

11/6/11

After Recording, Return to:
New Albertson's, Inc.
c/o Kimbal L. Gowland
Meuleman Mollerup LLP
755 W. Front Street, Suite 200
Boise, Idaho 83702

10470787
07/03/2008 09:29 AM \$51.00
Book - 9624 Pg - 118-133
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
NEW ALBERTSONS INC
KIMBALL GOWLAND
755 W FRONT ST STE 200
BOISE ID 83702
BY: BRR, DEPUTY - MI 16 P.

**FIRST AMENDMENT TO
COMMON AREA MAINTENANCE AGREEMENT**

THIS FIRST AMENDMENT TO COMMON AREA MAINTENANCE AGREEMENT ("First Amendment") is entered into on July 19, 2007, between Harvest Pointe, LLC, a Utah limited liability company ("First Party"), and New Albertson's, Inc., a Delaware corporation ("Albertson's").

RECITALS

A. Leon Peterson, a married man dealing with his sole and separate property ("Peterson"), and Albertson's, Inc., a Delaware corporation ("Old Albertson's") entered into that certain Common Area Maintenance Agreement dated June 28, 2002, which was recorded on September 10, 2002, as Entry No. 8348595, in Book 8646, beginning at Page 4428, official records of Salt Lake County, Utah (the "CAMA"), with respect to that certain real property more particularly described therein as the Shopping Center.

B. When the CAMA was recorded, the Shopping Center was comprised of eight (8) Parcels, described in the CAMA as Parcels 1, 2, 3, 4, 5, 6, 7 and 8. While the Shopping Center continues to be comprised of eight (8) Parcels, Parcels 1, 4, 5 and 6 were reconfigured by virtue of that certain Special Warranty Deed recorded on November 9, 2006, as Entry No. 9903972, in Book 9378, beginning at Page 4294, official records of Salt Lake County, Utah, and that certain Special Warranty Deed recorded on November 30, 2006, as Entry No. 9924315, in Book 9387, beginning at Page 8014, official records of Salt Lake County, Utah (the latter deed, as stated therein, having been given to correct the former deed). The legal descriptions of the eight (8) Parcels comprising the Shopping Center are attached hereto as Schedule I.

C. First Party has succeeded to the right, title and interest of Peterson in and to the Shopping Center (including, without limitation, the agreement with Jones Land Company, L.L.C. to purchase Parcel 1 of the Shopping Center, as described in the CAMA) and the CAMA, and First Party is the Owner of Parcels 4, 5, 6 and 7 of the Shopping Center. Albertson's has succeeded to the right, title and interest of Old Albertson's in and to the Shopping Center and the CAMA, and Albertson's is the Owner of Parcels 2 and 3 of the Shopping Center. Cyprus Federal Credit Union is the Owner of Parcel 8 of the Shopping Center.

D. First Party and Albertson's desire to amend the CAMA with respect to the matters more specifically set forth below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CAMA is hereby amended as follows:

1. Capitalized terms not otherwise defined herein shall have the respective meanings ascribed to such terms in the CAMA.
2. The legal descriptions attached to the CAMA as Schedule I are hereby deleted and the revised legal descriptions attached hereto as Schedule I are substituted therefor. All references to Schedule I in the CAMA or in this First Amendment shall refer to the Schedule I attached hereto.
3. The site plan attached to the CAMA as Exhibit "A" is hereby deleted and the revised site plan attached hereto as Exhibit "A" is substituted therefor. All references to the site plan or to Exhibit "A" in the CAMA or in this First Amendment shall refer to the site plan attached hereto as Exhibit "A".
4. The cost-sharing table set forth in Section 7.1(e) of the CAMA is hereby amended to read as follows:

<u>Parcel</u>	<u>Parcel Area (square foot)</u>	<u>Percent</u>
Parcel 1	26,253	3.01
Parcel 2	255,951	29.37
Parcel 3	35,453	4.07
Parcel 4	48,455	5.56

Parcel 5	103,557	11.88
Parcel 6	148,968	17.09
Parcel 7	194,365	22.30
Parcel 8	<u>58,528</u>	<u>6.72</u>
TOTAL	871,530	100.00

The first sentence following the cost-sharing table in Section 7.1(e) of the CAMA is hereby deleted.

5. The notice address for First Party and Albertson's, set forth in Section 12.7(a) of the CAMA, is hereby amended to read as follows:

First Party: Harvest Pointe, LLC
225 South 200 East, Suite 300
Salt Lake City, UT 84111

Albertson's: New Albertson's, Inc.
250 Parkcenter Boulevard
P.O. Box 20
Boise, ID 83726
Attention: Legal Department (Store No. 399)

6. The execution and acknowledgement of this First Amendment by First Party and Albertson's shall satisfy the requirement, set forth in Section 12.5 of the CAMA, that the Owners and Prime Lessees of the Parcels containing (not less than) ninety percent (90%) of the total square footage of Building Area in the Shopping Center consent to the modifications of the CAMA that are set forth in this First Amendment.

7. Each party to this First Amendment hereby warrants to each other party hereto that (i) no mortgage, deed of trust or other security interest encumbers any interest of the warranting party in or to the Shopping Center (or any part or portion thereof) as of the date the warranting party executes this First Amendment, or that a Consent and Subordination of Lienholder, in the form attached hereto, has been executed by each such Lienholder and is attached hereto, and (ii) all Lienholders and other third persons (including, without limitation, Jones Land Company, L.L.C., with respect to Parcel 1) required by any agreement with the warranting party to consent to this First Amendment have attached a consent to this First Amendment.

8. This First Amendment may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument. Signature and acknowledgment pages may be detached from original counterparts and attached to a single or multiple original(s) in order to form a single or multiple original(s) of this document.

9. This First Amendment shall be recorded in the official records of Salt Lake County, Utah, and shall be effective as of the date of said recording.

10. The CAMA, as amended herein, is hereby ratified and confirmed. Except as amended herein, the CAMA shall remain in full force and effect.

[Signature Lines and Acknowledgments Appear on Following Pages]

EXECUTED as of the date first set forth above.

ALBERTSON'S:

New Albertson's, Inc.,
a Delaware corporation

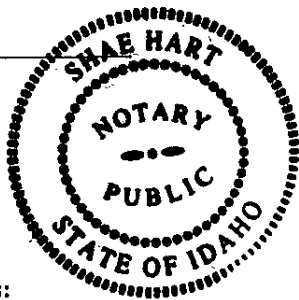
By: [Signature]
Name (print): John P. Breedlove
Its: Vice President
MM/LL

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 19 day of July, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared John P. Breedlove, to me known to be the Vice President, of New Albertson's, Inc., the corporation that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:
August 17, 2011



[Signature]
Notary Public in and for the State of Idaho
Residing at Boise, Idaho

List of Schedules and Exhibits:

Schedule I – Legal Description of Shopping Center
Exhibit "A" – Site Plan

CONSENT AND AGREEMENT

THIS CONSENT AND AGREEMENT ("Consent") is made a part of and appended to that certain First Amendment to Common Area Maintenance Agreement (the "First Amendment").

RECITALS

A. Jones Land Company, L.L.C., a Utah limited liability company ("Jones"), is the fee owner of Parcel 1 of that certain Shopping Center ("Jones Property") described in that certain Common Area Maintenance Agreement dated June 28, 2002, which was recorded on September 10, 2002, as Entry No. 8348595, in Book 8646, beginning at Page 4428, official records of Salt Lake County, Utah (the "CAMA").

B. To provide the basis of an integrated retail sales complex, Jones agreed (by way of the Consent and Agreement appended to the CAMA) to have the CAMA as a lien or encumbrance on Parcels 1, 4, 5, 6, 7 and 8 of the Shopping Center to benefit and encumber said property by the terms and conditions of the CAMA. Thereafter, Jones sold Parcels 4, 5, 6, 7 and 8 of the Shopping Center.

C. To continue to provide the basis of an integrated retail sales complex, Jones desires, by way of this Consent, to have the CAMA, as amended by the First Amendment, as a lien or encumbrance on the Jones Property to benefit and burden the Jones Property by the terms and conditions of the CAMA, as amended by the First Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Jones hereby consents and agrees as follows:

1. Jones hereby consents to, ratifies, confirms, approves, assumes and agrees to benefit from and to be bound by and to perform each and every term, covenant, condition and agreement contained in the CAMA, as amended by the First Amendment, as the Owner (as such term is defined in the CAMA) of the Jones Property as if each thereof were set forth in this Consent. Each of said terms, covenants, conditions and agreements shall be binding upon, inure to the benefit of, and be enforceable by the Owners (including Jones), their heirs, successors, assigns and personal representatives, and upon any person acquiring a Parcel, or any portion thereof, or any interest therein, whether by operation of law or otherwise.

2. Jones does hereby subordinate all of Jones' right, title and interest in and to the Jones Property to the CAMA, as amended by the First Amendment, and the CAMA, as amended by the First Amendment, shall be a benefit to and an encumbrance upon Jones' fee interest in and to the Jones Property.

SCHEDULE I
to First Amendment to Common Area Maintenance Agreement
Legal Description of Shopping Center

Parcel 1

Beginning at a point being North 89°57'00" West 351.83 feet along the south line of 10400 South Street from the Northwest Corner of Lot 3, Albertson's 10400 South Street Subdivision as found and on file at the Salt Lake County Recorders Office, Book 2002, Page 243, and running;

thence Southeasterly 28.06 feet along the arc of a 35.00 foot radius curve to the right(center bears South 44°01'59" West and the long chord bears South 23°00'13" East 27.31 feet with a central angle of 45°55'36;

thence South 0°02'32" east 97.83 feet;

thence Southwesterly 99.28 feet along the arc of a 89.00 foot radius curve to the right(center bears South 89°57'28" West and the long chord bears South 31°54'57" West 94.21 feet with a central angle of 63°54'57");

thence Southwesterly 82.88 feet along the arc of a 120.00 foot radius curve to the left (center bears South 26°07'35" East and the long chord bears South 44°05'19" West 81.24 feet with a central angle of 39°34'13");

thence South 89°57'29" West 17.60 feet to the west line of Albertson's 10400 South Street Subdivision;

thence North 0°02'34" West 261.40 feet along the west line to the Northwest Corner of said Albertson's 10400 South Street Subdivision and being on the south line of 10400 South Street;

thence South 89°57'00" East 113.38 feet along the south line of said 10400 South Street to the point of beginning.

Parcel 2

RC 12/11/07

✓ Lot 2 of that certain ALBERTSON'S 10400 SOUTH STREET SUBDIVISION, recorded September 5, 2002, in Book 2002P, at Page 243, as Instrument No. 8343187, in the Recorder's Office in Salt Lake County, Utah.

Situate in South Jordan City, Salt Lake County, Utah.

LESS AND EXCEPTING:

✓ A parcel of land for the widening of the existing highway State Route 151 known as Project No. 0151, being part of an entire tract of property situate in Lot 2, Albertson's 10400 South Subdivision, a subdivision situate in the SE¼NW¼ of Section 17, Township 3 South, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

27-17

810-961-176-018
27-17-176-018

Beginning at the northeast corner of said Lot 2; and running thence South 6.25 feet along an easterly boundary line of said Lot 2, to a point 58.90 feet perpendicularly distant southerly from the centerline of said project, opposite approximate Engineers Station 100+95.40; thence N. $86^{\circ}03'17''$ W. 92.04 feet to the northerly boundary line of said Lot 2; thence S. $89^{\circ}57'00''$ E. 91.82 feet along said northerly boundary line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described parcel of land in Salt Lake County, State of Utah, contains 287 square feet in area, or 0.007 acres, more or less.

RC 12/11/07

Parcel 3

✓ Lot 3 of that certain ALBERTSON'S 10400 SOUTH STREET SUBDIVISION, recorded September 5, 2002, in Book 2002P, at Page 243, as Instrument No. 8343187, in the Recorder's Office in Salt Lake County, Utah.

Situate in South Jordan City, Salt Lake County, Utah.

RC 12/11/07

Parcel 4

✓ Beginning at a point being North $89^{\circ}57'00''$ West 49.51 feet along the south line of 10400 South Street from the Northwest Corner of Lot 3, Albertson's 10400 South Street Subdivision as found and on file at the Salt Lake County Recorders Office, Book 2002, Page 243, and running;

- Thence South 166.54 feet;
- Thence West 47.60 feet;
- Thence South 31.00 feet;
- Thence West 161.18 feet;
- Thence North $64^{\circ}38'12''$ West 68.42 feet;
- thence Northeasterly 17.09 feet along the arc of a 119.00 foot radius curve to the left(center bears North $67^{\circ}32'09''$ West and the long chord bears North $18^{\circ}20'592''$ East 17.08 feet with a central angle of $8^{\circ}13'44''$);
- thence North $14^{\circ}14'07''$ East 49.15 feet;
- thence Northeasterly 12.46 feet along the arc of a 50.00 foot radius curve to the left(center bears North $75^{\circ}45'53''$ West and the long chord bears North $7^{\circ}05'48''$ East 12.43 feet with a central angle of $14^{\circ}16'39''$);
- thence North $0^{\circ}02'32''$ West 67.31 feet;
- thence Northeasterly 27.77 feet along the arc of a 35.00 foot radius curve to the right(center bears North $89^{\circ}57'15''$ East and the long chord bears North $22^{\circ}41'12''$ East 27.05 feet with a central angle of $45^{\circ}27'54''$) to the south line of 10400 South Street;
- thence South $89^{\circ}57'00''$ East 241.22 feet along the south line of said 10400 South Street to the point of beginning.

RC 12/11/07

600-961-176-009
27-17-12

27-17-12

Parcel 5 ✓

Beginning at the Northwest Corner of Lot 3, Albertson's 10400 South Street Subdivision as found and on file at the Salt Lake County Recorders Office, Book 2002, Page 243, and running;

thence South 197.50 feet along the west line to the Southwest Corner of said Lot 3, Albertson's 10400 South Street Subdivision;
thence West 67.15 feet along the north line to a Northwest Corner of Lot 2, Albertson's 10400 South Street Subdivision;
thence South 255.77 feet along the west line to a Southwest Corner of said Lot 2, Albertson's 10400 South Street Subdivision;
thence East 64.17 feet along the south line to a interior corner of said Lot 2, Albertson's 10400 South Street Subdivision;
thence South 132.77 feet along the west line of said Lot 2, Albertson's 10400 South Street Subdivision;
thence West 193.09 feet;
thence North 327.62 feet;
thence West 115.65 feet;
thence South 188.61 feet;
thence West 116.23 feet;
thence North 0°02'33" West 136.59 feet;
thence Northeasterly 100.40 feet along the arc of a 90.00 foot radius curve to the right(center bears North 89°57'27" East and the long chord bears North 31°55'02" East 95.28 feet with a central angle of 63°55'09");
thence Northeasterly 86.01 feet along the arc of a 119.00 foot radius curve to the left(center bears North 26°07'24" West and the long chord bears North 43°10'13" East 84.15 feet with a central angle of 41°24'45");
thence South 64°38'12" East 68.42 feet;
thence East 161.18 feet;
thence North 31.00 feet;
thence East 47.60 feet;
thence North 166.54 feet to the south line of 10400 South Street;
thence South 89°57'00" East 49.51 feet along the south line of said 10400 South Street to the point of beginning.

✓ Parcel 6

RC
12/11/07

Beginning at a point being North 89°57'00" West 290.73 feet along the south line of 10400 South Street from the Northwest Corner of Lot 3, Albertson's 10400 South Street Subdivision as found and on file at the Salt Lake County Recorders Office, Book 2002, Page 243, and running;

thence Southwesterly 27.77 feet along the arc of a 35.00 foot radius curve to the left(center bears South 44°34'51" East and the long chord bears South 22°41'12" West 27.05 feet with a central angle of 45°27'54");
 thence South 0°02'32" East 67.31 feet;
 thence Southwesterly 12.46 feet along the arc of a 50.00 foot radius curve to the right(center bears North 89°57'15" East and the long chord bears South 7°05'48" West 12.43 feet with a central angle of 14°16'39");
 thence South 14°14'07" West 49.15 feet;
 thence Southwesterly 103.10 feet along the arc of a 119.00 foot radius curve to the right(center bears North 75°45'53" West and the long chord bears South 39°03'22" West 99.91 feet with a central angle of 49°38'29");
 thence Southwesterly 100.40 feet along the arc of a 90.00 foot radius curve to the left(center bears South 26°07'24" East and the long chord bears South 31°55'02" West 95.28 feet with a central angle of 63°55'09");
 thence South 0°02'33" East 136.59 feet;
 thence East 116.23 feet;
 thence North 188.61 feet;
 thence East 115.65 feet;
 thence South 327.62 feet;
 thence East 193.09 feet to the west line of Lot 2, Albertson's 10400 South Street
 Subdivision;
 thence South 156.58 feet along the west line to the Southwest Corner of said Lot 2, Albertson's 10400 South Street Subdivision;
 thence North 89°57'00" West 461.67 feet along the south line to the Southwest Corner of said Albertson's 10400 South Street Subdivision;
 thence North 0°02'34" West 481.22 feet along the west line of said Albertson's 10400 South Street Subdivision;
 thence North 89°57'29" east 17.60 feet;
 thence Northeasterly 82.88 feet along the arc of a 120.00 foot radius curve to the right(center bears South 65°41'48" East and the long chord bears North 44°05'19" East 81.24 feet with a central angle of 39°34'13");
 thence Northeasterly 99.28 feet along the arc of a 89.00 foot radius curve to the left(center bears North 26°07'35" West and the long chord bears North 31°54'57" East 94.21 feet with a central angle of 63°54'57");
 thence North 0°02'32" West 97.83 feet;
 thence Northwesterly 28.06 feet along the arc of a 35.00 foot radius curve to the left(center bears South 89°57'35" West and the long chord bears North 23°00'13" West 27.31 feet with a central angle of 45°55'36") to the south line of 10400 South Street;
 thence South 89°57'00" East 61.10 feet along the south line of said 10400 South Street to the point of beginning.

PC
 12/11/07

Parcel 7

Lot 7 of that certain ALBERTSON'S 10400 SOUTH STREET SUBDIVISION, recorded September 5, 2002, in Book 2002P, at Page 243, as Instrument No. 8343187, in the Recorder's Office in Salt Lake County, Utah.

Situate in South Jordan City, Salt Lake County, Utah.

LESS AND EXCEPTING:

A parcel of land for the widening of the existing highway State Route 151 known as Project No. 0151, being part of an entire tract of property situate in Lot 7, Albertson's 10400 South Subdivision, a subdivision situate in the SE¼NW¼ of Section 17, Township 3 South, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the northeast corner of said Lot 7; and running thence South 15.44 feet along an easterly boundary line of said Lot 7; thence N. 86°03'07" W. 135.22 feet to the westerly boundary line of said Lot 7, to a point 58.90 feet perpendicularly distant southerly from the centerline of said project, opposite approximate Engineers Station 100+95.40; thence N. 6.25 feet along said westerly boundary line to the northwest corner of said Lot 7; thence S. 89°57'00" E. 134.90 feet along the northerly boundary line of said Lot 7 to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described parcel of land in Salt Lake County, State of Utah, contains 1463 square feet in area, or 0.034 acres, more or less.

RC 12/11/07

Parcel 8

Lot 8 of that certain ALBERTSON'S 10400 SOUTH STREET SUBDIVISION, recorded September 5, 2002, in Book 2002P, at Page 243, as Instrument No. 8343187, in the Recorder's Office in Salt Lake County, Utah.

Situate in South Jordan City, Salt Lake County, Utah.

LESS AND EXCEPTING:

A parcel of land for the widening of the existing highway State Route 151 known as Project No. 0151, being part of an entire tract of property situate in Lot 8, Albertson's 10400 South Subdivision, a subdivision situate in the SE¼NW¼ of Section 17, Township 3 South, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the northeast corner of said Lot 8; and running thence South 15.44 feet along a westerly boundary line of said Lot 8; thence S. 86°03'17" E. 20.49 feet to a point 69.46 feet perpendicularly distant southerly from the centerline of said project, opposite Engineers Station 102+50.75; thence S. 89°56'32" E. 186.69 feet along a line parallel to said centerline; thence

620-961-41-42

119-961-41-42

S. 47°26'42" E. 42.70 feet to the easterly boundary line of said Lot 8; thence N. 34°37'57" W. 55.57 feet along a northeasterly boundary line to the northeast corner of said Lot 8; thence N. 89°57'00" W. 207.00 feet along said northerly boundary line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described parcel of land in Salt Lake County, State of Utah, contains 3736 square feet in area, or 0.086 acres, more or less.

RL
12/11/07

