

When recorded, mail to:

Bryan G. Petkanics
St. John & Wayne, LLC
70 East 55th Street, 19th Floor
New York, New York 10022

S. 9206

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ALAN SPRIGGS, SUMMIT CO RECORDER
2004 FEB 19 12:34 PM FEE \$32.00 BY GGB
REQUEST: FOUNDERS TITLE CO

COLLATERAL ASSIGNMENT OF DECLARANT'S RIGHTS UNDER THOSE CERTAIN CC&R'S

THIS COLLATERAL ASSIGNMENT OF DECLARANT'S RIGHTS UNDER THOSE CERTAIN CC&R'S ("**Assignment**"), is made and entered this 19th day of February, 2004, by and between Redhawk Development, L.L.C., a Utah limited liability company ("**Declarant**") and HSBC Bank USA, a New York banking corporation ("**Lender**").

RECITALS

WHEREAS, Lender has agreed to make a loan (the "**Loan**") to MacDonald Utah Holdings, LLC, a Utah limited liability company ("**Borrower**"), which is controlled by or under common control with Declarant, and which loan is made pursuant to that certain Revolving Credit Agreement, dated February 19, 2004 (the "**Loan Agreement**"), between Borrower and Lender. Capitalized terms used herein and not otherwise defined shall have the meaning given them in the Loan Agreement.

WHEREAS, Borrower, as security for repayment of the Loan, has granted Lender, as beneficiary, a security interest pursuant to one or more Deeds of Trust, Assignment of Rents, Security Agreement and Financing Statement (collectively, the "**Trust Deeds**") affecting certain real property owned by Borrower and located in Summit County, Utah, as more particularly described on Exhibit A attached hereto and made a part hereof (the "**Property**").

WHEREAS, to induce Lender to make the Loan to Borrower, and as a condition to such Loan, Declarant has agreed to assign its rights under that certain Red Hawk Wildlife Preserve Declaration of Covenants, Conditions, and Restrictions, dated as of May 20, 1997, and recorded in the official records of Summit County, Utah, as entry number 00479290 at Book number 01048, and Page number 00216-00263 (the "**Declaration**"), which Declaration affects the Property.

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

1. To secure payment and performance of the Loan and other Obligations (as defined in the Loan Agreement), to enable Lender to benefit from and realize the full value of its security interest in the Property granted pursuant to the Trust Deeds, and pursuant to Section 16.10 of the Declaration, Declarant hereby conditionally assigns to Lender and designates Lender as its successor to, all of Declarant's rights, privileges and powers as "Declarant" under the Declaration, including without limitation, with respect to Declarant's right to amend the Declaration in accordance with Section 13.2 thereof, which assignment and designation shall automatically become effective upon a foreclosure by Lender under one or both of the Trust Deeds and Lender's succeeding to the fee title of the Property pursuant thereto (the "**Designation**").

2. Declarant and Lender agree that the Designation is being made solely as and in connection with the security granted to Lender for payment and performance of the Obligations, and the Lender, by its acceptance thereof, shall not be deemed to have assumed or otherwise become liable for any of the obligations or liabilities of Declarant under the Declaration or otherwise, except to the extent, and only from and after the time, the rights of Declarant under the Declaration actually and fully vest in Lender pursuant to the Designation as provided above.

Declarant hereby acknowledges that it remains liable under the Declaration to the same extent as though this Assignment had not been executed.

3. Declarant represents and warrants to Lender (i) that Declarant is the "Declarant" under the Declaration, (ii) that Declarant has not transferred, conveyed or assigned its rights under the Declaration to any other person prior to the date hereof, and (iii) in the event that Lender shall succeed to Borrower's fee interest in the Property pursuant to foreclosure proceedings under the Trust Deeds, Lender shall be the successor and assign of Declarant under the Declaration as provided in Section 16.10 thereof without the need for Declarant or Lender to take any further action; provided, that in the event Lender succeeds to Declarant's rights under the Declaration as provided herein, Declarant agrees that it shall execute and deliver such further documents and assurances as Lender may reasonably request to evidence the effectiveness of the Designation. Declarant acknowledges that it will derive a real and substantial benefit from the extension of the Loan to Borrower.

4. Declarant covenants and agrees that it shall not amend, nor shall it consent to any amendment to, the Declaration unless Declarant has obtained the prior written approval of Lender which approval shall not be unreasonably withheld or delayed.

5. This Assignment shall automatically terminate upon the full and complete satisfaction of the Obligations. Lender agrees that, upon such full and complete satisfaction and at the request of Declarant, Lender shall execute a termination and release of the Conditional Designation which may be recorded in the official records of Summit County, Utah.

This Assignment shall be binding upon Declarant and its successors and assigns and shall inure to the benefit of Lender and its successors and assigns. Time is of the essence with respect to this Assignment. In the event a dispute shall arise regarding the enforcement of any provision of this Assignment, the prevailing party shall be entitled to reimbursement from the other party for all reasonable cost and expenses (including without limitation, attorneys' fees and court costs).

[Signature Page Follows]

BK1600 PG0243

Exhibit A

(Legal Description of Property)

That certain real property in Summit County, Utah, more particularly described as follows:

[Include legal description of all real property under both Deeds of Trust]

COMMITMENT FOR TITLE INSURANCE

Exhibit "A"
(Legal Description)

File No. F-S9206
Amendment 5

PARCEL 1

THE PRESERVE PHASE 1, according to the official plat thereof on file and of record in the Summit County recorder's office.

EXCEPTING THEREFROM LOTS 18, 19 AND 20.

PARCEL 2

BEGINNING AT A POINT WHICH IS NORTH 00°02'19" EAST ALONG THE SECTION LINE 41.16 FEET FROM THE SOUTHWEST CORNER OF SECTION 5, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN (BASIS OF BEARING BEING SOUTH 00°11'44" WEST 2660.65 FEET BETWEEN SAID SOUTHWEST CORNER AND THE WEST QUARTER CORNER OF SECTION 8), SAID POINT BEGINNING ALSO BEING ON THE NORTHERLY LINE OF THE RIDGE AT RED HAWK, ON FILE AS ENTRY NO. 479638 AT THE SUMMIT COUNTY RECORDER'S OFFICE; AND RUNNING THENCE NORTH 00°02'19" EAST ALONG THE SECTION LINE 2658.80 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 5; THENCE NORTH 00°07'16" WEST ALONG THE SECTION LINE 2130.13 FEET TO THE NORTHWEST CORNER OF SAID SECTION 5; THENCE SOUTH 89°55'35" EAST ALONG THE SECTION LINE 981.00 FEET; THENCE SOUTH 00°04'31" WEST 1000.00 FEET; THENCE SOUTH 89°55'35" EAST 1195.78 FEET; THENCE SOUTH 00°04'31" WEST 29.00 FEET; THENCE SOUTH 89°55'35" EAST 423.22 FEET; THENCE NORTH 00°04'31" EAST 1029.00 FEET TO THE NORTH LINE OF SAID SECTION 5; THENCE SOUTH 89°55'35" EAST ALONG THE SECTION LINE 896.55 FEET; THENCE SOUTH 00°04'15" WEST 2116.44 FEET TO THE NORTH LINE OF THE AMENDED PLAT GOSHAWK RANCH ON FILE AS ENTRY NO. 547374 AT THE SUMMIT COUNTY RECORDER'S OFFICE; THENCE ALONG SAID NORTH AND THE WEST LINE OF SAID AMENDED PLAT GOSHAWK RANCH THE FOLLOWING TWO (2) COURSES: 1) THENCE SOUTH 89°43'32" WEST 838.18 FEET; THENCE SOUTH 00°00'30" WEST 2696.22 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 5, SAID POINT ALSO BEING ON THE NORTH LINE OF RED HAWK RANCH PLAT B ON FILE AS ENTRY NO. 520593 AT THE SUMMIT COUNTY RECORDER'S OFFICE; THENCE ALONG THE NORTHERLY BOUNDARY OF SAID RED HAWK RANCH PLAT B THE FOLLOWING FIVE (5) COURSES: 1) THENCE SOUTH 89°48'26" WEST ALONG THE SECTION LINE 640.79 FEET; 2) THENCE SOUTH 66°27'18" WEST 1050.76 FEET; 3) THENCE NORTH 61°05'06" WEST 647.31 FEET; 4) THENCE NORTH 82°25'23" WEST 270.81 FEET; 5) THENCE NORTH 63°43'15" WEST 238.16 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING:

BEGINNING AT A POINT WHICH IS NORTH 00°07'16" WEST ALONG THE SECTION LINE 59.14 FEET FROM THE WEST QUARTER CORNER OF SECTION 5, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN (BASIS OF BEARING BEING NORTH 00°07'16" WEST 2130.13 FEET BETWEEN SAID WEST QUARTER CORNER AND THE NORTH WEST CORNER OF SAID SECTION 5); AND RUNNING THENCE NORTH 00°07'16" WEST ALONG SAID SECTION LINE, 1071.39 FEET; THENCE EAST 35.04 FEET; THENCE SOUTH 1066.00 FEET; THENCE SOUTH 80°39'21" WEST 33.22 FEET TO THE POINT OF BEGINNING.

EXHIBIT "A"
Commitment



Founders Title Company

BK1600 PG024E

EXHIBIT "A" - continued

File No. F-S9206

ALSO EXCEPTING THEREFROM THE FOLLOWING:

BEGINNING AT A POINT WHICH IS NORTH 00°02'19" EAST ALONG THE SECTION LINE 1634.69 FEET FROM THE SOUTH WEST CORNER OF SECTION 5, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN (BASIS OF BEARING BEING NORTH 00°02'19" EAST 2699.96 FEET BETWEEN SAID SOUTH WEST CORNER AND THE WEST QUARTER CORNER OF SAID SECTION 5); AND RUNNING THENCE NORTH 00°02'19" EAST ALONG SAID SECTION LINE 384.14; THENCE SOUTH 54°46'01" EAST 315.91 FEET; THENCE SOUTH 22°33'54" WEST 153.15 FEET; THENCE SOUTH 67°35'02" WEST 65.79 FEET; THENCE SOUTH 75°41'33" WEST 143.14 FEET TO THE POINT OF BEGINNING.

PARCEL 3

BEGINNING AT A POINT 2177 FEET EAST FROM THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; THENCE EAST ALONG THE SECTION LINE 423 FEET; THENCE SOUTH 1029 FEET; THENCE WEST 423 FEET; THENCE NORTH 1029 FEET TO THE POINT OF BEGINNING.

PARCEL 4

NON-EXCLUSIVE EASEMENTS FOR INGRESS AND EGRESS AS FOLLOWS:

1. AN EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS CONTIGUOUS PROPERTY AS PROVIDED FOR BY VIRTUE OF THE FOLLOWING:

A) A RIGHT OF WAY EASEMENT DATED AUGUST 30TH, 1984, FROM GERALD H. BAGLEY, DBA BAGLEY AND COMPANY TO AMERICAN SAVINGS AND LOAN ASSOCIATION RECORDED AUGUST 31, 1984, AS ENTRY NO. 224592, IN BOOK 312, AT PAGE 818, SUMMIT COUNTY RECORDER'S OFFICE.

B) GRANT OF EASEMENT BY AND BETWEEN THE JEREMY, LTD. A UTAH LIMITED PARTNERSHIP, JEREMY SERVICE CORPORATION, A UTAH CORPORATION AND AMERICAN SAVINGS AND LOAN ASSOCIATION.

DATED - APRIL 11, 1988 RECORDED - APRIL 27, 1988
ENTRY NO.: 289616 BOOK/PAGE: 475/549

AS AMENDED BY THAT CERTAIN AMENDMENT OF EASEMENT BY AND BETWEEN THE TRAILS DEVELOPMENT, A UTAH GENERAL PARTNERSHIP AND WESTSIDE CANADIAN PROPERTIES COMPANY, A CALIFORNIA GENERAL PARTNERSHIP.

DATED - AUGUST 31, 1994 RECORDED: - OCTOBER 13, 1994
ENTRY NO.: 416834 BOOK/PAGE 843/107

C) ORDER GRANTING SUMMARY JUDGMENT AND JUDGMENT AS ENTERED IN THE THIRD JUDICIAL DISTRICT COURT IS AND FOR SUMMIT COUNTY, STATE OF UTAH ON AUGUST 4, 1994 IS CASE NO. 94-03-00069QT AND RECORDED IN THE OFFICE OF THE SUMMIT COUNTY.

RECORDED - AUGUST 31, 1994 ENTRY NO. - 413785
BOOK/PAGE - 833/417

D) CROSS EASEMENT AGREEMENT BY AND BETWEEN WESTSIDE CANADIAN PROPERTIES COMPANY, A PARTNERSHIP AND RED HAWK LAND COMPANY, L.L.C. A UTAH LIMITED LIABILITY COMPANY.

DATED - NOVEMBER 22, 1995 RECORDED - NOVEMBER 24, 1995
ENTRY NO. - 443078 BOOK/PAGE - 926/572

EXHIBIT "A" - Continued
Commitment



Founders Title Company

BK1600 PG0247

EXHIBIT "A" - continued

File No. F-S9206

ACKNOWLEDGMENT AND RELEASE UNDER CROSS EASEMENT AGREEMENT, DATED AUGUST 10, 1999, RECORDED AUGUST 16, 1999 AS ENTRY NO. 546635 IN BOOK 1282 AT PAGE 724.

E) EASEMENTS AND RIGHTS OF WAY AS SHOWN ON THE OFFICIAL PLAT OF THE RIDGE AT RED HAWK.

F) TRAILS CROSS EASEMENT AGREEMENT:

DATED: AUGUST 10, 1999
RECORDED: AUGUST 16, 1999
ENTRY NO.: 546641
BOOK/PAGE: 1282/749

2. TOGETHER WITH A NON-EXCLUSIVE RIGHT OF WAY 100 FEET IN WIDTH FOR INGRESS AND EGRESS, SAID RIGHT OF WAY BEING 50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

BEGINNING AT A POINT WHICH IS SOUTH 1433.19 FEET AND WEST 2200.34 FEET FROM THE SOUTHEAST CORNER OF SECTION 17, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN (SAID POINT BEING ON THE CENTER LINE OF AN EXISTING DIRT ROAD AND THE NORTHERLY LINE OF A COUNTY ROAD); AND RUNNING THENCE NORTH 12°37'36" WEST 90.16 FEET; THENCE NORTH 16°44'02" WEST 204.35 FEET; THENCE NORTH 02°00'32" EAST 59.86 FEET; THENCE NORTH 49°08'45" EAST 510.31 FEET; THENCE NORTH 79°39'38" EAST 258.66 FEET; THENCE NORTH 32°48'09" EAST 174.02 FEET THENCE NORTH 11°01'47" WEST 579.08 FEET, MORE OR LESS, TO THE SOUTHERLY LINE OF SECTION 17, THENCE NORTH 00°22'58" WEST 176.11 FEET; THENCE NORTH 03°50'31" EAST 1700.84 FEET; THENCE NORTH 27°13'53" EAST 1568.28 FEET; THENCE NORTH 50°09'35" EAST 1041.33 FEET; THENCE NORTH 29°34'05" EAST 317.20 FEET; THENCE NORTH 06°08'20" EAST 687.26 FEET; THENCE NORTH 11°44'41" EAST 399.59 FEET MORE OR LESS TO THE POINT OF BEGINNING OF THE RIGHT OF WAY SET FORTH NEXT BELOW.

3. TOGETHER WITH A NON-EXCLUSIVE RIGHT OF WAY 100 FEET IN WIDTH FOR INGRESS AND EGRESS, SAID RIGHT OF WAY BEING 50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

BEGINNING AT A POINT WHICH IS EAST 290.40 FEET FROM THE SOUTHWEST CORNER OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH 10°24'43" EAST 80.35 FEET; THENCE NORTH 00°15'50" WEST 1344.26 FEET; THENCE NORTH 08°17'52" WEST 324.59 FEET; THENCE NORTH 24°06'15" WEST 116.17 FEET; THENCE NORTH 61°51'53" WEST 912.86 FEET; THENCE NORTH 58°43'03" WEST 276.53 FEET; THENCE NORTH 34°25'07" WEST 302.84 FEET; THENCE NORTH 17°09'09" WEST 490.38 FEET; THENCE NORTH 32°31'12" WEST 218.58 FEET; THENCE NORTH 18°30'43" WEST 722.90 FEET; THENCE NORTH 04°59'44" WEST 196.12 FEET; THENCE NORTH 20°15'51" EAST 294.87 FEET; THENCE NORTH 04°57'03" WEST 395.75 FEET; THENCE NORTH 11°16'06" EAST 112.41 FEET; THENCE NORTH 51°17'55" EAST 345.44 FEET; THENCE NORTH 09°10'52" WEST 184.10 FEET; THENCE NORTH 08°23'56" EAST 32.74 FEET TO THE SOUTHERLY LINE OF SECTION 5, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

The following is shown for informational purposes only: Tax Parcel No.'s SS-15, SS-16, RHWK-B-241 THRU RHWK-B-246, RHWK-B-249, RHWK-B-251 THRU RHWK-B-257, RHWK-C-300-AM, RHWK-C-358-AM, RHWK-C-359-AM, RHWK-C-360-AM, SS-13-B-1, SS-13-3.

EXHIBIT "A" - Continued
Commitment



Founders Title Company

BK1600 PG0248