

Ent 870601 Bk 1081 Pg 290
Date: 20-Sep-2024 03:09:50PM
Fee: \$40.00 Check Filed By :KM
CARBON COUNTY RECORDER, Recorder
CARBON COUNTY CORPORATION
For: FIRST AMERICAN TITLE INSURANCE

When recorded, return to:

Lin's Supermarkets, Inc.
c/o Associated Food Stores, Inc.
Attn: Legal Counsel
1850 West 2100 South
Salt Lake City, Utah 84119

Tax Parcel Identification No(s): 01-2042-0075, 01-2042-0094, 01-2042-0095, 01-2042-0096, 01-2042-0097, 01-2042-0098
NCS-1226217-jt

**SECOND AMENDMENT TO
DECLARATION OF RESTRICTIONS AND EASEMENTS
AND DECLARATION OF ANNEXATION**

This Second Amendment to Declaration of Restrictions and Easements and Declaration of Annexation (this "Second Amendment") is made and entered into on September 20, 2024, by and among SPARK UTAH, LLC, an Oklahoma limited liability company ("Spark"), LIN'S SUPERMARKETS, INC., a Utah corporation ("Lin's"), BARLOW'S PROPERTIES, L.L.C., a Utah limited liability company ("Barlow"), and DAWN UTAH INVESTMENTS, LLC, an Oklahoma limited liability company ("Dawn") together with Spark, Lin's, and Barlow may be collectively referred to as the "Parties."

1. PRELIMINARY.

1.1 **Declaration.** On September 25, 2023, Spark and Lin's entered into that certain Declaration of Restrictions and Easements filed in the property records of the Carbon County Recorder, State of Utah, at Book 1058, Page 653, as amended by that certain First Amendment to Declaration of Restrictions and Easements as filed in the property records of the Carbon County Recorder, State of Utah, at Book 1069, Page 001 (together, herein the "Declaration") which governs the use and operation of the Shopping Center. Capitalized terms used and not otherwise defined herein have the meanings set forth in the Declaration. As described in Sections 1.3 and 1.4 of the Declaration, the Shopping Center is subject to the following Declarations (in addition to the Declaration): (i) the Original Declaration (i.e. the 1983 Declaration as amended in 1992); (ii) the 2009 Declaration (i.e. the Tire Center Outparcel Declaration); (iii) the 2010 Declaration (i.e. the Oil Lube Outparcel Declaration); and (iv) and the 2019 Declaration (i.e. the U-Haul Outparcel Declaration). For the avoidance of doubt, as set forth in the Declaration and notwithstanding this Second Amendment: (i) the Original Declaration will continue and in the event of any

direct conflicts between the Original Declaration and the Declaration (as amended hereby), the terms of the Declaration will control; (ii) the Original Declaration contains the parameters, rules and provisions relating to the calculation of Common Area Expenses and permits, among other things, fees for the administration and management of the Common Areas; and (iii) the 2009, 2010, and 2019 Declaration will continue in the manner set forth in Section 1.4 of the Declaration.

1.2 **Additional Owners.** Since recording of the Declaration, Spark conveyed Parcel 2 to Dawn and Parcel 3 to Barlow, respectively. By this Second Amendment, Dawn, and Barlow agree to the terms of the Declaration as amended hereby.

1.3 **Amendment and Modification of Declaration.** Section 8.5 of the Declaration provides that the Declaration may be duly amended, in whole or in part, with the written consent of the Owner of the Lin's Parcel and the written consent of the Owners collectively owning a majority (51.00%) of the Building square footage within the Spark Properties. Lin's is the Owner of the Lin's Parcel. Spark, Barlow, and Dawn, collectively own 100% of the Building square footage of the Spark Properties. The Parties desire to amend the Declaration to amend a certain use restriction on Parcel 4 of the Shopping Center.

2. AMENDMENTS TO DECLARATION.

NOW, THEREFORE, the Parties do hereby amend the Declaration as set forth below, which shall run with the land and shall be for the use and benefit of the Owners, their successors and assigns, and to any persons or entity acquiring or owning an interest in the land, units, common elements, and improvements, or any portion thereof, its grantees, successor, heirs, personal representatives, devisees, and assigns.

2.1 **Common Area Maintenance.** Pursuant to Section 1.5(d) of the Declaration the Owner of the Lin's Parcel has exercised its right to assume management and maintenance of the Common Areas of the Shopping Center (other than the U-Haul Outparcel which is self maintained by the Owner of the U-Haul Outparcel pursuant to the 2019 Declaration). In connection therewith the definitions of "Shopping Center Owner" in Section 2 of each of the 2009 and 2010 Declarations are hereby amended and replaced in their entirety with the following: "Shopping Center Owner shall mean the then current owner of Parcel 1 (Lin's Parcel) of the Shopping Center."

The Parties hereby agree and affirm that: (i) each Parcel's current building square footage used to calculate the proportional shares of Common Area expense are set forth on Exhibit A hereto; and (ii) each such Party is responsible for their pro-rata share of Common Area expense at the Shopping Center in the following percentages:

Parcel	Sq. Ft. (Exhibit 1)	Proportional Share
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(i)	Parcel 1 (Lin's Supermarket)	42,270	38.32%
(ii)	Parcel 2 (Dawn/Dollar Tree)	12,070	10.94%
(iii)	Parcel 3 (Barlow/Ace)	20,995	19.03%
(iv)	Parcel 4 (East Shops/Gym)	18,480	16.75%
(v)	Parcel 5 (Taco Time)	1,560	1.41%
(vi)	Parcel 6 (Restaurant)	5,330	4.83%
(vii)	Tire Center Parcel (Big O Tires) (subject to 2009 Declaration)	7,795	7.07%
(viii)	Oil Lube Parcel (Oil Express) (subject to 2010 Declaration)	1,820	1.65%
Totals		110,320	100.00%

2.2 **Parcel 4 Gym Use Exception.** Pursuant to Section 5.2(a), among other restrictions, no part of the Shopping Center may be used as a recreation facility, including a gym or fitness facility greater than 2,000 square feet. Spark has entered into an agreement to convey Parcel 4 to an owner that is proposing to use Parcel 4 as an Anytime Fitness not to exceed 5,100 square feet. In order to accommodate this proposed use, the Declaration is hereby amended as follows:

(i) The definition of "entertainment or recreation facility" is amended to delete the phrase "other than a fitness facility of less than 2,000 square feet, such as a Curves or Day Spa" and replaced with "other than a fitness facility of less than 5,200 square feet, such as an Anytime Fitness, Curves or Day Spa on Parcel 4, so long as Parcel 4 continues to be Self-Parked and the Owner of Parcel 4 installs and maintains, at its sole cost, parking signs on all Parcel 3 stalls that abut or are adjacent to Parcel 4 indicating that such stalls are for Parcel 3 use only." For the avoidance of doubt, the intent of the foregoing is to permit a single fitness facility on Parcel 4 of less than 5,200 square feet so long as Parcel 4 continues to be Self-Parked and to prohibit any other fitness facility (regardless of size) at the Shopping Center.

3. **MISCELLANEOUS TERMS.** Unless as otherwise expressly amended herein, the Declaration shall remain in full force and effect. This Second Amendment shall be recorded in the official records of the Carbon County Recorder, State of Utah. This Second Amendment may be executed in multiple counterparts, all of which taken together shall constitute one and the same Second Amendment.

Signature Pages to Follow.

**SPARK SIGNATURE PAGE TO THE SECOND AMENDMENT TO
DECLARATION OF RESTRICTIONS AND EASEMENTS**

EXECUTED as of the date first set forth above.

SPARK:

SPARK UTAH, LLC, an Oklahoma limited liability company

Spark Brixton, LLC, an Oklahoma limited liability company, as Manager of Spark Utah, LLC

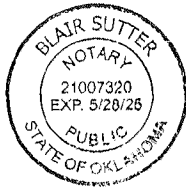
By: 

Mason Ghaniabadi, as Manager

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

On the 11th day of September, 20 24, before me the undersigned notary public, personally appeared Mason Ghaniabadi known or proven to me to be the signer of the foregoing instrument, who duly acknowledged to and before me that he is the Manager of Spark Brixton, LLC, an Oklahoma limited liability company, who is the Manager of Spark Utah, LLC, an Oklahoma limited liability company, and that he signed the foregoing instrument for and on behalf of said corporation, having all requisite authority to so act.

[seal]



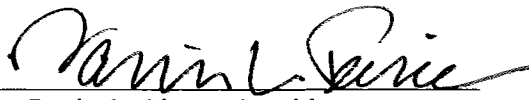

Notary Public

**LIN'S SIGNATURE PAGE SECOND TO THE AMENDMENT TO
DECLARATION OF RESTRICTIONS AND EASEMENTS**

EXECUTED as of the date first set forth above.

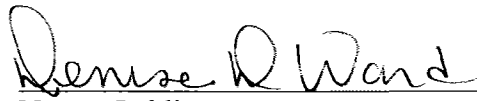
LIN'S:

LIN'S SUPERMARKETS, INC.,
a Utah corporation

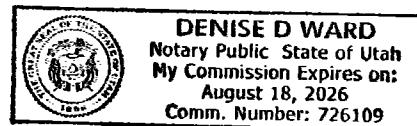
By: 
Darin L. Pierce, President

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

On the 12 day of September, 2024, before me the undersigned notary public, personal appeared Darin L. Pierce, known or proven to me to be the signer of the foregoing instrument, who duly acknowledged to and before me that he is the President of Lin's Supermarkets, Inc., a Utah corporation, and that he signed the foregoing instrument for and on behalf of said corporation, having all requisite authority to so act.


Notary Public

[seal]



**BARLOW'S SIGNATURE PAGE TO THE SECOND AMENDMENT TO
DECLARATION OF RESTRICTIONS AND EASEMENTS**

EXECUTED as of the date first set forth above.

BARLOW'S:

BARLOW'S PROPERTIES, L.L.C., a
Utah limited liability company

By: _____
David C. Barlow, as Manager

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

On the _____ day of _____, 20____, before me the undersigned
notary public, personal appeared David C. Barlow, known or proven to me to be the signer
of the foregoing instrument, who duly acknowledged to and before me that he is the
Manager of BARLOW'S PROPERTIES, L.L.C., a Utah limited liability company, and that
he signed the foregoing instrument for and on behalf of said corporation, having all requisite
authority to so act.

Notary Public

[seal]

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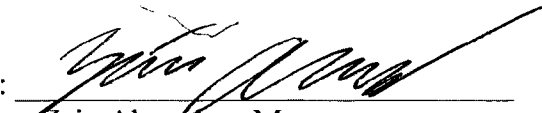
**DAWN SIGNATURE PAGE TO THE SECOND AMENDMENT TO
DECLARATION OF RESTRICTIONS AND EASEMENTS**

EXECUTED as of the date first set forth above.

DAWN:

DAWN UTAH INVESTMENTS, LLC, an
Oklahoma limited liability company

By: _____

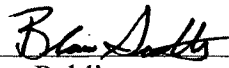

Zain Ahmed, as Manager

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

On the 12th day of September, 20 24, before me the undersigned
notary public, personally appeared Zain Ahmed known or proven to me to be the signer of
the foregoing instrument, who duly acknowledged to and before me that he is the Manager
of Dawn Utah Investments, LLC, an Oklahoma limited liability company, and that he
signed the foregoing instrument for and on behalf of said LLC, having all requisite authority
to so act.

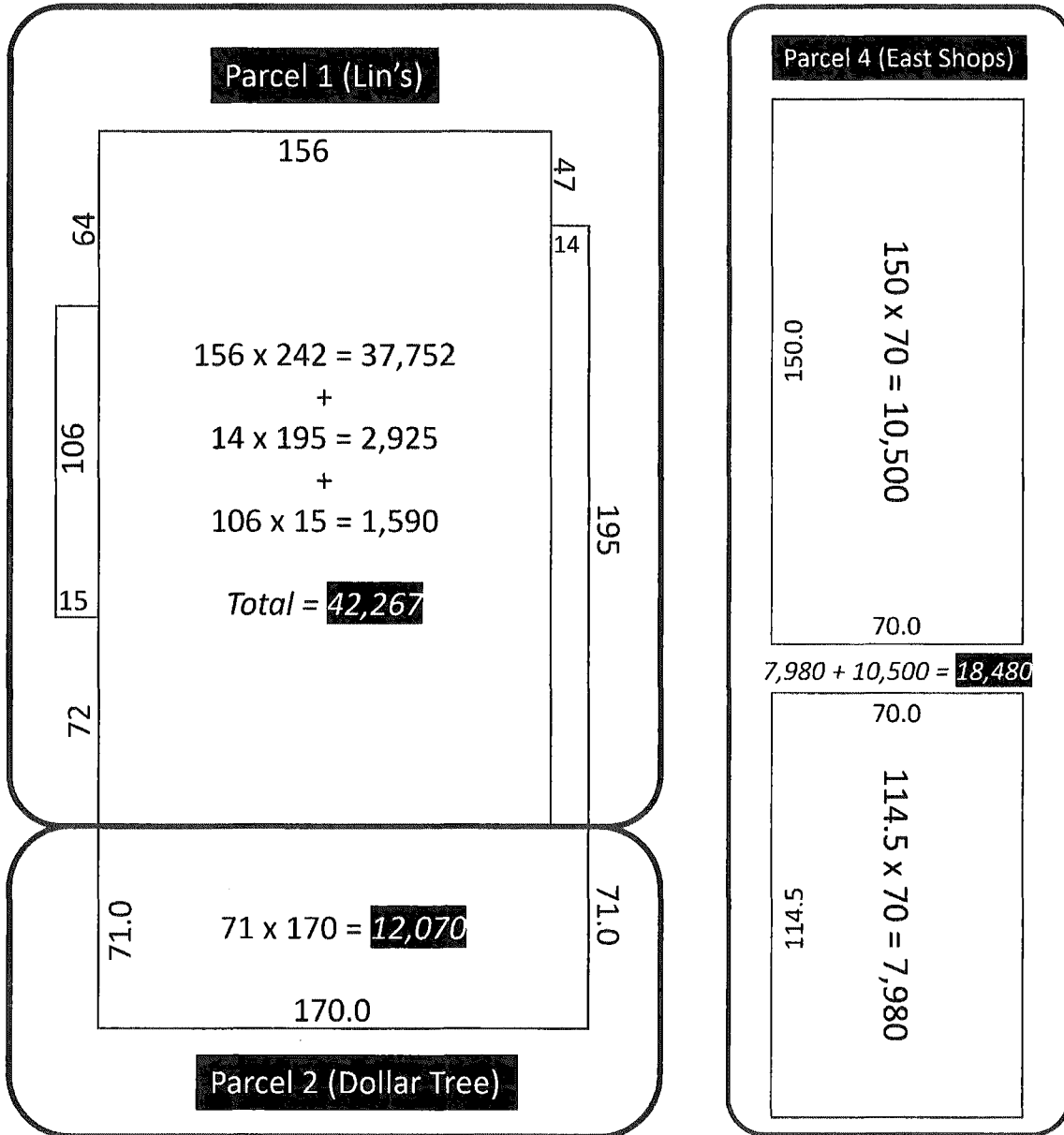
[seal]





Notary Public

Exhibit A – Ground Floor Area Measurements



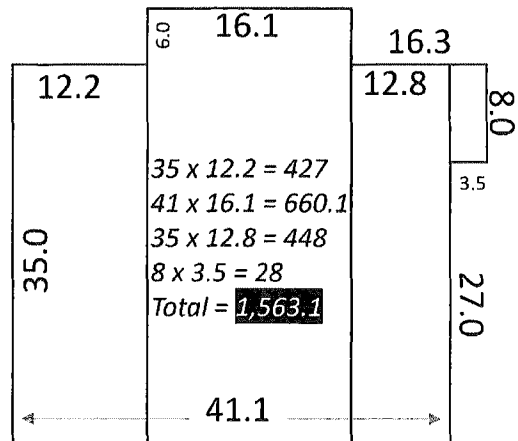
Parcel 3 (ACE Hardware)

95.0

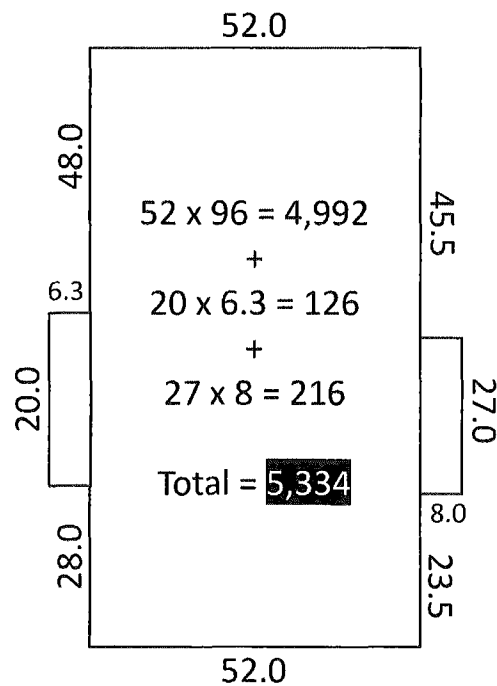
221.0

$$95 \times 221 = 20,995$$

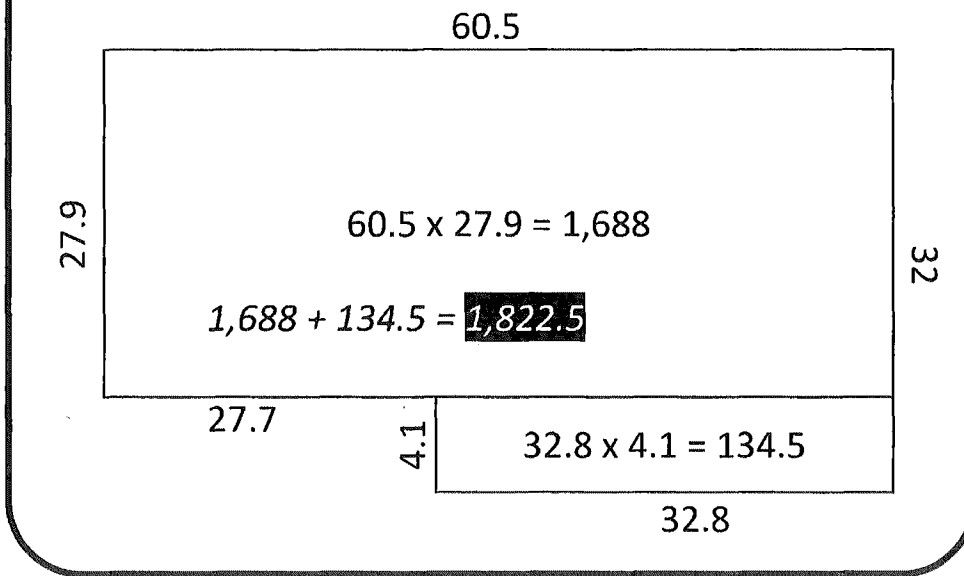
Parcel 5 (Taco Time)



Parcel 6 (Restaurant)



Oil Lube Parcel



Tire Center Parcel

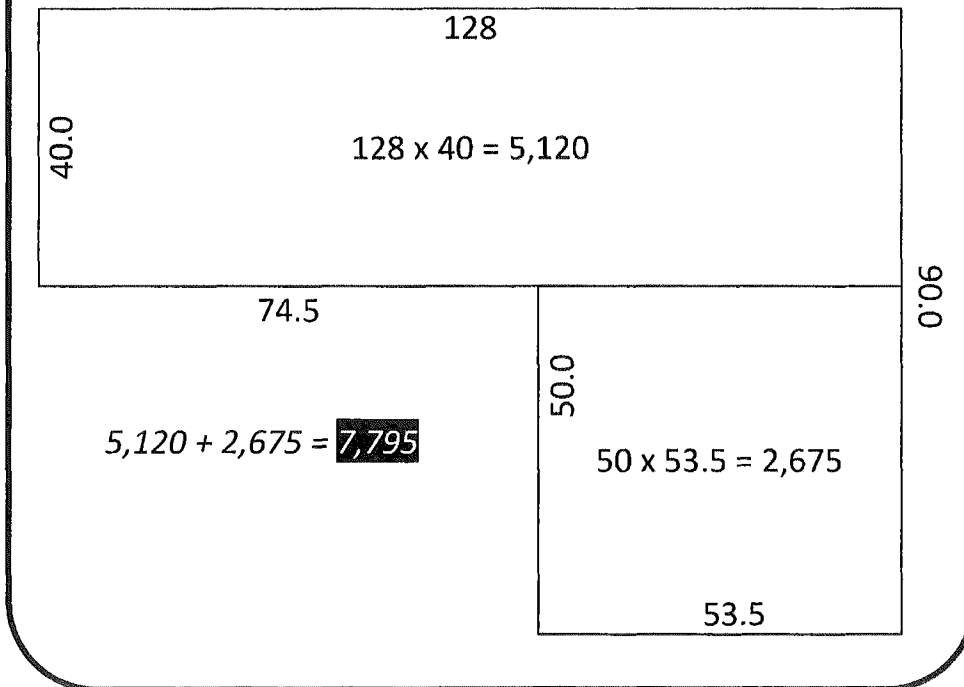


EXHIBIT A
LEGAL DESCRIPTION FOR LIN'S PROPERTY

The following property is located in Carbon County, Utah (Parcel 1 as identified on the Site Plan:

PARCEL 1

Part of the Northeast Quarter of Section 20; Township 14 South, Range 10 East, Salt Lake Base and Meridian, U.S. Survey, in Price City, Carbon County, Utah:

Beginning at a Rebar and Cap Stamped PLS 343635 found marking the Southwest Corner of Creekview Plaza - Big O Tire Subdivision recorded as Entry No. 800950 In Book 699 at Page 613 in the Official Records of Carbon County, located 2515.78 feet South 88°42'20" West along a line between a PK nail found marking the Northeast Corner of said Section 20 and an Aluminum cap reference monument for the Northwest Corner of said Section 20; 88.42 feet South to the Northwest corner of said Subdivision; and 146.16 feet South 10°13'07" East (South 9°38'59" East 146.08 feet record) from said PK nail; and running thence North 80°02'59" East 250.70 feet (South 80°36'34" West 250.56 feet record) along the Southerly line of said Subdivision to a mag nail found marking the Southeast Corner thereof on the West line of the Price Oil Express Lot Split recorded as Entry No. 805872 in Book 723 of Page 150 in the Official Records of Carbon County; thence South 0°30'26" East (South record) 51.37 feet along said West line to a mag nail found marking the Southwest Corner of said Lot Split; thence North 80°02'49" East 250.92 feet (South 80°32'56" West 250.81 feet record) to a point on a curve on the Southwesterly line of Price River Drive as it exists of a 33.00 foot half-width as dedicated per that certain Plat recorded in Book 4 of Plats at Page 229 in the Official Records of Carbon County; thence Southeasterly along the arc of a 413.00 foot radius curve to the left a distance of 133.95 feet (Center bears North 72°51'05" East, Central Angle equals 18°34'59" and Long Chord bears South 26°26'24" East 133.36 feet) along said Southwesterly line to a point on said curve; thence South 54°16'06" West 48.12 feet along a radial line; thence South 46°43'04" East 34.18 feet; thence South 43°16'56" West 152.50 feet; thence South 46°43'04" East 25.68 feet; thence South 80°02'05" West 170.63 feet; thence North 10°22'39" West 9.74 feet; thence South 79°37'00" West 228.42 feet to and along an existing demising wall to a point on a curve on the Westerly line of said Plat recorded in Book 4 of Plats at Page 229 in the Official records of Carbon County; thence along said Westerly line the following two courses: Northwesterly along the arc of a 636.197 foot radius curve to the right a distance of 29.96 feet (Center bears North 77°04'59" East, Central Angle equals 2°41'54" and Long Chord bears North 11°34'04" West 29.96 feet) to a point of tangency; and North 10°13'07" West 300.78 feet to the Southwest Corner of said Subdivision and the point of beginning.

Contains 148,399 sq. ft. or 3.407 acres.

LEGAL DESCRIPTION FOR SPARK PROPERTIES

The following property is located in Carbon County, Utah:

PARCEL 2

A part of the Northeast Quarter of Section 20; Township 14 South, Range 10 East, Salt Lake Base and Meridian, U.S. Survey, in Price City, Carbon County, Utah:

Beginning at a point located 2001.90 feet South 88°42'20" West along a line between a PK nail found marking the Northeast Corner of said Section 20 and an Aluminum cap reference monument for the Northwest Corner of said Section 20; and 583.16 feet South 1°17'40" East from said PK nail; and running thence South 80°02'05" West 174.13 feet; thence South 38°15'21" West 154.67 feet; thence South 55°23'35" West 94.64 feet along a radial line to a point on a curve on the Southwesterly line of that certain Plat recorded in Book 4 of Plats of Page 229 in the Official Records of Carbon County; thence Northwesterly along the arc of a 636.197 foot radius curve to the right a distance of 240.84 feet (Center bears North 55°23'35" East, Central Angle equals 21°41'24" and Long Chord bears North 23°45'43" West 239.40 feet) along said Southwesterly line; thence North 79°37'00" East 228.42 feet; thence South 10°22'39" East 9.74 feet; thence North 80°02'05" East 170.63 feet; thence South 46°43'04" East 64.37 feet; thence South 0°30'26" East 30.75 feet to the point of beginning.

Contains 56,633 sq. ft. or 1.300 acres.

PARCEL 3

Part of the Northeast Quarter of Section 20; Township 14 South, Range 10 East, Salt Lake Base and Meridian, U.S. Survey, in Price City, Carbon County, Utah:

Beginning at a point located 2001.90 feet South 88°42'20" West along a line between a PK nail found marking the Northeast Corner of said Section 20 and an Aluminum cap reference monument for the Northwest Corner of said Section 20; and 583.16 feet South 1°17'40" East from said PK nail; and running thence South 0°30'26" East 39.48 feet; thence South 67°36'23" East 56.11 feet; thence North 65°09'24" East 54.79 feet; thence South 0°34'08" East 113.87 feet; thence South 89°25'52" West 80.84 feet; thence South 0°34'08" East 36.53 feet; thence South 89°25'52" West 26.04 feet; thence South 38°38'51" West 39.61 feet; thence South 0°32'31" East 194.76 feet to and along an existing building wall to the Southerly line of that certain Survey filed as Entry No. 846378 in Book 935 at Page 483 in the Official Records of Carbon County; thence along said Southerly line the following two courses: North 56°49'38" West 91.43 feet; and North 15°30'40" West 30.11 feet to the Southwesterly line of that certain Plat recorded in Book 4 of Plats at Page 229 in the Official Records of Carbon County; thence along said Southwesterly line the following six courses: South 89°25'52" West 46.77 feet to a point on a curve; thence Southeasterly along the arc of a 596.197 foot radius curve to the left a distance of 5.00 feet (Center bears North 34°19'13" East, Central Angle equals 0°28'50" and Long Chord bears South 55°55'13" East 5.00 feet) to a point of tangency; South 56°09'37" East 45.00 feet; South 15°22'50" East 61.24 feet; North

56°09'37" West 91.37 feet to a point of curvature; and Northwesterly along the arc of a 636.197 foot radius curve to the right a distance of 239.32 feet (Central Angle equals 21°33'12" and Long Chord bears North 45°23'01" West 237.91 feet) to a point on said curve; thence North 55°23'35" East 94.64 feet along a radial line; thence North 38°15'21" East 154.67 feet; thence North 80°02'05" East 174.13 feet to the point of beginning.

Contains 99,633 sq. ft. or 2.287 acres.

PARCEL 4

A part of the Northeast Quarter of Section 20; Township 14 South, Range 10 East, Salt Lake Base Meridian, U.S. Survey, in Price City, Carbon County, Utah:

Beginning at a point on the West line of the East Parcel of that certain Survey filed as Entry No. 846378 in Book 935 at Page 483 in the Official Records of Carbon County; located 1719.49 feet South 88°42'20" West along a line between a PK nail found marking the Northeast Corner of said Section 20 and an Aluminum cap reference monument for the Northwest Corner of said Section 20; and 641.15 feet South 1°17'40" East from said PK nail; and running thence along said West line the following four courses: South 0°34'08" East 280.42 feet to the South line of the Southwest Parcel of that certain Plat recorded in Book 4 of Plats at Page 229 in the Official Records of Carbon County; South 32°23'45" West 108.02 feet to a point on a curve on the South line; South 0°34'08" East 178.69 feet; and South 32°23'45" West 108.02 feet to a point on a curve on the South line of said Survey; thence along said South line the following three courses: Northwesterly along the arc of 558.366 foot radius curve to the left a distance of 136.30 feet (Center bears South 47°13'53" West, Central Angle equals 13°59'10" and Long Chord bears North 49°45'42" West 135.96 feet); North 33°10'22" East 20.00 feet; and North 56°49'38" West 151.16 feet; thence North 0°32'31" West 194.76 feet to and along an existing building wall; thence North 38°38'51" East 39.61 feet; thence North 89°25'52" East 26.04 feet; thence North 0°34'08" West 36.53 feet; thence North 89°25'52" East 80.84 feet; thence North 0°34'08" West 98.31 feet; thence North 89°25'52" East 181.55 feet to the point of beginning.

Contains 122,023 sq. ft or 2.801 acres

PARCEL 5:

A part of the Northeast Quarter of Section 20; Township 14 South, Range 10 East, Salt Lake Base and Meridian, U.S. Survey, in Price City, Carbon County Utah:

Beginning at a point on the West line of the East Parcel of that certain Survey filed as Entry No. 846378 in Book 935 at Page 483 in the Official Records of Carbon County; located 1719.49 feet South 88°42'20" West along a line between a PK nail found marking the Northeast Corner of said Section 20 and an Aluminum cap reference monument for the Northwest Corner of said Section 20; and 641.15 feet South 1°17'40" East from said PK nail; and running thence South 89°25'52" West 181.55 feet; thence North 0°34'08" West 159.74 feet; thence North 36°25'06" East 71.52 feet along a radial line to a point on the Southwesterly line of Price River Drive as it exists at a 33.00 foot half-width as a dedicated per that certain Plat recorded in Book 4 of Plats at

Page 229 in the Official Records of Carbon County; thence Southeasterly along the arc of a 413.00 foot radius curve to the left a distance of 155.31 feet (Center bears North 36°25'06" East, Central Angle equals 21°32'49" and Long Chord bears South 64°21'19" East 154.40 feet) along said Southwesterly line to the West line of said East Parcel; thence South 0°34'08" East 148.67 feet along said West line to the point of beginning.

PARCEL 6:

A part of the Northeast Quarter of Section 20; Township 14 South, Range 10 East, Salt Lake Base and Meridian, U.S. Survey, in Price City Utah:

Beginning at a point located 2001.90 feet South 88°42'20" West along a line between a PK nail found marking the Northeast Corner of said Section 20 and an Aluminum cap reference monument for the Northwest Corner of said Section 20; and 583.16 feet South 1°17'40" East from said PK nail; and running thence North 0°30'26" West 30.75 feet; thence North 46°43'04" West 90.05 feet; thence North 43°16'56" East 152.50 feet; thence North 46°43'04" West 34.18 feet; thence North 54°16'06" East 48.12 feet along a radial line to a point on a curve on the Southwesterly line of Price River Drive as is exists a 33.00 foot half-width as dedicated per that certain Plat recorded in Book 4 of Plats at Page 229 in the Official Records of Carbon County; thence Southeasterly along the arc of a 413.00 foot radius curve to the left a distance of 128.67 feet (Center bears North 54°16'06" East, Central Angle equals 17°51'00" and Long Chord bears South 44°39'24" East 128.15 feet) along said Southwesterly line; thence South 36°25'06" West 71.52 feet along a radial line; thence South 0°34'08" East 144.18 feet; thence South 65°09'24" West 54.79 feet; thence North 67°36'23" West 56.11 feet; thence North 0°30'26" West 39.48 feet to the point of beginning.

Contains 33,302 sq. ft. or 0.765 acres

Now known as Parcels 1-6 of Creekview Plaza lot split, according to the official plat thereof, filed in the office of the Carbon County Recorder, September 15, 2023, in Book 1058, at Page 65, as Entry No. 866286.