

2016014423

RESTRICTION  
RECORDING FEES \$13.00  
PRESENTED & RECORDED:  
10-03-2016 08:57 AM  
JOHN LANE  
REGISTER OF DEEDS  
LANCASTER COUNTY, SC  
By: CANDICE PHILLIPS DEPUTY  
BK: DEED 999  
PG: 262-268

[SPACE ABOVE RESERVED FOR RECORDER'S USE]

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Cross Reference: Instrument No.: 2304, Book 288, Page 300

As Modified by: Instrument No. 2006011679, Book 353, Page 155

As Further Modified by: Instrument No. 2009012867, Book 534, Page 54

As Further Modified by: Instrument No. 2012006078, Book 667, Page 107

As Further Modified by: Instrument No. 2013014815, Book 757, Page 267

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**FIRST AMENDMENT TO DECLARATION  
OF COVENANTS, RESTRICTIONS AND EASEMENTS  
FOR EDGEWATER CORPORATE CENTER**

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This First Amendment to Declaration of Covenants, Restrictions and Easements for Edgewater Corporate Center (this "*Amendment*"), made as of the ~~30~~<sup>30<sup>th</sup></sup> day of September, 2016 by RMB Edgewater, LLC, a North Carolina limited liability company (herein, "*Declarant*"), as follows:

*Witnesseth:*

WHEREAS, Edgewater Park Partners, LLC, an Indiana limited liability company ("*Original Declarant*") and Hans L. Lengens VIII, L.L.C., a South Carolina limited liability company ("*Initial Owner*") executed and recorded the Declaration of Covenants, Restrictions and Easements for Edgewater Corporate Center (the "*Center*") dated June 30, 2005 (as amended and assigned, the "*Declaration*") recorded in Deed Book 288, Page 300 in the office of the Register of Deeds of Lancaster County, South Carolina (the "*Registry*"); and

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WHEREAS, pursuant to Assignment of Declarant/Initial Owner's Rights under Declaration of Covenants, Restrictions and Easements for Edgewater Corporate Center dated April 18, 2012, bearing instrument Number 2012006078, and recorded in the Registry in Book 667, Page 107, Original Declarant (for itself and as successor to the rights of Initial Owner) assigned all of its rights under the Declaration (including, without limitation, its rights as 'Declarant' and/or the 'Initial Owner') to Dearborn Street Holdings, LLC - Series 16 M & I, an Illinois limited liability company ("*Dearborn*"); and

WHEREAS, pursuant to Assignment of Declarant/Initial Owner's Rights under Declaration of Covenants, Restrictions and Easements for Edgewater Corporate Center dated September 25, 2013, bearing instrument Number 2013014815, and recorded in the Registry in Book 757, Page 267 (the "*RMB Assignment*"), Dearborn assigned all of its rights under the Declaration (including, without limitation, its rights as 'Declarant' and/or the 'Initial Owner') to Declarant, and Declarant accepted such assignment and assumed all obligations of Declarant under the Declaration; and

WHEREAS, Section 3 of the Declaration provides that as long as the Declarant is a Class B Shareholder, Declarant shall have the right to amend the Declaration unilaterally without the approval of any other Owner to modify Restrictions and prohibitions with respect to certain Business uses (as defined in the Declaration) in the Center; and

WHEREAS, "Restrictions" as defined in the Declaration, include all covenants, conditions, easements, charges, liens, restrictions, rules, regulations and all other provisions set forth in the Declaration..." so the definition of Restrictions in the Declaration includes the Permitted Business Uses described in Section 14 (B) (i) of the Declaration; and

WHEREAS, Declarant shall be a Class B Shareholder until the Class B Expiration Date; and

WHEREAS, the Class B Expiration Date is December 31, 2025 or an earlier date when the Declarant owns less than ten percent (10%) of the Real Estate in the Center or expressly terminates its rights; and

WHEREAS, Declarant owns more than ten percent (10%) of the Real Estate in the Center and has not expressly terminated its rights, so the Class B Expiration Date has not occurred as of the date of this Amendment; and

WHEREAS, the Declaration provides that the term "Business" means the use for which any Parcel within the Real Estate has been developed consistent with applicable zoning and the terms and provisions of the Declaration; and

WHEREAS, applicable zoning regulations permit the development and operation of a senior residential care and medical facility (the "*Blake Parcel Permitted Use*") on parcels within the Center and subject to the Declaration; and

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WHEREAS, Section 20(A)(ii) of the Declaration provides that the Declarant may unilaterally amend the Declaration to revise the standards, covenants and restrictions contained in the Declaration or any part thereof, or the location of any easements created or reserved under the Declaration, prior to the Class B Expiration Date, pursuant to the provisions of the Declaration.

NOW THEREFORE, Declarant hereby declares that the Declaration is amended as follows:

1. The above recitals are incorporated herein by reference and deemed a part of this Amendment.
2. **Exhibit B** attached to the Declaration is hereby updated to reflect the current parcels within the Center as shown on **Exhibit B**, which is attached hereto and incorporated herein for all purposes;
3. Section 14 (B)(i) is hereby amended to provide that the Blake Parcel Permitted Use shall be an additional Permitted Business Use on that one certain 7.168 acre tract (the "*Blake Parcel*") depicted as New Tract 1C (4.083 Acres) and New Tract 1D (3.085 Acres) on plat recorded in Book 2016, Page 722, of the Registry (the "*Resubdivision Plat*").

Section 14 (B) (i) is further amended to provide that the following uses shall be additional Permitted Business Uses on the corresponding Parcels as described below:

- a. On Parcel B, as shown on **Exhibit B** attached hereto, the use and development of such Parcel for general office and medical office purposes shall be additional Permitted Business Uses.
- b. On Parcel A, as shown on **Exhibit B** attached hereto, the use and development of such Parcel for general office and medical office purposes, and for hotel purposes, shall be additional Permitted Business Uses.
- c. On Parcel C, as shown on **Exhibit B** attached hereto, the use and development of such Parcel for general office purposes and for conference center purposes, shall be additional Permitted Business Uses.
- d. On Parcel D, as shown on **Exhibit B** attached hereto, multi-family uses, including apartments, condominiums, townhomes and related amenities (each, "Multi-Family Uses"), to the extent any or all of such are permitted by the applicable zoning regulations governing Parcel, such permitted uses shall be additional Permitted Business Uses at such time. At such time as the applicable zoning regulations governing Parcel D permit any or all of the Multi-Family Uses, such use or uses shall each then be defined as a Permitted Business Use and Section 14 (B) (i) shall be amended to allow such Multi-Family Use as a Permitted Business Use on Parcel D, approved by Declarant, without further action required of Declarant. Declarant may, but shall not be required, to record an amendment to

this Declaration without the joinder of any other party, to document the adoption of the required zoning regulation by the applicable governmental authority.

3. The Sidewalk Easements, as defined, reserved or established in the Declaration are hereby modified and amended to include and to be consistent with the layout and location of the relocated walking path described and/or depicted on the Resubdivision Plat. The Owner of the Blake Parcel ("*Blake*") shall be permitted to relocate and re-construct the walking path on the Blake Parcel, consistent with the locations shown on the Resubdivision Plat, provided that: (i) Blake obtains all necessary government permits and approvals necessary to do so; and (ii) such work is approved pursuant to Section 14 of the Declaration.

4. Pursuant to *Section 5(C)* of the Declaration, Declarant hereby assigns to Blake the non-exclusive right to construct the extension of Edgewater Corporate Parkway as shown on the Site Plan attached hereto as *Exhibit A*, together with utility lines and other infrastructure (collectively, the "*Extension and Infrastructure Improvements*"), and consents to the Blake's performance of such work, which work shall be performed in accordance with the terms and requirements of the Amendment to Agreement Respecting Development of Real Estate of even date and record herewith (the "*DRA Amendment*"). Declarant further grants, conveys and assigns to Blake a non-exclusive easement, as set forth under Section 5(C) of the Declaration, necessary to construct and/or install the Extension and Infrastructure Improvements. Upon completion of the Extension and Infrastructure Improvements and verification of completion as provided in the DRA Amendment, the Extension and Infrastructure Improvements will be deemed conveyed and/or assigned to the Corporation as Common Properties of the Center and the cost of maintenance, repair and upkeep shall be a Common Expense. Consistent with the immediately preceding sentence, the Extension and Infrastructure Improvements (as Common Properties of the Center) shall be subject to the applicable private rights and easements established under the Declaration for the benefit of the Corporation and the Owners, including, but not limited to, Private Street Easements, Utility Easements and Drainage Easements, as such terms are defined in the Declaration.

5. The foregoing modifications are made in furtherance of and without prejudice to Declarant's existing and continuing rights under the Declaration, including, without limitation, Declarant's rights and privileges under Section 3 to "create additional (or modify or remove) Restrictions and prohibitions with respect to certain Business uses within the Center".

6. Except as previously modified of record and further specifically modified by this Amendment, all other terms, covenants and conditions of the Declaration shall remain in full force and effect. All capitalized terms used, but not specifically defined in this Amendment, shall have the meaning ascribed to such terms in the Declaration.

*[remainder of page intentionally left blank; signature page follows*

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IN WITNESS WHEREOF, the Declarant has caused this Amendment to be executed in the day and year first written above.

DECLARANT

RMB Edgewater, LLC,  
a North Carolina Limited Liability Company

By: Merrifield Partners, LLC, a North  
Carolina Limited Liability Company, its Manager

B.J. Burkhardt

Witness #1

Print Name: B.J. Burkhardt

By: James E. Merrifield

James E. Merrifield, Manager of Limited  
Merrifield Partners, LLC

Its: Manager

Paula S. Winkler

Witness #2

Print Name: Paula S. Winkler

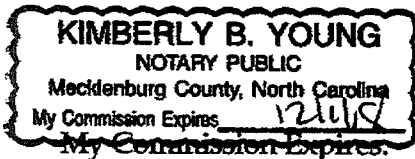
State of North Carolina )

County of Mecklenburg )

Before me, a Notary Public in and for said County and State, personally appeared James E. Merrifield, as Manager of Merrifield Partners, LLC, as Manager of RMB Edgewater, LLC, who, after having been duly sworn, acknowledged the execution of the foregoing Amendment to Declaration of Covenants, Restrictions and Easements for Edgewater Corporate Center on behalf of such limited liability company.

WITNESS, my hand and Notarial Seal, this the 28 day of September, 2016

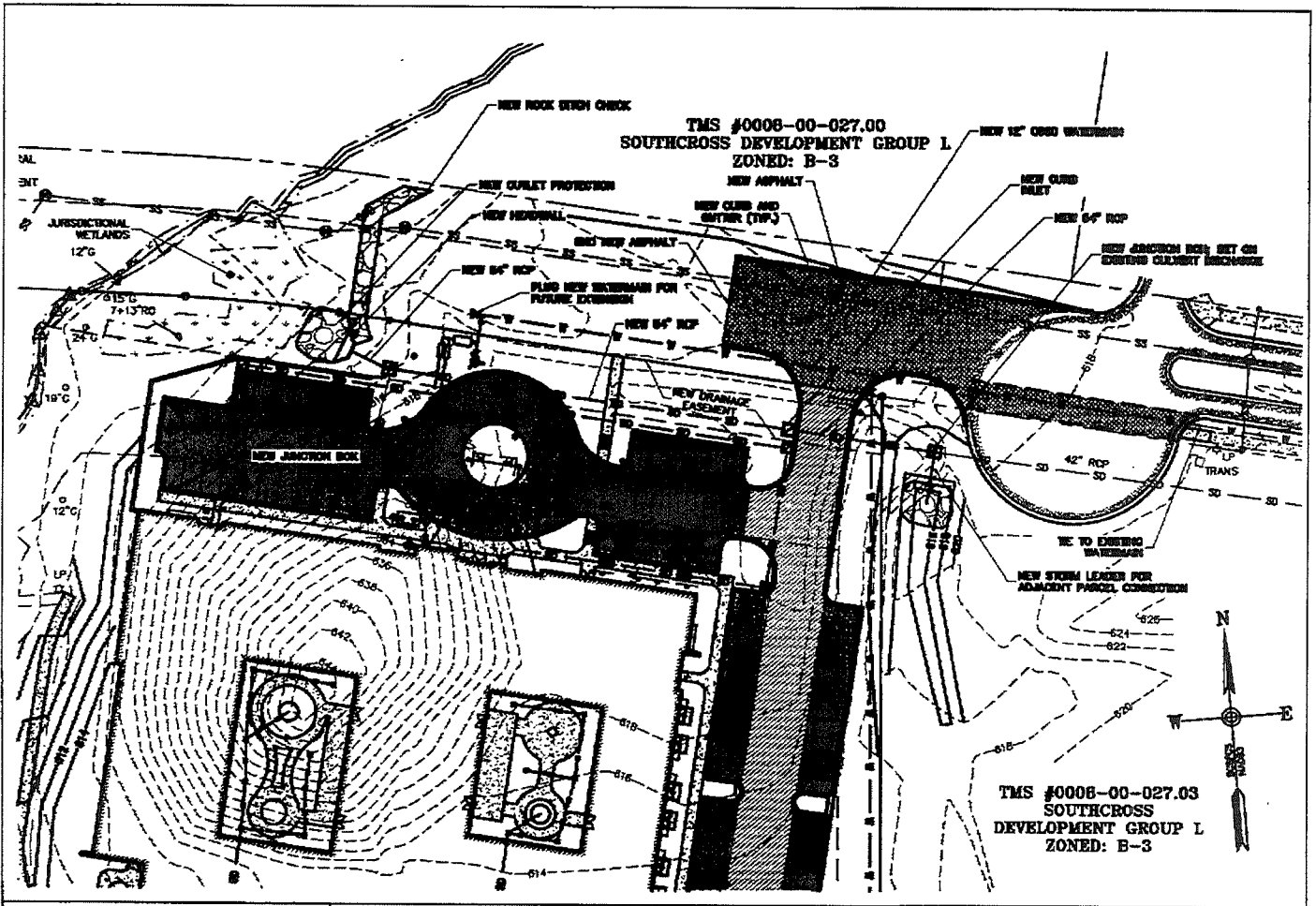
Kimberly B. Young  
Notary Public North Carolina  
Printed Name: Kimberly B. Young



12/1/18

My County of Residence:

Mecklenburg



**H3 HOYT • BERENYI**  
 P.O. Box 1479, Lorton, VA 22070-0479 | 434.683.3546 | www.HoytBerenyi.com

JOB NAME: The Blake at Edgewater  
 JOB NUMBER: 16-014

SCALE: 1" = 60'  
 DATE: June 20, 2016

TITLE: EXHIBIT "A" - THE PARKWAY EXTENSION

# Exhibit B

