

This Instrument Prepared By & Return To:
John M. Kinard
DOGAN & WILKINSON, PLLC
734 Delmas Avenue
P.O. Box 1618
Pascagoula, MS 39568-1618
(228) 762-2272
MSB No. 7558

ROW 005 A (revised 7/2009)

Indexing: Tract "D" and "E", Lowe's Town Center, Jackson County, Mississippi

STATE OF MISSISSIPPI

COUNTY OF JACKSON

SPECIAL WARRANTY DEED

FOR AND IN CONSIDERATION of the mutual benefits accruing to both parties, the receipt of all of which is hereby acknowledged,

LOWE'S HOME CENTERS, LLC (GRANTOR)
1605 Curtis Bridge Road
Wilkesboro, NC 28697
(336) 658-4200

does hereby convey, grant, bargain, donate and specially warrant unto

THE CITY OF GAUTIER, MISSISSIPPI (GRANTEE)
a municipal corporation organized and existing under
and by virtue of the laws of the State of Mississippi
3330 Highway 90
Gautier, MS 39553
(228) 497-8000

the following described property situated in the County of Jackson, State of Mississippi, more particularly described as follows, to-wit:

Initial _____, _____, _____

Lowe's Home Centers, LLC
STP-0494-00(008)LPA/106378-701000

Tract "D" and "E", Lowe's Town Center, as per official map or plat thereof on file and of record in the office of the Chancery Clerk of Jackson County, Mississippi, in Plat Book 24, at Pages 40-42.

Grantor also grants, bargains, and donates to Grantee a perpetual right and easement appurtenance for the benefit of the subject property to utilize the "Stormwater Easement Area between Lowe's Home Centers, LLC & City of Gautier, MS", as shown on the above referenced Plat, for access to the Stormwater Management Facilities and to undertake maintenance and other stormwater management practices and activities related to the Stormwater Management Facilities shown on the Plat.

Without expanding the scope of Grantor's Special Warranty, Grantor's Special Warranty is subject to the following specific matters:

1. Ad valorem taxes for the current year and subsequent years.
2. Reservations, conveyances, or leases of minerals, including oil, gas, sand and gravel, by prior owners. No warranty is made regarding ownership of minerals.
3. All easements, restrictive covenants and other instruments, if any, affecting the subject property and recorded in the office of the Chancery Clerk of Jackson County, Mississippi.

It is further agreed and understood that this instrument constitutes the entire agreement between the grantor and grantee, there being no oral agreements or representations of any kind.

I/We, the Grantor, fully understand that we have the right to receive just compensation for the real property herein based on an appraisal of the property. I/We, the Grantor herein, hereby waive our right to just compensation and donate the real property herein described to the City of Gautier, Mississippi. I/We, the Grantor herein, further understand that we have the right to request that a fair market value appraisal of the property be made and I/We, the Grantor herein, hereby waive that right.

WITNESS THE SIGNATURE on this the ____ day of _____, 2014.

LOWE'S HOME CENTER, LLC

By: _____

Title: _____

Lowe's Home Centers, LLC
STP-0494-00(008)LPA/106378-701000

Initial _____, _____, _____

STATE OF _____

COUNTY OF _____

PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named _____, who acknowledged to me that (s)he is the Member/Manager of Lowe's Home Center, LLC, and in such capacity that (s)he signed, sealed, delivered, and executed the above and foregoing instrument on the date therein as the act and deed of said limited liability company, after first having been duly authorized by said limited liability company, so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the _____ day of June, A.D., 2014.

NOTARY PUBLIC
My Commission Expires: _____

Initial _____, _____, _____

Lowe's Home Centers, LLC
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Grantor, prepared by and return to:

City of Gautier

Attn: Director of Economic Dev. &
Planning

3330 Hwy. 90

Gautier, Mississippi 39553

Phone: 228-497-1878

Grantee Address:

Lowe's Home Centers, LLC

Attn: Property Management Dept.

1605 Curtis Bridge Road

Wilkesboro, North Carolina 28697

Phone: 336-658-4200

EASEMENT AGREEMENT

INDEXING INSTRUCTIONS:

Grantor' Indexing Instructions:

[Tracts "A", "B" and "C" Plat Book 24, at pages 40 through 42]

Grantee's Indexing Instructions:

[Tracts "D" and "E" Plat Book 24, at pages 40 through 42]

STATE OF MISSISSIPPI §

§

COUNTY OF JACKSON §

KNOW ALL MEN BY THESE PRESENTS:

For and in consideration of the mutual benefits accruing to both parties the receipt and sufficiency of which is hereby acknowledged, the CITY OF GAUTIER, MISSISSIPPI, a political subdivision of the State of Mississippi ("Grantor"), has GRANTED AND CONVEYED, and by these presents does GRANT and CONVEY unto LOWE'S HOME CENTERS, LLC, a North Carolina limited liability company ("Grantee"), its successors and assigns, a permanent non-exclusive stormwater drainage and maintenance easement ("Stormwater Easement") and an easement for access to and from William Payne Adams Boulevard, a publicly dedicated and publicly maintained roadway ("Access Easment"), subject to the terms and conditions herein described. The Stormwater Easement is for ingress and egress to and use

Initial _____, _____

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of the stormwater retention ponds, the drainage pipe through which stormwater is delivered to the stormwater retention ponds, outfall drainage pipes and related drainage structures (collectively, the "Stormwater Management Facilities") in the area shown as "Stormwater Management Facilities" on Tract "D" and Tract "E", Lowe's Town Center, as per official map or plat thereof on file and of record in the office of the Chancery Clerk of Jackson County, Mississippi in Plat Book 24, at pages 40 through 42 thereof, reference to which is hereby made in aid of and as part of this description (the "Plat") and further described on Exhibit "A" attached hereto and incorporated herein by reference. The Access Easement is to provide unfettered non-exclusive access for the Grantee's Land as hereinafter described over the Servient Land for connection and access to William Payne Adams Boulevard, a publicly dedicated and publicly maintained roadway. Collectively the Stormwater Easement and the Access Easement may be referred to and referenced herein as "Easement". Contemporaneously with this Easement Agreement, Grantee is donating Tract "D" and Tract "E", Lowe's Town Center, as per the Plat as further described on Exhibit "B" attached hereto (the "Servient Land") to Grantor which includes the appurtenant easement rights granted to Grantor to utilize the "Stormwater Easement Area between Lowe's Home Centers, LLC & City of Gautier, MS" as shown on the Plat.

It is expressly understood and agreed that the Easement is granted and accepted subject to the following conditions, limitations and stipulations, to which Grantor and Grantee agree to be bound:

1. Grantee owns Tract "A" as shown on the Plat where Grantee operates a Lowe's Home Improvement Warehouse which includes all site related improvements necessary to so utilize the property including, but not limited to, a building, parking lot, signage, stormwater retention and management facilities including ponds, landscaping, and lighting as well as outparcels ("Tract "B" and Tract "C" shown on the Plat) for which it has currently retains title and an outparcel previously conveyed and being operated as a Murphy USA (all inclusive the "Grantee's Land") as more particularly described on Exhibit "C" attached hereto and incorporated herein by reference. This Easement, which is deemed to be an easement appurtenant to the Grantee's Land, is for stormwater drainage and maintenance and may be used by Grantee in perpetuity to convey, discharge, and transmit stormwater drainage from those owning all or any portion of the Grantee's Land under, through and across the Servient Land and into the Stormwater Management Facilities now located on the Servient Land and for non-exclusive access across the Servient Land to and from the Grantee Land and William Payne Adams Boulevard, a publicly dedicated and publicly maintained roadway.

2. Grantor represents and warrants that Grantee's use of Grantee's Land as a retail home improvement store is in conformance with Grantor's legal requirements, and Grantee will not be required to meet any city code or regulatory requirement resulting from Grantee's donation of the Servient Land to Grantor. Grantor accepts any changes or modifications to open space, setback, buffer and signage within Grantee's Land created by the aforementioned donation of the Servient Land and this Easement Agreement. With regard to the Access Easement, the Grantor shall not relocate, alter, block, limit, impede or obstruct the existing access which the owners of the Grantee Land, and their grantees, successors and assigns utilize for access to William Payne Adams Boulevard without the prior written consent of Grantee which consent shall be subject to the sole and absolute discretion of Grantee.

3. Grantor, at its sole cost and expense, shall operate and maintain the Stormwater Management Facilities and the Servient Land in order to provide the necessary water quality

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volume and water quantity attenuation volume necessary to accommodate stormwater runoff at the present and future rates and volumes which flow from the operations and ownership of properties comprising all or a portion of the Grantee's Land. Grantor, at its sole cost and expense, shall further construct, maintain, operate and replace, as needed, the existing drainage pipe located on the Servient Land through which the stormwater generated on the Grantee's Land is conveyed upon or under the Servient Land to the stormwater retention ponds which are a component of the Stormwater Management Facilities. Grantor, at its sole cost and expense, shall maintain the Stormwater Management Facilities in good condition and repair and in compliance with applicable laws, ordinances, rules and regulations of any governmental entity with jurisdiction over the Servient Land. ~~In addition Grantor, at its sole cost and expense, shall be responsible for any reporting and permitting, including, but not limited to, Grantee's compliance with any and all Stormwater Pollution Prevention Plans ("SWPPP"), required of Grantee in connection with Grantee's use of the Easement.~~

4. The Easement is non-exclusive and Grantor reserves to itself, its successors and assigns, the right to utilize the Easement and Servient Land for any purpose which does not unreasonably and materially interfere with the use of the Servient Land by Grantee for the purposes set forth herein. Each party, and their grantees, successors and assigns, shall use the rights granted and reserved by the Easement with due regard for the express rights of the other party as set forth below to use and enjoy the Servient Land.

5. Grantee shall have no responsibility or liability, financial or otherwise, attributable to the Stormwater Management Facilities or the Servient Land. In the event Grantor fails to maintain the Stormwater Management Facilities or the Servient Land in good condition and repair or in compliance with applicable laws, ordinances, rules and regulations of any governmental entity with jurisdiction over the Servient Land, Grantee may, at its sole discretion, provide thirty (30) days written notice of intent to enter upon the Servient Land to perform such work as Grantee deems necessary to accommodate Grantee's drainage and access requirements. ~~enter upon the Servient Land to perform such work as Grantee deems necessary to accommodate Grantee's drainage and access requirements. Grantee shall be entitled to reimbursement from Grantor of costs incurred for such work within thirty (30) days after Grantee's delivery of a written invoice for such costs to Grantor.~~

6. Without the express, prior written consent of Grantee, which consent shall be subject to the sole and absolute discretion of Grantee, Grantor shall not relocate, alter, block, limit, impede or obstruct the use of the Servient Land by Grantee and its grantees, successors and assigns for Stormwater Management Facilities.

7. So long as Grantor obtains all necessary modifications to the existing permit as may be required by State and Local governmental authorities and Grantee is provided copies of such permit modifications, Grantor may, at its sole cost and expense, expand, modify or enlarge the Stormwater Management Facilities for the purpose of accommodating stormwater related to Grantor's future projects. In the event Grantor utilizes the Servient Land for its future drainage, Grantor shall continue to comply with the terms of this Agreement, including but not limited to, accepting and accommodating the present and the future stormwater drainage needs of the properties comprising the Grantee's Lands.

8. Subject to the provisions of this paragraph, the Easement shall run with the title to Grantee's Land and shall be binding upon and inure to the benefit of Grantee and Grantor,

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together with their legal representatives, invitees, guests, employees, agents, licensees, lessees, grantees, successors and assigns.

9. Grantee agrees to defend, indemnify and save harmless Grantor, its successors and assigns, from and against all causes of action, litigation, cost, loss, liability, damage and expense (including reasonable attorneys' fees) for injury or death to persons, whomsoever, and damage to or loss of property to whomsoever belonging, including the respective contractors, agents, employees and representatives of Grantor, arising out of and to the extent of Grantee's negligent acts or Grantee's default under the terms of this Easement Agreement.

~~10. Grantor agrees to defend, indemnify and save harmless Grantee, its successors and assigns, from and against all causes of action, litigation, cost, loss, liability, damage and expense (including reasonable attorneys' fees) for injury or death to persons, whomsoever, and damage to or loss of property to whomsoever belonging, including the respective contractors, agents, employees and representatives of Grantee, arising out of and to the extent of Grantor's negligent acts or Grantor's default under the terms of this Easement Agreement.~~

11. Any notice required or permitted to be given hereunder shall be in writing, addressed to Grantee or the Grantor as necessary and shall be delivered personally (with written receipt or acknowledgement) or by a nationally recognized overnight courier (signature release required). The initial addresses for Grantee and Grantor are as follows:

Grantee: Lowe's Home Centers, Inc.
 1605 Curtis Bridge Road
 Wilkesboro, NC 28697
 Attention: Property Management Dept.
 Tel. No.: 336.658-4200

With copy to: Lowe's Home Centers, Inc.
 1000 Lowe's Boulevard
 Mooresville, NC 28117
 Attention: Legal Dept. (NBLG)
 Tel. No.: 704.758-1000

Grantor: City of Gautier
 3330 Highway 30
 Gautier, MS 39553
 Attention: Chandra Nicholson
 Tel. No.: 228.497-1878

12. All matters related to the construction, validity and enforcement of the Easement and this Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi in all respects and this Easement Agreement constitutes the entire and final expression of agreement between Grantee and Grantor with regard to the subject matter hereof.

Initial _____, _____

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TO HAVE AND TO HOLD the aforesaid rights, privileges, and easement unto Grantee, its successors and assigns, forever, subject to the conditions, limitations and restrictions contained herein.

IN WITNESS WHEREOF, Grantor and Grantee have signed and sealed this Grant of Easement to be effective as of the _____ day of _____, 2014.

GRANTOR:

CITY OF GAUTIER, MISSISSIPPI, a political subdivision of the State of Mississippi

By: _____

Name: _____

Title: _____

(CORPORATE SEAL)

STATE OF MISSISSIPPI)

COUNTY OF _____)

This ___ day of _____, 2014, personally came before me _____, who being by me duly sworn, says that he is _____ of _____ and that the seal affixed to the foregoing instrument in writing is the corporate seal of said Corporation and that said writing was signed and sealed by him in behalf of said corporation by its authority duly given and acknowledged the said writing to be the act and deed of said corporation.

Witness my hand and official seal this ___ day of _____, 2013.

Notary Public

My commission expires:

[Notary Seal]

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IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed, the ___ day of _____, 2014.

GRANTEE:

LOWE'S HOME CENTERS, LLC,
a North Carolina limited liability company

By: _____
Name: _____
Title: _____

(CORPORATE SEAL)

STATE OF NORTH CAROLINA)

COUNTY OF _____)

This ___ day of _____, 2014, personally came before me _____, who being by me duly sworn, says that he is _____ of _____ and that said writing was signed and sealed by him in behalf of said limited liability company by its authority duly given and acknowledged the said writing to be the act and deed of said limited liability company.

Witness my hand and official seal this ___ day of _____, 2014.

Notary Public

My commission expires:

[Notary Seal]

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Exhibit "A"
[Stormwater Management Facilities]

The area outlined or delineated as "Stormwater Management Facilities" on that certain plat entitled "Lowe's Town Center" as per official map or plat thereof on file and of record in the office of the Chancery Clerk of Jackson County, Mississippi in Plat Book 24, at pages 40 through 42 thereof, reference to which is hereby made in aid of and as part of this description.

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Exhibit "B"

[Servient Land]

Tract "D" and Tract "E", Lowe's Town Center, as per official map or plat thereof on file and of record in the office of the Chancery Clerk of Jackson County, Mississippi in Plat Book 24, at pages 40 through 42 thereof, reference to which is hereby made in aid of and as part of this description.

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Exhibit "C"

[Grantee's Land]

Tract "A", Tract "B", and Tract "C", Lowe's Town Center, as per official map or plat thereof on file and of record in the office of the Chancery Clerk of Jackson County, Mississippi in Plat Book 24, at pages 40 through 42 thereof, reference to which is hereby made in aid of and as part of this description.

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