

Presented to the Board of Commissioners
AND APPROVED

SEP 16 1976

Mildred V. Higham
CITY RECORDER

OCT 22 1976
Recorded
Request of *317P*
Fee *940* *9-13-76*
Recorded by *Cheryl Warrington*
By *[Signature]*

MODIFICATION OF EASEMENT AGREEMENT

2869417

DESCRIPTION
CHECKED
AND
APPROVED

THIS AGREEMENT, made and entered into this 23rd day of February, 1976, by and between A.K. UTAH PROPERTIES, INC., a Utah corporation, hereinafter referred to as "AKUP", and SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah, hereinafter referred to as "CITY",

SECURITY TITLE CO.
GHD #1-1621032

W I T N E S S E T H:

WHEREAS, AKUP is the owner and developer of certain property situate in the Northwest Quarter of Section 31, Township 1 North, Range 1 West, Salt Lake Base & Meridian, and in the Northeast Quarter of Section 36, Township 1 North, Range 2 West, Salt Lake Base & Meridian, and

WHEREAS, City has, or may have, an easement for a drainage canal commonly known as the Goggin Drain, which easement has been created either by grant or by prescription, and which easement traverses a portion of AKUP's above described property, and

WHEREAS, said Goggin Drain has been relocated, and

WHEREAS, the parties hereto desire to release AKUP's property from the charge of the City's easement with respect to the former location of said Goggin Drain and to create a new easement in favor of the City with respect to the new location thereof,

NOW, THEREFORE, in consideration of the premises, the sufficiency whereof is hereby admitted by each of the parties hereto, it is agreed as follows:

1. City hereby releases, discharges, and quitclaims to AKUP all of its right, title and interest in and to all rights, interests, and easements, whether by grant or by prescription, relating to, or in any way connected with, the

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drainage canal commonly known as the Goggin Drain, which interests lie within the following described parcels of land situate in Salt Lake County, Utah, to wit:

Commencing at the Northwest Corner of Section 31, Township 1 North, Range 1 West, Salt Lake Base & Meridian, thence North 89°56'58" East along the Section line 1009.82 feet; thence South 4°58'24" East 2650 feet, more or less, to the South line of said Northwest Quarter; thence Westerly 1240 feet, more or less, to the West line of said Section 31; thence Northerly 2640 feet, more or less, to the point of beginning, and

Northeast Quarter of Section 36, Township 1 North, Range 2 West, Salt Lake Base & Meridian.

It is the intent of the foregoing, that the City extinguish all rights it may have in and to the Goggin Drain in the area generally described above and in particular the location of the Goggin Drain prior to relocation, being a 50-foot easement, the centerline of which is described as follows, to wit:

Beginning at a point North 89°56'58" East along the Section line 1009.82 feet and South 4°58'24" East 1711.27 feet from the Northeast corner of Section 36, Township 1 North, Range 2 West, Salt Lake Base & Meridian; and running thence North 80°24'25" West 301.20 feet thence North 84°51'10" West 1654.11 feet to a point of curvature to a 717 foot radius curve to the right, thence North-westerly along said curve for an arc distance of 618.37 feet (central angle equals 49°24'50"), thence North 35°26'20" West 780 feet, more or less, thence Northerly 580 feet, more or less, to the North Section line of said Section 36.

2. AKUP hereby grants and conveys to City an easement to operate and maintain a drainage canal, commonly known as the Goggin Drain, upon, across, and over AKUP's land situate in the Northwest Quarter of Section 31, Township 1 North, Range 1 West, Salt Lake Base & Meridian, and in the Northeast Quarter of Section 36, Township 1 North, Range 2 West, Salt Lake Base & Meridian, all situate in Salt Lake County, Utah, and more particularly described as follows, to wit:

An easement 60 feet to 50 feet in width along the following described center line: Beginning on the North line of Section 36, Township 1 North, Range 2 West, Salt Lake Base & Meridian.

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at a point South 89°58' West 1768 feet from the Northeast corner of said Section, said point being the center of a 60 foot drainage easement; and running thence South 0°02' East 1153.99 feet to a point of curvature of a 150 foot radius curve to the left; thence Southerly and Easterly along said curve for an arc distance of 235.62 feet (central angle equals 90°00') the width of the easement uniformly decreasing from a 60 foot width at the point of curvature to a 50 foot width at the point of tangency, and running thence North 89°58' East 2740.81 feet to the Easterly boundary of grantor's property and of easement.

Together with the right to operate, repair, replace, maintain, and remove said drainage canal from said premises, and reasonable access and egress therefrom to permit normal operations and maintenance thereof.

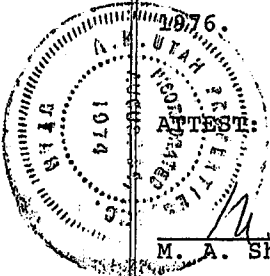
3. City agrees that neither AKUP, nor its successors or assigns, their agents or employees, shall be liable for any loss, damage, injury, or other casualty of whatsoever kind, to the person or property of anyone (including the City) on or off the premises, arising out of or resulting from the City's operation and maintenance of said drainage canal, including the area over which the City has the right of ingress and egress, or from defects in the premises whether apparent or hidden, or from the installation, existence, use, maintenance, condition, repair, alteration, removal, or replacement of any improvements thereon, whether due in whole or in part to the negligent acts or omissions of AKUP or AKUP's successors or assigns, their agents or employees; the City, for itself, its successors and assigns, hereby agrees to indemnify and hold AKUP and AKUP's successors and assigns, their agents and employees, harmless from and against all claims, demands, liabilities, suits or actions (including all reasonable expenses and attorneys' fees incurred by or imposed on AKUP in connection therewith) for such loss, damage, injury, or other casualty.

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4. City agrees to exercise reasonable care and diligence to avoid damage to the premises and all property that may at any time be thereon and, in the event of damage thereto, to restore said premises to a condition equal to its condition prior to such damage.

5. City hereby grants to AKUP, its successors and assigns, the right to discharge natural surface waters originating on premises now owned by AKUP in Section 31, Township 1 North, Range 1 West, Salt Lake Base & Meridian into the Goggin Drain as relocated and into the Brighton Drain which now traverses a portion of AKUP's property in the Southwest quarter of Section 36, Township 1 North, Range 2 West, Salt Lake Base & Meridian.

Made and executed this 23rd day of February,

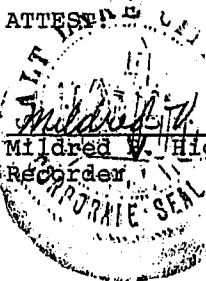


A. K. UTAH PROPERTIES, INC.

M. A. Sherley
M. A. Sherley, Asst. Sec.

By Emanuel A. Floor
Emanuel A. Floor
President

ATTEST:
Mildred W. Higham
Mildred W. Higham, CITY
Recorder



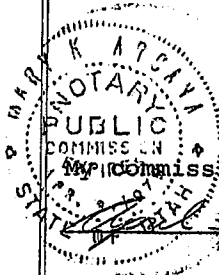
SALT LAKE CITY CORPORATION

By Jennings Phillips, Jr.
JENNINGS PHILLIPS, JR.
TEMPORARY CHAIRMAN

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STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On this 23rd day of February, 1976, personally appeared before me Emanuel A. Floor and M. A. Sherley who, being by me duly sworn, did say that they are the President and Asst. Secretary, respectively, of A. K. UTAH PROPERTIES, INC., a Utah corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of its Bylaws, and said Emanuel A. Floor and M. A. Sherley acknowledged to me that said corporation executed the same.



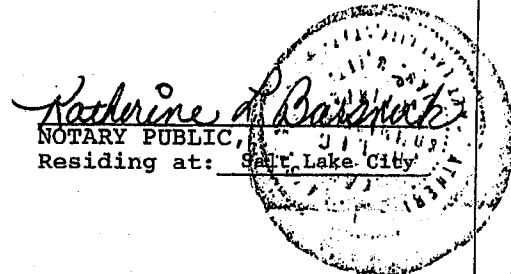
Mary Z. Arcana
NOTARY PUBLIC,
Residing at: S.L. County

My commission expires:

3, 1979

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On the 16th day of September, 1976, personally appeared before me ~~Frank Wilson~~ and Mildred V. Higham, who being Jennings Phillips, Jr. Temporary Chairman by me duly sworn, did say that they are the ~~Mayor~~ and Recorder, respectively, of Salt Lake City Corporation, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution of its City Commission, and the said ~~Frank Wilson~~ Jennings Phillips, Jr. and Mildred V. Higham acknowledged to me that said corporation executed the same.



Katherine A. Baird
NOTARY PUBLIC,
Residing at: Salt Lake City

My commission expires:

1-8-79

CONSENT OF MORTGAGEES

The undersigned, Continental Illinois National Bank & Trust Company of Chicago, a national banking association, Mortgagee under that certain Mortgage, dated the 16th day of June, 1975 and recorded the 19th day of June, 1975 as Entry No. 2718362, official records of the Salt Lake County, Utah, recorder, and Credit Commercial de France, a French bank, Mortgagee under that certain Second Mortgage, dated the 19th day of June, 1975, and recorded on the 19th day of June, 1975, as Entry No. 2718363, official records of the Salt Lake County, Utah, recorder, the liens of which mortgages cover the property described as the relocated Goggin Drain in the aforescribed modification of easement agreement by and between A. K. Utah Properties, Inc, a Utah corporation, Grantor, and Salt Lake City Corporation, Grantee, and other property, hereby consent and agree that the grant of the relocated Goggin Drain easement as described in said modification of easement agreement may be executed and recorded, and consent and agree that said mortgages shall be subject and subordinate to said relocated Goggin Drain easement.

Made and Executed this 2nd day of March, 1976.

CONTINENTAL ILLINOIS NATIONAL
BANK & TRUST COMPANY OF CHICAGO

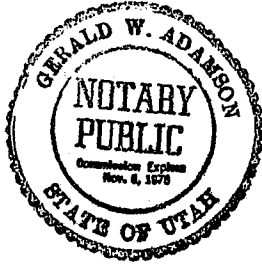
By Gordon H. Dick
GORDON H. DICK
Its Attorney in Fact

CREDIT COMMERCIAL de FRANCE

By Gordon H. Dick
GORDON H. DICK
Its Attorney in Fact

STATE OF UTAH)
): ss.
County of Salt Lake)

On the 2nd day of MARCH, 1976, personally appeared before me Gordon H. Dick, who, being by me duly sworn, did say that he is the Attorney in Fact of CONTINENTAL ILLINOIS NATIONAL BANK & TRUST COMPANY OF CHICAGO, a national association, and the Attorney in Fact of CREDIT COMMERCIAL de FRANCE, a French bank, and that the foregoing Consent of Mortgagees was signed in behalf of said association and bank by authority of a Power of Attorney, and said Gordon H. Dick acknowledged to me that he as such Attorney in Fact of said association and said bank executed the same.



Gerald W. Adamson
NOTARY PUBLIC

Resident at:

SALT LAKE CITY, UTAH

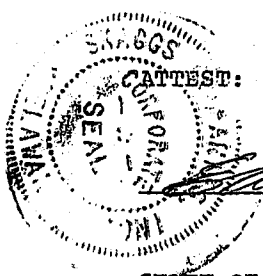
My Commission Expires:

NOVEMBER 8, 1978

CONSENT OF SKAGGS COMPANIES, INC.

The undersigned, SKAGGS COMPANIES, INC., a Delaware corporation, the beneficiary under that certain Deed of Trust dated the 24th day of June, 1975 and recorded the 25th day of June, 1975 as Entry No. 2719945, official records of the Salt Lake County, Utah, recorder, the lien of which Deed of Trust covers the property described as the relocated Goggin Drain in the aforescribed Modification of Easement Agreement by and between A. K. Utah Properties, Inc., a Utah corporation, Grantor, and Salt Lake City Corporation, Grantee, and other property, hereby consents and agrees that the grant of the relocated Goggin Drain Easement as described in said Modification of Easement Agreement may be executed and recorded, and consent and agree that said Deed of Trust shall be subject and subordinate to said relocated Goggin Drain Easement.

Made and executed this 14th day of October, 1976.



SKAGGS COMPANIES, INC.

By Ralph E. Davis
Sr. Vice President

E. A. Sinclair
Secretary

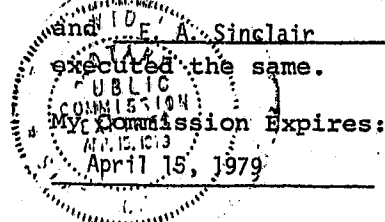
Approved as to form
Jones, Weldon, Halbrook &
McDonough

By [Signature]

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

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On this 14th day of October, 1976, personally appeared before me Ralph E. Davis and E. A. Sinclair, who being by me duly sworn did say that they are the Sr. Vice President and Secretary, respectively, of Skaggs Companies, Inc., a Delaware corporation, and that the foregoing Consent of Skaggs Companies, Inc., was signed on behalf of said corporation by authority of a resolution of its Board of Directors, and the said Ralph E. Davis and E. A. Sinclair acknowledged to me that said corporation executed the same.



[Signature]
NOTARY PUBLIC
Residing at: Salt Lake City, Utah