

6099514

06/12/95 4:49 PM 59.00
6099514
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
HOLME, ROBERTS AND OWEN
REC BY: D KILPACK ,DEPUTY - WI

WHEN RECORDED, PLEASE RETURN TO:

David H. Little
Holme Roberts & Owen LLC
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111

SECOND AMENDMENT TO DECLARATION OF EASEMENTS

THIS SECOND AMENDMENT TO DECLARATION OF EASEMENTS, dated to be effective as of March 1, 1995 (this "Amendment"), is by and among the Trustees under the Will and of the Estate of James Campbell (the "Estate"), the Utah State Retirement Fund (the "Retirement Fund") and Fort Union Associates, L.C. ("Fort Union"). The persons and entities who have executed Exhibit A attached hereto are also parties to this Amendment for the limited purposes set forth in Exhibit A.

Recitals

A. The Estate owns certain real property situated in Salt Lake County, State of Utah, described on Exhibit B attached hereto (the "Estate Parcel"). Each of the Retirement Fund and Fort Union owns a portion of that certain real property situated in Salt Lake County, State of Utah, described on Exhibit C attached hereto (the "Combined Parcel"), which portions collectively constitute the entire Combined Parcel. The common boundary between the respective portions of the Combined Parcel that are owned by the Retirement Fund and Fort Union is described on Exhibit D attached hereto (the "Common Boundary"). The Retirement Fund owns that portion of the Combined Parcel that lies northerly and easterly of the Common Boundary (the "Retirement Fund Parcel"). Fort Union owns that portion of the Combined Parcel that lies southerly and westerly of the Common Boundary. The relative locations of the Estate Parcel, the Retirement Fund Parcel and the Fort Union Parcel are depicted in the diagram set forth on Exhibit E attached hereto. Such diagram is provided for illustration purposes only. If there is any discrepancy between the diagram and any legal description set forth on Exhibit B, Exhibit C or Exhibit D, the applicable legal description shall govern.

B. The Estate Parcel, the Retirement Fund Parcel and the Fort Union Parcel are subject to a Declaration of Easements, dated August 14, 1984 (the "Original

BK 7167Pg2071

efg

Declaration"), by and between Union Woods Associates, Ltd., a Colorado limited partnership ("UWA"), and Union Park II Associates, a Utah limited partnership ("UPA"). The Original Declaration was filed for recording on August 28, 1984, and was recorded as entry no. 3986120, in book 5585, at page 2096, in the official Salt Lake County, Utah real property records. The Original Declaration was subsequently amended by a First Amendment to Declaration of Easements, dated December 22, 1986 (the "First Amendment"), among UWA, UPA, and the Retirement Fund. The First Amendment was filed for recording on December 22, 1986, and was recorded as entry no. 4371115, in book 5855, at page 2101, in the official Salt Lake County, Utah real property records. For purposes of this Amendment, the Original Declaration, as amended by the First Amendment, is referred to as the "Declaration."

C. At the time the Declaration became effective, the Retirement Fund Parcel and the Fort Union Parcel were under common ownership.

D. The Declaration, among other things, establishes easements for pedestrian and vehicular access over the Estate Parcel for the benefit of the Combined Parcel and easements for pedestrian and vehicular access over the Combined Parcel for the benefit of the Estate Parcel.

E. Fort Union intends to construct a shopping center and related facilities (the "Development") upon the Fort Union Parcel and other real property owned by Fort Union which is adjacent to the Fort Union Parcel (the "Adjacent Parcel"). The parking areas of the Development will be located partially upon the Fort Union Parcel and partially upon the Adjacent Parcel. The Development is intended by Fort Union to be integrated such that there will be unrestricted passage for vehicles and pedestrians between the portion of the Development located upon the Fort Union Parcel and the portion of the Development located upon the Adjacent Parcel.

F. The Estate has objected to the design of the parking areas and driveways within the Development. The basis for the Estate's objection is that the easement upon the Estate Parcel established by the Declaration is solely for the benefit of the Combined Parcel, and the current design of the parking areas and driveways of the Development permits use of the easement upon the Estate Parcel for the benefit of areas within the Development that are not entitled to the benefit thereof.

dfg

G. In order to resolve the Estate's objection, the Estate, the Retirement Fund and Fort Union desire to enter into this Amendment.

Amendment

In exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Estate, the Retirement Fund and Fort Union agree as follows:

1. Vehicle Barrier. So long as the Fort Union Parcel is used in connection with or constitutes a part of, in any manner or to any degree whatsoever, any project, complex, shopping center or other development, including, without limitation, the Development, which is not located entirely within the boundaries of the Combined Parcel, Fort Union shall maintain continuously in place, at its sole cost and expense, a barrier which is adequate to prevent vehicular access (the "Vehicle Barrier"), and which shall be constructed in accordance with the plans and specifications set forth in Exhibit F, attached hereto and shall otherwise comply with the provisions of this Amendment. The Vehicular Barrier shall be aesthetically compatible with the existing improvements on the Estate Parcel and the Retirement Fund Parcel.

2. Location. The Vehicle Barrier shall be located within and shall extend continuously along the entire distance of the corridor described in this Section 2 (the "Corridor"). The Corridor shall consist of all land which constitutes a part of the Fort Union Parcel and is located within 30 feet of the Common Boundary except that portion of the Common Boundary that is referred to on Exhibit D attached hereto by the call "thence South 81°58'10" West 165.44 feet." The approximate location of the Corridor is depicted by crosshatching on Exhibit F attached hereto.

3. Covenants to Run with Land. The covenants of Fort Union set forth in Section 1 of this Amendment shall run with the Fort Union Parcel, and shall be binding upon Fort Union and all persons or entities who hereafter acquire or otherwise succeed to all or any portion of the fee estate in the Fort Union Parcel. Such covenants shall be for the benefit of the Estate Parcel and the Retirement Fund Parcel.

4. Effect on Declaration. The Estate, the Retirement Fund and Fort Union hereby acknowledge that the Vehicle Barrier may impair the exercise of their respective rights under the Declaration and hereby consent to any such

impairment. To the extent of any conflict between this Amendment and the Declaration, this Amendment shall govern and the Declaration shall be deemed amended to the extent, but only to the extent, necessary to eliminate the conflict. The Estate, the Retirement Fund and Fort Union hereby confirm that the Declaration, as amended by this Amendment, is in full force and effect.

5. Subordination. Fort Union and the Retirement Fund each hereby subordinates to the Declaration and this Amendment all of its rights, titles and interests under that certain Declaration of Covenants, Conditions, Easements and Restrictions of the Union Woods Office Park, by UWA and dated October 13, 1986, which was filed for recording on October 2, 1986, and recorded as entry no. 4334320, in book 5829, at page 1686, in the official Salt Lake County, Utah real property records.

6. Representations and Warranties of Fort Union. Fort Union hereby represents and warrants to the Estate and the Retirement Fund that:

a. It holds fee title to the Fort Union Parcel, free and clear of all liens, encumbrances, claims and other interests which are or may be superior to this Amendment other than those referenced on Exhibit A attached hereto.

b. The Fort Union Parcel, together with the Retirement Fund Parcel, constitutes all of the real property described on Exhibit A to the Original Declaration.

c. It is duly organized, validly existing and in good standing as a Utah limited liability company; it has full power and authority to enter into and perform its duties and obligations under this Amendment; it has duly approved, by all requisite action, its execution, delivery and performance of this Amendment; and its duly authorized officer has executed and delivered this Amendment on its behalf.

7. Representations and Warranties of the Retirement Fund. The Retirement Fund hereby represents and warrants to the Estate and Fort Union that:

a. It holds fee title to the Retirement Fund Parcel, free and clear of all liens, encumbrances, claims and other interests which are or may be superior to this Amendment other than those referenced on Exhibit A attached hereto.

b. The Retirement Fund Parcel, together with the Fort Union Parcel, constitutes all of the real property described on Exhibit A to the Original Declaration.

c. It is duly organized, validly existing and in good standing as an independent agency of the State of Utah; it has full power and authority to enter into this Amendment; it has duly approved, by all requisite action, its execution and delivery of this Amendment; its duly authorized officer has executed and delivered this Amendment on its behalf.

8. Representations and Warranties of the Estate. The Estate hereby represents and warrants to the Retirement Fund and Fort Union that:

a. It holds fee title to the Estate Parcel, free and clear of all liens, encumbrances, claims and other interests which are or may be superior to this Amendment other than those referenced on Exhibit A attached hereto.

b. The Estate Parcel constitutes all of the real property described on Exhibit B to the Original Declaration.

c. It has full power and authority to enter into this Amendment; it has duly approved, by all requisite action, its execution and delivery of this Amendment; its duly authorized officer has executed and delivered this Amendment on its behalf.

9. Consideration. Fort Union acknowledges that it will benefit from the Development and the parking facilities associated therewith. Fort Union and the Retirement Fund each acknowledges that it is entering into this Agreement with the intention that the Estate will rely hereon in abandoning its objection to the Development, as currently designed. In addition to other good and valuable consideration, the Estate has paid to Fort Union and the Retirement Fund, the sum of \$10.00 each, as consideration for the respective undertakings, agreements and consents of Fort Union and the Retirement Fund set forth in this Amendment.

10. Governing Law. This Amendment and the interpretation hereof shall be governed by the laws of the State of Utah.

11. Enforcement Costs. If any party initiates an action to enforce the performance by Fort Union of its duties and obligations under this Agreement, the nonprevailing party



in such action shall promptly pay to the prevailing party all attorneys' fees, court costs and other costs reasonably incurred by the prevailing party in connection therewith.

12. Invalidity of Particular Provisions. If any term or provision of this Amendment shall be determined to be illegal or unenforceable, all other terms and provisions hereof shall nevertheless remain effective and shall be enforced to the fullest extent permitted by applicable law.

13. Headings. The headings used herein are for purposes of convenience only and shall not be used in construing the provisions hereof.

IN WITNESS WHEREOF, the parties have executed this Amendment to be effective as of the date and year set forth in the heading hereof.



For and on Behalf of the
Trustees under the Will and
of the Estate of James
Campbell

Roy S. Robins
Director Mainland Properties

*See attached
acknowledgment*

STATE OF _____)
COUNTY OF _____) : ss

The foregoing instrument was acknowledged before me
this _____ day of _____, 1995, by _____,
attorney-in-fact for the Trustees under the Will and Estate of
James Campbell.

(SEAL)

Notary Public

My Commission Expires:

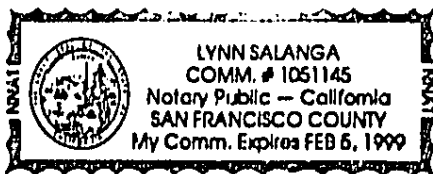
Residing at:

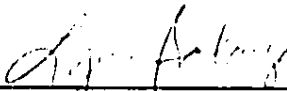
CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA }
County of San Francisco }

On this 5th day of June 1995, before me, Lynn Salanga, Notary Public, personally appeared Roy S. Robins personally known to me (or proved on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





Lynn Salanga, Notary Public in and for the State of California, residing in San Francisco

My commission expires February 5, 1999.

Description of Document

Type and Title: Second Amendment to Declaration of Easements by and among the Trustees under the Will and of the Estate of James Campbell, the Utah State Retirement Fund, and Fort Union Associates, L.C.

Date: March 1, 1995

THE UTAH STATE RETIREMENT
FUND

By: V. Juel Clark
Its: SR R/E Portfolio Analyst

STATE OF Utah)
COUNTY OF Salt Lake) ss

The foregoing instrument was acknowledged before me
this 17th day of May, 1995, by V. Juel Clark,
SR R/E Portfolio Analyst of the Utah State Retirement Fund.

(SEAL)

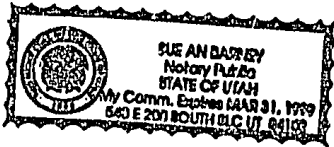
Sue Ann Barney
Notary Public

My Commission Expires:

3.31.95

Residing at:

Salt Lake



BK 7167 PG 2078
[Signature]

FORT UNION ASSOCIATES, L.C.

By: J. Ross Jensen
Its: Manager

STATE OF Utah)
COUNTY OF Salt Lake) SS

The foregoing instrument was acknowledged before me
this 17th day of May, 1995, by J. Ross Jensen
Manager of Fort Union Associates, L.C.

(SEAL)

Ellen Falvo
Notary Public

My Commission Expires:

Oct. 1, 1997

Residing at:

Salt Lake County

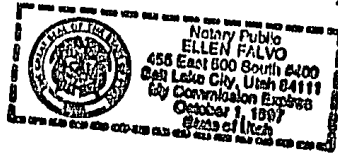


Exhibit A

(Attached to and forming a part of that certain
Second Amendment to Declaration of Easements dated
to be effective as of March 1, 1995)

Consent and Subordination of Third Parties

Each person or entity executing this Exhibit A hereby consents to the matters set forth in this Amendment and hereby subordinates to the Declaration and this Amendment any and all rights, titles and interests which it may have in or to the Estate Parcel, the Retirement Fund Parcel or the Fort Union Parcel, or any combination thereof, including, without limitation, any such right, title or interest which it may have pursuant to any document described below beside its signature block. Each of the undersigned acknowledges that the Estate is entering into this Amendment in reliance on the undersigned's agreement to the matters set forth in this Exhibit A.

EXHIBIT A INCLUDES THE ATTACHED ___ PAGES

011111 1111

A-1

RF

PK 7167PC2080

Description of Document
Creating the Right, Title and
Interest Being Subordinated

Signature

STATE OF _____)
COUNTY OF _____) : ss

The foregoing instrument was acknowledged before me
this _____ day of _____, 1995, by _____,
_____ of _____.

(SEAL)

Notary Public

My Commission Expires:

Residing at:

Description of Document
Creating the Right, Title and
Interest Being Subordinated

Signature

STATE OF _____)
COUNTY OF _____) : SS

The foregoing instrument was acknowledged before me
this _____ day of _____, 1995, by _____
_____ of _____.

(SEAL)

Notary Public

My Commission Expires:

Residing at:

Description of Document
Creating the Right, Title and
Interest Being Subordinated

Signature

STATE OF _____)
COUNTY OF _____) : SS

The foregoing instrument was acknowledged before me
this _____ day of _____, 1995, by _____
_____ of _____

(SEAL)

My Commission Expires:

Notary Public

Residing at:



Exhibit B

(Attached to and forming a part of that certain
Second Amendment to Declaration of Easements dated
to be effective as of March 1, 1995)

Legal Description of Estate Parcel

Beginning at a point on the Southwesterly right-of-way line of the Freeway Access Road known as Project No. 1-415-9(4)297 in the official documents of the Utah Department of Transportation, said point of beginning being South 89°52'20" West along the section line 1745.49 feet and South 139.16 feet and South 53°17'17" East 542.88 feet from the Northeast corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence North 33°17'12" West along said Southwesterly right-of-way line 542.88 feet to a point of curve of a 883.51 foot radius curve to the right; thence Northwesterly along the arc of said curve and right-of-way line through a central angle of 3°15'10" a distance of 50.16 feet; thence South 39°57'53" West along said right-of-way line 80.67 feet; thence South 16°58" East 807.79 feet to a point on a 540.0 foot radius curve to the left on the Northerly line of property deeded to Salt Lake City for the East Jordan Canal, the center of said curve lies North 12°09'08" West from said point; thence Northeasterly along the arc of said curve and Northerly line through a central angle of 9°52'15" a distance of 93.03 feet to an old fence line; thence North 24°05' East along said old fence line 494.57 feet to the point of beginning. Contains 4.812 acres.

DHLD/KH3

B-1

jjg

BK 7167PG2086

Exhibit C

(Attached to and forming a part of that certain
Second Amendment to Declaration of Easements
dated to be effective as of March 1, 1995)

Legal Description of Combined Parcel

PARCEL 1:

Real property situated in Salt Lake County, State of Utah, and
more particularly described as follows:

BEGINNING on the Westerly right-of-way line of 1300 East Street at a point which is South 1476.75 Feet and West 930.60 feet and North 62°15' West 28.04 feet from the Northeast corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian; and running thence North 62°15' West 202.96 feet to the center of Little Cottonwood Creek; thence South along the centerline of creek 99.00 feet; thence South 37°00' East 161.19 feet to the Westerly right-of-way line of said 1300 East Street; thence South 31°48' West along said right-of-way line 44.20 feet to a point on the extension of an old fence running in a Northwesterly direction; thence North 40°12' West along said fence line 221.86 feet to an angle in said fence; thence North 56°07' West along said old fence line 511.04 feet to an old fence line running in a Northeasterly direction; thence North 24°05' East along said old fence line 780.48 feet to a point on the Southwesterly right-of-way line of a Freeway Access Road known as Project No. I-415-9(4)297 in the official documents of the Utah Department of Transportation; thence South 53°17'17" East (equals South 53°34'43" East U.D.O.T. Datum) along said Southwesterly right-of-way line 84.93 feet; thence South 6°35' East 99.71 feet; thence South 42°19' East along an old fence line 263.2 feet to the center of Little Cottonwood Creek; thence North 57°20' East 125.12 feet to a point on a 455.87 foot radius curve to the right on the Westerly right-of-way line of said Freeway Access Road; the center of said curve lies South 45°40'15" West 455.87 feet from said point; thence Southeasterly along the arc of said curve and right-of-way line through a central angle of 70°52'55" a distance of 563.97 feet to a point 65.0 feet radially distant Northwesterly from Engineers Station 78+00 on the centerline known as "B" line of said State Highway Project; thence South 24°17'34" West along said right-of-way line 215.98 feet to the point of BEGINNING.



EXCEPTING THEREFROM that portion of the East Jordan Canal right-of-way which is particularly described as follows: BEGINNING at a point which is South 736.76 feet and West 1122.10 feet from the Northeast corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence South 64°50' West 400.90 feet to a point of curve, which is concave to the Northwest; thence Southwesterly along the arc of a 540.00 foot radius curve to the right through a central angle of 3°08'37" a distance of 29.63 feet; thence South 24°05' West along the Westerly line of the above described property 90.16 feet to a point on a 606.0 foot radius curve concave to the Northwest, the center of which lies North 15°52'06" West from said point; thence Northeasterly along the arc of said curve through a central angle of 9°17'54" a distance of 98.35 feet to a point of tangency; thence North 64°50' East 421.27 feet; thence North 42°19' West along the Northeasterly line of the above described property 69.07 feet to the point of BEGINNING.

PARCEL 2:

An easement over the East Jordan canal, at the current location of the existing bridge as identified on the survey of the property shown herein as Parcel 1, prepared by Bush and Gudgell Inc., Job. No. 4-37061, dated March 30, 1984 and revised April 6, 1984.

jjg

Exhibit D

(Attached to and forming a part of that certain
Second Amendment to Declaration of Easements
dated to be effective as of March 1, 1995)

Legal Description of Common Boundary

The Common Boundary is situated in Salt Lake County,
State of Utah, and is more particularly described as follows:

Beginning at a point South 840.97 feet and
West 876.80 feet from the Northeast corner of
Section 29, Township 2 South, Range 1 East
Salt Lake Base and Meridian and running thence
South 81°58'10" West 165.44 feet; thence South
13°32'00" East 10.00 feet; thence 153.07 feet
along the arc of a 640.00 foot radius curve to
the right (delta = 13°42'14") thence 89°58'01"
West 62.5 feet; thence South 00°01'59" East
90.00 feet; thence north 87°29'53" West 143.00
feet; thence South 87°06'01" West 49.52 feet;
thence South 24°05'00" West 18.33 feet; thence
North 65°55'00" West 250.00 feet; thence South
66°00'00" West 67.80 feet.

DHJ/KHJ

D-1

JKJ

BK 7167Pg 2089

Exhibit E

(Attached to and forming a part of that certain
Second Amendment to Declaration of Easements
dated to be effective as of March 1, 1995)

Diagram of Relative Locations of the
Estate Parcel, the Retirement Fund Parcel and
the Fort Union Parcel

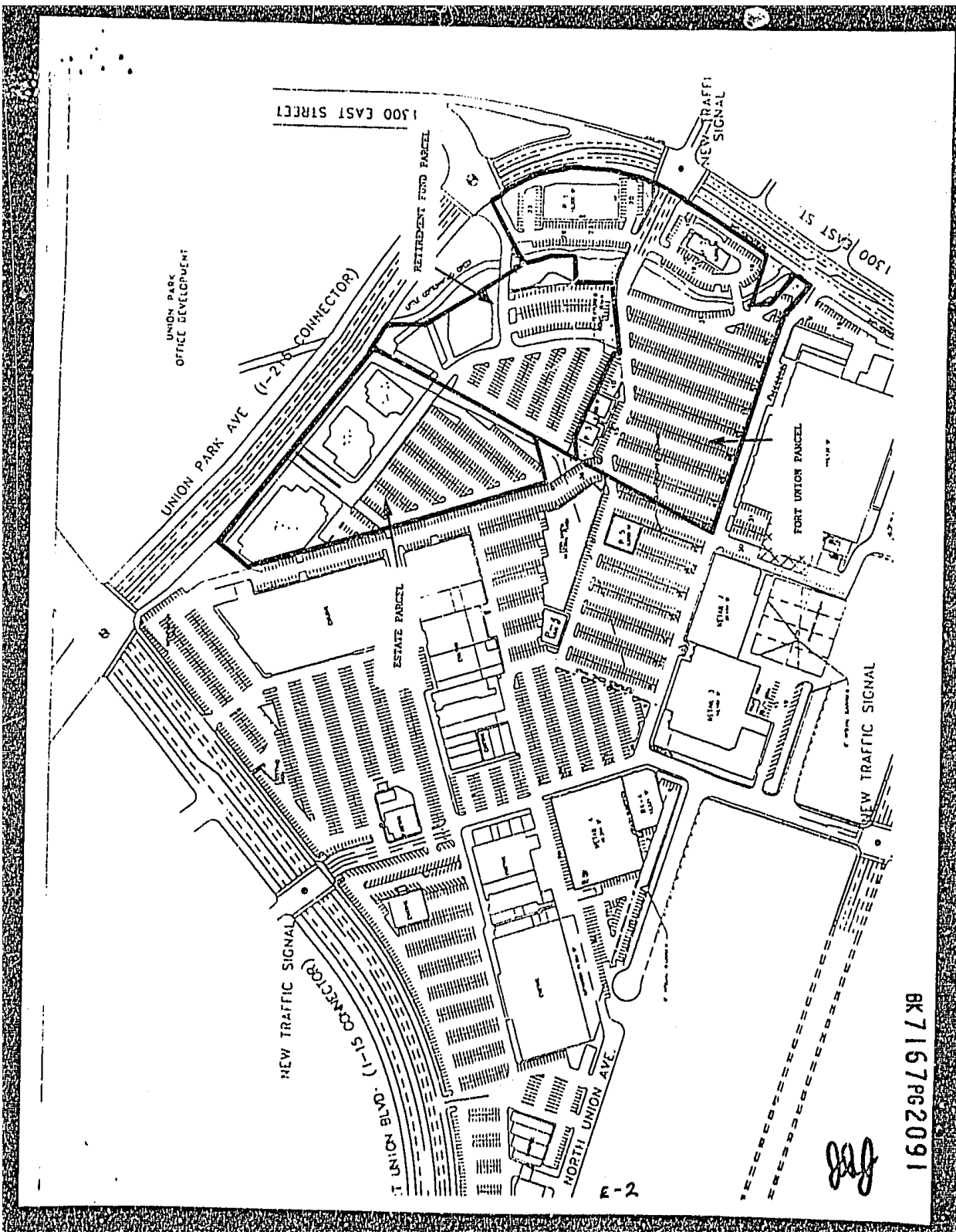
EXHIBIT E CONSISTS OF THE ATTACHED ONE PAGE

DHL/D/KH3

E-1

JKF

BK 7167 PG 2090



BK 7167 PG 2091

Exhibit F

(Attached to and forming a part of that certain
Second Amendment to Declaration of Easements
dated to be effective as of March 1, 1995)

Vehicle Barrier

EXHIBIT F CONSISTS OF THE ATTACHED TWO PAGES

DHLD KHJ

F-1

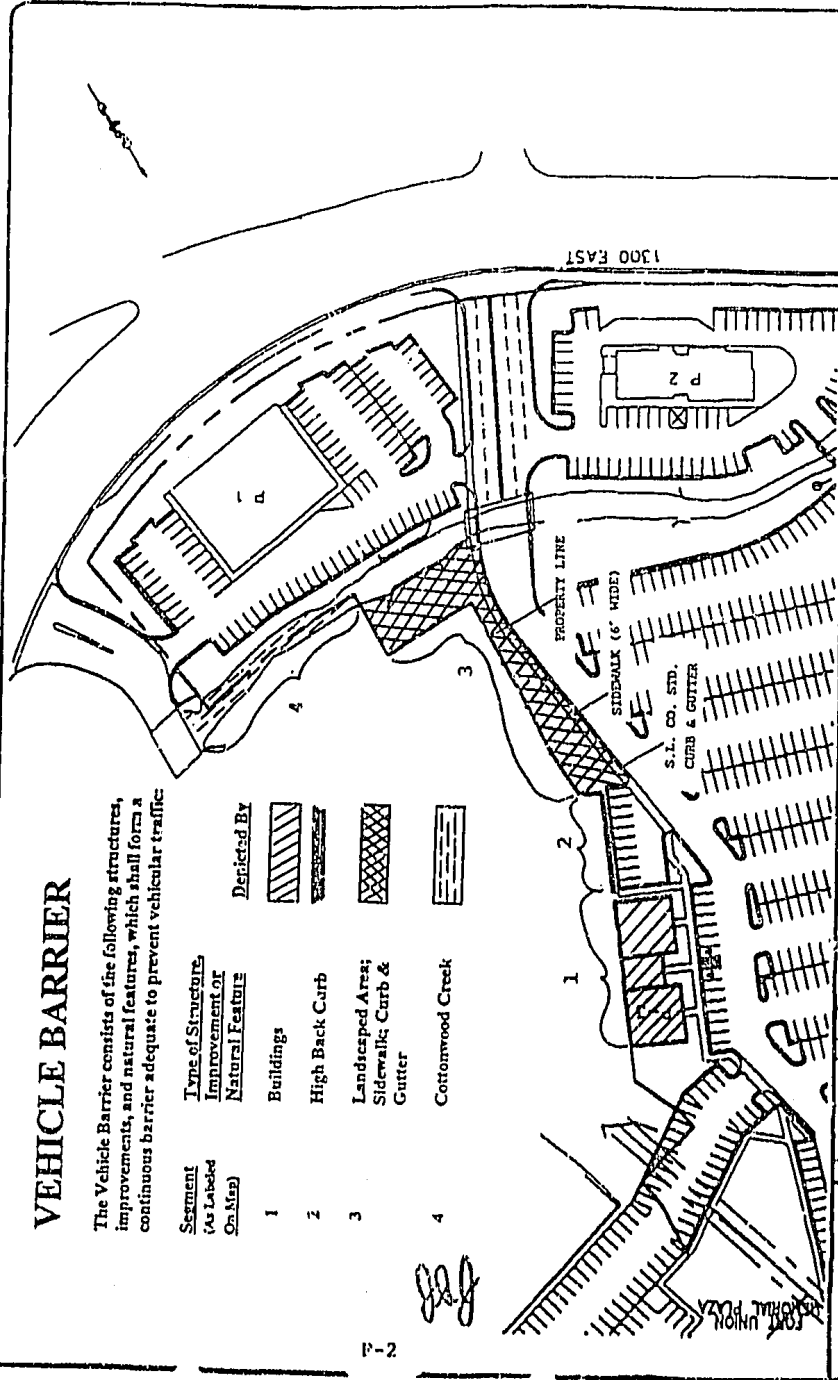
BK 7167PG2092



VEHICLE BARRIER

The Vehicle Barrier consists of the following structures, improvements, and natural features, which shall form a continuous barrier adequate to prevent vehicular traffic:

Segment (As Labeled On Map)	Type of Structure, Improvement or Natural Feature	Depicted By
1	Buildings	
2	High Back Curb	
3	Landscaped Area; Sidewalk; Curb & Gutter	
4	Cottonwood Creek	



THE FAMILY CENTER AT PUEBLO UNIV. PLAT # 1
FOR: REIMES ASSOCIATES

SENIOR WISER AND TRETOR ENGINEERING
CONSULTING ENGINEERS
1011 1/2 W. 10TH ST.
DENVER, CO. 80202

DATE: 10/1/83

BY: S. J. UNICK

PROJECT NO. 83-01

SCALE: AS SHOWN

BK 7167Pg2093

ARK AVENUE (I-215 CONNECTOR)

CORRIDOR

RETIREMENT FUND PARCEL

S 13° 32' 00" E
10.00'

S 81° 58' 10" W
165.44'

6" GAP IN
PARCEL LINES

D = 13° 42' 14"
R = 640.00'
L = 153.07'

S 66° 00' 00" W
61.00'

S 87° 06' 01" W
49.52'

S 89° 58' 01" W
12.50'

N 65° 55' 00" W
24.00'

N 87° 29' 53" W
23.00'

S 00° 01' 59" E
90.00'

S 24° 05' 00" W
18.33'

FORT UNION PARCEL

F-3

BK 7167 PG 2094