

Entry No. 34660
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Associated Title Co.

APR 24 1 21 PM '92

BOOK 315 RECORDS
PAGE 812-819
ASY EREN
COUNTY RECORDER

AFTER RECORDING, PLEASE RETURN TO:

Charles L. Maak
Kimball, Parr, Waddoups, Brown & Gee
185 South State Street, Suite 1300
Salt Lake City, Utah 84111

AMENDMENT
TO
FIRST AMENDED DECLARATION OF
EASEMENTS AND COVENANTS

THIS AMENDMENT (the "Amendment"), dated the 23rd day of APRIL, 1992, is made and entered into by the UTAH STATE RETIREMENT OFFICE, an Independent State Agency, in its own right and also on behalf of and sometimes known as the UTAH STATE RETIREMENT FUND, and also sometimes holding title or doing business as the UTAH STATE RETIREMENT BOARD, as Trustee of the said UTAH STATE RETIREMENT FUND (all of the foregoing in each such capacity being hereinafter referred to as the "Retirement Office"), whose address is 540 East 200 South, Salt Lake City, Utah 84102, Attn: Real Estate Dept., and K MART CORPORATION, a Michigan Corporation ("K-Mart"), having its principal office at 3100 West Big Beaver Road, Troy, Michigan 48084.

RECITALS:

A. There is currently of record in the office of the County Recorder of Carbon County, Utah a document entitled "First Amended Declaration of Easements and Covenants," dated as of August 1, 1983, and recorded on October 13, 1983 as Entry No. 001202 in Book 232 at Page 665. Said document is hereinafter referred to as the "Existing Declaration." (The Existing Declaration amended in its entirety an earlier Declaration of Easements and Covenants, dated as of February 8, 1983, and recorded on March 14, 1983 as Entry No. 167540 in Book 226 at Page 159. Accordingly, that earlier Declaration is not referred to further in this Amendment.)

B. The Existing Declaration describes and affects three (3) Parcels located in the City of Price, Carbon County, Utah. Those three Parcels (identified in the Existing Declaration as Parcels A, B, and C) consist of the following-described property situated in the City of Price, Carbon County, Utah:

Parcels A, B, and C as described on Exhibit B attached hereto and incorporated herein by this reference.

C. The Retirement Office is currently the Owner of Parcels A, B, and C. K-Mart leases from the Retirement Office and as a tenant occupies all of Parcel C. None of the Parcels is currently affected by a Mortgage and no party has been accorded the right, through a recorded supplement to the Existing Declaration meeting the requirements of Section 22 thereof, to be a necessary party to an amendment of the Existing Declaration. Accordingly, under the provisions of Section 21 (entitled "Amendment") of the Existing Declaration, the Retirement Office and K-Mart currently have the ability through this Amendment to modify the Existing Declaration.

D. Attached hereto and incorporated herein by this reference is an Exhibit C, on which appears the description that shall hereafter apply for Parcel C affected by the Existing Declaration, which description includes certain realty not previously a part of Parcel C. That part of the realty described in Exhibit C which was not previously part of Parcel C is hereinafter

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referred to as the "Additional Land." The Retirement Office has acquired or anticipates that it will shortly acquire fee title to the Additional Land, and the Retirement Office, as Landlord, and K-Mart, as Tenant, have heretofore entered into or at or about the time hereof are entering into a new Lease covering the newly described and enlarged Parcel C, which said new Lease makes provision for, among other things, the construction of a separate, and larger, building on the enlarged Parcel C for use and occupancy by K-Mart.

E. The parties to this Amendment desire to accommodate the terms of the Existing Declaration to the altered arrangement referred to in the foregoing Paragraph D and to make certain related or other changes in the Existing Declaration.

NOW, THEREFORE, for the aforesaid purposes, in consideration of the benefits to be derived by each of the parties from the provisions set forth below, and for the sum of Ten Dollars (\$10.00) and other good and valuable consideration by each party paid to each other party, the receipt and sufficiency of which are hereby acknowledged, the Existing Declaration is modified as is indicated below and it is agreed as follows:

A. Change in Legal Description of Parcel C. The description of Parcel C as set forth in the Existing Declaration (and as set forth on Exhibit B to this Amendment) is hereby replaced with and amended to be the description set forth on Exhibit C attached hereto.

B. Change in Site Plan. The site plan which is attached as Exhibit A to the Existing Declaration is hereby superceded and replaced by the site plan attached to this Amendment as Exhibit A and incorporated herein by this reference. Said site plan attached hereto is hereinafter referred to as the "Revised Site Plan."

C. Building Restrictions on Parcel C. The final grammatical paragraph of Section 7 (entitled "Building Restrictions") of the Existing Declaration is hereby revised in its entirety to read as follows:

There shall be no building constructed or located on Parcel C other than the following (or any future restoration or replacement of the following): (a) One (1) building not larger than the size which is permissible under then applicable building and zoning requirements of the governmental authority having jurisdiction (but in no event shall such building, exclusive of any mezzanine contained therein, be more than one story in height and in no event shall the Gross Floor Area of such building be more than approximately 101,000 square feet and in no event shall the overall height of such building, including any mezzanine contained therein, exceed twenty-four (24) feet), located approximately in the location depicted on the Revised Site Plan; and (b) Until such time as the building contemplated by the foregoing item (a) has been fully constructed and completed and K-Mart has moved all of its operations, fixtures, and stock in trade into such building, and for a reasonable period following such completion and move, there may continue to be located on Parcel C the building which has been located thereon prior to the recordation of this Amendment to the Existing Declaration.

D. Definitions. Any term used in this Amendment which is defined in the Existing Declaration shall have the same meaning herein, unless a contrary intention is expressed.

E. Continuation of Existing Declaration as Amended. The Existing Declaration is intended to be and is amended and supplemented by the provisions of this Amendment, and hereafter the Existing Declaration and this Amendment shall be considered and construed together. All of the terms, provisions, and covenants of the Existing Declaration, as modified by this Amendment, shall be and remain in full force and effect.

F. Interpretation. The captions which precede the Sections of this Amendment are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context or circumstance so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. This Amendment may be executed in several counterparts, each of which shall be deemed to be an original but all of which may be and shall be taken together as a single document.

DATED (for purposes of identification) as of APRIL 23, 1992, and executed by the parties hereto on the respective dates appearing below.

EXECUTED on this 21st day of APRIL, 1992 by the UTAH STATE RETIREMENT OFFICE, an Independent State Agency, in its own right and also on behalf of and sometimes known as the UTAH STATE RETIREMENT FUND, and also sometimes holding title or doing business as the UTAH STATE RETIREMENT BOARD, as Trustee of said UTAH STATE RETIREMENT FUND (the "Retirement Office").

UTAH STATE RETIREMENT OFFICE,
an Independent State Agency, in
its own right and also on behalf
of and sometimes known as the
UTAH STATE RETIREMENT FUND, and
also sometimes holding title or
doing business as the UTAH STATE
RETIREMENT BOARD, as Trustee of
said UTAH STATE RETIREMENT FUND

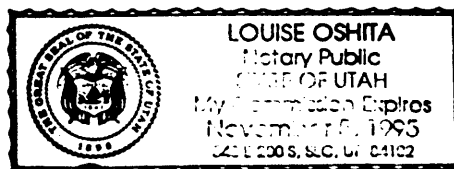
By V. Dell Clayton
V. Dell Clayton,
Property Manager

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

The foregoing instrument was acknowledged before me this 21 day of April, 1992, by V. Dell Clayton, the Property Manager of the UTAH STATE RETIREMENT OFFICE, an Independent State Agency, in its own right and also on behalf of and sometimes known as the UTAH STATE RETIREMENT FUND, and also sometimes holding title or doing business as the UTAH STATE RETIREMENT BOARD, as Trustee of said UTAH STATE RETIREMENT FUND.

My Commission Expires:
11-5-95

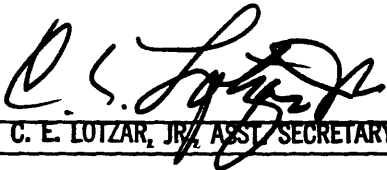
Louise Oshita
Notary Public
Residing at: 220, 226



EXECUTED on this 14th day of April, 1992 by
K MART CORPORATION, a Michigan Corporation ("K-Mart").

K MART CORPORATION, a Michigan Corporation

ATTEST:



Title: C. E. LOTZAR, JR., ASST. SECRETARY

By 

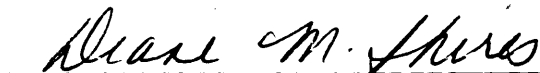
Title: M. L. SKILES, VICE PRESIDENT

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this
14th day of April, 1992, by M. L. Skiles
and C. E. Lotzar, Jr., the Senior V.P. and
Asst. Secretary, respectively, of K MART CORPORATION, a
Michigan corporation.

My Commission Expires:

8-1-94



Notary Public

Residing at: _____

DIANE M. SHIRES
Notary Public, Oakland County, Mich.
My Commission Expires August 1, 1994

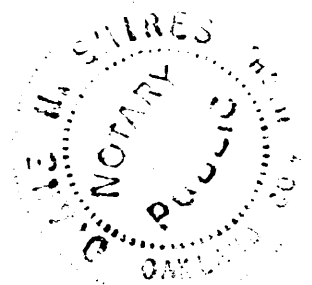


EXHIBIT B
[Parcels as Previously Constituted]

to

"Amendment to First Amended
Declaration of Easements and Covenants"

As heretofore described, the three Parcels described in and affected by the "Existing Declaration" referred to in said Amendment consist of the following-described three Parcels (Parcels A, B, and C) situated in the City of Price, Carbon County, Utah:

(i) The following-described real property (hereinafter referred to as "Parcel A") situated in Carbon County, State of Utah:

PARCEL A: BEGINNING at a point on the South line of a highway right-of-way and the West line of a street, said point being North 827.95 feet and West 1677.62 feet from the Northeast corner of Sunset View Subdivision, said Northeast corner of Sunset View Subdivision said to be South 945.23 feet and West 339.30 feet from the Northeast corner of Section 20, Township 14 South, Range 10 East, Salt Lake Base and Meridian, and running thence South 89°26'13" West 502.17 feet along the South line of said highway; thence South 9°38'59" East 446.94 feet; thence Southeasterly 510.12 feet along the arc of a 636.197 foot radius curve to the left (long chord bears South 32°34'14" East 496.57 feet); thence South 55°35'29" East 91.37 feet; thence North 14°48'42" West 61.24 feet; thence North 55°35'29" West 45.00 feet; thence Northwesterly 5.00 feet along the arc of a 596.197 foot radius curve to the right (long chord bears North 55°21'05" West 5.00 feet); thence East 286.22 feet; thence North 432.60 feet; thence North 34°10'16" East 63.92 feet; thence Northwesterly 398.17 feet along the arc of a 413 foot radius curve to the right (long chord bears North 28°12'35" West 382.93 feet); thence North 0°35'21" West 5.015 feet to the point of BEGINNING. Containing 9.936 acres, more or less.

(ii) The following-described real property (hereinafter referred to as "Parcel B") situated in Carbon County, State of Utah:

PARCEL B: BEGINNING at a point which is West 1532.47 feet from the Northeast corner of Sunset View Subdivision, said Northeast corner of Sunset View Subdivision said to be South 945.23 feet and West 339.30 feet from the Northeast corner of Section 20, Township 14 South, Range 10 East, Salt Lake Base and Meridian, and running thence East 157.91 feet; thence North 429.092 feet; thence Northwesterly 135.01 feet along the arc of a 413 foot radius curve to the right (long chord bears North 65°11'38" West 134.409 feet); thence South 34°10'16" West 63.92 feet; thence South 432.60 feet to the point of BEGINNING. Containing 1.648 acres, more or less.

(iii) The following-described real property (hereinafter referred to as "Parcel C") situated in Carbon County, State of Utah:

PARCEL C: BEGINNING at a point which is West 1374.56 feet from the Northeast corner of Sunset View Subdivision, said Northeast corner of Sunset View Subdivision

said to be South 945.23 feet and West 339.30 feet from the Northeast corner of Section 20, Township 14 South, Range 10 East, Salt Lake Base and Meridian, and running thence East 482.59 feet; thence North 399.185 feet; thence Northwesterly 23.56 feet along the arc of a 15 foot radius curve to the left (long chord bears North $45^{\circ}00'00''$ West 21.21 feet); thence West 357.63 feet; thence Northwesterly 111.303 feet along the arc of a 413 foot radius curve to the right (long chord bears North $82^{\circ}16'46''$ West 110.966 feet); thence South 429.092 feet to the point of BEGINNING. Containing 4.600 acres, more or less.

EXHIBIT C
[Parcel C as Enlarged]

to

"Amendment to First Amended
Declaration of Easements and Covenants"

Parcel C is hereafter to consist of the following-described realty situated in the City of Price, Carbon County, Utah (which said realty includes property not previously a part of Parcel C):

PARCEL C: BEGINNING at a point on a fenceline which point is East 3,554.75 feet and South 840.21 feet from the Northwest corner of Section 20, Township 14 South, Range 10 East, Salt Lake Base & Meridian; thence South 89°25'52" West partially along a fence 397.36 feet; thence South 15°30'40" East 30.09 feet to the North-easterly line of a Carbon County parcel of land having Deed No. 1-2041 on file with the Carbon County Recorder's office; thence South 56°49'38" East along said North-easterly line 242.59 feet; thence South 33°10'22" West along said line 20.00 feet; thence continuing along said line and along the arc of a 558.366 foot radius curve to the right 203.31 feet, the chord of which bears South 46°19'24" East 202.19 feet; thence North 89°32'34" East partially along the North line of Wedgewood Estates Subdivision 536.73 feet to a point on the West right-of-way line of 600 West Street; thence North 0°34'08" West along said right-of-way line 721.40 feet; thence along the arc of a 15.00 foot radius curve to the left 23.56 feet, the chord of which bears North 45°34'08" West 21.21 feet to the South right-of-way line of Price River Drive; thence South 89°25'52" West along said South right-of-way line 357.63 feet; thence continuing along said right-of-way and along the arc of a 413.00 foot radius curve to the right 111.303 feet, the chord of which bears North 82°50'53" West 110.97 feet; thence South 0°34'08" East 428.73 feet to the point of BEGINNING. Containing 9.77 acres, more or less.