

When recorded, return to:

Smith's Food & Drug Centers, Inc.  
c/o The Kroger Co.  
1014 Vine Street  
Cincinnati, Ohio 45202  
Attn: Law Department (Smith's 271)

Parcel Nos.: 66-527-0001 (Lot 1)  
66-527-0002 (Lot 2)  
66-527-0004 (Lot 4)  
66-527-0005 (Lot 5)  
66-527-0006 (Lot 6 – being subdivided)  
66:624:0008 (Lot 8)  
66:624:0010 (Lot 7)

**FIRST AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS AND GRANT OF EASEMENTS**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT OF EASEMENTS (this "Amendment") is made as of this 15<sup>th</sup> day of July, 2021 (the "Effective Date"), by SMITH'S FOOD & DRUG CENTERS, INC., an Ohio corporation ("Smith's"), and TERRA SPRINGS, LLC, a Utah limited liability company ("Terra Springs").

WHEREAS, Smith's executed that certain Declaration of Covenants, Conditions and Restrictions and Grant of Easements on June 29, 2016, and recorded the same on June 30, 2016 with Utah County Recorder, State of Utah as Entry No. 59811:2016 ("Declaration"), which Declaration pertains to the development and operations of the Shopping Center; and

WHEREAS, Smith's is the owner of the Lot 1 of the Shopping Center; and

WHEREAS, on even date herewith, Terra Springs has purchased Lot 6 from Smith's, and Terra Springs intends to subdivide Lot 6 into Lot 9 and Lot 10, Springville Marketplace Plat C in the future; and

WHEREAS, Terra Springs is the Owner of Lot 2, Lot 4, Lot 5, Lot 8, Lot 9 and Lot 10 of the Developer Parcels; and

WHEREAS, the Declarant and Terra Springs desire to amend the Declaration to reflect the change of ownership, among other things, all as more particularly provided herein.

NOW THEREFORE, for Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Capitalized Terms. All capitalized terms used herein but not herein defined shall have the meanings ascribed to such terms in the Declaration.

2. Necessary Parties. In accordance with the provisions of Section 8.b of the Declaration, captioned Modification, Cancellation and Delegation of Authority, Smith's and Terra Springs, as Owner of more than 50% of the Developer Parcels, are the only necessary parties needed to execute this Amendment.

3. Shopping Center. Exhibit "A" to the Declaration is hereby deleted in its entirety and Exhibit "A-1" attached to this Amendment as Exhibit "A-1" made a part hereof by this reference, is hereby substituted there for.

4. Site Plan. The Site Plan attached to the Declaration as Exhibit "B" is hereby deleted in its entirety, and the Site Plan attached to this Amendment as Exhibit "B-1.1" and made a part hereof by this reference, is hereby substituted there for.

5. Section 1.b of the Declaration, captioned Building Area, is hereby amended to delete subsection (i) in its entirety and replaced with the following as such subsection (i):

- (i) Four and one-half (4.5) spaces per thousand (1,000) square feet of Building Area for retail use or ten (10) spaces per thousand (1,000) square feet of Building Area for any casual dining restaurant (such as, e.g., Panda Express, Zupas, Café Rio or Costa Vida) or full-service sit-down restaurant use, seven (7) spaces per thousand (1,000) square feet of floor area for any fast-food restaurant, or

6. Section 1.d of the Declaration, captioned Developer Parcel(s), is hereby deleted in its entirety and is replaced with the following:

Developer Parcel(s) shall mean all parcels in the Shopping Center other than the Smith's Parcel, and includes Lot 2, Lot 4, Lot 5, Lot 6, Lot 7, Springville Marketplace Plat B ("Lot 7"), Lot 8, Springville Marketplace Plat B ("Lot 8"), Lot 9, Springville Marketplace Plat C ("Lot 9") (as depicted on Exhibit "B-1.2"), and Lot 10, Springville Marketplace Plat C ("Lot 10") (as depicted on Exhibit "B-1.2") (Lot 9 and Lot 10 to be created once Lot 6 is subdivided), as detailed in Exhibit "A-1" to the First Amendment to Declaration of Covenants, Conditions and Restrictions, which lots shall each include one or more pads, as shown on the Site Plan attached to said Amendment as Exhibit "B-1.1".

7. Section 1.k of the Declaration, captioned Smith's Parcel, is hereby amended to delete all references to Lot 6.

8. Notwithstanding the removal of Lot 6 (eventually to be referred to as Lot 9 and Lot 10 following subdivision) from the definition of the Smith's Parcel and inclusion of Lot 6 in the definition of the Developer Parcel(s), none of the restrictions or limitations of the Developer Parcel(s) shall apply to Lot 6 (eventually to be referred to as Lot 9 and Lot 10 following

subdivision), and the rights, benefits, and restrictions, and limitations of Lot 6 (eventually to be referred to as Lot 9 and Lot 10 following subdivision) shall remain the same as if they were still part of the Smith's Parcel, ***provided, however***, that no portion of Lot 6 (eventually to be referred to as Lot 9 and Lot 10 following subdivision) shall be used for (i) any supermarket or grocery store (which for purposes of this Amendment means any store, department or area within a store containing 500 square feet or more of sales floor area, including aisle space and storage, primarily devoted to the retail sale of food or alcoholic beverages for off-premises consumption); (ii) the sale of fresh or frozen meat, fish, poultry, produce or bakery products for off-premises consumption; (ii) the operation of a pharmacy or pharmacy department utilizing the services of a registered pharmacist or the sale of prescription drugs; or (iv) a fuel station.

9. The exclusion of the use of medical and dental offices found in Section 2. a of the Declaration shall not apply to Lot 6 (eventually to be referred to as Lot 9 and Lot 10 following subdivision). The use of a dollar store, or similar, is added as a part of the definition of permitted "Retail services" under the Declaration as such Retail services apply to Lot 6 (eventually to be referred to as Lot 9 and Lot 10 following subdivision), ***provided, however***, that the same is subject to the 500 square foot limitation set forth in Paragraph 8 of this Amendment (above) for sales floor area, including aisle space and storage, primarily devoted to the retail sale of food and alcoholic beverages for off-premises consumption.

10. Section 2.b of the Declaration, captioned Restrictions on Types of Use, is hereby amended such that subsection (ii) is deleted in its entirety and replaced with the following as such subsection (ii):

- (ii) Four and one-half (4.5) spaces per thousand (1,000) square feet of floor area for any non-restaurant use,

11. Signs. Notwithstanding anything in the Declaration to the contrary, Terra Springs, at its sole cost and expense, may construct one (1) pylon sign on Lot 4 or Lot 5 in one (1) of the locations indicated on the Site Plan attached as Exhibit "B-1.1", in Terra Springs' discretion, subject to all agreements and requirements of record and all governmental approvals.

12. Except as specifically amended herein, the Declaration remains in full force and effect as originally set forth.

13. This Amendment may be executed in any number of counterparts, and also by electronic means, such as DocuSign, Coupa, or delivery via .pdf, and when such signatures are cross-delivered and counterparts assembled, each fully executed counterpart shall constitute an original of this Amendment, however, the parties acknowledge that an original wet-inked signature must be delivered to a title company of Smith's choosing for recording.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment to Declaration of Covenants, Conditions and Restrictions and Grant of Easement as of the Effective Date.

SMITH'S:

SMITH'S FOOD & DRUG CENTERS, INC., an Ohio corporation



By: Rick J. Landrum  
Its: Vice President



STATE OF OHIO            )  
                                          : SS  
COUNTY OF HAMILTON )

On this 23rd day of June, 2021, personally appeared before me Rick J. Landrum, the Vice President of Smith's Food & Drug Centers, Inc., an Ohio corporation, on behalf of the corporation.



**DEBORAH MOORE**  
Notary Public, State of Ohio  
My Commission Expires  
April 24, 2024

Deborah Moore  
Notary Public

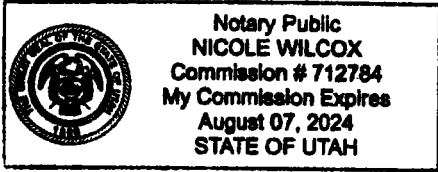
**TERRA SPRINGS:**

TERRA SPRINGS, LLC,  
a Utah limited liability company

[Signature]  
By: J. Stuart Adams  
Its: Manager

STATE OF Utah )  
                                                  : SS  
COUNTY OF Davis )

On this 16 day of July, 2021, personally appeared before me J. Stuart Adams, the Manager of Terra Springs, LLC, a Utah limited liability company, on behalf of the company.



[Signature]  
Notary Public

**EXHIBIT "A-1"**  
Legal Description of Subject Land/Shopping Center

Smith's Marketplace:

All of Lot 1, Springville Marketplace, a Commercial Subdivision as recorded in the Utah County Recorder's Office.

Contains 559,694 square feet or 12.849 acres

Pad G:

All of Lot 2, Springville Marketplace, a Commercial Subdivision as recorded in the Utah County Recorder's Office.

Contains 37,026 square feet or 0.850 acres

Pads C & D:

All of Lot 4, Springville Marketplace, a Commercial Subdivision as recorded in the Utah County Recorder's Office.

Contains 91,861 square feet or 2.109 acres

Pads E & F:

All of Lot 5, Springville Marketplace, a Commercial Subdivision as recorded in the Utah County Recorder's Office.

Contains 94,047 square feet or 2.159 acres

Lot 7, Springville Marketplace Plat B as recorded in the Utah County Recorder's Office.

Lot 8, Springville Marketplace Plat B as recorded in the Utah County Recorder's Office.

Lot 6, Springville Marketplace, a Commercial Subdivision as recorded in the Utah County Recorder's Office.

Contains 206,590 square feet or 4.743 acres

(to be eventually subdivided into Lot 9, Springville Marketplace Plat C as recorded in the Utah County Recorder's Office.

Contains 173,042 square feet or 3.973 acres

and Lot 10, Springville Marketplace Plat C as recorded in the Utah County Recorder's Office.

Contains 33,548 square feet or 0.770 acres)

**EXHIBIT "B-1"**  
Site Plan

**EXHIBIT "B-1"**  
Site Plan





