

E 2931695 B 6493 P 108-153
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
04/12/2016 10:25 AM
FEE \$112.00 Pgs: 46
DEP RT REC'D FOR WOODS CROSS CITY

WHEN RECORDED RETURN TO:

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For Information Only: Tax Parcel Nos. 06-095-0175, 06-095-0208, 06-095-0209, 06-095-0214,
06-095-0215, 06-095-0216, 06-095-0217, 06-095-0236

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06-384-0002 → 0008, 0009
0011 → 0015 & 0017

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

AND GRANT OF EASEMENTS

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FOR

WOODS CROSSING SHOPPING CENTER

[A Portion of Woods Crossing Commercial Subdivision]

Dated: March 25, 2016

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND GRANT OF EASEMENTS
FOR
WOODS CROSSING SHOPPING CENTER

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND GRANT OF EASEMENTS FOR WOODS CROSSING SHOPPING CENTER (“**Declaration**”) is made as of the 25th day of March, 2016 (the “**Effective Date**”) by STG WOODS CROSSING, LLC, a Utah limited liability company (“**STG**”), and OTG WOODS CROSSING, LLC, a Utah limited liability company (“**OTG**”, and together with STG, the “**Declarants**” and individually, a “**Declarant**”) in contemplation of the following facts and circumstances:

A. STG is the owner of certain real property in the City of Woods Cross (the “**City**”), County of Davis, State of Utah, as more particularly described as the “STG Property” on Exhibit A, attached hereto and incorporated herein by this reference (the “**STG Property**”).

B. OTG is the owner of certain real property which is contiguous with the STG Property, as more particularly described as the “OTG Property” on Exhibit A (the “**OTG Property**”).

C. Security Investment LLC, a Utah limited liability company (“**SI**”), is the owner of certain real property which is contiguous with the STG Property and the OTG Property, and which is described as the “SI Property” on Exhibit A (the “**SI Property**,” which together with the STG Property and the OTG Property is the “**Shopping Center**”). By SI’s signature on the signature pages to this Declaration, SI hereby agrees and consents to encumber the SI Property with the covenants, conditions, restrictions and easements contained in this Declaration.

D. The entire Shopping Center is depicted on the Site Plan for the Shopping Center approved by the City, which is attached as Exhibit B and incorporated herein by this reference, and is located on real property legally described on Exhibit C, which is also attached hereto and incorporated herein by this reference.

E. The Declarants intend to develop and operate the Shopping Center as a commercial retail shopping complex, and as a framework for such development, the Declarants wish to impose certain easements upon the Shopping Center, and to establish certain covenants, conditions, and restrictions with respect to the Shopping Center, for the mutual and reciprocal benefit and complement of the Shopping Center and the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the foregoing, and the terms and conditions set forth herein, and other good and valuable consideration, the Declarants hereby declare, adopt, establish and impose the following easements, covenants, conditions, and restrictions which shall be applicable to the Shopping Center, and hereby declare that the Shopping Center shall be held, transferred, improved, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which are for the purpose of protecting the

value and desirability of the Shopping Center, and which shall run with the land and shall be binding upon, and inure to the benefit of, all the Parcels (defined below) comprising the Shopping Center and all parties having rights, title or interest in or to the Shopping Center or any part thereof, and their heirs, successors, and assigns. By accepting the transfer or conveyance of title to, or any leasehold interest in, any Parcel within the Shopping Center, such transferee accepts and agrees to the terms and conditions of this Declaration and shall have a privity relationship with the Declarants under this Declaration.

1. **DEFINITIONS.**

1.1. **Budget.** “Budget” means the budget for each calendar year for project Common Expenses to be prepared and distributed to Owners and Occupants as set forth in this Declaration. Depending on the date Common Expenses shall be first incurred, the initial Budget may be for a partial calendar year.

1.2. **Building.** “Building” means any structure constructed in the Shopping Center intended for occupancy and use of customers of the Shopping Center, excluding Outdoor Occupant Improvements.

1.3. **Building Area.** “Building Area” means the specific areas of the Shopping Center within which Buildings may be constructed, placed, or located. Building Areas are designated on the Site Plan by the building limit lines shown thereon.

1.4. **Common Area.** “Common Area” means all portions of the Shopping Center not shown as a Building on the Site Plan, including all surface and underground parking areas and all Improvements located on any portion of the Common Area, specifically including the Project Feature. Once a Building is constructed, the land within such initial actual Building footprint (or within a revised footprint approved by the Declarants and the City) shall forever be excluded from the Common Area, even if the Building is later demolished and the land is left vacant.

1.5. **Common Expense.** “Common Expense” means any and all costs and expenses incurred in the ownership, operation and maintenance, including refurbishment, of the Common Area, the Entrance Easement Area and the Road Easement Area, including Improvements located thereon but excepting Outdoor Occupant Improvements.

1.6. **Construction.** “Construction” means the following, without limitation: (a) the initial construction, renovation, remodeling, installation, erection or expansion of any Building, structure, Signs or other Improvements, including utility facilities; (b) the demolition or destruction, by voluntary action, of any Building, structure or other Improvements; (c) the grading, excavation, filling or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, change of drainage pattern; (d) landscaping, planting, clearing or removing of trees, shrubs, grass or plants; (e) the construction, installation, erection, placement or expansion of any temporary or other nonpermanent structure, improvement or facility such as, without limitation, any tent, shed, trailer, or outdoor storage area or facility; and (f) any change or alteration of any previously approved Improvement to property including any change of exterior appearance, color or texture.

1.7. Declarants. “Declarants” shall have the definition given it in the first paragraph of this Declaration, provided that upon any sale, conveyance or transfer of a Declarant’s entire property within the Shopping Center, the rights and obligations of the transferring Declarant under this Declaration shall terminate (subject to any provision to the contrary herein) and the new owner of such property shall become a Declarant. If a Declarant transfers only a portion of such property, such Declarant remains a Declarant, and a purchaser of a portion of a Declarant’s property does not become a Declarant.

1.8. Development Agreement. “Development Agreement” shall mean that certain Development Agreement between the Declarants and the City dated March 25, 2016, as amended from time to time, regarding development of the Shopping Center property as recorded at the Davis County Recorder’s Office.

1.9. Hazardous Materials. “Hazardous Materials” means any substance or material which is defined as or included in the definition of “hazardous substances”, “hazardous wastes”, “hazardous materials”, “extremely hazardous waste”, “acutely hazardous wastes”, “restricted hazardous waste”, “toxic substances”, or “known to cause cancer or reproductive toxicity” (or words of similar import), petroleum products (including crude oil or any fraction thereof) or any other chemical, substance or material which is prohibited, limited or regulated under any federal, state or local law, ordinance, regulation, order, permit, license, decree, common law, or treaty now or hereafter in force regulating, relating to or imposing liability or standards concerning materials or substances known or suspected to be toxic or hazardous to health and safety, the environment or natural resources (“**Environmental Law**”).

1.10. Hotel Easement. “Hotel Easement” means that certain Declaration of Easements between Security Investment LLC and Woods Cross Hotel Partners, L.C., dated March 7, 2016 and recorded on March 23, 2016 in the Davis County Recorder’s Office. The portion of the Hotel Easement defined as the “Entrance Easement” in the Hotel Easement allowing for ingress and egress to and from Wildcat Way, Woods Cross, Utah, shall herein be referred to as the “**Entrance Easement Area.**”

1.11. Improvements. “Improvements” means any and all Buildings, asphalt paving, surface and underground parking areas, driveways, entries, curb, gutter, sidewalks, Signs, Project Signs, the Project Feature, Outdoor Occupant Improvements, storm water detention facilities, utility lines of all descriptions and all other improvements constructed or installed in the Shopping Center.

1.12. Laws. “Laws” means all applicable federal, state and local (whether city, county or otherwise) laws, rules, ordinances, codes and regulations of every governmental body having jurisdiction over the Shopping Center, including Environmental Law.

1.13. Lease. “Lease” means any lease, sublease, rental agreement, license, concession or other arrangement or agreement, however denominated, which grants a party the right to occupy a Building or a portion of a Building located in the Shopping Center.

1.14. **Lot.** “Lot” means a specifically described portion of the land comprising the Shopping Center which constitutes a legal parcel as shown on the Subdivision Plat. The designation of a Lot by a number shall refer to the Lot numbers set forth on the Subdivision Plat.

1.15. **Major Tenant.** “Major Tenant” means the tenant leasing the Building existing on Lot 4.

1.16. **Management Agreement.** “Management Agreement” shall have the meaning given to it in Section 4.1 below.

1.17. **Management Fee.** “Management Fee” shall have the meaning given to it in Section 4.13 below.

1.18. **Manager.** “Manager” means the party jointly selected by the Declarants pursuant to Section 4.1 and who is responsible for the maintenance and operation of the Common Area as provided in this Declaration.

1.19. **Occupant.** “Occupant” means any person, corporation, partnership, limited liability company or any other entity, public or private, that is entitled from time to time to occupy any portion of the Shopping Center, whether as an Owner, tenant, lessee, licensee, invitee or other status, and whether under an ownership right, Lease, sublease, rental agreement, license, easement, concession or other arrangement or agreement, however denominated.

1.20. **Outdoor Occupant Improvements.** “Outdoor Occupant Improvements” means any improvements constructed or located in the Shopping Center used exclusively by the patrons, customers or invitees of an Occupant of a Building, such as service facilities or any drive-up or drive-through customer service facilities. Service facilities shall include, by way of illustration and not of limitation, dock and loading areas; dumpster enclosures; trash compactors and related facilities; cart collection enclosures; customer pick-up, ATM, teller window or other service areas and the accompanying driveways to access such facilities; canopies; patios; sitting or eating areas; and other such facilities located adjacent to or used in connection with a specific Building. All such facilities shall be deemed to be part of the premises occupied pursuant to the Lease applicable to the Building.

1.21. **Owner.** “Owner” means any person or entity then having a fee record title ownership interest to a Parcel in the Shopping Center, and applies to each Declarant.

1.22. **Parcel.** “Parcel” means each legal Lot within the Shopping Center, as depicted on the copy of the Subdivision Plat.

1.23. **Pedestrian Access Easement.** “Pedestrian Access Easement” means the easement shown on the Subdivision Plat, which shall be used for pedestrian access to the Common Area and Project Feature located on Lot 14 as described in Section 3.6.

1.24. **Pro Rata Share.** “Pro Rata Share” means an Owner’s share of Common Expenses which shall be a fraction, the numerator of which is the square footage of the square footage in the Building or Buildings located on an Owner’s Parcel and the denominator of which is the total square footage of all Buildings located within the Shopping Center.

1.25. Project Feature. “Project Feature” means the Improvements that shall be located from time to time on Lot 14 of the Shopping Center, as designated on the Site Plan.

1.26. Project Sign. “Project Sign” means any and all pylon or monument sign(s) placed or constructed within the Shopping Center which advertise(s) either the Shopping Center generally or multiple Occupants of Buildings in the Shopping Center.

1.27. Protected Area. “Protected Area” means that portion of the Common Area so designated on Exhibit D attached hereto and incorporated herein by this reference.

1.28. Restaurant. “Restaurant” shall have the meaning given to it in Section 3.2(b) below.

1.29. Road Easement. “Road Easement” means that certain Ingress and Egress Easement between Bill Olson Investment, LLC, and Security Investment, Ltd., and recorded on February 7, 2012 in the Davis County Recorder’s Office, in which an easement is granted in, on, over and across that certain portion of land located adjacent to and/or partially within the Shopping Center to allow for ingress and egress to and from 575 West Street, Woods Cross, Utah. The easement area defined by the Road Easement shall herein be referred to as the “**Road Easement Area**”.

1.30. Shopping Center Parties. “Shopping Center Parties” means the customers, invitees, licensees, contractors, agents and employees of an Owner or Occupant.

1.31. Signs. “Signs” means any pylon, monument or exterior building sign placed or constructed within the Shopping Center or upon any Building within the Shopping Center and any signs visible through any window or otherwise from the exterior of any Building.

1.32. Site Plan. “Site Plan” means the general depiction of the improvements which are to be constructed upon the real property described on Exhibit C and which shall be the Shopping Center. The Site Plan attached as Exhibit B shall be a general depiction of improvements for general identification and administration of the Shopping Center. The Site Plan defined in and attached to the Development Agreement shall control the construction and development of the Shopping Center.

1.33. Subdivision Plat. “Subdivision Plat” means the subdivision plat for Woods Crossing Commercial Subdivision as same shall have been recorded in the official records of the Davis County, Recorder, State of Utah. A copy of the Subdivision Plat is attached as Exhibit E attached hereto and incorporated herein by this reference.

1.34. Underground Parking. “Underground Parking” means all underground parking structures and spaces located under the surface of the Shopping Center, if any. At the time of the recording of this Declaration, it is expected that a structure to provide underground parking will be constructed on Lot 6.

1.35. Utilities. “Utilities” shall include without limitation, gas, electricity, storm and sanitary sewer, domestic water, fire sprinkler water, irrigation water and telephone services.

2. **IMPROVEMENT OF PROPERTY.**

2.1. **Approval of Improvements.** Except as shown on the attached Site Plan, no Improvements may be constructed within the Common Area of the Shopping Center without the prior review and written approval of the Declarants. If any Owner desires to construct or place any Improvements within the Shopping Center, such Owner shall provide preliminary plans and exterior elevations for such Improvements and a site plan showing the location of such Improvements to the Declarants for review and approval. All Buildings in the Shopping Center shall be designed so that the exterior elevation of each Building will be architecturally and aesthetically compatible with the others, including the height, color, materials, design and architectural theme (including Signs located thereon) as reasonably determined by the Declarants. In addition, each Declarant shall approve the location, footprint, and height of any Buildings and other Improvements constructed within the Shopping Center, which approval shall be subject to the Declarants' sole and absolute discretion. Exterior Signs or Signs within a Building which are visible from the exterior of such Building, shall be subject to the review and approval of each Declarant, which approval shall not be unreasonably withheld or delayed, and which shall include, without limitation, review and approval of the size, design, materials, color, location and copy of text of Signs. Any Signs within a Building which are not visible from the exterior of such Building shall not require the approval of the Declarants. Neither of the Declarants may withhold approval of the design, color or text of a sign for a national or regional tenant which is consistent with the sign design, color and text of such tenant used generally at all locations of such tenant. The Owner of the Parcel upon which a Building and/or Outdoor Occupant Improvements are to be constructed, shall pay or cause to be paid, and all costs and expenses incurred in the construction of such Building and/or Outdoor Occupant Improvements.

2.2. **Construction.** All Construction must be diligently prosecuted to completion, shall be performed in a workmanlike manner and in accordance with the requirements of all governmental authorities having jurisdiction over such work and shall be performed in a manner that does not unreasonably interfere with the operations of any business within the Shopping Center. If an Owner or an Occupant commences Construction or exterior remodeling of a Building within the Shopping Center, but such Construction or exterior remodeling ceases prior to the completion of the Building for a period exceeding thirty (30) days, the Manager may take such action as it reasonably determines to be in the best interest of the Shopping Center and its customers, including the construction of a barricade around such Building; provided that the Manager shall follow any reasonable action directed by a Declarant upon whose Parcel the Building is located. Upon completion of any such work by the Manager, the Owner upon whose Parcel the Building is located shall reimburse the Manager upon demand for all amounts expended in connection with such work. In the event such Owner fails to so reimburse the Manager, the Manager shall have the lien and other rights set forth in Section 12. No Construction shall be performed within the Protected Area without the prior written consent of the Major Tenant.

2.3. **Construction Standards.** All other Buildings constructed in the Shopping Center shall be constructed to comply with all governmental requirements which arise by reason of such use of the Buildings to be constructed.

2.4. Liens. No Owner or Occupant shall permit a mechanic's or materialmen's lien to be filed against any Parcel or any portion thereof in the Shopping Center as a result of work performed on, or materials provided to, any other Parcel in the Shopping Center. In the event any such liens are filed against any such Parcel or portion thereof, the Owner of the Parcel on which such work was performed or for which such materials were provided shall immediately take the necessary steps to have such lien released. In the event the Owner of the Parcel for which such work was performed or for which such materials were provided fails to so remove or release such lien against the other Owner's Parcel, and the Owner of the Parcel against which the lien is filed incurs any expenses, damages or costs, including attorneys' fees, in connection with or relating to releasing such lien, the Owner of the Parcel for which such work was performed or for which such materials were provided shall promptly reimburse all such costs, fees and expenses. Failure to reimburse such costs, fees and expenses shall provide the Owner to be reimbursed with the lien and other rights set forth in Section 12.

2.5. Maintenance of Parcels. The Declarants may develop and construct the Shopping Center in phases. After the initial construction of the parking area and drive aisles servicing the Shopping Center, all portions of each Parcel shall be free of weeds, dust and debris, and otherwise adequately maintained. Unless performed by the Manager pursuant to Section 4, each Owner shall maintain and repair, or shall cause to be maintained and repaired, their own Parcels (including the Common Area located thereon) in a first class condition and shall keep, or cause the same to be kept, in good condition and repair. Each Owner shall be responsible for the Construction, maintenance and/or repair of any Buildings located on such Owner's Parcel, and costs and expenses related to such Construction, maintenance and/or repair shall be the sole cost and expense of such Owner. Costs and expenses incurred in the maintenance and repair of Improvements which constitute Common Area, excepting Outdoor Occupant Improvements, shall be allocated among all owners pursuant to Section 4.

3. USE.

3.1. Generally. The Shopping Center is to be used only as a commercial shopping center, including retail businesses for the sale of merchandise, the preparation of food for on-site and off-site consumption, banks and other financial institutions, general business, medical or other office uses, delivery or performance of services to customers as permitted by applicable zoning requirements and such other uses permitted by Laws applicable to the Shopping Center. It is provided, however, that the Shopping Center shall not be used for the Construction of Buildings and other Improvements which are in violation of the restrictions set forth in Section 3.2. Each Parcel shall be used only for lawful purposes and in conformance with all Laws, including, without limitation, zoning and land use laws and ordinances, parking ratios, use, building height and setback requirements, landscaping, etc. No Parcel shall be used in any manner so as to constitute a nuisance, and no Owner of any Parcel shall permit the accumulation of unsightly trash or debris. The Manager shall have the right from time to time to post and promulgate reasonable rules and regulations for the Shopping Center, which shall be uniformly enforced against all the Owners and Occupants. The obligations set forth above shall be a restriction running with the land and shall not be affected by the status of any Owner that would otherwise exempt such Owner from complying with any municipal Laws.

3.2. Specific Use Restrictions.

(a) **Supermarket Restriction.** No part of the Shopping Center except for the Building located on Lot 4, shall be used (a) as a supermarket or grocery store (which shall be defined as any store or department containing at least 500 square feet of floor area, including aisle space, primarily devoted to the retail sale of food for off-premises consumption); (b) as a bakery or delicatessen; (c) as a cigarette or smoke shop or any other shop or store the primary business of which is to sell tobacco products; (d) as a convenience store; (e) for the sale of fresh or frozen meat, fish, poultry or produce for off-premises consumption; (f) for the sale of alcoholic beverages for off-premises consumption; for the sale of health and beauty aids; or for the sale or offer for sale of over-the-counter or prescription drugs. The foregoing limitation applicable to a bakery or delicatessen shall not be applicable to a Kneaders, Corner Bakery, Paradise Bakery and Cafe, Cafe Zupas or other similar restaurant bakery facility located in the Shopping Center. The foregoing limitation applicable to a delicatessen shall not be applicable to a sandwich facility operated as a Subway, Firehouse Subs, Jimmy John's, Jersey Mikes Sub or other similar sandwich shop. The foregoing limitation applicable to the sale of fresh or frozen meat, fish or poultry, shall not be applicable to the sale of such products as part of the normal operation of any otherwise permitted restaurant such as the sale of fish at a Market Street Grill. The foregoing limitation applicable to the sale of health and beauty aids shall not be applicable to an Ulta Salon Cosmetics and Fragrances, Inc., Sally Beauty Supply, Five State Beauty Supply or other full service beauty supply store located in the Shopping Center. Except as specifically set forth in this Section 3, no Owner shall have the right to restrict the use of any Parcel not owned by such Owner without the express, prior, written agreement of the Owner of each Parcel upon which such use is to be restricted. A covenant not to compete, in favor of McDonald's USA, LLC, applicable only to the OTG Property, was recorded July 11, 2011 as Entry No. 2672688, in Book 5561, at Page 136 of the Official Records of the Davis County Recorder.

(b) **Restaurant Restriction.** No portion of any Building located in the Shopping Center shall be used for any restaurant or other use which provides for the preparation and delivery of food except (i) Restaurants as defined below, or (ii) facilities which provide primarily for the preparation of take-out or delivery of premade foods, with very limited on-site consumption, such as Little Caesar's Pizza or Papa John's Pizza as now operated, or take n' bake pizza or other foods which provide for the pick-up or order and/or delivery of food to be cooked off-site such as Papa Murphy's Pizza. For purposes of this restriction, "**Restaurant**" shall mean a facility for the sale of food to customers for onsite or offsite consumption, which is commonly classified as "quick serve" which does not provide for waiter or waitress table service for the taking of orders; provided, however, that the area which shall be included in square footage calculations shall include all preparation, cooking and clean-up areas, sales areas and interior seating areas. All references to Building numbers shall be to the Buildings so numbered on the Site Plan attached as Exhibit B. The use of the Buildings in the Shopping Center for use as a Restaurant shall be limited as follows:

(i) The portions of Buildings #2, #3A, and #3B that shall be used for a Restaurant shall not exceed 6,000 square feet in the aggregate for all such Buildings;

(ii) No portion of either Building #4 or Building #5 shall be used for a Restaurant;

(iii) The portions of Building 7 and Building 8 that shall be used for a Restaurant shall not exceed 12,000 square feet in the aggregate for both such Buildings; and

(iv) The portions of any Building in the location shown for Building #9 on the Site Plan that shall be used for a Restaurant shall not exceed 2,400 square feet.

3.3. Prohibited Uses. Notwithstanding applicable laws, no part of the Shopping Center shall be used as a bar, tavern, cocktail lounge, automotive maintenance or repair facility, warehouse, car wash, entertainment or recreational facility or training or educational facility; for the renting, leasing or selling of or displaying for the purpose of renting, leasing or selling of any boat, motor vehicle or trailer; or for industrial purposes. For the purpose of this Section 3.3, the phrase “entertainment or recreational facility” shall include, without limitation, a theater, bowling alley, skating rink, gym, health spa or studio, dance hall, billiard or pool hall, massage parlor, game parlor or video arcade (which shall be defined as any store containing more than four (4) electronic games). The phrase “training or educational facility” shall include, without limitation, a beauty school, barber college, reading room, place of instruction such as Stevens Henager College or University of Phoenix or any other operation catering primarily to students or trainees as opposed to customers. The foregoing limitation applicable to a health spa or massage parlor shall not be applicable to a Massage Envy, Sheer Indulgence Spa, Sego Lily Spa, Massage Green or other full service massage or spa facility located in the Shopping Center. The foregoing limitation applicable to a game parlor shall not be applicable to either (i) a GameStop, EB Games or other retail store whose primary business is the sale or rental of electronic games which is located in a free standing or in-line Building in the Shopping Center; or (ii) to a Buffalo Wild Wings, Dave & Busters or other similar restaurant which is primarily a restaurant, but includes electronic or other similar games for use by customers. Such game parlor, health spa, massage parlor, and restaurant exceptions to the limitation imposed by this Section may be restricted by other provisions of this Declaration.

3.4. Drive-Thru Approval. A Restaurant, bank or other Building utilizing a vehicular drive-up or drive-through for customer service shall be located in the Shopping Center only in locations designated on the Site Plan or as otherwise approved by the Major Tenant, which approval shall not be unreasonably withheld, as to the location, parking and drive lanes of such facility. The review of drive-up and drive-through facilities by the Major Tenant is not intended to prohibit drive-up and drive-through facilities, but is intended to insure that the location, layout and stacking for such drive-up and drive-through facilities does not negatively affect the access, driveways, circulation and parking for the Shopping Center.

3.5. Common Area Use. The Common Area shall be used for pedestrian and vehicular access and ingress to, circulation and traffic and parking within, and egress from the Shopping Center by Owners, Occupants and their respective Shopping Center Parties solely for and in relation to the commercial purposes of the Owners and business Occupants of the Buildings, including the servicing and supplying of such businesses. In addition, the Common Area may be used: (i) on a temporary basis as a staging area in connection with the Construction and repair of any Buildings and/or Common Area in the Shopping Center so long as such use does not occupy more area than is reasonably required nor unreasonably restrict access to and

from or the conduct of business within the Buildings in the Shopping Center or access to and from the adjacent streets; (ii) in connection with the construction, maintenance and repair of Utility Systems (defined in Section 5.2 below), so long as such activity is undertaken in strict compliance with the requirements of Section 5.2; and (iii) for any other use required by Law. The Underground Parking portion of the Common Area shall be available for use by all Owners, Occupants, and their respective Shopping Center Parties and no person shall otherwise limit the use or availability of such portion for use, or the access to or from such portion, by such users except as permitted by this Declaration. No person other than Owners, Occupants and their respective Shopping Center Parties shall be permitted to use and/or park in the Common Area. Without the written permission of each Declarant, Owner and Occupant of all Buildings, no person, Owner, or Occupant may use the Common Area for (i) any purpose not related to or in furtherance of the commercial purposes of the Owners or business Occupants of the Buildings, including, without limitation, "park and ride" use or the like; (ii) advertising any business not part of the Shopping Center (other than advertising which is incidental to the permitted use of the Common Area by Owners, Occupants and their respective Shopping Center Parties), including, without limitation, parking a vehicle on the Common Area repeatedly, overnight, or for an extended period of time with the primary purpose of advertising a business not part of the Shopping Center; or (i) conducting business from a kiosk or vehicle, including, without limitation, a "food truck". Except as specifically provided otherwise in this Declaration, no Building or structure may be placed, erected or constructed within the Common Area. No Owner or Occupant shall construct any fence or other barrier along any property line or otherwise impede or restrict the flow of pedestrian and vehicular traffic through the Common Area. Such restriction shall not be applicable to landscape islands and other traffic control devices shown on the Site Plan. Each Declarant, and each Owner with the approval of each Declarant and subject to the modification terms of Section 16, shall have the right to reconfigure the Common Area located on its property, provided however, any such reconfiguration must be made pursuant to a modified Site Plan approved by the City in accordance with applicable City Laws and the Development Agreement. The Common Area in Lot 14 is intended for the common use by all Owners, Occupants and their respective Shopping Center Parties in a manner consistent with this Declaration, provided that the Manager shall have the right to permit specific and/or exclusive uses of the Common Area in Lot 14 for the benefit of one or more tenants or as required by law.

3.6. Project Feature and Lot 14. Any Project Feature which may exist from time to time on Lot 14, together with the Pedestrian Access Easement shown on the Plat, may be used for its intended purpose by all Owners, occupants, customer and business invitees of Owners and Occupants of the Shopping Center. The Manager may adopt such rules and regulations as the Manager shall determine to be necessary to promote and control the safe use of improvements constructed on Lot 14 which comprise the Project Feature. Manager shall be permitted to grant access to the Project Feature and Lot 14 as necessary to maintain and repair the Project Feature and other Common Areas located on Lot 14. No Owner of a Lot upon which the Pedestrian Access Easement is located shall restrict or obstruct access to Lot 14 or construct or install any barrier which shall prevent the reasonable use of the Pedestrian Access Easement.

3.7. Parking. The number of parking spaces and the drive aisles maintained on each Parcel and the size and configuration thereof shall be as depicted on the Site Plan and approved by each Declarant, and shall at all times maintain the minimum number of parking

spaces required by City Laws and the Development Agreement for the Shopping Center. Any change to the parking configuration or the drive aisles in the Shopping Center shall require the prior written approval of each Declarant, and evidence from the Owner seeking the change that either (i) the City has approved or will approve such change, including any resulting or associated changes to landscaping or site-related improvements; or (ii) the change complies with all applicable City Laws and the Development Agreement. No such approval shall be deemed granted unless evidenced by an amendment to this Declaration, which amendment shall be duly recorded in the official records of Davis County, Utah. Such amendment shall attach and incorporate an amended Site Plan approved by the City showing the reconfiguration of the parking spaces or drive aisles, as the case may be. Each of the Declarants may withhold their approval of the reconfiguration of parking or drive aisles for any reason or for no reason in its sole, subjective discretion. There shall be no charge or other validation for parking in the Common Area. The Manager, in its discretion, may authorize the designation of a limited number of parking stalls adjacent to a Building for use by designated customers such as those picking up take-out orders or expectant mothers. No private agreements or arrangements shall be entered into or made by Declarants, Owners and/or Occupants, and their agents, successors or assigns, which would encumber or restrict available parking for any given Parcel or the Shopping Center to less than the minimum number of parking spaces required by applicable City Laws and the Development Agreement.

3.8. Employee Parking. Specific areas within the Common Area of the Shopping Center to be used for motor vehicle parking purposes by employees of Occupants of the Shopping Center may be designated from time to time by the Manager. In the event employee parking areas are designated as provided herein, employees of any Owner or Occupant of any Building in the Shopping Center shall use only those portions of the Common Area so designated for such employee motor vehicle parking purposes. The authority herein granted shall be exercised in such manner as not to discriminate against any Owner or Occupant in the Shopping Center.

3.9. Common Area Lighting. Artificial lighting for the Common Area shall remain on during all hours of darkness while a majority of the businesses in the Shopping Center are open for business, and the costs and expenses of such lighting (the "**Common Area Lighting Expense**"), including the cost of maintenance and replacement of light fixtures and related equipment, shall be included as a Common Expense; provided, however, that subject to the provisions of Section 3.10, the Owner of Lot 4 or Major Tenant shall not be responsible for payment of a Pro Rata Share of the Common Area Lighting Expense. The cost of operating and maintaining the Protected Area Lighting, as defined in Section 3.10, shall not be included in the Common Area Lighting Expense. All Occupants shall be responsible to ensure that security lights or other lighting required by governmental authority remain illuminated as desired by each Occupant or as required by applicable governmental requirement, if any.

3.10. Protected Area Lighting. Artificial lighting for all portions of the Common Area which are identified as Protected Area on Exhibit D (the "**Protected Area Lighting**") shall remain on during all hours of darkness while a majority of the businesses in the Shopping Center are open for business and such other times as the Owner of Lot 4 or the Major Tenant may elect. The costs and expenses of the Protected Area Lighting, including the cost of maintenance and replacement of light fixtures and related equipment in the Protected Area, shall

be paid by the Owner of Lot 4, or if applicable, the Major Tenant thereof based on the provisions of the Lease applicable to Lot 4. In the event that the applicable Owner or Major Tenant shall not adequately operate and/or maintain the Protected Area Lighting, the Manager shall deliver to the applicable Owner or Major Tenant written notice of such failure which shall specify the alleged deficiencies in the operation and maintenance of the Protected Area Lighting. In the event that such deficiencies are not corrected within thirty (30) days of the date of such notice, the Manager shall have the right to cure such deficiencies. The Owner of Lot 4 shall be responsible to pay any and all costs and expenses incurred by the Manager to correct such deficiencies, plus a supervision fee to the Manager in the amount equal to ten (10%) of the costs and expenses so incurred by the Manager. Such reimbursement shall be made not later than thirty (30) days after receipt of a statement of such costs, including appropriate supporting documents. Any amounts not so paid shall accrue interest at the rate of fifteen percent (15%) per annum from the date of the statement requesting reimbursement through the date the reimbursement payment is received by the Manager.

3.11. Owner's Parcel. The Owner of each Parcel shall use and cause the Common Area on its Parcel to be used exclusively for the uses specified herein and in such manner as will not unreasonably interfere with the primary purpose of the Common Area, which is to provide for parking and access for the Owners, Occupants, and their respective Shopping Center Parties, and for the servicing and supplying of such businesses. There shall be no sale or display of merchandise of any kind in any portion of the Common Area, or on any sidewalk adjacent to any Building without the prior written consent of the Manager, which may be granted or withheld in the Manager's sole and subjective discretion.

4. COMMON AREA MAINTENANCE.

4.1. Manager. The Shopping Center shall be managed by a Manager jointly selected by the Declarants. The terms and conditions for the service of the Manager and the compensation to be paid to the Manager shall be set forth in a written agreement between the Manager and the Declarants (the "**Management Agreement**"). Except for matters specifically set forth in a Lease, the Manager shall have the right to direct the use and occupancy of the Shopping Center.

4.2. Maintenance of Common Area. The Manager shall maintain, operate, repair and replace or cause to be maintained, operated, repaired and replaced, the Common Area in good order in an economical and efficient manner, consistent with good shopping center management practices prevailing in the metropolitan area where the Shopping Center is located for retail shopping centers of similar age and character, and in full compliance with all applicable Laws. Notwithstanding anything to the contrary herein, any Owners or Occupants granted a specific and/or exclusive use of a portion of the Common Area by the Manager pursuant to Section 3.5 shall keep such portion in clean and orderly condition free of all refuse. The Manager shall use commercially reasonable efforts to operate and maintain the Common Area in accordance with the final approved Budget. Such maintenance obligations shall be performed at the Manager's expense, but shall be a Common Expense and subject to reimbursement as set forth in this Section 4.

4.3. Maintenance of Easement Areas. The Manager shall also maintain and repair the following: (i) the Entrance Easement Area, as long as the Shopping Center includes portions of the property defined as the "Shopping Center Parcel" in the Hotel Easement; and (ii) the Road Easement Area, as long as the Shopping Center includes portions of the property defined as "Parcel B" in the Road Easement and to the extent the Road Easement Area is not dedicated to and/or maintained by the City. The costs of any such required maintenance and repair of the Entrance Easement Area and the Road Easement Area shall be a Common Expense. Any insurance or other costs imposed on the Shopping Center by the Entrance Easement and/or the Road Easement shall also be a Common Expense. The Declarants, as successors in interest to the parties executing the Hotel Easement (which includes the Entrance Easement) and the Road Easement, agree that the terms of this Section modify and control any conflicting terms of such easements insofar as this Declaration complies with any requirements for modification contained in such easements.

4.4. Excluded Maintenance Areas. Maintenance of the Common Area shall not include the maintenance or insurance of Outdoor Occupant Improvements and each Owner of the Parcel upon which such facilities are located shall be responsible to maintain and insure such facilities in good and clean condition and repair and in a quality and condition comparable to the quality and condition of the maintenance of the balance of the Common Area.

4.5. Specific Maintenance Items. Maintenance of the Common Area shall include, by way of illustration and not of limitation, the items listed in this Section below. Any and all costs and expenses which shall be incurred in the operation and maintenance of the Common Area, including the items listed below and costs of refurbishment of the Project Feature as reasonably required, shall be a Common Expense. Notwithstanding anything to the contrary herein, maintenance of the Common Area by the Manager excludes maintenance of Outdoor Occupant Improvements.

(a) Maintaining all paved surfaces of the Common Area (including the public sidewalks along public streets) in a level, smooth evenly-covered condition and cleaning, sweeping, restriping, repairing and resurfacing the Common Area as needed with the type of surfacing material originally installed or such substitute as shall in all respects be equal or superior in quality, use and durability.

(b) Maintaining of the Project Feature and Common Area located on Lot 14 and all Improvements located thereon, including any structures, water features, signs, decorative walkways, plazas and landscaping.

(c) Maintaining the Underground Parking and all associated structures and Improvements located therein or thereon.

(d) Removing all papers, debris, filth and refuse, ice and snow and thoroughly sweeping the Common Area to the extent reasonably necessary to keep the Common Area in a clean and orderly condition.

(e) Installing, placing, maintaining, repairing, and replacing any appropriate directional signs, curb stops, roadway markers, and parking stall lanes or other striping, including the repainting and refurbishment of such devices as required.

(f) Operating, repairing, and replacing, where necessary, such artificial lighting facilities as shall be reasonably required.

(g) Maintaining all landscaped areas and repairing automatic sprinkler systems or water lines and replacing shrubs and other landscaping as necessary.

(h) Maintaining the structural components of all Project Signs.

(i) Maintaining and repairing any and all fire loop lines or other fire protection devices, walls and fences, common storm drains, utility lines, sewers, irrigation systems and other utility systems and services which are located on, under or upon the Common Area, which are necessary for the operation and maintenance of the Common Area improvements.

(j) Keeping the Common Area free from obstructions not required or permitted hereunder, including, without limitation, obstructions caused by the sale or display of merchandise outside the exterior walls of the Buildings located within the Shopping Center.

(k) Employing all necessary personnel, contractors, subcontractors, the Manager and other persons required for operation and maintenance of the Common Area; provided, however, the employment of any personnel to provide security for the Common Area shall require the prior written consent of each Declarant.

(l) Cleaning, maintaining and repairing all sidewalks, including those situated on the perimeter or outside the boundaries of the Common Area which are customarily maintained by property owners adjoining such sidewalks.

(m) Obtaining and maintaining a commercial general liability insurance policy insuring the Manager, the Declarants and the Owners, all as named insureds, against claims for personal injury, bodily injury, death and property damage occurring on, in or about the Common Area with a "Combined Single Limit" (covering personal injury liability, bodily injury liability and property damage liability) of not less than Two Million Dollars (\$2,000,000.00) for total claims for any one (1) occurrence. The insurance limits in this section shall be subject to increase from time to time by such amounts as the Manager and the Declarants may deem are reasonable, as may be evidenced by the practice of similarly situated shopping centers.

(n) Such other actions as shall be required from time to time to cause the Common Area to be maintained in clean, first class condition.

4.6. Excluded Costs. Common Expenses shall not include the following:

(a) merchants association costs and expenses;

(b) advertising and promotional costs and expenses incurred by the Shopping Center or any individual Occupant;

(c) management costs and expenses or administrative fees, including charges for management salaries, related payroll and fringe expenses, legal and accounting fees, office overhead expenses, or any other administrative related expenses, except for the Management Fee;

(d) window washing costs and expenses;

(e) garbage collection costs and expenses for individual Occupants of Buildings located in the Shopping Center;

(f) carrying costs and penalties related to unpaid bills for Common Expenses which had been in possession of the Manager for more than twelve (12) months;

(g) cost of repairs due to faulty materials or defective workmanship used in the construction of the Common Area;

(h) cost of landscaping located within the Building Areas or otherwise incurred in maintaining the Building Areas within the Shopping Center prior to the commencement of construction of Buildings and improvements thereon;

(i) cost of leasing, repairing, renovating or cleaning of other Buildings or tenant shop spaces or pads within the Shopping Center;

(j) any costs incurred by the Manager for office overhead or compensation of its employees; and

(k) any costs of constructing, installing, operating, maintaining and repairing Outdoor Occupant Improvements.

4.7. Budget. At least sixty (60) days prior to the commencement of each calendar year, the Manager shall submit to the Declarants and all Owners and Occupants required to pay a Pro Rata Share of Common Expenses, a proposed Budget, together with reasonable supporting documentation for all Common Area maintenance and insurance expenses to be incurred during the following calendar year. The Budget shall identify separate cost estimates for at least the categories specified in Section 4.8 (the "**Maintenance Services**"). Decisions regarding parties to provide Maintenance Services to the Shopping Center may include factors other than price, including prior experience with vendor, local reputation of vendor or competing vendors, etc., in the exercise of the commercially reasonable judgment of the Manager provided that the Manager shall undertake to obtain the Maintenance Services at a commercially reasonable price. In no event shall the Manager enter into a contract to provide any of the Maintenance Services for a term of more than one (1) year without the prior written consent of the Major Tenant, which consent shall not be unreasonably withheld or delayed. The Declarants and all Owners and Occupants required to pay a Pro Rata Share shall have the right to

review and approve of the Budget on or before the commencement of the following calendar year. In the event that a Declarant, Owner or Occupant objects to the proposed Budget (the "**Objecting Party**"), such Objecting Party shall provide written notice of said objection to the Manager within fifteen (15) days after receipt of the proposed Budget, which notice shall include a specific description of such objection(s). The Manager shall promptly consult with the Objecting Party for the purpose of establishing a final approved Budget for the following calendar year, and all parties shall work together in good faith to reach agreement on a Budget and resolve any disputes concerning the Budget. No party shall unreasonably withhold its approval of a proposed Budget. In the event that a proposed Budget is disapproved by an Objecting Party, the Manager shall revise and resubmit a proposed Budget until a Budget has been approved. Should a new Budget not be approved before the expiration of the then currently existing Budget, then the Common Area shall continue to be maintained and, until a new Budget is approved, each Owner shall continue to pay its Pro Rata Share of the approved items on the proposed Budget, any approved and non-disputed amount associated with the disapproved item(s), and one hundred and three percent (103%) of the previously approved amount for the disputed non-approved amounts or items of the Budget for the prior year. Upon resolution of a dispute regarding a disapproved item (or portion thereof) on the proposed Budget, each Owner shall pay the difference between its Pro Rata Share of the mutually agreed upon amount of such item for the current and any prior months and any amount previously paid toward such disputed and non-approved item pursuant to this Section, and, thereafter, shall contribute its Pro Rata Share of such item prospectively in accordance with this Section 4. If the Manager determines that the Common Expenses for a calendar year will vary from the amounts set forth in the Budget, the Manager may, by notice to the Declarants and Owners and Occupants required to pay a Pro Rata Share, revise the Budget for such year, and each Owner or Occupant shall pay the accrued difference between the original and the revised Budgets within fifteen (15) days after receipt of the revised Budget, and thereafter pay the revised amount. During the initial operating stages of the Shopping Center, which may be prior to the commencement of a full calendar year, the Manager will provide a Budget to those Owners and Occupants obligated to pay Common Expenses for a portion of, but less than, a full calendar year.

4.8. Specific Budget Categories. The Budget shall specifically set forth the budget cost for (i) keeping all Common Area free and clear of excess dirt and debris, including sweeping and maintaining the parking surfaces in a clean and neat condition on a regular basis, (ii) keeping the paved surfaces of the Common Area in a smooth and evenly covered condition, which maintenance work shall include, without limitation, repairing, resurfacing (using surfacing material of a quality equal or superior to the original surfacing material) and restriping in all or any part of the paved areas when necessary, (iii) maintaining all landscaped areas, repairing automatic sprinkler systems and water lines in the Common Area, including replacement of shrubs and other landscaping as necessary, (iv) keeping all Common Area clear of snow and ice, (v) maintaining, repairing and replacing any appropriate directional signs, markers and/or lines, and (vi) cleaning, maintaining and repairing all sidewalks, including those situated on the perimeter or outside the boundaries of the Common Area, which are customarily maintained by property owners adjoining such sidewalks.

4.9. Payment of Each Owner's Share of the Budget. Each Owner shall pay, or cause to be paid, the Manager one-twelfth (1/12) of its Pro Rata Share of the Budget to the Manager on or before the tenth (10th) day of each calendar month for the ensuing calendar year.

An Owner's Pro Rata Share of Common Expenses as set forth in the Budget for any fractional calendar month shall be prorated and paid on or before the first day of the first full calendar month following such fractional month.

4.10. Annual Reconciliation. Within one hundred twenty (120) days after the end of each calendar year, the Manager shall deliver to Declarants and each Owner a written itemized statement ("**Annual Statement**") showing the amount of the actual Common Expenses for the preceding calendar year, the amount paid by such Owner toward Common Expenses during the preceding calendar year, and any amounts due from such Owner to the Manager for such Owner's Pro Rata Share of such Common Expenses and/or any amounts due from the Manager to such Owner (in either case, the "**Reconciliation Share**"). Any Reconciliation Share due from the Manager to an Owner shall accompany such Annual Statement. Any Reconciliation Share due from an Owner to the Manager shall be paid within thirty (30) days after receipt by such Owner of the Annual Statement. Upon request, the Manager shall provide any Owner copies of all bills, payment applications, invoices for Common Area or easement area maintenance performed, receipts for Common Expenses paid, and other reasonable supporting documentation, including the calculation of such Owner's Pro Rata Share with a breakdown of the square footage of the Buildings in the Shopping Center. Unless an Owner raises any objections to an Annual Statement within ninety (90) days after receipt of the same, the Annual Statement shall conclusively be deemed correct and accepted by the Owner. If an Owner does timely object to an Annual Statement, the Manager and the Owner shall negotiate in good faith to resolve any disputes. Any objection of an Owner to an Annual Statement and resolution of any dispute shall not postpone the payment of any undisputed amounts due the Manager by the Owner. Failure of the Manager to deliver the Annual Statement in a timely manner does not relieve an Owner's obligation to pay any amounts due Manager pursuant to an Annual Statement subsequently delivered.

4.11. Books and Records; Audit. The Manager shall maintain the books and records for the Common Expenses (the "**Records**") for a period of at least two (2) years. Any Owner may examine or audit the Records for the previous two calendar years at any reasonable time at the Manager's place of business or where the Records are maintained and kept. The Owner performing such audit shall bear its own cost of performing such audit, unless the audit discloses a discrepancy in excess of five percent (5%) of such Owner's Pro Rata Share of the Common Expenses, in which event the Manager shall reimburse such Owner for the reasonable costs of such audit and examination of the Records with such expenses to be calculated at a customary hourly rate for professionals conducting similar audits on an hourly and not a contingent fee basis.

4.12. Change of Manager. Upon any change of the Manager, the successor Manager shall provide written notice to all Owners and Occupants.

4.13. Management Fee. Common Expenses shall include a management fee to the Manager (the "**Management Fee**") set forth in the Management Agreement.

5. EASEMENTS. All easements granted herein shall be subject and subordinate to any and all public utility easements, rights-of-way and other easements of record.

5.1. Ingress, Egress and Parking. Subject to the terms of Section 3, each Owner, as grantor with respect to its Parcel, hereby grants to each other Owner, as grantee, for the benefit of each such grantee Owner, and for the use of the Owners and their respective Occupants and Shopping Center Parties, and for the benefit of the Parcels owned by each such grantee Owner, and as a burden on each grantor Owner's Parcel, a non-exclusive easement appurtenant to each grantee Owner's Parcel for the purpose of providing and permitting pedestrian and vehicular ingress, egress and cross-access to adjacent Lots, Parcels and public rights-of-way, including, without limitation, ingress, egress and cross-access for commercial delivery vehicles in accordance with truck route and pedestrian and vehicular circulation patterns as approved by the City for the Shopping Center; and for vehicular parking upon, over, across and through the Common Area on each such grantor Owner's Parcel. Such right shall be applicable to those portions of the Common Area that are intended for use by motor vehicles or pedestrians, as applicable, based upon the Improvements that have been constructed and exist upon the Common Area. Except as to the Declarants as herein provided, the foregoing shall not create any rights in any parties other than the Owners and the named beneficiaries of such rights through such Owners. No Owner shall be permitted to obstruct any drive aisle, entry to the Shopping Center or limit or restrict access to and from its Parcel by more vehicles or pedestrians.

5.2. Utility Systems. Each Owner, as grantor with respect to its Parcel, hereby grants to each other Owner, as grantee, for the benefit of each such grantee Owner and its Parcel, without the necessity for further documentation, non-exclusive easements appurtenant to the Parcel owned by the grantee Owner, under, through and across the Common Area of the Parcel owned by the grantor Owner, for the installation, use, maintenance, repair and replacement of water drainage systems or structures, water mains, storm drains, sewers, water sprinkler system lines, telecommunication, electrical conduits or systems, cable lines, gas mains and other public utility services, lines, and facilities, including supply and distribution systems ("**Utility Systems**"), necessary for the orderly development and operation of the Common Area and each Building in the Shopping Center as shown on the Subdivision Plat as a "Public Utility Easement"; provided, the rights granted pursuant to such easements shall at all times be exercised in such manner as to cause the least interference with the normal operation of the Shopping Center; and provided further, except in an emergency, the right of any grantee Owner to enter upon the Parcel of any grantor Owner for the exercise of any right pursuant to such easements shall be conditioned upon obtaining the prior written consent of such grantor Owner, which consent shall not unreasonably be withheld or delayed. The location of any stormwater drainage facilities located on or within the Shopping Center shall comply with City Laws and applicable terms and conditions of the Development Agreement.

5.3. Provisions Applicable to Easements. The primary location of easements herein established for ingress and egress and all Utility Systems shall be as set forth on the Subdivision Plat. Notwithstanding the location of public utility easements, water line easements and other easements shown on the Subdivision Plat, to the extent installation of Utilities is required in a location not shown on the Subdivision Plat, an Owner of the Parcel upon which such easement is required shall permit the Construction of required Utilities; provided that such Construction and location shall not unreasonably impair such Owner's use of the Building located on its Parcel. All such Utility Systems shall be installed and maintained below the surface or ground level of such easements; provided, however, that such limitation shall not restrict the Construction of ground surface mounted control and access facilities for Utilities.

The party installing any Utility System shall use reasonable efforts to cause the installation of such Utility Systems prior to paving of the Common Area. In the event an Owner deems it necessary to cause the installation of a Utility System across the Common Area of any other Parcel subsequent to the initial paving and improving thereof (the “**Requesting Owner**”), the Owner of the burdened Parcel thereof agrees not to unreasonably withhold the granting of any necessary additional easements; provided, such Owner may withhold its consent if such installation would unreasonably interfere with the normal operation of any business in the Shopping Center, or with such Owner’s plans for the development of its Parcel; and provided further, the Requesting Owner shall, at its sole cost and expense, completely restore in the same or better condition all Common Area Improvements and surfaces disrupted as a result of such installation. The Owner of a burdened Parcel may reasonably request that such installed Utility Systems be relocated subject to compliance with applicable Laws, at the expense of the Requesting Owner, provided that such relocation shall not interfere with, increase the cost or diminish utility services for any of the other Owners or Occupants.

In the event it should be necessary to grant any of the foregoing easements and rights to local utility companies as a condition of their providing or continuing service, such rights shall be granted, provided that the Owners required to execute such instruments deem the terms and conditions of such a grant to be reasonably acceptable. In such event, the Owner requiring or causing the requirement of any such easement shall, promptly following the grant of such easement, and at its sole cost and expense, provide to the Owner granting such easement a survey of such Owner’s Parcel depicting the location of such easement.

5.4. Fire Access. Each Owner, as grantor with respect to its Parcel, hereby grants to each other Owner, as grantee, for the benefit of each such grantee Owner and its Parcel(s), and for the benefit of all other Owners and their respective Occupants, and as a burden on the grantor Owner’s Parcel, a perpetual, non-exclusive fire access easement appurtenant to each grantee Owner’s Parcel on, under and across the Common Area of each grantor Parcel as may be required to provide for the (i) pedestrian and vehicular access and parking of fire-fighting personnel, equipment and vehicles; and (ii) maintenance, operation, removal, replacement and reinstallation of water and fire suppression system lines, including the right of ingress and egress for such purposes, and as shown on the Subdivision Plat as a “Fire Access Easement.” No Owner shall construct any Improvement upon its Parcel which will impair access over and across the Fire Access Easement shown on the Subdivision Plat without the express prior written approval of Declarants, all other Owners and the City.

5.5. Building Encroachments. Each Owner, as grantor with respect to its Parcel, hereby grants to each other Owner, as grantee, for the benefit of such grantee Owner and its Parcel, an easement for any portion of any Building or structure on any Parcel (including, without limitation, footings, piers, piles, grade beams, ramps, support columns, canopies, eaves, utility meters, roof overhangs, and subsurface support elements required for the construction or reconstruction of any Building or structure (collectively, “**Permitted Projections**”) which may encroach onto, under or over an adjoining Parcel; provided, that (i) the easement for Permitted Projections and all other building encroachments granted herein shall not exceed two (2) feet, and (b) the encroachment easement granted herein shall not extend to encroachments which are intentional or which materially and adversely affect the location, orientation, design, Construction or use of Buildings or other Improvements to be constructed on a Parcel upon

which the encroachment has taken place, unless first approved in writing by the Owner of the Parcel upon which the encroachment shall exist. The easement granted herein shall last so long as this Declaration is in effect. In the event this Declaration expires, this easement shall last so long as the Building of which such encroachment is a part is standing.

5.6. Emergency Exits. Each Owner, as grantor with respect to its Parcel, hereby grants to each other Owner, as grantee and for the benefit of each other Owner and its respective Parcel: (i) an easement for any portion of any stairs and landings (including any footings and foundations related thereto) constructed in connection with Building emergency exits required by any governmental entity, which may encroach onto or over an adjoining Parcel; and (ii) an easement for emergency egress from such emergency Building exits; provided, the easement for stairs and landings (and foundations and footings related thereto) granted herein shall not exceed six (6) feet in width.

5.7. Restoration. If any Owner damages the Common Area as a result of any Construction or the exercise of its easement rights, such as the placement of utilities within the Common Area (excluding normal and anticipated use and wear and tear), such Owner, at its sole cost and expense, shall immediately repair such damage and restore the Common Area to the same or better condition that existed before such damage. In the event that the Owner or Occupant shall fail to repair or restore the Common Area as required by the preceding sentence, the Manager may deliver to such Owner, written notice of such failure which shall specify the alleged deficiencies. In the event that such deficiencies are not corrected within thirty (30) days of the date of such notice, the Manager shall have the right to cure such deficiencies. The applicable Owner shall be responsible to pay any and all costs and expenses incurred by the Manager to correct such deficiencies, plus a supervision fee to the Manager in the amount equal to ten (10%) of the costs and expenses so incurred by the Manager. Such reimbursement shall be made not later than thirty (30) days after receipt of a statement of such costs, including appropriate supporting documents. Any amounts not so paid shall accrue interest at the rate of fifteen percent (15%) per annum from the date of the statement requesting reimbursement through the date the reimbursement payment is received by the Manager.

6. SIGNS.

6.1. Generally. In addition to any other restrictions set forth in this Declaration, all signs which shall be located on any Building or in any public area of the Shopping Center shall comply with all applicable ordinances of the City. To the extent such ordinances require the formal approval of the City, the Owner or Occupant desiring to display such sign shall be required to obtain such approval. City approval shall not constitute approval under this Declaration and provisions of this Declaration may be more restrictive than the requirements of applicable City ordinances or regulations.

6.2. Building Signs. Each Owner shall have the right to maintain such Signs on the interior of Buildings located on its Parcel as it desires, provided that such signs are not visible from the exterior. Banners, flags, Signs or advertising objects, displays or lights visible from the exterior of any Building shall require the prior written approval of the Declarants pursuant to the terms set forth in Section 2.1; provided, however, no auction, liquidation, going out of business, fire or bankruptcy sales may be conducted or advertised by sign or otherwise. If

permitted by Law and approved by the Declarants, each Owner shall have the right to erect, maintain and replace Signs on the exterior of the Buildings located on its Parcel; provided, such Signs shall be constructed so as to lie flat against such exterior facia facing outward and shall not protrude more than two (2) feet from the surface thereof in any direction; and provided further, in no event shall Signs be located on or above the roof (excluding canopies, so long as no Sign erected on a canopy will extend above the height of the building canopy or mansard roof on which it is installed) of any Building in the Shopping Center. Signs mounted on the exterior walls of the Building constructed on Lot 4 may be higher than Buildings located on other Parcels. Other than pylon and monument signs discussed below, no Owner or Occupant may place any Sign in the Common Area, including any decorations, flags, or banners unless the Occupant occupies in excess of 30,000 square feet of ground floor building space and such decorations are approved by each of the Declarants and will be used for a temporary period of time. No Owner or Occupant may place, install or operate, any signs in any windows of any Building visible from the exterior; provided that a nationally or regionally recognized Occupant with locations in multiple states with a uniform sign package, may place its standard signs on and within its Building or premises, subject to each of the Declarants' prior approval which shall not be unreasonably withheld. Any other Signs shall require the approval of the each of the Declarants, which may be granted or withheld in the Declarants' sole and subjective discretion.

6.3. Pylon/Monument Signs. There will be free standing pylon and/or monument signs (collectively, "**Shopping Center Signs**") installed within the Shopping Center as approved by the Declarants, subject to the approval of the City. The cost of maintaining the structural components and providing electricity to operate the Shopping Center Signs shall be a Common Expense. Each Owner or Occupant with a sign panel shall be responsible to pay any and all costs and expenses which shall be incurred in the fabrication, installation, maintenance and replacement of its sign panel(s). Each such Owner shall be responsible for the maintenance and replacement of its sign panel(s) as necessary to maintain such sign panel(s) in a first class condition. Except as expressly permitted herein, there shall be no Signs in the Common Area of the Shopping Center without the prior written approval of the Manager, which may be granted or withheld in the Manager's sole and subjective discretion. Each Owner, as grantor with respect to its Parcel, hereby grants to each other Owner allowed to erect or maintain Signs or sign panel(s) pursuant to this section, as grantee, a non-exclusive easement under, through and across the Common Area of the Shopping Center for the purpose of installing and/or maintaining utility lines to service free-standing pylon or monument signs, if any, and all other authorized Signs, if any.

6.4. Purpose of Signs. Any and all Signs within the Shopping Center shall solely advertise the Shopping Center and/or the businesses and Occupants located within the Shopping Center.

7. INDEMNIFICATION AND INSURANCE.

7.1. Indemnification. Each Owner and the Manager each, acting as an "**Indemnifying Party**", hereby indemnifies, holds harmless and agrees to defend each Owner (or other Owner, as the case may be), the Manager, and the Declarants, each as an "**Indemnified Party**", from and against all claims, damages, expenses (including, without limitation, reasonable attorneys' fees and reasonable investigative and discovery costs), liabilities and

judgments on account of injury to persons, loss of life, or damage to property occurring in the Shopping Center and/or on the ways immediately adjoining the Shopping Center, caused by the active or passive negligence or willful misconduct of the Indemnifying Party, its agents, servants or employees. It is provided, however, that the Indemnifying Party does not and shall not be required to indemnify an Indemnified Party against any injury, loss of life, or damage which is caused by the active or passive negligence or willful misconduct of the Indemnified Party, an Owner (other than the Indemnifying Party if the Indemnifying Party is an Owner), or its or their agents, servants or employees. The Parties' obligations with respect to indemnification hereunder shall remain effective, notwithstanding the expiration or termination of this Declaration, as to claims arising or accruing prior to the expiration or termination of this Declaration. The indemnification obligation herein will not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Indemnifying Party under worker's compensation acts, disability benefit acts, employee benefit acts, or otherwise. In addition, the indemnification obligation set forth herein is a contractual obligation of the Manger and applicable Owner and will not be diminished by any insurance coverage or any restriction, cap or other provision of governmental immunity law or similar doctrine.

7.2. Liability Insurance Coverage and Limits. Each Owner, and the Manger, agree to maintain, and each Owner shall cause the Occupants of any portion of such Owner's Parcel to maintain, at no cost to the other Owners, liability insurance insuring its interests against claims for personal injury, bodily injury, death and property damage occurring on, in or about their Parcel, with a "Combined Single Limit" (covering personal injury liability, bodily injury liability and property damage liability) of not less than Two Million Dollars (\$2,000,000.00) for total claims for any one (1) occurrence. The insurance limits in this section shall be subject to increase from time to time by such amounts as the Declarants may reasonably agree are necessary or desirable, as may be evidenced by the practice of similarly situated shopping centers. Each Owner shall be endorsed as an additional insured on such insurance policy and, upon request, be entitled to receive a certificate evidencing this insurance coverage. Any insurance required to be maintained by a Declarant or Owner under the Hotel Easement and the Road Easement shall be considered a Common Expense.

7.3. Contractor's Insurance. During the period of any Construction in the Shopping Center by or at the request of any Owner, such Owner agrees to obtain or require its contractor(s) to obtain, and thereafter maintain so long as such construction activity is occurring, at least the following minimum insurance coverage:

- (a) Workers' compensation - statutory limits;
- (b) Employers Liability Insurance with coverage and minimum limits of the greater of: (i) bodily injury by accident (\$100,000.00 each accident); (ii) bodily injury by disease (\$500,000 policy limit); and (c) bodily injury by disease (\$100,000 each employee); and
- (c) Comprehensive General and Commercial Automobile Liability as follows: (i) "Combined Single Limit" (covering personal injury liability, bodily injury liability, and property damage liability) of not less than One Million Dollars (\$1,000,000.00) for total claims for any one occurrence; (ii) Independent Contractor's Liability or Owner's Protective Liability with the same coverage as in (i) above; (iii) Products/Completed Operations Coverage

which shall be kept in effect for two (2) years after completion of work; (iv) "XCU" hazard coverage, if applicable; (v) "Broad Form" Property Damage Endorsements; (vi) "Personal Injury" Endorsements; and (vii) "Blanket Contractual Liability" Endorsement. If any construction activity involves the use of another Owner's Parcel, then the Owner of such Parcel shall be endorsed as an additional insured under all such insurance, and such insurance shall provide that the same shall not be canceled without at least thirty (30) days' prior written notice to the named insureds.

7.4. Waiver of Certain Rights. With respect to any loss or damage that may occur to the Shopping Center (or any improvements thereon) or any Parcel, which is insured under a fire and extended coverage insurance policy, regardless of the cause or origin, excluding willful acts but including negligence of the Owners, their agents, servants or employees, the Owner suffering such loss hereby releases the other Owners from all claims with respect to such loss; and the Owners each agree that their respective insurance companies shall have no right of subrogation against the other Owners on account of any such loss, and each Owner shall procure from its respective insurers under all policies of fire and extended coverage insurance a waiver of all rights of subrogation against the other Owners which the insurers might otherwise have under such policies.

7.5. Policy Requirements. Any insurance required to be provided under this Section 7 may be in the form of blanket liability coverage, so long as such blanket policy does not reduce the limits nor diminish the coverage required therein. Each Owner shall have the right to satisfy its insurance obligations hereunder by means of self-insurance to the extent of all or part of the insurance required hereunder, but only so long as: (i) the self-insuring Owner shall have a net worth of at least Fifty Million Dollars (\$50,000,000); (ii) the self-insuring Owner shall, upon request, provide an audited financial statement, prepared in accordance with generally accepted accounting principles, showing the required net worth; and (iii) such self-insurance provides for loss reserves which are actuarially derived in accordance with accepted standards of the insurance industry and accrued (i.e., charged against earnings) or otherwise funded. Any deductible in excess of Ten Thousand Dollars (\$10,000) shall be deemed to be self-insurance. Upon request, each Owner shall cause certificates of insurance reasonably evidencing compliance with the requirements of this section to be delivered to the Manager for the benefit of the other Owners. The insurance policies and certificates required by this section shall require the insurance company to furnish the Manager thirty (30) days' prior written notice of any cancellation or lapse, or the effective date of any reduction in the amounts or scope of coverage.

7.6. Performance of Indemnity Agreements. All policies of insurance required under this Section 7 shall contain a contractual liability endorsement. Each Owner shall promptly notify the other Owners of any asserted claim with respect to which such Owner is or may be indemnified against hereunder and shall deliver to such other Owners copies of process and pleadings.

8. DAMAGE OR DESTRUCTION. In the event any Building in the Shopping Center is damaged or destroyed by fire or other casualty or any other cause whatsoever, the Owner of the Parcel upon which such Building is located may, in its sole, subjective discretion, demolish or rebuild the damaged Building. In the event an Owner determines to demolish a damaged Building, that Owner shall either promptly construct a new Building on the same

location or leave and maintain the Parcel of land on which the Building was located in a smooth, level condition, free and clear of all refuse and weeds and sealed against dust by paving and otherwise maintained in a condition similar to other first-class shopping centers in Davis County, Utah. In the event an Owner determines to rebuild the Building located on its Parcel in the Shopping Center, such Owner shall forthwith proceed with due diligence to remove any debris and to restore such Building to substantially the same condition as immediately prior to such damage or destruction. In the event the Common Area of the Shopping Center or any portion thereof shall be damaged or destroyed by fire or other casualty or any other cause whatsoever, the Owner of the Common Area so damaged or destroyed shall forthwith proceed with due diligence to restore such Common Area to its condition immediately prior to such damage or destruction in order to permit vehicular parking (in the manner required by this Declaration) and free and safe vehicular and pedestrian access and circulation in the Shopping Center and to and from all adjacent streets. If the Owner of the Common Area that is damaged or destroyed fails to restore the damaged or destroyed portion of the Common Area within thirty (30) days of the date of written notice from the Manager requiring such restoration, the Manager and/or the Declarants shall have the right to restore such damaged portion of the Common Area. The applicable Owner shall be responsible to pay any and all costs and expenses incurred by the Manager and/or the Declarants to complete such restoration, plus a supervision fee to the Manager in the amount equal to ten (10%) of the costs and expenses so incurred by the Manager. Such reimbursement shall be made not later than thirty (30) days after receipt of a statement of such costs, including appropriate supporting documents. Any amounts not so paid shall accrue interest at the rate of fifteen percent (15%) per annum from the date funds are disbursed by the Manager through the date the reimbursement payment is received by the Manager.

9. EMINENT DOMAIN.

9.1. Owner's Right to Award. Nothing herein shall be construed to give any Owner any interest in any award or payment made to any other Owner in connection with any exercise of eminent domain, or transfer in lieu thereof, affecting any other Owner's Parcel, or to give the public or any government any rights in any Parcel. In the event of any exercise of eminent domain, or transfer in lieu thereof, of any part of the Common Area located within the Shopping Center, the award attributable to the land and Improvements of such portion of the Common Area shall be payable to the Owner in fee thereof, and no claim thereto shall be made by the Owners of any other portion of the Common Area.

9.2. Collateral Claims. All other Owners or persons having an interest in the Common Area so condemned may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken.

9.3. Occupant Claims. Nothing in this section shall prevent an Occupant from making a claim against an Owner pursuant to the provisions of any Lease between an Occupant and such Owner for all or a portion of any such award or payment.

9.4. Restoration of Common Area. The Owner of the fee of each portion of any Common Area so condemned shall promptly repair and restore the remaining portion of the Common Area so owned as near as practicable to the condition of the Common Area immediately prior to such condemnation or transfer, to the extent that the proceeds of such award

are sufficient to pay the cost of such restoration and repair and without contribution from any other Owner. The plans and specifications for such repair and reconstruction shall be approved by the Manager and the repair and reconstruction shall be overseen by the Manager.

9.5. Restoration of Improvements. In the event any Improvements or any portion thereof located in the Shopping Center is condemned, the remaining portion of such Improvements shall be demolished or restored by the Owner of the Parcel on which it is located, and such Owner shall remove all debris resulting therefrom. In the event an Owner elects to rebuild or refurbish any Improvements after such condemnation action, such Owner shall proceed with due diligence to restore such Improvements to completion. In the event the remaining Improvements are removed, the Owner shall thereafter maintain such affected area on the Parcel in the manner provided for in this Declaration.

10. TAXES. Each Owner shall pay or cause to be paid directly to the appropriate taxing authority before such taxes become past due, the real property taxes and other special taxes and assessments assessed against the Parcel owned by such Owner, including the portion of the Common Area owned by such Owner. No Owner shall be responsible for the payment of any portion of real property taxes and assessments levied against any other Owner's Parcel.

In the event any Owner fails at any time to pay, or cause to be paid, before delinquency its taxes or assessments on any portion of a Parcel of which such Owner has a fee interest, and which may become a lien on any of the Common Area, then the Manager or any other Owner may pay such taxes and/or assessments, together with interest, penalties, and costs, and in any such event the Owner obligated to pay such taxes and/or assessments shall promptly reimburse the Manager or such other Owner for all such taxes and/or assessments, interest, penalties, and other charges and until such reimbursement has been made, the amount thereof shall constitute a lien and charge on the Parcel of the defaulting Owner. Nothing contained herein shall prevent an Owner from paying its taxes under protest or challenging the validity or amount of any assessment, so long as such Owner takes steps to prevent the delinquent taxes from becoming a lien on its Parcel or the occurrence of a tax sale of such Parcel. The Owner initially failing to pay taxes or assessments on its Parcel shall be responsible to pay any and all costs and expenses incurred by the Manager or another Owner to pay such amounts. Such reimbursement shall be made not later than thirty (30) days after receipt of a statement of such costs, including appropriate supporting documents. Any amounts not so paid shall accrue interest at the rate of fifteen percent (15%) per annum from the date funds are disbursed by the Manager or the other Owner through the date the reimbursement payment is received.

11. ENVIRONMENTAL LIABILITIES. Without regard to the party causing the contamination, each Owner assumes all responsibility and liability for any and all damages, costs and claims including, but not limited to remediation costs, incurred as a result of the release of any Hazardous Material from its Parcel which migrates (or has migrated) or otherwise contaminates (or has contaminated) another Parcel in the Shopping Center, including, but not limited to, leaks, spills or losses or motor fuels related to underground storage tanks, piping, dispensing systems, or other facilities or activities on or about any Parcel. Each Owner shall promptly comply with any and all clean-up requirements of any governmental authority having jurisdiction pertaining thereto, and shall indemnify the governmental authority having jurisdiction pertaining thereto, and shall indemnify the other Owners for all costs, expenses and

fees incurred by any other Owner (including attorneys' fees in defending the same) resulting from any contamination or discharge of Hazardous Materials. Any and all environmental assessment and remediation work shall be performed in accordance with all applicable Laws. Notwithstanding the foregoing, the Owners do not assume responsibility and/or liability for, or indemnify any other Owner for, any such damages, costs or claims resulting from any such release caused by, through or under any other Owner. This Section 11 is not intended to limit or define, and does not limit or define, an Owner's remedies against a third-party which caused, or is responsible for, contamination on discharge of hazardous materials.

12. DEFAULT.

12.1. Right to Cure. Should any Owner ("**Defaulting Owner**") fail to timely perform any of its obligations hereunder (including any obligations of its Occupants and excluding the obligations of the Manager), and thereafter fail to diligently commence performing such obligation within fifteen (15) days after its receipt of a written demand therefor from the Manager or a Declarant (herein, the "**Curing Party**"), the Curing Party shall, in addition to any other remedy provided at law, in equity, or in this Declaration, have the right (but not the obligation) to perform such obligation on behalf of the Defaulting Owner, and the Defaulting Owner shall reimburse the Curing Party for the cost of performing such obligation within ten (10) days after receipt of billing therefor and proof of payment thereof; except that a Declarant may not cure such obligation if the Defaulting Owner is the other Declarant. In the event the Defaulting Owner does not reimburse the Curing Party within such ten (10) days, the Curing Party shall have: (i) the right to exercise any and all rights which such Curing Party might have at law or in equity to collect the same; and/or (ii) a lien on the property owned by the Defaulting Owner, to the extent of the amount paid by the Curing Party but not reimbursed by the Defaulting Owner, which amount shall bear interest at a rate equal to the then published "Prime Rate" of Wells Fargo Bank, N.A., plus five percent (5.0%) per annum (or, in the event Wells Fargo Bank no longer publishes a Prime Rate, the Prime Rate, for purposes herein, shall be a rate agreed to by all the Owners) (the Owners acknowledging that such rate may not be the lowest or "best" rate), or the highest legal rate of interest, whichever is less, from the date of billing until paid. Such lien may be filed or recorded by the Curing Party as a claim against the Defaulting Owner, in the form required by law, in the office wherein mortgages and liens are recorded, which lien shall contain at least the following information:

- (a) The name of the lien claimant;
- (b) The name of the Defaulting Owner;
- (c) A description of the work performed on behalf of such Owner and a statement itemizing the cost thereof which remains unpaid by the Defaulting Owner; and
- (d) A description of the property being liened.

The lien so claimed shall attach from the date of recordation in the amount claimed by the Curing Party, and it may be enforced and foreclosed in any manner allowed by law including, but not limited to, suits to foreclose a mechanic's lien, trust deed or mortgage under applicable law. Any Owner filing such lien shall concurrently notify the Defaulting

Owner of such filing, and shall within sixty (60) days thereafter send to the defaulting Owner at its notice address a copy of such lien showing such recording. Such lien, when so established against the real property described in such lien, shall be prior and superior to any right, title, interest, lien or claim which may be or is acquired or attached to such real property after the time of recording the claim of lien.

Notwithstanding the above, the lien for any amount due by a Defaulting Owner shall be subordinated to the lien of any bona fide security device, including but not limited to, mortgage, deed of trust and sale and leaseback obtained by an Owner of a Parcel for the purposes of the improvement thereof (or a refinancing thereof); provided, however, that such subordination shall apply only to the amounts due and owing to the Manager or a Curing Party which have become due and payable prior to a sale or transfer of such Parcel pursuant to or in lieu of foreclosure by the holder of such security interest. Such sale or transfer shall not relieve the Parcel from the lien for any amounts thereafter becoming due, or from the lien of any subsequent amounts due.

To the extent another section of this Declaration shall provide a specific remedy for the failure of a party to perform its obligations hereunder, the notice, cure and remedies provided by this Section 12.1 shall be applicable only after application of the remedy otherwise specifically provided.

12.2. Injunctive Relief. In the event of any violation or threatened violation of any provision of this Declaration, each of the Manager and the Declarants shall have the right, in addition to any other remedies herein or by law or equity provided, to enjoin such violation or threatened violation.

12.3. Breach Shall Not Permit Termination. No breach of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Declaration.

12.4. No Limitation of Remedies. The various rights and remedies herein contained and reserved to each Declarant, Owner, and Manager, except as otherwise provided in this Declaration, shall not be considered as exclusive of any other right or remedy, but shall be construed as cumulative, and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute. No delay or omission of the right to exercise any power or remedy shall impair any such right, power or remedy or be construed as a waiver of any default or nonperformance or as acquiescence therein.

13. NOTICES. Any notices, requests, demands, and other communications hereunder shall be in writing and shall be given (i) by Federal Express (or other established express delivery service which maintains delivery records), (ii) by hand delivery, (iii) by certified or registered mail, postage prepaid, return receipt requested, or (iv) via email, facsimile or other electronic transmission, to the Parties at the following addresses, or at such other address as the Parties may designate by written notice in the above manner:

To STG Woods Crossing: c/o The Thackeray Garn Company
Attn: John R. Thackeray
1165 East Wilmington Ave., Suite 275
Salt Lake City, UT 84106
Direct: 801-487-6670
Fax: 801-487-6671
Email: Johnt@JTCompany.com

To OTG Woods Crossing: c/o Olson Prime Property
Attn: Douglas L. Olson
2301 South Main Street
Bountiful, UT 84010
Direct: 801-295-3421, ext.13
Fax: 801-295-3432
Email: doug@slimolson.com

Notices shall be deemed effective upon receipt, upon attempted delivery if delivery is refused by the intended recipient or if the delivery is impossible because the intended recipient has failed to provide a reasonable means for accomplishing delivery or upon electronic confirmation that the notice has been delivered.

14. ATTORNEYS' FEES. In the event any Owner or a Declarant brings or commences legal proceedings to enforce any of the terms of this Declaration, the prevailing party in such action shall have the right to recover reasonable attorneys' fees and costs from the other party, to be fixed by the court in the same action. The phrase "legal proceedings" shall include appeals from a lower court judgment, as well as proceedings in the Federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters. The phrase "prevailing party" as used in the context of Federal Bankruptcy Court shall mean the prevailing party in an adversary proceeding or contested matter, or any other actions taken by the non-bankrupt party which are reasonably necessary to protect its rights under the terms of this Declaration. The phrase "prevailing party" as used in the context of any court other than the Federal Bankruptcy Court shall mean the party that prevails in obtaining a remedy or relief which most nearly reflects the remedy or relief which the party sought.

15. DURATION. Except as otherwise provided herein, this Declaration shall remain in full force and effect for a term of sixty-five (65) years from the date hereof, and shall automatically renew for periods of five (5) years each, unless each Declarant agrees in writing to terminate this Declaration. Such termination shall only be effective upon recordation of the termination document in the official records of the political division in which the Shopping Center is located. The Declarants shall deliver notice of any such termination to each Owner and Occupant within seven (7) days of the termination. Upon written request, all Owners and Occupants shall sign and acknowledge such notice.

16. MODIFICATION. Until seventy-five percent (75%) of the proposed Building square footage within the Shopping Center shown on the Site Plan is improved and occupied,

this Declaration (including, without limitation, the Site Plan) may only be amended by the Declarants. When more than seventy-five percent (75%) of the proposed Building square footage within the Shopping Center is improved and occupied, this Declaration (including, without limitation, the Site Plan) may only be modified by a written document executed by each of the Declarants and a group of Owners whose sum of Pro Rata Shares equals at least eighty percent (80%). Notwithstanding anything to the contrary in this Section, no modification to this Declaration shall be inconsistent with the approved Site Plan or the Development Agreement without the prior written approval of the City, and any such modification may require amendment to the Site Plan and/or the Development Agreement and shall comply with all applicable City Laws. The Declarants, acting together, reserve the right to enlarge and add additional land to the Shopping Center, whereupon such additional land shall be subject to this Declaration. The Shopping Center shall not be enlarged or added to nor integrated with any other lands or premises without the prior written consent of each of the Declarants. A Declarant may assign its rights, duties and obligations to its successor in interest and shall notify the Owners and Occupants in writing of any assignment of such rights, duties and obligations.

17. GENERAL PROVISIONS.

17.1. Accuracy of Recitals. Each Declarant hereby acknowledges the accuracy of the recitals of facts and circumstances A through E following the introductory paragraph of this Declaration, which are incorporated herein by this reference.

17.2. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Shopping Center to the general public or for any public purposes whatsoever, it being the intention of the Declarants that this Declaration shall be strictly limited to and for the purposes herein expressed. The Manager may take such actions as it deems necessary to prevent any public dedication of any part of the Shopping Center by operation of law.

17.3. Severability. If any term or provision of this Declaration or the application of it to any person or circumstance shall to any extent be invalid and unenforceable, the remainder of this Declaration or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term and provision of this Declaration shall be valid and shall be enforced to the extent permitted by law.

17.4. Pronouns. When required by context, the singular shall include the plural, and the neuter gender shall include a person, corporation, firm, association, or other business arrangement.

17.5. Captions. The captions in this Declaration are for convenience only and do not constitute a part of the provisions hereof.

17.6. No Partnership. The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted to create, a joint venture, a partnership, or any other similar relationship between the Declarants and/or Owners.

17.7. **Governing Law.** This Declaration shall be construed and enforced in accordance with, and governed by, the law of the State of Utah.

17.8. **No Presumption.** This Declaration shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against the Declarants.

17.9. **Run With Land.** This Declaration and the easements, covenants, benefits and obligations created hereby are intended to run with the land and shall inure to the benefit of and be binding upon each Owner and their respective successors and assigns; provided, if any Owner conveys any portion or all of its interest in any Parcel owned by it, such Owner shall thereupon be released and discharged from any and all further obligations under this Declaration as it had in connection with the property conveyed by it if the buyer assumes in writing all of such obligations; and provided further, no such sale shall release such Owner from any liabilities, actual or contingent, existing as of the time of such conveyance.

17.10. **Estoppel Certificate.** Each Owner agrees that, upon request by any other Owner (the "**Requesting Owner**"), it will issue to a prospective lender of the Requesting Owner or to a prospective purchaser of the Requesting Owner's interest, an estoppel certificate stating:

(a) whether the Owner to whom the request has been directed knows of any default by the Requesting Owner under this Declaration, and, if there are known defaults, specifying the nature thereof;

(b) whether this Declaration has been assigned, modified or amended in any way (and if it has, then stating the nature thereof); and

(c) that to the Owner's knowledge this Declaration as of that date is in full force and effect.

Such statement shall act as a waiver of any claim by the Owner furnishing it to the extent such claim is based upon facts contrary to those asserted in the statement and to the extent the claim is asserted against a bona fide encumbrancer or purchaser for value without knowledge of facts to the contrary of those contained in the statement, and who has acted in reasonable reliance upon the statement; provided, no Owner shall incur any liability whatsoever for any misstatement or wrong information unless the same is the result of the gross negligence or willful act of the Owner furnishing such information.

17.11. **Contractual Obligations.** All of the terms and conditions contained herein represent contractual obligations of the Owners. The purchase of a portion or all of any Parcel by any governmental entity shall be deemed a proprietary act with full authority granted therefor from any and all legislative body. The presentment of any claim or action against any Owner pursuant to this Declaration (such as through the indemnification provision) shall be presentment and tender of a contractual obligation. Under no condition shall any Owner be limited or restricted (including any waiver due to the passage of time except for the statute of limitation period set forth in Laws of the State of Utah) in its ability to tender any claim or matter to an Owner in accordance with the terms of this Agreement.

17.12. Force Majeure. Each Owner will comply with the time periods set forth in this Declaration to the extent such provisions are applicable to it; 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 Owner's obligations, which delays are caused by fire or other casualty, acts of god, acts of nature, weather, refusal or failure of governmental authorities to grant necessary approvals or permits (the Owner responsible thereof agreeing to use reasonable diligence to procure the same), war, riot, or insurrections, or any other cause (except financial) beyond the reasonable control of such Owner. In the event of any such delay, the Owner suffering such delay shall seek and use to the extent available economically reasonable and comparable substitutes or alternatives and shall promptly give written notice to the other Owners of the occurrence of such delay and, upon termination thereof, notice of the termination of such delay. In the event an Owner suffers such a delay and fails to give notice of the occurrence of and termination of such delay, as provided herein, such Owner shall be deemed to have waived its right to an extension hereunder on account of such delay.

17.13. Consent and Approvals. Wherever the consent, approval, judgment or determination of a Declarant or Owner is required or permitted under this Declaration and no express standard is specified (e.g., "reasonableness"), the party required to act shall exercise its business judgment in good faith in granting or withholding such consent or approval or in making such judgment or determination. If it is determined that such party failed to give its consent where it was required to do so under this Declaration, an Owner affected by such denial of consent shall be entitled to injunctive or declaratory relief but shall not be entitled to monetary damages or to terminate this Declaration for such failure. The review and/or approval by a Declarant of any item or matter to be reviewed or approved by such Declarant under the terms of this Declaration shall not impose upon such Declarant any liability for the accuracy or sufficiency of any such item or matter or the quality or suitability of such item for its intended use. Any such review or approval is for the sole purpose of protecting the Declarants' and other Owners' interests in the Shopping Center, and no third parties shall have any rights as a consequence thereof.

17.14. Mediation of Deadlock. If the Declarants find themselves in a true "deadlock" situation with regard to the operation or management of the Shopping Center, each shall submit itself to a mandatory binding mediation conducted by a mutually selected mediator experienced in shopping center mediation, which mediation shall not allow any discovery by the Declarants. The costs of such mediation shall be shared equally between the Declarants.

17.15. Successors and Assigns. This Declaration shall be binding upon and inure to the benefit of the Owners and their successors and assigns. To the extent a vote or consent of Owners is required under this Declaration, each Owner shall have a vote equal to its Pro Rata Share regarding the exercise of any rights of a Declarant.

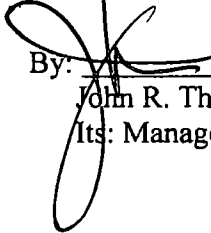
[signatures to follow]

SIGNATURE PAGE
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND GRANT OF EASEMENTS

IN WITNESS WHEREOF, this Declaration has been executed by the Declarants as of the Effective Date.

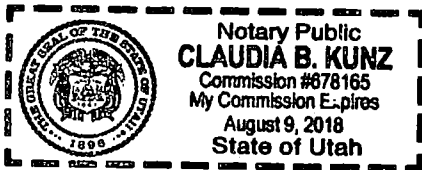
STG WOODS CROSSING, LLC,
a Utah limited liability company

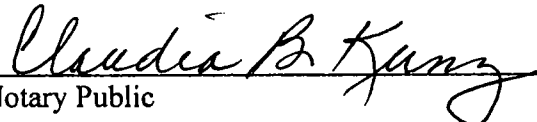
By: 
John Hepworth
Its: Manager

By: 
John R. Thackeray
Its: Manager

STATE OF UTAH)
)
COUNTY OF Davis) : ss.

The foregoing instrument was acknowledged before me this 7th day of March, 2016, by John Hepworth, as Manager of STG Woods Crossing, LLC, a Utah limited liability company, and acknowledged to me that said limited liability company executed the same.




Notary Public

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

The foregoing instrument was acknowledged before me this 4th day of March, 2016, by John R. Thackeray, as Manager of STG Woods Crossing, LLC, a Utah limited liability company, and acknowledged to me that said limited liability company executed the same.




Notary Public

[signatures continue on next page]

**SIGNATURE PAGE
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND GRANT OF EASEMENTS**

IN WITNESS WHEREOF, this Declaration has been executed by the Declarants as of the Effective Date.

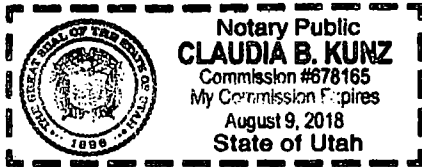
OTG WOODS CROSSING, LLC,
a Utah limited liability company

By: *Douglas L Olson*
Douglas L. Olson
Its: Manager

By: *[Signature]*
John R. Thackeray
Its: Manager

STATE OF UTAH)
 : ss.
COUNTY OF *Davis*)

The foregoing instrument was acknowledged before me this *9th* day of March, 2016, by Douglas L. Olson, as Manager of OTG Woods Crossing, LLC, a Utah limited liability company, and acknowledged to me that said limited liability company executed the same.



Claudia B Kunz
Notary Public

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

The foregoing instrument was acknowledged before me this *4th* day of March, 2016, by John R. Thackeray, as Manager of OTG Woods Crossing, LLC, a Utah limited liability company, and acknowledged to me that said limited liability company executed the same.



Gaylynn Hart
Notary Public

**SIGNATURE PAGE
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND GRANT OF EASEMENTS**

IN WITNESS WHEREOF, SI hereby agrees and consents to encumber the SI Property with the covenants, conditions and restrictions of this Declaration pursuant to Recital C, by its signature below as of the Effective Date.

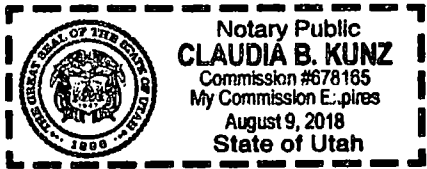
SECURITY INVESTMENT LLC,
a Utah limited liability company
fka Security Investment Ltd.

By: Alice S. Johnson
Alice S. Johnson
Its: Manager

By: Mary S. Hepworth
Mary S. Hepworth
Its: Manager

STATE OF UTAH)
COUNTY OF Davis : SS

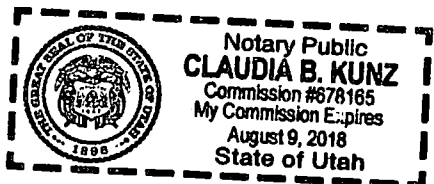
The foregoing instrument was acknowledged before me this 7th day of March, 2016, by Alice S. Johnson as Manager of SECURITY INVESTMENT LLC, a Utah limited liability company, and acknowledged to me that said limited liability company executed the same



Claudia B. Kunz
Notary Public for Utah

STATE OF UTAH)
COUNTY OF Davis : SS

The foregoing instrument was acknowledged before me this 7th day of March, 2016, by Mary S. Hepworth as Manager of SECURITY INVESTMENT LLC, a Utah limited liability company, and acknowledged to me that said limited liability company executed the same



Claudia B. Kunz
Notary Public for Utah

**EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND GRANT OF EASEMENTS**

(Legal Descriptions of the STG Property, OTG Property and SI Property)

STG Property:

The following described real property which is located in Davis County, State of Utah:

Lots 2, 3, 4, 6, 7, and 8, WOODS CROSSING COMMERCIAL SUBDIVISION, according to the official plat thereof recorded April 12, 2016 as Entry No. 2931694 in the official records of the Davis County Recorder, State of Utah.

OTG Property:

The following described real property which is located in Davis County, State of Utah:

Lots 11, 12, 13, and 14, and Parcels A and C, WOODS CROSSING COMMERCIAL SUBDIVISION, according to the official plat thereof recorded April 12, 2016 as Entry No. 2931694 in the official records of the Davis County Recorder, State of Utah.

SI Property:

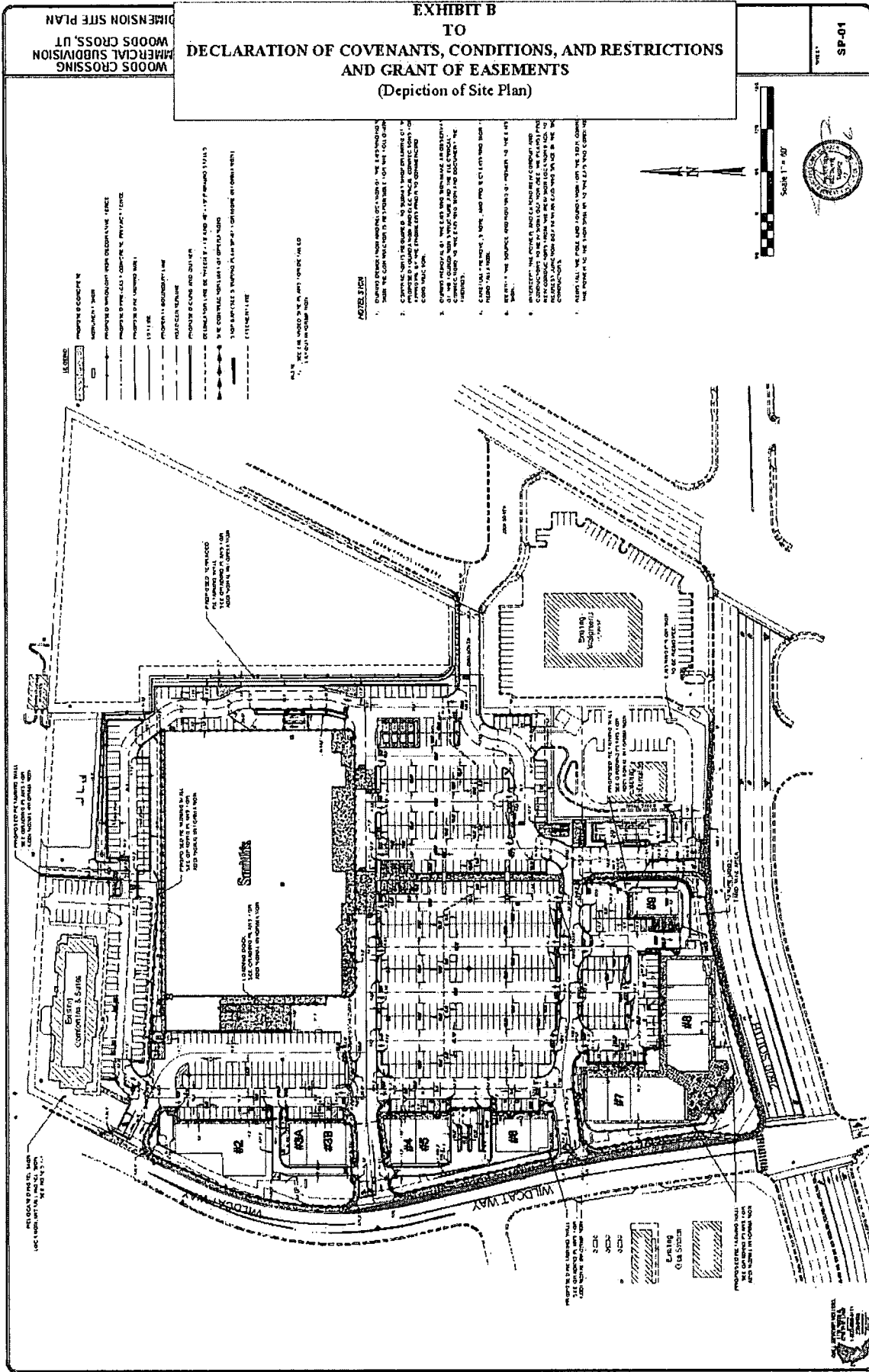
The following described real property which is located in Davis County, State of Utah:

Lot 9, WOODS CROSSING COMMERCIAL SUBDIVISION, according to the official plat thereof recorded April 12, 2016 as Entry No. 2931694 in the official records of the Davis County Recorder, State of Utah.

EXHIBIT B
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND GRANT OF EASEMENTS
(Depiction of Site Plan)

WOODS CROSSING
COMMERCIAL SUBDIVISION
WOODS CROSS, UT

SP-01



- LEGEND
- PROPERTY BOUNDARY
 - PROPERTY BOUNDARY WITH EASEMENT
 - PROPERTY BOUNDARY WITH EASEMENT AND RESTRICTION
 - PROPERTY BOUNDARY WITH EASEMENT AND RESTRICTION AND EASEMENT
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- NOTES
- THE PROPERTY SHOWN ON THIS PLAN IS THE PROPERTY OF THE DEVELOPER AND IS SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND GRANT OF EASEMENTS AND TO THE DEED OF CONVEYANCE AND TO THE DEED OF RESTRICTIONS AND EASEMENTS.
 - THE PROPERTY SHOWN ON THIS PLAN IS THE PROPERTY OF THE DEVELOPER AND IS SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND TO THE DEED OF CONVEYANCE AND TO THE DEED OF RESTRICTIONS AND EASEMENTS.
 - THE PROPERTY SHOWN ON THIS PLAN IS THE PROPERTY OF THE DEVELOPER AND IS SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND TO THE DEED OF CONVEYANCE AND TO THE DEED OF RESTRICTIONS AND EASEMENTS.
 - THE PROPERTY SHOWN ON THIS PLAN IS THE PROPERTY OF THE DEVELOPER AND IS SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND TO THE DEED OF CONVEYANCE AND TO THE DEED OF RESTRICTIONS AND EASEMENTS.
 - THE PROPERTY SHOWN ON THIS PLAN IS THE PROPERTY OF THE DEVELOPER AND IS SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND TO THE DEED OF CONVEYANCE AND TO THE DEED OF RESTRICTIONS AND EASEMENTS.
 - THE PROPERTY SHOWN ON THIS PLAN IS THE PROPERTY OF THE DEVELOPER AND IS SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND TO THE DEED OF CONVEYANCE AND TO THE DEED OF RESTRICTIONS AND EASEMENTS.
 - THE PROPERTY SHOWN ON THIS PLAN IS THE PROPERTY OF THE DEVELOPER AND IS SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND TO THE DEED OF CONVEYANCE AND TO THE DEED OF RESTRICTIONS AND EASEMENTS.
 - THE PROPERTY SHOWN ON THIS PLAN IS THE PROPERTY OF THE DEVELOPER AND IS SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND TO THE DEED OF CONVEYANCE AND TO THE DEED OF RESTRICTIONS AND EASEMENTS.
 - THE PROPERTY SHOWN ON THIS PLAN IS THE PROPERTY OF THE DEVELOPER AND IS SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND TO THE DEED OF CONVEYANCE AND TO THE DEED OF RESTRICTIONS AND EASEMENTS.
 - THE PROPERTY SHOWN ON THIS PLAN IS THE PROPERTY OF THE DEVELOPER AND IS SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND TO THE DEED OF CONVEYANCE AND TO THE DEED OF RESTRICTIONS AND EASEMENTS.

**EXHIBIT C
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND GRANT OF EASEMENTS**

(Legal Description of the Shopping Center)

The following described real property which is located in Davis County, State of Utah:

Lots 2, 3, 4, 6, 7, 8, 9, 11, 12, 13, and 14, and Parcels A and C, WOODS CROSSING COMMERCIAL SUBDIVISION, according to the official plat thereof recorded April 12, 2016 as Entry No. 2931694 in the official records of the Davis County Recorder, State of Utah.

**EXHIBIT E
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND GRANT OF EASEMENTS**

(Subdivision Plat)

[Subdivision Plat follows on next three pages]

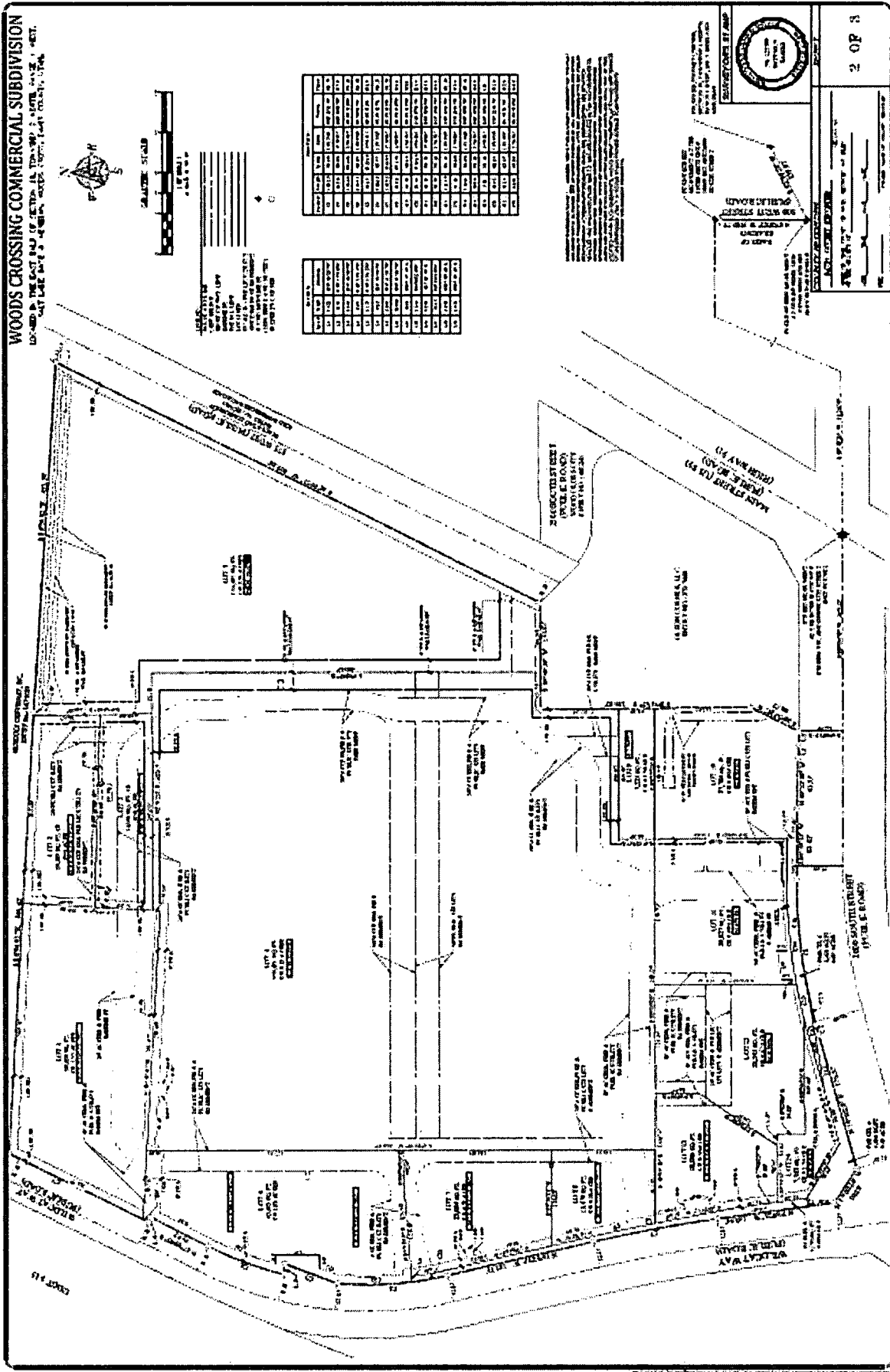


Exhibit E
Page 3 of 4

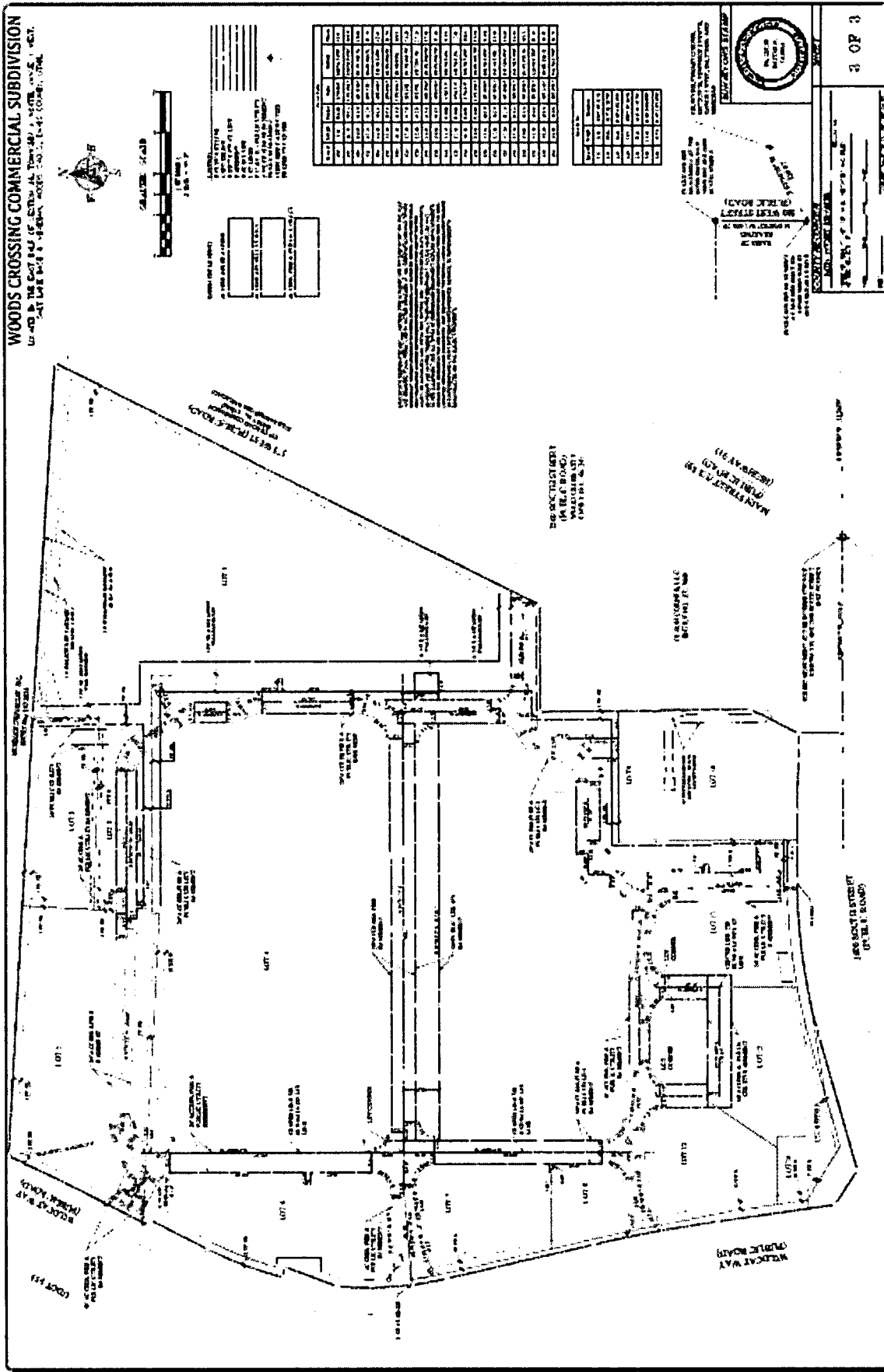


Exhibit E
Page 4 of 4