

HYRUM, UTAH
SEC Hwy. 165 & Hwy. 101
L/C: 043-0113
File: #12495

ENT 618525 Bk 448 Pa 545
DATE 14-APR-1995 9:44AM FEE 37.00
MICHAEL L GLEED, RECORDER - FILED BY JT
CACHE COUNTY, UTAH
FOR HICKMAN LAND TITLE COMPANY

Prepared by Kenneth S. Shiner
After recording, return to:
Mary L. Simms
McDONALD'S CORPORATION
Development Team Legal Department #091
One McDonald's Plaza
Oak Brook, Illinois 60521

MEMORANDUM OF LEASE
(Shopping Center)

THIS MEMORANDUM OF LEASE, dated this 27th day of March, 1995, is between Jane S. Johnson, as Trustee of the G.S.T. Non-Exempt QTIP Trust under the will of Max L. Johnson, as to an undivided one-half interest and Janice J. Sackett, as to an undivided one-half interest ("LANDLORD"), whose address is Jane Johnson, Trustee, P.O. Box 129, Providence, Utah 84332, and Janice J. Sackett, 250 East 800 North, Logan, Utah 84321, and McDonald's Corporation, a Delaware corporation ("TENANT"), whose principal place of business is located at One McDonald's Plaza, Oak Brook, Illinois 60521.

LANDLORD hereby leases to TENANT the demised premises with improvements and appurtenant easements, if any, in the City of Hyrum (Logan), County of Cache, State of Utah, described in Exhibit A attached and made a part of this Memorandum of Lease.

1. TERM: TO HAVE AND TO HOLD for a term of twenty (20) years, commencing on April 7, 1995 and ending twenty (20) years from the date when a McDonald's Restaurant constructed on the demised premises opens for business.

2. OPTION TO EXTEND: LANDLORD grants to TENANT the option to automatically extend the term of the Lease at the expiration of the original term for successive periods aggregating ten (10) years.

3. FIRST REFUSAL: LANDLORD grants to TENANT the right of first refusal to purchase the Demised Premises.

4. OPTION TO OBTAIN ADDITIONAL LAND: Tenant has been informed that the Utah Department of Transportation ("UDOT") may extend Highway 101 (Main Street) directly East from the location of Highway 101 on the West side of Highway 165, thereby eliminating the jog in Highway 101 at Highway 165 which presently exists. The northern boundary of the Demised Premises has been set based on information obtained from UDOT regarding the most likely alignment of the new road and associated rights-of-way. In the event the new road is located to the North of the alignment assumed for purposes of the Lease, then Landlord agrees to give Tenant the option to increase the size of the Demised Premises by extending the northern boundary line of the Demised Premises up to five (5) feet to the north, at no additional rent to Tenant, and further than five (5) feet to the north with adjustment of rent as provided below, by moving the northern boundary of the Demised Premises to the Southern edge of the new right-of-way for Highway 101. For purposes hereof, all land obtained by UDOT or an appropriate governmental agency for such purposes shall be deemed "right-of-way" and "Highway 101". In the event the southern boundary of the new right-of-way is located more than five (5) feet to the north of the

northern boundary of the Demised Premises and if Tenant elects to exercise its option to take the Additional Demised Premises (defined below) then Tenant shall pay Landlord rent on the Additional Demised Premises on a per-square-foot basis which shall be determined by dividing the monthly rental in effect at the time Tenant's option is exercised by 43,560 square feet. The rent for the Additional Demised Premises shall escalate in the same manner and in the same proportion as the rent for the Demised Premises and shall be paid from and after the effective date set forth below. It is the intention of the parties to the Lease that the Tenant is to have the right or the option to occupy the Southeast corner of the intersection of Highways 101 and 165 when the realignment project is completed. Landlord represents that it currently owns the property described in Exhibit C which extends directly North of the current Demised Premises, and pursuant to the foregoing provisions, the property to be added to the Demised Premises, if Tenant exercises its option, (the "Additional Demised Premises") shall extend over all or any portion of the property described on Exhibit C between the current Demised Premises and the future location of Highway 101 so that the Demised Premises shall have a frontage of 255 feet on Highway 101, if and when Highway 101 is to be extended to be upon or contiguous with the property described on Exhibit C for 255 feet (otherwise if the contiguity with Highway 101 is for a lesser distance, then the frontage thereon shall be for such lesser distance), if Tenant exercises its option. Tenant shall have the right to exercise such option by notice to Landlord at any time between the date UDOT commences construction of the realignment project and one hundred eighty (180) days after Landlord notifies Tenant of such commencement, and during such period Tenant shall have the right to enter upon the property describe on Exhibit C to conduct tests thereon and to obtain a survey. The extension and addition of such Additional Demised Premises to the Demised Premises shall become effective upon the later of the date thirty (30) days after Tenant gives such notice or upon the opening of such new extension of Highway 101 to vehicular traffic at which time all references to the Demised Premises shall be deemed to refer to the current Demised Premises, as described herein, together with that portion of the Additional Demised Premises lying between the southern line of the relocated Highway 101 and the northern boundary line of the Demised Premises, except that Tenant shall have sole and actual possession of the Additional Demised Premises only upon such effective date, and Tenant shall not be obligated to pay rent, real estate taxes or other charges with respect to the Additional Demised Premises for any period prior to such effective date; and a prorata adjustment shall be made with respect to any period prior to such effective date with Landlord paying such taxes and charges for the period prior to the effective date. Landlord covenants that Landlord is currently well seized of, and has good title to the property described on Exhibit C in fee simple, free and clear of all liens and encumbrances, easements, tenancies and restrictions, except for those herein granted to Tenant and those shown on Exhibit C ("Permitted Exceptions") and will record a notice of the obligations set forth in this paragraph against the Additional Demised Premises concurrently with the execution of the Lease, which shall establish the priority of Tenant's rights to the Additional Demised Premises over any liens, encumbrances, easements, tenancies and restrictions hereafter created and provide that notwithstanding anything contained herein to the contrary, the provisions herein shall lapse and be of no further force or effect if construction of the realignment project of Highway 101 has not commenced within three (3) years of commencement of the term of the Lease. In the event Tenant purchases the Demised Premises pursuant to its right of first refusal set forth in the Lease, Landlord covenants that it shall, at Tenant's option, convey marketable and insurable title to the property which would have constituted the Additional Demised Premises had the Lease continued to Tenant by good and sufficient special warranty deed, with release of dower, homestead, curtesy and other rights of the respective spouses, if any, and free from all encumbrances whatsoever, other than Permitted Exceptions on the date which would have been the effective date of the addition of the Additional Demised Premises. The consideration to Landlord for conveyance of the Additional Demised Premises shall be on the terms contained in the offer which gave rise to Tenant's right of first refusal, or if such Additional Demised Premises was not the subject of or included in such offer, then on a price per square foot equivalent to the offer price. The covenants and obligations herein shall survive any termination of the Lease due to the exercise of such right of first refusal, for so long as such option to add the Additional Demised Premises would have lasted had Tenant not exercised such

right of first refusal, unless construction of the realignment project of Highway 101 has not commenced within three (3) years after commencement of the term of the Lease, in which event the covenants and obligations in this section shall expire at the end of such three-year period. If Highway 101 is not extended as described, the Lease shall continue in full force and effect without increase in the size of the Demised Premises. In the event Tenant's option to acquire the Additional Demised Premises lapses or Tenant fails to exercise its option to acquire the Additional Demised Premises or if Tenant purchases the Demised Premises but not the Additional Demised Premises pursuant to its right of first refusal, Landlord shall grant Tenant, at Tenant's option, a thirty-five (35) foot wide non-exclusive easement appurtenant to the Demised Premises and extending directly north from the easternmost 35 feet of the Demised Premises to Highway 101, granting Tenant rights of vehicular and pedestrian ingress and egress to and from the Demised Premises and to and from Highway 101 for the term of this Lease and all extensions hereof, provided that in the event of such purchase of the Demised Premises, but not the Additional Demised Premises, such easement shall be perpetual. Such easement agreement shall provide that Tenant will improve and maintain the easement at Tenant's expense. Such right shall also survive any such termination of this lease due to Tenant's exercise of its right of first refusal with regard to the Demised Premises.

5. EASEMENTS:

A. Drainage Easement and Slope Easement: Landlord hereby grants to Tenant a non-exclusive easement appurtenant to the Demised Premises commencing upon execution of the Lease and expiring upon the exercise of Tenant's option to lease the Additional Demised Premises pursuant to Section 3 hereof, if any (otherwise for the term of the Lease and for any extensions or renewals thereof), to surface drain its surface water via the public right-of-way on the east side of Highway 165 onto Landlord's adjacent property to the north of the Demised Premises described on Exhibit B. Any drainage from the Demised Premises shall be directed out through Tenant's driveway approaches and onto the public right of way. The projected flow of said water is to the north along the right of way to a low spot on Landlord's property to the north of the Demised Premises. Tenant shall accept all responsibility for any nuisance, loss or violation of laws or ordinances resulting from such drainage. Tenant shall, at Tenant's sole cost and expense, pay for the installation of any collection, drainage, and/or retention systems or improvements required by law, ordinance, order of any governmental authority, or otherwise, as is reasonably necessary to protect persons or property; provided, however, that Tenant shall not be responsible for nuisance, loss or protection of persons to whom Landlord has or will grant possessory or use rights with regard to such easement area described in Exhibit B. Landlord hereby grants to Tenant a non-exclusive easement appurtenant to the Demised Premises throughout the term of any extension of the Lease to cut and/or fill slopes over, upon and across the adjacent property of Landlord as described on Exhibit B-1 for a length and at a horizontal to vertical ratio acceptable to Tenant, to provide lateral support for the Demised Premises and the improvements which may from time to time be constructed thereon. Tenant agrees to release this easement when the adjoining property of Landlord has been developed and improved to approximately the grade elevation of the Demised Premises and when the need for such slope easement becomes unnecessary.

B. Ingress and Egress Easement: In the event Landlord or Landlord's successors in interest to Landlord's adjacent property within the area depicted and legally described on Exhibit B-2 (hereinafter the "Adjacent Property") construct a shopping center on the Adjacent Property at any time during the term of the Lease or during any extensions or renewals thereof, Landlord or Landlord's successors in interest to the Adjacent Property shall configure the shopping center and shall record a document in form and content reasonably acceptable to Landlord and Tenant in a manner which will grant Tenant a

non-exclusive easement for purposes of ingress and egress over the common areas of such shopping center designated at parking areas and driveways, as may be configured or reconfigured from time to time, for the benefit of Tenant, its invitees, licensees, assigns, subtenants, and patrons, in common with all other persons having rights to use or occupy the common areas of the shopping center.

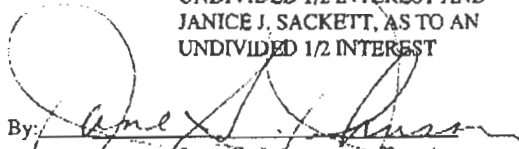
6. PERMANENT EASEMENT: If TENANT acquires fee title to the demised premises under the terms of the Lease, the easements conveyed in Paragraph 5 above shall be perpetual.

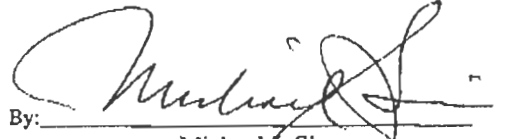
7. MEMORANDUM: The rentals to be paid by TENANT and all of the obligations and rights of LANDLORD and TENANT are set forth in the Ground Lease dated March 15, 1995, executed by the parties. This instrument is merely a Memorandum of the Lease and is subject to all of its terms, conditions and provisions. In the event of any inconsistency between the terms of the Lease and this instrument, the terms of the Lease shall prevail as between the parties. This memorandum is binding upon and shall inure to the benefit of the heirs, successors, assigns, executors and administrators of the parties.

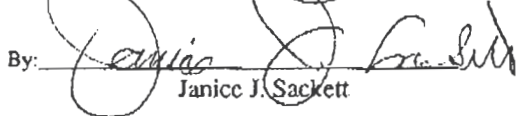
To indicate their agreement to the above, the parties or their authorized representatives or officers have signed this document.

LANDLORD: JANE S. JOHNSON, AS TRUSTEE OF THE G.S.T. NON-EXEMPT QTIP TRUST CREATED UNDER THE WILL OF MAX L. JOHNSON, AS TO AN UNDIVIDED 1/2 INTEREST AND JANICE J. SACKETT, AS TO AN UNDIVIDED 1/2 INTEREST

TENANT: McDONALD'S CORPORATION, A DELAWARE CORPORATION

By: 
Jane S. Johnson as Trustee

By: 
Michael J. Sise
Assistant Vice President

By: 
Janice J. Sackett

(Acknowledgment of signatures and Exhibits A, B, B-1, B-2, and C are attached)




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McD R/E LEGAL

002/003

Richard Sackett, the husband of Janice J. Sackett, joins in the execution of this Memorandum of Lease solely to allow the conveyance of leasehold title to Tenant and to subordinate any right of dower, curtesy, homestead interest or interest by virtue of a nuptial agreement that he may have in the demised premises to the interest of Tenant under this Lease and any amendments thereto existing from time to time.


Richard Sackett

(ATTACH ACKNOWLEDGMENT CERTIFICATE BY A NOTARY PUBLIC)

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McD R/E LEGAL

003/003

ACKNOWLEDGMENT - INDIVIDUAL

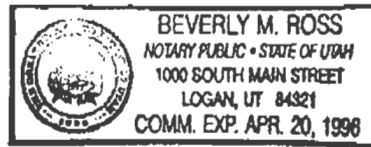
STATE OF Utah)
) SS:
COUNTY OF Coke)

I, Beverly M. Ross, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that Richard Sackett and _____ of _____ who (is)(are) personally known to me to be the same person(s) whose name(s) (is)(are) subscribed to the foregoing instrument appeared before me this day in person and acknowledged that (he)(she)(they) signed, sealed and delivered the said instrument as (his)(her)(their) free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 12th day of April, 1995.

Beverly M. Ross
Notary Public

My commission expires 4-20-96

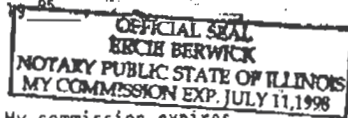


McDONALD'S
(ACKNOWLEDGMENT)

STATE OF ILLINOIS
COUNTY OF DuPage SS:

I, Ercie Berwick, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that Michael J. Sise, Assistant Vice-President of McDonald's Corporation, a Delaware corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Assistant Vice-President appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such Assistant Vice-President and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 27th day of March



Ercie Berwick
Notary Public

My commission expires _____

(ACKNOWLEDGMENT - INDIVIDUAL)

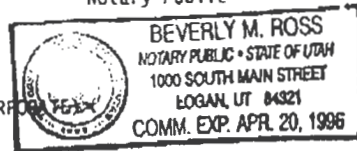
STATE OF Utah
COUNTY OF Becker SS:

I, Beverly M. Ross, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that Jane S. Johnson and Janice J. Sackett of Becker Co, Utah who (is)(are) personally known to me to be the same person(s) whose name(s) (is)(are) subscribed to the foregoing instrument appeared before me this day in person and acknowledged that (he)(they) signed, sealed and delivered the said instrument as (h)(their) free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 7 day of April, 1995.

Beverly M. Ross
Notary Public

My commission expires 4-20-96



(ACKNOWLEDGMENT - CORPORATE)

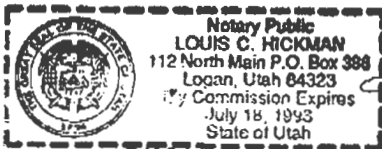
TRUSTEE ACKNOWLEDGMENT

STATE OF UTAH)
County of Cache) SS

On this 14th day of April A.D. 19 95 personally appeared before me, Jane Johnson, aka Jane S. Johnson

known to me to be the Trustees of the G.S.T Non-Exempt QTIP Trust under the will of Max L. Johnson

and the Trustees who subscribed the said Trust name to the foregoing instrument, acknowledged to me that he executed the same in said Trust name, and that said Trust executed the same.



[Signature]
Notary Public

Commission expires: 7/18/98
Residing in Logan, Utah

BEGINNING ON THE EAST RIGHT-OF-WAY LINE OF STATE HIGHWAY 165 (800 EAST STREET) AT A POINT THAT IS $S0^{\circ}06'38''W$ ALONG THE SECTION LINE (BASIS OF BEARING) 322.95 FEET AND $S89^{\circ}53'22''E$ 33.00 FEET FROM THE WEST QUARTER CORNER OF SECTION 3, TOWNSHIP 10 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN (AS IDENTIFIED ON THE CACHE COUNTY SURVEYOR'S TIE SHEET FOR SAID CORNER), SAID POINT OF BEGINNING ALSO BEING $S0^{\circ}06'38''W$ ALONG THE MONUMENT LINE 50.00 FEET AND $S89^{\circ}53'22''E$ 33.00 FEET FROM THE FOUND CITY MONUMENT IN THE INTERSECTION OF MAIN STREET AND 800 EAST STREET (THE FOUND CITY MONUMENT IN THE INTERSECTION OF 300 SOUTH STREET AND 800 EAST STREET BEARS $S0^{\circ}06'38''W$ 2281.45 FEET); THENCE $S89^{\circ}53'22''E$ 264.00 FEET; THENCE $S0^{\circ}06'38''W$ 165.00 FEET; THENCE $N89^{\circ}53'22''W$ 264.00 FEET; THENCE $N0^{\circ}06'38''E$ 165.00 FEET TO THE POINT OF BEGINNING. CONTAINS 43,560 SQUARE FEET OR 1.00 ACRE.

BEGINNING ON THE EAST RIGHT-OF-WAY LINE OF STATE HIGHWAY 165 (800 EAST STREET, AT A POINT THAT IS $S0^{\circ}06'38''W$ ALONG THE SECTION LINE (BASIS OF BEARING) 322.95 FEET AND $S89^{\circ}53'22''E$ 33.00 FEET FROM THE WEST QUARTER CORNER OF SECTION 3, TOWNSHIP 10 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN (AS IDENTIFIED ON THE CACHE COUNTY SURVEYOR'S TIE SHEET FOR SAID CORNER), SAID POINT OF BEGINNING ALSO BEING $S0^{\circ}06'38''W$ ALONG THE MONUMENT LINE 50.00 FEET AND $S89^{\circ}53'22''E$ 33.00 FEET FROM THE FOUND CITY MONUMENT IN THE INTERSECTION OF MAIN STREET AND 800 EAST STREET (THE FOUND CITY MONUMENT IN THE INTERSECTION OF 300 SOUTH STREET AND 800 EAST STREET BEARS $S0^{\circ}06'38''W$ 2281.45 FEET); THENCE $N0^{\circ}06'38''E$ 50.00 FEET; THENCE $S89^{\circ}53'22''E$ 30.00 FEET; THENCE $S0^{\circ}06'38''W$ 50.00 FEET; THENCE $N89^{\circ}53'22''W$ 30.00 FEET TO THE POINT OF BEGINNING. CONTAINS 1,500 SQUARE FEET OR 0.0344 ACRE.

BEGINNING ON THE EAST RIGHT-OF-WAY LINE OF STATE HIGHWAY 165 (800 EAST STREET) AT A POINT THAT IS $S0^{\circ}06'38''W$ ALONG THE SECTION LINE (BASIS OF BEARING) 322.95 FEET AND $S89^{\circ}53'22''E$ 33.00 FEET FROM THE WEST QUARTER CORNER OF SECTION 3, TOWNSHIP 10 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN (AS IDENTIFIED ON THE CACHE COUNTY SURVEYOR'S TIE SHEET FOR SAID CORNER), SAID POINT OF BEGINNING ALSO BEING $S0^{\circ}06'38''W$ ALONG THE MONUMENT LINE 50.00 FEET AND $S89^{\circ}53'22''E$ 33.00 FEET FROM THE FOUND CITY MONUMENT IN THE INTERSECTION OF MAIN STREET AND 800 EAST STREET (THE FOUND CITY MONUMENT IN THE INTERSECTION OF 300 SOUTH STREET AND 800 EAST STREET BEARS $S0^{\circ}06'38''W$ 2281.45 FEET); THENCE $S89^{\circ}53'22''E$ 264.00 FEET; THENCE $S0^{\circ}06'38''W$ 165.00 FEET; THENCE $N89^{\circ}53'22''W$ 264.00 FEET; THENCE $S0^{\circ}06'38''W$ 5.00 FEET; THENCE $S89^{\circ}53'22''E$ 269.00 FEET; THENCE $N0^{\circ}06'38''E$ 175.00 FEET; THENCE $N89^{\circ}53'22''W$ 269.00 FEET; THENCE $S0^{\circ}06'38''W$ 5.00 FEET TO THE POINT OF BEGINNING. CONTAINS 3,515 SQUARE FEET OR 0.0807 ACRE.

Beginning on the East right-of-way line of State Highway 165 (800 East Street) at a point that is $S0^{\circ}06'38''W$ along the Section line (basis of bearing) 322.95 feet and $S89^{\circ}53'22''E$ 33.00 feet and $S0^{\circ}06'38''W$ 165.00 feet from the West Quarter Corner of Section 3, Township 10 North, Range 1 East, Salt Lake Base and Meridian, and running thence $S0^{\circ}06'38''W$ along said East right of way line 839 feet, more or less, to a point on the South line of the Northwest Quarter of the Southwest Quarter of said Section 3; thence Easterly along said South line 464 feet, more or less; thence $N0^{\circ}06'38''E$ 1094 feet, more or less; thence Westerly 200.00 feet, more or less; thence $S0^{\circ}06'38''W$ 255 feet, more or less; thence $N89^{\circ}53'22''W$ 264.00 feet to the point of beginning. Contains 10.11 acres, more or less.

Beginning on the East right-of-way line of State Highway 165 (800 East Street) at a point that is $S0^{\circ}06'38''W$ along the Section line (basis of bearing) 322.95 feet and $S89^{\circ}53'22''E$ 33.00 feet from the West Quarter Corner of Section 3, Township 10 North, Range 1 East, Salt Lake Base and Meridian, and running thence $N0^{\circ}06'38''E$ 90 feet, more or less, to the Southwest corner of the Corey Allen property as evidenced by deeds of record; thence Easterly along the South line of said Allen property and beyond 264 feet; thence $S0^{\circ}06'38''W$ 90 feet, more or less; thence $N89^{\circ}53'22''W$ 264.00 feet to the point of beginning. Contains 0.55 acre, more or less.

EXHIBIT C