

E 2940040 B 6521 P 877-884
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
5/20/2016 1:32:00 PM
FEE \$24.00 Pgs: 8
DEP eCASH REC'D FOR METRO NATIONAL TITLE

WHEN RECORDED, RETURN TO:

Dan W. Egan
Ballard Spahr LLP
201 South Main Street, Suite 800
Salt Lake City, Utah 84111-2221

MNT- 39334-2

Tax Parcel Nos. Summit County: QJPB-A-3-1AM, QJPB-A-4-1AM,
QJPB-A-7-1AM, QJPB-A-8-1AM
Davis County: 02-026-0067

Summit Co. - QJPB-A-3-1AM
QJPB-A-4-1AM
QJPB-A-7-1AM
QJPB-A-8-1AM

DAVIS CO - 02-026-0067

CROSS-COLLATERALIZATION AND
CROSS-DEFAULT AGREEMENT

THIS CROSS-COLLATERALIZATION AND CROSS-DEFAULT AGREEMENT (“Agreement”) is made and entered into effective as of the 20 day of May, 2016, by and among U.S. BANK NATIONAL ASSOCIATION (“Lender”), and QUARRY VILLAGE OWNERS, LLC, a Utah limited liability company (“Borrower”).

RECITALS:

A. Borrower is the obligor under that certain Term Loan Agreement (the “Shopping Center Loan Agreement”), dated March 26, 2014, and under that certain Term Loan Promissory Note (the “Shopping Center Note”), dated the same date as the Shopping Center Loan Agreement, either or both of which may have been assumed, amended or replaced from time to time, and Borrower (and if applicable, certain third parties) have executed the collateral documents which may or may not be identified in the Shopping Center Loan Agreement, the Shopping Center Note, and certain other related documents (collectively the “Shopping Center Loan Documents”), setting forth the terms and conditions upon which Borrower has obtained financing from Lender, as may be amended from time to time, with a current loan commitment of \$8,200,039.53 (the “Shopping Center Loan”).

B. The Shopping Center Loan is secured by a Term Loan Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing, dated March 26, 2014, executed by the Borrower, as trustor, in favor of Lender, as beneficiary (the “Shopping Center Loan Deed of Trust”). The Shopping Center Loan Deed of Trust encumbers the real property located in Summit County, Utah described on Exhibit “A” attached to and incorporated in this Agreement by reference (the “Shopping Center Property”), and was recorded March 26, 2014, as Entry No. 992056, in Book 2233, beginning at page 393 in the official records of Summit County, Utah.

C. Borrower is the obligor under that certain Term Loan Agreement (the “Top Stop Loan Agreement”), dated February 17, 2016 and under that certain Promissory Note (the “Top Stop Note”), dated the same date as the Top Stop Loan Agreement, either or both of which may have been assumed, amended or replaced from time to time, and Borrower (and if applicable, certain third parties) have executed the collateral documents which may or may not be identified in the Top Stop Loan Agreement, the Top Stop Note, and certain other related documents (collectively the “Top Stop Loan Documents”), setting forth the terms and conditions upon which Borrower has obtained a loan from Lender, as may be amended from time to time, in the original principal amount of \$1,057,668.28 (the “Top Stop Loan”).

D. The Top Stop Loan is secured by a Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing, dated February 17, 2016, executed by the Borrower, as trustor, in favor of Lender, as beneficiary (the "Top Stop Loan Deed of Trust"). The Top Stop Loan Deed of Trust encumbers the real property located in Davis County, Utah (described on Exhibit "B" attached to and incorporated in this Agreement by reference (the "Top Stop Property"), and was recorded February 17, 2016, as Entry No. 2921304, in Book 6454, beginning at page 1004 in the official records of Davis County, Utah.

E. Lender and Borrower are about to close a modification to the Shopping Center Loan, and desire that the collateral for each of the Shopping Center Loan and the Top Stop Loan (sometimes collectively referred to in this Agreement as the "Loans") be collateral for both Loans, and that a default under either of the Loans be a default under both of the Loans.

F. Lender requires as a condition to the closing the modification of the Shopping Center Loan, that Borrower execute and deliver this Agreement.

G. Borrower desires to obtain the modification to the Shopping Center Loan, and will benefit from the transactions contemplated by the Loans.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Lender and Borrower agree as follows:

1. Recitals. Each of the Recitals contained in this Agreement and the definitions contained therein are an integral part of the agreement and understanding of Lender, Borrower and Owner, and are incorporated into the body of this Agreement by reference.

2. Cross-Collateralization. THE COLLATERAL FOR EACH OF THE LOANS SHALL LIKEWISE BE COLLATERAL FOR THE OTHER LOAN. The Loans are hereby cross-collateralized as well as cross-defaulted. In furtherance of the foregoing, Borrower hereby acknowledges and agrees as follows:

(a) All assets and properties serving as security for each of the Loans, both real and personal (including, without limitation, the Shopping Center Property and the Top Stop Property) shall also serve as security for the other Loan.

(b) Upon the occurrence of an event of default under either of the Loans, Lender, at Lender's option, may proceed against any or all of the properties serving as security for the each of the Loans, without any obligation to pursue remedies in any particular order and without waiving any right to satisfy the obligations of Borrower under either of the Loans by process against Borrower or against any of the assets or properties serving as security for the Loans, collectively or individually.

(c) Lender shall not be required to release any of the collateral until both of the Loans have been paid in full. This means that even though one of the Loans may have been paid in full, the remaining collateral for that Loan shall not be released without payment of the required release price which will be applied to reduce the outstanding balance of any of the remaining debt under the other Loan until both of the Loans are paid in full.

3. Cross-Default. A default by Borrower under any of the Shopping Center Loan Documents, or under any of the Top Stop Loan Documents (sometimes, with all subsequent amendments

thereto, collectively referred to as the "Loan Documents") shall constitute a default under all of the Loan Documents.

4. **No Remedy Exclusive.** No remedy conferred upon or reserved to Lender under this Agreement or under any of the Loan Documents is exclusive of any other available remedy or remedies, but each and every such remedy is cumulative and concurrent, and is in addition to every other remedy given under this Agreement, the Loan Documents, or now or hereafter existing at law or in equity or by statute. Lender may exercise Lender's remedies singly, successively or concurrently against Borrower, any guarantors of the Loans, the real property, personal property, or any other security for the Loans, at the sole and absolute discretion of Lender. No delay or failure to exercise any right or power accruing upon any event of default can impair or waive any such right or power, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In addition, Lender may proceed concurrently against the collateral for the Loans, and any guarantors, and may start, delay, postpone, cancel or recommence any foreclosure proceeding (whether judicial or non-judicial) while pursuing the guarantors, all at the sole and absolute discretion of Lender. No act of Lender can be construed as an election to proceed under any particular remedy provided to Lender under any Loan Document to the exclusion of any other remedy in the same or in any other Loan Document, or as an election of remedies to the exclusion of any other remedy which may then or thereafter be available to Lender.

5. **Miscellaneous.** The following provisions are an integral part of this Agreement:

(a) Neither this Agreement nor any provisions hereof may be changed, waived, discharged or terminated orally and may only be modified or amended by an instrument in writing, signed by Lender and Borrower.

(b) This Agreement shall be binding upon and shall inure to the benefit of Lender, Borrower, and their respective successors and assigns.

(c) Lender and Borrower agree that should either of them default in any of the covenants or agreements contained in this Agreement, the defaulting party shall pay all costs and expenses, including reasonable attorney fees and costs, incurred by the non-defaulting party to protect its rights hereunder, regardless of whether an action is commenced or prosecuted to judgment.

(d) THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN THOSE CONTAINING A CONTRARY EXPRESS CHOICE OF LAW PROVISION) SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS) OF THE STATE OF UTAH, BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS.

(e) This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts taken together shall constitute only one instrument.

(f) It is intended that this Agreement, or a duplicate original of this Agreement, be recorded in the real estate records of Summit County, Utah and Davis County, Utah.

DATED effective as of the date first above written.

LENDER:

U.S. BANK NATIONAL ASSOCIATION

By: Frank
Title: V.P.

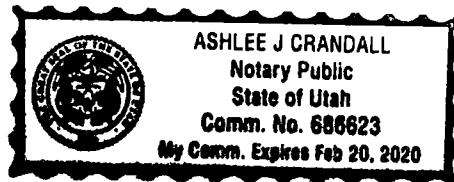
STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 19 day of May, 2016, by
Isaac Allen, who is a Vice President of U.S. BANK
NATIONAL ASSOCIATION.

NOTARY PUBLIC
Residing at Summit County, Utah

My Commission Expires:

apopab



BORROWER:

QUARRY VILLAGE OWNERS, LLC, a Utah limited
liability company

By: 

DAVID NADLER, Manager

STATE OF UTAH)
COUNTY OF Summit) : ss.

The foregoing instrument was acknowledged before me this 19 day of May, 2016, by
DAVID NADLER, who is a Manager of QUARRY VILLAGE OWNERS, LLC, a Utah limited liability
company.


NOTARY PUBLIC
Residing at Summit County, Utah

My Commission Expires:

2/20/20

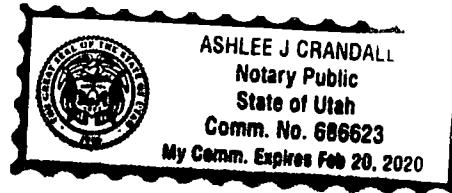


EXHIBIT "A"

SHOPPING CENTER PROPERTY DESCRIPTION

The following described real property is located Summit County, Utah:

Parcel 1:

Lots 3, 4, 7, and 8, First Amended QUARRY JUNCTION AT PINEBROOK PLAT A, a Commercial Subdivision, according to the official plat thereof on file and of record in the office of the Summit County Recorder.

Parcel 1A:

Subject to and together with the beneficial interest in and to those easements for access, utility and parking purposes, created in that certain Reciprocal Easement, recorded September 05, 2002, as Entry No. 631114, in Book 1470, at Page 1951, and in that certain Affidavit re-recorded April 18, 2005, as Entry No. 733034, in Book 1693, at Page 225, of Official Records.

Tax Parcel Nos. QJPB-A-3-1AM, QJPB-A-4-1AM, QJPB-A-7-1AM, QJPB-A-8-1AM

EXHIBIT "B"

TOP STOP PROPERTY DESCRIPTION

The following described real property is located Davis County, Utah:

Parcel 1: (02-026-0067)

A part of the Southwest Quarter of Section 7, Township 2 North, Range 1 East, Salt Lake Base and Meridian, County of Davis, State of Utah, more particularly described as follows: Beginning at a point on the East line of the Utah Department of Transportation Right of Way, said point being North 00°05'33" West 2414.21 feet along the Section line and North 89°54'27" East 824.21 feet along the Section line and South 0°05'58" East 2.50 feet from the Southwest Corner of said Southwest Quarter of Section 7; and running thence Southerly along said Right of Way line the next two (2) courses: 1) South 00°05'58" East 48.82 feet; 2) along the arc of a curve to the right through a central angle of 07°25'13", an arc distance of 111.19 feet and a radius of 858.51 feet (chord bears South 03°36'39" West 111.11 feet); thence departing said East line and running South 77°26'24" East 257.76 feet to the West line of Marketplace Drive; thence North 00°06'15" West 181.18 feet along said West line to the South line of property conveyed to Centerville City by that certain Special Warranty Deed, recorded August 15, 1995, as Entry No. 1194112, in Book 1905, at Page 297; thence along said South line to the following two courses: North 45°06'06" West 49.50 feet; and South 89°54'02" West 209.29 feet to the East line of the Interstate 15 Frontage Road and the point of beginning.

Excepting there from all oil, gas, minerals, and ores situated in, upon, or under the above described tract of land, together with all rights in connection with or relative to the exploration, mining, removal or sale of the same.

Parcel 1A:

Cross Easement Agreement, dated April 22, 1999, and recorded May 10, 1999, as Entry No. 1512377, in Book 2496, at Page 1397, described as follows: Beginning at the Northwest Corner of Lot 11, Centerville Marketplace Subdivision, a subdivision being a part of the Southwest Quarter of Section 7, Township 2 North, Range 1 East, Salt Lake Base and Meridian, and as filed in Book 1837 of Plats, at Page 32, of Davis County Records, State of Utah, said point being on the arc of a 858.51 foot radius curve to the left the radius point of which bears North 82°40'43" West; thence Northerly along the arc of said curve 46.67 feet through a central angle of 3°06'52"; thence South 46°48'01" East 84.04 feet; thence South 77°26'24" East 69.47 feet; thence South 12°33'36" West 46.97 feet; thence North 77°38'13" West 57.20 feet to the point of an 85.00 foot radius curve to the right, the radius point of which bears North 12°21'47" East; thence Northerly along the arc of said curve 52.37 feet through a central angle of 35°17'58"; thence North 42°20'15" West 27.23 feet to the point of a 30.00 foot radius curve to the left, the radius point of which bears South 47°39'45" West; thence Northwesterly along the arc of said curve 7.75 feet through a central angle of 14°47'59" to a point on an 858.51 foot radius curve to the left the radius point of which bears North 82°04'42" West, said point also

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being on the West line of said Lot 11; thence Northerly along the arc of said curve 8.99 feet through a central angle of 0°36'01" to the point of beginning.

Tax Parcel No. 02-026-0067