

WHEN RECORDED, MAIL TO:
UNIVERSITY MALL SHOPPING CENTER, L.C.
c/o Woodbury Corporation
2733 East Parleys Way, Suite 300
Salt Lake City, Utah 84109
Attn: Legal Department

ENT 121837:2017 PG 1 of 12
Jeffery Smith
Utah County Recorder
2017 Dec 07 04:41 PM FEE 39.00 BY BA
RECORDED FOR Stewart Title Insurance Agency of Utah
ELECTRONICALLY RECORDED

Space above for Recorder's Use Only

NO-BUILD EASEMENT AGREEMENT

This NO-BUILD EASEMENT AGREEMENT (this "**Agreement**") is made by and between COLLEEN F. CORDNER, TRUSTEE OF THE RAYMOND G. CORDNER MARITAL AND FAMILY TRUST, UNDER AGREEMENT DATED THE 3RD DAY OF SEPTEMBER 1996 AND TRUSTEE OF THE COLLEEN F. CORDNER MARITAL AND FAMILY TRUST UNDER AGREEMENT DATED THE 3RD DAY OF SEPTEMBER 1996, THEIR SUCCESSORS, HEIRS, OR ASSIGNS AS APPLICABLE (collectively "**Grantor**"); and UNIVERSITY MALL SHOPPING CENTER, L.C., a Utah limited company ("**Grantee**"). Together, Grantor and Grantee may be referred to herein as the "**Parties**".

RECITALS

1. Grantor is the owner of that certain tract of real property located within Orem City, Utah, as more particularly described in Exhibit "A" attached hereto and incorporated herein ("**Grantor's Property**").
2. Grantee is the owner of that certain tract of real property located within Orem City, Utah, as more particularly described in Exhibit "B" attached hereto and incorporated herein ("**Grantee's Property**").
3. To facilitate Grantee's building design and to comply with all applicable fire, building, and other codes and regulations, including but not limited to, 2015 International Building Code section 402.1.1 (collectively, the "**Applicable Laws**"), the parties desire that Grantor grants a no-build easement on Grantor's Property to limit construction of permanent structures on Grantor's Property based on the terms and conditions contained herein.

AGREEMENT

Subject to and conditioned upon the terms, restrictions, and conditions contained in this Agreement, and for valuable consideration, the sufficiency and receipt of which is hereby



acknowledged and agreed, and further consideration of the mutual promises and covenants contained herein, the Parties hereby agree as follows:

1. Grant of Easement. Grantor hereby grants and convey to Grantee a no-build easement on, over, and across that portion of Grantor's Property more particularly described in Exhibit "C" and depicted in Exhibit "C-1" (the "**Easement Area**"), both of which are attached hereto and incorporated herein, solely for the purpose of prohibiting within the Easement Area construction of a permanent structures that violate any Applicable Law (the "**Easement**").
2. Easement Appurtenant; Runs with the Land. This Agreement is an easement appurtenant. This Agreement shall inure to and bind the successors and assigns of the Parties, and shall constitute a covenant running with the land.
3. Jurisdiction and Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah. Venue shall be proper in the Fourth Judicial District Court of the State of Utah, in and for Utah County.
4. Not a General Public Easement. This Agreement is not a general public easement. No public of third-party rights are intended or granted hereby.
5. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof and shall not be amended, except by written agreement signed by both Parties hereto. This Agreement supersedes all prior oral and written agreements or understandings of the Parties with respect to the subject matter hereof.
6. Agreement Construction. Each of the parties to this Agreement have been represented by legal counsel, or have had the opportunity to consult legal counsel, in the course of negotiating and preparing this Agreement. Accordingly, in all cases, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against either Party, regardless of which Party caused its preparation.
7. Reservation by Grantor. Grantor hereby reserves the right to use the Easement Area for any use not inconsistent with Grantee's prohibited use of the Easement Area under Paragraph 1 above.
8. Condition of Grantor's Property/Release. Grantee accepts the Easement Area and all aspects thereof in "AS IS", "WHERE IS" condition, without warranties, either express or implied, "with all faults", including but not limited to both latent and patent defects. Grantee hereby waives all warranties, express or implied, regarding the title, condition and use of the



Easement Area, including, but not limited to any warranty of merchantability or fitness for a particular purpose.

9. Hold Harmless. Grantee shall, at Grantee's sole expense, indemnify, defend and hold harmless Grantor from and against all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of action, assessments, fines and penalties of any kind, including court costs and attorneys' fees actually incurred from any cause arising out of or relating directly or indirectly to Grantee's actions under this Agreement.

10. Ownership of the Subject Real Property. Grantor represents, covenants, and warrants that it is the owner of the Easement Area and that it has the right in the subject property to grant the Easement.

11. Authority. Each Party, for itself, represents that it has authority to enter in to this Agreement.

12. Binding Effect. This Agreement shall be binding upon the heirs, successors, and assigns of the respective Parties.

13. Remedies; Attorney's Fees. In the event of a breach by either Party, the non-breaching Party shall have all remedies available at law or in equity, including (but not limited to) injunctive or other equitable relief. In any suit, action, or appeal therefrom to enforce or interpret this Agreement, the prevailing Party shall be entitled to recover its costs incurred, therein, including reasonable attorneys' fees and costs (and including reasonable attorneys' fees and costs during any appeal or bankruptcy proceeding).

14. Recordation. This Agreement shall be recorded in the real property records of Utah County, Utah. In no case shall this Agreement be effective between the Parties unless and until the date this Agreement is recorded in the real property records of Utah County, Utah.

15. Notices. Any notice or demand required by or pursuant to this Agreement shall be in writing and personally delivered, or mailed by First Class U.S. Mail (postage pre-paid), to the appropriate Party's address (below), or to such other address as a Party shall have last designated by notice, in writing, to the other Party, as provided herein.

To Grantor: Collen F. Cordner
1112 South, 500 East
Orem, Utah 84058



To Grantee: University Mall Shopping Center L.C.
2733 East Parleys Way, Suite 300
Salt Lake City, Utah 84109

16. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the violating provision shall be excised or stricken, and all remaining provisions shall remain valid, binding, and enforceable.


17. Effective Date. This Easement shall be effective beginning on the date it is recorded in the official records of Utah County, Utah.

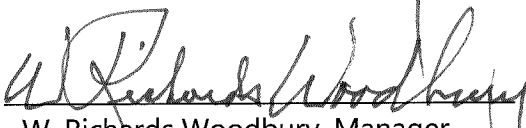
[Signatures follow on next page]

GRANTEE:

UNIVERSITY MALL SHOPPING CENTER, L.C., a Utah limited liability company

By: WOODBURY MANAGEMENT COMPANY, L.C., a Utah limited liability company, Its Manager

By: 
O. Randall Woodbury, Manager

By: 
W. Richards Woodbury, Manager

[Signature Pages Continue on Following Page]



GRANTOR:

COLLEEN F. CORDNER, Trustee of the Raymond G. Cordner Marital and Family Trust, under agreement dated 3rd day of September 1996, and Trustee of the Colleen F. Cordner Marital and Family Trust, under agreement dated the 3rd day of September 1996, their successors, heirs, or assigns as applicable

By: Colleen F. Cordner
Name: Colleen F. Cordner
Its: Trustee

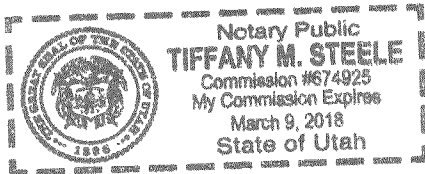
[Acknowledgments Begin on Following Page]



ACKNOWLEDGMENT

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

On the 13rd day of Oct. 2017, before me personally appeared O. Randall Woodbury to me personally known to be the Manager of WOODBURY MANAGEMENT COMPANY, L.C., known to be the Manager of UNIVERSITY MALL SHOPPING CENTER, L.C., the company that executed the within instrument, known to me to be the person who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its articles of organization.



[Signature]

Notary Public

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

On the 23rd day of Oct. 2017, before me personally appeared W. Richards Woodbury to me personally known to be the Manager of WOODBURY MANAGEMENT COMPANY, L.C., known to be the Manager of UNIVERSITY MALL SHOPPING CENTER, L.C., the company that executed the within instrument, known to me to be the person who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its articles of organization.



[Signature]

Notary Public

[Acknowledgments Continue on Following Page]



STATE OF UTAH)
 : ss.
COUNTY OF Utah)

On the 19 day of October 2017, before me personally
appeared Colleen F. Corder and _____, to me personally
known to be the Trustee and _____ of
above identified trust, the company that executed the within instrument, known to me to
be the person who executed the within instrument on behalf of said company therein named,
and acknowledged to me that such company executed the within instrument pursuant to its
articles of organization.



Kristine Harris
Notary Public



Exhibit "A"

Legal Description of Grantor's Property

Commencing 1984 feet West and 510 feet North of the Southeast corner of Section 23, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence West 181.82 feet; thence North 150 feet; thence East 185.82 feet; thence South 1°27' West 150 feet to the place of beginning.

Beginning at a point in the West line of 500 East Street, Orem, Utah 612.7 feet East along quarter section line and 1925.9 feet South 1°27' East from Orem City Monument at Center of Section 23, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 1°27' East 54.73 feet; thence West 100 feet; thence North 1°27' West 54.38 feet; thence North 89°48' East 100 feet to the place of beginning.

and

Commencing 510 feet North and 1654 feet West from the Southeast corner of Section 23, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence West 330 feet; thence North 1°27'0" East 150 feet; East 330 feet; thence South 1°27'00" West 150 feet to the place of beginning.

Tax Parcels: 18:057:0127 and 18:057:0142



Exhibit "B"

Legal Description of Grantee's Property

Lot 3A, University Mall Subdivision Plat A Lots 3 and 5 Amended, recorded in the office of the Utah County Recorder on October 6, 2014, as Ent. 71421:2014

and

Lot 6, University Mall Subdivision Plat "A", recorded in the office of the Utah County Recorder on March 1, 2001, as Ent. 19427:2001



Exhibit "C"

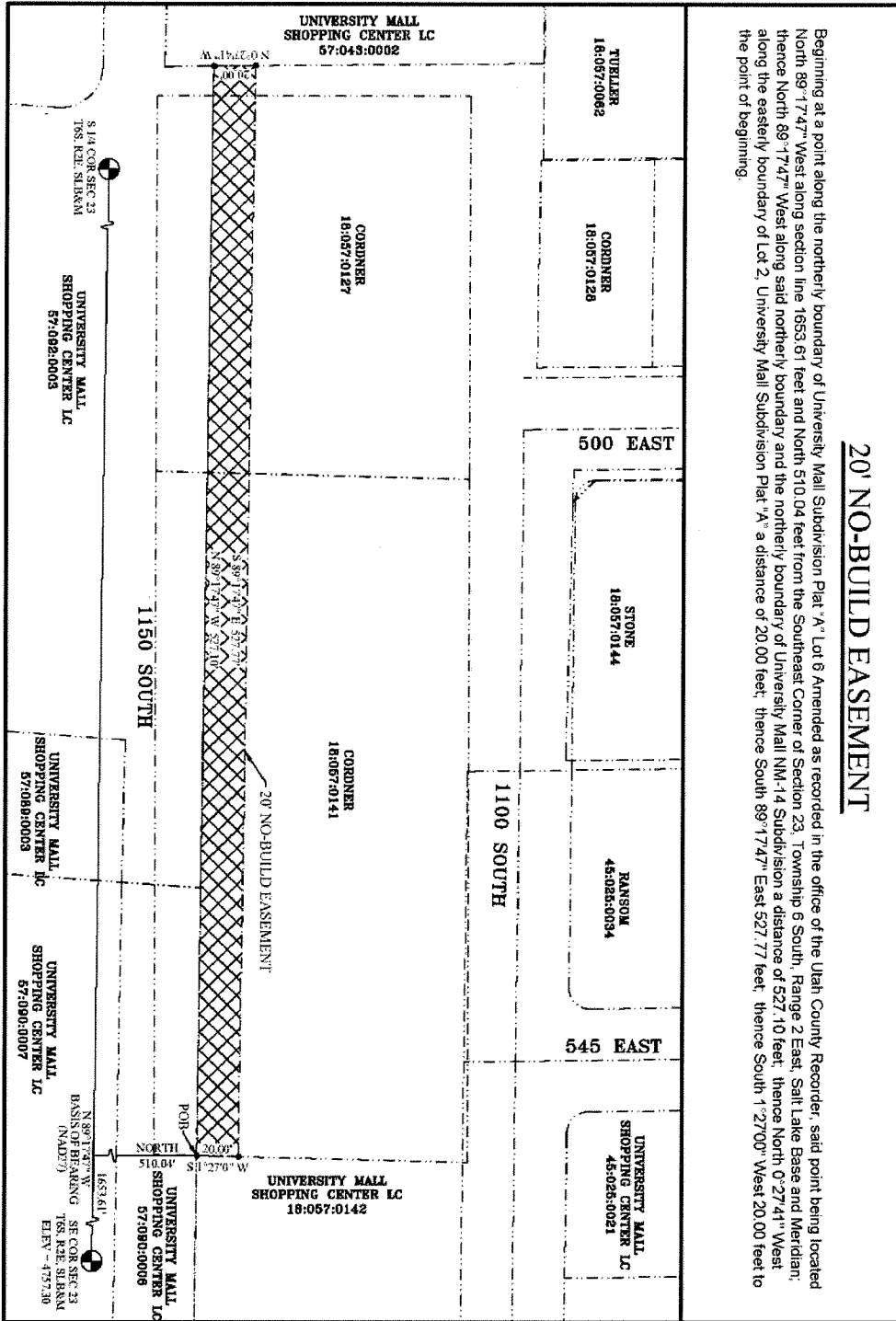
Legal Description of the Easement Area

Beginning at a point along the northerly boundary of University Mall Subdivision Plat "A" Lot 6 Amended as recorded in the office of the Utah County Recorder, said point being located North 89°17'47" West along section line 1653.61 feet and North 510.04 feet from the Southeast Corner of Section 23, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 89°17'47" West along said northerly boundary and the northerly boundary of University Mall NM-14 Subdivision a distance of 527.10 feet; thence North 0°27'41" West along the easterly boundary of Lot 2, University Mall Subdivision Plat "A" a distance of 20.00 feet; thence South 89°17'47" East 527.77 feet; thence South 1°27'00" West 20.00 feet to the point of beginning.



Exhibit "C-1"

Depiction of the Easement Area



20' NO-BUILD EASEMENT

Beginning at a point along the northerly boundary of University Mall Subdivision Plat "A" Lot 6 Amended as recorded in the office of the Utah County Recorder, said point being located North 89°17'47" West along section line 1653.61 feet and North 510.04 feet from the Southeast Corner of Section 23, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 89°17'47" West along said northerly boundary and the northerly boundary of University Mall NM-14 Subdivision a distance of 527.10 feet; thence North 0°27'41" West along the easterly boundary of Lot 2, University Mall Subdivision Plat "A" a distance of 20.00 feet; thence South 89°17'47" East 527.77 feet; thence South 1°27'00" West 20.00 feet to the point of beginning.

PLEASE INITIAL

