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Book - 11252 Pg - 416-446  
RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
FIDELITY NATIONAL TITLE AGENCY  
BY: eCASH, DEPUTY - EF 31 P.

**AMENDMENT NO. 5  
TO CROSS-EASEMENT  
AGREEMENT**

When Recorded Return to:  
Ezequiel Martinez  
Panaderia Alicias, LLC  
8063 S. Flaxton Lane  
West Jordan, UT 84081

Tax Parcel No. 14-25-476-022-0000

This **FIFTH AMENDMENT TO CROSS-EASEMENT AGREEMENT** (this "**Fifth Amendment**") is made as of the 8 day of ~~August~~ <sup>October</sup>, 2021, by and between America First Federal Credit Union, a federally chartered credit union ("**AFCU**"), Panaderia Alicias, LLC, a Utah limited liability company ("**Alicias**") and the additional undersigned parties.

A. AFCU is the owner of fee title to a certain real property located in Salt Lake County, Utah, located at 4936 West 3500 South, Tax Parcel No. 14-25-476-022-0000, which is more particularly described in **Exhibit 1**, which is incorporated by this reference as though fully set forth herein ("**AFCU Parcel**").

B. AFCU has agreed to sell the AFCU Parcel to Alicias and Alicias has agreed to purchase the AFCU Parcel from AFCU upon the condition that the undersigned parties have executed this Fifth Amendment and upon condition that this Fifth Amendment is recorded in connection with the closing of Alicias' purchase of the AFCU Parcel from AFCU.

C. The AFCU Parcel and all of the parcels described in **Exhibits 1-8** attached hereto are part of that certain "Shopping Center" more particularly described in that certain **CROSS-EASEMENT AGREEMENT** dated on or about February 21, 1989, and recorded February 21, 1989, as Entry No. 4738354 in Book 6146, Page 2759 in the official records of the Salt Lake County Recorder (the "**Original Cross Easement Agreement**").

D. The Original Cross Easement has been amended by the following four amendments: Amendment No. 1 to Cross-Easement Agreement and the terms, conditions and limitations contained therein, recorded July 28, 1989 as Entry No. 4804543 in Book 6146 at Page 2759 of the Salt Lake County Recorder's Official Records; Amendment No. 2 to Cross-Easement Agreement and the terms, conditions and limitations contained therein, recorded January 31, 2005 as Entry No. 9287430 in Book 9089 at Page 6268 of the Salt Lake County Recorder's Official Records; Amendment No. 3 to Cross-Easement Agreement and the terms, conditions and limitations contained therein, recorded January 3, 2014 as Entry No. 11784849 in Book 10203 at Page 3650 of the Salt Lake County Recorder's Official Records; Amendment No. 4 to Cross-Easement Agreement and the terms, conditions and limitations contained therein, recorded December 14, 2017 as Entry No. 12679531 in Book 10629 at Page 6330 of the Salt Lake County Recorder's Official Records. The Original Cross Easement Agreement and Amendment Nos. 1-4 described above are collectively referred to herein as the "**Cross Easement Agreement**".

E. Alicias desires to construct an approximately 11,250-square foot bakery that is approximately 21 feet in height on the AFCU Parcel, which is generally situated in the area described as "Outlot E" in the Original Cross Easement Agreement.

F. Section 6.04 of the Cross Easement Agreement imposes on Outlot E a Building Height Restriction (Above Finished Grade) of 20 feet plus up to 2 feet for HVAC as well as a 5,000-foot Building Ground Cover Restriction.

G. The undersigned parties, who own the properties described in Exhibits 1-8, want to amend the Cross Easement Agreement to allow Alicias to construct its desired bakery in accordance with Alicias' site plan, which is attached hereto as **Exhibit 9** (the "**Alicias Site Plan**").

H. Sections 11.02 and 11.03 of the Cross Easement Agreement provide for modification of the Cross Easement Agreement by a document executed by "(a) those owners who own eighty percent or more of the square footage (including Common Areas and Net Building Floor Areas) within the Entire Parcel and their respective mortgagees, if any; (b) the owner of the Shopko Site (excluding any Pads that are located thereon); (c) the Owner of the Grocery Parcel (as described in Section 6.07 hereof); and (d) so long as Developer owns fee simple title to any portion of the Entire Parcel, then Developer."

I. The Developer no longer owns fee simple title to any portion of the Entire Parcel.

J. The undersigned parties represent those owners who own eighty percent or more of the square footage (including Common Areas and Net Building Floor Areas) within the Entire Parcel and their respective mortgagees.

K. Section 3.03 of the Cross Easement Agreement provides that the acceptance of any transfer or conveyance of title from any party of any of the parcels described therein shall require the respective grantee to agree not to use, occupy or allow any lessee or occupant of such site to use or occupy the site in any manner which would constitute a violation or breach of any of the easements and covenants contained therein and further require the prospective grantee to assume and agree to perform each and all of the obligations of the conveying party under the Cross Easement Agreement pursuant to a written instrument executed, acknowledged and recorded in the Office of the Recorder of Salt Lake County, Utah.

**NOW THEREFORE**, in consideration of Ten Dollars (\$10.00), the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned parties agree as follows:

1. **Incorporation:** All of the above recitals are incorporated herein and made a part hereof.

2. **Agreement:** The Cross Easement Agreement is amended as follows:

a. Section 1.04, Site Plan, is amended by adding the following at the end of the sentence:

“, and the Alicias Site Plan.”

b. Article I, Definitions, is amended by adding a new Section 1.11, which reads as follows:

“1.11 Alicias Site Plan. The term “Alicias Site Plan shall mean and refer to the site plan attached as Exhibit 9 to the Fifth Amendment to the Cross Easement Agreement. Provided that the property described therein is developed in accordance with the Alicias Site Plan, the development on said parcel will be deemed to be in compliance with all provisions of this Agreement, notwithstanding anything to the contrary in the Cross Easement Agreement.”

c. Section 6.04, Outlot Restrictions, is hereby amended by deleting the restrictions for Outlot E and replacing them with the following:

<u>Building Height Restriction (Above Finished Grade)</u>	<u>Building Ground Cover Restriction</u>
26 feet plus up to 2 feet for HVAC	12,000 sq. ft.

3. **Assumption Agreement/Vesting Deed:** Attached to this Fifth Amendment as **Exhibit 10** is an executed copy of the Assumption Agreement and an unexecuted copy of the proposed vesting deed required by Section 3.03 of the Cross Easement Agreement. The undersigned parties acknowledge receipt of the foregoing and waive any further requirement that the Assumption Agreement or an executed copy of the vesting deed be delivered to the undersigned parties as a condition to releasing AFCU from any further obligation under the Cross Easement Agreement.

4. **Effect of Agreement:** All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Cross Easement Agreement. Except to the specific extent amended by this Fifth Amendment, the Cross Easement Agreement remains in full force and effect and shall remain unchanged and unmodified.

5. **Effective Date:** This Fifth Amendment shall be effective as of the day and year first written above.

6. **Entire Agreement:** The Fifth Amendment contains the entire agreement between the parties hereto with respect to the subject matter hereof and all prior negotiations, understandings or agreements are superseded.

7. **Counterparts:** This Fifth Amendment may be executed in several counterparts, each of which shall be deemed an original.

*(Signature pages follow)*

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment as of the day and year first written above.

**AMERICA FIRST FEDERAL CREDIT UNION,  
a federally chartered credit union**

By: Tammy Gallegos  
Name: Tammy Gallegos  
Its: EVP / CSEO

State of Utah :SS  
County of Weber

The foregoing instrument was acknowledge before me this 29 day of Sept, 2021, by Tammy Gallegos who represented to me that she/he is the EVP of America First Federal Credit Union, a federally chartered credit union and executed the foregoing on behalf of and with the authority of the same.

[Signature]  
Notary Public  
My commission expires:  
8/31/2024

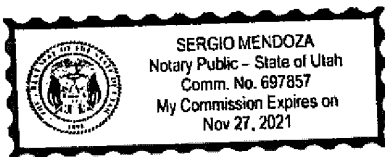


**PANADERIA ALICIAS, LLC**  
**a Utah limited liability company**

By: Evelyn Valdes  
Name: Evelyn Valdes  
Its: Owner  
State of Utah  
County of Salt Lake :SS

The foregoing instrument was acknowledge before me this 7<sup>th</sup> day of SEPTEMBER, 2021, by EVELYN VALDES, who represented to me that she/he is the BUYER of America First Federal Credit Union, a federally chartered credit union and executed the foregoing on behalf of and with the authority of the same.

[Signature]  
Notary Public  
My commission expires:  
NOV/27/2021

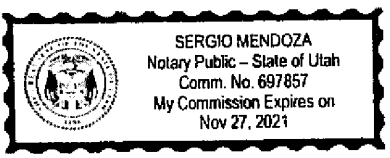


**PANADERIA ALICIAS, LLC**  
**a Utah limited liability company**

By: [Signature]  
Name: Ezequiel Martinez.  
Its: owner.  
State of Utah :SS  
County of Salt Lake.

The foregoing instrument was acknowledge before me this 7<sup>th</sup> day of SEPTEMBER, 2021, by EZEQUIEL MARTINEZ, who represented to me that she/he is the BUYER of America First Federal Credit Union, a federally chartered credit union and executed the foregoing on behalf of and with the authority of the same.

[Signature]  
Notary Public  
My commission expires:  
NOV/27/2021



CHOSKO, LLC  
a Utah limited liability company

By: *[Signature]*

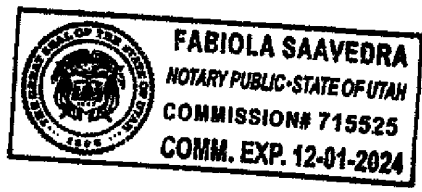
Name: Oscar Manuel O. Leja P.

Its: President

State of Utah

County of Salt Lake :SS

The foregoing instrument was acknowledge before me this 27<sup>th</sup> day of September, 2021, by Oscar Manuel O. Leja P., who represented to me that she/he is the president of Chosko, LLC a Utah limited liability company and executed the foregoing on behalf of and with the authority of the same.



*[Signature]*  
Notary Public  
My commission expires:

**DEMILLE MACKAY PROPERTIES, LLC**  
a Utah limited liability company

By: *Chris Demille*

Name: Chris Demille

Its: owner

State of Utah

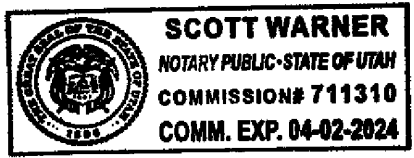
County of Salt Lake :SS

The foregoing instrument was acknowledge before me this 23 day of September, 2021, by Chris Demille, who represented to me, that she/he is the owner of Demille Mackay properties a Utah limited liability company and executed the foregoing on behalf of and with the authority of the same.

*[Signature]*

Notary Public

My commission expires: 04-02-2024





DURHAM INVESTMENTS, LLC  
a Utah limited liability company

By: Eric Durham

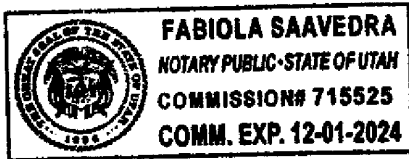
Name: Eric Durham

Its: Managing Member

State of Utah

County of Salt Lake :SS

The foregoing instrument was acknowledge before me this 24<sup>th</sup> day of September 2021, by ERIC Durham, who represented to me that she/he is the managing member of Durham Investments, LLC a Utah limited liability company and executed the foregoing on behalf of and with the authority of the same.



Fabiola Saavedra  
Notary Public  
My commission expires:

**GENERACION FLORECIENTE,  
a Utah non-profit corporation**

By: James Cody Case

Name: JAMES CODY CASE

Its: PRESIDENT

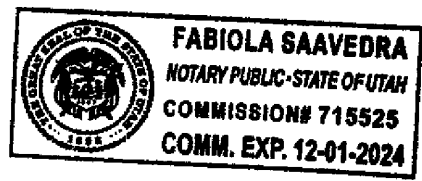
State of UTAH

County of SALT LAKE :SS

The foregoing instrument was acknowledge before me this 21<sup>st</sup> day of September, 2021, by James Cody Case, who represented to me that she/he is the president of Generacion Floreciente, a Utah non-profit corporation and executed the foregoing on behalf of and with the authority of the same.

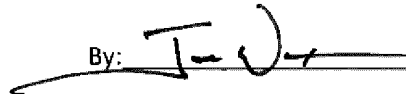
Generacion Floreciente Fabiola Saavedra  
Notary Public

My commission expires:



IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS Fifth Amendment as of the day and year first written above.

FETZERS' INC.  
A Utah corporation

By: 

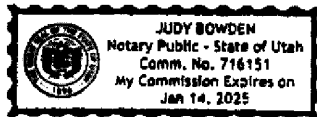
Name: Joe Wixom

Its: President

State of: Utah

County of: Salt Lake

The foregoing instrument was acknowledged before me this 7 day of October, 2021, by Joe Wixom, who represented to me, that she/he is the President of Fetzers Inc, a Utah corporation, and executed the foregoing on behalf of and with the authority of the same.



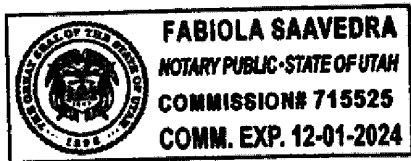
  
Notary Public

My commission expires:

**WEST WASANGELES, LLC**  
a Utah limited liability company

By: [Signature]  
Name: Mark McDowell  
Its: President  
State of Utah  
County of Salt Lake :SS

The foregoing instrument was acknowledge before me this 24<sup>th</sup> day of September, 2021, by MARY McDOWELL, who represented to me that she/he is the president of West Wasangeles, LLC a Utah limited liability company and executed the foregoing on behalf of and with the authority of the same.



[Signature]  
Notary Public  
My commission expires:

**EXHIBIT 1**  
**AFCU Parcel - AFCU Subdivision Amended, Lot 2A**

PARCEL 1:

LOT 2A, AFFCU 3500 SOUTH SUBDIVISION AMENDED, ACCORDING TO THE OFFICIAL PLAT RECORDED DECEMBER 6, 2013 AS ENTRY NO. 11771314 IN BOOK 2013P AT PAGE 254 OF OFFICIAL RECORDS.

PARCEL 1A:

THOSE EASEMENTS APPURTENANT TO PARCEL 1, SET FORTH AND DISCLOSED BY THAT CERTAIN CROSS-EASEMENT AGREEMENT RECORDED FEBRUARY 21, 1989 AS ENTRY NO. 4738354 IN BOOK 6105 AT PAGE 892 OF OFFICIAL RECORDS, AS AMENDED BY AMENDMENT NO. 1 TO CROSSEASEMENT AGREEMENT RECORDED JULY 28, 1989 AS ENTRY NO. 4804543 IN BOOK 6146 AT PAGE 2759 OF OFFICIAL RECORDS, AS AMENDED BY AMENDMENT NO. 2 TO CROSS-EASEMENT AGREEMENT RECORDED JANUARY 31, 2005 AS ENTRY NO. 9287430 IN BOOK 9089 AT PAGE 6268 OF OFFICIAL RECORDS, AS AMENDED BY AMENDMENT NO. 3 TO CROSS-EASEMENT AGREEMENT RECORDED JANUARY 3, 2014 AS ENTRY NO. 11784849 IN BOOK 10203 AT PAGE 3650 OF OFFICIAL RECORDS, AS AMENDED BY AMENDMENT NO. 4 TO CROSS-EASEMENT AGREEMENT RECORDED DECEMBER 14, 2017 AS ENTRY NO. 12679531 IN BOOK 10629 AT PAGE 6330 OF OFFICIAL RECORDS.

Tax Parcel No. 14-25-476-022-0000

**EXHIBIT 2**  
**AFCU Subdivision Amended, Lot 1**

LOT 1, AFFCU 3500 SOUTH SUBDIVISION AMENDED, ACCORDING TO THE OFFICIAL PLAT RECORDED DECEMBER 6, 2013 AS ENTRY NO. 11771314 IN BOOK 2013P AT PAGE 254 OF OFFICIAL RECORDS.

Tax Parcel No. 14-25-476-021-0000

**EXHIBIT 3**  
**Chosko, LLC Parcel**

BEG S 89°59'22" W 380 FT & N 0°00'38" W 33 FT FR SE COR OF SEC 25. T 1S, R 2W, S L  
M; S 89°59'22" W 205 FT; N 0°00' 38"W117 FT; N 89°59'22" E 205 FT; S 0°00'38" E 117 FT  
TO EG. 0.55 AC M OR L. 6105-0889 6142-1724 6577-1231 7800-0525 09846-9530

Tax Parcel No. 14-25-476-004-0000

**EXHIBIT 4**  
**DEMILLE MACKAY PROPERTIES, LLC PARCEL**

LOT 2, SHOPKO 3500 SOUTH SUBDIVISION, according to the official plat thereof on file and of record in the Office of the Salt Lake County Recorder.

Tax Parcel No. 14-25-476-015-0000



**EXHIBIT 5**  
**DURHAM INVESTMENTS PARCEL**

LOT 3, SHOPKO 3500 SOUTH SUBDIVISION, according to the official plat thereof on file and of record in the Office of the Salt Lake County Recorder.

Tax Parcel No. 14-25-476-016-0000

**EXHIBIT 6**  
**GENERACION FLORECIENTE PARCEL**

Lot 3, AFFCU 3500 SOUTH SUBDIVISION AMENDED, according to the official plat thereof on file and recorded in the Office of the Salt Lake County Recorder.

Tax Parcel No. 14-25-476-019-0000

**EXHIBIT 7**  
**FETZERS' PARCEL**

LOT 1, SHOPKO 3500 SOUTH SUBDIVISION, according to the official plat thereof on file and of record in the Office of the Salt Lake County Recorder.

Tax Parcel No. 14-25-476-014-0000

**EXHIBIT 8**  
**WEST WASANGELES PARCEL**

BEG S 89°59'22" W 645 FT & N 0°00'38" W 33 FT FR SE COR SEC 25, T1S, R2W, SLM; S 89°59'22" W 141 FT; N 0°00'38" W 117 FT; N 89°59'22" E 141 FT; S 0°00'38" E 117 FT TO BEG. 0.38 AC M OR L. 6296-2921 6835-1332 10155-2109 10720-6703

Tax Parcel No. 14-25-476-006-0000

**EXHIBIT 9**  
**ALICIAS SITE PLAN**



**EXHIBIT 10**  
**ASSUMPTION AGREEMENT**  
**PROPOSED VESTING DEED**

## ASSUMPTION AGREEMENT

This ASSUMPTION AGREEMENT (the "Agreement"), is entered into as of the last date set forth below by and between PANADERIA ALICIAS, LLC, a Utah limited liability company (hereinafter "Buyer"), and AMERICA FIRST FEDERAL CREDIT UNION, a federally chartered credit union (hereinafter "Seller"), (individually a "Party" or collectively the "Parties").

### RECITALS

WHEREAS, Buyer desires to purchase from Seller and Seller desires to sell to Buyer that certain real property located at approximately 4936 W. 3500 S., West Valley City, Salt Lake County, Utah, consisting of approximately 2.47 acres +/- as more particularly described in Exhibit "A" (the "Property"); and,

WHEREAS, this Agreement is entered into for the purposes of complying with that certain Cross-Easement Agreement dated and recorded on February 21, 1989, as Entry No. 4738354, in Book 6105 at Page 892 of Records, Salt Lake County, State of Utah (the "Cross-Easement Agreement").

### AGREEMENT

NOW, THEREFORE, in consideration of the purchase and sale of the Property, Buyer and Seller hereby agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein by reference.
2. Assumption. Pursuant to Section 3.03 of the Cross-Easement Agreement, (a) the Buyer shall not use, occupy or allow any lessee or occupant of the Property to use or occupy the Property in any manner which would constitute a violation or breach of any of the easements and covenants contained therein, and (b) the Buyer assumes and agrees to perform each and all of the obligations of the Seller under the Cross-Easement Agreement with respect to any such portion of the entire parcel which will be conveyed to Buyer.


IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the last date set forth below.



THIS ASSUMPTION AGREEMENT IS EXECUTED by Buyer this 10 day of September, 2021.

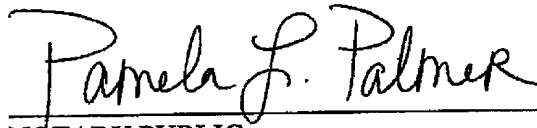
**BUYER:**

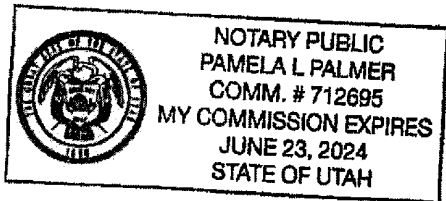
PANADERIA ALICIAS, LLC

By:   
EZEQUIEL MARTINEZ, Manager

STATE OF UTAH                    )  
  : ss.  
COUNTY OF Salt Lake )

On this 10 day of September, 2021, personally appeared before me the undersigned, a Notary Public in and for the State of Utah, EZEQUIEL MARTINEZ, Manager of PANADERIA ALICIAS, LLC, a Utah limited liability company, signer of the foregoing instrument, and acknowledged he executed the same on behalf of said entity. Witness my hand and official seal.

  
NOTARY PUBLIC





**Exhibit "A"**

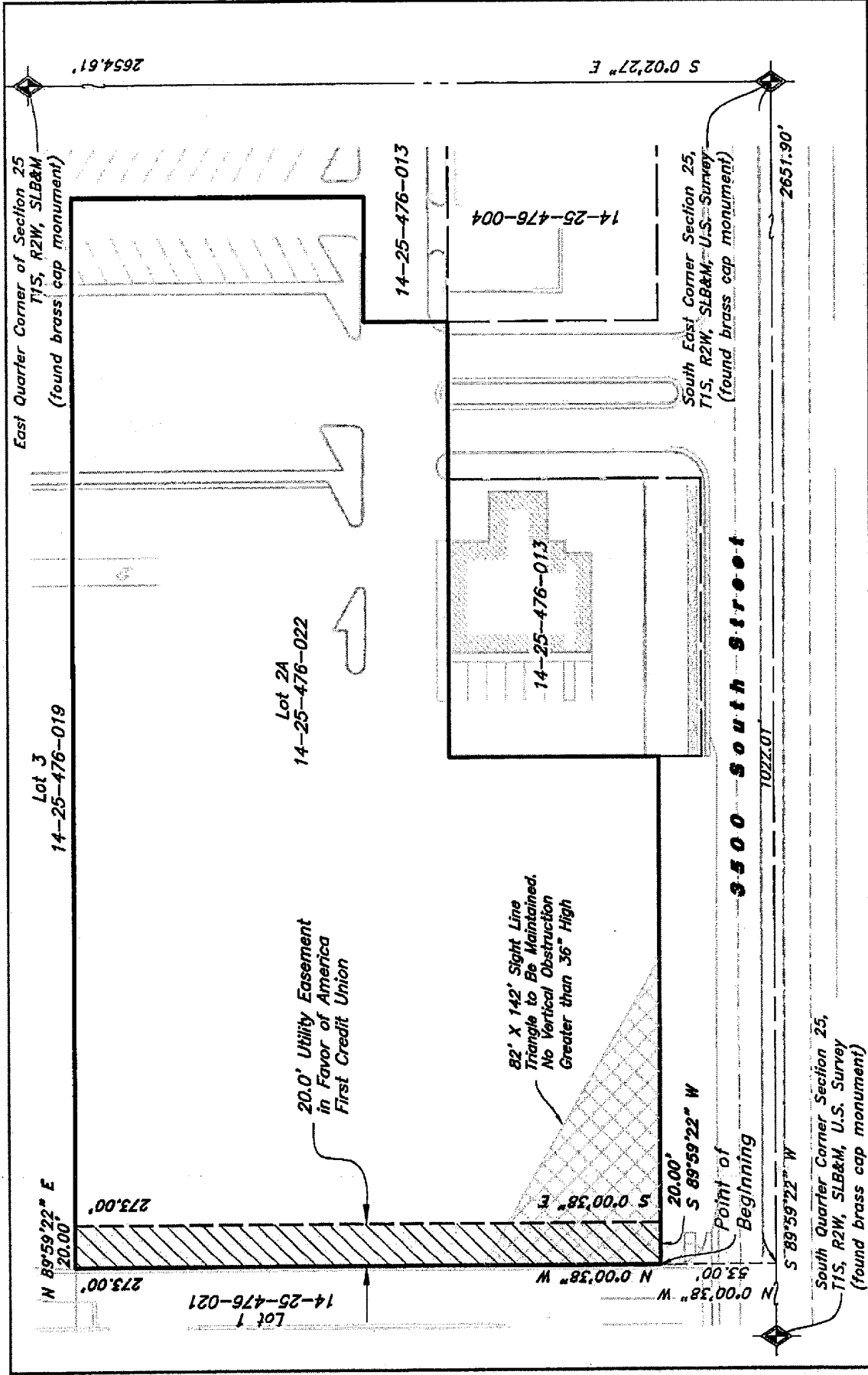
**Description of the Property**




Lot 2A, AFFCU 3500 SOUTH SUBDIVISION AMENDED, according to the official plat recorded December 6, 2013, as Entry No. 11771314 in Book 2013P at page 254 of official records.

**Exhibit "A"**

**Description of the Property**

Lot 2A, AFFCU 3500 SOUTH SUBDIVISION AMENDED, according to the official plat recorded December 6, 2013, as Entry No. 11771314 in Book 2013P at page 254 of official records.



Designed By: MN	<b>A</b>
Drafted By: NE	
Client Name: AFCU	
13-089EX-A	
<b>1 Apr, 2021</b>	
<b>Exhibit A</b>	
<b>AFCU West Valley 5000 W.</b> 5000 West & 3500 South West Valley City, UT	
 <b>ANDERSON WAHLEN &amp; ASSOCIATES</b> <small>2010 Main, Richmond, Utah, Salt Lake City, Utah, 84119          801-421-0020 - anderson@anna.com</small>	
 <b>Scale: 1" = 60'</b> 	

WHEN RECORDED, RETURN TO  
AND SEND TAX NOTICES TO:

Panaderia Alicias, LLC  
8063 S Flaxton Lane  
West Jordan, UT 84081

Escrow No. NCS- 1031968- SLC1

Tax Parcel No: 14-25-476-022-0000

**SPECIAL WARRANTY DEED**

[Corporate Form]

AMERICA FIRST FEDERAL CREDIT UNION, a federally chartered credit union, also appearing of record as America First Federal Credit Union dba America First Credit Union, a Utah corporation, as Grantor, hereby conveys and warrants against all claiming by, through or under it to

Panaderia Alicias, LLC, a Utah limited liability company, as Grantee, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration the following described tract of land in Salt Lake County, State of Utah, to wit:

PARCEL 1:

LOT 2A, AFFCU 3500 SOUTH SUBDIVISION AMENDED, ACCORDING TO THE OFFICIAL PLAT RECORDED DECEMBER 6, 2013 AS ENTRY NO. 11771314 IN BOOK 2013P AT PAGE 254 OF OFFICIAL RECORDS.

PARCEL 1A:

THOSE EASEMENTS APPURTENANT TO PARCEL 1, SET FORTH AND DISCLOSED BY THAT CERTAIN CROSS-EASEMENT AGREEMENT RECORDED FEBRUARY 21, 1989 AS ENTRY NO. 4738354 IN BOOK 6105 AT PAGE 892 OF OFFICIAL RECORDS, AS AMENDED BY AMENDMENT NO. 1 TO CROSS-EASEMENT AGREEMENT RECORDED JULY 28, 1989 AS ENTRY NO. 4804543 IN BOOK 6146 AT PAGE 2759 OF OFFICIAL RECORDS, AS AMENDED BY AMENDMENT NO. 2 TO CROSS-EASEMENT AGREEMENT RECORDED JANUARY 31, 2005 AS ENTRY NO. 9287430 IN BOOK 9089 AT PAGE 6268 OF OFFICIAL RECORDS, AS AMENDED BY AMENDMENT NO. 3 TO CROSS-EASEMENT AGREEMENT RECORDED JANUARY 3, 2014 AS ENTRY NO.

11784849 IN BOOK 10203 AT PAGE 3650 OF OFFICIAL RECORDS, AS AMENDED BY AMENDMENT NO. 4 TO CROSS-EASEMENT AGREEMENT RECORDED DECEMBER 14, 2017 AS ENTRY NO. 12679531 IN BOOK 10629 AT PAGE 6330 OF OFFICIAL RECORDS.

SUBJECT TO all easements, covenants, restrictions, rights of way and reservations appearing of record, and taxes for the year 2021, and thereafter.

The officer(s) who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution adopted by the Board of Directors of the Grantor at a lawful meeting duly held and attended by a quorum.

IN WITNESS WHEREOF the Grantor has executed this deed this \_\_\_ day of September, 2021, to be effective \_\_\_\_\_, 2021.

AMERICA FIRST FEDERAL CREDIT UNION, a  
federally chartered credit union

By: \_\_\_\_\_  
Name:  
Its:

STATE OF UTAH            }  
  ss.  
County of \_\_\_\_\_ }

On the \_\_\_\_\_ day of September, 2021, before me personally appeared \_\_\_\_\_, the signer of the foregoing instrument, who being by me duly sworn, did say that he/she is the \_\_\_\_\_ of AMERICA FIRST FEDERAL CREDIT UNION, a federally chartered credit union, the corporation that executed the within and foregoing instrument by authority of its By-Laws and Resolution of its Board of Directors.

[OFFICIAL SEAL]

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_