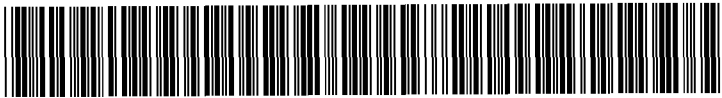




MISC 2013070277



JUL 11 2013 14:59 P 13

Fee amount: 82.00
FB: 67-36852
COMP: CC

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
07/11/2013 14:59:41.00



2013070277

Space above reserved for recording information

After Recording, Return to:
Mark B. Johnson
Fullenkamp, Doyle & Jobeun
11440 West Center Road
Omaha, NE 68144

THIRD AMENDMENT OF DECLARATION OF PROTECTIVE COVENANTS

This **THIRD AMENDMENT OF DECLARATION OF PROTECTIVE COVENANTS** (this "Third Amendment") is made as of this 26 day of June, 2013 by and among Wal-Mart Real Estate Business Trust, a Delaware Statutory Trust, Wally Properties LLC, an Oklahoma limited liability company, Simmonds Properties, Ltd, a Nebraska limited liability partnership, Buffalo Plaza LLC, a Kansas limited liability company, John Kailath Properties LLC, a Nebraska limited liability company, BNA Properties LLC, a Nebraska limited liability company, DMDS Inc., a Nebraska corporation, and Northwest I-680 LLC, a Nebraska limited liability company (collectively, "Declarants").

PRELIMINARY STATEMENTS

WHEREAS, Carol J. Gendler, Successor Trustee of the H. Lee Gendler Revocable Trust and Irvin Gendler, Trustee of the Irvin Gendler Revocable Trust executed that certain Declaration of Protective Covenants (the "Original Declaration") on January 28, 1997 and recorded the same in the office of the Register of Deeds of Douglas County, Nebraska on December 5, 1997 at Miscellaneous Book 1231, Page 334. Carol J. Gendler, Successor Trustee of the H. Lee Gendler Revocable Trust, Carol J. Gendler, Trustee of the Carol J. Gendler Revocable Trust, and Irvin Gendler, Trustee of the Irvin Gendler Revocable Trust executed that certain First Amendment to Declaration of Protective Covenants (the "First Amendment") on December 2, 1997 and recorded the same in the office of the Register of Deeds of Douglas County, Nebraska on December 5, 1997 at Miscellaneous Book 1231, Page 341. Carol J.

Gendler, Trustee of the Carol J. Gendler Revocable Trust and Irvin Gendler, Trustee of the Irvin Gendler Revocable Trust executed that certain Second Amendment to Declaration of Protective Covenants (Restated) (the "Second Amendment") on June 29, 1999 and recorded the same in the office of the Register of Deeds of Douglas County Nebraska on August 6, 1999 at Miscellaneous Book 1303, Page 377. Carol J. Gendler and Steven H. Gendler, Co-Trustees of the H. Lee Gendler Family Trust, Carol J. Gendler, Trustee of the Carol J. Gendler Revocable Trust and Irvin Gendler, Trustee of the Irvin Gendler Revocable Trust, Simmonds Properties, Ltd., a Nebraska limited partnership, and Dave's Auto Body, Incorporated, a Nebraska corporation executed that certain Partial Release of Declaration of Protective Covenants on April 3, 2003 and recorded the same in the office of the Register of Deeds of Douglas County Nebraska on April 4, 2003 at Miscellaneous Book 1507, Page 551 (the "Partial Release"). The Original Declaration, the First Amendment, the Second Amendment and the Partial Release are collectively referred to as the "Declarations" in this Third Amendment. Declarants are the owners of all of the real property burdened and benefited by the Declarations, which real property is legally described in Schedule 'A' to this Third Amendment (collectively, the "Property"); and

WHEREAS, Declarants wish to amend the Declarations as set forth below. Section 13 of the Original Declaration and Section 13 of the Second Amendment each permit the Declarants to amend the Declarations by written consent of the Owners of no less than seventy-five percent (75%) of the total area of Lots. The Declarants, constituting more than seventy-five percent (75%) of the Owners of the total area of Lots have investigated the impact which the proposed amendment to the Declarations would have on the Property and have determined that the amendment would further the character and integrity of the Property, and would further the benefits and protection afforded to the Property by the Declarations.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which Declarants hereby acknowledge, Declarants do hereby amend the Declarations and grant and release the interests as follows;

AGREEMENT:

1. Additional Permitted Use of Lot 7, Starwood South. The following sentence is added to the end of Paragraph 1 of the Original Declaration and Paragraph 1 of the Second Amendment:

"Notwithstanding any provision herein to the contrary, the permitted uses for Lot 7, Starwood South, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, shall include religious assembly and the following ancillary uses, all of which shall be part of the same development: (i) religion education classrooms, (ii) day care, (iii) gymnasium, (iv) bookstore, (v) elementary school, (vi) senior housing, (vii) sports field/event amphitheatre, and (viii) parking sufficient for each of the preceding uses."

2. Definitions. Terms used in this Third Amendment shall have the meanings set forth in the Declarations except as otherwise defined herein.
3. No Other Amendments. Except as set forth herein, the Declarations shall remain in full force and effect.
4. Counterparts. This Third Amendment may be executed in any number of counterparts, all of which shall constitute a single agreement. Signature pages may be detached from the counterparts and attached to a single copy of this Third Amendment to form one legally effective document.
5. Joinder by Mortgagees. Each of the parties hereto represent and warrant to the other parties hereto that there are no holders of mortgages or other liens on its respective parcel other than by those holders of mortgages and other liens joining in this Third Amendment.

IN WITNESS WHEREOF, the Declarants have executed this Third Amendment as of the day and year first above written.

DECLARANTS:

Wal-Mart Real Estate Business Trust, a
Delaware Statutory Trust

By *[Signature]*
Name Sarah Reyes
Its Senior manager II - West

[Handwritten initials]

STATE OF Arkansas
COUNTY OF Benton) ss.

The foregoing instrument was acknowledged before me on this 10th day of July, 2013, by Sarah Reyes, Senior manager II of Wal-Mart Real Estate Business Trust, a Delaware Statutory Trust.

TAMALA V. RAGLON
NOTARY PUBLIC
Washington County, Arkansas
My Commission Expires 3/16/2022
Commission Number 12387022

NOTARY PUBLIC

[Signature: Tamala V. Raglon]

Wally Properties LLC, an Oklahoma limited liability company

By [Signature]

Name John Alford

Its Member Manager

STATE OF Arkansas
COUNTY OF Sebastian^{ss}

The foregoing instrument was acknowledged before me on this 07th day of July, 2013, by John Alford, Member Manager of Wally Properties LLC, an Oklahoma limited liability company.

Tina Nelke
County Of Sebastian
Notary Public - Arkansas
My Commission Exp. 04/08/2015

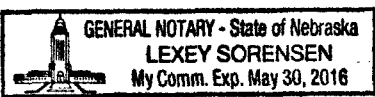
Tina Nelke
NOTARY PUBLIC

Simmonds Properties, Ltd, a Nebraska limited liability partnership

By M. Simmonds
Name Michael Simmonds
Its General Partner

STATE OF Nebraska)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me on this 9th day of April, 2013, by Michael Simmonds, General Partner of Simmonds Properties, Ltd, a Nebraska limited liability partnership.



Lexey Sorensen
NOTARY PUBLIC

Buffalo Plaza LLC, a Kansas limited liability company

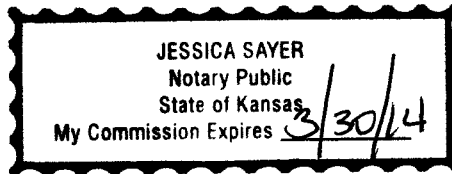
By *Don W. Zimmer*
Signature
Name DON W ZIMMER
Printed Name
Its Managing Partner
Company Position

STATE OF Kansas

County of Douglas) ss.

The foregoing instrument was acknowledge before me on this 27th day of March, 2013, by Don W. Zimmer, Managing Partner of Buffalo Plaza, LLC, a Kansas Limited Liability Company.

J. Sayer
NOTARY PUBLIC



IN WITNESS WHEREOF, the DECLARANT has executed this Release as of the day and year first above written.

DECLARANT:
John Kailath Properties LLC, an Nebraska limited liability company

By John Kailath

Name JOHN KAILATH

Printed Name

Its OWNER

Company Position or Title

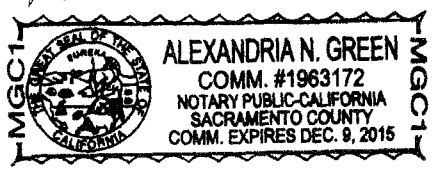
STATE OF NEBRASKA)
COUNTY OF _____) ss.
_____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2012,
by, _____ of John Kailath Properties LLC, a Nebraska limited
liability company

State of California, County of Sacramento
On 12/26/12 before me, Alexandria N. Green,
Notary Public, personally appeared John Kailath
who proved to me on the basis of satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged
to me that he/she/they executed the same in his/her/their authorized capacity(ies),
and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

NOTARY PUBLIC

Alexandria N. Green



BNA Properties LLC, a Nebraska limited liability company

By: *John E. Anderson*
Name John E. Anderson Sr
Its Managing Member

STATE OF Nebraska)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me on this 18th day of MARCH, 2013, by John E Anderson, Managing Member of BNA Properties LLC, a Nebraska limited liability company.



[Signature]
NOTARY PUBLIC

DMDS Inc., a Nebraska corporation

By:

Name

Mark G. Schumacher

Its

President

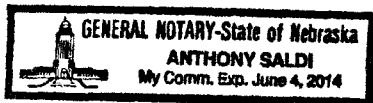
STATE OF Nebraska)

) ss.

COUNTY OF Douglas)

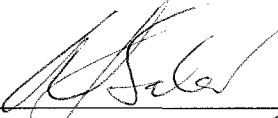
The foregoing instrument was acknowledged before me on this 18th day of March, 2013, by MARK G. Schumacher, * of DMDS Inc., a Nebraska corporation.

* President



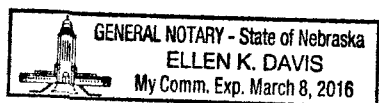
[Signature]
NOTARY PUBLIC

Northwest I-680 LLC, a Nebraska limited liability company

By 
Name Anthony Saldi
Its Managing member

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on this 10th day of APRIL, 2013, by ANTHONY SALDI, Managing Member of Northwest I-680 LLC, a Nebraska limited liability company.




NOTARY PUBLIC

SCHEDULE A
LEGAL DESCRIPTION OF PROPERTY

Lots 1 through 13, inclusive and Outlot 1, Starwood South, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

NOW KNOWN AS;

67-36852

Lots 1, 2, 3, 4, 5, 7, 13 and Outlot 1, in Starwood South, an Addition to the City of Omaha, as surveyed, platted, and recorded in Douglas County, Nebraska.

67-36854

Lots 1, 2, 3, 4, 5, 6 and Outlot A, in Starwood South Replat, an Addition to the City of Omaha, as surveyed, platted, and recorded in Douglas County, Nebraska.

67-36872

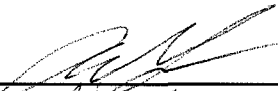
Lots 1 and 2, in Starwood South Replat 2, an Addition to the City of Omaha, as surveyed, platted, and recorded in Douglas County, Nebraska.

CONSENT BY LENDER

Equitable Bank is the Beneficiary of the Deed of Trust dated May 9, 2008 and recorded May 16, 2008, as Instrument No. 2008048651 of the Records of Douglas County, Nebraska, which Deed of Trust affects Lot 1, Lot 4, and Lot 5, inclusive, Starwood South, Douglas County Nebraska, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska, and Lot 2, Starwood South Replat 2, Douglas County Nebraska, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska, which property is subject to the Declaration of Protective Covenants dated January 28, 1997 and recorded in the office of the Register of Deeds of Douglas County, Nebraska on December 5, 1997 at Miscellaneous Book 1231, Page 334, as amended by that certain First Amendment to Declaration of Protective Covenants dated December 2, 1997 and recorded in the office of the Register of Deeds of Douglas County, Nebraska on December 5, 1997 at Miscellaneous Book 1231, Page 341, as further amended by that certain Second Amendment to Declaration of Protective Covenants (Restated) dated June 29, 1999 and recorded in the office of the Register of Deeds of Douglas County Nebraska on August 6, 1999 at Miscellaneous Book 1303, Page 377, as further amended by that certain Partial Release of Declaration of Protective Covenants dated April 3, 2003 and recorded in the office of the Register of Deeds of Douglas County Nebraska on April 4, 2003 at Miscellaneous Book 1507, Page 551, as further amended by this Third Amendment of Declaration of Protective Covenants of even date herewith (collectively, the "Declaration"). The Beneficiary hereby consents to this Third Amendment and agrees that the Deed of Trust will be subordinate and subject to the Declaration, as modified by this Third Amendment.

Dated this 8 day of July 2013.

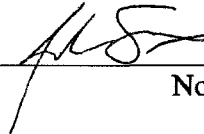
EQUITABLE BANK

By: 
Name: Adam Lammers
Its: Vice President

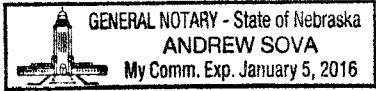
STATE OF Nebraska)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged, subscribed and sworn to before me by Adam Lammers, Vice President of Equitable Bank, a on behalf of said , this 8 day of July, 2013.

[Seal]



Notary Public



CONSENT BY LENDER

Northwest I-680 Investments, LLC, a Nebraska limited liability company, is the Beneficiary of the Deed of Trust dated August 25, 2010 and recorded December 8, 2011, as Instrument No. 2011105414 of the Records of Douglas County, Nebraska, which Deed of Trust affects Lot 1, Lot 4, and Lot 5, inclusive, Starwood South, Douglas County Nebraska, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska, and Lot 2, Starwood South Replat 2, Douglas County Nebraska, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska, which property is subject to the Declaration of Protective Covenants dated January 28, 1997 and recorded in the office of the Register of Deeds of Douglas County, Nebraska on December 5, 1997 at Miscellaneous Book 1231, Page 334, as amended by that certain First Amendment to Declaration of Protective Covenants dated December 2, 1997 and recorded in the office of the Register of Deeds of Douglas County, Nebraska on December 5, 1997 at Miscellaneous Book 1231, Page 341, as further amended by that certain Second Amendment to Declaration of Protective Covenants (Restated) dated June 29, 1999 and recorded in the office of the Register of Deeds of Douglas County Nebraska on August 6, 1999 at Miscellaneous Book 1303, Page 377, as further amended by that certain Partial Release of Declaration of Protective Covenants dated April 3, 2003 and recorded in the office of the Register of Deeds of Douglas County Nebraska on April 4, 2003 at Miscellaneous Book 1507, Page 551, as further amended by this Third Amendment of Declaration of Protective Covenants of even date herewith (collectively, the **"Declaration"**). The Beneficiary hereby consents to this Third Amendment and agrees that the Deed of Trust will be subordinate and subject to the Declaration, as modified by this Third Amendment.

Dated this 2nd day of July 2013.

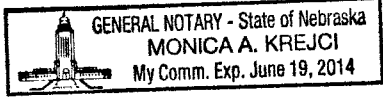
NORTHWEST I-680 INVESTMENTS, LLC,
a Nebraska limited liability company

By: *[Signature]* *att'y-in-fact*
Name: Joseph J. Skudlarek
Its: Attorney in Fact

STATE OF Nebraska
)^{ss.}
COUNTY OF Douglas

The foregoing instrument was acknowledged, subscribed and sworn to before me by Joseph J. Skudlarek, Attorney in Fact for Northwest I-680 Investments, LLC, a Nebraska limited liability company on behalf of said limited liability company, this 2 day of July, 2013.

[Seal]



[Signature]
Notary Public