

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Keven M. Rowe
Jones, Waldo, Holbrook & McDonough
170 South Main, Suite 1500
Salt Lake City, Utah 84101

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GARY W. OTT
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DECLARATION OF RESTRICTIONS
AND GRANT OF EASEMENTS

by

OAKLAND ROLAND WAY, LTD.,
doing business as
Country Square Shopping Center

DATE: February 8, 2005

LOCATION: 8600 South and 1300 East
Sandy, Utah

DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS

THIS DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS (this "Declaration") is made as of the 8th day of February, 2005, by OAKLAND ROLAND WAY, LTD., a California limited partnership, doing business as Country Square Shopping Center ("Declarant").

R E C I T A L S

WHEREAS, Declarant is the Owner of that certain real property located on the Northwest corner of 8600 South and 1300 East, City of Sandy, County of Salt Lake, State of Utah (the "Shopping Center"), as more particularly described on Exhibit A and depicted on Exhibit B (the "Site Plan"), each attached hereto, which property is developed as a retail shopping center comprising multiple lots (each, a "Lot"); and

WHEREAS, pursuant to that certain Grant of Easements of substantially even date herewith ("Grant of Easements"), easements for access, parking, and utilities have been established for the operation of the Shopping Center; and

WHEREAS, Declarant desires to enter into this Declaration to establish a general plan for the improvement, protection, development, maintenance and use of the Shopping Center as a commercial shopping center and for such purposes does hereby establish easements, covenants, restrictions, liens and charges, (collectively the "Restrictions") as are hereinafter set forth, subject to which all of the Lots shall be improved, held, exchanged, leased, sold and/or conveyed;

WHEREAS, each of the Restrictions (i) is imposed upon each Lot as a mutual equitable servitude in favor of each other Lot, (ii) shall create reciprocal rights and obligations between and among the Owners (as defined below), and (iii) shall create a privity of contract and estate between and among the Owners and their heirs, successors and assigns;

WHEREAS, each of the Restrictions are intended to and shall run with the land, and each Lot is affected and burdened by the covenants of its Owner for the benefit of each other Lot;

WHEREAS, Declarant intends that the successive owners of all or any portion of any Lot are bound hereby for the benefit of the other Lots in the Shopping Center and any portion thereof and the Owners thereof.

NOW, THEREFORE, in consideration of the foregoing, and the covenants and agreements set forth herein, Declarant declares as follows:

1. PRELIMINARY.

1.1 Incorporation. The above Recitals are incorporated herein and made a part hereof.

1.2 Definitions. As used herein, the following terms shall have the meanings given them below:

- (a) "Building Area" - That area shown as "Building Area" on the Site Plan.
- (b) "Common Area" - All real property within the Shopping Center upon which buildings are not from time to time located or in the process of construction.
- (c) "Consenting Owner" - Declarant, so long as Declarant owns any part of the Shopping Center, or, if Declarant no longer owns any part of the Shopping Center, the Owner of Lot 1.
- (d) "Floor Area" - The total number of commercially rentable square feet in a building, whether or not actually occupied.
- (e) "Hazardous Materials" - Any substance or material which is defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "restricted hazardous waste", "toxic substances" or "known to cause cancer or reproductive toxicity", or words of similar import under any federal, state or local law, ordinance, regulation, order or decree 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.
- (f) "Owner" - Declarant and any other person or entity having fee record title to any Lot in the Shopping Center.
- (g) "Lot" - Each of the separate lots as shown on the Site Plan. Where referred to herein by letter or number, such designation shall correspond to the lot designations on the Site Plan.
- (h) "Utilities" - All utility services serving any Lot in the Shopping Center, including, without limitation, gas, electricity, storm and sanitary sewer, domestic water, fire sprinkler water, irrigation water and telephone services.

2. BUILDING AREA.

2.1 Building Area. Except with the prior written consent of the Consenting Owner, no building or other structure shall be constructed upon any Lot in the Shopping Center other than within the Building Area on each Lot. Notwithstanding the foregoing, canopies and roof overhangs (including supporting columns or pillars), normal foundations, and loading and delivery docks, covered areas attached to such docks, required emergency exits (including stairs, landings, footings and foundations associated therewith), and doors for ingress and egress may project from any building or structure up to a distance of fifteen (15) feet over or outside of the Building Area on any Lot; provided, any such projection or extension must comply with all applicable laws, rules, ordinances and regulations of every governmental body having jurisdiction over the Shopping Center; and provided further, no such extension or projection shall be allowed if it (i) reduces the number of parking spaces or materially alters the parking configuration or vehicular and pedestrian circulation, and/or access in and through the entire Shopping Center as shown on the Site Plan, or (ii) encroaches on, over or under any

portion of any other Lot or any drive lane.

2.2 Design and Construction of Buildings. All buildings constructed in the Shopping Center and all alterations to existing buildings 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), but in no event shall any building exceed one (1) story plus mezzanine nor a height of thirty-five (35) feet (collectively, the "Architectural Theme"). In the event any buildings are constructed within the Shopping Center which are not part of the original development of the Shopping Center, or the exterior appearance of any building is materially altered, prior to the commencement of such construction or alteration, plans and samples showing the Architectural Theme of such building or buildings shall be submitted to the Consenting Owner for its approval. All building 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 interfere with the operations of a business on any of the Lots. All buildings constructed in the Shopping Center and all alterations to existing buildings shall be constructed to comply with all governmental requirements (including sprinklering and setback requirements). If an Owner or its tenant commences construction of a building or alterations within the Shopping Center, but such construction ceases prior to the completion of the building or such alteration for a period in excess of one hundred twenty (120) days, and the Consenting Owner in its reasonable discretion determines that such unfinished building creates an unsafe or unsightly condition detrimental to the Shopping Center, the Consenting Owner may construct a barricade around such building. Upon any such work by the Consenting Owner, the Owner upon whose Lot the building is located shall reimburse the Consenting Owner upon demand for monies so expended.

2.3 Maintenance of Buildings. Each Owner shall maintain the building or buildings on its Lot in at its own expense in a clean, orderly, and sanitary condition and free of insects, rodents, vermin, and other pests, and shall keep the inside and outside of all glass in the doors and windows of its buildings clean; and shall not permit accumulation of garbage, trash, rubbish, and other refuse.

3. COMMON AREA.

3.1 Common Area Use. The Common Area shall be used for vehicular access, circulation and parking, pedestrian traffic and the use of customers, invitees, licensees, agents and employees of the Owners and business occupants of the buildings on the Lots, and for 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 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 and maintenance of utility lines so long as such activity is undertaken in strict compliance with the requirements of the Grant of Easements; and (iii)

for any other use required by any governmental authority having jurisdiction thereof. Except within a Building Area, no building, barricade or structure may be placed, erected or constructed within the Common Area on any Lot except loading and delivery docks and covered areas attached to such docks, trash enclosures, pylon and other free-standing signs (to the extent not herein prohibited) and directional signs, bumper guards or curbs, paving, landscaping and landscape planters, lighting standards, driveways, sidewalks, walkways, parking stalls, columns or pillars supporting roof overhangs, and any other improvements as may be required under applicable laws, rules, ordinances and regulations of any governmental body having jurisdiction over the Shopping Center.

3.2 Parking. The number of parking spaces maintained on each Lot and the configuration thereof shall be as shown on the Site Plan, and shall not be changed except with the prior written consent of the Consenting Owner or as required by any governmental authority having jurisdiction over the Shopping Center. There shall be no charge or other validation for parking in the Common Area without the prior written consent of the Consenting Owner.

3.3 Employee Parking. Each Owner shall use reasonable efforts to insure that all employees of such Owner or other occupant of a Lot park only in areas, if any, designated as employee parking areas by the Consenting Owner.

3.4 Seasonal Sales. The Common Area in the Shopping Center, except sidewalks, may be used for the sale or display of merchandise; provided, however, that such sales shall be subject to the following restrictions: (i) the Common Area shall be promptly restored to its condition immediately prior to said sale at the sole cost and expense of the Owner or occupant conducting the sale; (ii) sales shall not unreasonably interfere with the free movement of vehicular traffic within the Shopping Center or with access to or from the Shopping Center, or any part thereof; and (iii) seasonal sales shall not exceed ten (10) weeks in duration without the consent of the Consenting Owner.

3.5 General. The Owner of each Lot may use and cause to be used the Common Area on its Lot 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, customers, invitees, employees, agents and licensees of the businesses located within the buildings in the Shopping Center and for the servicing and supplying of such businesses. The Owner of Lot 1 may use reasonable portions of the sidewalk abutting the building on Lot 1 at any time for the installation of public telephones, storage of shopping carts, and display and sale of merchandise.

4. COMMON AREA MAINTENANCE.

4.1 Appointment of Maintenance Director. Declarant shall serve as the Maintenance Director until Declarant resigns. The Maintenance Director shall have the right, upon giving 90 days prior written notice to the Owners, to resign as Maintenance Director, in which event the Consenting Owner shall appoint another Owner of a Lot to be the Maintenance Director.

4.2 Duties of Maintenance Director. The Maintenance Director shall maintain, or cause to be maintained, the Common Areas, which maintenance shall include, without limitation, the following:

- (a) Maintaining the paved surfaces in a level, smooth and evenly covered condition 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) Removing all papers, debris, filth and refuse, ice and snow, and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;
- (c) Contracting for scavenger service and garbage disposal from all shared garbage dumpsters and other trash disposal areas or facilities in the Shopping Center;
- (d) Placing, keeping in repair, and replacing appropriate directional signs, markers and lines, where necessary;
- (e) Operating, keeping in repair, and replacing such artificial lighting facilities as shall be reasonably required;
- (f) Maintaining all landscaped areas and repairing automatic sprinkler systems or water lines and replacing shrubs and other landscaping as is necessary;
- (g) Maintaining the pylon signs for the Shopping Center; and
- (h) Maintaining and repairing any and all walls, common storm drains, utility lines, sewers and other facilities for Utilities which are necessary for the operation of the buildings and improvements within the Shopping Center.

4.3 Maintenance Costs; Administration Fee. The Maintenance Director shall expend only such funds as are reasonably necessary for the operation, maintenance, repair and insurance of the Common Areas and shall promptly pay such costs (collectively, "Costs") when incurred. The Costs shall include the cost of the Maintenance Endorsement (as hereinafter defined) or such other liability insurance insuring the Maintenance Director against liability for any acts or omissions of the Maintenance Director in its maintenance activities pursuant to this Article as the Maintenance Director may reasonably deem necessary. The Maintenance Director shall be permitted to charge a fee (an "Administration Fee"), in an amount not to exceed fifteen percent (15%) of the Costs. The Maintenance Director may contract with third parties to perform the operation, maintenance and repair of the Common Areas. Such third parties may be entities affiliated with the Maintenance Director, but only if the rates charged by such affiliated entities are competitive with those of other companies providing similar services in the metropolitan area in or about the Shopping Center. Each Owner hereby grants to the Maintenance Director a license to enter upon each Lot in the

Shopping Center as reasonably necessary to discharge its duties to operate, maintain and repair the Common Areas.

4.4 Budget. The Maintenance Director shall, at least 30 days prior to the beginning of each calendar year, submit to the Owners an estimated budget ("Budget") for the projected Costs and the Administration Fee for operating and maintaining the Common Areas for the ensuing calendar year. The Consenting Owner shall approve or disapprove the Budget within 30 days after receipt thereof. If the Consenting Owner disapproves the Budget, it shall work with the Maintenance Director to establish an approved Budget. In the event that the Maintenance Director and the Consenting Owner fail to agree upon a Budget prior to the expiration of the existing Budget, then the Maintenance Director shall continue to maintain the Common Area based upon the existing Budget until a new Budget is approved.

4.5 Reimbursement. Each Owner shall pay to the Maintenance Director, on the first day of each calendar month, an amount equal to 1/12 of such Owner's pro rata share of the total annual budgeted Costs. The Maintenance Director shall advise each Owner, by sending a written billing statement to such Owner within 120 days after the end of each calendar year, of the total Costs actually paid by the Maintenance Director during the prior calendar year ("Actual Costs") and the amount by which the pro rata share of such Actual Costs exceed the sum of the monthly payments made by such Owner to the Maintenance Director relative to such calendar year. Upon request of an Owner, the Maintenance Director shall provide copies of all invoices, statements and documents supporting the Costs being billed ("Backup Invoices"). Thereupon, there shall be an adjustment with payment to the Maintenance Director by each Owner or repayment by the Maintenance Director to each Owner, as the case may require, to the end that the Maintenance Director shall receive the entire amount of each Owner's proportionate share of the Actual Costs, as provided for herein, for such year. The pro rata share of each Owner shall be a fraction, the numerator of which is the total number of square feet of Floor Area of the building(s) on such Owner's Lot and the denominator of which is the total number of square feet of Floor Area within the Shopping Center.

4.6 Audit Rights. Within six months after the end of any calendar year, upon not less than 15 days prior written notice to the Maintenance Director, any Owner shall have the right to audit the Maintenance Director's books and records pertaining to the operation and maintenance of the Common Areas for such calendar year. In the event that such audit shall disclose any error in the determination of the Costs or the allocation thereof to an Owner, an appropriate adjustment shall be made forthwith. The cost of any audit shall be paid by the auditing Owner unless such Owner shall be entitled to a refund in excess of 5% of the amount calculated by the Maintenance Director as such Owner's pro rata share for the calendar year, in which case the Maintenance Director shall pay the reasonable costs of such audit.

4.7 Default of Maintenance Director. In the event the Maintenance Director fails to perform any of its duties hereunder, which failure continues for a period of 30 days (ten days in the event of failure to pay money) after receipt of written notice from any Owner specifying the particulars of such failure, such failure shall constitute a default and any Owner may thereafter institute legal action against the Maintenance Director for specific performance,

declaratory or injunctive relief, monetary damages or any other remedy provided by law and/or may perform the obligations of the Maintenance Director specified in said notice of default and offset the cost thereof from amounts due the Maintenance Director; provided, however, that the Maintenance Director shall not be deemed to be in default if such failure to perform (excluding the payment of money) cannot be rectified within said 30 day period and the Maintenance Director is diligently proceeding to rectify the particulars of such failure.

4.8 Indemnification. The Maintenance Director shall indemnify, defend and hold harmless each Owner from any and all liabilities, claims, damages, expenses (including, without limitation, reasonable attorney's fees and reasonable attorney's fees on any appeal), judgments, proceedings and causes of action of any kind whatsoever (collectively, "Claims") for injury to or death of any person or damage to any property resulting from the willful misconduct or negligent act or omission of the Maintenance Director in performing (or failing to perform) its services hereunder, except to the extent such Claims are caused by the gross negligence or willful misconduct of such Owner, as applicable.

4.9 Common Insurance.

(a) In addition to its maintenance duties, the Maintenance Director shall maintain or cause to be maintained in full force and effect (a) a policy of "all-risk" hazard insurance insuring all buildings and improvements on Lots owned by Participating Owners (as defined below) for their full replacement value, excluding footings and foundations, naming each Participating Owner as an additional insured as their respective interests may appear, and (b) a policy of commercial general liability insurance, which shall include contractual liability coverage, insuring the interests of the Participating Owners against claims for personal injury, bodily injury, death and property damage occurring on, in or about the Shopping Center and the ways immediately adjoining the Shopping Center, with a "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, naming each Participating Owner as an additional insured, with an endorsement (the "Maintenance Endorsement") insuring the Maintenance Director against claims for personal injury, bodily injury or death, and property damage arising out of the negligent act or omission of the Maintenance Director in performing (or failing to perform) its services hereunder.

(b) The insurance carried by the Maintenance Director hereunder shall be with an insurance company licensed to do business in the State of Utah, and shall be primary insurance and not contributory with any other insurance which is maintained by the Owners of the Lots in the Shopping Center. The insurance limits in this Section shall be subject to increase from time to time by such amounts as the Consenting Owner may reasonably agree is necessary or desirable, as may be evidenced by the practice of similarly situated properties.

(c) Each Owner covered by the insurance carried by the Maintenance Director pursuant to this Section 4.9 shall be a "Participating Owner." Any Owner may, at its

option, elect to obtain its own insurance coverage, in which event such Owner shall no longer be a Participating Owner.

(d) Each Participating Owner shall pay its pro rata share of the cost of such insurance, with such pro rata share calculated as a fraction, the numerator of which is the total number of square feet of Floor Area of the building(s) on such Owner's Lot and the denominator of which is the total number of square feet of Floor Area within the Lots owned by Participating Owners.

(e) Upon request, the Maintenance Director shall cause certificates of insurance reasonably evidencing compliance with the requirements of this Article to be delivered to the other Owners. The insurance policies and certificates required by this Section 4.9 shall require the insurance company to furnish all Participating Owners 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.

4.10 Maintenance of Fire Suppression Systems. In addition to its other duties under this Declaration, the Maintenance Director shall maintain in good condition and repair any fire suppression systems which are shared or used by more than one Lot, and the expenses incurred in maintaining such fire suppression systems shall be paid by the Owners of such Lots, with each Owner paying its pro rata share. The pro rata share of each Owner using a shared fire suppression system shall be a fraction, the numerator of which is the total number of square feet of Floor Area of the building(s) on such Owner's Lot and the denominator of which is the total number of square feet of Floor Area within all the buildings using such fire suppression system.

5. RESTRICTIONS.

5.1 Business. The types of uses permitted in the Shopping Center shall be of a retail and/or commercial nature found in first class Shopping Centers of a similar size in the metropolitan market area in which the Shopping Center is located.

5.2 Specific Use Restrictions. No portion of the Shopping Center shall at any time be used for any of the following purposes:

(a) Funeral homes.

(b) Any production, manufacturing, industrial, or storage use of any kind or nature, except for storage and/or production of products incidental to the retail sale thereof from the Shopping Center.

(c) Entertainment or recreational facilities. As used herein, "entertainment or recreational facilities" includes, but is not limited to, a bowling alley, skating rink, electronic or mechanical games arcade (except as an incidental use to a retail or commercial business, in which case such use shall be restricted to less than five percent (5%) of the floor area occupied by such business), theater, billiard room or pool hall,

massage parlor, discotheque, dance hall, banquet hall, night club, bar or tavern, "head shop", pornographic or "adult" store, racquetball courts or gymnasium or other place of public amusement.

(d) Hotel, motel, warehouse, animal kennel, mobile home park or trailer court; for the storing, renting, leasing or selling of or displaying for the purpose of storing, renting, leasing or selling of any automobiles, recreational vehicles, boats, trailers, or other large machinery; or for industrial purposes; or for any bankruptcy sales or going out of business sales; provided, however, that an existing business in the Shopping Center may, with the Consenting Owner's consent, hold a going out of business sale.

(e) Any use which creates a nuisance or materially increases noise or the emission of dust, odor, smoke, gases, or materially increases fire, explosion or radioactive hazards in the Shopping Center. No Owner or occupant shall use or permit the use, handling, generation, storage, release, disposal or transportation of hazardous materials on, about or under its Lot except in the ordinary course of its business and in compliance with all environmental laws.

(f) A flea market; provided, however, that this restriction shall not prohibit the operation in the Shopping Center of a farmers' market with associated craft sales.

5.3 Common Area Uses. No persons other than customers, employees, agents and contractors of the occupants of the Shopping Center shall be permitted to park in the Common Area, unless all Owners give prior written approval thereto. In the event the Consenting Owner determines that the Common Area is being used for purposes inconsistent with this Declaration, the Consenting Owner shall have the right to construct a barricade around all or any portion of the perimeter of the Shopping Center to prevent such use; provided, such barricade shall not impede circulation within the Shopping Center nor prohibit access to abutting streets at such times as the Shopping Center is open for business.

The restrictions contained in this Section shall be a servitude upon the entire Shopping Center and shall be binding upon any person acquiring any interest in any part of the Shopping Center.

6. SIGNS.

6.1 Interior and Exterior Signs. Each Owner shall have the right to maintain such signs on the interior of buildings located on its Lot as it desires, provided such signs are not visible from the exterior. Any interior signs which are visible from the exterior of the building shall comply with sign criteria as promulgated from time to time by the Consenting Owner. Signs on the exterior of the buildings located on any Lot are subject to the approval of the Consenting Owner, which approval shall not be unreasonably withheld, conditioned, or delayed.

6.2 Shared Signs. Two pylon signs are located in the Shopping Center, one facing

1300 East and one facing 8600 South (the "Pylon Signs"). The three largest sign panels on each side of each Pylon Sign shall be allocated to the three occupants of the Shopping Center occupying the largest square footages of Floor Area for retail use. The remaining sign panels shall be allocated to the other occupants of the Shopping Center by the Consenting Owner and in accordance with governmental laws, ordinances, and regulations. Any Lot served by a separate monument sign shall not be entitled to a sign panel on the Pylon Signs, although the Consenting Owner may, in its discretion, allow such use from time to time. Each Owner, with respect to its Lot, as grantor, hereby grants to each other Owner as grantee, easements under, through and across the Common Area of the Shopping Center for the purpose of installing and/or maintaining utility lines to service the Pylon Signs and the sign panels thereon. Each Owner using such a sign shall install and maintain its own sign panel on such sign. No such sign panel shall be installed without the prior consent of the Consenting Owner, and each such panel shall comply with all applicable governmental laws, ordinances, and regulations.

6.3 No Other Signs; Compliance with Law. Except as expressly permitted herein, there shall be no signs in the Shopping Center without the prior written approval of the Consenting Owner. All signs in the Shopping Center shall comply with all applicable laws, ordinances, and regulations of all governmental authorities having jurisdiction over the Shopping Center.

7. INDEMNIFICATION AND INSURANCE.

7.1 Indemnification. Each Owner ("Indemnifying Party") hereby indemnifies, holds harmless and agrees to defend each other Owner ("Indemnified Party(ies)") 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 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; provided, the Indemnifying Party does not indemnify the 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, the other Owners in the Shopping Center, 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.

7.2 Liability Insurance Coverage and Limits. Each Owner which elects not to be a Participating Owner pursuant to Section 4.9 above agrees to maintain, and/or cause to be maintained, 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 the Shopping Center and the ways immediately adjoining the Shopping Center, with a "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. The insurance limits in this Section shall be subject to increase

from time to time by such amounts as the Owners may reasonably agree is necessary or desirable, as may be evidenced by the practice of similarly situated properties.

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) Employer's liability - One Hundred Thousand Dollars (\$100,000.00); 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) "Broad Form" Property Damage Endorsements; (iv) "Personal Injury" Endorsements; and (v) "Blanket Contractual Liability" Endorsement.

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 the respective property of the Owners therein, arising from any peril customarily 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.

(a) Insurance coverage required by this Declaration may contain the following elements, so long as the required coverage is not diminished, the required limits are not reduced, and the elements thereof are otherwise commercially reasonable: an Owner's insurance program may include blanket, layered, umbrella, conventional and/or manuscript forms of policies, as well as retention levels and loss reserves which are charged against earnings or otherwise funded, and commercially reasonable deductibles.

(b) Upon request, each Owner which is not a Participating Owner shall cause certificates of insurance reasonably evidencing compliance with the requirements of this Article to be delivered to the other Owners. The insurance policies and certificates required by this Article shall require the insurance company to furnish all Owners 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 Declarations. All policies of liability insurance shall insure the performance by the Owner insured thereunder of the indemnity declarations contained herein. 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.

8.1 Obligations of Owners. 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 Lot upon which such building is located shall, in its discretion, either tear down or rebuild the damaged building. However, if an Owner determines to tear down a damaged building, that Owner shall either (a) promptly rebuild a new building on the same location, or (b) notify the Consenting Owner in writing of its intention not to rebuild and then leave and maintain the Lot or 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, lawn or other ground cover reasonably acceptable to the Consenting Owner. 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 a condition as near as practicable to the condition of the Common Area immediately prior to such damage or destruction.

8.2 Rights of Consenting Owner. In the event that an Owner (the "Other Owner") elects not to rebuild a damaged building on its Lot (the "Damaged Lot") or fails to begin reconstruction by the date (the "Reconstruction Deadline") which is on hundred twenty (120) days after the date the damage occurred and to pursue such construction to completion, the Consenting Owner shall have the right (but not the obligation) to purchase the Damaged Lot at fair market value. To exercise such right, the Consenting Owner shall provide written notice (the "Purchase Notice") to the Other Owner within sixty (60) days after (a) the Consenting Owner's receipt of the written notice from the Other Owner of its decision not to rebuild, (b) the Reconstruction Deadline, or (c) the date which is thirty (30) days after the cessation of reconstruction. Notwithstanding the foregoing, if the Other Owner begins reconstruction prior to its receipt of the Purchase Notice, the Consenting Owner's right to purchase the Damaged Lot shall terminate. If the Consenting Owner exercises its right to purchase the Damaged Lot, and the parties cannot agree as to the fair market value of the Damaged Lot, the fair market value shall be established by three appraisers, one chosen by the Consenting Owner, one chosen by the Other Owner, and the third chosen by the first two. If the three appraisers cannot agree as to the fair market value, the mean average of the three appraisals shall be the fair market value for purposes of this Section 8.2.

The rights of the Consenting Owner pursuant to this Section 8.2 shall be subject and subordinate to the rights of any holder of a first mortgage or deed of trust on the Damaged

Lot.

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 Lot or giving the public or any government any rights in the Lots. 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 only to the Owner in fee thereof and no claim thereon 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 Tenant's Claim. Nothing in this Section shall prevent a tenant from making a claim against an Owner pursuant to the provisions of any lease between tenant and 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 the 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 Party.

9.5 Restoration of Building Area. In the event any building or a portion thereof located in the Shopping Center is condemned, the remaining portion of the building shall be demolished or restored by the Owner of the Lot on which it is located and such Owner shall remove all debris resulting therefrom. Such election shall be made within ninety (90) days from the date of taking. In the event the remaining building improvements are removed, thereafter the Owner shall either promptly rebuild a new building on the same location or leave and maintain the Lot 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, lawn or other ground cover acceptable to the Consenting Owner.

10. TAXES.

10.1 Payment of Taxes. Each Owner shall pay or cause to be paid directly to the appropriate governmental authorities when due, the real property taxes and other special taxes and assessments assessed against the property owned by such Owner, including the portion of the Common Area owned by such Owner. In the event that any Lot should be assessed together with any other Lot, instead of separately assessed, the Maintenance Director shall provide to the Owner of each such Lot a statement setting forth such Owner's pro rata share of such taxes, based on the relative Floor Area of the respective Lots. Each such Owner shall pay its pro rata share of such taxes to the Maintenance Director within thirty (30) days of the date of such statement, and the Maintenance Director shall pay such taxes to the appropriate governmental authorities when due.

10.2 Failure to Pay. 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 any Lot(s) in which such Owner has a fee interest, and which may become a lien on any of the Common Area, then any other Owner may pay such taxes and/or assessment together with interest, penalties, and costs, and in any such event the Owner obligated to pay such taxes and/or assessment shall promptly reimburse 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 Lot(s) of the defaulting Owner. Nothing contained herein, however, shall prevent an Owner from paying its taxes under protest or challenging the validity or amount of an assessment so long as such Owner takes steps to prevent the delinquent taxes from becoming a lien on its Lot or the occurrence of a tax sale of such Lot.

11. DEFAULT.

11.1 Right to Cure. Should any Owner fail to timely perform any of its obligations hereunder and thereafter fail to perform such obligation within twenty (20) days after its receipt of the Consenting Owner's written demand therefor, the Consenting Owner shall, in addition to any other remedy provided at law 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 Consenting Owner for the cost of performing such obligation within ten (10) days after receipt of billing therefor and proof of payment thereof. In the event the defaulting Owner does not reimburse the Consenting Owner within such ten (10) days, the Consenting Owner shall have (i) the right to exercise any and all rights which the Consenting Owner might have at law to collect the same, and (ii) a lien on the Lot(s) owned by the defaulting Owner to the extent of the amount paid by the Consenting Owner but not reimbursed by the defaulting Owner, which amount shall bear interest at a rate equal to the then published Prime Rate as published in the Money Section of the Wall Street Journal plus four percent (4%) per annum, or the highest legal rate of interest, whichever is less (the "Effective Rate"), from the date of billing until paid. Such lien may be filed for record by the Consenting Owner as a claim against the defaulting Owner, in the form required by law, in the office wherein mortgages 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; 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 Consenting Owner, 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. Such lien, when so recorded 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.

11.2 Injunctive Relief. In the event of any violation or threatened violation of any provision of this Declaration, any Owner shall have the right, in addition to any other remedies herein or by law provided, to enjoin such violation or threatened violation. Notwithstanding the foregoing, tenants in the Shopping Center shall not have the right of injunction but shall rather be limited to their rights granted by law and by their respective leases.

11.3 Breach Shall Not Permit Termination. No breach of this Declaration shall terminate this Declaration or 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.

11.4 No Limitation of Remedies. The various rights and remedies herein contained and reserved to the Owners, 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.

12. NOTICES

Any notice or demand given or served by one Owner to another shall not be deemed to have been duly given or served unless in writing and personally delivered or forwarded by Federal Express, UPS, or any commercially recognized overnight delivery service with return receipt. Notices to Declarant shall be sent to the following address:

Oakland Roland Way, Ltd.
c/o Walburg Realty & Investments Corp.
31 Coachwood Terrace

Orinda, CA 94563

Att: Al Walburg

Notices and demands shall be deemed effective upon receipt. The person and place to which notices are to be given may be changed by the Owners by written notice to the other Owners.

13. ATTORNEYS' FEES

In the event legal proceedings are brought or commenced to enforce any of the terms of this Declaration against any Owner or other person with an interest in the Shopping Center, the successful party in such action shall be entitled to receive and shall receive from the defaulting Owner, a reasonable sum as attorneys' fees and costs, to be fixed by the court in the same action.

14. 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. Notwithstanding the foregoing, the Owners of not less than seventy-five percent (75%) of the total Floor Area in the Shopping Center shall have the right to extend the term of this Declaration for successive ten (10)-year periods by a written instrument executed by such Owners prior to the expiration of the then current term, and recordation in the Official Records of the County Recorder of Salt Lake County, Utah of a notice extending the term of this Declaration.

15. MODIFICATION

Except as otherwise provided herein, this Declaration may not be modified in any respect whatsoever or rescinded, in whole or in part, except by a writing executed by the Owners of seventy-five percent (75%) of the Floor Area in the Shopping Center (which must include the Declarant, so long as it has any interest in the Shopping Center) and duly recorded.

16. GENERAL PROVISIONS

16.1 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 Declarant that this Declaration shall be strictly limited to and for the purposes herein expressed.

16.2 No Merger. Notwithstanding the fact that two or more Lots in the Shopping Center may be owned by the same person or entity, the doctrine of merger shall not apply to extinguish or invalidate the easements granted, and the restrictions imposed, by this Declaration.

16.3 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.

16.4 Construction. 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.

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

16.6 Not a 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 Owners.

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

16.8 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 any Owner.

16.9 Inurement. This Declaration and the easements, covenants, benefits and obligations created hereby shall inure to the benefit and be binding upon each Owner and its successors and assigns; provided, if any Owner conveys all of its interest in any Lot owned by it, such Owner shall thereupon be released and discharged from any and all further obligations under this Declaration as fee owner of 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.

16.10 Leases. Declarant acknowledges that certain leases affecting portions of the Shopping Center are in effect as of the date hereof. In the event of any inconsistencies between this Declaration and any existing lease, the provisions of the lease shall control. All leases affecting the Shopping Center or any portion thereof entered into after the date hereof shall be subject to all the terms and provisions of this Declaration, and in the event of inconsistencies between any such future lease and this Declaration, the provisions of this Declaration shall control.

16.11 Estoppel Certificate. Each Owner agrees that upon request by any other Owner, it will issue to a prospective lender of such other Owner or to a prospective purchaser of such other 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

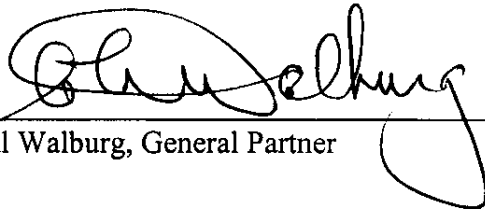
(c) that to the Owner's knowledge this Declaration as of that date is in full force and effect.

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; however, such statement shall in no event subject the Owner furnishing it to any liability whatsoever, notwithstanding the negligent or otherwise inadvertent failure of such Owner to disclose correct and/or relevant information.

16.12 Exhibits. Exhibits A and B, attached hereto, are incorporated herein by this reference.

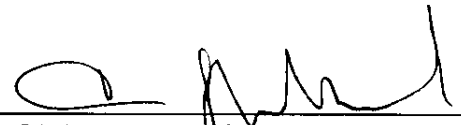
IN WITNESS WHEREOF, this Declaration has been executed as of the date first above written.

OAKLAND ROLAND WAY, LTD.,
a California limited partnership

By: 
Al Walburg, General Partner

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

The foregoing instrument was acknowledged before me this 8th day of February, 2005, by Al Walburg, the General Partner of Oakland Roland Way, Ltd., a California limited partnership.


NOTARY PUBLIC
Residing at: Sandy, Utah

My Commission Expires:
6-22-08

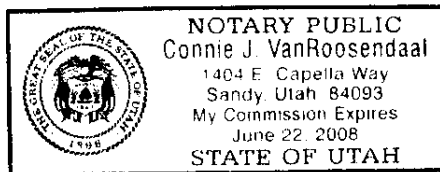


Exhibit A

Legal Description of the Shopping Center

Exhibit A

Legal Description of the Shopping Center

BEGINNING at a point on the East line of the WARE SUBDIVISION NO. 1 recorded with the Salt Lake County Recorder's Office, said point being on the West right of way line of 1300 East Street and said point also being North 00°10'10" East 39.86 feet and North 89°49'50" West 50.00 feet from the Southeast corner of Section 32, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence North 89°59'10" West along North right of way line of 8600 South Street and South line of WARE SUBDIVISION NO. 1 655.00 feet; thence North 00°10'10" East 478.08 feet; thence North 30°46'20" East 102.21 feet to a point on the South right of way line of 8505 South Street and a point of curvature; thence Northeasterly along a non-tangent arc of a 220.13 foot radius curve to the left and said South right of way line of 8505 South Street through a central angle of 13°16'17" a distance of 50.99 feet (center bears North 13°19'26" East); thence South 89°59'10" East along said South right of way line of 8505 South Street 552.42 feet to a point on the said West right of way line of 1300 East Street, said point also being on the East line of the WARE SUBDIVISION NO. 1; thence South 00°10'10" West along said West right of way line of 1300 East Street and along the said East line of the WARE SUBDIVISION NO. 1 560.00 feet to the point of BEGINNING.

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[FOR REFERENCE PURPOSES ONLY: Tax Parcel No. 22-32-477-017]

Exhibit B

Site Plan of the Shopping Center

Exhibit B

Site Plan of the Shopping Center

