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RECIPROCAL EASEMENT AND MAINTENANCE AGREEMENT
WITH CONDITIONS, COVENANTS AND RESTRICTIONS

THIS RECIPROCAL EASEMENT AND MAINTENANCE AGREEMENT WITH CONDITIONS, COVENANTS AND RESTRICTIONS (the "Agreement") is made and entered into as of the 16th day of March, 1981, by and among Block 58 Associates, a Utah Limited Partnership (hereinafter "B58A"); A. P. 3 Associates, a Utah Limited Partnership (hereinafter "AP3"); American Savings & Loan Association, a Utah corporation (hereinafter "American Savings"); and American Towers, Inc., a Utah corporation (hereinafter "American Towers").

RECITALS:

A. The parties hereto collectively own that certain real property located on a major portion of Block 58 in downtown Salt Lake City, Utah, which real property is more particularly described as Parcels 1, 1A, 3, 4, 6 and 7 on Schedule I attached hereto. Block 58 is bounded on the north by Second South Street, is bounded on the east by Main Street, is bounded on the south by Broadway Street and is bounded on the west by West Temple Street. Parcels 1, 1A, 3, 4, 6 and 7 are more fully shown on the site plan attached hereto as Exhibit "A" and are collectively referred to herein, together with appurtenant off-site improvements, as "American Plaza". Exhibit "A" also depicts certain other Parcels within Block 58 (numbers 2, 5, 8, 9 and 10), which are adjacent to American Plaza, but which are presently not owned by the parties hereto or, in the case of Parcel 9, is owned by a party hereto but which party does not yet desire to make such Parcel a part of American Plaza. One or more of Parcels 2, 5, 8, 9 and 10 may later become, pursuant to the terms hereof, a part of American Plaza.

B. The parties desire to develop American Plaza as a first class and aesthetically attractive downtown office residential condominium, hotel and retail plaza.

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L.D.T. SECURITY TITLE CO.
 No. *[Signature]*

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C. The respective owners of each Parcel and their respective current development intentions with respect to such Parcels are described below:

(i) American Savings is the fee owner of Parcel 1 and has caused an office building to be constructed thereon, together with two levels of underground parking. The first level of such underground parking contains drive-up banking remote teller units. American Savings currently utilizes the ground floor of its office building for a savings and loan business and other portions of such building for its administrative corporate offices.

(ii) AP3 is, or is about to become, the fee owner of Parcel 3 and has constructed a condominium office building thereon. AP3 intends to sell portions of its building as separate condominium offices. Parcel 3 contains two levels of underground parking.

(iii) American Towers is the fee owner of Parcel 4 and, together with B58A, is in the process of obtaining financing for the construction of a high-rise residential condominium tower on Parcel 4. American Towers is also planning to construct either a second residential condominium tower or an office building on Parcel 4. The ground and other levels of the buildings on Parcel 4 may be devoted to recreational facilities, retail shops, offices, restaurants or other similar uses and such buildings may be interconnected at the ground, plaza and other lower levels. The existing plans for Parcel 4 call for at least three levels of underground parking.

(iv) B58A is the fee owner of Parcels 1A, 6, 7 and 9. B58A intends to enter into a joint venture with others to construct and operate a hotel on Parcel 6, together with three levels of underground parking. B58A intends to hold Parcel 9 in reserve for possible use in the subsequent develop-

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ment of either Parcel 8 or Parcel 10, or for independent development. Parcel 7 presently contains a sidewalk serving Parcel 3 and other buildings within American Plaza. Parcel 7 may subsequently be utilized in the development of Parcel 8.

(v) B58A is presently negotiating for the sale of a portion of Parcel 1A, which contains two levels of underground parking, to American Savings. Should Parcel 1A subsequently be sold to American Savings or to the Owner(s) of other neighboring Parcels, it shall become a part of such neighboring Parcels.

(vi) The parties understand that Valley Bank & Trust Company is the fee owner of Parcel 5 which contains an existing three (3) story bank building and an adjacent highrise office building (presently under construction). There is no underground parking under the bank building and there is one level of underground parking under the office building. Valley intends to lease and/or sell space in the office building and intends to utilize portions of both buildings for its administrative offices. Parcel 5 contains drive-up banking teller units on the ground level. It is anticipated that Parcel 5 may later become subject to portions of this Agreement, especially those portions relating to underground parking.

(vii) The parties understand that Rich Baldwin Associates, a general partnership (hereinafter "Baldwin") is the fee owner of Parcel 2 which contains an existing office building. There is no Plaza Level parking adjacent to such office building and there are two (2) levels of underground parking under such office building which are currently integrated into and/or contiguous with the underground parking existing on Parcels 1, 1A and 3. The ground floor of such office building is currently devoted to retail uses. It is anticipated that Parcel 2 may later become subject to this Agreement or por-

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tions hereof, especially those portions relating to underground parking. The Owner of Parcel 2 may also enter into a separate management agreement with the Maintenance Director or with one (1) or more of the other Owners to provide for the common maintenance and operation of the underground parking levels and other Common Areas in conjunction with the management and operation of the other Common Areas of American Plaza.

(viii) The current plans for Parcel 8 are not presently known but may include the construction of a drive-up banking facility to be utilized by the adjacent Continental Bank together with underground parking. An office or other building ultimately may occupy a portion of Parcel 8. The current plans for Parcel 10 are also unknown but would likely include an office tower or other high rise building, ground level retail space, underground parking and a possible pedestrian walkway connecting American Plaza to Main Street.

D. Portions of American Plaza at one time were held by the Redevelopment Agency of Salt Lake City (the "Redevelopment Agency") and were conveyed by it by Special Warranty Deed dated October 12, 1977, pursuant to that certain Urban Renewal Plan adopted by the Redevelopment Agency on February 2, 1971, and the Utah Neighborhood Development Act. Such Special Warranty Deed contains certain conditions and covenants which now encumber American Plaza and control, in part, its development.

E. The underground parking levels under Parcels 1, 1A, and 3 have been constructed so that such are interconnected. The parties desire that the underground parking to be constructed in the future also be interconnected in order that all underground parking levels can be operated as a single unit and so that each Parcel will have nonexclusive ingress and egress rights to the various streets adjoining American

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Plaza. The owners also desire that the uncovered area between the buildings on the ground (surface) level of American Plaza (i.e., the area having the same approximate elevation as Second South Street) (the "Plaza Level") be available for common pedestrian ingress and egress and that the maintenance thereof be accomplished in a joint and coordinated manner. The parties also desire to control certain other aspects of American Plaza to insure its continuance as an attractive, well-maintained and properly operated commercial and residential development.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I

DEFINITIONS; EXHIBITS; PROJECT ARCHITECT

Section 1.01. Definitions. As used in this Agreement, the following terms shall have the meanings as set forth in the Sections indicated:

- (a) "American Plaza" shall have the meaning set forth in Recital Paragraph A.
- (b) "Building" shall have the meaning set forth in Section 2.01.
- (c) "Common Areas" shall have the meaning set forth in Section 3.01.
- (d) "Condemnation" shall have the meaning set forth in Section 12.01.
- (e) "Council of Owners" shall have the meaning set forth in Sections 16.03 and 16.05.
- (f) "Floor Area" shall mean the aggregate square footage of floor space located on all floors within an American Plaza Building (as measured from outside walls).
- (g) "Maintenance Director" shall have the meaning set forth in Section 4.01.

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(h) "Owner" shall mean the fee owner of each Parcel which is a part of American Plaza, except to the extent otherwise set forth in Section 16.06 below.

(i) "Parcel" shall mean the individual parcels of real property which are shown on Exhibit "A". Each individual Parcel may or may not be a part of American Plaza as is more fully described in Recital Paragraph A. Unless the context provides otherwise, references to "each Parcel" and "the Parcels" shall mean those parcels which are then encumbered by this Agreement and, thus, constitute a part of American Plaza.

(j) "Parcel Representative" shall have the meaning set forth in Section 16.03.

(k) "Plaza Level" shall have the meaning set forth in Recital Paragraph E.

(l) "Project Architect" shall be the entity described in, or selected in accordance with the provisions of, Sections 1.03 and 1.04.

(m) "Proportionate Share" shall have the meaning set forth in Section 4.05.

(n) "Redevelopment Agency" shall have the meaning set forth in Recital Paragraph D.

(o) "Underground Parking Levels" shall have the meaning set forth in Section 3.01.

Section 1.02. Exhibits. The following exhibits constitute an integral part of this Agreement and are incorporated herein to the same extent as if fully set forth herein word for word:

Schedule I: Legal descriptions of the various Parcels within American Plaza.

Exhibit A: Site Plan of American Plaza showing Parcels currently contained therein and certain adjacent Parcels.

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- Exhibit A1: Site Plan showing Building areas.
- Exhibit B1: Design concept for Buildings.
- Exhibit B2: Design concept for Plaza Level Common Area improvements.
- Exhibits C1, C2, C3: Master parking concept drawings for various Underground Parking Levels.

Section 1.03. Selection of Project Architect. Trossen/Wright & Associate Architects, an architectural firm headquartered in St. Paul, Minnesota, and having a branch office in Salt Lake City, Utah, is hereby designated the project architect for American Plaza (the "Project Architect"). The Project Architect's sole function shall be to review and pass upon those items of an architectural nature requiring prior approval under this Agreement. The Project Architect may be terminated and a new Project Architect selected upon the majority vote of the Owners. For the purposes of this Section, the Owner(s) of each of the Parcels (shown on Exhibit "A") which is encumbered by this Agreement shall be entitled to one vote, except that Parcels 1A and 7 shall have no vote. The vote attributable to any Parcel which has separate condominium owners shall be cast by the original Owner of the Building on such Parcel until the Condominium Owners Association for such Building has been established, and, thereafter, such votes shall be cast by such Association or the Parcel Representative determined pursuant to Article XVI below. Votes may be cast at any meeting duly called by any such Owner or Parcel Representative (with ten-day written notice given to all Parcel Representatives) provided at least half of the total votes are represented at such meeting, or votes may be cast by unanimous written consent.

Section 1.04. Assumption of Functions. Should the Project Architect resign or cease to function in such capacity, the functions of the Project Architect as described in this Agreement shall vest in the Owner of Parcel 1, or its duly

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appointed agent, until the Parcel Representatives select a replacement Project Architect in the manner described in Section 1.03 above.

Section 1.05. Approval of Plans by Project Architect.

Prior to the commencement of construction of any Building or related improvement within American Plaza or the expansion of any such Building or the exterior remodel of any such Building, architectural plans showing the exterior design, color treatment and exterior materials shall be submitted to the Project Architect for approval. Such architectural plans shall also include a site plan of the Parcel on which such Building is to be constructed, the plans for the proposed underground parking under such Parcel and the plans for the Plaza Level on such Parcel.

The architectural plans with respect to any Parcel shall show:

- (1) The location of the Building or other improvement;
- (2) Principal exterior dimensions;
- (3) Exterior design concepts, exterior materials and colors;
- (4) Marquees, canopies, entrances and exits;
- (5) Perimeter sidewalks and Plaza Level improvements, including landscaping;
- (6) Traffic circulation and underground parking layout;
- (7) Plaza Level and parking level tie-ins to adjacent Parcels; and
- (8) Access ways and ramps on the Plaza Level and within the Underground Parking Levels.

The Project Architect shall review such architectural plans as soon as is reasonably possible to insure compliance with the requirements contained in this Agreement and shall

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communicate its approval, or its comments, to the submitting Parcel Owner within twenty (20) days following its receipt of such plans. If a response is not received from the Project Architect within such 20-day period, the architectural plans as submitted shall be deemed approved. No Building or Building alteration, expansion or remodeling affecting the exterior shall be constructed within American Plaza without the Project Architect's approval, which approval shall not be unreasonably withheld. No underground parking or Common Area improvements shall be constructed, or materially altered, without such Project Architect's approval. Working drawings and actual construction of any Building or any Building alteration, expansion or remodeling shall be in accordance with the approved architectural plans.

Section 1.06. Existing Buildings. The architecture for the existing Buildings on Parcels 1 and 3 is hereby approved and is deemed to be in compliance with this Agreement and, should Parcels 2 and/or 5 ultimately become subject to this Agreement, the architecture of the buildings presently existing on such Parcels shall also be deemed to be in compliance herewith.

Section 1.07. Conflict. It is understood that Trossen/Wright & Associate Architects, as Project Architect, potentially has a conflict of interest because of a minority interest it holds in Parcels 4, 6, 7 and 9. The parties recognize and waive any such conflict of interest. Any disapproval, however, by Trossen/Wright & Associate Architects, as Project Architect, which concerns construction or architecture proposed for any Parcel, may be appealed by the Owner of such Parcel to an architectural committee composed of three members selected, respectively, by the Owners of Parcels 1, 3 and 6.

Section 1.08. Architectural Fees. The fees of the Project Architect during the first two (2) years of the term of this

Agreement shall be paid by American Towers and B58A. Thereafter, the fees, if any, of the Project Architect in functioning as such under Section 1.05 and the other provisions of this Agreement shall be a Common Area maintenance expense and allocated among the Owners in accordance with Section 4.04 below.

ARTICLE II

BUILDINGS

Section 2.01. Definition of "Building". As used in this Agreement, "Building" means any building or any portion of a building which is constructed on any Parcel within American Plaza.

Section 2.02. Limitations. No Buildings shall be constructed or expanded on any Parcel except within the Building Areas shown on Exhibit "A1" attached hereto. Following any development on a Parcel, any portion of the Building Area on such Parcel which is not devoted to Buildings (or improvements serving such Buildings) shall be improved as Common Area in accordance with Article III by the Parcel Owner. Provided the parking requirements of Article V are satisfied for a particular Parcel, no height limitation shall be imposed on the Building constructed on such Parcel.

Section 2.03. Correction of Boundary Lines. It is recognized that by reason of unintentional construction errors, Buildings may not be precisely located within the Building Areas shown on Exhibit "A1", or, where Building Areas coincide with Parcel boundaries, such Buildings may not be precisely located within the Parcels shown on Exhibit "A1". As soon as is reasonably possible after completion of the construction of a Building on a Parcel, the Parcel Owner may cause an "as built" survey to be made showing its Parcel, the Building Area boundaries thereon and the exact placement of such Building. In the event such survey shall disclose that a Building has not been precisely constructed as is required herein, the Owners shall execute an amendment

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to this Agreement, in recordable form, so as to revise the description of Building Areas or Parcel Areas to coincide with the as-built survey. Any Owner whose Parcel is burdened by any such encroachment as is described herein shall execute a perpetual easement to the encroaching Building Owner so as to revise the legal descriptions of the affected Parcels to coincide with the as-built survey. Nothing described herein shall excuse any Parcel Owner from exercising all due diligence to construct Buildings within the Building Areas of such Owner's Parcel as such are shown on Exhibit "A1".

Section 2.04. Encroachments. Each Parcel Owner hereby grants to the adjoining Parcel Owners an easement for the reasonable encroachment of footings, shoring and underground columns necessary to facilitate the construction of the integrated underground levels of parking contemplated in this Agreement.

Section 2.05. Roof Tops. All roof top equipment shall be screened from view by parapet walls or other appropriate screening materials. Roof tops which can be viewed from adjacent Buildings shall be maintained at all times by the Parcel Owner in a neat and orderly condition.

Section 2.06. Architectural Standard. The exterior of all Buildings constructed within American Plaza shall be architecturally compatible with the existing Buildings on Parcels 1, 2, 3 and 5 so as to create and preserve an aesthetically attractive development having a compatible and unified appearance. Buildings having a design substantially similar to the architecture depicted on Exhibit "B1" attached hereto (which Exhibit represents a preliminary design concept for American Plaza) shall be considered of acceptable design for the purposes of this Agreement. No Building shall be constructed, expanded or remodeled within American Plaza if such construction, expansion, or remodeling concerns or affects in any way the exterior of such Building, the Plaza Level or the Underground Parking Levels, without

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first obtaining the approval of the Project Architect as is described in Sections 1.03 and 1.05 above.

Section 2.07. Building Maintenance. Subject to Article IX below, each Owner shall maintain the exterior of the Building(s) on its Parcel in a neat, well-maintained and slightly condition. Such maintenance shall include, without limitation, painting or staining areas requiring paint or stain as needed; promptly removing any graffiti; washing brick and block surfaces periodically; promptly replacing cracked or broken exterior window or plate glass; and promptly repairing damaged canopies, overhangs, columns, pillars, porches, steps, exterior doors and related Building improvements.

ARTICLE III

COMMON AREA IMPROVEMENTS

Section 3.01. Definition of "Common Area". As used herein, Common Area shall mean those portions of American Plaza situated on the Plaza Level or the Underground Parking Levels which are not occupied by Buildings and which are available for use by all Owners and occupants of Buildings and their respective customers, employees, agents and invitees. Common Areas shall include, without limitation, walkways, including perimeter sidewalks, roadways, ramps, stairways (not enclosed within any Building), drive aisles, landscaped areas, storage areas, public benches, bus stops, toll booths, exterior amphitheaters, common utility lines, boundary walls and fences, entry and exit ways to adjacent streets, truck access ways and underground parking areas. All parking levels under the Plaza Level are hereinafter referred to as "Underground Parking Levels". Common Areas shall not include, however, (i) elevators, vestibules and stairways which constitute an enclosed part of any Building, (ii) canopies, overhangs,

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porches or steps attached to Buildings (which shall be deemed to be a part of the Building to which attached), (iii) the drive-up banking remote teller units described in the Recital Paragraphs, (iv) the Plaza Level parking areas on any Parcel, and (v) any decorative fountain installed in the Common Areas of any Parcel (which fountain shall be maintained by the respective Owner of the Parcel on which such fountain is located).

Section 3.02. Dedication; Cross Easements.

(a) All areas of American Plaza upon which Buildings or Plaza Level parking space cannot be constructed pursuant to either this Agreement or the prevailing building codes shall become Common Area for the nonexclusive use of all Owners and permanent occupants of American Plaza and their respective customers, employees, agents and invitees. Each Owner, as grantor, hereby grants to each other Owner, as grantee, nonexclusive easements to use each portion of the Common Area constructed on such grantor's respective Parcel for the intended purposes of such Common Area. Such easements shall be for the use of each grantee and its successors, assigns, tenants, subtenants, licensees and concessionaires, and their respective customers, employees, agents and other invitees. Included within the dedication and grant of easement herein described are:

(i) nonexclusive easements to use the parking areas located within the Underground Parking Levels for the parking and passage of motor vehicles and the passage of pedestrians;

(ii) nonexclusive easements to use the ingress and egress ramps and internal ramps and drive aisles of the Underground Parking Levels for the passage of motor vehicles and pedestrians (1) between each Parcel; (2) between adjacent streets and each Parcel; and (3) between the various Underground Parking Levels; and

(iii) nonexclusive easements to use the various sidewalks, walkways, benches, stairways

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and other Common Area improvements located on the Plaza Level and Underground Parking Levels for the passage and convenience of pedestrians.

The easements described herein are subject, in each case, to the rights of each grantor to rearrange or modify the Common Areas within its Parcel to the extent permitted by this Agreement, and to the possible reservation in accordance with the provisions of Article V (Underground and Plaza Level Parking) of a certain number of parking spaces within such Parcel for the exclusive use of such Parcel Owner.

(b) The easements described herein shall run with the land and shall bind and burden each grantor's respective Parcel, which Parcel shall be deemed to be the servient estate, but where only a portion of such Parcel is so bound and burdened by such easements, only such portion shall be deemed to be the servient estate. The easements described herein shall benefit each grantee's respective Parcel, which Parcel shall be deemed to be the dominant estate.

Section 3.03. Construction of Common Area Improvements.

(a) Simultaneously with the construction of Building improvements on a Parcel, the Parcel Owner shall cause the Common Areas of such Parcel to be completed in accordance with architectural plans previously approved by the Project Architect in accordance with Section 1.05 above. Each Parcel Owner shall be responsible for the cost and expense of such Common Area improvements, except that the cost of the ingress and egress and internal ramps which constitute a part of the Underground Parking Levels shall be shared by the Owners as is more fully described in Section 3.04 below.

(b) The architectural plans for the Common Area improvements on the Plaza Level of any Parcel shall provide for integrated and connecting walkways between Parcels and for improvements consistent in design with those Plaza Level

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Common Area improvements now existing on Parcels 1, 2 and 3. Such plans shall be in substantial conformance with the Plaza Level design concept drawing attached hereto as Exhibit "B2". Material deviations from such concept drawing shall be permitted upon approval by the Project Architect, which approval shall not be withheld as long as pedestrian passage between Parcels is not impaired and as long as the architectural design and aesthetic impact of the proposed deviations are still consistent with the other Plaza Level Common Area improvements then existing on other Parcels.

(c) Simultaneously with the construction of Building improvements on a Parcel, the Parcel Owner shall cause underground parking, including line painting, to be constructed under such Parcel in substantial compliance with the Master Parking Concept Drawings attached hereto as Exhibits "C1", "C2" and "C3" (collectively, Exhibit "C"). Material deviations from such Concept Drawings shall only be permitted upon approval by the Project Architect for good cause shown and then only if the traffic circulation is not adversely impaired or otherwise affected by any such deviation. In the event Underground Parking Levels are constructed in addition to those shown on Exhibit "C", the ramps leading to such additional levels shall be constructed at the sole cost of the Owner of the Parcel on which such additional levels are located.

Section 3.04. Construction of Parking Ramps.

(a) The parties hereto, as the Owners of the Parcels, agree to share the costs of constructing the various ingress and egress and internal ramps depicted on Exhibit "C". The location and agreed upon costs for such ramps are described below:

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<u>Ramp No.</u>	<u>Located on Parcel</u>	<u>Ramp Entrance on Exhibit</u>	<u>Ramp Description</u>	<u>Cost</u>
1	1A	C1	Up ramp to West Temple from first sublevel (may also be used as downramp)	\$ 27,428
2	6	C2	Down ramp from second sublevel to third sublevel	\$ 18,857
3	3	C1	Down ramp from Second South to first sublevel	\$ 98,400
4	3	C1	Down ramp from first sublevel to second sublevel	\$ 36,000
5	6	C1	Down ramp from West Temple to Valet Parking and first sublevel	\$ 44,571
6 (Intentionally omitted)				
7	6	C1 C3	Down ramp from first sublevel to second sublevel; up ramp from third sublevel to second sublevel	\$ 37,714
8	6	C2	Up ramp from Valet Parking and first sublevel to West Temple	\$ 44,571
9	5	C1 C2	Up/down ramp from second sublevel to Third South	N/A
10	4	C1	In/out drive from first sublevel to Third South	\$ 51,428
11	4	C1 C3	Down ramp from first sublevel to second sublevel; up ramp from third sublevel to second sublevel	\$ 54,000
12	9	C2	Down ramp from second sublevel to third sublevel; up ramp from second sublevel to first sublevel	N/A
13	4 & 6	C2	Up ramp from second sublevel to first sublevel; down ramp from second sublevel to third sublevel	\$ 54,857
14	10	C1 C3	Down ramp from first sublevel to second sublevel; up ramp from third sublevel to second sublevel	N/A
TOTAL				<u>\$467,826</u>

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The Owner of each Parcel on which a ramp is located shall construct such ramp as a part of such Owner's Common Area work, except that ramp number 3 shall be constructed by B58A. It is understood that ramp numbers 1, 3 and 4 have already been completed and that all remaining ramps for which the parties share the construction costs are located on Parcels owned by B58A or American Towers.

(b) Upon the completion and commencement of use of the underground parking on any Parcel, the Owner of such Parcel shall pay jointly to B58A and American Towers its proportionate share of the total ramp costs shown in Section 3.04 for all then completed ramps, less the cost of any ramps then constructed by such Owner (as such cost is shown in Section 3.04). Thereafter, as additional ramps are completed, each Owner of a Parcel then having underground parking in operation shall pay jointly to B58A and American Towers its respective prorata share of such newly completed ramps, less any remaining unrecovered costs of the ramp(s) constructed by such Owner.

(c) The proportionate share of ramp costs of each Owner is as set forth below:

Parcel 1	Owner	7.6%
Parcel 1A	Owner	1.9%
Parcel 3	Owner	6.6%
Parcel 4	Owner	40.8%
Parcel 6	Owner	43.1%
Parcel 7	Owner	0.0%
TOTAL		100.0%

The foregoing percentages were determined based upon the underground parking spaces situated under each Parcel as such are shown on Exhibit "C". Should a Parcel Owner ultimately not be able to construct, for good cause, the number of spaces shown for its Parcel [see Section 3.03(c)], the foregoing percentages shall be adjusted accordingly and the sums previously paid by, or otherwise due from, each Owner shall be recomputed and payments made between the various Owners to reflect the resulting adjustments. Should Parcel 5 ultimately become

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subject to this Agreement, the Owner of Parcel 5 shall pay, without contribution from the other Owners, for the entire cost of ramp number 9 and for the cost of remodeling the Under-ground Parking Level under Parcel 5 to conform to Exhibit "C2", and such Owner shall not be obligated for any of the costs of the other ramps situated within American Plaza.

Should Parcel 2 ultimately become subject to this Agreement, the Owner of Parcel 2 shall pay to the other Owners a sum equal to seven and three-tenths percent (7.3%) of the total ramp costs described in Subsection 3.04(a), above. Such sum shall be divided as follows:

To the Owner of Parcel 1	8.2%
To the Owner of Parcel 1A	1.4%
To the Owner of Parcel 3	6.8%
To the Owner of Parcel 4	41.1%
To the Owner of Parcel 6	<u>42.5%</u>

TOTAL	100.0%
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In the event that all ramps described in Subsection 3.04(a) are not completed at the time when Parcel 2 becomes subject to this Agreement, the Owner of Parcel 2 shall only be required to pay to such other Owners seven and three-tenths percent (7.3%) of the total ramp costs expended as of the date upon which Parcel 2 becomes subject to this Agreement; the Owner of Parcel 2 shall thereafter bear seven and three-tenths percent (7.3%) of all future ramp costs; and the portion of such future ramp costs borne by the other Owners described above shall be reduced proportionately.

Parcel 7 shall not be obligated to pay any portion of the ramp costs because no parking is presently situated under such Parcel and because such Parcel shall only be developed with parking in conjunction with the development of Parcel 8 (as is more fully described in Article XIX below).

(d) The sums due from those Owners who have completed and opened Buildings in American Plaza to those parties who have constructed ramps, as is set forth in Section 3.04(b) above, shall be due and payable within thirty (30) days fol-

lowing the date this Agreement is recorded or, if the Parcel upon which such Building is located is not presently subject to this Agreement, within thirty (30) days following the date upon which such Parcel becomes subject to this Agreement.

Section 3.05. Service Equipment. Air conditioning and heating units, transformers, meters, valve boxes and other equipment serving Buildings may be placed within the Common Areas of any such Building's Parcel provided such are first approved by the Project Architect (which approval shall not be unreasonably withheld) and provided such are appropriately painted or otherwise screened from view and do not adversely affect the use of the Common Areas by others. Such equipment shall be deemed to be a part of the Building which is served by such equipment and the Owner of such Building shall maintain such equipment and its screening in good condition and repair.

Section 3.06. No Modification. Following the initial construction of the Common Area improvements on the Plaza Level and within the Underground Parking Levels, such Common Area improvements shall not be materially modified or altered without the prior written consent of the Owners of all of the Parcels. The foregoing restriction shall prohibit, without limitation, any Owner or occupant of American Plaza from materially changing the location and placement of walkways, stairways, and landscaped areas; the direction and flow of traffic; the grades of pedestrian ways, drive aisles and parking areas; the location and use of trash enclosures; the location of concrete curbing and bumpers, walls and fences; and the location of traffic directional arrows and signs without such consent of the other Owners. The Maintenance Director, however, may from time to time modify the traffic circulation pattern within the Underground Parking Levels as is necessary to facilitate the then optimum utilization of parking spaces and the smooth and efficient ingress and egress of vehicles. Notwithstanding the foregoing, American Savings may require that ramp number 1 (immediately south of Parcel 1) be utilized as a two-way

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ramp and/or may direct the circulation patterns on the first Under-ground Parking Level under Parcel 1 if it deems such utilization and direction to be necessary in order to create convenient access and parking for its drive-up and other banking customers.

ARTICLE IV
COMMON AREA MAINTENANCE

Section 4.01. Maintenance Director. Initially, the Maintenance Director shall be the Owner of Parcel 6. The Maintenance Director may be terminated and a new Maintenance Director selected upon the majority vote of the Owners. The number of votes held by each Owner and the method of voting shall be as is described in Section 1.03 above.

Section 4.02. Duties.

(a) The Maintenance Director shall cause the Common Areas of American Plaza to be operated and maintained in good order, condition and repair. The Maintenance Director shall have the right to select from time to time independent contractors to operate and maintain all or portions of the Common Area, provided, however, that such nomination shall not diminish the Maintenance Director's responsibility for the Common Area maintenance and operation herein described.

(b) Without limiting the generality of the foregoing, the Maintenance Director shall observe the following standards:

(1) Maintain the asphalt, concrete and brick paved surfaces of the Plaza Level and the Underground Parking Levels in a smooth and evenly covered condition with the type of surfacing material originally installed thereon, or such substitute material as shall be in all respects equal thereto in quality, appearance and durability;

(2) Remove all paper, debris, filth and refuse from the Common Areas and wash or thoroughly sweep paved areas as required;

(3) Remove snow and ice and standing water from Common Areas;

(4) Install and maintain parking entrance, exit and directional signs, markers and lights and light poles in the Common Areas as shall be reasonably required to insure that such Common Areas are adequately lighted and uniformly marked to facilitate convenient vehicular and pedestrian ingress and egress (provided, however, each Owner shall be responsible to install reserved signs on those spaces which such Owner reserves for its exclusive use, which reserved signs shall be of a uniform style and format as prescribed by the Maintenance Director);

(5) Clean lighting fixtures within the Common Areas (as contrasted with those appurtenant to, or used to, light Buildings) and relamp and reballast as needed;

(6) Repaint striping, markers and directional signs as necessary to maintain the Common Areas in first class condition;

(7) Water, prune, weed, replace and otherwise maintain landscaping as necessary to insure a first class appearance;

(8) Employ courteous personnel for maintaining and operating the Common Areas and, if necessary, to patrol all or a portion of the Common Areas as is deemed necessary by a majority of the Owners;

(9) Maintain and keep in a good operating and sanitary condition the ramps, stairways and public elevators, if any, which are not located within Buildings;

(10) Clean, repair and maintain all utility lines and facilities that serve the Common Areas to the extent that the same are not cleaned, repaired and maintained by public utilities;

(11) Maintain common storm drains in a free flowing condition;

(12) Maintain, repair and clean on a regular basis all Common Area amenities, such as fences, benches and planter boxes to their prior functioning, usability and attractiveness, except for the repair of any structural deficiencies associated with any such amenities, which repairs shall be the obligation of the Owner on whose Parcel such amenities are located;

(13) Repair damaged columns in the Underground Parking Levels, except for structural repairs, which shall be the obligation of the Owner on whose Parcel such structural repair is required. The Maintenance Director shall only be obligated to patch and repaint damaged areas on columns which are caused by vehicles using the Underground Parking Levels. Cracking, spalling, and deterioration of such columns shall be the responsibility of each Parcel Owner;

(14) Subject to subsection (g) below, paint Underground Parking Levels, as needed, to preserve a first class and well maintained condition;

(15) Operate toll and ticket booths at all entrances and exits to the Underground Parking Levels;

(16) Maintain all toll and control gate equipment in an attractive and properly operating condition.

(c) All sweeping and other maintenance of Common Areas shall be performed by the Maintenance Director at hours which will cause minimal interference with the normal daily use of such Common Areas. Such sweeping, where feasible, shall be done by using motor driven parking lot vacuum cleaning vehicles.

(d) Common Area improvements shall be repaired and replaced with materials, apparatus, and facilities of a quality at least equal to the quality of the item being repaired or replaced.

(e) Common Areas shall be inspected on a regular basis in order to detect needed repairs or malfunctioning within a reasonable period of time.

(f) Owners shall use their best efforts (i) to notify the Maintenance Director of any needed repairs or maintenance in the Common Areas and (ii) to cause their respective tenants, licensees and other successors-in-interest and their respective customers, employees, clients and invitees to comply with all rules and regulations respecting the Common Areas, including without limitation posted speed limits, directional signs and markings and parking space markings.

(g) The Underground Parking Levels under any Parcel may be painted by such Parcel Owner and, if painted, shall thereafter be repainted, as needed, by such Parcel Owner.

Section 4.03. Commencement of Common Area Maintenance.
The Maintenance Director shall not commence the Common Area maintenance described in this Article IV until the first day of the month following the month in which this Agreement is recorded. Until such time, each Owner shall be responsible for its own Common Area maintenance, which maintenance shall be done in accordance with the standards set forth in Section 4.02 above.

Section 4.04. Reimbursement of Maintenance Costs.

(a) Each Owner shall reimburse the Maintenance Director for such Owner's Proportionate Share (as defined below) of the Common Area maintenance and operating costs described in this Agreement (regardless of whether any such cost is considered a capital charge). Such costs shall include, without limitation, the costs and expenses for utilities used in lighting, operating and cleaning the Common Areas

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and Common Area facilities; watering, maintaining and replacing vegetation in landscaped areas; sweeping, repairing and replacing Common Area sidewalks, ramps, drive aisles, parking spaces and other paved areas; maintaining ticket spitters, toll booths and toll gates; repairing and replacing walls, fences, curbs, bumpers, benches and directional signs and the routine repair of columns; the costs and expenses for the repair, maintenance and cleaning of any Common Area facility, including drainage systems, common stairwells, refuse areas and containers; for the removal of snow, ice, rubbish, trash and other garbage; for striping and line painting, flood control, repair and replacement of lighting fixtures and poles, including bulbs and ballasts; and for depreciation on, or rentals for, machinery and equipment used in such maintenance; the costs of security guards, parking lot attendants, cashiers/gate keepers and maintenance personnel (including salaries, uniforms, workmen's compensation insurance, group insurance, fidelity bonds and other fringe benefits); the cost of public liability insurance covering the Maintenance Director's activities within the Common Areas and twelve percent (12%) of all of the foregoing costs and expenses to cover administrative and overhead expenses. Such twelve percent (12%) administrative and overhead charge shall be subject to renegotiation by the Council of Owners (Parcel Representatives) should the Maintenance Director subcontract substantially all of its duties and obligations described in this Article to a property management firm.

(b) In addition to the foregoing, each Owner shall reimburse the Maintenance Director for the cost of any repairs to Common Area facilities, which repairs are necessitated solely by such Owner's willful or negligent acts and the cost of such repairs shall not be allocated among the other Owners of American Plaza.

Section 4.05. Owner's Proportionate Share. An Owner

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shall only become responsible for its Proportionate Share of the Common Area operating and maintenance expenses when the Underground Parking Levels within such Owner's Parcel become operational. Prior to such time, such Owner shall, at its sole expense, perform any necessary Common Area maintenance on such Parcel. Each Owner's Proportionate Share of the Common Area maintenance and operating costs shall equal the ratio obtained by dividing the number of parking spaces which are then under such Owner's Parcel by the total parking spaces within American Plaza which are then in operation. As used herein, parking spaces shall be determined based upon a standard sized parking space in order to adjust for excessive undersized or oversized parking spaces within any Parcel.

Section 4.06. Budget Billing. Each Owner's Proportionate Share of the Common Area operating and maintenance costs shall be estimated in good faith by the Maintenance Director for each calendar year or other twelve (12) month accounting period determined by the Maintenance Director. Where possible, such estimate shall be based upon previous operating costs increased by an inflation factor and anticipated forthcoming extraordinary expenditures. Each Owner shall pay in equal installments in advance on the first day of each calendar month one-twelfth (1/12) of its estimated Proportionate Share of such operating costs for each such period. Within twenty (20) days after the end of each three (3) month period, the Maintenance Director shall furnish to each Owner a certified statement showing the actual operating cost for such three (3) month period and any adjustments to be made as a result of any difference between the amount paid by such Owner (as its estimated Proportionate Share for such three (3) months) and such Owner's actual Proportionate Share. Such statement shall be supported by invoices and other appropriate evidence of such actual operating costs which the Maintenance Director has incurred during such three (3) month period. In the

case of a deficiency, such Owner shall promptly remit within ten (10) days the amount of such deficiency to the Maintenance Director. In the case of a surplus, the Maintenance Director shall apply said surplus to payments next falling due from such Owner under this Section 4.06. The failure of the Maintenance Director to provide a Budget Billing to the Owners for any period shall not eliminate the obligation of each Owner to pay its Proportionate Share of the Common Area operating and maintenance costs. In such event, each Owner shall reimburse the Maintenance Director for its Proportionate Share of such costs within ten (10) days following the receipt of an invoice therefor.

Section 4.07. Limitation on Maintenance Director. Except in the case of an emergency, the Maintenance Director shall not undertake to repair any Common Area improvement if the cost of such repair is in excess of \$7,500 without first obtaining the consent of such number of Owners who are then collectively paying in excess of fifty percent (50%) of the Common Area maintenance and operating costs, which consent shall not be unreasonably withheld. The Maintenance Director shall utilize its best efforts to keep the Common Area maintenance and operating costs as low as is reasonably possible. The Maintenance Director shall utilize separate banking accounts and maintain separate books and records for the operation of the American Plaza Common Areas and shall not comingle any revenues derived from American Plaza with the Maintenance Director's other funds.

Section 4.08. Assumption of Duties. In the event the Maintenance Director fails to perform its Common Area maintenance responsibilities hereunder, and does not remedy any such failure within fifteen (15) days following notice of such failure, any Owner may undertake such maintenance upon notice to the other Owners, in which event the maintenance costs so incurred shall be computed and allocated among the

various Owners in American Plaza in accordance with this Article IV. In the event no Owner so undertakes to perform the maintenance responsibilities of a defaulting Maintenance Director, each Owner shall immediately undertake to maintain the Common Areas of its own Parcel in accordance with the standards set forth in this Agreement.

Section 4.09. Sharing of Certain Initial Expenses.

(a) Should the Owners of American Plaza receive the necessary governmental consents to install a traffic signal at any of the exits or entrances to the Underground Parking Level, and should such traffic signal or other similar items be favored by Owners then responsible for seventy-five percent (75%) or more of Common Area maintenance and operating expense, then such traffic signal or other item shall be installed and the cost thereof shall be allocated among the Owners in accordance with each Owner's Proportionate Share as defined in Section 4.05.

(b) Each Owner shall reimburse B58A (the Owner of Parcel 6) for such Owner's Proportionate Share of the cost of preparing this Agreement, which reimbursement shall be paid together with the first sums due under Sections 3.04(b) and (d) above.

(c) Each Owner shall also reimburse B58A for such Owner's Proportionate Share of the cost of ticket spitters, toll booths and control gates on those ramps which provide ingress and egress to and from adjacent streets. Such reimbursement shall be paid simultaneously with, and in like manner as, the sums due under Sections 3.04(b) and (d) above.

Section 4.10. Estoppel Certificate. Upon the written request of any Owner, mortgagee or prospective owner, the Maintenance Director shall issue a written statement setting forth the amount of any unpaid sums due from any Parcel Owner under the provisions of this Article IV, which statement shall be conclusive upon such Maintenance Director and may be relied upon by the recipient thereof. Such statement shall be furnished within

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a reasonable time, not to exceed fifteen (15) days from the date of receipt of a written request therefor. In the event such statement is not furnished by the Maintenance Director within such fifteen (15) days, it shall be conclusively presumed that there are no unpaid sums due the Maintenance Director relating to the Parcel as to which the request was made.

Section 4.11. Name. The Maintenance Director shall operate the Underground Parking Levels and the Common Areas under the name "American Plaza," which name shall be utilized, where appropriate, on entrance and exit and other traffic direction and parking lot signs.

Section 4.12. Release. Each Owner hereby releases the Maintenance Director from any responsibility or liability for injury or damage to such Owner's property, including all improvements constructed thereon, which is caused by any negligent act or omission of the Maintenance Director, provided such injury or damage is of the type covered by the insurance required to be carried pursuant to Article IX.

ARTICLE V

UNDERGROUND AND PLAZA LEVEL PARKING

Section 5.01. Excess Parking Spaces. The parties recognize that 160 excess parking spaces must be constructed within American Plaza pursuant to the Special Warranty Deed described in Recital Paragraph D above. As long as the above described provision in the Special Warranty Deed remains in effect, each Owner agrees to provide within its Parcel the number of spaces set forth below in excess of the number of spaces required by applicable building codes and parking ordinances for the Building(s) placed by such Owner within its Parcel:

<u>Parcel No.</u>	<u>Excess Spaces</u>
Parcel 1	0
Parcel 1A	0
Parcel 2	0
Parcel 3	0
Parcel 4	90
Parcel 5	0
Parcel 6	70
Parcel 7	<u>0</u>
TOTAL	160

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Section 5.02. Minimum Parking Spaces. No Building shall be constructed within American Plaza which does not contain within such Building's Parcel sufficient parking spaces to meet the then applicable building code and parking ordinances, with or without variance. The number of parking spaces actually constructed, or under construction, within Parcels 1, 2, 3, and 5 shall be deemed to satisfy this requirement.

Section 5.03. Exclusive Parking Spaces. The parking spaces within the Underground Parking Levels of American Plaza shall be unmarked and available for patrons of the American Plaza parking lot, except that each Owner may designate up to twenty-five percent (25%) of the parking spaces within the Underground Parking Levels on its Parcel for the exclusive use of certain of the occupants of such Owner's Parcel and may mark such spaces accordingly. Notwithstanding the foregoing, the Owner of Parcel 4 may reserve the parking spaces which are under Parcel 4 and which are on the second and third sublevels shown on Exhibits "C2" and "C3" for the private use of the residential condominiums to be constructed on Parcel 4, and in connection therewith may construct appropriate fencing and security gates, and may also exclusively reserve up to ten percent (10%) of the remaining parking spaces within its respective Parcel. (In the event, however, Parcel 4 contains both an office tower and a residential tower, then the private residential spaces shall be allocated primarily to the third sublevel and such Owner may exclusively reserve up to twenty percent (20%) of the remaining parking spaces.) The Owner of Parcel 6 may reserve the parking spaces on the first sublevel under Parcel 6 as "Valet Parking" for the private use of the Building to be constructed on Parcel 6 and may also exclusively reserve up to fifteen percent (15%) of the remaining parking spaces within its respective Parcel.

Section 5.04. Operation of Underground Parking.

(a) The Maintenance Director, as part of its Common Area maintenance responsibilities described in Article

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IV above, shall operate and maintain the Underground Parking Levels. The costs of such operation and maintenance shall be allocated to each Parcel in accordance with Sections 4.04, 4.05 and 4.06. The costs of such operation and maintenance shall be determined without consideration or offset for any revenues or income derived from the Underground Parking Levels.

(b) The Underground Parking Levels, the ingress and egress ramps connecting such levels to adjacent streets and the parking spaces situated therein shall be operated by the Maintenance Director as a public parking lot. The Maintenance Director may elect to hire Beehive Parking Systems, Inc., or another professional parking lot operator to perform the operation and portions of the maintenance of the Underground Parking Levels. Such parking lot operator shall be selected through competitive bidding, if possible, from among those firms which are experienced and are capable of operating the Underground Parking Levels in a professional manner. In such event, the contract with such lot operator shall specifically require that all maintenance and operating expenses be submitted on a periodic basis for reimbursement and that the lot operator be compensated on a flat fee and/or percentage-of-revenues basis. The Maintenance Director (parking lot operator) shall allocate the total parking spaces in the Underground Parking Levels, other than those reserved for exclusive use pursuant to Section 5.03, between monthly parking and hourly parking so as to (i) fulfill the requirements of the Special Warranty Deed to provide at least 160 public parking spaces, (ii) maximize parking revenues and (iii) best accommodate the parking needs of occupants and customers of American Plaza.

(c) The Underground Parking Levels shall be operated to facilitate hourly parking validation by local merchants, businesses, and residential condominium occupants; convenient ingress and egress by long-term parking patrons; enforcement

of the reserved markings on exclusive spaces and convenient and efficient use of the Valet Parking and the private residential parking areas described in Section 5.03.

Section 5.05. Parking Passes.

(a) The Maintenance Director (or parking lot operator) shall distribute periodically free of charge sufficient parking passes or decals to permit the Valet Parking under Parcel 6 and the private residential condominium parking under Parcel 4 to function as intended. The parking lot operator shall offer for sale the following parking passes: (i) monthly parking (regular), (ii) monthly parking (extended), and (iii) hourly parking, perhaps differentiated between those entering before 6:30 p.m. and those entering after 6:30 p.m. Regular monthly parking passes shall be effective during all hours except between 6:30 p.m. and 10:30 p.m. each day. Extended monthly parking passes shall be effective during all hours. The cost of an extended monthly pass shall equal the cost of a regular monthly pass plus a surcharge of fifteen percent (15%). Each Parcel Owner exclusively reserving spaces pursuant to Section 5.03 (other than the Valet Parking and the private residential condominium parking) shall purchase an extended monthly pass for each space so exclusively reserved.

(b) The monthly parking passes to be sold each month (exclusive and nonexclusive) shall first be offered at the monthly rates then in effect to the Owners of the various Parcels on a prorata basis in accordance with the number of spaces under each Parcel (other than any private residential and valet parking spaces). In no event shall the parking lot operator fail to offer any Parcel Owner the opportunity to purchase on a monthly basis, if such Owner so desires, at least seventy five percent (75%) of the parking spaces under such Owner's Parcel (inclusive of the spaces exclusively reserved or privately designated by such Owner pursuant to

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Section 5.03 above, except that the Owner of Parcel 4 shall be entitled to purchase on a monthly basis up to seventy-five percent (75%) of the spaces under its Parcel which are not designated for the private residential condominiums).

Section 5.06. Allocation of Parking Revenues.

(a) Revenues received each month from the operation of the Underground Parking Levels shall be collected and booked by the following categories: (i) monthly parking sales (regular), (ii) monthly parking sales (extended), (iii) hourly parking sales collected during weekdays before 6:30 p.m. and (iv) hourly parking sales collected after 6:30 p.m. or on weekends. The foregoing revenues shall be placed into separate Revenue Pools as follows: Revenue Pool A shall consist of hourly parking sales collected after 6:30 p.m. on weekdays and during weekends and the surcharge portion of all extended monthly parking sales. Revenue Pool B shall consist of all monthly parking sales (both extended and regular but exclusive of the extended pass surcharge) made to Parcel Owners or occupants of American Plaza. Revenue Pool C shall consist of hourly parking sales collected before 6:30 p.m. during weekdays and monthly parking sales (both extended and regular but exclusive of the extended pass surcharge) sold to third parties (who are not Parcel Owners or occupants of American Plaza), and any other revenues not specifically allocated to Revenue Pool A or B described above.

(b) The Revenue Pools described in Section 5.06(a) next above shall be allocated, without deduction for expenses of operating and maintaining the Underground Parking Levels, among the Parcel Owners on a prorata basis. Each Parcel Owner shall be entitled to that portion of Revenue Pool A which equals (i) the number of parking spaces within the underground portions of such Parcel which have not been re-

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served for private or exclusive use (the "nonexclusive spaces"), divided by (ii) the number of such nonexclusive spaces situated in the underground portions of American Plaza. Each Parcel Owner shall be entitled to that portion of Revenue Pool B which equals (i) the number of nonexclusive monthly parking spaces under such Parcel which were leased by the Owner and occupants of such Parcel divided by (ii) the number of such nonexclusive monthly parking spaces situated within American Plaza which were leased by all Owners and occupants of American Plaza. Each Parcel Owner shall be entitled to that portion of Revenue Pool C which equals (i) the number of nonexclusive spaces under such Parcel which were not leased by the Owner and occupants of such Parcel (the "public spaces") divided by (ii) the number of such public spaces within American Plaza.

(c) At the end of each month, the Maintenance Director shall compute the revenues to which each Parcel is entitled, shall deduct therefrom the expenses for which each Parcel is responsible pursuant to Article IV above (which may or may not be the Budget Billing amount) and remit the balance, together with a detailed accounting statement, to each Parcel Representative.

Section 5.07. First Opportunity for Nonexclusive Spaces. The nonexclusive spaces under each Parcel which are intended to be utilized for monthly parking by the parking lot operator shall be first offered to the Owner of such Parcel in accordance with Section 5.05(b) above. Any such spaces which are not leased by such Owner and which the parking lot operator nevertheless intends to lease on a monthly basis shall next be offered for lease on a prorata basis to the other Parcel Owners of American Plaza before the parking lot operator offers them to third parties within the downtown community

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in general and all revenues derived from such leasing shall be allocated to Revenue Pool C.

ARTICLE VI

UTILITIES

Section 6.01. Storm Drainage. Each Parcel Owner hereby grants to the other Owners an easement across the Plaza Level and Underground Parking Levels of its Parcel for storm drainage and storm drainage facilities. The storm drainage system for American Plaza shall be designed by the Project Architect and the portion of such system located on each Parcel shall be constructed by the Owner of such Parcel in accordance with plans first approved by the Project Architect.

Section 6.02. Common Area Lighting. The power for lighting the Common Areas of American Plaza shall be provided through a separate meter and common power lines. The cost of such power shall be allocated among the Owners as part of the Common Area maintenance expenses described in Article IV above. The common lighting system shall be designed by the Project Architect and the portions thereof, together with the related light poles and fixtures located on each Parcel, shall be constructed by the Owner of such Parcel as part of the Buildings on such Parcel.

Section 6.03. Other Utilities. Each Parcel Owner shall construct necessary electric power and telephone lines, gas lines, sanitary sewer lines, domestic water and fire protection lines, cable television lines and other utility lines serving its Building, and all equipment and facilities related thereto, wholly within such Owner's Parcel and shall access trunk lines and mains within public rights-of-way at those points where such rights-of-way are contiguous to each such Parcel. (The Owner of Parcel 3, however, may,

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pursuant to Section 6.06 below, access trunk lines and mains via Parcel 7.)

Section 6.04. Construction of Utility Lines. All utility lines shall be constructed underground and in accordance with all applicable building codes and governmental regulations.

Section 6.05. Repair and Maintenance. The Maintenance Director shall maintain the storm drainage system described in Section 6.01 and the common power lines and lighting facilities described in Section 6.02 in good repair and in a proper operating condition. The costs of such repair and maintenance shall be deemed to be Common Area maintenance expenses and shall be allocated among the Parcel Owners in accordance with Section 4.04 above. Each Owner shall maintain the other utility lines located within its Parcel in good condition and repair and shall conduct any such repair or maintenance obligation so as to minimize any resulting disruption to the normal functioning of the Common Areas.

Section 6.06. Cooperation. In the event any Owner is unable to obtain necessary utility service directly from contiguous rights-of-way as is described in Section 6.03 above, the adjacent Owners shall, in good faith, evaluate any request by such Owner for an underground utility easement across one or more adjacent Parcels and shall grant such request provided (i) there are no material adverse consequences to the grantor, (ii) the grantee agrees to pay for all costs associated with the preparation of such easement and the construction and maintenance of all lines and equipment within the resulting easement area, and (iii) the grantee agrees to indemnify the grantor from any liability arising from the use, installation or condition of any such lines or equipment.

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Section 6.07. Duration; Modification. The storm drainage easement described in Section 6.01 above shall be perpetual subject, however, to abandonment, which shall be conclusively presumed in the event of continuous non-use for a period of two (2) years. The easements, if any, which are granted pursuant to Section 6.06 shall terminate and expire on the date the Building which is served by any such easement ceases to exist, unless such Building is restored or replaced within two (2) years after its destruction. The easements and rights described in Sections 6.08 and 6.09 below shall expire on the termination date of this Agreement. Any easement described herein may be released, extinguished, amended or modified by instrument, in recordable form, executed by the Owners whose Parcels are benefited and burdened by such easement.

Section 6.08. Common Area Utilities. The parties recognize that the water needed to maintain Common Area vegetation and clean the Common Areas situated within each Parcel shall be supplied from the Building located on such Parcel. Each Owner agrees to provide such water to the Maintenance Director, without charge, and to provide the Maintenance Director with convenient access to the control switches and valves which control the flow of such water.

Section 6.09. Energy Control, Security and Communication Lines. Each of the Owners hereby grants to the other Owners an easement across the granting Owner's Parcel for the purpose of installing and maintaining control and computer hook up lines for mechanical and electrical equipment, lines for security equipment and telephone interconnect and other communication lines; provided any such lines are placed in conduit and are installed beneath the Plaza Level in those areas of the Underground Parking Levels as are reasonably

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designated by the Maintenance Director. The maintenance of such lines shall be the responsibility of the installing Owner.

ARTICLE VII

TERM; EASEMENTS

Section 7.01. Term. This Agreement shall remain in effect for sixty (60) years from the date upon which this Agreement is first recorded in the Official Records of Salt Lake County, except for certain easements described in Article VI which shall have the specific terms therein described and except for the ramp and drive aisle easements described in Section 3.02 (ii) which shall have a perpetual term.

Section 7.02. Easements. All easements granted in this Agreement shall exist by virtue of this Agreement, without the necessity of confirmation by any other document; and likewise, upon the extinguishment, expiration or termination of any easement, in whole or in part, or its release with respect to all or any portion of any parcel, the same shall be extinguished or released or be deemed to have expired or terminated without the necessity of confirmation by any other document. However, each Owner shall, as to any easement, at the request of any other Owner, upon the submission by the requesting Owner of an appropriate document in form and substance acceptable to both parties, execute and acknowledge such a document in recordable form memorializing the existence, or the extinguishment in whole or in part, or the release with respect to all or any portion of any Parcel, as the case may be, of any such easement. Each easement granted in this Agreement is irrevocable except upon the termination of this Agreement or the earlier termination of such easement by the various Owners.

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ARTICLE VIII

USE RESTRICTIONS

Section 8.01. Limitations on Permitted Uses. No portion of American Plaza or any Building constructed thereon shall be used for any purpose other than office, residential, commercial or retail uses. Uses which are prohibited either because they are obnoxious or because they would detract from the atmosphere of American Plaza or because they would conflict with reasonable standards of appearance, maintenance and housekeeping required by this Agreement are those described below:

(a) Any warehouse, assembly, manufacturing, distillation, refinery, smelting, industrial, agricultural, drilling or mining operation;

(b) Any trailer court, mobile home park, lot for sale of new or used motor vehicles, junk yard, second-hand store, unemployment office, pet shop, animal raising business, veterinary hospital, pool hall, pornographic book store, liquor store, bar or tavern (the words "liquor store", "bar" and "tavern", however, as used above shall not be deemed to exclude the serving of liquor as an incidental part of a restaurant or hotel operation);

(c) Any commercial laundry, dry cleaning plant, laundromat, meat processing plant, commercial car wash, automobile body and fender repair shop, mortuary, prison or jail, massage parlor or bowling alley (the foregoing, however, shall not exclude a private laundry or dry cleaning operation or a car wash area included as an incidental part of a hotel operation or a residential condominium operation).

Section 8.02. Limitation on Permitted Activities.

(a) No portion of the Common Areas shall be used for an auction or for a second-hand, going-out-of-business, or sidewalk sale or for the storage or display of merchandise (except as permitted in Section 21.03 below).

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(b) No part of any Building within American Plaza shall be utilized so as to create any flashing light, loud noise, litter, offensive odor or smoke which can be heard or experienced from adjacent portions of such Building, from the Common Areas or from adjacent Buildings.

(c) No activity shall be conducted within American Plaza which would create a public or private nuisance or which would likely be damaging, dangerous or hazardous.

(d) No theaters located within American Plaza shall exhibit pornographic or "X" rated movies.

(e) Following the completion of the Common Area improvements on any Parcel, no fence, barricade, structure or other obstruction of any kind whatsoever shall be placed or permitted within Common Areas which would interfere with the free and orderly passage of vehicles and pedestrians across each Parcel as is described in this Agreement. Notwithstanding the foregoing, however, temporary barricades may be placed in the Common Areas, as reasonably appropriate, to prevent injury or accident during the course of maintenance, construction or remodeling activities and to prevent any portion of the Common Areas from being used by unauthorized persons or from becoming dedicated to the public.

Section 8.03. Limitation on Persons Utilizing Common Areas. No Owner shall permit unauthorized persons to use, or have access to, the Common Areas of such Owner's Parcel. No Owner shall permit authorized persons to utilize the Common Areas for purposes other than those for which such Common Areas were constructed. Solely for the purpose set forth in this Section 8.03, each Owner shall be deemed to have the general possession and control of the Common Areas. The Owners, jointly or individually, may, subject to the provisions of the following sentence, at any time and from time to time, remove, exclude and restrain from the Common Areas

any unauthorized use described herein. If any such unauthorized use is being made of any Common Areas, any of the Owners may, if such unauthorized use shall not be terminated within a reasonable time after notice thereof is given to the Owner on whose Parcel such unauthorized use occurs, restrain or terminate such unauthorized use by appropriate legal proceedings. Any Owner exercising the foregoing rights upon the Parcel of any other Owner shall hold such other Owner harmless from all liabilities, costs, expenses and damages which may result from such action, including reasonable attorney's fees.

ARTICLE IX

PROPERTY INSURANCE; CASUALTY

Section 9.01. Fire and Extended Coverage Insurance.

Commencing upon the beginning of construction of each Owner's respective Building or Common Area improvements, such Owner shall carry, or cause to be carried, fire and extended coverage insurance in an amount at least equal to ninety percent (90%) of the replacement cost (exclusive of the cost of excavation, foundations and footings) of such Building and improvements, which insurance will provide coverage against those risks which, from time to time, are included as covered risks (pursuant to standard insurance industry practice) within the classification of "fire and extended coverage." Such Owner shall also carry with such fire and extended coverage insurance, the then prevailing common endorsements against vandalism and malicious mischief and other similar casualties. Currently, such insurance would cover the following perils: loss or damage by fire, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, malicious mischief, vandalism, falling aircraft, vehicles and smoke. Such insurance shall be carried with financially responsible insurance companies. Each Owner shall furnish to any other Owner or

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the Maintenance Director, upon request, evidence that the insurance required by this Section is in force and effect and that the premiums therefor have been paid. Each Owner agrees to obtain upon request a provision in its insurance policy that the same may not be cancelled or modified without at least thirty (30) days' prior written notice being given by the requesting Owner.

Section 9.02. Blanket Insurance and Self-Insurance.

Any insurance required to be carried pursuant to this Article IX may be carried by an Owner (i) under a policy or policies covering other properties or locations owned or controlled by such Owner, or by affiliates of such Owner; provided that such policy or policies allocate to the properties required to be insured by Section 9.01 an amount not less than the amount of insurance required to be carried by such Owner hereunder or (ii) under any plan of self-insurance from time to time maintained by such Owner, on condition that such Owner so self-insuring has and maintains adequate net current assets for the risks so self-insured against, and that such Owner shall furnish to any other requesting Owner evidence of the adequacy of said net current assets. A minimum net worth of at least \$50,000,000 and net current assets of \$25,000,000 or more shall be required in order to self insure hereunder. The annual report of any such Owner which is audited by independent Certified Public Accountants shall be sufficient evidence of net worth and net current assets.

Section 9.03. Release; Waiver of Subrogation. Each Owner hereby releases each of the other Owners and the Maintenance Director from any liability for any loss or damage to property, Buildings or improvements or the contents thereof located on such Owner's Parcel which loss or damage is of the type covered by the insurance required to be carried

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pursuant to this Article IX, irrespective of any negligence on the part of the other Owner which might have contributed to such loss or damage. To the extent legally permissible, the foregoing is intended to eliminate any direct claim brought by the releasing Owner and any possible subrogation claim of the carrier providing the insurance required hereunder. Each Owner covenants that it will, to the extent such insurance endorsement is available, obtain from its respective insurance carrier(s) for the benefit of each other Owner a waiver of any right of subrogation which the insurance carrier may subsequently acquire against any other Owner or against the Maintenance Director (each Owner, however, shall only be obligated to obtain such subrogation waiver with respect to one person or entity per Parcel, which person or entity shall be the Parcel Representative of the land comprising each Parcel, unless such Parcel Representative instructs such insuring Owner to obtain such waiver with respect to some third party).

Section 9.04. Use of Policy Proceeds; Restoration.

Fire and extended coverage insurance proceeds paid to an Owner by reason of damage to, or destruction of, its Building shall be used by such Owner as soon as is reasonably possible to either restore such damaged or destroyed Building or to otherwise rebuild improvements on such Owner's Parcel which are in compliance with this Agreement at least to the extent which would permit the Underground Parking Levels and Plaza Level to again function normally for the benefit of all Owners. Should an Owner elect not to restore its Building, such Owner shall, as a minimum, restore the Underground Parking Levels to their prior condition, remove any resulting rubble from the Plaza Level and construct Common Area improvements within its Building area on the

Plaza Level. The construction of Common Area improvements within the Building area of a Parcel, however, shall not preclude the Owner of such Parcel from subsequently utilizing such area for a Building in compliance with the other provisions of this Agreement. Fire and extended coverage insurance proceeds paid to an Owner by reason of damage to, or destruction of, Common Area improvements on its Parcel shall be used by such Owner for the repair or rebuilding of such Common Area improvements.

ARTICLE X

PUBLIC LIABILITY INSURANCE

Section 10.01. Maintenance Director's Insurance. The individual or entity serving as Maintenance Director shall, at all times during such service, maintain or cause to be maintained in full force and effect comprehensive public liability insurance in the combined single limit amount of at least \$5,000,000, or such additional sum as the Maintenance Director shall deem to be prudent under the circumstances. Such insurance shall insure against death, personal and bodily injury and property damage occurring on the Common Areas of American Plaza and arising out of the Maintenance Director's performance or nonperformance of its duties described in Article IV above. Such insurance shall name each of the Owners as additional insureds (but the Maintenance Director shall only be obligated to name one person or entity per Parcel as an additional insured, which person or entity shall be the Parcel Representative of the land comprising each Parcel, unless such Parcel Representative instructs the Maintenance Director to name some other party).

Section 10.02. Proration. The cost of the insurance described in Section 10.01 above shall be considered a Common

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Area maintenance expense and shall be allocated between the various Owners in accordance with Sections 4.04 and 4.05 above.

Section 10.03. Owner's Insurance. Commencing at the time each Owner enters onto its Parcel to begin construction and throughout the term of this Agreement, each Owner shall maintain in full force and effect comprehensive public liability insurance in the combined single limit amount of at least \$2,000,000 insuring against death, bodily or personal injury and property damage arising out of such Owner's activities within its Parcel or on the Common Areas of American Plaza, provided, however, such insurance shall include during construction or remodel periods contractor's liability and automobile coverage with broad form property damage endorsement in the face amount of at least \$5,000,000.

Section 10.04. Provisions to be Contained in Policies. The public liability insurance described in this Article X shall contain a personal injury endorsement covering such wrongful acts as false arrest, false imprisonment, malicious prosecution and libel and slander. Each policy of insurance shall be issued by insurers having a key guide general policy holders' rating of "B+" or above and a financial category rating of Class XII or above in the most recent edition of "Best's Insurance Reports".

ARTICLE XI

TAXES

Section 11.01. Covenant to Pay. Each Owner shall timely pay before delinquency all real property taxes and assessments which are levied or otherwise assessed against the land and improvements situated within such Owner's Parcel.

Section 11.02. Right to Contest or Appeal. Any Owner may defer payment of the taxes and assessments described in

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Section 11.01 next above while appealing or contesting the validity or amount thereof, provided such contest or appeal is in good faith and does not subject such Owner's Parcel to foreclosure. Upon receiving a final adverse ruling or decision, the contesting Owner shall immediately pay all taxes and assessments, late charges and penalties then due and take such other action as is necessary to insure that a foreclosure does not subsequently occur.

Section 11.03. Failure to Pay. Should any Owner default in paying taxes or assessments which are due on its respective Parcel, any other Owner or occupant of American Plaza may pay such taxes or assessments (i) if they are delinquent and (ii) the defaulting party has not commenced and is not diligently prosecuting any contest or appeal of such taxes or assessments. The curing party shall bill the defaulting party for the expenses incurred, together with interest at the rate described in Section 15.01, and the defaulting party shall have fifteen (15) days within which to pay said bill. If such defaulting party fails to pay said bill, the curing party shall have the remedies described in Article XV, and the defaulting party shall be responsible for any attorneys' fees and related costs expended in collecting such bill.

ARTICLE XII

CONDEMNATION

Section 12.01. Definitions. As used herein "Condemnation" shall mean the taking of any portion of American Plaza, or the improvements constructed thereon, pursuant to the exercise of the power of eminent domain (other than the taking of temporary possession of sixty (60) days or less) or any conveyance in lieu thereof under a realistic threat of con-

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demnation made by a duly constituted authority having eminent domain powers with respect to the property in question.

Section 12.02. Award. The condemnation award or payment made to the Owner of the Parcel so taken, including without limitation, that portion of the award or payment attributable to Common Area land or improvements on such Parcel, shall be payable to such Owner (subject to the terms of leases, deeds of trust or mortgages executed by, succeeded to, or otherwise binding upon such Owner), and no interest in such award or payment shall be claimed by any other Owner; provided, however, such other Owner shall be entitled to claim payment from the condemning authority, in accordance with law, for the value of its Common Area rights in the property or improvements so taken and may file a collateral claim with the condemning authority for any damage suffered by such other Owner because of the severance or loss of such Common Area rights. Any such payment or claim shall only be made to such other Owner based upon an evaluation of such other Owner's damages following the restoration described in Section 12.03 next below.

Section 12.03. Restoration. If any part of a Parcel or the improvements constructed thereon are taken by condemnation, the Owner of such Parcel shall, at its expense and as soon as is reasonably possible, restore the remaining portion of its Parcel or improvements as near as practicable to their condition immediately prior to such condemnation or otherwise rebuild improvements on its Parcel which are in compliance with this Agreement at least to the extent which would permit the Underground Parking Levels and Plaza Level to function normally for the benefit of all Owners.

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ARTICLE XIII

ESCROW OF CONDEMNATION AWARD OR
INSURANCE PROCEEDS; MORTGAGEE PARTICIPATION

Section 13.01. Escrow. If an Owner (the "Obligated Owner") is required to perform restoration work on its Parcel pursuant to Section 12.03 or Section 9.04 and such Obligated Owner does not have a net worth and net current assets entitling such Obligated Owner to self insure pursuant to Section 9.02, the insurance proceeds or condemnation proceeds to which such Obligated Owner is entitled shall be paid to such Obligated Owner as trustee and shall be immediately placed in a Salt Lake City bank or trust company approved by the other Owners, to be distributed by such bank or trust company in the following order of priority:

(i) to the Obligated Owner, sufficient sums to pay the costs and expenses of collecting such insurance proceeds or condemnation award;

(ii) to a construction fund to be held by such bank or trust company, sufficient sums to cover the estimated cost of the Obligated Owner's restoration work, which fund shall be disbursed by way of progress payments to the various contractors and materialmen employed to perform such restoration; and

(iii) to the Obligated Owner, the balance of such insurance proceeds or condemnation award.

Section 13.02. Mortgagee Participation. Nothing herein contained shall be deemed to prohibit the holder of any mortgage or trust deed encumbering the Obligated Owner's Parcel from participating in any eminent domain proceedings or in the collection of insurance proceeds; provided such participation does not adversely affect any other Owner or the distribution described in Section 13.01 (ii) next above.

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ARTICLE XIV

SIGNS

Section 14.01. Prohibited Signs. No billboards shall be allowed within American Plaza. No signs on the exterior of Buildings within American Plaza or in Common Areas shall be flashing, rotating, moving, or audible. No signs shall be permitted on top of canopies or on building roofs. Except for temporary signs permitted under Section 14.03, the wording of exterior signs (or signs mounted on exterior glass) shall not include the name of available products or services, except where such words are a part of a regular trade name, logo or insignia or are required by governmental regulations. No sign, or any portion thereof, shall project above the parapet or top of the wall upon which it is mounted. No signs shall be mounted perpendicular to the face of Buildings. No signs shall be placed on or in any exterior window which is above the exterior entrance level. No changeable marquee type signs shall be permitted except for permanent marquee signs associated with theaters or hotels. No pylon or pole signs shall be permitted within American Plaza, except for monument signs which do not have more than forty (40) square feet of fascia per side and do not exceed ten (10) feet in height. Reader board type signs indicating the various occupants within a Building shall not be permitted on the exterior of Buildings, or in Common Areas, if such signs can be read from a distance greater than three (3) feet.

Section 14.02. Design and Construction Requirements. Letter height and size of each Building sign shall be appropriately scaled and proportioned to the overall wall upon which such sign is mounted. The total area of a sign (measured from the boundary of rectangles enclosing each group of letters, symbols or logos) shall not exceed ten percent (10%) of the wall area on which such sign is mounted. Signs shall be professionally designed to be compatible with the modern

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theme of American Plaza. Exterior signs, bolts, fastenings and clips shall be of hot dipped galvanized iron, stainless steel, aluminum, brass or bronze and exterior signs exposed to the weather shall be mounted at least 3/4" from the Building wall to permit proper dirt and water drainage.

Section 14.03. Temporary Signs. No advertising banners, pennants or paper or cardboard signs shall be placed on the exterior of Buildings, on the exterior or interior of perimeter glass or in Common Areas. The foregoing sentence, however, shall not prohibit such signs during the course of a grand opening, provided such temporary signs are not permitted to remain longer than thirty (30) days and nothing contained in this Article shall prohibit signs used in connection with the leasing or selling of space within American Plaza, provided such signs are well-designed and well-constructed.

Section 14.04. Covenants. All Owners and occupants of American Plaza shall comply with the provisions of this Article XIV. Should any proposed sign possibly violate the provisions hereof, the Owner of such sign may seek a ruling from the Project Architect by submitting detailed drawings of such sign for approval. The decision of the Project Architect shall be in writing and shall be binding on all Owners and others having an interest in American Plaza. In the event of any conflict of interpretation between an Owner or occupant and the Project Architect as to the application of these criteria, the Project Architect shall submit the design or issue in question to the Owners whose majority decision (each Owner having one vote) shall be final and binding on all concerned.

Section 14.05. Existing Signs, Amendment. Should this Article be subsequently amended through the process described elsewhere in this Agreement, no such amendment shall invali-

date the continued existence of a sign which was proper hereunder when installed. All signs in existence or under construction on the recordation date of this Agreement shall be deemed to be in compliance with the provisions hereof.

ARTICLE XV

DEFAULT; REMEDIES

Section 15.01. Interest on Past Due Sums. All sums required to be reimbursed or otherwise paid hereunder from one Owner to another or to the Maintenance Director shall bear interest per annum at the floating rate of one percent over the prime rate charged by First Security Bank of Utah, N.A., Salt Lake City, to its most credit worthy corporate customers. Such interest rate shall be determined monthly on the first day of each calendar month. Interest not paid at the end of each calendar year shall be added to the unpaid principal. Interest shall be charged on all past due sums, commencing on the date payment is due and continuing until the date of payment.

Section 15.02. Right of Self-Help. If any Owner (hereinafter the "Defaulting Party") shall fail to comply with the provisions of this Agreement as to maintenance, repair, operation or use of Buildings (including columns) or Common Areas, the payment of taxes, the payment of other monies, the obtaining of insurance, or other obligation contained herein, then and in any such event any other Owner shall have the right, upon thirty (30) days' written notice to the Defaulting Party, with copies given to all other Owners (unless within such thirty-day period the Defaulting Party shall cure such default, or in the case of a non-monetary default which by its nature cannot be cured within such thirty-day period, the Defaulting Party shall take such action as is reasonably calculated to commence the curing thereof, and thereafter, shall dili-

gently prosecute the curing thereof to completion) to proceed to take such action as shall be necessary to cure such default, all in the name of and for the account of the Defaulting Party. The Defaulting Party shall on demand reimburse the Owner taking such action for the moneys actually expended by it and its reasonable out-of-pocket expenses in so doing, together with all penalties, if any, arising from such default, if paid by such other Owner, with interest computed in accordance with Section 15.01 from the date of demand to date of payment. Notwithstanding the foregoing, if any Owner (other than the Defaulting Party) shall in good faith deem that an emergency is occurring or has occurred, so that the default requires immediate curing, then no notice shall be required and any non-defaulting Owner may act promptly without giving notice and take such action as is necessary to cure the alleged failure. Any Owner performing any action pursuant to the preceding sentence shall interfere to the minimum extent possible with the Defaulting Party's business, and, with reasonable promptness, shall give verbal or written notice to the Defaulting Party of its action and the claimed failure. Written confirmation of any emergency action so taken, with copies to all other Owners, shall be given as soon as is reasonably possible under the circumstances. The Owner so acting shall diligently pursue to completion any work to be performed by it under the provisions of this Section.

Section 15.03. Right of Off-Set; Claim Against Parking Revenues. If any Owner (the "Payor") is required to make a payment to any other Owner or to the Maintenance Director (the "Payee") under this Agreement and fails to make such payment, the Payee shall have the right to off-set the amount due to it against any sums due from the Payor to the Payee under this Agreement. The foregoing sentence shall specific-

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ally entitle, without limitation, the Maintenance Director to withhold any moneys due it hereunder by any Payor from such Payor's share of the revenues generated by the Underground Parking Levels. If any Payor fails to pay any sums due hereunder, the Payee may file a notice of claim with the Maintenance Director who, if such claim reasonably appears to be legitimate, shall not pay the next sums thereafter due to the Payor from the operation of the Underground Parking Levels up to the amount of such claim, until such claim has been resolved. Such net sums shall be placed by the Maintenance Director in an interest bearing account during the pendency of such claim. The Maintenance Director's right of off-set described herein, however, shall be superior to any off-set claim filed by any other Payee.

Section 15.04. Injunction; Specific Performance; Remedies Cumulative. All remedies herein specifically set forth are cumulative and shall be deemed to be in addition to any remedies available at law or in equity which shall include the right to restrain by injunction any violation or threatened violation by any Owner or other person of any of the terms, covenants or conditions of this Agreement and by decree to compel specific performance of any such terms, covenants or conditions, it being agreed that the remedy at law for any breach of any such term, covenant or condition is not adequate.

Section 15.05. Default Shall Not Permit Termination. Notwithstanding the foregoing, however, no default by an Owner under this Agreement shall entitle any other Owner, or its successors or assigns, to terminate, cancel or otherwise rescind this Agreement.

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Section 15.06. Lien.

(a) Should any Owner (the "Defaulting Party") fail to pay any sums due by it hereunder to any other Owner or to the Maintenance Director (the "Creditor"), the Creditor shall have a lien on the Defaulting Party's Parcel for the sum due, together with interest at the rate described in Section 15.01 above, and for all associated costs and expenses as described in Section 15.07 below. Any such lien may be filed of record by the Creditor in the Office of the County Recorder, Salt Lake County, Utah, signed and verified, which shall contain at least:

(1) A statement of the description and amount of the unpaid sum and related expenses and rate of accruing interest;

(2) A description sufficient for identification of the Parcel which is subject to the lien;

(3) The name of the Owner(s) or reputed Owner(s) of the Parcel which is the subject of the lien; and

(4) Reference to this Agreement as the source and authority for such lien.

(b) Such lien, when so established against the Parcel described in such lien, shall attach as of date of recording and shall be prior and superior to any right, title, interest, lien or claim which may be, or has been filed against, or attached to, such Parcel after the time of the filing of such lien, except only for general taxes and assessment liens and any first mortgage or first deed of trust of record, including all obligatory or permissive future advances which are made and secured by such first mortgage or first deed of trust. Such lien shall be for the use and benefit of the Creditor of the Defaulting Party and may be enforced and foreclosed in a suit or action brought in a

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court of competent jurisdiction, or may be foreclosed in a like manner to the foreclosure of a mortgage on real property under the laws of the State of Utah. In any such foreclosure, the Owner of the Parcel which is being foreclosed shall be required to pay the cost, expenses and reasonable attorneys' fee incurred in connection with such foreclosure. Any other default which would give rise to a similar lien hereunder on the Parcel which is being foreclosed may be added as a claim in the pending foreclosure proceeding by an amendment of any complaint in foreclosure. Additionally, the Creditor foreclosing shall be entitled to a receiver for the Parcel in foreclosure without regard to the requirements of common law pertaining to the appointment of receivers. The Creditor and any other Owner in American Plaza shall have the power to bid, along with the public, on such Parcel at any foreclosure sale.

(c) Any person or entity foreclosing a lien described herein shall give notice to any holder of any mortgage or any deed of trust encumbering the Parcel in question, provided the address of such holder is of record within the encumbrance reflecting such mortgage or deed of trust. Should such holder or other person elect to pay the amount of the lien, following such payment, such holder shall, by assignment of lien duly recorded, have a lien on the same Parcel for the amount so paid and of equal rank as the lien reflecting the past due sum so satisfied.

(d) The amount of any lien described herein shall be a personal and individual debt of the Owner of the Parcel which is (or could become) the subject of such lien. Suit to recover a money judgment for such amount may be maintainable without foreclosing or waiving such lien.

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Section 15.07. Attorneys' Fees and Costs. In the event of litigation arising under the provisions of this Agreement, the prevailing party in such litigation shall be entitled to receive, in addition to any monetary damages or other relief which may be granted, a reasonable sum for attorneys' fees and court costs, including any such fees and costs on appeal.

ARTICLE XVI

SALE, TRANSFER AND ENCUMBRANCE; BINDING
AND RELEASING SUCCESSORS AND ASSIGNS;
PARCEL REPRESENTATIVES; AMENDMENT

Section 16.01. Definitions. As used in this Article, the following terms shall have the following meanings:

(a) "Transfer" means a sale, assignment, grant, release or other conveyance of the fee, including, without limitation, the sale portion of a sale and leaseback or the making of a mortgage or the granting of a deed of trust.

(b) "Transferor" means the seller, assignor, grantor or transferor in a particular Transfer.

(c) "Transferee" means the purchaser, assignee, grantee or transferee in a particular Transfer.

(d) "Sale and Leaseback" means a Transfer in which the Transferor, or an affiliate thereof, acquires as part of the same transaction a leasehold interest in all or substantially all of the Parcel so transferred, which lease has an initial term ending not earlier than twenty years after the date of such lease.

Section 16.02. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of each Owner and its respective successors and assigns, heirs, and personal representatives, whether or not so provided in any particular provision hereof, subject, however, to the provisions of this Article XVI.

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Section 16.03. Parcel Representatives.

(a) It is understood that several Parcel Owners may sell condominium interests in the Building constructed on each such Owner's Parcel or may lease space within such Building. Notwithstanding anything to the contrary herein contained, each Parcel within American Plaza shall be represented by one agent (the "Parcel Representative"), which Parcel Representative is hereby authorized:

(1) to receive notice on behalf of all condominium or other Owners of a fractional portion of such Building or all tenants within such Building;

(2) to cast the vote to which such Parcel is entitled on all matters described in this Agreement which may be submitted to a vote of Parcel Owners (unless any such matter specifically provides for a certain person or entity to cast such vote);

(3) to represent such Building at all meetings of Parcel Representatives (the "Council of Owners");

(4) to receive all parking and other revenues to which such Parcel is entitled;

(5) to collect from each condominium or fractional Owner of such Building and to remit to the Maintenance Director all sums required to be paid by such Owner under this Agreement;

(6) to receive on behalf of all condominium or fractional Owners and all tenants or subtenants or other occupants of a Parcel, or portion thereof, any service of process;

(7) to execute, as appropriate, amendments to this Agreement and cause such amendments to be recorded, which amendments, when duly made pursuant to the terms of

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this Agreement, shall be binding upon all Owners and occupants of American Plaza; and

(8) to adopt as a member of the Council of Owners rules and regulations in accordance with Section 21.06 below.

Such Parcel Representative is hereby obligated:

(1) to give a copy of any notice, writing or service of process received by it to the condominium and other fractional Owners of such Building and, where applicable, to the tenants, subtenants and other occupants of such Building;

(2) to attend, in person or by proxy, all duly called meetings of the Council of Owners; and

(3) to disperse to each condominium or other fractional Owner of such Building, such fractional Owner's proportionate share of all net parking or other revenues received by such Parcel Representative.

(b) The exercise of any powers and rights of an Owner under this Agreement by such Parcel Representative shall be binding upon such Owner and all others having a fractional or leasehold interest in such Owner's Parcel. The other Owners shall have the right to deal with and rely upon the acts or omissions of such Parcel Representative in the performance of this Agreement. The existence of such Parcel Representative, however, shall not relieve any Owner, or its successors and assigns, or other persons or entities having an interest in such Owner's Parcel, from the obligations created by this Agreement. Any person designated as a Parcel Representative, pursuant to the provisions of this Article, shall be the agent of his principals (the Owners and occupants of the Building(s) on such Parcel) upon whom service of any notice, process, writ, summons, order or other mandate of any nature of any court in any action, suit, or proceeding arising out of this Agreement may be made; and

service upon such Parcel Representative, as agent, shall constitute due and proper service of any such matter upon his principals. Until a successor Parcel Representative has been appointed and notice of such appointment has been given to the other Owners (or Parcel Representatives), the designation of the initial agent shall remain irrevocable.

Section 16.04. Selection of Parcel Representative. The agent for each Parcel described in Section 16.03 above shall be selected as follows:

(a) Except as described in subsection (b) next below, as long as the original Owner of such Parcel (as set forth in Recital Paragraph C) has a fee ownership interest in the Building(s) on such Parcel equal to at least fifteen (15%) of the Floor Area within such Building(s), such original Owner shall serve as the Parcel Representative for such Parcel.

(b) With respect to any Parcel which has separate condominium owners, the Condominium Owners Association, when established, shall be the Parcel Representative for such Parcel.

(c) When the original Owner or the Condominium Owners Association no longer qualifies as the Parcel Representative for such Parcel, or otherwise resigns or ceases to serve, such Parcel Representative shall be the person or entity responsible for the operation and maintenance of the Building on such Parcel, unless the Declaration of Condominium or other governing legal instrument respecting such Building specifically designates some other person or entity as such Parcel Representative.

(d) In no event may a Parcel Representative be a minor or a person suffering under a legal disability or be an entity which does not have a person who is a resident of the State of Utah as a managing partner, trustee or principal officer, or be a person or entity not domiciled in the State of Utah.

Section 16.05. Council of Owners. The Parcel Representatives shall meet from time to time as they shall determine

to discuss the operations of the Common Areas. Such "Council of Owners" may adopt nondiscriminatory rules in accordance with Section 21.06 below. Such rules may be adopted by a majority vote of the Parcel Representatives at any regularly scheduled meeting, or at any meeting duly called by any Parcel Representative upon ten (10) days prior written notice to the other Parcel Representatives, as long as a majority of the Parcel Representatives are then in attendance. Such rules may also be adopted by the unanimous written consent of the Parcel Representatives. Notwithstanding anything to the contrary contained in this Agreement, neither Parcels 1A nor 7 shall have a Parcel Representative, and such Parcels shall not be entitled to a separate vote on matters requiring a vote hereunder. The parking spaces located, respectively, on Parcels 1A and 7, however, shall be added to the other parking spaces owned elsewhere in American Plaza by the Owners of Parcels 1A and 7, respectively, for all other purposes of this Agreement.

Section 16.06. Impact of Specific Transfers. No Sale and Leaseback shall affect the ownership interest of the Transferor and the Transferee/Lessor under such Sale and Leaseback shall not be deemed to be an Owner hereunder. In the event of a Transfer which is a mortgage or deed of trust, the Transferor shall retain its status as an Owner hereunder as long as such Transferor retains its possessory interest in its Parcel. In the event of a Sale and Leaseback transaction with respect to a Parcel, so long as the leaseback lease remains in existence, the Transferor/Lessee shall remain the Owner of the Parcel for the purpose of this Agreement and the Transferee/Lessor shall be given all of the same rights and privileges as the holder of a mortgage or deed of trust on such Parcel, and the fee interest of such Transferee shall not be subject to any lien which might be created pursuant to this Agreement to any greater extent than would the holder of a mortgage or deed of trust.

Section 16.07. Release from Further Liability. In the event an Owner transfers its entire interest in its Parcel,

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other than in a Sale and Leaseback, mortgage or other financing transaction, and thereafter has no further interest in such Parcel, such Owner shall be released from all further liability under this Agreement which accrues after the completion of such Transfer, provided, however, as a condition precedent to such release from liability, such Owner:

(a) shall have paid all sums which shall then be due and payable by such Owner under the provisions of this Agreement, and

(b) shall have given notice to all other Owners of any such Transfer.

Any such release from liability shall not affect the released Owner's responsibility for accrued liabilities which are not yet due and payable on the date of the Transfer, nor in any way limit the ability of any other Owner or the Maintenance Director to file and pursue a lien on such released Owner's Parcel as is described in Section 15.06 above.

Section 16.08. Amendment. This Agreement may be amended from time to time by a written document duly recorded which is executed by Owners (Parcel Representatives) who, collectively, have a three-fourths (3/4) fee interest in American Plaza. For the purposes of this Section, the fee interest of a Parcel shall be weighted to equal the number of parking spaces within each Parcel divided by the total number of parking spaces within American Plaza. The execution of any such amendment by the Parcel Representatives representing three-fourths (3/4) or more interest in American Plaza shall be binding upon all Owners and occupants of American Plaza. Following such execution and recordation, copies of any such amendment shall be delivered to each Owner and occupant of American Plaza through the Parcel Representatives. Notwithstanding the foregoing, however, Sections 3.02, 3.04, Article V, Article VII, Article XV, and Article XIX shall not be amended without the unanimous consent of all

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Parcel Representatives; and Article XX shall not be amended in any event. No amendment shall be binding upon the holder of any mortgage or deed of trust which then encumbers any portion of American Plaza, unless such amendment is duly executed by such holder.

ARTICLE XVII

FORCE MAJEURE

Section 17.01. Delay in Performance. Each Owner shall be excused from performing any of its respective obligations or undertakings set forth in this Agreement, except any of its respective obligations or undertakings to pay any sums of money under the applicable provisions hereof, if and so long as the performance of any such obligation or undertaking is prevented, delayed, retarded or hindered by act of God, weather of unusual severity, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, mob violence, sabotage, malicious mischief, inability to procure, or general shortage of, labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, order of government or civil or defense authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the control of the respective Owner. Any Owner, if claiming a force majeure delay hereunder, shall give notice of such delay to the other Owners within twenty days after the occurrence of such force majeure event, which notice shall set forth the anticipated length of such delay which has been caused by such event.

ARTICLE XVIII

NOTICES

Section 18.01. Place and Manner of Notice. Any notice, demand, request, consent, submission, approval, designation,

or other communication which any Owner is required or desires to give to any other Owner shall be in writing and shall be hand delivered or sent by United States registered or certified mail, addressed to the party to receive such at its address last known to the sender of such communication. On the effective date of this Agreement, the addresses of the Owners are as set forth below:

B58A:

Block 58 Associates
3637 South 300 West
P.O. Box 15767
Salt Lake City, Utah 84115
Attention: Managing Partner

American Towers:

American Towers, Inc.
3637 South 300 West
P.O. Box 15767
Salt Lake City, Utah 84115
Attention: Chief Administrative Officer

AP3:

American Plaza 3 Associates
3637 South 300 West
P.O. Box 15767
Salt Lake City, Utah 84115
Attention: General Partner

Copies of any notices sent to B58A, American Towers or AP3 (which copies shall not themselves constitute notice) shall also be sent to:

Sr.Ow, Christensen & Martineau
Eleventh Floor
10 Exchange Place
P.O. Box 3000
Salt Lake City, Utah 84110
Attention: Senior Partner, Corporate Department

American Savings:

American Savings & Loan Association
77 West 200 South
Salt Lake City, Utah 84101
Attention: Executive Vice President

Section 18.02. Notice to Lien Holder. The mortgagee under any mortgage, or the beneficiary under any deed of

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trust, affecting any Parcel, shall be entitled to receive notice of any default by the Owner of such Parcel, provided that such mortgagee or beneficiary shall have recorded in Salt Lake County a notice in the form herein contained and shall have delivered a copy of such notice to each Owner. The form of such notice shall be substantially as follows:

The undersigned, whose address is _____
(insert address)
does hereby certify that it is the holder of a first lien upon the Parcel described on Exhibit "A" attached hereto and made a part hereof, which Parcel is owned by _____ (insert Owner's name), is part of the property known as American Plaza and is subject to that certain Reciprocal Easement and Maintenance Agreement with Conditions, Covenants and Restrictions recorded on _____ (insert recording date) at Book _____ (insert Book number), Page _____ (insert Page number) in the Official Records of Salt Lake County. In the event that any notice shall be given of the default of the Owner upon whose Parcel this lien applies, a copy thereof shall be delivered to the undersigned who shall have all rights of such Owner to cure such default. Failure to deliver a copy of such notice to the undersigned shall in no way affect the validity of the notice of default as it respects such Owner, but shall make the same invalid as it respects the interest of the undersigned and its lien upon said Parcel.

Any such notice to a mortgagee or beneficiary shall be mailed to the address referenced in the form of notice set forth above and in the same manner as provided in Section 18.01. The giving of any notice of default or the failure to deliver a copy thereof to any mortgagee or beneficiary shall in no event create any liability on the part of the party so declaring a default. In the event that any notice of default of an Owner shall be given and such defaulting Owner has failed to cure or commence to cure such default as provided in this Agreement, then and in that event any such mortgagee or beneficiary under any mortgage or deed of trust affecting the Parcel of the defaulting Owner shall be entitled to receive an additional notice given in the manner provided in Section 18.01, that the defaulting Owner has failed to cure such default and such mortgagee or beneficiary shall have thirty (30) days after the receipt of said additional notice to cure any such default, or, if such default cannot be cured

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within thirty (30) days, to diligently commence curing within such time and diligently cure within a reasonable time thereafter.

ARTICLE XIX

FUTURE DEVELOPMENT

Section 19.01. Future Development. Parcels 2, 5, 8, 9 and 10 shown on Exhibit "A" are not presently part of American Plaza but the parties anticipate that such Parcels may later become a part of American Plaza and, thus, such Parcels have been shown on certain exhibits attached hereto.

Section 19.02. Amendments to This Agreement. At the request of B58A, the Owners (Parcel Representatives) agree to amend this Agreement as reasonably required in order to facilitate the addition of Parcel 2, Parcel 5, Parcel 8, Parcel 9 and/or Parcel 10 (the "Future Parcels") to American Plaza as to which the following shall be applicable:

(a) The construction of any Building or Buildings on any Future Parcel shall be subject to the applicable requirements of Article II, Section 3.03 and Section 5.02. The improvements shown on the various exhibits hereto and in previously prepared concept drawings for any Future Parcel represent only possible configurations for such Future Parcel and may be revised to reflect a different development thereon.

(b) Appropriate modification of the exhibits to this Agreement shall be made to describe and reflect (i) the addition of a Future Parcel to American Plaza, (ii) the location and layout of the Underground Parking Levels under such Future Parcel, and if necessary, (iii) a revised traffic circulation pattern within the Underground Parking Levels.

(c) Each Owner's proportionate share of operating and maintenance costs shall be adjusted to reflect the addition of any Future Parcel.

(d) The Owner of the Future Parcel added to American Plaza shall execute any such amendment thus assuming

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and agreeing to pay the appropriate sums, if any, due hereunder and to perform and be bound by all of the terms and conditions hereof applying to such Parcel as though originally named herein as a party to this Agreement.

(e) The parties recognize the added land costs associated with Parcel 10 because it is presently improved with existing buildings, and also recognize that it would be advantageous to American Plaza if a pedestrian thoroughfare were constructed on Parcel 10, connecting American Plaza to Main Street. The parties also recognize the value of ramp number 14 to the operation of the Underground Parking Levels. Therefore, notwithstanding the foregoing, the Owner of Parcel 10 shall not be obligated to pay any of the ramp costs described in Section 3.04 above (except for the cost of any ramps on or under Parcel 10, which shall be the sole obligation of the Owner of Parcel 10), provided (i) the underground improvements constructed on Parcel 10 are designed to be an integral part of American Plaza, (ii) ramp number 14 is constructed on Parcel 10, and (iii) at least a ten (10) foot wide pedestrian thoroughfare is constructed on Parcel 10 connecting American Plaza to Main Street (unless such is economically or structurally not feasible).

(f) The parties recognize the value of Parcel 8 to the Plaza Level and also recognize the added land costs of Parcel 8 because of the existing parking and drive-up teller units thereon which serve Continental Bank. Therefore, notwithstanding the foregoing, the Owner of Parcel 8 shall not be obligated to pay any of the ramp costs described in Section 3.04 above (except, perhaps, a portion of the ramp costs associated with ramp numbers 12 and 14 and any ramps which ultimately may be constructed under Parcel 8), provided (i) the underground improvements constructed on Parcel 8 are designed to be an integral part of American Plaza, and (ii)

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the Plaza Level of Parcel 8 is designed to be consistent with the Plaza Level improvements elsewhere in American Plaza.

(g) The parties recognize the value of ramp number 9 to American Plaza and agree that the one level of underground parking under Parcel 5 would be a valuable addition to American Plaza. Therefore, notwithstanding the foregoing, the Owner of Parcel 5 shall not be obligated to pay any of the ramp costs described in Section 3.04 above, provided (i) ramp number 9 is integrated into the operation of the Underground Parking Levels and (ii) the Owner of Parcel 5 remodels, at its own expense, the Plaza Level and Underground Parking Level on Parcel 5 to accomplish an appropriate architectural and functional integration. In the alternative, B58A may propose, and the other Owners shall accept, that Parcel 5 be admitted to this Agreement on a limited basis to the extent of creating an integrated ramp and underground parking system but leaving the Owner of Parcel 5 to maintain and operate its own Plaza Level.

(h) B58A, as the Owner of Parcel 7, hereby reserves the airspace rights above ten (10) feet over Parcel 7 and the parking space rights below Parcel 7 for the possible future development of Parcel 8. Should the Owner of Parcel 7 ever desire to construct a building within such airspace rights or parking spaces below Parcel 7, such Owner shall have the right to interrupt the present use of Parcel 7 during the course of construction, provided, however, following such construction the sidewalk on Parcel 7 is restored to its present use by such Owner.

(i) The parties recognize the value of Parcel 9 to the Plaza Level. Therefore, notwithstanding the foregoing, the Owner of Parcel 9 shall not be obligated to pay any of the ramp costs described in Section 3.04 above (except, per-

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haps, a portion of the ramp costs associated with ramp numbers 12 and 14 and any ramps which ultimately may be constructed under Parcel 9), provided (i) the underground improvements constructed on Parcel 9 are designed to be an integral part of American Plaza, and (ii) the Plaza Level of Parcel 9 is designed to be consistent with the Plaza Level improvements elsewhere in American Plaza.

ARTICLE XX

TERMINATION OF CERTAIN EASEMENTS

Section 20.01. Existing Easements. American Plaza is presently encumbered by the following easements:

(a) Grant of Easement executed by Todd-Lignell Company, as grantor, in favor of Redevelopment Site Partners, Union Mutual Life Insurance Company ("Union Mutual") and American Savings recorded February 6, 1980, at Book 5042, Page 707, Official Records of Salt Lake County (providing ingress only over property more or less situated in the location of ramp number 3 described in Section 3.04) (hereinafter referred to as "Second South Easement").

(b) Easement Agreement executed by and between Redevelopment Site Partners, Todd-Lignell Company and American Savings and recorded on February 27, 1980, at Book 5055, Page 412, Official Records of Salt Lake County (providing permanent ingress and temporary egress across property more or less situated in the location of ramp number 1 described in Section 3.04) (hereinafter referred to as the "West Temple Easement 1-A").

(c) Easement Agreement executed by and between Baldwin, American Savings, Redevelopment Site Partners, and Todd-Lignell Company and recorded on April 28, 1980, at Book 5094, Page 273, Official Records of Salt Lake County (pro-

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viding permanent ingress and temporary egress across property more or less situated in the location of ramp number 1 described in Section 3.04) (hereinafter referred to as "West Temple Easement 1-B").

(d) Grant of Easement executed by Todd-Lignell Company, as grantor, in favor of Redevelopment Site Partners, Union Mutual and American Savings recorded November 14, 1979, at Book 4985, Page 505, Official Records of Salt Lake County (providing ingress and egress across property more or less situated in the location of ramp number 2 described in Section 3.04) (hereinafter referred to as "West Temple Easement 2").

(e) Grant of Temporary Easement executed by Todd-Lignell Company, as grantor, in favor of Redevelopment Site Partners, Union Mutual and American Savings and recorded February 6, 1980, at Book 5042, Page 704, Official Records of Salt Lake County (providing temporary egress across property situated in the location of ramp number 3 described in Section 3.04) (hereinafter referred to as "Temporary Easement").

(f) Amendment to Easement Agreements executed by Todd-Lignell Company, Redevelopment Site Partners, Baldwin and American Savings and recorded April 28, 1980, at Book 5094, Page 285, Official Records of Salt Lake County (specifically amending the Temporary Easement, the West Temple Easement 1-B, and the West Temple Easement 2 in certain particulars to clarify when such Easements might terminate) (hereinafter referred to as the "Easement Amendment").

(g) Reciprocal Easement Agreement executed by and between Redevelopment Site Partners, Baldwin, American Savings and Todd-Lignell Company and recorded April 28, 1980, at Book 5094, Page 303, Official Records of Salt Lake County (containing reciprocal easements, maintenance, insurance and other provisions, which are to remain in force until

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this Agreement is placed of record) (hereinafter referred to as "Temporary REA Agreement").

Section 20.02. Identification of Parties. The parties described in the various Easements set forth in Section 20.01 above include American Savings (who is an Owner under this Agreement) and, in addition, include Baldwin, Redevelopment Site Partners, Todd-Lignell Company and Union Mutual. Baldwin has purchased the interest of Redevelopment Site Partners in American Plaza under a Land Sale Contract. Todd-Lignell Company has sold its interest in American Plaza to American Savings, AP3 and B58A, but continues to have an interest of record in American Plaza until performance under the various contracts of sale is complete. Union Mutual is the beneficiary under that certain Deed of Trust dated April 25, 1980 and recorded April 28, 1980 at Book 5094, Page 340 of the Official Records of Salt Lake County which constitutes a lien on Parcel 2.

Section 20.03. Termination of Easements. The Owners agree to join with Todd-Lignell Company, Baldwin, Redevelopment Site Partners and Union Mutual in terminating, by separate instrument, the Second South Easement, the West Temple Easement 1-A, the West Temple Easement 1-B, the West Temple Easement 2, the Temporary Easement, the Easement Amendment and the Temporary REA Agreement and in granting Baldwin, by separate instrument, an easement for ingress and egress to and from the Underground Parking Levels located under Parcel 2.

ARTICLE XXI

RULES AND REGULATIONS

Section 21.01. Trash.

(a) Each occupant of American Plaza shall: (i) refrain from burning papers or refuse of any kind within the Buildings or Common Areas of American Plaza; (ii) store

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all trash and garbage in neat and clean containers within Buildings or within the appropriate trash bins located in the Underground Parking Levels near each Building; and (iii) provide for pest extermination service, as necessary, for the premises occupied by it.

(b) Each Parcel Representative of American Plaza shall: (i) insure compliance with the foregoing requirements by the occupants of its Parcel; (ii) provide ample trash recepticals near the entrances of the Building on its Parcel; (iii) arrange for the regular pick-up and cleaning of the trash bins located on the Underground Parking Levels; and (iv) refrain from locating any trash bins or other large trash recepticals on the Common Areas of the Plaza Level. If a Parcel Owner fails to clean and properly maintain its trash bin, such cleaning and maintenance shall be done by the Maintenance Director who shall bill the cost therefore, together with a twelve percent (12%) administrative and supervision charge, to the defaulting Owner.

Section 21.02. Government Regulations; Nuisance. Each Owner and occupant of American Plaza shall comply with all governmental rules, regulations and requirements pertaining to the use and occupancy of its premises within American Plaza and shall not permit such premises or the Common Areas of American Plaza to be used in any manner that will constitute a public nuisance, or will injure the reputation of American Plaza, or will constitute a hazard to others or to property.

Section 21.03. Ground Level Occupants. All Owners and occupants of American Plaza having direct outside entrances to the Plaza Level shall: (i) maintain all door and window

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displays and signs in a professional and sightly manner; (ii) maintain all entrances, vestibules, returns, doors, fixtures, windows and plate glass in a safe, neat, clean and proper operating condition; (iii) display or store all merchandise, equipment and devices inside their respective premises (except merchandise may occasionally be displayed on adjacent sidewalks during area-wide sidewalk sales or promotional events); and (iv) arrange for the delivery of merchandise, equipment and supplies during those hours in which the Common Areas are not in heavy use.

Section 21.04. Plaza Level Parking. Each Owner having parking areas on the Plaza Level of its Parcel shall, at its sole expense, maintain in good condition and repair such parking areas in accordance with the standards set forth in subparagraphs (1) through (6), (7), (11), (12) and (16) of Section 4.02(b) above. Each Owner having drive-up banking tellers on its Parcel shall, at its sole expense, maintain such tellers in neat, clean and proper operating condition and maintain those Common Areas adjacent thereto, which cannot be swept by automatic sweeping equipment.

Section 21.05. Conduct of Persons.

(a) No person shall use any roadway, walkway or stairway except as a means of egress from or ingress to the various Buildings or parking areas within American Plaza or adjacent public streets. Such use shall be in an orderly manner, in accordance with the directional or other signs or guides. Roadways shall not be used at a speed in excess of twenty (20) miles per hour and shall not be used for parking or stopping except for the immediate loading or unloading of passengers. No walkway or stairway shall be used for other than pedestrian travel.

(b) All motor vehicles shall be parked in an orderly manner within the painted lines defining the individual parking places within American Plaza.

(c) No person shall use any utility, loading, trash or other area reserved for a specific use in connection with the conduct of business or the operation of Buildings, except for the specific purpose for which such area was designed.

(d) Should the Maintenance Director designate certain areas of the Underground Parking Level for long term (monthly) parking, the Owners and occupants of American Plaza not having exclusive parking spaces shall park only in the areas so designated.

(e) No person shall: (i) vend, peddle or solicit orders for merchandise door-to-door or in Common Areas; (ii) distribute sales, political or other literature door-to-door or in the Common Areas; (iii) solicit membership in any organization door-to-door or in Common Areas, or (iv) engage in any parade, rally, picket or demonstration which might tend to interfere with or impede the use of any of the Common Areas for ingress and egress, attract attention, or harass, annoy, disparage or be detrimental to the interest of any of the businesses or residents within American Plaza.

(f) No person shall throw, discard, or deposit any paper, glass, or extraneous matter of any kind, except into designated receptacles, or create litter or hazards of any kind.

(g) Violation of any of the provisions of this Article is hereby declared to be a nuisance, and every remedy allowed by law or equity pertaining to a nuisance, either public or private, shall be applicable in such event and may be exercised by any Owner or occupant of American Plaza.

(h) The listing of specific items as being prohibited is not intended to be exclusive, but rather is intended to indicate in general the manner in which the right to use the Common Areas for access and convenience is limited and controlled by the Owners. Any Owner or occupant shall have the right to remove or exclude or restrain (or take legal action to do so) any unauthorized person from coming upon American Plaza or any portion thereof, and to prohibit, abate and recover damages arising from any unauthorized act, whether or not such act is in express violation of the prohibitions listed above. In so acting, however, such Owner or occupant is not the agent of other Owners or occupants of American Plaza unless expressly authorized or directed in writing by any such other Owner or occupant.

Section 21.06. Additional Rules. The Maintenance Director may, from time to time, in its sole but good faith judgment propose to the Council of Owners reasonable and nondiscriminatory rules for the use and operation of the Common Areas, or any Parcel Representative may propose, on its own initiative, any such rules. Such rules, if adopted by the Council of Owners, in accordance with Section 16.05 above, shall be binding upon all Owners and occupants within American Plaza following written delivery of such adopted rules to each Parcel Representative (who, in turn, shall deliver such adopted rules to each Owner and occupant of such Parcel). Such adopted rules shall be enforceable to the same extent as if originally set forth in this Article XXI. Notwithstanding the foregoing, however, the Council of Owners shall have no power or authority to adopt rules which would be in conflict with terms and provisions of this Agreement.

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ARTICLE XXII
CREATION OF EASEMENT IN
FAVOR OF PARCEL 9

22.01. Uniqueness of Parcel 9. The parties recognize that Parcel 9 is landlocked. The parties also recognize that Parcel 9 may ultimately be developed as part of American Plaza or may be developed independently, either as a part of any future development of Parcel 8 and/or Parcel 10.

22.02. Grant of Easement. American Towers hereby grants to B58A, as the Owner of Parcel 9, an easement over the following described real property:

Beginning at a point which is 5 feet West of the Southeast Corner of Lot 2, Block 58, Plat "A", Salt Lake City Survey and running thence West 25.00 feet; thence North 330.00 feet; thence East 25.00 feet; thence South 330.00 feet to the Point of Beginning.

Such easement shall be for the access, ingress and egress of persons and vehicles to and from Third South Street and shall be in common with the existing easements encumbering such real property, including the Common Area easements in favor of the various Owners which have been granted in this Agreement.

22.03. Duration; Scope. The easement described in this Article XXII shall be perpetual, regardless of whether Parcel 9 subsequently becomes subject to the terms and conditions of this Agreement. The easement described herein shall permit the Owners or occupants of Parcel 9, and the Owners and occupants of Parcel 8 and/or Parcel 10 (should Parcel 8 and/or Parcel 10 ever become under common ownership with Parcel 9) to utilize such easement for the purposes described herein.

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ARTICLE XXIII

MISCELLANEOUS

Section 23.01. Waiver. No waiver of any Owner's default shall be implied from any omission by any other Owner to take any action in respect to such default if such default continues or is repeated. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any term, provision or covenant contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Agreement. The consent or approval by any Owner to or of any act or request by any other Owner requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar acts or requests. The rights and remedies of every Owner under the terms of this Agreement shall be deemed to be cumulative and none of such rights and remedies shall be exclusive of any others or of any right or remedy at law or in equity which any Owner might otherwise have as a result of a default under this Agreement. The exercise of any right or remedy by an Owner shall not impair such Owner's standing to exercise any other right or remedy.

Section 23.02. No Relationship of Principal and Agent. Neither anything contained in this Agreement nor any acts of the Owners shall be deemed or construed by any Owner or third person to create the relationship of principal and agent or of limited or general partnership or of joint venture or of any other similar association between any of the Owners.

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Section 23.03. Default Shall Not Defeat Mortgage. A default in any of the terms, conditions, covenants, or restrictions contained in this Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all such terms, conditions, covenants and restrictions shall be binding upon and effective against any person who acquires title to a Parcel or any portion thereof by foreclosure, trustee's sale or otherwise.

Section 23.04. Severability of Void Provisions. If any provision or provisions of this Agreement, or the application thereof to any Owner or occupant or other person or to any certain circumstances, shall be held to be invalid, void or illegal, the remaining provisions hereof and/or the application of such provisions to any Owner, occupant or other person or to any circumstances other than as to those to which it is held to be invalid, void or illegal, shall, nevertheless, remain in full force and effect and not be affected thereby; and the Owners and other signatories hereto agree that they would have entered into this Agreement independently of any provision or provisions of this Agreement which are held to be invalid, void or illegal.

Section 23.05. Interpretation. The captions of the Sections, Articles and Table of Contents of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation and construction. The use of the singular in this Agreement shall include the plural, where the context is otherwise appropriate.

Section 23.06. Governing Law. This Agreement shall be construed, interpreted and applied in accordance with the laws of the State of Utah.

Section 23.07. Benefit. The provisions of this Agreement are for the exclusive benefit of the Owners, their suc-

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cessors and assigns, and not for the benefit of any third person, nor shall this Agreement be deemed to have conferred any rights, expressed or implied, upon any third person. It is expressly understood and agreed that no modification or amendment, in whole or in part, shall require any consent or approval on the part of any tenant, lessee, sublessee, licensee or other occupant other than an Owner, or the Parcel Representative. This Agreement may be amended only in accordance with Section 16.08 above and by a writing duly recorded in the Official Records of Salt Lake County.

Section 23.08. Exhibits. Any reference to any exhibit contained within this Agreement shall be deemed to mean the specified exhibit to this Agreement as from time to time amended by the Owners.

Section 23.09. No Gift or Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of American Plaza to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the Owners that this Agreement shall be strictly limited to and for the purposes herein expressed. With the concurrence of all of the Owners, all or a portion of the Common Areas may be closed from time to time to such extent and for such length of time as may be sufficient in the opinion of the Owners' respective legal counsel to prevent a dedication thereof or the accrual of rights of any third person or of the public therein.

Section 23.10. Time for Approval; Withholding Consent. Wherever in this Agreement the approval of any Owner is required, and unless a different time limit is provided in any other Section hereof, such approval or disapproval shall be given within thirty (30) days following the receipt of the item to be so approved or disapproved, or the same shall be

conclusively deemed to have been approved by such recipient. Each item submitted for consent or approval shall contain a cover page prominently listing the date mailed, the required return of response date and a statement to the effect that the item will be deemed approved by the recipient pursuant to this Section 22.10 unless said recipient makes objection thereto within the time specified in such notice, which shall be thirty (30) days unless this Agreement shall specify a different period. No document or fact shall be deemed approved if there is a failure to submit the required cover page. Any disapproval shall specify with particularity the reasons therefor; provided, however, that wherever in this Agreement any Owner is given the right to approve or disapprove, such approval shall not be unreasonably withheld or delayed unless this Agreement specifically states that the approval or disapproval is within the sole and absolute discretion of such Owner.

Section 23.11. Special Provision Concerning Redevelopment Agency. In the event of a default under the Special Warranty Deed (described in Recital Paragraph D above) with respect to Parcels 4, 5 or 6, it is specifically understood and agreed that the easements or Common Area Rights described herein encumbering any such Parcel repossessed by the Redevelopment Agency may be terminated by such Agency in order to accommodate the resale or an alternative development of such Parcel. Such termination shall be effected by the Redevelopment Agency giving written notice of such termination to the Parcel Representatives and by recording a copy of such notice in the official records of Salt Lake County.

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Section 23.12. Effective Date. This Agreement is effective as of the date it is recorded in the Official Records of Salt Lake County.

IN WITNESS WHEREOF, the Owners have executed this Agreement as of the date first above written.

BLOCK 58 ASSOCIATES

By *Dee W. Christen*
General Partner

By *Burton M. Todd*
General Partner

By *Elizabeth Sigurd*
General Partner

ATTEST:
By *James H. Clark*
Its Vice President

CLARK LEARNING PROPERTY MANAGEMENT GROUP, INC., a Utah Corporation, General Partner
By *H. Matt Clark*
Its President

A. P. 3 ASSOCIATES

By *Dee W. Christen*
General Partner

By *Robert W. Haffjager*
General Partner

AMERICAN SAVINGS & LOAN ASSOCIATION

By *John R. [Signature]*
Executive Vice President

By *AB [Signature]*
Ass't Secretary

AMERICAN TOWERS, INC.

By *Dee W. Christen*
President

By *Robert W. Haffjager*
Secretary

The undersigned persons and entities have an interest of record in American Plaza, although such interest is not presently possessory. The undersigned hereby approve this Agree-

ment and agree that their respective interests in any portion of American Plaza are subject to the terms and conditions contained herein.

TODD-LIGNELL COMPANY

By Burton M. Todd
General Partner

By Keith Russell
General Partner

~~AMFAC MORTGAGE CORPORATION~~

By _____

By _____

AMSAL SERVICE CORPORATION

By Harry J. Hilli

By Robert Ford

APPROVED AS TO FORM:

THE REDEVELOPMENT AGENCY
OF SALT LAKE CITY

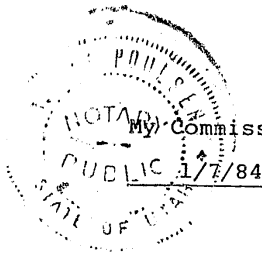
By [Signature]
Chief Executive Officer


By Michael A. Whitwood
Executive Director

BOOK 5250 PAGE 722

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

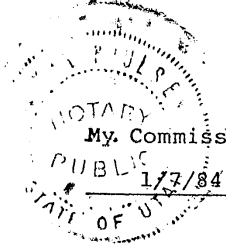
On the 16th day of March, 1981, personally appeared
before me DEE W. CHRISTIANSEN,
BURTON M. TODD, and E. KEITH LIGNELL,
known to me to be General Partners of Block 58 Associates,
a Utah limited partnership, who duly acknowledged to me that
they signed the foregoing instrument as General Partners of
Block 58 Associates, pursuant to authority vested in them.

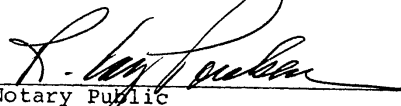



Notary Public
Residing at: Bountiful, Utah

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

On the 16th day of March, 1981, personally appeared
before me DEE W. CHRISTIANSEN, and ROBERT W. NAFFZIGER,
known to me to be General Partners of A. P. 3 Associates,
a Utah limited partnership, who duly acknowledged to me that
they signed the foregoing instrument as General Partners of
A. P. 3 Associates, pursuant to authority vested in them.




Notary Public
Residing at: Bountiful, Utah

BOOK 5250
PAGE 723

STATE OF UTAH)
 :ss
COUNTY OF SALT LAKE)

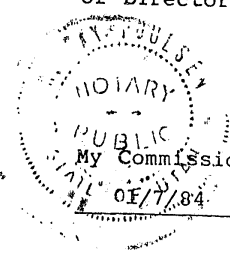
On the 13th day of ^{May}~~March~~, 1981, personally appeared before me LEROY P. TAYLOR, and D. B. CEDERLOF, known to me to be Executive ^{Vice} President and ^{Assistant} Secretary of American Savings & Loan Association, a Utah corporation, and they duly acknowledged to me that they signed the foregoing instrument on behalf of said corporation and by authority of a resolution of its Board of Directors.



D. B. Cederlof
Notary Public
Residing at: Bountiful, Utah

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

On the 13th day of ^{May}~~March~~, 1981, personally appeared before me DEE W. CHRISTIANSEN, and ROBERT W. NAFFZIGER, known to me to be President and Secretary of American Towers, Inc., a Utah corporation, and they duly acknowledged to me that they signed the foregoing instrument on behalf of said corporation and by authority of a resolution of its Board of Directors.

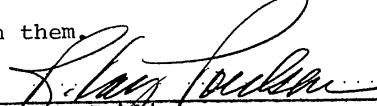


D. B. Cederlof
Notary Public
Residing at: Bountiful, Utah

BOOK 5250 PAGE 724

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

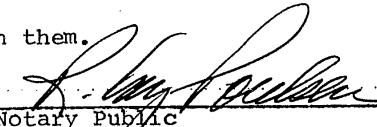
On the 16th day of March, 1981, personally appeared before me BURTON M. TODD, and E. KEITH LIGNELL, known to me to be General Partners of Todd-Lignell Company, who duly acknowledged to me that they signed the foregoing instrument as General Partners of Todd-Lignell Company and pursuant to authority vested in them.


Notary Public
Residing at: Bountiful, Utah

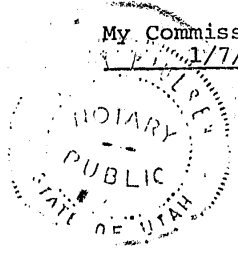
My Commission Expires:
1/7/84

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

On the 16th day of March, 1981, personally appeared before me H. SCOTT CLARK, and HOWARD S. CLARK known to me to be the PRESIDENT and CHAIRMAN OF THE BOARD ~~VICE PRESIDENT~~ of Clark Leaming Property Management Group, Inc., a Utah corporation, a General Partner of Block 58 Associates, a Utah limited partnership, who duly acknowledged to me that they signed the foregoing instrument as the PRESIDENT and CHAIRMAN OF THE BOARD ~~VICE PRESIDENT~~, respectively, of Clark Leaming Management Group, Inc., a General Partner of Block 58 Associates, pursuant to authority vested in them.


Notary Public
Residing at: Bountiful, Utah

My Commission Expires:
1/7/84

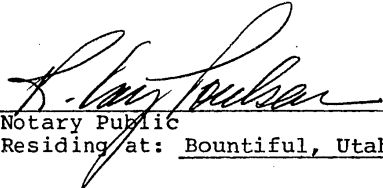


BOOK 5250 PAGE 725

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

On the 13th day of ~~March~~^{May}, 1981, personally appeared
before me HARRY F. PHILLIPS , and ROBERT L. FORD ,
known to me to be the EX. VICE PRESIDENT and VICE PRESIDENT
of AMSAL Service Corporation, and they duly acknowledged
to me that they signed the foregoing instrument on behalf
of said corporation and by authority of a resolution of its
Board of Directors.





Notary Public
Residing at: Bountiful, Utah

BOOK 5250 PAGE 726

STATE OF UTAH)
 :
COUNTY OF SALT LAKE)

On the 15th day of May, 1981, personally appeared before me
TED L. WILSON, and MICHAEL R. CHITWOOD, who being by me duly sworn
did say they are the Chief Executive Officer and Executive Director
of The Redevelopment Agency of Salt Lake City, and that the within
and foregoing instrument was signed on behalf of said Agency.



Notary Public
Residing at Bountiful, Utah

My Commission Expires:
NOV 17 1984

PUBLIC
STATE OF UTAH

BOOK 5250 PAGE 727

SCHEDULE I

Parcel No. 1:

Commencing at the Northwest corner of Lot 5, Block 58, Plat "A", Salt Lake City Survey, and running thence East 135.80 feet; thence South 68.90 feet; thence East 44.45 feet; thence South 68.90 feet; thence West 180.25 feet; thence North 137.80 feet to place of commencement. (Contains 21,797.12 square feet actual.)

Parcel No. 1-A:

Beginning at a point which is South 137.83 feet from the Northwest corner of Lot 5, Block 58, Plat "A", Salt Lake City Survey and running thence East 316.05 feet; thence South 20.34 feet; thence West 135.20 feet; thence North 1.00 feet; thence West 180.85 feet; thence North 19.34 feet to the point of beginning. (Contains 6,251.94 square feet actual.)

Parcel No. 2:

(Future)

Parcel No. 3:

Beginning at a point which is East 343.65 feet and South 158.17 feet from the Northwest corner of Block 58, Plat "A", Salt Lake City Survey and running thence South 8.83 feet; thence East 36.35 feet; thence South 80.50 feet; thence West 50.00 feet; thence South 82.50 feet; thence West 85.45 feet; thence North 171.83 feet; thence East 71.50 feet; thence North 158.17 feet; thence East 15.00 feet; thence South 158.17 feet; thence East 12.60 feet to the point of beginning. (Contains 21,216.61 square feet actual.)

Parcel No. 4:

Beginning at a point which is West 5.00 feet from the Southwest corner of Lot 1, Block 58, Plat "A", Salt Lake City Survey, and running thence West 237.00 feet; thence North 200.00 feet; thence West 8.45 feet; thence North 130.00 feet; thence East 245.45 feet; thence South 330.00 feet to the point of beginning. (Contains 79,368.55 square feet actual.)

Parcel No. 5:

(Future)

Parcel No. 6:

Beginning at a point which is North 200.00 feet from the Southwest corner of Block 58, Plat "A", Salt Lake City Survey and running thence North 302.83 feet; thence East 180.85 feet; thence South 1.00 feet; thence East 63.70 feet; thence South 301.83 feet; thence West 244.55 feet to the point of beginning. (Contains 74,049.36 square feet actual.)

Parcel No. 7:

Beginning at a point which is East 343.65 feet and South 158.17 feet from the Northwest corner of Block 58, Plat "A", Salt Lake City Survey and running thence West 12.60 feet; thence North 158.17 feet; thence East 10.00 feet; thence South 110.00 feet; thence East 2.60 feet; thence South 48.17 feet to the point of beginning. (Contains 1,706.94 square feet actual.)

Parcel No. 8:

(Future)

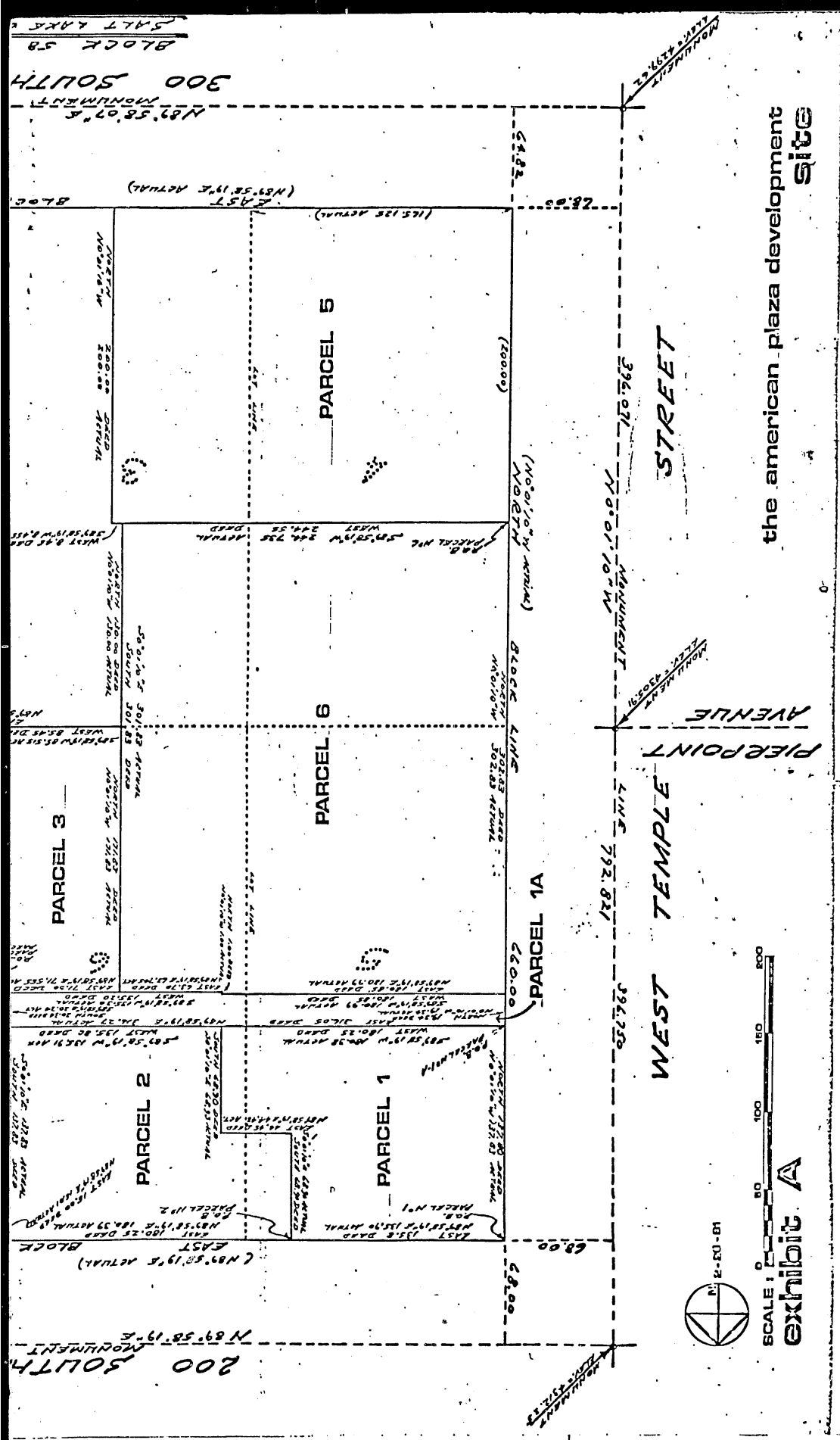
Parcel No. 9:

(Future)

Parcel No. 10:

(Future)

BOOK 5250 PAGE 729,



the american plaza development site

SCALE: 1" = 100'

exhibit A

BOOK 5250 PAGE 731

300 SOUTH
MONUMENT
N 89° 58' 19" E
BLOCK 58
5477 ARKS

200 SOUTH
MONUMENT
N 89° 58' 19" E

STREET

PIERPOINT AVENUE

WEST TEMPLE STREET

PARCEL 5

PARCEL 6

PARCEL 3

PARCEL 2

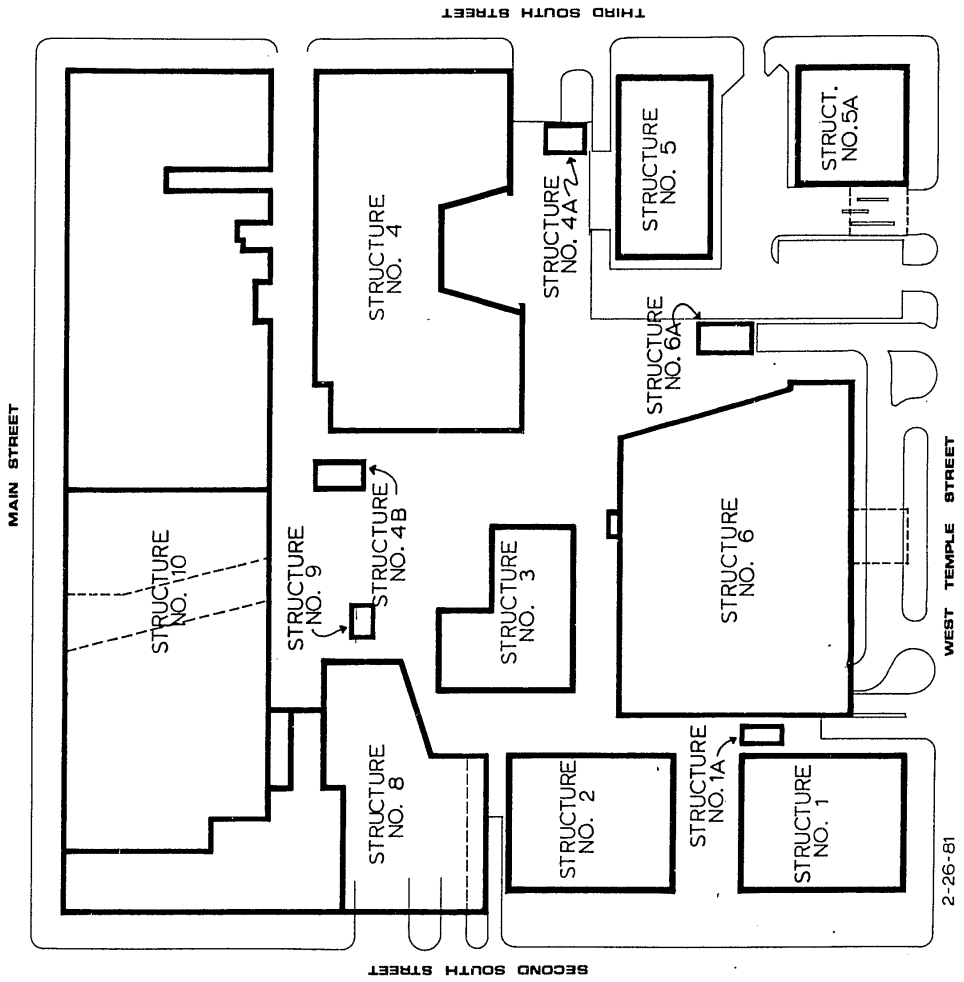
PARCEL 1

PARCEL 1A

MONUMENT
LINE
N 0° 10' 00" W
760.766

MONUMENT
LINE
N 0° 10' 00" W
728.83





2-26-81

**the american plaza development
proposed superblock
building area plan**



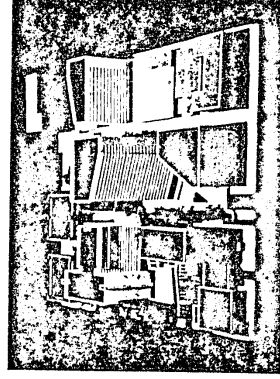
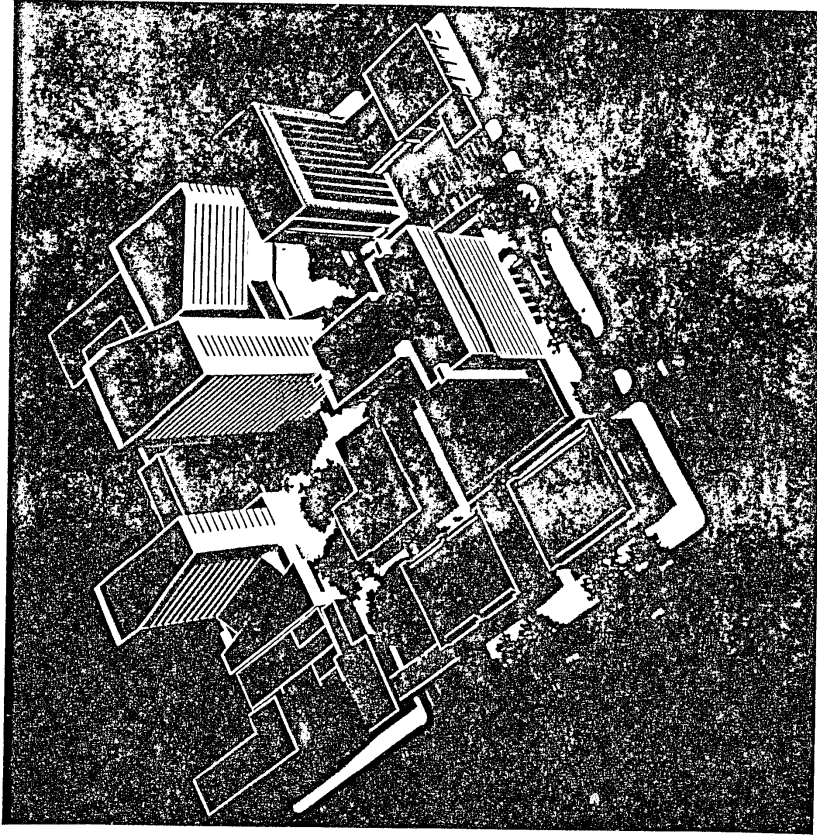
SCALE: 0 50 100 150 200

exhibit A1

the architecture

All of the new highrise structures in the American Plaza Development will have an off-white, monolithic appearance each with its own design character. This will tie into a central broad-scope design theme that will give the superblock its visual identity from a distance.

Thru the use of creative brickwork (of similar color and texture to that of the existing American Plaza One, Two, and Three developments) on the ground levels, we intend to compliment the existing structures with the new.

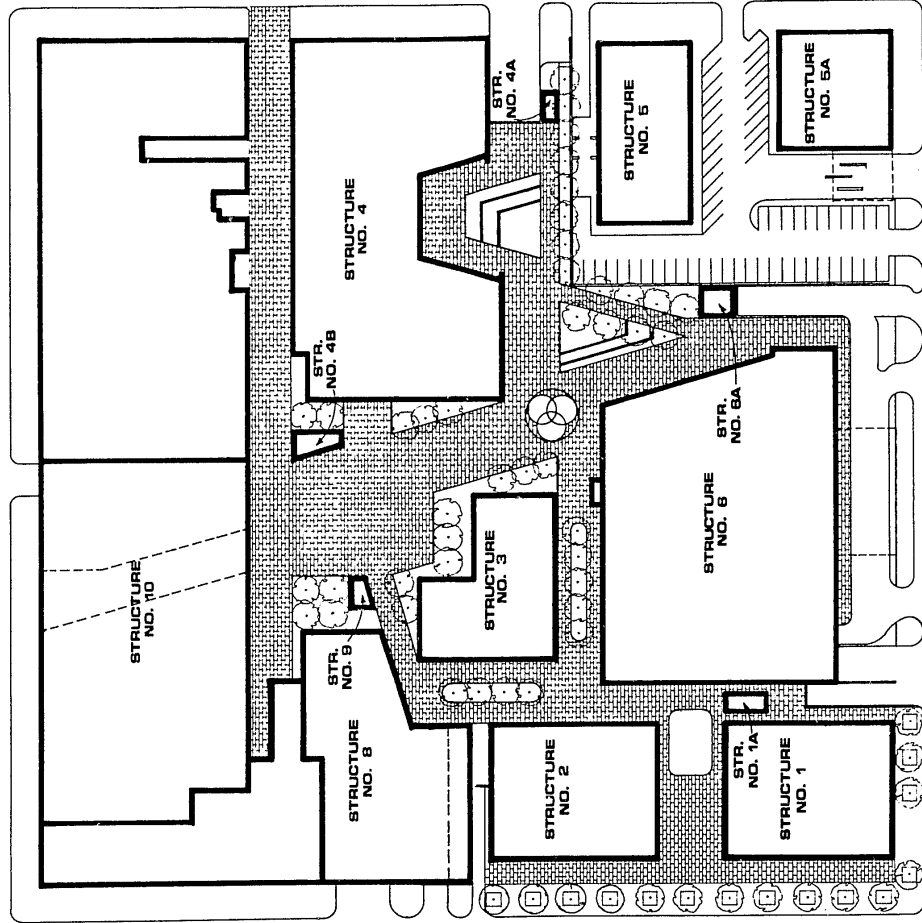


882 1-800-999-0088

LOOKING SOUTHEAST
exhibit B1

LOOKING NORTH

MAIN STREET



SECOND SOUTH STREET

THIRD SOUTH STREET

2-28-81

WEST TEMPLE STREET



SCALE: 0 50 100 200

proposed superblock
plaza development

exhibit B2

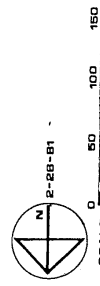
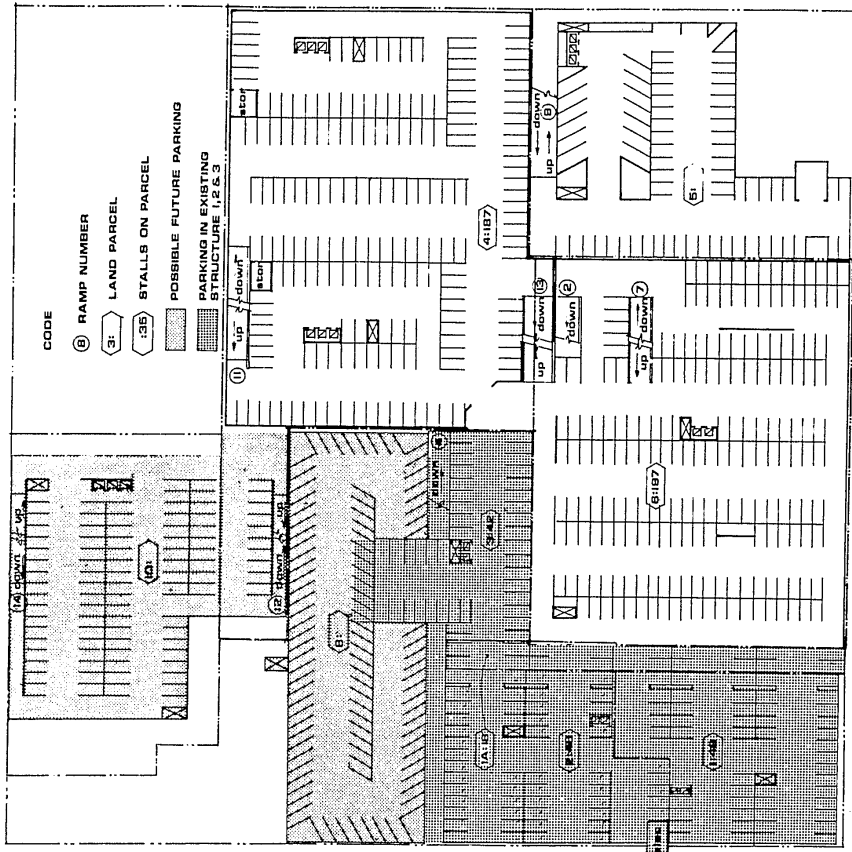
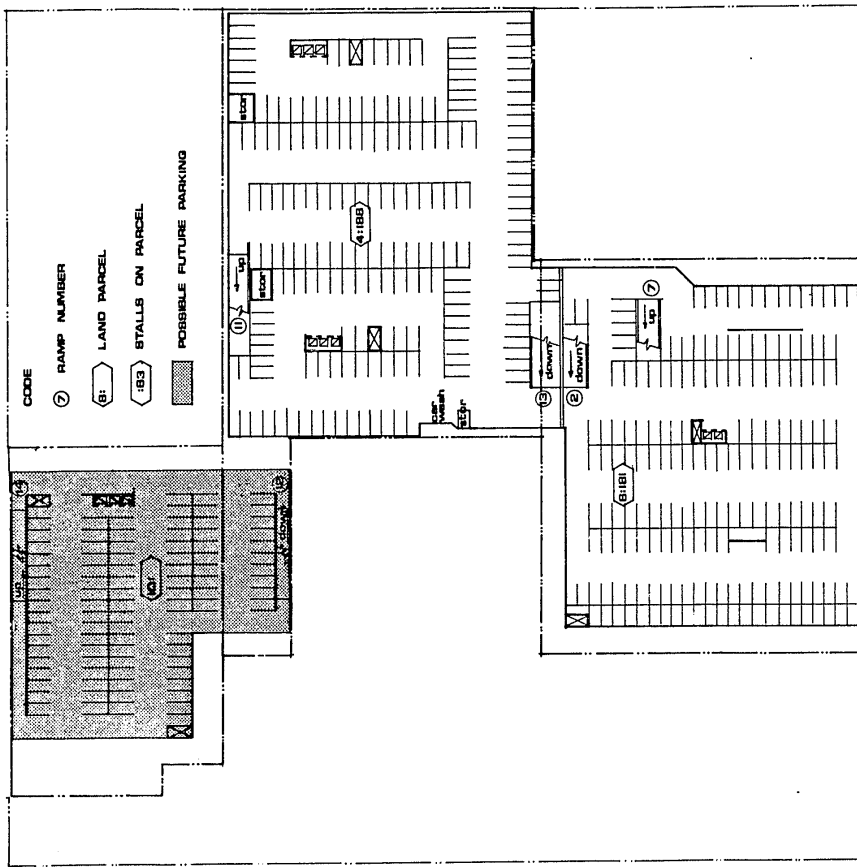


exhibit C2

SECOND SUB LEVEL PLAN

THIRD SUB LEVEL PLAN




0 100 200 300 400 500
 SCALE
 18-82-2


Exhibit C3

BOOK 52250 PAGE 732
 KATIE LUDXON
 RECORDED
 SALT LAKE COUNTY
 UTAH
 MAY 20 3 30 PM '91

SECTION TITLE CO.
 REF. *[Signature]*
 05/20