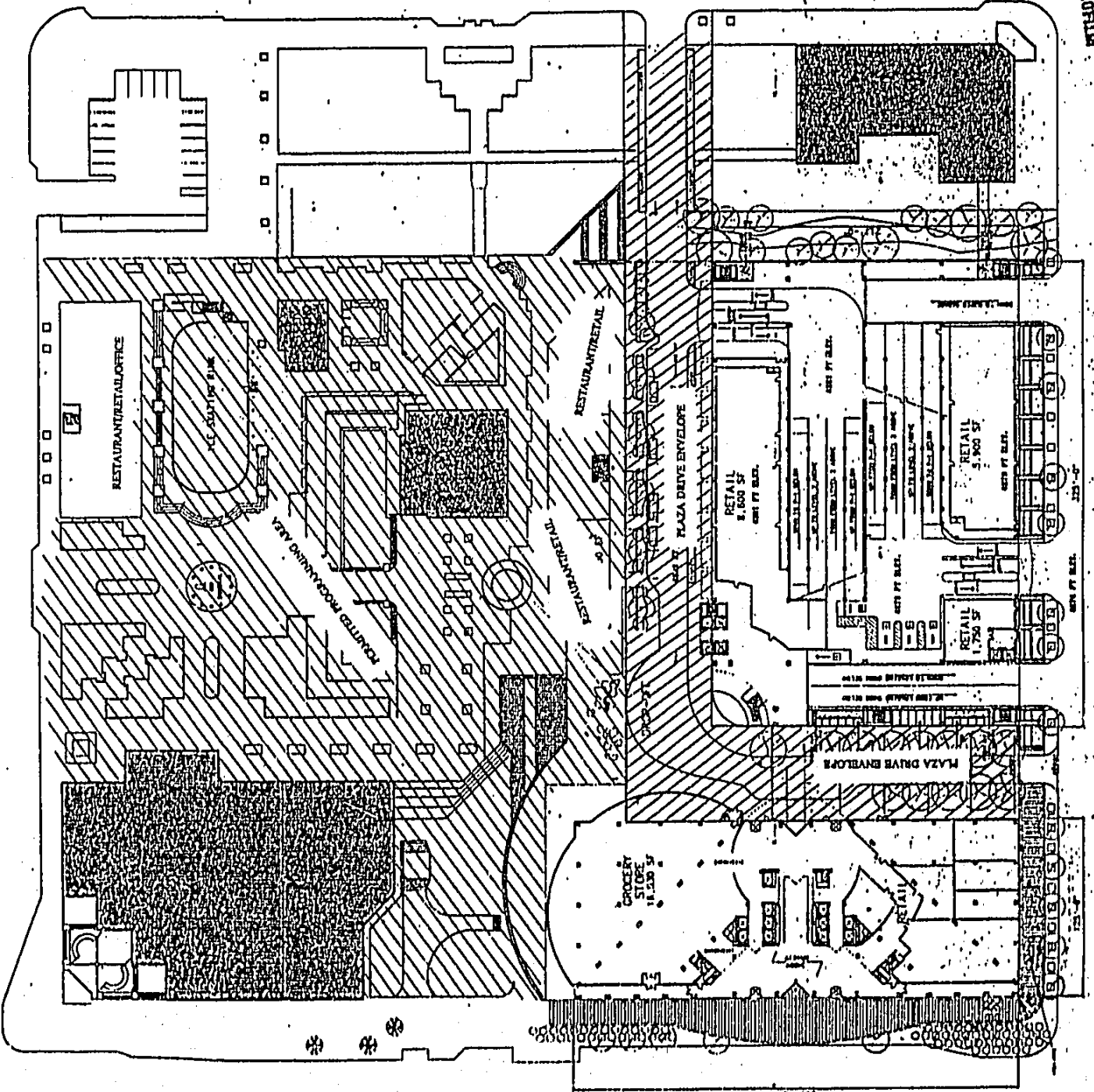
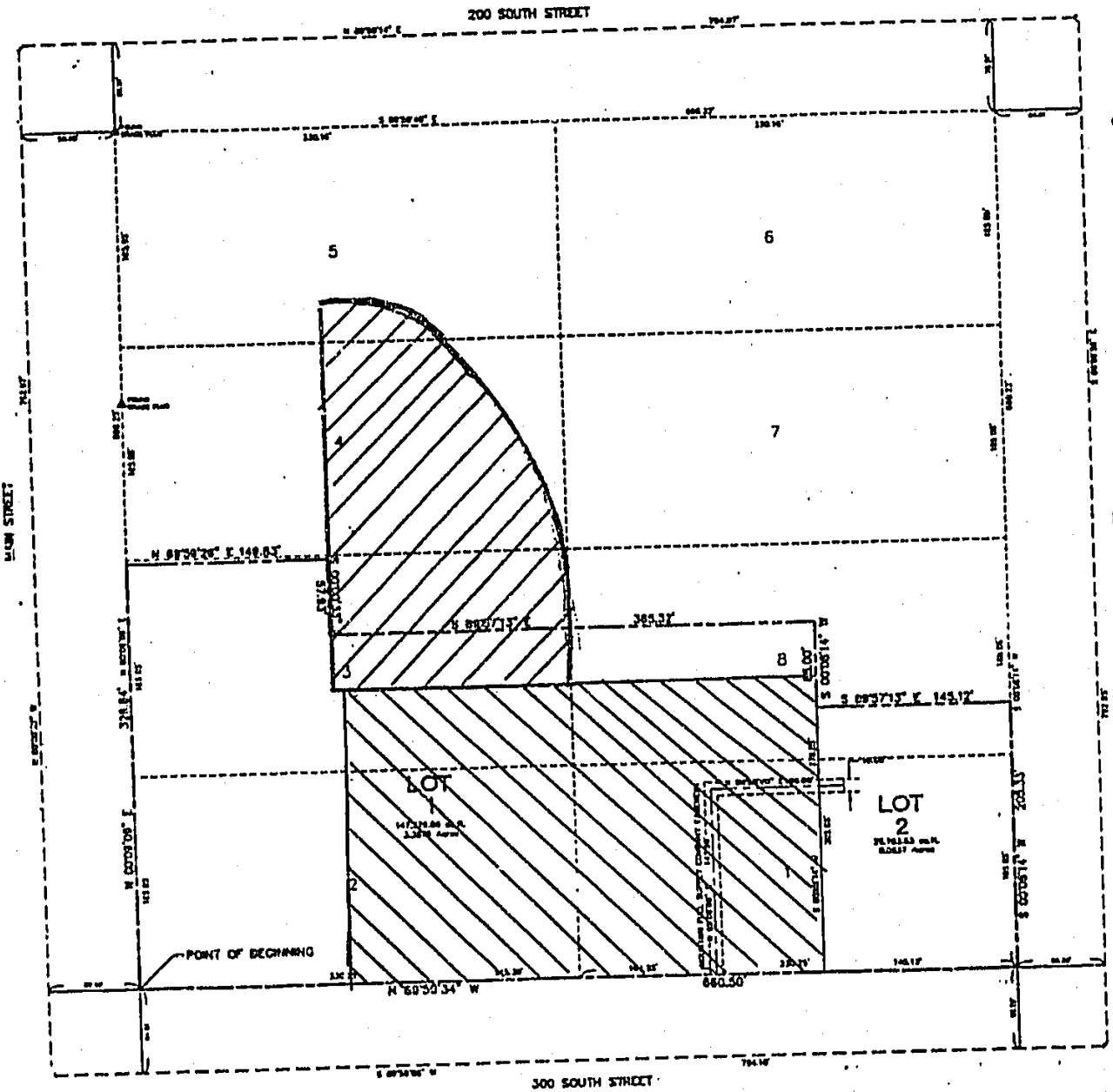


EXHIBIT "D"

Map Showing Location of Light and View Easements

NOT LEGIBLE FOR MICROFILM
CO. RECORDS

STATE STREET



AMERICAN STORES PROPERTIES, INC.



AGENCY

The Redevelopment Agency of Salt Lake City shall have a light and view easement along the southern edge of the John W. Gallivan Utah Center. The easement description will be determined at a subsequent time and recorded by an amendment to this Declaration.

BK 7180 Pg 1561