

8036763

AFTER RECORDING, PLEASE RETURN TO:

Robert A. McConnell  
Parr Waddoups Brown Gee & Loveless  
185 South State Street, Suite 1300  
Salt Lake City, Utah 84111-1537

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10/22/2001 11:40 AM 27.00  
Book - 8514 Pg - 2175-2183  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
FIRST AMERICAN TITLE  
BY: ZJM, DEPUTY - WI 9 P.

Space above for Recorder's use

**DECLARATION  
OF  
EASEMENTS, COVENANTS AND RESTRICTIONS**

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS (this "Declaration") is executed to be effective as of the 10 day of October, 2001 by PLATINUM CAR CARE, LLC, a Utah limited liability company ("Platinum"), whose addresses for the purposes hereof is 4264 East Wildcreek Circle, Sandy, Utah 84092, and CONOCO INC., a Delaware corporation ("Conoco"), whose address is 13059 East Peakview, Suite 110, Centennial, Colorado 80111.

RECITALS:

A. Conoco and Platinum own two separate but adjoining parcels of real property, Parcel A and Parcel B respectively, located in Salt Lake County, State of Utah attached hereto as Exhibit "A" and incorporated herein by reference (collectively herein referred to as the "Parcels"). ("Parcel" means either Parcel A or Parcel B, individually, where no distinction is required by the context in which such term is used.)

B. Conoco and Platinum desire to create certain rights-of-way, easements, and restrictions among the said Parcels.

AGREEMENT:

FOR THE SUM OF TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, the undersigned agrees as follows:

1. Definitions. As used in this Declaration, each of the following terms shall have the indicated meaning:

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1.1 "Easement Area" means all those certain portions of the Parcels that are from time to time designed and/or otherwise designated for vehicular and pedestrian movement including, without limitation, roads, driveways, walkways, and sidewalks. The Easement Area as presently located is generally depicted as the crosshatched portions of the Parcels attached hereto as Exhibit A and incorporated herein by reference.

1.2 "Mortgage" means a mortgage or a deed of trust recorded in the official records.

1.3 "Mortgagee" means the mortgagee under a mortgage, or the beneficiary under a deed of trust, recorded in the official records.

1.4 "Official records" means the official records of the Salt Lake County Recorder, State of Utah.

1.5 "Owner" means the person that at the time concerned is the legal owner of record (in the official records) of a whole or undivided fee interest in any portion of any Parcel. If there is more than one Owner of a Parcel at the time concerned, the obligations and liabilities of each such Owner for performance under, and compliance with, the applicable provisions of this Declaration shall be joint and several. Notwithstanding any applicable theory relating to a Mortgage, the term "Owner" shall not mean a Mortgagee unless and until such Mortgagee has acquired title to the Parcel concerned pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure.

1.6 "Parcel A" means the real property located in Salt Lake County, Utah, described as follows:

**Conoco Inc.  
% Prop Tax Dept.  
Ponca City, Ok. 74603  
Prop. Loc: 1285 West 9000 So.  
West Jordan, Utah 84088**

**BEGINNING AT A POINT WHICH IS SOUTH 00°01'25" WEST 176.88 FEET AND SOUTH 89°58'35" EAST 50.56 FEET FROM THE WEST QUARTER CORNER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 10 FEET; THENCE SOUTH 89°58'35" EAST 20 FEET; THENCE SOUTH 10 FEET; THENCE NORTH 89°58'35" WEST 20 FEET TO THE POINT OF BEGINNING.**

Tax ID No. 27-02-301-002 & 27-02-301-047 & 27-02-301-054

1.7 "Parcel B" means the real property located in Salt Lake County, Utah, described as follows:

**Platinum Car Care LLC  
4264 East Wildcreek Cir.  
Sandy, Utah 84092  
Prop. Loc: 9035 So. 1300 West  
West Jordan, Utah 84088**

**BEGINNING AT A POINT WHICH IS SOUTH 00°01'25" WEST 176.88 FEET AND SOUTH 89°58'35" EAST 50.56 FEET FROM THE WEST QUARTER CORNER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°58'35" EAST 20 FEET; THENCE SOUTH 10 FEET; THENCE NORTH 89°58'35" WEST 20 FEET; THENCE NORTH 10 FEET TO THE POINT OF BEGINNING.**

Tax ID No. 27-02-301-002 & 27-02-301-047 & 27-02-301-054

2. Grant of Rights-of-Way and Easements.

2.1 Access Right-of-Way and Easement. Platinum hereby grants and conveys to Conoco and its respective successors, assigns, tenants, invitees, agents, employees and other lawful users, and Conoco hereby grants and conveys to Platinum, and to their respective successors, assigns, tenants, invitees, agents, employees and other lawful users, subject to the terms and conditions of this Declaration, a perpetual, non-exclusive right-of-way and easement for pedestrian and vehicular ingress and egress on, over, and across the Easement Area. Such right-of-way and easement shall be limited to use for such purposes and to such extent as may be customary to the use of the Parcels for general commercial purposes, which shall include reasonable and customary deliveries.

3. Appurtenances to Parcels; Covenants Run with Land; Various Events.

3.1 Appurtenances to Parcels. Each right-of-way, easement, covenant and restriction created by this Declaration is an appurtenance to the Parcel benefited by such right-of-way, easement, covenant and restriction (but no other real property) and may not be transferred, assigned or encumbered except as an appurtenance to the benefited Parcel. For the purposes of each such right-of-way, easement, covenant and restriction, the benefited Parcel shall constitute the dominant estate and the burdened Parcel shall constitute the subservient estate.

3.2 Covenants Run with Land; Various Events.

3.2.1 Covenants Run with Land. Each right-of-way, easement, covenant and restriction contained in this Declaration (whether affirmative or negative in nature) shall (a) create an equitable servitude on the burdened Parcel in favor of the benefited Parcel (but no other real property), (b) constitute a covenant running with

the land, (c) benefit and bind every person having any fee, leasehold, Mortgage lien or other interest in any portion of the Parcel concerned to the extent that such portion is affected or bound by the right-of-way, easement, covenant or restriction in question, or to the extent that such right-of-way, easement, covenant or restriction is to be performed on such portion, and (d) benefit and bind any Owner whose title is acquired by judicial foreclosure, trustee's sale, deed in lieu of foreclosure or other means.

3.2.2 Transfer of Parcel. If any Owner transfers all or any portion of the Parcel owned by such Owner, the transferee shall automatically be deemed to have assumed and agreed to be personally bound by the covenants of such Owner contained in this Declaration, and if the transferring Owner has by such transfer transferred all of such Owner's ownership interest in such Parcel, such transferring Owner shall be released and discharged from all obligations under this Declaration that accrue after the date of recordation in the official records of the instrument effecting such transfer.

3.2.3 Effect of Breach. No breach of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration (but such limitation shall not affect any other right or remedy or limit any obligation that any Owner may have under this Declaration by reason of any such breach), or defeat or render invalid the lien of any Mortgage made in good faith and for value as to any Parcel, except as provided in Paragraph 6 of the Miscellaneous Provision section.

3.2.4 Identical Ownership. The ownership of both Parcels by the same person shall not result in the termination of this Declaration.

3.2.5 Priority of Declaration. The interests in and rights concerning any portion of the Parcels held by or vested in the undersigned or any other person on or after the date of this Declaration shall be subject and subordinate to the arrangement provided for in this Declaration, and the arrangement provided for in this Declaration shall be prior and superior to such interests and rights, as may be necessary to effectuate all of the terms and provisions set forth in this Declaration. Conoco is the sole Owner of Parcel A. Platinum is the sole owner of Parcel B.

*[The remaining part of this page was intentionally left blank]*

## MISCELLANEOUS PROVISIONS

1. No Interference. Except to the extent necessary (on a temporary basis) for reasonable construction, for repair and maintenance, for traffic regulation and control, or to prevent a public dedication or the accrual of any rights to the public, no fence, gate, wall, barricade, or other obstruction, whether temporary or permanent in nature, which limits or impairs the free and unimpeded use of the rights-of-way and easements granted above shall be constructed or erected, nor shall any Owner in any other manner obstruct or interfere with the use of such rights-of-way and easements.

2. Maintenance and Repair of Easement Area. The Easement Area shall at all times be properly surfaced with asphalt, concrete or other similar material, and each Owner shall at all times maintain or cause to be maintained that portion of the Easement Area located on such Owner's Parcel in a reasonably good, clean and safe condition and repair, reasonably free from debris, rubbish, snow, ice and other materials, so that the purpose of this Declaration is not frustrated.

3. Construction of Driveways and Sidewalks. The construction of paved driveways and walkways on the Parcels shall be at the sole cost and expense of the Owner of each respective Parcel. The driveways and walkways shall be located upon such Parcel so as to facilitate the purposes of this Declaration. An Owner shall have no obligation to make any improvements to its Parcel but once such improvements have been made and constitute a part of the Easement Area, the same shall be maintained and repaired in accordance with paragraph 2 of this section.

4. Relocation of Easement Area. The location of the driveways and walkways constituting the Easement Area may be changed from time to time by an Owner on said Owner's own property and pursuant thereto an Owner may construct curbs, curb stops, curb cuts or such other reasonable traffic controls which may be necessary to guide and control the orderly flow of traffic over the Easement Area provided that the relocation of same does not materially alter the access sought to be provided under this Declaration.

5. Duration. This Declaration and each right-of-way, easement, covenant and restriction set forth in this Declaration shall be perpetual except that this Declaration and each right-of-way, easement, covenant and restriction may be modified per paragraph 6 of this section.

6. Modification. This Declaration and any right-of-way, easement, covenant or restriction contained in this Declaration may not be terminated, extended, modified or amended without the consent of each Owner, and any such termination, extension, modification or amendment shall be effective on recordation in the official records of a written document effecting the same, executed and acknowledged by each Owner; provided, however, that no such termination, extension, modification or amendment shall affect the rights of any Mortgagee holding a Mortgage constituting a lien on any Parcel unless such Mortgagee consents to the same in writing.

7. Not a Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Parcels for the general public or for any public

purpose whatsoever, it being the intention of the undersigned that this Declaration be strictly limited to the purposes expressed in this Declaration.

8. Attorneys' Fees. If any Owner brings suit to enforce or interpret this Declaration or for damages on account of the breach of any provision of this Declaration, the prevailing party shall be entitled to recover from the other party its reasonable attorneys' fees and costs incurred in any such action or in any appeal from such action, in addition to the other relief to which the prevailing party is entitled.

9. Governing Law. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah.

10. Successors and Assigns. This Declaration shall inure to the benefit of, and be binding on, each Owner and the heirs, personal representatives, successors and assigns of each Owner.

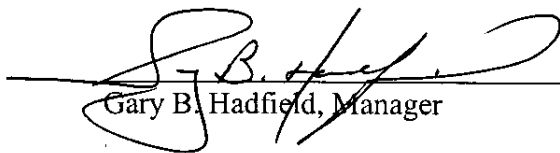
11. Construction. The rule of strict construction does not apply to this Declaration and this Declaration shall be given a reasonable construction so that the intention of the parties to confer a commercially usable right of enjoyment on each other as grantee is carried out.

12. Severability. If any one or more of the provisions of this Declaration shall be conclusively determined to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Declaration, all of which shall remain in full force and effect.

THE UNDERSIGNED have executed this Declaration to be effective as of the date first set forth above.


"Platinum"

PLATINUM CAR CARE, LLC, a Utah  
limited liability company

  
\_\_\_\_\_  
Gary B. Hadfield, Manager

"Conoco"

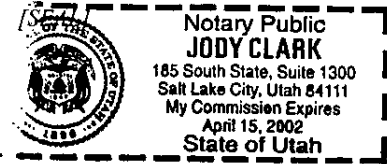
CONOCO INC., a Delaware corporation

By:   
Printed Name: Randall Amen  
Title: Attorney-in-fact

ACKNOWLEDGMENT

STATE OF UTAH   §  
    §  
 COUNTY OF SALT LAKE   §

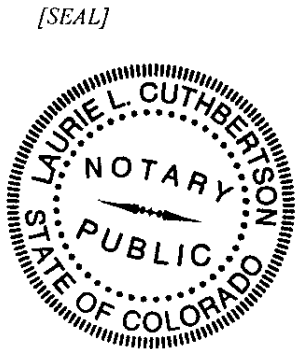
On this 10<sup>th</sup> day of October, 2001, personally appeared before me Gary B. Hadfield who, being by me duly sworn, did state that he is the Manager of Platinum Car Care, LLC, a Utah limited liability company, and being authorized to do so, he executed the foregoing "Declaration of Easements, Covenants and Restrictions" for the purposes therein contained, by signing his name as such officer.



Notary Public

STATE OF COLORADO   §  
    §  
 COUNTY OF Arapahoe   §

On this 11<sup>th</sup> day of October, 2001, personally appeared before me Randall Amen who acknowledged himself to be the Attorney-in-fact of Conoco Inc., a delaware corporation, and being authorized to do so, he executed the foregoing "Declaration of Easements, Covenants and Restrictions" for the purposes therein contained, by signing his name as such officer.



Notary Public

MY COMMISSION EXPIRES 5/2/2005

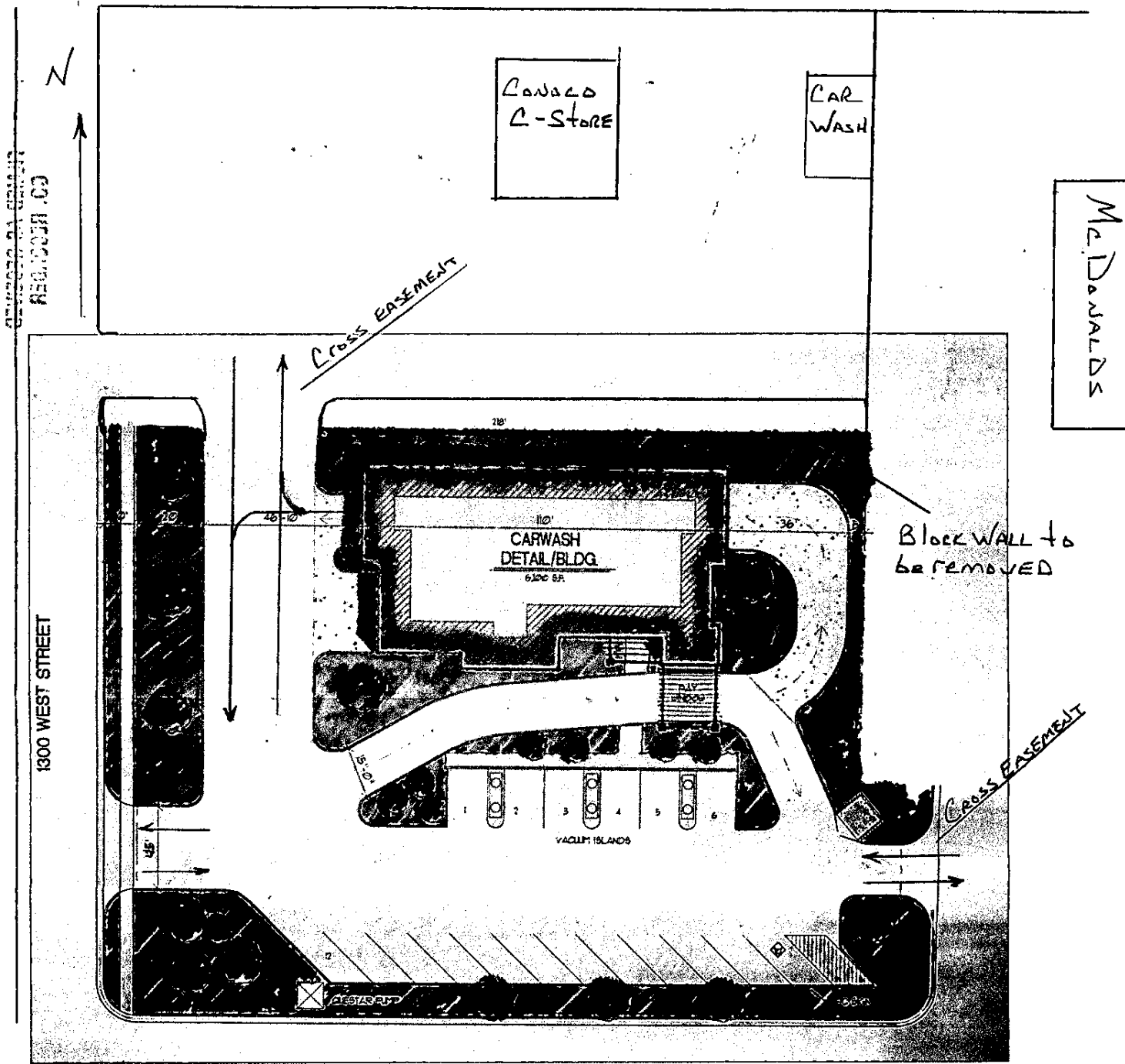
BK 8514 PG 2181

Exhibit A

[See attached Site Plan]



9000 So.



OFFICE  
Complex