

4-8-91

WHEN RECORDED MAIL TO:
Redevelopment Agency of Salt Lake City
285 West North Temple, Suite 220
Salt Lake City, Utah 84103

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23 APRIL 91 02:53 PM
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
ASSOCIATED TITLE
REC BY: DIANE KILPACK , DEPUTY

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DECLARATION OF EASEMENTS, COVENANTS
CONDITIONS AND RESTRICTIONS OF

by and between

SINCLAIR OIL CORPORATION

and

REDEVELOPMENT AGENCY OF SALT LAKE CITY, UTAH

DATE: *April 15, 1991*
LOCATION: Block 22
Salt Lake City, Utah

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DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is entered into this 15th day of April, 1991, by and between the REDEVELOPMENT AGENCY OF SALT LAKE CITY, a public agency ("Agency") and SINCLAIR OIL CORPORATION, a Wyoming corporation ("Developer"), collectively referred to as the "Parties", or as the context requires, a "Party".

RECITALS:

WHEREAS, this Declaration relates to the development of certain real property located in what is known as "Block 22" in downtown Salt Lake City, Utah, which real property is legally described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"), and

WHEREAS, of Block 22 is described on Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, this Declaration is intended to govern the development and use of the entirety of the Property; and

WHEREAS, Agency is a public body, exercising its functions and powers and organized and existing under the Utah Neighborhood Development Act; and

WHEREAS, in furtherance of the objectives of the Utah Neighborhood Development Act, Agency has undertaken a program for the clearance and reconstruction of blighted areas in Salt Lake

city (the "City"), pursuant to which Agency has undertaken a project in the area known as "West Temple Gateway Project Area" in the City (the "Project Area"); and

WHEREAS, Agency prepared, and the City through its City Council and an ordinance, approved and adopted a redevelopment plan on December 10, 1987, which plan is known as the "West Temple Gateway Neighborhood Development Plan" (such plan and all amendments thereto are referred to as the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Plan has been filed in the Office of the Recorder of Salt Lake City and with the Agency; and

WHEREAS, the Redevelopment Plan establishes, among other things, development objectives and a land use plan for the clearance, rehabilitation, redevelopment and future uses of the Project Area; and

WHEREAS, the Redevelopment Plan contains general and specific design objectives and controls, which include, among other things, the establishment of an attractive urban environment which blends harmoniously with adjoining areas and provides for optimum amounts of open space in relation to new buildings, unobtrusive parking areas screened and landscaped, maximum off street parking, and building design and materials which harmonize with adjoining areas; and

WHEREAS, Agency, through its powers of condemnation, assisted Developer in acquiring a portion of the Property which portion is described on Exhibit "C" attached hereto and incorporated herein by reference; and

WHEREAS, Developer owns the remaining portion of the Property; and

WHEREAS, in consideration of the assistance provided by Agency to Developer and the desire of Developer to cooperate with the Agency to achieve the objectives of the Redevelopment Plan and to ensure that the Property is developed in accordance with the objectives, guidelines and uses specified in the Redevelopment Plan, Agency and Developer desire to execute this Declaration; and

WHEREAS, Agency believes that the redevelopment of the Property pursuant to this Declaration, and the fulfillment generally of this Declaration and the intentions herein are in the vital and best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable State laws and requirements under which the Redevelopment Plan has been undertaken; and

WHEREAS, the Parties desire that the Property and every portion thereof be developed in conjunction with each other, for the benefit of persons who may become owners and occupants of all

or part of the Property and to effectuate the statutory purposes of Agency in serving the public and placing appropriate restrictions upon the future development of the Property, and accordingly hereby establish a general plan for the improvement, protection, development, redevelopment, maintenance and use of the Property; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
DEFINITIONS

As used in this Declaration, the following terms shall have the meanings set forth below:

(A) "Agency" shall have the meaning set forth in the first paragraph of this Declaration. The Agency is a public body, organized and existing under the Utah Neighborhood Development Act and includes any successor public agency designated by Agency or succeeding to Agency pursuant to law.

(B) "Property" shall have the meaning set forth in the recitals to this Declaration; provided, at such time as Developer acquires any additional real property within Block 22, such additional real property shall be included within the definition of "Property" for purposes of this Declaration.

(C) "Common Area" shall mean those portions of the Property which are not, from time to time, occupied by buildings.

(D) "Developer" shall have the meaning set forth in the first paragraph of this Declaration.

(E) "floor area" shall mean the aggregate square footage of floor space located on all floors within a building (as measured from outside walls).

(F) "Master Plan" shall have the meaning set forth in Article II.

(G) "Owner" shall mean any person or entity who becomes fee owner of all or any portion of the Property.

(H) "Parcel" shall mean any individual parcels of real property which comprise the Property.

(I) "Redevelopment" shall mean the clearance, construction, reconstruction or rehabilitation (or any combination thereof) of the Property by Developer pursuant to this Declaration.

(J) "Redevelopment Plan" shall have the meaning set forth in the recitals to this Declaration. The Redevelopment Plan is hereby incorporated by reference into this Declaration.

(K) " . . . Plan" shall have the meaning set forth in Section 3.02.

ARTICLE II

ADOPTION OF MASTER PLAN

Developer, in conjunction with Agency and the Salt Lake City Planning Commission, shall develop a master plan for the Property which is consistent with the Redevelopment Plan and which provides for the future development of the Property ("Master Plan"). The Master Plan shall be developed in conjunction with the city-wide redevelopment plan for Salt Lake City and shall be subject to the approval of and adoption by the Board of Directors of Agency and the Salt Lake City Planning Commission.

ARTICLE III

REDEVELOPMENT OF THE PROPERTY

Section 3.01. Redevelopment. Developer hereby agrees to complete Redevelopment of the Property pursuant to the terms of this Declaration. Developer shall be under no obligation to commence Redevelopment of the Property within a specific period of time; provided, at such time as Developer commences Redevelopment, Developer shall diligently prosecute such Redevelopment to completion.

Section 3.02. Redevelopment Documents. Developer shall retain professional services for the preparation of Redevelopment Documents (as defined below). The Redevelopment Documents shall conform to the objectives and guidelines of the Redevelopment Plan, the Master Plan, this Declaration and all applicable federal, state and local laws (hereafter sometimes referred to as

the "Redevelopment Requirements"). Developer shall not commence Redevelopment of the Property without first obtaining Agency's approval of the Redevelopment Documents. The "Redevelopment Documents" shall include the following:

- (i) a site plan depicting the location of improvements to be constructed on the Property, including, but not limited to, the location of buildings (and the floor area of such buildings) and the location of Common Area improvements, including, but not limited to, parking areas and parking structures, signs, lighting facilities, monument and pole signs, fountains, sculptures, curbcuts, utility facilities, plazas, pools, planters, landscaping, and other Common Area amenities ("Site Plan");
- (ii) a description of the exterior specifications of any buildings and parking structures to be constructed on the Property, including exterior design, color, building materials, height, massing and elevations (and the location, style, size, design and color of any sign to be located on any building);
- (iii) a description of the design and materials of paving, retaining walls, sidewalks, fences, walls and other Common Area improvements; and
- (iv) a description of the design and type of landscaping materials to be used in the Common Area.

The Redevelopment of the Property shall be conducted in compliance with the Redevelopment Documents.

Section 3.03. Approval of Redevelopment Documents. Prior to commencing Redevelopment of the Property, Developer shall first obtain the written approval of Agency to such Redevelopment, including the Redevelopment Documents. Agency's

approval shall be conditioned upon the conformance of the Redevelopment Documents with the Redevelopment Requirements.

Section 3.04. Changes to Redevelopment Documents.

Developer shall obtain Agency's prior written approval to any proposed changes to the Redevelopment by submitting to Agency, for its approval, appropriate changes to the Redevelopment Documents.

Section 3.05. Issuance of Permits. Prior to commencing Redevelopment, Developer shall obtain all necessary permits from the Salt Lake City Building and Housing Department and other applicable agencies.

Section 3.06. Certificate of Completion - Issuance. Promptly after completion of the Redevelopment in accordance with the provisions of this Declaration and upon receipt of Developer's written request therefor, Agency shall furnish to Developer an appropriate instrument so certifying. Such certificate by Agency shall be (and it shall be so provided in the certificate itself), a conclusive determination of satisfaction and termination of the agreements and covenants in this Article with respect to the obligations of Redevelopment of the Property in accordance with this Declaration. Such determination shall not constitute evidence of compliance with or satisfaction of any obligation of Developer or its successors or assigns to any holder of a mortgage or deed of trust, or any insurer of a mortgage or deed of trust, securing money loaned to

finance the Redevelopment, or any part thereof. The certifications provided for herein shall be in recordable form.

Section 3.07. Certificate of Completion - Non-Issuance Reasons. If Agency does not provide the certification as provided in Section 3.06 above, Agency, shall within fifteen (15) days after written request by Developer, provide Developer with a written statement, indicating in adequate detail in what respects Developer failed to complete the Redevelopment and what Developer must do, in the opinion of Agency, to obtain such certification.

ARTICLE IV

MAINTENANCE OF IMPROVEMENTS AND COMMON AREA

Developer shall maintain the exterior of the buildings and other improvements on the Property (including the Common Area) in a neat, well-maintained and sightly condition and in compliance with applicable federal, state and local laws.

ARTICLE V

PUBLIC IMPROVEMENTS

All improvements on public property (including, but not limited to, sidewalks, curbs and gutters, lighting, landscaping and drainage facilities) Redeveloped by Developer in or around the Property ("Public Improvements") shall be Redeveloped in accordance with the City's standards and design criteria in effect at the time of commencement of such Redevelopment. One percent (1%) of the total cost of Redeveloping the Public Improvements shall be donated by Developer to the "percent for

art fund" as set forth in Section 2.30 of the Salt Lake City Ordinances or any successor ordinance or policy.

ARTICLE VI

STREET LIGHTS

All street lights on the Property shall comply with the standards and requirements of the transportation division of Salt Lake City.

ARTICLE VII

USE RESTRICTIONS

Section 7.01. Permitted Uses. No portion of the Property or any building constructed thereon shall be used for any purpose other than those permitted by the Redevelopment Plan and Master Plan. No business or facility shall be permitted to operate on the Property which has as its primary purpose the generation, storage or disposal of hazardous material. Hazardous material means any substance determined by any state, federal or local government authority to be capable of posing a risk of injury to health, safety and property, including but not limited to, substances designated or listed as hazardous, extremely hazardous or toxic pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 USC § 6903 and Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC § 9601.

Section 7.02. Anti-Discrimination. Developer, its successors and assigns, and all tenants, subtenants, licenses,

contractors, agents and employees of Developer or its successors and assigns shall not discriminate against or with respect to any person or group of persons on the basis of race, color, creed, sex, marital status, age, handicap or national origin in the construction, sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or any of the improvements erected or to be erected thereon, or any part thereof. Neither shall Developer itself, or any person claiming by, through or under Developer, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees or vendees on the Property or any improvements erected or to be erected thereon, or any part thereof. Developer and its successors and assigns shall insert similar clauses in all leases, deeds, contracts and other instruments executed in connection with the Property.

ARTICLE VIII

TAXES

Section 8.01. Covenant to Pay. Developer shall timely pay before delinquency all real property taxes and assessments which are levied or otherwise assessed against the land and improvements situated within the Property.

Section 8.02. Right to Contest or Appeal. Developer may contest or appeal the imposition of taxes and assessments described in this Article; provided, such taxes are timely paid

under protest and Developer takes no actions that would subject the Property to foreclosure. Upon receiving a final adverse ruling or decision, Developer shall immediately pay all taxes and assessments, late charges and penalties then due and take such other action as is necessary to ensure that a foreclosure does not subsequently occur.

ARTICLE IX

DEFAULT

In the event of a violation or threatened violation of any term, covenant or condition of this Declaration by Developer, its successors or assigns or any Owner or occupant of the Property, Agency shall have all remedies at law or in equity, which shall include the right to restrain by injunction any violation or threatened violation and by decree to compel specific performance of any terms, covenants or conditions of this Declaration, it being agreed that the remedy at law for any breach of any such term, covenant or condition is not adequate.

ARTICLE X

TERM

This Declaration shall remain in effect for sixty (60) years from the date upon which this Declaration is first recorded in the Official Records of Salt Lake County.

ARTICLE XI

SITE PLAN

At such time as Agency has approved the Site Plan for the Property pursuant to Article III of this Declaration, the Owners of the Property shall execute and record with the office of the Salt Lake County Recorder a supplement to this Declaration which incorporates the Site Plan. The supplement shall be approved and executed by Agency. The Site Plan shall govern the location of buildings, Common Area and other improvements on the Property. If the Site Plan has been approved by the Agency but not recorded as provided herein, the Site Plan shall nonetheless govern the Redevelopment of the Property. No changes to the location of improvements on the Property as shown on the Site Plan approved by Agency shall be made without Agency's further prior written approval. Such changes shall be evidenced by an amended Site Plan which shall be recorded against the Property in the manner provided in this Article.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Force Majeure. The Parties will comply with the time periods set forth in this Declaration; provided, each and every period shall be extended for a period or periods of time equal to any period or periods of delay preventing the performance of any of the Parties' obligations, which delays are caused by strikes, lock-outs, fire or other casualty, inclement

weather, the elements or acts of God, refusal or failure of governmental authorities to grant necessary approvals and permits, war, riot, insurrections or shortages of or inability to obtain essential construction materials or the transportation thereof or other causes, other than financial, beyond their reasonable control.

Section 12.02. Modification. All negotiations and oral agreements acceptable to the Parties have been incorporated herein. This Declaration may not be modified in any respect whatsoever or rescinded, in whole or in part, except by a writing executed by the Owners or at least seventy-five percent (75%) of the land area of the Property, which writing shall be approved and executed by Agency and recorded in the Salt Lake County Recorder's Office.

Section 12.03. Severability. Invalidation of any of the covenants, conditions, restrictions or other provisions contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions or provisions hereof, or the application thereof to any other person or entity and the same shall remain in full force and effect.

Section 12.04. Recordation. This Declaration shall be recorded in the Salt Lake County Recorder's office.

Section 12.05. Notices. Any notice of demand given or served by either Party to this Declaration to the other shall not

be deemed to have been duly given or served unless in writing and forwarded by certified or registered mail, postage prepaid, or another commercially recognized means of delivery, addressed as follows:

DEVELOPER: SINCLAIR OIL CORPORATION
Real Estate Division
P. O. Box 30825
Salt Lake City, Utah 84130-0825

with copies to:

Richards, Bird & Kump
333 East Fourth South
Salt Lake City, Utah 84111
ATTN: Rod Kump

and

AGENCY: REDEVELOPMENT AGENCY OF SALT LAKE CITY
285 West North Temple
Salt Lake City, Utah 84103
ATTN: Alice Larkin Steiner

with copies to:

JONES, WALDO, HOLBROOK & McDONOUGH
1500 First Interstate Plaza
170 South Main Street
Salt Lake City, Utah 84. 1
ATTN: Elizabeth M. Haslam, Esq.

The person and the place to which notices are to be mailed may be changed by either Party by written notice to the other Party.

Section 12.06. Attorneys' Fees. In the event either Party or any Owner commences a legal proceeding to enforce any of the terms of this Declaration, the prevailing party in such action shall have the right to recover reasonable attorneys' fees and

costs from the other Party to be fixed by the court in the same action.

Section 12.07. Inurement. This Declaration and the easements, covenants, benefits and obligations created hereby shall inure to the benefit and be binding upon each Owner, Agency and their successors and assigns; provided, if any Owner conveys any portion or all of its interest in any Parcel owned by it, such Owner shall thereupon be released and discharged from any and all further obligations under this Declaration as it had in connection with the property conveyed by it if the buyer assumes in writing all of such obligations; and provided further, no such sale shall release such Owner from any liabilities, actual or contingent, existing as of the time of such conveyance.

Section 12.08. No Relationship of Principal and Agent. Nothing contained in this Declaration nor any acts of the Parties nor any Owners shall be deemed or construed to create the relationship of principal and agent or of limited or general partnership or of joint venture or of any other similar association between any of the Owners or Agency.

Section 12.09. Governing Law. This Declaration shall be construed, interpreted and applied in accordance with the laws of the State of Utah.

Section 12.10. No Gift or Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property to the general public, it being the

intention of the Parties that this Declaration shall be strictly limited to and for the purposes herein expressed.

Section 12.11. Execution by Agency. Nothing herein shall be construed to supersede the provisions of the Redevelopment Agreement, or to indicate that Agency is an Owner.

Section 12.12. Binding Effect. It is intended and agreed that the agreements and covenants of Developer set forth in this Declaration shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Declaration, shall be binding to the fullest extent permitted by law and equity for the benefit of Agency against Developer, any Owner and their successors and assigns to or of the Property or any part thereof or any interest therein.

Section 12.13. No Presumption. This Declaration shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

IN WITNESS WHEREOF, the Agency and Developer have executed this Declaration as of the date first above written.

REDEVELOPMENT AGENCY OF SALT LAKE CITY, a public agency

Approved as to Form:

E. Hansen

By: *Palmer A. DePaulis*
Its: Chief Administrative Officer

REDEVELOPMENT AGENCY OF SALT LAKE CITY, a public agency

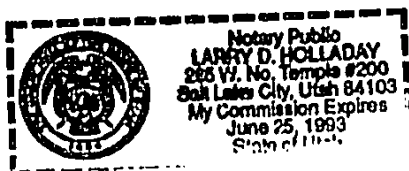
BY: *Allen J. ...*
Its: Executive Director

SINCLAIR OIL CORPORATION, a Wyoming corporation

By: *Christian A. Peterson*
Its: DIRECTOR OF REAC ESCAPE

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

On the 15th day of April, 1991, personally appeared before me Palmer DePaulis and Alice Larkin Steiner, who being by me duly sworn did say they are the Chief Administrative Officer and Executive Director of The Redevelopment Agency of Salt Lake City, and that the within and foregoing instrument was signed on behalf of said Agency.



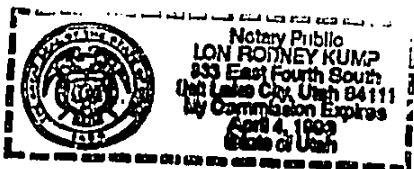
Larry D. Holladay

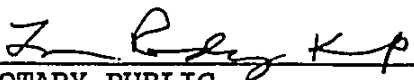
NOTARY PUBLIC
Residing at: Salt Lake City

My Commission Expires:
6-25-93

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

On the 12th day of April, 1991, personally appeared before me CHRISTIAN N. PETERSON, known by me to be the Director of Real Estate of Sinclair Oil Corporation, a Wyoming Corporation, and that he was duly sworn by me and he did say that the within and foregoing instrument was signed on behalf of said corporation.





NOTARY PUBLIC
Residing at Salt Lake City, Utah

My Commission Expires:
April 4, 1993

Exhibit "A"

(Property Currently Owned by Developer)

Beginning at the Northeast corner of Lot 8, Block 22, Plat "A", Salt Lake City Survey and running thence West 660.0 feet; thence South 412.5 feet; thence East 330.0 feet; thence South 3.0 feet; thence East 330.0 feet; thence North 233.0 feet; thence West 165.0 feet; thence South 54.5 feet; thence West 58.0 feet; thence North 107.0 feet; thence East 58.0 feet; thence North 45.0 feet; thence East 165.0 feet; thence North 85.0 feet to the point of beginning.

Together with and subject to a right of way over the following described tract of land: Beginning at a point 147.5 feet North of the Southeast corner of said Lot 8, Block 22, Plat "A", Salt Lake City Survey and running thence North 5 feet; thence West 10 rods; thence South 10 feet; thence East 10 rods; thence North 5 feet to the place of beginning. (This right-of-way is appurtenant to that portion of subject real property which has been assigned tax serial no. 15-01-480-009.)

(Property Acquired by Developer with Assistance of Agency)

Front Parcel:

Commencing 85 feet South from the Northeast corner of Lot 8, Block 22, Plat "A", Salt Lake City Survey, thence South 97.5 feet; West 10 rods; North 97.5 feet; East 10 rods to beginning.

Real Parcel:

Commencing 130 feet South from the Northeast corner of Lot 7, Block 22, Plat "A", Salt Lake City Survey, and running thence South 107 feet; West 58 feet; North 107 feet; East 58 feet to the beginning.

Exhibit "B"

Legal Description of Block 22

Block 22, Plat "A", Salt Lake City Survey, Salt Lake County,
Utah.

Exhibit "C"

(Property Acquired by Developer with Assistance of Agency)

Front Parcel:

Commencing 85 feet South from the Northeast corner of Lot 8, Block 22, Plat "A", Salt Lake City Survey, thence South 97.5 feet; West 10 rods; North 97.5 feet; East 10 rods to beginning.

Rear Parcel:

Commencing 130 feet South from the Northeast corner of Lot 7, Block 22, Plat "A", Salt Lake City Survey, and running thence South 107 feet; West 58 feet; North 107 feet; East 58 feet to the beginning.