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Date 23-NOV-2005 10:12am  
Fee: 22.00 Check  
BRENDA NELSON, Recorder  
Filed By BDN  
For FIRST AMERICAN TITLE COMPANY O  
MORGAN COUNTY

Draft  
November 14, 2005

#454712  
When recorded, return to:  
R. L. Knuth,  
Attorney at Law  
JONES, WALDO, HOLBROOK & McDONOUGH, P.C.  
170 South Main Street, Suite 1500  
Salt Lake City, Utah 84101

THIS DOCUMENT HAS BEEN RECORDED ELECTRONICALLY  
ENTRY # 759622 DATE 11/22/05

## CONVEYANCE OF DEVELOPMENT RIGHTS, AND AGREEMENT

This CONVEYANCE OF DEVELOPMENT RIGHTS, AND AGREEMENT ("Agreement") is made by and between JAMES LAVENDER and JULIE LAVENDER, husband and wife, and LEIGH MEIER (together, "Grantors"), and THE PRESERVE III LLC, a Utah limited liability company ("Grantee") whose address is c/o Kirkpatrick MacDonald, MacDonald & Cie, 114 West 78th Street, New York, NY 10024.

### RECITALS

A. Grantors and Grantee own as tenants in common real property in Summit and Morgan Counties, Utah described in Exhibit A (the "Property"). James Lavender and Julie Lavender, husband and wife own 13.75% of the undivided fee simple interest, Leigh Meier owns 13.75% of the undivided fee simple interest, and Grantee owns the remaining 72.5% of the undivided fee simple interest.

B. In exchange for the rights granted hereunder, Grantors have subscribed to acquire equity in Grantee representing a contribution to capital of \$1,100,000, and have executed Grantee's Operating Agreement.

### AGREEMENT AND CONVEYANCE

1. **Conveyance of Development Rights.** Grantors hereby convey and warrant to the Grantee all of Grantors' development rights in the Property, including the exclusive right to plat and subdivide, obtain development approvals, enter into consent agreements, construct roads, utilities, residences and associated improvements, and otherwise develop and market the Property for wholesale and/or retail sales of lots, and to convey Grantors' undivided interest in the Property, along with Grantee's undivided interest, to purchasers, all on such terms and conditions as Grantee shall, in its sole discretion, determine.

2. **Power of Attorney.** Grantors hereby irrevocably appoint Grantee as their attorney-in-fact to convey the Grantors' interest in the Property, or any lesser interest such as easements, rights of way, restrictive covenants and security interests, to third-parties.

SS-151-A  
SS-151-A1

01-001-060

3. **Transfer or Encumbrance.** Grantors retain all rights in the Property not conveyed under this Agreement, and agree not to convey, transfer or encumber such rights without the prior, written consent of Grantee.

4. **Attorneys' Fees.** The prevailing party in any legal action under this Agreement has the right to recover reasonable attorneys' fees and costs from the other party.

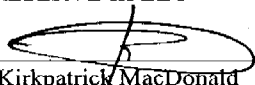
5. **Entirety of Agreement.** This Agreement, together with the Subscription Agreement and the Operating Agreement of The Preserve III LLC, embodies the entire agreement between the parties and supersedes any prior agreements and understandings relating to the Property.

6. **Choice of Law.** This Agreement is governed by Utah law.

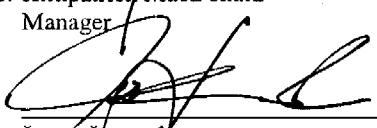
**DATED** this 21st day of November, 2005.

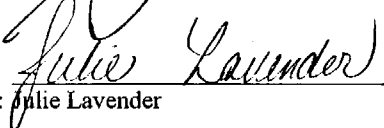
**GRANTEE:**

THE PRESERVE III LLC

By:   
Name: Kirkpatrick MacDonald  
Title: Manager

**GRANTORS:**

By:   
Name: James Lavender

By:   
Name: Julie Lavender

By: \_\_\_\_\_  
Name: Leigh Meier

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**DATED** this 21st day of November, 2005.

**GRANTEE:**

THE PRESERVE III LLC

By:   
Name: Kirkpatrick MacDonald  
Title: Manager

**GRANTORS:**

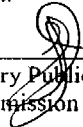
By: \_\_\_\_\_  
Name: James Lavender

By: \_\_\_\_\_  
Name: Julie Lavender

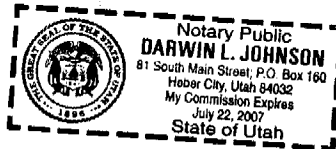
By:   
Name: Leigh Meier

STATE OF UTAH )  
 ) : ss  
COUNTY OF WASATCH )

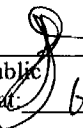
On the 21st day of November, 2005, personally appeared before me Kirkpatrick MacDonald, the Manager of The Preserve III LLC, a Utah limited liability company, who, being by me duly sworn did say that the within instrument was signed by each on behalf of said company by authority granted in its Operating Agreement.

  
\_\_\_\_\_  
Notary Public  
Commission expires: 7-22-07

STATE OF UTAH )  
 ) : ss  
COUNTY OF WASATCH )

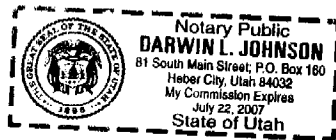


On the 21st day of November, 2005, personally appeared before me James Lavender, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

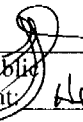
  
\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_

My Commission Expires:  
7-22-07

STATE OF UTAH )  
 ) : ss  
COUNTY OF WASATCH )

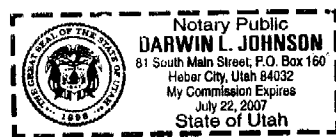


On the 21st day of November, 2005, personally appeared before me Julie Lavender, the signer of the foregoing instrument, who duly acknowledged to me that she executed the same.

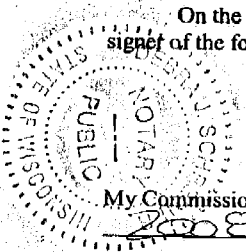
  
\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_

My Commission Expires:  
7-22-07

STATE OF UTAH )  
 ) : ss  
COUNTY OF WASATCH )



On the 21st day of November, 2005, personally appeared before me Leigh Meier, the  
signer of the foregoing instrument, who duly acknowledged to me that he executed the

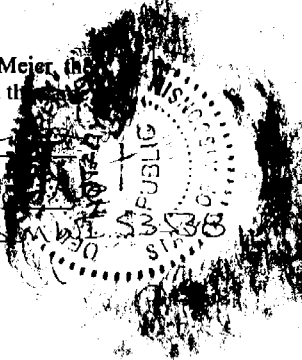


*Delra Scheff*

Notary Public

Residing at: 800 Madison

Flattins



My Commission Expires:

2008

## EXHIBIT A

### Legal Description

Property situated in Morgan and Summit Counties: The West one-half and the West 247.5 feet of the East half of Section 31, Township 1 North, Range 4 East, Salt Lake Base and Meridian, less 40 acres described as follows:

Forty (40) Acre Parcel located in the Southwest quarter of Section 31, Township 1 North, Range 4 East, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Southwest corner of Section 31, Township 1 North, Range 4 East, Salt Lake Base and Meridian, and running thence North along the Section line 871.20 feet; thence East 1800 feet; thence South  $24^{\circ}39'42''$  East 958.64 feet, to the South line of said Section 31; thence West 2200 feet to the point of beginning.

Further less and excepting therefrom any portion of the above described intersecting Stagecoach Estates Plat D.

Together with a right-of-way fifty (50) feet in width in common with Grantor Milton O. Bitner Company, and all other land purchasers on Bitner Ranch, on existing roads, or as adjusted for all, across the property of Grantor Milton O. Bitner Company, in Section 32, Township 1 North, Range 4 East, and Section 5, 8, 17, and 20, Township 1 South, Range 4 East, Salt Lake Base and Meridian, to provide ingress and egress to the Grantees' above-described property, as limited and conditioned on the attached Exhibit "A". Said right-of-way was created by that certain Special Warranty Deed as Entry No. 136169 in Book M-90 at Page 28-30, which was re-recorded as Entry No. 151580 in Book M-124 at Page 382-4 (the Exhibit A was not attached to vesting deed).