



Doc ID: 025440480008 Type: CRP
 Recorded: 06/11/2013 at 03:27:00 PM
 Fee Amt: \$26.00 Page 1 of 8
 Workflow# 000011594-0001
 Buncombe County, NC
 Drew Reisinger Register of Deeds

BK **5111** PG **1868-1875**

SECOND MODIFICATION TO CCR AGREEMENT

Box to Steve Goldstein (#38)

This Second Modification to CCR Agreement (this "**Second Modification**") is made and entered into as of the 10th day of JUNE, 2013 by and among Weaverville Partners, LLC (the "**Developer**"), Autozone Development Corporation ("**Autozone**"), Goodwill Industries of Northwest North Carolina, Inc. ("**Goodwill**") and Weaverville Properties LLC ("**Weaverville Properties**").

WHEREAS, the parties hereto (the "**Parties**") are the fee simple owners of all portions of the Commercial Tract as depicted on **Exhibit A**, attached hereto and incorporated herein by reference;

WHEREAS, the Commercial Tract is subject to that certain document entitled "CCR Agreement" which is recorded in Buncombe County Book 4874 at Page 1934 (the "CCR Agreement"), as amended by that certain document entitled "First Modification to CCR Agreement" which is recorded in Buncombe County Book 4919 at Page 304, with the same being the "First Modification", but with the collective document being the "**Agreement**";

WHEREAS, the Parties desire to further amend the Agreement as more particularly set forth below; and

WHEREAS, capitalized terms not otherwise defined herein are as defined in the Agreement.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the Parties agree as follows:

1. Notwithstanding anything to the contrary in the Agreement, "Common Areas" shall only include (i) the "Main Access Drive" (as shown on **Exhibit B**), together with stormwater drainage facilities therefore and related improvements thereto and (ii) the Stormwater (Main) Transmission serving the overall Development

(and not those portions serving only particular Lots). Further and notwithstanding anything to the contrary in the Agreement and/or herein, "Commercial Costs" shall only include those amounts required in order for the Association to (A) repair, maintain and replace Common Areas; (b) repair and maintain the Stormwater Treatment and Detention System, if the same is Not Properly Cared For by the Owners; and (c) pay for and provide commercial liability insurance with respect to the Commercial Tract, with the coverages and deductibles with respect to such commercial liability insurance to be selected by the Association from time to time. Any further inclusions into or removals from Common Areas shall require the written consent of all Owners. Any provisions in the Agreement which are inconsistent with this Section 1 are hereby deleted in their entirety (including, but not limited to, all reference to and provisions regarding Parking Lot(s) and Roadway(s) in the Agreement). Please see the attached Exhibit A to graphically define the Commercial Remainder Tract(s) and the Commercial Road Tract(s).

2. Notwithstanding anything to the contrary contained in this Agreement, in the event vehicular access to the Main Access Drive is obstructed due to an obstruction (an "**Obstruction Event**"), an Owner may notify another Owner causing such Obstruction Event by any means reasonable under the circumstances, including via facsimile or telephone, of the Obstruction Event and demand that the Obstruction Event be remedied. If, after 24 hours after such notice has been provided, the causing Owner has not remedied the Obstruction Event or commenced to remedy the Obstruction Event and thereafter remedies such Obstruction Event in a reasonably prompt manner, the notifying Owner shall have the right (but not the obligation) to remedy the Obstruction Event (including the right to enter upon Lots to remedy such Obstruction Event) and shall be reimbursed by the causing Owner for the reasonable costs for such remedy. In the Event that the Developer or Association fails to properly care for Common Areas, an Owner may give written notice to the Developer or Association (and least 30 days notice unless emergency circumstances require a lesser time), and if the Developer or Association does not remedy the same in a reasonably prompt manner, the notifying Owner may, at its election, remedy such matter and treat the costs associated with such remedy in the same manner that the Association would charge Owners for Commercial Costs (and be entitled to reimbursement as the Association would be pursuant to the Agreement).
3. Notwithstanding anything to the contrary in Section 1 the CCR Agreement or otherwise, Developer shall have no right to dedicate any portion of the

Commercial Tract for public use without the prior written consent of all Commercial Tract Owners (at such Owners' sole discretion).

4. Notwithstanding anything to the contrary in Section 9 of the CCR Agreement or otherwise, the Architectural Review Committee shall not require the deposit of funds by an Owner before an Owner or a contractor of an Owner performs work on a Lot.
5. Section 14 of the CCR Agreement is deleted in its entirety and replaced with the following:
"14. There shall be no right for an Owner's customers, employees, agents or invites to park in any other Lot unless specifically agreed to by Owners of such lots in a separate agreement recorded in the Buncombe County Registry."
6. Notwithstanding anything to the contrary in the Agreement, Developer's approval of the intended site plan and other plans for the development by Aldi (N.C.) L.L.C. (or a related entity) of Tract 1, as shown on Exhibit A (including, but not limited, to (i) variances from the setbacks/right of way as provided for in Section 4 of the CCR Agreement and (ii) the relocation of the portion of the Main Access Drive existing on said Tract 1) shall be deemed final and control over any contrary provision in the Agreement.
7. The provisions hereof shall run with the land and inure to the benefit of and bind the Parties and their respective successors and assigns. In the event of a conflict between the provisions of this Second Modification and the provisions in the Agreement, the provisions contained in this Second Modification shall control. Except as modified by this Second Modification, the Agreement remains in full force and effect. Any amendments or modifications to the Agreement, as amended hereby, shall require the written consent of all Owners of the Commercial Tract and be recorded in the Buncombe County, North Carolina, Registry.

IN WITNESS WHEREOF, the Parties have caused this Second Modification to be executed on the dates set forth below.

[Signature Pages Follow]

WEAVERVILLE PARTNERS, LLC

By: [Signature]

Its: member/manager

STATE OF North Carolina)
COUNTY OF Buncombe)

State of NC County of Buncombe

I, a Notary Public of said County and State certify that Greg Phillips, being personally known to me, personally came before me this 10th day of June 2013 and each acknowledged that he is the member/manager of Weaver ville Partners, LLC and being duly authorized to do so voluntarily executed for foregoing on behalf of _____, as its act and deed.

Anna K Flowers
Notary Public
Buncombe County
North Carolina
My Comm Exp 7/14/2014

[Signature]
Notary Public for Buncombe County
My Commission expires: 7/14/14

By: [Signature]
Vice President

Its: _____

By: [Signature]

Approved for Execution (AutoZone Internal)

KSA MAN

WITNESS my hand and seal this 22nd day of May, 2013.

~~Notary Public~~

My Commission Expires: 10/30/16



GOODWILL INDUSTRIES OF NORTHWEST NORTH CAROLINA, INC.

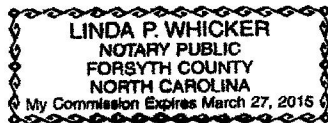
By: Bill K. Haymore

Its: V. P. of Facility Services

STATE OF North Carolina)
COUNTY OF Forsyth)

State of NC County of Forsyth

I, a Notary Public of said County and State certify that Bill K. Haymore being personally known to me, personally came before me this 6th day of June, and each acknowledged that he is the VP of Facility Services of Goodwill Industries of Northwest North Carolina, Inc. and being duly authorized to do so voluntarily executed for foregoing on behalf of Northwest North Carolina, Inc. as its act and deed.



Linda P. Whicker
Notary Public for North Carolina

My Commission expires: 3-27-15

WEAVERVILLE PROPERTIES LLC

By: [Signature]

Its: member

STATE OF Georgia)
COUNTY OF Oconee)

State of GA County of Oconee

I, a Notary Public of said County and State certify that Gary Avants being personally known to me, personally came before me this 7th day of June, and each acknowledged that he is the owner of Weaverille Properties, LLC and being duly authorized to do so voluntarily executed for foregoing on behalf of Weaverille Properties, LLC, as its act and deed.

[Signature]
Notary Public for Oglethorpe County, GA

My Commission expires June 1, 2016



EXHIBIT A

Buncombe County N. C. PB 136 PG 117