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Fox Plaza
Declaration
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FIRST AMENDMENT TO DECLARATION OF CROSS-EASEMENTS

This First Amendment to Declaration of Cross-Easements ("First Amendment") is made as of the 16th day of February, 2005, by and between Fox Plaza Limited Liability Company, a New Mexico limited liability company ("Fox Plaza"), and Peterson - Fox, LLC, a New Mexico limited liability company ("Peterson - Fox") (hereinafter referred to collectively as the "Parties").

PREAMBLE:

A. WHEREAS, Fox Plaza Partners is the Declarant under that certain Declaration of Cross-Easements dated December 12, 1995, and recorded in Book 9530, Pages 9095-9103 of the real property records of Bernalillo County, New Mexico (hereinafter referred to as the "Declaration"); and

B. WHEREAS, Fox Plaza is the fee owner of, and successor in interest to Fox Plaza Partners with respect to, those certain parcels of real property shown and delineated as Parcels C, D and F on Exhibit "A" attached hereto and by this reference incorporated herein, which Parcels are more particularly described on Exhibit "B" attached hereto and by this reference incorporated herein; and

C. WHEREAS, Peterson - Fox is the fee owner of, and successor in interest to Fox Plaza Partners with respect to, those certain parcels of real property shown and delineated as Parcels A, B, E, G, H, and I on Exhibit "A", which Parcels are more particularly described on Exhibit "B"; and

D. WHEREAS, Peterson - Fox is also the fee owner of that certain parcel of real property shown and delineated as Parcel J on Exhibit "A", which Parcel is more particularly described on Exhibit "C" attached hereto and by this reference incorporated herein, and which Parcel was not originally included in the Declaration;

E. WHEREAS, the Parties desire to amend the Declaration to include Parcel J as shown on the attached Exhibit "A",

F. NOW, THEREFORE, the Parties hereby amend the Declaration as follows:

1. Capitalized Terms. Except as otherwise provided herein, the terms in this First Amendment shall have the same meanings as set forth in the Declaration.

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RETURN TO: FIRST AMERICAN TITLE
LISA ORTEGA GF: N/A

COURTESY RECORDING ONLY NO TITLE LIABILITY ASSURED

2. Site Plan. The Site Plan attached hereto as Exhibit "A" is hereby inserted into and substituted for the Exhibit "A" attached to the Declaration.

3. Cross-Easements.

A. The Parties hereby grant and establish for the benefit of the owners of each of Parcels A, B, C, D, E, F, G, H, I and J, their lessees and customers, mutual, non-exclusive cross-easements of ingress, egress and parking over and across the Common Areas of each of said Parcels, as such may exist from time to time.

B. The Parties hereby grant and establish for the benefit of the owners of each of Parcels A, B, C, D, E, F, G, H, I and J, mutual, non-exclusive easements across, through and under the Common Areas of each of said Parcels, as such are maintained from time to time, for utility services, including but not limited to, water, storm sewer, drainage, sanitary sewer, gas and electric distribution systems, currently existing or to be constructed in the future, in the Common Areas of each of said Parcels. Except as amended hereby, all of the provisions of Paragraph 10 of the Declaration shall apply to Parcels A, B, C, D, E, F, G, H, I and J, and to their respective owners.

C. The Parties hereby grant and establish for the benefit of the owners of each of Parcels A, B, C, D, E, F, G, H, I and J, mutual, non-exclusive easements for encroachment of footings, foundation walls and common walls upon each of said Parcels, and each of such owners may attach to a building wall along a common boundary and use it as a party wall so long as such does not diminish the structural integrity of said wall, or violate any lease of any lessee whose leased premises may include or adjoin said wall.

D. Paragraph 12 of the Declaration is hereby amended to include Parcel J.

E. Paragraph 13 of the Declaration is hereby amended to include Parcel J and its respective owner.

Except as amended hereby, the Declaration shall in all other particulars, terms and conditions, remain in full force and effect. In the event of any inconsistency between the Declaration and this First Amendment, the provisions of this First Amendment shall prevail.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the day and year first above written.

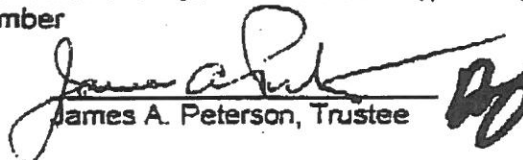
Fox Plaza Limited Liability Company, a New Mexico limited liability company

By: The James A. Peterson and Mary B. Peterson Revocable Trust (created 8/18/1998), managing member

By: James A. Peterson 
James A. Peterson, Trustee

Peterson – Fox, LLC, a New Mexico limited liability company

By: The James A. Peterson and Mary B. Peterson Revocable Trust (created 8/18/1998), managing member

By: James A. Peterson 
James A. Peterson, Trustee

STATE OF NEW MEXICO)
) SS
COUNTY OF BERNALILLO)

The foregoing instrument was subscribed, sworn to and acknowledged before me this 10th day of February, 2005, by James A. Peterson in his capacity as Trustee.



OFFICIAL SEAL
KYLE P. CONNALLY
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires 4-10-2006

Kyle P. Connally
Notary Public

My commission expires April 10, 2006

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442 Supply Inc.
4400 45th St. S.E.
Burien, WA 98148

EXHIBIT "D"

LEGAL DESCRIPTIONS OF PARCELS A, B, C,
D, E, F, G, H AND I

PARCEL A:

A certain Tract of Land, lying and being situate within the Southwest one-quarter (SW1/4) of Section 24, Township 10 North, Range 3 East, New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, said Tract being designated as Tract "4-A", Plat of Tracts 4-A THRU 4-F INCLUSIVE, Land of Tijeras Place Improvement Company Inc., formerly being Tract 4, Land of Tijeras Place Improvement Company Inc. as the same is shown and designated on the Plat of record, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on September 14, 1995 in Plat Book 95-C, Folio 345, containing an area of 77,661.9855 Square Feet or 1.7829 acres more or less.

PARCEL B:

A certain Tract of Land, lying and being situate within the Southwest one-quarter (SW1/4) of Section 24, Township 10 North, Range 3 East, New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, said Tract being designated as Tract "4-B", Plat of Tracts 4-A THRU 4-F INCLUSIVE, Land of Tijeras Place Improvement Company Inc., formerly being Tract 4, Land of Tijeras Place Improvement Company Inc. as the same is shown and designated on the Plat of record, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on September 14, 1995 in Plat Book 95-C, Folio 345, containing an area of 24,078.8850 Square Feet or 0.5528 acres more or less.

PARCEL C:

A certain Tract of Land, lying and being situate within the Southwest one-quarter (SW1/4) of Section 24, Township 10 North, Range 3 East, New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, said Tract being designated as Tract "4-C", Plat of Tracts 4-A THRU 4-F INCLUSIVE, Land of Tijeras Place Improvement Company Inc., formerly being Tract 4, Land of Tijeras Place Improvement Company Inc. as the same is shown and designated on the Plat of record, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on September 14, 1995 in Plat Book 95-C, Folio 345, containing an area of 52,154.9148 Square Feet or 1.1973 acres more or less.

PARCEL D:

A certain Tract of Land, lying and being situate within the Southwest one-quarter (SW1/4) of Section 24, Township 10 North, Range 3 East, New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, said Tract being designated as Tract "4-D", Plat of Tracts 4-A THRU 4-F INCLUSIVE, Land of Tijeras Place Improvement Company Inc., formerly being Tract 4, Land of Tijeras Place Improvement Company Inc. as the same is shown and designated on the Plat of record, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on September 14, 1995 in Plat Book 95-C, Folio 345, containing an area of 107,662.2649 Square Feet or 4.3081 acres more or less.



EXHIBIT "B"

PARCEL E:

A certain Tract of Land, lying and being situate within the Southwest one-quarter (SW1/4) of Section 24, Township 10 North, Range 3 East, New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, said Tract being designated as Tract "4-E", Plat of Tracts 4-A THRU 4-F INCLUSIVE, Land of Tijeras Place Improvement Company Inc., formerly being Tract 4, Land of Tijeras Place Improvement Company Inc. as the same is shown and designated on the Plat of record, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on September 14, 1995 in Plat Book 95-C, Folio 345, containing an area of 17,675.8021 Square Feet or 0.4050 acres more or less.

PARCEL F:

A certain Tract of Land, lying and being situate within the Southwest one-quarter (SW1/4) of Section 24, Township 10 North, Range 3 East, New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, said Tract being designated as Tract "4-F", Plat of Tracts 4-A THRU 4-F INCLUSIVE, Land of Tijeras Place Improvement Company Inc., formerly being Tract 4, Land of Tijeras Place Improvement Company Inc. as the same is shown and designated on the Plat of record, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on September 14, 1995 in Plat Book 95-C, Folio 345, containing an area of 31,300.0037 Square Feet or 0.7185 acres more or less.

PARCEL G:

TRACT 3-A OF LAND OF TIJERAS PLACE IMPROVEMENT COMPANY, INC., ALBUQUERQUE, NEW MEXICO, AS SHOWN AND DESIGNATED ON THE REPLAT OF TRACTS 2 AND 3 OF SAID LAND FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO, ON DECEMBER 20, 1985, AND MORE PARTICULARLY DESCRIBED BY SURVEY OF ELDER COMPANY IN OCTOBER, 1986, WITH BEARINGS RELATED TO THOSE OF THE TIJERAS PLACE IMPROVEMENT COMPANY'S ASSESSMENT PLAT "A", FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO, MARCH 12, 1964, AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER, WHICH IS THE NORTHWEST CORNER OF TRACT 4 AS SHOWN ON SAID ASSESSMENT PLAT, AND RUNNING THENCE S. 00° 08' 08" E., 237.48 FEET ALONG THE LINE COMMON TO SAID TRACT 4 AND THE PARCEL HEREIN DESCRIBED (WHICH LINE IS DESCRIBED ON SAID REPLAT OF TRACTS 2 AND 3 AS RUNNING S. 00° 13' E., AND BEING ONE IDENTICAL LINE PHYSICALLY ON THE GROUND), TO THE SOUTHEAST CORNER;
THENCE N. 89° 51' 52" W., 80.10 FEET (DESCRIBED ON SAID REPLAT AS RUNNING N. 89° 47' W.) TO THE SOUTHWEST CORNER;
THENCE N. 00° 08' 08" W., 247.95 FEET (DESCRIBED ON SAID REPLAT AS RUNNING N. 00° 13' W.) TO THE NORTHWEST CORNER, A POINT ON THE SOUTHERLY LINE OF CENTRAL AVENUE;
THENCE S. 82° 41' E., 80.78 FEET (DESCRIBED ON SAID REPLAT AS RUNNING S. 82° 45' 52" E.) TO THE POINT OF BEGINNING.

PARCEL H:

LOT C-1, BEING A REPLAT OF LOT C, LAND OF TIJERAS PLACE IMPROVEMENT COMPANY, INC., ALBUQUERQUE, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT THEREOF, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO, ON OCTOBER 9, 1986, IN PLAT BOOK C31, PAGE 164.



EXHIBIT "B"

PARCEL I:

LOT C-2, LAND OF TIJERAS PLACE IMPROVEMENT CO., INC., ALBUQUERQUE, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO, ON OCTOBER 9, 1986, AS DOCUMENT NUMBER 86-98117, RECORDED IN VOL. C11, FOLIO 164, RECORDS OF BERNALILLO COUNTY, NEW MEXICO.



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COUNTY OF BERNALILLO
FILED FOR RECORD

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EXHIBIT "C"

LEGAL DESCRIPTION OF PARCEL J

Lots numbered One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7) and Eight (8), in Block numbered Forty-one (41), Tijeras Place, an addition to the City of Albuquerque, as shown and designated on the plat of said addition, filed in the office of the County Clerk of Bernalillo County, New Mexico, on August 24, 1923, EXCEPTING that portion conveyed to the City of Albuquerque, New Mexico by Special Warranty Deed recorded in Book D194A, Page 541.



Mary Herrera

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