

When Recorded Mail to:  
Raddon/Bell Properties, L.C.  
12222 South 10000 East, St#3  
Draper, Utah 84020

2

## EASEMENTS, COVENANTS AND RESTRICTIONS AGREEMENT

8094885

**THIS EASEMENTS, COVENANTS AND RESTRICTIONS AGREEMENT** (the "Agreement") is made as of November 12, 2001, by and among AutoZone, Inc., a Nevada corporation ("AutoZone"), Raddon/Bell Properties, LC, a Utah limited liability company ("Raddon/Bell"), and by each of the undersigned owners holding interests in the below-described Property (collectively, the "Other Title Holders"). AutoZone, Raddon/Bell and the Other Title Holders (and their respective successors and assigns) are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

### WITNESSETH:

**WHEREAS**, AutoZone is the owner of certain real property located in the County of Salt Lake, City of South Jordan, State of Utah, as described on **Exhibit "A"** and as depicted as Lot 5 on **Exhibit "C"** and **Exhibit "D"** (the "AutoZone Parcel"); and

**WHEREAS**, Raddon/Bell and the Other Title Holders are (or will become) the owners of certain real property located in said County, City and State, as described on **Exhibit "B"** and as depicted as Lots 1-4 and Lots 6-9 on **Exhibit "C"** (collectively, the "Raddon/Bell and Other Title Holders Parcel", and the AutoZone Parcel together with the Raddon/Bell and Other Title Holders Parcel are sometimes collectively referred to as the "Property"). The individual lots are also shown on **Exhibit "C"** and are sometimes referred to herein as its individual Lot and number; and

**WHEREAS**, portions of the Property are subject to that certain Declaration of Covenants, Easements and Restrictions (the "Declaration") by Specialty Automotive Centers Limited Liability Company, a Colorado limited liability company, and recorded July 8, 1999 as Entry No. 7407194 in Book 8292 at Page 6833 of the Official Records of Salt Lake County; and

**WHEREAS**, the Parties desire to absolutely and irrevocably terminate and cancel the Declaration in all respects; and

**WHEREAS**, Raddon/Bell, the Other Title Holders and AutoZone have agreed that the Property shall each be held, sold and conveyed subject to the easements, covenants and restrictions contained herein.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. (a) No part of the Property (except for the AutoZone Parcel) shall be used as an automobile parts store or for the sale of automobile parts, supplies or accessories for off-premises installation. Notwithstanding the above, this restriction does not apply to any business whose principal business is a on-site auto repair business, drugstore and/or pharmacy, grocery store, department store, variety store, hardware store, home improvement store or any other seller of a broad mix of general merchandise which sells automobile parts as an incidental part of its general merchandise business; provided that, no business sells automobile carburetors, starters, brakes, alternators, fuel pumps, water pumps or other coolant pumps for off-premises installation.

BK 854 3 PG 0651

(b) No part of any building, structure, canopy or kiosk may be erected on Lot 4 of the Property within forty (40) feet of the existing north right-of-way line of 10400 South Street (also known as 10400 South Jordan Parkway).

(c) No part of any building, structure, canopy or kiosk may be erected on Lot 6 of the Property within forty (40) feet of the existing north right-of-way line of 10400 South Street (also known as 10400 South Jordan Parkway).

(d) No portion of any drive aisles located on the Property shall be used for the sale or display of merchandise.

(e) So long as the owner of Lot 8 operates a full-service grocery store on the northeast corner of Redwood Road and 104<sup>th</sup> So., the parking lot of which connects through the Property to Beckstead Lane, there shall not be conducted on any part of the Property (except Lot 8), without the prior written consent of the owner of Lot 8, any business that (i) sells groceries for consumption off the premises, and/or (ii) sells drugs or other products which are required by law to be dispensed by a registered pharmacist, vitamins and health and/or beauty aids. However, the exclusive right granted to the owner of this Lot shall not prevent the following: (i) the sale of vitamins, health and/or beauty aids in conjunction with a beauty salon, barber shop, specialty vitamin and beauty retailer; (ii) a convenience store, gas station, or any other business that sells convenience items, such as without limitation, snacks, ice, beverages, candy, non-prescription medicines, etc. as an incidental part of its primary business; and (iii) the sale of drugs to owners of animals treated by a veterinarian whose office is on the Property or the dispensing without charge of drugs directly to patients by a physician or dentist whose office is on the Property.

2.1 (a) AutoZone hereby grants to Raddon/Bell and each of the Other Title Holders and each of their respective tenants, successors and assigns, for the use and benefit of the Raddon/Bell and Other Title Holders Parcel non-exclusive access easements over and across any and all driveways and drive aisles (whether now existing or in the future to exist) on the AutoZone Parcel, and as they may exist on the AutoZone Parcel from time to time.

(b) Raddon/Bell and the Other Title Holders each hereby grants to AutoZone and its tenants, successors and assigns, for the use and benefit of the AutoZone Parcel, non-exclusive access easements over and across any and all driveways and drive aisles (whether now existing or in the future to exist) on the Raddon/Bell and Other Title Holders Parcel, and as they may exist on the Raddon/Bell and Other Title Holders Parcel from time to time.

(c) Raddon Bell and the Other Title Holders each hereby establish and grant to each other for the benefit of their respective lots non-exclusive access easements over and across any and all driveways and drive aisles (whether now existing or in the future to exist) on the Raddon/Bell and Other Title Holders Parcel and as they may exist on the Raddon/Bell and Other Title Holders Parcel from time to time.

(d) The purpose and intent of the Parties are to establish non-exclusive cross-access easements across any and all drive aisles whether now existing or in the future to exist on all lots of the Property. Accordingly, AutoZone, Raddon/Bell and the Other Title Holders hereby establish non-exclusive access easements for access over, through and across any and all drive aisles whether now existing or in the future to exist on any and all lots of the Property for the benefit of all of each Party's respective parcels.

(e) Except as otherwise provided herein, each Party may designate areas on such Party's respective parcel for building areas, parking, ingress, egress and landscaping and other uses beneficial to such Party's use and occupation of its respective parcel. Except as provided in Section 2(f), the locations of the easements granted in Section 2.1(a)-(d) may be changed or modified, from time to time, by the Party on whose parcel the easement is located. The easements granted in this paragraph 2.1, are sometimes collectively referred to herein as the "Easements").

(f) Notwithstanding anything contained herein to the contrary, the owner of Lot 4 of the Property (and its respective tenants, successors and assigns) shall not change, modify or alter the configuration or location of any curb cuts existing (or to exist) on the southern property line of Lot 4 which adjoins 10400 South Street (also known as 10400 South Jordan Parkway) and which provides access to 10400 South Street (also known as 10400 South Jordan Parkway) without the prior written consent of the owner of the AutoZone Parcel. The approximate location of said curb cut (constructed or to be constructed) is shown on **Exhibit "D"**. Except for the curb cut shown on **Exhibit "D"**, **Exhibit "D"** shall not be construed as requiring any Party to develop its respective parcel in conformance or compliance with said Exhibit.

(g) No Party shall allow any of its respective permittees, including, without limitation, employees, agents, invitees and customers, to park on any other Party's respective parcel. In addition, the Easements granted herein shall be kept clear of parked vehicles at all times, subject to the provisions hereof. The Easements granted herein are for the purpose of ingress and egress only and shall not confer any right to park motor vehicles on any other Party's respective parcel. Each parcel shall have its own separate and independent vehicle parking areas sufficient to satisfy the requirements of local zoning. Each party agrees to use reasonable efforts to enforce this Section 2.1(g).

(h) If the owner (or any tenant, successor or assign) of the AutoZone Parcel is unable to obtain its own pylon and/or monument signage on the AutoZone Parcel or is denied such signage by any governmental authority, then (i) Raddon/Bell and the Other Title Holders of the remaining Property shall each grant (and each hereby grants) to the owner (or any tenant, successor or assign) of the AutoZone Parcel the right to attach its sign fascia to any center monument signs located on the Property and (ii) said owner/tenant of the AutoZone Parcel shall be entitled to the second tenant/owner panel on said sign and the size of said owner's/tenant's panel shall be equal to the signage of the first owner/tenant panel of said shared sign, and (iii) said owner/tenant of the AutoZone Parcel shall then reimburse Raddon/Bell (or any of its designees) its proportionate share to design and construct said center monument sign with said share to be the size of the owner/tenant of the AutoZone Parcel's sign compared to the total available signage available on said monument sign.

2.2 (a) It is hereby agreed that (i) the owner of the AutoZone Parcel shall create and maintain a drive over, upon, and across the AutoZone Parcel for the non-exclusive benefit of Lots 3 and 4 of the Property; and (ii) the owner of Lot 4 of the Property shall create and maintain a drive over, upon, and across Lot 4 for the non-exclusive benefit of the AutoZone Parcel and Lot 3.

(b) If a Party is responsible under 2.2(a) above to create a drive for the benefit of another Party, such responsibility shall not arise until a building is built on the responsible Party's respective parcel (the "Burdened Lot"), and pending the construction of such a building, the Party whose lot is benefited by such drive (the "Benefited Lot") may, at its sole

cost and expense and subject to the provisions of this Agreement, create such a drive on the Burdened Lot if it is necessary or desirable to gain access to the Benefited Lot across and over the Burdened Lot; provided, that the owner and/or tenant of the Burdened Lot shall have the right to determine the location of such drive, but such right shall not be unreasonably exercised or delayed, and further provided, that upon construction of a building on the Burdened Lot, the owner and/or tenant of the Burdened Lot may replace the drive in a place on the Burdened Lot which will more reasonably integrate with the building(s) to be developed on such lot, taking into account, the need for access for the building or buildings on the Benefited Lot. In addition, until such time as an owner or any tenant of the Burdened Lot develops its respective parcel, the owner of the Benefited Lot who needs and constructs the above easements shall thereafter maintain and repair the easements on the Burdened Lot unless the owner of the Burdened Lot elect in writing to maintain said easements. After the owner of the Burdened Lot develops its respective parcel, then said owner of the Burdened Lot shall be responsible for the maintenance of all easements granted in Section 2.1 located on its respective parcel (as provided in Section 5).

(c) Any and all maintaining, repairing and replacing undertaken pursuant to 2.2(b) above shall be performed by the owner of the Benefited Lot, at such owner's sole cost and expense, in a good and workmanlike manner and without the placement of any lien(s) on the Burdened Lot. In addition, the owner of the Benefited Lot shall obtain, at its sole cost and expense, all approvals, consents and permits required by any and all applicable laws, codes and regulations for the work described in 2.2(b) above prior to the commencement thereof and all construction and installation undertaken shall be performed and completed by the owner of the Benefited Parcel in compliance with all applicable laws, codes and regulations.

(d) The owner of the Benefited Lot, and its respective tenants, successors and assigns, shall each indemnify, defend and hold the owner of the Burdened Lot, its tenants, successors and assigns, harmless from and against any damages, costs, judgments, proceedings, causes of action or liability, including, without limitation, mechanic's liens, resulting from or incidental to such work performed under Section 2.2 (or any maintenance obligations imposed thereunder). The owner of the Benefited Lot, its tenants, successors and assigns, also agrees it shall not cause any encumbrance, judgment or other liens against the Burdened Lot or any other portion of the Property (except for that Party's respective parcel); otherwise the owner of the Burdened Lot may elect to force the owner and/or tenant of the Benefited Lot (or such other party causing said lien) to remove such indebtedness by suit in which event the owner of the Burdened Lot shall be entitled to recover its expenses, costs, attorneys' fees and court costs from the owner and/or tenant of the Benefited Lot. In addition, any Party may seek such additional remedies available under this Agreement, at law or equity to enforce this Section 2.2(d).

(e) Prior to any work being performed on the Burdened Lot by the owner of the Benefited Lot under Section 2.2, the owner of the Benefited Lot shall (i) give the owner and/or tenant of the Burdened Lot at least forty-five (45) days prior written notice of all work to be performed pursuant to Section 2.2, (ii) plans showing in detail the work to be performed on the Burdened Lot, (iii) copies of all governmental authorizations and permits to perform the work and (iv) the proposed start date. The owner of the Burdened Lot shall have fifteen (15) days after receipt of the plans to approve (or disapprove) of the plans, which shall not be unreasonably withheld, delayed or conditioned. If the owner of the Burdened Lot rejects said plans, then said notice of rejection shall contain detailed reasons of the rejection and/or proposed changes. Failure to deliver a written approval or disapproval of the plans within the above timeframe shall be deemed an approval. If the plans have been rejected, then the owner of the Benefited Lot must re-submit its plans to the owner of the Burdened Lot in accordance with the above timeframes until

such time as it has obtained the Burdened Lot owner's consent. In addition, the owner of the Benefited Lot shall deliver to the owner of the Burdened Lot, in form and amounts reasonably acceptable to the owner of the Burdened Lot, payment bonds and/or irrevocable lines of credit necessary to pay for all work to be performed on the Burdened Lot by the owner of the Benefited Lot and certificates of insurance for liability in the amount of \$2,000,000.00 to persons, property or otherwise resulting from any work or maintenance obligations on the Burdened Lot by the owner of the Benefited Lot and which names the owner of the Burdened Lot as additional insured.

3. Each party agrees to keep any access easements granted herein free and clear from obstacles or obstructions which would prevent or hinder the free passage of vehicular traffic within or across such access easement areas or drive aisles except temporarily, for reasonable times and in a reasonable manner, for purposes of performing work permitted by this Agreement.

4.1 Except as provided herein and upon that Party's development of its respective parcel, each Party shall construct certain improvements on that portion of the easements which exists on that Party's respective parcel for the purposes described herein (the "Improvements"). All development and construction costs of the Improvements shall be at that Party's sole cost and expense in accordance with all governmental regulations. All construction of the Improvements shall be performed in a good and workmanlike manner and in accordance with all applicable governmental or quasi-governmental authorities, ordinances, and regulations. Except as otherwise specifically provided herein, nothing contained in this Agreement shall be construed as allowing one Party to construct any improvements, perform any work or grant any other easements on another Party's respective parcel without that Party's prior written consent or to allow any liens on another Party's respective parcel without that Party's prior written consent. Nothing contained herein shall require any Party to develop its respective parcel or to operate any business thereon.

4.2 Raddon/Bell and/or the Other Title Holders shall be responsible, at their cost and expense, to perform all necessary off-site improvements as required to open their initial businesses on the Property by any and all governmental authorities, including, without limitation, road overlays, asphalt to be completed, repair and/or replacement of public catch basins, fire hydrants and curb/gutter work.

4.3 Except as otherwise allowed herein, staging for the construction, replacement, alteration or expansion of any building located on the Property, 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 confined to the constructing Party's respective parcel.

5. Except as otherwise provided in Sections 2.2(b) and (c), each Party shall, at all times, maintain that portion of the Easements (and any Improvements to such Easements) located on that Party's respective parcel in good repair, clean and clear of snow, ice, rubbish, and debris, properly drained, and adequately lighted, at that Party's sole cost and expense, which shall include the incidental rights of maintenance and repair including, but not limited to, repair of pot holes, deterioration or damages, cleaning and weed control and repaving, if necessary.

6. In the event of a default of any of the provisions hereof by any Party, the non-defaulting Party shall have the right to cure the default at the defaulting Party's sole expense if the defaulting Party has not commenced curing said default within thirty (30) days after receipt

of a written default notice from a non-defaulting Party. Notwithstanding the above, any Party may cure a default immediately in an emergency situation. The defaulting Party agrees to reimburse the non-defaulting Party for any reasonable amount so paid by the non-defaulting Party to cure any default of a defaulting Party within ten (10) days after receipt of a written invoice from the non-defaulting Party. Any Party may take such other proceedings at law or in equity as such non-defaulting Party deems necessary. If the defaulting Party fails to reimburse the non-defaulting Party as provided in this Section, then the non-defaulting Party may seek any and all remedies available to it under this Agreement, at law or at equity.

7. Each Party shall pay, prior to delinquency, any and all taxes levied or assessed against the portion of the easements located on that Party's respective parcel. Notwithstanding anything to the contrary set forth in this paragraph, each Party shall have the right to protest the amount of any taxes imposed on that Party's respective parcel, so long as such Party has a reasonable basis for such protest; provided that, all such taxes are not delinquent.

8. Each Party, upon the written request of another Party, agrees to grant, execute, deliver, and record reasonable easements for electricity, telephone, cable television, and any other utility service to any or all of the Property, as are reasonably necessary or appropriate for development or use of the Property as contemplated herein; provided that the easements granted pursuant to this Section do not interfere with the proposed building area of the grantor's respective parcel (as determined by said grantor) and all such utility systems on the grantor's respective parcel shall be underground unless otherwise agreed upon in writing by the grantor whose property is affected by such easements.

9. Each Party (and their respective successors, tenants and assigns) shall maintain commercial general liability insurance against claims for personal injury, death and property damage occurring in, on or about the easement areas located on such Party's respective parcel with limits in the amount of Two Million Dollars (\$2,000,000.00). All such policies shall name each Party as an additional insured, and each Party, upon written request of any Party, shall deliver a certificate of insurance to such requesting Party.

10. Each Party (and their respective successors and assigns) shall indemnify, defend and hold harmless the other Parties, its respective tenants, successors and assigns, from and against, any and all liability, demands, claims, causes of action, judgments and costs and expenses incurred in the investigation of the same (including, without limitation, court costs and reasonable attorney's fees) for, by way of illustration and not limitation, injury to persons, loss of life or damage to property or any other costs which arise out of any breaches of this Agreement or any other obligations of this Agreement by such Party.

11. Notwithstanding anything contained in the Declaration to the contrary or this Agreement to the contrary and upon the recordation of this Agreement, each Party, as the collective lawful owners of all property described in the Declaration, hereby (i) irrevocably, absolutely and forever terminates the Declaration in all respects, and that all the Property shall be released from the Declaration in all respects and (ii) declares that this Agreement shall govern the rights of all Parties with respect to each and every lot of the Property.

12.1 Raddon/Bell, AutoZone and the Other Title Holders hereby establish and grant a perpetual non-exclusive easement for surface water drainage through, over and across the Property, for the use and benefit of each Party and their respective parcels, occupants, tenants, successors and assigns, who shall have the right to transport surface water from their respective parcels across the Property to the storm sewer inlets constructed or to be

constructed on the Property. In accordance with separate documents, the City of South Jordan, Utah shall operate, maintain, service, repair and replace the public portion of both the storm sewer system and the storm sewer easement granted through, over and across the Property and any adjacent streets.

12.2 If all or any portion of any building on the Property is damaged or destroyed by fire or other casualty or is taken or damaged by power of eminent domain, the owner or tenant of such building shall promptly restore or cause to be restored the remaining portion of such building or, in lieu thereof, shall raze and remove the damaged portion of such building together with all rubble and debris related thereto. All areas for access shall also thereafter be restored to the same condition existing prior to said casualty or governmental action.

13. Any and all notices required or permitted to be given under this Agreement shall be in writing, postage and/or shipping and delivery pre-paid and shall be sent by U.S. Postal Service Certified Mail with Return Receipt Requested or via a national overnight courier service requiring a signature upon delivery (such as Federal Express) to:

If by U.S. Postal Service Certified Mail:

**AutoZone:**  
AutoZone, Inc.  
Property Management  
P.O. Box 2198  
Memphis, TN 38101-2198

Raddon/Bell:

Raddon/Bell Properties, LC  
12222 So. 10<sup>th</sup> E., #3  
Draper, UT 84020

If by Overnight Courier:

AutoZone, Inc.  
Property Management  
123 S. Front Street  
Memphis, TN 38103-2107

Raddon/Bell, the Other Title Holders and AutoZone and any other person to whom any such notice, instrument or communication may be given, shall each have the right to specify, from time to time, as its address for purposes of this Agreement, any address in the 48 contiguous States of the United States of America upon giving fifteen (15) days' notice thereof to each other person then entitled to receive notices, instruments or communications hereunder.

14. As used in this Agreement, unless the context clearly otherwise requires, AutoZone, Raddon/Bell and the Other Title Holders shall mean, with respect to each parcel, the record owner(s) from time to time of an interest in fee simple in all or any part of the Property whether such owner be one or more persons or entities.

15. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Property to the general public. This Agreement shall not be construed as conferring upon any third party any right or benefit and any and all claims which may arise hereunder may be enforced solely by the parties and their respective successors and assigns.

16. Notwithstanding anything contained herein to the contrary, each Party reserves the right to eject any person or persons not authorized by this Agreement to use, enter upon or

occupy the Property and the easements contained herein. Each Party hereby reserves any and all rights which are not directly incompatible with the easements granted hereunder, including, without limitation, the right to grant easements to third parties over, under and through the granting Party's respective parcel.

17. The agreements and restrictions described in this Agreement shall run with the land and shall be binding upon and inure to the benefit of Raddon/Bell, the Other Title Holders, AutoZone, and their respective successors, lessees, and assigns and shall be perpetual, except that the use restriction in Sections 1(a) and 1(e) above shall be for a period of thirty (30) years commencing on the date this Agreement is recorded in the Records Office of the County of Salt Lake, Utah, and said restriction shall automatically terminate upon expiration of said thirty (30) year period. The easements, covenants and restrictions granted herein are appurtenant to the applicable lots of the Property which they benefit or burden. Except as provided herein, all easements granted herein may be used for the purposes designated herein by Raddon/Bell, the Other Title Holders, AutoZone, and their respective successors, designees, tenants, employees, agents, customers, and invitees free from charge. Except as specifically set forth herein, no other easements are granted herein, nor shall any other easements be implied.

18. Any mortgagee taking a mortgage on any easement herein shall take said mortgage subject to the other rights, benefits, duties, and obligations created and established herein.

19. No waiver of any provision hereof shall be deemed to constitute or imply a further waiver thereof of any other provision set forth herein. Unless the context in which used clearly requires another construction, throughout this Agreement, the masculine gender shall be deemed to include the neuter of feminine or both, the neuter gender shall include the masculine or both, and the singular of terms shall include the plural and vice versa. Each exhibit described herein is hereby attached hereto and incorporated herein by reference. If any one or more of the provisions contained herein shall be held invalid, illegal or unenforceable for any reason, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, which shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The parties intend that if any provision hereof is capable of two interpretations, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

20. If any legal action or other proceeding is brought for the enforcement hereof, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions hereof, the successful or prevailing Party or Parties shall be entitled to recover attorneys' fees, court costs, and all expenses even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such Party or Parties may be entitled.

21. Any amendment to this Agreement shall require the prior written consent of all owners of the Property. In the event there are easements of record prior to this Agreement providing for any matters stated herein, then this Agreement shall amend any prior documents with respect to all property mentioned herein.

22. Raddon/Bell and the Other Title Holders hereby represents that they are (or will be) the fee simple owners of the Raddon/Bell and Other Title Holders Parcel, and that all holders of a mortgage and/or deed of trust have consented to this Agreement. AutoZone represents that it is the fee simple owner of the AutoZone Parcel.



23. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF UTAH, WITHOUT REFERENCE TO ITS PRINCIPLES OF CONFLICTS OF LAW.

24. This Agreement constitutes the entire Agreement between the parties pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations and understandings, oral or otherwise, between or among the parties with respect to the matters contained herein.

25. Nothing contained herein shall be construed as creating an employment, partnership, agency or principal, or joint venture relationship between the parties.

26. The words "hereof", "herein", "hereunder", and other words of similar import refer to this Agreement as a whole and not to any specific article, section or subsection hereof. All exhibits and schedules attached or to be attached hereto, and all other agreements and instruments referred to herein, are hereby incorporated by reference into this Agreement, as fully as if copied herein verbatim. The word "party" or "parties" means only those persons or entities who are signatories to this Agreement. The terms "include," "includes," "including," or words of like import, shall be construed as being without limitation to the matters or items thereafter specified, notwithstanding any rule of construction to the contrary, unless an intention to be so limited is clearly expressed.

27. Unless expressly otherwise provided herein, the term and or as used in this Agreement means one or other or both, or any one or ones or all, of the items, entities or persons in connection with which the words are used.

28. Each Party agrees that upon written request of another Party, it will issue to a prospective mortgagee of or prospective successor to such other Party, an estoppel certificate stating:

(a) Whether the Party to whom the request has been directed knows of any default by the requesting Party under the Agreement, and if there are known defaults, specifying the nature of the default;

(b) Whether to its knowledge this Agreement has been modified or amended in any way (and if it has, then stating the nature thereof); and

(c) That to the Party's knowledge, this Agreement is in full force and effect as of that date.

29. As long as AutoZone or any of its corporate (or any other type of entity) successors or assigns has any interest in and to the AutoZone Parcel, including without limitation, interests as a tenant, mortgagor, lessee under a sale/leaseback, synthetic lease transactions etc., then AutoZone shall be considered the owner of the AutoZone Parcel and/or a Party for purposes of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date hereinabove.

Raddon/Bell Properties, LC, a Utah limited liability company

By: \_\_\_\_\_

Gregory S. Bell, Manager

AutoZone, Inc., a Nevada corporation

By: \_\_\_\_\_

Vice President

OTHER TITLE HOLDERS

Smith's Food and Drug Center, Inc.

By: \_\_\_\_\_

Sr. Vice President

By: \_\_\_\_\_

Vice President

~~Zions First National Bank~~

~~By: \_\_\_\_\_~~

~~Its: \_\_\_\_\_~~

**ACKNOWLEDGMENT BY SECURITY INTEREST HOLDER**

The undersigned holds a security interest in The Raddon/Bell and Other Title Holders Parcel as described in Exhibit "B" of this Agreement. The undersigned hereby joins in the execution of the Agreement for the following purposes only:

1. **CONSENT.** To grant consent to the execution of this Agreement by the owner of the property.
2. **ACKNOWLEDGMENT OF AGREEMENT.** To subject any and all security interests it has in the property to the provisions of this Agreement solely to the extent that, if title to the property is acquired through sale under foreclosure or by deed in lieu of foreclosure or otherwise, such title shall be subject to the charges and burdens affecting the property by virtue of this Agreement.

Signed:

By: See attached Two Signature  
Pages.

Date: \_\_\_\_\_

Its: \_\_\_\_\_

**SIGNATURE OF RADDON/BELL PROPERTIES, LC'S LENDER**

The undersigned hereby subordinate to this Declaration the lien of their Deed of Trust, Assignment of Rents and Lease, Security Agreement and Fixture Filing dated April 11, 2001 in the maximum principal amount of \$2,000,000 made by Raddon/Bell Properties, L.C., a Utah limited liability company as Trustor, in favor of W. Jeffery Fillmore as Trustee and in favor of the undersigned collectively as Beneficiary and recorded April 13, 2001 as Entry No. 7869524 in Book 8445 at Page 4189 of the Official Records of Salt Lake County, Utah.

**McGILLIS INVESTMENTS,  
a Utah general partnership**

By *R. S. McGillis*  
*Roger S. McGillis*

STATE OF UTAH )

: ss.

COUNTY OF SALT LAKE)

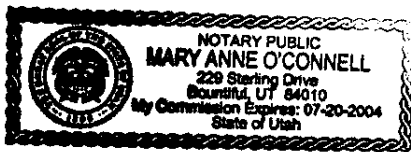
On the 17<sup>th</sup> day of December, 2001, personally appeared before me *Roger S. McGillis* partner of McGillis Investments, a Utah general partnership, who duly acknowledged to me that he executed the same for and on behalf of said partnership.

(Seal)

My commission expires:

7-20-2004

*Maryanne O'Connell*  
Notary Public  
Residing at: *Bntpl Utah*



BK8543PG0662

FIRST INTERSTATE FINANCIAL, L.L.C.  
a Utah limited liability company

By *[Signature]*  
Paul M. Thurston, Manager

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

On the 17<sup>th</sup> day of December, 2001, personally appeared before me *Paul Thurston*  
Manager of First Interstate Financial, L.L.C., a Utah limited liability company, who duly acknowledged  
to me that he executed the same for and on behalf of said limited liability company.

(Seal)

My commission expires:

7-20-2004

*Maryanne O'Connell*  
Notary Public  
Residing at: *Bntpl, Utah*



BK8543PG0663

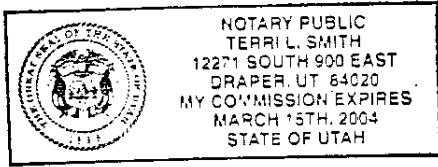
STATE OF UTAH

COUNTY OF Salt Lake )

SS.:

On this 13<sup>th</sup> day of December, 2001, personally appeared before me Gregory S. Bell, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he is the Manager of Raddon/Bell Properties, LC, a Utah limited liability company and that said document was signed by him in behalf of said limited liability company by authority of its bylaws, and said Gregory S. Bell acknowledged to me that said limited liability company executed the same.

TERRI L. SMITH  
Printed Name: Terri Smith  
My commission expires: 3/15/04



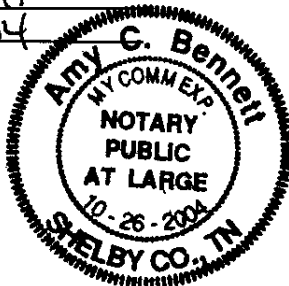
STATE OF TENNESSEE )

COUNTY OF SHELBY )

SS.:

On this 13<sup>th</sup> day of December, 2001, personally appeared before me Wm. David Gilmore and James Dobbs, whose identities are personally known to me and who by me duly sworn did say that they are the Vice President and Vice President, respectively, of AutoZone, Inc., a Nevada corporation and that said document was signed by them in behalf of said corporation by authority of its Resolution of its Board of Directors, and said Wm. David Gilmore and James Dobbs acknowledged to me that said corporation executed the same.

Amy C. Bennett  
Printed Name: Amy C. Bennett  
My commission expires: 10/26/04



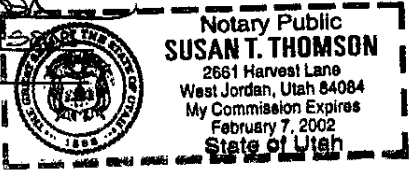
BK8543PG0664

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

On this 28<sup>th</sup> day of NOVEMBER, 2001, personally appeared before me WADE S. WILLIAMS, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed) did say that he/she is SR. VICE PRESIDENT of Smith's Food and Drug Center, Inc., a DELAWARE corporation and that said document was signed by him/her in behalf of said corporation by authority of its bylaws (or of a Resolution of its Board of Directors), and said WADE S. WILLIAMS acknowledged to me that said corporation executed the same.

*Susan T. Thomson*

Printed Name: SUSAN T. THOMSON  
My commission expires: 2-7-2002



STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS.:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2001, personally appeared before me \_\_\_\_\_, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed) did say that he/she is \_\_\_\_\_ of Zions First National Bank and that said document was signed by him/her in behalf of said bank by authority of its bylaws (or of a Resolution of its Board of Directors), and said \_\_\_\_\_ acknowledged to me that said bank executed the same.

Printed Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

BK8543PG0665

SIGNATURE OF ONE OF THE "OTHER TITLE HOLDERS"

MYTREX MANAGEMENT, INC.,  
a Utah corporation

By Richard M. Bangerter  
Richard M. Bangerter, President

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

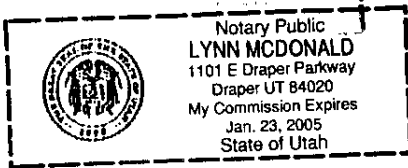
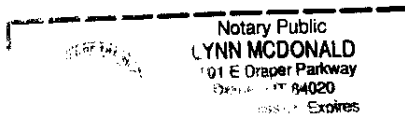
On the 12 day of December, 2001, personally appeared before me Richard M. Bangerter, President of Mytrex Management, Inc., a Utah corporation, the signer of the within instrument who duly acknowledged to me that he executed the same for and on behalf of Mytrex Management, a Utah corporation, as its president pursuant to the authority granted him by the organic documents of such corporation or a resolution of the board of directors thereof.

(Seal)

My commission expires:

1-23-05

Lynn McDonald  
Notary Public  
Residing at: SEC Utah



BK8543PG0666



**SIGNATURE OF MYTREX MANAGEMENT, INC.'S LENDER**

ZIONS FIRST NATIONAL BANK

By Terry L. Lauritzen  
Vice President

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

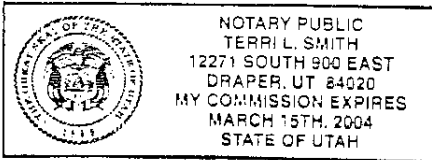
On the 13th day of December, 2001, personally appeared before me Terry L. Lauritzen vice President of Zions First National Bank, the signer of the within instrument who duly acknowledged to me that he executed the same for and on behalf of Zions First National Bank pursuant to the authority granted him by the organic documents of such corporation or a resolution of the board of directors thereof.

(Seal)

My commission expires:

3-15-04

Terra L. Smith  
Notary Public  
Residing at: DRAPER UT



BK8543PG0667

**Exhibit "A"**

All of Lot 5 of proposed Town Common Subdivision in the Northwest Quarter of the Northeast Quarter of Section 15, Township 3 South, Range 1 West, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at a point on the center line of 10400 South Street, which is South 0°06'05" West 1319.09 feet from the North Quarter Corner of Section 15, Township 3 South, Range 1 West, Salt Lake Base & Meridian to a monument which is the Southwest Corner of the Northwest Quarter of the Northeast Quarter of said Section 15, which is also the center line intersection of 1700 West and 10400 South Streets, and South, 89°47'25" East, along the center line of said 10400 South Street, 756.24 feet, and North 00°12'35" East 53.00 feet to the North Right of Way line of 10400 South Street to the TRUE POINT OF BEGINNING; and running thence North 00°12'35" East 226.84 feet, thence South 89°47'25" East 156.16 feet, thence South 00°12'35" West 226.84 feet to the North R.O.W. line of said 10400 South Street, thence along said North line North 89°47'25" West 156.16 to the point of beginning.

For Reference Purposes Only: Tax Parcel/Serial No. 27-15-202-036

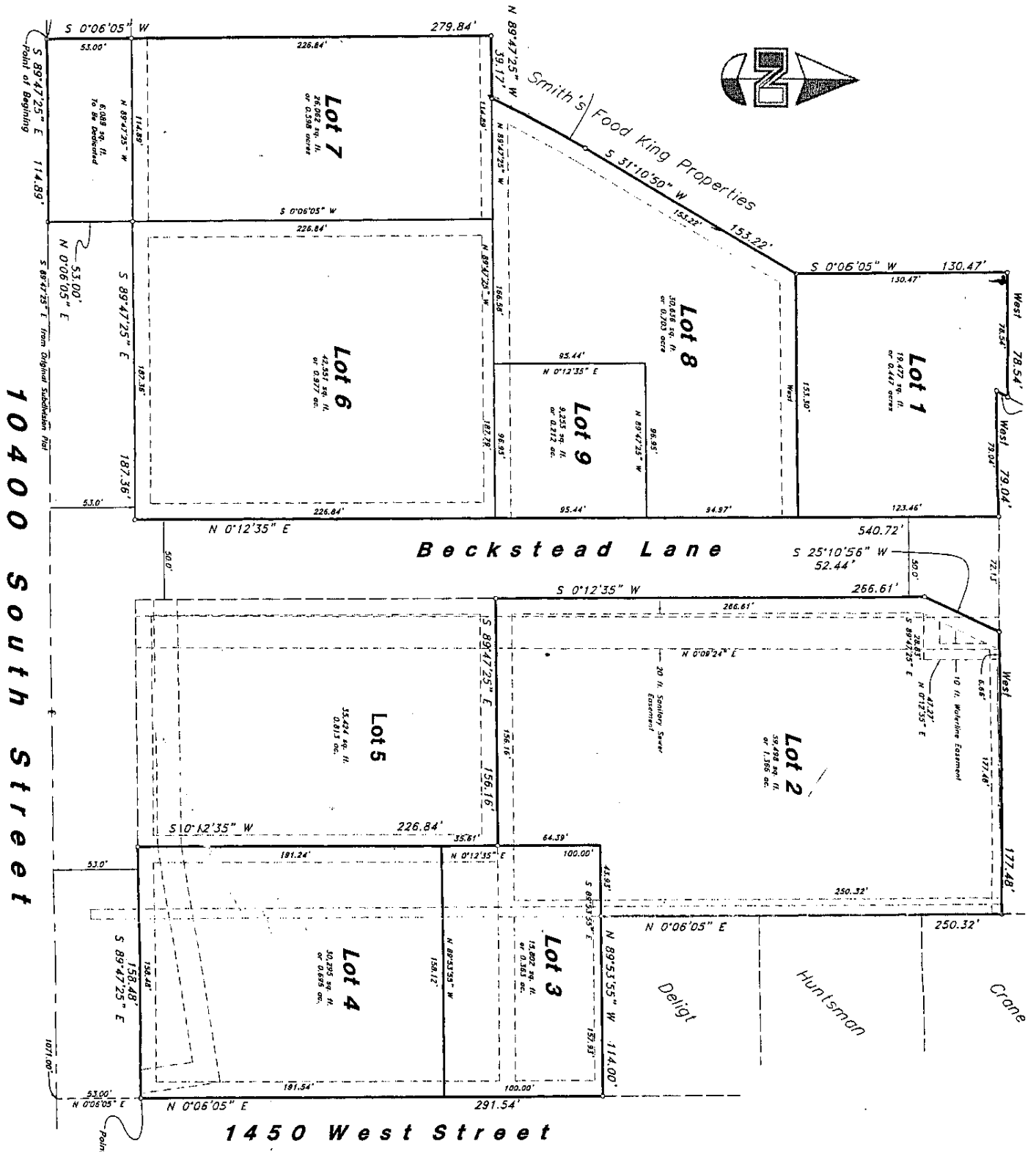
**EXHIBIT "B"**

Lots 1, 2, 3, 4, 6, 7, 8 and 9, FIRST AMENDED AND EXPANDED PLAT OF TOWN COMMONS, a Commercial Subdivision, according to the official plat thereof, filed in Book "2001P" of Plats at Page 313 of the Official Records of the Salt Lake County Recorder.

For Reference Purposes Only: Tax Parcel/Serial No.s

27-15-202-042  
27-15-202-047  
27-15-202-048  
27-15-202-049  
27-15-202-046  
27-15-202-045  
27-15-202-043  
27-15-202-044

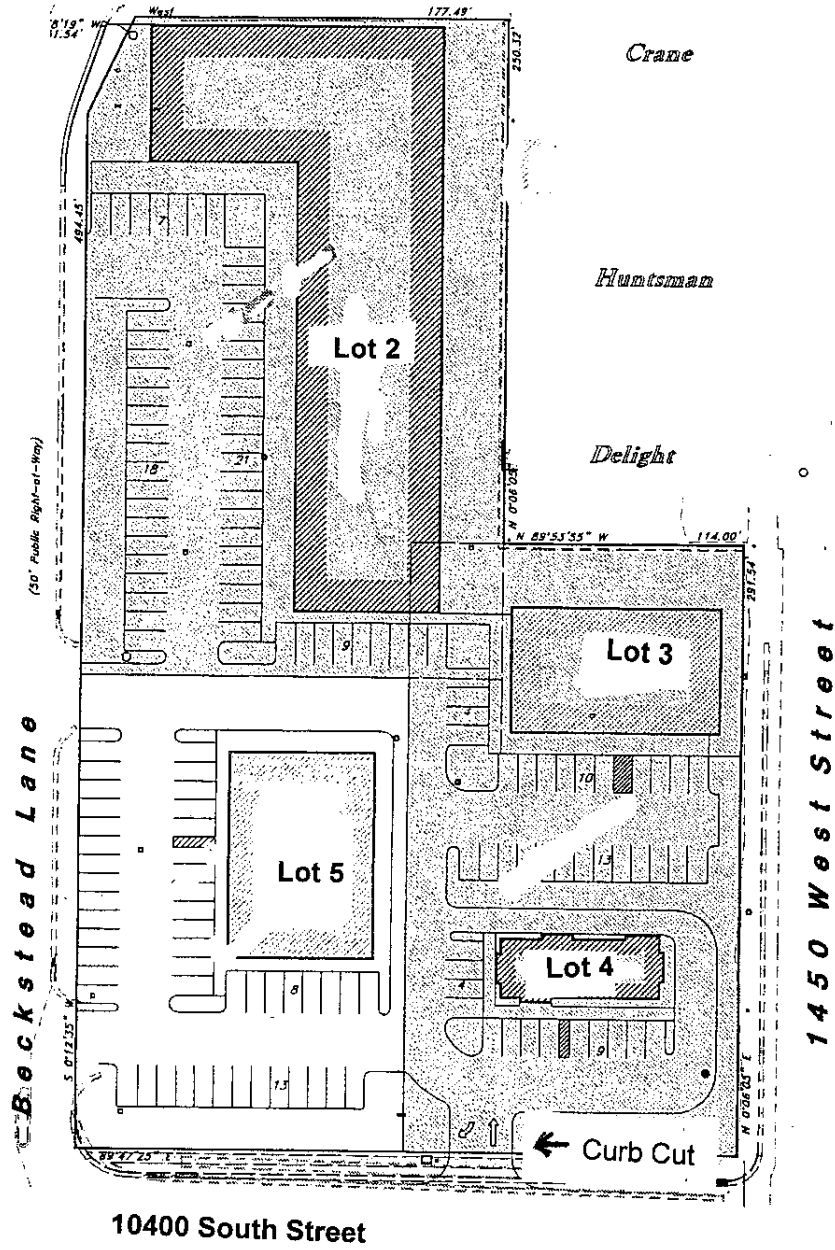
Exhibit "C"



BK8543PG0670

Exhibit "D"

8094885  
12/18/2001 03:59 PM 51.00  
Book - 8543 Pg - 651-671  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
LANDMARK TITLE  
BY: RDJ, DEPUTY - WI 21 P.



BK8543PG0671