

2

**SECOND AMENDMENT TO DECLARATION AND DEVELOPMENT  
AGREEMENT AND FIRST AMENDMENT TO COMMON  
AREA MAINTENANCE AGREEMENT**

THIS AMENDMENT is made as of the 12<sup>th</sup> day of June, 1997, between King Holdings, LC, a Utah limited liability company ("King Holdings"), John H. Barlow, Trustee of the Barlow Family Trust dated July 7, 1977 ("Barlow Trust"), and Albertson's, Inc., a Delaware corporation ("Albertson's").

**RECITALS**

A. On November 2, 1995, 1997, King Holdings, Barlow Trust and Albertson's entered into that certain Declaration of Restrictions and Grant of Easements which was recorded on November 2, 1995, as Entry No. 00514397, in Book 948, at Page 159, of the official records of Washington County, Utah (the "Records"). On November 14, 1996, King Holdings and Albertson's entered into that certain First Amendment to Shopping Center Ground Lease and to Declaration and Development Agreement (the "First Amendment", a copy of which is attached hereto as Exhibit "B"), which, *inter alia*, amended the Declaration of Restrictions and Grant of Easements. The Declaration of Restrictions and Grant of Easements as amended by the First Amendment is hereinafter referred to as the "Amended Declaration."

B. On November 2, 1995, King Holdings, Barlow Trust and Albertson's entered into that certain Common Area Maintenance Agreement, which was recorded on November 2, 1995, as Entry No. 00514398, in Book 948, at Page 207, of the Records (the "CAMA").

C. On November 2, 1995, King Holdings, Barlow Trust and Albertson's entered into that certain Development Agreement, which was recorded on November 2, 1995, as Entry No. 00514399, in Book 948, at Page 241, of the Records. The First Amendment also amended the Development Agreement. The Development Agreement as amended by the First Amendment is hereinafter referred to as the "Amended Development Agreement."

SECOND AMENDMENT TO DECLARATION AND DEVELOPMENT  
AGREEMENT AND FIRST AMENDMENT TO COMMON AREA  
MAINTENANCE AGREEMENT - Page 1  
ABS #301 - Washington, UT  
MM&C 125.288 05/28/97

00568872 Bk 1108 Pg 01822  
RUSSELL SHIRTS \* WASHINGTON CO RECORDER  
1997 JUN 16 14:54 PM FEE \$40.00 BY BJ  
FOR: DIXIE TITLE CO

D. The Amended Declaration, the CAMA and the Amended Development Agreement (collectively, the "Operating Documents") encumber and restrict the "Shopping Center" as such term is consistently defined in each of the three Operating Documents.

E. Albertson's Center No. 1, a commercial subdivision located in part of Sections 15 and 22, Township 42 South, Range 15 West, Salt Lake Base and Meridian, Washington City, Utah, according to the plat thereof recorded as Entry No. 00514393, in Book 948, at Page 147, of the Records was also recorded on November 2, 1995. On February 20, 1997, King Holdings recorded Albertson's Center No. 1 Amended, a commercial subdivision (the "Subdivision"), according to the plat thereof recorded as Entry No. 557871, in Book 1077, at Page 421, of the Records (the "Amended Plat").

F. In addition to the changes to the configuration of the Shopping Center arising from the recording of the Amended Plat, certain other changes have been made to the layout of the Shopping Center originally shown in the Operating Documents, including, without limitation, a change to the location of the "Permanent Service Drive" described in the Amended Declaration.

G. The parties desire to amend the Operating Documents to incorporate the changes made to the configuration of the Shopping Center arising from the recording of the Amended Plat, and for the changes to the layout of the Shopping Center that have taken place.

H. As of the recording of this Amendment, the parties hereto hold title to the following properties, as shown on the Amended Plat:

- (i) King Holdings. Lots 1, 3 and 6 of the Subdivision and that certain real property shown as "Utility Easement" on the Amended Plat;
- (ii) Barlow Trust. Lot 5 of the Subdivision; and
- (iii) Albertson's. Lots 2-A and 2-B of the Subdivision.

#### AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECOND AMENDMENT TO DECLARATION AND DEVELOPMENT  
AGREEMENT AND FIRST AMENDMENT TO COMMON AREA  
MAINTENANCE AGREEMENT - Page 2  
ABS #301 - Washington, UT  
MM&C 125.288 05/28/97

00568872 Bk 1108 Pg 0823

1. The Operating Documents are all hereby amended by deleting the Exhibit "A" site plan attached thereto and substituting therefor the Exhibit "A" site plan attached hereto.

2. The Operating Documents are all hereby amended by deleting the Schedule I attached thereto and substituting therefor the Schedule I attached hereto.


3. The Amended Declaration is hereby amended by deleting Schedules II and III attached thereto, and substituting therefor Schedules II and III attached hereto.

4. Except as amended herein, the Operating Documents shall remain in full force and effect.

EXECUTED as of the day and year first above written.

ALBERTSON'S:

Albertson's, Inc.,  
a Delaware corporation

  
By: William H. Arnold  
Its: Vice President, Real Estate Law


KING HOLDINGS:

King Holdings, LC,  
a Utah limited liability company

  
By: John H. Barlow, Member

BARLOW TRUST:

John H. Barlow, Trustee of the  
Barlow Family Trust dated July 7, 1977

  
By: John H. Barlow, Trustee

SECOND AMENDMENT TO DECLARATION AND DEVELOPMENT  
AGREEMENT AND FIRST AMENDMENT TO COMMON AREA  
MAINTENANCE AGREEMENT - Page 3  
ABS #301 - Washington, UT  
MM&C 125.288 05/28/97

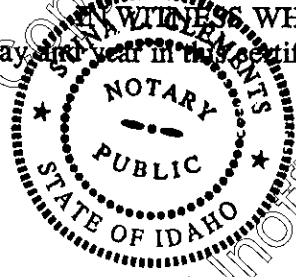
00568872 Bk 1108 Pg 0824

STATE OF IDAHO

County of Ada

On this 17th day of June, 1997, before me, the undersigned, a Notary Public in and for said state, personally appeared William H. Arnold, known or identified to me to be the Vice President, Real Estate Law of Albertson's, Inc., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

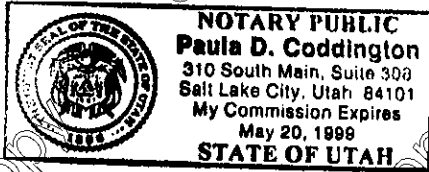


Stina G. Clements  
NOTARY PUBLIC for Idaho  
Residing at Boise  
My commission expires: 4-28-2002

STATE OF UTAH )

County of Utah )

The foregoing instrument was acknowledged before me this 30 day of May, 1997, by John H. Barlow, Member of King Holdings, LC, a Utah limited liability company.



Paula D. Coddington  
NOTARY PUBLIC for Utah  
Residing at Lawrenceville, GA  
My commission expires: May 20, 1999

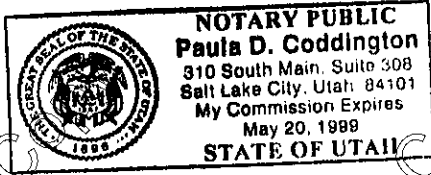
SECOND AMENDMENT TO DECLARATION AND DEVELOPMENT  
AGREEMENT AND FIRST AMENDMENT TO COMMON AREA  
MAINTENANCE AGREEMENT - Page 4  
ABS #301 - Washington, UT  
MM&C 125.288 05/28/97

00548872 Bk 1108 Pg 0825

STATE OF UTAH

County of Utah

The foregoing instrument was acknowledged before me this 20 day of May, 1997, by John H. Barlow, Trustee of the Barlow Family Trust dated July 7, 1977.



Paula D. Coddington  
 NOTARY PUBLIC for Utah  
 Residing at Am. Fork, UT  
 My commission expires May 20, 1999

SECOND AMENDMENT TO DECLARATION AND DEVELOPMENT  
 AGREEMENT AND FIRST AMENDMENT TO COMMON AREA  
 MAINTENANCE AGREEMENT - Page 5  
 ABS #301 - Washington, UT  
 MM&C 125.288 05/28/97

00568872 Bk 1108 Pg 0826

**SCHEDULE I**

**Parcel 1:** Lot 1 of Albertson's Center No. 1 Amended, a Commercial Subdivision according to the Official Plat thereof, on file in the Office of the Washington County Recorder, State of Utah.

**Parcel 2:** Lots 2-A and 2-B of Albertson's Center No. 1 Amended, a Commercial Subdivision according to the Official Plat thereof, on file in the Office of the Washington County Recorder, State of Utah.

**Parcel 3:** Lot 3 of Albertson's Center No. 1 Amended, a Commercial Subdivision according to the Official Plat thereof, on file in the Office of the Washington County Recorder, State of Utah.

**Parcel 4:** Lot 6 of Albertson's Center No. 1 Amended, a Commercial Subdivision according to the Official Plat thereof, on file in the Office of the Washington County Recorder, State of Utah.

**Parcel 5:** Lot 5 of Albertson's Center No. 1 Amended, a Commercial Subdivision according to the Official Plat thereof, on file in the Office of the Washington County Recorder, State of Utah.

**Parcel 6:** That certain parcel of property shown as "Utility Easement" in Albertson's Center No. 1 Amended, a Commercial Subdivision according to the Official Plat thereof, on file in the Office of the Washington County Recorder, State of Utah.

SCHEDULE II

Beginning on the Southwesterly line of Green Spring Drive at a point that is <sup>up</sup> N47°53'34"W 31.43 feet from the most Easterly corner of Lot 1, ALBERTSON'S CENTER NO. 1 AMENDED, a commercial subdivision, according to the official plat thereof on file with the Washington County Recorder's office; thence along said street line N47°53'34"W 30.00 feet; thence S42°06'26"W 107.44 feet; thence S52°01'47"W 52.05 feet; thence S74°15'40"W 52.32 feet; thence S53°40'38"W 257.33 feet; thence S74°15'40"W 83.28 feet; thence S15°44'20"E 12.40 feet; thence S74°15'40"W 38.60 feet; thence N15°44'20"W 12.40 feet; thence S74°15'40"W 60.39 feet; thence N85°26'13"W 69.17 feet; thence S74°15'40"W 175.95 feet; thence N82°00'00"W 23.07 feet; thence N15°44'20"W 228.19 feet; thence S74°15'40"W 74.56 feet to a point on the Easterly line of Albertson's Drive; thence along said Easterly line of street and the West line of Lot 3 of said subdivision S14°14'12"E 30.01 feet; thence N74°15'40"E 45.35 feet; thence S15°44'20"E 217.77 feet; thence S82°00'00"E 48.95 feet; thence N74°15'40"E 176.89 feet; thence S85°26'13"E 69.75 feet; thence N74°15'40"E 192.01 feet; thence N53°40'38"E 257.99 feet; thence N74°15'40"E 52.23 feet; thence N54°01'47"E 60.54 feet; thence N42°06'26"E 110.57 feet to the point of beginning.

SCHEDULE III

Beginning on the Southwesterly line of Green Spring Drive at a point that is N47°53'34"W 192.00 feet from the most Easterly corner of Lot 1, ALBERTSON'S CENTER NO. 1 AMENDED, a commercial subdivision, according to the official plat thereof on file with the Washington County Recorder's office; thence S42°06'26"W 84.03 feet; thence S74°15'40"W 811.95 feet to a point on the Easterly line of Albertson's Drive; thence along said Easterly line of street and the West line of Lot 3 of said subdivision N14°14'12"W 30.01 feet; thence N74°15'40"E 802.52 feet; thence N42°06'26"E 75.38 feet to said Southwesterly line of Green Spring Drive; thence along said street line S47°53'34"E 30.00 feet to the point of beginning.



Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

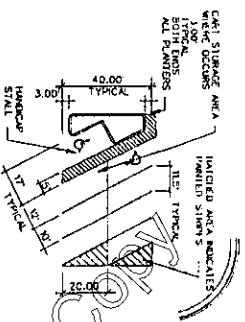
Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

PARKING DETAIL



CURB CUT DETAIL



**EXHIBIT "A" SITE PLAN**

TOTAL GROSS BUILDING AREA 115,729 S.F.

TOTAL CARPARKS REQUIRED K 579

TOTAL CARPARKS PROVIDED 598 (+19)

TOTAL SITE AREA 539,356 S.F. ( 12.38 ac. +/- )

\* EXCLUDES EXIST. CONVENIENCE STORE

APPROVED BY:	DATE:
CHIEF ARCHITECT	7-14-95
PREPARED BY	7-14-95
EXEC. VP/ARCH	7-14-95
SR. VP/ARCH	7-14-95
VP/ARCH-ENG.	7-14-95



APPROVED BY:	DATE:
CHIEF ARCHITECT	7-14-95
PREPARED BY	7-14-95
EXEC. VP/ARCH	7-14-95
SR. VP/ARCH	7-14-95
VP/ARCH-ENG.	7-14-95

**Albertsons**  
S.W.C.  
R.D. CLIFFS  
&  
GREENSPRING  
DRIVE  
WASHINGTON,  
UTAH  
301

7 M 95

301

1

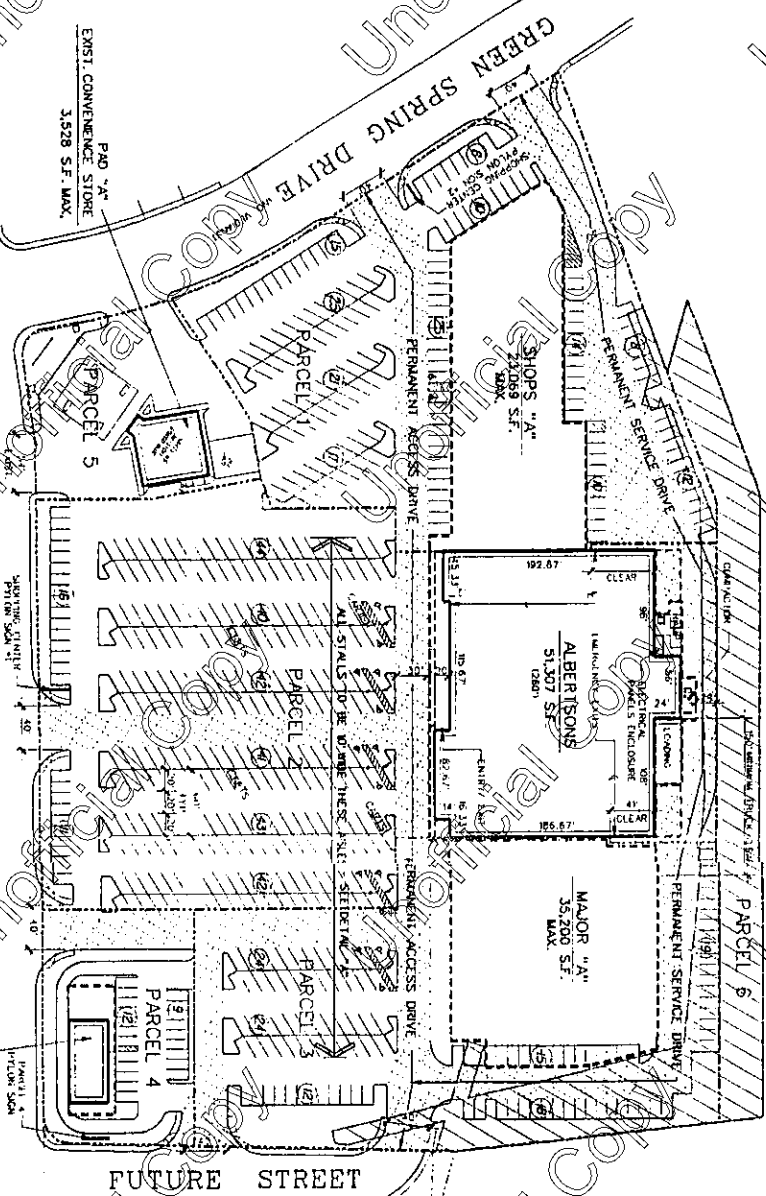
NO.	DESCRIPTION	DATE	BY
1	ISSUED FOR PERMITTING	7/14/95	ALBERTSONS
2	REVISED PER CITY REVIEW	7/14/95	ALBERTSONS
3	REVISED PER CITY REVIEW	7/14/95	ALBERTSONS
4	REVISED PER CITY REVIEW	7/14/95	ALBERTSONS
5	REVISED PER CITY REVIEW	7/14/95	ALBERTSONS
6	REVISED PER CITY REVIEW	7/14/95	ALBERTSONS
7	REVISED PER CITY REVIEW	7/14/95	ALBERTSONS
8	REVISED PER CITY REVIEW	7/14/95	ALBERTSONS
9	REVISED PER CITY REVIEW	7/14/95	ALBERTSONS
10	REVISED PER CITY REVIEW	7/14/95	ALBERTSONS

**GENERAL NOTES**

- PARKING REQUIREMENTS: USED 1/200 S.F. OF O.B.A.
- BUILDING SETBACK REQUIREMENTS: BY CITY REVIEW
- LANDSCAPE REQUIREMENTS: BY CITY REVIEW
- ZONING REQUIREMENTS: EXISTING - UNKNOWN REQUIRED - COMMERCIAL

**LEGEND**

- PARKING LOT/ PARCEL LINE
- EXPANSION LIMIT LINE
- BUILDING AREA
- EXPANSION DUTY PAVEMENT
- BUILDING ENVELOPE LINE
- EXISTING DRIVE
- NOT A PART



**FIRST AMENDMENT TO SHOPPING CENTER GROUND LEASE  
AND TO DECLARATION AND DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO SHOPPING CENTER GROUND LEASE AND TO DECLARATION AND DEVELOPMENT AGREEMENT ("First Amendment") is made as of the 14<sup>th</sup> day of NOVEMBER, 1996, between King Holdings, LC, a Utah limited liability company ("King"), and Albertson's, Inc., a Delaware corporation ("Albertson's").

**RECITALS**

A. King, as landlord, and Albertson's, as tenant, entered into a Shopping Center Ground Lease dated November 2, 1995 (the "Ground Lease"), covering certain leased premises in the City of Washington, County of Washington, State of Utah, more particularly described in the Ground Lease ("Leased Premises"). The Leased Premises are a part of the shopping center more particularly described in the Ground Lease ("Shopping Center"). A Memorandum of Shopping Center Ground Lease dated November 2, 1995 was recorded on November 2, 1995, as Entry No. 00514396, in Book 0948, Page 0150, of the official records of Washington County, Utah.

B. King and Albertson's entered into a Declaration of Restrictions and Grant of Easements dated November 2, 1995 (the "Declaration"), pertaining to the Shopping Center, which was recorded on November 2, 1995, as Entry No. 00514397, in Book 0948, at Page 0159, of the official records of Washington County, Utah.

C. King and Albertson's entered into a Development Agreement dated November 2, 1995, pertaining to the Shopping Center, which was recorded on November 2, 1995, as Entry No. 00514399, in Book 0948, at Page 0241, of the official records of Washington County, Utah.

D. Pursuant to Article 23 (Landlord's Put and Option) of the Ground Lease, King may, at any time prior to December 31, 2000, exercise a right to cause Albertson's to purchase the Leased Premises ("Landlord's Put"). King desires to exercise Landlord's Put and, in

FIRST AMENDMENT TO SHOPPING CENTER GROUND LEASE  
AND TO DECLARATION AND DEVELOPMENT AGREEMENT -Page 1  
ABS #301 - Washington, UT  
MM&C 125.238 11/13/96

**EXHIBIT "B"**

00568872 Bk 1108 Pg 0831

conjunction therewith, the parties desire to amend certain provisions of the Ground Lease, the Declaration and the Development Agreement, all in accordance with the terms and conditions hereinafter set forth.

E. As used herein, the terms "Site Work", "Project Architect", "Future Street Costs", and "Center Pylon Sign Costs" shall have the respective meanings for such terms as are set forth in the Development Agreement.

#### AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. King hereby exercises Landlord's Put. The first sentence of Section 23.1(A) of the Ground Lease is hereby amended to provide that the closing date of King's sale of the Leased Premises to Albertson's ("Closing Date") shall be a date selected by King (provided that King shall give Albertson's not less than sixty (60) days prior written notice of the Closing Date so selected), but in no event shall such Closing Date be later than ten (10) days after the Project Architect issues a certificate of substantial completion with respect to the Site Work.

2. Section 3.1 of the Ground Lease is hereby amended to provide that, after construction of the Site Work commences and thirty (30) days have passed since King's receipt of Albertson's initial request for payment pursuant to the first sentence of Section 10.1 of the Development Agreement, the amount of rent payable thereafter on the first day of each calendar month shall be \$11,333.33 less the product of \$11,333.33 times a fraction, the numerator of which shall be the aggregate amount of King's proportionate share of all costs incurred by Albertson's (and set forth in a request for payment by Albertson's) for the Site Work and Project Architect fees [as described in Article 10 (Payment of Costs) of the Development Agreement, and including, without limitation, (i) the Future Street Costs, subject, however, to Section 10.2(a) of the Development Agreement, and (ii) the Center Pylon Sign Costs, subject, however, to Section 10.2(b) of the Development Agreement] as of the first day of the calendar month for

which rent is then being paid, excluding, however, from the numerator of the fraction those costs for which Albertson's has been reimbursed by King. The denominator of the fraction shall be \$1,600,000.00.

3. Article 10 (Payment of Costs) of the Development Agreement is hereby amended to provide that, notwithstanding anything in said Article 10 to the contrary, all amounts otherwise payable by King to Albertson's pursuant to said Article 10 (as King's proportionate share of the costs incurred by Albertson's for the Site Work and Project Architect's fees) shall be held in abeyance, without interest, and shall not become payable to Albertson's until the Closing Date, at which time King's proportionate share of such costs shall be paid by King to Albertson's as a part of the closing of King's sale of the Leased Premises to Albertson's. King's proportionate share of the costs incurred by Albertson's for the Site Work and Project Architect's fees from and after the Closing Date (plus King's proportionate share of such costs incurred by Albertson's prior to the Closing Date for which Albertson's does not submit a request for payment to King until after the Closing Date) shall be paid by King to Albertson's in accordance with the timing and procedures set forth in Article 10 of the Development Agreement without regard to (and exclusive of) this First Amendment.

4. In no event shall any provision of this First Amendment be construed as modifying or amending in any way any portion of Section 23.1(A)(iii) of the Ground Lease. If Albertson's refuses to purchase the Leased Premises for reasons described in said Section 23.1(A)(iii) or elsewhere in the Ground Lease, the parties hereto shall, not later than ninety (90) days after such refusal by Albertson's, make such payments to each other as would have been required under Section 3.1 of the Ground Lease and Article 10 (except for interest charges under Section 10.4) of the Development Agreement without regard to (and exclusive of) this First Amendment, and this First Amendment (other than Section 5 hereof) shall thereafter have no further force or effect.

5. Section 2.1(d) of the Declaration is hereby deleted in its entirety and the following provision substituted therefor:

FIRST AMENDMENT TO SHOPPING CENTER GROUND LEASE  
AND TO DECLARATION AND DEVELOPMENT AGREEMENT -Page 3  
ABS #301 - Washington, UT  
MM&C 125.288 11/13/96

00568872 Bk 1 108 Pg 0833

"(d) All of the foregoing shall be constructed and maintained in accordance with all local, state and federal laws, rules and regulations applicable thereto. All Building Areas and Building Envelopes upon which buildings are not under construction on the date the Owner or occupant of Parcel 2 first opens its building for business shall be covered by a one inch dust asphalt cap or a loose aggregate dust cap and kept weed free and clean at the Owner's sole expense until such time as buildings are constructed thereon."

6. Except as amended herein, the Ground Lease, the Declaration and the Development Agreement shall remain in full force and effect.

EXECUTED as of the date first above written.

ALBERTSON'S:

KING:

Albertson's, Inc.,  
a Delaware corporation

King Holdings, LC,  
a Utah limited liability company

By: William H. Arnold  
Its: Vice President, Real Estate Law

By: John H. Barlow, Member

(L:\125.288\doc\1stamend.5)

FIRST AMENDMENT TO SHOPPING CENTER GROUND LEASE  
AND TO DECLARATION AND DEVELOPMENT AGREEMENT - Page 4  
ABS #301 - Washington, UT  
MM&C 125.288 10/31/96

00568872 Bk 1108 Pg 0834