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RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
9/27/2006 9:35:00 AM  
FEE \$30.00 Pgs: 11  
DEP eCASH REC'D FOR THE TALON GROUP

**67**  
WHEN RECORDED RETURN TO:  
The Talon Group  
200 East South Temple, Suite 200  
Salt Lake City, Utah 84111

## RECIPROCAL UTILITY EASEMENTS GRANT AND AGREEMENT

10-028-0057

THIS RECIPROCAL UTILITY EASEMENTS GRANT AND AGREEMENT (the "Agreement") dated as of the 25 day of Sept, 2006, is entered into by and between The Bartley K. Curtis Investment Trust w/a/d August 24, 1999 ("CURTIS INVESTMENT TRUST") and 1550 Associates LLC ("1550 Associates").

WHEREAS, CURTIS INVESTMENT TRUST is the sole owner of the legal and beneficial title to certain real property located generally at 1596 North Hillfield Road, Layton, Davis County, Utah, (the "CURTIS INVESTMENT TRUST Property"), more particularly described as follows:

Beginning at the Southeast corner of that certain property described in that certain Warranty Deed dated 16 November 1996 and recorded 19 November 1996 as Entry no. 1288099 in Book 2065 at Page 1240 of official records, said point being located South 89°54'50" West 680.42 feet and North 0°09'12" East 290.46 feet from the East Quarter Corner of Section 17, Township 4 North, Range 1 West, Salt Lake Base and Meridian and running thence North 89°46'06" West along the South Line of said parcel 286.50 feet; thence North 0°08'48" East 65.23 feet; thence South 89°46'06" East 74.13 feet to the Southeast corner of an existing block building and an existing party wall line; thence North 0°14'13" East along said party wall line and the extension thereof 346.39 feet to a point on the South line of the Foxcreek Apartment Complex; thence South 89°50'48" East along said South line of said Foxcreek Apartment Complex 211.88 feet; thence South 0°09'12" West 411.91 feet to the point of beginning.

Contains 92,198.91 sq. ft. or 2.12 Acres

WHEREAS, 1550 Associates is the owner of the legal and beneficial title to certain real property contiguous to and situated to the west of the CURTIS INVESTMENT TRUST Property and located generally at 1550-1590 North Hillfield Road, Layton, Davis County, Utah, (the "1550 Associates Property"), more particularly described as follows:

Beginning at a point on the South line of that certain property described in that certain Warranty Deed dated 16 November 1996 and recorded 19 November 1996 as Entry no. 1288099 in Book 2065 at Page 1240 of official records, said point being located South 89°54'50" West 680.42 feet and North 0°09'12" East 290.46 feet to said South Line and North 89°46'06" West along said South Line 286.50 feet from the East Quarter Corner of Section 17, Township 4 North, Range 1 West, Salt Lake Base and Meridian and running thence North

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89°46'06" West along said South Line 305.92 feet to the East Line of 400 West Street; thence North 0°08'48" East along said East Line 411.10 feet to the Southwesterly corner of the Foxcreek Apartment Complex; thence South 89°50'48" East along the South line of said Foxcreek Apartment Complex 380.59 feet to a point on the extension of a party wall line; thence South 0°14'13" West along said party wall line and the extension thereof 346.39 feet to the Southeast corner of an existing block building; thence North 89°46'06" West 74.13 feet; thence South 0°08'48" West 65.23 feet to the point of beginning.

Contains 151,595.62 sq. ft. or 3.48 Acres

WHEREAS, concurrently with the execution of this Agreement, 1550 Associates has purchased the legal and beneficial title to the 1550 Associates Property, which is contiguous to and is situated to the west of the CURTIS INVESTMENT TRUST Property. Prior to this purchase, CURTIS INVESTMENT TRUST was the sole owner of the 1550 Associates Property and the CURTIS INVESTMENT TRUST Property (the 1550 Associates Property and the CURTIS INVESTMENT TRUST Property shall collectively be referred to herein as the "Business Park"). The construction of the Business Park included such improvements as sewer lines, storm and surface water drains, runoff and collection facilities, water and gas mains, electrical power lines and electrical control boxes, telephone lines and other utility lines as currently exist and as shown on the survey attached hereto as Exhibit "A" and incorporated herein, (collectively, the "Utility Improvements", individually referred to as a "Utility Line") which improvements were constructed to provide reasonable utility services to the Business Park.

WHEREAS, upon conveying the 1550 Associates Property to 1550 Associates, CURTIS INVESTMENT TRUST and 1550 Associates desire to allow the existing Utility Improvements to continue to reasonably service the Business Park and accordingly, CURTIS INVESTMENT TRUST desires to grant to 1550 Associates a utility easement across a portion of the CURTIS INVESTMENT TRUST Property, and 1550 Associates desires to grant to CURTIS INVESTMENT TRUST a utility easement across a portion of the 1550 Associates Property on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and Ten Dollars (\$10.00) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### RECIPROCAL UTILITY EASEMENTS

1. Grant of Easements. CURTIS INVESTMENT TRUST hereby grants to 1550 Associates, its contractors, agents, successors in interest and assigns, and 1550 Associates hereby grants to CURTIS INVESTMENT TRUST, its contractors, agents, successors in interest and assigns, a perpetual easement for the use and passage of the Utility Improvements in their current configuration serving the respective parcels. These easements include the right of access to, maintenance, repair, or replacement of electrical control boxes, wires and devices contained therein, which affect property owned by both parties or which affect one parcel but which are located on property owned by the other party. These easements are limited to the continued use and passage of the Utility Improvements which benefit the Business Park as is reasonably necessary to provide utility services to each parcel together with such area on both sides of the

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utility line as is the ordinary custom and practice in the industry to provide for the operation and maintenance of the utility, provided that such operation and maintenance shall be performed in such a way as to not unnecessarily disrupt or damage existing buildings and structures. CURTIS INVESTMENT TRUST grants to 1550 Associates, its contractors, agents, successors in interest and assigns, a right-of-way, upon reasonable notice to CURTIS INVESTMENT TRUST, to a telephone line box within the office located on the CURTIS INVESTMENT TRUST Property which houses telephone lines for the Business Park, for the purpose of maintaining, repairing and replacing telephone lines affecting the 1550 Associates Property.

2. Maintenance and Repair. Should a Utility Line be damaged or destroyed by the default, negligence, or other act or omission of one of the parties, its tenant or invitees, such party to this Agreement shall repair the Utility Line at its expense. Should a Utility Line serving both the 1550 Associates Property and the CURTIS INVESTMENT TRUST Property be damaged or destroyed by any cause other than the act or omission of either party, the utility line shall be repaired at their joint and equal expense. All sums assessed under this agreement, shall be secured by a lien against the respective party's property subject to this agreement. To evidence a lien for sums assessed, the party which has paid its portion of the assessed cost, if such payment was necessary, may prepare a written notice of lien setting forth the amount due under this Agreement, the date due, the name of the owner of the property which has failed to pay the amount due and a legal description of said owner's property. Such a notice shall be signed and acknowledged and may be recorded in the official records of the Davis County Recorder (the "Official Records"). Such lien may be enforced by foreclosure as allowed by state law.

3. Relocation. At any time, the grantor of any of the utility easements granted hereunder shall have the right to relocate on the land of the grantor any such sewers, drains, mains, and lines and related equipment then located on the land of the grantor, provided that such relocation shall be performed only after thirty (30) days notice of the grantor's intention to so relocate shall be given to the grantee, and such relocation: (a) shall not interfere with or diminish utility services to the grantee; (b) shall not reduce or unreasonably impair the usefulness or function of such utility; (c) shall be performed without cost or expense to grantee; and (d) shall be made in accordance with and subject to applicable municipal ordinances, building codes, regulatory review, etc.

4. Use of Easements. The easements, established by this Agreement, shall be for the benefit of and restricted solely to the use of 1550 Associates, CURTIS INVESTMENT TRUST and their respective successors and assigns, lessees and sub-lessees, mortgagees under mortgages covering any of the Business Park, beneficiaries and trustees under deeds of trust covering any of the Business Park and to their agents, customers, employees, licensees, and business invitees and the same is not intended and shall not be construed as creating any rights in or for the benefit of the general public.

5. Termination of Easement. In the event the Business Park is destroyed in its entirety, and the parties to this Agreement, or their respective successors and assigns, agree in writing that the Utility Improvements shall not be rebuilt, the easements created herein shall terminate and be of no further force or effect. In such event, the parties to this Agreement or their respective successors and assigns agree to execute an instrument acknowledging the same, which shall be recorded in the Official Records.

6. Not a Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Business Park for the general public or for any public purposes whatsoever, it being the parties' intention that this Agreement be strictly limited to and construed for the purposes expressed herein.

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7. Appurtenances to Parcels. Each easement, right and other obligation contained in or created by this Agreement is an appurtenance to the property benefited by such easement, and may not be transferred, assigned, or encumbered except as an appurtenance to such benefited property. For purposes of each such easement each benefited property shall constitute the dominant estate and each burdened property shall constitute the subservient estate.

8. Covenants Run With Land. Each easement, right and other obligation contained in or created by this Agreement shall: (a) create an equitable servitude on each subservient estate in favor of each dominant estate; (b) shall constitute a covenant running with the land; (c) shall benefit and bind every person having any fee, leasehold, mortgage lien, or other interest in any portion of the property concerned to the extent that such portion is affected or bound by the easement in question, or to the extent that such easement is to be performed on such portion; (d) shall inure to the benefit and bind any owner whose title is acquired by judicial foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise; and (e) shall be binding upon CURTIS INVESTMENT TRUST and 1550 ASSOCIATES and their respective successor(s) and assign(s) as to their respective property, as well as their respective tenants, invitees, licensees, agents, and employees.

9. Transfer of Property. If any owner transfers all or any portion of the Business Park, the transferee shall automatically be deemed to have assumed and agreed to be personally bound by the covenants contained in this Agreement, and if the transferring owner has by such transfer transferred all of such owner's ownership interest in the Business Park, such transferring owner shall be released and discharged from all obligations under this Agreement that accrue after the date of recording said instrument effecting such transfer in the Official Records.

10. No Partnership. CURTIS INVESTMENT TRUST and 1550 Associates do not by this Agreement in any way or for any purpose become partners or enter into a joint venture with each other.

11. Subordination by Lenders. The parties recognize the need promptly to obtain recordable subordination agreements from the mortgagees or other lien holders of the parties hereto (the "Lenders") holding mortgages, liens or other security or beneficial interests in or encumbering the Business Park (the "Security Documents") whereunder the Lenders will subordinate the effect of their respective Security Documents to the effect of this Agreement. The parties expeditiously shall seek, and thereafter shall use their best, good faith efforts to obtain and record such subordination agreements from their respective Lenders.

12. Severability. In the event that any provision(s) herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other provision(s) herein contained. If such provision(s) shall be deemed invalid due to its scope or breadth, such provision(s) shall be deemed valid to the extent of the scope or breadth permitted by law.

13. Waiver of Breach. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Agreement. To be effective, any waiver must be signed by all the parties hereto.

14. Remedies. The rights and remedies of the parties hereto shall be construed cumulatively. In general, the respective rights and obligations hereunder shall be enforceable by

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specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to or shall limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other party for a breach or threatened breach of any provision hereof, it being the intention of this Paragraph to make clear the agreement of the parties that the respective rights and obligations of the parties hereunder shall be enforceable in equity as well as at law or otherwise.

15. Modification. This Agreement and any easement, condition, or restriction contained in this Agreement may not be terminated, extended, modified, or amended without the consent of all of the parties hereto, and any such termination, extension, modification, or amendment shall be effective upon recordation in the Official Records of a written document effecting the same, executed and acknowledged by each owner; provided, however, that no such termination, extension, modification, or amendment shall affect the rights of any mortgagee holding a mortgage consisting a lien on any property unless such mortgagee consents to the same in writing.

16. Governing Law, Jurisdiction, and Venue. This Agreement shall be interpreted, construed and enforced according to the laws of the State of Utah, and jurisdiction and venue shall be exclusively vested in the Courts of Davis County, State of Utah.

17. Costs and Expenses of Enforcement. In the event of the failure of either party hereto to comply with any provisions of this Agreement, the defaulting party shall pay any and all costs and expenses, including reasonable attorney's fees, arising out of or resulting from such default, incurred by the injured party in enforcing its rights and remedies, whether such right or remedy is pursued by filing a lawsuit or otherwise.

18. Notice. Any notice or other communication required or permitted to be given hereunder shall be deemed to have been received upon personal delivery or actual receipt thereof by hand delivery, or within three (3) days after such notice is deposited in the United States mail, postage prepaid and certified or registered and addressed to the respective addresses set forth above or to such other address(es) as may be supplied by a party to the other from time to time in writing.

19. Additional Acts. The parties hereto shall do such further acts and things and shall execute and deliver such additional documents and instruments as may be necessary or desirable to carry out the intent to this Agreement or as the other party, or its counsel, may reasonably require in order to consummate, evidence, or confirm the provisions that are contained herein.

20. Integration Clause. There are no representations, warranties, covenants, or agreements between the parties as to the subject matter of this Agreement except as are specifically set forth in this Agreement. This Agreement contains the entire agreement between

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the parties hereto pertaining to the matters that are set forth herein and supersedes all prior verbal or written agreements of the parties in relation thereto.

THE PARTIES have executed this Agreement as of the date first set forth above.

**The Bartley K. Curtis Investment Trust w/d August 24, 1999**

By: 

Chad K. Curtis

Its: Co-Trustee

By: MDF Estate Planning Services, Inc.

Its: Co-Trustee

By: 

M. Don Forbush

Its: Trust Officer

**1550 ASSOCIATES LLC,**  
a Utah limited liability company

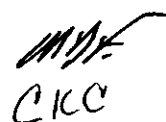
By: Chateau Development Company, L.C.

a Utah limited liability company

Its: Manager

By: See attached.

Khosrow Shirzad, Manager



the parties hereto pertaining to the matters that are set forth herein and supersedes all prior verbal or written agreements of the parties in relation thereto.

THE PARTIES have executed this Agreement as of the date first set forth above.

**The Bartley K. Curtis Investment Trust u/a/d August 24, 1999**

By: \_\_\_\_\_  
Chad K. Curtis

Its: Co-Trustee

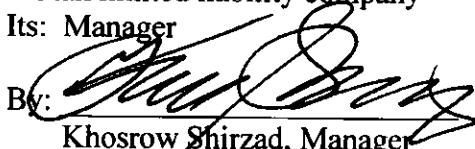
By: MDF Estate Planning Services, Inc.  
Its: Co-Trustee

By: \_\_\_\_\_  
M. Don Forbush

Its: Trust Officer

**1550 ASSOCIATES LLC,**  
a Utah limited liability company

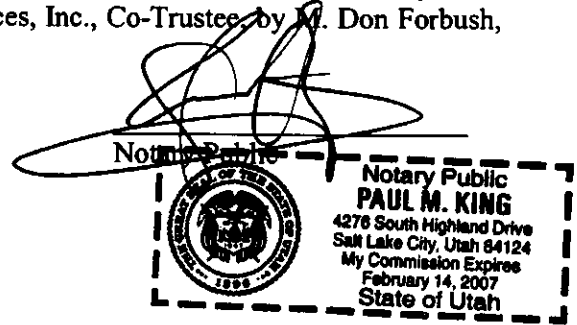
By: Chateau Development Company, L.C.  
a Utah limited liability company  
Its: Manager

By:   
Khosrow Shirzad, Manager

AGREEMENT  
NOTARY PAGE

STATE OF UTAH )  
 ) :ss  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 25 day of July, 2006, by The Bartley K. Curtis Investment Trust u/a/d August 24, 1999, by Chad K. Curtis, Co-Trustee and MDF Estate Planning Services, Inc., Co-Trustee, by M. Don Forbush, its, Trust Officer.



~~STATE OF \_\_\_\_\_ )  
 ) :ss  
COUNTY OF \_\_\_\_\_ )~~

~~The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by 1550 Associates LLC, by Chateau Development Company, L.C. its Manager by Khosrow Shirzad, Manager.~~

~~See attached.~~

~~Notary Public~~

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

BK 4126 PG 217

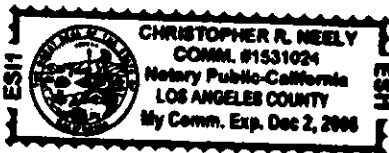
State of California

County of Los Angeles

On Sept. 23<sup>rd</sup>, 2006 before me, Christopher R. Neely, Notary

personally appeared ~ Khosrow Shirzad ~  
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally known to me -OR-  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Christopher R. Neely  
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Party Wall Agreement

Document Date: 9/23/06 Number of Pages:     

Signer(s) Other Than Named Above: 2<sup>nd</sup> Party

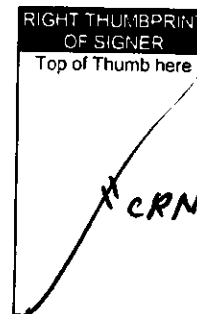
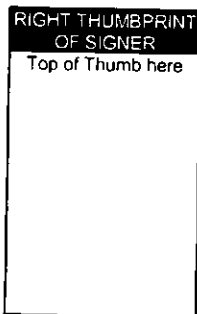
Capacity(ies) Claimed by Signer(s)

Signer's Name: ~ Khosrow Shirzad ~

Signer's Name: ~ n/a ~

- Individual
- Corporate Officer
- Titles(s): Manager
- Partner -  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other:

- Individual
- Corporate Officer
- Title(s):
- Partner -  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other:



Signer Is Representing: Chateau Dev. Co. LLC.

Signer Is Representing:

EXHIBIT "A"

Business Park Survey

*MDF*  
*CIC*

