

2019-005842

Klamath County, Oregon

05/24/2019 01:03:01 PM

Fee: \$117.00

AFTER RECORDING RETURN TO:

L-39, LLC

c/o Dickerhoof Properties, LLC

PO Box 1800

Corvallis, OR 97339

**SECOND AMENDMENT  
TO  
DECLARATION OF EASEMENTS, COVENANTS,  
CONDITIONS AND RESTRICTIONS**

THIS SECOND AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into this 29<sup>th</sup> day of March, 2019, by and between **Klamath-Jefferson LLC**, an Oregon limited liability company ("Jefferson") and **Red Knight, LLC**, an Oregon limited liability company, **Kfalls Center LLC**, an Oregon limited liability company, **L-39, LLC**, an Oregon limited liability company, and **DKM2, LLC**, an Oregon limited liability company (collectively the "TIC Owners").

RECITALS:

A. Jefferson and the TIC Owners are the owners of all of the real property described in that certain Declaration of Easements, Covenants, Conditions and Restrictions dated December 12, 2005, recorded December 21, 2005 as M05-71541, records of Klamath County, Oregon, as amended January 16, 2019 by instrument recorded as Fee No. 2019-000476 (collectively the "Declaration").

B. The parties desire to amend the Declaration.

C. The real property described in the Declaration is attached hereto as Exhibit "A" and Exhibit "B" and by this reference incorporated herein.

NOW, THEREFORE, it is mutually agreed as follows:

1. The Recitals are incorporated herein by this reference.
2. The Declaration is hereby amended by:

(a) deleting all references to Safeway, Inc., the Safeway Lease and the Safeway Major Lease, as it is no longer a tenant. As a result, Ross Stores, Inc. is the remaining "Existing Major Tenant"; and

NWA 1905-010

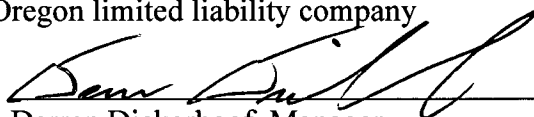
First American Title Accommodation  
Recording Assumes No Liability

(b) deleting in Section 4.3(f) the phrase "as permitted in the Safeway Lease" and inserting in lieu thereof: "except an area adjacent to the front of and entrance to the premises leased by the TIC Owners to Vitamin Cottage Natural Food Markets, Inc., dba Natural Grocers (twenty feet along either side of the entrance and ten feet from the entrance to said premises towards the parking field) for outside sales and displays".

3. Except as amended hereby, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Second Amendment to Declaration of Easements, Covenants, Conditions and Restrictions as of the day and year first above written.

KLAMATH-JEFFERSON LLC,  
an Oregon limited liability company

By:   
Darren Dickerhoof, Manager

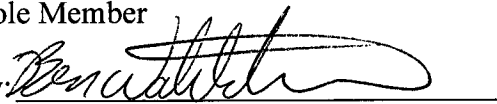
**JEFFERSON**

RED KNIGHT, LLC,  
an Oregon limited liability company

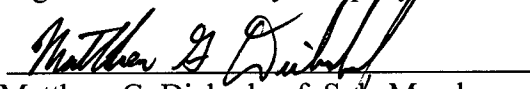
By:   
Title: Authorized Member

KFALLS CENTER LLC,  
an Oregon limited liability company


By: Ben Wahlstrom Revocable Trust,  
Sole Member

By:   
Ben Wahlstrom, Trustee

L-39, LLC,  
an Oregon limited liability company

By:   
Matthew G. Dickerhoof, Sole Member

DKM2, LLC,  
an Oregon limited liability company

By:   
Darren Dickerhoof, Operating Manager

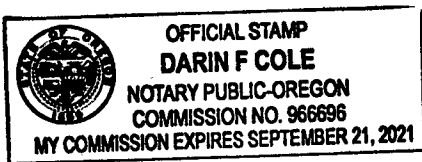
**TIC OWNERS**

*[Notary acknowledgements appear on following page(s)]*

STATE OF OREGON           )  
  ) ss.  
County of BENTON           )

I certify that **Darren Dickerhoof** appeared personally before me and that I know or have satisfactory evidence that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as **Manager of Klamath-Jefferson LLC**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 10 day of <sup>MAY</sup>~~March~~, 2019.  
bxc

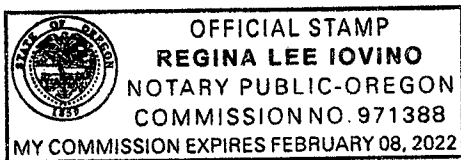


Darin F. Cole  
Notary Public for Oregon  
My Commission Expires: SEPTEMBER 21, 2021

STATE OF OREGON           )  
  ) ss.  
County of Benton           )

I certify that Richard Carone appeared personally before me and that I know or have satisfactory evidence that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as an **Authorized Member of Red Knight, LLC**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 15th day of <sup>May</sup>~~March~~, 2019.

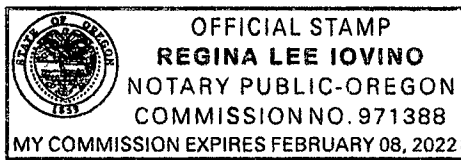


Regina Lee Iovino  
Notary Public for Oregon  
My Commission Expires: 2-8-2022

STATE OF OREGON           )  
  ) ss.  
County of Benton           )

I certify that **Ben Wahlstrom** appeared personally before me and that I know or have satisfactory evidence that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as **Trustee** of the **Ben Wahlstrom Revocable Trust**, the **Sole Member** of **Kfalls Center LLC**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 7<sup>th</sup> day of <sup>MAY</sup>~~March~~, 2019.

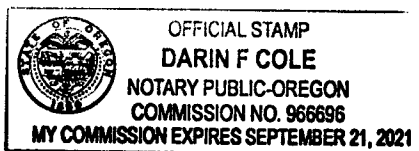


Regina Lee Iovino  
Notary Public for Oregon  
My Commission Expires: 2-8-22

STATE OF OREGON           )  
  ) ss.  
County of Benton           )

I certify that **Matthew G. Dickerhoof** appeared personally before me and that I know or have satisfactory evidence that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as an **Sole Member** of **L-39, LLC**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 10 day of <sup>MAY</sup>~~March~~, 2019.  
DFC

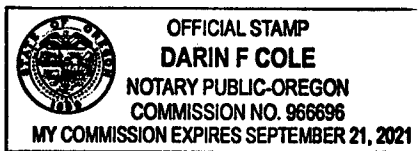


Darin F. Cole  
Notary Public for Oregon  
My Commission Expires: SEPTEMBER 21, 2021

STATE OF OREGON            )  
  ) ss.  
County of Benton            )

I certify that **Darren Dickerhoof** appeared personally before me and that I know or have satisfactory evidence that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as an **Operating Manager** of **DKM2, LLC**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 10 <sup>MAY</sup> day of ~~March~~ <sup>APR</sup>, 2019.  
  DFC



Darin F. Cole  
Notary Public for Oregon  
My Commission Expires: SEPTEMBER 21, 2021

EXHIBIT "A"  
(Legal Description of Parcel A)

PARCEL 1 OF LAND PARTITION 48-05

A PARCEL OF LAND SITUATED IN THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 3, TOWNSHIP 39 SOUTH, RANGE 9 EAST, WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHERLY RIGHT-OF-WAY OF THE O C & E RAILROAD AND THE SOUTHEAST CORNER OF SURVEY NUMBER 6149, KLAMATH COUNTY RECORDS, EVIDENCED BY A 5/8" PIN WITH CAP MARKED "ADKINS CONSULT. ENGRS. INC."; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, NORTH 66°57'30" WEST, 676.16 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY, NORTH 66°57'30" WEST, 305.83 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF WASHBURN WAY; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, NORTH 00°02'35" WEST, 503.42 FEET; THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY, SOUTH 55°52'30" EAST, 306.28 FEET; THENCE NORTH 34°07'30" EAST, 160.00 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY OF SOUTH SIXTH STREET, SAID POINT BEARS SOUTH 34°07'30" WEST, 1.00 FEET FROM A PK NAIL WITH WASHER; THENCE ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY, SOUTH 55°52'30" EAST, 186.11 FEET TO A POINT OF NON-TANGENT CURVATURE; THENCE LEAVING SAID SOUTHWESTERLY RIGHT-OF-WAY, ALONG THE ARC OF A 30.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 59°30'55", AN ARC DISTANCE OF 31.16 FEET (THE LONG CHORD OF WHICH BEARS SOUTH 09°02'40" WEST, 29.78 FEET) TO A POINT OF TANGENCY; THENCE SOUTH 34°08'37" WEST, 58.41 FEET; THENCE SOUTH 23°03'50" WEST, 165.53 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A 12.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 58°23'32", AN ARC DISTANCE OF 12.23 FEET (THE LONG CHORD OF WHICH BEARS SOUTH 55°39'40" WEST, 11.71 FEET) TO A POINT OF NON-TANGENCY; THENCE SOUTH 23°06'46" WEST, 263.87 TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 4.49 ACRES, MORE OR LESS.

THE BASIS OF BEARING IS PER SURVEY NUMBER 6149, KLAMATH COUNTY RECORDS.

EXHIBIT "B"  
(Legal description of Parcel B)

PARCEL 2 OF LAND PARTITION 48-05

A PARCEL OF LAND SITUATED IN THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 3, TOWNSHIP 39 SOUTH, RANGE 9 EAST, WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INITIAL POINT, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY OF THE O C & E RAILROAD AND THE SOUTHEAST CORNER OF SURVEY NUMBER 6149, KLAMATH COUNTY RECORDS, EVIDENCED BY A 5/8" PIN WITH CAP MARKED "ADKINS CONSULT. ENGRS. INC."; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, NORTH 66°57'30" WEST, 676.16 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY, NORTH 23°06'46" EAST, 263.87 FEET TO A POINT OF NON-TANGENT CURVATURE; THENCE ALONG THE ARC OF A 12.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 58°23'32", AN ARC DISTANCE OF 12.23 FEET (THE LONG CHORD OF WHICH BEARS NORTH 55°39'40" EAST, 11.71 FEET) TO A POINT OF TANGENCY; THENCE NORTH 23°03'50" EAST, 165.53 FEET; THENCE NORTH 34°08'37" EAST, 58.41 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A 30.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 59°30'55", AN ARC DISTANCE OF 31.16 FEET (THE LONG CHORD OF WHICH BEARS NORTH 09°02'40" EAST, 29.78 FEET) TO A POINT OF NON-TANGENCY ON THE SOUTHWESTERLY RIGHT-OF-WAY OF SOUTH SIXTH STREET; THENCE ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY, SOUTH 55°52'30" EAST, 608.91 FEET TO A POINT THAT BEARS SOUTH 34°07'30" WEST, 1.00 FEET FROM A PK NAIL WITH WASHER; THENCE LEAVING SAID SOUTHWESTERLY RIGHT-OF-WAY, SOUTH 34°07'49" WEST, 203.96 FEET; THENCE SOUTH 55°53'51" EAST, 145.07 FEET; THENCE SOUTH 34°06'32" WEST, 183.85 FEET TO SAID INITIAL POINT.

SAID PARCEL CONTAINS 6.76 ACRES, MORE OR LESS.

THE BASIS OF BEARNG IS PER SURVEY NUMBER 6149, KLAMATH COUNTY RECORDS.