

W2239477

WHEN RECORDED, PLEASE MAIL TO:

Robert A. McConnell PARR WADDOUPS BROWN GEE & LOVELESS 185 South State Street, Suite 1300 Salt Lake City, Utah 84111-1537 E# 2239477 PG 1 OF 4
ERNEST D ROWLEY, WEBER COUNTY RECORDER
01-FEB-07 148 PM FEE \$16.00 DEP JPM
REC FOR: LANKMARK TITLE

(Space above for Recorder's use)

SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Amendment") is entered into this 21 day of January, 2007 by and between RIVERDALE CENTER II, L.C., a Utah limited liability company ("Seller"), whose address is 90 South 400 West, Suite 200, Salt Lake City, Utah 84101, and LOWE'S HAW, INC., a Washington corporation ("Lowe's"), whose address for the purposes hereof is Highway 268—East dock, North Wilkesboro, North Carolina 28659. 28697

RECITALS

- A. Whereas Lowe's and Seller executed and caused to be recorded that certain Declaration of Covenants, Conditions and Restrictions, dated December 27, 1999 (as previously amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions, dated July 13, 2002, and recorded in the office of the Weber County Recorder on October 9, 2002 as Entry No. 1880895 in Book 2272 at Page 1089, the "Declaration"), and caused the same to be recorded in the office of the Weber County Recorder on December 28, 1999 as Entry No. 1681482 in Book 2050 at Page 2341; and
- B. Whereas the Declaration subjects that certain real property referred to in the Declaration as the Lowe's Property and the Seller Property (collectively the "Shopping Center"), each as more particularly described therein to the terms and provisions of the Declaration; and
- C. Whereas Section 4.18 of the Declaration provides that the Declaration may be amended by a writing executed by Lowe's and the owners of not less than fifty percent (50%) of the land area comprising the Sellers Property; and
- D. Whereas Lowes and Seller are collectively all of the owners of the Shopping Center; and
 - E. Whereas Lowes and Seller desire to amend the Declaration as stated herein.

NOW, THEREFORE, in consideration of the mutual obligations set forth herein and other good and valuable consideration, the parties hereto agree as follows:

AMENDMENT

- 1. "Exhibit C" to the Declaration is hereby is deleted in its entirety and replaced with the Exhibit C-1st Revision attached hereto. All references to the "Seller Property" contained in the Declaration shall from and after the date of this Amendment refer to the "Seller Property" identified on Exhibit C-1st Revision attached hereto. The Parties hereby acknowledge that a portion of the real property previously subject to the terms and conditions of the Declaration (i.e. all of Lot 4, RIVERDALE CENTER II SUBDIVISION) is being released from the covenants, conditions and restrictions set forth herein pursuant to this Amendment.
- 2. To the extent the terms of this Amendment modify or conflict with any provisions of the Declaration, the terms of this Amendment shall control. All other terms of the Declaration not modified by this Amendment shall remain the same and are hereby ratified and affirmed. Capitalized terms not specifically defined herein shall have the same meaning as set forth in the Declaration unless a contrary intent is clearly implicated.

ENTERED INTO AND AGREED TO on the date first set forth above.

"Lowe's"

LOWE'S HALW INC., a Washington corporation ATTEST: Jeffrey E. Gray Name: David E. Shelten Senior Vice President Assistant Secretary Its: STATE OF NOW COUNTY OF WILKER On this 19 day of January, 2007, before me personally appeared David Esherton, of Lowe's H.I.W., Inc., a who acknowledged her/himself to be the ______ Washington corporation, and being authorized to do so, s/he executed the foregoing Second Amendment for the purposes therein contained, by signing the name of the company, by her/himself as such officer.

[NOTARY SEAL]

MELISSA RICHARDSON Notary Public, North Carolina Wilkes County My Commission Expires Meliza Richard Notary Public

"Seller"

Riverdale Center II, L.C., a Utah limited liability company, by its Manager,

Riverdale Center II Manager, Inc., a Utah corporation

Name: H. Roger Boyer

Title: President

STATE OF UTAH

COUNTY OF SALT LAKE)

On the May of January, 2007, personally appeared before me H. Roger Boyer, the signer of the above instrument, who duly acknowledged to me that he executed the same as the President of Riverdale Center II Manager, Inc., the Manager of Riverdale Center II, L.C., a Utah limited liability company.

[SEAL]

STATE OF UTAH

Exhibit C-1st Revision Second Amendment to Covenants, Conditions and Restrictions

"Seller Property"

All of Lots 3 and 3A, RIVERDALE CENTER II SUBDIVISION, according to the official plat thereof, filed in Book "52" of Plats at Page 52 of the Official Records of the Weber County Recorder.

Together with the following described parcel:

A part of the Northwest Quarter of Section 8, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at the Southwest Corner of Lot 2, Riverdale Center II Subdivision, Riverdale City, Weber County, Utah; said point being 1111.12 feet South 1°00'35" West along the Section line and 261.52 feet South 78°05'28" East from the Northwest Corner of said Section 8; and running thence North 13°35'10" East 268.96 feet; thence South 76°24'50" East 158.53 feet; thence North 13°35'10" East 36.33 feet; thence North 25°21'26" East 38.51 feet; thence South 66°49'12" East 41.48 feet; thence South 51°31'42" East 302.37 feet to the Westerly line of Riverdale Road; thence two (2) courses along said Westerly line as follows: South 38°24'20" West 217.50 feet and South 78°05'28" East 18.52 feet to the New Westerly right-of-way line of Riverdale Road (SR-26), which is 56.5 feet perpendicularly distant Northwesterly from the existing centerline of said road at UDOT Project No. SP-0026 (4) 0 engineering station 145+80.13; thence South 38°25'10" West 106.32 feet; thence North 78°05'28" West 82.78 feet; thence North 51°29'55" West 42.85 feet; thence North 68°22'35" West 16.93 feet; thence North 89°41'28" West 14.21 feet; thence North 78°05'28" West 67.15 feet; thence North 11°03'04" East 75.97 feet to the South line of Lot 2 of said Riverdale Center II Subdivision; thence North 78°05'28" West 141.52 feet along said South line of Lot 2 of said subdivision to the point of beginning.

For reference purposes only:

Tax Parcel Nos. 06-274-0003, 06-274-0004,