When Recorded, Mail To:

Dennis K. Poole POOLE & ASSOCIATES, L.C. 4543 South 700 East, Ste. 200 Salt Lake City, Utah 84107 11528581
12/04/2012 12:38 PM \$40.00
Book - 10084 Pm - 2688-2695
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
POOLE & ASSOC
4543 S 700 E STE 200
SLC UT 84107
BY: KSR, DEPUTY - WI 8 P.

Space above for County Recorder's Use

AFFECTS THE FOLLOWING PARCELS:
Parcel Nos. 27-20-127-008; 27-20-153-009
27-20-153-008; 27-20-153-007
27-20-153-004; 27-20-153-001
27-20-127-009; 27-20-176-002
27-20-176-005; 27-20-177-009

## FIRST AMENDMENT TO THE DECLARATION OF RESTRICTIONS

This First Amendment ("Amendment") to the Declaration of Restrictions, is made and executed this  $\underline{\lambda} \underline{\eta}^{\text{th}}$  day of November, 2012, by **BDN LAND INVESTMENT, L.C.**, a Utah limited liability company ("BDN"), **WB II LAND INVESTMENT, L.C.**, a Utah limited liability company ("WB III"), **WB III LAND INVESTMENT, L.C.**, a Utah limited liability company ("WB III"), **THE DISTRICT-NORTH, L.C.**, a Utah limited liability company ("District North"), and **DISTRICT HEIGHTS VILLAGE PROPERTIES, LLC**, a Utah limited liability company ("District").

#### **RECITALS**

WHEREAS, BDN, WB II and WB III entered into that certain Declaration of Restrictions (the "Declaration") dated as of January 26, 2009, with respect to the certain real property more particularly described on Exhibit "A" attached hereto (the "Property"), which Declaration was recorded March 4, 2009, as Entry No. 10638166 in Book 9693, beginning at Page 5013 of the official records of the Salt Lake County Recorder; and

WHEREAS, by virtue of one or more plat amendments, several of the legal descriptions of Parcels that originally comprised the Property have been modified; consequently the current legal descriptions of the Parcels that originally comprised the Property are more particularly set forth on Exhibit "A-1" attached hereto; and

WHEREAS, since recording the Declaration the District has acquired, by mesne conveyances, that certain real property more particularly described on Exhibit "B" attached hereto (the "District Parcel"); and

WHEREAS, a portion of Lot 8, River Heights at the North District ("Lot 8"), as previously existed and identified as one of the Parcels included within the Property, is now included within the District Parcel described on Exhibit "B" by virtue of the recordation in the offices of the Salt Lake County Recorder of the River Heights at the North District Amended Plat (that portion of Lot 8 now included within the District Parcel referred to herein as the "Severed Parcel"); and

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WHEREAS, District North has acquired by mesne conveyances, one or more parcels included within the Property; and

WHEREAS, the parties do not intend that the Severed Parcel, which is a portion of the District Parcel, remain subject to the terms and conditions of the Declaration, except as provided in this Amendment, and the parties therefore desire by this Amendment, to specify those portions of the Declaration which continue to have application to the Severed Parcel and those portions of the Declaration that do not have application to the Severed Parcel, all as more particularly set forth herein below.

NOW THEREFORE, in consideration of these Recitals and for good and valuable consideration, the parties hereto amend the Declaration as set forth herein:

- A. As of and subsequent to the "Effective Date" of this Amendment (as defined in Paragraph D below), the definitions of the "Property", "Parcel" and "Parcels" as contained in the Declaration shall no longer include or refer to any portion of the Severed Parcel for purposes of the application of Sections 2, 3, 4, 5, 6, 7, 8 (a), and 8(c) of the Declaration (the "Inapplicable Provisions"). Consequently the Inapplicable Provisions shall no longer have any application to or effect upon the Severed Parcel.
- B. Section 8 (b) of the Declaration, labeled "Olive Garden Exclusive," shall remain a covenant and obligation applicable to the owners, successors and assigns, of the Severed Parcel.
- C. Sections 9, 10 and 11 of the Declaration shall remain an obligation of and benefit to the owners of the Severed Parcel, and their successors and assigns, but only as such Sections and the terms and conditions contained therein have application to the obligations contained in Section 8 (b) of the Declaration and/or this Amendment.
- D. The "Effective Date" of this Amendment shall be the date the same is recorded in the offices of the County Recorder of Salt Lake County, Utah.
- E. The parties to this Amendment represent that they are the owners of all of the Parcels comprising the Property previously described and set forth on Exhibit A to the Declaration and as now described on Exhibit "A-1".

IN WITNESS WHEREOF, this Amendment has been executed the day and year first above appearing.

BDN LAND INVESTMENT L.C., a Utah limited liability company

By its Manager, The Boyer Company, L.C.

By:

Name Title:

WB II LAND INVESTMENT, L.C., a Utah limited liability company

By its Manager, The Boyer Company, L.C.

By:

Name:

Title:

WB III LAND INVESTMENT, L.C., a Utah limited liability company

By its Manager, The Boxer Company, L.C.

By:

Name:

Title:

THE DISTRICT-NORTH, L.C., a Utah limited liability company

By its Manager, The Boyen Company, L.C.

By:

Name:

Title:

**HEIGHTS** VILLAGE DISTRICT PROPERTIES, LLC, a Utah limited liability company

By its Manager, ICO Multifamily Holdings Operations, LLC, a Utah limited liability company

By:

Title:

Manager

STATE OF UTAH ) : ss COUNTY OF SALT LAKE )

Devon Ghenn, being first duly sworn, says that he is the Manager of The Boyer Company, the Manager of BDN LAND INVESTMENT, L.C., a Utah limited liability company, that he has read the foregoing Amendment and knows the contents thereof, and that the same is true of his own knowledge, and further that he executed said document on behalf of said Company.

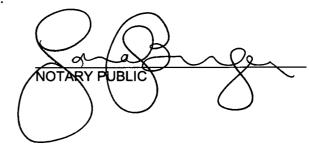
Dated the 29 day of November, 2012.



# SARA BERGEN Notary Public State of Utah My Commission Expires on: April 4, 2016

Comm. Number: 654881

STATE OF UTAH ) : ss COUNTY OF SALT LAKE )



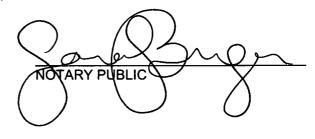
Boyer Company, the Manager of WB II LAND INVESTMENT, L.C., a Utah limited liability company, that he has read the foregoing Amendment and knows the contents thereof, and that the same is true of his own knowledge, and further that he executed said document on behalf of said Company.

Dated the 29 day of November, 2012.



SARA BERGEN
Notary Public State of Utah
My Commission Expires on:
April 4, 2016
Comm. Number: 654881

STATE OF UTAH ) : ss COUNTY OF SALT LAKE )



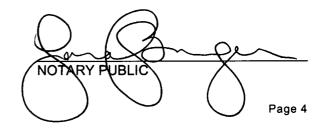
<u>Devon Glenn</u>, being first duly sworn, says that he is the <u>Manager</u> of The Boyer Company, the Manager of WB III LAND INVESTMENT, L.C., a Utah limited liability company, that he has read the foregoing Amendment and knows the contents thereof, and that the same is true of his own knowledge, and further that he executed said document on behalf of said Company.

Dated the 29 day of November, 2012.



SARA BERGEN
Notary Public State of Utah
My Commission Expires on:
April 4, 2016
Comm. Number: 654881

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STATE OF UTAH ) : ss COUNTY OF SALT LAKE )

Devon Glenn, being first duly sworn, says that he is the Manager of The Boyer Company, the Manager of THE DISTRICT-NORTH, L.C., a Utah limited liability company, that he has read the foregoing Amendment and knows the contents thereof, and that the same is true of his own knowledge, and further that he executed said document on behalf of said Company.

Dated the 29 day of November, 2012.



SARA BERGEN
Notary Public State of Utah
My Commission Expires on:
April 4, 2016

Comm. Number: 654881

NOTARY PUBLIC

STATE OF UTAH ) : ss COUNTY OF SALT LAKE )

Multifamily Holdings Operations, LLC, the Manager of DISTRICT HEIGHTS VILLAGE PROPERTIES, LLC, a Utah limited liability company, that he has read the foregoing Amendment and knows the contents thereof, and that the same is true of his own knowledge, and further that he executed said document on behalf of said Company.

Dated the 29 day of November, 2012.



NOTARY PUBLIC

#### **EXHIBIT A**

#### **Legal Description of the Property**

Real property located in Salt Lake County, State of Utah, more particularly described as follows:

#### **WB PROPERTY**

Lot 1, Lot 2, Lot 3, Lot 4, Lot 5, Lot 6, Lot 7 and Lot 8, RIVER HEIGHTS AT THE NORTH DISTRICT - a Multiple Use Subdivision, according to the official plat thereof.

#### **BDN PROPERTY**

Lot 2, Lot 3 and Lot 4, THE NORTH DISTRICT - A Multiple Use Subdivision, according to the official plat thereof, filed in Book "2007P" of Plats, at Page 413 of the Official Records of the Salt Lake County Recorder.

#### **EXHIBIT A-1**

#### Legal Description of the Property

Real property located in Salt Lake County, State of Utah, more particularly described as follows:

#### **WBII AND WBIII PROPERTY**

Parcel 1: Lot 2A, RIVER HEIGHTS AT THE NORTH DISTRICT 2ND AMD

Parcel 2: Lot 5A, RIVER HEIGHTS AT THE NORTH DISTRICT 2ND AMD

Parcel 3: LOT 7, RIVER HEIGHTS AT THE NORTH DISTRICT

\*\*\* WB II LAND INVESTMENT LC; 89% INT
\*\*\* WB III LAND INVESTMENT LC; 11% INT

Parcel 4: LOT 8, RIVER HEIGHTS AT THE NORTH DISTRICT AMD

\*\*\* WB II LAND INVESTMENT LC; 89% INT
\*\*\* WB III LAND INVESTMENT LC; 11% INT

#### **BDN PROPERTY**

Lot 2, Lot 3 and Lot 4, THE NORTH DISTRICT - A Multiple Use Subdivision, according to the official plat thereof, filed in Book "2007P" of Plats, at Page 413 of the Official Records of the Salt Lake County Recorder.

#### **THE DISTRICT -NORTH LC PROPERTY**

Parcel 1: LOT 3, RIVER HEIGHTS AT THE NORTH DISTRICT

Parcel 2: LOT 4, RIVER HEIGHTS AT THE NORTH DISTRICT

#### **SEVERED PROPERTY**

That portion of Lot 8, RIVER HEIGHTS AT THE NORTH DISTRICT - a Multiple Use Subdivision, according to the official plat thereof, which is now contained in LOT 1, RIVER HEIGHTS AT THE NORTH DISTRICT AMD.

#### **EXHIBIT B**

### Legal Description of the District Parcel

Real property located in Salt Lake County, State of Utah, more particularly described as follows:

LOT 1, RIVER HEIGHTS AT THE NORTH DISTRICT AMD