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## RESTRICTION AGREEMENT AND GRANT OF EASEMENTS

This Restriction Agreement and Grant of Easements (this "Agreement") is made as of the 17 day of October, 2006, by and among Riverton Land Holdings, L.L.C. ("RLH"), a Colorado limited liability company, Home Depot U.S.A., Inc. a Delaware corporation ("Home Depot"), Hamilton Square Associates, L.L.C., a Utah limited liability company ("Hamilton"), and Bangerter Commercial Center, LLC ("Bangerter Commercial").

### 1. PRELIMINARY

#### 1.1. Parties.

1.1.1. RLH is the Owner of Lots 2 through 13 (collectively, the "RLH Parcels") of The Home Depot, A Commercial Subdivision, according to the official plat thereof (the "Plat"), recorded November 10, 2005 as Document No. 9551334 in Book 2005 of Plats at Page 357, in the office of the Salt Lake County Recorder, State of Utah. The commercial subdivision depicted on the Plat, including Lot 1, on which is located a Home Depot home improvement center, is referred to herein as the "Shopping Center." A copy of the Plat is attached hereto as Exhibit A and made a part hereof by this reference. The RLH Parcels are more fully described on Exhibit A-1 attached hereto and made a part hereof by this reference.

1.1.2. Home Depot is the Owner of Lot 1 of the Shopping Center (the "Home Depot Parcel"), on which is located a Home Depot Home Improvement Center. The Home Depot Parcel is more fully described in Exhibit A-2 attached hereto and made a part hereof by this reference.

1.1.3. Hamilton was the Owner of Lot 1, Jill Meadows Subdivision, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder, Tax ID No. 27-32-300-010, and more particularly described in Exhibit B hereto. Hamilton developed its property into a shopping center known as Hamilton Square ("Hamilton Square"). The general location of Hamilton Square is depicted on Exhibit A as "Jill Meadows Subdivision." Hamilton sold to Bangerter Commercial Lot 1 of the Jill Meadows Subdivision.

#### 1.2. Purpose.

1.2.1. RLH and Home Depot plan to develop the Shopping Center as an integrated retail sales complex for the mutual benefit of all parcels located in the Shopping Center. RLH and Home Depot have fixed and established the easements, restrictions, and other terms upon and subject to which all of the Shopping Center, or any part thereof, shall be improved, held, released, sold, and/or conveyed in that certain Restriction Agreement and Grant of Easements (the "RAGE") dated as of December 1, 2005, and recorded December 1, 2005, as Entry No. 9569861 in Book 9224 beginning at Page 9448 in the official records of the Salt Lake County Recorder, State of Utah, as amended. This Agreement is not intended and shall not be construed to amend the RAGE.

1.2.2. Hamilton has developed Hamilton Square as a retail sales complex.

1.2.3. The parties hereto desire to fix and establish certain reciprocal easements between the Shopping Center and Hamilton Square and to establish certain restrictions upon and subject to which Hamilton Square, or any part thereof, shall be improved and used.

1.3. Definitions. The following defined terms shall have the meanings set forth below for purpose of this Agreement.

1.3.1. "Building." Any permanently enclosed structure placed, constructed, or located on a Parcel, which shall include any appurtenant canopies and supports.

1.3.2. "Connection." The paved vehicular use connection to be constructed between the Shopping Center and Hamilton Square depicted in Exhibit C hereto.

1.3.3. "Consenting Owners." The Owner of the Home Depot Parcel and any Owner of a majority of the RLH Parcels; provided, however, that in the event any such Consenting Owner sells its Parcel and becomes the Prime Lessee thereon, such Prime Lessee shall be deemed appointed as the entity to cast the vote or give the consent for the Parcel on behalf of the Consenting Owner so long as it is the Prime Lessee of said Parcel; provided further, however, in the event any such Consenting Owner sells any portion, but not all, of its Parcel, then the Consenting Owner as to such Parcel shall be that Owner who owns the largest portion of land area within such Parcel, regardless of any agreement to the contrary.

1.3.4. "Easements." The easements fixed and established upon the Shopping Center and Hamilton Square pursuant to this Agreement.

1.3.5. "Improvements." Any Building, sign, or other improvements located in Hamilton Square.

1.3.6. "Occupant." Any Person or Prime Lessee from time to time entitled to the use and occupancy of any portion of a Building in Hamilton Square under an ownership right or any lease, sublease, assignment, license, concession, or other similar agreement.

1.3.7. "Outside Sales Areas." An area generally unprotected from the elements used for sales and/or storage purposes.

1.3.8. "Owner" (i) The record holder of fee simple title to a Parcel, its heirs, personal representatives, successors, and assigns, or (ii) a Prime Lessee as to a Parcel that is subject to a Prime Lease. Each Parcel may have only one Owner, provided that the Owner of a Parcel subject to a Prime Lease shall be jointly and severally liable with the Prime Lessee for any claims or any default hereunder with regard to the ownership or operation of such Parcel.

1.3.9. "Parcel" or "Parcels." Individually or collectively, the Home Depot Parcel, the RLH Parcels, and Hamilton Square, subject to future division into smaller Parcels at such time as undeveloped portions of the RLH Parcels are later developed.

1.3.10. "Permanent Drives." Those private roadways identified on the **Exhibit D** hereto as "Permanent Drives."

1.3.11. "Permittees." All occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, assignees subtenants, and concessionaires of Occupants insofar as their activities relate to the intended use of the Shopping Center or Hamilton Square.

1.3.12. "Plat." The Subdivision Plat for The Home Depot, a Commercial Subdivision, recorded with the Salt Lake County, Utah Recorder's office on November 10, 2005, in Book 2005, Beginning at Page 357.

1.3.13. "Prime Lessee." An Occupant of an entire Parcel who is not the Owner of such Parcel pursuant to an agreement by which such Prime Lessee is subject to all obligations and responsibilities relating to the ownership and operation of such Parcel and any business thereon.

1.3.14. "Restaurant." Any operation or business which requires a governmental permit, license, and/or authorization to prepare and/or serve food for either on- or off-site consumption, including, without limitation, any drive-through service; provided, however, notwithstanding anything herein to the contrary, a supermarket, a grocery store, or other similar food operations shall not be deemed a Restaurant hereunder. This is so even though such establishments may have departments or concessionaires within them that, if looked at alone and in isolation, might themselves be deemed Restaurants.

1.3.15. "Restrictions." The covenants, restrictions, liens, and encumbrances fixed and established upon the Shopping Center and Hamilton Square pursuant to this Agreement.

1.3.16. "Service Areas." The areas on Hamilton Square that are sidewalks attached to and/or adjoining a building, trash compactors and enclosures, exterior lighting attached to a Building, side yards and rear yards used for outdoor storage (provided such outdoor storage does not interfere with the flow of vehicular traffic), loading docks, electrical facilities and transformers, truck ramps and other similar exclusive service facilities and outward extensions, and customer pickup areas directly adjacent or in close proximity to a Building, whether or not described, labeled, or depicted as such on any Exhibit to this Agreement.

## 2. BUILDING AND PARCEL DEVELOPMENT

2.1. Condition of Unimproved Areas. All unimproved portions of Hamilton Square shall be covered by decomposed granite, gravel, sod, hydroseed, or as otherwise permitted by Governmental Regulations and kept weed free and clean at the subject Owner's sole cost and expense until such time as Buildings are constructed thereon.

### 2.2. Type and Design of Building.

2.2.1. No Building on Hamilton Square (including any landscaping located thereon) shall exceed the lesser of one (1) story or twenty-two (22) feet in height, inclusive of all mechanical

fixtures, signage, and television equipment, and screening for same other than any architectural embellishment ("Embellishments") of a Building which may not exceed thirty (30) feet in height; provided, however, Embellishments on any Building located on Hamilton Square shall not cover more than twenty percent (20%) of the fascia of each of three (3) sides of a Building. No mezzanine or basement shall be used for the sale or display of merchandise or for the offer or provision of retail services to the public.

2.2.2. There shall not be constructed on Hamilton Square any parking structure, whether over or under ground level.

### 2.3. Construction Requirements.

2.3.1. All work performed in the construction, repair, replacement, alternation, or expansion of any Improvements on Hamilton Square shall be performed as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct, or delay (i) access to or from the Shopping Center, or any part thereof, or to or from any public right-of-way, or (ii) the receiving of merchandise by any business in the Shopping Center, including, without limitation, access to any Building. In addition, all work performed on Improvements on Hamilton Square shall not unreasonably interfere, obstruct, or delay (i) construction work being performed on the Shopping Center, or (ii) the use, enjoyment, or occupancy of any other Parcel located in the Shopping Center. Unless otherwise specifically stated herein, the Person contracting for the performance of such work ("Contracting Party") shall, at its sole cost and expense, promptly repair and restore or cause to be promptly repaired and restored to its prior condition all Buildings, signs, and other improvements damaged or destroyed in the performance of such work.

2.3.2. Staging for the initial construction of Buildings located on Hamilton Square, or the replacement, alternation, or expansion of any Building, sign, or other improvements located in Hamilton Square including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment shall be located solely on Hamilton Square. Each staging area on Hamilton Square shall be located in such a way that it will not interfere with the use of any of the Permanent Drives. In no event shall the Owner of Hamilton Square establish a staging area within 100 feet of any point of the Home Depot Parcel, except prior to establishing such staging area, the Owner of Hamilton Square may propose a staging plan to the Owner of the Home Depot Parcel to obtain consent to establish a staging area within 100 feet of any point of the Home Depot Parcel, which consent shall not be unreasonably withheld or delayed. Should consent be granted by the Owner of the Home Depot Parcel, the staging area on Hamilton Square shall be located in such a manner as to minimize any interference with the normal operation of the Home Depot Parcel, including but not limited to, the placement of all temporary buildings, construction sheds, building materials, construction vehicles, and equipment on the southeast corners of Hamilton Square. The staging area for Hamilton Square shall be located on Hamilton Square unless the Owner of Hamilton Square obtains the consent of the Owner on whose Parcel it proposes to locate said staging area. At the request of any other Owner, any staging area for Hamilton Square shall be enclosed by a safety fence. Upon completion of such work, the owner of Hamilton Square shall, at its expense, restore any damage to any other Parcel or the Permanent Drives to a condition equal to or better than that existing prior to commencement of such work.

2.4. Indemnity. In addition to the indemnification provided in Section 2.5 below, each Owner shall indemnify, defend, protect, and hold every other Owner and their respective officers, directors, shareholders, employees, and agents harmless for, from, and against any and all claims arising out of or related to injury to or death of any person or damage to or destruction of any property occurring on any Parcel and arising out of or resulting from any construction activities performed by or at the request of such Owner or its Occupants, including such Owner's or such Owner's Occupant's own negligence, unless such damage or destruction is caused solely by the negligent or willful act or omission of the indemnified Owner.

2.5. Hamilton Square Owner's Further Indemnity. The Owner of Hamilton Square shall indemnify, defend, protect, and hold every other Owner and their respective officers, directors, shareholders, employees, and agents harmless for, from, and against any and all claims arising out of or related to injury to or death of any person or damage to or destruction of any property arising out of or resulting from any accident involving pedestrian and/or vehicular use of the Connection, unless such injury, damage, or destruction is caused solely by the negligent or willful act or omission of the indemnified Owner.

2.6. Approval Procedures.

2.6.1. Except for the execution of this Agreement and the construction of the Connection as shown in Exhibit C attached hereto, before any action by the Owner of Hamilton Square requiring the Consenting Owners' approval is commenced, sufficient information shall be sent to the Consenting Owners to enable the Consenting Owners to make a decision as to the proposal, together with a review fee equal to Five Hundred and No/100 Dollars (\$500.00) to cover each respective Consenting Owner's costs incurred in reviewing the proposal of Hamilton Square. Each Consenting Owner shall have the right to approve or disapprove the proposal in accordance with the manner and time procedures set forth in Section 14.7 below, and if such Consenting Owner disapproves the proposal, it shall provide a written explanation in reasonable detail of its reasons for disapproval. No review fee shall be required with respect to approvals of site plans.

2.6.2. No Consenting Owner shall be liable in damages or otherwise for any reason, including any mistake in judgment, negligence, or nonfeasance, arising out of or in connection with the approval or disapproval or failure to approve or disapprove any proposal submitted pursuant to this Agreement. Each Owner agrees that, by acquiring title to its Parcel and submission of such plans, drawings and/or specifications, it will not bring any action or suit against any Consenting Owner to recover any such damages. In addition, each Owner shall indemnify, defend, protect, and hold the Consenting Owners and their respective officers, directors, shareholders, employees, and agent harmless for, from, and against any and all Claims arising out of or related to the approval or disapproval of any plans, drawings, and/or specifications submitted to a Consenting Owner by or on behalf of such Owner or its Occupants. No approval shall be considered an approval of the plans, drawings, and/or specifications from an engineering perspective or a determination that they meet building, environmental, or engineering design standards, or that any such Improvements have been built in accordance with such plans, drawings, and/or specifications.

### 3. EASEMENTS.

#### 3.1. Ingress and Egress.

3.1.1. The Owner of Hamilton Square, as grantor, hereby grants to each other Owner, as grantee, for the benefit of each Parcel contained in the Shopping Center, and for the use of said Owner and its Permittees, a nonexclusive easement for ingress and egress by vehicular and pedestrian traffic upon, over and across the vehicular use areas and sidewalks located in Hamilton Square. The easements provided for in this Section 3.1.1 shall not benefit and, without the written approval of the Owner of Hamilton Square, may not be assigned or granted to or for the benefit of any property outside the Shopping Center.

3.1.2. The Owners of the Home Depot Parcel and the RLH Parcels, as grantors, hereby grant to the Owner of Hamilton Square, as grantee, for the benefit of Hamilton Square, and for the use of said Owner and its Permittees, a nonexclusive easement only for ingress and egress by vehicular and pedestrian traffic upon, over and across the Permanent Drives and sidewalks located adjacent to the Permanent Drives located in the Shopping Center. The Easements provided for in this Section 3.1.2 shall not benefit and, without the written approval of the Owners of the Home Depot Parcel and the RLH Parcels, may not be assigned or granted to or for the benefit of any property outside Hamilton Square.

3.2. No Cross Parking. There shall be no cross-parking between the Shopping Center on the one hand and Hamilton Square on the other hand. In the event that any Owner, Occupant, or the Permittee of such Owner or Occupant parks impermissibly on another Owner's Parcel in violation of this Section 3.2, the Owner or Occupant upon whose Parcel the impermissible parking occurs shall have the right to cause the offending vehicle to be towed and impounded. Moreover, if such impermissible parking repeatedly occurs following written notice of such violations, the offending Owner or Occupant shall erect, at its own cost and expense, signs at or near the parking stalls where the impermissible parking continues, and such sign shall be of sufficient size and content to reasonably ensure that drivers are warned that their vehicles will be towed if parked impermissibly, all pursuant to the reasonable specifications, locations, indemnification, and construction procedures approved by the Owner or Occupant upon whose Parcel the impermissible parking occurs, which approval shall not be unreasonably withheld, conditioned, or delayed. If such impermissible parking continues to repeatedly occur, the offending Owner or Occupant shall submit for the approval of the Owner or Occupant upon whose Parcel the impermissible parking occurs a plan with further reasonable measures designed to prevent the impermissible parking (the "Parking Plan"), which approval shall not be unreasonably withheld, conditioned, or delayed. If a Parking Plan is not approved within thirty (30) days, the Owner upon whose Parcel the impermissible parking occurs shall have the right to close the Connection until such time as a Parking Plan is approved.

3.3. No Other Easements. No other easement is intended or granted by this Agreement, including, without limitation, any easement for placing or constructing signs or utilities.

3.4. Dedication to Public Entities. Without the prior written consent of the Consenting Owners, which consent may be granted or withheld in the sole and absolute discretion of each Consenting Owner, no Owner shall have the right to grant any easement for the benefit of any

property not within the Shopping Center or Hamilton Square; provided, however, that the foregoing shall not prohibit the granting or dedicating of easements by an Owner on its Parcel to governmental or quasi-governmental authorities or to public utilities to service the granting Owner's Parcel.

3.5. No Merger. Notwithstanding an Owner's ownership of more than one Parcel, the easements granted hereunder shall burden and benefit each Parcel individually, without merger as a result of such common ownership, and upon conveyance of a Parcel so that such Parcel ceases to be under common ownership, neither the Owner conveying said Parcel nor the Owner acquiring said Parcel shall need to execute additional documentation to evidence the existence of said easements, and said easements shall relate back to and shall be deemed to have been created as of the date this Agreement is recorded in the office of the recorder of the county in which the Shopping Center is located.

3.6. Permanent Drive. Unless otherwise approved in writing by the Consenting Owners, which approval may be withheld in each Consenting Owner's sole and absolute discretion, those certain accessways shown on **Exhibit D** as "Permanent Drives," including, without limitation, the curb cuts on such accessways, shall not be altered or modified, provided, however, a curb cut may be made to allow construction of the Connection.

#### 4. PARKING AREA

##### 4.1. Parking.

4.1.1. The parking area in Hamilton Square shall contain sufficient ground level parking spaces in order to comply with the following minimum requirements:

4.1.1.1. Five (5) parking spaces for each one thousand (1,000) square feet of Floor Area;

4.1.1.2. If a business use contains a drive-up or drive-thru unit (such as a remote banking teller or food ordering/dispensing facility, then there shall also be created space for stacking not less than seven (7) automobiles (exclusive of any drive-aisle) for each drive-up unit;

4.1.1.3. Five (5) parking spaces for each one thousand (1,000) square feet of Floor Area for each single Restaurant which has less than two thousand five hundred (2,500) square feet of Floor Area;

4.1.1.4. Seven (7) parking spaces for each one thousand (1,000) square feet of Floor Area for each Restaurant which has at least two thousand five hundred (2,500) square feet of Floor Area, but less than five thousand (5,000) square feet of Floor Area;

4.1.1.5. Ten (10) parking spaces for each one thousand (1,000) square feet of Floor Area for each Restaurant which has five thousand (5,000) square feet of Floor Area or more.

4.1.1.6. If an Owner or Occupant of Hamilton Square operates a Restaurant incidentally to its primary business purpose, then so long as such incidental operation continues, the portion of the Floor Area occupied by such Restaurant shall be excluded from the application of subsections 4.1.1.3, 4.1.1.4, and 4.1.1.5 above. For purposes of this clause only, a Restaurant shall be an "incidental operation" if it occupies less than seven percent (7%) of the Occupant's Floor Area and does not have a separate customer entry/exit door to the outside of the Building. In the event an Occupant utilizes Floor Area for both Restaurant and retail purposes, and such Restaurant purpose is not an incidental operation, only the portion of Floor Area allocated for Restaurant purposes shall be subject to the application of subsections 4.1.1.3, 4.1.1.4, and 4.1.1.5 above.

4.1.1.7. If the minimum number of parking spaces required by Governmental Regulations is greater than the minimum requirements set forth above, then the minimum number of parking spaces as required by Governmental Regulations shall control.

4.1.2. In the event of a condemnation of part of a Parcel or sale or transfer in lieu thereof that reduces the number of usable parking spaces below that which is required in this Section 4.1, the Owner whose Parcel is so affected shall use its commercially reasonable efforts (including, without limitation, using proceeds from the condemnation award or settlement) to restore and/or substitute parking spaces in order to comply with the parking requirements set forth in this Section 4.1. If such compliance is not possible, the Owner whose Parcel is so affected shall not be deemed in default hereunder, but such Owner shall not be permitted to expand the amount of Floor Area located upon its Parcel. If such Floor Area is thereafter reduced other than by casualty, the Floor Area on such Parcel may not subsequently be increased unless the parking requirement is satisfied.

## 5. RESTRICTION ON USE

### 5.1. Home Improvement Store Restrictions

5.1.1. No portion of Hamilton Square shall be used for a Home Improvement Center. The term "Home Improvement Center" shall mean any retail store primarily devoted to the retail sale, display or lease of all or several of the Prohibited Home Improvements Items (defined below) and related items as an integrated retail concept. The term "Prohibited Home Improvement Items" shall mean the following items or materials: lumber, hardware, tools, plumbing supplies, pool supplies, electrical supplies, paint, wallpaper and other wallcoverings, window treatments (including draperies, curtains and blinds), kitchen or bathrooms or components thereof (including tubs, sinks, faucets, mirrors, cabinets, showers, vanities, countertops and related hardware), windows, hard and soft flooring (including tile, wood flooring, rugs and carpeting), siding, ceiling fans, gardening and garden nursery supplies, artificial and natural plants, outdoor cooking equipment and accessories, patio furniture and patio accessories, Christmas trees, indoor and outdoor lighting systems and light fixtures, cabinets and unfinished and finished furniture, kitchen and household appliances, closet organizing systems, pictures or picture framing, interior design services, or other products generally sold in a retail home improvement center, except for the incidental sale of such items. An "incidental sale of such items" is one in which there is no more than the lesser of (i) five percent (5%) of the total Floor Area of such business, or (ii) 1,000 square feet of sales and/or display area, relating to such items individually or in the aggregate. The restrictions in this paragraph 5.1.1 shall



continue so long as a Home Improvement Center is operated on the Home Depot Parcel. If a Home Improvement Center is not operated on the Home Depot Parcel for a period of not less than sixty (60) months, excluding periods of closure due to force majeure, restoration, reconstruction, expansion, alteration or remodeling of the Building on the Home Depot Parcel that Home Depot is diligently prosecuting to completion, and such failure to operate a Home Improvement Center continues for one hundred eight (180) days (the "Reopening Period") after receipt by Home Depot of a written notice to reopen (the "Notice to Reopen") delivered to Home Depot any time between the beginning of the initial twelfth (12th) months of closure and the end of the initial thirty-sixth (36th) month of closure (the "Reopening Notice Period"), the restriction in this paragraph 5.1.1 shall terminate.

5.1.2. No portion of Hamilton Square shall be used for any business which sells, displays, leases, rents, or distributes, singly or in any combination, Prohibited Home Improvement Items; provided, however, that the foregoing restriction shall not apply to the incidental sale of such items in a full service grocery store.

## 5.2. Shopping Center Restrictions.

5.2.1. No portion of Hamilton Square shall be used for any non-retail use or for any of the following purposes; a surplus store; gun range; the sale of guns as a primary use; a warehouse; an animal kennel (provided, however, the foregoing exception shall not preclude any veterinary or boarding services provided in connection of a pet shop provided such veterinary or boarding services are only incidental to the operation of the pet shop. Further, the boarding of pets as a separate customer service shall be prohibited; all kennels, runs, and pens shall be located inside the Building; and the combined incidental veterinary and boarding facilities shall occupy no more than fifteen percent (15%) of the Floor Area of the pet shop).

5.2.2. No portion of Hamilton Square shall be used for any of the following purposes: a flea market or a business selling so-called "second hand" goods (the term "second hand" shall mean stores which sell goods primarily as a service to the public rather than to a retail customer for a profit); cemetery; mortuary; any establishment engaged in the business of selling, exhibiting, or delivering pornographic or obscene materials; a so-called "head shop"; off-track betting parlor; junk yard; recycling facility or stockyard; a mini-storage or self-storage facility; a laundromat or dry-cleaning facility (but this shall not be deemed to prohibit nominal supportive facilities for on-site service oriented to pickup and delivery by the ultimate consumer); a bar, tavern, or cocktail lounge; a discotheque, dance hall, comedy club, night club, or adult entertainment facility; billiard or pool hall; massage parlor, game parlor or video arcade (which shall be defined as any store containing more than three (3) electronic games); a beauty school, barber college, reading room, place of instruction or any other operation catering primarily to students or trainees and not to customers (but shall specifically not prohibit a school which is incidental to a primary retail purpose); or an educational facility such as a Sylvan Learning Center, office usage other than incidental in connection with non-prohibited uses; industrial, residential, or manufacturing uses, school or house of worship.

5.2.3. No portion of Hamilton Square shall be used for a theater, auditorium, sports or other entertainment viewing facility (whether live, film, audio/visual or video); bowling alley;

skating rink; fitness center, workout facility, gym, health spa or studio, or exercise facility; Restaurants which derive more than 35% of their gross sales from alcohol sales; car wash facility or gasoline station; business office usage (defined as any office that does not provide services directly to a consumer) other than incidental in connection with non-prohibited uses; retail office usage (defined as any office which provides services directly to customers, including but not limited to financial institutions, real estate, stock brokerage, and title companies, travel and insurance agencies, and medical, dental, and legal clinics); motor vehicle or boat dealership, repair shop (including lubrication and/or service center) that stores vehicles outdoors overnight, body and fender shop, or motor vehicle or boat storage facility (neither the foregoing restriction nor anything else in this Agreement to the contrary shall preclude the Owner of the Home Depot Parcel's sale or rental of delivery vehicles and trailers to its customers as part of its home improvement business).

5.2.4. Without the prior written consent of the Owners of the Home Depot Parcel and the RLH Parcels, the following shall not be allowed to operate in Hamilton Square, except as otherwise permitted in this Agreement: traveling carnivals, fairs, auctions, shows, kiosks, booths for the sale of fireworks, sales by transient merchants utilizing vehicles or booths and other promotions of any nature. Except as otherwise permitted in this Agreement, in the event that unauthorized persons, including without limitation tenants or invitees of tenants occupying Buildings now or at any future time located in Hamilton Square, utilize the parking area for other than temporary parking by customers while shopping in Hamilton Square, the Owner of Hamilton Square shall at its sole expense, upon written request by the Owner of the Home Depot Parcel or the RLH Parcels, take whatever action as shall be necessary to prevent said unauthorized use.

5.2.5. No portion of Hamilton Square shall be used for a business or use which creates strong, unusual, or offensive odors, fumes, dust or vapors; emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness, or loudness; creates unusual fire, explosive, or other hazards, or materially increases the rate of insurance for any parcel located in the Shopping Center, Owner, or Occupant.

5.2.6. No oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any portion of Hamilton Square, nor shall oil wells, tanks, tunnels, or mineral excavation or shafts be permitted upon the surface of any portion of the Parcels, or within five hundred (500) feet below the surface of any of Hamilton Square. No derrick or other structure designed for use in boring for water, oil, natural gas, or other minerals shall be erected, maintained, or permitted on any portion of Hamilton Square.

5.2.7. No portion of Hamilton Square shall be used as an Outside Sales Area.

5.2.8. For purposes of this Agreement, all Service Areas located on Hamilton Square shall be the sole exclusive property of the Owner of Hamilton Square and the Owner of Hamilton Square shall have the exclusive right to use such areas for whatever purpose it deems appropriate, including, without limitation, the sale and display of merchandise.

5.2.9. For purposes of this Agreement, Persons who are not Owners or Occupants engaging in the following activities in any portion of Hamilton Square will not be considered to be Permittees under this Agreement: (i) exhibiting any placard, sign, or notice that does not advertise

an existing business in Hamilton Square; (ii) distributing any circular, handbill, placard, or booklet promoting an existing business in Hamilton Square; (iii) soliciting memberships or contributions for an existing business in Hamilton Square; (iv) parading, picketing, or demonstrating; and (v) failing to follow regulations relating to the use of Hamilton Square or the Shopping Center.

5.2.10. This Agreement is not intended to, and does not, create or impose any obligation on a Party to operate, continuously operate, or cause to be operated a business or any particular business in Hamilton Square, the Shopping Center or on any Parcel.

5.3. Notwithstanding any other provision of this Agreement, the restrictions on type and design of building contained in Section 2.2 of this Agreement shall not apply to replacement of reasonably identical buildings in Hamilton Square in the event of casualty, and the restrictions on use contained in Section 5 of this Agreement shall not apply to existing tenants in Hamilton Square as of the date of this Agreement to the extent of their then-current uses and occupancy of the Hamilton Square premises they presently occupy (i.e., such existing tenants, which are T-Mobile and Wingers Restaurant, shall be grandfathered), provided further, however, that if the use or occupancy of Hamilton Square by such existing tenants changes or increases, such changed or increased use or occupancy shall be subject to the Restrictions set forth herein. Except for those uses specifically grandfathered by this Section 5.3, if an Owner or Occupant of Hamilton Square violates the use restrictions contained in Section 5, RLH and/or Home Depot shall have the right to close the Connection until such time as such violation ceases.

5.4. Notwithstanding any other provision of this Agreement, the restrictions on use of Hamilton Square as office space contained in Section 5 of this Agreement shall not apply to the approximately 1,225 square feet of space located on the second floor of the commercial building located on Hamilton Square (the "Office Space"), and the Owner of Hamilton Square may lease the Office Space for tenants to use for office purposes otherwise prohibited by Section 5. The number of square feet of office space located in Hamilton Square may not be increased. Section 5 shall apply in its entirety to all remaining space located in Hamilton Square.

## 6. MAINTENANCE STANDARDS

6.1. Permanent Drives Maintenance. On or before January 1 of each calendar year, the Owner of Hamilton Square shall pay to Home Depot One Hundred and 00/100 Dollars (\$100.00) for each ten thousand (10,000) square feet within Hamilton Square, but no less than Two Hundred Fifty and 00/100 Dollars (\$250.00) (subject to adjustment as hereinafter provided), as such Owner's contribution toward the cost of Home Depot's maintenance of the Permanent Drives for the preceding calendar year or portion thereof (as the same may be increased from time to time, the "Permanent Drives Maintenance Fee"). The initial Permanent Drives Maintenance Fee shall be increased by five percent (5%) as of January 1, 2010, and five percent (5%) as of each successive fifth (5th) anniversary thereafter. Notwithstanding any other provisions hereof, if the Owner of Hamilton Square, or any of its successors or assigns or their respective agents, representatives, invitees, guests, tenants, or licensees, damages any portion of the Permanent Drives, such Owner shall reimburse Home Depot for the costs and expenses for the repair and restoration of such damage within thirty (30) days after receipt of an invoice from Home Depot, and in the event such Owner fails to make such payment within such 30-day period, such Owner shall be required to pay interest

on the amount due at the lesser of (a) the maximum rate allowed by law or (b) fifteen percent (15%) per annum until payment is made. The Permanent Drives Maintenance Fee shall be the sole contribution required by the Owner of Hamilton Square for maintenance of the Permanent Drives.

6.2. Connection and Vehicular Use Area Maintenance. The Connection shall be maintained and repaired in a condition reasonably necessary for its continued use for its intended purpose at the sole cost and expense of the Owner of Hamilton Square. All vehicular use areas located within Hamilton Square reasonably necessary for the ingress and egress easements contemplated by this Agreement shall be maintained and repaired in a condition reasonably necessary for their continued use for ingress and egress at the sole cost and expense of the Owner of Hamilton Square.

6.3. Other Maintenance Obligations. Each Owner within the Shopping Center and Hamilton Square shall, except as hereinafter provided, maintain, or cause to be maintained, the exterior portions of its Parcel at all times in good and clean condition and repair, said maintenance to include, without limitation, the following:

6.3.1. Maintaining, repairing, and resurfacing, when necessary, all paved surfaces in a level, smooth, and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal or superior in quality, use and durability; and restriping, when necessary, to maintain clearly visible parking stall and traffic control lines;

6.3.2. Removing all papers, debris, filth, and refuse from the exterior spaces and washing or thoroughly sweeping the same to the extent reasonably necessary to keep the Parcel in a clean and orderly condition, unobstructed, and if applicable, free from ice and snow;

6.3.3. Placing, painting, maintaining, repairing, replacing, and repainting, as and when necessary, all directional signs, markers, striping, and pedestrian crossings upon or within the Parcel;

6.3.4. Maintaining, repairing, and replacing, when necessary, (i) Service Areas, and (ii) traffic directional signs, markers and lines, and all informational signs such as "Handicapped Parking", in good repair and condition;

6.3.5. Operating, maintaining, repairing, and replacing, when necessary, such artificial lighting facilities as shall be reasonably required, including, but not limited to poles, pole bases, wiring, lamps, ballasts, lenses, photocells, time clocks, and contacts. Each Owner shall maintain and provide electricity to all lighting fixtures attached to its respective Building(s) at its sole cost and expense;

6.3.6. Maintaining and watering all landscaped areas; maintaining, repairing and replacing, when necessary, automatic sprinkler systems and water lines; replacing shrubs and other landscaping as necessary;

6.3.7. Maintaining, repairing, and replacing, when necessary, all walls (including, without limitation, all fences, walls or barricades);

6.3.8. Performing itself or contracting with a competent third party or parties to perform any of the services described herein;

6.3.9. Maintaining commercial general liability insurance as set forth in Article 9 hereof;

6.3.10. Supervising traffic at entrances and exits to Hamilton Square, the Shopping Center and within the Shopping Center and Hamilton Square if necessary as conditions reasonably require in order to maintain an orderly and proper traffic flow; and

6.3.11. Keeping all exterior areas free from any obstructions including those caused by the sale or display of merchandise, unless such obstruction is permitted under the provisions of this Agreement.

## 7. SUCCESSORS AND ASSIGNS; LIMITATION ON RELEASE

7.1. This Agreement and the Easements and Restrictions created hereby shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, Occupants, successors, and assigns, and upon any Person acquiring a Parcel, or any portion thereof, or any interest therein, whether by operation of law or otherwise; provided, however, that if any Owner sells all or any portion of its interest in any Parcel, and such Owner, then at such time as the selling Owner executes and delivers to the Consenting Owners a written statement in which the name and address of the new Owner, the effective date of the conveyance, the Parcel conveyed, and, if applicable, the name of a new Party who has taken the position of a Consenting Owner as provided pursuant to the terms of this Agreement, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the property sold by it arising under this Agreement after the sale and conveyance of title but shall remain liable for all obligations arising under this Agreement prior to the sale and conveyance of title. The new Owner of any such Parcel or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale, or otherwise) shall be liable for all obligations arising under this Agreement with respect to such Parcel or portion thereof after the date of sale and conveyance of title. Failure to deliver any such written statement shall not affect the running of any covenants herein with the land, nor shall such failure negate, modify, or otherwise affect the liability of the new Owner pursuant to the provisions of this Agreement, but such failure shall constitute a default by conveying Owner resulting in continued liability hereunder.

## 8. DEFAULT

8.1. Default. In the event any Owner or Occupant fails to perform any other provision of this Agreement, which failure continues for a period of ten (10) days' after receipt of written notice specifying the particulars of such failure, such failure shall constitute a default and any other Owner or Prime Lessee may thereafter institute legal action against the defaulting Owner or Occupant for specific performance, declaratory or injunctive relief, monetary damages, or any other remedy provided by law; provided, however, that the defaulting Owner or Occupant shall not be deemed to be in default if such failure to perform cannot be rectified within said ten (10) day period and such Owner or Occupant is diligently proceeding to rectify the particulars of such failure and rectifies

same within a period not to exceed thirty (30) days; provided further, however, that in the event of an emergency, such failure shall be deemed a default if such failure is not rectified in a period reasonable for the nature and circumstances of such emergency (by way of example, but not as a limitation, the failure to promptly remove snow or otherwise maintain vehicular use areas such that Owners, Occupants, and Permittees can utilize the reciprocal easements granted in Section 3.1 above shall constitute an emergency).

## 9. INSURANCE.

### 9.1. Insurance Coverage During Construction.

9.1.1. Prior to commencing any construction activities within Hamilton Square, each Owner or Occupant of Hamilton Square performing such construction shall obtain or require its contractor to obtain and thereafter maintain, so long as such construction activity is occurring, at least the minimum insurance coverages set forth below:

#### 9.1.1.1. Workers' compensation and employer's liability insurance:

9.1.1.1.1. Worker's compensation insurance as required by any applicable law or regulation.

9.1.1.1.2. Employer's liability insurance in the amount of One Million and No/100 Dollars (\$1,000,000.00) each accident for bodily injury, One Million and No/100 Dollars (\$1,000,000.00) policy limit for bodily injury by disease, and One Million and No/100 Dollars (\$1,000,000.00) each employee for bodily injury by disease.

9.1.1.2. General liability insurance: Commercial General Liability insurance covering all operations by or on behalf of the general contractor, which shall include the following minimum limits of liability and coverages:

#### 9.1.1.2.1.1 Required coverages:

9.1.1.2.1.1.1 Premises and Operations;

9.1.1.2.1.1.2 Products and Completed Operations;

9.1.1.2.1.1.3 Contractual Liability insuring the indemnity obligations assumed by contractor under the contract documents;

9.1.1.2.1.1.4 Broad Form Property Damage (including Completed Operations);

9.1.1.2.1.1.5 Explosion, Collapse and Underground Hazards;

9.1.1.2.1.1.6 Personal Injury Liability; and

9.1.1.2.1.1.7 Builders Risk.

9.1.1.2.1.2 Minimum limits of liability:

9.1.1.2.1.2.1 Two Million and No/100 Dollars (\$2,000,000.00) per occurrence.

9.1.1.2.1.2.2 Two Million and No/100 Dollars (\$2,000,000.00) aggregate for Products and Completed Operations (which shall be maintained for a three (3) year period following final completion of the work).

9.1.1.2.1.2.3 Two Million and No/100 Dollars (\$2,000,000.00) general aggregate applied separately to the Shopping Center.

9.1.2. Automobile Liability Insurance: Automobile liability insurance (bodily injury and property damage liability) including coverage for owned, hired, and non-owned automobiles, with limits of liability of not less than One Million and No/100 Dollars (\$1,000,000.00) combined single limit each accident for bodily injury and property damage combined. The general contractor shall require each of its subcontractors to include in their liability insurance policies coverage for automobile contractual liability.

9.1.3. Umbrella/Excess Liability Insurance: The general contractor shall also carry umbrella/excess liability insurance in the amount of Three Million and No/100 Dollars (\$3,000,000.00). If there is no per project aggregate under the Commercial General Liability policy, the limit shall be Five Million and No/100 Dollars (\$5,000,000.00).

9.1.4. If the construction activity involves the use of another Owner's Parcel, the Owner of such other Parcel shall be added as an additional insured and such insurance shall provide that the insurance shall not be canceled, or reduced in amount or coverage below the requirements of this Agreement without at least thirty (30) days' prior written notice to the insureds and each additional insured. The form of additional insured endorsement shall be ISO Form CG 2026 1185 or the functional equivalent thereof providing the same scope of protection to additional insureds. If such insurance is canceled or expires, the constructing Owner shall immediately stop all work on or use of the other Owner's Parcel until either the required insurance is reinstated or replacement insurance obtained. The general contractor shall supply each Owner with certificate(s) of insurance with respect to all insurance required by this Section 9.

9.2. Liability Insurance.

9.2.1. Each Owner shall maintain or cause to be maintained commercial general liability insurance with broad form coverage insuring against claims on account of bodily injury or death, personal and advertising injury, property damage or destruction, and contractual liability (i.e., exclusions for liability assumed under contract must be deleted) that may arise from, or be related to (i) the conduct of the Owner and/or Occupants, or (ii) the condition, use or occupancy of each Owner's Parcel (the "Owner's Liability Insurance"). The Owner of any Parcel upon which Fuel Facilities are constructed and/or installed shall also maintain or cause to be maintained Pollution

Liability Insurance with respect to the Fuel Facilities (“Pollution Liability Insurance”). The Owner’s Liability Insurance and the Pollution Liability Insurance are sometimes collectively referred to herein as “Liability Insurance.”

9.2.2. The Liability Insurance shall be carried by an insurance company or companies qualified to do business in the State in which the Shopping Center is located with a Best’s Key Rating Guide Property/Casualty (United States) rating of at least A- and a financial rating of VII or better (or a comparable standard under an international rating system), and have limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than Two Million and No/100 Dollars (\$2,000,000.00) per occurrence and Five Million and No/100 Dollars (\$5,000,000.00) in the aggregate, or Four Million and No/100 Dollars (\$4,000,000) in the aggregate if the Owner also carries an umbrella/excess liability insurance policy in the amount of Three Million and No/100 Dollars (\$3,000,000) or more. The insurance required pursuant to this Section 9.2 shall be at least as broad as the most commonly available ISO Commercial General Liability policy form CG 00 01 0798 and shall include the following provisions: (i) the policy may not be canceled or reduced in amount or coverage below the requirements of this Agreement, without at least thirty (30) days’ prior written notice by the insurer to each insured and additional insured; (ii) severability of interests; (iii) an act or omission of one of the insureds or additional insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to the other insureds; (iv) name all other Owners as additional insureds; and (v) endorsed to cover said Owner’s agreement to indemnify as set out in this Agreement. Each Owner agrees to furnish to any other Owner requesting same evidence that: (i) such insurance is in full force and effect; (ii) the premiums have been paid in full; and (iii) the appropriate parties are designated as additional insureds on ISO Form CG 2026 1185. The Owners agree that such evidence being readily available on the Internet shall be a satisfactory method of delivering such evidence. If not part of such policy, the Owner’s Liability Insurance shall have at least the following endorsements: (i) deleting any employee exclusion on personal injury coverage; (ii) including coverage for injuries to or caused by employees; (iii) providing for contractual liability coverage for an Owner’s indemnity obligations contained in this Agreement, broad form property damage coverage and products completed operations, owner’s protective and personal injury coverage; (iv) providing for coverage of employer’s automobile non-ownership liability; and (v) if the use of a Parcel includes the sale of alcoholic beverages, including coverage for employer’s liability, host liquor liability, liquor liability, and so-called “dram shop” liability coverage with a combined single limit of not less than Three Million and No/100 Dollars (\$3,000,000.00) per occurrence. The Owner’s Liability Insurance shall be written on an “occurrence” basis form and not on a “claims made” form. The insurance referenced in this Section 12.1 may be provided under (i) an individual policy specifically covering such Owner’s Parcel, (ii) a blanket policy or policies which includes other liabilities, properties and locations of such Owner; so long as the amount and coverage of insurance required to be carried hereunder is not diminished, (iii) a plan of self-insurance satisfying the criteria set forth in Section 12.1(c) below, or (iv) a combination of any of the foregoing insurance programs. To the extent any deductible is permitted or allowed as a part of any insurance policy carried by an Owner in compliance with this Article 12, such Owner shall be deemed to be covering the amount thereof under an informal plan of self-insurance; provided, however, that in no event shall any deductible exceed one percent (1%) of an Owner’s net worth unless such Owner complies with the requirements regarding self-insurance pursuant to Section 12.1(c) below.



9.2.3. Any insurance required to be maintained by the Owner of any Parcel, including, without limitation, the Owner of the Home Depot Parcel, may be maintained in whole or in part either under a plan of self-insurance, or from a carrier which specializes in providing coverage to or for such Owner, including, without limitation, the Owner of the Home Depot Parcel or such Owner's affiliates, or firms in the same or related businesses if such Owner's net worth exceeds One Hundred Million and No/100 Dollars (\$100,000,000) as shown in its most recent audited financial statement, or if such Owner's financial statements are reported on a consolidated basis with a parent corporation, then as certified by an officer of such Owner.

## 10. INDEMNIFICATION BY OWNERS.

10.1. Subject to the provisions of Section 12 below regarding waiver of subrogation with respect to damage to property, each Owner shall defend, indemnify, protect, and hold the other Owners and Occupants harmless for, from, and against any and all claims in connection with the loss of life, personal injury, and/or damage to property (i) arising from or out of any occurrence in or upon the indemnifying Owner's Parcel, including an Owner's or Occupant's own negligence; (ii) occasioned wholly by any negligent or willful act or omission of the indemnifying Owner, its Occupants or their respective agents, contractors, servants, or employees; or (iii) in connection with the failure to comply with the provisions of this Agreement.

## 11. EMINENT DOMAIN.

11.1. In the event the whole or any part of the Shopping Center or Hamilton Square shall be taken or damaged by right of eminent domain or any similar authority of law or a transfer in lieu thereof (a "Taking"), the entire award for the value of the land and improvements so taken shall belong to the Owner of the Parcel so taken or to such Owner's lienholders or Occupants, as they may have agreed between or among themselves, and in the absence of any such agreement, as provided by law, and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Agreement or any ordinance requiring interconnectivity of vehicular use areas between the Shopping Center and Hamilton Square. Any Owner of a Parcel which is not the subject of a Taking may, however, file a collateral claim with the condemning authority over and above the value of the Parcel (or portion thereof) being so taken to the extent of any damage suffered by such Owner resulting from the severance of the land or improvements so taken. In the event of a partial Taking, the Owner of the portion of the Shopping Center or Hamilton Square so taken shall restore the Improvements located on the Owner's parcel and reasonably necessary for the ingress and egress easements contemplated by this Agreement as nearly as possible to the condition existing prior to the Taking to insure the continued ingress/egress to, from and between the Shopping Center and Hamilton Square to the extent reasonably feasible, without contribution from any other Owner.

## 12. WAIVER OF SUBROGATION

12.1. The Owners and Occupants each hereby waive any rights one may have against the other on account of any loss or damage occurring to an individual Owner or Occupant, or its respective property, either real or personal, arising from any risk generally covered by ISO Special Form Causes of Loss, CP 1030 0695 and from any risk covered by property insurance then in effect. In addition, the Owners and Occupants, for themselves and on behalf of their respective insurance

companies, waive any right of subrogation that any insurance company may have against the Owners and Occupants. It is the intent of the parties that with respect to any loss from a named peril required to be covered under a policy of property insurance, the parties shall look solely to their respective insurance company for recovery. The foregoing waivers of subrogation shall be operative only so long as available in the State of Utah, and provided further that no policy of insurance is invalidated thereby.

### 13. CASUALTY

13.1. Casualty to Connection or Hamilton Square Vehicular Use Areas. In the event the Connection or any vehicular use area located within Hamilton Square reasonably necessary for the ingress and egress easements contemplated by this Agreement is damaged or destroyed by any cause, whether insured or uninsured, during the term of this Agreement, the Owner of Hamilton Square shall repair or restore such vehicular use area at its sole cost and expense with all due diligence. Except to the extent limited by Section 12 above, in the event such damage or destruction is caused wholly by the negligent or willful act of another Owner, Occupant, or third person, the Owner of Hamilton Square reserves and retains the right to proceed against such other Owner, Occupant, or third person for indemnity, contribution or damages.

13.2. Casualty to Permanent Drives. In the event any Permanent Drive or portion thereof is damaged or destroyed by any cause, whether insured or uninsured, during the term of this Agreement, the Owner of Hamilton Square shall contribute to the cost of repair or restoration of such Permanent Drive in the same proportion as the proportion of its annual contribution to maintenance of the Permanent Drives under Section 6.1 hereof to the contribution of other Owners to such maintenance. Except to the extent limited by Section 12 above, in the event such damage or destruction is caused wholly by the negligent or willful act of another Owner, Occupant, or third person, the Owner of Hamilton Square and all other Owners reserve and retain the right to proceed against such other Owner, Occupant, or third person for indemnity, contribution or damages.

### 14. GENERAL PROVISIONS

14.1. Covenants Run With the Land. The terms of this Agreement and each Restriction and Easement on each Parcel shall be a burden on that Parcel, shall be appurtenant to and for the benefit of the other Parcels and each part thereof, and shall run with the land.

14.2. No Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of Hamilton Square, the Shopping Center, or of any Parcel or portion thereof to the general public, or for any public use or purpose whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to and for the purposes herein expressed. An Owner shall have the right to close, if necessary, all or any portion of the vehicular use areas on its Parcel from time to time as may be necessary, in the opinion of such Owner, to prevent a dedication thereof or the accrual of any rights of the public therein.

14.3. Hamilton Square not a Part of Shopping Center. Nothing contained in this Agreement shall be deemed to make Hamilton Square a part of the Shopping Center, and the Owners of

Hamilton Square shall not advertise Hamilton Square as being a part of the Shopping Center or as being part of a shopping center anchored by The Home Depot.

14.4. Duration. Except as otherwise provided herein, the term of this Agreement shall be for sixty-five (65) years (the "Primary Period") from the date hereof. Notwithstanding the foregoing, upon the expiration of the Primary Period, the term of this Agreement shall automatically renew for successive periods of ten (10) years each (each such period being referred to as an "Extension Period") unless, at least ninety (90) days prior to the date of expiration of the Primary Period or Extension Period then in effect, all of the Consenting Owners deliver to the other Owners in the Shopping Center and Hamilton Square written notice of termination, in which event, this Agreement shall automatically expire at the end of the Primary Period or Extension Period then in effect. Upon termination of this Agreement, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Agreement shall terminate and have no further force or effect; provided, however, that the termination of this Agreement shall not limit or affect any remedy at law or in equity that an Owner may have against any other Owner with respect to any liability or obligation arising or to be performed under this Agreement prior to the date of such termination, and, provided further, that the access easements and the rights and duties related thereto as provided in Section 3.1 shall continue in effect in perpetuity as to those access easements actually in use at the time of the termination of this Agreement until such time as such access easements are abandoned or ceased to be used to serve a Building in the Shopping Center or Hamilton Square.

14.5. Injunctive Relief. In the event of any violation or threatened violation by any Person of any of the Easements, Restrictions or other terms of this Agreement, any or all of the Owners and Prime Lessees of the property included within the Shopping Center or Hamilton Square shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies set forth in this Agreement or provided by law or in equity.

14.6. Modification and Termination. Notwithstanding the provisions of Section 14.22 below, this Agreement may not be modified in any respect whatsoever or terminated, in whole or in part, except with the consent of all of the Consenting Owners (and, if applicable, the Prime Lessees of a Consenting Owner's Parcel) at the time of such modification or termination, and then only by written instrument duly executed and acknowledged by all of the Consenting Owners and Prime Lessees and recorded in the office of the recorder of Salt Lake County. No modification or termination of this Agreement as provided herein shall adversely affect the rights of any senior Lienholder unless such Lienholder consents in writing to the modification or termination.

14.7. Method of Approval. Unless otherwise provided in this Agreement, whenever approval, consent, or satisfaction (collectively, an "approval") is specifically required of an Owner pursuant to the express terms of this Agreement (or any Exhibit hereto), it shall not be unreasonably withheld, conditioned, or delayed. Unless provision is made for a specific time period, approval or disapproval shall be given within thirty (30) days with respect to approval of site plans and within thirty (30) days after receipt of written request for approval with respect to all other matters. If an Owner neither approves nor disapproves within the required time period, then the Owner requesting approval shall have the right to send a second written request for approval. If such second request states on its face in all capital letters that failure to respond thereto within fifteen (15) days shall be

deemed approval, then the failure to respond within such fifteen (15) day period shall constitute the approval of the Owner from whom approval was requested. Except with respect to approvals which are deemed approved pursuant to the preceding sentence, all approvals (including conditional approvals) and disapprovals shall not be effective unless given or made in writing. If an Owner disapproves, the reasons therefor shall be stated in reasonable detail in writing. An Owner's approval of any act or request by another Owner shall not be deemed to waive or render unnecessary approval of any similar or subsequent acts or requests. Since the submission of a proposed amendment to the Parties is not an item of "consent" or "approval", each Party may consider any proposed amendment to this Agreement in its sole and absolute discretion without regard to reasonableness or timeliness.

14.8. **Estoppel Certificates.** Any Owner may, at any time and from time to time, in connection with the sale or lease of the Owner's Parcel, or in connection with the financing or refinancing of the Owner's Parcel by bona fide mortgage, deed of trust or sale-leaseback made in good faith and for value, deliver written notice to the other Owners requesting such Owners to execute certificates certifying that to the best knowledge of the other Owners, (i) neither the requesting Owner nor any other Owner is in default in the performance of its obligations under this Agreement, or, if a default is alleged, specifically describing the nature and amount thereof, and (ii) confirming that this Agreement has not been amended (or, if so, identifying the amendments), and is in full force and effect. Each Owner shall execute and return such a certificate within thirty (30) days after receipt of a request therefore. The Owners acknowledge that such certificates may be relied upon by transferees, mortgagees, deed of trust beneficiaries, and leaseback lessors. Such statement shall act as a waiver of any claim by the Person furnishing it to the extent such claim is based upon facts contrary to those asserted in the statement and to the extent the claim is asserted against a bona fide encumbrancer or purchaser for value without knowledge of facts to the contrary of those contained in the statement and who has acted in reasonable reliance upon the statement. The issuance of an estoppel certificate shall in no event subject the Person furnishing it to any liability for the negligent or inadvertent failure of such Person to disclose correct and/or relevant information (but it shall estop such person from making assertions contrary to those set forth in the certificate for the period covered by the certificate), nor shall such issuance be construed to waive any rights of the issuer to challenge acts committed by other Owners for which approval by the Consenting Owners was required but not sought or obtained.

14.9. **Breach Shall Not Permit Termination.** It is expressly agreed that a breach of this Agreement shall not entitle any Owner to terminate this Agreement, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Agreement. Any breach of this Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this Agreement shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

14.10. **Notices.**

14.10.1. All notices given pursuant to this Agreement shall be in writing and shall be given by facsimile, by personal delivery, by United States mail or United States express mail postage or delivery charge prepaid, return receipt requested, or by an established express delivery

service (such as Federal Express or United Parcel Service), sent to the person and address or facsimile number designated below or, in the absence of such designation, to the person and address shown on the then current real property tax rolls of Salt Lake County. The Parties expressly agree that notices given by attorneys on behalf of their client(s) in the manner provided in this subsection are effective and recognized notice pursuant to this Agreement. All notices to Developer and the Owner of the Home Depot Parcel shall be sent to the person and address set forth below:

RLH: Riverton Land Holdings, L.L.C.  
1720 Wazee, Suite 1A  
Denver, Colorado 80202  
Attention: Jeff Oberg

Home Depot: Home Depot U.S.A., Inc.  
3800 West Chapman Avenue  
Orange, California 92868  
Attention: Senior Corporate Counsel - Real Estate

With a copy to: Home Depot U.S.A., Inc.  
2455 Paces Ferry Road, C-20  
Atlanta, Georgia 30339-4024  
Attention: Property Management

And to: Parsons Behle & Latimer  
One Utah Center  
Post Office Box 45898  
Salt Lake City, Utah 84145-0898  
Attention: Shawn C. Ferrin

Bangerter  
Commercial: Bangerter Commercial Center, LLC  
748 West Heritage Park Blvd., #203  
Layton, Utah 84041  
Attention: Kevin Garn

The Person and address to which notices are to be given may be changed at any time by any Party upon written notice to the other Parties. All notices given pursuant to this Agreement shall be deemed given upon receipt.

14.11. Waiver. The failure of a Person to insist upon strict performance of any of the Restrictions or other terms and provisions contained herein shall not be deemed a waiver of any rights or remedies that said Person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the Restrictions or other terms and provisions contained herein by the same or any other Person.

14.12. Attorneys' Fees. In the event any Person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any

such action or proceeding shall be entitled to recover from the non-prevailing party in any such action or proceeding its reasonable costs and attorneys' fees (including its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

14.13. Severability. If any term or provision of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

14.14. Not a Partnership. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the Parties. Each Party shall be considered a separate party and no Party shall have the right to act as agent for another, unless expressly authorized to do so herein or by separate written instrument signed by the Party to be charged.

14.15. Interpretation. Whenever the context requires construing the provisions of this Agreement, the use of a gender shall include both genders, use of the singular shall include the plural, and the use of the plural shall include the singular. The word "including" shall be construed inclusively, and not in limitation, whether or not the words "without limitation" or "but not limited to" (or words of similar importance) are used with respect thereto. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party. Unless otherwise provided, references to Articles and Sections refer to the Articles and Sections of this Agreement.

14.16. Joint and Several Obligations. In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.

14.17. Recordation. This Agreement shall be recorded in the office of the recorder of Salt Lake County.

14.18. Time of Essence. Time is of the essence with respect to the performance of each obligation of this Agreement.

14.19. No Amendment to RAGE. With the sole exception of the grant of access to the Owner of Hamilton Square contained in Section 3.1.2 hereof, this Agreement is not intended to and shall not be deemed to amend, alter, or diminish the rights and obligations of the Owner of the Home Depot Parcel and the Owner of any of the RLH Parcels contained in the RAGE as between the parties to the RAGE. As between the parties to the RAGE, in the event of any inconsistency between this Agreement and the RAGE, the RAGE shall control.

14.20. Limitation on Liability. Except as specifically provided below, there shall be absolutely no corporate or personal liability of persons or corporations who constitute a respective Consenting Owner hereunder, including but not limited to, officers, directors, employees, or agents thereof, with respect to any of the terms, covenants, conditions, and provisions of this Agreement.

In the event of a default of a respective Consenting Owner hereunder, the Owner who seeks recovery from such Consenting Owner shall look solely to the interest of such Consenting Owner in such Consenting Owner's Parcel for the satisfaction of each and every remedy of the non-defaulting ; provided, however, the foregoing shall not in any way impair, limit, or prejudice the right of any Owner to pursue equitable relief in connection with any Restriction of this Agreement, including a proceeding for a temporary restraining order, preliminary injunction, permanent injunction, or specific performance.

14.21. Lienholder Protection. This Agreement and the Easements and Restrictions established hereby with respect to each Owner and Parcel, shall be superior and senior to any lien placed upon any Parcel, including the lien of any mortgage or deed of trust. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust made in good faith and for value, but all the Easements and Restrictions and other provisions, terms and conditions contained in this Agreement shall be binding upon and effective against any Person (including, but not limited to, any mortgagee or beneficiary under a deed of trust) who acquires title to any Parcel or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

14.22. Variances. Where appropriate, the Consenting Owners may, in their sole and absolute discretion, grant written variances to the provisions of this Agreement (in lieu of an amendment), signed by all of the Consenting Owners, where strict adherence to the requirements of this Agreement or any architectural standards established by the Consenting Owners would, in the judgment of the Consenting Owners, cause undue hardship. The granting of a waiver or variance to one Owner shall not automatically entitle another Owner to the same waiver or variance, it being understood that each request for a waiver or variance shall be treated on its own individual merits.

HOME DEPOT U.S.A., INC.  
a Delaware corporation

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Title

*SUF*

STATE OF \_\_\_\_\_ )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2006, by \_\_\_\_\_, as \_\_\_\_\_ of Home  
Depot U.S.A., Inc.

Witness my hand and official seal.

[Seal]

\_\_\_\_\_  
Notary Public



HOME DEPOT U.S.A., INC.  
a Delaware corporation

*Erika M. Strawn*  
Signature

**ERIKA M. STRAWN**  
**Corporate Counsel**

Print name

Title

*SCF*  
*JH*

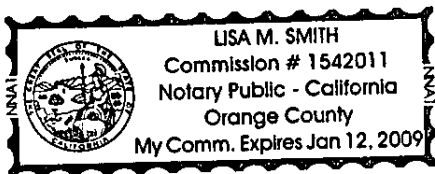
STATE OF California )  
  ) ss.  
COUNTY OF Orange )

The foregoing instrument was acknowledged before me this 17 day of October  
2006, by Erika M. Strawn, as Corporate Counsel of Home  
Depot U.S.A., Inc.

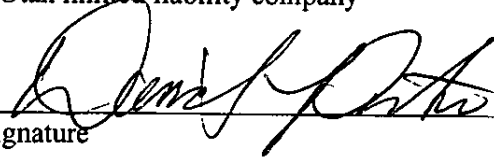
Witness my hand and official seal.

*Lisa M. Smith*  
Notary Public

[Seal]



HAMILTON SQUARE ASSOCIATES, L.L.C.  
a Utah limited liability company

  
Signature

DAVID PUTVIN  
Print name

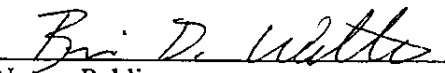
VICE PRINCIPAL  
Title

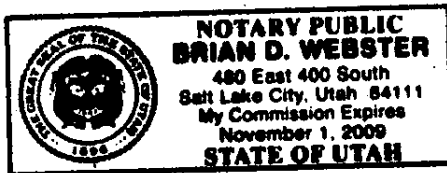
STATE OF Utah )  
  ) ss.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of October,  
2006, by David Putvin, as Vice Principal of Hamilton  
Square Associates, L.L.C.

Witness my hand and official seal.

[Seal]

  
Notary Public



RIVERTON LAND HOLDINGS, L.L.C.

a Colorado limited liability company

Signature

Jeff Oberg

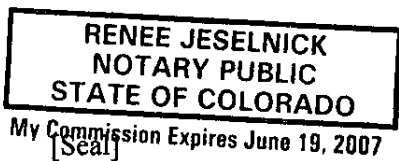
Print name

Manager  
Title

STATE OF Colorado )  
COUNTY OF Denver ) ss.

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of Oct.,  
2006, by Jeff Oberg, as Manager of Riverton  
Land Holdings, L.L.C..

Witness my hand and official seal.



Renee Jeselnick  
Notary Public

BANGERTER COMMERCIAL CENTER, LLC

[Signature]  
Signature

Kevin S GARN  
Print name

Managing Member  
Title

STATE OF Utah )  
  ) ss.  
COUNTY OF Davis )

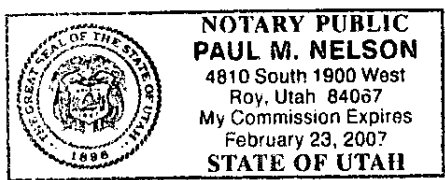
The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of October,  
2006, by Kevin S Garn, as Managing Member of Bangerter  
Commercial Center, LLC.

Witness my hand and official seal.

[Signature]

[Seal]

Notary Public



CONSENT OF MORTGAGEE

The undersigned, Hillcrest Bank, a Kansas bank ("Creditor"), the beneficiary under that certain Deed of Trust, dated 12/1/2005, and recorded in the Salt Lake County, Utah records on 12/1/2005 as Entry No. 9569862, Book 9224, at Page 9501 ("Deed of Trust") does hereby consent to the recording of this Restriction Agreement and Grant of Easements and all of the rights, powers and privilege therein granted and does hereby subordinate the lien of the Deed of Trust to the terms and provisions of said Amendment.

DATED this 26th day of SEPTEMBER, 2006.

HILLCREST BANK, A KANSAS BANK

[Signature]
Signature

TIMOTHY A. GERVY
Print name

SENIOR VICE PRESIDENT
Title

STATE OF Kansas )
COUNTY OF Johnson ) ss.

The foregoing instrument was acknowledged before me this 26 day of September 2006, by Timothy A Gervy, as Senior Vice President Hillcrest Bank.

Witness my hand and official seal.



[Signature]
Notary Public

**CONSENT OF MORTGAGEE**

The undersigned, U.S. BANK NATIONAL ASSOCIATION, the named beneficiary and trustee under that certain Term Loan Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing executed September 15, 2006 and recorded in the Salt Lake County, Utah records on September 25, 2006 as Entry No. 9854935 in Book 9355 at Pages 4770-4793 (the "Deed of Trust") does hereby consent to the recording of this Restriction Agreement and Grant of Easements executed by Bangerter Commercial Center, LLC (the "RAGE") and all of the rights, powers and privileges therein granted and does hereby subordinate the lien of the Deed of Trust to the terms and provisions of said RAGE.

Dated this 11<sup>th</sup> day of October, 2006.

U.S. BANK NATIONAL ASSOCIATION

By: *Jerold G. Curtis*

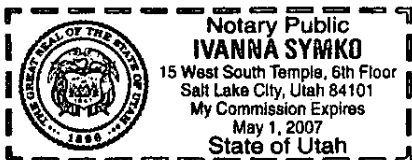
Print Name: Jerold G. Curtis

Title: Vice President  
Senior Commercial Relationship Manager

STATE OF Utah )  
 ) ss.  
COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 19 day of October 2006, by Jerold G. Curtis, as Vice President  
Sr. Relationship Manager

Witness my hand and official seal.



*Ivanna Symko*  
Notary Public

**EXHIBIT A TO RESTRICTION AGREEMENT AND GRANT OF EASEMENTS**

Shopping Center Plat

*SLF*

# PLAT

SEE ONLINE PLATS AT  
[HTTP://REC.CO.SLC.UT.US](http://rec.co.slc.ut.us)



# The Home Depot

## A Commercial Subdivision

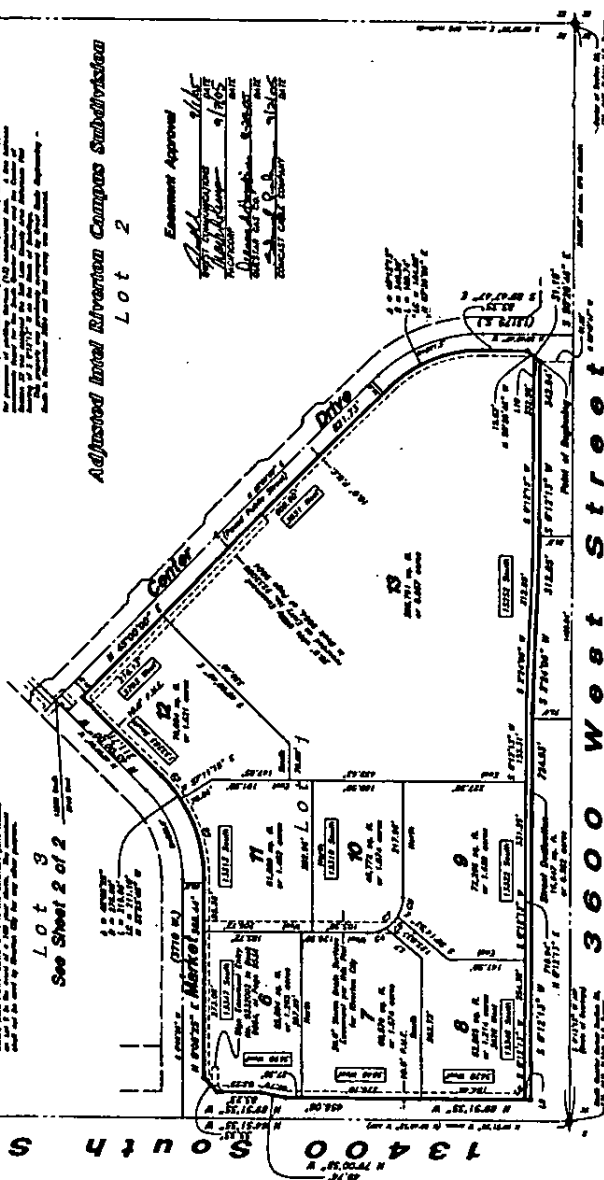
A part of Lot 1 and all of Lot 3 of the Adjusted Intel Riverton Campus  
 Recorded November 24, 2004, as Entry No. 829988, in Book 8084, at Page 8428  
 A part of the Southwest Quarter of Section 32, T5S, R17W, S168M  
 U.S. Survey, in Riverton City, Salt Lake County, Utah  
 July 2005

**WARNING:** This plat was prepared in accordance with the provisions of the Utah Subdivision Map Act, Chapter 2, Title 37, Utah Code, and the provisions of the Utah Subdivision Map Act, Chapter 2, Title 37, Utah Code, and the provisions of the Utah Subdivision Map Act, Chapter 2, Title 37, Utah Code.

See Sheet 2 of 2

Adjusted Intel Riverton Campus Subdivisions  
 Lot 2

**Emasement Approval**  
 Approved by the City of Riverton, Utah  
 Date: 7/20/05  
 By: [Signature]



**Corporate Acknowledgment**  
 I, [Signature], being duly sworn, do hereby certify that the above and foregoing plat was prepared in accordance with the provisions of the Utah Subdivision Map Act, Chapter 2, Title 37, Utah Code, and the provisions of the Utah Subdivision Map Act, Chapter 2, Title 37, Utah Code.

**Legend**  
 - Lot  
 - Easement  
 - Right of Way  
 - Proposed  
 - Existing

**South Valley Sewer District**  
 Approved by the Board of Directors  
 Date: 7/20/05  
 By: [Signature]

**Board of Health**  
 Approved by the Board of Health  
 Date: 7/20/05  
 By: [Signature]

**Planning Commission**  
 Approved by the Planning Commission  
 Date: 7/20/05  
 By: [Signature]

**Owner - Developer**  
 Approved by the Owner-Developer  
 Date: 7/20/05  
 By: [Signature]

**Riverton City Engineer**  
 Approved by the City Engineer  
 Date: 7/20/05  
 By: [Signature]

**Riverton City Attorney**  
 Approved by the City Attorney  
 Date: 7/20/05  
 By: [Signature]

**Riverton City Approval**  
 Approved by the City Council  
 Date: 7/20/05  
 By: [Signature]

**Owner's Dedication**  
 I, [Signature], do hereby dedicate to the City of Riverton, Utah, the above and foregoing plat, together with all the rights and interests therein, for the use and benefit of the public.

**Surveyor's Certificate**  
 I have a true and correct copy of this plat as shown on the ground and as shown on the map, and I have compared the same with the original map, and I find that the same is a true and correct copy of the original map, and I have compared the same with the original map, and I find that the same is a true and correct copy of the original map.

**The Home Depot**  
 A Commercial Subdivision  
 Recorded # 955188  
 [Signatures and Dates]

# The Home Depot

## A Commercial Subdivision

A part of Lot 1 and all of Lot 3 of the Adjusted Intel Riverton Campus  
 Recorded November 24, 2004, as Entry No. 8231983, in Book 9084, at Page 8428  
 A part of the Southwest Quarter of Section 32, T3S, R1W, S168M,  
 U.S. Survey, in Riverton City, Salt Lake County, Utah  
 July 2005



**Curve Table**

Curve	Stationing	Radius	Chord	Angle
C1	1+00.00 to 1+100.00	100.00'	100.00'	90.00°
C2	1+100.00 to 1+200.00	100.00'	100.00'	90.00°
C3	1+200.00 to 1+300.00	100.00'	100.00'	90.00°
C4	1+300.00 to 1+400.00	100.00'	100.00'	90.00°
C5	1+400.00 to 1+500.00	100.00'	100.00'	90.00°
C6	1+500.00 to 1+600.00	100.00'	100.00'	90.00°
C7	1+600.00 to 1+700.00	100.00'	100.00'	90.00°
C8	1+700.00 to 1+800.00	100.00'	100.00'	90.00°
C9	1+800.00 to 1+900.00	100.00'	100.00'	90.00°
C10	1+900.00 to 2+000.00	100.00'	100.00'	90.00°

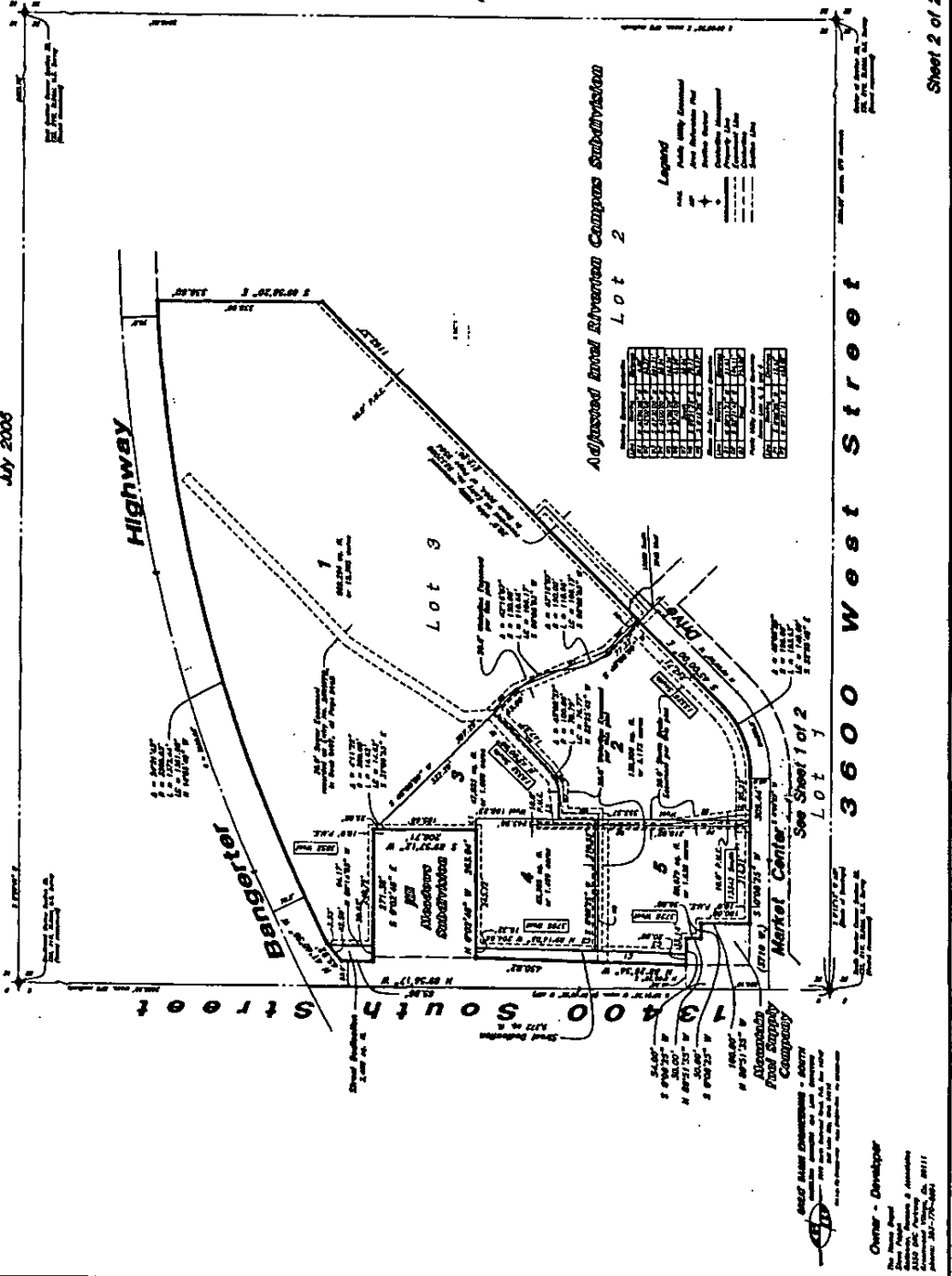
**Line Table**

Line	Stationing	Length	Bearing
L1	1+00.00 to 1+100.00	100.00'	N 00° 00' 00" W
L2	1+100.00 to 1+200.00	100.00'	N 00° 00' 00" W
L3	1+200.00 to 1+300.00	100.00'	N 00° 00' 00" W
L4	1+300.00 to 1+400.00	100.00'	N 00° 00' 00" W
L5	1+400.00 to 1+500.00	100.00'	N 00° 00' 00" W
L6	1+500.00 to 1+600.00	100.00'	N 00° 00' 00" W
L7	1+600.00 to 1+700.00	100.00'	N 00° 00' 00" W
L8	1+700.00 to 1+800.00	100.00'	N 00° 00' 00" W
L9	1+800.00 to 1+900.00	100.00'	N 00° 00' 00" W
L10	1+900.00 to 2+000.00	100.00'	N 00° 00' 00" W



### The Home Depot

A Commercial Subdivision  
 A part of Lot 1 and all of Lot 3 of the Adjusted Intel Riverton Campus  
 Recorded November 24, 2004, as Entry No. 8231983, in Book 9084, at Page 8428  
 U.S. Survey, in Riverton City, Salt Lake County, Utah  
 Recorded # 9651334  
 State of Utah  
 Salt Lake County  
 July 2005  
 123  
 123



Sheet 2 of 2

SCF

**EXHIBIT A-1 TO RESTRICTION AGREEMENT AND GRANT OF EASEMENTS**

Legal Description of the RLH Parcels

Lots 2 through 13 of The Home Depot, A Commercial Subdivision, according to the official plat thereof, recorded November 10, 2005 as Document No. 9551334 in Book 2005 of Plats at Page 357, in the office of the Salt Lake County Recorder, State of Utah.

**EXHIBIT A-2 TO RESTRICTION AGREEMENT AND GRANT OF EASEMENTS**

Legal Description of the Home Depot Parcel

Lot 1 of The Home Depot, A Commercial Subdivision, according to the official plat thereof, recorded November 10, 2005 as Document No. 9551334 in Book 2005 of Plats at Page 357, in the office of the Salt Lake County Recorder, State of Utah.

**EXHIBIT B TO RESTRICTION AGREEMENT AND GRANT OF EASEMENTS**

Legal Description of Hamilton Square Shopping Center

*SLF*

All of Lot 1, JILL MEADOWS SUBDIVISION according to the official plat thereof as recorded in the office of the Salt Lake County Recorder.

LESS AND EXCEPTING the Northerly 95.42 feet of said Lot 1 and the Southerly 33 feet which is situated in the bounds of 13400 South Street.

ALSO LESS AND EXCEPTING

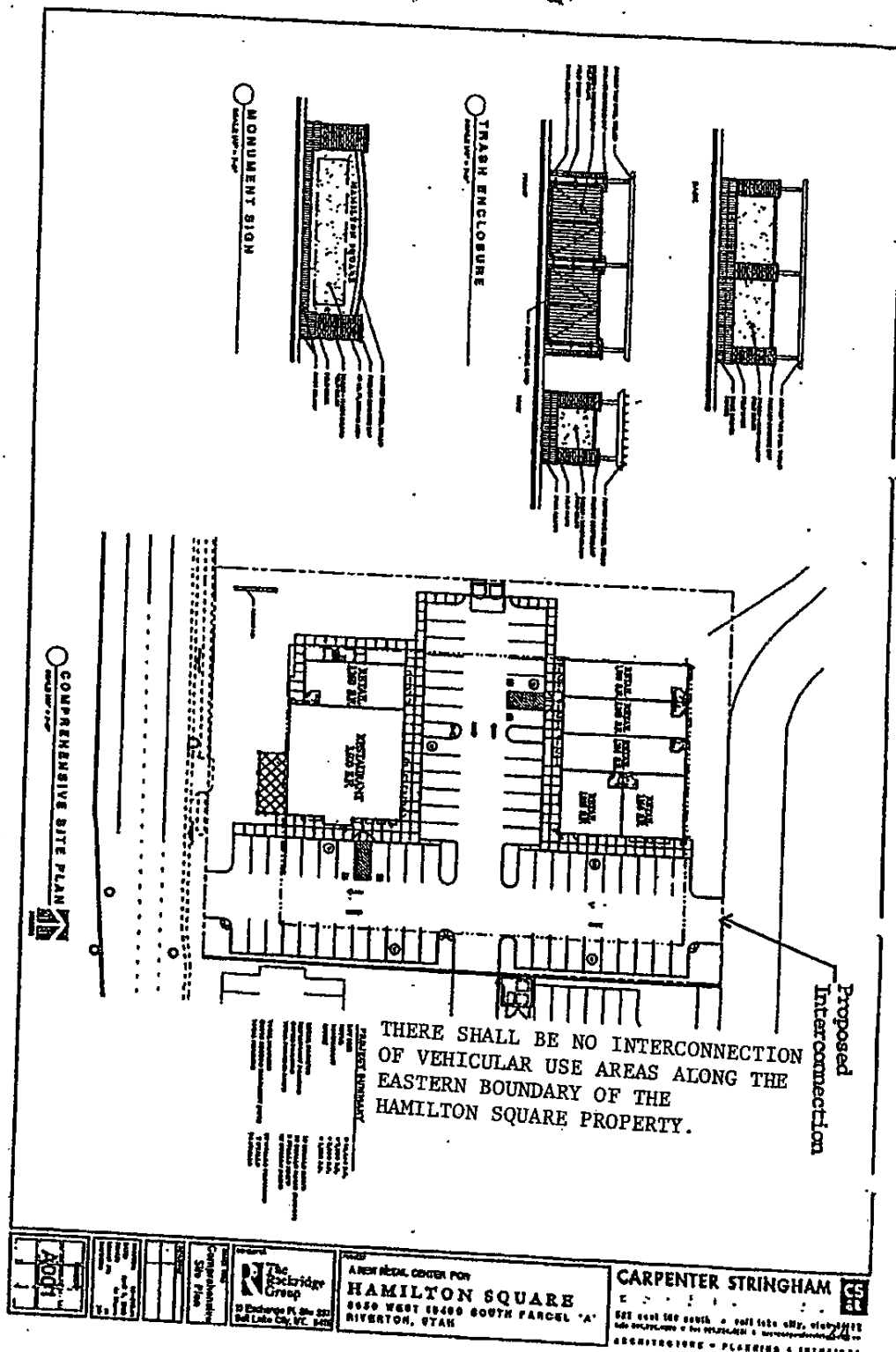
A Parcel of land in fee for the widening of 13400 South Street incident to the construction of an expressway known as project No. 0154, being part of an entire tract of property situate in Lot 1, Jill Meadows, a subdivision in the Southwest quarter of the Southwest quarter of Section 32, Township 3 South, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel are described as follows:

Beginning at the Southwest corner of said Lot 1, which point is 340.736 meters South 89°48'47" East (South 89°35'16" East Highway bearing) along the Section line and 10.058 meters North (North 00°13'31" East Highway bearing) from Southwest corner of said Section 32, and running thence North (North 00°13'31" East highway bearing) South 5.372 meters along the Westerly boundary line of said Lot 1, to a point designated as point "A", which point is 16.154 meters perpendicularly distant Northerly from the centerline of 13400 South Street of said project.; thence South 89°39'57" East (highway bearing) 28.765 meters along a line parallel to and 16.154 meters perpendicularly distant Northerly from said centerline of 13400 South Street to a point designated as point "B"; thence South 89°39'57" East (highway bearing) 34.850 meters along a line parallel to and 16.154 meters perpendicularly distant Northerly from said centerline to the Easterly boundary line of said Lot 1; thence South (South 00°13'31" West highway bearing) 5.458 meters along said Easterly boundary line to the Southeast corner of said lot 1; thence North 89°48'47" West (North 89°35'16" West highway bearing) 63.615 meters to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The following is shown for information purposes only: Tax ID No. 27-32-300-010

**EXHIBIT C TO RESTRICTION AGREEMENT AND GRANT OF EASEMENTS**

Location of Connection



MONUMENT SIGN

TRASH ENCLOSURE

COMPREHENSIVE SITE PLAN

Proposed Interconnection

THERE SHALL BE NO INTERCONNECTION OF VEHICULAR USE AREAS ALONG THE EASTERN BOUNDARY OF THE HAMILTON SQUARE PROPERTY.


SCF



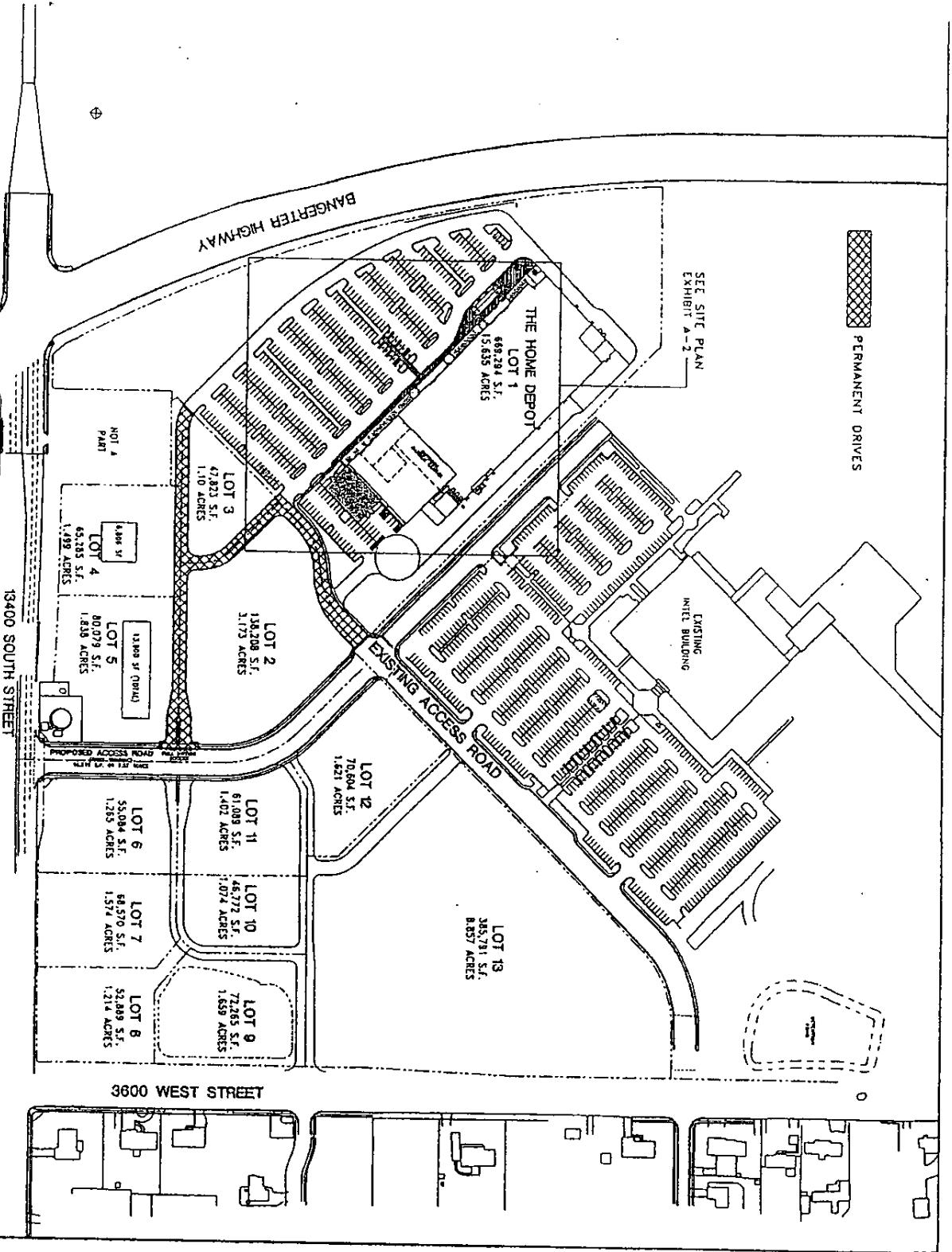
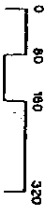
**EXHIBIT D TO RESTRICTION AGREEMENT AND GRANT OF EASEMENTS**

Shopping Center Site Plan showing Permanent Drives



**SITE PLAN - EXHIBIT A**

SCALE: 1" = 80'



CONVEYANCE NOTICE  
 THE STATE OF UTAH HAS REVIEWED THIS SITE PLAN FOR CONFORMANCE WITH THE UTAH SUBDIVISION ACT, UTAH CODE ANNOTATED, TITLE 63, CHAPTER 2, AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE ACT. THIS REVIEW IS LIMITED TO TECHNICAL MATTERS AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED OR THE RESULTS OF THE DEVELOPMENT OF THE PROJECT. THE STATE OF UTAH IS NOT RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF THE PROJECT OR FOR ANY DAMAGES THAT MAY BE SUFFERED BY ANY PARTY IN CONNECTION WITH THE PROJECT.

<p><b>THE HOME DEPOT</b>          13400 South &amp; Bangerter Hwy.,          Riverton, UT 84403          Tel: (801) 775-2100          Fax: (801) 775-2100</p>	<p><b>GENERAL INFORMATION</b></p> <p>PROJECT INFORMATION</p> <p>PROJECT NAME: THE HOME DEPOT RIVERTON-III, UTAH          PROJECT NO: SS-00665-2003-N          DATE: JUNE 9, 2006</p> <p>PREPARED BY: JAMES RUTHERFORD, JEFF KOOPFELDER          DRAWN BY: JAMES RUTHERFORD          CHECKED BY: JEFF KOOPFELDER          DATE: JUNE 9, 2006</p>	<p><b>PERMITS AND REGULATIONS</b></p> <p>UTAH SUBDIVISION ACT, UTAH CODE ANNOTATED, TITLE 63, CHAPTER 2          UTAH ZONING ORDINANCE, UTAH CODE ANNOTATED, TITLE 63, CHAPTER 2          UTAH STATE PLANNING ACT, UTAH CODE ANNOTATED, TITLE 63, CHAPTER 2</p>	<p><b>PROJECT INFORMATION</b></p> <p>PROJECT NAME: THE HOME DEPOT RIVERTON-III, UTAH          PROJECT NO: SS-00665-2003-N          DATE: JUNE 9, 2006</p> <p>PREPARED BY: JAMES RUTHERFORD, JEFF KOOPFELDER          DRAWN BY: JAMES RUTHERFORD          CHECKED BY: JEFF KOOPFELDER          DATE: JUNE 9, 2006</p>	<p><b>GENERAL INFORMATION</b></p> <p>PROJECT INFORMATION</p> <p>PROJECT NAME: THE HOME DEPOT RIVERTON-III, UTAH          PROJECT NO: SS-00665-2003-N          DATE: JUNE 9, 2006</p> <p>PREPARED BY: JAMES RUTHERFORD, JEFF KOOPFELDER          DRAWN BY: JAMES RUTHERFORD          CHECKED BY: JEFF KOOPFELDER          DATE: JUNE 9, 2006</p>
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SCF