

**QUIT CLAIM DEED**  
**[PURSUANT TO 38-30-116 C.R.S.]**

*Dkt*

EVC-HD SOUTH NEVADA, LLC, a Colorado limited liability company, for and in consideration of the sum of ten and 00/100 dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is acknowledged, does hereby **SELL AND QUITCLAIM** to **HARDER REAL ESTATE AND DEVELOPMENT, LLC**, a Colorado limited liability company, whose address is Attn Walter G. Harder, IV, 112 F Street, Salida, Colorado 81201, all of the real property described on Exhibit A attached hereto and made part hereof, subject to the matters, exceptions, reservations, and restrictions described on Exhibit B attached hereto and made part hereof.

GRANTOR EXPRESSLY GRANTS AND RESERVES THE EXCEPTIONS, RESERVATIONS, AND RESTRICTIONS SET FORTH ON EXHIBIT "B" ATTACHED HERETO AND GRANTEE EXPRESSLY ACKNOWLEDGES SUCH GRANT AND RESERVATION BY GRANTOR.

IN WITNESS WHEREOF, this Quit Claim Deed is executed and delivered effective the 29 day of August, 2018.

**EVC-HD SOUTH NEVADA, LLC:**

BY: EVC SOUTH NEVADA PARTNERS, LLC  
 its Manager

By: *[Signature]*  
 Luke R. Spellmeier, Manager

STATE OF KANSAS       )  
 COUNTY OF SHAWNEE    )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of August, 2018, by LUKE R. SPELLMEIER, as MANAGER of EVC SOUTH NEVADA PARTNERS, LLC, a Colorado limited liability company, as MANAGER of EVC-HD SOUTH NEVADA, LLC, a Colorado limited liability company, on behalf of said entity.

WITNESS my hand and official seal.

*[Signature]*  
 Notary Public

My commission expires: 8-24-2020



**EXHIBIT A**

**LEGAL DESCRIPTION**

**TRACT A, SHOPPES ON SOUTH NEVADA FILING NO. 1, A FINAL PLAT IN THE CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO.**

## **EXHIBIT B**

### **EXCEPTIONS, RESERVATIONS, AND RESTRICTIONS**

1. THE PROPERTY DESCRIBED ON EXHIBIT A OF THIS QUIT CLAIM DEED (THE "PROPERTY") IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS, PLATS, AND OTHER MATTERS OF RECORD.
2. THE PROPERTY SHALL BE USED ONLY FOR PARK, DRAINAGE, RECREATION, AND/OR OTHER SUITABLE FUTURE DEVELOPMENT PURPOSES (APPROVED BY ALL APPLICABLE GOVERNMENTAL AUTHORITIES), PURSUANT TO THE RECORDED PLAT FOR THE SHOPPES ON SOUTH NEVADA FILING NO. 1, A FINAL PLAT IN THE CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO. GRANTEE AND ITS SUCCESSORS AND ASSIGNS AGREE TO GRANT A PUBLIC TRAIL EASEMENT THROUGH A PORTION OF THE PROPERTY VIA SEPARATE DOCUMENT, ALONG CHEYENNE CREEK UPON VERIFICATION OF CONTIGUITY OF EASEMENT/R.O.W. FROM RAMONA AND NAVAJO, ALL AS PROVIDED IN THE FOREGOING PLAT. EVC-HD SOUTH NEVADA, LLC, IS HEREBY GRANTED AN IRREVOCABLE RIGHT AND POWER OF ATTORNEY TO GRANT, EXECUTE, AND RECORD THE FOREGOING EASEMENT AS AND WHEN REASONABLY REQUESTED BY THE CITY OF COLORADO SPRINGS OR THE COLORADO SPRINGS URBAN RENEWAL AUTHORITY, UPON TEN (10) DAYS NOTICE TO AND FAILURE OF THE THEN-CURRENT OWNER(S) OF THE PROPERTY TO PROMPTLY DO SO UPON REQUEST BY THE CITY OF COLORADO SPRINGS OR THE COLORADO SPRINGS URBAN RENEWAL AUTHORITY.

THE PROPERTY IS APPROVED HEREUNDER FOR ITS INTENDED USE AS A PUBLIC PARK, WHICH WILL INCLUDE IMPROVEMENTS TO THE TWO SURROUNDING CREEKS, A BIKE TRAIL, AMPHITHEATER/STAGE AND OTHER AMENITIES. THE PARK AND TRAIL WILL BE MANAGED BY THE CANYON CREEK METROPOLITAN DISTRICT AND WILL BE AVAILABLE FOR USE AS A VENUE TO HOST EVENTS, SUCH AS WEDDINGS, BIRTHDAYS, GRADUATIONS, ETC.; CORPORATE EVENTS; FESTIVALS; COMMUNITY EVENTS (INCLUDING CHARITY EVENTS/FUNDRAISERS BUT EXCLUDING FARMERS MARKETS UNLESS OTHERWISE APPROVED BY THE APPROVING PARTY); ART SHOWS; PLAYS; CONCERTS, ENTERTAINMENT, AND SPEAKERS AND PRESENTATIONS; SPORTING EVENTS; PARKING; HOTEL EVENTS; AND SIMILAR EVENTS HELD AT PARKS LOCATED IN SURROUNDING METROPOLITAN AREAS (THE "PRE-APPROVED PARK USE"). THE PARK WILL BE AVAILABLE TO LOCAL RESIDENTS AND BUSINESSES FOR BOOKING EVENTS, INCLUDING CONSUMPTION OF FOOD AND BEVERAGE (ALCOHOL INCLUDED) AS AN ANCILLARY USE, ALL SUBJECT TO APPLICABLE CANYON CREEK METROPOLITAN DISTRICT POLICIES, GOVERNMENTAL REQUIREMENTS, AND GOVERNMENTAL APPROVALS.

3. ANY USE OF THE PROPERTY FOR ANY PURPOSE OTHER THAN PRE-APPROVED PARK USE, DRAINAGE, RECREATION, PUBLIC TRAIL, OPEN SPACE, LANDSCAPING AND/OR PARKING SHALL BE SUBJECT TO THE PRIOR WRITTEN APPROVAL OF EVC-HD SOUTH NEVADA, LLC (THE "APPROVING PARTY"). EVC-HD SOUTH NEVADA, LLC, SHALL BE THE SOLE APPROVING PARTY FOR SO LONG AS EVC-HD SOUTH NEVADA, LLC, IS AN OWNER OF ANY PORTION OF LOT 1, 2, OR 3 OF SHOPPES ON SOUTH NEVADA FILING NO. 1, A FINAL PLAT IN THE CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO (THE "BENEFITTED PROPERTY"). IF EVC-HD SOUTH NEVADA, LLC, SHOULD EVER DISPOSE OF ITS ENTIRE OWNERSHIP OF ALL PORTIONS OF LOT 1, 2, AND 3 AND THEREBY HAS NO FURTHER OWNERSHIP OF ANY PART OF THE BENEFITTED PROPERTY, THEN THE SUCCESSOR APPROVING PARTY SHALL BE SUCH THEN-CURRENT OWNER(S) OF ANY PART OF THE BENEFITTED PROPERTY AS EVC-HD SOUTH NEVADA, LLC, SHALL DESIGNATE IN WRITING AS THE SUCCESSOR APPROVING PARTY, OR, ABSENT SUCH WRITTEN DESIGNATION, THE SUCCESSOR APPROVING PARTY SHALL BE THE THEN-CURRENT OWNER(S) OF ALL AND ANY PART OF THE BENEFITTED PROPERTY.
4. THE FOLLOWING USES ARE INDEPENDENTLY LIMITED, RESTRICTED, AND/OR PROHIBITED AT THE PROPERTY, UNLESS OTHERWISE APPROVED IN WRITING BY THE APPROVING PARTY (AS DEFINED IN THE PRECEDING SECTION 3 HEREOF):

- 4.1 ANY USE AS OR FOR A GROCERY OR NATURAL FOODS STORE OR THE SALE OF NUTRITIONAL SUPPLEMENTS, VITAMINS, OR NATURAL FOODS.
- 4.2 ANY USE AS OR FOR A RESTAURANT (DEFINED TO INCLUDE BUT NOT LIMITED TO ANY FOOD SERVICE, KIOSK, STAND, BOOTH, FOOD TRUCK, OR AREA LOCATED INSIDE ANOTHER BUSINESS FACILITY) SELLING OR SERVING CHICKEN AS A PRINCIPAL MENU ITEM (DEFINED AS 25% OR MORE OF GROSS SALES). IN ADDITION, THE FOLLOWING USES ARE PROHIBITED: MCDONALD'S, WENDY'S, ARBY'S, BOSTON MARKET, KENTUCKY FRIED CHICKEN, POPEYE'S, CHURCH'S, BOJANGLE'S, MRS. WINNER'S, CARL'S JR., HARDEE'S, CHICKEN OUT, ZAXBY'S, RANCH ONE, EL POLLO LOCO, POLLO CAMPERO, POLLO TROPICAL, RAISING CANE'S, CHESTER'S, BUSH'S CHICKEN, BISCUTTVILLE, CHICKEN NOW, PDQ, CHIKWICH, EZELL'S FAMOUS CHICKEN, ROY ROGERS, SLIM CHICKENS, SHAKE SHACK OR CHICKEN SHACK.
- 4.3 ANY USE AS OR FOR A FAST-CASUAL RESTAURANT FEATURING A MENU WHICH INCLUDES (EITHER AS AN APPETIZER OR AN ENTRÉE) KABOBS, MEDITERRANEAN STYLE PITA SANDWICHES, OR HUMMUS. IN ADDITION, THE FOLLOWING USES ARE PROHIBITED: COSI, FADP'S, PIPERI, LITTLE GREEK, TAZIKIS, ROTI, GARBANZOS, DAPHNES, CHICKEN SALAD CHICK, URBAN COOKHOUSE, NEWK'S, LYFE KITCHEN, MODERN MARKET, VERT'S KABAP, OR TENDER GREENS.
- 4.4 ANY USE AS OF FOR THE SALE OF SALADS FOR ON OR OFF-PREMISES CONSUMPTION; PROVIDED, HOWEVER, ANY TENANTS, IF AND TO THE EXTENT EXPRESSLY APPROVED BY THE APPROVING PARTY, SHALL HAVE THE RIGHT TO SELL SALADS IF (I) THE SALE OF SALADS BY SUCH TENANT IS INCIDENTAL TO ANOTHER PRIMARY BUSINESS OF SUCH TENANT AND (II) SUCH TENANT'S SALE OF SALADS FROM THE PROPERTY DOES NOT EXCEED 25% OF SUCH TENANT'S ANNUAL GROSS REVENUES DERIVED FROM ITS BUSINESS OPERATIONS AT THE PROPERTY. IN ADDITION TO THE FOREGOING, ANY DIRECT CATEGORY COMPETITORS, INCLUDING BY WAY OF EXAMPLE, THE FOLLOWING RESTAURANTS OPERATING UNDER THE LISTED TRADE NAMES, OR OPERATING UNDER ANY SUCCESSOR TRADE NAMES, ARE PROHIBITED FROM OPERATING FROM THE PROPERTY: TENDER GREENS, CHOP'T, SALADWORKS, SWEET GREENS, SALATA, MIX'T, SNAPPY SALADS, MODMARKET, PANERA, GREEN FINE, THE CHOP SHOP, THE ORIGINAL CHOP SHOP, GRABBA GREEN, GREEN FINE OR CHOPPERS.
- 4.5 ANY ENTERTAINMENT, RECREATION, OR AMUSEMENT USE, WHETHER DIRECTED TO CHILDREN OR ADULTS (INCLUDING, BUT NOT LIMITED TO, ARCADE, PLAYHOUSE, PLANNED PLAY, BOWLING ALLEY, SKATING RINK, BINGO CLUB, CARD CLUB, NIGHT CLUB, DANCE HALL, OR DISCOTHEQUE ESTABLISHMENTS), EXCEPT TO THE EXTENT: (I) INCIDENTAL TO A USE OTHERWISE PERMITTED HEREUNDER, (II) SUCH INCIDENTAL USE IS CONDUCTED WITHIN THE SAME PREMISES AS SUCH PRIMARY PERMITTED USE, AND (III) SUCH INCIDENTAL USE DOES NOT OCCUPY MORE THAN TWENTY-FIVE PERCENT (25%) OF THE FLOOR AREA OF SUCH BUSINESS. THIS SECTION SHALL NOT APPLY TO THE PRE-APPROVED PARK USE.
- 4.6 ANY FIRE, EXPLOSION, OR OTHER DAMAGING OR DANGEROUS HAZARD, INCLUDING THE STORAGE, DISPLAY OR SALE OF EXPLOSIVES OR FIREWORKS, ANY DISTILLATION, REFINING, SMELTING, AGRICULTURE OR MINING OPERATIONS.
- 4.7 ANY TAVERN OR BAR.
- 4.8 ANY MOBILE HOME PARK, TRAILER COURT, LIVING QUARTERS, SLEEPING APARTMENTS, OR LODGING FACILITIES. IN NO EVENT SHALL THIS SECTION RESTRICT AGAINST USE OF THE PROPERTY AS A PARKING FOR AN APPROVED APARTMENT OR HOTEL FACILITY.
- 4.9 ANY DUMPING, DISPOSING, INCINERATION OR REDUCTION OF GARBAGE (EXCLUSIVE OF APPROPRIATELY SCREENED DUMPSTERS LOCATED IN THE REAR OF ANY BUILDING).

- 4.10 ANY FIRE SALE OR BANKRUPTCY SALE (UNLESS PURSUANT TO A COURT ORDER).
- 4.11 ANY CENTRAL LAUNDRY OR DRY CLEANING PLANT OR LAUNDROMAT.
- 4.12 ANY AUTOMOBILE, TRUCK, TRAILER OR R.V. SALES, LEASING, DISPLAY, MAINTENANCE, OR REPAIR.
- 4.13 ANY VETERINARY HOSPITAL OR ANIMAL RAISING FACILITIES.
- 4.14 ANY MORTUARY, CREMATION, OR SIMILAR FACILITY.
- 4.15 ANY AUCTION HOUSE, FLEA MARKET, OR PAWN SHOP.
- 4.16 ANY MOVIE THEATER OR LIVE PERFORMANCE THEATRE.
- 4.17 ANY ESTABLISHMENT SELLING OR EXHIBITING PORNOGRAPHIC MATERIALS (EXCEPT AS INCIDENTAL TO A NATIONAL OR REGIONAL BOOKSTORE).
- 4.18 ANY ESTABLISHMENT SELLING OR EXHIBITING ILLEGAL SUBSTANCES OR PARAPHERNALIA FOR USE WITH ILLICIT DRUGS.
- 4.19 ANY MEDICAL MARIJUANA DISPENSARY OR SIMILAR USE.
- 4.20 ANY TRAINING, EDUCATIONAL, OR RELIGIOUS FACILITY, INCLUDING BUT NOT LIMITED TO: BEAUTY SCHOOLS, BARBER COLLEGES, READING ROOMS, CHURCH, SYNAGOGUE, MOSQUE OR OTHER PLACE OF WORSHIP PLACES OF INSTRUCTION, OR ANY OTHER OPERATIONS CATERING PRIMARILY TO STUDENTS, FOLLOWERS, OR TRAINEES RATHER THAN TO CUSTOMERS. THIS SECTION SHALL NOT APPLY TO THE PRE-APPROVED PARK USE.
- 4.21 ANY GAS STATION.
- 4.22 ANY HEALTH CLUB, RECREATION CENTER, OR OTHER PHYSICAL TRAINING/EXERCISE FACILITY. THIS SECTION SHALL NOT APPLY TO THE PRE-APPROVED PARK USE.
- 4.23 ANY USE WHICH IS A PUBLIC OR PRIVATE NUISANCE.
- 4.24 EXCLUDING THE PRE-APPROVED PARK USE, ANY USES LIMITED, RESTRICTED, OR PROHIBITED IN THAT CERTAIN DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS DATED MARCH 16, 2017, RECORDED ON MARCH 28, 2017, AS DOCUMENT 217035149 OF THE OFFICIAL LAND RECORDS OF EL PASO COUNTY, COLORADO, AS THOUGH SAID LIMITED, RESTRICTED, AND/OR PROHIBITED USES (BUT NOT ANY OTHER PROVISION THEREOF) APPLY WITH EQUAL FORCE TO THE PROPERTY.
- 4.25 EXCLUDING THE PRE-APPROVED PARK USE, AS A SKATING RINK; MEETING HALL CATERING PRIMARILY TO STUDENTS, FOLLOWERS, OR TRAINEES RATHER THAN TO CUSTOMERS; PLACE OF INSTRUCTION CATERING PRIMARILY TO STUDENTS, FOLLOWERS, OR TRAINEES RATHER THAN TO CUSTOMERS; SPORTING EVENT OR OTHER SPORTS FACILITY (PROVIDED, HOWEVER, THE FOREGOING SHALL NOT RESTRICT THE VIEWING OF SPORTING EVENTS ON TELEVISIONS OR OTHER DEVICES IN CONJUNCTION WITH A SEPARATE PRIMARY USE); AUDITORIUM OR ANY OTHER LIKE PLACE OF PUBLIC ASSEMBLY CATERING PRIMARILY TO STUDENTS, FOLLOWERS, OR TRAINEES RATHER THAN TO CUSTOMERS; GYM OR FITNESS CENTER. ANY GAS STATION OR ANY ESTABLISHMENT SELLING TRAILERS; A LIQUOR, WINE, OR SPIRITS STORE; PAWN SHOP; FLEA MARKET; OR CASINO OR OTHER "OFF-TRACK" BETTING OPERATION.

- 5. THE PROPERTY SHALL NOT BE SUBJECT TO GRANTOR'S TIF (AS DEFINED HEREIN) IF THE PROPERTY IS USED ONLY FOR THE PRE-APPROVED PARK USE, DRAINAGE, RECREATION, PUBLIC TRAIL, OPEN SPACE, LANDSCAPING AND/OR PARKING. IF THE PROPERTY IS EVER APPROVED OR USED FOR ANY USE OTHER THAN PARK, DRAINAGE, RECREATION, PUBLIC TRAIL, OPEN SPACE, LANDSCAPING AND/OR PARKING, THEN EVC-HD SOUTH NEVADA, LLC, ITS SUCCESSORS AND



ASSIGNS SHALL BE ENTITLED TO ALL TAX INCREMENT FINANCING PROCEEDS PAYABLE WITH RESPECT TO THE PROPERTY UNDER THE SOUTH NEVADA AVENUE AREA URBAN RENEWAL PLAN AND ITS ASSOCIATED URBAN RENEWAL AGREEMENT FOR DEVELOPMENT OF THE SOUTH NEVADA AVENUE AREA URBAN RENEWAL PLAN (THE "TIF"). EVC-HD SOUTH NEVADA, LLC, ITS SUCCESSORS AND ASSIGNS, RESERVES ALL RIGHTS WITH RESPECT TO THE TIF DOCUMENT(S) APPLICABLE TO THE PROPERTY, INCLUDING ALL RIGHTS TO ADMINISTER AND AMEND THE TIF APPLICABLE TO THE PROPERTY, CONSISTENT WITH THIS SECTION.