



\*W3154766\*

After Recording Return To:

Homestead Pavilion, LLC  
5670 Wilshire Boulevard, Suite 1250  
Los Angeles, California 90071  
Attn.: Steven Usdan

E# 3154766 PG 1 OF 9  
Leann H. Kilts, WEBER COUNTY RECORDER  
21-May-21 10:22 AM FEE \$40.00 DEP DAC  
REC FOR: FIRST AMERICAN TITLE INSURANCE CO  
ELECTRONICALLY RECORDED

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Space Above This Line For Recording Purposes

**AGREEMENT REGARDING REAL PROPERTY**

THIS AGREEMENT REGARDING REAL PROPERTY ("Agreement") is made as of May 20, 2021 by and between HOMESTEAD PAVILION, LLC, a Delaware limited liability company ("Kornwasser") and ROY CORNER, LLC, a Utah limited liability company ("Buyer").

**RECITALS**

A. WinCo Foods, LLC and Kornwasser entered into that certain Declaration of Easements and Conditions dated December 5, 2008 and recorded on December 5, 2008 by the Davis County, Utah Recorder as Entry No. 2408700 and by the Weber County, Utah Recorder as Entry No. 2378745, as amended by First Amendment to Declaration of Easements and Conditions dated June 1, 2010 and Second Amendment to Declaration of Easements and Conditions dated June 7, 2017 (collectively, the "DEC"), with respect to certain real property located in Davis County and Weber County described in the DEC.

B. Concurrently herewith, Kornwasser is conveying to Buyer the portion of the Kornwasser Tract described on Exhibit A attached hereto and referred to in the DEC as Parcel 5 (Pad D) (also referred to in this Agreement as the "Buyer Parcel") and Kornwasser is retaining ownership of the portion of the Kornwasser Tract described on Exhibit B attached hereto (the "Kornwasser Retained Property").

C. The parties hereto desire to document certain agreements regarding the development of the Buyer Parcel.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Kornwasser and Buyer agree as follows:

1. Capitalized Terms. All capitalized terms used in this Agreement and not otherwise defined herein have the meanings given to such terms in the DEC.

2. Development of Buyer Parcel. The Buyer Parcel shall be developed in compliance with all requirements of the DEC, provided that (a) the development of the Buyer Parcel and any future alterations thereto shall be comply with the site plan attached to this Agreement as Exhibit C, and (b) in no event shall the total Floor Area of any building(s) constructed on the Buyer Parcel exceed 10,000 square feet. The Buyer Parcel shall have the right to use any Kornwasser Tract Monument Sign that is constructed on the Buyer Parcel. Except for the Kornwasser Tract Monument Sign that may be constructed on the Buyer Parcel, Kornwasser reserves for the benefit of the Kornwasser Retained Property all other free standing sign rights set forth in the DEC applicable to the Kornwasser Tract, including without limitation, all rights with respect to the Center Signs and the other Kornwasser Tract Monument Sign, and the Buyer Parcel shall have no rights with respect thereto.

3. Notices. All notices required or permitted to be given under this Agreement must be in writing and shall be deemed to have been given as of the date such notice is (a) delivered to the party intended, (b) delivered to the then designated address of the party intended, (c) rejected at the then designated address of the party intended, provided such notice was sent prepaid, or (d) the date of receipt (as confirmed by the carrier's records) at the then designated address of the party intended if sent by nationally recognized overnight courier with delivery instructions for "next business day" service, or by United States certified mail, return receipt requested, postage prepaid and addressed to the then designated address of the party intended. The initial addresses of the parties shall be:

If to Kornwasser:

Homestead Pavilion, LLC  
5670 Wilshire Boulevard, Suite 1250  
Los Angeles, California 90036  
Attn.: Steven Usdan

If to Buyer:

Roy Corner, LLC  
1086 West 3050 North  
Pleasant View, Utah 84414  
Attn.: Tucker J. Nipko

Each party shall have the right to change its address for notices to any other address within the United States of America upon written notice to the other party in accordance with this Section 3.

4. Run With the Land. The terms, provisions, agreements, covenants, conditions and restrictions set forth in this Agreement shall be equitable servitudes, and shall run in favor and be enforceable for the benefit of, and shall be binding upon and enforceable against, each party's property and each of their respective successors and assigns as owner of such property. The liability of each party under this Agreement shall be limited to its period of ownership of the legal parcel of property that is the subject of such liability, provided that no sale or transfer shall

relieve a party of liability for any act, omission or breach arising or occurring during such period of ownership.

5. Miscellaneous. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah. This Agreement may not be amended or modified except in writing executed by the party against whom such amendment or modification is being charged. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements between the parties with respect thereto, whether oral or written, including without limitation, the Purchase and Sale Agreement pursuant to which Kornwasser is conveying the Buyer Parcel to Buyer. No delay or omission in exercising any right or in enforcing any provision of this Agreement shall constitute a waiver of such right or provision. In the event of a dispute or litigation between the parties with respect to the interpretation or enforcement of this Agreement, the prevailing party in such dispute shall be entitled to reimbursement from the non-prevailing party of its reasonable out-of-pocket attorneys' fees and costs incurred in connection with such dispute or litigation, including costs and expenses incurred in connection with the enforcement, perfection or collection of any judgment. If any provision of this Agreement is invalid or unenforceable under applicable law, such provision shall be ineffective only to the extent of such invalidity or unenforceability, without invalidating the remaining portions of such provision or the remaining provisions of this Agreement.

6. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first set forth above.

HOMESTEAD PAVILION, LLC, a Delaware limited liability company

By: Homestead Pavilion Managing Member, LLC, a Delaware limited liability company, its manager

By:  Joseph Kornwasser, its sole member

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**SEE ATTACHED  
CA CERTIFICATE**

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of LOS ANGELES )

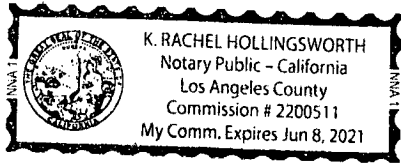
On MAY 19, 2021 before me, K. RACHEL HOLLINGSWORTH, NOTARY PUBLIC,  
Date Here Insert Name and Title of the Officer

personally appeared JOSEPH KORNWASSER  
Name of Signer

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Partner —  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Partner —  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

**BUYER:**

ROY CORNER, LLC, a Utah limited liability company

By: [Signature]  
Name: James K. Stout Tucker Nipko  
Its: Managers

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF UTAH )  
 ) ss.  
COUNTY OF DAVIS )

On May 20, 2021, before me, Gary Gurr, personally appeared James K. Stout and Tucker Nipko, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of <sup>Utah</sup>~~California~~ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



EXHIBIT A

LEGAL DESCRIPTION OF BUYER PARCEL

LOT 2 OF THAT CERTAIN PLAT ENTITLED "HOMESTEAD ROY PAVILION" FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF WEBER, STATE OF UTAH, OCTOBER 15, 2009 AS ENTRY NO. 2439608 IN BOOK 70 AT PAGE 59.

APN: 09-582-0002

EXHIBIT B

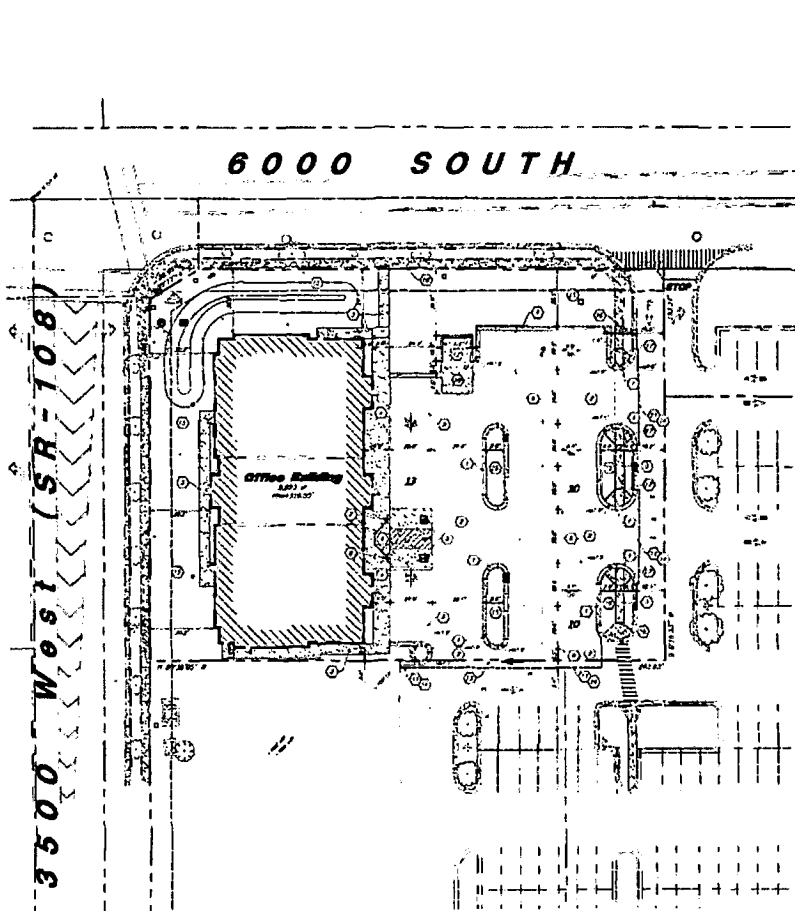
LEGAL DESCRIPTION OF KORNWASSER RETAINED PROPERTY

LOTS 3 AND 4 OF THAT CERTAIN PLAT ENTITLED "HOMESTEAD ROY PAVILION" FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF WEBER, STATE OF UTAH ON OCTOBER 15, 2009 AS ENTRY NO. 2439608 IN BOOK 70 OF OFFICIAL RECORDS PAGE 59.

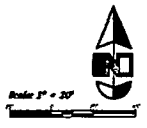
LOT 1 OF THAT CERTAIN PLAT ENTITLED "HOMESTEAD CLINTON PAVILION" FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF DAVIS, STATE OF UTAH ON DECEMBER 1, 2009 AS ENTRY NO. 2496717 IN BOOK 4911 OF PLATS AT PAGE 188.



**EXHIBIT C**  
**SITE PLAN FOR BUYER PARCEL**



**Site Data**  
 Site Area = 64,289 s.f. (0.15 ac)  
 Landscaping Area Provided = 14,000 s.f. (0.32 ac)  
 Impervious Area Provided = 19,729 s.f. (0.45 ac)  
 Building Area = 8,893 s.f. (0.20 ac)  
 Parking Provided = 80 stalls (4,000/4,000)



**Site Construction Notes**

1. Meet SR-108 at 3500 West
2. Meet SR-108 at 3500 West
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15. Meet SR-108 at 3500 West
16. Meet SR-108 at 3500 West
17. Meet SR-108 at 3500 West
18. Meet SR-108 at 3500 West
19. Meet SR-108 at 3500 West
20. Meet SR-108 at 3500 West

**General Site Notes**

1. All construction shall be in accordance with the City of Denver Code.
2. The site plan shall be used for all construction on this site.
3. All utility lines shall be shown and located as shown on this plan.
4. There are no easements or encumbrances on this site.
5. All construction shall be in accordance with the City of Denver Code.
6. All construction shall be in accordance with the City of Denver Code.
7. All construction shall be in accordance with the City of Denver Code.
8. All construction shall be in accordance with the City of Denver Code.
9. All construction shall be in accordance with the City of Denver Code.
10. All construction shall be in accordance with the City of Denver Code.

**Construction Survey Notes**

The construction survey for this project was prepared by the City of Denver Department of Public Works and Engineering. The survey was conducted in accordance with the City of Denver Code and the International Surveying and Mapping Act of 1977.

**Survey Control Notes**  
 The accuracy of the survey shall be in accordance with the City of Denver Code. The survey was conducted in accordance with the City of Denver Code and the International Surveying and Mapping Act of 1977.

**Utility Control Notes**  
 The utility control notes for this project were prepared by the City of Denver Department of Public Works and Engineering. The utility control notes were conducted in accordance with the City of Denver Code and the International Surveying and Mapping Act of 1977.