

After recording return to:  
AutoZone, Inc.  
3030 Poplar Avenue, Dept. 4040  
Memphis, TN 38101

**AGREEMENT OF EASEMENTS, COVENANTS AND RESTRICTIONS**

*24*  
*5788981*  
*146820*  
*PARTNERSHIP LLC*  
THIS AGREEMENT of Easements and Covenants ("ECR Agreement") is made this 2 day of March, 1994 by Winegar Brothers, a Utah corporation ("Owner I"), and AutoZone, Inc., a Nevada corporation ("Owner II") under the following circumstances:

A) Owner I is the owner of a parcel of land located in Salt Lake County, Utah, more particularly described in Exhibit "A" attached hereto and made a part hereof ("Parcel One"). Owner II owns or will own a parcel of land located in Salt Lake County, Utah more particularly described in Exhibit "B" attached hereto and made a part hereof and located adjacent to Parcel One ("Parcel Two").

B) Owner II intends to build and operate on Parcel Two an automobile parts store for the sale of automobile and related parts for off-premises installation.

C) Owner I and Owner II desires an easement for the purpose of surface water drainage from Parcel Two on to Parcel One by means of tapping into the existing storm water drainage system or any replacement thereof which is presently located on Parcel One ("Storm Water System").

D) Owner I and Owner II desire to grant mutual and reciprocal cross easements, for access and ingress and egress between Parcel One and Parcel Two.

E) Owner I and Owner II desire that Parcel One and Parcel Two be held, sold and conveyed subject to the easements, covenants, and restrictions contained in this ECR Agreement.

**NOW, THEREFORE**, in consideration of the mutual premises and agreements set forth below and other good and valuable consideration, Owner I and Owner II hereby declare that Parcel One and Parcel Two be held, sold and conveyed subject to this ECR Agreement and the easements, covenants and restrictions provided for herein.

1) **COVENANTS RUNNING WITH THE LAND.** This ECR Agreement and all amendments hereto and all easements, covenants and restrictions declared herein shall be construed as covenants running with the land and shall be binding upon Owner I and Owner II, their successors and assigns, and all mortgagees and all claimants under each party and shall inure to the benefit of and be enforceable by Owner I and Owner II and their successors and assigns. All easements shall be appurtenant and, unless otherwise provided, shall be perpetual.

2) As used in this Agreement, unless the context otherwise requires, "Owner" means with respect to each parcel, the Owner(s) of record from time to time, whether one or more persons or entities, of an interest in fee simple.

3) **USE AND SETBACK RESTRICTION.** (a) For the earlier of thirty (30) years from the date hereof, no part of Parcel One shall be used or operated as an automobile parts store or for the sale of automobile parts for off-premises installation. The foregoing restrictions do not apply to any seller of a broad mix of general merchandise (such as, for illustrative purposes only, K-Mart and WalMart), which sells such automobile-related goods as an incidental part of its general merchandising business nor shall this restriction apply to restrict the sale of tires or repair or servicing of automobiles (including, but not limited to, auto-body and painting shops and car stereo and alarm sales and installation stores).

(b) No part of any building, kiosk or similar structure shall be built or maintained on Parcel One or Parcel Two within one hundred forty (140) feet of the existing west right of way line of 700 East Street.

No part of any building, kiosk or similar structure shall be built or maintained within the northernmost ten (10) feet of Parcel One. The use of this ten (10) foot strip shall be parking and landscaping only. The Owner of Parcel Two shall have the right, but not the obligation, to park, pave, and maintain this area at its expense and the Owner of Parcel One shall refrain from any action which would prevent the Owner of Parcel Two from the use as parking of this area.

4) **GRANT OF STORM WATER DRAINAGE EASEMENT.**

a) Owner I hereby declares and establishes for the benefit of Parcel Two, the right, privilege and easement on a non-exclusive perpetual basis to drain surface storm water over a portion of Parcel One by means of tapping into the existing storm water drainage system or any replacement thereof which is presently located on Parcel One.

b) Owner I and Owner II hereby agree to use the Storm Water System with due regard for rights of others and neither party shall use or permit the use of the Storm Water System in any manner which impairs the rights or use by any other party nor shall any party obstruct or encroach upon or permit the obstruction of or encroachment upon the easement granted herein. Owner I and Owner II shall not unreasonably increase the flow of storm water from their respective Parcels onto the other Parcel above the flow generated from the Parcels on the date hereof.

c) Owner II shall be responsible for the relocation of any portion of the Storm Water System located on Parcel Two. Owner I and Owner II shall be responsible for repair and upkeep of that portion of the Storm Water System that lies within their respective Parcels. Said repair and upkeep shall be performed in a workmanlike, diligent and efficient manner. If any Owner fails to properly maintain and repair the portion of the Storm Water System located on such Owner's Parcel, then the other Owner may (but shall not be required to), at the cost of the Owner of the Parcel upon which the repair to the Storm Water System is necessary, perform such maintenance and repair provided such Owner first gives the Owner of the Parcel upon which such repair is necessary written notice and a reasonable time to perform such maintenance and repair. Each Owner shall be responsible for repairs to the Storm Water System due to the acts of such Owner, its employees, representatives or contractors, other than normal wear and tear.

5) **ACCESS EASEMENTS.** (a) Owner I hereby grants to Owner II for the use and benefit of Owner II, its customers, invitees, employees and tenants, a perpetual non-exclusive easement, appurtenant to Parcel Two, for vehicular and pedestrian ingress and egress on, over and across any and all driveways and walkways from time to time located on Parcel One.

(b) Owner II hereby grants to Owner I for the use and benefit of Owner I, its customers, invitees, employees and tenants a perpetual non-exclusive easement, appurtenant to Parcel One, for vehicular and pedestrian traffic in, over and across any and all driveways and walkways from time to time located on Parcel Two.

(c) The necessary curb cuts and paving required on Parcel One and Parcel Two shall be the responsibility of and the expense of the respective owner of that parcel.

6) **USE OF THE DRIVEWAYS** Each party shall use the driveways and walkways with due regard for the rights of the other, and no person shall use or permit the use of the driveways in any manner which impairs the rights of others to their use. No person shall park or store vehicles upon the driveways, nor shall any person store other personal property on, or obstruct or encroach upon, nor permit the obstruction of, or encroachment upon, the driveways, in any manner whatsoever, without the concurrence of the other Owner entitled to use of the driveways, except temporarily for the purposes of maintenance and repair.

7) **COST OF MAINTENANCE** Each Owner shall be responsible for the cost of the maintenance, repair and improvement of the driveways and walkways located on each Owner's parcel. All driveways and walkways shall be kept in good order and repair and in a clean and slightly condition. If an Owner should fail to perform its responsibilities under this Section 7 then, upon thirty (30) days prior written notice to such Owner, the other Owner shall have the right, but not the obligation, to enter upon the parcel and perform the nonperforming Owners responsibility under this Section 7. The nonperforming Owner shall reimburse the performing Owner for all costs connected with such performance.

8) **GENERAL UTILITY EASEMENT** (A) Owner I hereby grants to Owner II and establishes for the benefit of Parcel Two the right, privilege and easement on a non-exclusive perpetual basis to install, operate, repair, relocate, replace, inspect and maintain on Parcel One utility service lines within the utility easement area described in Exhibit "C" attached hereto and made a part hereof ("Utility Easement Area"), in order to connect to the existing utility lines or any replacement thereof providing utility service to Parcel One (the "Utility Service Lines").

(B) Owner I and Owner II hereby agree that Owner I and Owner II shall each of them use the Utility Service Lines with due regard to the rights of others and no party shall use or permit the use of the Utility Service Lines in any manner which impairs the rights or use by any other party, nor shall any party obstruct or encroach upon or permit the obstruction or encroachment upon the easements granted herein.

(C) Owner II, at its cost, shall be responsible for the maintenance, repair, replacement, and or relocation of any portion of any Utility Service Lines installed within the Utility Easement Area. Owner I, at its cost, shall be responsible for the maintenance, repair, replacement or relocation of any portion of any Utility Service Line installed on Parcel One not within the Utility Easement Area. If Owner I or Owner II fails to maintain, repair or replace their respective portion of the Utility Service Lines, then the other owner may perform (but shall not be required to perform) the obligations of the other Owner at other Owner's costs, provided that the Owner performing the obligations first delivers written notice to the nonperforming Owner, and a reasonable time to perform such

maintenance, repair or replacement. Owner I and Owner II shall be responsible for repairs to the Utility Service Lines due to acts of the respective Owner, its employees, representatives, or contractors, other than normal wear and tear.

9) Owner I shall obtain the consent of any person or entity holding an interest as mortgagee or beneficiary under any mortgage or deed of trust encumbering Parcel One, or any interest therein at the time of recordation of this Agreement, to subordinate its interest in such mortgage or deed of trust to the terms and conditions of this Agreement. Notwithstanding the foregoing, no breach hereof shall defect, render invalid, diminish or impair the lien of any mortgage or deed of trust made in good faith and for value.

10) **MODIFICATION IN WRITING** No agreement shall be effective to add to, change, modify or waive or discharge this ECR Agreement in whole or in part, unless such agreement is in writing and signed by Owner I and Owner II or their successors and assigns.

11) **HEADINGS** The headings herein are for convenience and reference only and in no way define and limit the scope and content of this ECR Agreement or in anyway affect its provisions

12) **SUCCESSORS AND ASSIGNS.** This ECR Agreement shall be binding upon and inure to the benefit of the present and future owners of all or any part of Parcel One and Parcel Two.

13) **NO WAIVER.** No waiver of any provision hereof shall be deemed to imply or constitute a further waiver thereof or any other provision set forth herein.

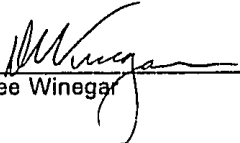
14) **SEVERABILITY.** Should any provision hereof be declared invalid by a legislative, administrative or judicial body of competent jurisdiction, the other provisions hereof shall remain in full force and effect and shall be unaffected by same.

15) **NOTICES.** All notices required or permitted under this ECR Agreement shall be served by hand delivery, overnight mail or certified mail, return receipt requested, to a party at the last known address of its principal place of business. Date of service of notice shall be the date on which such notice is delivered in the case of hand delivery or overnight mail; or in the case of certified mail, the date such notice is deposited in a Post Office of the United States Postal Service or any successor governmental agency.

**IN WITNESS WHEREOF**, the parties have duly executed this ECR Agreement through their duly authorized representatives as of the day and year first above written.

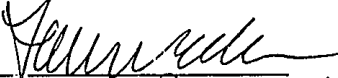
Owner I

Winegar Brothers, a Utah <sup>PARTNERSHIP w/</sup> corporation

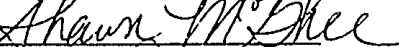
  
Dee Winegar

Owner II:

AutoZone, Inc. a Nevada corporation

By: 

Title: Vice President

By: 

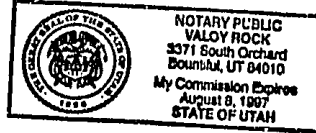
Title: Vice President

STATE OF UTAH )  
COUNTY OF ) SS.

The foregoing instrument was acknowledged before me this 8 day of March, 1994, by Dee Winegar, PARTNER of Winegar Brothers, a Utah Corporation. PARTNERSHIP W/

Valoy Rock  
Notary Public

My commission expires: 8-8-94

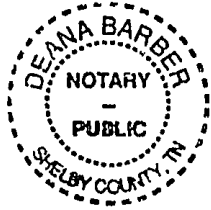


STATE OF TENNESSEE )  
COUNTY OF SHELBY ) SS.

The foregoing instrument was acknowledged before me this 3rd day of March, 1994, by Lawrence E. Evans, Sr. Vice President and Shawn McGhee, Vice President of AutoZone, Inc., a Nevada corporation.

Deana Barber  
Notary Public

My commission expires: September 17, 1996



BK6913PG2919

**Exhibit "A"**  
**Legal Description**

**Parcel One:**

COMMENCING at a point 275 feet West and 33 feet South from the East quarter corner of Section 7, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and running thence South  $0^{\circ}20'45''$  East 150 feet; thence East 225 feet to the West line of 700 East Street; thence South  $0^{\circ}20'45''$  East 356 feet, more or less, to the corner of the property conveyed to Backman Abstract and Title Company by Warranty Deed recorded in Book 2856, Page 605, Entry No. 2332560, Official Records; thence West 401.72 feet; thence North  $0^{\circ}23'07''$  West 500 feet along the East line of Sandy Heights No. 6, according to the Official Plat thereof, to the South line of 9800 South Street; thence East along the South line of said 9800 South Street 177.04 feet to the point of beginning.

Less and except the property described on Exhibit "B" attached hereto.

BK6913PG2920

Exhibit "B"

Parcel Two:

A parcel of land lying within Section 7, Township 3 South, Range 1 East, Salt Lake Base and Meridian, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 7: thence S 89°56'11" W, a distance of 352.94 feet along the Quarter Section line; thence South, a distance of 183.00 feet, to the POINT OF BEGINNING; thence N 89°56'11" E, a distance of 301.07 feet; thence S 00°21'13" E., a distance of 134.23 feet; thence S 89°56'11" W, a distance of 301.07 feet; thence N 00°21'13" W, a distance of 134.23 feet, to the POINT OF BEGINNING; containing 40,412 square feet or .928 acres of land.

BK 6913 PG 2921

Exhibit "C"

Thirty Foot Utility Easement

Beginning at a point which is south 89°56'11" West 450.61 feet along the Quarter Section line and South 183.00 feet from the East Quarter Corner of Section 7, Township 3 South, Range 1 East, Salt Lake Base and Meridian; thence North 89°56'11" East 100.66 feet; thence South 0°21'13" East 30.00 feet; thence South 89°56'11" West 100.61 feet; thence North 0°26'56" West 30.00 feet to the point of beginning.

5788981  
04/07/94 4:29 PM 24.00  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
UNITED TITLE  
REC BY: B GRAY ,DEPUTY

BK6913PG2922