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2017006842

Prepared by, return to: Nathan S. Allen, 5820 Westown Pkwy, West Des Moines, IA 50266 (515)267-2870

**SECOND AMENDMENT TO  
 DECLARATION OF EASEMENTS WITH COVENANTS AND  
 RESTRICTIONS AFFECTING LAND**

THIS SECOND AMENDMENT TO DECLARATION OF EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND (hereinafter, the "Amendment") is made and entered into this 18th day of January, 2017, by HY-VEE, INC., an Iowa corporation, ("Hy-Vee" and/or "Developer"); WITNESSETH:

WHEREAS, Developer declared certain real property located in Omaha, Douglas County, Nebraska legally described as Lots 1, 2, 3, 4, 5, 6, 7 and 8, and Outlots A, B, C and D, Pacific Springs Place Addition, as surveyed, platted and recorded in Douglas County, Nebraska to be subject to that certain Declaration of Easements with Covenants and Restrictions Affecting Land dated March 1, 2012 and recorded May 22, 2012 in the office of the Register of Deeds of Douglas County, Nebraska as Instrument # 2012049777, as amended by that certain First Amendment to Declaration of Easements with Covenants and Restrictions Affecting Land dated October 10, 2012 and recorded October 12, 2012 in the office of the Register of Deeds of Douglas County, Nebraska as Instrument # 2012103477 (collectively, the "Original Declaration"); and

WHEREAS, Developer desires to amend the Original Declaration as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, it is agreed as follows:

1. Common Expenses.
  - a) Notwithstanding anything to the contrary contained in the Original Declaration, including without limitation Section 6(b)(v) therein, the owner of Outlot A, Outlot B, Outlot C and Outlot D shall not be charged a pro rata share of Common Expenses.

- b) The manner in which Lot owners' pro rata share of Common Expenses is calculated as set forth in Section 6(b)(v) is hereby amended by eliminating the square footage of Outlot A, Outlot B, Outlot C and Outlot D from the total square footage of the Shopping Center in the denominator of the fraction to which the Common Expenses are multiplied.

2. Ratification. Except as modified by this Amendment, the Original Declaration is ratified and confirmed by Developer.

IN WITNESS WHEREOF, Developer has caused this Amendment to be executed all on or as of the day and year first above written.

**HY-VEE, INC.**

By: [Signature]  
Jeffrey Markey  
Its: Sr. Vice President

By: [Signature]  
Nathan Allen  
Its: Assistant Secretary

STATE OF IOWA, COUNTY OF POLK, ss

On this 19<sup>th</sup> day of January, 2017, before me, the undersigned, a Notary Public in and for the state of Iowa, personally appeared Jeffrey Markey and Nathan Allen, to me personally known, who being by me duly sworn did say that they are the Sr. Vice President and Assistant Secretary, respectively, of Hy-Vee, Inc., an Iowa corporation, that the instrument to which this is attached was signed on behalf of said corporation by authority of its Board of Directors; and that the said Jeffrey Markey and Nathan Allen as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.



[Signature]  
Notary Public in and for the  
State of Iowa