

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

CARL'S JR. RESTAURANTS LLC  
6700 Tower Circle, Suite 1000  
Franklin, TN 37067  
Attn: Real Estate Asset Management

FATCO NCS-944089.ai

APNs: 03-036-0115, 03-036-0116, 03-036-0117 & 03-036-0118

(Space Above For Recorder's Use)

### SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN T AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN T AGREEMENT ("Agreement") is made as of the 10<sup>th</sup> of April, 2019, between COMMUNITY CENTERS OF AMERICA-AUBURN, LLC and MA MOSS BP, LLC, each a Delaware limited liability company, as tenants in common (collectively, "Landlord"), CARL'S JR. RESTAURANTS LLC, a Delaware limited liability company ("Tenant"), and MUFG UNION BANK, N.A., a national banking association, d/b/a MUFG Principal Commercial Capital, with an address for purposes of notice at c/o Principal Real Estate Investors, LLC, 801 Grand Avenue, Des Moines, Iowa 50392-1450, Re: Loan No 758301 ("Lender").

#### RECITALS:

A. Tenant is the holder of a leasehold interest in approximately 5,049 square feet of the Shopping Center ("Leased Premises") pursuant to that certain Lease, dated as of September 25, 1997 between Landlord, as landlord, and Tenant, as tenant (as amended from time to time, the "Lease"); and

B. The Leased Premises are part of a larger tract of land located in the County of Davis, State of Utah, legally described in Schedule A attached hereto and incorporated herein by this reference ("Shopping Center"); and

C. Lender has made or has agreed to make a loan to Landlord, which loan shall be secured by a Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing encumbering the Shopping Center, dated as of April 9, 2019, and recorded immediately prior to this Agreement in the official records of Davis County, Utah ("Mortgage"); and

D. The parties desire to subordinate the Lease to the Mortgage and to establish certain rights of quiet and peaceful possession to the Leased Premises for Tenant's benefit together with certain obligations of attornment, all in the manner hereafter provided.

The foregoing recitals are incorporated into and made an integral part of this Agreement.

#### AGREEMENT:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed between the parties as follows:

1. Subordination. Subject to the terms and conditions set forth in this Agreement, Tenant hereby subordinates its interest in the Lease and all of its right, title and interest in and to the leasehold estate created thereby (including, without limitation, any right or option to purchase the Leased Premises), to the lien created by the Mortgage and to all present or future advances under the obligations secured thereby.

2. Non-Disturbance. Lender agrees that provided the Lease remains in full force and effect and no default exists (i) under this Agreement or (ii) under the Lease which at such time would then permit Landlord to terminate the Lease or to exercise any dispossession remedy provided for therein, in the event of foreclosure of the Mortgage, or other enforcement of the terms and conditions of the Mortgage, or in the event Lender comes into possession or acquires title to the Premises as a result of foreclosure or the threat thereof, or as a result of any other means (a) Tenant will not be made a party in any action or proceeding to foreclose the Mortgage or to remove or evict Landlord from the Leased Premises or from any part of the Shopping Center except to the extent required under applicable law; (b) such action shall not result in either a termination of the Lease or a diminution or impairment of any of the rights granted to Tenant in the Lease or in an increase in any of Tenant's obligations under the Lease, including but not limited to provisions in the Lease dealing with condemnation, fire and other casualties, and options to lease and/or purchase the Leased Premises, nor will Tenant's possession or right to possession of the Leased Premises or of any part of the Shopping Center under the Lease for the term thereof (including any and all extensions or renewals thereof effected in accordance with any option therefor in the Lease) be terminated or disturbed or in any way interfered with by any action taken by Lender to enforce any rights or remedies under the Mortgage; and (c) Lender, upon succeeding to Landlord's interest in the Leased Premises, will recognize the Lease and Tenant as its direct tenant under the Lease for the full term thereof (including any and all extensions or renewals thereof effected in accordance with any option therefor in the Lease), and will be bound by and perform all of the obligations of Landlord set forth in the Lease as if said person were originally named therein as the landlord thereunder; provided, however, in the event Lender, its successors and/or assigns acquire the Leased Premises through foreclosure proceedings, deed-in-lieu of foreclosure, or otherwise, such event shall not activate Tenant's purchase option or right of first refusal thereunder and provided, further, however, that Lender shall not be: (i) personally liable for the payment of any sum arising under or with respect to the Lease prior to the date Lender acquires Landlord's interest in the Leased Premises; (ii) obligated to cure any default of any prior landlord (including Landlord) under the Lease which occurred prior to the date Lender acquires Landlord's interest in the Leased Premises ("Succession") except for those obligations of a continuing nature imposed on Landlord under the Lease that are not personal to Landlord and are reasonable susceptible to being cured by Lender and for which Tenant provided notice to Lender prior to Succession; (iii) subject to any right of offset against rent for any event arising prior to the date Lender acquires Landlord's interest in the Leased Premises, except for any such right accruing due to a Landlord default that is of a continuing nature and for which Lender has received written notice from Tenant pursuant to this Agreement; or (iv) bound by any payment of rent or other amount by Tenant to any prior landlord (including Landlord) more than thirty (30) days in advance of the due date under the Lease; except to the extent said payment is required by the terms, covenants, conditions or agreements contained in the Lease and was previously approved in writing by Lender. Notwithstanding in this Agreement to the contrary, Lender agrees to recognize Lessee's right or option to purchase the Leased Premises only to the extent the purchase price for the sale of the Leased Premises is paid directly and immediately to Lender and is sufficient to pay in full the then outstanding indebtedness under the Loan, including any applicable premium.

In the event that the Lender or any other person acquires title to the Leased Premises pursuant to the exercise of any remedy provided for in the Mortgage or under the law of the state where the Leased Premises is located, the Lease shall not be terminated or affected by said foreclosure or sale resulting from any such proceeding and the Lender hereby covenants that any sale by it of the Leased Premises pursuant to the exercise of any rights and remedies under the Mortgage or otherwise, shall include the assumption of the Lease and the obligations of the Landlord thereunder.

3. Attornment. Tenant agrees that, if the interest of Landlord in the Leased Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceeding brought by it under any present or future lien against Landlord's interest in the Leased Premises, or by any other manner, Tenant shall be bound to the Lender under all of the terms, covenants, conditions and agreements set forth in the Lease for the balance of the term thereof remaining (including any and all extensions or renewals thereof effected in accordance with any option therefor in the Lease) with the same force and effect as if Lender were originally named therein as the landlord thereunder, and Tenant does hereby agree to attorn to Lender as its landlord thereunder so as to establish direct privity of estate and contract between Lender and Tenant, said attornment to be effective and self-operative without the execution of any further instrument on the part of either of the parties hereto immediately upon Lender succeeding to the interest of Landlord in the Leased Premises. The parties acknowledge and agree that the Mortgage provides that under certain circumstances Lender shall be entitled to collect, receive and demand payment of all or any part of the rent and other sums due and payable to Landlord under the Lease to Lender. The parties agree that: (a) Tenant shall be under no obligation to pay rent or any other sums due and payable to Landlord under the Lease to Lender until such time as Tenant receives written notice from Lender demanding payment of said amounts to Lender (and no proof of a Landlord default under the Mortgage shall be required); (b) all sums so paid by Tenant to Lender hereunder shall be credited against rent due under the Lease and shall pro tanto satisfy the obligation of Tenant under the Lease to pay the same amount to Landlord; (c) Tenant shall be entitled to rely on any such written notice from Lender and shall not incur any liability to Landlord as a result of such reliance notwithstanding the existence of any dispute between Landlord and Lender with respect to the existence of any default or the satisfaction of any condition under the Mortgage or any other document executed in connection with the transaction which is the subject of the Mortgage which would entitle Lender to collect, receive or demand payment of said amounts from Tenant; and (d) all of Lender's rights described in this sentence shall be subject to all of Tenant's rights and remedies set forth in the Lease including, without limitation, the right of offset against rent following Succession.

4. Intentionally Omitted.

5. Title to Property, Condemnation, Casualty. Lender agrees that fee title to all improvements constructed on the Leased Premises, together with all additions, alterations and improvements thereto, even though a part of the realty, shall be and remain in Tenant during the term of the Lease (as the same may be extended) and that all condemnation awards and insurance proceeds payable with respect to the Leased Premises shall be paid to Tenant in accordance with the terms of the Lease. Lender further agrees that all condemnation awards and insurance proceeds payable to Landlord or Lender with respect to the Leased Premises or the Shopping Center shall be paid and applied to restoration of the Leased Premises and the Shopping Center in accordance with the provisions for condemnation and casualty under the Lease. In no event shall the lien of the Mortgage affect or constitute a lien or charge on any fixtures, equipment or personal property owned by Tenant and Tenant may remove any of its fixtures, equipment or personal property from the Leased Premises in accordance with the provisions of the Lease.

6. Lender's Option to Cure. Tenant agrees to provide Lender with a copy of any written notice of default given to Landlord pursuant to the Lease prior to exercising any of its rights and remedies under the Lease. Tenant shall not terminate the Lease unless Tenant has sent a copy of the notice of default to Lender and Lender has not rectified the particulars specified in such notice of default within the time period allowed Landlord in the Lease. Notwithstanding the foregoing, in the event of a monetary default, Tenant shall give Lender ten (10) calendar days after the date of receipt of such notice to cure such monetary default. In the event of a non-monetary default, Tenant shall give Lender a cure period equal to the longer of (i) 30 days after the cure period provided to Landlord under the Lease; (ii) 30 days after Lender's receipt of Tenant's notice to Lender of a Landlord default, or (iii) if the cure of such default requires possession of the Property, 30 days after Lender has obtained possession of the Property; provided that in each case, if such default

cannot reasonably be cured within such cure period and Lender has diligently commenced to cure such default within the time contemplated by this Section 6, such cure period shall be extended for so long as necessary for Lender, in the exercise of due diligence, to cure such default. Tenant acknowledges that Lender is not obligated to cure any Landlord default, but if Lender elects to do so, Tenant agrees to accept cure by Lender as that of Landlord under the Lease and will not exercise any right or remedy under the Lease for a Landlord default. Performance rendered by Lender on Landlord's behalf is without prejudice to Lender's rights against Landlord under the Mortgage or any other documents executed by Landlord in favor of Lender in connection with the Loan.

7. Definitions. For the purpose of this Agreement: (a) the term "**foreclosure**" shall be deemed to include the acquisition of Landlord's interest in the Leased Premises by foreclosure or pursuant to the exercise of any power of sale contained in the Mortgage, or by deed (or assignment) given in lieu of, or in anticipation of, foreclosure or the exercise of any such power of sale, or by any other means whatsoever, and (b) the term "**Lender**" shall be deemed to include anyone who succeeds to Landlord's interest in the Leased Premises pursuant to the Mortgage including, without limitation, any purchaser at foreclosure or pursuant to the exercise of any power of sale contained in the Mortgage, or any grantee of a deed (or assignment) given in lieu of, or in anticipation of, foreclosure or the exercise of any such power of sale.

8. Notices. All notices given pursuant to this Agreement shall be in writing and shall be given by personal delivery, by United States registered or certified mail, or by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, return receipt requested, addressed to the appropriate party at the address set forth below:

Landlord:	c/o CCA Acquisition Company, LLC 5670 Wilshire Blvd., Suite 1250 Los Angeles, CA 90036 Attention: _____
Tenant:	CARL'S JR. RESTAURANTS LLC 6700 Tower Circle, Suite 1000 Franklin, TN 37067 Attn: Real Estate Asset Management
Lender:	MUFG UNION BANK, N.A. d/b/a MUFG Principal Commercial Capital 801 Grand Avenue Des Moines, IA 50392-1360 Attn: Asset Management Re: Loan No. 758301

The person and address to which notices are to be given may be changed at any time by any party upon written notice to the other party. All notices given pursuant to this Agreement shall be deemed given upon receipt. For the purpose of this Agreement, the term "**receipt**" shall mean any of the following: (a) the date of delivery of the notice or other document as shown on the return receipt; (b) the date of actual receipt of the notice or other document by the person or entity specified pursuant to this section; or (c) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of: (i) the date of the attempted delivery or refusal to accept delivery; (ii) the date of the postmark on the return receipt; or (iii) the date of receipt of notice of refusal or notice of nondelivery by the sending party.

9. Attorneys' Fees. If any litigation is commenced between the parties hereto concerning this Agreement or the rights or obligations of any party in relation thereto, the prevailing party in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for its attorney's fees in such litigation (including any appeal thereof), which sum shall be determined by the court in such litigation or in a separate action brought for that purpose.

10. Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns, including, without limitation, the mortgagee or beneficiary under any mortgage or deed of trust on Tenant's interest in the Lease or the Leased Premises, its successors and assigns.

11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which together shall constitute but one and the same instrument, and shall be effective upon execution of one or more of such counterparts by each of the parties hereto.

12. Miscellaneous. If any term, covenant, condition or agreement contained in this Agreement or the application thereof to any person, firm or entity shall at any time or to any extent be deemed or found to be invalid or unenforceable by operation of law, judicial proceedings or otherwise, the remainder of this Agreement or the application of such term, covenant, condition or provision to persons or entities or to circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each remaining term, covenant, condition or provision of this Agreement or the application thereof shall be valid and enforced to the fullest extent permitted by law. This Agreement contains the entire agreement between the parties and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. This Agreement may not be modified in any manner whatsoever except by an instrument in writing signed by each of the parties hereto. In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular. This Agreement shall be promptly recorded in the official land records of the county in which the Leased Premises is located. The original recorded Agreement shall be sent to Tenant. Lender shall receive a copy of the recorded Agreement.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**TENANT:**

CARL'S JR. RESTAURANTS LLC  
a Delaware Limited Liability Company

By:   
Name: Kathy Steininger  
Title: Vice-President, Real Estate Asset Management

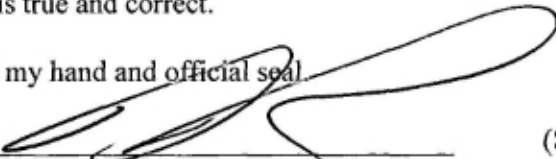
*A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.*

STATE OF CALIFORNIA }  
COUNTY OF ORANGE }

On 4/8/19, before me, KIRK RIVER, Notary Public, personally appeared KATHY STEININGER, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature: 

(Seal)



LANDLORD:

**COMMUNITY CENTERS OF AMERICA-  
AUBURN, LLC**, a Delaware limited liability  
company

By: CCA Acquisition Company, LLC,  
a California limited liability company,  
as its Managing Member

By:   
Steven Usdan, Managing Member

[ACKNOWLEDGMENT FOLLOWS ON NEXT PAGE



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of LOS ANGELES )

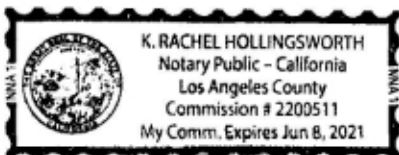
On APRIL 3, 2019 before me, K. RACHEL HOLLINGSWORTH, NOTARY PUBLIC,  
Date Here Insert Name and Title of the Officer

personally appeared STEVEN USDAN  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_  
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_  
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_



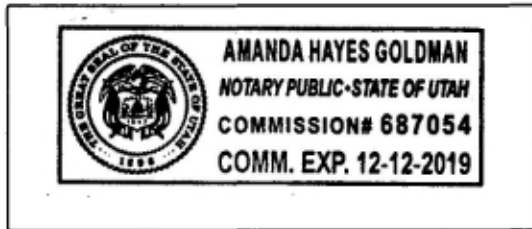
LANDLORD:

**MA MOSS BP, LLC,**  
a Delaware limited liability company

By: *Duane Moss*  
Duane Moss, Manager

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

The foregoing instrument was acknowledged before me this 1 day of April, 2019, by Duane Moss, the Manager of MA Moss BP, LLC, a Delaware limited liability company.




*Amanda Hayes Goldman*  
Notary Public  
Print Name: Amanda Hayes Goldman  
Residing at: Salt Lake County  
My commission expires: 12-12-19

(Use this space for notarial stamp/seal)

LENDER:

**MUFG UNION BANK, N.A.**, a national banking association, d/b/a MUFG Principal Commercial Capital

By   
Name: Philip R. Miller  
Title: Managing Director

STATE OF NEW YORK            )  
  ) SS.  
COUNTY OF NEW YORK        )

On the 5<sup>th</sup> day of April, 2019, before me, the undersigned, a notary public in and for said state, personally appeared Philip R. Miller, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

(SEAL)





Notary Public in and for the State  
of New York

**PRISCILLA R COLEMAN DYKES**  
Notary Public - State of New York  
No. 01CO6197368  
Qualified in New York County  
My Commission Expires December 1, 2020

**SCHEDULE A**

**LEGAL DESCRIPTION**

Real property in the City of Bountiful, County of Davis, State of Utah, described as follows:

**PARCEL 1:**

BEGINNING AT A POINT NORTH 89°44'04" EAST 166.96 FEET AND SOUTH 0°15'56" EAST 11.00 FEET FROM THE NORTHWEST CORNER OF BLOCK "L", NORTH MILL CREEK PLAT, BOUNTIFUL TOWNSITE SURVEY, IN THE CITY OF BOUNTIFUL, AND RUNNING THENCE NORTH 89°44'04" EAST 231.75 FEET; THENCE SOUTH 0°15'56" EAST 67.25 FEET; THENCE NORTH 89°44'04" EAST 9.01 FEET; THENCE SOUTH 0°15'56" EAST 80.55 FEET; THENCE NORTH 89°44'04" EAST 141.01 FEET; THENCE NORTH 0°15'56" WEST 5.00 FEET; THENCE NORTH 89°44'04" EAST 110.13 FEET; THENCE SOUTH 0°09'34" WEST 267.98 FEET; THENCE SOUTH 69°34'33" WEST 88.28 FEET; THENCE NORTH 80°58'26" WEST 162.70 FEET; THENCE NORTH 67°12'26" WEST 88.10 FEET; THENCE SOUTH 59°37'34" WEST 87.00 FEET; THENCE SOUTH 86°28'33" WEST 86.97 FEET; THENCE NORTH 0°09'34" EAST 161.09 FEET; THENCE SOUTH 89°44'01" WEST 173.54 FEET; THENCE NORTH 0°09'34" EAST 93.43 FEET; THENCE NORTH 89°44'04" EAST 168.33 FEET; THENCE NORTH 0°15'56" WEST 174.50 FEET TO THE POINT OF BEGINNING.

**PARCEL 2:**

BEGINNING AT A POINT NORTH 89°44'04" EAST 398.71 FEET AND SOUTH 0°15'56" EAST 11.00 FEET FROM THE NORTHWEST CORNER OF BLOCK "L", NORTH MILL CREEK PLAT, BOUNTIFUL TOWNSITE SURVEY, IN THE CITY OF BOUNTIFUL AND RUNNING THENCE NORTH 89°44'04" EAST 261.21 FEET; THENCE SOUTH 0°09'34" WEST 142.80 FEET; THENCE SOUTH 89°44'04" WEST 110.13 FEET; THENCE SOUTH 0°15'56" EAST 5.0 FEET; THENCE SOUTH 89°44'04" WEST 141.01 FEET; THENCE NORTH 0°15'56" WEST 80.55 FEET; THENCE SOUTH 89°44'04" WEST 9.01 FEET; THENCE NORTH 0°15'56" WEST 67.25 FEET TO THE POINT OF BEGINNING.

**PARCEL 3:**

BEGINNING AT A POINT SOUTH 0°09'34" WEST 11.00 FEET FROM THE NORTHWEST CORNER OF BLOCK "L", NORTH MILL CREEK PLAT, BOUNTIFUL TOWNSITE SURVEY; RUNNING THENCE NORTH 89°44'04" EAST 167.04 FEET; THENCE SOUTH 0°15'56" EAST 174.50 FEET; THENCE SOUTH 89°44'04" WEST 168.33 FEET; THENCE NORTH 0°09'34" EAST 174.50 FEET TO THE POINT OF BEGINNING.

PARCEL 4:

BEGINNING AT A POINT SOUTH 0°09'34" WEST 278.93 FEET FROM THE NORTHWEST CORNER OF BLOCK "L", NORTH MILL CREEK PLAT, BOUNTIFUL TOWNSITE SURVEY, IN THE CITY OF BOUNTIFUL, AND RUNNING THENCE NORTH 89°44'01" EAST 173.54 FEET; THENCE SOUTH 0°09'34" WEST 161.09 FEET; THENCE SOUTH 86°28'33" WEST 43.63 FEET; THENCE NORTH 72°14'26" WEST 42.40 FEET; THENCE NORTH 88°41'25" WEST 89.60 FEET; THENCE NORTH 0°09'34" EAST 147.99 FEET TO THE POINT OF BEGINNING.

Tax Parcel No.1: 03-036-0115

Tax Parcel No.2: 03-036-0116

Tax Parcel No.3: 03-036-0117

Tax Parcel No.4: 03-036-0118