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12/15/2006 03:38 PM \$54.00  
Book - 9395 Pg - 6362-6381  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
TALON GROUP  
BY: ZJM, DEPUTY - WI 20 P.

When Recorded, Return to:  
Pete Vandenhouten  
ShopKo Stores  
Operating Co., LLC  
P. O. Box 19060  
Green Bay, WI 54307-9060

SHOPKO #084  
WEST JORDAN, UT

**FOURTH AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS**

RECEIVED  
12/15/06

THIS FOURTH AMENDMENT TO AMENDED AND RESTATED DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS ("Fourth Amendment") is made and entered into this 15<sup>th</sup> day of December, 2006, by and between **Spirit SPE Portfolio 2006-1, LLC**, a Delaware limited liability company, as successor-in-interest to ShopKo Stores, Inc. ("Spirit"), **ShopKo Stores Operating Co., LLC**, a Delaware limited liability company, as Spirit's Prime Lessee ("ShopKo"), **New Albertson's, Inc.**, a Delaware corporation, successor-in-interest to Albertson's, Inc. ("Albertson's"), and **PDC Community Centers L.L.C.**, a Delaware limited liability company, successor-in-interest to Price Development Company, Limited Partnership (formerly Price River Point Plaza Company, Ltd., a Utah limited partnership ("Price").

**RECITALS:**

A. Spirit is the owner of Parcel 4, Albertson's is the owner of Parcel 2, and Price is the owner of Parcel 1 and a portion of Parcels 3 and 5, of that certain real property located in West Jordan, Utah, commonly known as River Pointe Plaza shown on Exhibit "A" and particularly described on Schedule I attached hereto and incorporated herein by this reference (the "Subject Property"). Pads A, B, C, and Parcel 1A as shown on Exhibit "A" are owned by third parties.

B. The predecessors-in-interest of Spirit, Albertson's and Price, entered into that certain Amended and Restated Declaration of Restrictions and Grant of Easements dated May 27, 1987 and recorded June 5, 1987 as Instrument No. 4470260, Records of Salt Lake County, Utah, as modified by the First Amendment to Amended and Restated Declaration of Restrictions and Grant of Easements dated June 7, 1988 and recorded July 18, 1988 as Instrument No. 4650833, Records of Salt Lake County, Utah, the Second Amendment to Amended and Restated Declaration of Restrictions and Grant of Easements dated July 21, 1994 and recorded November 9, 1994 as Instrument No. 5963096, Records of Salt Lake County, Utah, and as further modified by the Third Amendment to Amended and Restated Declaration of Restrictions and Grant of Easements dated May 1, 2000 and recorded May 1, 2000 as Instrument No. 7629216, Records of Salt Lake County, Utah (collectively, the "Declaration").

C. Section 6.5 of the Declaration provides that the Declaration may be modified only with the consent of the Owners and Prime Lessees of Parcels containing ninety percent (90%) of the total building Area of the Subject Property at the time of such modification.

D. Consistent with Section 6.5 of the Declaration, Spirit, ShopKo, Albertson's and Price are, collectively, the Owners and Prime Lessees of Parcels containing not less than ninety percent (90%) of the total Building Area of the Subject Property on the date of this Fourth Amendment.

E. Concurrent with this Fourth Amendment, Spirit is selling certain real property (the "Development Property") that had heretofore been described in the Declaration as comprising a part of Parcel 4. A new legal description of Parcel 4 (reflecting a reduction in its size as a result of the sale of the Development Property) and Parcel 4A (reflecting the Development Property) is included in Schedule I attached to this Fourth Amendment. Parcels 4 and 4A are among the matters shown on the site plan of the Subject Property attached to this Fourth Amendment as Exhibit "A".

F. The parties to this Fourth Amendment desire to further amend the Declaration as hereinafter provided.

#### AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties amend the Declaration as follows:

1. The parties affirm the truth and accuracy of the foregoing Recitals and incorporate the same into the agreements contained in this Fourth Amendment.

2. All capitalized terms in the Fourth Amendment shall have the same meanings ascribed to them in the Declaration.

3. Schedule I to the Declaration is deleted, and Schedule I attached to this Fourth Amendment is substituted therefor.

4. Exhibit "A" to the Declaration is deleted, and Exhibit "A" attached to this Fourth Amendment is substituted therefor.

5. So long as there is an owner or lessee of a part of the Shopping Center whose principal business and use of its premises is one of the uses enumerated below, in addition to the restrictions on use contained in Article V of the Declaration, no part of Parcel 4A shall be used for any of the following primary uses:

- A. A fast food restaurant whose primary menu item is hamburgers;
- B. A pizza restaurant;
- C. A book store;
- D. A bank or financial institution which makes loans or provides financial services;
- E. A store selling software of video games; or
- F. A delicatessen.

6. The effective date of this Fourth Amendment shall be the date upon which it is recorded in the Official Records of Salt Lake County, Utah.

7. The Declaration shall remain in full force and effect and the parties ratify and confirm the Declaration as amended hereby. In the event of any conflict between this Fourth Amendment and the Declaration, the terms of this Fourth Amendment shall prevail.

8. Each party executing this Fourth Amendment represents and warrants to each other party that it has full authority and right to execute this instrument.

9. This Fourth Amendment may be executed in one or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(Signatures on next page.)

IN WITNESS WHEREOF, this Fourth Amendment has been executed as of the day and year first above written.

**SPRIT:**

Spirit SPE Portfolio 2006-1, LLC  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

**ALBERTSON'S:**

New Albertson's, Inc., a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:


\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

**PRICE:**

PDC Community Centers L.L.C.,  
a Delaware limited liability company

By:  \_\_\_\_\_  
Authorized Officer

Attest:

  
Name (print): CAROL A. WILLIAMS  
Its: ASSISTANT SECRETARY  
(Title)

**SHOPKO:**

ShopKo Stores Operating Co., LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

STATE OF )  
 ) ss:  
County of )

On the \_\_\_\_ day of \_\_\_\_\_, 2006, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of Spirit SPE Portfolio 2006-1, LLC, a Delaware limited liability company and that the within and foregoing instrument was signed in behalf of said company and said \_\_\_\_\_ duly acknowledged to me that said company executed the same.

\_\_\_\_\_  
Notary Public

STATE OF ILLINOIS )  
 ) ss:  
County of COOK )

On the 7th day of December, 2006, personally appeared before me Robert A. Michael, who being by me duly sworn did say that he is the Authorized Officer of PDC Community Centers L.L.C., a Delaware limited liability company, and that the within and foregoing instrument was signed in behalf of said company and said Robert duly acknowledged to me that said company executed the same.



Leslee C Tornabeni  
Notary Public

STATE OF )  
 ) ss:  
County of )

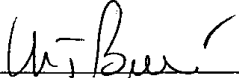
On the \_\_\_\_ day of \_\_\_\_\_, 2006, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of New Albertson's, Inc., a Delaware corporation, and that the within and foregoing instrument was signed in behalf of said corporation and said \_\_\_\_\_ duly acknowledged to me that said corporation executed the same.

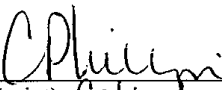
\_\_\_\_\_  
Notary Public

STATE OF )

IN WITNESS WHEREOF, this Fourth Amendment has been executed as of the day and year first above written.

**SPIRIT:**  
Spirit SPE Portfolio 2006-1, LLC  
a Delaware limited liability company

By:   
Name: Michael T. Bennett  
Title: Senior Vice President

Attest:  
  
Name (print): Catherine Phillips  
Its: Servicing Manager  
(Title)

**ALBERTSON'S:**  
New Albertson's, Inc., a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:  
\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

**PRICE:**  
PDC Community Centers L.L.C.,  
a Delaware limited liability company

By: \_\_\_\_\_  
Authorized Officer

Attest:  
\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

**SHOPKO:**  
ShopKo Stores Operating Co., LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:  
\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

STATE OF Arizona  
County of Maricopa ) ss:

On the 7<sup>th</sup> day of December, 2006, personally appeared before me Michael T. Bennett who being by me duly sworn did say that he is the SR. Vice President of Spirit SPE Portfolio 2006-1, LLC, a Delaware limited liability company and that the within and foregoing instrument was signed in behalf of said company and said \_\_\_\_\_ duly acknowledged to me that said company executed the same.



Hedy Nelson  
Notary Public

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On the \_\_\_\_\_ day of \_\_\_\_\_, 2006, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of PDC Community Centers L.L.C., a Delaware limited liability company, and that the within and foregoing instrument was signed in behalf of said company and said \_\_\_\_\_ duly acknowledged to me that said company executed the same.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On the \_\_\_\_\_ day of \_\_\_\_\_, 2006, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of New Albertson's, Inc., a Delaware corporation, and that the within and foregoing instrument was signed in behalf of said corporation and said \_\_\_\_\_ duly acknowledged to me that said corporation executed the same.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )

IN WITNESS WHEREOF, this Fourth Amendment has been executed as of the day and year first above written.

**SPIRIT:**  
Spirit SPE Portfolio 2006-1, LLC  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

**ALBERTSON'S:**  
New Albertson's, Inc., a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

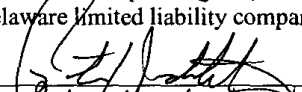
**PRICE:**  
PDC Community Centers L.L.C.,  
a Delaware limited liability company

By: \_\_\_\_\_  
Authorized Officer


Attest:

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

**SHOPKO:**  
ShopKo Stores Operating Co., LLC,  
a Delaware limited liability company

By:   
Name: Peter Vandenhaver  
Title: VP-General Counsel/Secretary

Attest:

  
Name (print): Corey Polachek  
Its: Real Estate Manager  
(Title)



STATE OF WI )  
 ) ss:  
County of Brown )

On the 11 day of December, 2006, personally appeared before me Peter Vandenhouten, who being by me duly sworn did say that he is the Secretary of ShopKo Stores Operating Co., LLC, a Delaware limited liability company and that the within and foregoing instrument was signed in behalf of said company and said Peter Vandenhouten duly acknowledged to me that said company executed the same.

Amy J. Baurasa  
Notary Public  
my commission expires: 2/10/08

IN WITNESS WHEREOF, this Fourth Amendment has been executed as of the day and year first above written.

**SPIRIT:**

Spirit SPE Portfolio 2006-1, LLC  
a Delaware limited liability company

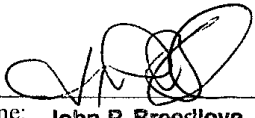
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

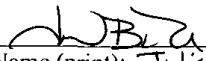
\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

**ALBERTSON'S:**

New Albertson's, Inc., a Delaware corporation

By:  \_\_\_\_\_  
Name: **John P. Breedlove**  
Title: **Vice President & Corporate Secretary** <sup>RD</sup>

Attest:

 \_\_\_\_\_  
Name (print): **Julie Back**  
Its: **Assistant Secretary**  
(Title)

**PRICE:**

PDC Community Centers L.L.C.  
a Delaware limited liability company

By: \_\_\_\_\_  
Authorized Officer

Attest:

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

**SHOPKO:**

ShopKo Stores Operating Co., LLC  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Name(print) \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

STATE OF )  
 ) ss:  
County of )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2006, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of Spirit SPE Portfolio 2006-1, LLC, a Delaware limited liability company and that the within and foregoing instrument was signed in behalf of said company and said \_\_\_\_\_ duly acknowledged to me that said company executed the same.

\_\_\_\_\_  
Notary Public

STATE OF )  
 ) ss:  
County of )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2006, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of PDC Community Centers L.L.C., a Delaware limited liability company, and that the within and foregoing instrument was signed in behalf of said company and said \_\_\_\_\_ duly acknowledged to me that said company executed the same.

\_\_\_\_\_  
Notary Public

STATE OF IDAHO )  
 ) ss:  
County of Ada )

On the 20th day of November, 2006, personally appeared before me R.A. Leone, who being by me duly sworn did say that he is the VP & Corp Sec of New Albertson's, Inc., a Delaware corporation, and that the within and foregoing instrument was signed in behalf of said corporation and said VP & Corp Sec duly acknowledged to me that said corporation executed the same.

STATE OF



R.A. Leone  
Notary Public exp 10/28/2010

County of \_\_\_\_\_ ) ss:  
  )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2006, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of ShopKo Stores Operating Co., LLC, a Delaware limited liability company and that the within and foregoing instrument was signed in behalf of said company and said \_\_\_\_\_ duly acknowledged to me that said company executed the same.

\_\_\_\_\_  
Notary Public

SCHEDULE I  
LEGAL DESCRIPTIONS  
EXHIBIT "A"  
SITE PLAN

SCHEDULE I

LARSEN & MALMQUIST, INC.  
CONSULTING ENGINEERS & LAND SURVEYORS  
2736 South 2700 West • West Valley City, Utah 84119 • (801) 972-2634

LEGAL DESCRIPTION

RIVER POINTE PLAZA  
REVISED PARCEL 1

-POOR COPY-  
CO. RECORDER

BEGINNING at a point on the East line of Redwood Road (1700 West Street), said point being South 00°03'25" East 370.48 feet along the Quarter Section line and North 89°53'45" East 53.00 feet from the Center of Section 2, Township 3 South, Range 1 West, Salt Lake Base and Meridian, and running thence North 89°53'45" East 84.61 feet; thence South 00°06'15" East 199.34 feet; thence North 89°53'45" East 75.00 feet; thence South 00°06'15" East 169.00 feet; thence South 89°53'45" West 4.50 feet; thence South 00°06'15" East 52.33 feet; thence South 89°53'45" West 155.46 feet to the East line of Redwood Road; thence North 00°03'25" West along said East line 420.67 feet to the POINT OF BEGINNING. Contains 1.1945 acres.

PREPARED FOR: Price Development Co.  
38 Century Parkway  
Salt Lake City, Utah 84115

PREPARED BY: Robert S. Markham, P.E.  
L & M No. 01435-86E/S  
Nov. 18, 1987

RECORDED

SCHEDULE I

LARSEN & MALMQUIST, INC.  
CONSULTING ENGINEERS & LAND SURVEYORS  
2736 South 2700 West • West Valley City, Utah 84119 • (801) 972-2634

LEGAL DESCRIPTION  
RIVER POINTE PLAZA  
PARCEL 1A  
(HARDEE'S PARCEL)

POUR COPY  
CO. RECORDER

BEGINNING at a point on the East line of Redwood Road (1700 West Street), said point being South 00°03'25" East 192.01 feet along the Quarter Section line and North 89°53'45" East 53.00 feet from the Center of Section 3, Township 3 South, Range 1 West, Salt Lake Base and Meridian, and running thence North 89°53'45" East 160.00 feet; thence South 00°03'25" East 162.47 feet; thence South 89°53'45" West 160.00 feet to the East line of Redwood Road; thence North 00°03'25" West along said East line 162.47 feet to the POINT OF BEGINNING. Contains 0.3968 acres.

PREPARED FOR: Price Development Co.  
35 Century Parkway  
Salt Lake City, Utah 84115

PREPARED BY: Robert S. Markham, P.E.  
L & M No. 01433-86E/S  
September 10, 1987

~~01433-86E/S~~

Schedule I

Parcel 2:

Beginning on the South right of way line of 9000 South Street at a point that is North 89°55'00" East along the quarter-section line 213.00 feet and South 0°03'25" East 73.00 feet from the County monument at the Center Quarter corner of Section 3, Township 3 South, Range 1 West, Salt Lake Base and Meridian, from said monument the County monument at the South Quarter corner of said Section 3 bears South 0°03'25" East (basis of bearing); thence along said South line of street North 89°55'00" East 35.20 feet; thence South 0°05'00" East 158.82 feet; thence North 89°55'00" East 239.50 feet; thence South 0°05'00" East 207.14 feet; thence South 89°55'00" West 9.41 feet; thence South 0°05'00" East 259.86 feet; thence North 89°55'00" East 77.41 feet; thence South 0°05'00" East 144.66 feet; thence South 89°55'00" West 503.06 feet to a point on the East right of way line of Redwood Road; thence along said East line of street North 0°03'25" West 8.43 feet and North 89°56'35" East 6.06 feet and North 0°03'25" West 43.91 feet; thence North 89°55'00" East 149.24 feet; thence North 0°05'00" West 52.33 feet; thence North 89°55'00" East 4.50 feet; thence North 0°05'00" West 169.00 feet; thence South 89°55'00" West 75.00 feet; thence North 0°05'00" West 199.34 feet; thence South 89°55'00" West 62.15 feet to a point on said East right of way line of Redwood Road; thence along said street line North 0°03'25" West 15.00 feet; thence North 89°55'00" East 137.54 feet; thence North 0°03'25" West 282.48 feet to the point of beginning. Contains 4.7434 acres.

3/28/00  
JAA

Parcel 3:

Beginning on the South right of way line of 9000 South Street at a point that is North 89°55'00" East along the quarter-section line 213.00 feet and South 0°03'25" East 73.00 feet and North 89°55'00" East 35.20 feet from the County monument at the Center Quarter corner of Section 3, Township 3 South, Range 1 West, Salt Lake Base and Meridian, from said monument the County monument at the South Quarter corner of said Section 3 bears South 0°03'25" East (basis of bearing); thence along said street line North 89°55'00" East 329.32 feet to the PC of a 11,512.20 foot radius curve to the left; thence Easterly 212.19 feet along the arc of said curve through a central angle of 1°03'22" (chord bears North 89°23'19" East 212.19 feet); thence South 0°05'00" East 141.77 feet; thence South 89°55'00" West 136.00 feet; thence South 0°05'00" East 331.00 feet; thence North 89°55'00" East 136.00 feet; thence South 0°05'00" East 155.00 feet; thence South 89°55'00" West 311.41 feet; thence North 0°05'00" West 259.86 feet; thence North 89°55'00" East 9.41 feet; thence North 0°05'00" West 207.14 feet; thence South 89°55'00" West 239.50 feet; thence North 0°05'00" West 158.82 feet to the point of beginning. Contains 4.2379 acres.

3/28/00  
JAA

BK 9395 PG 6377



PARCEL 4 DESCRIPTION

Lot 1 of Shopko 9000 South Street Subdivision, plat recorded December 14, 2006 as Instrument No. 9940027 in Book 2006P, Page 381, Salt Lake County, UT.

PARCEL 4A DESCRIPTION

Lot 2 of Shopko 9000 South Street Subdivision, plat recorded December 14, 2006 as Instrument No. 9940027 in Book 2006P, Page 381, Salt Lake County, UT.

LARSEN & MALMQUIST, INC.  
CONSULTING ENGINEERS & LAND SURVEYORS  
2736 South 2700 West • West Valley City, Utah 84119 • (801) 972-2634

SCHEDULE I

LEGAL DESCRIPTION

RIVER POINTE PLAZA  
PARCEL 3

-POOR COPY-  
CO. REORDER

BEGINNING at a point on the South line of 7000 South Street, said point being North  $89^{\circ}53'45''$  East 1081.64 feet along the Quarter Section line and South  $00^{\circ}06'15''$  East 61.95 feet from the Center of Section 3, Township 3 South, Range 1 West, Salt Lake Base and Meridian, said point also being on an 11,512.20 feet radius curve to the left; thence Northeasterly along the arc of said curve and said South line 152.799 feet to a point of tangency; thence North  $26^{\circ}57'31''$  East 46.87 feet to the point of an 11,406.14 foot radius curve to the right; thence along the arc of said curve and South line 43.273 feet; thence South  $00^{\circ}00'50''$  East 832.64 feet; thence South  $89^{\circ}53'45''$  West 60.00 feet; thence North  $00^{\circ}00'50''$  West 367.00 feet; thence South  $89^{\circ}53'45''$  West 141.14 feet; thence North  $00^{\circ}06'15''$  West 216.00 feet; thence South  $89^{\circ}53'45''$  West 41.00 feet; thence North  $00^{\circ}06'15''$  West 256.86 feet to the POINT OF BEGINNING. Contains 2.9690 acres.

PREPARED FOR: Price Development Co.  
35 Century Parkway  
Salt Lake City, Utah 84115

PREPARED BY: Robert S. Markham, P.E.  
L & M No. 01435-8&E/S  
February 11, 1987

RECORDED

CONSULTING CIVIL - STRUCTURAL ENGINEERING AND LAND SURVEYING

BK 9395 PG 6380

