



W3050107

WHEN RECORDED MAIL TO:

Midland Square Owners Association, Inc.
533 West State Road, Suite 102
Pleasant Grove, Utah 84062-2111

E# 3050107 PG 1 OF 16
Leann H. Kilts, WEBER COUNTY RECORDER
24-Apr-20 0318 PM FEE \$54.00 DEP TN
REC FOR: BACKMAN OREM
ELECTRONICALLY RECORDED

(Space Above for Recorder's Use)

**FOURTH AMENDMENT
OF THE DECLARATION OF PROTECTIVE EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS
OF MIDLAND SQUARE COMMERCIAL**

THIS FOURTH AMENDMENT OF THE DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS OF MIDLAND SQUARE COMMERCIAL (this "**Fourth Amendment**") is executed to be effective as of the date this Fourth Amendment is recorded in the Office of the Recorder of Weber County, Utah (the "**Effective Date**") by ALL AMERICAN INVESTMENTS VI, LLC, a Utah limited liability company, and SBH MIDLAND MARKET PLACE, LC, a Utah limited liability company (collectively referred to herein as "**Declarant**"), by MIDLAND SQUARE OWNERS ASSOCIATION, INC., a Utah nonprofit corporation (the "**Association**"), and by SIERRA HOMES CONSTRUCTION, INC., a Utah corporation, AA DEVELOPMENT, INC., a Utah corporation, and MIDLAND DENTAL BUILDING, LLC, a Utah limited liability company (collectively referred to herein as the "**Lots 15, 16, 17 and 18 Property Owners**").

RECITALS

A. The Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial (the "**Original Declaration**"), dated July 14, 2009, was executed by the Declarant and was recorded in the Office of the Recorder of Weber County, Utah, on July 22, 2009, as Entry No. 2425489.

B. The Corrected Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial (the "**Corrected Declaration**"), dated April 30, 2010, was executed by the Declarant and was recorded in the Office of the Recorder of Weber County, Utah, on May 13, 2010, as Entry No. 2472352.

C. The Amendment and Correction of the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial (the "**First Amendment**"), dated January 3, 2011, was executed by the Association and was recorded in the Office of the Recorder of Weber County, Utah, on January 4, 2011, as Entry No. 2509837.

D. The Second Amendment of the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial (the "**Second Amendment**"), dated August 24, 2011, was executed by the Association and was recorded in the Office of the Recorder of Weber County, Utah on August 24, 2011, as Entry No. 2538565.

E. The Third Amendment of the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial (the “**Third Amendment**”) dated 02/11/2020, ~~2019~~ was executed by the Declarant, by the Association and by the necessary property owners and was recorded in the Office of the Recorder of Weber County, Utah on 04/24/2020, ~~2019~~, as Entry No. 3050035.

F. The Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by the Third Amendment, pertains to and affects that certain real property that is defined in the Declaration as the “**Property**” located in Weber County, Utah, which Property is more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference.

G. The Midland Square Commercial Plat “A” (the “**Original Plat**”) was executed by the Declarant and was recorded in the Office of the Recorder of Weber County, Utah on July 22, 2009 as Entry No. 2425488.

H. The Midland Square Commercial Plat “A” 1st Amendment (the “**First Amended Plat**”) was executed by the Declarant and was recorded in the Office of the Recorder of Weber County, Utah on December 23, 2010 as Entry No. 2508344.

I. The Midland Square Commercial Plat “A” Second Amended (the “**Second Amended Plat**”) was executed by the Declarant and was recorded in the Office of the Recorder of Weber County, Utah on August 10, 2011 as Entry No. 2537050.

J. The Midland Square Commercial Plat “A” Third Amended (the “**Third Amended Plat**”) was executed by the Declarant and the necessary property owners and was recorded in the Office of the Recorder of Weber County, Utah, on 09/09, 2019, as Entry No. 3001962.

K. The Original Plat provided for the creation of eight (8) Lots within the Development identified as Lots 1 through 8, inclusive. The First Amended Plat caused the elimination of Lot 4 and the replacement of Lot 4 with two new Lots identified as Lot 9 and Lot 10. The Second Amended Plat caused the elimination of Lot 1 and the replacement of Lot 1 with two new Lots identified as Lot 11 and Lot 12. Following the recording of the Second Amended Plat, the total number of Lots within the Development was ten (10). The Third Amended Plat provided for the creation of two (2) new Lots on certain real property that was added to the Development, which two (2) new Lots are identified as Lot 13 and Lot 14. Following the recording of the Third Amended Plat, the total number of Lots within the Development was twelve (12).

L. Capitalized terms that are defined in the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by the Third Amendment, shall have the same meaning when used in this Fourth Amendment, unless otherwise expressly provided herein.

M. Contemporaneously with the recording of this Fourth Amendment, the Midland Square Commercial Plat “A” Fourth Amended (the “**Fourth Amended Plat**”) is being recorded in the Office of the Recorder of Weber County, Utah for the purpose of eliminating Lot 7 and

Lot 8 from the Development and the replacement of Lot 7 and Lot 8 with four (4) new Lots within the Development identified as Lot 15, Lot 16, Lot 17 and Lot 18.

N. The purpose of this Fourth Amendment is to authorize and approve: (1) the elimination of Lot 7 and Lot 8 from the Development and (2) replacement of Lot 7 and Lot 8 with the creation of four (4) new Lots within the Development that are identified on the Fourth Amended Plat as Lot 15, Lot 16, Lot 17 and Lot 18.

AMENDMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, Declarant, the Association and the Lots 15, 16, 17 and 18 Property Owners hereby execute this Fourth Amendment and hereby covenant and agree as follows:

1. Recitals and Exhibits. The Recitals set forth above and the Exhibits attached to this Fourth Amendment are each incorporated into the body of this Fourth Amendment as if set forth in full herein.

2. Fourth Amendment to the Declaration. This Fourth Amendment constitutes an amendment to the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by the Third Amendment. In the event of any conflict or inconsistency between the terms of this Fourth Amendment and the terms of the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by the Third Amendment, then the terms of this Fourth Amendment shall govern and control. The Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment, by the Third Amendment and by this Fourth Amendment, pertains to and affects that certain real property that is defined in the Declaration as the “**Property**” located in Weber County, Utah, which Property is more particularly described in Exhibit “B” attached hereto and incorporated herein by this reference.

3. Amendment to the Plat. Declarant, the Association, on behalf of all of the Owners of the Association, and the Lots 15, 16, 17 and 18 Property Owners hereby consent to and approve the Fourth Amended Plat for the Development, which is entitled Midland Square Commercial Plat “A” Fourth Amended, and which is being recorded contemporaneously with this Fourth Amendment for the purpose of eliminating Lot 7 and Lot 8 from the Development and the replacement of Lot 7 and Lot 8 with four (4) new Lots within the Development identified on the Fourth Amended Plat as Lot 15, Lot 16, Lot 17 and Lot 18, which Lot 15, Lot 16, Lot 17 and Lot 18 shall be a part of the Development for all purposes. Effective as of the recording of this Fourth Amendment, the term “**Plat**” as used in the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment, by the Third Amendment and by this Fourth Amendment, shall mean the Original Plat, as subsequently amended by the First Amended Plat, by the Second Amended Plat, by the Third Amended Plat and by the Fourth Amended Plat, which Fourth Amended Plat is being recorded contemporaneously with this Fourth Amendment in the Office of the Recorder of Weber County, Utah.

4. Amendment to Section 3.04. Section 3.04 of the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by the Third Amendment, is hereby amended and restated in its entirety to read as follows:

3.04 Division Into Lots. The Development is hereby divided into fourteen (14) Lots as set forth and described on the Plat, along with any amended Plat, with each Lot having appurtenant and proportionate rights and easements of use and enjoyment in and to the Common Maintenance Areas, as well as appurtenant and proportionate obligations pertaining to assessments, maintenance, etc., all as set forth in this Declaration.

5. Amendment to Section 7.04. Section 7.04 of the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by the Third Amendment, is hereby amended and restated in its entirety to read as follows:

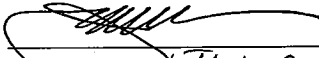
7.04 Votes. The number of votes appurtenant to each respective Lot shall be established according to the following principles. Each Lot will have one (1) vote, plus one (1) additional vote for each acre, or fraction thereof, contained in the Lot. Based on the foregoing principles, each Lot will have the following votes:

Lot 2	3 votes
Lot 3	2 votes
Lot 5	3 votes
Lot 6	2 votes
Lot 9	2 votes
Lot 10	2 votes
Lot 11	2 votes
Lot 12	2 votes
Lot 13	3 votes
Lot 14	3 votes
Lot 15	8 votes
Lot 16	3 votes
Lot 17	3 votes
Lot 18	2 votes

6. No Other Changes. Except as expressly set forth herein, the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment, by the Third Amendment and by this Fourth Amendment, shall remain in all other respects unmodified and in full force and effect. Commencing as of the Effective Date of this Fourth Amendment, the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment, by the Third Amendment and by this Fourth Amendment, shall be defined and referred to as the "Declaration."

IN WITNESS WHEREOF, Declarant, the Association, and the Lots 15, 16, 17 and 18 Property Owners have caused this Fourth Amendment to be executed by persons duly authorized to execute the same as of the Effective Date.

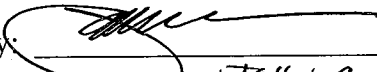
ALL AMERICAN INVESTMENTS VI, LLC,
a Utah limited liability company

By: 
Name: JOHN C. HEINER
Title: MEMBER MANAGER
Date: 04/14/2020

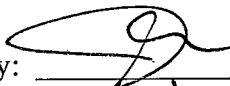
SBH MIDLAND MARKET PLACE, LC,
a Utah limited liability company

By: _____
Name: _____
Title: _____
Date: _____

MIDLAND SQUARE OWNERS ASSOCIATION,
INC., a Utah non-profit corporation

By: 
Name: JOHN C. HEINER
Title: MEMBER MANAGER
Date: 04/14/2020

SIERRA HOMES CONSTRUCTION, INC.,
a Utah corporation

By: 
Name: Jay Stocking
Title: President
Date: 1/23/2020

IN WITNESS WHEREOF, Declarant, the Association, and the Lots 15, 16, 17 and 18 Property Owners have caused this Fourth Amendment to be executed by persons duly authorized to execute the same as of the Effective Date.

ALL AMERICAN INVESTMENTS VI, LLC,
a Utah limited liability company

By: _____
Name: _____
Title: _____
Date: _____

SBH MIDLAND MARKET PLACE, LC,
a Utah limited liability company

By: Eldon V. Haaska
Name: Eldon V. Haaska
Title: Managing Member
Date: 3/26/2020

MIDLAND SQUARE OWNERS ASSOCIATION,
INC., a Utah non-profit corporation

By: _____
Name: _____
Title: _____
Date: _____

SIERRA HOMES CONSTRUCTION, INC.,
a Utah corporation

By: _____
Name: _____
Title: _____
Date: _____

AA DEVELOPMENT, INC.,
a Utah corporation

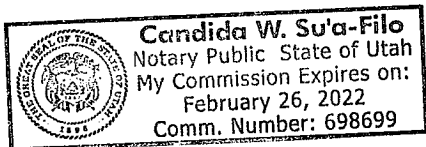
By: [Signature]
Name: JOHN C HEINER, PRES.
Title: MEMBER MANAGER
Date: 04/14/2020

MIDLAND DENTAL BUILDING, LLC,
a Utah limited liability company

By: _____
Name: _____
Title: _____
Date: _____

STATE OF UTAH)
)
COUNTY OF Utah) : ss.

The foregoing instrument was acknowledged before me this 14th day of April,
2020, by John C. Heiner in such person's
capacity as the Manager of All American Investments VI, LLC, a Utah
limited liability company.



[Signature]
NOTARY PUBLIC

AA DEVELOPMENT, INC.,
a Utah corporation

By: [Signature]
Name: _____
Title: _____
Date: _____

MIDLAND DENTAL BUILDING, LLC,
a Utah limited liability company

By: [Signature]
Name: JEREMY FELT
Title: OWNER
Date: 1/14/20

STATE OF UTAH)
 : ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____ in such person's capacity as the _____ of All American Investments VI, LLC, a Utah limited liability company.

NOTARY PUBLIC

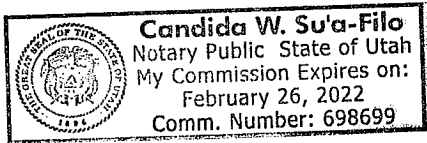
STATE OF UTAH)
 : ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____ in such person's capacity as the _____ of SBH Midland Market Place, LC, a Utah limited liability company.

NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF Utah)

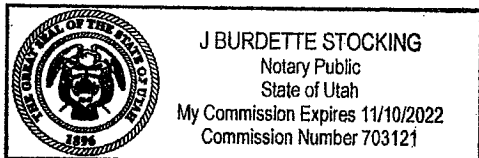
The foregoing instrument was acknowledged before me this 14th day of April, 2020, by John C. Heenan in such person's capacity as the Manager of Midland Square Owners Association, Inc., a Utah non-profit corporation.



Candida W. Su'a-Filo
NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF Box Elder)

The foregoing instrument was acknowledged before me this 23 day of January, 2020, by Jay Stocking in such person's capacity as the President of Sierra Homes Construction, Inc., a Utah corporation.



J Stocking
NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF DeWalt

JB ²⁰²⁰ The foregoing instrument was acknowledged before me this 2 day of March ⁷ 2019, by Eldon V Haacke in such person's capacity as the Managing Member of SBH Midland Market Place, LC, a Utah limited liability company.



DeWalt
NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____ in such person's capacity as the _____ of Midland Square Owners Association, Inc., a Utah non-profit corporation.

NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____ in such person's capacity as the _____ of Sierra Homes Construction, Inc., a Utah corporation.

NOTARY PUBLIC

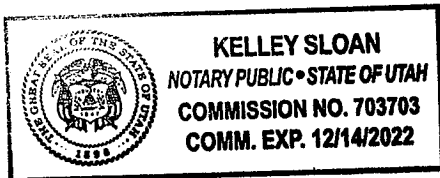
STATE OF UTAH)
)
) : ss.
COUNTY OF Utah)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____ in such person's capacity as the _____ of AA Development, Inc., a Utah corporation.

NOTARY PUBLIC

STATE OF UTAH)
)
) : ss.
COUNTY OF Weber)

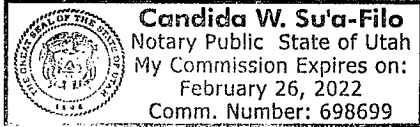
~~2019~~ 2020 The foregoing instrument was acknowledged before me this 14 day of January, 2019, by Jeremy M. Felt in such person's capacity as the owner of Midland Dental Building, LLC, a Utah limited liability company.



Kelley Sloan
NOTARY PUBLIC

STATE OF UTAH)
 : SS.
COUNTY OF Utah)

The foregoing instrument was acknowledged before me this 14th day of April, 2020, by John C. Hamer in such person's capacity as the President of AA Development, Inc., a Utah corporation.



Candida W. Su'a-Filo
NOTARY PUBLIC

STATE OF UTAH)
 : SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____ in such person's capacity as the _____ of Midland Dental Building, LLC, a Utah limited liability company.

NOTARY PUBLIC

EXHIBIT "A"
TO
FOURTH AMENDMENT
OF THE
DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS
OF MIDLAND SQUARE COMMERCIAL

Legal Description of the Real Property that is Subject to the Original Declaration as Corrected and Amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by the Third Amendment

Lots 1, 2, 3, 5, 6, 7 and 8 as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2425488, Book 70, Page 22 contained within **Plat "A" of Midland Square Commercial**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425489, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-511-0001, 08-511-0002, 08-511-0009, 08-511-0005, 08-511-0006,
08-511-0007, 08-511-0008

Lots 9 and 10, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2508344, Book 71, Page 86, contained within **Midland Square Commercial Plat "A" – 1st Amendment**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-519-0001, 08-519-0002

Lots 11 and 12, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2537050, Book 72, Page 25, contained within **Midland Square Commercial Plat "A" Second Amended**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-524-0001, 08-524-0002

Lots 13 and 14, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 3001962, Book 86, Page 25, contained within **Midland Square Commercial Plat "A" Third Amended**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

~~Part of Parcel Numbers: 08-511-0008, 08-511-0015, 08-511-0016, 08-511-0017~~
Parcel Nos.: 08-623-0001 and 08-623-0002

EXHIBIT "B"
TO
FOURTH AMENDMENT
OF THE
DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS
OF MIDLAND SQUARE COMMERCIAL

Legal Description of the Real Property that is Subject to the Original Declaration as Corrected and Amended by the Corrected Declaration, by the First Amendment, by the Second Amendment, by the Third Amendment and by this Fourth Amendment

Lots 1, 2, 3, 5, 6, 7 and 8 as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2425488, Book 70, Page 22 contained within **Plat "A" of Midland Square Commercial**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425489, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-511-0001, 08-511-0002, 08-511-0009, 08-511-0005, 08-511-0006,
08-511-0007, 08-511-0008

Lots 9 and 10, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2508344, Book 71, Page 86, contained within **Midland Square Commercial Plat "A" – 1st Amendment**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-519-0001, 08-519-0002

Lots 11 and 12, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2537050, Book 72, Page 25, contained within **Midland Square Commercial Plat "A" Second Amended**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-524-0001, 08-524-0002

Lots 13 and 14, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 3001962, Book 86, Page 25, contained within **Midland Square Commercial Plat "A" Third Amended**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-623-0001 and 08-623-0002

~~Part of Parcel Numbers: 08-511-0008, 08-511-0015, 08-511-0016, 08-511-0017~~

Lots 15, 16, 17 and 18, as identified on the Plat recorded in the Office of the Weber County Recorder as Entry No. 3002490, Book 86, Page 27, contained within **Midland Square Commercial Plat "A" Fourth Amended**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

~~Part of~~ Parcel Numbers: 08-624-0001, 08-624-0002, 08-624-0003, 08-624-0004