

Acknowledgment Regarding Restrictions Agreements
(Affecting Lot 1E and Lot 1B – Brook Highland)

This Acknowledgment Regarding Restrictions Agreements (this "Acknowledgment") is made as of this 4th day of April, 2015 (the "Effective Date"), by GS II Brook Highland LLC, a Delaware limited liability company ("Developers"), successor in title to Developers Diversified of Alabama, Inc., with its principal place of business at 3300 Enterprise Pkwy, Beachwood, OH 44122, and Brook Highland Limited Partnership, a Georgia limited partnership ("Partnership"), with its principal place of business at Suite 303, 1900 International Park Drive, Birmingham, AL 35243.

WITNESSETH:

WHEREAS, Developers and Partnership entered into a Restrictions Agreement, dated December 30, 1994, and recorded in the Probate Office of Shelby County, Alabama (the "Recording Office") as Instrument No. 1995-27235 (the "Lot 1B Restrictions Agreement") with respect to Lot 1B on that certain map entitled "Brook Highland Plaza Resurvey", recorded in Map Book 18, Page 99 in the Recording Office ("Lot 1B");

WHEREAS, Developer and Partnership entered into a Restrictions Agreement, dated December 30, 1994, and recorded in the Recording Office as Instrument No. 1995-27237 (the "Lot 1E Restrictions Agreement") with respect to Lot 1E on that certain map entitled Brook Highland Plaza Resurvey", recorded in Map Book 18, Page 99 in the Recording Office ("Lot 1E"). The Lot 1B Restrictions Agreement and the Lot 1E Restrictions Agreement are collectively referred to herein as the "Restrictions Agreements";

WHEREAS, Developers is the owner of the property described in Exhibit A attached hereto (the "Shopping Center Parcel"), more commonly known as Brook Highland Plaza Shopping Center, which Shopping Center Parcel benefits from the Restrictions Agreements. Lot 1B and Lot 1E are described on Exhibit B-1 attached hereto. Lot 1B, Lot 1E and the Shopping Center Parcel are depicted on Exhibit B-2 attached hereto;

WHEREAS, Partnership and Developers desire to record this Acknowledgment regarding lease and use restriction terminations as contemplated by Sections 2.2 and 2.3 of the Restrictions Agreements on the terms and conditions provided herein;

NOW THEREFORE, Developers and Partnership, each for themselves, their successors and assigns hereby acknowledge and agree to the following:

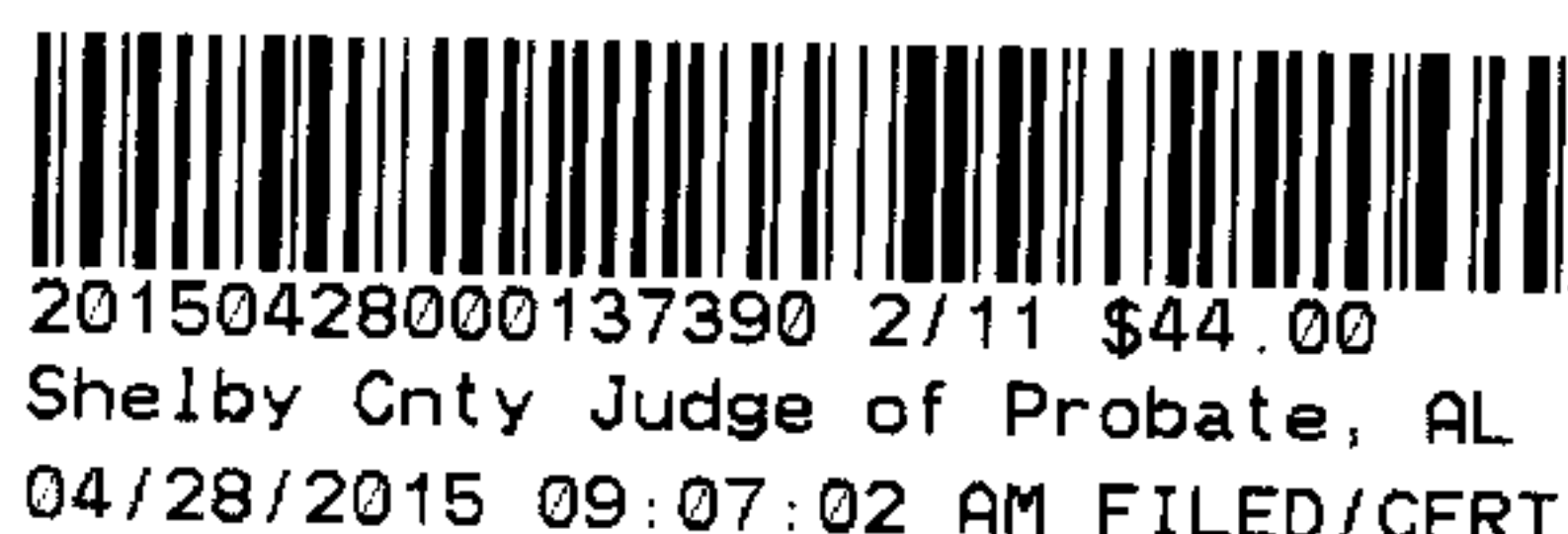
1. Terminated Leases. The leases listed on Exhibit C attached hereto (the "Terminated Leases") have terminated.
2. Released Use Restrictions. As contemplated by Section 2.2 of each of the Restrictions Agreements, by this Acknowledgment, the parties agree that the use restrictions set forth on Exhibit D have terminated as a result of the Terminated Leases. Such use restrictions are released to the extent set forth on, and as further provided by, Exhibit D.

3. Wal-Mart Lease Termination. As contemplated by Section 2.3 of the Restrictions Agreement, Developers hereby acknowledges that the Wal-Mart lease has terminated and that Wal-Mart is no longer a tenant of the Shopping Center Parcel.
4. Developers Notice Address. The address for Developers as contained in Section 9.6 of the Restrictions Agreements is hereby deleted and replaced with the following:

If to Developers: GS II Brook Highland LLC
 3300 Enterprise Pkwy
 Beachwood, OH 44122
 Attn: General Counsel
5. Partnership Notice Address. The address for Partnership as contained in Section 9.6 of the Restrictions Agreements is hereby deleted and replaced with the following:

If to Partnership: Brook Highland Limited Partnership
 700 Montgomery Highway
 Suite 186
 Birmingham, AL 35216
 Attn: Alex D. Baker
6. Ratification of Restrictions Agreement. Except as set forth in this Acknowledgment, the terms and conditions of the Restrictions Agreement shall remain in full force and effect and are hereby ratified and confirmed.
7. Counterparts. This Acknowledgment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

[Remainder of the page intentionally left blank. Signature pages follow.]



IN WITNESS WHEREOF, the undersigned have caused this Acknowledgment to be signed as of the dates set forth in the notary blocks below, intending it to be effective as of the Effective Date.

Developers:

GS II BROOK HIGHLAND LLC, a Delaware limited liability company

By: 

Name: David E. Weiss

Title: Executive Vice President

State of Ohio

County of Cuyahoga

I, the undersigned, a Notary Public in and for said State hereby certify that David E. Weiss, whose name, as the Executive Vice President of GS II BROOK HIGHLAND LLC, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he or she, in such capacity, executed the same voluntarily on this date.

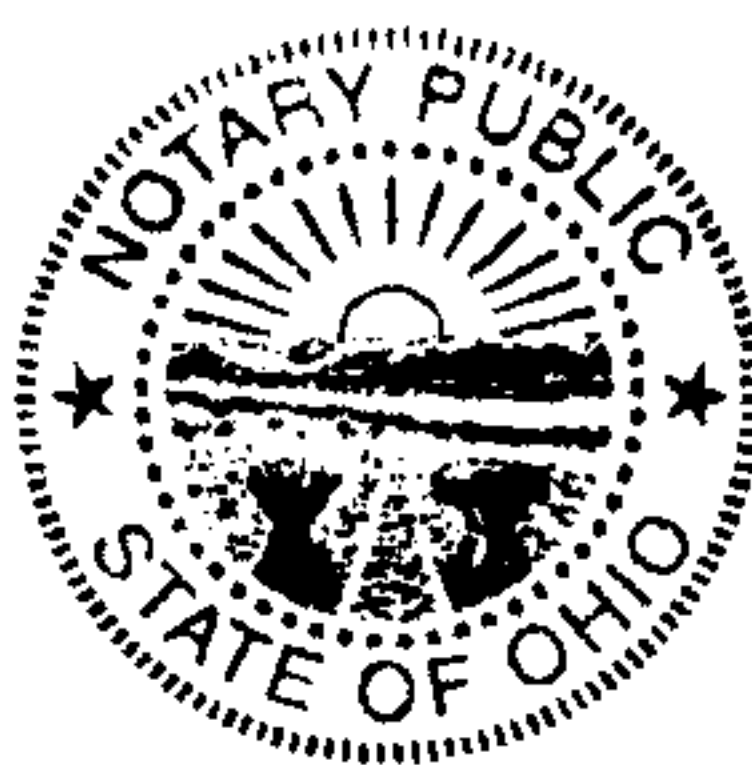
Witness my hand and official seal this 14th day of April, 2015.



Notary Public

My Commission Expires: 3-6-19

[Notary Seal]



DEBRA CASPIO
Notary Public, State of Ohio
My Commission Expires
March 6, 2019



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Shelby Cnty Judge of Probate, AL
04/28/2015 09:07:02 AM FILED/CERT

Partnership:

BROOK HIGHLAND LIMITED PARTNERSHIP, a Georgia limited
By: BW 280 Limited Partnership
a Georgia limited partnership, its sole general partner
By: Alex D. Baker, Inc., an Alabama corporation,
its sole general partner
Name: Alex D. Baker
Title: President

State of Alabama
County of Jefferson

I, the undersigned, a Notary Public in and for said State hereby certify that Alex D. Baker, whose name, as President of Alex Baker, Inc., an Alabama corporation, sole general partner in BW 280 Limited Partnership, a Georgia limited partnership, as the sole general partner of BROOK HIGHLAND LIMITED PARTNERSHIP, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he or she, in such capacity, executed the same voluntarily on this date.

Witness my hand and official seal this 10th day of April, 20145.

Shelby Warrington
Notary Public
My Commission Expires: 7-10-2017
[Notary Seal]



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Exhibit A

Shopping Center Parcel Legal Description

Lots 1, 1A, 2 & 2A according to the Brook Highland Plaza Resurvey, as recorded in Map Book 18M, Page 99 in the Probate Office of Shelby County, Alabama, being situated in Shelby County, Alabama.



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Exhibit B-1

Legal Description of Lot 1B and Lot 1E

Lot 1B and Lot 1E according to the Brook Highland Plaza Resurvey, as recorded in Map Book 18M, Page 99 in the Probate Office of Shelby County, Alabama, being situated in Shelby County, Alabama.



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Exhibit B-2

Depiction of Lot 1B, Lot 1E and the Shopping Center Parcel

See attached.



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Exhibit C

Terminated Leases

Lease	Approximate Termination Date (if known)
Lease between Brook Highland Limited Partnership and the Dive Site, Inc. dated March 7, 1994; doing business as The Dive Site	
Lease between Brook Highland Limited Partnership and Fast Frame, Inc. dated July 19, 1993; doing business as Moore Frames	January 31, 2004
Lease between Brook Highland Limited Partnership and Winn-Dixie Montgomery, Inc. dated September 20, 1993; with Corporate Guaranty given by Winn-Dixie Stores, Inc. dated September 24, 1993; doing business as Winn-Dixie	September 30, 2005
Lease between Brook Highland Limited Partnership and Fashion Bug #2861, Inc. dated August 25, 1993; doing business as Fashion Bug	
Lease between Brook Highland Limited Partnership and First Place of Birmingham, Inc. dated September 1, 1993; doing business as First Place	
Lease between Brook Highland Limited Partnership and GSR Enterprises, Inc. dated July 16, 1993; doing business as Fantastic Sam's	
Lease between Brook Highland Limited Partnership and Wal-Mart Stores, Inc. dated June 29, 1993; doing business as Wal-Mart	
Lease between Brook Highland Limited Partnership and R.C. Cobb, Inc. dated July 28, 1993; doing business as Cobb Theatres	January 31, 2007
Lease between Brook Highland Limited Partnership and Big B, Inc. dated September 1, 1993; doing business as Drugs for Less/Big B	
Lease between Brook Highland Limited Partnership and Rhodes, Inc. dated July 7, 1993; doing business as Marks Fitzgerald	December 31, 2004
Lease between Brook Highland Limited Partnership and Brown Group Retail, Inc. dated September 24, 1993; doing business as Famous Footwear	November 30, 2004
Lease between Brook Highland Limited Partnership and Goody's Family Clothing Inc. dated August 9, 1993; doing business as Goody's Family Clothing Store	July 31, 2008
Lease between Brook Highland Limited Partnership and Friedman's Inc. dated June 3, 1994; doing business as Friedman's Jewelers	June 30, 2008
Lease between Brook Highland Limited Partnership and Steve Tucker dated October 26, 1994; doing business as Schlotzky's Deli	
Lease between Brook Highland Limited Partnership and Alabama Cellular Communication, Inc. dated November 15, 1994; doing business as Alabama Cellular	
Lease between Brook Highland Limited Partnership and Anthony J. Cooley. dated November 4, 1994; doing business as Davis Hotdogs	
Lease between Brook Highland Limited Partnership and Lyda Sports, Inc. dated August 17, 1994; with Individual Guaranty of Lease given by Larry L. Lyda, dated August 17, 1994; and Individual Guaranty of Lease given by Larry L. Lyda, Jr., dated August 17, 1994; doing business as Special Tee Golf	November 30, 2006



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Lease between Brook Highland Limited Partnership and City Paper Company, dated June 29, 1994; doing business as Paper Works Outlet	
Lease between Brook Highland Limited Partnership and S&K Famous Brands, Inc. dated September 16, 1994; doing business as S&K Menswear	January 31, 2008
Lease between Brook Highland Limited Partnership and Ann Macias and Jasmie Perez, dated March 21, 1994; doing business as Mexicali	December 31, 2011
Lease between Brook Highland Limited Partnership and Wings of Inverness, Inc. dated May 6, 1994; doing business as Wings Sports Grille	May 31, 2005
Lease between Brook Highland Limited Partnership and Michael Wenning and Barbara Wenning, dated December 15, 1994, doing business as The Bike Shop	November 7, 2007



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Exhibit D
Released Use Restrictions

1. The restriction contained in Section 2.1(a), prohibiting use "as a furniture and/or bedding store" is released.
2. The restriction contained in Section 2.1(b), prohibiting use "as a motion picture...theater" is released. The prohibition on "'legitimate' or amusement theater" shall remain in place.
3. The restriction contained in Section 2.1(c), prohibiting use "as a retail super drugstore engaged in the sale of drug items and drugs prepared and compounded from prescriptions and medical doctors" is released.
4. The restriction contained in Section 2.1(d), prohibiting use "as a supermarket, grocery store, meat, fish or vegetable market for the sale of (i) packaged or fresh seafood, meat, or poultry for off-premises consumption; (ii) packaged or fresh produce or vegetables for off-premises consumption; (iii) dairy products (excluding cone ice cream) for off-premises consumption; (iv) packaged or fresh bakery products for off-premises consumption; or (v) grocery items, including without limitation fruits, vegetables, dairy products, frozen foods and staple or fancy groceries" is released.
5. The restriction contained in Section 2.1(f), prohibiting use "as an establishment, other than a package store, which sells beer or wine for off premises consumption" is released.
6. The restriction contained in Section 2.1(j), prohibiting use "as a bakery or delicatessen; provided nothing herein shall prohibit an ice cream store, yogurt shop, health food store, doughnut shop or a deli-type restaurant so long as its primary business is that of a sit-down restaurant and not that of the sale of meat, cheeses and wine for off-premises consumption and so long as it maintains no more than seven (7) linear feet of refrigerated deli cases" is released.
7. The restriction contained in Section 2.1(s), prohibiting use "as a scuba diving supply store or store having the right to sell regulators, compressors and wet suits and containing 15,000 square feet or less" is released.
8. The restriction contained in Section 2.1(w), prohibiting use "as a store devoting more than twenty percent (20%) of its gross leasable area to the sale of shoes," is hereby released. The restriction contained in Section 2.1(w) prohibiting use "as a family shoe store in excess of 3,000 square feet" shall remain in place and such use shall continue to be prohibited at Lot 1B and Lot 1E.
9. The restriction contained in Section 2.1(z), prohibiting use "as a traditional Mexican restaurant" is released.
10. The restriction contained in Section 2.1(cc), prohibiting use "as a store whose primary business is the sale and service of cellular telephones and pagers" is released.
11. The restriction contained in Section 2.1(dd), prohibiting use "as a jewelry store containing less than 15,000 square feet" is released.
12. The restriction contained in Section 2.1(ii), prohibiting use "as a store selling men's and boys' wear such that men's suits and sport coats exceed 50% of the value of its inventory valued at retail" is released.
13. The restriction contained in Section 2.1(jj), prohibiting use "as a junior department store, or other use as operated by a majority of stores in the "Goody's" chain" is released.

