

**AMENDMENT NO. 3
TO CROSS-EASEMENT
AGREEMENT**
(Site No. 15 – Salt Lake City, Utah)

When Recorded Return To:
Joe Kucharski
Vice President Real Estate
ShopKo Stores Operating Co., LLC
P.O. Box 19060
Green Bay, WI 54307-9060

This **THIRD AMENDMENT TO CROSS-EASEMENT AGREEMENT** (this “**Third Amendment**”) is made as of the 11th day of December, 2013, by and between Spirit SPE Portfolio 2006-1, LLC, a Delaware limited liability company (“**Spirit**”), and American First Federal Credit Union, dba America First Credit Union, a Utah corporation (“**America First**”).

A. Spirit is the owner of fee title to a certain real property located in Salt Lake County, Utah, legally described on **Exhibit 1**, which is attached hereto and made a part hereof (the “**ShopKo Parcel**”); and

B. America First is the owner of fee title to a certain real property located in Salt Lake County, Utah, legally described on **Exhibit 2**, which is attached hereto and made a part hereof (the “**America First Parcel**”); and

C. The ShopKo Parcel, the America First Parcel, the First Utah Parcel, legally described on **Exhibit 3**, Johnny’s Parcel, legally described on **Exhibit 4**, the parcel owned by Durham Investments, LLC, a Utah limited liability company, legally described on **Exhibit 5**, and the parcel owned by 4850 Associates LLC, a Utah limited liability company, legally described on **Exhibit 6**, are collectively referred to herein as the “**Entire Parcel**” or the “**Shopping Center**”; and

D. The Shopping Center is subject to the terms and conditions of a Cross-Easement Agreement dated February 21, 1989, and recorded February 21, 1989 as Entry No. 4738354 in Book 6105 at page 892 of the Official Records of Salt Lake County, Utah (the “**Original Cross-Easement Agreement**”), as amended by the First Amendment to Cross-Easement Agreement dated June 12, 1989, and recorded July 28, 1989 as Entry No. 4804543 in Book 6146 at page 2759 of the Official Records of Salt Lake County, Utah (the “**First Amendment**”), and as further amended by the Second Amendment to Cross-Easement Agreement dated January 28, 2005, and recorded January 31, 2005 as Entry No. 9287430 in Book 9089 at page 6268 of the Official Records of Salt Lake County, Utah (the “**Second Amendment**,” together with the Original Cross-Easement

Agreement and the First Amendment, the “**Cross Easement Agreement**”) (capitalized terms used but not defined herein shall have the meaning as set forth in the Original Cross Easement Agreement); and

E. Section 11.02 of the Original Cross-Easement Agreement provides for modification of the Cross Easement Agreement by a document executed by (a) those Owners who own eighty percent or more of the square footage (including Common Areas and Net Building Floor Areas) within the Entire Parcel and their respective mortgagees, if any; (b) the Owner of the Shopko Site (excluding any Pads that are located thereon); (c) the Owner of the Grocery Parcel (as described in Section 6.07 of the Original Cross-Easement Agreement); and (d) so long as Developer owns fee simple title to any portion of the Entire Parcel, then Developer; and

F. The Developer no longer owns fee simple title to any portion of the Entire Parcel. Spirit and America First represent (a), (b) and (c) referenced in Paragraph E above and have agreed to further amend the Cross-Easement Agreement as provided herein; and

G. America First has agreed to sell to Esperanza Land Holding, LLC (“**Esperanza**”), that portion of the America First Parcel described in **Exhibit 7** (the “**Esperanza Parcel**”) and Esperanza has agreed to purchase the Esperanza Parcel contingent upon the execution and recording of this Third Amendment; and

H. Esperanza intends to develop an elementary charter school (the “**School**”) on the Esperanza Parcel.

NOW THEREFORE, in consideration of One Dollar (\$1.00), the mutual covenants and agreement herein contained and other good and valuable consideration, the receipt, value, and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

1. **Agreement:** The parties hereto agree that the Cross-Easement Agreement is amended as follows:

a. Section 1.04, Site Plan, is amended by adding the following at the end of the sentence:

“, and the Esperanza Site Plan.”

b. Article I, Definitions, is amended by adding a new Section 1.09 which reads as follows:

“1.09. Esperanza Site Plan. The term “Esperanza Site Plan” shall mean and refer to the site plan of the Esperanza Parcel attached as **Exhibit 8** to the Third Amendment to Cross-Easement Agreement. Provided that the Esperanza Parcel is developed in accordance with the Esperanza Site

Plan, the development on the Esperanza Parcel will be deemed to be in compliance with all provisions of this Agreement.”

c. Section 6.08 is amended by adding the following at the end of the first sentence thereof:

“, and/or (d) an elementary charter school on the Esperanza Parcel.”

2. **Effect of Agreement:** All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Cross-Easement Agreement. Except to the specific extent amended by this Third Amendment, the Cross-Easement Agreement remains in full force and effect and shall remain unchanged and unmodified.

3. **Effective Date:** This Third Amendment shall be effective as of the day and year first written above.

4. **Entire Agreement:** This Third Amendment contains the entire agreement between the parties hereto with respect to the subject matter hereof and all prior negotiations, understandings or agreements are superseded.

5. **Counterparts:** This Third Amendment may be executed in several counterparts, each of which shall be deemed an original.

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

SIGNATURE PAGES FOLLOW

**Spirit SPE Portfolio 2006-1, LLC,
a Delaware limited liability company**

By: Spirit SPE Manager, LLC,
a Delaware limited liability company
Its: Manager

By: 

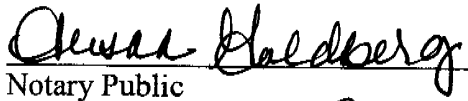
Name: Mark Manheimer

Its: Senior Vice President

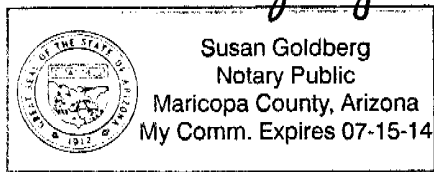
State of Arizona)
:SS

County of Maricopa)

The foregoing instrument was acknowledged before me the 30th day of December, 2013,
by Mark Manheimer, who represented to me that s/he is the
Senior Vice President of Spirit SPE Manager, LLC, a Delaware
limited liability company, the Manager of Spirit SPE Portfolio 2006-1, LLC, a Delaware
limited liability company.


Notary Public

My commission expires: July 15, 2014

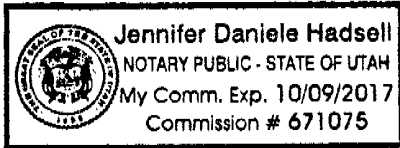


gm
America First Federal Credit Union,
a Utah corporation

By: *JM*
Name: JIL MORBY
Its: SUP OPERATIONS.
RR

State of Utah)
County of Weber) :SS

The foregoing instrument was acknowledged before me the 17th day of December, 2013,
by JIL MORBY, who represented to me that s/he is the
SENIOR VICE PRESIDENT, of America First Federal Credit Union.
OPERATIONS



Jennifer Daniele Hadsell
Notary Public
My commission expires: 10-9-2017

EXHIBIT 1

SHOPKO PARCEL

Lot 1, SHOPKO 3500 SOUTH SUBDIVISION, according to the official plat thereof, on file and of record in the Office of the Salt Lake County Recorder,

and *14-25-476-014*

Parcel A, SHOPKO 3500 SOUTH SUBDIVISION, according to the official plat thereof, on file and of record in the Office of the Salt Lake County Recorder.

14-25-476-013

EXHIBIT 2

AMERICA FIRST PARCEL

Lot 1, AFFCU 3500 SOUTH SUBDIVISION AMENDED, according to the official plat thereof, on file and of record in the Office of the Salt Lake County Recorder.

And *14-25-476-018*

Lot 2A, AFFCU 3500 SOUTH SUBDIVISION AMENDED, according to the official plat thereof, on file and of record in the Office of the Salt Lake County Recorder but I can't tell you from the website if they are the owners.

PART OF 14-25-476-017

EXHIBIT 3

FIRST UTAH PARCEL

BEGINNING AT A POINT ON THE NORTH RIGHT OF WAY LINE OF 3500 SOUTH STREET. SAID POINT BEING SOUTH 89 DEGREES 59 MINUTES 22 SECONDS WEST ALONG THE SECTION LINE 645.0 FEET AND NORTH 00 DEGREES 00 MINUTES 38 SECONDS WEST 33.0 FEET FROM THE SOUTHEAST CORNER OF SECTION 25, TOWNSHIP I SOUTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE ALONG SAID RIGHT OF WAY LINE SOUTH 89 DEGREES 59 MINUTES 22 SECONDS WEST 141.0 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE NORTH 00 DEGREES 00 MINUTES 38 SECONDS WEST 117.0 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 22 SECONDS EAST 141.0 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 38 SECONDS EAST 117.0 FEET TO THE POINT OF BEGINNING.

TAX PARCEL NO. 14-25-476-006

EXHIBIT 4

JOHNNY'S PARCEL

BEGINNING SOUTH 89 DEGREES 59 MINUTES 22 SECONDS WEST 380 FEET AND NORTH 0 DEGREES 00 MINUTES 38 SECONDS WEST 33 FEET FROM THE SOUTHEAST CORNER OF SECTION 25, TOWNSHIP 1 SOUTH, RANGE 2 WEST, SALT LAKE MERIDIAN; THENCE SOUTH 89 DEGREES 59 MINUTES 22 SECONDS WEST 205 FEET; THENCE NORTH 0 DEGREES 00 MINUTES 38 SECONDS WEST 117 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 22 SECONDS EAST 205 FEET; THENCE SOUTH 0 DEGREES 00 MINUTES 38 SECONDS EAST 117 FEET TO BEGINNING.

TAX PARCEL NO. 14-25-476-004

EXHIBIT 5

DURHAM INVESTMENTS PARCEL

Lot 3, SHOPKO 3500 SOUTH SUBDIVISION, according to the official plat thereof, on file and of record in the Office of the Salt Lake County Recorder.

14-25-476-016

EXHIBIT 6

4850 ASSOCIATES PARCEL

Lot 2, SHOPKO 3500 SOUTH SUBDIVISION, according to the official plat thereof, on file and of record in the Office of the Salt Lake County Recorder.

14-25-476-015

EXHIBIT 7

ESPERANZA PARCEL

Lot 3, AFFCU 3500 SOUTH SUBDIVISION AMENDED, according to the official plat thereof, on file and of record in the Office of the Salt Lake County Recorder.

PART OF 14-25-476-017

And

Parcel A, AFFCU 3500 SOUTH SUBDIVISION AMENDED, according to the official plat thereof, on file and of record in the Office of the Salt Lake County Recorder.

PART OF 14-25-476-017

EXHIBIT 8

ESPERANZA SITE PLAN

Architectural Nexus, Inc.
200 South Highway 100
West Valley City, UT 84113
Tel: 801.734.8207 Fax: 801.734.1001
http://www.archnexus.com

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ESPERANZA ELEMENTARY
3500 SOUTH 4900 WEST
WEST VALLEY CITY

DATE	1/15/2015
BY	MD
CHECKED BY	MD
DRAWN BY	MD
DATE	01/15/2015
BY	MD
CHECKED BY	MD
DRAWN BY	MD
SHEET COMMENTS	
SITE PLAN	

AS201

PERMIT SET - REVIEW

