

For Registration Register of Deeds

William Britton

Moore County, NC

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Instrument# 2023005799

Prepared by and return to:

Adams, Howell, Sizemore & Adams, P.A. (NML)
1600 Glenwood Avenue, Ste. 101
Raleigh, NC 27608

Submitted electronically by Adams, Howell, Sizemore & Adams, P.A.
in compliance with North Carolina statutes governing recordable
documents and the terms of the submitter agreement with the Moore
County Register of Deeds.

STATE OF NORTH CAROLINA

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COUNTY OF MOORE

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SECOND AMENDMENT TO DECLARATION OF EASEMENTS
WITH COVENANTS AND RESTRICTIONS

THIS SECOND AMENDMENT TO DECLARATION OF EASEMENTS WITH COVENANTS AND RESTRICTIONS (the “**Second Amendment**”) is entered into as of this 5th day of May, 2023, by and between **SR Diem & Lowery, LLC**, a Georgia limited liability company, (“**SR**”) and **Farzana Properties, LLC**, a North Carolina limited liability company (“**Farzana**”).

RECITALS:

WHEREAS, Par 5 Development Group, LLC previously executed and caused to be recorded that certain Declaration of Easements with Covenants and Restrictions in Book 5595, Page 262, Moore County Registry, as amended by that certain First Amendment to Declaration of Easements with Covenants and Restrictions recorded in Book 5807, Page 332, Moore County Registry (collectively, the “**Declaration**”); and

WHEREAS, Farzana is the owner of certain property identified as Tract 1 as set forth on that plat recorded in Plat Cabinet 18, Slide 883, Moore County Registry, as further depicted on Exhibit A-1 attached hereto and incorporated herein by reference, which is subject to the Declaration (“**Tract 1**”); and

WHEREAS, SR is the owner of certain property identified as Tract 2 as set forth on that plat recorded in Plat Cabinet 18, Slide 883, Moore County Registry, as further depicted on Exhibit A-1, which is subject to the Declaration (the “**Tract 2**”); and

WHEREAS, Tract 1 and Tract 2 may be referred to herein individually as the “**Property**” or collectively as the “**Properties**” and SR and Farzana, and their respective successors and assigns, may be referred to herein individually as the “**Owner**” or collectively as the “**Owners**”; and

WHEREAS, Farzana and SR desire to further amend the Declaration as hereinafter set forth; and

WHEREAS, pursuant to the Declaration, any amendment thereto requires the prior written consent of Dollar General Corporation, so long as it, its successors, assigns or assignees are leasing or otherwise occupying any of the Properties, and, as of the date of this Second Amendment, Dolgencorp, LLC, a Kentucky limited liability company ("**DGC**") is occupying Tract 1; and

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), the foregoing recitals, the mutual promises, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owners covenant and agree as follows:

1. Exhibits. Exhibit A of the Declaration is hereby deleted in its entirety and fully replaced with Exhibit A-1 attached hereto. Exhibit B-1 of this Second Amendment is hereby incorporated as Exhibit B-1 of the Declaration.

2. Easements. Section 2 of the Declaration, entitled "Easements" is hereby deleted in its entirety and fully replaced with the following:

2. Easements. It is the intent of this Declaration to grant the easements described herein without limiting the rights of either Owner or their successors or assigns, except as expressly stated to the contrary. The Properties shall be subject to the following terms:

- I. Shared Access Easement. Farzana hereby declares, creates, establishes and grants to SR, and its tenants, successors and assigns, as grantee, and to their agents, customers, invitees, licensees and employees, for the benefit of Tract 2, a non-exclusive right and easement (the "**Shared Access Easement**") in, to, on, over, upon, across and through Tract 1 via those portions of Tract 1 labeled "Access Easement #1", "Access Easement #2" and the cross-hatched area depicted in Exhibit A-1 labeled "**Additional Access Easement Area**" (collectively, the "**Shared Access Easement Area**"). The Shared Access Easement Area is depicted on Exhibit A-1 attached hereto and incorporated herein by reference and is further described in Exhibit B-1 attached hereto and incorporated herein by reference. The Shared Access Easement is subject to the terms and conditions of this Declaration. The purpose of the Shared Access Easement is to provide for pedestrian and vehicular traffic, ingress, egress and regress over, across and through the Shared Access Easement Area, which will also provide the Properties with direct access to NC State Road 1869, commonly known as "Grant Road" and US Highway 1. The rights under this Section shall apply to and include construction traffic, however only during the development and construction of buildings and improvements on Tract 2.
- II. Use. The use of the Shared Access Easement, as conveyed herein, shall be without payment of any fee or other charge. It is expressly understood and agreed that no parking rights of any kind are created or implied by this Declaration. Neither Owner shall construct, erect, install nor maintain any building, fence, barricade or other structural improvement of any kind whatsoever, nor act or fail to act in any manner on, across or within the Shared Access Easement Area so as to prohibit, impede or discourage the free and uninterrupted use by either Owner, its tenants, successors, assigns, agents, customers, invitees, licensees and/or employees of the Shared Access Easement Area conveyed herein, except as otherwise described in paragraph 2.IV below. This Declaration does not dedicate the easements created herein to the general

public, nor does this Declaration restrict the use and development of Tract 1 or Tract 2 except as stated herein. All rights granted in this Section 2 shall also be deemed granted to each Owner's successors, assigns and tenants/lessees.

III. Maintenance. The Properties and Shared Access Easement shall be subject to the following maintenance provisions:

- a) Shared Access Easement. The Owner of Tract 1 shall keep and maintain in good order, condition and state of repair, at its sole expense, the Shared Access Easement Area, including any driveways, curbing, paving and lighting located therein. In the event that the Owner of Tract 1 defaults in its obligations to so maintain the Shared Access Easement Area, then the Owner of Tract 2 shall have the right to perform such maintenance upon ten (10) days advance written notice to the Owner of Tract 1 and the Owner of Tract 1 shall reimburse the Owner of Tract 2 within ten (10) days of receipt of invoice for same. Notwithstanding the foregoing, the Owner of Tract 2 shall be responsible for promptly repairing any damage that the Owner of Tract 2 or any of its agents, customers, invitees, licensees and/or employees cause to the Shared Access Easement Area, at the sole cost and expense of the Owner of Tract 2.
- b) Rights to Temporarily Close Shared Access Easement Area. An Owner or its tenant may temporarily fence off portions of the Shared Access Easement Area as reasonably required only for the purpose of carrying out maintenance or repair of the Shared Access Easement Area as required herein or as part of the initial development of Tract 2, provided that: (i) such closure does not materially, adversely affect or interfere with business operations on the other Owner's Property, including, without limitation, the ability of delivery trucks to access either Property; (ii) all work is performed as expeditiously as reasonably possible to minimize disruptions in traffic flow across the Shared Access Easement; and (iii) any closure of the Shared Access Easement Area related to the initial development of Tract 2 will only be permitted during the Construction Easement Term (as defined herein). Either Owner proposing to close the Shared Access Easement, or a portion thereof, shall give the other Owner not less than seven (7) days prior written notice of the proposed closure. Neither Owner, or a tenant occupying a Property, shall permit any claim, lien or encumbrance to attach against the other Owner's Property, nor any interest therein. In the event any lien is filed against Tract 1, then the Owner of Tract 1 shall promptly, after notice of filing, cause the same to be discharged of record.

IV. Relocation. Each Owner reserves the right to relocate and/or reconfigure, at such Owner's expense, any paved area or drive aisle(s) located on its respective Property in such Owner's sole discretion; provided, however, that any such relocation or reconfiguration shall furnish substantially equivalent ingress and egress and shall be completed promptly, in good and workmanlike manner, in compliance with all applicable governmental laws, codes and ordinances and in accordance with the provisions addressing the uninterrupted use of the Shared Access Easement by either Owner contained herein. Notwithstanding anything to the contrary contained herein, in no event shall the Shared Access Easement

Area be altered or changed in any manner without the prior written consent of all Owners.

3. Temporary Construction Easements. The following is hereby added as Section 11 of the Declaration:

Subject to the terms and conditions set forth herein, Farzana hereby grants, creates, declares, makes and conveys to SR, and SR's agents, employees, engineers, subcontractors and contractors, a temporary, non-exclusive easement in, on, over, under, upon, across and through the Shared Access Easement Area and upon that area on Tract 1 located five feet (5') immediately contiguous on the easternmost side of the Shared Access Easement Area (collectively, the "**Construction Easement Area**") which includes the right to install, construct, grade, spread, cut, fill and slope as necessary within the Construction Easement Area for the purpose of and in relation to construction of SR's improvements on Tract 2. Said Easement is temporary and shall expire on the date that is three (3) years following the recording of this Second Amendment (the "**Construction Easement Term**"). If, following any such work completed during the Construction Easement Term, as described in this Section, the Construction Easement Area has been disturbed in connection with any of SR's activities, SR will promptly return the disturbed portions thereof as nearly as practicable to the condition and grade existing prior to SR's activities, at SR's sole cost and expense.

4. No Further Changes. Save and except for the amendments set forth herein, there are no further changes to the Declaration.

5. Terms and Conditions of Declaration. All other terms and conditions set forth under the Declaration remain in full force and effect and are re-ratified herein.

6. Consent. DGC executes this Second Amendment to evidence their written consent to the amendments herein.

[Remainder of page intentionally left blank. Signatures on following page.]

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed pursuant to proper authority duly given as of the day, month and year first above written.

SR DIEM & LOWERY, LLC,
a Georgia limited liability company

By: _____

Name: Vincent P. Mancuso

Title: Manager

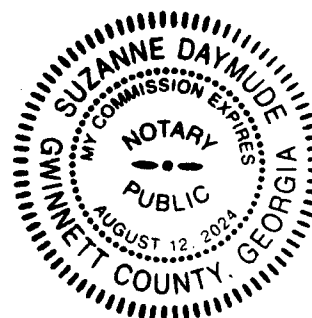
STATE OF Georgia
COUNTY OF Gwinnett

I, Suzanne Daymude, a Notary Public, do hereby certify that Vincent Mancuso (print name) personally appeared before me this day and acknowledged the execution of the foregoing instrument as the Manager (Title) of **SR Diem & Lowery, LLC**, and on behalf of and as the act of the company referred to in this acknowledgement.

Witness my hand and official seal this, the 1st day of May, 2023

Notary Public

My Commission Expires: 8/12/2024



[Signatures continued on following page.]

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed pursuant to proper authority duly given as of the day, month and year first above written.

FARZANA PROPERTIES, LLC,
a North Carolina limited liability company

By: [Signature]
Name: Fahad Ahmed
Title: Manager

STATE OF North Carolina
COUNTY OF Wake

I, JULIA A. GILLIES, a Notary Public, do hereby certify that Fahad Ahmed (print name) personally appeared before me this day and acknowledged the execution of the foregoing instrument as the Manager (Title) of **Farzana Properties, LLC**, and on behalf of and as the act of the company referred to in this acknowledgement.

Witness my hand and official seal this, the 14th day of April, 2023.

[Signature]
Notary Public

My Commission Expires: 7/25/2026



[Signatures continued on following page.]

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed pursuant to proper authority duly given as of the day, month and year first above written.

DOLGENCORP, LLC,
a Kentucky limited liability company

By: Melissa L. Hesse

Name: Melissa L. Hesse

Title: Vice President, Lease Administration

STATE OF Tennessee
COUNTY OF Davidson

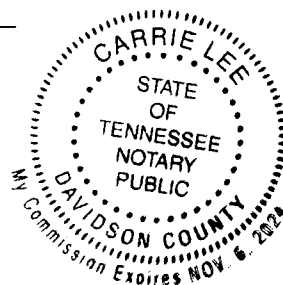
I, Carrie Lee, a Notary Public, do hereby certify that Melissa Hesse (print name) personally appeared before me this day and acknowledged the execution of the foregoing instrument as the Vice President (Title) of **Dolgencorp, LLC**, and on behalf of and as the act of the company referred to in this acknowledgement.

Witness my hand and official seal this, the 27 day of April, 2023.

Carrie Lee

Notary Public

My Commission Expires: 11-6-24



[Signatures continued on following page.]

TRACT 2 LENDER CONSENT

The undersigned, GEORGIA'S OWN CREDIT UNION, a Georgia credit union, which is the holder of that certain lien encumbering Tract 2 pursuant to that certain Deed of Trust recorded in Book 5935, Page 18 and that certain Assignment of Rents recorded in Book 5935, Page 34, Moore County Registry (collectively, the "Loan Documents"), hereby joins and consents to the foregoing grants of rights, privileges and easements contained within the Declaration and this Second Amendment thereto and subordinates the lien of its Loan Documents to said rights, privileges and easements.

LENDER:

GEORGIA'S OWN CREDIT UNION,
a Georgia credit union

By: *Mark Tumbleston*Print Name: MARK TUMBLESTONPrint Title: COMMERCIAL LOAN OFFICER

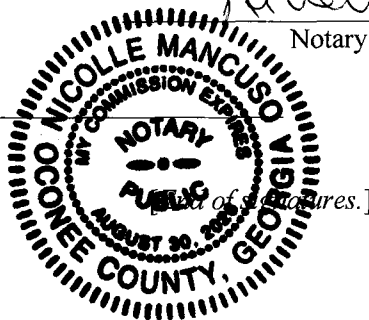
STATE OF Georgia)
COUNTY OF Oconee)

I, Nicelle Mancuso, a Notary Public, do hereby certify that Mark Tumbleston (print name) personally appeared before me this day and acknowledged the execution of the foregoing instrument as the Commercial Loan Officer (Title) of Georgia's Own Credit Union, and on behalf of and as the act of the company referred to in this acknowledgement.

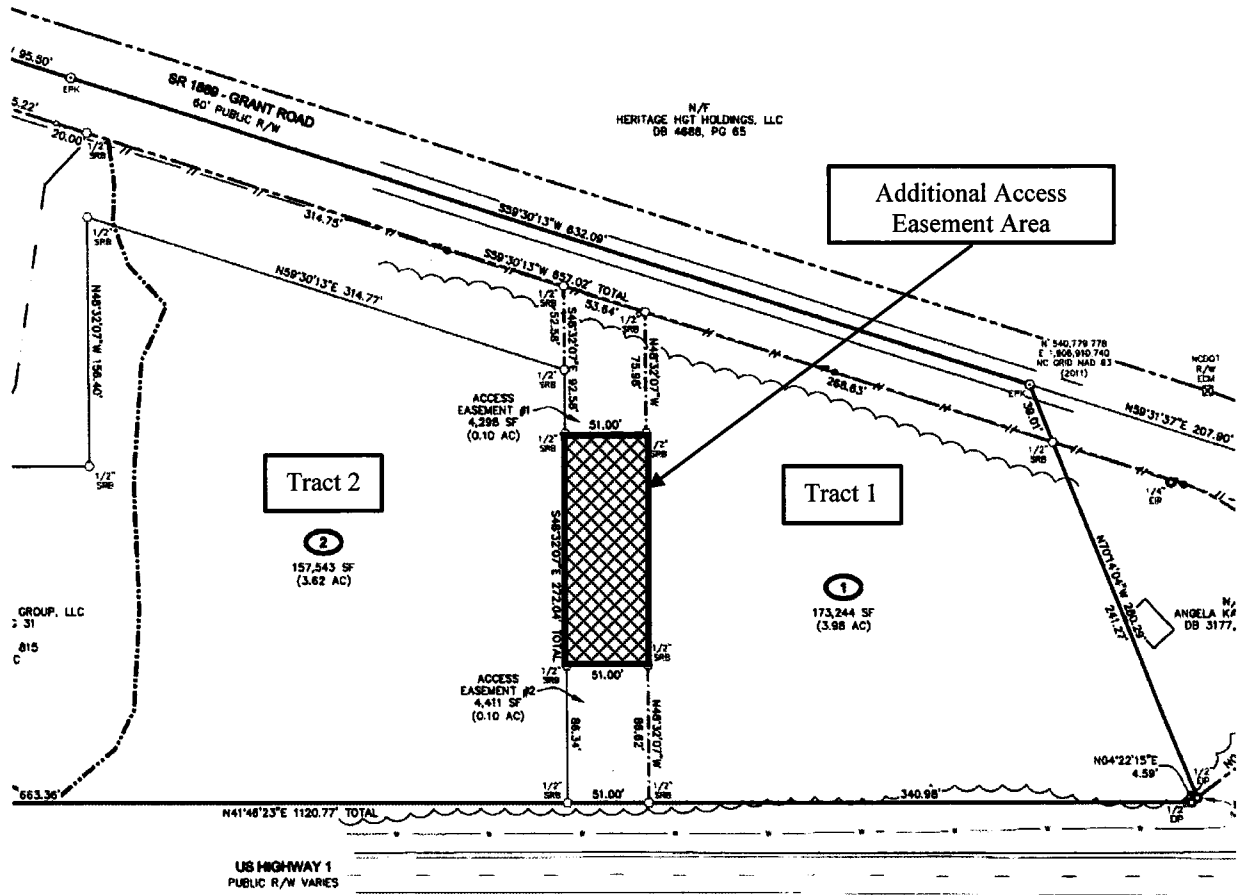
Witness my hand and official seal this, the 28 day of April, 2023.

Nicelle Mancuso
Notary Public

My Commission Expires: _____



[Handwritten signature of Nicelle Mancuso]

EXHIBIT A-1**Shared Access Easement Area**

This map may not be a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations and has not been reviewed for compliance with recording requirements for plats.

EXHIBIT B-1**Description of Shared Access Easement Area**

The Shared Access Easement Area consists of the following:

Parcel 1: Access Easement #1 as shown on the plat recorded in Plat Cabinet 18, Slide 883, Moore County Registry.

Parcel 2: Access Easement #2 as shown on the plat recorded in Plat Cabinet 18, Slide 883, Moore County Registry.

Parcel 3: The area between Access Easement #1 and Access Easement #2, being approximately 51' x 145.7' along the western boundary of Tract 1 in the approximate area cross-hatched on Exhibit A-1.

It is the intent of SR and Farzana for the Shared Access Easement Area to extend fully across Tract 1 from US Highway 1 to State Road 1869, more commonly known as "Grant Road," in the 51' wide area generally depicted on Exhibit A-1.