

FILED SARPY CO. NE.
INSTRUMENT NUMBER
2002-23689

2002 JUN 25 P 4:19 B

Sharon J. Dowling
REGISTER OF DEEDS

Counter DM
Verify a
D.E. JM
Proof [Signature]
Fee \$ 43.50
Ck Cash Chg STS

FIRST MODIFICATION AND PARTIAL TERMINATION
OF DECLARATION OF RESTRICTIONS – ADJACENT PROPERTY

This indenture (this "Indenture") is made as of this 25 day of JUNE, 2002, by and between TWIN CREEK, L.P., a Nebraska limited partnership ("Twin Creek"), and ALBERTSON'S, INC., a Delaware corporation ("Albertson's").

RECITALS:

WHEREAS, Twin Creek executed a certain Declaration of Restrictions – Adjacent Property, dated May 1, 1997, recorded in the office of the Register of Deeds of Sarpy County, Nebraska as Instrument Number 97-08316 on or about May 2, 1997 (the "Declaration of Restrictions");

WHEREAS, the Declaration of Restrictions originally applied to and affected the following described real estate (hereinafter collectively referred to as the "Twin Creek Lots"):

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 24
TWINCREEK Plaza and Lot 3 Summit Plaza, all as surveyed,
platted, and recorded in Sarpy County, Nebraska; and

WHEREAS, certain Twin Creek Lots have been replatted as follows:

- a. Lot 1 of TWINCREEK Plaza has been replatted as Lot 1 and a portion of Lot 2, Twin creek Plaza Replat V, all as surveyed, platted and recorded in Sarpy County, Nebraska;
- b. Lot 16 of TWINCREEK Plaza has been replatted as Lot 2, Twin creek Plaza Replat II and Lot 1 and Lot 2 of Twin creek Plaza Replat IV, all as surveyed, platted and recorded in Sarpy County, Nebraska; and
- c. Lots 10, 11, 12, 13 and 14 TWINCREEK Plaza have been replatted as Lots 1, 2, 3, 4 and 5 Twin creek Plaza Replat I, and Lots 3 and 4 of Twin creek Plaza Replat I have been replatted as Lots 1 and 2, Twin creek Plaza Replat III, all as surveyed, platted and recorded in Sarpy County, Nebraska;

WHEREAS, certain benefits contained in the Declaration of Restrictions originally ran in favor of the following described real estate (hereinafter collectively referred to as the "Shopping Center Lots"):

Lots 17, 18, 19, 20, 21, 22, 23 and Outlot 4 TWINCREEK Plaza,
all as surveyed, platted, and recorded in Sarpy County, Nebraska;
and,

WHEREAS, certain Shopping Center Lots have been replatted as follows:

Lots 17, 18, and 23 have been replatted as Lot 3 and a portion of Lot 2, Twin creek Plaza Replat V, all as surveyed, platted and recorded in Sarpy County, Nebraska;

WHEREAS, a portion of Lot 1, TWINCREEK Plaza, all as surveyed, platted, and recorded in Sarpy County, Nebraska, is now included within the property platted as Lot 2, Twin creek Plaza Replat V, all as surveyed, platted and recorded in Sarpy County, Nebraska, which shall be developed pursuant to a declaration and other agreements that govern the Shopping Center, and therefore should be deemed a Shopping Center Lot for the purposes of the Declaration of Restrictions.

WHEREAS, Pursuant to Paragraph 11 of the Declaration of Restrictions, Twin Creek and Albertson's have the right to modify or terminate the Declaration of Restrictions.

NOW, THEREFORE, in consideration of the premises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to Paragraph 11 of the Declaration of Restrictions, the parties agree as follows:

1. Definitions. Except as otherwise expressly stated, all capitalized terms used but not specifically defined herein shall have the meanings given them in the Declaration of Restrictions, as such definitions may be modified in this Indenture. References to Paragraphs in this Indenture shall refer to Paragraphs of the Declaration of Restrictions unless otherwise expressly stated.
2. Definition of Parcel 4. Any and all references in the Declaration of Restrictions to "Parcel 4" or to "Lots 18 and 23 Twin creek Plaza" or to that part of Lot 1 TWINCREEK Plaza which is now embraced within Lot 2 Twin creek Plaza Replat V, shall hereinafter mean and refer to Lot 2, Twin creek Plaza Replat V, as surveyed, platted and recorded in Sarpy County, Nebraska.. Any and all references in the Declaration of Restrictions to Lot 1 shall hereinafter mean and refer only to Lot 1, Twin creek Plaza Replat V, as surveyed, platted and recorded in Sarpy County, Nebraska..
3. Definition of Parcel 5. Any and all references in the Declaration of Restrictions to "Parcel 5" or to "Lot 17 Twin creek Plaza" shall hereinafter mean:

Lot 3 Twin creek Plaza Replat V, as surveyed, platted and recorded in Sarpy County, Nebraska.

4. Partial Termination as to Parcel 4. Parcel 4 in its entirety is hereby declared to constitute a Shopping Center Lot and no part thereof shall constitute a part of the Subject Property. Without limiting the generality of the foregoing, to the extent that any of the real property that comprises Parcel 4 was burdened by the Restrictions affecting the Subject Property (as originally defined in the Declaration of Restrictions), including without limitation, those Restrictions described in Paragraphs 1, 2 and 6; such Restrictions are hereby released and terminated as to Parcel 4. The Restrictions which benefit Parcel 4 (as originally defined in the Declaration of Restrictions) shall continue to benefit Parcel 4 (as originally defined in the Declaration of Restrictions), and, to the extent that any of the real property that comprises Parcel 4 was not benefited by the Restrictions which benefit Parcel 4 (as originally defined in the Declaration of Restrictions), such real property shall hereafter be benefited by such Restrictions.

5. Food and Drug Restrictions. The last sentence of Paragraph 1 is hereby deleted and the following sentence is hereby substituted in its place:

"No business for the sale or offer for sale of any ethical pharmaceutical products requiring the services of a registered pharmacist may be located on Lot 2 through 16 (as replatted) or 24 of the Subject Property or Summit Lot 3 or Lot 1 Twin creek Plaza Replat V."

6. Partial Assignment. Notwithstanding anything to the contrary contained in the Declaration of Restrictions, Paragraphs 8 and 11 are hereby modified so that the Owner of Parcel 4, its successors and assigns, shall have the same benefits, approval rights and remedies under the Declaration of Restrictions as Albertson's, except as to the Restrictions described in Paragraph 1. Without limiting the generality of the foregoing, (i) the Owner of Parcel 4, its successors and assigns, shall have equal approval rights pursuant to Paragraphs 8 and 11 (except with respect to the Restrictions in Paragraph 1), (ii) Parcel 4 in its entirety is benefited by the Restrictions, including without limitation, the easements described in Paragraph 4 and the building area restrictions described in Paragraph 5, and (iii) no modification or termination of the Restrictions or the Declaration of Restrictions shall be effective unless such modification or termination document is executed by the Owner of Parcel 4.

7. Notices. Following the recording of a deed from Twin Creek conveying Parcel 4 to Target Corporation, a Minnesota corporation ("Target"), in the office of the Register of Deeds of Sarpy County, Nebraska, Target's notice address for the purposes of Paragraph 14 shall be as follows:

Target Corporation
Property Development
1000 Nicollet Mall
Minneapolis, MN 55403
Attn: Property Administration

8. Other Terms Unchanged. All other terms and provisions of the Declaration of Restrictions, including the rights of the undersigned to further modify or terminate the restrictions contained herein, shall remain unchanged.

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9. Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10. Recordation. This Indenture shall be recorded in the office of the Register of Deeds of Sarpy County, Nebraska.

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IN WITNESS WHEREOF, the parties have executed this Indenture on the day and year first above written.

TWIN CREEK:
Twin Creek L.P., a Nebraska
Limited partnership

ALBERTSON'S:
Albertson's, Inc.,
a Delaware corporation

BY: Twin Creek Development
Company, L.L.C., a Nebraska
limited liability company,
Its General Partner

BY: *Lincoln V. Sharp, Jr.*
Lincoln V. Sharp, Jr.,
Vice President Real Estate Law

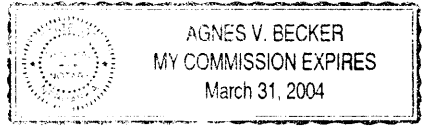
By: *John R. Thompson*
John R. Thompson, Member

RB

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

Acknowledged before me, the undersigned Notary Public, in and for said County and State, on this 24 day of JUNE, 2002, by John R. Thompson, as Member of Twin Creek Development Company, L.L.C., the General Partner of Twin Creek, L.P., a Nebraska limited partnership, for and on behalf of the company and the partnership

WITNESS my hand and notarial seal the day above written.

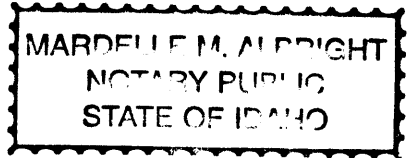


Agnes V. Becker
Notary Public for Nebraska
My Commission expires: 3-31-04

STATE OF Idaho)
)ss.
COUNTY OF Ada)

Acknowledged before me, the undersigned Notary Public, in and for said County and State, on this 19th day of June, 2002, by Lincoln V. Sharp, Jr., as Vice President, Real Estate Lae, of Albertson's, Inc., a Delaware corporation, for and on behalf of the company.

WITNESS my hand and notarial seal the day above written.



Mardele M. Albright
Notary Public
My Commission expires: 10/25/06

