



W2665922

When recorded, Return to:
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E# 2665922 PG 1 OF 5
ERNEST D ROWLEY, WEBER COUNTY RECORDER
26-NOV-13 858 AM FEE \$18.00 DEP JKC
REC FOR: COGGINSLARREAU & LYTHGOE

**SECOND AMENDMENT TO DECLARATION OF CONDOMINIUM
FOR
EDEN CENTER**

This Second Amendment to Declaration of Condominium (this "Declaration") is made as of the 11/12/13 by **WOP WOM LLC**, a Utah limited liability company ("Declarant"), the address of which is 6607 North Powder Mountain Road, Eden, Utah 84310.

A. Declarant is the owner of certain real property shown on the plat known as Little Bear Subdivision, which plat is recorded in the records of the County Recorder of Weber County, Utah, and which real property is more particularly described in Exhibit "A" attached to this Declaration.

B. Declarant intends to construct upon the Real Property the Project defined below in accordance with the terms and conditions contained herein.

C. Declarant has previously submitted the real property to the Provisions of the Utah Condominium Ownership Act, pursuant to the terms of that certain Declaration of Condominium for Eden Center, recorded as instrument number 2620159 on February 13, 2013 with the Weber County Recorder, State of Utah, as amended by the Amendment to Declaration of Condominium for Eden Center recorded as instrument number 2644852 on July 10, 2013 with the Weber County Recorder, State of Utah (collectively the "Declarations").

D. Declarant now desires to amend the Declarations as set forth herein.

1. Definition of Real Property. Section 1.18 of the Declarations is hereby deleted in its entirety and replaced with the following:

1.18. Real Property. "Real Property" means all of the land described in Exhibit "A" attached hereto, together with all rights and interests appurtenant thereto, all buildings and other improvements now or hereafter located therein, and together with one water share in Eden Water Company.

2. **Assessments.** The following new Section 5.14 is hereby added to the Declarations:

5.14 Notwithstanding anything to the contrary set forth herein, the Assessments, Supplementary Assessments and Special Assessments shall not include the following:

- (a) Costs of initial design, construction and completion of the Project;
- (b) Depreciation, interest and principal payments on mortgages, and other debt costs, if any, of the Declarant;
- (c) Costs of correcting major and/or latent defects in or significant design errors relating to the initial design or construction of the Units and/or the Building(s);
- (d) Legal fees, space planners, fees and advertising expenses incurred in connection with the development or sale or leasing of the Units;
- (e) Fines, penalties and interest assessed to the Declarant;
- (f) Costs, including permit, license and inspection costs, incurred with respect to the installation of improvements made for new owners of Units, or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Units (excluding, however, such costs relating to any Common Areas);
- (g) Costs arising from the Declarant's political or charitable contributions;
- (h) Costs incurred in the cleanup of hazardous wastes or materials, unless caused by a Unit owner, in which case such costs shall be borne by such owner.

3. **Specifically Prohibited Uses.** The following new Section 8.18 is hereby added to the Declaration:

8.18 Specifically Prohibited Uses. Notwithstanding anything to the contrary herein, the enumerated uses specified above shall not be construed to include, either as a main or accessory use, and no Unit or portion of the Common Area or part thereof shall be used for, any of the following uses.

- (a) Terminals, including truck or bus terminals, and other distribution facilities.
- (b) Sand, gravel, and other extraction mining.
- (c) Distillation, refining, smelting, agriculture or mining operations.
- (d) Automobile, truck, trailer, or recreational vehicle or boat sales, leasing, storage, repair, or display.
- (e) School, training, or educational facilities.
- (f) Fairs or carnivals, except as occasional promotional events incidental to the operation of a shopping center or similar use.

- (g) Churches, synagogues, mosques or other places of worship.
- (h) Hotels, motels, or other lodging facilities.
- (i) Dry cleaning or laundry plants or facilities other than facilities used solely for the collection of soiled clothing and other fabrics from customers and distribution of clean clothing and other fabrics to customers.
- (j) Junk or salvage yards.
- (k) Cabinet and carpenter shops.
- (l) Plumbing or sheet metal shops.
- (m) Automobile body and fender repair work.
- (n) Skating rink, bowling alley, night club, teenage discotheque, discotheque, dance hall, amusement gallery, video game parlor, pool room, massage parlor, off-track betting facility, casino, card club, bingo parlor, or facility containing gaming equipment.
- (o) Establishments (including, without limitation, bookstores) engaged in the business of selling, exhibiting or delivering pornographic or obscene materials.

4. **Generally Prohibited Uses.** The following Section 8.19 is hereby added to the Declaration:

8.19 **Generally Prohibited Uses.** Notwithstanding any other provisions of this Declaration, no use or activity shall be established, maintained, conducted or permitted on any portion of the Real Property which will cause or result in any:

- (a) emission of smoke, odors, gases, vapors, steam, dust, sweepings, dirt, cinders or other particles or substances into the atmosphere which are detectable outside the boundaries of the Unit where created (except to the extent that such fumes or odors are incidental to the normal operation of a restaurant) or which may be detrimental to the health, safety, welfare or comfort of any Owner of any other person, to the condition of any other portion of the Real Property, or to any vegetation within the Real Property;
- (b) discharge of fluids, gases, solid wastes or other harmful materials into any drainage canal or other waterway which may adversely affect the health, safety, welfare or comfort of any Owner or other person or the condition of any portion of the Real Property;
- (c) recurrent or continuous emission of sound or noise from any Unit which may be heard without instruments outside the boundaries of the Unit of origination;

(d) recurrent or continuous ground vibrations perceptible without instruments at any point exterior to the Unit of origination;

(e) physical hazard by reason of fire, radiation, explosion or other similar cause to either the Real Property or the surrounding area;

(f) persisting unsightly condition on any Unit which is visible from any street or any other portion of the Property.

ALL OTHER COVENANTS, CONDITIONS AND RESTRICTIONS SHALL REMAIN THE SAME.

[Signature Page Follows]

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date and year first referenced above.

WOP WOM, LLC

By [Signature]
Eric K. Smith
Title: Member

STATE OF Utah)
) SS.
COUNTY OF Weber)

On this 12 day of November, 2013, before me personally appeared Eric K. Smith, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

[Signature]
Notary Public, in and for said County and State
My commission expires: 11-5-2017

