

**AMENDED AND RESTATED
RECIPROCAL EASEMENT AGREEMENT
FOR THE SHOPPING CENTER LOCATED AT
NORTH DIVISION STREET,
SPOKANE, WASHINGTON**

Attached hereto and by reference made a part hereof is Exhibit A which sets forth the legal description of the shopping center located at North Division Street, Spokane, Washington (the **"Shopping Center"**) including Areas 1, 2, 3, 4, 5-A, 5-B, 5-C and 6. The Shopping Center and certain other property which is not subject to this Amended and Restated Reciprocal Easement Agreement is shown on a plot plan which is attached hereto as Exhibit B.

PARTIES

Area 1: Payne Properties – Tony Romas, with its mailing address at c/o Edward A. Payne, 905 W. Riverside #405, Spokane, WA 99208.

Area 2: Onion's Inc., with its mailing address at c/o Larry M. Brown/Northgate Limited Partnership, 7522 N. Division, Spokane, WA 99208.

Area 3: CLARK PROPERTY INVESTMENTS, LLC with a mailing address at 2320 N. Atlantic, Spokane, WA 99201.

Area 4: Pear Tree, LLC, Dr. Jung Park c/o Tomlinson Black Management, Inc., with a mailing address at 107 S. Howard, Suite 600, Spokane, WA 99201-3818.

Area 5-B: Troy and Linda Allen – Snowbird Division LLC with a mailing address at 5122 N. Fruit Hill Rd. Spokane, WA 99217

Area 5-A: WEC 97H-Washington-1 Investment Trust By Washan Properties, LP with a mailing of 185 NW Spanish River Blvd., Suite 100, Boca Raton, FL 33431-4230.

Area 5-C: Vern and Mary Byrd – 508 East Augusta, Spokane, WA 99207

Area 6: Anthony E. Counini, with a mailing address at P.O. Box 15341 Las Vegas, NV 89114-5341

Common Area (as hereinafter defined): Northgate Center L.L.C. with its mailing address at c/o Operator. While Northgate Center L.L.C. holds record title to the Common Area, it does so in trust for the establishment and operation of the Shopping Center and for the benefit of the owners of Areas 1, 2, 3, 4, 5-A, 5-B, 5-C and 6, in whom beneficial ownership of the Common Area is vested.

RECITATIONS

WHEREAS, the Parties are owners in fee simple of areas of land listed above located in the City of Spokane, County of Spokane, State of Washington, which land is described on Exhibit A attached hereto and by this reference made a part hereof and as shown upon the plot plan on Exhibit B and

WHEREAS, the Parties desire to make integrated use of the lands described herein and to develop, improve and maintain the lands described herein as a shopping center; and

WHEREAS, the Parties entered into a Reciprocal Easement Agreement on April 14, 1978 recorded April 18, 1978 under Auditor's No. 7804180136; as amended by agreements recorded July 10, 1978 under Auditor's No. 7807100162; recorded February 9, 1979 under Auditor's No. 7902090250; recorded October 31, 1979 under Auditor's No. 7910310204; recorded October 21, 1983 under Auditor's No. 8310210126; recorded April 24, 1987 under Auditor's No. 8704240234; recorded April 8, 1993 under Auditor's No. 9304080016; recorded April 26, 1993 under Auditor's No. 9304260083; recorded December 8, 1994 under Auditor's No. 9412080334; and recorded April 29, 1996 under Auditor's No. 9604290461 (as amended, the reciprocal easement agreement is herein referred to as the "**Existing REA**"); and

WHEREAS, the Parties desire to consolidate all of the amendments to the Existing REA and make other changes which establish for the benefit of the Shopping Center certain nonexclusive easements in, to, over and across the Areas, as hereinafter defined; and

WHEREAS, the Parties desire to make certain other covenants and agreements as hereinafter are more specifically set forth; and

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and declarations, as hereinafter set forth, IT IS AGREED that upon the Effective Date (as defined below) the Existing REA is amended and restated in its entirety to read as follows:

DEFINITIONS

As used hereinafter in this Amended and Restated Reciprocal Easement Agreement (hereinafter "**REA**"), the following terms shall have the following respective meanings:

A. **ACCOUNTING PERIOD.** The term "**Accounting Period** " refers to any period commencing January 1 and ending on the next following December 31. Any portion or portions of the Common Area Maintenance Cost (as hereinafter defined) relating to a period of time only part of which is included within the first or last Accounting Period hereto shall be prorated on a daily basis as respects each Party.

B. **AREA.** The term "**Area**" refers to all of the land described in Exhibit A and the term "**Areas**" refers to one or more of Areas 1, 2, 3, 4, 5-A, 5-B, 5-C and 6 and the Common Area as shown on Exhibit A.

C. COMMON AREA. The term “**Common Area**” refers to and means all of the sidewalks, service drives, parking areas, driveways, streets, curbs, directional signs and related improvements, including but not limited to landscaping, now or hereafter located on the Shopping Center, and intended for the common use of Parties, Tenants and Permittees of the Shopping Center substantially as shown on the plot plan attached hereto as Exhibit B, but exclusive of Store or Stores (as hereinafter defined) and truck ramps as now or hereafter may be located in the Shopping Center from time to time.

D). COMMON AREA MAINTENANCE COST. The term “**Common Area Maintenance Cost**” refers to and means the total of all moneys paid out during an Accounting Period by Operator (as hereinafter defined) for reasonable costs and expenses directly relating to the maintenance, repair, operation and management of the Common Area as hereinafter provided, including but not limited to the following:

1. all amounts paid for repair and replacement of the parking areas and driveways, cleaning and sweeping and resealing, restriping of the parking areas, sidewalks and driveways, including snow and ice removal;
2. maintenance and repair of planted or landscaped areas;
3. maintenance, repair and replacement of bulbs and light standards with respect to the parking lot lighting and electrical cost of lighting;
4. wages and salaries of persons directly and actually performing services described herein and a markup of five (5%) percent of the actual costs of maintaining, repairing and replacement of the Common Areas;
5. the costs of casualty and liability insurance (including deductibles incurred); and
6. maintenance, repair and utilities of any common pylon sign and all other common signage or traffic signage in the Shopping Center; and
7. maintenance of the drywells in the parking lot; and
8. real property taxes, other special taxes and assessments levied against the Common Area; and
9. the cost of Common Area utilities (if any); and
10. Common Area Maintenance Cost shall exclude (a) painting, redecorating or other work which Operator performs for any specific Party other than painting, redecorating or other work which is standard maintenance or repair for the Shopping Center; (b) repairs or other work (including rebuilding) occasioned by condemnation; (c) any cost (such as repairs, improvements, electricity, special cleaning or overtime services) to the extent such costs are separately charged to and payable by a Party or to the extent Operator is compensated by insurance proceeds or should have been compensated if Operator had carried the policies of insurance as required

herein; (d) depreciation; (e) interest on and amortization of debt; (f) rent payable by Operator under any lease of real property to which Operator is subject; (g) managing agents' commissions; (h) the repair of any part of the Common Area that was inadequately designed or defectively constructed to the extent such defect or inadequacy is covered by warranty; and (i) expenses for vacant or vacated space, including utility, security and renovating costs of such space; (j) any improvement which is for the exclusive benefit of any Area (said improvement shall be paid for and maintained at the sole cost of the owner of that Area).

E. EFFECTIVE DATE. The term "**Effective Date**" refers to and means the date that this REA shall become effective, which date shall be the day that this REA has been executed by all the Parties, consented to by all Mortgagees and recorded in the land records of Spokane County, Washington.

F. FLOOR AREA. The term "**Floor Area**" refers to the actual number of square feet of a Building Area in the Shopping Center, whether or not actually occupied. Area 3 is designated to be 2,400 sf. In the event the Floor Area of the Building on Area 3 is expanded after the date of this agreement, the Floor Area of Area 3 shall be adjusted to actual Floor Area.

G. MORTGAGEE AND MORTGAGE. The term "**Mortgagee**" refers to and shall include a Mortgagee, trustee and beneficiary under any deed of trust or mortgage on any Area, and the term "Mortgage" shall include any indenture of mortgage or deed of trust encumbering any Area.

H. OPERATOR. The term "**Operator**" refers to the person responsible for the maintenance of the Common Area, or any part hereof, under the provisions of Article VII who shall be the owner of the largest area within the Shopping Center, and unless otherwise specified includes "**Operator's Nominee**" as hereinafter defined. In the event the Operator, at any time, i) elects to discontinue operating the shopping center ; ii) has not performed or is not performing the operator duties; then the Operator shall be replaced by the Parties, one vote per Area; A majority vote of five (5) of the eight (8) Areas will be required to replace the Operator and the Operator will be replaced by the Party that is designated by a majority vote of five (5) of the eight (8) Parties.

I. PARTY OR PARTIES. The term "**Party**" or "**Parties**" refers to the owner of fee simple title from time to time of an Area or any portion thereof; provided, however, in the event of the sale by an owner of all or a portion of a Area and a simultaneous leaseback of the Area or portions thereof (a "**sale/leaseback**"), the seller/lessee under such sale/leaseback shall be deemed to be a "Party" for the purposes of this REA.

J. PERMITEES. The term "**Permittees**" refers to all Tenants and their respective officers, directors, partners, employees, agents, contractors, customers, visitors, invitees, licensees, subtenants and concessionaires.

K. PERSON. The word "**Person**" refers to and shall include individuals, partnerships, firms, associations and corporations, or any other form of business or government entity, and the use of the singular shall include the plural.

L. PRO RATA SHARE. The term “**Pro Rata Share**” refers to that part of a cost or expense allocable to a Party to be computed by multiplying the cost or expense by a fraction, the numerator of which shall be the Floor Area of the Party whose allocable share is to be determined, and the denominator of which shall be the total Floor Area in the Shopping Center. Notwithstanding the foregoing for this purpose the Floor Area of Area 3 shall be 2,400 square feet subject to the adjustment for expansion in paragraph F. above.. A schedule of Pro Rata Shares, as of the Effective Date is attached hereto as **Exhibit “C”**.

M. STORE OR STORES. The term “**Store**” or “**Stores**” refers to the building(s), or any additions thereto, housing the restaurants, businesses, retail or other stores, if any, constructed by Parties on the Shopping Center, as the context may appropriately require.

N. TENANT. The term “**Tenant**” refers to any Person from time to time entitled to the use and occupancy of Floor Area in the Shopping Center under any lease, deed, agreement to purchase or other similar instrument where under such Person has acquired rights with respect to the use and occupancy of any Floor Area.

ARTICLE I

RESTRICTION ON USE

Each Party represents and warrants that they shall not use their Area for the following purposes: nuisance; use causing offensive odors or loud noises which can be heard in the Common Area, excluding reasonable recorded music volume and ordinary patio dining sounds; manufacturing facility; automobile repair shop or service station or any facility for the storage or sale of gasoline or diesel fuel in or from tanks or automotive sales; used clothing, thrift store or liquidation outlet (except Stores selling antiques or fine artwork) excluding those liquidation or outlet stores regionally or nationally recognized. (For example purposes: Big Lots, Goodwill or Savers).; adult book shop or adult movie house; mortuary or funeral parlor; cocktail lounge, bar or tavern or sale of alcoholic beverages, except packaged alcohol for offsite consumption; and except in conjunction with a restaurant; night club, bowling alley, skating rink, carnival, any business using exterior loud speakers, recreational facility; church, kiosk or other like-kind structure; or any other use inconsistent with the operation of a high quality retail shopping center.

ARTICLE II

SIGN RESTRICTIONS

During the term of this REA, the following sign restrictions shall apply to the Shopping Center:

- A. there shall be no flashing, rotating or moving signs or markers of any type unless approved by the Architectural Committee; except for the existing Onion sign west of Area 2.
- B. there shall be no signs painted on the exterior surface of any Store;
- C. there shall be no signs which are constructed or made of wood, cloth material, paper or cardboard, except temporary promotional signs; and

D. there shall be no signs advertising businesses other than those carried on within the Shopping Center.

E. there shall be no additional freestanding monument signs in the Center.

F. no marketing materials of any kind are permitted in the common area including but not limited to leaflets, vehicles displaying advertisements, flyers or signage of any kind.

ARTICLE III COMMON AREA EASEMENTS

A. The owners of the Common Area and Area 3 hereby expressly grant to each other and to each of the other Parties, for their respective use, and for the use of their respective Permittees, in common with all others entitled to use the same, mutual, reciprocal perpetual, and non-exclusive easements over the Common Area of each Area, for ingress into and egress from such respective Area, for the passage of vehicles, for the parking of vehicles and for passage and accommodation of pedestrians, on such respective portions of such Common Area as are set aside, maintained and authorized for such use pursuant to the terms of this REA, for the doing of such other things as are authorized or required to be done on said Common Area pursuant to this REA and for parking on the Common Area without payment of any fee or other charge being made therefor, except for the purpose of preventing or discouraging the use of parking privileges by unauthorized Persons and in such case, no charge shall be made without the express written agreement, jointly, by the Parties.

B. All Parties shall have an easement for overhang, canopies anchored with piers, contiguous walks and entrances, shrubbery and landscaping and for receiving merchandise and disposing of waste, all in such manner as shall be approved by the Architectural Committee.

C. Notwithstanding the foregoing, each Party hereto shall have the right, at least once in each calendar year (but more often if legally desirable) to erect barriers or chains for the purpose of blocking off access to any Common Areas on their respective Areas in order to avoid the possibility of dedicating the same for public use; it being mutually agreed, nevertheless, that if possible, such barriers or chains shall be erected for such purpose at a time or upon a day when the Shopping Center is not open for business.

D. The Operator may impose reasonable rules, regulations and improvements for the purpose of maximizing parking and customer convenience and controlling the flow of traffic, so long as such rules and regulations apply equally to all the Parties and their respective Permittees.

E. There is reserved unto Area 6, the right to use the truck dock loading area to the southeast of Area 6.

ARTICLE IV SIGN EASEMENT

No additional freestanding signage shall be erected in the Center. The monument sign west of

Area 4 shall be reserved for the Areas as depicted on the attached Exhibit C. – Area 4, Area 5-C Area 5-B and Area 5-A.

ARTICLE V UTILITY EASEMENT

Each Party hereby grants to each other, for the benefit of the other Parties' Areas and the Shopping Center the perpetual, nonexclusive right and easement to install, maintain, repair and replace utility facilities, such as water, gas, electric and telephone lines and storm and sanitary sewers under, at, upon and over the portions of the Areas of the Parties, at such place as shall be designated by the owner of the Area on which any such installation is to be installed by the other. When such utility facilities have been installed, any Party hereto shall have the right, upon sixty (60) days prior written notice to all other Parties, at any time or from time to time, to move and relocate such facilities to such place as shall be designated by the owner of the Area upon which such facilities had been installed; provided, however, that such relocation shall be made at the sole cost and expense of the Party giving such notice and that such relocation shall not interfere with, or increase the cost of, any other Party's utility services or unreasonably interfere with the conduct or operation of the business of the owner of any Area upon which such facilities are located or which they serve.

ARTICLE VI TERMINATION OF PERPETUAL EASEMENTS INTENTIONALLY OMITTED

ARTICLE VII MAINTENANCE AND LIGHTING

A. **COMMON AREA - STANDARDS.** The Operator shall operate and maintain the Common Area, in a first class manner, good order, condition and repair, and the Operator, if a Party, shall have the right to select, from time to time, a Person or Persons, other than Operator (herein called "**Operator's Nominee**") to operate and maintain the Common Area, provided that such nomination shall not diminish Operator's responsibility for maintaining the Common Area.

Without limiting the generality of the foregoing, the maintenance of the Common Area shall include the following:

1. Maintaining the surface of the parking area and sidewalks level, smooth and evenly covered with the type of surfacing material originally installed thereon, or such substitute thereof as shall be in all respects equal thereto in quality, appearance, and durability.
2. Removing all papers, debris, filth and refuse from the Shopping Center, washing or thoroughly sweeping paved areas as required and pumping out dry wells in the

parking lot as reasonably necessary.

3. Maintaining such appropriate parking area entrance, exit and directional signs, markers and lights in the Shopping Center as shall be reasonably required and in accordance with the practices prevailing in the operation of similar shopping centers in Washington.
4. Repainting striping, markers, directional signs, etc., as necessary to maintain in first-class condition.
5. Maintaining landscaping as necessary to keep in a first-class thriving condition.
6. Removing snow and ice when and if necessary. Cleaning signs of the Shopping Center, if any (but not those of Tenants), including relamping and repairs as needed.

B. REIMBURSEMENT. The Parties shall each pay to the Operator their Pro Rata Share of Common Area Maintenance Cost for a given Accounting Period. During the year in which a Party opens for business, on the first day of each January, April, July and October, in advance, each Party shall pay to Operator an estimated sum which amount is estimated by Operator to be equal to one-quarter (1/4) of the Party's annual obligation for such costs and expenses. Within ninety (90) days after the end of each Accounting Period, Operator shall furnish each Party with a statement of the actual amount of their proportionate share of such Common Area Maintenance Cost for such Accounting Period. Within fifteen (15) days thereafter, each Party shall pay to Operator or Operator shall credit against the obligations of each Party, as the case may be, the difference between the estimated payments made by each Party during the prior Accounting Period and each Party's correct Pro Rata Share of the actual costs for such Accounting Period, as shown on such statement. From time to time hereafter, Operator shall notify each Party in writing of adjustments to each Party's quarterly installments due hereunder, and each Party shall adjust its installment payments accordingly. Operator's and each Party's obligations with respect to this Article VII shall survive the termination of their interest in the Shopping Center. In the event any portion of an installment of Common Area Maintenance Cost is not paid within ten (10) days of the due date therefor a late fee of five (5%) percent of the total amount of such installment may be charged by Operator and shall be immediately due with the payment of the delinquent bill. In addition, said installment shall bear interest at 18%. Upon written request, Operator shall submit to a Party, copies of paid receipts to support each item and amount included as a Common Area Maintenance Cost.

C. ACCOUNTING. Operator shall maintain accurate records with respect to Common Area Maintenance Cost. Each Party shall have the right to make an audit upon the following terms and conditions:

1. Each Party may audit Operator's Common Area Maintenance Costs in order to verify the accuracy of these charges provided that:

(a) The Party specifically designates the Accounting Period that the Party

intends to audit, which shall be a year within three (3) years of the date of the audit but must be within the time during which the Party had an interest in the Shopping Center; and

(b) Such audit will be conducted only during regular business hours at the office where Operator maintains Common Area Maintenance Costs expense records and only after the Party gives Operator fourteen (14) days' written notice.

2. The Party shall deliver to Operator a copy of the results of such audit within fifteen (15) days of its receipt by the Party.
3. No subtenant shall have any right to conduct an audit and no assignee of a Tenant shall conduct an audit for any period during which such assignee was not a Tenant.
4. In the event that a Party elects to have an independent accounting firm audit Operator's Common Area Maintenance Costs in accordance with this provision, such audit must be conducted by an independent accounting firm that is not being compensated by the Party on a contingency fee basis.

In the event that any audit shall disclose an error in the determination of the Pro Rata Share of any Party or Parties, appropriate adjustment shall promptly be made between the Parties to correct such error.

D. LIENS. The Operator shall have a lien upon each Area to secure the payment by each Party of its respective Pro Rata Share of Common Area Maintenance Costs, Common Area Liability Insurance and Common Area Real Estate Taxes required at Article VII provided, however, that any such lien shall be subordinate to the lien of any Mortgage recorded against its respective Area. The lien shall attach and take effect by the procedure set forth at Article XVIII. In the event Operator is unable to collect payment from a Party for some or all of its Pro Rata Share of Common Area Maintenance Costs, said Defaulting Party's Pro Rata Share of Common Area Maintenance Costs shall be added to the Common Area Maintenance Costs of the Non-Defaulting Parties. In the event that the Defaulting Party finally pays the charges due, then, within two weeks from receipt of said funds, Operator shall refund all monies paid by the Non-defaulting Parties.

E. GOVERNMENTAL REGULATIONS. The Parties covenant and agree, with respect to the use and enjoyment of any of the easements granted herein, to comply with all laws, rules, regulations and requirements of all public authorities and to indemnify, defend and hold each other harmless against all claims, demands, losses, damages, liabilities and expenses and all suits, actions and judgments (including, but not limited to, costs and reasonable attorney's fees), arising or accruing from such Party's use, occupation, maintenance, act or omission. The Parties against whom a claim is made or a suit or action commenced, shall give prompt and timely notice of any such claim, suit or action to the Party who is required to indemnify under this REA.

F. CONSTRUCTION DISRUPTION. Any construction, maintenance, repair and or

reconstruction shall be done in such a manner as to cause as little disturbance in the use of the rest of the Shopping Center as is practical under the circumstances.

G. **DAMAGE AND DESTRUCTION.** In the event that any Store shall be damaged or destroyed (partially or totally) by fire, the elements or any other casualty, the responsible Party shall promptly, with due diligence, repair, rebuild and restore such Store as nearly as practicable to the conditions existing immediately prior to such damage or destruction or alternatively, said Party shall be required to clear, clean and raze the damaged Store and to seed and maintain such Area in a neat and clean condition including mowing grass as reasonably required.

In the event said Party fails to either commence to restore or raze the damaged Store within one hundred fifty (150) days of the date of said casualty and diligently prosecute said work or to seed or maintain the Area as aforesaid, the other Parties (individually or collectively) shall have the right to commence an action at law or in equity to enforce the provisions of this REA but shall have no other rights or remedies for such default under this REA.

H. **STORE MAINTENANCE.** All Stores on each Party's Area shall be kept and maintained by each Party at each Party's expense in a clean, first class manner. Insofar as there are, on any Area, facilities installed to provide public utility services or water or sanitary or storm sewers, to service in addition to that Area, any other part of the Shopping Center, the same shall be kept and maintained in good order, condition and state of repair by the Party on whose Area the portion of said facilities or systems requiring such expenditure shall be located (except to the extent that such services or systems may be operated and maintained by public agencies or utilities), and the cost thereof shall be borne by each Party serviced thereby in the proportion to the Floor Area of the Areas benefited.

ARTICLE VIII COMMON AREA LIABILITY INSURANCE

A. The Operator shall, at all applicable times during the term of this REA, maintain, or cause to be maintained, in full force and effect, commercial public liability insurance covering the Common Area within the Shopping Center, with a financially responsible insurance company or companies approved by the Parties and carrying a Best's financial category minimum rating of Class ~A/X" or better in the most recent edition of Best's Insurance Report or as otherwise approved by the Parties in the event such rating system shall be modified or discontinued, including coverage for any accident resulting in bodily injury to or death of any person and consequential damages arising therefrom, and comprehensive property damage insurance, each in an amount not less than \$2,000,000 per occurrence, or such other greater amount as the Operator may decide in its reasonable discretion from time to time with a deductible no greater than \$5,000.00. Each Party shall bear its Pro Rata Share of any loss or liability which falls under the amount deductible under the insurance policy or is otherwise payable with respect to a loss or

liability. Operator shall furnish to all other Parties, on or before the effective date of any such policy, evidence that the insurance referred to in this Article is in force and effect and that the premiums therefor have been paid. Such insurance shall name all other Parties as named insureds thereunder and shall provide that the same may not be canceled or amended without at least thirty days (30) prior written notice. The Parties shall pay their Pro Rata Share of the insurance premiums pursuant to Article VI.

- B. **BLANKET INSURANCE.** All policies of insurance carried pursuant to this Article, or endorsements issued under any blanket policy or policies covering those liabilities required to be insured against by this Article shall (i) name each of the other Parties as named insureds, (ii) provide that the same may not be canceled or amended without at least thirty (30) days prior written notice being given by the insurer to each of the other Parties, and (iii) guarantee a minimum limit available for the Area equal to the insurance amounts required in this REA, and (iv) provide that said insurance has a protective liability endorsement for the Parties and their Mortgagees, if any, attached thereto.

ARTICLE IX PARKING RATIO

In order to comply with applicable zoning requirements, the Parties, at all times during the term of this REA, shall not change the uses of their respective Areas in any way which would increase the amount of parking required by such zoning requirements for their respective Areas or the Shopping Center without the express written approval of all Parties.

ARTICLE X UNAVOIDABLE DELAYS

The time within which any of the Parties shall be required to perform any act or acts under this REA shall be extended to the extent that the performance of such act or acts shall be delayed unavoidably by acts of God, fire, windstorm, flood, explosion, collapse of structures, riots, waiver, labor disputes, delays or restrictions by governmental bodies, inability to obtain or use necessary materials, or any cause beyond the reasonable control of such Party.

ARTICLE XI TERMINATION OF THIS REA

A. Unless terminated sooner by subsequent mutual written agreement of the Parties or the Parties then in interest including Mortgagees, this REA shall continue and the obligations hereunder shall remain binding until December 31, 2054 with automatic renewals for ten (10) year terms thereafter.; provided, however, that all easements provided for herein shall remain in full force and effect after any termination.

B. At such time as this REA shall be terminated or as the Shopping Center shall cease to be used as a shopping center and the Parties cease to be benefited by their easements with respect to the Common Area, the ownership of the Common Area shall revert to the owners of Areas 1, 2,

3, 4, 5-A, 5-B, 5-C and 6 as tenants in common, each owning in proportion to its Floor Area (Or Area as shown on Exhibit B if no Store has been constructed) provided that in the absence of unanimous agreement among all such Parties no such reversion shall be deemed to exist until established by a decree of a court competent jurisdiction.

C. Any termination of this REA or change in the ownership of the Common Area by lapse of time, by agreement or otherwise, shall be subject to the rights and interest of any Mortgagee of the Common Area which shall not be affected or impaired thereby without such Mortgagee's written consent.

ARTICLE XII COVENANT RUNNING WITH THE LAND

All of the covenants, agreements, easements, conditions and restrictions set forth in this REA are intended to be and shall be construed as covenants running with the land, binding upon, inuring to the benefit of and enforceable by the Parties, their respective successors, and assigns, upon the terms, provisions and conditions herein set forth.

ARTICLE XIII EACH PARTY IS AN INDEPENDENT CONTRACTOR

Nothing contained in this REA shall be construed to make any Party, an agent, a partner or a joint venturer with any other Party or to render any of said Parties liable for the debts or obligations of any others except as otherwise expressly provided herein.

ARTICLE XIV WAIVERS

No delay or omission by any of the Parties in the exercise of any right or power accruing upon any noncompliance or failure of performance by any of the Parties under any of the provisions of this REA shall impair any such right or power or be construed to be a waiver thereof. A waiver by any of the Parties of any of the covenants, conditions or agreements hereof to be performed by another Party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained by that Party or any other Party. No course of conduct by a Party shall impair the rights of a Party or constitute a change to this REA.

ARTICLE XV APPLICABLE LAW

This REA shall be governed by and construed in accordance with the laws of the State of Washington. If any provisions of this REA, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this REA shall not be affected thereby and each provision of this REA shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE XVI NOTICES

Every notice, demand or other document or instrument required or permitted to be served upon any of the Parties shall be in writing and shall be deemed to have been duly served if mailed by certified or registered United States mail, postage prepaid, return receipt requested, addressed to the respective Parties at the addresses stated above, but any Party may change the place for serving of notices sent upon it, by ten (10) days prior written notice informing the other Parties of the change in the address to which notices shall be sent. No such notice, demand or other document or instrument shall affect the interest of any Mortgagee unless sent in like manner to such Mortgagee at its offices which serve such Mortgage.

ARTICLE XVII RELEASE

If a Party shall sell, transfer or assign its Area or its interest therein in its entirety or its interest in the Common Area, it shall, except as provided in this REA, be released from its future obligations hereunder. It shall be a condition precedent to the release and discharge of any grantor or assignor Party that (a) any and all amounts which shall then be due and payable by such grantor or assignor to any other Party or Operator shall have been paid to such other Party or Operator; (b) that such grantor or assignor shall give notice to the Operator of any such sale, transfer or conveyance from and after the date of said transfer or assignment; and (c) that the transferee or assignee assumes in writing the covenants and obligations of this REA and the Operator are furnished with an executed copy of said assignment and assumption containing the name and address of the transferee or assignee; and (d) that no such transfer or assignment shall affect the rights of any Mortgagee.

ARTICLE XVIII DEFAULT

A. The occurrence of any one or more of the following events shall constitute a material default and breach of this REA by the non-performing Party (the “**Defaulting Party**”):

- (i) The failure to make any payment required to be made hereunder within ten (10) days of the due date, or
- (ii) The failure to observe or perform any of the covenants, conditions or obligations of this REA, other than as described in (1) above, within thirty (30) days after the issuance of a notice by another Party (the “**Non-Defaulting Party**”) specifying the nature of the default claimed (or longer period if the failure cannot be cured within said 30 day period, provided that the cure (x) is commenced promptly within the 30 day period and is thereafter diligently pursued to completion and

(x) is completed within sixty (60) days after the notice by the Non-Defaulting Party).

B. With respect to any default under (A)-(ii) above, any Non-Defaulting Party shall have the right, but not the obligation, to cure such default by the payment of money or the performance of some other action for the account of and at the expense of the Defaulting Party; provided, however, that in the event the default shall constitute an emergency condition, the Non-Defaulting Party, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary, without advance notice, so long as notice is given as soon as possible thereafter. To effectuate any such cure, the Non-Defaulting Party shall have the right to enter upon the Area of the Defaulting Party (but not into any Store) to perform any necessary work or furnish any necessary materials or services to cure the default of the Defaulting Party. Each Party shall be responsible for the default of its Tenants. In the event any Non-Defaulting Party shall cure a default, the Defaulting Party shall reimburse the Non-Defaulting Party for all costs and expenses incurred in connection with such curative action, plus interest as provided herein, within ten (10) days of receipt of demand, together with reasonable documentation supporting the expenditures made. Nothing in this Article XVIII(B) shall limit Operator's right to lien Area set forth at Article VI(D).

C. Costs and expenses accruing and/or assessed pursuant to XVIII(B) above shall constitute a lien against the Defaulting Party's Area. The lien shall attach and take effect without necessity of Recordation, but that any party or the Operator may file a lien of claim in the office of the recorder of the County of the State in which the Shopping Center is located, by the Party making the claim. The claim of lien shall include the following:

- (i) The name of the lien claimant;
- (ii) A statement concerning the basis for the claim of lien and identifying the lien claimant as a curing Party;
- (iii) An identification of the owner or reputed owner of the Area or interest therein against which the lien is claimed;
- (iv) A description of the Area against which the lien is claimed;
- (v) A description of the work performed which has given rise to the claim of lien and a statement itemizing the amount thereof; and
- (vi) A statement that the lien is claimed pursuant to the provisions of this REA, reciting the date, book and page of recordation hereof. The notice shall be duly verified, acknowledged and contain a certificate that a copy thereof has been served upon the Party against whom the lien is claimed, by personal service or by mailing pursuant to XVII below. The lien so claimed shall attach from the date of recordation solely in the amount claimed thereby and may be enforced in any judicial proceedings allowed by law, including without limitation, suit in the nature of a suit to foreclose a mortgage/deed of trust or mechanic's lien under the

applicable provisions of the law of the State of Washington.

D. Each Non-Defaulting Party shall have the right to prosecute any proceedings at law or in equity against any Defaulting Party hereto, or any other Person, violating or attempting to violate or defaulting upon any of the provisions contained in this REA, and to recover damages for any such violation or default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation by another of any of the terms, covenants, or conditions of this REA, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. All of the remedies permitted or available to a Party under this REA or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

E. Any first Mortgage holder shall be entitled to receive notice of default by the Party upon whose Area such Mortgagee holds its interest if such Mortgagee has delivered a copy of a notice, substantially in the following form, to each other Party:

The undersigned, whose address is _____, hereby certifies that it is the holder of a [describe the mortgage held] upon that certain real property and improvement more particularly described in Exhibit A attached hereto and incorporated herein by reference, which real property and improvements comprises the "Area _____" as defined and described in that certain Amended and Restated Reciprocal Easement Agreement dated _____ and recorded _____ in Book _____ at Page _____ in the Official Records of the County of Spokane, State of Washington, (the "REA"). If a Party serves notice of default under the REA on the Party who owns or occupies Area _____, then a copy thereof shall concurrently be delivered to the undersigned. The undersigned acknowledges that failure to deliver a copy of such notice to the undersigned in accordance with the forgoing shall have no effect on the validity of the notice to the Defaulting Party.

The foregoing notice shall be served in the manner and at the address specified in Article XVI above of this REA. Upon receipt of such notice, each Party shall give notice of default in accordance therewith as specified in the foregoing form of notice. Failure by a Party to serve a copy of a notice of default in accordance with this Paragraph (E) shall create no liability on the part of such Party.

ARTICLE XIX REAL ESTATE TAXES

The Parties shall pay or cause to be paid all real property taxes, other special taxes and assessments levied against its respective Area and the buildings and improvements thereon (herein called "**Taxes**"). Each Party may contest at its own expense the existence, amount or validity of any Taxes levied upon its Area by appropriate proceedings (a) which shall prevent the collection of or other realization upon the Taxes so contested and (b) which shall prevent the

sale, forfeiture or loss of the Area to satisfy the same. The other Parties, at the expense of the contesting Party, shall cooperate with the contesting Party and execute any documents or pleadings legally required or necessary for any such contest. The contesting Party shall indemnify and hold the other Parties harmless from any loss, cost or damage suffered by the other Parties as a direct result of any such challenge or contest by the contesting Party.

ARTICLE XX COMMON AREA UTILITIES

INTENTIONALLY OMITTED

ARTICLE: XXI ARCHITECTURAL COMMITTEE

A. COMPOSITION. There shall be an Architectural Committee consisting of three persons. One person designated by the Owner of the largest parcel and two persons designated by the Parties by a majority vote One vote per Area

B. ITEMS TO BE REVIEWED. All developments within the Shopping Center must have an exterior design and architecture which is mutually compatible with one another. The Parties will consult with each other and will submit to the Architectural Committee for approval, and will exchange information and drawings prior to commencement of construction or remodeling in an Area for the purpose of achieving and maintaining harmonious architecture and design of the Stores in the Shopping Center. Further, the Parties will consult with each other and will submit to the Architectural Committee for approval, and will exchange information and drawings prior to commencement of construction or replacement of exterior signage in an Area for the purpose of achieving and maintaining harmonious architecture and design of the Stores in the Shopping Center. No Store exterior or exterior signage shall be constructed, altered or remodeled until the Architectural Committee has reviewed and approved detailed plans and specifications which approval may be granted or withheld in the sole discretion of the Architectural Committee.

C. APPROVAL The Architectural Committee shall approve or disapprove the plans submitted to it by written notice sent to the Owner or his representative at the address included with the submission of the plans. If the Architectural Committee fails to respond in writing to any submission within thirty (30) calendar days after the date shown on the receipt issued by the Architectural Committee for such plans, approval of the plans shall be deemed granted if the plans are otherwise in conformity with the REA and the applicable building and zoning codes of the City of Spokane.

If the Architectural Committee fails to act within a thirty (30) day period, and the Architectural Committee notifies the Owner in writing within the thirty (30) day period that an extension of time to complete the review is required, the Architectural Committee shall have an additional thirty (30) days to review the plans and specifications submitted by an Owner. In no case shall the extension of time be for more than an additional thirty (30) days. If the Architectural Committee fails to complete its review by the end of the extension period, such failure to act shall constitute approval by the Architectural Committee of the submitted plans and

specifications.

D. **DISAPPROVAL** If the Architectural Committee disapproves of plans, the Architectural Committee shall specify the reasons for such disapproval to the Owner or its representative in writing within the thirty (30) day response period or the thirty day (30) extension period. The Owner shall then be entitled to submit revised plans for review by the Architectural Committee, in which event another receipt shall be issued therefor by the Architectural Committee and the thirty (30) day review period specified in Article XXII(c) above shall again be applicable. In the event the Architectural Committee disapproves the Owner's second submittal ; within 30 days after receiving notification of the disapproval, the Owner may appeal the Architectural Committee's decision by delivering written notice to all Parties of the intent to appeal accompanied by a detailed explanation of the appeal. Within sixty (60) days after receipt of the appeal, the Parties will vote, one vote per Area, to approve or disapprove the Owner applicant's submittal. Final decision of approval or disapproval of the submittal will be based on the majority vote of five (5) of eight (8) votes cast by the Parties, or by majority vote in the absence of all eight votes received within the sixty (60) day period.

E **VARIANCE.** Upon written application to it, the Architectural Committee shall have the authority to waive or vary these Covenants when such waiver or variance will enhance the standards of the Shopping Center. Such waivers or variances shall apply only to these Covenants and shall not pertain to City of Spokane Zoning Ordinances or approvals and shall only be granted upon a unanimous vote of the Architectural Committee.

F. **GUIDELINES.** In order to assist Owners in complying with this REA, the Architectural Committee may publish from time to time Site and Building Guidelines ("**Guidelines**"). The Guidelines may pertain to such matters as drainage and erosion control, signage, building materials, lighting standards, screening, or any related matters. The Guidelines may be updated at any time, in the sole discretion of the Architectural Committee, to reflect developments in applicable technology or to include changes deemed necessary or advisable, and shall be available to any Owner upon request. To the extent such Guidelines are published, approval of plans by the Architectural Committee shall be in accordance with the Guidelines as updated from time to time. However, the Guidelines shall not constitute amendments or modifications of this REA, and in the event of any conflict or inconsistency, this REA shall control.

ARTICLE XXII MISCELLANEOUS

A. **ALLOCATION OF THE COMMON AREA CONDEMNATION PROCEEDS.** All Parties recognize that the price paid by each Party for their respective Area includes consideration which relates to the right of use which the Party has with respect to the Common Area. Accordingly, in the event of the condemnation of any part of the Common Area, any monies not used for restoration of the Common Area will be allocated among the Parties owning the respective Areas (other than the Owner of Area 3) in proportion to the size of the Floor Area on the Areas.

B. **COMMON AREA MORTGAGE.** No Party shall mortgage any portion of the Common

Area, including Areas 1, 2, 3, 4, 5A, 5B, 5C, and 6, per se without the written consent of all other Parties and their Mortgagees, which shall not be unreasonably be withheld or delayed.

C. **BREACH SHALL NOT DEFEAT MORTGAGE.** A breach of any of the terms, conditions, covenants or restrictions of this REA shall not defeat or render invalid the lien of any first Mortgage made in good faith and for value, but such term, condition, covenant or restriction shall be binding upon and effective against any Person who acquires title to an Area or demised premises or any portion thereof by foreclosure, trustee's sale or otherwise, provided however, no Mortgagee, its successors or assigns, shall be liable for any breach hereunder unless and until it takes title or possession to the Area or demised premises and then only for breaches which occur after the date it takes title.

D. **BREACH SHALL NOT PERMIT TERMINATION.** It is expressly agreed that no breach of this REA shall entitle any Party to cancel, or rescind or otherwise terminate this REA, but such limitation shall not effect, in any manner, any other right or remedies which the Parties may have hereunder by reason of any breach of this REA.

E. **CONSENT.** In any instance in which any Party to this REA shall be requested to consent to or approve of any matter with respect to which such Party's consent or approval is required by any of the provisions of this REA, such consent or approval shall be given in writing, and shall not be unreasonably withheld or delayed, unless the provisions of this REA with respect to a particular consent or approval shall expressly provide that the same may be given or refused in the discretion or absolute discretion of such Party.

F. **ESTOPPEL CERTIFICATE.** Each Party hereby severally covenants that upon written request of any other Party, it will issue to such other Party, or to any Mortgagee, or any other Person specified by such requesting Party, within a commercially reasonable time, an estoppel certificate stating: (i) whether the Party to whom the request has been directed knows of any default under the REA, and if there are known defaults, specifying the nature thereof (ii) whether to its knowledge the REA has been modified or amended in any way (and if it has, then stating the nature thereof); and (iii) that to the Party's knowledge the REA as of that date is in full force and effect.

G. **NOT A PUBLIC DEDICATION.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Shopping Center to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Parties that this REA shall be strictly limited to and for the purposes herein expressed.

H. **LIENS.** Any lien which any Party, the Operator or successor may have or obtain by virtue of or pursuant to this REA with respect to any part of the Shopping Center shall be subject and subordinate to any Mortgage recorded prior to the time that a notice of such lien is recorded.

I. **SEVERABILITY.** If any term, provision or condition contained in this REA shall, to any extent, be invalid or unenforceable, the remainder of this REA (or the application of such term, provision or condition to Persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision and condition of

this REA shall be valid and enforceable to the fullest extent permitted by law. Notwithstanding anything to the contrary contained herein, a Mortgagee (or its assigns) succeeding to the interest of a Party hereunder shall only have obligations and liability for events happening or amounts accruing on and after the date it becomes the owner or lessee of an Area.

J. TIME OF ESSENCE. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this REA.

K. WAIVER OF DEFAULT. No waiver of any default by any Party to this REA shall be implied from any omission by any other Party to take any action in respect of such default if such default continued or is repeated. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any term, provision or covenant contained in this REA shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant contained in this REA. The consent or approval by any Party to or of any act or request by any other Party requiring consent or approval shall not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar acts or requests. The rights and remedies given to any Party by this REA shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the other, or of any other right or remedy at law or in equity which any such Party might otherwise have by virtue of a default under this REA. and the exercise of one such right or remedy by any such Party shall not impair such Party's standing to exercise any other right or remedy.

L. ARTICLE HEADINGS. The article headings herein are for the convenience and reference only and in no way define or limit the scope or content of this REA or in any way affect its provisions.

M. COUNTERPARTS. This REA (and the acknowledgment and consent hereto) may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

ARTICLE XXIII MODIFICATIONS

A. ADDITIONS AND CORRECTIONS. It is the intention of the Parties that this REA constitute a comprehensive agreement with respect to the Shopping Center and the Existing REA be superseded in its entirety by the provisions of this REA upon the effective date. If anything needs to be done in the nature of additional Common Areas as determined by the a majority vote of the Parties in order to develop and maintain the Shopping Center as a contiguous and coordinated shopping center in accordance with the generally accepted standards in the community for the development and maintenance of such a shopping center, then the same shall be added hereto and with respect to any costs associated therewith the Parties shall pay their Pro Rata Share.

B. MODIFICATION OF AREAS. The precise size and location of any of the Areas may be modified by mutual agreement of the Parties which agreement shall not be unreasonably

withheld by any Party, provided that the resulting area following the modification is compatible with zoning and building requirements, and carries out the general development plan which is reflected on Exhibit B. The consent of any Mortgagee on all or any part of the Areas shall also be required to any such modification.

ARTICLE XXIV
REMOVAL OF PROPERTY FROM
RECIPROCAL EASEMENT AGREEMENT

It is understood and agreed that Northgate Center, L.L.C. (also known as Northgate LLC) will convey title to a portion of the Common Area to Vern Byrd and Mary Byrd (The Byrd's), which portion is described in that certain Special Warranty Deed and the Easement and Covenant being executed and recorded concurrently with the execution and recordation of this Amended and Reinstated Reciprocal Easement Agreement. The Easement reserved in the Special Warranty Deed shall be maintained by Northgate Center, LLC and the costs of maintenance shall be allocated pursuant to Article VII of the REA.

Area 1

PAYNE PROPERTIES
TONY ROMAS

Area 2

ONION'S, INC.

By: _____
Edward A. Payne
Address: 905 W. Riverside #405
Spokane, WA 99208

by: _____
Larry M Brown
Address: 7522 N. Division
Spokane, WA 99208

Area 3

CLARK PROPERTY INVESTMENTS, LLC

Area 4

Pear Tree, LLC

By: _____
Marshall K. Clark
Address: 2320 N. Atlantic
Spokane, WI 99201

By: _____
Dr. Jung Park
Address: 107 S. Howard, Suite 600
Spokane, WA 99201

Area 5-B

Snowbird Division, LLC

Area 5-A

WEC 97H-Washington-1 Investment Trust
By: Washan Properties, L.P.

ACKNOWLEDGMENTS

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2004, before me, the undersigned, a notary public in and for the State of _____, duly commissioned and sworn, personally appeared Edward A. Payne, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

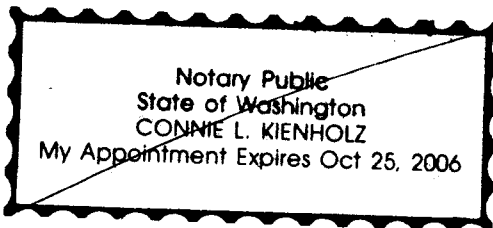
WITNESS my hand and official seal hereto affixed the day year first above written.

Notary Public in and for the State of _____,
My Commission Expires: _____

STATE OF Washington)
) ss.
COUNTY OF Spokane)

On this 6 day of Dec, 2004, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared Larry Brown, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day year first above written.



[Signature]
Notary Public in and for the State of WA,
My Commission Expires: 10-25-2006

ACKNOWLEDGMENTS

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2004, before me, the undersigned, a notary public in and for the State of _____, duly commissioned and sworn, personally appeared Marshall Clark, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day year first above written.

Notary Public in and for the State of _____,
My Commission Expires: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2004, before me, the undersigned, a notary public in and for the State of _____, duly commissioned and sworn, personally appeared Dr. Jung Park, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day year first above written.

Notary Public in and for the State of _____,
My Commission Expires: _____

ACKNOWLEDGMENTS

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2004, before me, the undersigned, a notary public in and for the State of _____, duly commissioned and sworn, personally appeared Vern Byrd and Mary Byrd, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day year first above written.

Notary Public in and for the State of _____,
My Commission Expires: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2004, before me, the undersigned, a notary public in and for the State of _____, duly commissioned and sworn, personally appeared Anthony Counini, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day year first above written.

Notary Public in and for the State of _____,
My Commission Expires: _____

ACKNOWLEDGMENT

STATE OF _____)
) ss.
_____ COUNTY)

Personally came before me this _____ day of _____, 2004, the above named
_____, _____ and _____,
_____, of US Bank, to me known to be such officers of said
corporation and acknowledged that they executed the foregoing instrument as such officers as
the deed of said corporation, by its authority.

Notary Public, State of _____
My Commission is Permanent/Expires _____

ACKNOWLEDGMENT

STATE OF _____)
) ss.
_____ COUNTY)

Personally came before me. this ____ day of _____, _____, the above named
_____, _____ and _____,
_____ of US Bank, to me known to be such officers of said
corporation and acknowledged that they executed the foregoing instrument as such
officers as the deed of said corporation. by its authority.

Notary Public, State of _____
My Commission is Permanent/Expires _____

ACKNOWLEDGMENT

STATE OF _____)
) ss.
_____ COUNTY)

Personally came before me this _____ day of _____, _____ the above named _____, _____, and _____, _____ of M & I Marshall & Ilsley Bank, to me known to be such officers of said corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation, by its authority.

Notary Public, State of _____
My Commission is Permanent/Expires _____

ACKNOWLEDGMENT

STATE OF _____)
I _____) ss.
_____ COUNTY)

Personally came before me this _____ day of _____, _____ the above named _____, _____, and _____, _____ of Legg Mason Real Estate Service, Inc. to me known to be such officers of said corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation, by its authority.

Notary Public, State of _____
My Commission is Permanent/Expires _____

ACKNOWLEDGMEN

STATE OF _____)
) ss.
_____ COUNTY)

Personally came before me this _____ day of _____, _____, the above named _____, _____, and _____

_____, of United Security Bank, to me known to be such officers of said corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation, by its authority.

Notary Public, State of _____
My Commission is Permanent/Expires _____

EXHIBIT A

AREA 1

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M. • in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the East line of Division Street, and on the South line of the North 638.12 feet of the Northwest quarter of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M.; thence South 89°51'58" East, along said South line of the North 638.12 feet, a distance of 206.20 feet; thence South 00°08'02" West, 9.50 feet to the Northeast corner of the area and the Point of Beginning; thence South 00°16'26" East, 41 feet; thence South 89°43'34" West 117.60 feet; thence South 00°16'26" East, 17.10 feet; thence South 89°43'34" West, 25.30 feet; thence North 00°16'26" West, 58.10 feet; thence North 89°43'34" East, 143.00 feet to the Point of Beginning.

AREA 2

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the East line of Division Street and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of said Section 29, Township 26 North, Range 43 East, W.M.; thence North 00°16'26" West, along the East line of Division Street 387.78 feet; thence North 89°43'34" East 45.00 feet to the Southwest corner of the area and the Point of Beginning; thence North 00°16'26" West, 130 feet; thence North 89°43'34" East, 80.00 feet; thence South 00°16'26" East, 130 feet; thence South 89°43'34" West, 80.00 feet to the Point of Beginning.

AREA 3

That portion of the unplatted part of the West half of the Northwest quarter of Section 29,

Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the East line of Division Street, and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of Section 29; thence North $00^{\circ}16'26''$ West, along the East line of Division Street, a distance of 198.70 feet to the Southwest corner of the area, and the Point of Beginning; thence continuing along the East line of Division Street, North $00^{\circ}16'26''$ West, 125.00 feet; thence North $89^{\circ}43'34''$ East, 200.00 feet; thence South $00^{\circ}16'26''$ East, 125.00 feet; thence South $89^{\circ}43'34''$ West, 200.00 feet to the Point of Beginning.

AREA 4

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the East line of Division Street, and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of Section 29; thence South $89^{\circ}57'55''$ East, 335.04 feet from the East line of Division Street; thence North $00^{\circ}02'05''$ East, 15.00 feet to the Southeast corner of the area and the Point of Beginning; thence continuing North $00^{\circ}02'05''$ East, 100.00 feet; thence North $89^{\circ}57'55''$ West, 270.00 feet; thence South $00^{\circ}02'05''$ West, 100.00 feet; thence South $89^{\circ}57'55''$ East, 270.00 feet to the Point of Beginning.

AREA 5

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the North line of Cozza Drive, and on the West line of the East 64.00 feet of the West half of the West half of the Northwest quarter of Section 29; thence North $89^{\circ}57'20''$ West, along the North line of Cozza Drive, 150.00 feet; thence North $00^{\circ}21'29''$ West, 160.29 feet to the true point of beginning; thence continuing North $00^{\circ}21'29''$ West, 101.25 feet; thence North $89^{\circ}38'31''$ East, 40.00 feet; thence North $00^{\circ}21'29''$ West, 135.00 feet; thence North $89^{\circ}38'31''$ East, 20.00 feet; thence North $00^{\circ}21'29''$ West, 200.00 feet; thence North $89^{\circ}38'31''$ East, 200.00 feet; thence South $00^{\circ}21'29''$ East, 200.00 feet; thence South $89^{\circ}38'31''$ West, 120.00 feet; thence South $00^{\circ}21'29''$ East, 236.25 feet; thence South $89^{\circ}38'31''$ West, 140.00 feet to the true point of beginning.

AREA 6

That portion of the unplatted part of the West half of the Northwest quarter of Section 29,

Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the east line of Division Street and on the South line of the North 638.12 ft of the Northwest quarter of the Northwest quarter of Section 29, said South line bears South 89°51'58" East; thence South 88°21'48" East, 463.18 feet to the Northwest corner of the area and the Point of Beginning; thence North 89°38'31" East, 250.00 feet; thence South 00°21'29" East, 280.00 feet; thence South 89°38'31" West, 250.00 feet; thence North 00°21'29" West, 280.00 feet to the Point of Beginning.

COMMON AREA

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

BEGINNING at a point on the East line of Division Street, and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of Section 29, Township 26 North, Range 43 East W.M.; thence North 00°16'26" West, along the East line of Division Street, 511.05 feet; thence South 89°43'34" West, 5.00 feet; thence continuing along the East line of Division Street, North 00°16'26" West 301.91 feet to a point on the South line of the North 638.12 feet of the Northwest quarter of the Northwest quarter of said Section 29; thence South 89°51'58" East along said South line of the North 638.12 feet, a distance of 732.93 feet to a point on the West line of Colton Street; thence South 00°21'29" East along the West line of Colton Street 264.85 feet; thence South 05°07'07" East along the West line of Colton Street 60.25 feet; thence South 15°04'21" East along the West line of Colton Street, 98.42 feet; thence South 00°21'29" East along the West line of Colton Street, 154.54 feet to a point on the North line of the South 114.00 feet of the Southeast quarter of the Northwest quarter of the Northwest quarter of said Section 29; thence North 89°55'56" West along the said North line of the South 114.00 feet a distance of 214.07 feet to a point on the West line of the East 64.00 feet of the West half of the West half of the Northwest quarter of said Section 29; thence South 00°21'29" East along said West line of the East 64.00 feet a distance of 387.59 feet to a point on the North line of Cozza Drive; thence North 89°57'20" West along the North line of Cozza Drive, 210.00 feet; thence North 00°21'29" West, 150.18 feet to a point on the North line of the South 540 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of said Section 29; thence North 89°57'55" West along said North line of the South 540.00 feet, a distance of 335.04 feet to the Point of Beginning; EXCEPT that portion described as follows:

AREA 1: Commencing at a point on the East line of Division Street, and on the South line of the North 638.12 feet of the Northwest quarter of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M.; thence South 89°51'58" East, along said South line of the North 638.12 feet, a distance of 206.20 feet; thence South 00°08'02" West, 9.50 feet to the Northeast corner of the area and the Point of Beginning; thence South 00°16'26" East, 41 feet; thence South 89°43'34" West 117.60 feet; thence South 00°16'26" East, 17.10 feet; thence South 89°43'34" West, 25.30 feet; thence North 00°16'26" West, 58.10 feet; thence North 89°43'34" East, 143.00 feet to the Point of Beginning; AND EXCEPT that portion described as follows:

AREA 2: Commencing at a point on the East line of Division Street and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of said Section 29, Township 26 North, Range 43 East, W.M.; thence North 00°16'26" West, along the East line of Division Street 387.78 feet; thence North 89°43'34" East 45.00 feet to the Southwest corner of the area and the Point of Beginning; thence North 00°16'26" West, 130 feet; thence North 89°43'34" East, 80.00 feet; thence South 00°16'26" East, 130 feet; thence South 89°43'34" West, 80.00 feet to the Point of Beginning; AND EXCEPT that portion described as follows:

AREA 3: Commencing at a point on the East line of Division Street, and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of Section 29; thence North 00°16'26" West, along the East line of Division Street, a distance of 198.70 feet to the Southwest corner of the area, and the Point of Beginning; thence continuing along the East line of Division Street, North 00°16'26" West, 125.00 feet; thence North 89°43'34" East, 200.00 feet; thence South 00°16'26" East, 125.00 feet; thence South 89°43'34" West, 200.00 feet to the Point of Beginning; AND EXCEPT that portion described as follows:

AREA 4: Commencing at a point on the East line of Division Street, and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of Section 29; thence South 89°57'55" East, 335.04 feet from the East line of Division Street; thence North 00°02'05" East, 15.00 feet to the Southeast corner of the area and the Point of Beginning; thence continuing North 00°02'05" East, 100.00 feet; thence North 89°57'55" West, 270.00 feet; thence South 00°02'05" West, 100.00 feet; thence South 89°57'55" East, 270.00 feet to the Point of Beginning; AND EXCEPT that portion described as follows:

AREA 5-A: Commencing at a point on the North line of Cozza Drive and on the West line of the East 64.00 feet of the West half of the West half of the Northwest Quarter of Section 29, Township 26 North, Range 43 East, W.M. thence North 89°57'20" West along the North line of Cozza Drive, 150.00 feet; thence North 00°21'29" West, 261.54 feet; thence North 89°38'31" East, 40.00 feet; thence North 00°21'29" West, 135.00 feet; thence North 89°38'31" East, 20.00 feet to the true point of beginning; thence North 00°21'29" West 200.00 feet; thence North 89°38'31" East 200.00 feet; thence South 89°38'31" West, 200.00 feet to the true point of beginning; AND EXCEPT that portion described as follows: This legal is missing 1 leg of the description – KIN Properties please provide

AREA 5-B: Commencing at a point on the North line of Cozza Drive and on the West line of the East 64.00 feet of the West half of the West half of the Northwest quarter of said Section 29; thence North 89°57'20" West, along the North line of Cozza Drive, 150.00 feet; thence North 00°21'29" West, 160.29 feet to the true point of beginning; thence continuing North 00°21'29" West, 101.25 feet; thence North 89°38'31" East, 40 feet; thence North 00°21'29" West, 73.75 feet; thence North 89°38'31" East, 100.00 feet; thence South 00°21'29" East, 175 feet; thence South 89°38'31" West, 140 feet to the true point of beginning; AND EXCEPT that portion described as follows:

AREA 5-C: Commencing at a point on the North line of Cozza Drive, and on the West line of the East 64.00 feet of the West half of the West half of the Northwest Quarter of said Section 29;

thence North 89°57'20" West, along the North line of Cozza Drive, 150.00 feet; thence North 00°21'29" West, 261.54 feet; thence North 89°38'31" East, 40.00 feet; thence North 00°21'29" West, 73.75 feet to the Southwest corner of the area and the point of beginning; thence continuing North 00°21'29" West, 61.25 feet; thence North 89°38'31" East, 100.00 feet; thence South 00°21'29" East, 61.25 feet; thence South 89°38'31" West, 100.00 feet to the point of beginning; AND EXCEPT that portion described as follows:

AREA 6: Commencing at a point on the east line of Division Street and on the South line of the North 638.12 ft of the Northwest quarter of the Northwest quarter of Section 29, said South line bears South 89°51'58" East; thence South 88°21'48" East, 463.18 feet to the Northwest corner of the area and the Point of Beginning; thence North 89°38'31" East, 250.00 feet; thence South 00°21'29" East, 280.00 feet; thence South 89°38'31" West, 250.00 feet; thence North 00°21'29" West, 280.00 feet to the Point of Beginning;

AND EXCEPT that portion lying within the following described tract:

That portion of the West half of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in Spokane County, Washington, described as follows: COMMENCING at a point on the North line of Cozza Drive and on the West line of the East 64 feet of the West half of the West half of the Northwest quarter of Section 29; thence North 89°57'20" West, along the North line of Cozza Drive, 150 feet; thence North 00°21'29" West, 160.29 feet to the true point of beginning; thence North 89°38'31" East, 150 feet, more or less, to the West line of the East 64 feet of the West half of the West half of the Northwest quarter of Section 29; thence South 00°21'29" East along the West line of the East 64 feet of the West half of the West half of the Northwest quarter, to the North line of Cozza Drive; thence North 89°57'20" West, along the North line of Cozza Drive, 210 feet; thence North 00°21'29" West, to a point which bears South 89°38'31" West from the true point of beginning; thence North 89°38'31" East to the true point of beginning.

**EXHIBIT C
PRO RATA SHARES**

CONTINENTAL 80 FUND LLC – REA

Area 1	6,315 sq. ft.	3.436%
Area 2	10,400 sq. ft.	5.659%
Area 3	2,400 sq. ft.	1.306%
Area 4	27,000 sq. ft.	14.691%
Area 5A	40,000 sq. ft.	21.764%
Area 5B	21,550 sq. ft.	11.725%
Area 5C	6,125 sq. ft.	3.333%
Area 6	70,000 sq. ft.	38.087%

ASSIGNMENT OF INTERESTS IN LIMITED LIABILITY COMPANY

This Assignment is made by Continental Properties Management, L.L.C., as to its 9.09 units of Northgate Center, L.L.C., a Washington limited liability company ("Company"), and Continental Northgate, L.L.C., as to its 90.91 units in the Company. The units being assigned hereunder constitute 100% of the outstanding units of the Company. The undersigned hereby assign and transfer all of said units to the following persons or entities as follows:

Person/Entity	Units
Payne Properties (Tony Roma's)	3.436
Onion's, Inc.	5.659
Clark Property Investments, L.L.C.	1.306
Pear Tree, L.L.C.	14.691
Snowbird Division, L.L.C.	11.725
WEC 97H-Washington-1 Investment Trust	21.764
Byrd Real Estate Group	3.333
Mr. Anthony E. Counini	38.087

DATED this ____ day of _____, 2004.

NORTHGATE CENTER LLC
a Washington Limited Liability Company

NORTHGATE CENTER LLC
a Washington Limited Liability Company

CONTINENTAL NORTHGATE, LLC
a Wisconsin Limited Liability Company

CONTINENTAL PROPERTIES
MANAGEMENT, LLC
a Wisconsin Limited Liability Company

By: Continental Properties Company, Inc.
Its Managing Member

By: Continental Properties Company, Inc.
Its Managing Member

By _____
DANIEL J. MINAHAN
President

By _____
DANIEL J. MINAHAN
President

CONSENT OF MEMBERS

The undersigned members of Northgate Center, L.L.C. a Washington limited liability company ("Company"), do hereby consent to the within and foregoing Assignment and approve and consent to the substitution of the above-named persons and/or entities as members of the Company.

NORTHGATE CENTER LLC
a Washington Limited Liability Company

CONTINENTAL NORTHGATE, LLC
a Wisconsin Limited Liability Company

By: Continental Properties Company, Inc.
Its Managing Member

By _____
DANIEL J. MINAHAN
President

NORTHGATE CENTER LLC
a Washington Limited Liability Company

CONTINENTAL PROPERTIES
MANAGEMENT, LLC
a Wisconsin Limited Liability Company

By: Continental Properties Company, Inc.
Its Managing Member

By _____
DANIEL J. MINAHAN
President

AFTER RECORDING RETURN TO:
WITHERSPOON, KELLEY, DAVENPORT & TOOLE PS
ATTN: JMR
FILE NO:
1100 U.S.BANK BLDG.
SPOKANE, WA 99201

SPECIAL WARRANTY DEED, EASEMENTS AND COVENANT

Grantor: Northgate Center, LLC , Byrd
Grantee: Byrd, Northgate Center, LLC
Abbrev. Legal : Ptn Section 29, Tsp 26N, R43 EWM
Parcel No.

THE GRANTOR, NORTHGATE CENTER, LLC, a Washington Limited Liability Company, holding title to land as trustee for the owners of that certain property as a common area subject to the provisions of an amended Reciprocal Easement Agreement recorded in the office of the Auditor of Spokane County, under Auditor's Number 7807100162, as amended from time to time;

for \$10.00 and other good and valuable consideration, grants, bargains, sell, conveys, and confirms to;

THE GRANTEE, VERN BYRD and MARY BYRD, husband and wife; the property described in Exhibit "A" to this deed, situated in the City of Spokane, Spokane County, State of Washington.

Grantor, for itself and for its successors in interest does by these presents expressly limit the covenants of this deed to those herein expressed, and excludes all covenants arising or to arise by statutory or other implication, and does hereby covenant that against all persons whomsoever lawfully claiming or to claim by, through or under said grantor and not otherwise, will forever warrant and defend the real estate described in Exhibit "A".

Grantor hereby expressly reserves unto Grantor, its heirs, successors and assigns, for the benefit of the common area subject to the provisions of an Amended Reciprocal Easement Agreement recorded in the office of the Auditor of Spokane County under Auditor's Number 780710012, as amended from time to time, and for the benefit of all owners of said common area, beneficial or otherwise, a

nonexclusive appurtenant easement over, under, upon and across the property described in Exhibit "A" for ingress, egress and utility purposes, for the placement of existing structures, and other improvements in said easement, future replacements or reconfigurations thereof, and future new or replacement utilities to burden Exhibit "A" and to benefit the above described common area and the owners thereof and their owned parcels benefited by said common area.

Further, Grantee agrees and covenants, which covenant is permanently impressed upon the real property described in Exhibit "A" that no building or structure of any kind shall be placed by Grantee, its heirs, successors and assigns, or others at their request or sufferance, over, upon, in or under the real property described on Exhibit "A"; provided, however, this covenant may be modified and/or terminated by agreement of Grantee and all of the parties to the above described Reciprocal Easement Agreement as amended from time to time, or all of their heirs, successors and assigns. Any such modification or termination shall be effective only when evidenced by a written recorded instrument executed by all such parties and all holders of mortgages, deeds of trust or other consensual liens on Exhibit "A" with appropriate acknowledgments.

IN WITNESS WHEREOF, Grantor and Grantees have caused this instrument to be executed this ____ day of _____, 2004.

NORTHGATE CENTER LLC,
a Washington Limited Liability Company

By: CONTINENTAL NORTHGATE, LLC,
A Wisconsin Limited Liability Company, Member

By: _____
Its: _____

By: CONTINENTAL PROPERTIES
MANAGEMENT, LLC, a Wisconsin Limited
Liability Company, Member

By: _____
Its: _____

VERN BYRD AND MARY BYRD, Husband and
Wife

By: _____
VERN BYRD

By: _____
MARY BYRD

Exhibit "A"

That portion of the unplatted part of the West Half of the Northwest Quarter of Section 29, Township 26 North, Range 43 East Willamette Meridian, in the City of Spokane, County of Spokane, State of Washington, described as follows:

Commencing at a point on the north line of Cozza Drive, and on the west line of the East 64.00 ft of the West Half of the West Half of the Northwest Quarter of said Section 29; thence N89°57'20"W, along the north line of Cozza Drive, 150.00 ft; thence N0°21'29"W, 160.29 ft; thence N89°38'31"E, 140.00 ft to the Southeast Corner of the Parcel described in Spokane County Auditor's document No. 8905080214, and the TRUE POINT of BEGINNING; thence N0°21'29"W, along the east line of said Parcel, and building pad areas, 236.25 ft to a point on the south line of the Parcel described in Auditor's document No. 7911130249; thence N89°38'31"E, along the south line of said last Parcel, 120.00 ft; thence S89°55'56"E, 104.07 ft to a point on the west line of Colton Street; thence S0°21'29"E, along the west line of Colton Street, 10.82 ft to a point on the north line of the South 114.00 ft of the Northwest Quarter of the Northwest Quarter of said Section 29; thence N89°55'56"W, along said north line of the South 114.00 ft, 214.07 ft to a point on the west line of the East 64.00 ft of the West Half of the West Half of the Northwest Quarter of said Section 29; thence S0°21'29"E, along said west line of the East 64.00 ft, 226.25 ft; thence S89°38'31"W, 10.00 ft. to the Point of Beginning.

That portion of the unplatted part of the West Half of the Northwest Quarter of Section 29, Township 26 North, Range 43 East Willamette Meridian, in the City of Spokane, County of Spokane, State of Washington, described as follows:

Commencing at a point on the north line of Cozza Drive, and on the west line of the East 64.00 ft of the West Half of the West Half of the Northwest Quarter of said Section 29; thence N89°57'20"W, along the north line of Cozza Drive, 150.00 ft thence; N0°21'29"W, 160.29 ft; thence N89°38'31"E, 140.00 ft to the Southeast Corner of the Parcel described in Spokane County Auditor's document No. 8905080214, and the TRUE POINT of BEGINNING; thence N0°21'29"W, along the east line of said Parcel, and building pad areas, 236.25 ft to a point on the south line of the Parcel described in Auditor's document No. 7911130249; thence N89°38'31"E, along the south line of said last Parcel, 120.00 ft; thence S89°55'56"E, 104.07 ft to a point on the west line of Colton Street; thence S0°21'29"E, along the west line of Colton Street, 10.82 ft to a point on the north line of the South 114.00 ft of the Northwest Quarter of the Northwest Quarter of said Section 29; thence N89°55'56"W, along said north line of the South 114.00 ft, 214.07 ft to a point on the west line of the East 64.00 ft of the West Half of the West Half of the Northwest Quarter of said Section 29; thence S0°21'29"E, along said west line of the East 64.00 ft, 226.25 ft; thence S89°38'31"W, 10.00 ft to the Point of Beginning.

TOGETHER WITH that part of the adjacent and contiguous property described as follows:

Legal Description Continued:

Commencing at a point on the north line of Cozza Drive, and on the west line of the East 64.00 ft of the West Half of the West Half of the Northwest Quarter of said Section 29; thence N89°57'20"W, along the north line of Cozza Drive, 150.00 ft; thence N0°21'29"W, 150.29 ft to the True Point of Beginning; thence N89°38'31"E, parallel with the south line of the Parcel described in Spokane County Auditor's document No. 8905080214, 155.25 ft; thence N0°21'29"W, 28.30 ft; thence N18°00'00"W, 17.32 ft to a point on the west line of the East 64.00 ft of the West Half of the West Half of the Northwest Quarter of said Section 29; thence S0°21'29"E, along said west line of the East 64.00 ft, 34.80 ft; thence S89° 38' 31" W, along the south line of the Parcel described in said Auditor's document No. 8905080214, 150.00 ft.; thence S0° 21' 29" E. 10.00 ft. to the True Point of Beginning.



5181776
Page: 2 of 5
02/17/2005 04:39P
Spokane Co, WA

After Recording, Return to:

Troy and Linda Allen
5122 N. Fruit Hill Road
Spokane, WA 99217

Grantor(s):	Byrd
Grantee(s):	Snowbird
Abrv Legal:	Ptn 29-26-43
Parcel No.:	36292.0046, 36292.0047, 36292.0023

EASEMENT

This Easement is granted by VERN BYRD and MARY BYRD, husband and wife (hereinafter "Grantor") for the benefit of SNOWBIRD DIVISION L.L.C., a Washington limited liability company, (hereinafter referred "Grantee").

RECITALS

1. The parties own adjoining real estate situate in the City of Spokane, County of Spokane, State of Washington and described respectively, as follows:

BYRD PROPERTY:

Parcel 1

That portion of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in Spokane County, Washington described as follows:

Commencing at a point on the East line of Division Street and on the South line of the North 638.12 feet of the Northwest quarter of the Northwest quarter of Section 29; thence South 89°51'58" East along the South line of the North 638.12 feet, a distance of 732.93 feet to a point on the West line of Colton Street; thence South 0°21'29" East along the West line of Colton Street 264.85 feet, thence South 5°07'07" East 60.25 feet; thence South 15°04'21" East. 39.44 feet; thence South 15°04'21" East 58.98 feet; thence South 0°21'29" East, 154.54 feet, to the North line of the South 114.00 feet of the Southeast quarter of the Northwest quarter of the Northwest quarter; thence North 89°55'56" West along the North line 214.07 feet to the West line of the East 64.00 feet of the West half of the West half of

R. E. Excise Tax Exempt

Date Feb 17 2005
Spokane County Treas.

By C. H. Lambert



the Northwest quarter; thence South 0°21'29" East along said West line 387.59 feet to the North line of Cozza Drive and the True Point of Beginning; thence North 89°57'20" West along the North line 150.00 feet; thence North 0°21'29" West 160.29 feet; thence North 89°38'31" East 150.00 feet, more or less, to the West line of the East 64 feet of the West half of the West half of the Northwest quarter; thence South 0°21'29" East 161.34 feet along said West line to the true point of beginning.

Parcel Number 36292.0047

Parcel 2

The West 150 feet of the South 114 feet of the Southeast quarter of the Northwest quarter of the Northwest quarter; and the East 64 feet of the South 114 feet of the Southwest quarter of the Northwest quarter of the Northwest quarter; and that portion of the East 64 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter and the West 150 feet of the Northeast quarter of the Southwest quarter of the Northwest quarter lying northerly of Cozza Drive, all in Section 29, Township 26 North, Range 43 East, W.M., in Spokane County Washington, EXCEPTING therefrom any portion lying within any county or city roads or streets.

Parcel Number 36292.0023

ALLEN PROPERTY:

That portion of the unplatted part of the West Half of the Northwest Quarter of Section 29, Township 26 North, Range 43 East, W.M., described as follows:

Beginning at a point on the north line of Cozza Drive and on the west line of the east 64.00 feet of the West Half of the West Half of the Northwest Quarter of said Section 29; thence north 89°57'20" west, along the north line of Cozza Drive, 150.00 feet; thence north 0°21'29" west, 160.29 feet to the true point of beginning; thence continuing north 0°21'29" west, 101.25 feet; thence north 89°38'31" east, 40 feet; thence north 0°21'29" west, 73.75 feet; thence north 89°38'31" east, 100.00 feet; thence south 0°21'29" east, 175 feet; thence south 89°38'31" west, 140 feet to the true point of beginning.

Parcel Number 36292.0046

2. The parties to this Agreement desire Grantor to create and convey to Grantee an easement.

NOW, THEREFORE, in consideration of the mutual benefits contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Grantor hereby grant and conveys to Grantee, their heirs, successors and assigns, a



nonexclusive appurtenant easement for ingress, egress, and utilities, and all improvements presently placed within the easement together with the right to repair and replace the same, or upgrade the same, over, under, across and upon a parcel of land described as follows:

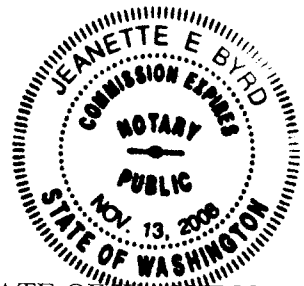
That portion of the unplatted part of the West Half of the Northwest Quarter of Section 29, Township 26 North, Range 43 East Willamette Meridian, in the City of Spokane, State of Washington, described as follows:

Commencing at a point on the North line of Cozza Drive, and on the West line of the East 64.00 feet of the West half of the West Half of the Northwest Quarter of said Section 29; thence N89°57'20"W, along the North line of Cozza Drive, 150.00 feet; thence N0°21'29"W, 155.29 feet to the True Point of Beginning; thence N89°38'31"E, 5.00-feet south of and parallel with the South line of the parcel described in Spokane County Auditor's document No. 8905080214, 155.25 feet; thence N0°21'29"W, 23.30 feet; thence N18°00'00"W, 17.32 feet to a point on the West line of the East 64.00 feet of the West half of the West half of the Northwest quarter of said Section 29; thence S0°21'29"E, along said West line of the East 64.00 feet, 34.80 feet; thence S89°38'31"W, along the South line of the Parcel described in said Auditor's document No. 8905080214, 150.00 feet; thence S0°21'29"E, 5.00 feet to the True Point of Beginning.

("Easement")

3. Grantee shall be solely responsible for any costs incurred for repair, maintenance or improvement of the improvements upon the subject Easement.
4. This Easement shall run with the land and shall be binding on all the parties hereto, their heirs, successors and assigns, and shall inure to the benefit of all the parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF, we have set hereunto our hands this 3 day of December, 2004.



VERN BYRD

 MARY BYRD

STATE OF WASHINGTON)
) ss.
 County of Spokane)

I certify that I know or have satisfactory evidence that VERN BYRD and MARY BYRD, husband and wife, are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: December 3, 2004.



5181776
Page: 5 of 5
02/17/2005 04:39P
Spokane Co, WA

Steven D. Anderson

NOTARY PUBLIC in and for the State
of Washington, residing at Spokane
My appointment expires: 11.13.08



5181878
Page: 1 of 7
02/18/2005 10:36A
Spokane Co, WA

AFTER RECORDING RETURN TO:
WITHERSPOON, KELLEY, DAVENPORT & TOOLE PS
ATTN: JOHN M. RILEY, III
FILE NO:
1100 U.S.BANK BLDG.
SPOKANE, WA 99201

AUDITOR'S NOTE
This document contains irregularities,
discrepancies or omissions.

AGREEMENT

Grantor: Snowbird, Byrd, WEC 97H-Washington-1
Grantee: Snowbird, Byrd, WEC 97H-Washington-1
Abbrev. Legal : Ptn Section 29, Tsp 26N, R43 EWM
Parcel No. 34292.0046, 34292.0047, 34292.0047, 34292.0045

THIS ACCESS AGREEMENT is entered into this 3 day of December, 2004 by and between SNOWBIRD DIVISION, LLC, 5122 N. Fruithill Road, Spokane, WA 99217, and BYRD REAL ESTATE GROUP, 101 West Cataldo Avenue, Suite 210, Spokane, WA 99201, and WEC 97H-Washington-1 Investment Trust, by Washan Properties, LP, of 185 NW Spanish River Boulevard, Suite 100, Boca Rattan, Florida, 33431-4230.

RECITALS

WHEREAS, each of these parties is the owner of certain real estate property contained within that shopping center located on North Division Street, Spokane, Washington, the legal description of which shopping center is attached hereto as Exhibit "A" and incorporated herein by this reference, WEC being the owner of Area 5-A, SNOWBIRD being the owner of Area 5-B and BYRD being the owner of Area 5-C; and

WHEREAS, the parties wish to supplement the understandings and agreements contained within a certain amended and restated Reciprocal Easement Agreement for the shopping center, and enter into this Agreement therefore.

NOW, THEREFORE, for good and valuable consideration, being the mutual covenants and agreements contained herein, the receipt and sufficiency which is hereby acknowledged, the parties hereto agree as follows:

1. Each party hereto hereby grants to the other, and their respective Areas, and their heirs, successors and assigns, irrevocable easements and rights and perpetuity



for the construction, repair and maintenance of foundations, footings, exterior walls and facades and common party walls, if any, of buildings and improvements on each of the parties Areas in, on, over and across each of their respective areas, provided that the same do not adversely affect existing and/or future construction on the others Area. Each party hereby indemnifies and saves harmless the other parties from any liability arising from such use. The parties will cooperate and cause their respective contractors, managers and all person performing such construction, repair and maintenance to act in accordance with this agreement. Should any party hereto, in the course of construction, repair and maintenance, damage the buildings or other improvements of the other area(s), they shall timely repair or replace the same at their sole cost and expense.

WHEREFORE, the parties herein below set forth their hands and seals the day and date first above mentioned.

AREA 5-A

WEC 97H-WASHINGTON-1 INVESTMENT TRUST

By: WASHINGTON PROPERTIES, LP

By: _____
JEFFREY SANDELMAN-Trustee

AREA 5-B

SNOWBIRD DIVISION, LLC

By: _____
TROY ALLEN

By: _____
LINDA ALLEN

AREA 5-C

~~BYRD REAL ESTATE GROUP~~

Vern & Mary Byrd (Husband & Wife)
By: _____
VERN BYRD



EXHIBIT A

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Spokane Co, WA

AREA 1

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M. • in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the East line of Division Street, and on the South line of the North 638.12 feet of the Northwest quarter of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M.; thence South 89°51'58" East, along said South line of the North 638.12 feet, a distance of 206.20 feet; thence South 00°08'02" West, 9.50 feet to the Northeast corner of the area and the Point of Beginning; thence South 00°16'26" East, 41 feet; thence South 89°43'34" West 117.60 feet; thence South 00°16'26" East, 17.10 feet; thence South 89°43'34" West, 25.30 feet; thence North 00°16'26" West, 58.10 feet; thence North 89°43'34" East, 143.00 feet to the Point of Beginning.

AREA 2

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the East line of Division Street and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of said Section 29, Township 26 North, Range 43 East, W.M.; thence North 00°16'26" West, along the East line of Division Street 387.78 feet; thence North 89°43'34" East 45.00 feet to the Southwest corner of the area and the Point of Beginning; thence North 00°16'26" West, 130 feet; thence North 89°43'34" East, 80.00 feet; thence South 00°16'26" East, 130 feet; thence South 89°43'34" West, 80.00 feet to the Point of Beginning.

AREA 3

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the East line of Division Street, and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of Section 29; thence North 00°16'26" West, along the East line of Division Street, a distance of 198.70 feet to the Southwest corner of the area, and the Point of Beginning; thence continuing along the East line of Division Street, North 00°16'26" West, 125.00 feet; thence North 89°43'34" East, 200.00 feet; thence South 00°16'26" East, 125.00 feet; thence South 89°43'34" West, 200.00 feet to the Point of Beginning.



AREA 4

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the East line of Division Street, and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of Section 29; thence South $89^{\circ}57'55''$ East, 335.04 feet from the East line of Division Street; thence North $00^{\circ}02'05''$ East, 15.00 feet to the Southeast corner of the area and the Point of Beginning; thence continuing North $00^{\circ}02'05''$ East, 100.00 feet; thence North $89^{\circ}57'55''$ West, 270.00 feet; thence South $00^{\circ}02'05''$ West, 100.00 feet; thence South $89^{\circ}57'55''$ East, 270.00 feet to the Point of Beginning.

AREA 5

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the North line of Cozza Drive, and on the West line of the East 64.00 feet of the West half of the Northwest quarter of Section 29; thence North $89^{\circ}57'20''$ West, along the North line of Cozza Drive, 150.00 feet; thence North $00^{\circ}21'29''$ West, 160.29 feet to the true point of beginning; thence continuing North $00^{\circ}21'29''$ West, 101.25 feet; thence North $89^{\circ}38'31''$ East, 40.00 feet; thence North $00^{\circ}21'29''$ West, 135.00 feet; thence North $89^{\circ}38'31''$ East, 20.00 feet; thence North $00^{\circ}21'29''$ West, 200.00 feet; thence North $89^{\circ}38'31''$ East, 200.00 feet; thence South $00^{\circ}21'29''$ East, 200.00 feet; thence South $89^{\circ}38'31''$ West, 120.00 feet; thence South $00^{\circ}21'29''$ East, 236.25 feet; thence South $89^{\circ}38'31''$ West, 140.00 feet to the true point of beginning.

AREA 6

That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

Commencing at a point on the east line of Division Street and on the South line of the North 638.12 ft of the Northwest quarter of the Northwest quarter of Section 29, said South line bears South $89^{\circ}51'58''$ East; thence South $88^{\circ}21'48''$ East, 463.18 feet to the Northwest corner of the area and the Point of Beginning; thence North $89^{\circ}38'31''$ East, 250.00 feet; thence South $00^{\circ}21'29''$ East, 280.00 feet; thence South $89^{\circ}38'31''$ West, 250.00 feet; thence North $00^{\circ}21'29''$ West, 280.00 feet to the Point of Beginning.

COMMON AREA



That portion of the unplatted part of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington, described as follows:

BEGINNING at a point on the East line of Division Street, and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of Section 29, Township 26 North, Range 43 East W.M.; thence North $00^{\circ}16'26''$ West, along the East line of Division Street, 511.05 feet; thence South $89^{\circ}43'34''$ West, 5.00 feet; thence continuing along the East line of Division Street, North $00^{\circ}16'26''$ West 301.91 feet to a point on the South line of the North 638.12 feet of the Northwest quarter of the Northwest quarter of said Section 29; thence South $89^{\circ}51'58''$ East along said South line of the North 638.12 feet, a distance of 732.93 feet to a point on the West line of Colton Street; thence South $00^{\circ}21'29''$ East along the West line of Colton Street 264.85 feet; thence South $05^{\circ}07'07''$ East along the West line of Colton Street 60.25 feet; thence South $15^{\circ}04'21''$ East along the West line of Colton Street, 98.42 feet; thence South $00^{\circ}21'29''$ East along the West line of Colton Street, 154.54 feet to a point on the North line of the South 114.00 feet of the Southeast quarter of the Northwest quarter of the Northwest quarter of said Section 29; thence North $89^{\circ}55'56''$ West along the said North line of the South 114.00 feet a distance of 214.07 feet to a point on the West line of the East 64.00 feet of the West half of the West half of the Northwest quarter of said Section 29; thence South $00^{\circ}21'29''$ East along said West line of the East 64.00 feet a distance of 387.59 feet to a point on the North line of Cozza Drive; thence North $89^{\circ}57'20''$ West along the North line of Cozza Drive, 210.00 feet; thence North $00^{\circ}21'29''$ West, 150.18 feet to a point on the North line of the South 540 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of said Section 29; thence North $89^{\circ}57'55''$ West along said North line of the South 540.00 feet, a distance of 335.04 feet to the Point of Beginning; EXCEPT that portion described as follows:

AREA 1: Commencing at a point on the East line of Division Street, and on the South line of the North 638.12 feet of the Northwest quarter of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M.; thence South $89^{\circ}51'58''$ East, along said South line of the North 638.12 feet, a distance of 206.20 feet; thence South $00^{\circ}08'02''$ West, 9.50 feet to the Northeast corner of the area and the Point of Beginning; thence South $00^{\circ}16'26''$ East, 41 feet; thence South $89^{\circ}43'34''$ West 117.60 feet; thence South $00^{\circ}16'26''$ East, 17.10 feet; thence South $89^{\circ}43'34''$ West, 25.30 feet; thence North $00^{\circ}16'26''$ West, 58.10 feet; thence North $89^{\circ}43'34''$ East, 143.00 feet to the Point of Beginning; AND EXCEPT that portion described as follows:

AREA 2: Commencing at a point on the East line of Division Street and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of said Section 29, Township 26 North, Range 43 East, W.M.; thence North $00^{\circ}16'26''$ West, along the East line of Division Street 387.78 feet; thence North $89^{\circ}43'34''$ East 45.00 feet to the Southwest corner of the area and the Point of Beginning; thence North $00^{\circ}16'26''$ West, 130 feet; thence North $89^{\circ}43'34''$ East, 80.00 feet; thence South $00^{\circ}16'26''$ East, 130 feet; thence South $89^{\circ}43'34''$ West, 80.00 feet to the Point of Beginning; AND EXCEPT that portion described as follows:



AREA 3: Commencing at a point on the East line of Division Street, and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of Section 29; thence North 00°16'26" West, along the East line of Division Street, a distance of 198.70 feet to the Southwest corner of the area, and the Point of Beginning; thence continuing along the East line of Division Street, North 00°16'26" West, 125.00 feet; thence North 89°43'34" East, 200.00 feet; thence South 00°16'26" East, 125.00 feet; thence South 89°43'34" West, 200.00 feet to the Point of Beginning; AND EXCEPT that portion described as follows:

AREA 4: Commencing at a point on the East line of Division Street, and on the North line of the South 540.00 feet of the Northwest quarter of the Southwest quarter of the Northwest quarter of Section 29; thence South 89°57'55" East, 335.04 feet from the East line of Division Street; thence North 00°02'05" East, 15.00 feet to the Southeast corner of the area and the Point of Beginning; thence continuing North 00°02'05" East, 100.00 feet; thence North 89°57'55" West, 270.00 feet; thence South 00°02'05" West, 100.00 feet; thence South 89°57'55" East, 270.00 feet to the Point of Beginning; AND EXCEPT that portion described as follows:

AREA 5-A: Commencing at a point on the North line of Cozza Drive and on the West line of the East 64.00 feet of the West half of the West half of the Northwest Quarter of Section 29, Township 26 North, Range 43 East, W.M. thence North 89°57'20" West along the North line of Cozza Drive, 150.00 feet; thence North 00°21'29" West, 261.54 feet; thence North 89°38'31" East, 40.00 feet; thence North 00°21'29" West, 135.00 feet; thence North 89°38'31" East, 20.00 feet to the true point of beginning; thence North 00°21'29" West 200.00 feet; thence North 89°38'31" East 200.00 feet; thence South 89°38'31" West, 200.00 feet to the true point of beginning; AND EXCEPT that portion described as follows: This legal is missing 1 leg of the description – KIN Properties please provide

AREA 5-B: Commencing at a point on the North line of Cozza Drive and on the West line of the East 64.00 feet of the West half of the West half of the Northwest quarter of said Section 29; thence North 89°57'20" West, along the North line of Cozza Drive, 150.00 feet; thence North 00°21'29" West, 160.29 feet to the true point of beginning; thence continuing North 00°21'29" West, 101.25 feet; thence North 89°38'31" East, 40 feet; thence North 00°21'29" West, 73.75 feet; thence North 89°38'31" East, 100.00 feet; thence South 00°21'29" East, 175 feet; thence South 89°38'31" West, 140 feet to the true point of beginning; AND EXCEPT that portion described as follows:

AREA 5-C: Commencing at a point on the North line of Cozza Drive, and on the West line of the East 64.00 feet of the West half of the West half of the Northwest Quarter of said Section 29; thence North 89°57'20" West, along the North line of Cozza Drive, 150.00 feet; thence North 00°21'29" West, 261.54 feet; thence North 89°38'31" East, 40.00 feet; thence North 00°21'29" West, 73.75 feet to the Southwest corner of the area and the point of beginning; thence continuing North 00°21'29" West, 61.25 feet; thence North 89°38'31" East, 100.00 feet; thence South 00°21'29" East, 61.25 feet; thence South 89°38'31" West, 100.00 feet to the point of beginning; AND EXCEPT that portion



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described as follows:

AREA 6: Commencing at a point on the east line of Division Street and on the South line of the North 638.12 ft of the Northwest quarter of the Northwest quarter of Section 29, said South line bears South 89°51'58" East; thence South 88°21'48" East, 463.18 feet to the Northwest corner of the area and the Point of Beginning; thence North 89°38'31" East, 250.00 feet; thence South 00°21'29" East, 280.00 feet; thence South 89°38'31" West, 250.00 feet; thence North 00°21'29" West, 280.00 feet to the Point of Beginning;

AND EXCEPT that portion lying within the following described tract:

That portion of the West half of the West half of the Northwest quarter of Section 29, Township 26 North, Range 43 East, W.M., in Spokane County, Washington, described as follows: COMMENCING at a point on the North line of Cozza Drive and on the West line of the East 64 feet of the West half of the West half of the Northwest quarter of Section 29; thence North 89°57'20" West, along the North line of Cozza Drive, 150 feet; thence North 00°21'29" West, 160.29 feet to the true point of beginning; thence North 89°38'31" East, 150 feet, more or less, to the West line of the East 64 feet of the West half of the West half of the Northwest quarter of Section 29; thence South 00°21'29" East along the West line of the East 64 feet of the West half of the West half of the Northwest quarter, to the North line of Cozza Drive; thence North 89°57'20" West, along the North line of Cozza Drive, 210 feet; thence North 00°21'29" West, to a point which bears South 89°38'31" West from the true point of beginning; thence North 89°38'31" East to the true point of beginning.



RETURN ADDRESS

STEVEN O ANDERSON
ATTN: JUDITH RICE
422 W. RIVERVIEW AVE. SUITE 100
SPokane, WA 99201

Please Type or Print Neatly & Clearly All Information

Document Title(s)

EMENDMENT

Reference Number(s) of Related Documents

Grantor(s) (Last Name, First & Middle Initial)

Byrd

Grantee(s) (Last Name, First & Middle Initial)

Spokane

Legal Description (Abbreviated form is acceptable) i.e. Section/Township/Range/1/4 Section

PT 31 20 43

Assessor's Tax Parcel ID Number:

56242.0046 / 56242.0047 / 56242.0048

The County Auditor will rely on the information provided on this form. The Staff will not read the document to verify the Accuracy or completeness of the indexing information provided herein.

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Signature of Requesting Party