

00529052 Bk01225 Pg00652-00659

ALAN SPRIGGS, SUMMIT CO RECORDER
1999 FEB 01 13:36 PM FEE \$24.00 BY GGB
REQUEST: HIGH COUNTRY TITLE

ACCESS AND UTILITIES EASEMENT AGREEMENT

THIS ACCESS AND UTILITIES EASEMENT AGREEMENT ("Agreement") is executed this 28 day of January, 1999, by Blackhawk Ranch, L.C., a Utah Limited Liability Company, and MJM3 L.C., a Utah Limited Liability Company ("Grantors") on the one hand and Blackhawk Ranch Homeowners Association, Inc., a Utah Non-Profit Corporation, and the owners of record of the numbered building lots shown on the Plat of the Blackhawk Ranch subdivision as approved by Summit County, State of Utah, and recorded with the Summit County Recorder; Spring Creek Plaza Homeowners Association, Inc., a Utah Non-Profit Corporation, and the owners of the numbered building lots shown on the Plat of the Spring Creek Plaza Subdivision as approved by Summit County, State of Utah, and recorded with the Summit County Recorder, and more particularly described in Exhibit B attached hereto and made a part hereof, and the owners of the numbered building lots shown on the Plat of Spring Creek Addition B, and more particularly described in Exhibit C attached hereto and made a part hereof ("Grantees") on the other.

RECITALS

Grantors are the owners of a certain parcel of real property located in Summit County, Utah, known as the Blackhawk Trail and more particularly described in Exhibit A attached hereto ("Property").

Grantees are the owners of certain Lots located in the Blackhawk Ranch Subdivision, the Spring Creek Plaza Subdivision (as more particularly described in Exhibit B attached hereto) and/or the Spring Creek Addition B (as more particularly described in Exhibit C attached hereto), Summit County, State of Utah ("Respective Lots"), and desire to access their Respective Lots over and across the Property.

Grantors hereto desire to grant to Grantees a perpetual nonexclusive easement over and across the Property for access, ingress and utilities under, over, through, upon and across the Property for the benefit of Grantees, upon the terms and conditions hereinafter set forth.

In consideration of the sum of TEN DOLLARS (\$10) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

GRANT OF EASEMENTS

1. Recitations. The foregoing recitations are true and correct and are hereby incorporated herein by reference.
2. Grant of Access Easement. Subject to the conditions contained herein, Grantors hereby grant to Grantees, and all successors, assigns, purchasers, and Permittees (as defined below) (collectively, "Successors"), a perpetual nonexclusive easement for pedestrian and vehicular access, ingress and egress over, across, and upon the Property to the Grantees' Respective Lots.
3. Grant of Utilities Easement. Subject to the conditions contained herein, Grantors hereby grant to Grantees and to the Successors a perpetual nonexclusive easement to install, operate, maintain, and remove utilities under, over, through, upon and across the Property to the Grantees Respective Lots; provided however, that (a) installation, operation, and maintenance by any party of utilities shall be undertaken at the sole cost and expense of such party; (b) utilities shall be installed underground whenever feasible; (c) the surface of the Property shall be returned to its original condition after installation, maintenance or removal of any utilities; and (d) the parties shall not install, operate, maintain, or remove utilities in a manner which interferes with unobstructed access, ingress, and egress as provided in Section 2 above.


The easements created hereby are hereinafter referred to as the "Easements".
4. Use by Permittees. The use of the Easements created hereby shall be nonexclusive, and for the use and benefit of the Grantees and/or the owners, tenants, and authorized occupants of the Respective Lots, as well as their successors, customers, visitors, invitees, and licensees ("Permittees").
5. Operation and Maintenance. The Blackhawk Ranch Homeowners Association, Inc. shall operate, maintain and repair the Property in good order, condition, and repair at its own cost and expense, except as otherwise provided herein.
6. Snow Removal. The costs associated with snow plowing and snow removal shall be shared by the Grantees as follows: The Blackhawk Ranch Homeowners Association, Inc. shall pay 75% of such costs; the Spring Creek Plaza Homeowners Association, Inc. shall pay 20% of such costs; and the owners of the property known as Spring Creek Addition B, and more particularly described in Exhibit C hereto, shall pay 5% of such costs.
7. Binding Effect. The covenants contained in this Agreement are personal, but shall run with the land and shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, personal representatives, assigns, transferees or successors in interest.

8. Appurtenant Easements. The Easements are easements appurtenant to all portions of the Property and the Respective Lots.

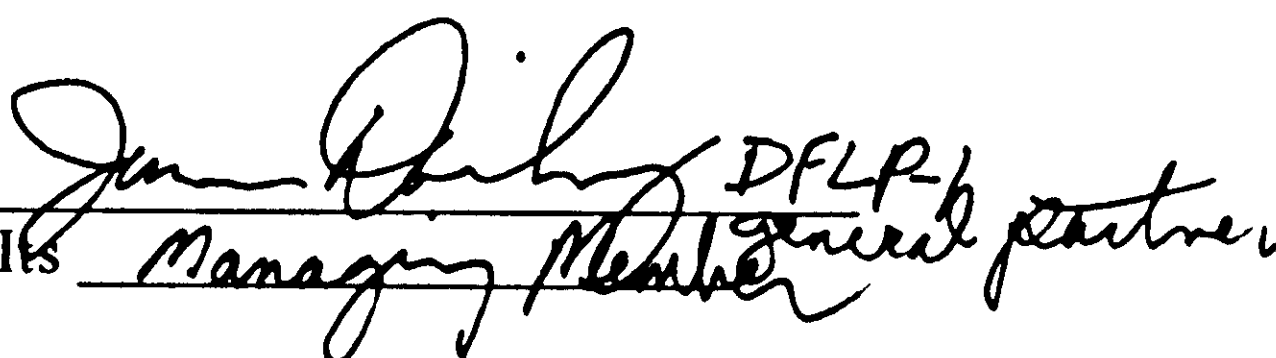
9. Enforcement. In the event of a breach of any of the covenants or agreements set forth in this Agreement, the parties hereto shall be entitled to any and all remedies available at law or in equity, including but not limited to the equitable remedies of specific performance and mandatory or prohibitory injunction issued by a court of appropriate jurisdiction. The parties hereto agree that in the event it becomes necessary for any party to defend or institute legal proceedings as a result of the failure of any party to comply with the terms, covenants, agreements and/or conditions of this Agreement, it is understood and agreed that the prevailing party in such litigation shall be entitled to reimbursement for all costs incurred or expended in connection therewith, including, but not limited to, reasonable attorneys fees (including appellate fees) and court costs. This section shall survive the expiration or termination of this Agreement with respect to obligation which arose during the term of the Agreement.

THIS ACCESS AND UTILITIES EASEMENT AGREEMENT is executed by the parties, intending to be legally bound, as of the date first written above.

By the Grantors:
Blackhawk Ranch, L.C.

By 
Its MANAGER


MJM3, L.C.

By  DFLP
Its Managing Member general partner

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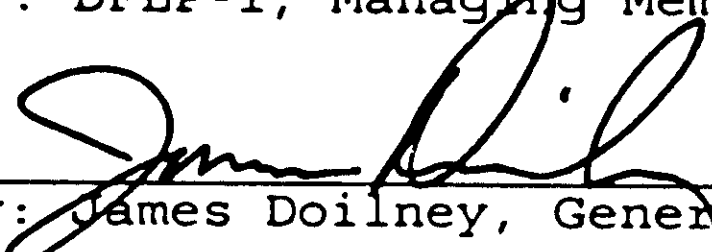
Blackhawk Ranch, L.C.


By: James A. Doilney, Manager

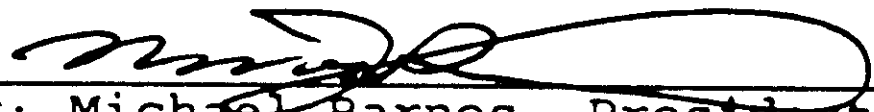

By: Michael Barnes, a Member

MJM3, L.C.

By: DFLP-1, Managing Member


By: James Doilney, General Partner

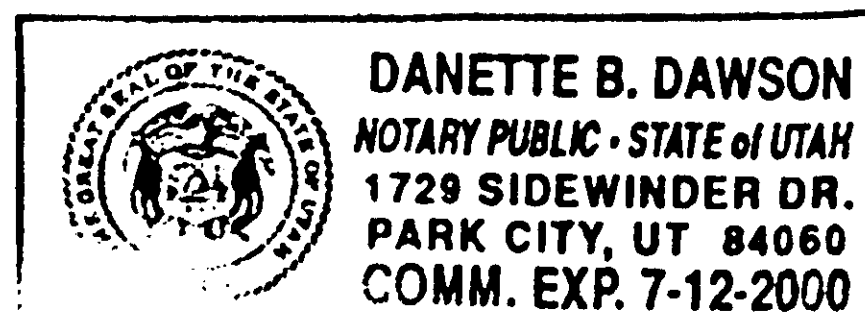
By: Trend Properties, a Member


By: Michael Barnes, President

STATE OF UTAH)
 (ss.
COUNTY OF SUMMIT)

On the 28th day of January, 1999 A.D., personally appeared before me James A. Doilney, who being by me duly sworn did say, that he is the Manager of Blackhawk Ranch, L.C., a Utah limited liability company and that the within and foregoing instrument was signed in behalf of said Limited Liability Company by authority of a resolution of its Members and said James A. Doilney duly acknowledged, that said Limited Liability Company executed the same.


Notary Public




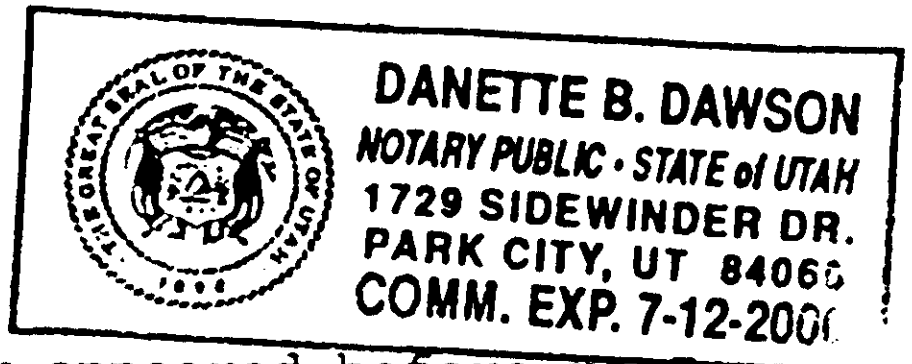
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STATE OF UTAH)
(ss.
COUNTY OF SUMMIT)

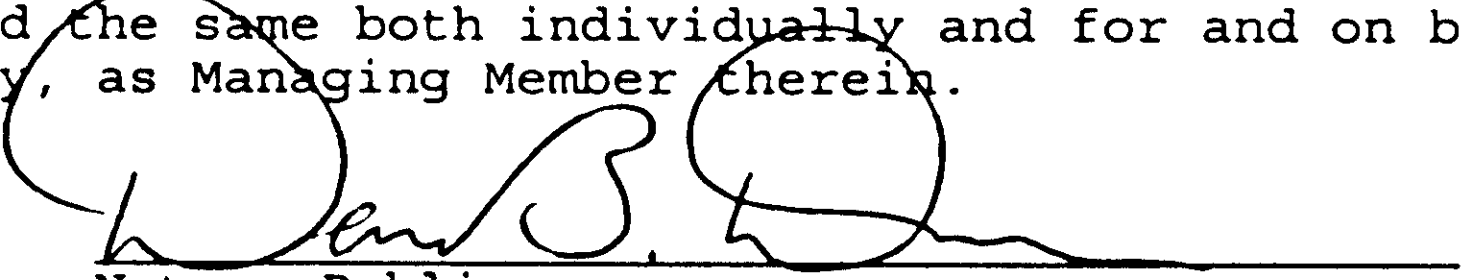
On the 28th day of January, 1999 A.D., personally appeared before me Michael Barnes, who being by me duly sworn did say, that he is a Member of Blackhawk Ranch, L.C., a Utah limited liability company and that the within and foregoing instrument was signed in behalf of said Limited Liability Company by authority of a resolution of its Members and said Michael Barnes duly acknowledged, that said Limited Liability Company executed the same.

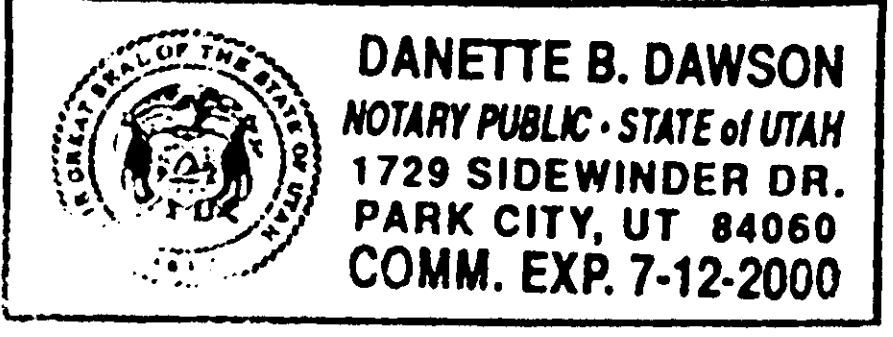

Notary Public



STATE OF UTAH)
(ss.
COUNTY OF SUMMIT)

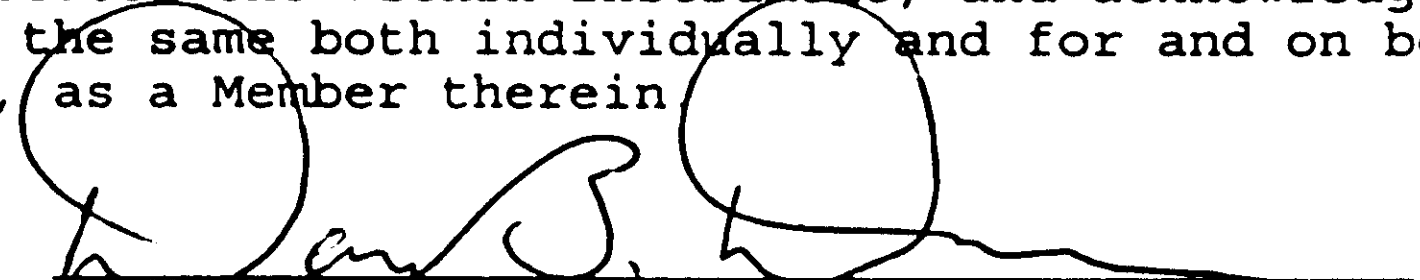
On the 28th day of January, 1999 A.D., personally appeared before me James Doilney, who being by me duly sworn did say, that he is the General Partner of DFLP-1, the partnership that executed the within instrument; that said partnership is the Managing Member of MJM3, L.C., a Utah limited liability company, the Limited Liability Company that executed the within instrument; and acknowledged to me that said partnership executed the same both individually and for and on behalf of said limited liability company, as Managing Member therein.


Notary Public



STATE OF UTAH)
(ss.
COUNTY OF SUMMIT)

On the 28th day of January, 1999 A.D., personally appeared before me Michael Barnes, who being by me duly sworn did say, that he is the President of Trend Properties, the corporation that executed the within instrument; that said corporation is a Member of MJM3, L.C., a Utah limited liability company, the Limited Liability Company that executed the within instrument; and acknowledged to me that said corporation executed the same both individually and for and on behalf of said limited liability company, as a Member therein.


Notary Public

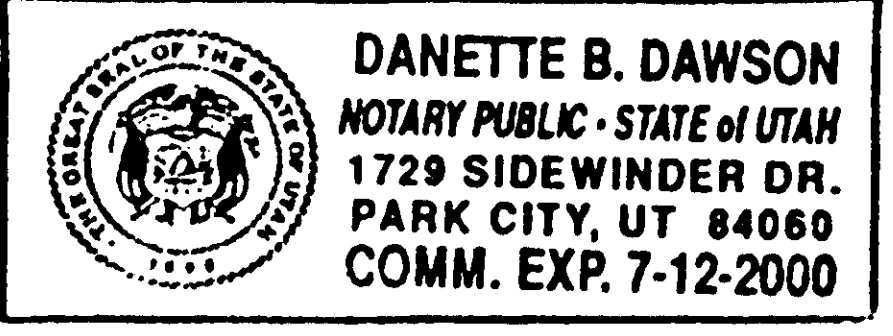


EXHIBIT A

BOUNDARY DESCRIPTION

BLACKHAWK TRAIL

Beginning at a point South 00°07'10" East 1108.14 feet along the Section Line and North 72°06'16" West 1752.65 feet along the northerly right-of-way line of Bitner Road from the Northeast Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and running thence North 72°06'16" West 60.13 feet along the right-of-way line of Bitner Road; thence North 14°06'48" East 161.99 feet to a point on a 310.00 foot radius curve to the left, of which the radius point bears North 75°53'12" West; thence along the arc of said curve 173.94 feet through a central angle of 32°08'55"; thence North 18°02'06" West 90.73 feet to a point on a 596.04 foot radius curve to the right, of which the radius point bears North 71°57'54" East; thence along the arc of said curve 273.44 feet through a central angle of 26°17'06"; thence North 08°15'00" East 250.99 feet; thence North 21°37'12" West 107.44 feet; thence North 60°51'00" East 71.42 feet; thence North 78°16'00" East 30.74 feet to a point on a 125.86 foot radius curve to the right, of which the radius point bears South 59°22'12" West; thence along the arc of said curve 85.41 feet through a central angle of 38°52'48"; thence South 08°15'00" West 319.04 feet to a point on a 536.04 foot radius curve to the left, of which the radius point bears South 81°45'00" East; thence along the arc of said curve 245.91 feet through a central angle of 26°17'06"; thence South 18°02'06" East 90.73 feet to a point on a 370.00 foot radius curve to the right, of which the radius point bears South 71°57'54" West; thence along the arc of said curve 207.61 feet through a central angle of 32°08'55"; thence South 14°06'48" West 165.95 feet to the point of beginning.

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EXHIBIT C

BOUNDARY DESCRIPTION

SPRING CREEK ADDITION B.

Beginning at a point North 00° 03' 51" East 368.80 feet along the Section line and West 1396.93 feet from the Southeast Corner of Section 18, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and running thence South 13° 38' 00" West 174.16 feet; thence South 51° 48' 52" West 66.10 feet; thence South 23° 30' 18" West 21.27 feet; thence North 81° 45' 00" West 179.07 feet; thence North 08° 15' 00" East 279.04 feet to a point on a 125.86 foot radius curve to the left, of which the radius point bears North 81° 45' 00" West; thence along the arc of said curve 85.41 feet through a central angle of 38° 52' 48"; thence North 78° 16' 00" East 34.60 feet; thence South 63° 52' 00" East 29.05 feet; thence South 79° 28' 47" East 55.91 feet; thence South 66° 47' 38" East 116.78 feet; thence South 11° 46' 02" West 36.34 feet; thence South 35° 10' 50" East 69.56 feet to the point of beginning.
Description contains 1.81 acres.

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