

CHUKES: 106.6 0	2015 7188 26 PM 3 26	STATE OF WEBRASKA) SS
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After recording, return to:
Grand Island Abstract, Escrow & Title Co.
704 W. 3rd Street
Grand Island, NE 68801
Attn: Marnie Schager Sundermeier

FIFTH AMENDMENT TO DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS

This Fifth Amendment to Declaration of Restrictions and Grant of Easements ("Fifth Amendment") is made and entered into on this <u>25</u> day of March, 2015 ("Effective Date"), by and among the property owners who are signatories herein ("Property Owners").

RECITALS

A. Robert M. Allen Family Limited Partnership, a Nebraska limited partnership ("Allen") and Albertson's, Inc. ("Albertson's") entered into a certain Declaration of Restrictions and Grant of Easements dated March 11, 1999 (the "1999 Declaration"). The 1999 Declaration was recorded on June 24, 1999 as Instrument No. 99 106376 in the Official Records of Hall County, Nebraska. The 1999 Declaration was amended by a certain First Amendment to Declaration of Restrictions and Grant of Easements dated August 21, 2000 (the "First Amendment"). The First Amendment was recorded on September 25, 2000 as Instrument No. 0200007944. The 1999 Declaration and the First Amendment were amended by a certain Second Amendment to Declaration of Restrictions and Grant of Easements dated July 24, 2002 (the "Second Amendment"). The Second Amendment was recorded on July 25, 2002 as Instrument No. 0200207725. The 1999 Declaration, the First Amendment and the Second Amendment were amended by a certain Third Amendment to Declaration of Restrictions and Grant of Easements dated August 15, 2008 (the "Third Amendment"). The Third Amendment

was recorded on August 18, 2008 as Instrument No. 0200807155. The 1999 Declaration, the First Amendment, the Second Amendment and the Third Amendment were amended by a certain Fourth Amendment to Declaration of Restrictions and Grant of Easements dated August 29, 2011 (the "Fourth Amendment"). The Fourth Amendment was recorded on August 30, 2011 as Instrument No. 0201106471. The 1999 Declaration, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and this Fifth Amendment are hereinafter collectively referred to as the "Declaration").

- B. Allen Webb Road LLC is the owner of Parcel 28, legally described as Lot 11, Meadowlark West Fourth Subdivision, a subdivision, as surveyed, platted and recorded in Hall County, Nebraska ("Lot 11"), as depicted on the Site Plan attached hereto as Exhibit "A".
 - C. William D. Raile or his assigns is about to purchase Lot 11.
- D. The Property Owners are the Owners of the Parcels containing in the aggregate at least ninety percent (90%) of the total square footage of Building Area in the Shopping Center as required by Section 8.5 of the 1999 Declaration for the purpose of modifying the Declaration.
- E. The parties desire to make certain modifications to the Declaration as set forth below.

Agreement

Now, therefore, in consideration of the foregoing Recitals which are incorporated herein by this reference, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

- 1. Recitals. Except as set forth herein, the recitals are incorporated herein as if set forth in full.
- 2. <u>Capitalized Terms</u>. All capitalized terms that are not defined in this Fifth Amendment shall have the meanings respectively given to them in the 1999 Declaration, the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment.
- 3. <u>Conflict or Inconsistency</u>. In the event of any conflict or inconsistency between the provisions of this Fifth Amendment and the 1999 Declaration, the First Amendment, the Second Amendment, the Third Amendment or the Fourth Amendment, the provisions of this Fifth Amendment shall control.
- 4. <u>Use Restrictions</u>. Notwithstanding the provisions of Article 5, Section 5.2(a) of the Declaration, a gym, health spa or fitness center shall be a permitted use with respect to Lot 11, and such use shall not be included within the definition of an "entertainment or recreational facility" as it relates to Lot 11.

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- 5. <u>Counterparts</u>. This Fifth Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement.
- 6. **Ratification**. Except as amended herein, the Declaration remains in full force and effect and the parties hereby ratify and confirm the Declaration as amended hereby.

Executed as of the date and year first written above.

[THE BALANCE OF THIS PAGE LEFT INTENTIONALLY BLANK – SIGNATURES APPEAR ON THE FOLLOWING PAGES]

ROBERT M. ALLEN FAMILY PARTNERSHIP,

a Nebraska limited partnership

Kristin M. Allen, General Partner

Owner of:

Lots 4, 6 and 7, Meadowlark West Fourth Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcels 1, 3 and 4, respectively.

STATE OF <u>Nebraska</u>):ss.
COUNTY OF <u>Alams</u>)

On this 23° day of March, 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared Kristin M. Allen, to me known to be the General Partner of **ROBERT M. ALLEN FAMILY LIMITED PARTNERSHIP**, a Nebraska limited partnership, who executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited partnership, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:

Notary Public in and for the

State of Nebraska

Residing at Juniota Nebraska

[NOTARY SEAL]

GENERAL NOTARY - State of Nebraska
CHRISTINE M. GUEST
My Comm. Exp. June 16, 2017

ALLEN WEBB ROAD LLC, a Nebraska limited liability company

By:

Kristin M. Allen, Manager

Owner of:

Lots 11 and 12, Meadowlark West Fourth Subdivision, and Lot 1, Meadowlark West Sixth Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcels 28, 27 and 26, respectively.

STATE OF <u>Nebraska</u>):ss
COUNTY OF <u>Adams</u>)

On this Arday of March, 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared Kristin M. Allen, to me known to be the Manager of ALLEN WEBB ROAD LLC, a Nebraska limited liability company, who executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:

June 16 2017

Notary Public in and for the

State of Nebraska

Residing at Juniata Nederska

[NOTARY SEAL]

GENERAL NOTARY - State of Nebraska CHRISTINE M. GUEST My Comm. Exp. June 16, 2017

STATE OF NEBRASKA

certificate first above written.

GENERAL NOTARY - State of Nebraska YVONNE L. WRIGHT My Comm. Exp. Sept. 30, 2018

[NOTARY SEAL]

My commission expires:

COUNTY OF \

GRAND ISLAND VENUE, L.L.C., a Nebraska limited liability company Raymond J. O'Connor, Managing Member Owner of: Lots 3 and 5, Meadowlark West Fourth Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcels 24 and 2, respectively. On this 27 day of October, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Raymond J. O'Connor, to me known to be the Managing Member of GRAND ISLAND VENUE, L.L.C., a Nebraska limited liability company, who executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument. WITNESS MY HAND and official seal hereto affixed the day, month and year in this

(Signatures continue on the following pages)

Residing at

	HOME DEPOT U.S.A., INC., a Delaware corporation
	By:
	Name:
	Title:
	Owner of:
	Lot 8, Meadowlark West Fourth Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcel 5.
STATE OF	
COUNTY OF)	
executed the foregoing instrument, and ac	, 2015, before me, the undersigned, a Notary Public in to me known to be the EPOT U.S.A., INC., a Delaware corporation, who eknowledged to me that the said instrument is the free ation, for the uses and purposes therein mentioned, and execute the said instrument.
WITNESS MY HAND and offici certificate first above written.	al seal hereto affixed the day, month and year in this
My commission expires:	
[NOTARY SEAL]	Notary Public in and for the State of Residing at
[HOTAKI BEAL]	

e:er of: 0, Meadowlark West Fourth Subdivision, of Grand Island, Hall County, Nebraska, known as Parcel 29.
er of: 0, Meadowlark West Fourth Subdivision, of Grand Island, Hall County, Nebraska, known as Parcel 29.
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0, Meadowlark West Fourth Subdivision, of Grand Island, Hall County, Nebraska, known as Parcel 29.
of Grand Island, Hall County, Nebraska, known as Parcel 29.
- 1
5, before me, the undersigned, a Notary Public , to me known to be the a Nebraska limited liability company, who edged to me that the said instrument is the free ity company, for the uses and purposes therein rized to execute the said instrument.
hereto affixed the day, month and year in this
ry Public in and for the of Nebraska ding at

company

CUSTARD CATS, LLC, a Kansas limited liability

David L. Dreiling, Managing Meinber Owner of: Lot 19, Meadowlark West Third Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcel 19. STATE OF KANSAS

COUNTY OF Pollandonic On this 23-day of Outsber, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared David L. Dreiling, to me known to be the Managing Member of CUSTARD CATS, LLC, a Kansas limited liability company, who executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument. WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written. My commission expires: 9-13-16 Notary Public in and for the State of Kansas Residing at 1719 Hollar Trac La Manhoffen KS 16602 [NOTARY SEAL] BLAKE BAUER

	JOAD, L.L.C., a Nebraska limited liability company
	By: <u>Judieg albert</u> Name: <u>AUDREY ALBERT</u> Title: <u>SECRETARIAL OFFICER</u>
	Owner of:
	Lot 2, Meadowlark West Seventh Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcel 18.
STATE OF	
On this day of and for said State, personally appeared	, 2014, before me, the undersigned, a Notary Public in , to me known to be the L.L.C., a Nebraska limited liability company, who
executed the foregoing instrument, and acl	knowledged to me that the said instrument is the free liability company, for the uses and purposes therein
	I seal hereto affixed the day, month and year in this
My commission expires:	E NOTARY TACHMENT
	State of
[NOTARY SEAL]	Residing at

State of California	l
County of San Diego	
On Oct. 23 2014 before me, Th	as L Aquirre, Notary Public
personally appeared — Audre	Albert.
personally appeared	Name(s) of Signer(s)
THAIS L. AGUIRRE Commission # 1968577 Notary Public - California San Diego County My Comm. Expires Mar 2, 2016	who proved to me on the basis of satisfactor evidence to be the person(\$) whose name(\$) is/a subscribed to the within instrument and acknowledge to me that he/she/they executed the same his/her/their—authorized capacity(ies), and that his/her/their—signature(\$) on the instrument the person(\$), or the entity upon behalf of which the person(\$) 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.
	Signature: Chars & Cycum
Place Notary Seal Above OP1	Signature of Notaby Public
Though the information below is not required by and could prevent fraudulent removal	law, it may prove valuable to persons relying on the document and reattachment of this form to another document.
Description of Attached Descriptions	
Title or Type of Document: 500 Comers	nament to dee of Assuctions
Document Date:	ndment to dec of Mastrictions Number of Pages:
Signer(s) Other Than Named Above:	
Capacity(ies) Claimed by Signer(s)	
Signer's Name:	Signer's Name:
☐ Corporate Officer — Title(s):	<u> </u>
☐ Individual	□ Individual
☐ Partner — ☐ Limited ☐ General	□ Partner — □ Limited □ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
	☐ Other:
Other:	
□ Other:Signer Is Representing:	Signer Is Representing:

	limited liability company
	By: Raymond O'Connor, Managing Member
	Owner of:
	Lots 1 and 2, Meadowlark West Ninth Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcels 17 and 16, respectively.
STATE OF NEBRASKA) :ss.	
and for said State, personally appeared Ray Member of SOUTHEAST CROSSINGS , executed the foregoing instrument, and ack	2014, before me, the undersigned, a Notary Public in mond J. O'Connor, to me known to be the Managing L.L.C., a Nebraska limited liability company, who knowledged to me that the said instrument is the free liability company, for the uses and purposes therein horized to execute the said instrument.
WITNESS MY HAND and official certificate first above written.	I seal hereto affixed the day, month and year in this
My commission expires: 9-30-18 GENERAL NOTARY - State of Nebrasica YVONNE L. WRIGHT My Comm. Exp. Sept. 30, 2018 [NOTARY SEAL]	Notary Public in and for the State of Nebraska Residing at Cleand Island

	CFT DEVELOPMENTS, LLC, a California
	limited liability company
APPROVED AS TO FORM BY MM M	Ву:
	Name: CHAPUE SHEN
	Title: Manager
	Owner of:
	Lot 3, Meadowlark West Ninth Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcel 15.
STATE OF CALIFORNIA)	
) :ss.	
COUNTY OF)	See Attached.
and for said State, personally appeared	, 2015, before me, the undersigned, a Notary Public in to me known to be the TELOPMENTS, LLC, a California limited liability
company, who executed the foregoing instrument is the free and voluntary act an	instrument, and acknowledged to me that the said ad deed of said limited liability company, for the uses ath stated that he/she is authorized to execute the said
WITNESS MY HAND and official certificate first above written.	al seal hereto affixed the day, month and year in this
My commission expires:	
wiy commission expires.	
	Notary Public in and for the
	State of California
DIOTADN CEALL	Residing at
[NOTARY SEAL]	

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On February 26, 2015, before me, **CAITLYN ANNE COX**, Notary Public, personally appeared **CHARLIE SHEN**, who proved to me on the basis of satisfactory evidence to be the person(e) whose name(e) 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(e) on the instrument the person(e), or the entity upon behalf of which the person(e) 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 name and official seal.

CAITLYN ANNE COX
Commission # 2037101
Notary Public - California
Los Angeles County
My Comm. Expires Aug 16, 2017

Caitlyn Ánne Cox

Notary Public in and for the

State of California

My commission expires: August 16th, 2017

FIFTH AMENDMENT TO DECLARATION OF RESTIRCITONS AND GRANT OF EASEMENTS

Re: Certain Real Property located within GRAND ISLAND, NE.

Signer: Charlie Shen, Manager of CFT Developments, LLC, a California limited liability company

> AMES DEVELOPMENT, LLC, a Nebraska limited liability company

By:

Gary Rohwer, President

Owner of:

Lot 14, Meadowlark West Third Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcel 14.

STATE OF NEBRASKA COUNTY OF DOUGLAS

On this 14th day of Nowmood, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Gary Rohwer, to me known to be the President of AMES DEVELOPMENT, LLC, a Nebraska limited liability company, who executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:

Notary Public in and for the

State of Nebraska

Residing at 12307 W. Center Rd.

Omala, NE 68144

IOTARYJETE A INCCLAIN General Notary State of Nebraska My Commission Expires Aug 13, 2017

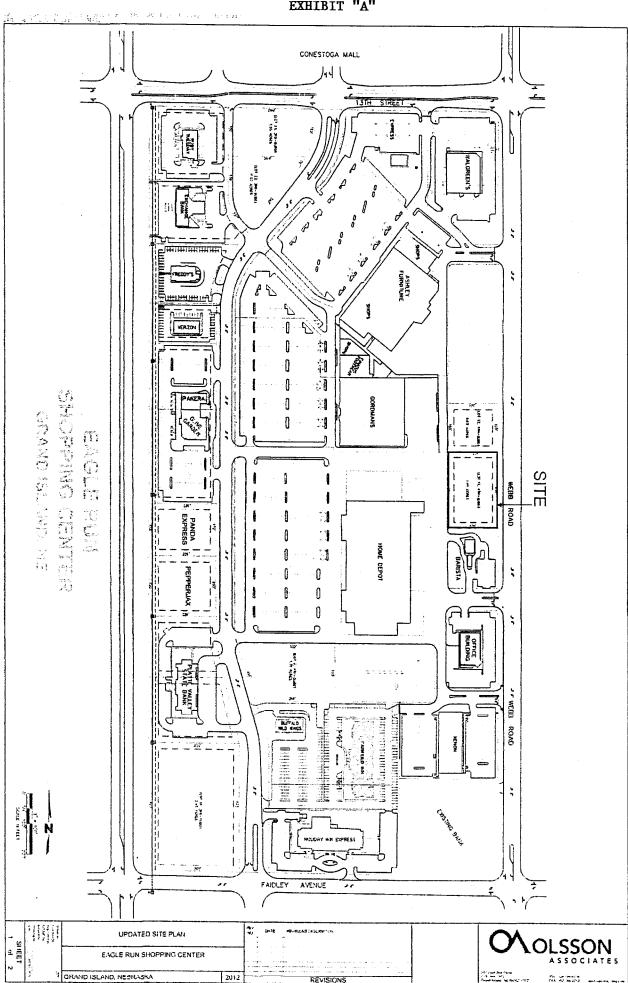


Exhibit A Per Berley Jan. 16, 2015 STANDARD JUNCTION BOX DETAIL DRAWN BY: Beryl SHEET No. D CONSTRUCTION NOTES Lei Eleven (11), Meadowlark West Fourth Subdivision In The City Of Grand Island, Nebraska (D BRUNG APPROMATELY 24 UR. FT.
OF DETECTS, 28" BRUTONESS DOM. FPEC
A. DUNSTRACT STANDAND AMERINA BOX,
THY OF BOX BLCK, 14700.00, IAPA THE SEC. 147000.00, IAPA THE SEC. 14700.00, IAPA THE SEC. 14700.00, IAPA THE SEC. 147000.00, IAPA THE S © CONSTRUCT STANDARD JENCTION BOX, TOP OF GRATE ELEY, 1869.AS, FLOW LINE ELEY, 1863.ED (D'FIRMESH AND LITT 178 LIK. FL. OF 12" E.C.P., CLASS M, SLOPE, 1.763 © CONSTRUCT STANDARD JUNCTION BOX, NO OF GRATE DLV. 1869.93, FLOW LME REV. 1866.00 C) FURNICSH AND LAT 16 LIN, FL. OF 12" R.C.P. GLASS N, SLOPE 5.13X CHARGE AND CAMPER AND SERVICE AND CONTRACT OF SERVICE - 00 GRADING PLAN Section A-A 1 DATE: Neventher 21, 2014 CHECKED BY: L.B. SUBMITTED BY: 曹 HER HILLY DE . All of the nor-side starm system on this tol was designed veing 25-year released week. Webb b 100 Anderson Area of State of Stat AND THE OF The Base of the Party of the Control 256.20 4 (256.27 0) 5 10 10 20 1 PROPOSED 中華 -17' USITy Enternent Scale: 1" = 20" A tract of land comprising all of Lot Eleven (11), Meadowlark West Fourth subdivision, in the City of Grand Island, Hall County, Nebraska P.C. Concrete Wolf. 9 () 一 * 13P 100 串 車 車 Legal Description