

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

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

FATCO NCS-938278-aw
APNS: 01-2042-0073

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CARBON COUNTY CORPORATION
For: FIRST AMERICAN TITLE-NCS-SLC1

**DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS ("**Declaration**") is made as of June 27th, 2019 ("**Effective Date**") by CREEKVIEW PLAZA, LLC, a Delaware limited liability company ("**Declarant**").

RECITALS

A. Declarant owns certain real property generally located at 601-760 West Price River Drive, Price, Utah 84501 and commonly referred to as Creekview Plaza (including all Improvements located thereon, the "**Property**"). The Property consists of the real property described on Exhibit A attached hereto (including all Improvements located thereon, "**Sale Property**") and the real property described on Exhibit B attached hereto (including all Improvements located thereon, "**Retained Property**"). The Sale Property and Retained Property are depicted on the site plan attached hereto as Exhibit C (the "**Site Plan**").

B. Immediately following the recordation of this Declaration, Declarant is conveying the Sale Property to Amerco Real Estate Company, a Nevada corporation (the "**Sale Property Buyer**").

C. In connection with the conveyance of the Sale Property to Sale Property Buyer, Declarant desires to record this Declaration to document certain matters pertaining to the ownership, use and operation of the Property.

NOW, THEREFORE, Declarant hereby declares as follows:

1. **Certain Defined Terms**. For purposes of this Declaration, the terms set forth below shall be defined as follows:

“Common Areas” mean all sidewalks, ramps, driveways, drive aisles, exterior plazas, parking areas, landscaped areas, fountains, exterior stairways or escalators, and other facilities or areas used in common by the Owners and Occupants of the Property. Notwithstanding any contrary provision of this Declaration, (a) the Common Areas shall exclude the interior portions of any building, (b) any loading dock that serves a particular building or buildings, and (c) any drive-through lane for any building with a drive-through window and the associated improvements, equipment, signage and utility systems for such drive-through lane.

“Governmental Requirements” means all local, state or federal governmental laws, statutes, rules and regulations, ordinances, codes, permits and approvals which govern the use, improvement or operation of the Property.

“Improvements” means all structures and improvements of any kind now or hereafter located in, on or under the Property, whether above or below the land surface, and whether permanent or temporary, including but not limited to, buildings, parking structures, self-storage units, energy plants, utility lines, driveways, drive aisles, paved parking areas, pathways, fences, exterior stairs connecting paved surfaces, screening walls, awnings, retaining walls, plantings, planted trees, landscaping, irrigation and drainage pipes and fixtures, lighting fixtures and signs.

“Mortgage” means a deed of trust, mortgage or other consensual encumbrance recorded of record against fee title, or leasehold title under a ground lease, to any portion of the Property.

“Mortgagee” means a beneficiary or holder of a Mortgage.

“Occupant” means the Owner of, and any other Person or Persons entitled by leasehold interest or other legal relationship to the exclusive right to occupy, all or any portion of any of the Property.

“Owner” means the Person or Persons holding record fee title to a portion of the Property (excluding any Mortgagee or Person holding such interest merely as security for the performance of an obligation), and their respective heirs, successors and assigns. In the event that the ownership of the Improvements on any portion of the Property is severed from the land, then only the Person holding fee title to the land underlying such severed Improvements shall have the rights of an Owner hereunder; provided, however, that (i) both the Person holding record fee title to such land and the Person holding record fee title to the Improvements on such land shall be jointly and severally liable for the performance of all duties and obligations of an “Owner” hereunder, and (ii) at any time in which a ground lease is in effect with respect to a portion of the Property, the ground tenant or ground lessee under such ground lease shall be an “Owner” for purposes of this Declaration, and all references herein to the “Owner” of a portion of the Property that is subject to a ground lease shall include both the ground tenant or ground lessee and the ground landlord or ground lessor under such ground lease.

“Owner’s Property” means the portion of the Property owned by a particular Owner.

“Permittees” means all Occupants and all customers, patrons, employees, concessionaires and other business invitees of the Occupants having business to conduct at the Property.

“Person” means any individual, partnership, corporation, limited liability company, trust, estate or other legal entity.

“Real Estate Taxes and Assessments” means all real property taxes, possessory-interest taxes, business or license taxes or fees, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, transit and traffic charges, housing fund assessments, open space charges, childcare fees, school, sewer and parking fees or any other assessments, levies, fees, exactions or charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen (including fees “in-lieu” of any such tax or assessment) which are assessed, levied, charged, conferred or imposed by any Governmental Body upon any real property or its operations, together with all taxes, assessments or other fees imposed by any taxing authority upon or measured by any rent or other charges payable under any lease, including any gross receipts tax or excise tax levied by any taxing authority with respect to receipt of rental income, or upon, with respect to or by reason of the development, possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy of the Property, together with any tax imposed in substitution, partially or totally, of any tax previously included within the aforesaid definition or any additional tax the nature of which was previously included within the aforesaid definition, together with any and all costs and expenses (including, without limitation, attorneys, administrative and expert witness fees and costs) of challenging any of the foregoing or seeking the reduction in or abatement, redemption or return of any of the foregoing.

2. **General Use of Property.** The Sale Property shall be used only for retail, restaurant and other commercial uses and purposes consistent and compatible with the operation of a retail center; provided, however, that the operation in compliance with the terms and provisions of this Declaration of a U-Haul business for moving truck and trailer rentals, warehouse, the sale of U-Haul equipment, hitches and moving supplies, the rental of self-storage space, the rental and storage of U-Box, the rental and storage of mini portable self-storage units, the dispensement of propane, U-Haul equipment inspection and minor repair, and ancillary U-Haul uses constitutes a permitted use of the Property under this Declaration. Notwithstanding any contrary provision hereof, all uses of the Property must comply with applicable Governmental Requirements, and no change of use of the Property for a purpose different than the Property is used as of the Effective Date, and no construction or alteration of Improvements after the Effective Date shall cause another Owner’s Property to be in violation of or noncompliance with any Governmental Requirements. No use of the Property shall be permitted that causes or produces a nuisance or unreasonable disturbance to Occupants and activities of another Owner’s Property, including, but not limited to, vibration, sound, odor, electro-magnetic disturbance, radiation, air or water pollution, dust or emission of odorous, toxic or non-toxic matter. No condition shall be permitted to exist upon the Property that induces, breeds or

harbors infectious plant diseases, rodents, or noxious insects. No Owner or Occupant shall in any way interfere with the established drainage of water over its portion of the Property from other portions of the Property, nor shall any Owner or Occupant in any way interfere with established drainage of water from its portion of the Property so as to cause or permit water to drain onto, over or under any other portion of the Property except in accordance with established drainage flow and/or through established drainage facilities. If an Owner desires to change the established drainage flow to accommodate an alteration to the requesting Owner's portion of the Property, then the requesting Owner shall be permitted to do so provided such requesting Owner provides for adequate and proper drainage reasonably acceptable to the Owner(s) of other affected portions of the Property, at the requesting Owner's sole cost and expense. For the purposes hereof, "established" drainage is defined as the drainage that exists on the Property as of the Effective Date, as such drainage may hereafter be changed in accordance with the terms and provisions of this paragraph.

3. **Restrictions on Use of Sale Property.** Without limitation of the other restrictions set forth in this Declaration, no portion of the Sale Property shall be used for the following purposes: (i) a cocktail lounge, bar or any other establishment that sells alcoholic beverages for on-premises consumption (except that the foregoing shall not pertain to any such establishment that is operated in conjunction with a restaurant); (ii) dance hall, discotheque, bowling alley, pool hall, billiard parlor, laser tag or similar facility, skating rink or roller rink; (iii) adult book store, adult theatre or adult amusement facility, or any other facility selling or displaying pornographic materials as a primary use; (iv) flea market, provided that there shall be no restriction against a Deseret Industries, Goodwill, donation drop off, donation pick-up and/or second hand store; (v) assembly hall, provided that political offices shall be permitted; (vi) a gymnasium, sport, fitness center or health club or spa of a size larger than 25,000 square feet; (vii) massage parlor (except for a legitimate therapeutic massage business); (viii) the outdoor housing or raising of animals, except the foregoing shall not pertain to a retail pet store; (ix) any industrial use (including, without limitation, any manufacturing, smelting, rendering, brewing, refining, chemical manufacturing or processing, or other manufacturing uses), any mining or mineral exploration or development except by non-surface means; (x) off-track betting establishment or bingo hall; (xi) a church, temple, synagogue, mosque or other house of worship; (xii) funeral home, mortuary or undertaking establishment; (xiii) hotel, motel or other hospitality lodging facility; or (xiv) automobile service or repair shop, except for the ancillary service of an Occupant's own vehicles. Notwithstanding the foregoing, the provisions of this Section 3 shall not be applicable to any use or operation under any existing lease in effect as of the Effective Date, as to which the landlord under such lease does not have the right to restrict the tenant's use in compliance with this Section 3, including any extension, renewal or modification of any such lease (including relocation of the tenant to a different location on the Sale Property, but excluding a modification of the permitted use clause of such lease in a manner that conflicts with the provisions of this Section 3).

4. **Restrictions on Use of Sale Property.** No portion of the Sale Property shall be used for any of the existing exclusive use or other use restrictions set forth on Exhibit D attached hereto.

5. **Building Restrictions.** No buildings or other structures (including self-storage units) shall be erected on the Sale Property without the consent of the Owner of the Retained

Property, except in the location shown on Exhibit C; provided, however, that the Owner of the Sale Property shall be permitted to install self-storage units that do not exceed the height restriction set forth below in this paragraph in the “Mini-Storage/U-Haul Rental Vehicle Parking Area” shown on Exhibit C (the “**Mini-Storage/U-Haul Rental Vehicle Parking Area**”). Each Owner shall have the right to make modifications to the footprint of the buildings located (or to be constructed) on its Property and to make minor modifications to the parking and Common Areas immediately adjacent to such building, provided that such modifications do not decrease the number of parking spaces located on such Owner’s Property (except for elimination of parking spaces in the Mini Storage/U-Haul Rental Vehicle Parking Area on the Sale Property that are used for mini-storage units or U-Haul Rental Vehicle Parking (as defined in Section 7.3.3 below) or materially adversely affect access over the drive aisles used for ingress and egress to, on and over the Property. No building on the Sale Property shall exceed the height of the building existing on the Sale Property as of the Effective Date; provided, however, that any self-storage units installed in the Mini Storage/U-Haul Rental Vehicle Parking Area on the Sale Property shall not exceed a height of fifteen (15) feet.

6. **Maintenance and Repair.** Each Owner, at its sole cost and expense, shall maintain, repair, replace and restore its Property and the Improvements located thereon in a clean, orderly and first-class condition and appearance, and in compliance with all Governmental Requirements; provided, however, that the provisions of this Section 6 shall not be applicable to the interior portions of a building that are not visible from the exterior of such building as long as any failure to maintain, repair, replace or restore such interior Improvements does not cause any other Owner’s Property (or Improvements) to be in violation of any Governmental Requirements.

7. **Parking and Other Common Areas.**

7.1 **Reciprocal Use of Parking and Other Common Areas.** The parking facilities and other Common Areas located on the Property shall be used in common by all Owners and their respective Permittees. Parking shall be on a non-reserved first-come, first-served basis. Declarant hereby establishes and reserves for and grants to the Owner of each portion of the Property, an easement for and right of access to and use of, the parking facilities and other Common Areas located on the Property, on a non-exclusive shared basis. The easement described in this Section 7.1 shall include an easement for vehicular and pedestrian ingress and egress to, from and over the entrances, exits, driveways, drive aisles, sidewalks and other vehicular and pedestrian circulation paths on the Property for the purpose of the enjoyment of the easement described in this Section 7.1. The Owner of the Retained Property shall have the right to mark and enforce the use of up to two (2) parking spaces for each Occupant as delivery/pick-up or other short-term parking. There shall be no charges for the use of the parking facilities on the Property. No Owner (or its Occupants or Permittees) shall use more than such Owner’s proportionate share of the parking spaces located on the Property, and for such purpose any parking spaces on the Sale Property that are eliminated or used for U-Haul Rental Vehicle Parking in the Mini-Storage/U-Haul Rental Vehicle Parking Area shall be considered as being used by the Sale Property Owner. Such proportionate share shall be that number of parking spaces equal to the total number of parking spaces located on the Property (including any parking spaces eliminated or used for U-Haul Rental Vehicle Parking in the Mini-Storage/U-Haul Rental Vehicle Parking Area), multiplied by a fraction the numerator of which is the square footage of the buildings located on such Owner’s Property and the denominator of

which is the total square footage of the buildings located on the Property. There shall be no parking of automobiles, trucks, trailers or other vehicles, or storage of any kind, in the drive aisles of the Property. Notwithstanding the foregoing, in connection with the construction of a building, the Owner of such building shall have the right to use adjacent portions of the Common Areas located on such Owner's Property for a temporary staging area during the construction of such building, provided that such staging area does not unreasonably interfere with the free flow of traffic on the Property.

7.2 Governmental Parking Tax. If any governmental entity imposes a parking tax upon the use of the parking facilities, then each Owner shall be responsible for the payment of the parking tax imposed on the parking spaces located on such Owner's Property.

7.3 Miscellaneous Parking Provisions.

7.3.1 Notwithstanding any contrary provision hereof, the total number of parking spaces on the Property shall comply with applicable parking ratio requirements for the Property under the Governmental Requirements. No Owner shall reduce the ratio in effect as of the Effective Date of the number of parking spaces located on such Owner's Property to the square footage of the floor area of the buildings located on such Owner's Property, except for the installation of self-storage units in the Mini-Storage/U-Haul Rental Vehicle Parking Area if and to the extent that any such reduction does not cause a violation of applicable Governmental Requirements.

7.3.2 Except as expressly provided in Section 7.3.3, the parking facilities shall be used only for the parking of vehicles for Permittees of Occupants, and the parking facilities shall not be used for the storage or display of trucks, trailers or other vehicles for rental or sale purposes.

7.3.3 Notwithstanding the provisions of Section 7.3.2 above, the Owner or Occupant of the Sale Property shall have the right to park and display in the Mini-Storage/U-Haul Rental Vehicle Parking Area on the Sale Property rental moving trucks, trailers and vehicles used in the operation of a moving truck, trailer and vehicle rental business on the Sale Property ("**U-Haul Rental Vehicle Parking**"). In recognition of the additional burden imposed on the Property by use of the Mini-Storage/U-Haul Rental Vehicle Parking Area for mini-storage units or U-Haul Rental Vehicle Parking, during any period in which the Mini-Storage/U-Haul Rental Vehicle Parking Area is used for mini-storage units or U-Haul Vehicle Rental Parking, the Owner of the Sale Property shall cause its Occupants and Permittees to park only on the Sale Property, and the Owner, Occupants and Permittees of the Sale Property shall not have the right to park on the Retained Property.

7.3.4 No parking facilities located on the Property shall be used or licensed for parking for any off-site property or business.

7.3.5 No Owner shall have the right to install gates or other entry control equipment, curbing, bollards or other obstructions to the drive aisles and parking facilities located on its Property.

7.3.6 Parking shall be limited to only standard sized motor vehicles or motorcycles, except (a) for temporary parking of delivery vehicles in connection with deliveries to the Property; and (b) parking of rental moving trucks, trailers and vehicles in the U-Haul Truck Parking Area under Section 7.3.3 above.

7.3.7 The parking easements granted and reserved in this Section 7 are non-exclusive easements appurtenant to and for the benefit of the Property.

7.3.8 There shall be no changes in the grade elevations in the parking areas which exceed five percent (5%), and such parking areas shall be suitably paved and drained. There shall be no steps or ramps (except to accommodate the handicapped) in the sidewalks within the Property except as existing as of the Effective Date or as required to comply with Governmental Requirements.

7.3.9 No changes shall be made to the vehicle entrances and exits from and to adjacent streets and roads existing as of the Effective Date, as shown on Exhibit C, subject to Governmental Requirements or for modifications that do not materially adversely affect access to and over the parking facilities and other Common Areas.

7.4 Maintenance and Operation of Parking Areas. Without limitation of Section 5 above, each Owner shall with respect to its Property maintain, repair and adequately light (at no less than the lighting standard in effect as of the Effective Date) during the business hours of the Occupants of the Property and for sixty (60) minutes thereafter (but not less than the hours that the parking areas of retail centers are customarily lighted), clean, promptly remove snow and ice from, supervise (including the use of security personnel to the extent that such personnel are necessary), and keep available the parking facilities and other Common Areas located on its Property, and shall provide for adequate service and receiving areas, sidewalks, curbs, roadways and other facilities appurtenant to such parking areas. If any Occupant requires the parking areas to be lit after 11:00 pm or before 7:00 am, then such Occupant shall be responsible for the additional cost of the lighting during such hours, which cost shall be shared on a pro rata basis (based on floor area) with any other Occupants that also require such additional lighting.

8. Utility Easements. Declarant hereby establishes, reserves and grants easements burdening each portion of the Property for the benefit of the remainder of the Property for the installation, use, operation, maintenance, inspection, repair, restoration and replacement of pipes, mains, lines, ducts, wires, conduits and related equipment and facilities for the generation, transmission, delivery or use of utility services (including, without limitation, electricity, gas, water, sprinkler, sewer, heating, ventilation, air conditioning, cable television, communication, emergency power, security and life safety services) through and between portions of the Property. Such easements shall be located in, on and over the Common Areas at the location of such utility facilities that exist as of Effective Date. Any Owner of a portion of the Property that is the servient estate for a utility easement set forth in this Section 8 shall have the right, at its sole cost and expense, upon prior written notice to the Owner that owns the dominant estate for such utility easement, to relocate such easement to another location on such servient Owner's Property.

9. **Real Estate Taxes and Assessments.** Each Owner shall pay all Real Estate Taxes and Assessments assessed or imposed upon or with respect to the portion of the Property owned by such Owner (including the Improvements located thereon), prior to the delinquency date for the payment of such Real Estate Taxes and Assessments.

10. **Insurance/Indemnification.**

10.1 **Duty to Carry Casualty Insurance.** Each Owner shall carry (or cause to be carried), at its own sole cost and expense, Cause of Loss Special Form (also known as extended coverage) property insurance, and during periods of construction, builder's risk insurance, on all of the Improvements and Common Areas located on such Owner's Property. Such insurance shall be written on an "all risks" of physical loss or damage basis, and shall include a vandalism and malicious mischief endorsement.

10.2 **Duty to Carry Liability Insurance.** Each Owner shall carry (or cause to be carried), at its sole cost and expense, commercial general liability insurance covering the insured against claims of bodily injury, personal injury and property damage covering such Owner's Property, including all Improvements and Common Areas located thereon. Such insurance shall be primary, non-contributory, and include a broad form commercial general liability endorsement covering the indemnity provisions of this Declaration. Each policy under this Section 10.2 shall name the other Owner(s) as additional insured(s).

10.3 **General Requirements for Property Insurance Policies.** All insurance required under Section 10.1 above shall:

10.3.1 be maintained under a valid and enforceable policy or policies issued by insurers qualified to do business in the state in which the Property is located and which are rated in Best's Insurance Guide at least A-:VII (or, if no Best's Insurance Guide rating is then available, having a comparable rating by a similarly nationally recognized rating agency);

10.3.2 be in an amount not less than the then-current full replacement cost new, without deduction for depreciation (exclusive of foundations, footings and excavations) for the Improvements being insured, subject only to commercially reasonable deductibles customarily carried by other prudent owners of comparable properties; and

10.3.3 provide, or be to the legal effect, that losses payable to a Mortgagee or any other loss payee shall be payable notwithstanding any act or negligence of any Owner or Occupant.

10.4 **General Requirements for Liability Policies.** All insurance required under Section 10.2 above shall:

10.4.1 be maintained under a valid and enforceable policy or policies issued by insurers qualified to do business in the state in which the Property is located and which are rated by Best's Insurance Guide at least A-:VII (or, if no Best's Insurance Guide rating is then available, having a comparable rating by a similarly nationally recognized rating agency);

10.4.2 insure, on a primary basis, against claims for personal injury or death or property damage occurring upon, in or about each Owner's Property, or upon, in or about the adjoining land, streets and passageways thereof, such insurance to afford protection in an amount not less than \$3,000,000.00 each occurrence, annual aggregate, subject only to such commercially reasonable deductible as is customarily carried by other prudent owners of comparable properties; provided, however, that no more often than every five (5) years an Owner shall have the right to require that the \$3,000,000 required minimum coverage limit set forth above be increased to the limit of liability coverage then typically carried by prudent owners of other comparable retail and commercial centers in the geographic market of the Property; in all cases, the required limits of coverage may be achieved through the use of a combination of primary and excess/umbrella coverage; and

10.4.3 provide, or be to the legal effect, that losses payable to a Mortgagee shall be payable notwithstanding any act or negligence of any Owner or Occupant.

10.5 Indemnification by Parties. Each Owner shall indemnify, defend and hold harmless the other Owner, and each of their respective officers, directors, agents, members, shareholders and partners, from and against all claims, liabilities, damages, causes of action, obligations, costs and expenses (including reasonable attorneys' fees) (collectively, "Claims") arising from the death of or bodily injury to any Person, or for damage to the property of any Persons, as shall occur on such Owner's Property, except in each case to the extent the Claim both (i) is caused by or results from the negligence or willful misconduct of the indemnitee or its employees, agents or contractors, and (ii) except in the case of the gross negligence or willful misconduct of the indemnitee, is not covered by insurance and would not have been covered by insurance if such indemnifying Owner had carried the insurance required to be carried by such indemnifying Owner under this Declaration. Each indemnitee shall provide indemnitor with prompt written notice of any Claim entitling indemnitee to indemnification pursuant to this Section 10.5, and indemnitor shall defend indemnitee with respect to such Claim with counsel reasonably satisfactory to indemnitee; provided, however, the failure of an indemnitee to provide written notice of any Claim entitling indemnitee to indemnification shall not relieve indemnitor of the indemnification obligations set forth in this Section 10.5, except to the extent that such failure materially increases the liability of indemnitor or materially adversely affects indemnitor's defense against the Claim.

10.6 Blanket Policies. Each party may satisfy its obligations under Sections 10.1 through 10.5, in whole or in part, by means of a so-called blanket policy which is in conformity with the requirements of such Sections, provided that the aggregate limits in any blanket liability policy are applicable on a per location basis.

10.7 Certificate of Insurance. Each Owner shall, on the request of the other Owner, promptly furnish such requesting Owner with a certificate evidencing its compliance with the insurance coverage requirements of this Section 10.

10.8 Release and Waiver of Subrogation - Parties. Each Owner hereby waives all rights of recovery and causes of action, and releases the other Owner from any liability, due to losses and damages occasioned to its Property (including the Improvements located thereon), which losses and damages are of the type covered under the property insurance coverage

required under Section 10.1, to the extent that said loss is reimbursed by insurance, or would have been reimbursed if the required coverage had been carried as provided in Section 10.1. The coverage required under Section 10.1 shall provide for waivers of any right of subrogation that the insurer of one Owner may acquire against the other Owner hereto with respect to any such releases.

10.9 Release and Waiver of Subrogation - Occupants. Each Person who becomes an Occupant shall be deemed to have waived and released all of its rights to recover from each Owner for losses and damages that the Occupant sustains by reasons of a risk covered under the types of policies required by this Section 10, to the extent of any reimbursement to such Occupant by an insurer. Each Owner hereby releases all of its rights to recover from each Occupant (who makes the above-described waiver and release) all losses and damages that the Owner sustains by reason of risks covered under the types of policies required under Section 10.1 to the extent of any reimbursement to the Owner by an insurer (or to the extent that such reimbursement would have occurred if the coverage required under Section 10.1 had been carried).

11. Signage Easement.

11.1 The Owner of the Sale Property is hereby granted the right to use the top sign panel (the "Sign Panel") of the existing pylon sign ("Existing Pylon Sign") located on the Retained Property in the location shown on Exhibit C for the display of the trade name of the business operated on the Retained Property; provided, however, that such name displayed on the Existing Pylon Sign shall be compatible with a family-oriented shopping center; provided, further, that the Owner of the Retained Property hereby agrees that the name "U-Haul" complies with such requirement. Such right to use the Sign Panel shall be in accordance with the following: (a) the Owner of the Sale Property shall be responsible, at its sole cost, for the fabrication, installation, maintenance, repair and restoration (as necessary) of the sign installed on the Sign Panel in a first-class condition and appearance, and is hereby granted access over the Retained Property for the purpose of this clause (a); (b) the Owner of the Retained Property shall have the right to approve the plans and specifications for any work affecting the Sign Panel performed by or on behalf of the Owner of the Sale Property, which approval shall not be unreasonably withheld, conditioned or delayed; (c) the Owner of the Retained Property shall have the right and obligation to maintain, repair and replace (including relocation to a location with comparable exposure to Interstate 191) the Existing Pylon Sign structure, and the owner of the Sale Property shall be required to reimburse the Owner of the Retained Property for a pro-rata portion of all reasonable expenses incurred by the Owner of the Retained Property under this clause (c), with such pro-rata portion to be a fraction the numerator of which is the sign fascia area of the Sign Panel and the denominator of which is the total sign fascia area of all individual occupant sign panels (including the Sign Panel) located on the Existing Pylon Sign; (d) the Owner of the Sale Property shall be responsible for any damage to the Existing Pylon Sign (including any sign panels located thereon) or the Retained Property incurred in connection with the exercise of its rights under this Section 11.1, and shall indemnify, defend and hold harmless the Owner of the Retained Property and its affiliates from any liabilities, claims, losses, damages, costs or expenses (including reasonable attorneys' fees) incurred in connection with the exercise of Sale Property Owner's rights under this Section 11.1, except to the extent caused by the negligence or willful misconduct of the Owner of the Retained Property, or its agents,

employees, contractors or tenants; and (e) use of the Sign Panel shall be limited to display of the tradename of the business operated on the Sale Property and the Sign Panel may not be used for any other purpose, including for any third party signage.

11.2 Except as expressly set forth in Section 11.1 above, this Declaration does not grant or reserve any easements or rights to use any pylon, monument or other signage located on another Owner's Property. Notwithstanding any contrary provision of this Declaration or any provision of any other agreement or document of record recorded prior to the date of this Declaration, except for the rights of the Owner of the Sale Property set forth in Section 11.1 above, (a) no Owner or Occupant of the Retained Property shall have any easements or rights to use any pylon, monument or other signage located on the Sale Property, and (b) no Owner or Occupant of the Sale Property shall have any easements or rights to use any pylon, monument or other signage located on the Retained Property or located on any other property over which the Property may hold signage rights under the Existing CC&R's (as defined in Section 16 below).

12. Damage or Destruction of Improvements.

12.1 Damage or Destruction of Improvements Other Than Common Areas. If any Improvements other than Common Areas are damaged or destroyed by any casualty, or taken by condemnation or the exercise of the power of eminent domain, the Owner of the portion of the Property on which such Improvements are located shall, at such Owner's sole cost and expense, either (a) promptly restore such Improvements (or such Improvements as have not been taken by condemnation or the exercise of the power of eminent domain) to their condition existing immediately prior to the damage or taking, or (b) to the extent the Owner of the Property on which the Improvements were located elects not to restore such Improvements, such Owner shall raze such damaged or destroyed Improvements, and shall forthwith grade, pave and/or landscape the area on which such Improvements were located to an attractive and safe condition that is consistent and compatible with the use and appearance of the remainder of the Property as a retail and commercial center. The repair, restoration or other work described in this Section 12.1 shall be commenced and completed in a diligent manner.

12.2 Damage or Destruction of Common Areas. If any of the Common Areas are damaged or destroyed by any casualty, or any portion thereof is taken by condemnation or the exercise of the power of eminent domain, the Owner of the portion of the Property on which the affected Common Areas are located shall, at such Owner's sole cost and expense, promptly restore the damaged Common Areas (or such portion thereof that has not been taken by condemnation or the exercise of the power of eminent domain) to their condition existing immediately prior to the damage or taking. The repair, restoration or other work described in this Section 12.2 shall be commenced and completed in a diligent manner.

13. Defaults/Enforcement.

13.1 Defaults. Any Person that commits a breach of any material covenant, restriction, term or provision of this Declaration shall be considered to be in default under this Declaration if such Person fails to cure such breach within thirty (30) days following written notice from an aggrieved Owner specifying such breach; provided, however, that if the nature of the particular breach reasonably requires more than thirty (30) days to cure, then such Person

shall not be considered to be in default of this Declaration if such Person commences the cure of the breach within the foregoing thirty (30) day period and thereafter diligently prosecutes such cure to completion.

13.2 General Remedies. Subject to the provisions of Sections 13.1 and 15.2, in the event of any default of this Declaration, an aggrieved Owner shall have the right to prosecute a proceeding at law or in equity against any Owner or Occupant or any other Person or Persons who have violated any of the provisions, covenants, conditions and restrictions set forth in this Declaration, to enjoin or prevent such violation, to cause said violation or breach to be remedied, or to recover damages for said violation; provided, however, that nothing herein contained shall be deemed to impose upon any aggrieved Owner any liability for the failure to prosecute a violation or breach of this Declaration. If any portion of the Property is owned by tenants-in-common or joint tenant ownership, each tenant-in-common or joint tenant Owner shall be jointly and severally liable for the violation or breach of any covenant, condition, restriction or provision contained in this Declaration pertaining to such parcel. Notwithstanding the foregoing, no Owner shall be permitted to prosecute a proceeding against any Occupant of another Owner's Property (as opposed to the Owner itself) for a breach of this Declaration unless such breach has a material adverse effect on the use and enjoyment by the aggrieved Owner of its Property and/or Improvements and/or its rights under this Declaration.

13.3 Action by Default Curing Owner. Without limitation of any other rights or remedies of an aggrieved Owner under this Section 13, if an Owner defaults in the performance of its obligations under this Declaration as provided in Section 13.1 above, then the Owner that sent the notice of the breach under Section 13.1 above (the "**Default Curing Owner**") may proceed to take the action required to cure the default upon delivery of an additional five (5) days' written notice to the defaulting Owner specifying that the Default Curing Owner intends to cure the default. If the action taken by the Default Curing Owner was in fact required to have been performed by the defaulting Owner, then the Default Curing Owner shall be entitled to prompt reimbursement from the defaulting Owner for the reasonable costs and expenses incurred by Default Curing Owner in curing the default.

13.4 Deemed to Constitute a Nuisance. The result of every action or omission whereby any covenant, condition, restriction or provision herein contained is violated, in whole or in part, is hereby declared to be and constitute a nuisance, and every remedy allowed by law or equity against any person causing a nuisance shall be applicable against the Owner, Occupant or any other Person responsible for such action or omission, and may be exercised by any aggrieved Owner.

13.5 Failure To Enforce Not A Waiver Of Rights. The failure of any aggrieved Owner to enforce any covenant, condition, restriction or provision herein contained shall in no event be deemed to be a waiver of the right thereafter to do so, nor of the right to enforce any other covenant, condition, restriction or provision set forth in this Declaration.

13.6 Termination. Notwithstanding anything contained or implied in this Declaration to the contrary, in no event shall the remedies available hereunder for a breach or default under this Declaration include termination of this Declaration. Each Owner hereby waives any right under law, equity or otherwise, to terminate this Declaration under any circumstance other than as set forth in Section 14 below.

13.7 **Force Majeure.** Except as otherwise expressly provided in this Section 13 or elsewhere in this Declaration, each Owner shall be excused from performing any obligation or undertaking set forth in this Declaration, except any obligation to pay any money (unless such payment is conditioned upon performance of an obligation or undertaking excused by this Section 13), in the event, but only to the extent and for so long as, the performance of such obligation is prevented, delayed or hindered by (a) an act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the ordinary course on the open market; (b) failure of normal transportation, strike, lockout, action of labor unions; (c) condemnation, requisition, law, order of governmental or civil or military authorities; (d) the inability to obtain governmental approvals or permits despite the exercise of due diligence and good faith efforts; or (e) any other cause similar to the foregoing not within the reasonable control of such Owner (financial ability or negligence excepted). Each Owner shall give notice of any such delay to the other Owner within thirty (30) days of such Owner's actual knowledge of the occurrence of the event with respect to which such Owner intends to claim a permitted delay hereunder.

14. **Term.** This Declaration shall be effective as of the Effective Date and shall continue in full force and effect for ninety-nine (99) years thereafter. Thereafter, this Declaration shall be automatically extended for the Property for successive periods of ten (10) years each, unless at least one (1) year prior to the end of the initial term of this Declaration or any such extension period an Owner executes (and causes its Mortgagee to consent to) an instrument pursuant to which such Owner elects to have this Declaration terminate with respect to such Owner's Property, in which case this Declaration shall terminate as to such Owner's Property at the end of the initial term or then-existing extension period. Notwithstanding any contrary provision hereof, no termination shall terminate the easements reserved or granted herein. No consent of any other Person, other than each Owner and such Owner's Mortgagee(s), shall be required to effectuate a termination or amendment of this Declaration. Upon termination of this Declaration, all rights and privileges derived from, and all duties and obligations created and imposed by, the provisions of this Declaration, shall terminate and have no further force or effect; provided, however, that the termination of this Declaration shall not terminate the easements granted herein, or limit or affect any remedy at law or in equity of any Owner against any other Owner with respect to any liability or obligation arising or to be performed under this Declaration prior to the date of such termination.

15. **Rights of Lenders.**

15.1 **Priority of Lien of Mortgage.** This Declaration shall be and remain senior in priority to all Mortgages hereafter executed upon the Property or any portion thereof; provided, however, that no breach of the covenants, conditions or restrictions set forth in this Declaration, or foreclosure of any lien herein created for the payment of money, shall affect, impair, defeat or render invalid the lien, charge or priority of any Mortgage made in good faith and for value and encumbering any portion of the Property. Any lien created herein for the payment of money shall be subordinate to the lien of any Mortgage made in good faith and for value and encumbering any portion of the Property, and such liens shall be extinguished by the foreclosure of any Mortgage as to payments which became due prior to such foreclosure. In no event shall any sale or transfer (whether by foreclosure or otherwise) result in the release of any

lien rights which may be created hereunder for the payment of any money thereafter becoming due. Any Mortgagee or other Owner whose title to a portion of the Property is derived through foreclosure, trustee's sale or deed in lieu of foreclosure, shall take title to such Property subject to, and shall be bound by, all the covenants, conditions and restrictions set forth in this Declaration. Nothing in this Declaration shall be construed to release any Owner from its obligation to pay costs levied pursuant to this Declaration during the period of its ownership.

15.2 Notice of Default. Each Mortgagee, upon filing a written request for such notification with the then Owners of the Property, is entitled to written notification of any notice of breach by the Owner of the portion of the Property that is encumbered by the Mortgage held by such Mortgagee in the performance of such Owner's obligations under this Declaration. Such Mortgagee shall thereafter have the right to cure such breach on behalf of its Owner within the thirty (30) day cure period following the expiration of the applicable cure period allowed to such Owner.

15.3 Request for Notice. No Mortgagee shall be entitled to receive any notice which this Declaration requires to be given, unless and until such Mortgagee has delivered a written request for such notice with the Owners of the Property at the time such written request is made. Such request for notice shall state which portion of the Property or Improvements is encumbered by its Mortgage. A Mortgagee's rights pursuant to this Declaration shall not be affected by the failure to request such notice. Any request for notice delivered to an Owner shall remain effective without any further action by the requesting Person for so long as the requesting Person continues to be the Mortgagee with respect to the portion of the Property or Improvements for which the request for notice was given, regardless of whether the Owner to which the request for notice was made continues to be the Owner of such Property.

15.4 Curing Defaults. Except as otherwise provided herein, a Mortgagee or the immediate transferee of such Mortgagee, who acquires title by judicial foreclosure, a deed in lieu of foreclosure or trustee sale, or otherwise, shall not be obligated to cure any breach of the provisions of this Declaration which occurred before such Mortgagee or transferee acquired title if (a) such breach is non-curable or is of a type which is not practical or feasible to cure, or (b) such Mortgagee did not have notice of such a breach at the time it acquired title.

15.5 Additional Provisions. No action to amend or terminate this Declaration by an Owner shall be effective to bind the Mortgagee of a then-current Mortgage of record, without the written consent of such Mortgagee.

15.6 Conflicts. In the event of any conflict between any of the provisions of this Section 15 and any of the other provisions of this Declaration, the provisions of this Section 15 shall control.

16. Existing CC&R's. The Property and other property located adjacent to the Property (the "Other Property") are currently encumbered by the following (collectively, the "Existing CC&R's"): (a) First Amended Declaration of Easements and Covenants dated August 1, 1983 and recorded in the official records of Carbon County, Utah on October 13, 1983 as Entry No. 001202, at Book 232, Page 665, as amended by Amendment to First Amended Declaration of Easements and Covenants dated April 23, 1992 and recorded in the official records of Carbon County, Utah on April 24, 1992 as Entry No. 34660 at Book 315, Page 812

(collectively, the "1983 CC&R's"); (b) Declaration of Easements, Covenants and Restrictions dated May 12, 2009 and recorded in the official records of Carbon County, Utah on May 15, 2009 as Entry No. 800951, at Book 699, Page 614 (the "2009 CC&R's"), and (c) Declaration of Easements, Covenants and Restrictions recorded in the official records of Carbon County, Utah on June 9, 2010 as Entry No. 805952, at Book 723, Page 478 (the "2010 CC&R's"). The following terms and provisions shall apply with respect to the Existing CC&R's:

16.1 no Owner or Occupant of the Sale Property shall have any rights (including the right to right to enforce any covenants, restrictions or other provisions) under Section 7 of the 1983 CC&R's that burden either the Retained Property or the Other Property;

16.2 no Owner or Occupant of the Sale Property shall have any rights (including the right to enforce any covenants, restrictions or other provisions) or obligations under Sections 6, 7(a), 7(b), 8, 9, 10 or 15 of the 2009 CC&R's;

16.3 no Owner or Occupant of the Sale Property shall have any rights (including the right to enforce any covenants, restrictions or other provisions) or obligations under Sections 6, 7(a), 7(b), 8, 9, 10 or 15 of the 2010 CC&R's; and

16.4 as between all Owners and Occupants of the Sale Property and all Owners and Occupants of the Retained Property, in the event of any conflict between the terms and provisions of this Declaration and the terms and provisions of the Existing CC&R's, the terms and provisions of this Declaration shall control.

17. Miscellaneous.

17.1 Constructive Notice and Acceptance. Every Person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, restriction and provision contained in this Declaration, whether or not any reference to this Declaration is contained in the instrument by which such Person acquired an interest in the Property.

17.2 Notices.

17.2.1 Except as otherwise expressly provided in this Declaration or required by law, all notices, consents, requests, demands, approvals, authorizations and other communications provided for herein shall be in writing and shall be sent by personal delivery, certified mail, return receipt requested, or by recognized overnight courier service, to the intended party at its last known address. For purposes of this Section 17.2.1, "last known address" with respect to any Owner shall mean such Owner's address last supplied to the other then Owners of the Property. If no address is supplied, then such Owner's address shall be deemed to be the address of the portion of the Property owned by such Owner.

17.2.2 With respect to (a) any notice, consent, request, demand, approval, authorization or communication, and (b) any document or instrument given or made available to any Owner hereunder and which might concern an Occupant of such Owner's Property, it shall be the sole responsibility of such Owner to make a copy thereof available in a timely manner to such Occupant.

17.3 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose.

17.4 Headings. Section used in this Declaration are inserted for convenience only and are not intended to be a part hereof or in any way to define, limit or describe the scope and intent of the particular provisions to which they refer.

17.5 Effect of Invalidation. Each covenant, condition and restriction of this Declaration is intended to be, and shall be construed as, independent and severable from each other covenant, condition and restriction. If any covenant, condition or restriction of this Declaration is held to be invalid by any court, the invalidity of such covenant, condition or restriction shall not affect the validity of the remaining covenants, conditions and restrictions hereof.

17.6 Estoppels. Within twenty (20) days following a request in writing by an Owner, the other Owner shall execute and deliver to any prospective purchaser or any current or prospective Mortgagee of the requesting Owner's Property an estoppel certificate confirming that (i) this Declaration is in full force and effect, and has not been modified or amended (or stating any such modifications or amendments), and (ii) to the best knowledge of the certifying Owner, there are no existing uncured defaults by any Owner under this Declaration.

17.7 Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive.

17.8 Attorneys' Fees and Costs. If any party brings an action or proceeding (including, without limitation, any cross-complaint, counter-claim, third-party claim or arbitration proceeding) against an Owner by reason of the alleged breach or violation of any provision hereof, or for the enforcement of any provision hereof, or to interpret any provision hereof, or otherwise arising out of this Declaration, the prevailing party in such action or proceeding shall be entitled to its costs and expenses of such action or proceeding, including but not limited to its actual attorneys' fees reasonably incurred, which shall be payable by the non-prevailing party whether or not such action or proceeding is prosecuted to judgment or award. For the purposes of this Declaration, the term "attorneys' fees" shall mean the actual fees and expenses of counsel to the parties hereto reasonably incurred, which shall include fees and expenses reasonably incurred with respect to post-judgment motions, contempt proceedings, garnishment, levy, debtor and third-party examinations, discovery, bankruptcy, and proceedings to enforce, perfect or collect a judgment.

17.9 Approvals. In the event that an Owner is requested in writing to provide its approval or consent to a matter described in this Declaration, and such Owner does not respond to such request in writing within thirty (30) days following any such request which makes reference to the provisions of this Section 17.9, and if such Owner continues to fail to respond to the request with five (5) business days after a second notice that makes reference to the provisions of this Section 17.9, then such Owner shall be deemed to have approved, or consented to, the matter as to which its approval or consent was requested.

17.10 Leases. Any agreement for the leasing of any portion of the Property or Improvements thereon (hereinafter in this Section 17.10 referred to as a "lease") shall provide

that the terms of such lease shall be subject in all respects to the provisions of this Declaration; provided, however, that no failure of a lease to specifically provide the foregoing shall affect the fact that the lease is subject to this Declaration and all provisions set forth herein. Each Owner shall be responsible for assuring compliance with this Declaration by the Occupants of such Owner's Property. Notwithstanding any contrary term or provision of this Declaration, no Occupant or Permittee shall have any rights or remedies under this Declaration, including any rights to enforce this Declaration; provided, however, that each Owner shall have the right to enforce this Declaration for the benefit of its Occupants.

17.11 Counterparts. This Declaration may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original and all of which, taken together, shall constitute one and the same document.

17.12 Run With the Land. The terms, provisions, agreements, covenants, conditions and restrictions set forth in this Declaration shall be equitable servitudes, and shall run in favor and be enforceable for the benefit of, and shall be binding upon and enforceable against, each Owner's Property and each of their respective successors and assigns as Owner of such Property. The liability of each Owner under this Declaration shall be limited to its period of ownership of the Property that is the subject of such liability, provided that no sale or transfer shall relieve a party of liability for any act, omission or breach arising or occurring during such period of ownership.

17.13 Governing Law. This Declaration shall be construed and enforced in accordance with the laws of the State of Utah, and venue and jurisdiction for any legal action regarding this Declaration shall lie in county in which the Property is located.

17.14 Modification of Declaration. This Declaration may not be amended or modified except in writing executed by the party against whom such amendment or modification is being charged.


17.15 Merger. The easements, covenants, conditions, restrictions, equitable servitudes, right and obligations and other matters or interests created by this Declaration shall not merge with the fee interest in all or any portion of the Property, notwithstanding that the dominant and servient estates pertaining thereto are held at any time by the same person or entity; provided, however, that the Owner of the dominant estate for any such matter or interest shall have the right to waive application or enforcement of any provision with respect to which such Owner holds both the dominant and servient estates.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Declarant has made this Declaration as of the Effective Date.

CREEKVIEW PLAZA, LLC, a Delaware limited liability company

By: CCA Acquisition Company, LLC, a California limited liability company, its managing member

By:  _____
Steven H. Usdan, its managing member

[Signature Page to Declaration Of Easements, Covenants, Conditions And Restrictions]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of ~~California~~ Utah
County of Salt Lake
On June 25, 2019 before me, Susanne Maitzen
Date Here Insert Name and Title of the Officer
personally appeared Steven H. Usdan
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature Susanne Maitzen
Signature of Notary Public

Place Notary Seal Above

EXHIBIT A

LEGAL DESCRIPTION OF SALE PROPERTY

BEGINNING AT A POINT WHICH IS NORTH 88°40'35" EAST 3554.97 FEET ALONG THE SECTION LINE (EAST 3554.75 FEET BY RECORD) AND SOUTH 00°00'00" EAST 920.47 FEET (SOUTH 840.21 FEET BY RECORD) FROM THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 14 SOUTH, RANGE 10 EAST, SALT LAKE BASE AND MERIDIAN, CARBON COUNTY, UTAH, AND RUNNING THENCE SOUTH 89°25'52" WEST 37.29 FEET TO A POINT ON A LINE 35.00 FEET DISTANT FROM AND PARALLEL TO THE EXTENSION OF AN EXISTING BUILDING WALL LINE THENCE SOUTH 00°34'08" EAST 178.69 FEET ALONG SAID PARALLEL LINE AND ITS EXTENSION TO A POINT ON A LINE 50.00 FEET DISTANT FROM AND PARALLEL TO AN EXISTING BUILDING WALL LINE; THENCE SOUTH 32°23'45" WEST 108.02 FEET ALONG SAID PARALLEL LINE AND ITS EXTENSION TO A NON-TANGENT, 558.366-FOOT-RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 67.01 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°52'35", CHORD BEARS SOUTH 39°19'49" EAST 66.97 FEET; THENCE NORTH 89°32'34" EAST 536.73 FEET, PARTIALLY ALONG THE NORTH LINE OF WEDGEWOOD ESTATES SUBDIVISION, TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF 600 WEST STREET; THENCE NORTH 00°34'08" WEST 721.40 FEET ALONG SAID RIGHT-OF-WAY LINE; THENCE NORTHWESTERLY 23.56 FEET ALONG THE ARC OF A TANGENT, 15.00-FOOT-RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90°00'00", CHORD BEARS NORTH 45°34'08" WEST 21.21 FEET, TO THE SOUTH RIGHT OF WAY LINE OF PRICE RIVER DRIVE; THENCE SOUTH 89°25'52" WEST 357.63 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE TO A POINT ON A TANGENT, 413.00- FOOT-RADIUS CURVE TO THE RIGHT; THENCE WESTERLY 111.30 FEET ALONG SAID ARC THROUGH A CENTRAL ANGLE OF 15°26'28", CHORD BEARS NORTH 82°50'54" WEST 110.97 FEET; THENCE SOUTH 00°34'08" EAST 428.72 FEET TO THE POINT OF BEGINNING, CONTAINING 8.545 ACRES.

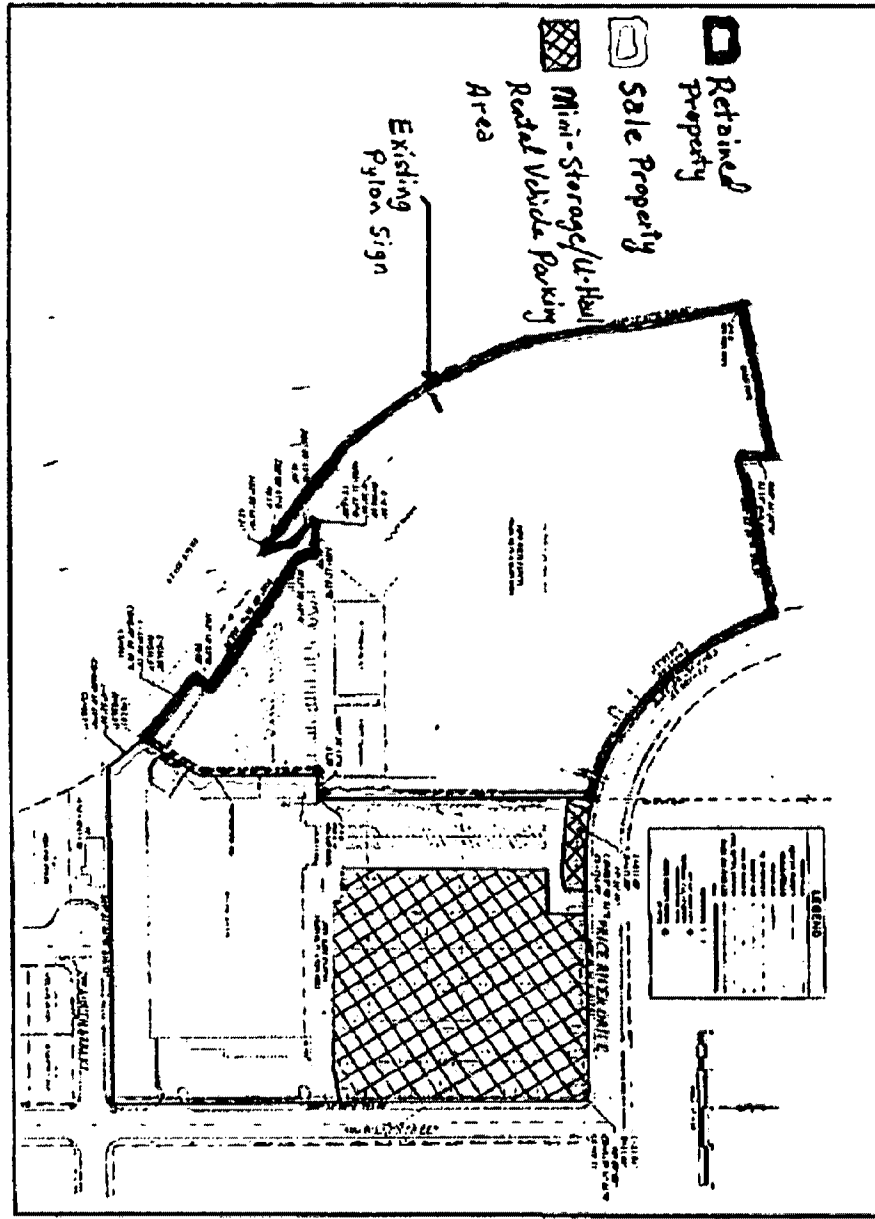
EXHIBIT B

LEGAL DESCRIPTION OF RETAINED PROPERTY

BEGINNING AT THE SOUTHWEST CORNER OF THE CREEKVIEW PLAZA- BIG O TIRE SUBDIVISION, SAID CORNER BEING NORTH 88°40'35" EAST 2741.40 FEET ALONG THE SECTION LINE (EAST 2741.39 FEET BY RECORD) AND SOUTH 00°00'00" EAST 86.70 FEET (86.60 FEET BY RECORD) AND SOUTH 10°13'07" EAST 146.08 FEET FROM THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 14 SOUTH, RANGE 10 EAST, SALT LAKE BASE AND MERIDIAN, CARBON COUNTY, UTAH, AND RUNNING THENCE SOUTH 10°13'07" EAST 300.86 FEET TO A TANGENT, 636.197-FOOT-RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY 510.12 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°56'30", CHORD BEARS SOUTH 33°11'22" EAST 496.57 FEET; THENCE SOUTH 56°09'37" EAST 91.37 FEET; THENCE NORTH 15°22'56" WEST 61.24 FEET; THENCE NORTH 56°09'37" WEST 45.00 FEET TO A TANGENT, 596.197-FOOT-RADIUS CURVE TO THE RIGHT; THENCE NORTHWESTERLY 5.00 FEET THROUGH A CENTRAL ANGLE OF 00°28'50", CHORD BEARS NORTH 55°55'13" WEST 5.00 FEET; THENCE NORTH 89°25'52" EAST 46.77 FEET; THENCE SOUTH 15°30'40" EAST 30.11 FEET TO THE NORTHEASTERLY LINE OF A CARBON COUNTY PARCEL OF LAND HAVING DEED NO. 1-2041 ON FILE WITH THE CARBON COUNTY RECORDER'S OFFICE; THENCE SOUTH 56°49'38" EAST 242.59 FEET ALONG SAID NORTHEASTERLY LINE; THENCE SOUTH 33°10'22" WEST 20.00 FEET ALONG SAID LINE TO A NON-TANGENT, 558.366-FOOT-RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 136.30 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°59'10", CHORD BEARS SOUTH 49°45'42" EAST 135.96 FEET, TO A POINT ON A LINE 50.00 FEET DISTANT FROM AND PARALLEL TO THE EXTENSION OF AN EXISTING BUILDING WALL LINE; THENCE NORTH 32°23'45" EAST 108.02 FEET ALONG SAID PARALLEL LINE TO A POINT ON A LINE THAT IS 35.00 FEET DISTANT FROM AND PARALLEL TO AN EXISTING BUILDING WALL LINE; THENCE NORTH 00°34'08" WEST 178.69 FEET ALONG SAID PARALLEL LINE AND ITS EXTENSION; THENCE NORTH 89°25'52" EAST 37.29 FEET TO A POINT WHICH IS NORTH 88°40'35" EAST 3554.97 FEET ALONG THE SECTION LINE (EAST 3554.75 FEET BY RECORD) AND SOUTH 00°00'00" EAST 920.47 FEET (SOUTH 840.21 FEET BY RECORD) FROM SAID NORTHWEST CORNER OF SECTION 20; THENCE NORTH 00°34'08" WEST 428.72 FEET TO THE SOUTH LINE OF PRICE RIVER DRIVE AT A POINT ON A NON-TANGENT 413.00-FOOT-RADIUS-CURVE TO THE RIGHT; THENCE NORTHWESTERLY 418.51 FEET ALONG SAID SOUTH LINE AND ARC THROUGH A CENTRAL ANGLE OF 58°03'37", CHORD BEARS NORTH 46°05'52" WEST 400.83 FEET, TO THE SOUTHEAST CORNER OF THE PRICE OIL EXPRESS LOT SPLIT; THENCE SOUTH 80°02'10" WEST 250.56 FEET ALONG THE SUBDIVISION LINE TO A CORNER; THENCE NORTH 00°34'36" WEST 51.33 FEET (51.60 FEET BY RECORD) ALONG THE SUBDIVISION LINE TO THE SOUTHEAST CORNER OF SAID CREEKVIEW PLAZA- BIG O TIRE SUBDIVISION; THENCE SOUTH 80°02'10" WEST 250.86 FEET (250.56 FEET BY RECORD) ALONG THE SOUTH SUBDIVISION LINE TO THE SOUTHWEST CORNER OF SAID SUBDIVISION AND TO THE POINT OF BEGINNING, CONTAINING 11.309 ACRES.

EXHIBIT C

SITE PLAN



The portion of the Mini-Storage/Haul Rental Vehicle Parking Area that constitutes the single row of parking along Price River Drive west of the westernmost entrance to the Sale Property from Price River Drive may not be used for storage units and may be used only for the parking of U-Haul rental vehicles that do not exceed the height of 74.4”.

EXHIBIT D

EXISTING EXCLUSIVES AND OTHER USE RESTRICTIONS

The Sale Property shall not be used in violation of any of the following exclusive uses or other use restrictions. Each trade name below is the trade name of the current applicable Occupant. The exclusive use and other use restrictions set forth in this Exhibit D are applicable to each such Occupant and its successors, assigns, subtenants and licensees.

Hibbett Sports: The conduct, as the tenant's principal use or the conduct within an area exceeding the lesser of 1,000 square feet or 20% of the tenant's premises, of the retail sale of sporting goods, athletic shoes, athletic apparel and/or sports fan-licensed products. Without limitation, the following types of tenants violate this restriction: Finish Line, Foot Action, Athlete's Foot, Dick's Sporting Goods, Sports Authority, Shoe Department, Encore Shoes, and Academy Sports. Notwithstanding anything to the contrary, "sporting goods", as set forth above, shall not include any products related to fishing or adventure tourism, watercraft related sports, such as wakeboarding and water-skiing, mountaineering, cycling equipment, skateboarding or rollerblading, nor shall the term "athletic apparel" include apparel related exclusively to such sports.

No portion of the shopping center shall be used as a massage parlor, "adult book or video store" or similar business catering to pornographic interests, amusement center or game room (featuring, without limitation, pinball, electric and video game machines), bowling alley, a tire, battery or auto parts retail location (where repairs are made on site) skating rink, head shop, off-track betting facility, billiard parlor, automobile leasing facility or a business operation generally referred to a "flea market", night club or comedy club, country and western bar, teenage facility, dance hall or bingo parlor.

Great Clips: The operation of a "quick-cut" haircutting salon, such as any salon brand owned and operated by Regis Corp., Super Cuts, Sports Clips, Fantastic Sam's or the like, or salon that specializes in kids cuts, or barber shops. This restriction shall not apply to any full-service hair salon, day spa, or a beauty school occupying less than 5,000 square feet.

Restraints

Neither Landlord nor any person or entity controlled by Landlord or another Tenant shall use, lease or permit the use, leasing or subleasing of, or set any space in, any portion of the Shopping Center for any of the following uses: Any Tenant with a Gross Leasable Area within the Shopping Center greater than 10,000 Square Feet whose primary use or the primary purpose of its Premises shall be the sale or display of any one or any combination of more than one of the following items: Ladies' Ready-to-Wear and wearing apparel; Men's Ready-to-Wear and wearing apparel; Children's and Infants' Ready-to-Wear and wearing apparel; and Children's Furniture. The foregoing restriction shall apply to, without limitation, Goody's, Bath's, Dunlap's, J.C. Penney's, Oldemark and May Co.'s, T.J. Maxx, Saks Man, Kaufman's, Kohn's, and Burlington Coat Factory.

Anchor Store

a. Tenant shall have an exclusive for a single price point variety retail store ("Exclusive" or "Exclusive Use"). A single price point variety retail store is hereby defined as a store that offers all of its merchandise for sale at a single price point.

b. In addition, Landlord will not permit any other occupant in the Shopping Center to operate the following without Tenant's consent and such consent shall be in Tenant's sole and absolute discretion:

- (1) a retail store whose "principal business" (as herein defined) is selling variety retail merchandise at a single price point;

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(2) variety retail operations with the word "Dollar" in their trade name.

For the purpose of this Section, "principal business" shall be defined as selling such merchandise in twenty-five percent (25%) or more of the sales floor area (including one-half (1/2) of the adjacent aisle space).

Fresh Market

Tenant shall have the exclusive right to the use of the Property for grocery store, supermarket and meat market, together with a non-exclusive right to the use of the Property for drugstore, pharmacy and convenience store purposes. (Lease Sec. 31.3)

Beall's

- a. a pornographic; (ii) bookstore; (iii) cinema; (iv) video store; (v) massage parlor; (vi) modeling studio; (vii) tanning salon or (viii) any other business which would tend to injure the family-oriented reputation of the Shopping Center;
- b. topless/bottomless nightclub or restaurant or similar venue for adult entertainment;
- c. auction, going out of business, fire or bankruptcy sales or similar merchandise liquidators;
- d. army/navy surplus store, second-hand store, excluding a first-class consignment shop such as Play It Again Sports, or salvage or "odd-lot" store, excluding national or regional retailers with ten (10) or more stores, such as "Big Lots";
- e. Roller skating rink;
- f. Video arcade, pool or gaming hall;
- g. nightclub, bar or dance hall;
- h. Flea market, swap meet or similar enterprise;
- i. Manufacturing or processing plant;
- j. Pawn shop;
- k. Check cashing, cash advance, short term loan or paycheck advance service or any so called "credit service organization", excluding a full service financial institution (e.g. a bank, savings and loan association or credit union), provided, however, that Landlord may lease space in the Shopping Center for such use so long as the tenant is not within 100 feet from any demising wall of the Demised Premises;
- l. Bowling alley;
- m. Cinema or theater, provided, however, that Landlord may lease space in the Shopping Center for such use so long as the tenant is located in the premises formerly occupied by K-Mart;
- n. Sports, health or fitness club, provided, however, that Landlord may lease space in the Shopping Center for such use so long as either (i) the tenant occupies less than or equal to 7,000 square feet of G.L.A. in the Shopping Center or (ii) the tenant is not located within 200 feet from any demising wall of the Demised Premises;
- o. Auto parts sales (including tires, batteries and accessories), provided, however, that Landlord may lease space in the Shopping Center for such use so long as the tenant is not within 100 feet from any demising wall of the Demised Premises; gas station (including any gas station that is located outside of the Restricted Area and in front of the premises currently occupied by Albertsons) and auto repair shop (including the existing Price Oil Express and the existing Big O Tires) and their replacements provided such replacements operate in the same location and for the same use;
- p. Bingo parlor, Off-track betting parlor;
- q. Funeral home or mortuary;
- r. Any use that is inconsistent with a family-oriented, first class shopping center, including, without limitation, any use of any medium that might constitute a nuisance such as loud speakers, sound amplifiers, phonographs, radios, televisions or any other sound producing device which will carry sound outside of the premises;
- s. Any tenant, with a gross leasable area within the Shopping Center greater than 10,000 square feet, whose primary use or the primary purpose of its premises shall be the sale or display of any one or any combination of more than one of the following items: ladies' ready-to-wear and wearing apparel; men's ready-to-wear and wearing apparel; children's and infants' ready-to-wear and wearing apparel; and children's furniture. The foregoing restriction shall apply to, without limitation, Goody's, Belk's, Dunlap's, J. C. Penney's, Olden's and May Co.'s, T.J. Maxx, Stein Mart, Loehman's, Kohls, and Burlington Coat Factory.

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