

When recorded, return to:
Anthem Center, LLC
126 Segoe Lily Drive, Suite 275
Sandy, Utah 84070
Attn: Cory Gust

13211551
3/6/2020 3:01:00 PM \$40.00
Book - 10906 Pg - 8061-8068
RASHELLE HOBBS
Recorder, Salt Lake County, UT
MERIDIAN TITLE
BY: eCASH, DEPUTY - EF 8 P.

RESTRICTIVE/EXCLUSIVE USE AGREEMENT

THIS RESTRICTIVE/EXCLUSIVE USE AGREEMENT (this "**Agreement**") is made and entered into as of this 5th day of March, 2020, by and between ANTHEM CENTER, LLC, a Utah limited liability company (hereinafter "**Anthem**") and TFC ANTHEM MISTER, LLC, a Utah limited liability company (hereinafter "**Mister**") (each a "**Party**", and collectively, the "**Parties**").

RECITALS

A. Anthem is the owner of those certain parcels of real property located in Herriman City, Salt Lake County, Utah, more particularly described on **Exhibit "A"** attached hereto and incorporated herein by reference (the "**Anthem Property**").

B. Anthem intends to sell to Mister a portion of the Anthem Property which is more particularly described on **Exhibit "B"** attached hereto (the "**Mister Parcel**") with all appurtenant rights, benefits, easements, rights of way and other appurtenances thereto for commercial development.

C. As the prospective purchaser of the Mister Parcel, Mister has a continued interest in its exclusive use for the Anthem Property, and would not agree to purchase the Mister Parcel without the imposition of the covenants, conditions and restrictions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, it is mutually agreed as follows:

1. **Restriction on Development and Use of Anthem Property.**

The development and use of the Anthem Property shall be restricted for the benefit of the Mister Parcel, as follows:

So long as Mister has (a) commenced the operation of a car wash within two (2) years of the date of this Agreement ("**Mister's Primary Use**"), and (b) Mister has not ceased operating the Mister's Primary Use on the Mister Parcel for a period in excess of twenty (24) months, then no other part of the Anthem Property will be permitted to operate as a car wash.

2. **Enforcement.**

Either Party hereto shall have the right to enforce by proceedings at law or in equity, all of the terms, provisions, covenants, conditions and restrictions of this Agreement, including the

right to prevent the violation of any of the same and the right to recover damages or other amounts for such violation. Failure of either Party to enforce any term, provision, covenant, condition or restriction of this Agreement in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any future breach of the same or of any other term, provision, covenant, condition or restriction herein contained.

3. Miscellaneous.

a. Termination and Modification. This Agreement may be terminated or modified only by an instrument signed by the Parties, their respective successors or assigns, and recorded in the Records of the Salt Lake County Recorder.

b. Severability. If any term, provision, covenant, condition or restriction of this Agreement, or any application thereof, should be held by a court of competent jurisdiction to be invalid, void, or unenforceable, all terms, provisions, covenants, conditions and restrictions of this Agreement and all applications thereof not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

c. 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, provisions, covenants, conditions or restrictions contained herein.

d. Interpretation. Whenever the context requires in construing the provisions of this Agreement, the use of a gender shall include both genders, use of the singular shall include the plural, and 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 import) are used with respect thereto. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

e. Governing Law. The laws of the State of Utah shall govern the validity, construction, performance and effect of this Agreement.

f. Attorneys' Fees and Costs. In the event any action or proceeding shall be instituted in connection with this Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' fees and costs incurred in bringing or defending such action or proceeding and/or enforcing any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action or proceeding and shall be paid whether or not such action or proceeding is prosecuted to final judgment.

g. Rights of Successors and Assigns. The covenants, conditions, restrictions, benefits and obligations hereunder shall be perpetual and shall create mutual benefits and servitudes upon the Anthem Property and the Mister Parcel that run with the land. This Agreement shall bind and inure to the benefit of the Parties hereto and all parties having any right, title or interest in the Anthem Property or the Mister Parcel and their respective successors and assigns.

h. Mortgagee Protection Provision. The breach of any of the foregoing covenants, conditions and restrictions shall not defeat or render invalid the lien of any mortgage or deed of trust lien on the Anthem Property or the Mister Parcel that is made in good faith and for value; provided, however, that all of the covenants, conditions and restrictions contained herein shall be binding upon and effective against the party whose title thereto is acquired by foreclosure, trustee's sale or other foreclosure proceeding from and after the date of such foreclosure, trustee's sale or other foreclosure proceeding.

i. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and both of which together shall be deemed to constitute one and the same instrument and shall be effective upon execution of any one (1) or more of such counterparts by each of the Parties hereto and delivery of one (1) or more of such counterparts to the other Party.

[signature page follows]

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

TFC ANTHEM MISTER, LLC, A UTAH LIMITED LIABILITY COMPANY

MANAGED BY:


TERRAFORM VENTURES IV, LLC

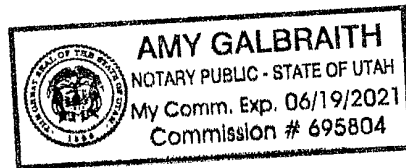

JONATHAN P. TAYLOR, MANAGER


ELLIOTT B. SMITH, MANAGER

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

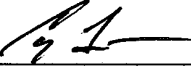
On this 5th day of March, 2020, personally appeared before me the undersigned, a Notary Public in and for the State of Utah, Jonathan P. Taylor and Elliott B. Smith, the Managers of TERRAFORM COMPANIES, LLC, a Utah limited liability company the foregoing instrument, and acknowledged he/she executed the same on behalf of said company. Witness my hand and official seal.


NOTARY PUBLIC




ANTHEM CENTER, LLC, a Utah limited liability company, by its managers

Arbor Commercial Real Estate L.L.C., a Utah limited liability company


By: 
Name: Cory Guss (printed)
Title: MANAGER
Date: 3/5/20

Anthem Commercial, LLC, a Utah limited liability company

By: 
Name: RYAN BUTTON (printed)
Title: MANAGER
Date: 3/5/2020

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On this 5 day of March, 2020, personally appeared before me the undersigned, a Notary Public in and for the State of Utah, Cory Gust, member/manager (title) of ARBOR COMMERCIAL REAL ESTATE L.L.C., a Utah limited liability company, a manager of Anthem Center, LLC, a Utah limited liability company, signer of the foregoing instrument, and acknowledged he/she executed the same on behalf of said company. Witness my hand and official seal.



NOTARY PUBLIC



STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On this 5 day of Mar, 2020, personally appeared before me the undersigned, a Notary Public in and for the State of Utah, Ryan Button, manager (title) of ANTHEM COMMERCIAL, LLC, a Utah limited liability company, a manager of Anthem Center, LLC, a Utah limited liability company, signer of the foregoing instrument, and acknowledged he/she executed the same on behalf of said company. Witness my hand and official seal.



NOTARY PUBLIC

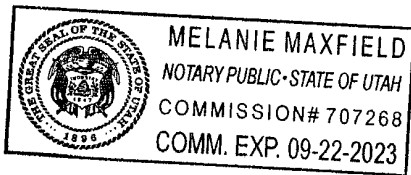


EXHIBIT "A"

Description of the Anthem Property

Lots 305, 306, 307, 309 and Parcel A Anthem Commercial 3rd Amended Subdivision, according to the plat thereof as recorded in the office of the Salt Lake County Recorder's Office.

401, 402, 404, 405 Anthem Commercial 4th Amended Subdivision, according to the plat thereof as recorded in the office of the Salt Lake County Recorder's Office.

TAX ID NO. 26-25-178-004
26-25-178-005
26-25-178-006
26-25-252-002
26-25-202-003
26-25-128-006
26-25-252-005
26-25-252-004

EXHIBIT "B"

Description of Mister Parcel

Parcel 1:

Lot 401, Anthem Commercial 4th Amended Subdivision, Amending Lots 302 and 308 of Anthem Commercial 3rd Amended Subdivision, according to the plat thereof as recorded in the office of the Salt Lake County Recorder.

Parcel 2:

A non-exclusive, perpetual easement for access and the ingress, egress and parking as disclosed in that Declaration of Easements and Conditions recorded April 23, 2019 as Entry No. 12973216 in Book 10772 at Page 8661 of Official Records and First Amendment to Declaration of Easements and Conditions recorded August 13, 2019 as Entry No. 13051013 in Book 10815 at Page 8588 of Official Records.

Tax ID: 26-25-202-003