



W2245549

EN 2245549 PG 1 OF 6
ERNEST D ROWLEY, WEBER COUNTY RECORDER
01-MAR-07 1059 AM FEE \$23.00 DEP JPN
REC FOR: LANDMARK TITLE

WHEN RECORDED, MAIL TO:

David E. Gee, Esq.
Parr, Waddoups, Brown, Gee & Loveless
185 South State Street, Suite 1300
Salt Lake City, Utah 84111

MEMORANDUM OF LEASE AND OPTION TO LEASE

THIS MEMORANDUM OF LEASE AND OPTION TO LEASE (the "Memorandum") is dated effective as of December 13, 2005, by and between OGDEN CITY REDEVELOPMENT AGENCY, a body politic & a political subdivision of the State of Utah ("Landlord"), and BOYER OGDEN MALL, L.C., a Utah limited liability company ("Tenant").

WITNESSETH:

WHEREAS, the parties hereto have mutually executed and delivered a certain lease agreement and option to lease entitled "Lease Agreement and Grant of Option to Lease Future Development Land," dated December 13, 2005, as amended by that certain First Amendment to Lease Agreement and Grant of Option to Lease Future Development Land, dated December 1, 2006 (collectively, as may be further amended, restated, supplemented or otherwise modified from time to time, the "Lease Agreement"), which is incorporated herein by reference; and

WHEREAS, it is the desire of the parties to execute, deliver and record this Memorandum for the purpose of evidencing of record the existence of said Lease Agreement.

NOW, THEREFORE, the parties mutually consent and agree as follows:

1. Landlord has leased unto Tenant upon the terms and conditions set forth in the Lease Agreement, the tract of land located within the boundaries described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Leased Premises"). In addition, Landlord has granted unto Tenant an option to lease, upon the terms and conditions set forth in the Lease Agreement, the tract of land described in Exhibit "B" attached hereto (the "Future Development Land"). Tenant has certain rights to purchase the Future Development Land as set forth in Section 22 of the Lease Agreement. Tenant has a right of first refusal to purchase all or a part of Landlord's interest in the Leased Premises and the Future Development Land in accordance with the provisions of Section 35 of the Lease Agreement.

2. The term of the Lease Agreement shall commence on the date hereof, and shall terminate on the date which is forty (40) full calendar years after the date upon which Landlord and Tenant have completed all improvements required under the Lease Agreement, unless extended or earlier terminated pursuant to provision of the Lease Agreement. Tenant has three (3) options to extend the initial term of the Lease Agreement for a period of ten (10) years each.

3. This Memorandum shall not amend or modify the Lease Agreement in any manner whatsoever. All rights, duties and responsibilities of the parties with relation to the subject matter thereof shall be controlled by the Lease Agreement and shall be unaffected hereby. This Memorandum may be executed in counterparts

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum on the date first set forth above.

"LANDLORD"

OGDEN CITY REDEVELOPMENT AGENCY, a body politic and political subdivision of the State of Utah

By Matthew R. Godfrey
Matthew R. Godfrey, Executive Director

Attest:

Lee Ann Peterson
OGDEN CITY RECORDER - Acting



Approved as to Form:

Buck Ammer
OGDEN CITY ATTORNEY

"TENANT"

BOYER OGDEN MALL, L.C., a Utah limited liability company by its manager

THE BOYER COMPANY, a Utah limited liability company

By: Steven B. Oster
Name: Steven B. Oster
Its: Manager

STATE OF UTAH)
 : ss.
COUNTY OF WEBER)

The foregoing instrument was acknowledged before me this 21st day of February, 2007, by Matthew R. Godfrey, the Executive Director of the OGDEN CITY REDEVELOPMENT AGENCY, a body politic and political subdivision of the State of Utah.

Tracy Hansen
NOTARY PUBLIC
Residing at: Webber Co.



My commission expires 12-02-08

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

The foregoing instrument was acknowledged before me this 23rd day February, 2007, by Steven B. Oster, the Manager of The Boyer Company, L.C., a Utah limited liability company, the Manager of Boyer Ogden Mall, L.C., a Utah limited liability company.



NOTARY PUBLIC
Residing at: Rachael N. Niusulu
Salt Lake City
My commission expires 8-20-07

EXHIBIT "A"

To

Memorandum of Lease and Option to Lease

Description of Leased Premises

Property situated in the City of Ogden, County of Weber, State of Utah

Lots 10A and 10B, OGDEN CITY ENTERTAINMENT SUBDIVISION - PHASE 2 (AMENDED), according to the official plat thereof, filed in Book 64 of Plats, at Page 78 of the Official Records of the Weber County Recorder.

AND

Lots 11A, 11B, and 11C, OGDEN CITY ENTERTAINMENT SUBDIVISION - PHASE 2 (AMENDED) LOT 11 2ND AMENDMENT, according to the official plat thereof, filed in Book 65 of Plats, at Page 56 of the Official Records of the Weber County Recorder.

01-100-0001, 0002, 0003 -

+++

SHOWN FOR REFERENCE ONLY:

TAX PARCEL NO. 01-099-0006 ✓

TAX PARCEL NO. 01-099-0007 ✓

TAX PARCEL NO. ~~01-099-0008~~ ✓

EXHIBIT "B"

To

Memorandum of Lease and Option to Lease

Description of Future Development Land

Property situated in the City of Ogden, County of Weber, State of Utah

Lot 8, OGDEN CITY ENTERTAINMENT SUBDIVISION - PHASE 2 (AMENDED), according to the official plat thereof, filed in Book 64 of Plats, at Page 78 of the Official Records of the Weber County Recorder.

+++

SHOWN FOR REFERENCE ONLY; ✓
TAX PARCEL NO. 01-099-0004