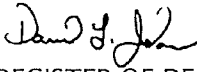


FILED
CASS COUNTY, NE.

2016 Aug 10 AM 11:09
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REGISTER OF DEEDS
#04162 \$52.00

**Prepared by and when recorded
return to:**

Andrew B. Zarda
Duggan, Shadwick, Doerr & Kurlbaum LLC
11040 Oakmont Street
Overland Park, KS 66210

COVENANTS AND RESTRICTIONS AGREEMENT

THIS COVENANTS AND RESTRICTIONS AGREEMENT (the "Agreement") is made this 9 day of August 2016 by and between **Colby Series I, LLC, a Kansas limited liability company** (hereinafter referred to as "Grantee") whose address is **13356 Metcalf Avenue, Overland Park, Kansas 66213**, and **Joe Marvin Carr and Ingrid Carr**, husband and wife, and **Dixie Carr**, an unmarried person (hereinafter collectively referred to as "Grantor") whose address is **355 US 34, Eagle, NE 68347**.

WITNESSETH:

WHEREAS, Grantee is the owner of that certain tract or parcel of land lying and being in **Cass County, Nebraska**, being more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference (hereinafter referred to as the "Grantee Tract") and shown on the site plan attached hereto as Exhibit "C" ("Site Plan"); and

WHEREAS, Grantor is the owner of that certain tract or parcel of land contiguous to the Grantee Tract and lying and being in **Cass County, Nebraska**, and being more particularly described on Exhibit "B" attached hereto and made a part hereof by this reference and shown on the Site Plan (hereinafter referred to as the "Grantor Tract"; the Grantee Tract and the Grantor Tract each being herein sometimes referred to individually as a "Tract" and collectively as the "Tracts"); and

WHEREAS, Grantee and Grantor desire to establish certain rights benefiting and burdening Tracts, as hereinafter provided.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the


Chicago Title Company, LLC

premises, the mutual benefits to be derived by the provisions of this Agreement, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties hereto, Grantee and Grantor do hereby covenant and agree as follows:

1. Benefited Parties/Binding Effect. The rights and obligations established in this Agreement shall run with the land and be for the benefit of the Tracts and shall run with the land and be binding upon the Tracts. The owners of the Tracts may delegate the right to use and maintain the rights granted herein to their respective tenants, customers, invitees, employees, agents, contractors and licensees, successors and assigns.

2. Restrictions on Grantor Tract. Grantor covenants and agrees not to lease, rent, occupy, or allow to be leased, rented or occupied, any part of the Grantor Tract for the purpose of conducting business as or for use as a Dollar Express, Family Dollar Store, Bill's Dollar Store, Fred's, Dollar Tree, Ninety-Nine Cents Only, Deals, Big Lots, Walgreens, CVS, Rite Aid, Wal-Mart, Wal-Mart Supercenter, Wal-Mart Neighborhood Market, or any Wal-mart retail concept.

3. Use Restrictions on Grantee Tract and Grantor Tract. Each of Grantee and Grantor covenants and agrees not to lease, rent, occupy, or allow to be leased, rented or occupied, any part of its Tract to be used or operated for any of the following: (a) for any unlawful purpose or in any way which would constitute a legal nuisance to an adjoining owner or occupant; (b) as a discotheque, dance hall or night club; (c) as a massage parlor; (d) funeral parlor; (e) bingo parlor; (f) any use which emits a strong, unusual, offensive or obnoxious odor, fumes, dust or vapors, or any sound which can be heard outside of any buildings on the Grantee Tract or Grantor Tract, except that any usual paging system be allowed; (g) any distilling, refining, smelting, or mining operation; (h) any mobile home park, trailer court, labor camp, junk yard, recycling facility or stock yard; (i) any dumping, disposing, incineration or reduction of garbage (exclusive of garbage compactors located near the rear of any building); (j) any dry cleaners performing on-site cleaning services; (k) any animal raising facilities (except this provision shall not prohibit pet shops and shall not prohibit the provision of veterinary services in connection with pet shops or pet supplies business); (l) any establishment selling or exhibiting paraphernalia for use with illicit drugs, and establishment selling or exhibiting materials or devices which are adjudicated to be pornographic by a court of competent jurisdiction, and any adult bookstore, adult video store or adult movie theater; (m) any bar or tavern; provided, however, a bar within a restaurant shall be permitted; (n) any pool or billiard hall, gun range or shooting gallery, or amusement or video arcade; and (o) any use which creates fire, explosives or other hazards.

4. Manner of Performing Work. Whenever a party shall perform any construction, maintenance, repairs or replacements on its Tract or as otherwise permitted herein, such work shall be done expeditiously and in a good and workmanlike manner and in accordance with all applicable laws, codes, rules, statutes and regulations of governmental authorities having jurisdiction thereof. Such work shall be carried out in such manner so as to cause the least amount of disruption to any business operations being conducted on the surrounding land as is reasonably practicable.

5. Extent of Liability. Notwithstanding any other provision contained in this Agreement to the contrary, Grantee and Grantor hereby expressly agree that the obligations and liability of each of them shall be limited solely to such party's interest in its respective Tract, as such interest is constituted from time to time. Grantee and Grantor agree that any claim against a party hereto shall be confined to and satisfied only out of, and only to the extent of, such party's interest in its Tract, as such interest is constituted from time to time. Nothing contained in this paragraph shall limit or affect any right that any party might otherwise have to seek or to obtain injunctive relief or to specifically enforce the rights and agreements herein set forth, provided that such injunctive relief or specific performance does not involve the payment of money from a source other than such party's interest in its Tract, as such interest may be constituted from time to time.

6. Duration. The provisions of this Agreement shall run with and bind the land described herein and shall be and remain in effect perpetually to the extent permitted by law. Notwithstanding anything to the contrary contained herein, the restrictions contained in Section 2 shall terminate thirty (30) years after the date of this Agreement.

7. Miscellaneous. This Agreement shall be governed in accordance with the laws of the State of **Nebraska**. The paragraph headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof. Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers. No party hereto shall be obligated to take any action to enforce the terms of this Agreement or to exercise any right, power, privilege or remedy granted, created, conferred or established hereunder. This Agreement may be amended, modified or terminated only in writing, executed and acknowledged by all parties to this Agreement or their respective successors or assigns, and only with the prior written consent of Dollar General Corporation, so long as it, its successors, assigns or assignees is occupying the property. Time is of the essence of this Agreement.

[Signature pages follow]

IN WITNESS WHEREOF, Grantee and Grantor have set their hands and seals as of the day, month and year first above written.

Grantee:

Colby Series I, LLC,
A Kansas limited liability company

By: [Signature]
Tyler S. Oliver, Manager

STATE OF KANSAS)
)ss.
COUNTY OF JOHNSON)

On this 8th day of August, 2016, before me appeared Tyler S. Oliver, to me personally known, who, being by me duly sworn, did say that he is the Manager of **Colby Series I, LLC**, a Kansas limited liability company, and that said instrument was signed on behalf of said company by authority of its members, and he acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

[Signature]
Notary Public
Print Name: Jean A. Whitenack

My Commission Expires:

4/19/17



Grantor:

Joe Carr
Joe Marvin Carr

Ingrid Carr
Ingrid Carr

Dixie Carr
Dixie Carr

STATE OF Nebraska)
)ss.
COUNTY OF Cass)



Before, the undersigned, a Notary Public in and for said county and state, this 8th day of August, 2016, personally appeared Joe Marvin Carr and Ingrid Carr, husband and wife, personally known to me to be the persons who executed the foregoing Agreement in writing and being first duly sworn, acknowledged the execution of the same as a voluntary act for the uses and purposes therein set forth with full knowledge of its content and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Nick Nystrom
Notary Public
Print Name: Nick Nystrom

My Commission Expires:
3/18/2017

STATE OF Nebraska)
)ss.
COUNTY OF Cass)



Before, the undersigned, a Notary Public in and for said county and state, this 8th day of August, 2016, personally appeared Dixie Carr, an unmarried person, personally known to me to be the person who executed the foregoing Agreement in writing and being first duly sworn, acknowledged the execution of the same as a voluntary act for the uses and purposes therein set forth with full knowledge of its content and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Nick Nystrom
Notary Public
Print Name: Nick Nystrom

My Commission Expires:
3/18/2017

EXHIBIT "A"

Legal Description of Grantee Tract

Lot 1 of the Eagle Eyrie Addition to the Village of Eagle, a subdivision of a part of the Northeast Quarter of Section 29, Township 10 North, Range 9 East, of the 6th Principal Meridian, Cass County, Nebraska, according to the recorded plat thereof, and being more particularly described as follows:

Referring to the Northeast corner of said Section 29; thence westerly on an assumed bearing of North 90°00'00" West, on the North line of the Northeast Quarter of Section 29, 955.91 feet; thence southerly South 00°00'00" East, 65.00 feet, to a point of intersection on the southerly right of way line of Highway 34; thence South 00°06'25" East, 13.00 feet; thence westerly South 90°00'00" West, 66.00 feet, to the true Point of Beginning; thence following the perimeter of the described tract on the following bearings and distances: South 00°06'25" East, 290.00 feet; thence South 90°00'00" West, 180.00 feet; thence North 00°06'25" West, 290.00 feet; thence North 90°00'00" East, 180.00 feet, to the Point of Beginning.

Containing a total calculated area of 52,200 square feet, or 1.198 acres, more or less.

EXHIBIT "B"

Legal Description of Grantor Tract

The Northeast Quarter (NE1/4) in Section Twenty-Nine (29), Township Ten (10) North, Range Nine (9) East of the 6th Principal Meridian, Cass County, Nebraska, EXCEPT that portion deeded to the State of Nebraska for Highway Purposes as described in the Warranty Deed filed March 23, 1987 in Book 141, Page 207.

LESS AND EXCEPT the following tract:

Lot 1 of the Eagle Eyrie Addition to the Village of Eagle, a subdivision of a part of the Northeast Quarter of Section 29, Township 10 North, Range 9 East, of the 6th Principal Meridian, Cass County, Nebraska, according to the recorded plat thereof, and being more particularly described as follows:

Referring to the Northeast corner of said Section 29; thence westerly on an assumed bearing of North 90°00'00" West, on the North line of the Northeast Quarter of Section 29, 955.91 feet; thence southerly South 00°00'00" East, 65.00 feet, to a point of intersection on the southerly right of way line of Highway 34; thence South 00°06'25" East, 13.00 feet; thence westerly South 90°00'00" West, 66.00 feet, to the true Point of Beginning; thence following the perimeter of the described tract on the following bearings and distances: South 00°06'25" East, 290.00 feet; thence South 90°00'00" West, 180.00 feet; thence North 00°06'25" West, 290.00 feet; thence North 90°00'00" East, 180.00 feet, to the Point of Beginning.

Containing a total calculated area of 52,200 square feet, or 1.198 acres, more or less.

EXHIBIT "C"

Site Plan

