



\*W2800341\*

**After Recording Return To:**

Andrea Deguzman  
WinCo Foods LLC  
P.O. Box 5756  
Boise, ID 83705

E# 2800341 PG 1 OF 8  
Leann H. Kiltz, WEBER COUNTY RECORDER  
24-Jun-16 0433 PM FEE \$24.00 DEP TN  
REC FOR: FIRST AMERICAN COMMERCIAL NCS  
ELECTRONICALLY RECORDED

This Space Reserved for Recording Purposes  
Weber County, Utah

**SECOND AMENDMENT TO**  
**DECLARATION OF EASEMENTS AND CONDITIONS**

THIS SECOND AMENDMENT TO DECLARATION OF EASEMENTS AND CONDITIONS ("Second Amendment") is made as of the 22<sup>nd</sup> day of June, 2016, by and between WINCO FOODS, LLC, a Delaware limited liability company ("WinCo Foods") and WRIGHT DEVELOPMENT GROUP, INC., a Utah corporation ("Wright Development").

**Recitals:**

A. WinCo Foods and Wright Development entered into a Declaration of Easements and Conditions recorded on September 23, 2009 as Instrument No. 2436058 in the Official Records of Weber County, Utah (the "Original DEC"). The Original DEC was subsequently amended by that certain First Amendment to Declaration of Easements and Conditions dated June 9, 2010, by and between WinCo Foods and Wright Development, and recorded on June 10, 2010 as Instrument No. 2476752 in the Official Records of Weber County, Utah (the "First Amendment"). The Original DEC and the First Amendment are collectively referred to herein as the "DEC".

B. The DEC affects certain real property located in Ogden, Utah (the "Shopping Center"). The Shopping Center is more particularly described on Exhibit "A" attached hereto and incorporated by reference herein.

C. As of the date of this Second Amendment, WinCo Foods and Wright Development Group are the "Approving Parties" as defined in the DEC. WinCo Foods and Wright Development now desire to amend the DEC in certain respects, as permitted by the provisions of Section 8.4(e) of the DEC.

**Terms and Conditions:**

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

**1. Amendments to Declaration.**

**A.** The Site Plan attached to the DEC as Exhibit "B" is hereby replaced and superseded by the Site Plan attached to this Second Amendment and labeled "**Exhibit B**". All references in the DEC to the Site Plan shall be deemed to refer to the site plan attached to this Amendment labeled "**Exhibit B**".

**B.** The definition of "Buildings" contained in Section 1.7 of the DEC is hereby deleted in its entirety and replaced with the following:

"1.7 "Buildings" shall mean all building structures, including drive-through facilities and trash enclosures, and any associated appurtenant canopies, supports, loading docks, truck ramps, and other outward extensions, including sidewalks immediately adjacent to any such building structure, exclusive of Center Signs."

**C.** The table contained in Section 3.3(e) of the DEC is hereby deleted in its entirety and replaced with the following table:

PARCEL	BUILDING	BUILDING HEIGHT	HEIGHT OF ARCHITECTURAL FEATURES	PARCEL AREA	ALLOWABLE FLOOR AREA
Parcel 1	Major A	40'	48'	9.84 acres	95,000 sq. ft.
Parcel 2				9.58 acres	
	Future Shops A	35'	40'		Aggregate of 37,775 sq. ft.
	Future Shops B	35'	40'		
	Future Pad A	25'	30'		7,700 sq. ft.
	Future Pad B	25'	30'		6,000 sq. ft.
	Future Pad C	25'	30'		6,000 sq. ft.
	Future Pad D	25'	30'		3,500 sq. ft.
	Future Pad E	25'	30'		7,700 sq. ft.
Parcel 3	Future Pad F	25'	30'	0.55 acres	6,000 sq. ft.

**D.** Section 4.3(b) of the DEC is hereby amended to delete the reference to "Five Thousand and No/100 Dollars (\$5,000.00)" and replace it with the following:

"Ten Thousand and No/100 Dollars (\$10,000.00)"

**E.** Section 8.11 of the DEC is hereby amended to delete the WinCo Notice addresses in their entirety and replace them with the following:

"IF TO WINCO FOODS:

WinCo Foods, LLC  
Attn: Vice President of Real Estate  
650 N. Armstrong Place  
Boise, ID 83704  
Telephone: (208) 377-0110  
Fax: (208) 672-2146  
E-mail: [greg.goins@wincofoods.com](mailto:greg.goins@wincofoods.com)

With a copy at the same address to: Lori Gilbertson, Property Supervisor  
E-mail: [lori.gilbertson@wincofoods.com](mailto:lori.gilbertson@wincofoods.com)

With a copy at the same address to: Attn: Andrea Deguzman, Real Estate Paralegal  
E-mail: [andrea.deguzman@wincofoods.com](mailto:andrea.deguzman@wincofoods.com)"

2. **Miscellaneous.** All capitalized terms used in this Second Amendment and not defined herein shall have the meanings attributed to such terms in the DEC. This Second Amendment may be executed in any number of counterparts, provided each counterpart is identical in its terms. Each such counterpart, when executed and delivered will be deemed to be an original, and all such counterparts shall be deemed to constitute one and the same instrument. For convenience in recording, signature pages from different counterparts may be detached from the original counterparts and attached to one counterpart and recorded. To the extent that the provisions of this Second Amendment are inconsistent with the provisions of the DEC, the provisions of this Second Amendment shall control and the DEC is modified accordingly. Except as amended herein, the terms and conditions of the DEC shall remain the same and in full force and effect. This Second Amendment shall become effective upon recording in the Official Records of Weber County, Utah.

*[Remainder of page intentionally left blank.  
Signature pages follow.]*

IN WITNESS WHEREOF, WinCo Foods and Wright Development have caused this Second Amendment to Declaration of Easements and Conditions to be executed as of the day and year first above written.

WINCO FOODS, LLC,  
a Delaware limited liability company

By: *David M. Butner*  
Its: CFO

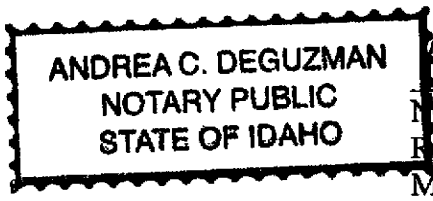
STATE OF IDAHO )

ss.

COUNTY OF ADA )

On this 2<sup>nd</sup> day of June, 2016, before me, a Notary Public, personally appeared *DAVID M. BUTNER*, known or proved to me to be the CFO of WinCo Foods, LLC, a Delaware limited liability company, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same in the name and on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



*[Signature]*  
Notary Public  
Residing at Boise  
My Commission expires May 11, 2019

[Additional Signature Page to Second Amendment to Declaration of Easements and Conditions]

WRIGHT DEVELOPMENT GROUP, INC.  
a Utah corporation

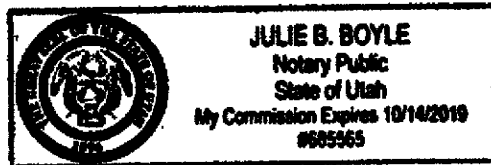
By: [Signature]  
Name: SPENCER H. WRIGHT  
Title: PRESIDENT

STATE OF Utah )  
 )ss.  
COUNTY OF Davis )

On this 13th day of June, 2016, before me, a Notary Public, personally appeared Spencer H. Wright, known or proved to me to be the President of Wright Development Group, Inc., a Utah corporation, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Signature]  
Notary Public  
Residing at Davis County, Utah  
Comm. Expires 10-14-2019



**EXHIBIT "A"**

**Legal Description of Shopping Center**

**WINCO FOODS**

Lot 1 of that certain plat entitled "The Commons at Ogden", which plat was filed in the office of the recorder of the County of Weber, State of Utah on August 7, 2009 as Entry No. 2428525 in Book 70 of Plat at Page 29. *12-236-0001 DB*

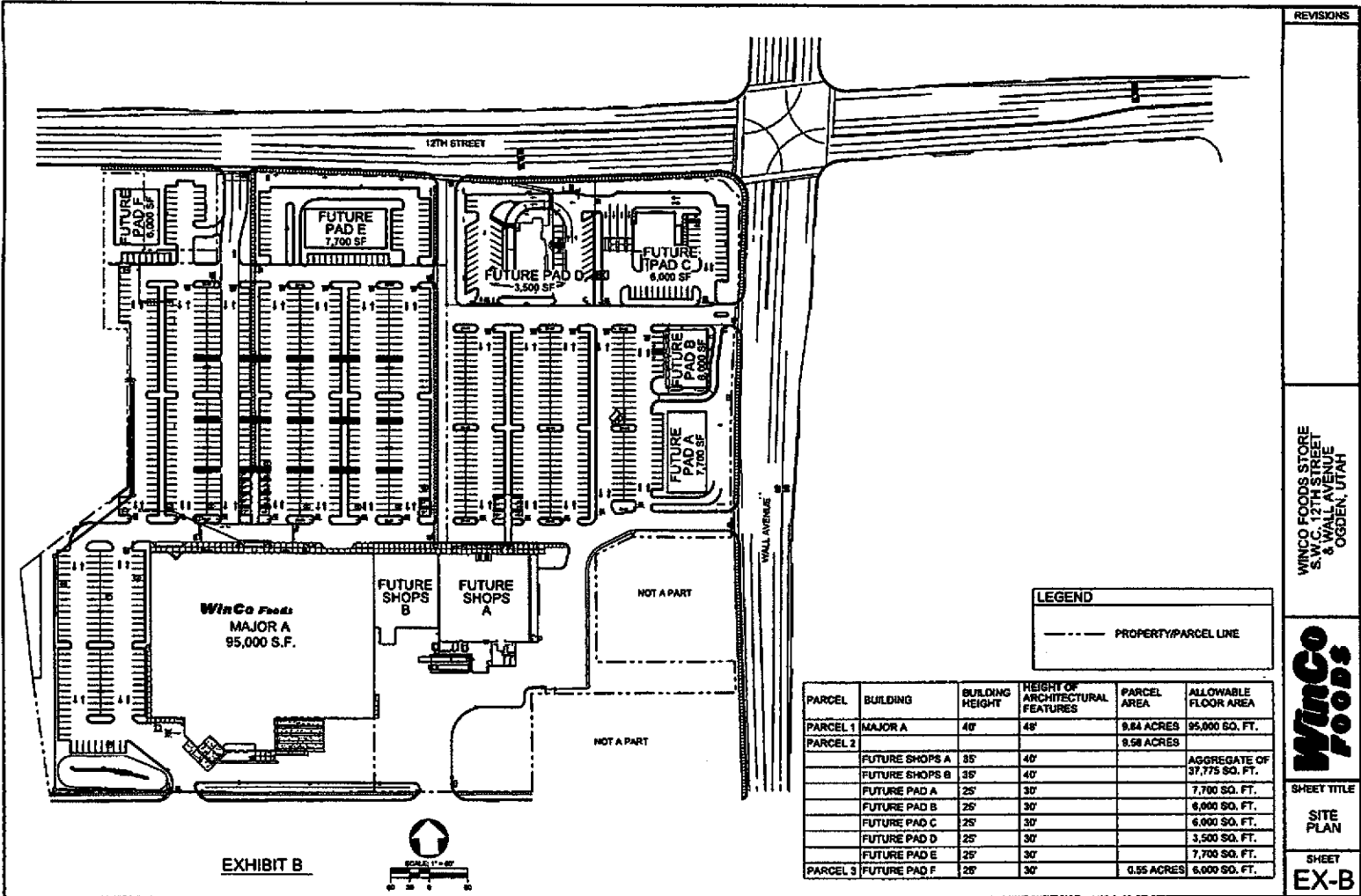
**WRIGHT DEVELOPMENT**

Lots 2 and 3 of that certain plat entitled "The Commons at Ogden", which plat was filed in the office of the recorder of the County of Weber, State of Utah on August 7, 2009 as Entry No. 2428525 in Book 70 of Plat at Page 29.

**EXHIBIT "B"**

**Site Plan**

*[See attached.]*



REVISIONS

WINCO FOODS STORE  
 S.W.C. 12TH STREET  
 & WALL AVENUE  
 OGDEN, UTAH

**WinCo  
 Foods**

SHEET TITLE  
 SITE PLAN

SHEET  
 EX-B