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RASHELLE HOBBS
Recorder, Salt Lake County, UT
FIRST AMERICAN NCS
BY: eCASH, DEPUTY - EF 13 P.

Recording Requested By
And When Recorded Mail To:

Alta View Shopping Center, LLC
5670 Wilshire Boulevard, Suite 1250
Los Angeles, California 90036
Attn.: Steven Usdan

FATCO NCS-948398-ai

Above Space for Recorder's Use Only

FIRST AMENDMENT TO AGREEMENT REGARDING COVENANTS, CONDITIONS AND RESTRICTIONS

This First Amendment to Agreement Regarding Covenants, Conditions and Restrictions (this "Amendment") is dated as of FEBRUARY 26, 2019 between ALTA VIEW SHOPPING CENTER, LLC, a Delaware limited liability company ("AVSC"), WHITE INVESTMENT, INC., a Utah corporation ("White"), and MAGNA INVESTMENT & DEVELOPMENT LTD., a Utah partnership ("Magna") (collectively hereinafter the "Parties").

RECITALS

A. The Parties entered into that certain Agreement Regarding Covenants, Conditions and Restrictions dated May 25, 2017, which was recorded on May 25, 2017, as Entry No. 12542908, in the official records of Salt Lake County, Utah (hereinafter the "Agreement"), with respect to that certain real property more particularly described therein. AVSC owns that certain real property described on Exhibit A to this Amendment ("AVSC Property") and White and Magna own that certain real property described on Exhibit B to this Amendment.

B. Smith's Food & Drug Centers, Inc., an Ohio corporation (with its successors and assigns, "Smith's") is the owner of a leasehold estate in the Smith's Building. Smith's desires to construct, install, operate, repair, maintain, and replace a fuel center in the Shopping Center and the Parties are willing to grant such right as more fully set forth below.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Capitalized terms not otherwise defined herein shall have the respective meanings ascribed to such terms in the Agreement.

2. In addition to those Building Areas identified and defined in the Agreement, Smith's (or following the expiration or earlier termination of the Smith's leasehold on the Smith's Building, another person or entity approved by the owner of the property shown on Exhibit C) shall be permitted to construct, install, operate, repair, maintain, and replace a fuel center on the "Fuel Center Pad" to be located in the area shown on Exhibit C attached hereto and incorporated herein by this reference (the

“Fuel Center”) together with AVSC (or successor) developing a kiosk or similar type use which may be subject to relocation on the same pad, all subject to mutual approval of the Parties.

3. The Fuel Center may not contain more than twelve (12) multiple product dispensers (“MPD’s”) and shall not modify or relocate existing drive aisles outside of the Fuel Center Pad without the written consent of the Parties, which consent shall not be unreasonably withheld, conditioned, or delayed.

4. With the exception of the Smith’s Building and the Fuel Center, the Parties shall not use or permit the use of any portion of the Shopping Center for: (i) any supermarket or grocery store or drug store (which for purposes of this Agreement means any store, department or area within a store, containing 500 square feet or more of sales floor area (including 50% of the aisle space located adjacent to shelving), primarily devoted to the retail sale of food or pharmaceutical drugs; or for the sale of fresh or frozen meat, fish, poultry, produce, bakery products, or alcoholic beverages, [RTA1] for off-premises consumption in or from an area exceeding 500 square feet or more of sales floor area (as calculated above); provided however, that this clause shall exclude cookie, cake, cupcake or other pastry or bakery shops comprised of 2,800 square feet or less, and also exclude the sale of pastries or bakery products as an ancillary use (for example, without limitation, sale of pastries or bakery goods as ancillary to the sale of coffee); (ii) any delicatessen, (iii) the operation of a cigarette or smoke shop or any other shop or store the primary business of which is to sell tobacco products for off premises consumption; (iv) a fuel center; (v) any movie theater; or (vi) the sale of marijuana. As used herein the term “delicatessen” shall mean a business whose primary revenue is derived from the sale of prepared and unprepared fresh foods (including, but not limited to, salads and sliced meats) for off-premises consumption substantially similar to a grocery store’s meat/deli section. Notwithstanding any contrary provision of this Section 4, in no event shall the restrictions contained in this Section 4 apply to (a) any existing use in the Shopping Center as of the date of this Amendment and the replacement thereof in a space that is not larger than the existing use operated as of the date of this Amendment, (b) restaurants including, without limitation, sandwich shops (such as Subway’s), (c) a liquor store [RTA2], (d) any ice cream, yogurt or other dessert, pretzel, candy, coffee, tea, juice or other beverage shop, or other similar business, or (e) any use under a lease or occupancy agreement existing as of the date of this Amendment that does not prohibit the tenant or occupant from operating for a purpose in violation of this Section 4. With the exception of the fuel center use restriction, each such restriction shall, at the election of the owner of the AVSC Property, terminate and be of no further force or effect from and after the date that is the earlier of (A) the date of the expiration or earlier termination of Smith’s leasehold on the Smith’s Building, or (B) the date on which the Smith’s Building is not operated as a grocery store for a continuous period of more than one (1) year, excluding temporary closures due to a casualty, condemnation or remodeling diligently pursued. At the election of the owner of the AVSC Property, the fuel center use restriction shall terminate and be of no further force or effect if the Smith’s Fuel Center either does not open for business within thirty six (36) months following the date of this Amendment or if, following the opening of the Smith’s Fuel Center, the Smith’s Fuel Center closes for a continuous period of more than one (1) year, excluding temporary closures due to casualty, condemnation or remodeling diligently pursued. Notwithstanding anything to the contrary contained herein, in the event the use restrictions set forth in this Section 4 are violated by a tenant or occupant of the Shopping Center because said tenant or occupant is operating in its premises in default of its permitted use as set forth in such tenant’s or occupant’s lease or occupancy agreement, then so long as the owner Party that is party to such lease or

occupancy agreement diligently attempts to enforce its rights against such tenant or occupant from violating the use restrictions set forth in this Section 4, such owner Party shall not be deemed to have violated this Section 4.

5. For so long as Smith's is the occupant of the Smith's Building, the size, arrangement and architectural design of Common Area improvements, including, but not limited to, service drives, drive lanes, parking areas, striping, concrete curbing or bumpers, parking lot lighting, perimeter walls or fences and landscaped areas shall not be materially altered or modified from that shown on the Site Plan without the prior written approval of the Owner of the AVSC Property and Smith's, which approval shall not be unreasonably withheld, conditioned, or delayed. With the exception of various temporary or seasonal uses by the occupant of the Smith's Building, no portion of the Common Areas on the AVSC Property shall be used for the sale or display of merchandise without the prior approval of the Owner of the AVSC Property and Smith's; provided, however, that the restriction in the sentence shall not be applicable to the extent that any existing lease or occupancy agreement in effect as of the date of this Amendment does not provide the owner of the AVSC Property with the legal right to prohibit the sale or display of merchandise in the Common Areas on the AVSC Property. In addition, if the restriction against the sale or display of merchandise in the Common Areas on the AVSC Property is violated by a tenant or occupant of the AVSC Property because said tenant or occupant is operating in default of the terms and provisions of its lease or occupancy agreement, then so long as the owner of the AVSC Property diligently attempts to enforce its rights against such tenant or occupant from violating such restriction, such owner shall not be deemed to have violated this Section 5. Notwithstanding any contrary provision hereof, Smith's rights under this Section 5 shall automatically cease without the requirement of amending the Lease upon the earlier to occur of expiration or earlier termination of Smith's leasehold on the Smith's Building or the date on which the Smith's Building is not operated as a grocery store for a continuous period of more than one (1) year, excluding temporary closures due to casualty, condemnation or remodeling diligently pursued.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have executed this First Amendment to Agreement Regarding Covenants, Conditions and Restrictions as of the date first above written.

ALTA VIEW SHOPPING CENTER, LLC, a Delaware limited liability company

By: 2016 Utah Managing Member Portfolio, LLC, a Delaware limited liability company, its manager

By: 2016 Utah Portfolio, LLC, a Delaware limited liability company, its sole and managing member

By: CCA Acquisition Company, LLC, a California limited liability company, its managing member

By: Steven H. Usdan
Steven H. Usdan, managing member

State of _____

County of _____

On _____ before me, _____,
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

[SIGNATURES CONTINUED ON FOLLOWING PAGES]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California)
County of Los Angeles)

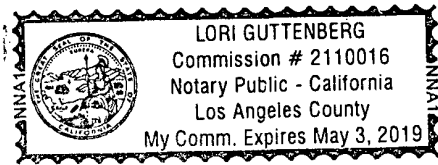
On March 19, 2019 before me, Lori Guttenberg, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Steven H. Usdan
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature Lori Guttenberg
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer -- Title(s): _____

Partner -- Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer -- Title(s): _____

Partner -- Limited General


Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

WHITE INVESTMENT, INC., a Utah corporation

By: 
Name: ERIC E. White
Its: Director

State of _____

County of _____

On _____ before me, _____,
(here insert name and title of the officer)
personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

Description of Attached Document

Title of Type of Document First Amendment To Agreement Regarding Covenants, Conditions and Restrictions

Document Date 2/25/2019

Number of Pages 12

Corporate Acknowledgment

State of Utah

§

County of Davis

On this 25 day of Februrary, 2019 personally appeared before me
date month year

Eric White, whose identity is personally known to me, or
name of document signer

(proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed did say
that he/she is the Director of
title of office

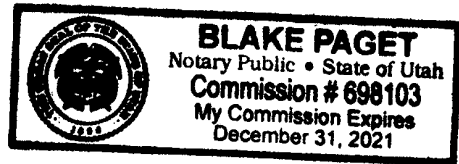
White Investment Inc. and that said
name of corporation

document was signed by him/her in behalf of said *Corporation by Authority of its Bylaws,
or (Resolution of its Board of Directors), and said Eric White
name of document signer

acknowledged to me that said *Corporation executed the same.

Witness my hand and official seal.

Blake Paget
Notary Signature



(notary seal)

MAGNA INVESTMENT & DEVELOPMENT, LTD., a
Utah partnership

By: Allied Services, Inc., general partner

By: Michael J. Papanikolas
Michael J. Papanikolas, Executive
Vice President

State of ARIZONA

County of PIMA

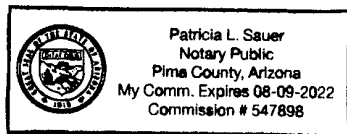
On FEBRUARY 26, 2011 before me, PATRICIA L. SAUER, Notary Public,
(here insert name and title of the officer)
personally appeared MICHAEL J. PAPANIKOLAS

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

I certify under PENALTY OF PERJURY under the laws of the State of ~~California~~ ^{Arizona} that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Patricia L. Sauer



(Seal)

EXHIBIT A

LEGAL DESCRIPTION OF AVSC PROPERTY

All that certain real property located in Salt Lake County, Utah and more particularly described as follows:

Parcel 1:

Beginning on the East line of 1300 East Street at a point which is South 0°38'03" West along the Section line 246.46 feet and East 62.80 feet from the Northwest corner of Section 16, Township 3 South, Range 1 East, Salt Lake Base and Meridian; thence East 68.79 feet; thence South 241.09 feet; thence East 270.58 feet; thence South 12.56 feet; thence East 234.06 feet; thence North 18°20'00" West 401.73 feet to the point of curvature of a 660.00 foot radius curve to the right; thence along the arc of said 660.00 foot radius curve to the right 42.68 feet (long chord bears North 83°04'07" East 42.67 feet); thence South 32°00'00" East 422.60 feet; thence South 462.28 feet; thence West 374.00 feet; thence South 132.19 feet; thence West 136.08 feet; thence North 150.00 feet; thence West 134.50 feet; thence South 150.00 feet; thence East 152.38 feet; thence South 215.00 feet; thence West 242.42 feet to the East line of said 1300 East Street; thence North 0°38'03" East along said East line 580.20 feet; thence North 1°52'00" East along said East street line 455.08 feet to the point of beginning.

Said property being also described by survey as:

Beginning on the East line of 1300 East Street at a point which is South 0°38'03" West along the Section line 246.45 feet and East 62.79 feet from the Northwest corner of Section 16, Township 3 South, Range 1 East, Salt Lake Base and Meridian; thence East 68.79 feet; thence South 241.09 feet; thence East 270.58 feet; thence South 12.56 feet; thence East 234.06 feet; thence North 18°20'00" West 401.73 feet to the point of curvature of a 660.00 foot radius curve to the right; thence along the arc of said 660.00 foot radius curve to the right 42.68 feet (long chord bears North 83°04'07" East 42.67 feet); thence South 32°00'00" East 422.60 feet; thence South 462.28 feet; thence West 374.00 feet; thence South 132.19 feet; thence West 136.08 feet; thence North 150.00 feet; thence West 134.50 feet; thence South 150.00 feet; thence East 152.38 feet; thence South 215.00 feet; thence West 242.42 feet to the East line of said 1300 East Street; thence North 0°38'03" East along said East line 580.20 feet; thence North 1°52'00" East along said East street line 455.08 feet to the point of beginning.

Less and excepting the following:

A parcel of land in fee, being part of an entire tract of property, situate in the Northwest quarter of the Northwest quarter of Section 16, Township 3 South, Range 1 East, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at a point in the existing Easterly highway Right of Way line of 1300 East Street, which point is 246.45 feet South 0°38'03" West along the Section line and 62.79 feet East from the Northwest corner of said Section 16; thence North 1°52'00" East 36.68 feet to the point of tangency with a 15.00 foot radius curve to the right; thence Northeasterly 23.12 feet along the arc of said curve, chord bears North 46°01'17" East 20.90 feet to the Northerly boundary line of said entire tract; thence South 89°49'00" East 12.29 feet along said Northerly boundary line; thence South 45°32'01" West 26.55 feet; thence South 1°52'00" West

270.14 feet to a point 55.50 feet perpendicularly distant Easterly from the control line of said Project, opposite approximate Engineers Station 235+82.78; thence South 7°41'07" West 83.98 feet to said existing highway Right of Way line; thence North 1°52'00" East 320.85 feet to the point of beginning.

Also:

Beginning at a point in the existing Easterly highway Right of Way line of 1300 East Street, which point is 1281.52 feet South 0°38'03" West along the Section line and 53.00 feet East from the Northwest corner of said Section 16; thence North 0°38'03" East 16.14 feet to a point 43.00 feet perpendicularly distant Easterly from the control line of said Project, opposite approximate Engineers Station 227+99.89; thence South 48°56'30" East 24.57 feet; thence West 18.71 feet more or less, to the point of beginning as shown on the Official Map of Project GSP-IIPP-TI-2044(3)0 on file in the Office of the Utah Department of Transportation.

(Note: Rotate above bearings 0°15'00" clockwise to equal highway bearings.)

Parcel No. 28-16-101-025-0000

A.P.N. 28-16-101-025-0000

EXHIBIT B

LEGAL DESCRIPTION OF WHITE/MAGNA PROPERTY

All that certain real property located in Salt Lake County, Utah and more particularly described as follows:

Beginning on the east line of 1300 East Street at a point which is South 0° 38' 03" West along the Section Line 246.46 feet and East 62.80 feet from the Northwest corner of Section 16, Township 3 South, Range 1 East, Salt Lake Base and Meridian; Thence North 1° 52' East along said East line 36.68 feet to a point of a 15.00 foot radius curve to the right; thence Northeasterly along the arc of said curve 23.12 feet to a point of tangency; thence South 89° 49' East 50.43 feet to a point of a 740.00 foot radius curve to the left; thence Easterly along the arc of said curve 260.68 feet to a point of a 660.00 foot radius curve to the right, the center of which bears South 20.00 feet East from said point; thence Northeasterly along the arc of said curve through a central angle of 11° 12' 57" a distance of 129.20 feet to a point on a 660.00 foot radius curve to the right, the center of which bears South 0° 47' 03" East from said point; thence Easterly along the arc of said curve through a central angle of 3° 42' 19" for a distance of 42.68 feet; thence South 32° 0" East 422.6 feet; thence South 845.00 feet; thence North 89° 52' 50" West 735.00 feet to a point on the East line of 1300 East Street; thence North 0° 38' 03" East along said east line of 1300 East Street 614.20 feet; thence North 1° 52' East 455.08 feet to the Point of Beginning; containing 18.530 acres.

Excepting all of the real property described on Exhibit A to this Agreement.

EXHIBIT C

DEPICTION OF FUEL CENTER PAD

