

RECORDED

MAY 03 2005

CITY RECORDER

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05/06/2005 04:27 PM \$59.00
Book - 9128 Pg - 466-480
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
LANDMARK TITLE
BY: SEM, DEPUTY - MI 15 P.

15-21

WHEN RECORDED, PLEASE RETURN TO:

REDEVELOPMENT AGENCY OF SALT LAKE CITY
Room 418, City & County Building
451 South State Street
Salt Lake City, Utah 84111
Attn: Executive Director

FIRST AMENDMENT TO NORTH TEMPLE FRONTAGE ROAD GRANT OF EASEMENT

THIS FIRST AMENDMENT TO NORTH TEMPLE FRONTAGE ROAD GRANT OF EASEMENT (this "Amendment") is made this 3rd day of April, 2005, by the undersigned fee owners and controlling associations of the Retail Parcels and Office Parcels (collectively, "Owners"), Redevelopment Agency of Salt Lake City, a public agency organized and existing under the Redevelopment Agencies Act ("Agency"), and Salt Lake City Corporation, a municipal corporation of the State of Utah (the "City"). Capitalized terms not otherwise defined herein shall have the same meaning given to such terms in the Easement Agreement (defined below).

RECITALS:

A. Gateway Associates, Ltd., a Utah limited partnership ("Gateway Associates"), Agency and City entered into that certain North Temple Frontage Road Grant of Easement dated December 23, 1999, and recorded in the office of the Salt Lake County Recorder on January 5, 2000 as Entry No. 7553965 in Book 8336, Pgs. 1263-1283 (the "Easement Agreement").

B. The Owners are the successors in interest of Gateway Associates to the real property which is the subject of the Easement Agreement.

C. Exhibit A and Exhibit D to the Easement Agreement contemplate that upon creation of certain condominiums on the Retail Parcels and Office Parcels, the legal descriptions of such parcels would be revised and updated to reflect the creation of such condominium units. Such condominium units have been created by mesne documents of record.

5

D. Pursuant to separate approvals of the City and Agency, the approved use of the Hotel Parcel has been modified such that the Parcel identified on Exhibit D to the Easement Agreement as the "Hotel Parcel" (identified on Exhibit A-1 to this Amendment as "LOT 6") is no longer intended for use for hotel purposes and now constitutes an additional "Retail Parcel."

E. The undersigned desire to amend the Easement Agreement as provided herein.

AGREEMENT:

FOR THE SUM OF TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the undersigned agree as follows:

1. Amendment to Recitals.

- (a) Recital A is amended by deleting the words "and shown on the Site Plan attached as Exhibit "B" (the "Site Plan")".
- (b) Recital B is amended by deleting the words "as depicted on the Site Plan."
- (c) Recital C is amended by inserting, following the words "by reference," the following: "as shown on that certain ALTA/ACSM Land Title Survey dated April 29, 2005, prepared by McNeil Engineering and Land Surveying and identified as Project No. 250155, a copy of which has been filed with the Salt Lake County Surveyor's Office (the "Survey")."

2. Amendment to Exhibit A, Exhibit B and Exhibit D of the Easement Agreement.

Exhibit "A" to the Easement Agreement, which sets forth the legal descriptions of the Retail Parcels, and Exhibit "D" to the Easement Agreement, which sets forth the legal descriptions of the Hotel Parcel and Office Parcels, are hereby amended and replaced in their entirety with Exhibit A-1 and Exhibit D-1, respectively, attached hereto and incorporated herein by this reference. Exhibit B to the Easement Agreement is hereby deleted. All references to "Exhibit A" or "Exhibit D" in the Easement Agreement are hereby deleted and replaced in their entirety with "Exhibit A-1" and "Exhibit D-1," respectively.

3. Elimination of the Hotel Parcel. All references to the "Hotel Parcel" included in the Easement Agreement are hereby deleted in their entirety. The Retail Parcel identified on Exhibit A-1 as LOT 6 shall for all purposes of the Easement Agreement constitute a "Retail Parcel."

4. Amendment to Owner's Notice Address. The notice address for Owners set forth in Section 6 of the Easement Agreement is hereby amended and replaced as follows:

If to Owners: Gateway Associates, Ltd.
Gateway Retail Holdings, L.C.
Gateway Block A Condominium Association, Inc.
Gateway Block B Condominium Association, Inc.
Gateway Block C-1 Condominium Association, Inc.
Gateway Block C-2 Condominium Association, Inc.

C/O The Boyer Company, L.C.
90 South 400 West, Suite 200
Salt Lake City, Utah 84101

5. No Consents Necessary. Each of the Owners, Agency and City hereby represents and warrants that it does not need to obtain the consent of any other party in order to execute this First Amendment, except in the case of the Owners, the consent of Wells Fargo Bank, National Association, which is provided below.

6. Miscellaneous. Except as expressly modified by the provisions of this First Amendment, the Easement Agreement shall continue in full force and effect. In the event any inconsistencies exist between the terms of this First Amendment and the Easement Agreement, this First Amendment shall control. The deletion of an entire Section of the Easement Agreement pursuant to this Amendment shall not result in any renumbering of the remaining Sections of the Easement Agreement. The individuals who execute this First Amendment represent and warrant that they are duly authorized to execute this First Amendment on behalf of each of the Owners, Agency and City, as the case may be, and that the parties named are all of the parties and proper parties, and that no other signature, act or authorization is necessary to bind such entities to the provisions of this First Amendment. This First Amendment may be executed in counterpart originals, each of which when duly executed and delivered shall be deemed an original and all of which when taken together shall constitute one instrument. Executed originals (or counterpart originals) of this First Amendment may be delivered by facsimile transmission, which facsimile transmission copies shall be deemed originals.

(signature pages follow)


IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the day and year first above written.

OWNERS:

GATEWAY ASSOCIATES, LTD., a Utah limited partnership, by its general partner


BOYER GATEWAY, L.C., a Utah limited liability company, by its Manager

THE BOYER COMPANY, L.C., a Utah limited liability company


By: 
Name: STEVEN B. OSTLER
Title: Manager

GATEWAY RETAIL HOLDINGS, L.C., a Utah limited liability company, by its manager


GATEWAY RETAIL MANAGER, INC, a Utah corporation

By: 
Name: STEVEN B. OSTLER
Title: President

GATEWAY BLOCK A CONDOMINIUM ASSOCIATION, INC., a Utah non-profit corporation

By: 
Name: STEVEN B. OSTLER
Title: Secretary/Treasurer

GATEWAY BLOCK B CONDOMINIUM ASSOCIATION, INC., a Utah non-profit corporation

By: 
Name: STEVEN B. OSTLER
Title: Secretary/Treasurer

**GATEWAY BLOCK C-1 CONDOMINIUM
ASSOCIATION, INC., a Utah non-profit corporation,**

By: *2000*
Name: *STAN B. OSTLER*
Title: *Secretary/Treasurer*

**GATEWAY BLOCK C-2 CONDOMINIUM
ASSOCIATION, INC., a Utah non-profit corporation,**

By: *2000*
Name: *STAN B. OSTLER*
Title: *Secretary/Treasurer*

AGENCY:

REDEVELOPMENT AGENCY OF SALT LAKE CITY

By: [Signature]
Ross C. Anderson
Its: Chief Administrative Officer

By: [Signature]
David J. Oka
Its: Executive Director

Approved as to legal form:

Jones, Waldo, Holbrook & McDonough, P.C.

By: [Signature]

CITY:

RECORDED SALT LAKE CITY CORPORATION

MAY 03 2005

By: [Signature]
CITY RECORDER Ross C. Anderson, Mayor

Attest and Countersign:

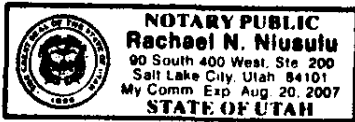
[Signature]
Christina Meeker
Chief Deputy City Recorder



Approved as to form by: [Signature] 4/21/05

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 21st day of April, 2005, by Steven B. Oster, a manager of The Boyer Company, L.C., which is the manager of Boyer Gateway, L.C., which is the general partner of Gateway Associates, Ltd.



Rachael N. Niusulu
Notary Public

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

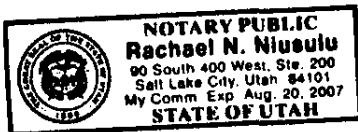
The foregoing instrument was acknowledged before me this 21st day of April, 2005, by Steven B. Oster, the President of Gateway Retail Manager, Inc., which is the manager of Gateway Retail Holdings, L.C.



Rachael N. Niusulu
Notary Public

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

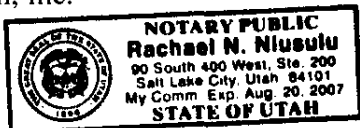
The foregoing instrument was acknowledged before me this 21st day of April, 2005, by Steven B. Oster, the Secretary/Treasurer of Gateway Block A Condominium Association, Inc.



Rachael N. Niusulu
Notary Public

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 21st day of April, 2005, by Steven B. Oster, the Secretary/Treasurer of Gateway Block B Condominium Association, Inc.



Rachael N. Niusulu
Notary Public

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

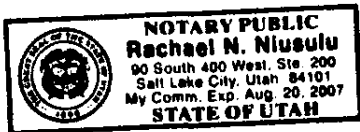
The foregoing instrument was acknowledged before me this 21st day of April, 2005, by Steven B. Ostler, the Secretary/Treasurer of Gateway Block C-1 Condominium Association, Inc.



Rachael N. Niusulu
Notary Public

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

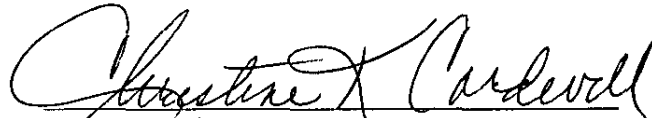
The foregoing instrument was acknowledged before me this 21st day of April, 2005, by Steven B. Ostler, the Secretary/Treasurer of Gateway Block C-2 Condominium Association, Inc.



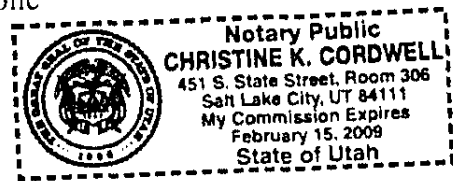
Rachael N. Niusulu
Notary Public

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

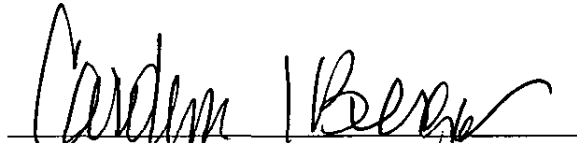
The foregoing instrument was acknowledged before me this 27 day of April, 2005, by Ross C. Anderson, Chief Administrative Officer of the Redevelopment Agency of Salt Lake City, a public agency.

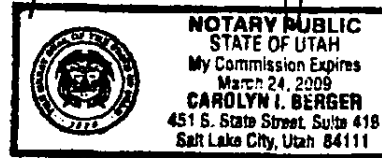

Notary Public

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)



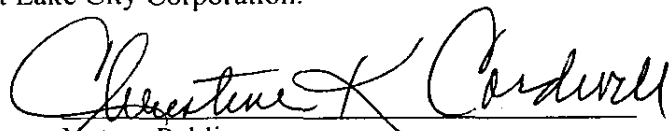
The foregoing instrument was acknowledged before me this 25 day of April, 2005, by David J. Oka, Executive Director of the Redevelopment Agency of Salt Lake City, a public agency.

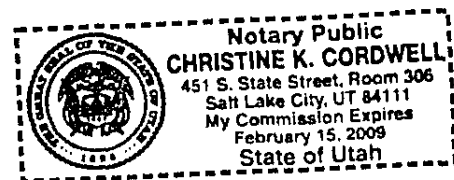

Notary Public



STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 27 day of April, 2005, by Ross C. Anderson, the Mayor of the Salt Lake City Corporation.


Notary Public



**CONSENT AND ACKNOWLEDGMENT OF
WELLS FARGO BANK, NATIONAL ASSOCIATION**

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association ("Wells Fargo"), does hereby acknowledge and consent to the foregoing First Amendment to North Temple Frontage Road Grant of Easement. Wells Fargo does hereby subordinate the lien of (a) that certain Deed of Trust, dated February 14, 2001 the ("Deed of Trust"), executed by Licensor (as defined therein), as Trustor, in favor of Landmark Title Company, as Trustee, in favor of Wells Fargo, as Beneficiary, and recorded in the office of the Salt Lake County Recorder on March 7, 2001 as Entry No. 7838029 in Book 8431 at Page 8788; and (b) that certain UCC Financing Statement (the "Financing Statement"), recorded on March 7, 2001 as Entry No. 7838030 in Book 8431 at Page 8811, to the rights of Licensee (as defined in the Deed of Trust) and its successors and assigns under this Agreement. Such subordination is solely intended to ensure that after any foreclosure of the Deed of Trust or pursuant to the Financing Statement, City and Agency, and their successors and assigns, shall have the right to use the easements granted pursuant to the Easement Agreement amended by this Amendment. Such subordination shall not be construed as a release of the collateral secured by the Deed of Trust or Financing Statement or a subordination of the Deed of Trust or Financing Statement as to any other recorded interest in the Retail Parcels and Office Parcels.

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association

By: [Signature]
Name: Douglas Checketts
Title: Assistant Vice President

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

On this 5th day of May, 2005, before me personally appeared Douglas Checketts, who acknowledged himself to be the Assistant Vice President of Wells Fargo Bank National Association, and being authorized to do so, he executed the foregoing instrument for the purposes therein contained, by signing the name of the company, by himself as such officer.

[Signature]
NOTARY PUBLIC

KEVEN M. ROWE
NOTARY PUBLIC - STATE OF UTAH
170 SOUTH MAIN, SUITE 1500
SALT LAKE CITY UT 84101
My Comm. Exp. 11/30/2006

Exhibit A-1

Revised Legal Description of Retail Parcels

RETAIL UNITS 1-4, contained within the Block A Condominium Project as the same are identified in the Record of Survey Map recorded in the office of the Salt Lake County Recorder on February 26, 2001, as Entry No. 7828968 (as said Record of Survey Map shall have heretofore been amended or supplemented, including that certain amended Record of Survey Map, recorded in the office of the Salt Lake County Recorder on December 6, 2002 as Entry No. 8448732, in Book "2002P" at Page 532 of Plats) (the "Block A Map") and in the Declaration of Condominium for Gateway Block A Condominium Project, recorded in the office of the Salt Lake County Recorder on February 26, 2001, as Entry No. 7828969, in Book No. 8427 at Page 4676-4750 (as said Block A Declaration may have heretofore been amended or supplemented), TOGETHER WITH the undivided Ownership interest in said Block A Condominium's Common Elements that is appurtenant to said Units as more particularly described in the Block A Declaration.

Tax Parcel Nos.: 15-01-177-002-0000, 15-01-177-003-0000, 15-01-177-010-0000 and 15-01-177-011-0000

RETAIL UNITS 1-4, contained within the Block B Condominium Project as the same are identified in the Record of Survey Map recorded in the office of the Salt Lake County Recorder on February 26, 2001, as Entry No. 7828970 (as said Record of Survey Map shall have heretofore been amended or supplemented) (the "Block B Map") and in the Declaration of Condominium for Gateway Block B Condominium Project, recorded in the office of the Salt Lake County Recorder on February 26, 2001, as Entry No. 7828971, in Book No. 8427 at Page 4752-4829 (as said Block B Declaration may have heretofore been amended or supplemented), TOGETHER WITH the undivided Ownership interest in said Block B Condominium's Common Elements that is appurtenant to said Units as more particularly described in the Block B Declaration.

Tax Parcel Nos.: 15-01-131-001-0000, 15-01-131-002-0000, 15-01-131-003-0000 and 15-01-131-004-0000

RETAIL UNIT, contained within the Block C1 Condominium Project as the same is identified in the Record of Survey Map recorded in the office of the Salt Lake County Recorder on December 27, 2000, as Entry No. 7788087, in Book 2000P at Page 364 of Plats (as said Record of Survey Map shall have heretofore been amended or supplemented) (the "Block C1 Map") and in the Declaration of Condominium for Gateway Block C1 Condominium Project, recorded in the office of the Salt Lake County Recorder on April 27, 2001, as Entry No. 7881708, in Book No. 8450 at Page 4761-4842-A (as said Block C1 Declaration may have heretofore been amended or supplemented), TOGETHER WITH the undivided Ownership interest in said Block C1 Condominium's Common Elements that is appurtenant to said Unit as more particularly described in the Block C1 Declaration.

Tax Parcel No.: 15-01-185-001-0000

RETAIL PARCELS (CONT.):

RETAIL UNIT 1, contained within the Block C2 Condominium Project as the same is identified in the Record of Survey Map recorded in the office of the Salt Lake County Recorder on December 27, 2000, as Entry No. 7788089, in Book 2000P at Page 365 of Plats (as said Record of Survey Map shall have heretofore been amended or supplemented) (the "Block C2 Map") and in the Declaration of Condominium for Gateway Block C2 Condominium Project, recorded in the office of the Salt Lake County Recorder on April 27, 2001, as Entry No. 7881709, in Book No. 8450 at Page 4843-4926 (as said Block C2 Declaration may have heretofore been amended or supplemented), TOGETHER WITH the undivided Ownership interest in said Block C2 Condominium's Common Elements that is appurtenant to said Unit as more particularly described in the Block C2 Declaration.

Tax Parcel No.: 15-01-130-001-0000

LOT 3, Boyer Gateway Subdivision Plat, recorded in the office of the Salt Lake County Recorder on February 23, 2001, as Entry No. 7828967, in Book 2001P at Page 37 of Plats.

Tax Parcel No.: 08-36-376-016-0000

LOT 4, Boyer Gateway Subdivision Plat, recorded in the office of the Salt Lake County Recorder on February 23, 2001, as Entry No. 7828967, in Book 2001P at Page 37 of Plats.

Tax Parcel No.: 08-36-376-015-0000

LOT 6, Boyer Gateway Subdivision Plat, recorded in the office of the Salt Lake County Recorder on February 23, 2001, as Entry No. 7828967, in Book 2001P at Page 37 of Plats.

Tax Parcel No.: 08-36-376-013-0000

LOT 7, Boyer Gateway Subdivision Plat, recorded in the office of the Salt Lake County Recorder on February 23, 2001, as Entry No. 7828967, in Book 2001P at Page 37 of Plats.

Tax Parcel No.: 08-36-376-012-0000

Exhibit B

Deleted

Exhibit D-1

Revised Legal Description of Office Parcels

OFFICE BUILDING PARCELS:

OFFICE UNIT 1, contained within the Block A Condominium Project as the same is identified in the Record of Survey Map recorded in the office of the Salt Lake County Recorder on February 26, 2001, as Entry No. 7828968 (as said Record of Survey Map shall have heretofore been amended or supplemented, including that certain amended Record of Survey Map, recorded in the office of the Salt Lake County Recorder on December 6, 2002 as Entry No. 8448732, in Book "2002P" at Page 532 of Plats) (the "Block A Map") and in the Declaration of Condominium for Gateway Block A Condominium Project, recorded in the office of the Salt Lake County Recorder on February 26, 2001, as Entry No. 7828969, in Book No. 8427 at Page 4676-4750 (as said Block A Declaration may have heretofore been amended or supplemented), TOGETHER WITH the undivided ownership interest in said Block A Condominium's Common Elements that is appurtenant to said Unit as more particularly described in the Block A Declaration.

Tax Parcel No. 15-01-177-006-000

OFFICE UNIT 1, contained within the Block B Condominium Project as the same is identified in the Record of Survey Map recorded in the office of the Salt Lake County Recorder on February 26, 2001, as Entry No. 7828970 (as said Record of Survey Map shall have heretofore been amended or supplemented) (the "Block B Map") and in the Declaration of Condominium for Gateway Block B Condominium Project, recorded in the office of the Salt Lake County Recorder on February 26, 2001, as Entry No. 7828971, in Book No. 8427 at Page 4752-4829 (as said Block B Declaration may have heretofore been amended or supplemented), TOGETHER WITH the undivided ownership interest in said Block B Condominium's Common Elements that is appurtenant to said Unit as more particularly described in the Block B Declaration.

Tax Parcel No. 15-01-131-005-000

OFFICE BUILDING PARCELS (Cont.):

OFFICE UNITS 2A, 2B, 2C, 2D, 2E and 2F, contained within the Gateway Block B—Office Unit 2 Condominium Project as the same are identified in the Record of Survey Map recorded in the office of the Salt Lake County Recorder on May 16, 2002, as Entry No. 8235749 (as said Record of Survey Map shall have heretofore been amended or supplemented) (the “Block B--Office Unit 2 Map”) and in the Declaration of Condominium for Gateway Block B—Office Unit 2 Condominium Project, recorded in the office of the Salt Lake County Recorder on May 16, 2002, as Entry No. 8235750, in Book No. 8598 at Pages 7020-7086 (as said Block B—Office Unit 2 Declaration may have heretofore been amended or supplemented), TOGETHER WITH the undivided ownership interest in said Block B—Office Unit 2 Condominium’s Common Elements that is appurtenant to said Sub-Units as more particularly described in the Block B—Office Unit 2 Declaration.

Tax Parcel Nos. 15-01-131-010-000, 15-01-131-011-000, 15-01-131-012-000, 15-01-131-013-000, 15-01-131-014-000, and 15-01-131-015-000

LOT 5, Boyer Gateway Subdivision Plat, recorded in the office of the Salt Lake County Recorder on February 23, 2001, as Entry No. 7828967, in Book 2001P at Page 37 of Plats.

Tax Parcel No.: 08-36-376-014-0000