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 Gary W. Ott
 Recorder, Salt Lake County, UT
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WHEN RECORDED RETURN TO:

PARSONS BEHLE & LATIMER
 One Utah Center
 201 South Main Street, Suite 1800
 Post Office Box 45898
 Salt Lake City, Utah 84145-0898
 Attention: Kerry L. Owens

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 AW# 201420

Space above for County Recorder's Use

RESTRICTION AGREEMENT
 AND GRANT OF EASEMENTS

THIS RESTRICTION AGREEMENT AND GRANT OF EASEMENTS (this "Agreement") is made as of this 14 day of August, 2007, by and between MAGNA INVESTMENT AND DEVELOPMENT, LTD., a Utah limited partnership ("Magna"), HOME DEPOT U.S.A., INC., a Delaware corporation ("Home Depot") and NEW ALBERTSON'S, INC., a Delaware corporation ("Albertson's").

1. PRELIMINARY

1.1 Parties. Magna is the Owner of the Magna Parcel and the Outparcels, and Home Depot is the Owner of the Home Depot Parcel, Albertson's is the Prime Lessee of the Magna Parcel. The Parcels are located near the intersection of 2000 East and 9400 South, in the City of Sandy, County of Salt Lake, State of Utah, as more clearly delineated on the Site Plan.

1.2 Purpose. The Parties plan to develop an additional phase of the existing Shopping Center as an integrated retail sales complex for the mutual benefit of all Parcels in the Shopping Center and, therefore, do hereby fix and establish the Easements and Restrictions upon and subject to which all of the Shopping Center, or any part thereof, shall be improved, held, leased, sold, and/or conveyed. Such Easements and Restrictions shall run with the land and inure and pass with such Parcels and shall apply to and bind the respective successors in interests thereof, and all and each Easement and Restriction is imposed upon such Parcels as a mutual equitable servitude in favor of such Parcels and any portion thereof.

1.3 Definitions. The following defined terms shall have the meanings set forth below for purposes of this Agreement.

(a) "Albertson's." New Albertson's Inc., a Delaware corporation, successor in interest to Albertson's, Inc., under the Albertson's Ground Lease, and any successor or assign of Albertson's under the Albertson's Ground Lease.

(b) "Albertson's Ground Lease." The Shopping Center Ground Lease dated November 20, 1996 and all subsequent amendments and letter agreements thereto, including but not limited to (i) that certain letter agreement dated November 20, 1996, (ii) that certain letter agreement dated February 18, 1997, (iii) that certain letter agreement dated March 18, 1997, (iv) that certain Amendment to Shopping Center Ground Lease and to Development Agreement dated March 31, 1997,

and (v) that certain Fifth Amendment to Shopping Center Ground Lease and to Development Agreement dated March 10, 1998, each executed by Magna Investment & Development, LTD., a Utah limited partnership, as Landlord, and Albertson's, Inc., a Delaware corporation, as Tenant, as disclosed by a Memorandum of Shopping Center Ground Lease, dated December 4, 1996, and recorded with the Salt Lake County Recorder on December 13, 1996, as Entry No. 6527390, in Book 7556, beginning at Page 1065 of the Official Records, and a First Amendment to Memorandum of Shopping Center Ground Lease, recorded with the Salt Lake County Recorder on March 17, 1998, as Entry No. 6894319, in Book 7912, beginning at Page 699 of the Official Records.

(c) **"Agreement."** This Restriction Agreement and Grant of Easements.

(d) **"Approved Plans."** The grading, drainage, and utility plans for the Shopping Center approved by the Consenting Owners. Such approved grading, drainage, and utility plans are referenced on **Exhibit "G"** attached hereto and made a part hereof.

(e) **"Building."** Any permanently enclosed structure placed, constructed, or located on a Parcel, which shall include any appurtenant canopies and supports.

(f) **"Building Area."** All those areas on each Parcel designated as "Building Area" on the Site Plan attached hereto as **Exhibit "A"** and made a part hereof.

(g) **"Center Pylon Sign(s)."** The pylon and/or monument signs designated on the Site Plan attached hereto as **Exhibit "A"** and made a part hereof (which collectively includes the two (2) Albertson's Pylon Signs, the 9400 South Street Pylon Sign, and the Home Depot Pylon Sign as referred to below.

(h) **"City."** The city of Sandy, Utah.

(i) **"Claims."** Causes of action, claims, liabilities, losses, damages, costs, and expenses (including reasonable attorneys' fees and court costs).

(j) **"Common Area."** All those areas on each Parcel which are not Building Area or Service Areas, together with those portions of the Building Area on each Parcel which are not from time-to-time actually covered by a Building, Garden Center, or being used as Outside Sales Area. Canopies which extend over the Common Area, together with any columns or posts supporting same, shall be deemed to be a part of the Building to which they are attached and not a part of the Common Area. The improvement or use of any portion of the Building Area as Common Area shall not be construed as a permanent inclusion of such portion within the Common Area, and such portions may, at any time thereafter, be improved with Buildings and appurtenances as contemplated by this Agreement.

(k) **"Consenting Owners."** The Owner of the Home Depot Parcel and the Owner of the Magna Parcel and Albertson's, so long as it is the Prime Lessee of the Magna Parcel; provided, however, that in the event any such Consenting Owner sells its Parcel and becomes the Prime Lessee thereon, such Prime Lessee shall be deemed appointed as the entity to cast the vote or give the consent for the Parcel on behalf of the Consenting Owner so long as it is the Prime Lessee of said Parcel; provided further, however, in the event any such Consenting Owner sells any portion, but not all, of its Parcel, then the Consenting Owner as to such Parcel shall be that Owner who owns the largest portion of Land Area within such Parcel, regardless of any agreement to the contrary.

(l) **"Default Rate."** The greater of (i) ten percent (10%) per annum or (ii) the prime rate plus five percent (5%). As used herein, "prime rate" shall mean the rate of interest published from

time-to-time as the "Prime Rate" in the Wall Street Journal under the heading "Money Rates"; provided, however, that (i) if more than one such rate is published therein the prime rate shall be the highest such rate, and (ii) if such rate is no longer published in the Wall Street Journal or is otherwise unavailable, the prime rate shall be a substantially comparable index of short term loan interest rates charged by U.S. banks to corporate borrowers selected by the Consenting Owners.

(m) "**Development Agreement.**" That certain Development Agreement between the Parties which encumbers the Shopping Center, a memorandum of which was recorded concurrently with this Agreement.

(n) "**Easements.**" The easements fixed and established upon the Shopping Center pursuant to this Agreement.

(o) "**Floor Area.**" The total number of square feet of floor space on each floor in a Building, including basement, subterranean, balcony, and mezzanine space, irrespective of whether actually occupied, and including any outdoor seating area used exclusively by an Owner or Occupant for its Permittees. Floor Area shall be measured from the exterior line of the exterior walls and from the center line of any party or common interior walls without deduction for columns, walls or other structural or non-structural components; provided, however, in no event shall the following be included in such calculations: (i) an Outside Sales Area, (ii) the Garden Center located on the Home Depot Parcel, or (iii) Service Areas.

(p) "**Garden Center.**" A fenced outdoor area within the Building Area located on the Home Depot Parcel, portions of which may be under roof or canopy and other portions of which may be "open air" areas.

(q) "**Governmental Regulations.**" Any or all laws, statutes, ordinances, codes, decrees, rulings, regulations, writs, injunctions, orders, rules, or conditions of approval or authorization of any governmental entity, agency, or political subdivision whether now in force or which may hereafter be in force.

(r) "**Home Depot.**" Home Depot U.S.A., Inc., a Delaware corporation, its successors and assigns.

(s) "**Home Depot Parcel.**" The Parcel legally described on Exhibit "D" and identified on the Site Plan as the "Home Depot Parcel" as shown on Exhibit "A" attached hereto and made a part hereof.

(t) "**Improvements.**" Any Building, sign, or Common Area improvements located in the Shopping Center.

(u) "**Land Area.**" The total gross square footage of a Parcel.

(v) "**Lienholder.**" Any mortgagee under a mortgage, a grantee under a deed to secure debt, or a trustee or beneficiary under a deed of trust constituting a lien on any Parcel.

(w) "**Magna.**" Magna Investment and Development, Ltd., a Utah limited partnership, its successors and assigns.

(x) **"Magna Parcel."** The Parcel legally described on Exhibit "C" and identified on the Site Plan as the "Magna Parcel" as shown on Exhibit "A" attached hereto and made a part hereof.

(y) **"Occupant."** Any Person or Prime Lessee from time-to-time entitled to the use and occupancy of any portion of a Building in the Shopping Center under an ownership right or any lease, sublease, assignment, license, concession, or other similar agreement.

(z) **"Outparcel" or "Outparcels."** Individually or collectively, the real property legally described on Exhibit "E" and identified on the Site Plan as "Outparcel No. 1", "Outparcel No. 2", and "Outparcel No. 3" as shown on Exhibit "A" attached hereto and made a part hereof.

(aa) **"Outside Sales Area."** An area generally unprotected from the elements which may be used for sales and/or storage purposes. An Outside Sales Area shall only be located in the area(s) designated on the Site Plan. Any designation on the Site Plan of "seasonal sales" or "seasonal sales area" shall be deemed Outside Sales Area.

(bb) **"Owner."** (i) The record holder of fee simple title to a Parcel, its heirs, personal representatives, successors, and assigns, or (ii) a Prime Lessee as to a Parcel that is subject to a Prime Lease. Each Parcel may have only one Owner, provided that the Owner of a Parcel subject to a Prime Lease shall be jointly and severally liable with the Prime Lessee for any Claims or any default hereunder with regard to the ownership or operation of such Parcel.

(cc) **"Parcel" or "Parcels."** Individually or collectively, the Home Depot Parcel, the Outparcels, and the Magna Parcel, as each is shown on the Site Plan and more particularly described in Exhibit "B".

(dd) **"Party" or "Parties."** The parties set forth in Section 1.1 above, their successors and assigns.

(ee) **"Permittee."** All Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, assignees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended use of the Shopping Center.

(ff) **"Person."** Individuals, partnerships, firms, associations, corporations, limited liability companies, trusts, governmental agencies, administrative tribunals, or any other form of business or legal entity.

(gg) **"Prime Lessee."** An Occupant of an entire Parcel who is not the Owner of such Parcel pursuant to an agreement by which such Prime Lessee is subject to all obligations and responsibilities relating to the ownership and operation of such Parcel and any business thereon.

(hh) **"Restaurant."** Any operation or business which requires a governmental permit, license and/or authorization to prepare and/or serve food for either on- or off-site consumption.

(ii) **"Restrictions."** The covenants, restrictions, liens, and encumbrances fixed and established upon the Shopping Center pursuant to this Agreement.

(jj) **"Service Areas."** The sidewalks attached to and/or adjoining a building, trash compactors and enclosures, exterior lighting attached to a Building, driveup or drive-thru customer service facilities directly adjacent or in close proximity to a Building, side yards and rear yards used for

outdoor storage (provided such outdoor storage does not interfere with the flow of vehicular traffic), loading docks, electrical facilities and transformers, truck ramps and other similar exclusive service facilities and outward extensions, and customer pickup areas directly adjacent or in close proximity to a Building, whether or not described, labeled, or depicted as such on the Site Plan. The Service Areas are the exclusive property of the Owner of the Parcel and not part of Common Area.

(kk) "Shopping Center." That certain existing retail shopping center commonly known as Little Cottonwood Shopping Center and includes collectively, all of the Parcels.

(ll) "Site Plan." The site plan of the Shopping Center shown on Exhibit "A" attached hereto.

(mm) "Utility Lines." Those facilities and systems for the transmission or other provision of utility services, including, but not limited to, water drainage, detention or retention systems or structures, water mains, sewers, lift stations, water sprinkler system lines, electrical conduits or systems, gas mains, other public or private utilities providing service to all Owners of the Shopping Center in common.

2. BUILDING AND COMMON AREA DEVELOPMENT

2.1 Building Location. All Buildings shall be placed or constructed upon the Parcels only in the Building Areas. Buildings may be located (or relocated) anywhere within the Building Area provided the total Floor Area of all Buildings constructed within a Building Area does not exceed the lesser of (i) the square footage assigned to such Building Area as shown on the Site Plan (or as otherwise designated herein), or (ii) the maximum square footage of Floor Area permitted on such Parcel by the application of the minimum parking requirements set forth in Section 4.1 below. All unimproved portions of a Parcel shall be covered by decomposed granite, gravel, sod, hydroseed, or as otherwise permitted by Governmental Regulations and kept weed free and clean at the subject Owner's sole cost and expense until such time as Buildings are constructed thereon.

2.2 Common Area. The Common Area is hereby reserved for the sole and exclusive use of all Owners, Prime Lessees, and Occupants of the Shopping Center and their Permittees. The Common Area may be used for vehicular driving, pedestrian traffic, and such other purposes as are usual and customary in Shopping Centers in the Salt Lake metropolitan area, unless otherwise specifically prohibited in this Agreement. There shall be no parking allowed on any of the Common Area located on the Home Depot Parcel, except by the Owner of the Home Depot Parcel and its Permittees and the Owner of the Home Depot Parcel and its Permittees shall not be allowed to park on any part of the Common Area not located on the Home Depot Parcel. The Common Area shall be maintained as provided for in Article 6. The Owners acknowledge and agree that incidental temporary encroachments upon the Common Area may occur as a result of the use of ladders, scaffolds, store front barricades, and similar facilities in connection with the construction, maintenance, repair, replacement, alteration, or expansion of Buildings, signs, and/or the Common Area, all of which are permitted under this Agreement so long as all activities requiring the use of such equipment are expeditiously pursued to completion and are performed in such a manner as to minimize any interference with use of the improved Common Area or with the normal operation of any business in the Shopping Center.

2.3 Type and Design of Building.

(a) All Improvements in the Shopping Center shall be constructed in conformity with the Approved Plans. Prior to constructing any Improvements, each Owner shall submit to the Consenting Owners grading, drainage, and utility plans so that the Consenting Owners may confirm

compliance with this Section 2.3(a). No Improvements upon a Parcel for which grading, drainage, and utility plans have not been approved may be constructed; provided, however, grading changes resulting from the expansion of the Building or other Improvements on the Home Depot Parcel or the Albertson's Building on the Magna Parcel shall not require the further consent of the Consenting Owners if such expansion is within the Building Area shown on the Site Plan. Unless specifically approved in writing by the Consenting Owners, the drainage, grading, and utilities of any Parcel shall not be modified, altered, or otherwise changed from the Approved Plans (provided, however, a modification to a Utility Line that does not impact any other Parcel shall not require additional approval). There shall be no interference with the established drainage pattern and system over any portion of the Parcels unless adequate provision is made for proper drainage and such interference is approved by all affected Owners.

(b) Subject to Section 2.3(e) below, every Building shall be either equipped with automatic sprinkler systems which meet all the standards of the Insurance Services Office, Inc. (or other similar local organization having jurisdiction) or shall be constructed in such a manner as not to adversely affect the fire rating as determined by local governing agencies of any Building built upon any other Parcel.

(c) No Building shall be built in such a manner as to adversely affect the structural integrity of any other Building in the Shopping Center. No Owner shall have the right to make any attachment whatsoever to another Owner's Building (such other Owner being referred to in this subparagraph only as "**Other Owner**") without such Other Owner's prior written approval, which may be withheld in such Other Owner's sole and absolute discretion. If the Other Owner approves the requested attachment, the Owner making the attachment shall, prior to making such attachment, obtain the Other Owner's prior written approval (which may be withheld in its sole and absolute discretion) of the drawings and specifications detailing the attachment. Any such attachment shall be at the sole cost and expense of the Owner making the attachment and shall be in strict conformance with the approved drawings and specifications detailing the same. Thereafter, the Owner making the attachment shall maintain and repair such attachment and shall repair any affected portion of the Other Owner's Building due to the attachment to the Other Owner's Building.

(d) No Building on the Outparcels (including any landscaping located thereon) shall exceed one (1) story and twenty-two (22) feet in height, inclusive of all mechanical fixtures, signage, and television equipment, and screening for same other than any architectural embellishment ("**Embellishments**") of a Building which may not exceed twenty-seven (27) feet in height; provided, however, Embellishments on any of the Outparcels shall not cover more than twenty percent (20%) of the fascia of each of three (3) sides of a Building. No mezzanine or basement shall be used for the sale or display of merchandise or for the offer or provision of retail services to the public. Notwithstanding the foregoing, the height restrictions set forth in this subparagraph (d) shall not apply to any Building located on an Outparcel constructed as of the date of this Agreement provided; however, that the height restrictions set forth in this subparagraph (d) shall apply to any alteration, repair, change, replacement, modification or reconstruction of any such existing Buildings.

(e) The Building to be constructed on the Home Depot Parcel may be built as Category V-NR (non-rated), as that category is defined pursuant to the Uniform Building Code 2000 Edition (UBC). Any Building on any other Parcel within the Shopping Center shall be constructed in such a manner to guarantee that the Building on the Home Depot Parcel may be constructed or otherwise remains as at least as broad as Type V-NR pursuant to the UBC 1997 edition. Notwithstanding the foregoing, the second sentence of this subparagraph (e) shall not apply to any Building constructed as of the date of this Agreement.

(f) There shall not be constructed in the Shopping Center any parking structure, whether over or under ground level.

2.4 Construction Requirements.

(a) All work performed in the construction, repair, replacement, alteration, or expansion of any Improvements shall be performed as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct, or delay (i) access to or from the Shopping Center, or any part thereof, to or from any public right-of-way, (ii) customer vehicular parking in that portion of the improved Common Area located in front of any Building constructed in the Shopping Center, except as prohibited by Section 2.3, or (iii) the receiving of merchandise by any business in the Shopping Center, including, without limitation, access to its Building. In addition, all work performed on Improvements on the Outparcels shall not unreasonably interfere, obstruct, or delay (i) construction work being performed on any other Parcels, or (ii) the use, enjoyment, or occupancy of any other Parcels. Unless otherwise specifically stated herein, the Person contracting for the performance of such work ("**Contracting Party**") shall, at its sole cost and expense, promptly repair and restore or cause to be promptly repaired and restored to its prior condition all Buildings, signs, and Common Area improvements damaged or destroyed in the performance of such work.

(b) The Contracting Party (as defined in Section 2.4(a) above) shall not permit any mechanics', materialmen's, or other professional services liens (as contrasted with consensual monetary liens such as construction and/or permanent financing) to stand against any other Parcel for any work done or materials furnished in connection with the performance of the work described in subparagraph (a) above; provided, however, that the Contracting Party may contest the validity of any such lien, but upon a final determination of the validity thereof, the Contracting Party shall cause the lien to be satisfied and released of record. The Contracting Party shall, within thirty (30) days after receipt of written notice from the Owner or Prime Lessee of any Parcel encumbered by any such lien or claim of lien, (i) cause any such outstanding lien or claim of lien to be released of record or transferred to bond in accordance with applicable law, or (ii) give such assurance as would enable a title insurance company to insure over such lien or claim of lien, failing which the Owner or Prime Lessee of said Parcel shall have the right, at the Contracting Party's expense, to transfer said lien to bond. The Contracting Party shall indemnify, defend, protect, and hold harmless the Owners and Occupants for, from, and against any and all liability, claims, damages, expenses (including reasonable attorneys' fees and costs and reasonable attorneys' fees and costs on any appeal), liens, claims of lien, judgments, proceedings, and causes of action, arising out of or in any way connected with the performance of such work, including an Owner's or Occupant's own negligence, unless such cause of action is solely the result of the negligent or willful misconduct of the indemnified Owner or Occupant.

(c) Staging for the initial construction of Buildings not covered by the Development Agreement, or the replacement, alteration, or expansion of any Building, sign, or Common Area improvements located in the Shopping Center including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment shall (i) be located solely on the constructing Owner's Parcel, or (ii) be limited to specific areas ("**Staging Area**") of the Shopping Center designated on the Site Plan or otherwise approved in writing by the Consenting Owners. Each Staging Area on any Parcel shall be located in such a way that it will not interfere with the use of the Common Area on any other Parcel. In no event shall any Owner establish a Staging Area within the Home Depot Zone of Control or in the parking field in front of the Albertson's Building without first obtaining the prior written consent of the Owner of the Home Depot Parcel or Albertson's, as appropriate. The Staging for the Home Depot Parcel shall be wholly within the Home Depot Zone of Control. The Staging Area for each Outparcel shall be located on that Outparcel unless the Owner of the Outparcel obtains the consent of the Owner on whose Parcel it proposes to locate

said Staging Area. At the request of any Consenting Owner, any Staging Area for an Outparcel shall be enclosed by a safety fence. Upon completion of such work, the constructing Party shall, at its expense, restore any damaged Common Area to a condition equal to or better than that existing prior to commencement of such work. For purposes of this Agreement, the "Home Depot Zone of Control" shall mean all portions of Outparcel No. 2 and Outparcel No. 3 as shown on Exhibit "A" attached hereto and made a part hereof.

2.5 Temporary License. Each Owner and Prime Lessee hereby grants to the other Owners and Prime Lessees a temporary license for access and passage over and across the Common Area located on the granting Owner's Parcel, to the extent reasonably necessary for such Owner or Prime Lessee to construct and/or maintain Improvements upon its Parcel; provided, however, that such license shall be in effect only during periods when actual construction and/or maintenance is being performed, and provided further that the use of such license shall not unreasonably interfere with the use and operation of (i) any business conducted by an Owner or Occupant, or (ii) the Common Area on the granting Owner's Parcel. Prior to exercising the rights granted herein, an Owner or Prime Lessee shall provide each granting Owner or Prime Lessee with a written statement describing the need for such license, and shall furnish a certificate of insurance showing that its contractor has obtained the minimum insurance coverage required by this Agreement. The Owner or Prime Lessee shall promptly pay all costs and expenses associated with such work, shall complete such work as quickly as possible, and shall promptly clean and restore the affected portion of the Common Area on the granting Owner's Parcel to a condition which is equal to or better than the condition which existed prior to the commencement of such work.

2.6 Indemnity. In addition to the indemnification provided in Section 12.3 below, each Owner and Prime Lessee shall indemnify, defend, protect, and hold every other Owner and Prime Lessee and their respective officers, directors, shareholders, employees, and agents harmless for, from, and against any and all Claims arising out of or related to injury to or death of any person or damage to or destruction of any property occurring on any Parcel and arising out of or resulting from any construction activities performed by or at the request of an Owner or Prime Lessee or their Occupants, including an Owner's, Prime Lessee's, or Occupant's own negligence, unless such damage or destruction is caused solely by the negligent or willful act or omission of the indemnified Owner or Prime Lessee.

2.7 Approval Procedures.

(a) Before any action requiring the Consenting Owners' approval is commenced, sufficient information shall be sent to the Consenting Owners to enable the Consenting Owners to make a decision as to the proposal, together with a review fee equal to Five Hundred and No/100 Dollars (\$500.00) to cover each respective Consenting Owner's costs incurred in reviewing an Owner's proposal, provided, however, the Consenting Owners agree that as between themselves, no review fee shall be required. Each Consenting Owner shall have the right to approve or disapprove the proposal in accordance with the manner and time procedures set forth in Section 14.6 below, and if such Consenting Owner disapproves the proposal, it shall provide a written explanation in reasonable detail of its reasons for disapproval.

(b) No Consenting Owner shall be liable in damages or otherwise for any reason, including any mistake in judgment, negligence, or nonfeasance, arising out of or in connection with the approval or disapproval or failure to approve or disapprove any proposal submitted pursuant to this Agreement. Each Owner agrees that, by acquiring title to its Parcel and submission of such plans, drawings, and/or specifications, it will not bring any action or suit against any Consenting Owner to recover any such damages. In addition, each Owner shall indemnify, defend, protect, and hold the Consenting Owners and their respective officers, directors, shareholders, employees, and agents harmless for, from, and against any and all Claims arising out of or related to the approval or disapproval of any

plans, drawings, and/or specifications submitted to a Consenting Owner by or on behalf of such Owner or its Occupants. No approval shall be considered an approval of the plans, drawings, and/or specifications from an engineering perspective or a determination that they meet building, environmental, or engineering design standards, or that any such Improvements have been built in accordance with such plans, drawings, and/or specifications.

3. EASEMENTS

3.1 Ingress and Egress. Each Owner, as grantor, hereby grants to each other Owner, as grantee, for the benefit of each Parcel belonging to the other Owners, and for the use of said Owner and its Permittees, a nonexclusive easement for ingress and egress by vehicular and pedestrian traffic upon, over and across that portion of the Common Area located on the grantor's Parcel(s), except for those areas devoted to Service Areas, including, without limitation, the Permanent Access Drives. The easements provided for in this Section 3.1 shall not benefit and, without the written approval of the Consenting Owners, may not be assigned or granted to or for the benefit of any property outside the Shopping Center.

3.2 Parking. No Owner or its Permittees shall have the right to park on a Parcel owned by any other Owner. Accordingly, there shall be no cross-parking and each Owner shall use its reasonable best efforts to prohibit customers, employees, patrons, clients, contractors, licensees, invitees, and all other visitors from utilizing any parking spaces located on the property of any other Owner.

3.3 Utility Lines and Facilities.

(a) Each Owner, as grantor, hereby grants to each other Owner, as grantee, for the benefit of each Parcel belonging to the other Owners, a nonexclusive easement under, through, and across the Common Area of the grantor's Parcel(s) for the installation, operation, flow, passage, use, maintenance, connection, repair, relocation, removal and replacement of Utility Lines, subject to the written approval of the granting Owner as to the location of such Utility Lines, and otherwise consistent with the Approved Plans for the Shopping Center. All such Utility Lines shall be installed and maintained below the ground level or surface of such easements, except that fire hydrants, ground mounted electrical transformers and such other facilities as are required to be above ground by the utility providing such service (including temporary service required during the construction, maintenance, repair, replacement, alteration or expansion of any Buildings or improvements located in the Shopping Center) or which have been approved by the Consenting Owners shall be permitted. The easement area shall be no wider than necessary to reasonably satisfy the requirements of a private or public utility, or five feet (5') on each side of the centerline if the easement is granted to a private party. The installation, operation, maintenance, repair, and replacement of such easement facilities shall not unreasonably interfere with the use of the Common Area or with the normal operation of any business in the Shopping Center. The grantee shall bear all costs related to the installation, operation, maintenance, repair, and replacement of such easement facilities, shall repair to the original specifications any damage to the Common Area resulting from such use, and shall provide as-built plans for all such facilities to the Owners of all Parcels upon which such Utility Lines are located within thirty (30) days after the date of completion of construction of the easement facilities.

(b) Notwithstanding the grant of easement for sewer lines included within Section 3.3(a) above, any connections to sewer lines, if such connections are not shown on the Approved Plans, may only be made in the event that (i) the Owner of a Parcel benefiting from the sewer line easement (a "Grantee Parcel") makes at its sole expense any and all improvements to the sewer lines and systems (including, without limitation, any lift stations) as are necessary or required in order to increase the capacity of the sewer lines and systems to adequately serve the Grantee Parcel pursuant to plans and specifications that comply with the requirements of all Governmental Regulations and that are first

approved by the Consenting Owners and the Owner of the Parcel burdened by the sewer line easement (a "Grantor Parcel"), (ii) the Owner of the Grantee Parcel procures all permits, licenses, and approvals and pays any and all tap-on or similar fees required to make any such improvements and to so utilize and connect with such sewer lines and systems, and (iii) the Owner of the Grantee Parcel pays for increased costs of maintenance and repair due to such development work. Notwithstanding the preceding sentence, so long as a Consenting Owner complies with the requirements of all Governmental Regulations, such Consenting Owner will not be required to obtain the approval of the Owner of the Grantor Parcel as set forth in subsection (b)(i) above.

(c) At any time and from time-to-time an Owner shall have the right to install, repair, maintain, and/or relocate on its Parcel any Utility Line installed (or to be installed) pursuant to the foregoing grant of easement which is then located (or to be located) on the Parcel of such Owner, provided that (i) in the case of an installation or relocation, such installation or relocation shall be performed only after sixty (60) days' notice in writing of the Owner's intention to undertake the relocation shall have been given to the Owner of each Parcel served by the Utility Line, (ii) in the case of a repair and/or maintenance, such repair and/or maintenance shall be performed only after thirty (30) days notice in writing of the Owner's intention to undertake repair and/or maintenance shall have been given to the Owner of each Parcel served by the Utility Line, except in the case of an emergency (defined as any situation where there is an imminent threat of harm to persons or property), when such notice shall be given a reasonable period in advance of such emergency repair as is practicable, (iii) any such repair, maintenance and/or relocation shall not unreasonably interfere with or diminish utility service to the Parcels served by the Utility Line, (iv) any such repair, maintenance and/or relocation shall not reduce or unreasonably impair the usefulness, capacity or function of the Utility Line, (v) any such repair, maintenance and/or relocation shall be performed without cost or expense to the Owner or Occupant of any other Parcel, (vi) any such repair, maintenance and/or relocation shall provide for the original and relocated area (if applicable) to be restored using materials and design standards which equal or exceed those originally used, (vii) any such repair, maintenance and/or relocation shall not interfere with the business operation of any of the Owners or Occupants of the Shopping Center, (viii) if an electrical line/computer line is being relocated, the grantor and grantee shall coordinate such interruption to eliminate any detrimental effects, without first obtaining the prior written consent of the Owner of the Home Depot Parcel, which consent may be granted or withheld in such Owner's sole and absolute discretion. The Owner performing such relocation shall provide as-built plans for all such relocated Utility Lines to the Owners of all Parcels served by such Utility Lines within thirty (30) days after the date of completion of such relocation.

(d) The terms and provisions of this Section 3.3 shall survive the expiration or earlier termination of this Agreement.

3.4 Signs. Magna, as grantor, hereby grants to the Owner of the Home Depot Parcel, as grantee, for the benefit of the Home Depot Parcel, a non-exclusive easement under, through, and across the Common Area of the grantor's Parcel(s) and across those specific areas depicted on the Site Plan as "**Home Depot Sign Easement**" for the installation, operation, maintenance, and repair of the "**9400 South Street Pylon Sign**" (as shown on the Sign Plan), and for the installation, operation, maintenance, repair, and replacement of the "**Home Depot Pylon Sign**" (as shown on the Sign Plan) referred to in Section 4.3 of this Agreement and all Utility Lines appurtenant thereto. No signage (temporary or otherwise, including, but not limited to, an electronic marquee) with respect to Persons who are not Owners or Occupants shall be permitted on any Center Pylon Signs located in or upon the Shopping Center. The legal descriptions for the Home Depot Sign Easement are attached hereto as Exhibit "J" and made a part hereof. Nothing herein shall be construed to permit any adverse impact of any Albertson's signage permitted under the Albertson's Ground Lease as more particularly identified in Section 4.3, below.

3.5 Retaining Wall; Slope Easement. Magna, as grantor, hereby grants to the Owner of the Home Depot Parcel, as grantee, for the benefit of the Home Depot Parcel, a non-exclusive easement under, through, and across those specific areas of the grantor's Parcel(s) depicted on the Site Plan as "**Home Depot Slope Easement**" for the construction, maintenance, repair, and replacement of a retaining wall and other improvements appurtenant thereto. The legal description for the Home Depot Slope Easement is attached hereto as **Exhibit "K"** and made a part hereof.

3.6 Dedication to Public Entities. Without the prior written consent of the Consenting Owners, which consent may be granted or withheld in the sole and absolute discretion of each Consenting Owner, no Owner shall grant any easement for the benefit of any property not within the Shopping Center; provided, however, that the foregoing shall not prohibit the granting or dedicating of easements by an Owner on its Parcel to governmental or quasi-governmental authorities or to public utilities to service the granting Owner's Parcel.

3.7 No Merger. Notwithstanding an Owner's ownership of more than one Parcel, the easements granted hereunder shall burden and benefit each Parcel individually, without merger as a result of such common ownership, and upon conveyance of a Parcel so that such Parcel ceases to be under common ownership, neither the Owner conveying said Parcel nor the Owner acquiring said Parcel shall need to execute additional documentation to evidence the existence of said easements, and said easements shall relate back to and shall be deemed to have been created as of the date this Agreement is recorded in the office of the recorder of the county in which the Shopping Center is located.

3.8 Permanent Access Drive. Unless otherwise approved in writing by the Consenting Owners, which approval may be withheld in each Consenting Owner's sole and absolute discretion, those certain accessways shown on the Site Plan as "**Permanent Access Drives**" and "**Service Drive**" including, without limitation, the curb cuts on such accessways, shall not be altered or modified. The locations of the Permanent Access Drives and the Service Drive are shown on **Exhibit "A"** attached hereto and made a part hereof. The legal descriptions of the Permanent Access Drives and the Service Drive are set forth on **Exhibit "L"** attached hereto and made a part hereof.

3.9 Storm Drainage and Detention. Albertson's and Magna hereby grant and convey to the Owner of the Home Depot Parcel the perpetual right and easement to (a) discharge surface storm water drainage and/or runoff from the Home Depot Parcel over, upon, and across a portion of the Magna Parcel, and (b) connect to, utilize, and maintain a portion of the existing storm drainage System for the Shopping Center ("**Storm Drainage Easement**"). The Storm Drainage Easement is legally described on **Exhibit "H"** attached hereto and made a part hereof. All surface water collection, retention, and distribution facilities shall be deemed a Utility Line. No Owner shall alter or permit to be altered the surface of the Common Area or the drainage/retention system constructed on its Parcel if such alteration is not in conformance with the Approved Plans or would materially increase the flow of surface water onto an adjacent Parcel either in the aggregate or by directing the flow of surface water to a limited area. All drains, gutters, downspouts, berms, swells, and other drainage facilities and systems (collectively "**Systems**") shall be maintained by each Owner, with respect to the portion of each such System located upon an Owner's Parcel, in a neat, orderly, safe and sanitary condition, and in such a manner as to facilitate the orderly discharge of water by means thereof. Except as otherwise provided herein, Magna and Home Depot acknowledge and agree that each Parcel shall provide for its own detention and storm water drainage system.

3.10 Additional Easements. Without the prior written consent of the Owner of the Home Depot Parcel, neither Magna nor any owner of the Outparcels shall grant any right of ingress or egress across the Outparcels to any parcel located outside the Shopping Center.

4. OPERATION OF COMMON AREA

4.1 Parking.

(a) There shall be no charge for parking in the Common Area without the prior written consent of the Consenting Owners or unless otherwise required by law. Except as otherwise provided herein, the parking area on each Parcel shall contain sufficient ground level parking spaces (exclusive of parking spaces used for cart corrals and/or recycle centers) in order to comply with the following minimum requirements, without reliance on parking spaces located on any other Parcel:

(i) Five (5) parking spaces for each one thousand (1,000) square feet of Floor Area; and

(ii) With respect to Outparcel No. 2 and Outparcel No. 3 as described on Exhibit "I" attached hereto and made apart hereof, ten (10) parking spaces for each one thousand (1,000) square feet of Floor Area for each single Restaurant which has more than three thousand (3,000) square feet of Floor Area;

(b) If an Owner or Occupant operates a Restaurant incidentally to its primary business purpose, then so long as such incidental operation continues, the portion of the Floor Area occupied by such Restaurant shall be excluded from the application of subsections (iii), (iv), and (v) above. For purposes of this clause only, a Restaurant shall be an "incidental operation" if it occupies less than seven percent (7%) of the Occupant's Floor Area and does not have a separate customer entry/exit door to the outside of the Building. In the event an Occupant utilizes Floor Area for both Restaurant and retail purposes, and such Restaurant purpose is not an "incidental operation", only the portion of Floor Area allocated for Restaurant purposes shall be subject to the application of subsections (iii), (iv) and (v) above.

(c) If the minimum number of parking spaces required by Governmental Regulations is greater than the minimum requirements set forth above, then the minimum number of parking spaces as required by Governmental Regulations shall control.

(d) In the event of a condemnation of part of a Parcel or sale or transfer in lieu thereof that reduces the number of usable parking spaces below that which is required in this Section 4.1, the Owner whose Parcel is so affected shall use its best efforts (including, without limitation, using proceeds from the condemnation award or settlement) to restore and/or substitute parking spaces in order to comply with the parking requirements set forth in this Section 4.1. If such compliance is not possible, the Owner whose Parcel is so affected shall not be deemed in default hereunder, but such Owner shall not be permitted to expand the amount of Floor Area located upon its Parcel. If such Floor Area is thereafter reduced other than by casualty, the Floor Area on such Parcel may not subsequently be increased unless the parking requirement is satisfied.

4.2 Employee Parking. Anything in this Agreement to the contrary notwithstanding, areas to be used for motor vehicle parking by employees of Occupants of the Shopping Center shall be in the areas designated on the Site Plan as "Employee Parking Area." In the event employee parking areas are designated as provided herein, employees of any Owner or Occupant of any part of the Shopping Center shall use only those portions of the Common Area designated for such motor vehicle parking purposes. In no event shall any employees of any business other than the businesses conducted on the Home Depot Parcel park on the Home Depot Parcel nor shall any employees of any business other than the businesses conducted on the Magna Parcel park on the Magna Parcel.

4.3 Signs.

(a) Subject to the provisions of subparagraph (b) and (c) below, no free-standing, permanent sign structures other than the Center Pylon Signs (which collectively includes the two (2) Albertson's Pylon Signs, the 9400 South Street Pylon Sign, and the Home Depot Pylon Sign as referred to below and designated on the Site Plan) and only those monument signs designated and depicted on the Site Plan, which monument signs shall not exceed ten (10) feet in height, may be erected or maintained in the Shopping Center by any Party. The Center Pylon Signs shall comply with the following requirements:

(i) 9400 South Street Pylon Sign. The 9400 South Street Pylon Sign, as designated on the "Sign Plan" attached hereto as Exhibit "F", shall display the designation of Home Depot and, provided the amount of signage otherwise permitted by Governmental Regulations to display Home Depot's designation is not adversely affected thereby, designations for not more than five (5) other business in the Shopping Center. In no event shall the 9400 South Street Pylon Sign interfere with the visibility of the existing Center Pylon Signs. The cost of maintaining, insuring, repairing, and replacing the 9400 South Street Pylon Sign (including electrical hookup to a common meter) shall first be paid by the Owner of the Magna Parcel, provided, however, the Owner of the Home Depot Parcel, along with any of its successors or assigns, shall pay to the Owner of the Magna Parcel, its pro rata share of the reasonable actual invoiced expenses (collectively, the "9400 South Street Pylon Sign Maintenance Costs") incurred by the Owner of the Magna Parcel in connection with maintaining and providing utility service to the 9400 South Street Pylon Sign. The pro rata share of the 9400 South Street Pylon Sign Maintenance Costs for the Owner of the Home Depot Parcel shall be one-fourth (1/4) of the 9400 South Street Pylon Sign Maintenance Costs. The obligation of the Owner of the Home Depot Parcel to pay its pro rata portion of the 9400 South Street Pylon Sign Maintenance Costs shall commence on the date that is the earlier to occur of: (i) usage of any portion of the 9400 South Street Pylon Sign by the Owner of the Home Depot Parcel; or (ii) two years from the date of this Agreement. The Owner of the Home Depot Parcel shall pay to the Owner of the Magna Parcel its portion of the 9400 South Street Pylon Sign Maintenance Costs quarterly, within twenty (20) days of receipt of all applicable invoices (together with applicable back up documentation). If the Owner of the Home Depot Parcel fails to timely pay the 9400 South Street Pylon Sign Maintenance Costs, the Owner of the Home Depot Parcel shall be required to pay interest on the amount due at the Default Rate which shall be in addition to any other rights or remedies of the Owner of the Magna Parcel under this Agreement. If the Owner of the Home Depot Parcel sells its interest in the Home Depot Parcel, the new Owner of such Parcel shall automatically become liable for its pro rata share of the 9400 South Street Pylon Sign Maintenance Costs, which pro rata share shall be determined by dividing the 9400 South Street Pylon Sign Maintenance Costs by four (4) and the new Owner shall assume the payment obligation, as provided pursuant to the terms of this Agreement, at which time the Owner of the Home Depot Parcel shall thereupon be released and discharged from any and all such obligations arising under this Section 4.3(a)(i) for ongoing 9400 South Street Pylon Sign Maintenance Costs with respect to that portion of such costs. Upon such sale to the new Owner, the new Owner shall deliver to the Owner of the Magna Parcel a written statement in recordable form, containing the name and address of the new Owner and the effective date of such conveyance. The new Owner of any such Parcel or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale, or otherwise) shall be liable for all obligations arising under Section 4.2(a)(i) with respect to such 9400 South Street Pylon Sign Maintenance Costs after the date of acquisition of title to such Parcel. Each Person displaying a designation on the 9400 South Street Pylon Sign shall supply and maintain its own sign fascia, bulbs, ballast, wiring, and can and maintain such sign fascia, bulbs, ballast, wiring, and can in good condition and repair. The Owner of the Home Depot Parcel shall have not less than one-fourth (1/4) of the display area of the 9400 South Street Pylon Sign as shown on the Sign Plan and shall have a minimum signage area of thirty-six (36) square feet and the Owner of the Magna Parcel shall have the remaining five (5) designations of the display area as shown on the Sign

Plan. In every instance, the Owner of the Home Depot Parcel shall have the center designation of the 9400 South Street Pylon Sign which designation shall at all times be that which is on the North Side of the 9400 South Street Pylon Sign immediately adjacent to 9400 South Street. The design of the 9400 South Street Pylon Sign shall be subject to the approval of the Consenting Owners. Once constructed, no freestanding sign may be constructed, taken down, altered, or modified without the prior written approval of each of the Consenting Owners. Notwithstanding any other provisions hereof, if an Owner or any of its successors or assigns or their respective agents, representatives, invitees, guests, tenants or licensees, damages the 9400 South Street Pylon Sign, that Owner shall reimburse the Owner of the Magna Parcel for the costs and expenses for the repair and restoration of such damage within thirty (30) days after receipt of an invoice from the Owner of Magna Parcel, and in the event that the Owner fails to make such payment within such 30-day period, such Owner shall be required to pay interest on the amount due at the Default Rate which shall be in addition to any other rights or remedies of the Owner of the Magna Parcel under this Agreement.

(ii) Home Depot Pylon Sign. The Home Depot Pylon Sign, as designated on the "Sign Plans" attached hereto as Exhibit "F", shall display the designation of Home Depot. In no event shall the Home Depot Pylon Sign interfere with the visibility of the existing Center Pylon Sign. The cost of constructing, installing, maintaining, insuring, repairing, and replacing the Home Depot Pylon Sign (including electrical hookup to a common meter) shall be paid by the Owner of the Home Depot Parcel. The Owner of the Home Depot Parcel shall supply and maintain its own sign fascia, bulbs, ballast, wiring, and can and maintain such sign fascia, bulbs, ballast, wiring, and can in good condition and repair.

(b) Provided the signage otherwise permitted by Governmental Regulations to the Owner of the Home Depot Parcel and on the Center Pylon Signs is not adversely affected thereby, each Outparcel may have, subject to Governmental Regulations, one free-standing, permanent sign structure on said Outparcel, at the location designated on the Site Plan. Such sign structure shall display a single designation for an Occupant of the Outparcel. The initial design of the sign structure (including, without limitation, height, and size) shall conform to the Sign Plan attached hereto as Exhibit "F" and incorporated herein. Any change to the initial design of any sign structure shall be subject to the prior written approval of the Consenting Owners. The cost of constructing, installing, maintaining, insuring, operating, repairing, and replacing such sign structure and sign fascia shall be paid by the applicable Owner of the Outparcel upon whose Parcel such monument sign is located. If more than one Occupant of the Shopping Center is designated on a sign structure located on an Outparcel, the Owner of the Outparcel shall be responsible for the cost of constructing, installing, maintaining, insuring, operating, repairing and replacing the sign structure (including electrical hookup to a common meter), and such Owner of the Outparcel shall be reimbursed by the Owners of all other Parcels displaying designations on the sign structure located on such Outparcel in the proportion that the total square footage of each Owner's designation or designations bears to the total square footage of all designations displayed thereon.

(c) Except as set forth in subsections (a) and (b) above, or otherwise approved by the Consenting Owners, all signs on the Outparcels shall conform with the following standards:

(i) All exterior Building signs shall be restricted to identification of the business or service located or provided therein.

(ii) No exterior Building or free-standing sign shall utilize flashing, moving, or audible lights or appurtenances.

4.4 Protection of Common Area. Each Owner and Occupant shall have the right to take such steps as it deems necessary to prevent those Persons not authorized by this Agreement to use the Common

Area from using the Common Area for ingress, egress, parking, or any other purpose. Subject to Governmental Regulations, such steps shall include, without limitation, the construction of fences, walls, or barricades along the boundary lines of any portion of the Shopping Center except along the common boundary line of any Parcel with any other Parcel; provided, however, that any impairment of vehicular access to or from the Shopping Center, or any part thereof, shall require the Consenting Owners' prior written approval, which may be withheld in such Consenting Owners' sole and absolute discretion.

4.5 Changes to Common Area

(a) Except as expressly permitted by this Agreement, no other improvements shall be placed in the Common Area without the prior written approval of the Consenting Owners except (i) Service Areas in accordance with the requirements of paragraph (b) below, (ii) public pay telephones provided their location has been approved in writing by the Consenting Owners, (iii) temporary booths, stands, displays, tents, or other structures or equipment used for sales in the parking area on the Home Depot Parcel.

(b) The sizes and arrangements of Common Area improvements may not be materially changed without the Consenting Owners' prior written approval. A Consenting Owner may withhold its consent to any material change to the entrances or exits to or from the Shopping Center in its sole and absolute discretion. Except as otherwise provided herein and in paragraph (c) below, a Consenting Owner shall not unreasonably withhold, condition, or delay its consent to changes in the Common Area improvements provided that the parking complies in all respects with Section 4.1. Nothing in this Section 4.5 shall be interpreted to require the Consenting Owners' approval to (i) the construction, alteration, or relocation of any Service Areas to the extent that they are located, and do not impede access, to the rear or sides of Buildings, or (ii) the location or relocation of items which are permitted to be placed in the Common Area without consent pursuant to Section 4.5(a)(iii) above.

(c) Within the Outparcels, an Owner may not, without the Consenting Owners' prior written consent, which may be granted or withheld in the Owner's sole and absolute discretion, (i) alter the location, height, or size of any Building or Improvement, including such Common Area improvements such as accessways in to or out of the Shopping Center, (ii) change the number, location, or layout of parking spaces (it being acknowledged by the Parties that such parking must comply in all respects with Section 4.1), or (iii) construct additional structures or Buildings on the Common Area.

5. RESTRICTIONS ON USE

5.1 Home Improvement Store Restrictions. No portion of the Shopping Center other than the Home Depot Parcel shall be used for a Home Improvement Center (defined below). Magna covenants not to lease, rent, sell, transfer, suffer or permit to be leased, rented, sold, transferred or otherwise occupied, any portion of the Magna Parcel, the Shopping Center, or other property owned or controlled by Magna that is within two (2) miles of the outer boundaries of the Shopping Center (now or in the future), directly or indirectly, to be used for a Home Improvement Center. The foregoing covenant shall apply to Magna's successors, heirs, assigns, or beneficiaries and shall run with the aforementioned land and exist for the maximum period permitted by applicable law, except the covenant shall not apply to the existing shopping center commonly known as "Alta View Shopping Center" located at approximately 1300 East and Sego Lilly Drive in Sandy, Utah. The term "**Home Improvement Center**" shall mean any retail store primarily devoted to the retail sale, display, or lease of all or several of the Prohibited Home Improvement Items (defined below) and related items as an integrated retail concept. The term "**Prohibited Home Improvement Items**" shall mean the following items or materials: lumber, hardware, tools, plumbing supplies, pool supplies, electrical supplies, paint, wallpaper, and other wallcoverings, window treatments (including draperies, curtains and blinds), kitchen or bathrooms or components thereof

(including tubs, sinks, faucets, mirrors, cabinets, showers, vanities, countertops and related hardware), windows, hard and soft flooring (including tile, wood flooring, rugs and carpeting), siding, ceiling fans, gardening and garden nursery supplies, artificial and natural plants, outdoor cooking equipment and accessories, patio furniture and patio accessories, Christmas trees, indoor and outdoor lighting systems and light fixtures, cabinets and unfinished and finished furniture, kitchen and household appliances, closet organizing systems, pictures or picture framing, interior design services, or other products generally sold in a retail home improvement center, except for the incidental sale of such items. An "incidental sale of such items" is one in which there is no more than the lesser of (i) five percent (5%) of the total Floor Area of such business, or (ii) 1,000 square feet of sales and/or display area, relating to such items individually or in the aggregate. Notwithstanding the foregoing, Magna shall be entitled to lease a portion of the Magna Parcel to either: (i) a frame shop not exceeding 2,000 square feet of total Floor Area, or (ii) a custom furniture and design store not exceeding 2,000 square feet of total Floor Area. Magna may lease a portion of the Magna Parcel to a lessee/user not in direct competition with Home Depot provided that Magna has obtained the prior written consent of Home Depot which consent Home Depot may withhold in its sole and absolute discretion. Nothing herein is intended to restrict or prevent the operation of the typical grocery store / drug store operation by Albertson's or its successors or assigns, including the incidental sale of any restricted items listed above, regardless of the manner in which such operation is branded.

5.2 Shopping Center Restrictions.

(a) Subject to Section 5.2(j), no portion of the Shopping Center other than the Home Depot Parcel shall be used for any non-retail use or for any of the following purposes: the sale of guns as a primary use; a warehouse; theater, auditorium, sports or other entertainment viewing facility (whether live, film, audio/visual or video); bowling alley; skating rink; fitness center, workout facility, gym, health spa or studio, or exercise facility; Restaurants which derive more than 35% of their gross sales from alcohol sales; business office usage (defined as any office that does not provide services directly to a consumer) other than incidental in connection with non-prohibited uses; retail office usage (defined as any office which provides services directly to consumers, including but not limited to financial institutions, real estate, stock brokerage and title companies, travel and insurance agencies, and medical, dental and legal clinics). Notwithstanding the foregoing, nothing herein shall invalidate current leases by Magna to the existing tenants operating as Massage Envy, Oxford Learning Source, and Canyon View Dental Care within portions of the Building facing 9400 South Street and located on the Magna Parcel and the Shopping Center restrictions shall not be deemed to extend to a full service automatic car wash facility (but not a self-service car wash) placed on Outparcel No. 2.

(b) Subject to Section 5.2(j), no portion of the Shopping Center shall be used for any of the following purposes: a flea market or a business selling so-called "second hand" goods (the term "second hand" shall mean stores which sell goods primarily as a service to the public rather than to a retail customer for a profit); cemetery; mortuary; any establishment engaged in the business of selling, exhibiting or delivering pornographic or obscene materials; a so-called "head shop"; off-track betting parlor; gun range; animal kennel; junk yard; recycling facility or stockyard; motor vehicle or boat dealership, repair shop (including lubrication and/or service center) that stores vehicles outdoors overnight, body and fender shop, or motor vehicle or boat storage facility (neither the foregoing restriction nor anything else in this Agreement to the contrary shall preclude the Owner of the Home Depot Parcel's sale or rental of delivery vehicles and trailers to its customers as part of its home improvement business); a mini-storage or self-storage facility; a laundromat or dry-cleaning facility (but this shall not be deemed to prohibit nominal supportive facilities for on-site service oriented to pickup and delivery by the ultimate consumer); a bar, tavern or cocktail lounge; a discotheque, dance hall, comedy club, night club or adult entertainment facility; billiard or pool hall; massage parlor, game parlor or video arcade (which shall be defined as any store containing more than three (3) electronic games); a beauty

school, barber college, reading room, place of instruction or any other operation catering primarily to students or trainees and not to customers (but shall specifically not prohibit a school which is incidental to a primary retail purpose); office usage other than incidental in connection with non-prohibited uses; industrial, residential or manufacturing uses, school or house of worship.

(c) Without the prior written consent of the Consenting Owners, the following shall not be allowed to operate in the Shopping Center or Common Area, except as otherwise permitted in this Agreement: traveling carnivals, fairs, auctions, shows, kiosks, booths for the sale of fireworks, sales by transient merchants utilizing vehicles or booths and other promotions of any nature. Except as otherwise permitted in this Agreement, in the event that unauthorized Persons, including without limitation tenants or invitees of tenants occupying Buildings now or at any future time located in the Shopping Center, utilize the parking area for other than temporary parking by customers while shopping in the Shopping Center, Magna shall at its sole expense, upon written request by Home Depot and/or Albertson's, take whatever action as shall be necessary to prevent said unauthorized use.

(d) No portion of the Shopping Center shall be used for a business or use which creates strong, unusual or offensive odors, fumes, dust or vapors; emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness; creates unusual fire, explosive or other hazards, or materially increases the rate of insurance for any other Parcel, Owner or Occupant; provided however, the operation of a typical Home Depot home improvement store shall not be deemed to be in violation of this Section 5.2(d).

(e) No oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any portion of the Parcels, nor shall oil wells, tanks, tunnels, or mineral excavation or shafts be permitted upon the surface of any portion of the Parcels, or within five hundred (500) feet below the surface of any of the Parcels. No derrick or other structure designed for use in boring for water, oil, natural gas or other minerals shall be erected, maintained or permitted on any portion of the Shopping Center.

(f) No portion of the Common Area shall be used for the sale, storage, or display of merchandise or food; provided, however, that (i) the display of delivery vehicles for sale and/or rental to its customers as part of the Owner of the Home Depot Parcel's home improvement business shall be permitted, and (ii) the seasonal sale of merchandise by the Owner or Occupant of the Home Depot Parcel shall be permitted from the parking lot located on the Home Depot Parcel and the seasonal sale of merchandise by Albertson's shall be permitted on the Magna Parcel.

(g) For purposes of this Agreement, all Service Areas shall be the sole exclusive property of the Owners of the Buildings associated with such areas and each Owner shall have the exclusive right to use such areas for whatever purpose such Owner deems appropriate, including, without limitation, the sale and display of merchandise.

(h) For purposes of this Agreement, Persons who are not Owners or Occupants engaging in the following activities in any portion of the Shopping Center will not be considered to be Permittees under this Agreement: (i) exhibiting any placard, sign, or notice that does not advertise an existing business in the Shopping Center; (ii) distributing any circular, handbill, placard, or booklet promoting an existing business in the Shopping Center; (iii) soliciting memberships or contributions for an existing business in the Shopping Center; (iv) parading, picketing, or demonstrating; and (v) failing to follow regulations relating to the use of the Shopping Center.

(i) This Agreement is not intended to, and does not, create or impose any obligation on a Party to operate, continuously operate, or cause to be operated a business or any particular business in the Shopping Center or on any Parcel.

(j) The Parties acknowledge and agree that the Shopping Center is currently encumbered by use restrictions pursuant to the Albertson's Ground Lease, which restrictions are set forth in Article 15 of the Albertson's Ground Lease, a copy of which is set forth in full in Exhibit "M", attached hereto and incorporated herein by this reference. In the event of a conflict or inconsistency with the terms of Article 5 of this Agreement and Article 15 of the Albertson's Ground Lease, the terms of Article 15 of the Albertson's Ground Lease shall prevail so long as the Albertson's Ground Lease is in effect, including any extension thereof. Magna and Albertson's agree that they shall not modify, amend, revise, or waive rights under Section 15.2 and/or Section 15.3 of the Albertson's Ground Lease without the prior consent of the Owner of the Home Depot Parcel. Upon the expiration or earlier termination of the Albertson's Ground Lease, the terms of Section 5.2(a) and/or Section 5.2(b) of this Agreement shall control in all circumstances. Notwithstanding the foregoing, the Parties agree that the home improvement store restrictions benefiting Home Depot under Section 5.1 neither conflict with nor are inconsistent with Article 15 of the Albertson's Ground Lease and that nothing in this Section 5.2(j) shall diminish Albertson's obligations under Section 5.1 above.

(k) Notwithstanding any provision of Section 5.2 to the contrary, Magna shall have the right to lease premises in the existing Building facing 9400 South Street and located on the Magna Parcel to replace current tenants operating businesses as Massage Envy, Oxford Learning Source, and Canyon View Dental Care with tenants operating substantially similar businesses so long as the Floor Area of the premises for each such tenant are not increased by more than ten percent (10%) and such tenant(s) are not relocated to other portions of the Shopping Center.

(l) Notwithstanding any provision of Section 5.2 to the contrary, Magna shall have the right to lease portions of the existing Building facing 9400 South Street and located on the Magna Parcel for commercial uses so long as the aggregate Floor Area of all of the commercial uses within such Building does not exceed eight thousand (8,000) square feet.

6. MAINTENANCE STANDARDS

6.1 Maintenance Obligations. Each Owner shall, except as hereinafter provided, maintain the Common Area on its Parcel at all times in good and clean condition and repair, said maintenance to include, without limitation, the following:

(a) Maintaining, repairing and resurfacing, when necessary, all 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; and restriping, when necessary, to maintain clearly visible parking stall and traffic control lines;

(b) Removing all papers, debris, filth, and refuse from the Common Area and washing or thoroughly sweeping the Common Area to the extent reasonably necessary to keep the Common Area in a clean and orderly condition, unobstructed, and if applicable, free from ice and snow;

(c) Placing, painting, maintaining, repairing, replacing and repainting, as and when necessary, all directional signs, markers, striping and pedestrian crossings upon or within the Common Area;

(d) Maintaining, repairing and replacing, when necessary, (i) Service Areas, and (ii) traffic directional signs, markers and lines, and all informational signs such as "Handicapped Parking", in good repair and condition;

(e) Operating, maintaining, repairing, and replacing, when necessary, such artificial lighting facilities as shall be reasonably required, including, but not limited to, poles, pole bases, wiring, lamps, ballasts, lenses, photocells, time clocks, and contacts. Each Owner shall maintain and provide electricity to all lighting fixtures attached to its respective Building(s) at its sole cost and expense;

(f) Maintaining and watering all landscaped areas; maintaining, repairing, and replacing, when necessary, automatic sprinkler systems and water lines; replacing shrubs and other landscaping as necessary;

(g) Maintaining, repairing, and replacing, when necessary, all Common Area walls (including, without limitation, all fences, walls or barricades constructed pursuant to Section 4.4 above);

(h) Maintaining, repairing and replacing, when necessary, all Common Area storm drains, sewers, lift stations, and other Utility Lines not dedicated to the public or conveyed to any public or private utility which are necessary for the operation of the Buildings and improvements located in the Shopping Center;

(i) Performing itself or contracting with a competent third party or parties to perform any of the services described herein;

(j) Maintaining commercial general liability insurance as set forth in Article 12 hereof;

(k) Supervising traffic at entrances and exits to the Shopping Center and within the Shopping Center if necessary as conditions reasonably require in order to maintain an orderly and proper traffic flow; and

(l) Keeping the Common Area and all common Utility Lines free from any obstructions including those caused by the sale or display of merchandise, unless such obstruction is permitted under the provisions of this Agreement.

6.2 Duty to Maintain. Each Owner shall be responsible for the maintenance, insurance, and lighting of its own Parcel as enumerated in Section 6.1 above. In the event any Owner defaults in the performance of such obligations, any other Owner may cause the performance of the obligations of the defaulting Owner and bill the defaulting Owner for the expenses incurred. In such event, the notice and cure provisions and remedies of Sections 10.2, 11.1 and 11.2 shall apply.

6.3 Indemnity Against Liens. Each Owner shall indemnify, defend, protect, and hold all other Owners and Occupants harmless for, from, and against any and all Claims in connection with any and all liens arising out of any work performed, materials furnished to or obligations incurred by such Owner in connection with the operation and maintenance of the Common Area hereunder.

6.4 Landscaping Areas. Notwithstanding those portions of the "Landscaping Area" as shown on the Site Plan that may be on the Home Depot Parcel, the Landscaping Area shall be kept and maintained in their entirety by the Owner of the Magna Parcel in accordance with the provisions of this Agreement, including, without limitation, this Article 6. On or before January 1 of each calendar year,

the Owner of the Home Depot Parcel shall pay to the Owner of the Magna Parcel, its pro rata share of the reasonable actual invoiced expenses (collectively, the "**Landscaping Area Maintenance Fee**") incurred by the Owner of the Magna Parcel in connection with maintaining, repairing, and replacing the Landscaping Area, as the Owner of the Home Depot Parcel's contribution toward the cost of the Owner of the Magna Parcel's maintenance of the Landscaping Area for the preceding calendar year or portion thereof. Owner of the Home Depot Parcel's proportionate pro rata share for the Landscaping Area Maintenance Fee shall be calculated based on a fraction, the numerator of which shall be the Floor Area of Home Depot's Building (excluding the Garden Center) and the denominator of which shall be the aggregate Floor Area of all Buildings within the Shopping Center. The Landscaping Area Maintenance Fee shall be the sole contribution required by the Owner of the Home Depot Parcel for maintenance, repair, or replacement of the Landscaping Area and all other costs and expenses incurred with respect to such maintenance, repair, or replacement shall be paid by Magna or the Owner of the Magna Parcel.

7. LIGHTING

7.1 Lighting. After completion of the Common Area lighting system on its Parcel, each Owner hereby covenants and agrees to keep its Parcel fully illuminated each day from dusk to at least 11:00 p.m. (Mountain Standard Time) unless the Consenting Owners agree upon a different time. Each Owner further agrees to keep any exterior Building security lights on from dusk until dawn. During the term of this Agreement, each Owner grants an irrevocable license to each other Owner for the purpose of permitting the lighting from one Parcel to incidentally shine on the adjoining Parcels. Unless otherwise approved in writing by the Owner of the Home Depot Parcel, an Owner shall not modify or change the existing exterior lighting fixtures and facilities on any portion of the Shopping Center unless (i) such exterior lighting fixtures and facilities are compatible with the type installed on the Home Depot Parcel, and (ii) do not exceed an average lighting output of three (3) foot candles.

8. PAYMENT OF TAXES

8.1 Taxes and Assessments. Each Owner shall pay direct to the tax collector, prior to delinquency, the real property taxes and other special taxes and assessments levied and assessed against the Owner's Parcel, including the portion of the Common Area on such Owner's Parcel; subject, however, to the right of any such Owner to contest the amount or validity of all or any, part of said taxes and assessments.

8.2 Failure to Pay Taxes and Assessments. Each Owner shall indemnify, defend, protect, and hold all other Owners and Occupants harmless for, from, and against any and all Claims in connection with any and all liens arising out of the failure of an Owner to pay prior to delinquency, all taxes and assessments described in Section 8.1 above.

9. SUCCESSORS AND ASSIGNS; LIMITATION ON RELEASE

9.1 Successors and Assigns; Limitation on Release. This Agreement and the Easements and Restrictions created hereby shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, Occupants, successors, and assigns, and upon any Person acquiring a Parcel, or any portion thereof, or any interest therein, whether by operation of law or otherwise; provided, however, that if any Owner sells all or any portion of its interest in any Parcel, and such Owner, then at such time as the selling Owner executes and delivers to the Consenting Owners a written statement in which the name and address of the new Owner, the effective date of the conveyance, the Parcel conveyed, and, if applicable, the name of a new Party who has taken the position of a Consenting Owner as provided pursuant to the terms of this Agreement, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the property sold by it arising under this Agreement after

the sale and conveyance of title but shall remain liable for all obligations arising under this Agreement prior to the sale and conveyance of title. The new Owner of any such Parcel or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Agreement with respect to such Parcel or portion thereof after the date of sale and conveyance of title. Failure to deliver any such written statement shall not affect the running of any covenants herein with the land, nor shall such failure negate, modify, or otherwise affect the liability of the new Owner pursuant to the provisions of this Agreement, but such failure shall constitute a default by conveying Owner resulting in continued liability hereunder.

10. DEFAULT

10.1 Default. In the event any Owner or Occupant fails to perform any other provision of this Agreement, which failure continues for a period of ten (10) days' after receipt of written notice specifying the particulars of such failure, such failure shall constitute a default and any other Owner or Prime Lessee may thereafter institute legal action against the defaulting Owner or Occupant for specific performance, declaratory or injunctive relief, monetary damages, or any other remedy provided by law; provided, however, that the defaulting Owner or Occupant shall not be deemed to be in default if such failure to perform cannot be rectified within said ten (10) day period and such Owner or Occupant is diligently proceeding to rectify the particulars of such failure and rectifies same within a period not to exceed thirty (30) days; provided further, however, that in the event of an emergency, such failure shall be deemed a default if such failure is not rectified in a period reasonable for the nature and circumstances of such emergency (by way of example, but not as a limitation, the failure to promptly remove snow or otherwise maintain the Common Area such that Owners, Occupants, and Permittees can utilize the reciprocal easements granted in Section 3.1 above shall constitute an emergency).

10.2 Self-Help. If an Owner or Occupant of any Parcel or Outparcel fails to perform any provision of this Agreement, then, upon the expiration of the cure period provided in Section 10.1, and upon an additional ten (10) days prior written notice (except that no additional notice shall be required in an emergency), any Consenting Owner shall have the right, but not the obligation, to enter upon the defaulting Owner's or Occupant's Parcel to cure such default for the account of and at the expense of the Owner or Occupant of such Parcel. If a Consenting Owner exercises its self-help right, then, within ten (10) days after receipt of an invoice from such Consenting Owner, the defaulting Owner and/or Occupant shall reimburse to such Consenting Owner all costs reasonably incurred by the Consenting Owner in curing such default, plus an administrative fee equal to fifteen percent (15%) of such costs.

10.3 Remedies Cumulative. In addition to the remedies set forth in this Agreement, each Person entitled to enforce this Agreement shall be entitled to exercise all other remedies provided by law or in equity to the same extent as if fully set forth herein word for word. No remedy herein conferred upon, or reserved to any Person shall exclude any other remedy herein, by law or in equity, but each shall be cumulative.

11. INTENTIONALLY DELETED.

12. LIABILITY INSURANCE; INDEMNIFICATION

12.1 Liability Insurance.

(a) Each Owner shall maintain or cause to be maintained commercial general liability insurance with broad form coverage insuring against claims on account of bodily injury or death, personal and advertising injury, property damage or destruction, and contractual liability (i.e., exclusions for liability assumed under contract must be deleted) that may arise from, or be related to (i) the conduct

of the Owner and/or Occupants, or (ii) the condition, use or occupancy of each Owner's Parcel (the "Owner's Liability Insurance").

(b) The Owner's Liability Insurance shall be carried by an insurance company or companies qualified to do business in the State in which the Shopping Center is located with a Best's Key Rating Guide Property/Casualty (United States) rating of at least A- and a financial rating of VIII or better (or a comparable standard under an international rating system), and have limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than Two Million and No/100 Dollars (\$2,000,000.00) per occurrence and Five Million and No/100 Dollars (\$5,000,000.00) in the aggregate. The insurance required pursuant to this Section 12.1 shall be at least as broad as the most commonly available ISO Commercial General Liability policy form CG 00 01 0798 and shall include the following provisions: (i) the policy may not be canceled or reduced in amount or coverage below the requirements of this Agreement, without at least thirty (30) days' prior written notice by the insurer to each insured and additional insured; (ii) severability of interests; (iii) an act or omission of one of the insureds or additional insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to the other insureds; (iv) name all other Owners as additional insureds; and (v) endorsed to cover said Owner's agreement to indemnify as set out in this Agreement. Each Owner agrees to furnish to any other Owner requesting same evidence that: (i) such insurance is in full force and effect; (ii) the premiums have been paid in full; and (iii) the appropriate parties are designated as additional insureds on ISO Form CG 2026 1185. The Owners agree that such evidence being readily available on the Internet shall be a satisfactory method of delivering such evidence. If not part of such policy, the Owner's Liability Insurance shall have at least the following endorsements: (i) deleting any employee exclusion on personal injury coverage; (ii) including coverage for injuries to or caused by employees; (iii) providing for blanket contractual liability coverage (including all of an Owner's indemnity obligations contained in this Agreement), broad form property damage coverage and products completed operations, owner's protective and personal injury coverage; (iv) providing for coverage of employer's automobile non-ownership liability; and (v) if the use of a Parcel includes the sale of alcoholic beverages, including coverage for employer's liability, host liquor liability, liquor liability and so-called "dram shop" liability coverage with a combined single limit of not less than Three Million and No/100 Dollars (\$3,000,000.00) per occurrence. The Owner's Liability Insurance shall be written on an "occurrence" basis form and not on a "claims made" form. The insurance referenced in this Section 12.1 may be provided under (i) an individual policy specifically covering such Owner's Parcel, (ii) a blanket policy or policies which includes other liabilities, properties and locations of such Owner; so long as the amount and coverage of insurance required to be carried hereunder is not diminished, (iii) a plan of self-insurance satisfying the criteria set forth in Section 12.1(c) below, or (iv) a combination of any of the foregoing insurance programs. To the extent any deductible is permitted or allowed as a part of any insurance policy carried by an Owner in compliance with this Article 12, such Owner shall be deemed to be covering the amount thereof under an informal plan of self-insurance; provided, however, that in no event shall any deductible exceed one percent (1%) of an Owner's net worth unless such Owner complies with the requirements regarding self-insurance pursuant to Section 12.1(c) below.

(c) Any insurance required to be maintained by a Consenting Owner may be maintained in whole or in part either under a plan of self-insurance, or from a carrier which specializes in providing coverage to or for such Consenting Owner or its affiliates, or firms in the same or related businesses if such Consenting Owner's net worth exceeds \$100,000,000 Dollars as shown in its most recent audited financial statement, or if such Consenting Owner's financial statements are reported on a consolidated basis with a parent corporation, then as certified by an officer of such Consenting Owner.

12.2 Insurance Coverage During Construction.

(a) Prior to commencing any construction activities within the Shopping Center, each Owner or Occupant shall obtain or require its contractor to obtain and thereafter maintain, so long as such construction activity is occurring, at least the minimum insurance coverages set forth below:

(i) Workers' compensation and employer's liability insurance:

(a) Worker's compensation insurance as required by any applicable law or regulation.

(b) Employer's liability insurance in the amount of Five Million and No/100 Dollars (\$5,000,000.00) each accident for bodily injury, Five Million and No/100 Dollars (\$5,000,000.00) policy limit for bodily injury by disease, and Five Million and No/100 Dollars (\$5,000,000.00) each employee for bodily injury by disease.

(ii) General liability insurance: Commercial General Liability insurance covering all operations by or on behalf of the general contractor, which shall include the following minimum limits of liability and coverages:

(a) Required coverages:

- (1) Premises and Operations;
- (2) Products and Completed Operations;
- (3) Contractual Liability insuring the indemnity obligations assumed by contractor under the contract documents;
- (4) Broad Form Property Damage (including Completed Operations);
- (5) Explosion, Collapse and Underground Hazards;
- (6) Personal Injury Liability; and
- (7) Builders Risk

(b) Minimum limits of liability:

- (1) Two Million and No/100 Dollars (\$2,000,000.00) per occurrence.
- (2) Five Million and No/100 Dollars (\$5,000,000.00) aggregate for Products and Completed Operations (which shall be maintained for a three (3) year period following final completion of the work),
- (3) Five Million and No/100 Dollars (\$5,000,000.00) general aggregate applied separately to the Shopping Center.

(iii) Automobile Liability Insurance: Automobile liability insurance (bodily injury and property damage liability) including coverage for owned, hired, and non-owned automobiles, with limits of liability of not less than One Million and No/100 Dollars (\$1,000,000.00) combined single limit each accident for bodily injury and property damage combined. The general contractor shall require each of its subcontractors to include in their liability insurance policies coverage for automobile contractual liability.

(iv) Umbrella/Excess Liability Insurance: The general contractor shall also carry umbrella/excess liability insurance in the amount of Five Million and No/100 Dollars (\$5,000,000.00). If there is no per project aggregate under the Commercial General Liability policy, the limit shall be Ten Million and No/100 Dollars (\$10,000,000.00).

(b) If the construction activity involves the use of another Owner's Parcel, the Owner of such other Parcel shall be added as an additional insured and such insurance shall provide that the insurance shall not be canceled, or reduced in amount or coverage below the requirements of this Agreement without at least thirty (30) days' prior written notice to the insureds and each additional insured. The form of additional insured endorsement shall be ISO Form CG 2026 1185. If such insurance is canceled or expires, the constructing Owner shall immediately stop all work on or use of the other Owner's Parcel until either the required insurance is reinstated or replacement insurance obtained. The general contractor shall supply each Owner with certificate(s) of insurance with respect to all insurance required by this Section 12.2.

12.3 Indemnification by Owners. Subject to the provisions of Section 13.4 below regarding waiver of subrogation with respect to damage to property, each Owner shall defend, indemnify, protect, and hold the other Owners and Occupants harmless for, from, and against any and all Claims in connection with the loss of life, personal injury, and/or damage to property (i) arising from or out of any occurrence in or upon the indemnifying Owner's Parcel, including an Owner's or Occupant's own negligence; (ii) occasioned wholly by any negligent or willful act or omission of the indemnifying Owner, its Occupants or their respective agents, contractors, servants or employees; or (iii) in connection with the failure to comply with the provisions of this Agreement. If a Consenting Owner shall, without fault, be made a party to any litigation commenced by or against the Owner or Occupants of another Parcel, or if a Consenting Owner shall, in its reasonable discretion, determine that it must intervene in such litigation to protect its interest hereunder, the indemnifying Owner shall defend such Consenting Owner using attorneys reasonably satisfactory to such Consenting Owner and shall pay all costs, expenses, and reasonable attorneys' fees and costs in connection with such litigation. A Consenting Owner shall have the right to engage its own attorneys in connection with any of the provisions of this Section 12.3 or any of the provisions of this Agreement, including, but not limited to, any defense of or intervention by such Consenting Owner, notwithstanding any contrary provisions of the laws or court decisions of the state in which the Shopping Center is located.

13. PROPERTY DAMAGE AND EMINENT DOMAIN

13.1 Damage to Buildings. If any of the Buildings located on any Parcel are damaged or destroyed by fire or other cause, the Owner of such Parcel shall promptly cause either (i) the repair, restoration, or rebuilding of the Building so damaged or destroyed to a condition and an architectural style existing immediately prior to the damage or destruction, (ii) the rebuilding of a completely new Building (subject to the approval process set forth in this Agreement), or (iii) the razing of any damaged Building, the filling of any excavation, and performance of any other work necessary to put such portion of the Shopping Center in a clean, sightly, and safe condition. All Building Areas on which Buildings are not reconstructed following a casualty or "Taking" (as defined in Section 13.5 below) shall be (i) graded or caused to be graded by the Owner thereof to the level of the adjoining property and in such a manner as

not to adversely affect the drainage of the Shopping Center or any portion thereof, (ii) covered by decomposed granite, gravel, sod, hydroseed, or as otherwise permitted by Governmental Regulations, and (iii) kept weed free and clean at the subject Owner's sole cost and expense until such time as Buildings are reconstructed thereon.

13.2 Casualty Damage to Common Area. In the event any of the Common Area is damaged or destroyed by any cause whatsoever, whether insured or uninsured, during the term of this Agreement, the Owner upon whose Parcel such Common Area is located shall repair or restore such Common Area at its sole cost and expense with all due diligence. Except to the extent limited by Section 13.4 below, in the event such damage or destruction of Common Area is caused wholly by the negligent or willful act of another Owner, Occupant or third Person, the Owner obligated to make such repair or restoration reserves and retains the right to proceed against such other Owner or third Person for indemnity, contribution, or damages.

13.3 Property Insurance. To assure performance of their respective obligations under Sections 13.1 and 13.2 above, the Owners of the respective Parcels shall cause to be carried causes of loss - special form property insurance at least as broad as ISO Special Form Causes of Loss, CP 1030 0695, in an amount not less than eighty percent (80%) of the full insurable replacement cost (excluding footings, foundations or excavations) of all Buildings and improvements (including Common Area improvements) on their respective Parcels, except if the Owner of said Parcel, or party responsible for any required restorations, is permitted to "self insure" pursuant to Section 12.1(c). The insurance referenced in this Section 13.3 may be provided under (i) an individual policy covering this location, (ii) a blanket policy or policies which includes other liabilities, properties and locations of such Owner; so long as the amount and coverage of insurance required to be carried hereunder is not diminished, (iii) a plan of self-insurance satisfying the criteria set forth in Section 12.1(c) above, or (iv) a combination of any of the foregoing insurance programs. To the extent any deductible is permitted or allowed as a part of any insurance policy carried by an Owner in compliance with Article 13, such Owner shall be deemed to be covering the amount thereof under an informal plan of self-insurance; provided, however, that in no event shall any deductible exceed one percent (1%) of an Owner's net worth unless such Owner complies with the requirements regarding self-insurance pursuant to Section 12.1(c) above. The Owner's property insurance shall be carried by an insurance company or companies qualified to do business in the state in which the Shopping Center is located with a Best's Key Rating Guide Property/Casualty (United States) rating of at least A- and a financial rating of VIII or better (or a comparable standard under an international rating system).

13.4 Waiver of Subrogation. The Owners and Occupants each hereby waive any rights one may have against the other on account of any loss or damage occurring to an individual Owner or Occupant, or its respective property, either real or personal, arising from any risk generally covered by ISO Special Form Causes of Loss, CP 1030 0695 and from any risk covered by property insurance then in effect. In addition, the Owners and Occupants, for themselves and on behalf of their respective insurance companies, waive any right of subrogation that any insurance company may have against the Owners and Occupants. It is the intent of the parties that with respect to any loss from a named peril required to be covered under a policy of property insurance, the parties shall look solely to their respective insurance company for recovery. The foregoing waivers of subrogation shall be operative only so long as available in the state where the Shopping Center is situated, and provided further that no policy of insurance is invalidated thereby.

13.5 Eminent Domain. In the event the whole or any part of the Shopping Center shall be taken or damaged by right of eminent domain or any similar authority of law or any transfer in lieu thereof (a "Taking"), the entire award for the value of the land and improvements so taken shall belong to the Owner of the Parcel so taken or to such Owner's Lienholders or Occupants, as they may have agreed

between or among themselves, and in the absence of any such agreement, as provided by law, and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Agreement. Any Owner of a Parcel which is not the subject of a Taking may, however, file a collateral claim with the condemning authority over and above the value of the Parcel (or portion thereof) being so taken to the extent of any damage suffered by such Owner resulting from the severance of the land or improvements so taken. In the event of a partial Taking, the Owner of the portion of the Shopping Center so taken shall restore the Improvements located on the Common Area of the Owner's Parcel as nearly as possible to the condition existing prior to the Taking to insure the continued ingress/egress to, from and between all areas of the Shopping Center to the extent reasonably feasible, without contribution from any other Owner.

14. GENERAL PROVISIONS

14.1 Covenants Run With the Land. The terms of this Agreement and each Restriction and Easement on each Parcel shall be a burden on that Parcel, shall be appurtenant to and for the benefit of the other Parcels and each part thereof, and shall run with the land.

14.2 No Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Shopping Center or of any Parcel or portion thereof to the general public, or for any public use or purpose whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to and for the purposes herein expressed. An Owner shall have the right to close, if necessary, all or any portion of the Common Area on its Parcel from time-to-time as may be necessary, in the opinion of such Owner, to prevent a dedication thereof or the accrual of any rights of the public therein.

14.3 Duration. Except as otherwise provided herein, the term of this Agreement shall be for sixty-five (65) years (the "**Primary Period**") from the date hereof. Notwithstanding the foregoing, upon the expiration of the Primary Period, the term of this Agreement shall automatically renew for successive periods of ten (10) years each (each such period being referred to as an "**Extension Period**") unless, at least ninety (90) days prior to the date of expiration of the Primary Period or Extension Period then in effect, the Consenting Owners deliver to the other Owners in the Shopping Center written notice of termination, in which event, this Agreement shall automatically expire at the end of the Primary Period or Extension Period then in effect. Upon termination of this Agreement, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Agreement shall terminate and have no further force or effect; provided, however, that the termination of this Agreement shall not limit or affect any remedy at law or in equity that an Owner may have against any other Owner with respect to any liability or obligation arising or to be performed under this Agreement prior to the date of such termination, and, provided further, that the access easements and the rights and duties related thereto as provided in Section 3.1, the sign easements and the rights and duties related thereto as provided in Sections 3.4 and 4.3, and the utility easements and the rights and duties related thereto as provided in Section 3.3 shall continue in effect in perpetuity as to those access easements, signs and utility lines actually in use at the time of the termination of this Agreement until such time as such access easements, signs and utility lines are abandoned or ceased to be used to serve a Building in the Shopping Center.

14.4 Injunctive Relief. In the event of any violation or threatened violation by any Person of any of the Easements, Restrictions, or other terms of this Agreement, any or all of the Owners and Prime Lessees of the property included within the Shopping Center shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies set forth in this Agreement or provided by law or in equity.

14.5 Modification and Termination. Notwithstanding the provisions of Section 14.6 below, this Agreement may not be modified in any respect whatsoever or terminated, in whole or in part, except with the consent of all of the Consenting Owners (and, if applicable, the Prime Lessees of a Consenting Owner's Parcel) at the time of such modification or termination, and then only by written instrument duly executed and acknowledged by all of the Consenting Owners and Prime Lessees and recorded in the office of the recorder of the county in which the Shopping Center is located. No modification or termination of this Agreement as provided herein shall adversely affect the rights of any senior Lienholder unless such Lienholder consents in writing to the modification or termination.

14.6 Method of Approval. Unless otherwise provided in this Agreement, whenever approval, consent, or satisfaction (collectively, an "approval") is specifically required of an Owner pursuant to the express terms of this Agreement (or any Exhibit hereto), it shall not be unreasonably withheld, conditioned, or delayed. Unless provision is made for a specific time period, approval or disapproval shall be given within forty-five (45) days after receipt of written request for approval, provided, however, for purposes of this Section 14.6, as between the Consenting Owners, all references to "forty-five(45) days" shall be deemed to be "thirty (30) days". If an Owner neither approves nor disapproves within the required time period, then the Owner requesting approval shall have the right to send a second written request for approval. If such second request states on its face in all capital letters that failure to respond thereto within fifteen (15) days shall be deemed approval, then the failure to respond within such fifteen (15) day period shall constitute the approval of the Owner from whom approval was requested. Except with respect to approvals which are deemed approved pursuant to the preceding sentence, all approvals (including conditional approvals) and disapprovals shall not be effective unless given or made in writing. If an Owner disapproves, the reasons therefor shall be stated in reasonable detail in writing. An Owner's approval of any act or request by another Owner shall not be deemed to waive or render unnecessary approval of any similar or subsequent acts or requests. Since the submission of a proposed amendment to the Parties is not an item of "consent" or "approval", each Party may consider any proposed amendment to this Agreement in its sole and absolute discretion without regard to reasonableness or timeliness.

14.7 Multiple Owners. In the event an Owner sells its Parcel and becomes the Prime Lessee thereon, said Prime Lessee is hereby appointed the entity to cast the vote or consent or give the consent for said Parcel on behalf of the Owner thereof (except as otherwise required in Section 14.5) and is hereby granted all of the rights and remedies granted to the Owner of said Parcel so long as it is the Prime Lessee of said Parcel, anything in this Agreement to the contrary notwithstanding. As between Albertson's and Magna, Albertson's shall be the Consenting Owner during the term of the Albertson's Ground Lease, including any extensions thereof.

14.8 Estoppel Certificates. Any Owner may, at any time and from time-to-time, in connection with the sale or lease of the Owner's Parcel, or in connection with the financing or refinancing of the Owner's Parcel by bona fide mortgage, deed of trust, or sale-leaseback made in good faith and for value, deliver written notice to the other Owners requesting such Owners to execute certificates certifying that to the best knowledge of the other Owners, (i) neither the requesting Owner nor any other Owner is in default in the performance of its obligations under this Agreement, or, if a default is alleged, specifically describing the nature and amount thereof, and (ii) confirming that this Agreement has not been amended (or, if so, identifying the amendments), and is in full force and effect. Each Owner shall execute and return such a certificate within thirty (30) days after receipt of a request therefore. The Owners acknowledge that such certificates may be relied upon by transferees, mortgagees, deed of trust beneficiaries and leaseback lessors. Such statement shall act as a waiver of any claim by the Person 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. The issuance of an estoppel certificate shall in no event subject the Person

furnishing it to any liability for the negligent or inadvertent failure of such Person to disclose correct and/or relevant information (but it shall estop such person from making assertions contrary to those set forth in the certificate for the period covered by the certificate), nor shall such issuance be construed to waive any rights of the issuer to challenge acts committed by other Owners for which approval by the Consenting Owners was required but not sought or obtained.

14.9 Breach Shall Not Permit Termination. It is expressly agreed that a breach of this Agreement shall not entitle any Owner to terminate this Agreement, 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 Agreement. Any breach of this Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this Agreement shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

14.10 Notices.

(a) All notices, requests, demands, or other communications given pursuant to this Agreement shall be in writing and shall be given by facsimile, by personal delivery, by United States mail or United States express mail postage or delivery charge prepaid, return receipt requested, or by an established express delivery service (such as Federal Express or United Parcel Service), sent to the person and address or facsimile number designated below or, in the absence of such designation, to the person and address shown on the then current real property tax rolls of the county in which the Shopping Center is located. The Parties expressly agree that notices given by attorneys on behalf of their client(s) in the manner provided in this subsection are effective and recognized notice pursuant to this Agreement. All notices to Magna and the Owner of the Home Depot Parcel shall be sent to the person and address set forth below:

If to Magna:	Magna Investment and Development, Ltd. 36 East 3750 South Salt Lake City, Utah 84115 Attention: Steven Marshall
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With a copy to: Mazuran & Hayes, PC
2118 East 3900 South, Suite B-300
Salt Lake City, Utah 84124
Attention: Michael Z. Hayes

If to Home Depot: Home Depot U.S.A., Inc.
370 Corporate Drive North
Tukwila, Washington 98188
Attention: Real Estate Manager
Store No.: SS-01445.2001

With a copy to: Home Depot U.S.A., Inc.
2455 Paces Ferry Road, C-20
Atlanta, Georgia 30339-4024
Attention: Vice President – Real Estate Law Group
Store No.: SS-01445.2001

And to: Home Depot U.S.A., Inc.
3800 West Chapman Ave.
Orange, California 92868
Attention: Sr. Corporate Counsel – Real Estate Law
Store No.: SS-01445.2001

And to: Parsons Behle & Latimer
One Utah Center
201 South Main Street, Suite 1800
Post Office Box 45898
Salt Lake City, Utah 84145-45898
Attention: Kerry L. Owens

If to Albertson's New Albertson's Inc.,
250 Parkcenter Boulevard
Boise, ID 83706
Attn: Legal Department (Store No. 391)

With a copy to: SUPERVALU INC.
11840 Valley View Road
Eden Prairie, MN 55344
Attn: Legal Department (Re: Store No. 391)

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 Parties. All notices given pursuant to this Agreement shall be deemed given upon receipt.

(b) For the purpose of this Agreement, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to subparagraph (a) above as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to this Section, (iii) in the case of a facsimile, the date and time of receipt as shown on the confirmation of the facsimile transmission; (iv) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (A)

the date of the attempted delivery or refusal to accept delivery, (B) the date of the postmark on the return receipt, or (C) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

14.11 Waiver. The failure of a Person to insist upon strict performance of any of the Restrictions or other terms and provisions contained herein shall not be deemed a waiver of any rights or remedies that said Person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the Restrictions or other terms and provisions contained herein by the same or any other Person.

14.12 Attorneys' Fees. In the event any Person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover from the non-prevailing party in any such action or proceeding its reasonable costs and attorneys' fees (including its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

14.13 Severability. If any term or provision of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement 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 Agreement shall be valid and shall be enforced to the extent permitted by law.

14.14 Not a Partnership. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the Parties. Each Party shall be considered a separate party and no Party shall have the right to act as agent for another, unless expressly authorized to do so herein or by separate written instrument signed by the Party to be charged.

14.15 Captions and Headings. The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions, or agreements contained herein.

14.16 Interpretation. Whenever the context requires construing the provisions of this Agreement, the use of a gender shall include both genders, use of the singular shall include the plural, and the use of the plural shall include the singular. The word "including" shall be construed inclusively, and not in limitation, whether or not the words "without limitation" or "but not limited to" (or words of similar importance) are used with respect thereto. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party. Unless otherwise provided, references to Articles and Sections refer to the Articles and Sections of this Agreement.

14.17 Entire Agreement. This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the Easements, Restrictions, and other terms and conditions contained in this Agreement affecting the Parcels.

14.18 Joint and Several Obligations. In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.

14.19 Recordation. This Agreement shall be recorded in the office of the recorder of the County in which the Shopping Center is located.

14.20 Limitation on Liability. Except as specifically provided below, there shall be absolutely no corporate or personal liability of persons or corporations who constitute a respective Consenting Owner hereunder, including, but not limited to, officers, directors, employees, or agents thereof, with respect to any of the terms, covenants, conditions, and provisions of this Agreement. In the event of a default of a respective Consenting Owner hereunder, the Owner who seeks recovery from such Consenting Owner shall look solely to the interest of such Consenting Owner in such Consenting Owner's Parcel for the satisfaction of each and every remedy of the non-defaulting Owner; provided, however, the foregoing shall not in any way impair, limit, or prejudice the right of any Owner (i) to pursue equitable relief in connection with any Restriction of this Agreement, including a proceeding for a temporary restraining order, preliminary injunction, permanent injunction or specific performance; and (ii) to recover from such Consenting Owner all losses suffered, liabilities incurred, or costs imposed arising out of or in connection with, or on account of, a Consenting Owner's breach of its obligation to carry Owner Liability Insurance, or to fund its self-insurance obligation, if applicable.

14.21 Lienholder Protection. This Agreement and the Easements and Restrictions established hereby with respect to each Owner and Parcel, shall be superior and senior to any lien placed upon any Parcel, including the lien of any mortgage or deed of trust. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust made in good faith and for value, but all the Easements and Restrictions and other provisions, terms and conditions contained in this Agreement shall be binding upon and effective against any Person (including, but not limited to, any mortgagee or beneficiary under a deed of trust) who acquires title to any Parcel or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

14.22 Variances. Where appropriate, the Consenting Owners may, in their sole and absolute discretion, grant written variances to the provisions this Agreement (in lieu of an amendment), signed by all of the Consenting Owners, where strict adherence to the requirements of this Agreement or any architectural standards established by the Consenting Owners would, in the judgment of the Consenting Owners, cause undue hardship. The granting of a waiver or variance to one Owner shall not automatically entitle another Owner to the same waiver or variance, it being understood that each request for a waiver or variance shall be treated on its own individual merits.

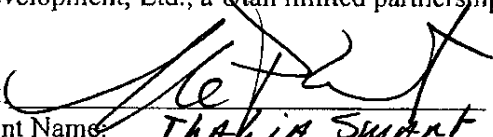
14.23 Time of Essence. Time is of the essence with respect to the performance of each obligation of this Agreement.

[SIGNATURE PAGES FOLLOW]

EXECUTED as of the day and year first above written.

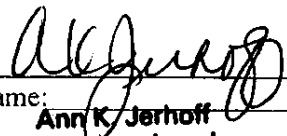
DEVELOPER:

**MAGNA INVESTMENT AND
DEVELOPMENT, LTD.,**
By Allied Services, Inc., a Utah corporation,
General Partner of Magna Investment and
Development, Ltd., a Utah limited partnership

By: 
Print Name: Thalia Smart
Its: Executive Vice President


HOME DEPOT:

HOME DEPOT U.S.A., INC.,
a Delaware corporation

By: 
Print Name: Ann K. Jerhoff
Its: Director - Legal 710

ALBERTSON'S:

NEW ALBERTSON'S, INC.
a Delaware corporation

By: 
Print Name: John P. Breedlove
Its: Vice President, Business Law

JPB

STATE OF UTAH)

) ss.

COUNTY OF SALT LAKE)

On the 9th day of August, 2007, before me, a notary public in and for said state, personally appeared Thalia Smart, the Executive Vice Pres of Allied Services, Inc., General Partner of MAGNA INVESTMENT AND DEVELOPMENT, LTD., a Utah limited partnership, personally known to me (or 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 executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person acted, executed the instrument.

WITNESS my hand and official seal.

Sherrie Pehrson
Signature



(This area for official notarial seal)

STATE OF California)

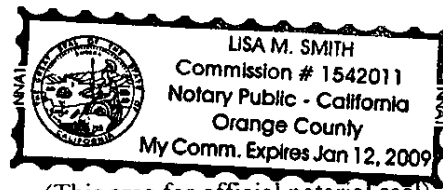
) ss.

COUNTY OF Orange)

On August 14, 2007, before me, a notary public in and for said state, personally appeared Ann K. Terhoff, personally known to me (~~or 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 executed the same in his authorized capacity, and that by his signature on the instrument the person acted, executed the instrument.

WITNESS my hand and official seal.

Lisa M. Smith
Signature



(This area for official notarial seal)

STATE OF Idaho)
) ss.
COUNTY OF Ada)

On July 24, 2007, before me, a notary public in and for said state, personally appeared John P. Breedlove, personally known to me (or 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) acted, executed the instrument.

WITNESS my hand and official seal.

Michael L. Stevens
Signature

(This area for official notarial seal)

My Commission Expires March 8, 2013

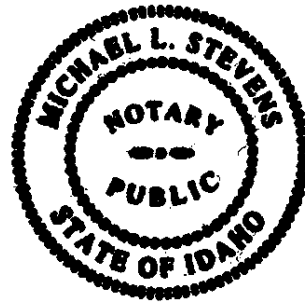
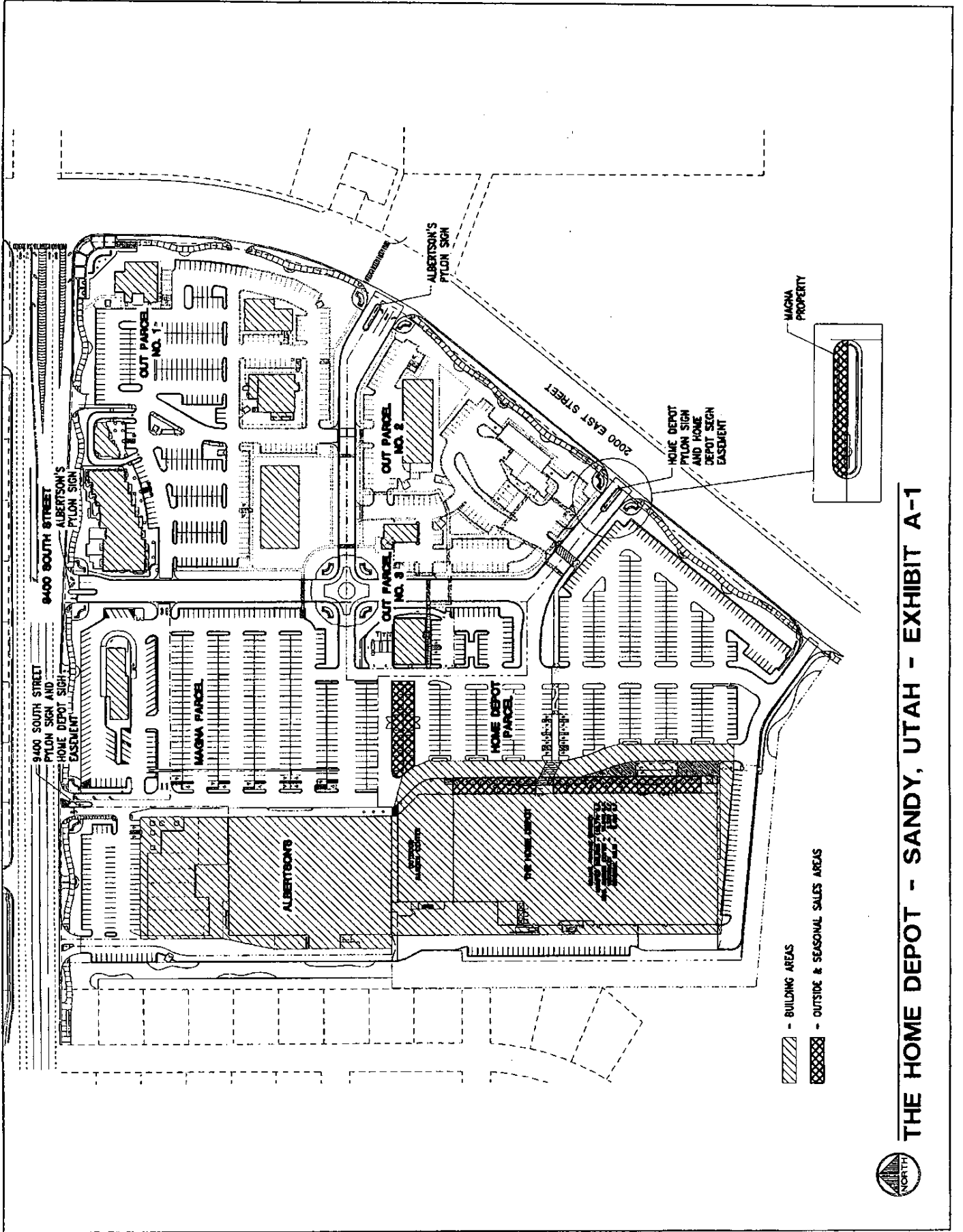


EXHIBIT "A"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

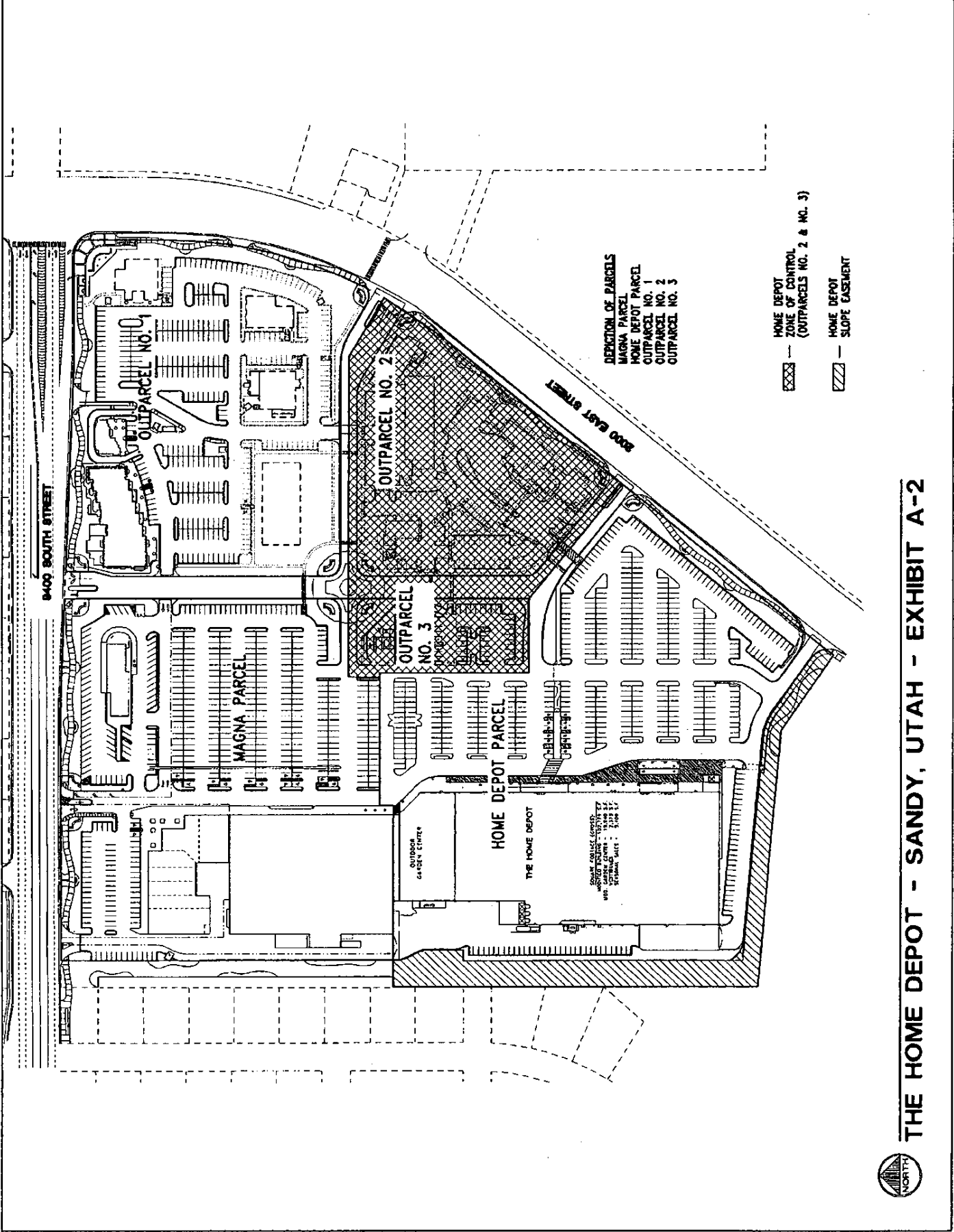
SITE PLAN

(SEE ATTACHED)

20



THE HOME DEPOT - SANDY, UTAH - EXHIBIT A-1



DIRECTION OF PARCELS
MAGNA PARCEL
HOME DEPOT PARCEL
OUTPARCEL NO. 1
OUTPARCEL NO. 2
OUTPARCEL NO. 3

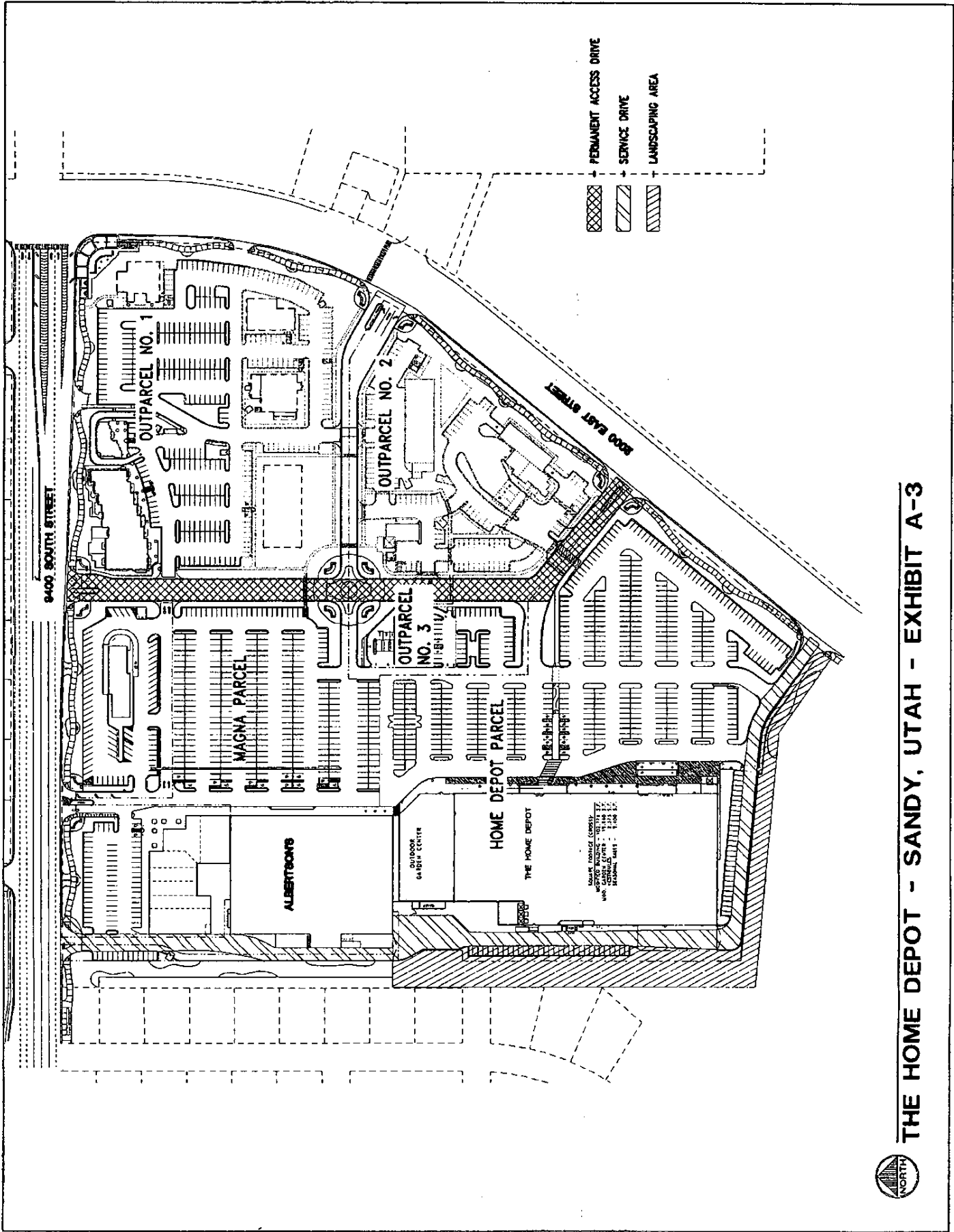
HOME DEPOT
ZONE OF CONTROL
(OUTPARCELS NO. 2 & NO. 3)

HOME DEPOT
SLOPE EASTMENT

THE HOME DEPOT - SANDY, UTAH - EXHIBIT A-2



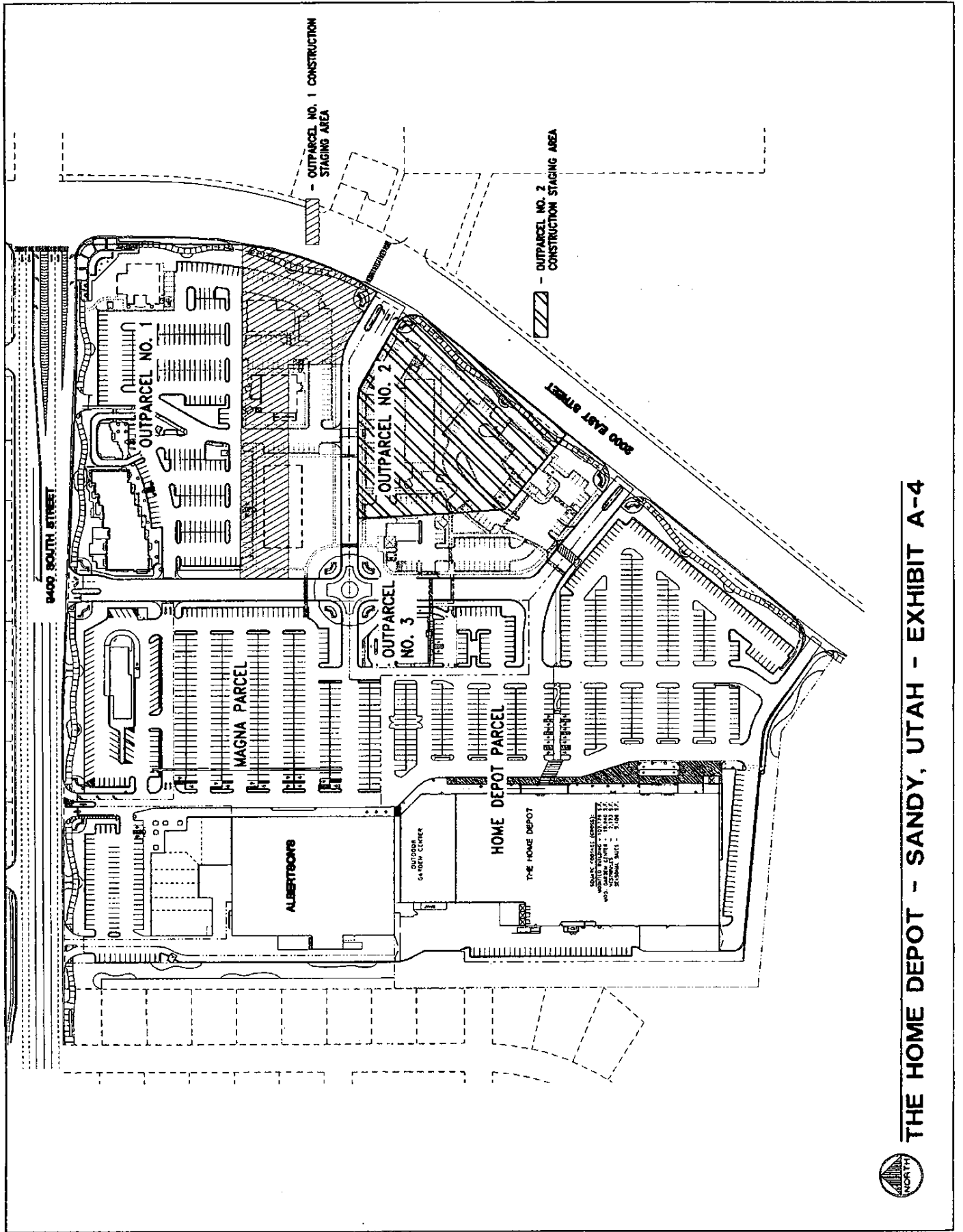
760



THE HOME DEPOT - SANDY, UTAH - EXHIBIT A-3



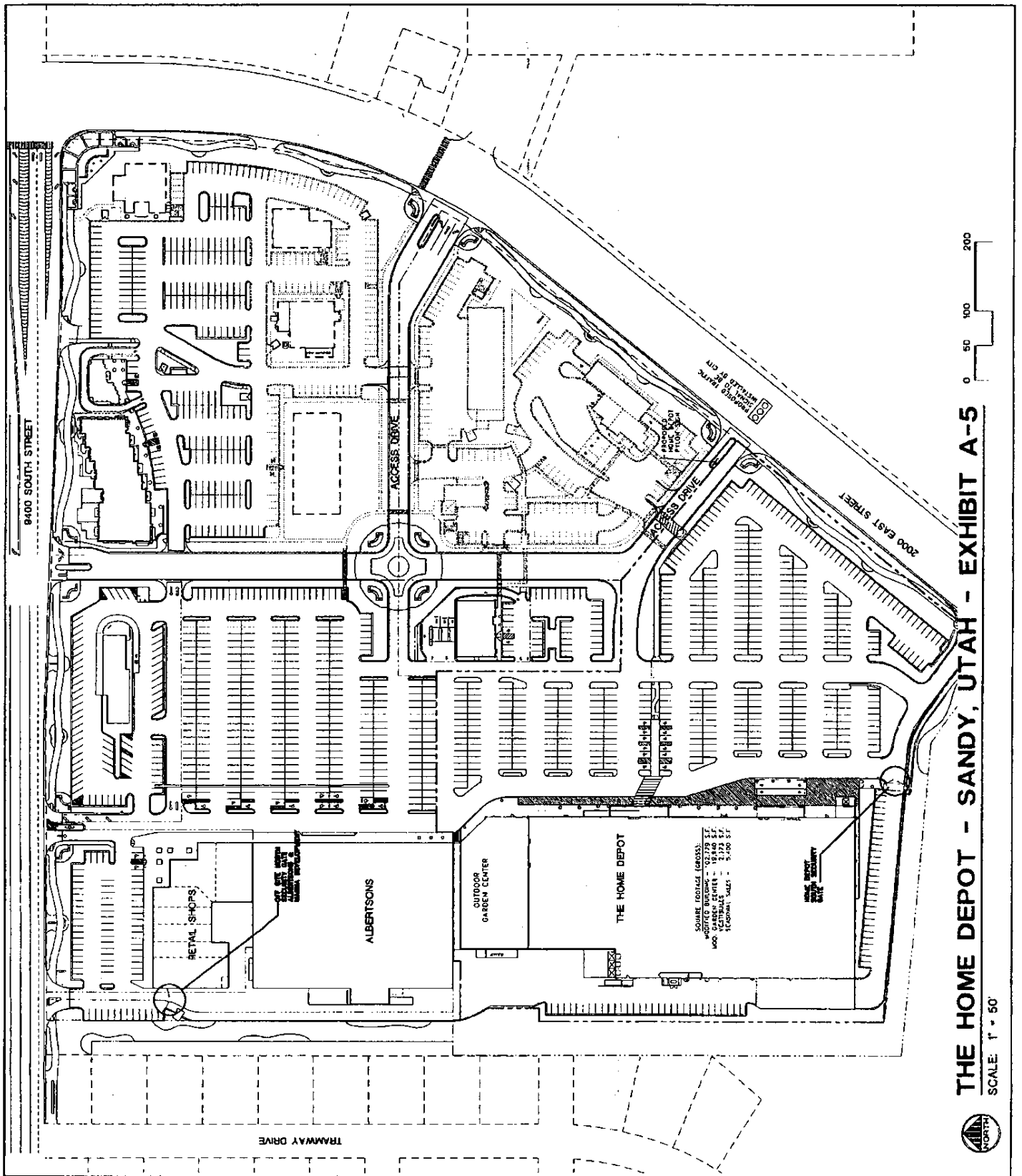
20



THE HOME DEPOT - SANDY, UTAH - EXHIBIT A-4



200



THE HOME DEPOT - SANDY, UTAH - EXHIBIT A-5



SCALE: 1" = 50'

Handwritten mark

EXHIBIT "B"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

LEGAL DESCRIPTION OF SHOPPING CENTER

A part of the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;

Beginning at a point on the West Right of Way line of 2000 East Street, which is 93.66 feet South 0°08'12" West along the East line of said Quarter Section and 2.87 feet West from the Northeast corner of said Quarter Section; running thence five (5) courses along said West Right of Way line as follows: South 0°21'56" West 160.19 feet to a point of curvature; Southwesterly along the arc of a 761.78 foot radius curve to the right a distance of 515.36 feet (Central Angle equals 38°45'42" and Long Chord bears South 19°44'47" West 505.59 feet) to a point of tangency; South 39°07'38" West 832.18 feet to a point of curvature; Southwesterly along the arc of a 901.83 foot radius curve to the left a distance of 615.99 feet (Central Angle equals 38°09'09" and Long Chord bears South 19°33'34" West 604.06 feet and South 00°00'30" East 679.96 feet, thence North 89°36'37" West 429.26 feet, thence North 0°00'22" East 1850.88 feet to the South Property line of White City Water Company, Inc.; thence three (3) courses along the South, East and North Property line of said White City Water Company, Inc., as follows: North 89°58'18" East 70.00 feet; North 0°00'22" East 70.00 feet and South 89°58'18" West 50.00 feet; thence North 0°00'22" East 575.00 feet; thence South 89°58'18" West 20.00 feet to the Northeast corner of Lot 402, Ski Haven Estates No 4; thence North 0°00'22" East 65.59 feet along the East Boundary line of said Ski Haven Estates No. 4 a subdivision in Sandy City, Salt Lake County, Utah; thence North 89°48'32" East 490.74 feet along a line parallel to the centerline of 9400 South Street; thence South 87°49'41" East 630.39 feet; thence North 89°48'32" East 179.22 feet along a line parallel to said centerline; thence Southeasterly along the arc of a 39.00 foot radius curve to the right a distance of 31.48 feet (Central Angle equals 46°14'39" and Long Chord bears South 67°03'57" East 30.63 feet) to the point of beginning.

Contains 45.53 Acres

Part of 2006 Tax Parcels

28-09-226-032

28-09-226-031

28-09-276-015

28-09-276-017

28-09-276-018

Part of 2007 Tax Parcel:

28-09-226-036

EXHIBIT "C"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

LEGAL DESCRIPTION OF MAGNA PARCEL

A part of the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey:

BEGINNING at a point which is 567.10 feet South 00°08'12" West along the Section line and 637.25 feet West from the Northeast corner of said Section 9 and running thence North 89°59'38" West 139.01 feet; thence South 00°00'22" West 54.89 feet; thence North 89°59'38" West 226.82 feet; thence South 00°00'22" West 26.79 feet; thence North 89°59'38" West 187.32 feet; thence South 00°00'22" West 8.00 feet; thence North 89°59'38" West 119.50 feet; thence North 00°00'22" East 531.07 feet; thence South 89°58'18" West 20.00 feet; thence North 00°00'22" East 65.59 feet to the Southerly right-of-way line of 9400 South Street; thence North 89°48'32" East 490.74 feet along said street; thence South 87°49'41" East 174.59 feet along said street; thence South 47°05'49" East 37.40 feet; thence South 476.60 feet to the POINT OF BEGINNING.

Contains approximately 8.37 acres.

EXHIBIT "D"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

LEGAL DESCRIPTION OF HOME DEPOT PARCEL

A part of the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey:

BEGINNING at a point on the West line of 2000 East Street, which is 1050.90 feet South 0°08'12" West along the East line of said Quarter Section and 433.71 feet West from the Northeast Corner of said Quarter Section; running thence South 39°07'38" West 418.14 feet to a point of curvature and Southwesterly along the arc of a 901.83 foot radius curve to the left a distance of 46.62 feet (Central Angle equals 2°57'43" and Long Chord bears South 37°38'47" West 46.61 feet) along said West line of 2000 East Street; thence Northwesterly along the arc of a 40.00 foot radius curve to the left a distance of 32.61 feet (Central Angle equals 46°42'29" and Long Chord bears North 31°35'17" West 31.71 feet) to a point of tangency; thence North 54°56'31" West 116.53 feet to a point of curvature; thence Northwesterly along the arc of a 100.21 foot radius curve to the left a distance of 52.36 feet (Central Angle equals 29°56'13" and Long Chord bears North 69°54'37" West 51.77 feet) to a point of tangency; thence North 84°52'44" West 393.73 feet; thence North 0°00'22" East 482.17 feet; thence North 89°58'18" East 32.50 feet; thence 0°00'22" East 82.49 feet to a point of curvature; thence Northwesterly along the arc of a 30.00 foot radius curve to the left a distance of 15.71 feet (Central Angle equals 30°00'22" and Long Chord bears North 14°59'49" West 15.53 feet) to a point of tangency; thence North 30°00'00" West 15.20 feet to a point of curvature; thence Northwesterly along the arc of a 62.50 foot radius curve to the right a distance of 17.05 feet (Central Angle equals 15°37'33" and Long Chord bears North 22°11'14" West 16.99 feet); thence South 89°59'38" East 75.04 feet; thence North 0°00'22" East 8.00 feet; thence South 89°59'38" East 187.32 feet; thence North 0°00'22" East 26.79 feet; thence South 89°59'38" East 233.64 feet; thence South 0°00'22" West 264.26 feet; thence South 89°59'38" East 132.22 feet; thence South 50°52'22" East 260.90 feet to the POINT OF BEGINNING.

Contains approximately 10.006 Acres.

EXHIBIT "E"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

LEGAL DESCRIPTION OF OUTPARCELS

OUTPARCEL NO. 1

A part of the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey:

BEGINNING at a point 93.66 feet South 00°08'12" West along the Section line and 2.87 feet West from the Northeast corner of said Section 9 and running thence South 00°21'56" West 160.19 feet to a point of curvature with a 761.78 foot radius curve to the right; thence Southwesterly 402.34 feet along the arc of said curve through a central angle of 30°15'41" (chord bears South 15°29'46" West 397.68 feet); thence North 59°43'53" West 138.73 feet; thence North 89°59'38" West 408.42 feet; thence North 501.02 feet; thence South 87°49'41" East 428.39 feet; thence North 89°48'32" East 179.21 feet to a point of curvature with a 39.00 foot radius curve to the right; thence Southeasterly 31.49 feet along the arc of said curve through a central angle of 46°15'44" (chord bears South 67°03'36" East 30.64 feet) to the POINT OF BEGINNING.

Contains approximately 7.10 acres.

OUTPARCEL NO. 2

A part of the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey:

BEGINNING at a point 1050.90 feet South 00°08'12" West along the Section line and 433.71 feet West from the Northeast corner of said Section 9 and running thence North 50°52'22" West 260.90 feet; thence North 319.15 feet; thence South 89°59'38" East 408.42 feet; thence South 59°43'53" East 138.73 feet to a point on a 761.78 foot radius curve to the right; thence Southwesterly 113.02 feet along the arc of said curve through a central angle of 08°30'01" (chord bears South 34°52'37" West 112.91 feet) to a tangent line; thence South 39°07'38" West 414.04 feet to the POINT OF BEGINNING.

Contains approximately 3.88 acres.

OUTPARCEL NO. 3

A part of the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey:

BEGINNING at a point 93.66 feet South 00°08'12" West along the Section line and 2.87 feet West and 260.90 feet North 50°52'22" West from the Northeast corner of said Section 9 and running thence North 89°59'38" West 132.22 feet; thence North 00°00'22" East 264.26 feet; thence North 89°59'38" West 6.82 feet; thence North 00°00'22" East 54.89 feet; thence South 89°59'38" East 139.01 feet; thence South 319.15 feet to the POINT OF BEGINNING.

Contains approximately 0.98 acres.

EXHIBIT "F"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

SIGN EXHIBIT

(SEE ATTACHED)

rw

22-11-2002

THE HOME DEPOT

INTERNALLY ILLUMINATED PVI CHANNEL LETTERS 437.96 SQ FT
SCALE 1/8" = 1'-0"

SI BUILDING MATERIALS

INTERNALLY ILLUMINATED PVI CHANNEL LETTERS
53.3 SQ FT
SCALE 1/8" = 1'-0"

TOOL RENTAL LANDSCAPE SUPPLY IS

INTERNALLY ILLUMINATED PVI CHANNEL LETTERS
37.50 SQ FT
SCALE 1/8" = 1'-0"

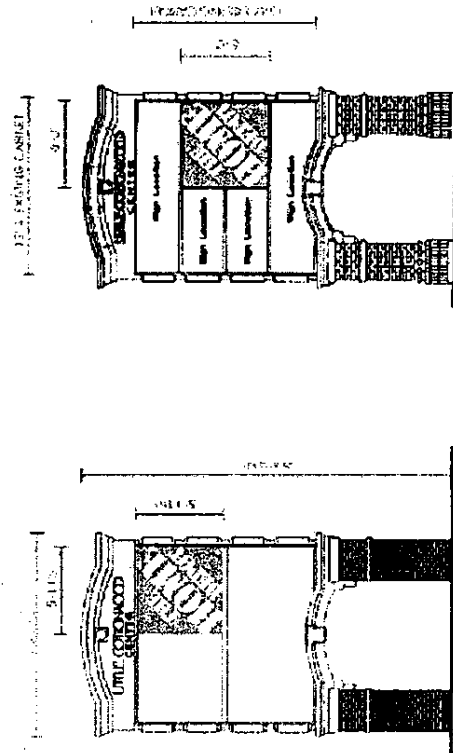
INTERNALLY ILLUMINATED PVI CHANNEL LETTERS
34.8 SQ FT
SCALE 1/8" = 1'-0"

ENTRANCE

EXIT ONLY

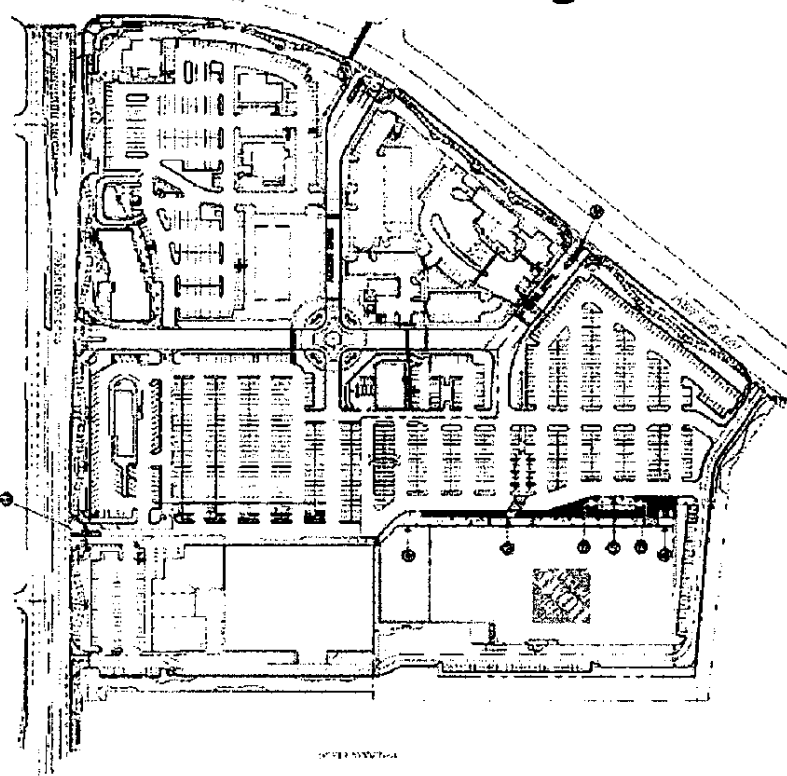
SINGLE FACE NORMALLY ILLUMINATED ALUMINUM SIGN
8.25 SQ FT
SCALE 3/8" = 1'-0"

SINGLE FACE NORMALLY ILLUMINATED ALUMINUM SIGN
8.25 SQ FT
SCALE 3/8" = 1'-0"



DOUBLE FACE INTERNALLY ILLUMINATED BY ION
36.76 SQ FT = 36.76
SCALE 1/8" = 1'-0"

DECORATE TENANT PANEL ON EXISTING
DOUBLE FACE INTERNALLY ILLUMINATED BY ION
36.03 SQ FT = 36.03
SCALE 1/8" = 1'-0"



SITE PLAN - NOT TO SCALE



THE HOME DEPOT - SANDY, UTAH - EXHIBIT F--1

760

DECORATE FRAMING PANEL ON EXISTING DOUBLE FACE INTERNALLY ILLUMINATED PYLON DISPLAY

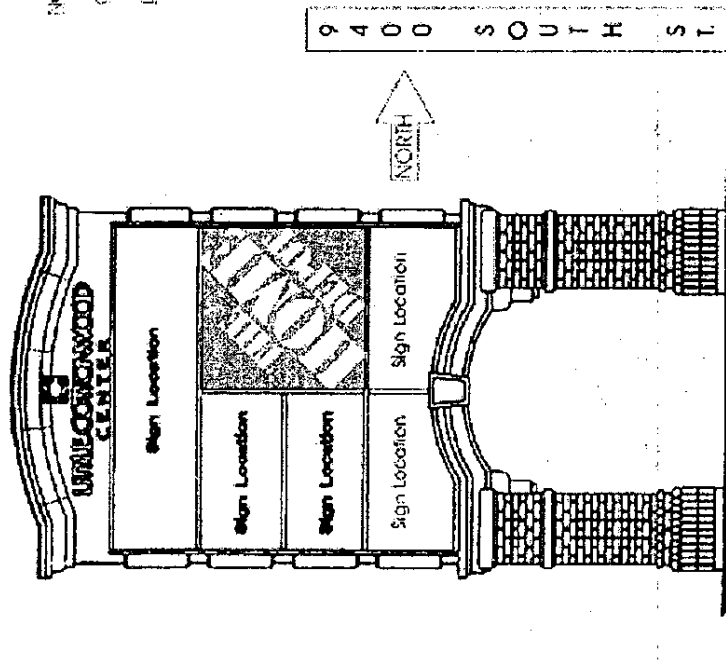
NOTES:

CABINET FINISH: EXISTING

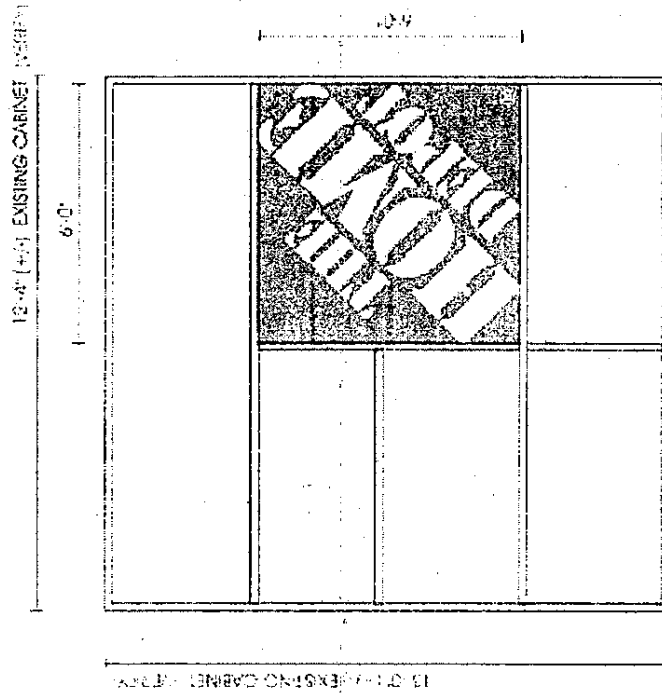
DESCRIPTION: 6x6 TO MATCH ORANGE CALSON # 2500-011 WITH COPY CUT & WEEDED & LEFT WHITE

FIELD SURVEY REQUIRED FOR CABINET SIZE, TO MATCH NO. & FACE MATERIAL

INSTALL WITH 4" OVERHANG ON STREET SIDE FOR BUSH FINISH



SIGN H - EXISTING PYLON LOCATED ON 9400 SOUTH STREET - NOT TO SCALE



COPY/DETAIL SCALE .38\"/>

THE HOME DEPOT - SANDY, UTAH - EXHIBIT F-2

210

EXHIBIT "G"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

APPROVED GRADING, DRAINAGE AND UTILITY PLANS

The Approved Grading, Drainage and Utility Plans were prepared by Taylor Engineering, Inc. as HD Project No: SS-014452001, and include the following:

<u>Description</u>	<u>Sheet Number</u>	<u>Date</u>
1. Cover Sheet	CV	08/07/2006
2. Topographic Survey	CT	08/07/2006
3. Demolition Plan	D1	08/07/2006
4. Civil Site Plan	C1	08/28/2006
5. Horizontal Control Plan	C2	08/07/2006
6. Grading and Drainage Plan	C3	08/28/2006
7. Site Utility Plan	C4	08/30/2006
8. Island Detail Sheet	C5	08/07/2006
9. Site Details	C6	08/28/2006
10. Water Details	C7	08/07/2006
11. Sewer Details	C8	08/07/2006
12. Drainage Details A	C9	08/08/2006
13. Drainage Details B	C10	08/28/2006
14. Erosion/Sedimentation Control Plan	C11	08/07/2006
15. Water Line West – Plan and Profile	C12	08/28/2006
16. Water Line East – Plan and Profile	C13	08/28/2006
17. Sanitary Sewer – Plan and Profile	C14	08/30/2006
18. Site Electrical Plan	C4.1	08/08/2006
19. Site Lighting/Photometric	C4.2	04/02/2006
20. Retaining Wall Details	S1	08/28/2006
21. Landscape Planting Plan (West)	L1	08/08/2006
22. Landscape Planting Plan (East)	L2	08/08/2006
23. Landscape Irrigation Plan (West)	L3	08/08/2006
24. Landscape Irrigation Plan (East)	L4	03/29/2006
25. Landscape Planting and Irrigation Details	L5	08/08/2006

710

EXHIBIT "H"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

LEGAL DESCRIPTION OF STORM DRAINAGE EASEMENT

STORM DRAINAGE EASEMENT

A part of the Little Cottonwood Center Subdivision located in the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey, described as follows:

BEGINNING at a point on the Southerly right-of-way line of 9400 South Street, which is 59.66 feet South 00°08'12" West along the Section line and 1211.75 feet West from the Northeast corner of said Section 9 and running thence South 45°16'42" West 32.95 feet; thence South 00°00'22" West 414.31 feet; thence North 89°59'38" West 24.08 feet; thence South 00°00'22" West 77.66 feet; thence South 89°59'38" East 24.08 feet; thence South 00°00'22" West 71.37 feet; thence North 89°59'38" West 75.89 feet; thence North 00°00'22" East 520.53 feet; thence South 89°58'18" West 20.00 feet; thence North 00°00'22" East 65.59 feet to said 9400 South Street; thence North 89°48'32" East 119.30 feet along said Street to the POINT OF BEGINNING.

Contains approximately 1.01 acres.

EXHIBIT "I"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

LEGAL DESCRIPTION OF PARKING RESTRICTED OUTPARCELS

OUTPARCEL NO. 2

A part of the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey:

BEGINNING at a point 1050.90 feet South 00°08'12" West along the Section line and 433.71 feet West from the Northeast corner of said Section 9 and running thence North 50°52'22" West 260.90 feet; thence North 319.15 feet; thence South 89°59'38" East 408.42 feet; thence South 59°43'53" East 138.73 feet to a point on a 761.78 foot radius curve to the right; thence Southwesterly 113.02 feet along the arc of said curve through a central angle of 08°30'01" (chord bears South 34°52'37" West 112.91 feet) to a tangent line; thence South 39°07'38" West 414.04 feet to the POINT OF BEGINNING.

Contains approximately 3.88 acres.

OUTPARCEL NO. 3

A part of the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey:

BEGINNING at a point 93.66 feet South 00°08'12" West along the Section line and 2.87 feet West and 260.90 feet North 50°52'22" West from the Northeast corner of said Section 9 and running thence North 89°59'38" West 132.22 feet; thence North 00°00'22" East 264.26 feet; thence North 89°59'38" West 6.82 feet; thence North 00°00'22" East 54.89 feet; thence South 89°59'38" East 139.01 feet; thence South 319.15 feet to the POINT OF BEGINNING.

Contains approximately 0.98 acres.

EXHIBIT "J"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

LEGAL DESCRIPTION OF HOME DEPOT SIGN EASEMENT

HOME DEPOT SIGN EASEMENT – 9400 SOUTH STREET PYLON SIGN

A part of Lot 1 in the Little Cottonwood Center Subdivision located in the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey, described as follows:

BEGINNING at a point, which is 76.24 feet South 00°08'12" West along the Section line and 993.95 feet West from the Northeast corner of said Section 9 and running thence South 00°08'24" East 34.50 feet to a point of curvature with a 3.53 foot radius curve to the right; thence Southerly, Westerly and Northerly 11.09 feet along the arc of said curve through a central angle of 180°00'00"; thence North 00°08'24" West 34.50 feet to a point of curvature with a 3.53 foot radius curve to the right; thence Northerly, Easterly and Southerly 11.09 feet along the arc of said curve through a central angle of 180°00'00" to the POINT OF BEGINNING.

Contains approximately 0.01 acres.

HOME DEPOT SIGN EASEMENT – HOME DEPOT PYLON SIGN

A part of Lot 1 and Lot 2 in the Little Cottonwood Center Subdivision located in the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey, described as follows:

BEGINNING at a point, which is 1017.35 feet South 00°08'12" West along the Section line and 469.68 feet West from the Northeast corner of said Section 9 and running thence South 50°46'43" East 43.16 feet to a point of curvature with a 3.50 foot radius curve to the right; thence Southerly and Westerly 11.01 feet along the arc of said curve through a central angle of 180°00'00"; thence North 50°46'43" West 43.16 feet to a point of curvature with a 3.50 foot radius curve to the right; thence Northerly and Easterly 11.01 feet along the arc of said curve through a central angle of 180°00'00" to the POINT OF BEGINNING.

Contains approximately 0.01 acres.

rw

EXHIBIT "K"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

LEGAL DESCRIPTION OF HOME DEPOT SLOPE EASEMENT

HOME DEPOT SLOPE EASEMENT

A part of Lot 1 in the Little Cottonwood Center Subdivision located in the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey, described as follows:

BEGINNING at a the Southwest corner of said Lot 1, which is 1426.35 feet South 00°08'12" West along the Section line and 735.29 feet West from the Northeast corner of said Section 9 and running thence North 54°56'31" West 164.26 feet; thence North 84°52'44" West 460.01 feet; thence North 00°00'22" East 520.28 feet; thence North 89°58'18" East 50.00 feet; thence South 00°00'22" West 494.67 feet; thence South 84°52'44" East 393.73 feet to a point of curvature with a 100.21 foot radius curve to the right; thence Southeasterly 52.36 feet along the arc of said curve through a central angle of 29°56'13" (chord bears South 69°54'37" East 51.77 feet) to a tangent line; thence South 54°56'31" East 116.53 feet to a point of curvature with a 40.00 foot radius curve to the right; thence Southeasterly 32.61 feet along the arc of said curve through a central angle of 46°42'29" (chord bears South 31°35'16" East 31.71 feet) to a point on a 901.83 foot radius curve to the left; thence Southwesterly 17.43 feet along the arc of said curve through a central angle of 01°06'27" (chord bears South 35°36'42" West 17.43 feet) to the POINT OF BEGINNING.

Contains approximately 1.00 acres.

rw

EXHIBIT "L"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

**LEGAL DESCRIPTION OF PERMANENT ACCESS DRIVES AND
SERVICE DRIVE**

PERMANENT ACCESS DRIVE

A part of Lot 1 and Lot 2 in the Little Cottonwood Center Subdivision located in the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, described as follows:

BEGINNING at a point on the Southerly right-of-way line of 9400 South Street, which is 68.93 feet South 00°08'12" West along the Section line and 563.37 feet West from the Northeast corner of said Section 9 and running thence South 47°45'39" West 36.52 feet; thence South 00°38'05" West 25.53 feet; thence South 13°38'58" West 32.79 feet; thence South 730.80 feet to a point of curvature with a 22.50 foot radius curve to the left; thence Southeasterly 19.98 feet along the arc of said curve through a central angle of 50°52'22" (chord bears South 25°26'11" East 19.33 feet) to a tangent line; thence South 50°52'22" East 191.31 feet to a point of curvature with a 35.00 foot radius curve to the left; thence Easterly 26.44 feet along the arc of said curve through a central angle of 43°16'52" (chord bears North 72°30'48" West 25.81 feet); thence South 39°07'38" West 60.04 feet to a point on a 35.00 foot radius curve to the left; thence Northwesterly 26.44 feet along the arc of said curve through a central angle of 43°16'52" (chord bears North 29°13'56" West 25.81 feet) to a tangent line; thence North 50°52'22" West 153.95 feet to a point of curvature with a 195.00 foot radius curve to the left; thence Northwesterly 59.80 feet along the arc of said curve through a central angle of 17°34'18" (chord bears North 59°39'31" West 59.57 feet); thence North 833.91 feet; thence North 47°05'49" West 37.40 feet to said Southerly right-of-way line; thence South 87°49'41" East 102.53 feet along said line to the POINT OF BEGINNING.

Contains approximately 1.02 acres.

SERVICE DRIVE

A part of the Northeast Quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey:

BEGINNING at a point on the Westerly boundary line of Highland Drive (2000 East Street), which is 1374.69 feet South 00°08'12" West along the Section line and 696.32 feet West from the Northeast corner of said Section 9, and running thence South 39°07'38" West 0.75 feet along said road to a point of curvature with a 901.83 foot radius curve to the left; thence Southwesterly 46.63 feet along said road and the arc of said curve through a central angle of 02°57'46" (chord bears South 37°38'45" West 46.63 feet) to a point on a 40.00 foot radius curve to the left; thence Northwesterly 32.62 feet along the arc of said curve through a central angle of 46°43'10" (chord bears North 31°35'01" West 31.72 feet) to a tangent line; thence North 54°56'31" West 116.53 feet to a point of curvature with a 100.21 foot radius curve to the left; thence Northwesterly 52.36 feet along the arc of said curve through a central angle of 29°56'14" (chord bears North 69°54'38" West 51.77 feet) to a tangent line; thence North 84°52'44" West 373.65 feet; thence North 00°00'22" East 566.46 feet to a point of curvature with a 17.50 foot radius curve to the left; thence Northwesterly 9.17 feet along the arc of said curve through a central angle of 30°01'23" (chord bears North 15°00'19" West 9.07 feet) to a tangent line; thence North 30°00'00" West 15.20 feet

to a point of curvature with a 75.00 foot radius curve to the right; thence Northerly 39.28 feet along the arc of said curve through a central angle of 30°00'28" (chord bears North 14°59'46" West 38.83 feet) to a tangent line; thence North 00°00'22" East 369.29 feet to a point of curvature with a 25.50 foot radius curve to the right; thence Northeasterly 14.34 feet along the arc of said curve through a central angle of 32°13'14" (chord bears North 16°06'59" East 14.15 feet) to a tangent line; thence North 32°14'01" East 14.98 feet to a point of curvature with a 39.50 foot radius curve to the left; thence Northerly 22.22 feet along the arc of said curve through a central angle of 32°13'50" (chord bears North 16°07'06" East 21.93 feet) to a tangent line; thence North 00°00'22" East 164.74 feet to a point on the Southerly boundary line of 9400 South Street; thence North 89°48'32" East 24.50 feet along said road; thence South 00°00'22" West 164.83 feet to a point of curvature with a 64.00 foot radius curve to the right; thence Southwesterly 36.00 feet along the arc of said curve through a central angle of 32°13'44" (chord bears South 16°07'14" West 35.53 feet) to a tangent line; thence South 32°14'01" West 14.98 feet to a point of curvature with a 1.00 foot radius curve to the left; thence Southerly 0.56 feet along the arc of said curve through a central angle of 32°05'08" (chord bears South 16°11'27" West 0.55 feet) to a tangent line; thence South 00°00'22" West 369.29 feet to a point of curvature with a 50.50 foot radius curve to the left; thence Southeasterly 26.45 feet along the arc of said curve through a central angle of 30°00'34" (chord bears South 14°59'55" East 26.15 feet) to a tangent line; thence South 30°00'00" East 15.20 feet to a point of curvature with a 42.00 foot radius curve to the right; thence Southerly along the arc of said curve through a central angle of 30°00'43" (chord bears South 14°59'38" East 21.75 feet) to a tangent line; thence South 00°00'22" West 509.31 feet to a point of curvature with a 38.00 foot radius curve to the left; thence Southeasterly 56.30 feet along the arc of said curve through a central angle of 84°53'06" (chord bears South 42°26'11" East 51.29 feet) to a tangent line; thence South 84°52'44" East 316.50 feet to a point of curvature with a 124.71 foot radius curve to the right; thence Southeasterly 65.16 feet along the arc of said curve through a central angle of 29°56'13" (chord bears South 69°54'38" East 64.42 feet) to a tangent line; thence South 54°56'31" East 120.88 feet to a point of curvature with a 40.50 foot radius curve to the left; thence Southeasterly 29.45 feet along the arc of said curve through a central angle of 41°40'07" (chord bears South 75°46'34" East 28.81 feet) to the POINT OF BEGINNING.

Contains approximately 1.01 acres.

EXHIBIT "M"
TO
RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

SHOPPING CENTER USE RESTRICTIONS
FROM ALBERTSON'S GROUND LEASE

Lease) and assessments which Tenant is required to pay pursuant to this Ground Lease and, for that purpose, Tenant shall have the right to file in its name or in the name of Landlord all such protests or other instruments and to institute and prosecute all such proceedings Tenant may deem necessary for the purpose of such contest. Any refund of any taxes (including, without limitation, all taxes described in Section 3.1 of this Ground Lease) or assessments Tenant has paid pursuant to this Ground Lease shall belong to Tenant, and Landlord agrees to pay the same to Tenant promptly in the event payment thereof is initially made to Landlord.

14. **Utility Charges.** Tenant agrees to pay all charges for electricity, gas, heat, water, telephone and other utility services used in Tenant's Building during the term of this Ground Lease.

15. **Shopping Center Use Restrictions.**

15.1 (A) No part of the Shopping Center other than the Leased Premises shall be used as a supermarket (which shall be defined as any store or department containing at least 5,000 square feet of floor area, including aisle space and storage; primarily devoted to the retail sale of food for off-premises consumption); as a bakery or delicatessen; or for the sale of fresh or frozen meat, fish, poultry or produce for off-premises consumption; provided, however, that (i) a restaurant that bakes its own bread for sandwiches, such as a Subway or Blimpies restaurant, shall not be restricted by this Section 15.1(A) so long as the bakery portion of such facility does not exceed 2,000 square feet of floor area nor shall a restaurant that serves bagels as part of its restaurant operations be restricted; (ii) restaurants located on Parcels 5, 6, and 7 may make incidental sales of bakery or delicatessen items for off-premises consumption; and (iii)

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"single-line" specialty food shops whose primary identity is related to a single food product such as bagels, cinnamon rolls, honey-baked hams, etc., shall be permitted on Parcels 5, 6 and 7 so long as no such facility exceeds 3,500 square feet of floor area. For purposes of clause (ii) above, "incidental sales" shall mean total gross receipts of the restaurant from bakery or delicatessen items not exceeding thirty percent (30%) of the total gross receipts from all of the restaurant's sales.

(B) No part of the Shopping Center other than the Leased Premises shall be used for the sale of alcoholic beverages for off-premises consumption or for the sale or offer for sale of any ethical pharmaceutical products requiring the services of a registered pharmacist; provided, however, that nothing contained in this Section 15.1(B) shall restrict (i) the operation of one (1) liquor store outside the Leased Premises so long as said liquor store is occupied and operated by the State of Utah, (ii) the operation of one (1) gasoline station on Parcel 5, 6 or 7 with a "snack mart" that shall be permitted to sell beer for off-premises consumption, or (iii) the operation of one (1) drug store on Parcel 3 or Parcel 7 so long as said drug store contains in excess of 20,000 square feet of floor area and is occupied and operated by a National Chain Drug Store. For the purpose of this Ground Lease, a "snack mart" shall be deemed to be a retail operation that sells foods for off-premises consumption only that are "fast food" or "snack foods". To assure that the snack mart will have this type of orientation (rather than the miniature supermarket orientation of a 7-11 or Circle K), the snack mart building shall not exceed 2,000 square feet of floor area and shall be prohibited from selling the following products: (a) dairy products (larger than one quart size), (b) eggs by the dozen, (c)

760

bread by the loaf, (d) laundry or dishwashing detergents, (e) bread or flour (larger than one pound size), and (f) cereal products (larger than six ounce size).

15.2 (A) ~~No part of the Shopping Center shall~~ be used as a bar, tavern, cocktail lounge, adult book or adult video store, automotive maintenance or repair facility [except as expressly permitted by Section 15.2(B)], warehouse, car wash, entertainment or recreational facility [except as expressly permitted by Section 15.2(C)] or training or educational facility [except as expressly permitted by Section 15.2(C)]; ~~for the renting, leasing or selling of or displaying for the purpose of renting, leasing or selling of any boat, motor vehicle or trailer; or for industrial purposes.~~ For the purpose of this Section 15.2, the phrase "entertainment or recreational facility" shall include, without limitation, a theater, bowling alley, skating rink, gym, health spa or studio, dance hall, billiard or pool hall, massage parlor, game parlor or video arcade (which shall be defined as any store containing more than four [4] electronic games). The phrase "training or educational facility" shall include, without limitation, a beauty school, barber college, reading room, place of instruction or any other operation catering primarily to students or trainees as opposed to customers.

(B) Automotive maintenance or repair facilities (such as a quick-lube, glass repair, tune-up or tire store) shall be permitted only on Parcels 5, 6 and 7 and shall only be permitted if (1) there is ~~no overnight outside storage of vehicles, merchandise or other materials nor any repair work performed outside of any such facility,~~ and (2) the premises are maintained in a neat and clean condition at a level of quality at least comparable to the remainder of the Shopping Center.

(C) A bowling alley, skating rink, gym, health spa or studio or training or educational facility shall be permitted only on Parcel 7, and shall only be permitted if (1) the primary public entrance doors to all such types of businesses are at least five hundred (500) feet away from all parts of the Building Area of the Leased Premises, and (2) the combined aggregate floor area of all such types of businesses on Parcel 7 and any theater constructed on Parcel 7 pursuant to Section 15.2(D) below does not exceed 50,000 square feet.

(D) (1) A theater shall be permitted only on Parcel 7, and shall only be permitted if (a) no part of the theater building is located east of the "Setback Line for Theater" shown on Exhibit "A", (b) the floor area of the theater does not exceed 50,000 square feet and all primary public entrance doors to the theater are at least five hundred (500) feet away from all parts of the Building Area of the Leased Premises, (c) the combined aggregate floor area of any theater and any bowling alley, skating rink, gym, health spa or studio or training or educational facility constructed on Parcel 7 does not exceed 50,000 square feet, and (d) there are sufficient parking spaces on Parcel 7 to maintain a ratio of not less than one (1) parking space for every four (4) seats in the theater building or to satisfy the parking requirements of Section 9.2(C) above, whichever standard is more stringent (the "Theater Parking Standard"). To the extent the size of the theater would otherwise be restricted by the Theater Parking Standard, the maximum Building Area sizes assigned to Pad "B" and Major "A" on Exhibit "A" may be reduced by an amendment to this Ground Lease (hereinafter called the "Theater Size Amendment"), which amendment shall be fully executed by Landlord and Tenant prior to the commencement of the construction of the theater building and shall include a revised Exhibit

"A" site plan] to the extent necessary to then (by utilizing for theater parking that portion of Major "A" and Pad "B" which was Building Area prior to the Theater Size Amendment) satisfy the Theater Parking Standard. The intent of this Section 15.2(D) is to minimize the impact of the theater customers on parking available to Tenant's customers in the Shopping Center and to also have the theater parking to the east of the "Setback Line for Theater" shown on Exhibit "A". In the event that the described configuration is unacceptable to a substantial theater operator (defined as a theater business desiring to locate in the Shopping Center which also operates at least twenty-five (25) other theaters in three (3) or more states, all under the same trade name) then both Landlord and Tenant agree to review an alternative configuration for the theater which achieves the described intent.

(2) In the event the theater exceeds 40,000 square feet of floor area and Tenant determines, in Tenant's sole discretion, that the impact of the theater customers on parking available to Tenant's customers on the Leased Premises is materially adversely affecting Tenant's business on the Leased Premises, Landlord shall, as an item of Common Area maintenance, not later than ninety (90) days after Landlord receives a written demand therefor from Tenant [subject to any delays caused by force majeure, as defined in Article 7 (Force Majeure) of the Development Agreement, which definition is incorporated into this Ground Lease by this reference], construct a pedestrian traffic barricade [not less than four (4) feet in height and of a design and material composition which has been reasonably approved of by Landlord and Tenant] running west to east (and running down the middle of a double row of parking) as closely as practical along the common boundary line between Phase 1 and Phase 4

as shown on Exhibit "A" (the "Initial Barrier"); provided, however, in the event there has been a Theater Size Amendment as provided above in Section 15.2(D)(1), the location of the Initial Barrier shall be relocated northward to a line located along the southern line of the Major "A" Building Envelope shown on the revised Exhibit "A" site plan to be included as a part of the Theater Size Amendment, and said Initial Barrier shall continue to run west to east (and run down the middle of a double row of parking) across the Common Area of Parcel 3. In no event shall the Initial Barrier be constructed across any Permanent Service Drive or Permanent Access Drive or the drive aisle shown on Exhibit "A" as running north to south in front (i.e., east) of Tenant's Building and Major "A". In the event Tenant determines, in Tenant's sole discretion, that, notwithstanding the construction of the Initial Barrier, the impact of the theater customers on parking available to Tenant's customers on the Leased Premises continues to materially adversely affect Tenant's business on the Leased Premises, Landlord shall, as an item of Common Area Maintenance, not later than forty-five (45) days after Landlord receives a written demand therefor from Tenant, modify the Initial Barrier so that it also crosses (running west to east) and barricades the drive aisle shown on Exhibit "A" as running north to south in front (i.e., east) of Tenant's Building and Major "A".

15.3 (A) No part of Parcel 3 within one hundred fifty (150) feet of the Building Area of the Leased Premises shall be used as a medical, dental, professional or business office. The combined aggregate floor area of all medical, dental, professional and business offices located on Parcel 3 shall not exceed 6,000 square feet. No single medical, dental, professional, or business office located on Parcel 3 shall exceed 3,000 square feet of floor area.

All primary public entrance doors to all medical, dental, professional and business offices located on Parcel 1 shall face in a northerly or westerly direction. At least fifty percent (50%) of all primary public entrance doors to the businesses located on Parcel 1 shall face in a northerly or westerly direction. No part of Parcel 1 or 3 shall be used as a military recruiting center.

(B) (1) No part of the eastern one-half of the Building Area located on Parcel 1 shall be used as a restaurant. No single restaurant located on Parcel 1 shall exceed 3,000 square feet of floor area. The combined aggregate floor area of all restaurants and medical, dental, professional and business offices located on Parcel 1 shall not exceed 4,500 square feet. All primary public entrance doors to all restaurants located on Parcel 1 [except any restaurant permitted pursuant to Section 15.3(B)(3)] shall face in a northerly or westerly direction.

(2) No part of Parcel 3 within one hundred fifty (150) feet of the Building Area of the Leased Premises shall be used as a restaurant. The combined aggregate floor area of all restaurants located on Parcel 3 shall not exceed 6,000 square feet. No single restaurant located on Parcel 3 shall exceed 3,000 square feet of floor area.

(3) Notwithstanding the location restrictions on restaurants set forth in Sections 15.3(B)(1) and 15.3(B)(2), two (2) restaurants offering only fully prepared "take-out" food and no "sit-down" service shall be permitted on either Parcel 1 or 3 (or one (1) such restaurant on each such Parcel) provided that neither restaurant shall (i) be located within fifty (50) feet of the Building Area of the Leased Premises, or (ii) exceed 1,500 square feet of

floor area. This Section 15.3(B)(3) shall only be construed as an exception to the location restrictions in Sections 15.3(B)(1) and 15.3(B)(2) and shall not increase the maximum aggregate square footage of restaurants permitted on Parcel 1 (i.e., 4,500 square feet) or Parcel 3 (i.e., 6,000 square feet).

(C) On Parcel 4, one (1) of the following types of restaurants shall be permitted: (i) a single "fast-food" restaurant not exceeding 4,500 square feet of floor area, which does not serve alcoholic beverages, (ii) a single "family style" restaurant not exceeding 4,000 square feet of floor area, which does not serve alcoholic beverages, or (iii) a single restaurant not exceeding 3,500 square feet of floor area which may make incidental sales of alcoholic beverages [i.e., the total gross receipts from sales of alcoholic beverages shall not exceed thirty percent (30%) of the total gross receipts from all of the restaurant's sales] for on-premises consumption. The building located on Parcel 4 may be as large as 5,000 square feet of floor area so long as said building has demising walls causing it to have more than one premises and more than one business operating therefrom; provided, however, if any sales of alcoholic beverages are made from Parcel 4, the building located on Parcel 4 shall not exceed 3,500 square feet of floor area.

(D) Restaurants may make incidental sales of alcoholic beverages for on-premises consumption provided that (i) the restaurant is located on (a) Parcel 4 (subject, however, to the size limitations imposed by Section 15.3(C) on restaurants serving alcoholic beverages), (b) Parcel 5 [provided, however, that none of the primary public entrance doors to restaurants located on the western one-half of Parcel 5 (unless said restaurant is located north

of the "No Building Area" on Parcel 5) shall face in a southerly or westerly direction], (c) Parcel 6, or (d) the eastern one-third of Parcel 7, (ii) the total gross receipts of the restaurant from alcoholic beverage sales shall not exceed thirty percent (30%) of the total gross receipts from all of the restaurant's sales, and (iii) the restaurant may not include live music or a dance floor.

15.4 No restaurant, bank or other facility featuring vehicular driveup or drive through customer service shall be located on Parcels 1, 3 or 4 unless Tenant has first given its written consent [both parties shall follow the procedure for approvals set forth in Section 9.3(A)], which shall not be unreasonably withheld, to the location, parking and drive lanes of such facility. Tenant hereby approves the vehicular driveup and drive through customer service facilities shown on Exhibit "A".

15.5 There shall be no open or enclosed malls in the Shopping Center unless Tenant has first given its written consent, which shall not be unreasonably withheld, to the location of the entrance to such mall.

16. Indemnification and Insurance.

16.1 Tenant, during the term of this Ground Lease, agrees to indemnify, defend and hold harmless Landlord from and against any and all liability, claims, damages, expenses (including reasonable attorney's fees and reasonable attorney's fees on any appeal), judgments, proceedings and causes of action, for injury to or death of any person or damage to or destruction of any property occurring in the interior of Tenant's Building or in Tenant's Service

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