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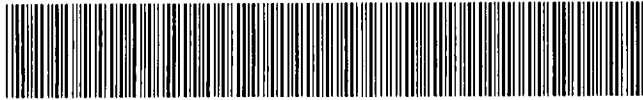
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2012018234

EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND

HyVee

Prepared by, and when recorded, return to: Nathan S. Allen, 5820 Westown Parkway, West Des Moines, IA 50266 (515) 267-2870

✓ 1817978

**EASEMENTS WITH COVENANTS AND
RESTRICTIONS AFFECTING LAND (“ECR”)**

THIS AGREEMENT is made as of the 30th day of January, 2012, by and between HY-VEE, INC., an Iowa corporation, d/b/a Hy-Vee Food Stores, Inc., of 5820 Westown Parkway, West Des Moines, IA 50266 (hereinafter referred to as “Hy-Vee”), and REALTY INCOME CORPORATION, a Maryland corporation, located at 600 La Terraza Boulevard, Escondido, CA 92025 (“Realty Income”).

WITNESSETH:

WHEREAS, Hy-Vee is the owner of the real property legally described on Exhibit “A” attached hereto and incorporated herein (hereinafter, the “Hy-Vee Tract”); and

WHEREAS, Realty Income is the owner of the real property legally described on Exhibit “B” attached hereto and incorporated herein (hereinafter, the “Realty Income Tract”); and

WHEREAS, the Hy-Vee Tract, the Realty Income Tract, and other parcels of real estate which comprise a shopping center commonly known as Oak View Plaza are subject to a Declaration of Covenants, Easements and Restrictions dated August 28, 1992, and recorded in the office of the Register of Deeds of Douglas County, Nebraska; on September 11, 1992, in Book 1030 at Page 603 of the Miscellaneous Records, as amended (the “Declaration”) which establishes common parking areas on the various shopping center parcels; and

WHEREAS, at the request of Realty Income, Hy-Vee has agreed to execute a Second Amendment to the Declaration (the “Second Amendment”) which is intended to be recorded and which will permit the Realty Income Tract to be used as a multi-attraction entertainment venue, as more particularly described in such Second Amendment; and

WHEREAS, Hy-Vee and Realty Income desire that the Hy-Vee Tract and the Realty Income Tract be subject to the covenants, conditions and restrictions hereinafter set forth;

NOW, THEREFORE, for and in consideration of the premises, easements, covenants, conditions, restrictions, and encumbrances contained herein, the sufficiency of which is hereby acknowledged, Hy-Vee and Realty Income do hereby agree as follows:

1. Parking Restriction. Notwithstanding the provisions of the Declaration to the contrary, no employee or invitee of any owner, tenant, licensee or occupant of the Realty Income Tract is permitted to park on the Hy-Vee Tract, and no employee or invitee of any owner, tenant, licensee or occupant of the Hy-Vee Tract is permitted to park on the Realty Income Tract..

2. Conflict. In the event of a conflict between the terms of this Agreement and the terms of any pre-existing agreement (including amendments to such pre-existing agreements, whether such amendments are executed prior to, subsequent to, or on even date herewith), the terms of this Agreement shall control.

3. Breach. In the event of breach or threatened breach of this Agreement, the owner of either tract shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. The unsuccessful party in any action shall pay to the prevailing party a reasonable sum for attorney's fees, which shall be deemed to have accrued on the date such action was filed.

4. Rights of Successors. The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitudes running with the land. This agreement shall bind and inure to the benefit of the parties hereto, their respective heirs, representatives, lessees, successors and assigns, provided that the provisions of Paragraph 4 shall run with and inure to the benefit of the Hy-Vee Tract and Realty Income Tract only and no other parcels. The singular number includes the plural and the masculine gender includes the feminine and neuter.

5. Duration. Unless otherwise canceled or terminated, this Agreement and all the easements, covenants, rights, restrictions, and provisions in this Agreement create an equitable servitude upon the respective tracts, constitute covenants running with the land, shall bind every person or entity having any fee, leasehold, or other interest in or encumbrance on any portion of either property at any time, and shall continue in full force and effect in perpetuity.

6. Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

7. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto. The parties do not rely upon any statement, promise or representation not herein expressed, and this Agreement once executed and delivered shall not be modified or altered in any respect except by a writing executed by the owners of the Hy-Vee Tract and the Realty Income Tract.

8. Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts, taken together, shall constitute one and the same Agreement.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

HY-VEE, INC.,
an Iowa corporation

By: *Dennis Ausenus*
Dennis Ausenus, Sr. Vice President

By: *Stephen Meyer*
Stephen Meyer, Secretary

STATE OF IOWA)
) ss.
POLK COUNTY)

On this day of 20th day of February, 2012, before me, the undersigned, a Notary Public in and for the state of Iowa, personally appeared Dennis Ausenus and Stephen Meyer, to me personally known, who being by me duly sworn did say that they are the President and Secretary, respectively, of Hy-Vee, Inc., that the seal affixed hereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that the said Dennis Ausenus and Stephen Meyer as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Matina D. Massman
Notary Public in and for the
State of Iowa



EXHIBIT "A"
LEGAL DESCRIPTION OF HY-VEE TRACT

61-28224

A tract of land being a portion of Lot 20 and part of vacated 140th Street in Oak View, an addition to the City of Omaha, Douglas County, Nebraska, more particularly described as follows:

Commencing at the most southwesterly corner of said Lot 20; thence along the southerly line of said Lot 20, S54°29'08"E (platted bearing), 696.71 feet to the point of beginning; thence N35°30'52"E, 300.00 feet; thence N54°29'08"W, 51.24 feet; thence N35°30'52"E, 241.89 feet; thence N00°00'00"W, 39.74 feet to the southerly line of Oak View Drive, said point also being on the northerly line of said Lot 20; thence along said northerly line, S90°00'00"E, 376.54 feet to the beginning of a curve to the left; thence along said curve, having a radius of 360.00 feet and a chord bearing N87°19'59"E, 33.50 feet, an arc distance of 33.51 feet; thence S00°00'00"E 200.54 feet; thence S35°30'52"W, 650.45 feet to the southerly line of said Lot 20; thence along said southerly line, N54°29'08"W, 375.00 feet to the point of beginning.

EXHIBIT "B"
LEGAL DESCRIPTION OF REALTY INCOME TRACT

61-28226

Lot 1, Oak View Plaza 1st Platting, a subdivision in Douglas County, Nebraska