

WHEN RECORDED, RETURN TO:

SNELL & WILMER L.L.P.
ATTENTION: WADE BUDGE
15 WEST SOUTH TEMPLE, SUITE 1200
SALT LAKE CITY, UTAH 84101

AFFECTS PARCEL NOS. Portion of
00-0020-9320

EASEMENTS WITH
COVENANTS AND RESTRICTIONS AFFECTING LAND

THESE EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND (“ECRs”) are made and entered into as of the 11th day of September, 2014, between **HSC HEBER CITY, LLC**, an Alabama limited liability company (“**HSC**”) and **WELLS FARGO BANK, N.A.** (“**Wells Fargo**”). HSC and Wells Fargo are sometimes referred to individually as “**Party**” and collectively as the “**Parties.**”

RECITALS

The following Recitals are a material part of these ECRs.

A. Concurrently herewith, Wells Fargo has sold to HSC and HSC has acquired from Wells Fargo, a parcel of real property located in Heber City, Wasatch County, State of Utah, which is approximately 3.53 acres in size and is further described on **Exhibit “A”** attached hereto and incorporated herein by reference (the “**HSC Parcel**”). The HSC Parcel includes the Entry Drive, as defined below.

B. Wells Fargo has retained ownership of a parcel of real property adjacent to the HSC Parcel consisting of approximately 3.72 acres as further described on **Exhibit “B”** attached hereto and incorporated herein by reference (the “**WF Parcel**”).

C. HSC intends to develop the HSC Parcel.

D. As a condition of HSC’s acquisition of the HSC Parcel, HSC and Wells Fargo have agreed to enter into these ECRs in order to, among other things, provide for HSC’s construction, operation, and maintenance of the Entry Drive (defined below), provide access and use of the Entry Drive for the benefit of the WF Parcel, and restrict the use of the WF Parcel for

the benefit of the HSC Parcel, all as more fully set forth below. As such, HSC and Wells Fargo have agreed to subject the HSC Parcel and the WF Parcel to the easements, covenants, and restrictions as set forth herein.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree, covenant, and declare as follows:

1. **Development of Entry Drive.** Concurrently with HSC's development of the HSC Parcel, HSC shall, at its own cost and expense, construct all of the street, curb, gutter, parking, landscape, and sidewalk improvements on that area to be known as 400 East Street from the intersection of 1200 South Street to the south boundary line of the HSC Parcel (the "**Entry Drive**"), as depicted on the site plan (the "**Site Plan**") attached hereto as **Exhibit "C"** and incorporated herein by reference. The Entry Drive shall be developed in accordance with HSC's plans and specifications, but at a minimum shall consist of improvements required and necessary for use of the Entry Drive by tractor-trailers and other delivery vehicles.

2. **Grant of Easements; Access, Ingress and Egress.**

(a) **Access, Ingress and Egress.** HSC hereby grants to Wells Fargo, its successors and assigns, all future owners, lessees, or occupants of the WF Parcel or any part thereof and to their respective agents, customers, invitees, licensees, lessees, and employees, a non-exclusive easement ("**Access Easement**") on, over, and across the Entry Drive and the areas adjacent to the Entry Drive outlined and described as "Proposed Easement Area" on the Site Plan attached hereto as Exhibit C (the "**Easement Area**"). The Easement Area is more particularly described on **Exhibit "D"** attached hereto and incorporated herein by reference. The Access Easement shall be appurtenant to the WF Parcel and burden the Easement Area. The Access Easement shall be perpetual and for pedestrian and vehicular ingress and egress on, over, and across the Easement Area. The Access Easement does not include any parking rights. Notwithstanding the foregoing or any provision of these ECRs to the contrary, Wells Fargo and its successors and/or assigns shall have no right to use the Access Easement unless and until Wells Fargo shall be in compliance with the insurance requirements set forth in Paragraph 6(a) below.

(b) **Utility.** HSC hereby grants to Wells Fargo, its successors and assigns, all future owners, lessees, or occupants of the WF Parcel or any part thereof and to their respective agents, customers, invitees, licensees, lessees, and employees, a non-exclusive easement ("**Utility Easement**") under the northernmost twenty (20) feet of the Easement Area. The Utility Easement shall be appurtenant to the WF Parcel and burden the Easement Area. The Utility Easement shall be perpetual and for the benefit of the WF Parcel, and no other parcel. The Utility Easement does not include any public rights of use and any construction or maintenance of utilities within the Utility Easement must be coordinated with HSC or its successors or assigns so that Wells Fargo's use of the Utility Easement will not interfere with the use of the Easement Area by HSC or any tenant, subtenant or licensee of the HSC Parcel. Notwithstanding the foregoing or any provision of these ECRs to the contrary, Wells Fargo and its successors and/or assigns shall have no right to use the Utility Easement unless and until Wells Fargo shall be in compliance with the insurance requirements set forth in Paragraph 6(a) below.

3. **No Interference.** Except to the extent reasonably necessary (on a temporary basis) for reasonable construction, for repair and maintenance, for traffic regulation and control or to prevent a public dedication or the accrual of any rights to the public, no fence, gate, wall, barricade or other obstruction, whether temporary or permanent in nature, which limits or impairs the free and unimpeded use of the easements granted in these ECRs shall be constructed or erected, nor shall any Party in any other manner obstruct or interfere with the use of such rights-of-way and easements.

4. **Maintenance of Easement Area.**

(a) After initial construction and completion of the Entry Drive, subject to Paragraph 4(b) below, the Easement Area shall at all times be properly surfaced with asphalt, concrete or other similar material, and HSC shall at its own cost and expense maintain or cause to be maintained the Easement Area in a reasonably good, clean and safe condition and repair, reasonably free from debris, rubbish, snow, ice and other materials.

(b) HSC and Wells Fargo acknowledge that the owner of the WF Parcel may at some point develop the WF Parcel. HSC shall be solely responsible for all costs associated with any maintenance, repair or reconstruction performed to the Easement Area until improvements are placed or constructed on the WF Parcel. Upon such time that any improvements are placed or constructed upon the WF Parcel, HSC shall thereafter continue to perform such maintenance, repair and reconstruction with respect to the Easement Area and shall have the right to seek reimbursement from the owner of the WF Parcel for thirty-five (35) percent of the actual, reasonable and documented costs incurred for such maintenance, repair and/or replacement. The owner of the WF Parcel shall reimburse HSC for such maintenance, repair and/or replacement costs within thirty (30) days from receipt of written notice from HSC evidencing such actual, reasonable and documented costs. In addition to the provisions of Paragraph 7 below, such right of reimbursement shall, without further act, be deemed to constitute a lien against the WF Parcel, enforceable in accordance with the laws of State of Utah for the unpaid amount and all actual and reasonable collection costs and expenses related thereto. Such lien shall be subordinate to the interest of any mortgagee of the WF Parcel, irrespective of when their interest attached, and may be enforced and foreclosed in a suit or action brought in any court of competent jurisdiction.

(c) Notwithstanding the foregoing, if HSC, Wells Fargo or any tenants, subtenants, assignees and licensees of such party, unilaterally damages any portion of the Easement Area, or if HSC or Wells Fargo performs for its sole benefit any construction, maintenance, repair or reconstruction to any utility lines or related facilities located within the Easement Area, said party causing such damage, construction, maintenance, repair or reconstruction shall (i) be solely responsible for the performance of, and all costs associated with, the maintenance, repair and reconstruction performed, (ii) have the obligation to perform the maintenance, repair or reconstruction during the times and in such a manner as to minimize any interference with the operation and use of the Easement Area, (iii) not block access to the HSC Parcel or the WF Parcel during business hours, (iv) use reasonable efforts to minimize construction dust and shall not allow any construction debris to be placed on the HSC Parcel or the WF Parcel, and (v) restore the Easement Area to its original condition, including but not limited to the driveway, curbing and striping located thereon.

5. **Use; Restrictions.** For so long as Tractor Supply Company (“TSC”), its subsidiaries, affiliates, successors and assigns, shall lease or own all or any portion of the HSC Parcel for use as a farm and ranch retail store, Wells Fargo and its tenants and subtenants of the WF Parcel (the “WF Parcel Operators”) shall not sell, lease, rent, occupy or allow any portion of the WF Parcel to be occupied, for the purpose of selling or offering for sale those items which support a farm/ranch/rural/do-it-yourself lifestyle including: (a) tractor and equipment repair and maintenance supplies; (b) farm fencing; (c) livestock feeding systems; (d) feed and health/maintenance products for pets or livestock; (e) western wear, outdoor work wear (similar to and specifically including Carhartt products) and boots; (f) horse and rider tack and equipment; (g) bird feed and housing and related products; (h) lawn and garden equipment (including but not limited to, push/riding mowers, mow-n-vacs, garden carts, snow blowers, chippers and shredders, wheel barrows, and log splitters); (i) hardware; (j) power tools; (k) welders and welding supplies; (l) open and closed trailers; (m) 3-point equipment; and/or, (n) truck accessories and trailer accessories (including truck tool boxes, and trailer hitches and connections) (the “Restricted Products”). This restriction shall not prevent the WF Parcel Operators from selling Restricted Products as an incidental part of its other and principal business so long as the total number of square feet devoted by such WF Parcel Operators to the display for sale of Restricted Products does not exceed five percent (5%) of the total number of square feet of space used for merchandise display by such WF Parcel Operators (including one-half (1/2) of the aisle space adjacent to any display area).

6. **Insurance and Indemnification.** The following provisions in this Section 6 shall only apply after the owner of the WF Parcel first commences development of the WF Parcel or first uses the Easement Area for any purpose, and not before.

(a) HSC, Wells Fargo and their respective successors and assigns in ownership of all or any portion of the HSC Parcel and the WF Parcel shall at all times carry and maintain, at their respective sole cost and expense, commercial general liability insurance on an occurrence form, including contractual liability, personal and bodily injury, and property damage insurance, with a combined single limit in an amount of not less than \$2,000,000 per occurrence and an aggregate limit of not less than \$4,000,000, which shall name the owner of the other parcel as additional insureds under such insurance policy and provide a certificate of insurance evidencing such coverage upon written request. Such insurance shall contain a clause stating that there shall be no reduction, cancellation, or non-renewal of coverage without giving the owner of the other parcel thirty (30) days prior written notice. Such insurance shall also be issued by insurers having an A.M. Best rating of at least A- VII, be endorsed to provide that the insurance shall be primary to and not contributory to any similar insurance carried by such owners, and shall contain a severability of interest clause. The obligations herein shall also apply to any tenants, subtenants and licensees of the HSC Parcel and the WF Parcel. So long as TSC, its subsidiaries, affiliates, successors and assigns, shall lease all or any portion of the HSC Parcel, the owner and each tenant, subtenant and licensee of the WF Parcel shall name TSC as an additional insured to the insurance policies required herein and comply with and provide all information to TSC required in this Paragraph 6(a) to the same extent such compliance is afforded to the owner of the HSC Parcel.

(b) HSC, Wells Fargo and respective successors and assigns in ownership of all or any portion of the HSC Parcel and the WF Parcel, and any tenants, subtenants and

licensees of all or any portion of the HSC Parcel and the WF Parcel shall each defend, indemnify and save harmless the other and each of their respective directors, officers, partners, employees, representatives, agents, tenants and assignees from all claims, costs, damages, judgments, expenses, fines, liabilities and losses (including reasonable attorneys' fees, paralegal fees, expert witness fees, consultant fees, and other costs of defense) arising from or as a result of (i) any injury, including death, loss or damage of any kind whatsoever to any person or entity or to the property of any person or entity as shall occur relative to the rights or obligations granted hereunder that is caused by the acts or omissions of the indemnifying Party, its agents, employees, tenants or contractors, or (ii) the indemnifying Party's failure to perform its obligations under these ECRs. The indemnities provided herein are ones of first defense and payment, not of reimbursement or surety and shall in no way be limited by or to the amount of insurance carried. The obligations of this section shall survive the termination of these ECRs.

7. **Remedies.** In the event that any Party shall fail to perform its obligations under these ECRs or otherwise breach the terms of these ECRs, any non-defaulting Party may notify the defaulting Party and shall specify the breach. If such failure or breach is material and is not cured within thirty (30) days after receipt of such notice, then such non-defaulting Party shall have the right to cure the failure or breach, and recover all actual and reasonable costs and expenses related thereto from the defaulting Party. Notwithstanding the foregoing, in the event that the failure or breach creates an imminent danger of damage to persons or properties, or jeopardizes the access to any portion of the HSC Parcel or the WF Parcel, no notice shall be required prior to the non-defaulting Party commencing such work to effect a cure. Any monetary amounts due and payable to the non-defaulting Party pursuant to these ECRs shall be paid within thirty (30) days from the date the defaulting Party is notified of the amounts due. It is expressly agreed that no breach of these ECRs shall entitle any party hereto to cancel, rescind or otherwise terminate these ECRs. Such limitation, however, shall not affect in any manner any other rights or remedies which such Party may have hereunder by reason of such breach.

8. **No Public Dedication.** Nothing in these ECRs shall be used or construed as a grant of any rights to the public or any public or governmental authority or agency, it being the intention of HSC, Wells Fargo and their respective successors and assigns in ownership of the HSC Parcel and the WF Parcel that these ECRs shall be strictly limited to and for the purposes herein expressed, solely for the benefit of HSC and Wells Fargo. Nothing contained in these ECRs, expressed or implied, shall confer upon any person other than HSC and Wells Fargo any rights or remedies under or by reason of these ECRs.

9. **Running of Easements with the Land.** The easements, restrictions, benefits and obligations hereunder shall create benefits and servitudes running with the land and the HSC Parcel and the WF Parcel shall be held, sold and conveyed together with and subject to the terms and conditions of these ECRs. These ECRs shall bind and inure to the benefit of the owners of the parcels described herein, their respective heirs, representatives, lessees, successors and assigns. If the WF Parcel is hereafter further divided, whether by further subdivision, lot split, separation of ownership or by lease or other means, all parts of the WF Parcel shall enjoy the benefit of the easements, covenants, and restrictions hereby created. The singular number includes the plural and the masculine gender includes the feminine and neuter. All references to HSC and Wells Fargo herein shall include such Party's respective successors and assigns in ownership.

10. **Constructive Notice and Acceptance.** Every person or legal entity who or which will hereafter own or acquire any right, title, interest or estate in or to any portion of the HSC Parcel or the WF Parcel, whether or not such interest is reflected upon the public records of Wasatch County, Utah, will be conclusively deemed to have consented and agreed to each and every term and condition contained herein, whether or not any reference to these ECRs is contained in the document or instrument pursuant to which such person or legal entity will have acquired such right, title, interest or estate in the HSC Parcel or the WF Parcel or any portion thereof.

11. **Amendments.** These ECRs (including exhibits) may be modified or canceled only by a document executed by the then owners of both the HSC Parcel and the WF Parcel.

12. **Miscellaneous.** These ECRs may be executed in one or more counterparts, each of which, when taken together, constitutes the original. If any term, provision or condition contained in these ECRs shall to any extent be deemed invalid or unenforceable, the remainder of these ECRs shall not be affected thereby, and each remaining term, provision and condition of these ECRs shall be valid and enforceable to the fullest extent permitted by law.

13. **Non-Merger.** It is the express intent of the Parties that the rights and obligations created by these ECRs shall not be subject to the doctrine of merger.

14. **Attorney Fees.** In the event of any action to enforce the provisions of these ECRs, the prevailing party shall be entitled to receive its costs and reasonable attorney fees.

15. **Construction.** These ECRs shall be construed in accordance with the laws of the State of Utah and both Parties shall be considered the drafters of these ECRs.

16. **Headings.** The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

17. **Entire Agreement.** These ECRs constitute the entire agreement between the Parties. The Parties agree that there are no other agreements related to the subjects of these ECRs that exist between them as of the date hereof.

[Remainder of Page Intentionally Omitted; Signatures Follow]

IN WITNESS WHEREOF, the parties hereto have executed these ECRs as of the day and year first written above.

HSC:

HSC HEBER CITY, LLC
an Alabama limited liability company

By: [Signature]
Name: Haymes S. Snedeker
Title: Member

WELLS FARGO:

WELLS FARGO BANK, N.A.

By: _____
Name: _____
Title: _____

Alabama _____)
Baldwin _____) : ss.

The foregoing instrument was acknowledged before me this 4 day of September, 2014, by Haymes S. Snedeker, the member of HSC HEBER CITY, LLC, an Alabama limited liability company, for and on behalf of said company.

SEAL

ALABAMA STATE AD LARG
JULIA BALLARD
NOTARY PUBLIC
COMMISSION EXPIRES
JUN 18, 2018
_____) : ss.

[Signature]
NOTARY PUBLIC

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by _____, the _____ of WELLS FARGO BANK, N.A., for and on behalf of said company.

SEAL

NOTARY PUBLIC

IN WITNESS WHEREOF, the parties hereto have executed these ECRs as of the day and year first written above.

HSC:

HSC HEBER CITY, LLC
an Alabama limited liability company

By: _____
Name: _____
Title: _____

WELLS FARGO:

WELLS FARGO BANK, N.A.

By: *Dawn Murphy*
Name: *Dawn Murphy*
Title: *Vice President*

_____) : ss.
_____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by _____, the _____ of HSC HEBER CITY, LLC, an Alabama limited liability company, for and on behalf of said company.

SEAL

NOTARY PUBLIC

California) : ss.
San Diego)

The foregoing instrument was acknowledged before me this *9* day of *Sept.*, 2014, by *Dawn Murphy*, the *Vice President* of WELLS FARGO BANK, N.A., for and on behalf of said company.

SEAL

[Signature]
NOTARY PUBLIC

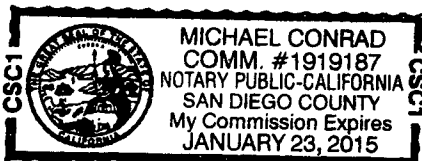


Exhibit A to ECRs

[HSC Parcel Description]

A PARCEL OF LAND SITUATE IN THE NORTHWEST QUARTER OF SECTION 08, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, LOCATED IN HEBER CITY, COUNTY OF WASATCH, STATE OF UTAH, SAID PARCEL BEING ALL OF LOT 1, HEBER GATEWAY PLAZA II, RECORDED September 10, 2014 IN WASATCH COUNTY, UTAH, AS ENTRY NO. 404396, IN BOOK 1112, AT PAGE 666.

Exhibit B to ECRs

[WF Parcel Description]

A PARCEL OF LAND SITUATE IN THE NORTHWEST QUARTER OF SECTION 08, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, LOCATED IN HEBER CITY, COUNTY OF WASATCH, STATE OF UTAH, SAID PARCEL BEING ALL OF LOT 2, HEBER GATEWAY PLAZA II, RECORDED September 10, 2014, IN WASATCH COUNTY, UTAH, AS ENTRY NO. 404346, IN BOOK 112, AT PAGE 666.

Exhibit C to ECRs

[Site Plan]

[see attached]

Exhibit D to ECRs

[Description of Easement Area]

A STRIP OF 47.00 FEET IN WIDTH SITUATE IN THE NORTHWEST QUARTER OF SECTION 08, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, LOCATED IN HEBER CITY, COUNTY OF WASATCH, STATE OF UTAH AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF 1200 SOUTH STREET, SAID POINT BEING SOUTH 89° 58' 07" EAST, ALONG THE SECTION LINE, A DISTANCE OF 2239.36 FEET, AND SOUTH 0° 01' 53" WEST, PERPENDICULAR TO SAID SECTION LINE, A DISTANCE OF 59.06 FEET, FROM THE WASATCH COUNTY BRASS CAP MONUMENT MARKING THE NORTHWEST CORNER OF SAID SECTION 08; AND RUNNING THENCE SOUTH 0° 14' 46" EAST, ALONG THE LOT LINE COMMON TO LOTS 1 AND 2, HEBER GATEWAY PLAZA II SUBDIVISION, A DISTANCE OF 381.61 FEET, TO THE SOUTHERLY LINE THEREOF; THENCE NORTH 89° 55' 29" WEST, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 47.00 FEET; THENCE DEPARTING SAID SOUTHERLY LINE BEARING NORTH 0° 14' 46" WEST, A DISTANCE OF 381.53 FEET, TO THE AFORESAID SOUTH LINE OF 1200 SOUTH STREET; THENCE NORTH 89° 58' 49" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 47.00 FEET, TO THE POINT OF BEGINNING.

CONTAINS: 17,933 SQUARE FEET, OR 0.413 OF AN ACRE.