

**AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR THE POINTE PERRY PROJECT**

THIS AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE POINTE PERRY PROJECT (this "Amendment") is made effective as of the 6th day of June, 2014, by and among **Pointe Perry, LLC**, a Utah limited liability company ("Declarant"), **Proficio Bank**, a Utah state chartered bank ("Proficio"), **L.W. Miller, LLC**, a Utah limited liability company ("LW Miller"), and **Perry City Corporation**, a municipal corporation ("City"), and is joined in by Roland N. (Rollie) Walker ("Rollie Walker"), Lorin Walker and Larry Miller (collectively, the "ACC").

WITNESSETH:

WHEREAS, Declarant entered into that certain Declaration of Protective Covenants, Conditions, and Restrictions for the Pointe Perry Project dated April 8, 2004 and recorded in the Recorder's Office of Box Elder County, Utah, as Entry No. 199052, in Book 888, at Page 694 (the "Declaration"); and

WHEREAS, Declarant, Proficio, LW Miller and City constitute a majority of the members of the Association; and

WHEREAS, the Declaration originally required the creation of an association identified as Pointe Perry Property Association, LLC, and it being determined for convenience and appropriate management control to create a Utah non-profit corporation rather than a limited liability company to act as the association; and

WHEREAS, Rollie Walker, Lorin Walker and Larry Miller constitute all of the current members of the ACC, as such term is used in the Declaration; and

WHEREAS, Proficio and LW Miller intend to sell those two (2) lots identified on Exhibit "A" attached hereto and made a part hereof (hereinafter "HSC Lots") to HSC Perry City, LLC, an Alabama limited liability company ("HSC"), which intends to develop a portion of the HSC Lots as a retail store for Tractor Supply Company, a Delaware corporation ("TSC"), and Declarant, Proficio, LW Miller and City, joined herein by the ACC, desire to amend the Declaration pursuant to Paragraph C-2 thereof, under the terms and conditions set forth herein, to provide for the operation of a TSC store on a portion of the HSC Lots.

NOW, THEREFORE, for and in consideration of the sum of One and No/100 Dollars (\$1.00), and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Declarant, Proficio, LW Miller and City, joined herein by the ACC, do hereby agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and made a part hereof. Capitalized terms, not otherwise defined in this Amendment, shall have the same meaning ascribed to such terms in the Declaration.

2. Approval of Design, Construction and Use. To the extent Declarant, Proficio, LW Miller, City and/or the ACC have approval rights over the design, construction and use of the HSC Lots pursuant to the Declaration, the undersigned hereby expressly approve the design, construction and use of a portion of the HSC Lots as a typical TSC retail store as shown on the plans previously submitted by HSC to the undersigned for review, including without limitation the TSC Display Areas and the display and sale of merchandise in the TSC Display Areas. As used herein, the term "TSC Display Areas" shall collectively mean those areas identified and depicted on the site plan attached hereto and incorporated herein as Exhibit "B" as the "Fenced Outdoor Display Area," the "Permanent Trailer and Equipment Display Area," and the "Permanent Sidewalk Display Area (P.S.D.A.)". Notwithstanding any provision of the Declaration to the contrary, the undersigned hereby (i) expressly approve the use of an exterior loud speaker in connection with the operation of a TSC retail store on a portion of the HSC Lots, subject to any applicable noise ordinance, and (ii) agree that there are no "common areas" on the HSC Lots and that there shall be no shared or public parking on the HSC Lots.

3. Replat on the HSC Lots. The undersigned hereby acknowledge and agree that the HSC Lots have been or are to be replatted pursuant to that certain map of Pointe Perry Subdivision Phase 4, the form of which is attached hereto and incorporated herein as Exhibit "C" (the "New Plat"). The undersigned hereby expressly approve the New Plat and the recordation thereof and, notwithstanding any provision of the Declaration to the contrary, the undersigned hereby acknowledge and agree that there are no easements imposed by the Declaration on the HSC Lots except as shown on the New Plat.

4. Change of Entity for Association. The Declaration is hereby amended such that the anticipated Association previously identified as Pointe Perry Property Association, LLC shall be a non-profit corporation under the laws of the State of Utah with the name Pointe Perry Property Association, Inc.

5. Amendment. The Declaration is hereby amended such that no further amendment or modification of the Declaration affecting the HSC Lots shall be effective without the prior written consent of the owner(s) of the HSC Lots.

6. Authority. Each party hereto represents and warrants that it has the power and authority to execute and deliver this Amendment without the joinder and consent of any other party except as expressly provided herein.

7. Ratification. Except as set forth herein, the Declaration shall remain in full force and effect and unmodified, and the Declaration, as amended hereby, is hereby ratified, confirmed and approved in all respects.

8. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Amendment may be detached from any counterpart of this Amendment without impairing the legal effect of any

signatures thereof and may be attached to another counterpart of this Amendment identical in form hereto but having attached to it one or more additional signature pages.

[EXECUTION ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed and delivered by its duly authorized MANAGER effective as of the day and year first written above.

POINTE PERRY, LLC,
a Utah limited liability company

By: 
Print Name: Rolando N. Walker
Its: MANAGER

STATE OF UTAH IDAHO)
)
County of Bonneville)
)

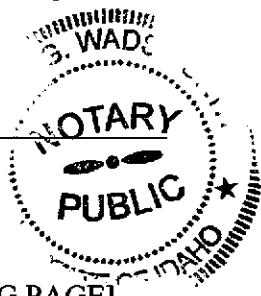
On June 3, 2014, before me, the undersigned Notary Public, personally appeared Rolando N. Walker, the MANAGER of **POINTE PERRY, LLC**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires:

1/27/2020

Truman Walker
Notary Public



[EXECUTION AND ACKNOWLEDGMENTS CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed and delivered by its duly authorized officer effective as of the day and year first written above.

PROFICIO BANK,
a Utah state chartered bank

By: Jim Ardoin

Print Name: Jim Ardoin

Its: Chief Credit Officer

STATE OF UTAH

)

County of Salt Lake

)
SS.
)

On June 5, 2014, before me, the undersigned Notary Public, personally appeared Jim Ardoin, the SVP of PROFICIO BANK, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) 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 his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires:

7/15/2017

Kristie T. Tice
Notary Public



[EXECUTION AND ACKNOWLEDGMENTS CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed and delivered by its duly authorized MANAGER effective as of the day and year first written above.

L.W. MILLER, LLC,
a Utah limited liability company

By: Larry W. Miller
Print Name: Larry W. Miller
Its: 2014

STATE OF UTAH)
County of CACHE)
)
)SS.

On June 4, 2014, before me, the undersigned Notary Public, personally appeared Larry W. Miller, the MANAGER of L.W. MILLER, LLC, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) 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 his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

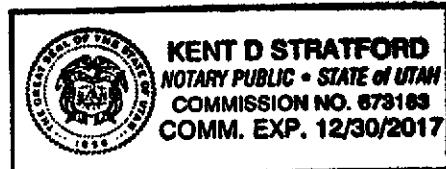
WITNESS my hand and official seal.

My Commission Expires:

12/30/2017


Notary Public

[EXECUTION AND ACKNOWLEDGMENTS CONTINUE ON FOLLOWING PAGE]



IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed and delivered by its duly authorized Mayor effective as of the day and year first written above.

PERRY CITY CORPORATION,
a municipal corporation

By: Karen Cronin
Print Name: Karen Cronin
Its: Mayor

STATE OF UTAH)
)
County of Box Elder)
)
)SS.

On June 4, 2014, before me, the undersigned Notary Public, personally appeared Karen Cronin, the Mayor of **PERRY CITY CORPORATION**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) 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 his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires:

May 25, 2016

Susan K. Obrey
Notary Public

[EXECUTION AND ACKNOWLEDGMENTS CONTINUE ON FOLLOWING PAGE]



IN WITNESS WHEREOF, the undersigned has executed this Amendment effective as of the day and year first written above. 


ROLAND N. (ROLLIE) WALKER (L.S.)

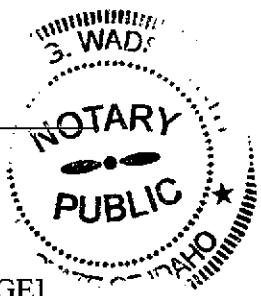
STATE OF UTAH IDAHO)
County of Bonneville)
SS.)

On June 3, 2014, before me, the undersigned Notary Public, personally appeared ROLAND N. (ROLLIE) WALKER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) 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 his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

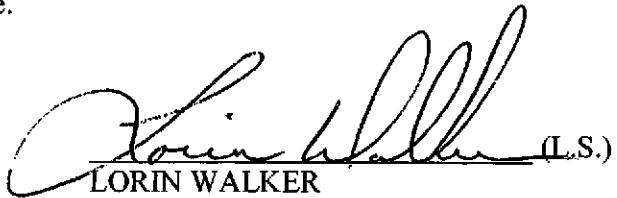
WITNESS my hand and official seal.

My Commission Expires:

[EXECUTION AND ACKNOWLEDGMENTS CONTINUE ON FOLLOWING PAGE]



IN WITNESS WHEREOF, the undersigned has executed this Amendment effective as of the day and year first written above.



LORIN WALKER (L.S.)

STATE OF UTAH (DAN)
County of Bonneville)
)
)SS.

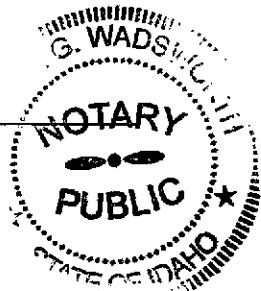
On JUNE 3, 2014, before me, the undersigned Notary Public, personally appeared LORIN WALKER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires:

1/27/2020

Lorin Walker
Notary Public



[EXECUTION AND ACKNOWLEDGMENTS CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned has executed this Amendment effective as of the day and year first written above.

Larry Miller (L.S.)
LARRY MILLER

STATE OF UTAH)
County of CACHE)
)SS.)

On JUNE 4, 2014, before me, the undersigned Notary Public, personally appeared LARRY MILLER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) 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 his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

My Commission Expires:

12/30/2017

Notary Public

This instrument prepared by:

James R. Dickens, Jr., Esq.

Rushton, Stakely, Johnston & Garrett, P.A.

Post Office Box 270

Montgomery, Alabama 36101-0270

Montgomery, Ala.
File No. 7681-95

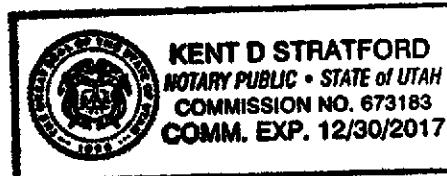


EXHIBIT "A"

HSC Lots

Lot 6 of Pointe Perry Subdivision - Phase 1, "A Special P.U.D. Subdivision", Box Elder County, Utah, as shown on the official plat thereof, filed April 2, 2004, as Filing No. 198702, in the office of the recorder of Box Elder County, Utah.

Lot 17 of Pointe Perry Subdivision - Phase 3, "A Special P.U.D. Subdivision", Box Elder County, Utah, as shown on the official plat thereof, filed June 18, 2008, as Filing No. 264922 in the office of the recorder of Box Elder County, Utah.

EXHIBIT "B"

Site Plan – HSC Lots

[see attached]

EXHIBIT "C"

New Plat

[see attached]

