

## AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT

THIS AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT (“**Agreement**”) is entered into as of November 18, 2015 and supersedes entirely that certain Purchase and Sale Agreement dated February 11, 2015 (the “**Original Agreement**”), by and between the CITY OF SOUTH SALT LAKE REDEVELOPMENT AGENCY, a political subdivision of the State of Utah (“**Seller**”) and BOYER SOUTH SALT LAKE CROSSING, L.C., or its designated affiliates or assigns (“**Buyer**”). For purposes of clarification, the Original Agreement was between Seller and an affiliate of Buyer, THE BOYER COMPANY, L.C. (“**Former Buyer**”), and Buyer shall replace the Former Buyer in all respects as the Buyer under this Agreement, and Former Buyer shall have no further rights or obligations of any kind under the Original Agreement.

WHEREAS Seller owns approximately 11.64 acres of real property located in South Salt Lake, State of Utah as more particularly described on attached Exhibit “A” and shown on the Site Plan attached hereto as Exhibit “D” (the “**Phase I Property**”); and

WHEREAS Seller has purchased the “**Pearson Tire Property**”, consisting of approximately 0.98 acres, as more particularly described on attached Exhibit “A-1” and shown on the Site Plan; and

WHEREAS Seller owns approximately 5.52 acres of real property located in South Salt Lake, State of Utah as more particularly described on attached Exhibit “B” and shown on the Site Plan (the “**Phase II Property**”); and

WHEREAS Buyer is under contract to purchase a parcel of property located at approximately 28 East 2100 South in Salt Lake City, Utah from Intermarket Real Estate, LLC (the “**Intermarket Property**”) pursuant to that certain Commercial Real Estate Purchase Contract dated October 10, 2014, as amended (the “**Intermarket Contract**”) (collectively, the Phase I Property, the Phase II Property, the Pearson Tire Property, and the Intermarket Property are referred to herein as the “**Properties**”); and

WHEREAS it is the intent that Buyer or its successors will develop the Properties as an integrated development; and

WHEREAS, the parties have agreed that Buyer shall assign to Seller all of its rights under the Intermarket Contract so that Seller may purchase such property and replat the Properties for Buyer’s development purposes; and

WHEREAS pursuant to the terms and conditions set forth herein, Seller desires to sell the Properties to Buyer and Buyer desires to purchase the Properties from Seller,

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller agree as follows:

1. Platting of Properties/Vacation of Streets. Conditional on Seller first obtaining fee title to the Intermarket Property, Seller shall replat the Phase I Property, the Pearson Tire Property and the Intermarket Property, creating The Crossing at South Salt Lake Subdivision which consists of five (5) new lots from such existing Properties as shown on the Site Plan at Exhibit “D”. Such

final plat shall be recorded prior to or simultaneously with the First Closing (as defined in Section 2(a) below). In connection with such platting, portions of current alleys and streets within the platted area have been or shall be vacated, including, without limitation, Major Street, Regent Street, Central Point Place (to the extent required) and Utopia Avenue, as shown on the attached Site Plan at Exhibit "D", and more particularly described at Exhibit "E". Notwithstanding anything else in this Agreement to the contrary, however, the obligations of the Seller to purchase the Intermarket Property and to record a plat to create The Crossing at South Salt Lake Subdivision are conditional on one of the following occurring on or before December 1, 2015 (the "**Intermarket/Pearson Loan Conditions**"): (i) Buyer (or, if Buyer elects to assign its rights to purchase Lot 5, Buyer's assignee) closing on the purchase of Lot 5 in the First Closing as defined in Section 2(a) below and further described in Section 11(a)(i) below; or (ii) Buyer or its assignee providing a loan to Seller in the amount of One Million Dollars (\$1,000,000.00) to enable the Seller to pay off a seller-financing deed of trust on the Pearson Property (the "**Pearson Tire Loan**"). If the First Closing has not occurred by November 23, Buyer shall make arrangements to issue the Pearson Tire Loan by December 1, 2015, with such Pearson Tire Loan to be documented solely by a Promissory Note substantially in the form attached as Exhibit "I" and a Deed of Trust on the Pearson Property in substantially the form attached as Exhibit "J".

## 2. Agreement to Sell.

(a) Seller hereby agrees to sell the Properties to Buyer and (subject to Buyer's right to partially or totally assign this Agreement) Buyer hereby agrees to purchase the Properties from Seller pursuant to the terms and conditions contained herein. The closing of the purchase of Lot 5, as shown on Exhibit "D", (the "**First Closing**") shall occur as set forth in Section 11(a)(i) below. The closing of the purchase of Lot 2, as shown on Exhibit "D", (the "**Second Closing**") shall occur as set forth in Section 11(a)(ii) below. The closing of Buyer's purchase of Lots 1, 3 and 4, as shown on Exhibit "D", (the "**Third Closing**") shall occur as set forth in Section 11(a)(iii) below.

(b) For the period commencing on the date of the Third Closing and continuing for one (1) year following the date on which the anchor tenant on Lot 1 opens for business (the "**Option Period**"), Buyer shall have the exclusive option to purchase the Phase II Property at the Phase II Purchase Price set forth in Section 3(b) below. To exercise such option, Buyer shall provide written notice thereof to Seller and deposit Twenty-Five Thousand Dollars (\$25,000.00) with the Title Company ("**Option Earnest Money**") which shall be in addition to all Earnest Money deposits described below. Of the Option Earnest Money, Twenty-Four Thousand Nine Hundred Dollars (\$24,900.00) shall be non-refundable to Buyer but shall be applied to the Phase II Purchase Price at the Phase II Closing and the remaining One Hundred Dollars (\$100.00) shall be paid to Seller as independent consideration for the option granted herein. Buyer shall have the right to extend the Option Period for a period of one (1) additional year (the "**Extended Option Period**"). To exercise such right, Buyer shall provide written notice thereof to Seller prior to expiration of the Option Period and deposit Fifty Thousand Dollars (\$50,000.00) (the "**Additional Option Earnest Money**") with the Title Company. The Additional Option Earnest Money shall be non-refundable to Buyer but shall be applied to the Phase II Purchase Price at the Phase II Closing. If Buyer elects to purchase the Phase II Property during the Option Period or Extended Option Period, as applicable, Buyer shall provide Seller with at least ninety (90) days prior written notice (the "**Phase II Closing Notice**") of the date on which closing of Buyer's purchase of the Phase II Property shall occur

(the “**Phase II Closing Date**”). The closing of Buyer’s purchase of the Phase II Property shall be completed in accordance with the provisions of Section 11(a)(iv) below and the Option Earnest Money and Additional Option Earnest Money, if applicable, shall be applied to the Phase II Purchase Price.

(c) For a period of one (1) year after the Option Period or Extended Option Period, as applicable, (the “**ROFR Period**”), Buyer shall have the right of first refusal to purchase the Phase II Property, as follows: if at any time during the ROFR Period Seller receives a bona fide offer to purchase the Phase II Property upon terms acceptable to Seller, Seller shall provide written notice thereof to Buyer and Buyer shall have ten (10) business days from the date of such notice in which to exercise its right of first refusal to purchase the Phase II Property for the price set forth in the offer received by Seller. The closing of Buyer’s purchase of the Phase II Property shall be completed in accordance with the provisions of Section 11(a)(iv) below.

### 3. Purchase Price.

(a) Phase I Property. The Purchase Price for Lot 1 shall be One Million Seven Hundred Sixty-Three Thousand Seven Hundred Twenty Dollars (\$1,763,720.00) (the “**Lot 1 Purchase Price**”); the Purchase Price for Lot 2 shall be Two Million Nine Hundred Thirty-Nine Thousand Nine Hundred Fifty Dollars (\$2,939,950.00) (the “**Lot 2 Purchase Price**”); the Purchase Price for Lot 3 shall be Four Hundred Thirty-One Thousand Four Hundred Sixty-Five Dollars (\$431,465.00) (the “**Lot 3 Purchase Price**”); the Purchase Price for Lot 4 shall be Eight Hundred Sixty-Five Thousand Three Hundred Five Dollars (\$865,305.00) (the “**Lot 4 Purchase Price**”), and the Purchase Price for Lot 5 shall be an amount equal to the actual purchase price and costs paid by Seller to acquire the Intermarket Property, including all closing costs paid by Seller and all earnest money and costs under the Intermarket Contract in the closing of the acquisition of the Intermarket Property (the “**Lot 5 Purchase Price**”). Provided the First Closing (i.e., the closing on the sale of Lot 5 by Seller) occurs on the First Closing Date as set forth in Section 11(a)(i), it is anticipated that the Purchase Price for Lot 5 will be One Million Seven Hundred Ninety-Two Thousand Five Hundred Dollars (\$1,792,500.00) (the “**Lot 5 Purchase Price**”); if, on the other hand, the First Closing is for any reason whatsoever extended into December 2015, it is anticipated that the Lot 5 Purchase Price shall be One Million Seven Hundred Ninety-Seven Thousand Five Hundred Dollars (\$1,797,500.00). Upon Seller’s acquisition of the Intermarket Property, Buyer shall be reimbursed any earnest money or other sums paid to the seller of the Intermarket Property.

(b) Phase II Property. Unless the Phase II Property is purchased pursuant to the exercise of Buyer’s right of first refusal as set forth in Section 2(c), the purchase price for the Phase II Property (the “**Phase II Purchase Price**”) shall be determined as follows: Seller shall, at its sole expense, obtain an appraisal of the Phase II Property from an independent MAI appraiser, which appraiser shall value the Phase II Property as of the date of the First Closing (the “**First Appraisal**”). At Seller’s sole option, the Phase II Purchase Price may be the fair market value shown in the First Appraisal. However, at any time before the Phase II Closing Date, Seller shall have the option to obtain, again at its sole expense, a second appraisal of the Phase II Property from an independent MAI appraiser (different than the appraiser who provided the First Appraisal) (the “**Second Appraisal**”). If the fair market value shown in the Second Appraisal is less than or equal to the fair market value shown in the First Appraisal, the fair market value shown in the First Appraisal shall be the Phase II Purchase Price. However, if

the fair market value shown in the Second Appraisal is more than the fair market value shown in the First Appraisal, the Phase II Purchase Price shall be an amount equal to the average of the fair market values shown in the First Appraisal and the Second Appraisal. It is estimated that the Phase II Purchase Price shall be approximately Two Million Eight Hundred Eighty-Five Thousand Four Hundred Fourteen Dollars (\$2,885,414.00).

4. Earnest Money Deposit. Seller acknowledges that as required under the Original Agreement, Buyer has deposited the sum of Thirty Thousand Dollars (\$30,000.00) as an earnest money deposit (the “**Earnest Money**”) into escrow with Landmark Title Company, Attention: Jeff Jensen, 675 East 2100 South, #200, Salt Lake City, Utah (the “**Title Company**”). The Earnest Money is or shall be deposited in an interest bearing account with all interest accruing to the benefit of Buyer. At the Third Closing, the Earnest Money shall be applied to the Purchase Price for Lots 1, 3 and 4. If Buyer elects to purchase Lots 1, 3 and 4 in separate closings, the Earnest Money shall be applied to the Purchase Price of the first lot purchased. Other than the Option Earnest Money or Additional Option Earnest Money, if applicable, Buyer shall not be required to deposit any additional earnest money in connection with its purchase of the Phase II Property. If for any reason the Closing does not occur, the Earnest Money shall be disbursed in accordance with the terms of this Agreement. Within five (5) days after full execution of this Agreement, Buyer shall deliver a fully executed copy of this Agreement to the Title Company. The Earnest Money together with any Additional Earnest Money (defined in Section 6(b) below) shall be fully refundable to Buyer if Buyer terminates this Agreement prior to expiration of the Due Diligence Period or, if applicable, the extended Due Diligence Period.

5. Seller’s Obligations.

(a) Title Commitment. Buyer acknowledges that Seller, at its sole cost and expense, has delivered to Buyer (and Buyer has otherwise received for the Intermarket Property) a commitment for an ALTA Standard Coverage Owner’s Policy of Title Insurance for each of the Properties (excepting the Phase II Property) in the full amount of the respective purchase prices (collectively, the “**Title Commitment**”). The Title Commitment shall show all matters affecting title to the Properties including all exceptions, easements, restrictions, rights-of-way, covenants, reservations and other conditions or encumbrances affecting the Properties and shall provide legible copies of all recorded documents constituting such exceptions. Prior to expiration of the Due Diligence Period (as defined below), Buyer shall provide written notice to Seller of any matter contained in the Title Commitment to which Buyer objects. Seller acknowledges that Buyer has provided such written objections to the Title Commitment for all Properties (but for the Intermarket Property, which Buyer shall submit to Seller within five (5) days of execution of this Agreement). Within fifteen (15) days following execution of this Agreement, Seller, in its sole discretion, shall (a) use its good faith efforts to remove or cure any such matter, or (b) notify Buyer that it cannot or will not remove such matter. In the event Seller cannot or will not remove any such matter, Buyer may elect to either waive such matter or terminate this Agreement (in which case the Earnest Money and any interest accrued thereon will be returned to Buyer). Any matters contained in the Title Commitment to which Buyer does not timely object or which have been waived by Buyer shall be deemed “**Permitted Exceptions**”.

(b) If Buyer exercises its option to purchase the Phase II Property in accordance with Section 2(b) above, within five (5) days following Seller’s receipt of the Phase II Closing

Notice (defined in Section 2(b) above), Seller, at its sole cost and expense, shall deliver the Title Commitment as it relates to the Phase II Property. If Buyer exercises its right of first refusal to purchase the Phase II Property in accordance with Section 2(c) above, within five (5) days of the date on which exercises such right, Seller, at its sole cost and expense, shall deliver the Title Commitment as it relates to the Phase II Property. Buyer's objection to any matter appearing in the updated Title Commitment which did not appear in the original Title Commitment shall be dealt with in the same manner as set forth above for objections to the original Title Commitment.

(c) Studies, Survey and Environmental Reports. The parties acknowledge and agree that Anderson and Wahlen (GBE-South) has been retained to prepare a survey of the Phase I Property, the Pearson Tire Property, and the Phase II Property (the "**Survey**") and that copies of the Survey have been provided to both Buyer and Seller. Seller shall be responsible for the cost of the Survey as completed by Anderson and Wahlen (GBE-South). Within ten (10) days after full execution of this Agreement, Seller shall provide Buyer with the documents listed below:

- i. copies of any Phase I Environmental Site Assessment for the Properties;
- ii. copies of all soils reports for the Properties; and
- iii. copies of all other studies or reports relating to the Properties within Seller's possession or control.

(d) Tax Increment Financing. Seller and Buyer acknowledge that the Property is located within an existing redevelopment project area known as the Market Station Urban Renewal Project Area. Seller agrees that, if necessary for Buyer's intended development purposes ("**Buyer's Project**") as determined by Seller in its reasonable discretion, Seller shall consider in good faith participating in Buyer's Project through public investment of legally available tax increment funds. To the extent that legally available tax increment funds from the Market Station URA will be insufficient, again in Seller's sole and absolute discretion, to support Buyer's Project, Seller shall work in good faith to establish a new community development project area to provide, among other things, tax increment funds to encourage Buyer's Project. Buyer acknowledges that the establishment of a new community development project area would require certain statutory procedures and decisions that are subject to future discretion of the governing body of both the Seller and other taxing entities, and therefore Seller cannot and does not make any guarantee or promise that tax increment funds will be legally available for Buyer's Project, but Seller will use good faith efforts to secure such tax increment funds if needed as described above.

## 6. Due Diligence Period.

(a) Buyer shall have a period of ninety (90) days from full execution of this Agreement in which to: (i) conduct, at its sole cost and expense, its inspection of the Properties, (ii) review the documents and reports provided in accordance with Section 5 above, (iii) review any other documents or reports relating to the Properties which Buyer may elect to have prepared, and (iv) determine, in Buyer's sole discretion, if the Properties are economically feasible for Buyer's intended use (the "**Due Diligence Period**"). Seller hereby grants Buyer, its

employees, agents and prospective tenants and licensees access to the Properties for the purpose of conducting Buyer's inspection, provided however, Buyer shall restore the Properties to their condition prior to such inspection activities, and provided further that Buyer shall indemnify and hold Seller harmless from any and all liability, claims or expenses arising out of or in any way related to such inspection activities. The foregoing indemnification shall survive Closing or termination of this Agreement. The Earnest Money shall become non-refundable to Buyer on the later of the expiration of the original Due Diligence Period or receipt of a Master Plan Mixed Use Zoning, but shall, at Closing, be applied to the Lot 1, 3 or 4 Purchase Price. If Buyer does not provide written notice to Seller prior to expiration of the Due Diligence Period (or extension thereof) that Buyer has approved the applicable Properties and all items delivered pursuant to Section 5 above, Buyer shall be deemed not to have approved the Properties and this Agreement shall terminate. Buyer shall have the right at any time during the Due Diligence Period to waive its due diligence rights as they pertain to any individual lot and proceed to the Closing of such lot.

(b) Extension of Due Diligence Period. Buyer shall have the right to extend the Due Diligence Period for one (1) additional period of sixty (60) days. To exercise such right, Buyer shall, prior to expiration of the Due Diligence Period, provide written notice of the extension to Seller and deposit with the Title Company the sum of Thirty Thousand Dollars (\$30,000.00) as "**Additional Earnest Money**". In the event Buyer elects to terminate this Agreement prior to expiration of the extended Due Diligence Period, the Additional Earnest Money deposit shall be fully refundable to Buyer. If Buyer does not terminate the Agreement in accordance with this Section 6(b), unless otherwise released pursuant to the provisions of this Agreement, the Additional Earnest Money deposit shall become non-refundable to Buyer on the later of the expiration of the extended Due Diligence Period or receipt of a Master Plan Mixed Use Zoning, but shall be applied toward the Lot 1, 3 and 4 Purchase Price at Closing. Notwithstanding anything in this Agreement to the contrary, immediately upon expiration of the initial Due Diligence Period, the Earnest Money deposit made under Section 4 shall be disbursed to Seller, and shall not be refunded to Buyer for any reason except Seller's default without regard to whether or not Buyer elects to extend the Due Diligence Period under this Section. If Buyer elects to extend the Due Diligence Period as provided in this subsection, and Buyer then terminates this Agreement during the extended Due Diligence Period, Buyer shall receive a refund of the Additional Earnest Money, but not the initial Earnest Money paid under Section 4 above.

7. Conditions Precedent. The conditions precedent to Buyer's and Seller's respective obligations to participate in the Closing are as follows:

(a) Buyer's obligation to purchase Lots 1 through 5 under this Agreement is contingent upon the following, any or all of which Buyer may waive in its sole and absolute discretion by providing written notice to the Seller:

i. Seller, at its sole cost and expense, delivering Lots 1 through 5 to Buyer in the condition described on attached Exhibit "C".

ii. Seller, at its sole cost and expense, replatting the Phase I Property, the Pearson Tire Property and the Intermarket Property into five separate lots as described in Section 1 hereof, and as shown on the Site Plan at Exhibit "D".

iii. Seller, at its sole cost and expense, completing the street vacations as described in Section 1 hereof, and as shown on the Site Plan at Exhibit "D", and legally described at Exhibit "E".

iv. Seller's acquisition of the Intermarket Property. Buyer agrees to use good faith efforts to assist Seller in acquiring such Intermarket Property.

v. Prior to expiration of the Due Diligence Period or extended Due Diligence Period, if applicable, Buyer obtaining, or determining that it can obtain, financing for its purchase and development of the Properties on terms and conditions acceptable to Buyer in Buyer's sole determination.

vi. Buyer entering into a lease or other agreement with an anchor tenant for space within the Properties, and such anchor tenant's waiver of all contingencies.

vii. Buyer obtaining, or satisfying itself that it can obtain, all entitlements necessary for its development of the Properties.

viii. Buyer obtaining, or satisfying itself that it can obtain, any zoning changes or modifications necessary for its development of the Properties, subject to Section 16 below.

ix. Buyer's approval of the Properties, as provided in Section 6 above, prior to expiration of the Due Diligence Period, as such Due Diligence Period may be extended.

(b) Seller's obligation to sell any of the Properties under this Agreement is contingent upon the following, any or all of which Seller may waive in its sole and absolute discretion by providing written notice to the Buyer:

i. Seller's acquisition of the Intermarket Property. Buyer agrees to use good faith efforts to assist Seller in acquiring such parcels.

ii. Buyer entering into a lease or other agreement with an anchor tenant for space within the Properties. For purposes of this subsection, the term "anchor tenant" means a retail grocery store open to the general public and with at least 60,000 square feet of retail floor space.

iii. Buyer (or Buyer's assignee, if Buyer elects to assign its rights and obligations with respect to the purchase and sale of Lot 5) providing a loan to the Seller in an amount equal to the Lot 5 Purchase Price in connection with Seller's acquisition of the Intermarket Property, which loan shall be non-recourse and shall be secured by a deed of trust upon the Intermarket Property.

iv. Buyer (or Buyer's assignee, if Buyer elects to assign its rights and obligations with respect to the purchase and sale of Lot 5) satisfying one of the two Intermarket/Pearson Loan Conditions described in Section 1 above.

In the event any of the foregoing conditions cannot be satisfied on or before the First Closing (as defined in Section 11(a)(i) below), Buyer or Seller, as applicable, may elect to either: (a) terminate this Agreement by providing written notice thereof to the other party, in which case the Earnest Money and accrued interest shall be returned to the party entitled to it, or (b) waive such condition and proceed to Closing. Should Seller not be able to acquire the Pearson Tire Property, or should the anchor tenant not be able to obtain governmental entitlements to construct and operate its building, Seller will reimburse Buyer for certain of Buyer's out-of-pocket due diligence costs, up to a maximum of \$100,000.00, for engineering costs and environmental and soil studies relating to the Phase I Property and Phase II Property if not purchased by Buyer under this Agreement.

8. Conditional Purchase Option/Right to Recapture.

(a) Generally. The parties agree to work together in good faith to have building permits issued for construction of a building for an anchor tenant (as defined in Section 7(b)(ii)) on Lot 1 and for construction of other commercial buildings on Lots 2, 3 4 and 5 (each, a "**Building Permit**"). In the event any Building Permit has not been obtained within sixty (60) months following the First Closing (the "**Permitting Period**") through no fault of Seller, Seller shall have the option, but not the obligation, to purchase any Lot for which a building permit has not been issued.

(b) Exercise. To exercise such recapture/purchase right, Seller shall provide written notice thereof to the applicable Lot owner within thirty (30) days following expiration of the Permitting Period and the applicable Lot owner shall have thirty (30) days from the date of such notice in which to obtain the Building Permit. If the Building Permit is not obtained within such thirty (30) day period, the closing of Seller's purchase of the applicable Lot shall occur within ten (10) days thereafter at a title or escrow company of Seller's choosing. In the event of recapture, each party shall bear its own expenses relating in any way to the purchase/sale transaction.

(c) Conveyance. The owner of any Lot recaptured by Seller shall provide a special warranty deed to Seller, conveying good, marketable and indefeasible fee simple title to the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, reservations and restrictions, other than (i) any liens, encumbrances, conditions, easements, assessments, reservations and restrictions that existed and/or encumbered the Property at the time of, as applicable, the First Closing, Second Closing, or Third Closing, and (ii) any easements and restrictions reasonably imposed on the Property as part of the Buyer's development process (collectively, the "**Permitted Recapture Encumbrances**"). The sale of any Lot under this paragraph shall be as-is, with all faults, and without any representations or warranties of any kind.

(d) Recapture Purchase Price. The purchase price to be paid by Seller for any Lot shall be an amount equal to the applicable Lot Purchase Price, less a reduction in the amount of any costs reasonably incurred by the Seller in order to clear any clouds, liens or encumbrances on title other than the Permitted Recapture Encumbrances or other encumbrances existing as of the date Seller originally transfers title of such Lot to Buyer. The owner of any Lot shall execute all instruments as are reasonably and customarily needed and requested by the to

effectuate the conveyance of the Property and issuance of an owner's policy of title insurance with only the Permitted Recapture Encumbrances listed as exceptions to coverage.

(e) Notice/Release. The Agency may, in its discretion and at its sole expense, record with the Salt Lake County Recorder's Office a Notice of Conditional Purchase Option Agreement in substantially the form attached hereto as **Exhibit "F"**. Upon the issuance of a building permit with respect to any building located on a Lot, the owner of that Lot may deliver a written request to the Seller for the Seller to record with the Salt Lake County Recorder's Office a release of the Notice of Conditional Option to Purchase. The Seller shall record a Termination of Notice of Conditional Purchase Option Agreement with the Salt Lake County Recorder's Office, in substantially the form attached hereto as **Exhibit "G"**, within thirty (30) calendar days after receiving a duly executed written request from the owner of a Lot for which a building permit has been issued.

(f) Subordination. Except as expressly set forth in subsection (g) *below*, all rights of the Seller under this Section 8 are subject and subordinate to any bona fide deeds of trust, mortgages or other instruments of security that now or hereinafter may cover all or any part of any Lot (each, a "Mortgage"), and all advances under any Mortgage. This provision is self-operative and no further instrument shall be required to effect such subordination. The Seller shall, however, upon demand at any time or times execute, acknowledge and deliver to the any lender under a Mortgage (each a "Lender") any and all instruments and certificates that in the judgment of the the Lender may be necessary or proper to confirm or evidence such subordination.

(g) Survival/Burden on Land. The provisions of this Section 8 shall survive each of the Closings, and the rights and obligations under this Section 8 touch and concern, and are a burden upon and will run with, each of the Lots, and all successors and assigns of the Lots, until the termination of the Seller's rights according to the terms of this Section 8.

9. Seller's Representations and Warranties. Seller hereby represents and warrants as follows:

(a) Seller's Authority. Seller has full power and authority to execute, enter into and perform this Agreement and any person or entity executing this Agreement on behalf of Seller has the authority to execute the same. This Agreement and all documents to be executed pursuant hereto by Seller are and shall be binding upon and enforceable against Seller in accordance with their respective terms.

(b) Condemnation. To the best of Seller's actual knowledge, there is no existing, pending, contemplated, threatened or anticipated condemnation of any part of the Properties.

(c) Notice. To the best of Seller's actual knowledge, Seller has not received any actual notice, and does not have any knowledge, of any contemplated change in any applicable laws, ordinances or restrictions, or any judicial or administrative action, or any action by adjacent landowners, which would prevent, limit or impede Buyer's intended use of the Properties.

(d) Other Claims. To the best of Seller's actual knowledge, there are no actions, suits, claims, assessments or proceedings pending, or to the actual knowledge of Seller, threatened that could materially adversely affect the ownership of the Properties or Seller's ability to perform hereunder except as disclosed in this Agreement. Except as set forth herein and as shown on the title report, Seller has not granted any license, lease or other right relating to the use or possession of the Properties and during the term of this Agreement, Seller shall not grant or convey any easement, lease, license, permit or any other legal or beneficial interest in or to the Properties without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

(e) Risk of Loss. Seller shall bear the risk of loss to the Properties prior to any respective Closing.

For purposes of this Section 9, the term "Seller's actual knowledge" means the actual knowledge of Executive Director of the Seller as of the Effective Date, with no duty or obligation for additional inquiry or investigation.

10. Buyer's Representations and Warranties. Buyer hereby represents and warrants as follows:

(a) Company Status. Buyer is a limited liability company, duly formed, validly existing and in good standing in the State of Utah.

(b) Authority. Buyer has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Buyer pursuant to this Agreement, and all required actions and approvals therefore have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Buyer are and shall be duly authorized to sign the same on Buyer's behalf and to bind Buyer thereto. This Agreement and all documents to be executed pursuant hereto by Buyer are and shall be binding upon and enforceable against Buyer in accordance with their respective terms.

(c) No Breaches. Buyer's obligations contemplated hereby and the execution, delivery and performance of this Agreement by Buyer will not result in a breach of, or constitute a default under any instrument or agreement to which Buyer is bound. Buyer's obligations and responsibilities hereunder are valid and binding obligations of Buyer.

11. Closing.

(a) First Closing.

(i) The First Closing (i.e., the purchase and sale of Lot 5) shall occur upon satisfaction of the foregoing requirements, but in no event later than December 1, 2015:

(A) Buyer shall have assigned all of its obligations under this Agreement relating to Lots 2 and 5 to Cowboy Partners or an affiliate of Cowboy Partners;

(B) Buyer shall have assigned all of its obligations under the Intermarket Contract to Seller;

(C) Buyer (or Buyer's assignee, if Buyer elects to assign its rights and obligations with respect to the purchase and sale of Lot 5) shall have provided to Seller a loan or other funds in an amount equal to the sum of (i) the Lot 5 Purchase Price and (ii) One Million Dollars (\$1,000,000); which loan shall be non-recourse and shall be secured by the Intermarket Property and/or the Pearson Tire Property, on commercially reasonable terms acceptable to Seller, using forms substantially similar to the Secured Non-Recourse Promissory Note attached as Exhibit "H" and the Deed of Trust attached as Exhibit "I";

(D) Seller shall have recorded the plat for The Crossing at South Salt Lake Subdivision; and

(E) Buyer and Seller shall have entered into and recorded a declaration for cross access, parking and other matters which shall encumber Lots 2 and 5. For so long as Seller has recapture rights under Section 8 *below*, the declaration shall provide that the declaration may not be amended or altered without the Seller's advance written consent, in the Seller's reasonable discretion.

(ii) Second Closing. The purchase and sale of Lot 2 shall occur on or before December 31, 2015.

(iii) Third Closing.

(A) Subject to Seller's demolition of all vertical improvements on Lot 1 in accordance with Section 1 of attached Exhibit "C", Buyer's purchase of Lot 1 shall be closed at the Title Company on or before May 15, 2016.

(B) Buyer's obligation to purchase Lot 4 is subject to Seller's demolition of all vertical improvements on Lot 4. Buyer and Seller acknowledge and agree that Buyer shall not be obligated to purchase Lots 3 and 4 at the same time and that Buyer shall have the right to close on each lot individually on dates reasonably determined by Buyer, but in no event later than twenty-four (24) months from the First Closing.

(iv) Phase II Closing. If Buyer exercises its option to purchase the Phase II Property, the purchase and sale of the Phase II Property shall be closed at the Title Company on a date determined in accordance with the provisions of Section 2(b) above. If Buyer exercises its right of first refusal to purchase the Phase II Property, closing shall occur within sixty (60) days of the date on which Buyer exercises such right. At each Closing, Buyer and Seller shall deliver such written instructions to the Title Company as may be necessary to complete the transactions contemplated by this Agreement.

(b) Deeds. At each Closing, Seller shall deliver to Buyer or its designated affiliate or assignee a special warranty deed (“**Deed**”) conveying good and marketable title to the applicable Lots or Phase II Property free and clear of all liens and encumbrances, except for the Permitted Exceptions, matters shown on the plat filed in the official records of Salt Lake County, Utah, and matters shown on the Survey, provided the plat and Survey have not been modified after their delivery to Buyer. At each Closing, Buyer shall have sole discretion to designate an affiliated entity or assignee to whom title shall be transferred.

(c) Title Insurance. At each Closing, Seller shall deliver to Buyer a standard coverage Owner’s Policy of Title Insurance in the amount of the applicable Lot Purchase Price or Phase II Purchase Price insuring fee simple title to the applicable properties as of the date of recording the Deed subject only to the Permitted Exceptions.

(d) Prorations. At each Closing, current real property taxes, assessments and personal property taxes with respect to the applicable Lot or Phase II Property shall be prorated between Buyer and Seller as of the date of Closing. Seller shall be required to pay all greenbelt, rollback or other taxes, if any. If on the date of Closing either applicable assessed value or mill levy for the applicable year cannot be ascertained, real property taxes relative to the applicable Lot or Phase II Property shall be apportioned on the basis of the assessed value and mill levy for the previous year, and the parties shall make adjustment payments after the Closing based on the actual assessed value and the actual mill levy for the applicable year when such information is available.

(e) Closing Costs. Seller shall be responsible for the payment of the standard coverage premium for the issuance of the Title Policy and the cost of recording the Deed. Buyer and Seller shall each pay fifty percent (50%) of any escrow fees. Any extraordinary closing costs, including but not limited to those costs associated with Buyer’s investigation, approval or development of the Properties, or Buyer’s requirements for additional title insurance coverage (such as extended coverage and endorsements) in excess of the standard coverage provided by Seller, shall be borne by Buyer.

(f) Possession. Possession of the individual Lots shall be delivered to Buyer upon recordation of the Deed for such Lots. Possession of the Phase II Property shall be delivered to Buyer upon recordation of the Phase II Property Deed.

(g) Approval of Closing Documents. All closing documents to be furnished by Buyer or Seller pursuant to this Agreement shall be in form and substance reasonably acceptable to both Buyer and Seller.

(h) Funds to be Held In Escrow. The parties acknowledge that certain soil conditions have been discovered on Lot 1 (the “**Winco Parcel**”). Seller shall be responsible for the cost of soil stabilization and remediating such conditions (the “**Soil Stabilization Work**”) on the building envelope of Lot 1 in an amount not to exceed Seven Hundred Fifty Thousand Dollars (\$750,000.00). Accordingly, the Title Company shall withhold from the proceeds due Seller at the Second Closing the sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00) (the “**Escrowed Funds**”) and hold the Escrowed Funds in an escrow account. Winco, as the entity constructing the building on Lot 1, will submit to Seller and the Title Company invoices or other reasonable documentation for the Soil Stabilization Work and reimbursement for the

amount owed, up to but in no event more than the Escrowed Funds, shall be released to Winco within thirty (30) days following the date on which Winco opens for business in the building on Lot 1. If the cost of the Soil Stabilization Work is less than the Escrowed Funds, the remainder of the Escrowed Funds shall be returned to Seller.

12. Agency Disclosure and Brokers' Commissions. Buyer hereby notifies Seller that certain members, managers and employees of Buyer are licensed real estate brokers/agents in the State of Utah and Seller hereby notifies Buyer that certain employees of Seller are licensed real estate brokers/agents in the State of Utah. Buyer and Seller each warrants that it has had no dealing with any broker or agent in connection with the transaction contemplated by this Agreement and each agrees to indemnify and hold the other harmless from and against any claims by any broker, agent or person claiming a commission or other form of compensation by virtue of having dealt therewith with regard to this transaction.

13. Default. In the event Buyer defaults in any obligation hereunder and does not cure such default within five (5) days after receiving written notice thereof, Seller may elect as its sole remedy to terminate this Agreement and receive the Earnest Money and any Additional Earnest Money deposited as of such date together with interest accrued thereon as liquidated damages for Buyer's default. The parties further agree that this liquidated damages provision and the amounts set forth as liquidated damages represent a reasonable estimate of the value of the anticipated damages, losses, costs and expenses which would be incurred by Seller due to a breach of this Agreement by Buyer.

In the event Seller defaults in any obligation hereunder and does not cure such default within five (5) days after receiving written notice thereof, Buyer may elect as its sole remedies to (a) terminate this Agreement and receive the Earnest Money and any Additional Earnest Money deposited as of such date together with interest thereon, or (b) seek specific performance of this Agreement.

14. Notice. Any notice required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by certified or overnight mail, postage prepaid, at the following addresses:

If to Seller: Scott Verhaaren  
The Boyer Company, L.C.  
101 South 200 East, Suite 200  
Salt Lake City, Utah 84111  
Telephone: 801-521-4781  
E-mail: [sverhaaren@boyercompany.com](mailto:sverhaaren@boyercompany.com)

with a copy to:

Stephen K. Christensen  
Nelson Christensen Hollingworth & Williams  
68 South Main Street, 6<sup>th</sup> Floor  
Salt Lake City, Utah 84101  
Telephone: 801-531-8400  
E-mail: [stevec@nchwlaw.com](mailto:stevec@nchwlaw.com)

If to Buyer: City of South Salt Lake Redevelopment Agency

Attention: Executive Director  
220 East Morris Ave  
Salt Lake City, Utah 84115  
Telephone: (801) 483-6000  
Facsimile: (801) 483-6060

With a copy to:

City of South Salt Lake  
Attn: City Attorney  
220 East Morris Ave  
Salt Lake City, Utah 84115

15. Miscellaneous.

(a) Time of Essence. Time is of the essence of this Agreement.

(b) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

(c) Assignment; Amendment. Buyer shall have the right to assign this Agreement to any Buyer affiliated entity. This Agreement may be amended only in writing signed by both Buyer and Seller.

(d) Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument. In addition, the parties agree that facsimile and electronically generated signature pages shall be as valid as any signature pages bearing original signatures, provided, that upon the written request of either party, the other party shall provide counterparts containing original signatures.

(e) Entire Agreement. Seller and Buyer agree that this Agreement states the entire agreement between the parties and that no promises, representations or agreements other than those herein contained have been made or relied upon.

(f) No Waiver. No waiver hereunder shall be binding unless executed in writing by the party making the waiver.

(g) Attorneys' Fees. If any action is brought by either party on account of any breach of or to enforce or interpret any of the provisions of this Agreement, or if either party incurs attorneys' fees on account of any breach of any of the provisions of this Agreement, the party prevailing or successfully enforcing its rights hereunder shall be entitled to recover from the other party all costs and expenses, including attorneys' fees, reasonably incurred in connection therewith.

(h) Further Assurances. The parties each agree to perform, execute, acknowledge and deliver all such further acts, instruments and assurances and to take all such further action

before or after the closing as shall be necessary or desirable to fully carry out this Agreement and to fully consummate and effect the transactions contemplated hereby.

(i) Survival. This Agreement shall be binding upon and inure to the benefit of Buyer and Seller and their respective heirs, personal representatives, successors and permitted assigns.

(j) Survival of Representations. The representations and warranties of Seller shall survive the Closing.

16. Land Use Approvals. At any time during the term of this Agreement, Buyer may seek the rezoning and/or subdivision of the Property, including any and all permits, licenses and other land use approvals (both preliminary and final) required for the development of Buyer's Project (collectively, the "Land Use Approvals"). However, if Buyer cannot obtain such Land Use Approvals which are effective prior to the date of the applicable Closing or which will be binding on Seller if this Agreement is terminated prior to the date of such applicable Closing, Seller shall reasonably cooperate with Buyer in obtaining the Land Use Approvals, which cooperation may include, but not be limited to, joining in applications, providing information, data, and other reports in Seller's possession and control, attending and testifying in favor of (or if permitted by the local authority, indicating by written correspondence that Seller has no objection to) such Land Use Approvals at meetings and hearings, and providing such other assistance as Buyer may reasonably request from time to time.

17. Original Agreement Superseded. This Agreement supersedes the Original Agreement in its entirety, and the Original Agreement is replaced hereby and of no further force or effect.

[Signature Page Follows]

IN WITNESS WHEREOF, Buyer and Seller have executed this Agreement as of the date set forth above.

**SELLER:**

CITY OF SOUTH SALT LAKE  
REDEVELOPMENT AGENCY  
a political subdivision of the State of Utah

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Executive Director

Attest:

\_\_\_\_\_  
Secretary

**BUYER:**

BOYER SOUTH SALT LAKE CROSSING, L.C.  
a Utah limited liability company

By: The Boyer Company, L.C.  
Its: Manager

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**FORMER BUYER:**

The Boyer Company, L.C.  
a Utah limited liability company

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT "A"**  
Legal Description of Phase I Property

Parcel No. 16-19-103-016-0000

BEG N 0°21'04" E 6.1 FT FR NE COR LOT 27 BLK 2, SOUTH
BOULEVARD; S 89°38'56" E 26 FT; S 0°21'04" W 410.10 FT M OR
L; N 89°38'56" W 388 FT M OR L; N 0°21'04" E 511.20 FT M OR
L; N 52°23'54" E 22.75 FT; S 89°38'56" E 36 FT; N 80°05'52"
E 25.41 FT M OR L; S 0°21'04" W 277.71 FT M OR L; S
89°38'56" E 154.06 FT M OR L; N 0°21'04" E 158.10 FT M OR L;
S 89°38'56" E 129 FT M OR L TO BEG. 3.30 AC M OR L (BEING
LOTS 1-10 & 27-42, BLK 2 & LOTS 25-42, BLK 3, SOUTH
BOULEVARD. TOG/W PORTIONS OF VACATED STREETS & ALLEYS. LESS
TRACTS DEEDED TO STATE ROAD). 9860-8277

Parcel No. 16-19-104-021-0000

ALL OF LOTS 11, 12, 13, 14 & THE S 1/2 OF LOT 15 & ALL OF
LOTS 29, 30, 31, 32, BLK 1, SOUTH BOULEVARD ADDITION.
TOGETHER WITH 1/2 VACATED ALLEY ABUTTING SD LOTS. 9467-2924
9645-7986 9651-0151

Parcel No. 16-19-104-015-0000

LOTS 33 & 34 BLK 1 SOUTH BOULEVARD. TOGETHER WITH 1/2
VACATED ALLEY ABUTTING ON W. 5706-1900 5869-1165 5903-1461
6407-1466 9896-1935

Parcel No. 16-19-104-022-0000

BEG NW COR LOT 8, BLK 1, SOUTH BOULEVARD ADD; N 89°51'16" E
257.92 FT TO W LINE OF STATE ST; S 0°05' W 202 FT; S
89°51'16" W 159.18 FT N 0°09'41" W 64.12 FT S 89°41' W 98.43
FT; N 0°04'13" E 138.18 FT TO BEG. 1.051 AC 6585-1896, 1051
6775-2456 7615-0408

Parcel No. 16-19-104-023-0000

BEG SW COR LOT 1, BLK 1, SOUTH BOULEVARD ADD; N 0°04'13" E
63.81 FT; N 89°41' E 98.43 FT; S 0°09'41" E 64.12 FT; S 89°
51'16" W 98.69 FT TO BEG. 6585-1896, 1051 6775-2458 9579-5873
9580-1718

Parcel No. 16-19-105-009-0000

COM 66 FT N & 40 FT E FR SW COR LOT 11 BLK 40 10 ACRE PLAT A
BIG FIELD SUR N 5 RDS E 686 FT S 5 RDS W 686 FT TO BEG 1.29

AC. 6059-0990 6570-1554 7225-1852,1864 7315-0501 8763-8864
9325-7174 9860-8277

Parcel No. 16-19-104-009-0000

LOTS 9 & 10 BLK 1 SOUTH BOULEVARD. TOGETHER WITH 1/2 VACATED
ALLEY ON E. 5869-1165 5903-1461,1460 6407-1466 9896-1935

Parcel No. 16-19-105-005-0000

COM 213 FT W FR NE COR LOT 11, BLK 40, TEN AC, PLAT A, BIG
FIELD SUR; W 174 FT; S 326.7 FT; E 354 FT; N 167.7 FT; W 180
FT; N 159 FT TO BEG. 2.0 AC, M OR L 4505-545, 550 4526-0997
6570-1552 6589-1470 7225-1852 7225-1864 7315-0498,0501
8763-8864 9325-7174 9860-8277

Parcel No. 16-19-105-002-0000

COM N 89°51'16" E 40 FT & S 0°03'06" W 102.3 FT FR NW COR
LOT 11 BLK 40 10 AC PLAT A BIG FIELD SUR S 0°03'06" W 224.4
FT N 89°46'30" E 214.38 FT N 0°03'06" E 224.4 FT S 89°46'30"
W 214.38 FT TO BEG 1.1 AC. 7572-1557 8763-8864 9325-7174
9860-8277

Parcel No. 16-19-105-008-0000

COM 9 RD N & 133 FT E FR SW COR LOT 11 BLK 40 10 AC PLAT A
BF SUR E 593 FT N 6 RD W 593 FT S 6 RD TO BEG 1.35 AC
6570-1552 6589-1467 6589-1470 7225-1852 7225-1864 7315-0501
8763-8864 9325-7174 9860-8277

Parcel No. 16-19-105-004-0000

COM 102 FT S & 254.38 FT E FR NW COR LOT 11 BLK 40 10 AC
PLAT A BIG FIELD SUR S 224.4 FT E 117.62 FT N 85.4 FT W
102.62 FT N 139 FT W 15 FT TO BEG 0.24 AC 6570-1552
6589-1470 7225-1852 7225-1864 7315-0498,0501 8763-8864
9325-7174 9860-8277

Parcel No. 16-19-105-007-0000

COM 40 FT E & 9 RD N FR SW COR LOT 11 BLK 40 10 AC PLAT A
BIG FIELD SUR N 6 RD E 93 FT S 6 RD W 93 FT TO BEG 0.22 AC
6570-1552 6589-1470 7225-1852,1864 7315-0501 8763-8864
9325-7174 9860-8277

Note: The foregoing descriptions are as shown on the Salt Lake County Recorder tax records and are subject to modification by Landmark Title

**EXHIBIT "A-1"**  
Pearson Tire Property

Parcel No. 16-19-105-001

COM 17 FT S & 40 FT E FR NW COR LOT 11 BLK 40 10 AC PLAT A BIG FIELD SUR E 229.38 FT  
S 85 FT W 229.38 FT N 85 FT TO BEG 0.45 AC

Parcel No. 16-19-105-003

COM 17 FT S & 269.38 FT E FR NW COR LOT 11 BLK 40 10 AC PLATA BIG FIELD SUR E 102.62  
FT S 224 FT W 102.62 FT N 224 FT TO BEG 0.53 AC

**EXHIBIT "B"**  
Legal Description of Phase II Property

Parcel No. 16-19-151-013-0000

BEG S 89°52 W 33 FT FR NE COR OF LOT 12, BLK 40, TEN ACRE
PLAT A, BIG FIELD SUR; S 0°05 W 419.92 FT; S 89°52 W 511.5
FT; N 0°03'34" E 164.4 FT; N 89°52 E 17.09 FT; N 0°03'34" E
99.75 FT; S 89°52 W 193 FT; N 0°03'06" E 155.75 FT; N
89°52 E 687.61 FT TO BEG. 5962-1471 THRU 1489, 5654-1993
5962-1490 6904-1982 8253-4785 8668-3436

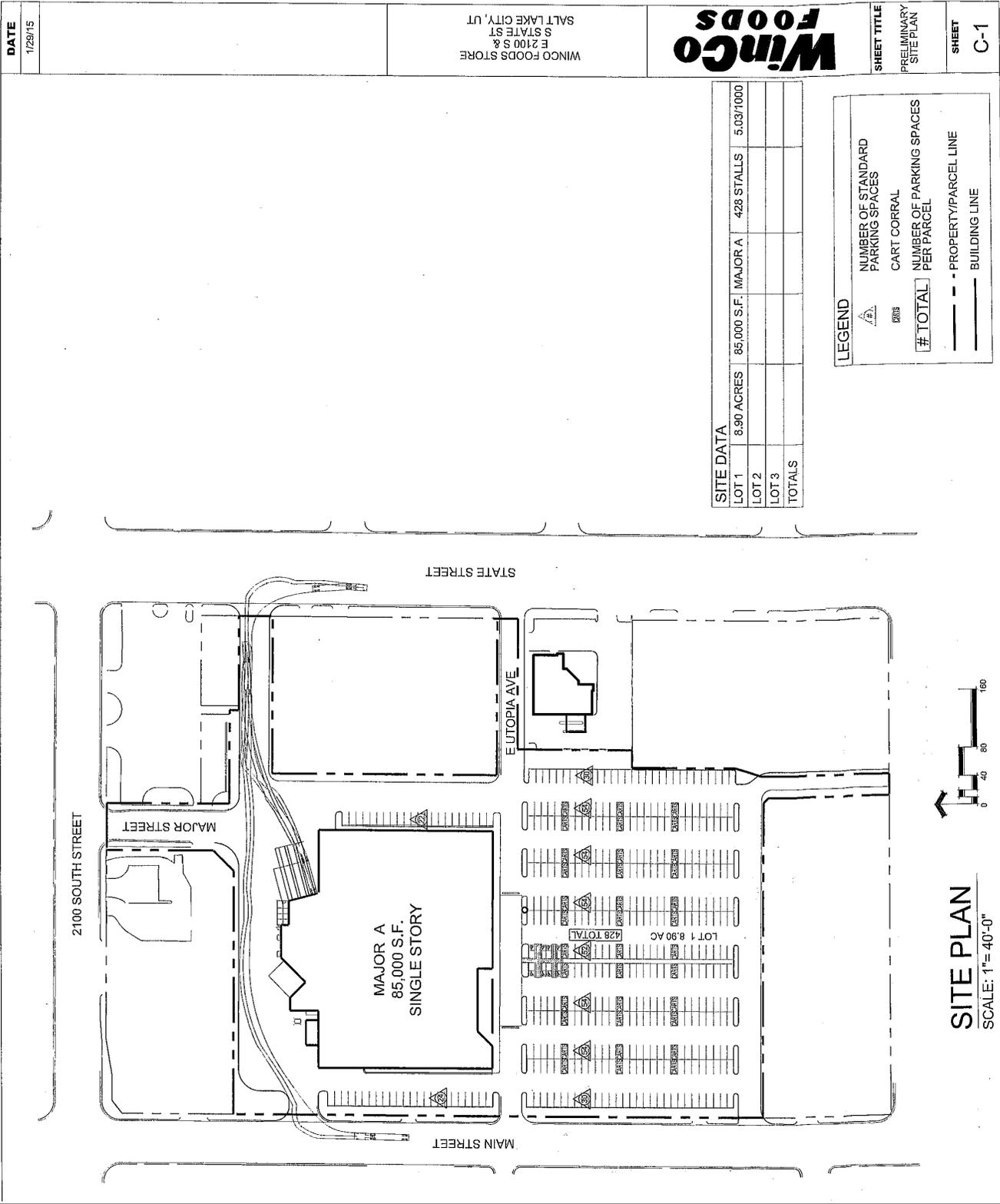
Note: The foregoing description is as shown on the Salt Lake County Recorder tax records and is subject to modification by Landmark Title

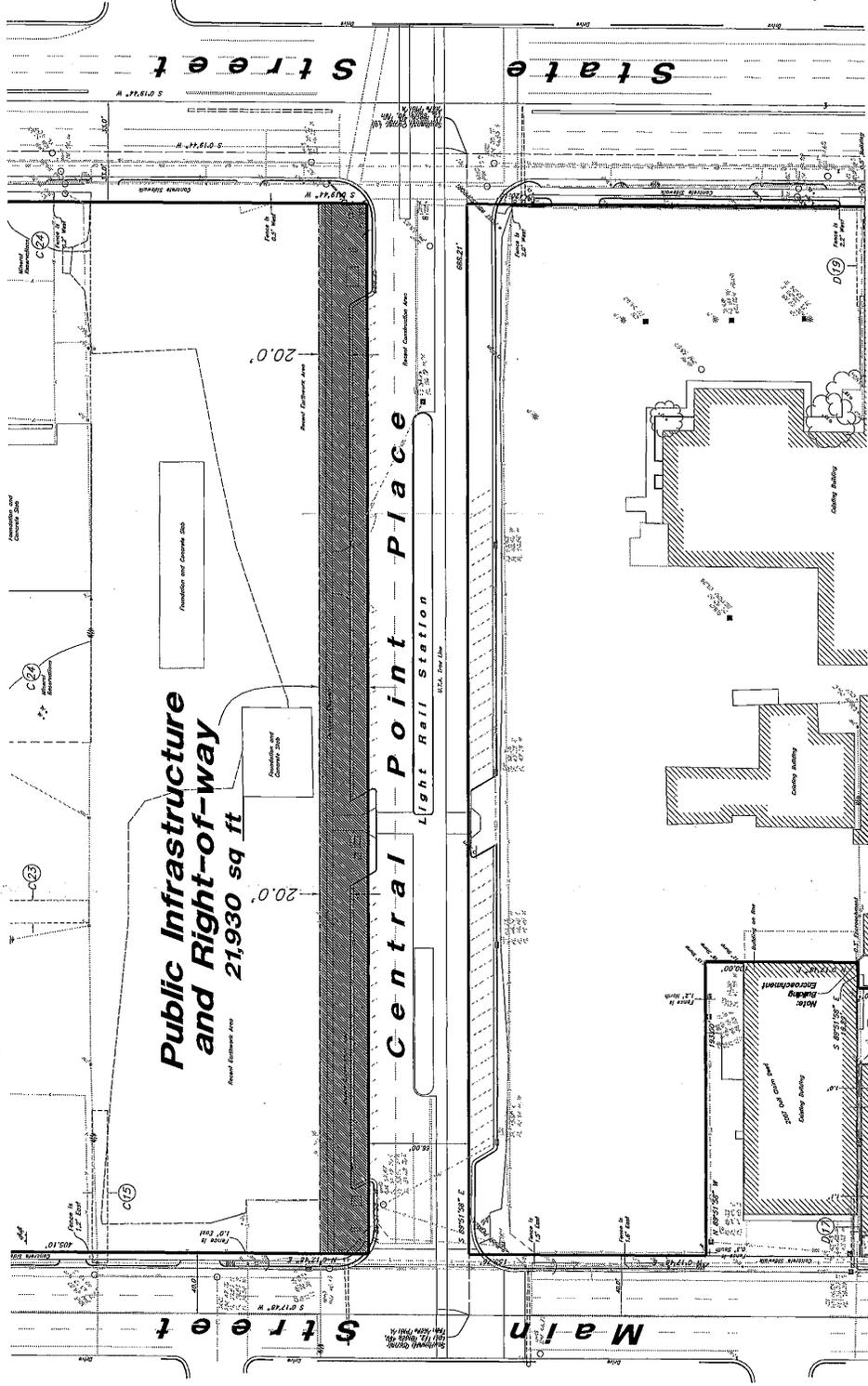
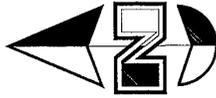
**EXHIBIT “C”**  
Condition of Lots 1 through 5

1. Demolish all vertical improvements, which are the Inkley’s building and the Pearson Tire building, on the Property. Seller shall not be required to demolish the Intermarket building.
2. Terminate all tenancies and licenses affecting the Property.
3. Remove from record all unnecessary public easements for utilities and access, other than those that are Permitted Exceptions
4. Remove all demolition materials, construction debris and excess fill on the Property.
5. Streets have been vacated as per approved plans and pursuant to Section 1 of the Agreement.
6. Seller will either (i) back-fill basements with engineered fill material in 8” lifts and compact the same to 95% Proctor, or (ii) reimburse Buyer for Buyer’s costs in back-filling basements with engineered fill material in 8” lifts and compacting the same to 95% Proctor.
7. Clean-up or remediate all environmental matters requested by Buyer prior to Closing.
8. City has approved, in the City’s discretion, the Site Plan.
9. Lot line adjustments or subdivision approvals as necessary to conform to the site plan.
10. All of the Properties zoned Master Planned Mixed Use (MPMU) District per developer request with any text amendment necessary for Buyer’s development of the Properties and receipt of all land use approvals set forth in Section 16 above.

# EXHIBIT "D"

## Site Plan – REPLACE or ADD applicable new Site Plans





**EXHIBIT "E"**

Legal Description of Streets/Alleys to be Vacated

**Boyer South Salt Lake  
Street Vacation Description  
Utopia Street**

**June 22, 2015**

A parcel of land lying within Lots 10 and 11, Block 40, Ten Acre Plat "A", Big Field Survey in Salt Lake City, Salt Lake County, Utah described metes and bounds as follows:

Beginning at a point on the East Line of Main Street as it exists at 40.00 foot half-width and on the South Line of Block 3 of South Boulevard, a subdivision as it exists on the ground located 40.00 feet South 89°53'02" East along the South Line of said Lot 10 and 33.46 feet North 0°17'48" East from the Southwest Corner of said Lot 10 of the Ten Acre Plat "A"; and running thence South 89°54'07" East 508.55 feet along the South Line of said Block 3, Block 2 and Block 1 to a point 180.0 feet West of the West Line of State Street; thence South 0°19'44" West 50.62 feet to the South Line of Utopia Street as it exists on the ground; thence North 89°53'02" West 508.52 feet to the East Line of Main Street as it exists at 40.00 foot half-width; thence North 0°17'48" East 50.46 feet along said East Line to the point of beginning

**Contains 25,702 sq. ft.**

**Boyer South Salt Lake  
Street Vacation Description  
Major Street**

**June 22, 2015**

A parcel of land lying within Lot 10, Block 40, Ten Acre Plat "A", Big Field Survey in Salt Lake City, Salt Lake County, Utah described metes and bounds as follows:

Beginning at the Southeast Corner of Block 2 of South Boulevard, a subdivision as it exists on the ground located 402.69 feet South 89°53'02" East along the South Line of said Lot 10 and 33.58 feet North 0°20'50" East from the Southwest Corner of Lot 10 of said Ten Acre Plat "A"; and running thence North 0°20'50" East 364.50 feet along the East Line of said Block 2; thence South 89°54'07" East 66.00 feet to the West Line of Block 1 of said South Boulevard Subdivision; thence South 0°20'50" West 364.50 feet along said West Line to the Southwest Corner of said Block 1; thence North 89°54'07" West 66.00 feet to the point of beginning.

**Contains 24,057 sq. ft.**

**Exhibit “F”**

*[Form of] Notice of Conditional Recapture/Purchase Option*

Recording requested by:  
City of South Salt Lake  
Redevelopment Agency  
220 East Morris Ave  
Salt Lake City, Utah 84115

*Tax ID No(s).*

**NOTICE OF CONDITIONAL RECAPTURE/PURCHASE OPTION**

Notice is hereby given to all persons of the rights of the City of South Salt Lake Redevelopment Agency, (the “**Agency**”), relating to the property described in **Exhibit 1** attached hereto and incorporated by this reference (the “**Property**”), under a certain Amended and Restated Purchase and Sale Agreement dated effective as of November 4, 2015 (the “**Agreement**”), between the Agency and Boyer South Salt Lake Crossing, L.C. (as such agreement may be amended or assigned). Under Section 8 of the Agreement, the Property Owner has agreed to construct building improvements on the Property, and the Agency has a conditional option to recapture/purchase the Property if there is a failure of the Property Owner to timely obtain a building permit(s) for such improvements. The Agreement further provides that the obligations concerning the development and improvement of the Property touch and concern, and are a burden upon and will run with, the Property, and all successors and assigns of the Property, until the termination of the Agreement according to the terms of the Agreement. Nothing in this document modifies or amends the Agreement and if there is a conflict in terms between this document and the Agreement, the terms of the Agreement shall prevail. The option of the Agency referenced herein is subordinate to the rights of any mortgagee of the Property.

Executed this \_\_\_ day of \_\_\_\_\_, 2015, by:

CITY OF SOUTH SALT LAKE REDEVELOPMENT  
AGENCY

[FORM ONLY – DO NOT SIGN]  
Chair

Attest:

[FORM ONLY – DO NOT SIGN]  
Secretary

In the State of Utah, County of \_\_\_\_\_, the foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, Chair, and \_\_\_\_\_, Secretary, who acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) on behalf of the City of South Salt Lake Redevelopment Agency.

[FORM ONLY – DO NOT SIGN]  
Notary Public

**Exhibit 1**  
*Legal Description of the Property*

**Exhibit “G”**

*[Form of] Termination of Notice of Conditional Recapture/Purchase Option*

Recording requested by:  
Boyer South Salt Lake Crossing, L.C.  
101 South 200 East, Suite 200  
Salt Lake City, Utah 84111

*Tax ID No(s).*

**TERMINATION OF NOTICE OF CONDITIONAL  
RECAPTURE/PURCHASE OPTION**

THIS TERMINATION OF NOTICE OF CONDITIONAL RECAPTURE/PURCHASE OPTION gives notice of the termination of a Notice of Conditional Recapture/Purchase Option (the "Notice"), which Notice was filed for record as Entry No. \_\_\_\_\_ in Book \_\_\_ at page \_\_\_ in the Office of the Salt Lake County Recorder.

The Notice provided notice of a certain conditional purchase option between the Amended and Restated Purchase and Sale Agreement dated effective as of November 4, 2015 between the Agency and Boyer South Salt Lake Crossing, L.C. (as amended or assigned, the "Agreement"), which Agreement is described in the Notice and relates to the property described in **Exhibit 1** attached hereto and incorporated by this reference (the "**Released Property**").

The Agreement has terminated with respect to the Released Property; accordingly, the Notice is terminated, and the burdens and obligations of the Agreement and the Notice are released from the Released Property, and are of no further force or effect with respect to the Released Property.

IN WITNESS WHEREOF, the undersigned has executed this Termination of Notice of Conditional Purchase Option.

[FORM ONLY – DO NOT SIGN]

Name:

Title:

In the State of Utah, County of \_\_\_\_\_, the foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_, by who acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) on behalf of \_\_\_\_\_.

[FORM ONLY – DO NOT SIGN]

Notary Public

**Exhibit 1**  
*Legal Description of the Property*

**Exhibit “H”**

*[Form of] Promissory Note*

## SECURED NON-RECOURSE PROMISSORY NOTE

NOTE DATE	PRINCIPAL AMOUNT	LOAN TERM	MATURITY DATE
December 1, 2015	\$1,000,000.00	12 MONTHS	November 30, 2016

1. **PROMISE TO PAY.** FOR VALUE RECEIVED, the City of South Salt Lake Redevelopment Agency, a Utah political subdivision (“Borrower”) promises to pay to Boyer South Salt Lake Crossing, L.C., a Utah limited liability company (“Holder”), the principal sum of One Million Dollars (\$1,000,000.00) together with any and all other amounts expressly due under this Note.
2. **PAYMENT SCHEDULE.** Borrower will make one payment on the Maturity Date in an amount equal to the total outstanding balance of this Note. No other payments shall be due under this Note.
3. **INTEREST RATE.** Interest on this Note is calculated on a 365/360 day basis and will be calculated and accrued based upon the entire Principal Amount at a per annum interest rate as follows: beginning on the date hereon and continuing until this Note is paid in full, simple interest shall accrue on the unpaid principal balance at the rate of Six Percent (6%) per annum. Notwithstanding the foregoing, however, if the Borrower defaults in the payment of this Note on the Maturity Date, the interest rate on the unpaid principal balance shall increase to Twelve Percent (12%) from the date of default until this Note is paid in full.
4. **NO PREPAYMENT PENALTY.** Borrower, at its option and at any time, may prepay the amounts required herein without any penalty.
5. **WAIVERS.** The Borrower and endorsers hereof waive presentment for payment, protest, demand, notice of protest, notice of dishonor and notice of nonpayment and expressly agree that this Note or any payment hereunder may be extended from time to time by the Holder hereof without in anyway affecting the liability of such parties. No course of dealing between the Borrower and Holder in exercising any rights under this Note shall operate as a waiver of rights of Holder.
6. **GOVERNING LAW.** This Note shall be construed in accordance with the laws of the State of Utah.
7. **NON-RECOURSE.** This Note is secured by a Deed of Trust executed by Borrower in favor of Holder, effective as of the same date as this Note, and referencing certain real property located in the City of South Salt Lake, Utah (the “Collateral”). This Note, and all of Borrower’s obligations under this Note, shall be non-recourse; in other words, in the event of default under this Note, the Holder’s sole remedy shall be to exercise any and all remedies under the Deed of Trust including, without limitation, foreclosing upon the Property. Borrower shall not have any liability for any deficiency that may remain post-foreclosure, and no other assets of Borrower shall be subject to action, levy,

execution or other enforcement procedure for the satisfaction of the remedies of Holder, or for any payment required to be made under this Note.

8. **NO ASSIGNMENT.** Holder may not assign its rights under this Note without the advance written consent of Borrower, in Borrower's sole discretion.
9. **COST OF COLLECTION; ATTORNEYS' FEES.** In the event this Note, or any payment due hereunder, or any obligation provided to be satisfied or performed under the Deed of Trust, is not paid or performed at the time and in the manner herein and therein provided, the undersigned jointly and severally agree to pay all costs of collection which may be incurred by Holder in connection with enforcement thereof, including but not limited to, court costs and reasonable attorneys' fees, whether incurred with or without suit or before or after judgment.

*The Borrower hereby accepts and agrees to perform all of the terms, covenants, and conditions of this Promissory Note.*

CITY OF SOUTH SALT LAKE REDEVELOPMENT AGENCY

[Form Only – Don't sign]  
*Chair*

[Form Only – Don't sign]  
*Executive Director*

ATTEST:

---

*Secretary*

**Exhibit “I”**

*[Form of] Deed of Trust*

WHEN RECORDED, RETURN TO:  
Boyer South Salt Lake Crossing, L.C.  
101 South 200 East, Suite 200  
Salt Lake City, Utah 84111

APN:

## DEED OF TRUST

THIS DEED OF TRUST is made as of December 1, 2015, by and between the City of South Salt Lake Redevelopment Agency, a Utah political subdivision, as TRUSTOR, whose address is \_\_\_\_\_; Stephen K. Christensen, a Utah attorney as TRUSTEE, whose address is Nelson Christensen Hollingworth & Williams, 68 South Main St., 6th Floor, Salt Lake City, UT 84101; and the Boyer South Salt Lake Crossing, L.C., a Utah limited liability company, as BENEFCIARY, whose address is 101 South 200 East, Suite 200, Salt Lake City, Utah 84111.

Trustor hereby CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the following described property situated in Salt Lake County, Utah: *see Exhibit 1 attached hereto and made a part hereof; together with all easements, water rights, mineral rights, tenements, hereditaments, privileges and appurtenances, if any, thereunto now or hereafter used or enjoyed with said Property, or any part thereof, and subject to all matters of record or matters which would be shown by a survey of the Property (the "Property").*

THIS DEED OF TRUST IS GIVEN FOR THE PURPOSE OF SECURING the payment obligations of Trustor to Beneficiary under that certain Secured Non-Recourse Promissory Note dated as of December 1, 2015 (the "**Note**"), executed by Trustor in favor of Beneficiary, in the principal amount of One Million Dollars (\$1,000,000.00), plus any interest, fees or charges that may accrue under the Note, which shall be the maximum amount secured by this Deed of Trust.

If there is a default under the Note, Trustor shall be deemed in default of this Deed of Trust. Upon the occurrence of any default, Beneficiary shall have the option to cause the Trustee (or any substitute/successor Trustee) to foreclose this Deed of Trust in the manner provided by applicable law for the foreclosure of mortgages on real property or exercise a power of sale of in the manner provided by applicable law. In the event of Trustor's default hereunder, Trustor shall be responsible for all costs and expenses of collection including attorneys' fees and Trustee's fees. This Deed of Trust shall be construed according to the laws of the State of Utah. The Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the address hereinbefore set forth.

*[End of Document – Signature Page Follows]*

CITY OF SOUTH SALT LAKE REDEVELOPMENT AGENCY

[Form Only – Don't sign]  
*Chair*

[Form Only – Don't sign]  
*Executive Director*

ATTEST:

\_\_\_\_\_  
*Secretary*

In the State of Utah, County of \_\_\_\_\_, the foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, Chair, \_\_\_\_\_, Executive Director, and \_\_\_\_\_, Secretary, who acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) on behalf of the City of South Salt Lake Redevelopment Agency.

[FORM ONLY – DO NOT SIGN]  
Notary Public

**Exhibit 1**  
*Legal Description of the Property*