

When recorded, return to:

Steven C. Miner
Associated Food Stores, Inc.
1850 West 2100 South
Salt Lake City, Utah 84119

Tax Parcel ID Nos.: 142660001, 142660002, 142660003, 142660004, 142660005, 142660006,
142660007, 142660008, 142660009, 145930014 142660014, 142660011, 142660015

22-4910AB

THIRD AMENDMENT TO DECLARATION OF RESTRICTIONS AND EASEMENTS

This Third Amendment to Declaration of Restrictions and Easements (this "Second Amendment") is made as of April 20, 2022, by and among ASSOCIATED FRESH MARKETS, INC., a Utah corporation ("AFM"), HYIF CLINTON TOWN CENTER, LLC, a Colorado limited liability company ("HYIF Clinton"), WELLS FARGO BANK, N.A., a national banking association ("Wells Fargo"), WENDY'S PROPERTIES, LLC ("Wendy's"), SEJ ASSET MANAGEMENT & INVESTMENT COMPANY, a Delaware corporation ("SEJ"), SB CLINTON L.C., a Utah limited liability company ("SB Clinton"), Alvie Carter-Trustee, and EMIC PROPERITES LP, a California limited partnership ("EMIC Properties"), CLINTON CITY SODA LLC, a Utah limited liability company. The foregoing entities are sometimes individually referred to herein as a "Party" and, collectively, as the "Parties."

RECITALS

A. The Parties are owners of parcels in a commercial shopping center located at the northwest corner of the intersection of 2000 West and 1800 North in Clinton, Davis County, Utah, sometimes known or referred to as "Clinton Towne Center Shopping Center" (the "Shopping Center"), as more fully described in Exhibit A attached hereto.

B. The Shopping Center, and each of the parcels therein, is subject to the terms and conditions of that certain "Declaration of Restrictions and Easements" dated as of October 22, 1998, and recorded in the official records of the Davis County Recorder, State of Utah (the "Official Records"), in Book 2379, beginning at Page 380, as Entry Number 1451282, as amended by that certain "First Amendment to Declaration of Restrictions and Easements" dated May 12, 2004, and recorded in the Official Records on June 2, 2004, in Book 3552, beginning at Page 315, as Entry Number 1991287 and that certain Second Amendment to Declaration of Restrictions and Easements, dated February 15, 2022, and recorded in the Official Records on March 11, 2022, in Book 7964, beginning at Page 1969, as Entry Number 3462912 (as amended, the "Declaration"). Capitalized terms used in this Third Amendment that are not defined herein have the meanings given to them in the Declaration.

A. Ownership of the lots or parcels in the Shopping Center is currently as follows:

Lot or Parcel No.	Tax Parcel ID No.	Owner
1	142660001	HYIF Clinton Towne Center, LLC
2	142660002	Associated Fresh Markets, Inc.
3	142660003	HYIF Clinton Towne Center, LLC
4	142660004	Wells Fargo Bank, NA, as successor-in-interest to First Security Bank, NA
5	142660005	Wendy's Properties, LLC
6	142660006	HYIF Clinton Towne Center, LLC
7	142660007	SEJ Asset Management & Investment Company
8/14	14266008/145930014	SB Clinton L.C.
9/14	14266009/145930014	SB Clinton L.C.
10	142660014	SB Clinton L.C.
11	142660011	C&C Properties, LLC
12	142660015	EMIC Properties, LP

B. The Parties who are signatories to this Third Amendment are Owners or Prime Lessees of Parcels containing ninety percent (90%) or more of the total square footage of Building Area in the Shopping Center. Pursuant to Section 8.5 of the Declaration, the Parties who are signatories to this Third Amendment may amend or modify the Declaration by written agreement recorded in the Official Records.

C. The Parties desire to amend or modify the Declaration in the manner set forth below.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the Parties hereby acknowledge the accuracy of the statements set forth in the above Recitals and incorporate the same herein by this reference and further agree as follows:

1. **Retail Use Restrictions.** Section 5.2(a) of the Declaration is amended and restated in its entirety to read as follows:

(a) **Retail Use Restrictions.** No part of Parcel 1, 3 or 4 shall be used for any purpose other than for retail sales, retail services (including Financial Institutions) or restaurants. Without limiting the foregoing, no part of the Shopping Center shall be used for an automotive maintenance or repair facility (other than a Fuel Center where permitted in the Shopping Center and a National Chain CCF on Parcel 7), a second hand or surplus store, or for any entertainment or recreational facility or training or educational facility (except that: (i) an entertainment or recreational facility is permitted on Parcel 2; and (ii) an entertainment or recreational facility with no more than 4,500 square feet is permitted on Parcels 1, 3 and/or 6). For purpose of this Declaration, the phrase "entertainment or recreational facility" shall include, without limitation, a theater, bowling alley, skating rink, gym, health spa or studio, dance hall, billiard or pool hall, game parlor or video arcade (which shall be defined as any store containing more than four (4)

electronic games). The phrase "training or educational facility shall include, without limitation, a beauty school, barber college, reading room, place of instruction or any other operation catering primarily to students or trainees as opposed to customers; provided, however, businesses primarily devoted to student tutoring, such as Kumon, Mathnasium, Sylvan Learning and Code Ninjas, are permitted in the Shopping Center.

2. **Center Pylon Signs.** Section 4.3(a) of the Declaration provides that: (i) the Owner or occupant of Parcel 2 has the rights to the top designation on the Center Pylon Signs; (ii) provided that the Parcel 2 owner or tenant is not adversely affected not more than four (4) other businesses at the Shopping Center may use the Center Pylon Signs; and (iii) the design of the Center Pylon Sign is subject to the Consenting Owners' prior written approval. In furtherance of the foregoing: (x) the undersigned Parties represent the Consenting Owners' and hereby approve the design of the Center Pylon Sign as set forth on **Exhibit B** hereto; and (y) the undersigned owner of Parcel 2 acknowledges that it is not adversely affected by the design of the Center Pylon Sign as set forth on **Exhibit B**. Furthermore, the undersigned Parties agree and acknowledge that the provisions of Section 4.3(a) of the Declaration remain unchanged.

3. **Remaining Terms Unchanged.** Except as amended or modified by this Third Amendment, all of the remaining terms and conditions set forth in the Declaration remain unchanged and are in full force and effect.

4. **Counterparts.** This Third Amendment may be executed in counterparts, each of which is deemed an original instrument and all of which constitute and comprise a single agreement. Any Party may remove the signature pages from any counterpart and attach the same to any other counterpart for the purpose of creating a single instrument containing the signatures and notarizations for all Parties.

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

*[Counterpart signature page to Second Amendment
to Declaration of Restrictions and Easements]*

Executed as of the day and year first written above.

ASSOCIATED FRESH MARKETS, INC.

By: Robert D. O'Bray
Name: Robert D. O'Bray
Title: Vice President

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

On May 23, 2022, before me the undersigned notary public, personally appeared Robert D. O'Bray, the Vice President of Associated Fresh Markets, Inc., who duly acknowledged to and before me that he signed the foregoing instrument for and on behalf of said entity, having all requisite authority to so act.

Denise D Ward
Notary Public

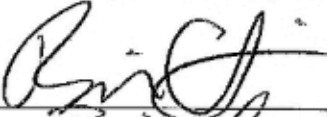
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[Counterpart signature page to Second Amendment
to Declaration of Restrictions and Easements]

HYIF CLINTON TOWNE CENTER, LLC

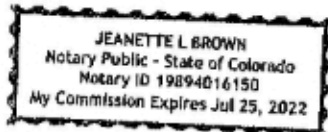
By: Baceline Investments, LLC, its Manager

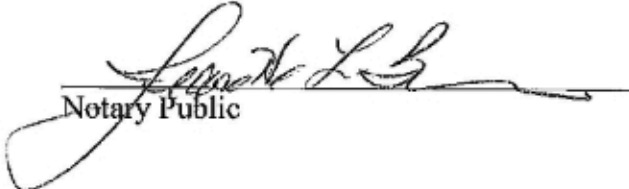
By: 
Name: Brian Capstick
Title: President

STATE OF Colorado)
 : ss.
COUNTY OF Denver)

On [May 3], 2022, before me the undersigned notary public, personally
appeared Brian Capstick, President of Baceline Investments, LLC the manager of
HYIF Clinton Towne Center, LLC, who duly acknowledged to and before me that he signed the
foregoing instrument for and on behalf of said entity, having all requisite authority to so act.


[seal]

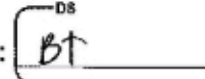



Notary Public

[Counterpart signature page to Second Amendment
to Declaration of Restrictions and Easements]

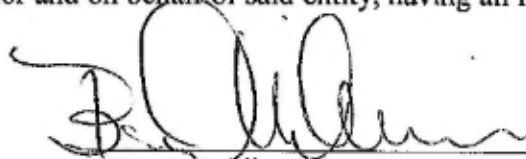
WENDY'S PROPERTIES LLC

By: 
Name: Kris Kaffenbarger
Title: Vice President - Global System
Optimization, Franchise and Portfolio Management

Legal Approval: ^{DS}


STATE OF OHIO)
 : ss.
COUNTY OF FRANKLIN)

On May 29, 2022, before me the undersigned notary public, personally appeared Kris Kaffenbarger, the Vice President – Global System Optimization, Franchise and Portfolio Management of Wendy’s Properties LLC, who duly acknowledged to and before me that he signed the foregoing instrument for and on behalf of said entity, having all requisite authority to so act.



Notary Public
My Commission Expires: 12.27.26



Brenda Williamson
Notary Public, State of Ohio
My Commission Expires 12/27/2026

*[Counterpart signature page to Second Amendment
to Declaration of Restrictions and Easements]*

SB CLINTON L.C.

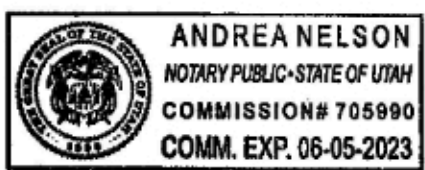
By: *Eldon V. Haacke*
Name: Eldon V. Haacke
Title: Managing Member

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

On [April 20th], 2022, before me the undersigned notary public, personally appeared Eldon V. Haacke, the Managing Member of SB Clinton L.C., who duly acknowledged to and before me that he signed the foregoing instrument for and on behalf of said entity, having all requisite authority to so act.

Andrea Nelson
Notary Public

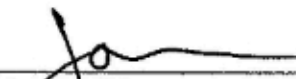
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*[Counterpart signature page to Second Amendment
to Declaration of Restrictions and Easements]*

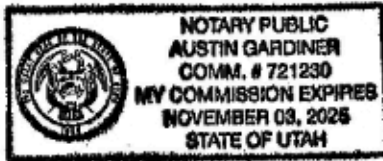
Executed as of the day and year first written above.

CLINTON CITY SODA LLC

By: 
Name: Jordan Olsen
Title: Managing Member

STATE OF UTAH)
 Davis 46 : ss.
COUNTY OF ~~SALT LAKE~~)

On [04/20/2022], 2022, before me the undersigned notary public, personally appeared Jordan Olsen, the Managing Member of Clinton Soda LLC, who duly acknowledged to and before me that he signed the foregoing instrument for and on behalf of said entity, having all requisite authority to so act.



[seal]

Austin Gardiner
Notary Public

CALIFORNIA ALL-PURPOSE CERTIFICATE OF 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 California }

County of Marin }

On 04.28.2022 before me, Evan Timmel, Notary Public
(Here insert name and title of the officer)

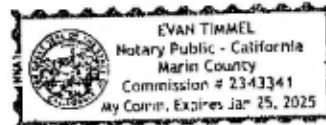
personally appeared Nancy S Conger
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) 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.

Evan Timmel
Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Third Amendment to
(Title or description of attached document)
Declaration of Restrictions
(Title or description of attached document) (continued)
and Easements
Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer
- _____ (Title)
- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

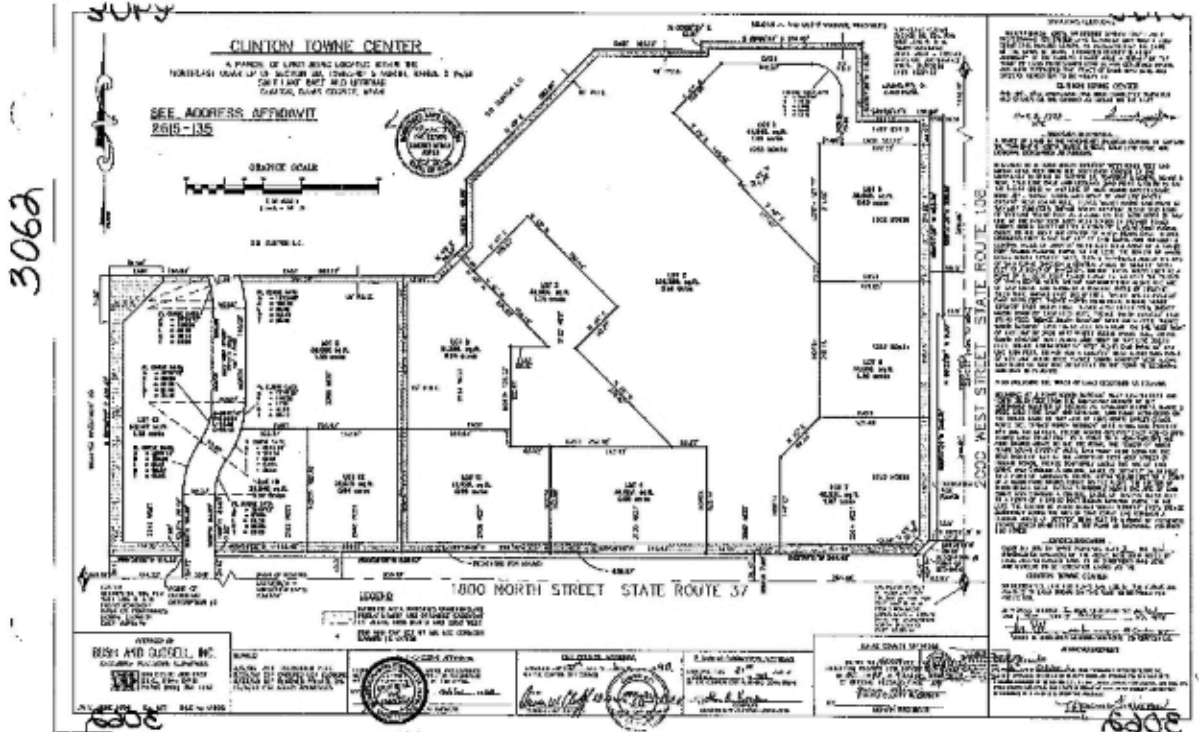
This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, -is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

EXHIBIT A
(To Third Amendment to Declaration of Restrictions and Easements)

The following lots or parcels are located in the Clinton Towne Shopping Center, Clinton, Utah, according to the official plat thereof on file and of record in the official records of the Davis County Recorder, State of Utah:

All of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.



Further note the following:

Lots 8 & 9 became Lot 14 (Tax ID No: 14-593-0014) now described as follows:
Lot 14, TOWNE STORAGE SUBDIVISION, VACATING LOTS 8 and 9,
CLINTON TOWNE CENTER, according to the official plat thereof on file and of
record in the office of the Davis County Recorder.
Together with the non-exclusive easement for ingress, egress, parking and
utilities, appurtenant to Parcel 1 herein, as defined, described and created pursuant
to that certain Declaration of Restrictions and Easements dated October 22, 1998
and recorded October 23, 1998 as Entry No. 1451282 in Book 2379 at Page 380
of the Official Records of the Davis County Recorder.

EXHIBIT A
CONTINUED

Lot 10 (Tax Id No: 14-266-0014) is now described as follows:

Lot 10, CLINTON TOWNE CENTER, according to the official plat thereof on file and of record in the office of the Davis County Recorder.

Less and Except therefrom the Easterly 18.0 feet of Lot 10, CLINTON TOWNE CENTER, according to the official plat thereof on file and of record in the office of the Davis County Recorder.

Lot 12 (Tax Id No: 14-266-0015) is now described as follows:

LOT 12, CLINTON TOWNE CENTER, according to the official plat thereof on file and of record in the office of the Davis County Recorder.

Together With the Easterly 18.0 feet of Lot 10, CLINTON TOWNE CENTER, according to the official plat thereof on file and of record in the office of the Davis County Recorder.

EXHIBIT B
(To Third Amendment to Declaration of Restrictions and Easements)

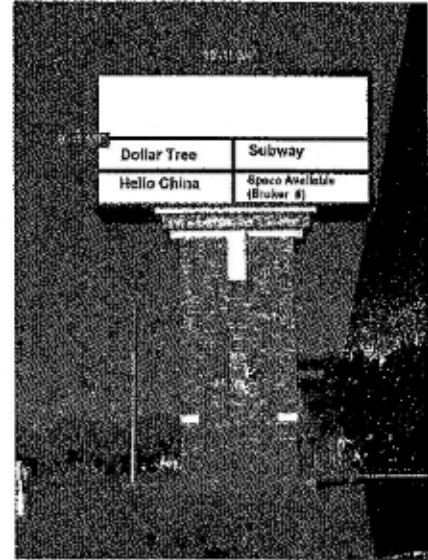
SOUTH ENTRANCE PYLON

FACE REPLACEMENT FOR EXISTING PYLON
OPTION 1

REMOVE EXISTING FLEX FACES FROM EXISTING SOUTH ENTRANCE PYLON
RETRO FIT FACE W/ NEW 2 1/2" T-BAR PAINTED BLACK
SPLIT FACE HORIZONTALLY IN HALF & SPLIT BOTTOM FACE
IN HALF W/ VERTICAL 2 1/2" T-BAR



Existing Pylon



North Side

South entrance

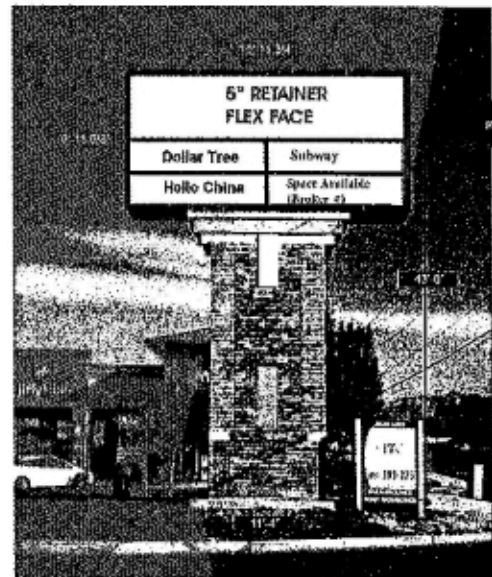
EAST ENTRANCE PYLON

FACE REPLACEMENT FOR EXISTING PYLON
OPTION 1

REMOVE EXISTING FLEX FACES FROM EXISTING EAST PYLON
RETRO FIT FACE W/ NEW 2 1/2" T-BAR PAINTED BLACK
SPLIT FACE HORIZONTALLY IN HALF & SPLIT BOTTOM FACE
IN HALF W/ VERTICAL 2 1/2" T-BAR



Existing Pylon



North Side

East entrance