


THIS INSTRUMENT IS PREPARED BY,
AND UPON RECORDATION, RETURN TO:

ABRAHAM TRIEGER, ESQ.
2 NORTH LASALLE STREET, SUITE 1300
CHICAGO, ILLINOIS 60602


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Shelby Cnty Judge of Probate, AL
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THIS SPACE FOR RECORDER'S USE ONLY

**AMENDMENT NO. 3 TO
DECLARATION OF EASEMENTS AND RESTRICTIONS**

This Amendment No. 3 to Declaration of Easements and Restrictions dated November 19, 2013 (this "Amendment") is made by **RUSHMORE LEE BRANCH, LLC**, an Illinois limited liability company, for itself and its successors and assigns ("Owner"),

RECITALS:

WHEREAS, Owner is the owner of that certain real estate located in the City of Hoover, Shelby County, Alabama, which tracts or parcels of real property are collectively and individually referred to in this Amendment as the "Owner's Real Estate" and are legally described in Exhibit A attached hereto and made a part hereof;

WHEREAS, located within, and constituting a portion of, Owner's Real Estate are four parcels of real property which are designated as "Lot 1A", "Lot 1B", "Lot 1C", and "Lot 1D", and are legally described, in Exhibit B attached hereto and made a part hereof, and are generally shown on the Site Plan set forth in Exhibit C attached hereto and made a part hereof (said four parcels being referred to in this Amendment individually as a "Lot", and collectively as the "Lots");

WHEREAS, as of the date of this Amendment, the Owner's Real Estate and other real property are subject to: (i) that certain Declaration of Easement and Restrictions dated May 26, 2004 being filed for record in the Probate Office of Shelby County, Alabama on June 1, 2004 under Instrument Number 20040601000288850 (sometimes referred to in this Amendment as the "DER"); (ii) that certain Amendment No. 1 to Declaration of Easement and Restrictions dated June 21, 2004 under Instrument Number 20040624000345520; and (iii) that certain Amendment to Declaration of Easement and Restrictions dated December ____, 2011 under Instrument Number 20120511000165500 (the documents referred to in clauses (i), (ii) and (iii) of this Recital being collectively referred to in this Amendment as the "Existing Declaration"); and

WHEREAS, Owner desires by this Amendment to amend the Existing Declaration, and to grant certain easements and impose certain covenants, conditions and restrictions with respect to the Owner's Real Estate, all as set forth in this Amendment.

NOW, THEREFORE, Owner does hereby declare and covenant that Owner and all present and future owners, occupants and other permittees of Owner's Real Estate, and all tracts and parcels of land within the Owner's Real Estate shall be and hereby are subject to the terms, covenants, easements, restrictions and conditions hereinafter set forth in this Amendment, so that Owner's Real Estate, and all tracts and parcels of land within the Owner's Real Estate shall be maintained, kept, sold and used in full compliance with this Amendment.

AGREEMENT

1. Definitions. Unless otherwise expressly provided in this Amendment, all capitalized terms used in this Amendment shall have the respective definitions ascribed to such capitalized terms in the Existing Declaration.

2. Treatment of the Lots as Pads. The Existing Declaration is hereby, and shall be, amended, so that as of the Effective Date (as hereinafter defined): (i) the Lots, and each of them, shall, for purposes of the Existing Declaration and this Amendment, be deemed to be, and included in the definition in the Existing Declaration of, "Pads"; and (ii) the term "Pad Owner", as such term is used in the Existing Declaration and in this Amendment, shall be deemed to be, and include, as of any time following the Effective Date the fee simple owner of a Lot at such time, the successors and assigns of a fee simple owner of a Lot who become owners of all or any portion of a Lot.

3. Easements. Without limiting the scope of Paragraph 2 of this Amendment, but for the purpose of removing any doubt, Owner hereby establishes and creates for the benefit of, and as an appurtenance to, the Lots, and for the benefit of the fee simple owners thereof from time to time and their Permittees, the non-exclusive perpetual easements granted and conveyed under and pursuant to the Article II of the DER, subject to the reservations, conditions and other terms of the Existing Declaration.

4. Common Areas. The definition in Section 1.3 of the DER of "Common Areas" shall be, and hereby is, amended. The term "Common Areas", as used in the Existing Declaration, as amended by this Amendment, shall mean the Owner's Real Estate, other than the Building Areas, as such areas may change from time to time. Those portions of the Building Areas on the Owner's Real Estate which are not from time to time used or cannot be used for Buildings shall become part of the Common Areas for the uses permitted under the Existing Declaration.

5. Owner. The definition in Section 1.4 of the DER of "Owner" shall be, and hereby is, amended. From and after the Effective Date, the term "Owner", as used in the Existing Declaration, as amended by this Amendment, shall mean Rushmore Lee Branch, LLC, an Illinois limited liability company, and, after compliance with the notice requirements set forth in Section 7.1, its successors and assigns who (i) become owners of all or any portion of Lot 1A, and (ii) by notice recorded with the Shelby County Judge of Probate, Alabama, agree to assume the obligations, and accept the rights, of Owner pursuant to the Existing Declaration, as amended by this Amendment.

6. Maintenance of the Pads. The obligation of the Pad Owners pursuant to Section 4.1(a) of the DER to maintain or cause to be maintained, the Improvements on the Pads in good order and condition, shall be subject to obligation of the Owner, pursuant to Section 4.2 of the DER to maintain or cause to be maintained, the Common Areas.

7. Pro Rata Share for Lots.

(a) For purposes of computing the fraction constituting the Pro Rata Share of CAM Charges for each Pad Owner with respect to a Lot under Section 5.2(d) of the DER, the numerator shall be the square footage of the Floor Area of any Building structure placed, constructed or located on the Lot, and the denominator of which shall be the square footage of the total leaseable and/or occupiable area with the Shopping Center, excluding, however, the land area of parcels the owner, lessee or occupants of which self-maintain within the Shopping Center which Owner does not own.

(b) Notwithstanding anything contained in Paragraph 7(a) of this Amendment or in the Existing Declaration to the contrary, beginning on the Effective Date, the Pad Owner of Lot 1D shall

pay to Owner, as such Pad Owner's share of annual CAM Charges under Section 5.2 of the DER, Sixty Seven Thousand Nine Hundred Fifty Dollars (\$67,950), which amount shall be paid by the Pad Owner of Lot 1D to Owner in equal monthly installments of Five Thousand Six Hundred Sixty Two and 50/100 Dollars (\$5,662.50) each, on the first day of each calendar month from and after the Effective Date. If the Effective Date is not the first day of a calendar month, then, such monthly payment shall be prorated based on the partial calendar month in which the Effective Date occurs, and paid to Owner on the first day of the calendar month immediately following the Effective, along with the monthly payment for the full calendar month immediately following the Effective Date.

8. Separate Real Property Taxes and Assessments Bills.

(a) As used in this Paragraph 8, a "Lot Owner" shall mean, as of any time that this Paragraph 8 is applicable, the fee simple owner of a Lot at such time. In the event that, on the Effective Date, the Lots are not separately assessed and taxed, then, beginning on the Effective Date, and during the period thereafter until the Lots are separately assessed and taxed, Owner shall make a reasonable estimate or projection (collectively, the "Tax Projection") of the amounts which each Lot Owner shall each owe as and for its Tax Share (as hereinafter defined) for real property taxes and assessments for any full or partial calendar year during such period, and each Lot Owner shall pay to Owner, on or before the first day of each calendar month, an amount equal to one-twelfth (1/12th) of such Lot Owner's Tax Share based upon the then most recent Tax Projection. At such time as Owner shall be able to determine the actual amount of taxes and assessments for the Lots for the calendar year last ended, Owner shall notify each Lot Owner in writing of such actual amounts and the Owner's Tax Share for such calendar year. If such actual amount exceeds the Tax Projection for such calendar year, then, each Lot Owner, within ten (10) days after the date of such written notice to Lot Owners, shall pay an amount equal to the excess of its Tax Share payable for applicable tax year over the total payments made by such Lot Owner as and for its Tax Share during such calendar year. If the total payments by a Lot Owner as and for its Tax Share for such calendar year exceeds the amount thereof payable to Owner, then, such excess shall be credited to such Lot Owner's installments of monthly payments payable by such Lot Owner as and for its Tax Share payable after the date of Owner's notice until such excess has been exhausted, or Owner shall refund to Lot Owner such excess (or the balance thereof, as applicable) promptly after receipt by the Owner of the final installment of the tax bill(s) for the year in question.

(b) For purposes of this Paragraph 8, each Lot Owner's Tax Share shall be determined by multiplying the applicable real estate taxes and assessments by a fraction, the numerator of which shall be the square footage of the floor area of the Building structure placed, construction or located on a Lot, and the denominator of which shall be the square footage of the total leaseable and/or occupiable area within the Lots. This Paragraph 8 shall apply to all Lot Owners, inclusive of the Lot Owner of Lot 1D.

9. Notices to Owner. The notice address of Owner pursuant to Section 7.1 of the DER shall be:

Rushmore Lee Branch, LLC
c/o Rushmore Properties
212 W. Kinzie Street, 5th Floor
Chicago, Illinois 60654
Attention: Marc Reinisch

or such other address as Owner may from time to time specify to the Parties.

10. Effective Date. As used in this Amendment, the “Effective Date” shall mean the date on which this Amendment is recorded with the Shelby Court Judge of Probate, Alabama.

11. Force and Effect of Amendment. Except as amended, modified or supplemented as set forth in this Amendment, the Existing Declaration remains in full force and effect.

12. Agreement Runs With the Land. Both the benefits and the burdens of all covenants and restrictions established by this Amendment shall run with and bind the lands described herein, and shall be binding upon and inure to the benefit of any and all Pad Owners thereof and their respective tenants, heirs, successors and assigns.

13. Modification. This Amendment may be modified or amended in whole or in part only by a written and recorded instrument recorded in said public records and signed by Owner only, provided that, in the event any such modification or amendment materially affects the rights of any Pad Owners under the Existing Declaration, as amended by this Amendment, or materially affects said Pad Owner’s use of its Pad, then the affected Pad Owner’s written consent to such modification or amendment shall be obtained. Nothing herein shall prohibit or restrict the Pad Owners from entering into separate agreements which, as between such parties only, modify their respective rights and obligations under the Existing Declaration, as amended by this Amendment.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE AND NOTARY PAGE FOLLOWS]

IN WITNESS WHEREOF, Owner has executed this Amendment on the day and year first above written.

WITNESS:

Conor Bossy
Name: Conor Bossy

Jessie Heffernan
Name: Jessie Heffernan

RUSHMORE LEE BRANCH, LLC, an Illinois limited liability company

By: Marc Reinisch

Its: Authorized Signatory

Name: Marc Reinisch

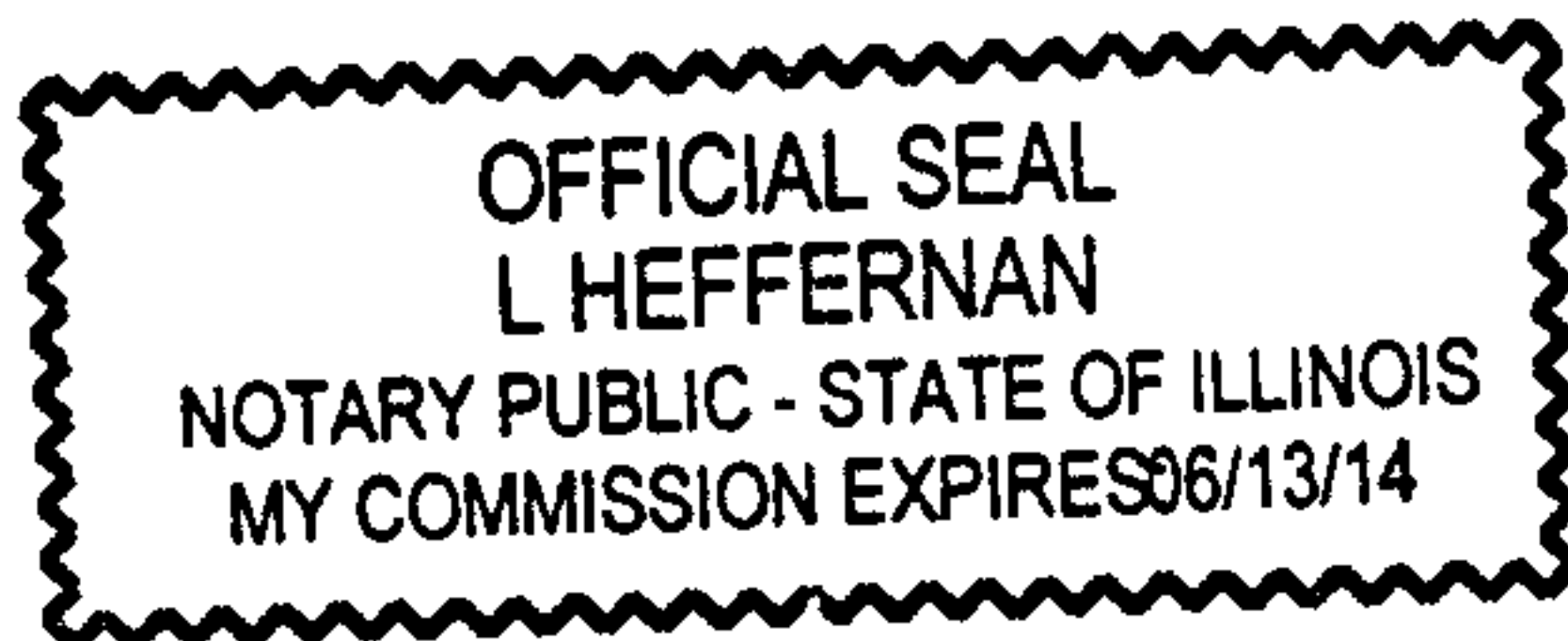
STATE OF ILLINOIS)
COUNTY OF COOK) SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Marc Reinisch, as Authorized Signatory of **RUSHMORE LEE BRANCH, LLC**, an Illinois limited liability company, personally known to me or proved to me on the basis of satisfactory evidence to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act, and as a free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 19th day of November, 2013.

[Signature]
Notary Public

My Commission expires: 6/13/14



MORTGAGEE'S CONSENT AND SUBORDINATION

PFP III SUB I, LLC (the "Mortgagee"), pursuant to that certain Assignment of Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated September 11, 2012 and recorded September 25, 2012 as Instrument No. 20120925000346910 in the Office of Judge of Probate, Shelby County, Alabama, is the mortgagee, beneficiary, assignee, lender and secured party, as the case may be, under that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated September 11, 2012, filed on September 25, 2012 recorded as Instrument No. 20120925000364850, aforesaid records in the original principal amount of \$13,750,000.00 (the "Mortgage"). Mortgagee for itself and its successors and assigns, consents to all of the terms, covenants, conditions, provisions, easements, restrictions and agreements contained in the foregoing Amendment No. 3 to Grant and Amendment No. 3 to Declaration of Easements and Restrictions (the "Amendment") made by Rushmore Lee Branch, LLC, an Illinois limited liability company, and agrees that the rights, titles, interests and liens created in the Mortgage shall be deemed subject to, inferior and subordinate to all of the terms, covenants, conditions, provisions, easements, restrictions and agreements contained in the Amendment.

Dated this 19th day of November, 2013.

WITNESS:

MORTGAGEE:

PFP III SUB I, LLC

Name: Matthew Brezenger

By:

Name: Benj. Gildberg

Name:

Title:

Steven A. Denton
Steven A. Gerstung
Authorized Signatory

STATE OF Illinois)

COUNTY OF Cook)

SS.

This instrument was acknowledged before me on this 19 day of November, 2013, by Steven Gerstung as Authorized Signatory of PFP III SUB I, LLC.

[Signature]
Notary Public

My Commission expires: January 6, 2015

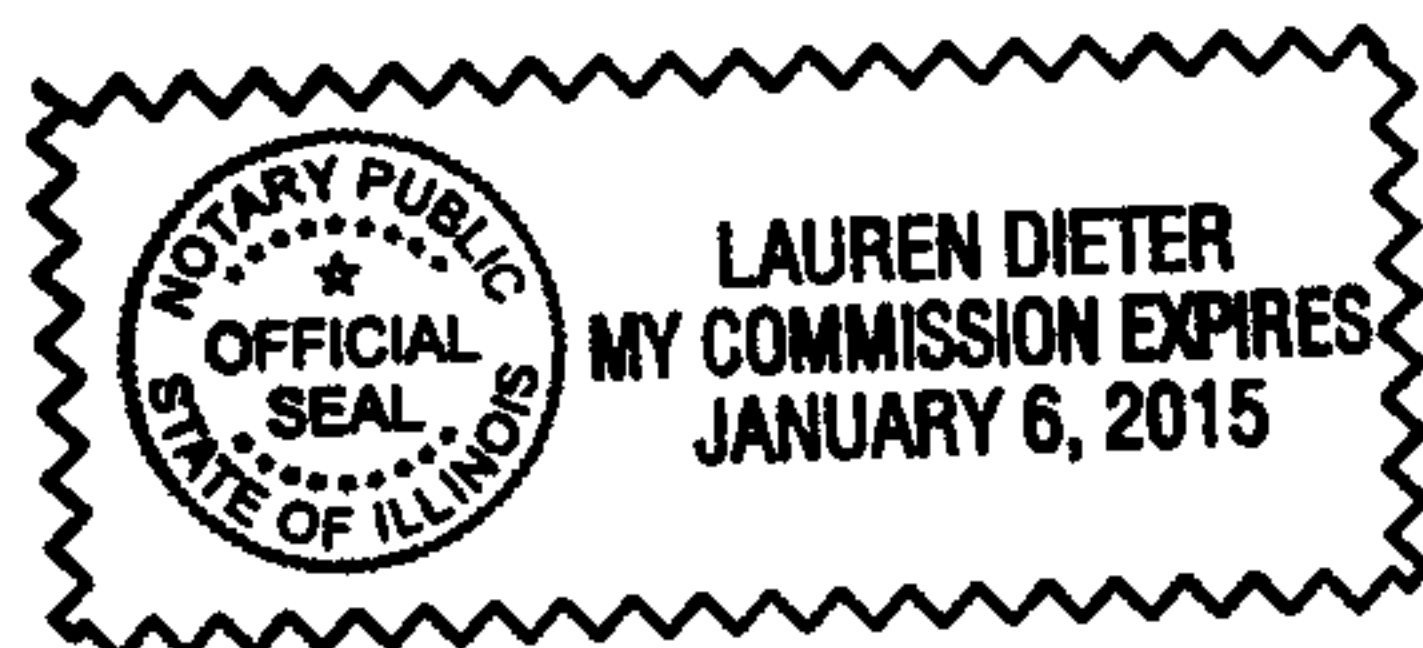


EXHIBIT A

LEGAL DESCRIPTIONS OF OWNER'S REAL ESTATE

PARCEL 2:

LOTS 1, 4, 5, 7 AND 8, ACCORDING TO THE SURVEY OF THE VILLAGE AT LEE
BRANCH SECTOR 1 - PHASE 2, AS RECORDED IN MAP BOOK 33, PAGE 58, IN THE
PROBATE OFFICE OF SHELBY COUNTY, ALABAMA, BEING A RESUBDIVISION OF
LOT 5A OF THE VILLAGE AT LEE BRANCH SECTOR 1- REVISION 1.

EXHIBIT B

LEGAL DESCRIPTIONS OF LOTS

[REVIEW]

LOT 1A

LOT 1A, ACCORDING TO A RESURVEY AS RECORDED IN MAP BOOK 43, PAGE 66-A, OF LOT 1, THE VILLAGE AT LEE BRANCH SECTOR 1- PHASE 2 AS RECORDED IN MAP BOOK 33, PAGE 58 IN THE. PROBATE OFFICE OF SHELBY COUNTY ALABAMA, BEING A RESUBDIVISION OF THE VILLAGE AT LEE BRANCH SECTOR 1 - REVISION 1.

LOT 1B

LOT 1B, ACCORDING TO A RESURVEY AS RECORDED IN MAP BOOK 43, PAGE 66-A, OF LOT 1, THE VILLAGE AT LEE BRANCH SECTOR 1- PHASE 2 AS RECORDED IN MAP BOOK 33, PAGE 58 IN THE. PROBATE OFFICE OF SHELBY COUNTY ALABAMA, BEING A RESUBDIVISION OF THE VILLAGE AT LEE BRANCH SECTOR 1 - REVISION 1.

LOT 1C


LOT 1C, ACCORDING TO A RESURVEY AS RECORDED IN MAP BOOK 43, PAGE 66-A, OF LOT 1, THE VILLAGE AT LEE BRANCH SECTOR 1- PHASE 2 AS RECORDED IN MAP BOOK 33, PAGE 58 IN THE. PROBATE OFFICE OF SHELBY COUNTY ALABAMA, BEING A RESUBDIVISION OF THE VILLAGE AT LEE BRANCH SECTOR 1 - REVISION 1.

LOT 1D

LOT 1D, ACCORDING TO A RESURVEY AS RECORDED IN MAP BOOK 43, PAGE 66-A, OF LOT 1, THE VILLAGE AT LEE BRANCH SECTOR 1- PHASE 2 AS RECORDED IN MAP BOOK 33, PAGE 58 IN THE. PROBATE OFFICE OF SHELBY COUNTY ALABAMA, BEING A RESUBDIVISION OF THE VILLAGE AT LEE BRANCH SECTOR 1 - REVISION 1.

EXHIBIT C
SITE PLAN
ATTACHED

Exhibit C - I


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RESURVEY OF LOT 1
LAGE AT LEE BRANCH
CTOR 1 PHASE 2

[illegible]

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