

NCS-CCR176-168

WHEN RECORDED, MAIL TO:

Honigman Miller Schwartz and Cohn LLP  
 38500 Woodward Avenue, Suite 100  
 Bloomfield Hills, Michigan 48304  
 Attn: Richard J. Burstein, Esq.

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 3/21/2012 12:57:00 PM \$24.00  
 Book - 10001 Pg - 1797-1803  
 Gary W. Ott  
 Recorder, Salt Lake County, UT  
 FIRST AMERICAN NCS  
 BY: eCASH, DEPUTY - EF 7 P.

**SPECIAL WARRANTY DEED**

[For an Estate of Years]

In consideration of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, CITY CREEK RESERVE, INC., a Utah nonprofit corporation ("**Grantor**"), whose address is Joseph Smith Memorial Building, 8<sup>th</sup> Floor, 15 East South Temple, Salt Lake City, Utah 84150, hereby conveys and warrants, against all claiming by, through or under Grantor, to CITY CREEK CENTER ASSOCIATES LLC, a Delaware limited liability company ("**Grantee**"), whose address is 200 East Long Lake Road, Bloomfield Hills, Michigan 48304-0200, an estate for years, for the Estate Term (defined hereinafter), in and to the following described real property located in Salt Lake County, Utah (the "**Property**");

See Exhibit A attached hereto and incorporated herein by this reference;

TOGETHER with all easements, rights and hereditaments appurtenant thereto and all improvements located thereon; and

SUBJECT TO EACH OF THE FOLLOWING EXCEPTIONS (collectively, the "**Approved Exceptions**");

(1) Current taxes and assessments, reservations, easements, covenants, conditions, restrictions, and other rights, interests and encumbrances of record;

(2) The continuing option and right of Grantor to re-acquire the Property from Grantee, its permitted successors and assigns, as set forth in that certain Fee Restaurant Conveyance Agreement dated March 21, 2012 (the "**Agreement**"). This right and option shall be referred to herein as the "**Option**," and shall have the same meaning as "**Option**" in the Agreement. Reference is made to the Agreement for the specific terms and provisions of the Option. If any inconsistency or ambiguity as to the Option exists between the terms and provisions of this Special Warranty Deed and the terms and provisions of the Agreement, the terms and provisions of the Agreement shall govern and control; and

(3) The continuing use restrictions, covenants and agreements set forth in that certain Amended and Restated Retail Center Airspace Lease dated as of December 4, 2008, between Grantor, as Landlord, and Grantee, as Tenant (the "**Airspace Lease**"), which restrictions, covenants and agreements shall apply to the Property in the same manner as they apply to the "Premises" (as defined in the Airspace Lease) under the terms of the Airspace

Lease. For purposes of clarification, such restrictions, covenants and agreements shall include without limitation (a) those specific use provisions set forth in Article 6 of the Airspace Lease, which are incorporated herein by this reference, (b) the continuing maintenance provisions set forth in Article 9 of the Airspace Lease, which are incorporated herein by this reference, and (c) the restrictions upon Transfers, Subleases and Leasehold Mortgages set forth in Articles 17, 18 and 20 of the Airspace Lease, which are incorporated herein by this reference (all of the foregoing use restrictions, covenants, agreements and restrictions, as the same are to be applied to the Property pursuant to the foregoing, being referred to herein as the “*Use/Maintenance/Transfer Covenants*”). Reference is made to the Airspace Lease for the specific terms and provisions of the Use/Maintenance/Transfer Covenants;

(4) The subordination, nondisturbance and attornment provisions set forth in Section 8 of the Agreement (the “*SNDA Provisions*”), which SDNA Provisions are incorporated herein by this reference. Reference is made to the Agreement for the specific terms and provisions of the SNDA Provisions. If any inconsistency or ambiguity as to the SNDA Provisions exists between the terms and provisions of this Special Warranty Deed and the terms and provisions of the Agreement, the terms and provisions of the Agreement shall govern and control;

(5) The additional exceptions described in Exhibit B attached hereto; and

(6) Any additional exceptions to title (including leases or subleases) caused by Grantee’s acts or omissions or consented to or requested by Grantee (in accordance with the provisions of the Airspace Lease) prior to the date hereof.

NOTWITHSTANDING THE FOREGOING, THIS GRANT SHALL CONTINUE ONLY FOR SO LONG AS the Property is used by Grantee as part of the Retail Center under, and as defined in, the Airspace Lease. At such time as the Airspace Lease terminates or expires, without any regard whatsoever as to the reason for such termination or expiration, and thereby the Property is no longer being used as a part of the Retail Center under the Airspace Lease, then at that time, without any action or notice of any kind being required from Grantor to Grantee, fee title absolute to the Property shall automatically revert in full to Grantor (the “*Reverter*”). Upon the occurrence of the Reverter, (a) Grantor shall be entitled and authorized to unilaterally record a notice of the expiration or termination of the Airspace Lease and the occurrence of the Reverter, and (b) Grantee shall cause fee title to the Property to be conveyed to Grantor pursuant to the Reverter free and clear of any exceptions other than (i) the Approved Exceptions (except that the exceptions for the Option, the Reverter, the Use/Maintenance/Transfer Covenants and the Airspace Lease shall be deleted); (ii) such other title exceptions as may have been created or consented to by Grantor during the time Grantee owned the Property; and (iii) Subleases (as defined in the Airspace Lease) of the Property which, at the time entered into, complied with all requirements under the Airspace Lease applicable to subleasing of space within the Retail Center.

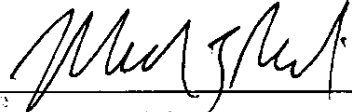
The “*Estate Term*” shall mean the period of time commencing on the date of this Special Warranty Deed and terminating on the last day of the Term (as defined in the Airspace Lease) of the Airspace Lease.

By executing this Special Warranty Deed, Grantee acknowledges and agrees that Grantee is taking title to the Property subject to the Option, the Reverter, and the Use/Maintenance/Transfer Covenants, and Grantee hereby agrees to perform all of the agreements and keep all of the covenants, and to own and use the Property in compliance with and subject to all of the restrictions, of the Option, the Reverter, and the Use/Maintenance/Transfer Covenants. By way of clarification, Grantee further agrees that (a) Grantee shall not transfer fee title to the Property to any third party unless such third party, concurrently therewith and in accordance with the Airspace Lease, also acquires the Leasehold Estate (as defined in the Airspace Lease) under the Airspace Lease, and (b) Grantee shall not encumber the Property in favor of a third party to secure an obligation unless such third party, concurrently therewith and in accordance with the Airspace Lease, also obtains a like encumbrance of the Leasehold Estate under the Airspace Lease in order to secure the same obligation.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Special Warranty Deed this 21 day of March, 2012.


**GRANTOR:**

**CITY CREEK RESERVE, INC.,**  
a Utah nonprofit corporation

MSM By:   
Name: Mark B. Gibbons, President  
Title: Mark B. Gibbons, President

**GRANTEE:**

**CITY CREEK CENTER ASSOCIATES LLC,**  
a Delaware limited liability company

By:   
Name: Chris B. Heaphy  
Title: Authorized Signatory

STATE OF UTAH )  
 :SS  
COUNTY OF SALT LAKE )

On this 20th day of March, 2012, personally appeared before me Mark B. Gibbons, President known or satisfactorily proved to me to be the President of City Creek Reserve, Inc., a Utah nonprofit corporation, who acknowledged to me that he signed the foregoing instrument as witnessed signing for said corporation.

Sarahi D. Soperanez  
Notary Public



STATE OF MICHIGAN )  
 :SS  
COUNTY OF OAKLAND )

On this 19th day of March, 2012, personally appeared before me Chris B. Heaphy known or satisfactorily proved to me to be the Authorized Signatory of City Creek Center Associates LLC, a Delaware limited liability company, who acknowledged to me that he signed the foregoing instrument as Authorized Signatory for said company.

Teresa L. Dreer  
Notary Public

**TERESA L. DREER**  
Notary Public, Macomb County, MI  
Acting in Oakland County, MI  
My Commission Expires 05-15-2012

**EXHIBIT A TO SPECIAL WARRANTY DEED**

**LEGAL DESCRIPTION**

**PARCEL 1:**

BEGINNING S00°01'48"E 433.58 FEET FROM THE NORTHEAST CORNER OF BLOCK 76, PLAT "A", SALT LAKE CITY SURVEY, SECTION 1, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN SAID POINT BEING A POINT ON THE WEST RIGHT OF WAY LINE OF MAIN STREET AT THE SALT LAKE DATUM ELEVATION 4319.06 TO ELEVATION 4338.06 AND RUNNING THENCE S00°01'48"E ALONG SAID RIGHT OF WAY LINE 8.68 FEET; THENCE WEST 7.91 FEET; THENCE SOUTH 12.33 FEET; THENCE EAST 7.92 FEET TO A POINT ON SAID RIGHT OF WAY LINE; THENCE S00°01'48"E ALONG SAID RIGHT OF WAY LINE 8.58 FEET; THENCE WEST 12.92 FEET; THENCE SOUTH 15.04 FEET; THENCE EAST 8.66 FEET; THENCE NORTH 1.00 FEET; THENCE EAST 4.27 FEET TO A POINT ON SAID RIGHT OF WAY LINE; THENCE S00°01'48"E ALONG SAID RIGHT OF WAY LINE 19.00 FEET; THENCE WEST 4.48 FEET; THENCE SOUTH 5.33 FEET; THENCE WEST 5.60 FEET; THENCE S45°00'00"W 2.36 FEET; THENCE WEST 18.19 FEET; THENCE S45°00'00"W 4.26 FEET; THENCE SOUTH 1.21 FEET; THENCE S45°00'00"W 9.61 FEET; THENCE WEST 6.78 FEET; THENCE S45°00'00"W 4.86 FEET; THENCE WEST 2.94 FEET; THENCE S45°00'00"W 5.89 FEET; THENCE WEST 12.28 FEET; THENCE SOUTH 13.96 FEET; THENCE EAST 11.64 FEET; THENCE SOUTH 2.61 FEET; THENCE WEST 2.47 FEET; THENCE SOUTH 0.42 FEET; THENCE WEST 34.96 FEET; THENCE NORTH 3.73 FEET; THENCE WEST 8.00 FEET; THENCE SOUTH 3.73 FEET; THENCE WEST 1.67 FEET; THENCE N45°00'00"W 1.15 FEET; THENCE WEST 12.58 FEET; THENCE NORTH 58.77 FEET; THENCE EAST 61.35 FEET; THENCE NORTH 81.02 FEET TO A NON-TANGENT 1472.29 FOOT RADIUS CURVE TO THE LEFT, RADIAL POINT BEARS N04°48'25"E; THENCE ALONG SAID CURVE 0.67 FEET (CHORD BEARS S85°12'21"E 0.67 FEET) TO A 1469.00 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG SAID CURVE 31.08 FEET (CHORD BEARS S85°50'03"E 31.08 FEET); THENCE SOUTH 25.22 FEET; THENCE WEST 0.33 FEET; THENCE SOUTH 7.83 FEET; THENCE EAST 25.49 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ALL OF THAT VOLUME OF SPACE DESCRIBED AS FOLLOWS:

BEGINNING S00°01'48"E 433.58 FEET FROM THE NORTHEAST CORNER OF BLOCK 76, PLAT "A", SALT LAKE CITY SURVEY, SECTION 1, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN SAID POINT BEING A POINT ON THE WEST RIGHT OF WAY LINE OF MAIN STREET AT THE SALT LAKE DATUM ELEVATION 4315.06 TO ELEVATION 4319.06 AND RUNNING THENCE S00°01'48"E ALONG SAID RIGHT OF WAY LINE 8.68 FEET; THENCE WEST 7.91 FEET; THENCE SOUTH 12.33 FEET; THENCE EAST 7.92 FEET TO A POINT ON SAID RIGHT OF WAY LINE; THENCE S00°01'48"E ALONG SAID RIGHT OF WAY LINE 8.58 FEET; THENCE WEST 12.92 FEET; THENCE SOUTH 15.04 FEET; THENCE EAST 8.66 FEET; THENCE NORTH 1.00 FEET; THENCE EAST 4.27 FEET TO A POINT ON SAID RIGHT OF WAY LINE; THENCE S00°01'48"E ALONG SAID RIGHT OF WAY LINE 19.00 FEET; THENCE

WEST 4.48 FEET; THENCE SOUTH 5.33 FEET; THENCE WEST 5.60 FEET; THENCE S45°00'00"W 2.36 FEET; THENCE WEST 18.19 FEET; THENCE S45°00'00"W 4.26 FEET; THENCE SOUTH 1.21 FEET; THENCE S45°00'00"W 9.61 FEET; THENCE WEST 6.78 FEET; THENCE S45°00'00"W 4.86 FEET; THENCE WEST 2.94 FEET; THENCE S45°00'00"W 3.22 FEET; THENCE NORTH 39.06 FEET; THENCE EAST 30.00 FEET; THENCE NORTH 47.30 FEET; THENCE EAST 25.16 FEET TO THE POINT OF BEGINNING.

**AND**

**PARCEL 2:**

EASEMENTS AND BENEFICIAL RIGHTS AS ESTABLISHED BY THAT CERTAIN AMENDED AND RESTATED MASTER DECLARATION, RECORDED JANUARY 8, 2010 AS ENTRY NO. 10875596, IN BOOK 9795 AT PAGE 4989 OF OFFICIAL RECORDS (SAID CITY CREEK CENTER AMENDED AND RESTATED MASTER DECLARATION OF EASEMENTS WAS RE-RECORDED JANUARY 12, 2010 AS ENTRY NO. 10877609, IN BOOK 9796 AT PAGE 4404 OF OFFICIAL RECORDS).

APN: 15-01-227-062-2010

**EXHIBIT B TO SPECIAL WARRANTY DEED**

**PERMITTED EXCEPTIONS**

1. Taxes for the year 2012 now a lien, not yet due.
2. Said property is included within the incorporated city limits of Salt Lake City, a municipal corporation of the State of Utah, and is subject to any special assessments for improvements or services, including but not limited to, Downtown Economic Development and Street Lighting, as may be therein provided.
3. A Parking Ramp Easement Agreement by and between Salt Lake City Corporation, a Utah municipal corporation and City Creek Reserve Inc., a Utah non-profit corporation recorded May 29, 2009 as Entry No. 10716098 in Book 9729 at Page 5911 of Official Records.
4. City Creek Center Amended and Restated Master Declaration of Easements recorded January 8, 2010 as Entry No. 10875596 in Book 9795 at Page 4989 of Official Records. Said City Creek Center Amended and Restated Master Declaration of Easements was re-recorded January 12, 2010 as Entry No. 10877609 in Book 9796 at Page 4404 of Official Records.
5. A UCC Financing Statement executed by Texas De Brazil (Utah) Corporation, as Debtor, in favor of City Creek Center Associates LLC, as Secured Party recorded November 7, 2011 as Entry No. 11274972 in Book 9964 at Page 6964 of Official Records.