

2-17-00 wst

7577863
02/17/2000 04:51 PM 46.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE
BY: RDJ, DEPUTY - WI 19 P.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

7577863

SNK Development Inc.
Attn: Hal Watson III
185 Berry Street, Suite 1200
San Francisco, CA 94107

TEMPORARY, NON-EXCLUSIVE EASEMENT AGREEMENT

This TEMPORARY, NON-EXCLUSIVE EASEMENT AGREEMENT ("Agreement") is made as of February 17, 2000, by and between Dahle Land Holding Company, L.L.C., a Utah limited liability company ("Grantor") and SNK Allegro Draper LLC, a Delaware limited liability company ("Grantee").

For the sum of One Dollar (\$1.00) and other good and valuable consideration received, the receipt and sufficiency of which is acknowledged, Grantor hereby grants, conveys, sells and sets over unto to Grantee, its successors and assigns, a temporary, non-exclusive easement and right of way for the purpose of construction, maintenance and repair of a roadway across the following described portions of real property owned by Grantor located in Salt Lake County, State of Utah:

See Exhibit A, attached hereto and incorporated herein by this reference.

The grant of easement also includes a slope easement for the purpose of construction, maintenance and repair of cut and fill slopes on both sides of the roadway as it runs across Grantor's property in, on, over and/or across the following described portions of real property owned by Grantor located in Salt Lake County, State of Utah:

See Exhibit B, attached hereto and incorporated herein by this reference.

The grant of easement also includes a trail right-of-way easement for the purpose of construction, maintenance and repair of a trail on the side of the roadway as it runs across Grantor's property in, on, over and/or across the following described portion of real property owned by Grantor located in Salt Lake County, State of Utah:

See Exhibit C, attached hereto and incorporated herein by this reference.

The grant of easement also includes a easement for the purpose of storm drainage across Grantor's property in, on, over and/or across the following described portion of real property owned by Grantor located in Salt Lake County, State of Utah:

BK8343PG0590

See Exhibit D, attached hereto and incorporated herein by this reference.

This easement is granted subject to the following terms and conditions:

1. Grantee's Easement for Access and Utilities. Grantor hereby grants to Grantee and Grantee's agents, employees, tenants, invitees, licensees, guests, customers and contractors (collectively, the "Grantee Permitted Users"), a temporary, non-exclusive easement in, under, upon and above those portions of Grantor's property described in Exhibits A, B and C attached hereto (collectively, the "Roadway Easement Property"), for the purpose of pedestrian and vehicular access to and from Grantee's property and for the installation and maintenance of roadways, utilities and systems, and facilities related to any of the foregoing. Without limiting the generality of the foregoing, Grantee and the Grantee Permitted Users shall have the right to use the Roadway Easement Property, the surface of, and the air space above and the area below the surface of, the Roadway Easement Property for the purpose of the transport of building and construction vehicles, equipment, materials and supplies, dirt and construction waste, as well as for the construction, installation, maintenance, operation, replacement, alteration and removal of roadways, curbs, gutters, underground culverts, underground sewerage facilities, manholes at and below the surface of the ground, underground utilities, computer, telephone, television, cable and telecommunications facilities and drainage pipes, facilities and installations at or below the surface of the ground, walks, lighting standards and poles, street signs and landscaping and all facilities and installations related to any of the foregoing.

2. Grantee's Easement for Storm Drainage. Grantor hereby grants to the Grantee Permitted Users a temporary, non-exclusive easement in, under, upon and above that portion of Grantor's property described in Exhibit D attached hereto ("Storm Drainage Easement Property"), for the purpose of storm drainage from Grantee's property and for the installation and maintenance of such systems and facilities related to the foregoing. Without limiting the generality of the foregoing, Grantee and the Grantee Permitted Users shall have the right to use the Storm Drainage Easement Property, the surface of, and the air space above and the area below the surface of, the Storm Drainage Easement Property for the purpose of construction, installation, maintenance, operation, replacement, alteration and removal of gutters, underground culverts, underground storm drain lines and facilities and other drainage pipes, facilities and installations at or below the surface of the ground. The Roadway Easement Property and the Storm Drainage Easement Property shall hereinafter collectively be referred to as the "Easement Property".

3. Scope of Easements. The rights granted hereunder benefit certain property owned, or to be owned, by Grantee adjacent to and abutting the Roadway Easement Property which property shall be commonly known as the Allegro @ Corner Canyon Subdivision and upon which Grantee intends to develop an approximately 258-unit apartment complex and related facilities and an approximately 53-lot residential subdivision to be commonly known as the Andante Subdivision, which developments shall be served by the easements granted herein.

The persons or entities who shall use or be served by the easements granted herein shall be intended beneficiaries.

4. Temporary Construction Easement. This grant of easements shall also include the temporary right to use so much of Grantor's property adjacent to the Easement Property as may be reasonably necessary for ingress and egress to the property benefited by the roadway easement and as may be reasonably necessary for use during construction, repair, replacement and removal of the roadway and storm drainage contemplated herein. Grantee shall promptly restore to as near its original condition as is reasonably possible, any portion of Grantor's property disturbed during such work.

5. Repairs and Maintenance of Roadway. Grantee covenants and agrees for itself and its heirs, executors, administrators, successors and assigns that it may, at its sole cost, subject to and in compliance with all applicable governmental laws, rules and regulations, to the extent deemed desirable by Grantee, in its sole discretion, inspect, monitor, manage, control, repair, maintain, grade, pave and drain, as applicable, the roadway in a condition satisfactory to Grantee, and perform such other and further acts as shall be reasonably related to the performance of the foregoing; provided, however, that to the extent that any such repair or maintenance costs are incurred as a result of the gross negligence or intentional acts of Grantor, such costs shall be paid by Grantor.

6. Temporary Term of Easements; Non-Exclusivity. Upon five (5) days prior written request, Grantor shall dedicate the Roadway Easement Property for public roadway, slope easement and trail right of way purposes, as the case may be, and shall dedicate the Storm Drainage Easement Property for public storm drainage purposes, and shall cause the holders of all monetary liens, and the holders of any other liens created after the date hereof, to consent and subordinate to such dedications. The easements shall automatically terminate and be of no force and effect upon recordation of the dedication of all of the Easement Property in accordance with the foregoing sentence. The easements granted herein shall be non-exclusive and shall not prevent Grantor from using such property, and the surface of, the air space above, and the area below the easements, for any purpose which is consistent with the easements granted herein.

7. Covenants Running with the Land. The easements granted herein shall be binding upon and inure to the benefit of Grantor and Grantee, and their respective transferees, successors and assigns, and the benefits and the burdens shall run with the land, it being the intention of the parties that if either the property burdened hereby or benefited hereby is sold or otherwise transferred, the respective transferees, successors and assigns of Grantor and Grantee shall receive the same respective benefits and burdens which Grantor and Grantee have under this Agreement.

8. Attorneys' Fees. In any action or proceeding between Grantor and Grantee to enforce any of the terms or conditions hereof or to recover damages for breach hereof, the prevailing party shall be entitled, in addition to other rights and remedies it may have at law or in equity, to recover from the other party all of its expenses incurred with respect to such action or

proceeding, including, without limitation, reasonable attorneys' fees, court costs and costs of discovery.

9. Notices. All notices and other communications provided for under this Agreement shall be in writing and shall be personally delivered or sent by first class United States mail, by nationally recognized overnight courier, by telecopy or by other means of telecommunications to the parties at the addresses set forth below, or at such other address as either party may from time to time designate in writing:

If to Grantee: SNK Allegro Draper LLC
185 Berry Street, Suite 1200
San Francisco, California 94107
Attn: Hal Watson III
Telecopy No.: (415) 896-2816

With a copy to: Lillick & Charles LLP
Two Embarcadero Center, Suite 2700
San Francisco, California 94111
Attn: Lee F. Gotshall-Maxon, Esq.
Telecopy No.: (415) 421-4799

If to Grantor: Dahle Land Holding Company, LLC.
248 South Main Street, Second Floor
Salt Lake City, Utah 84101
Attn: Mickael L. Dahle
Telecopy No.: (801) _____

With a copy to: Clyde, Snow, Sessions & Swenson
One Utah Center
201 South Main, Suite 1300
Salt Lake City, Utah 84111
Attn: Charles Brown, Esq.
Telecopy No.: (801) 532-8736

10. Counterparts. This Agreement may be signed in any number of counterparts or duplicate originals, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

11. Entire Agreement. This Agreement represents the entire agreement between the parties relating to the easements granted herein and supersedes any and all prior agreements, negotiations and discussions between the parties.


[SIGNATURES ON IMMEDIATELY FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

GRANTOR:

Dahle Land Holding Company, L.L.C.,
a Utah limited liability company

By: RAM Investments, LLC
Its: Member

By: 
Name: Micheal L. Dahle
Its: Managing Member

GRANTEE:

SNK Allegro Draper LLC,
a Delaware limited liability company

By: SNK Corner Canyon Inc., a Utah corporation
Its: Sole Member

By: _____
Name: _____
Its: _____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

GRANTOR:

Dahle Land Holding Company, L.L.C.,
a Utah limited liability company

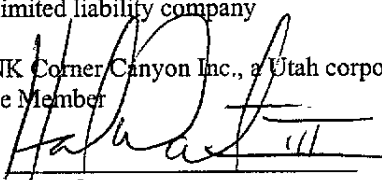
By: RAM Investments, LLC
Its: Member

By: _____
Name: Mickeal L. Dahle
Its: Managing Member

GRANTEE:

SNK Allegro Draper LLC,
a Delaware limited liability company

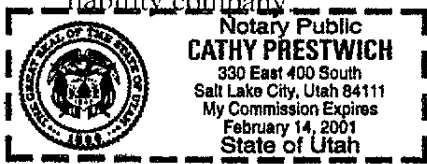
By: SNK Corner Canyon Inc., a Utah corporation
Its: Sole Member

By: 
Name: Hal Watson III
Its: President

Utah Limited Liability Company Acknowledgement

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

On the 16th day of February, 2000, personally appeared before me Mickeal L. Dahle who being by me duly sworn did say that he is the Managing Member of RAM Investments, L.L.C., Member of DAHLE LAND HOLDING COMPANY, LLC, a limited liability company, and that the foregoing instrument was duly authorized by the limited liability company at a lawful meeting held by authority of its operating agreement and signed on behalf of said limited liability company.



Cathy Prestwich
Notary Public

My Commission Expires:

Residing at:

02/14/2001

Salt Lake City, Utah

Utah Limited Liability Company Acknowledgement

STATE OF UTAH)
)
:ss.
COUNTY OF _____)

On the _____ day of _____, 2000, personally appeared before me _____ who being by me duly sworn did say that (s)he is the _____ of DAHLE LAND HOLDING COMPANY, LLC, a limited liability company, and that the foregoing instrument was duly authorized by the limited liability company at a lawful meeting held by authority of its operating agreement and signed on behalf of said limited liability company.

Notary Public

My Commission Expires:

Residing at:

Utah Limited Liability Company Acknowledgement

STATE OF UTAH)
) ss.
COUNTY OF _____)

On the ____ day of _____, 2000, personally appeared before me _____ who being by me duly sworn did say that (s)he is the _____ of DAHLE LAND HOLDING COMPANY, LLC, a limited liability company, and that the foregoing instrument was duly authorized by the limited liability company at a lawful meeting held by authority of its operating agreement and signed on behalf of said limited liability company.

Notary Public

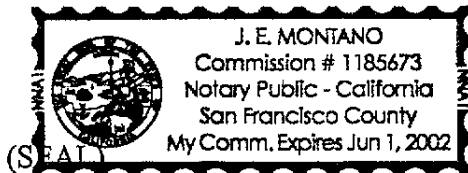
My Commission Expires: _____

Residing at: _____

STATE OF CALIFORNIA)
) ss.
County of San Francisco)

On this, the 16th day of FEB, 1999, before me, J.E. MONTANO, the undersigned Notary Public, personally appeared HAL WATSON III, personally known to me ~~or proved to me on the basis of satisfactory evidence~~ to be the person ~~(s)~~ whose name ~~(s)~~ is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity ~~(ies)~~, and that by his signature ~~(s)~~ on the instrument ~~the persons (s), or the~~ entity upon behalf of which the person ~~(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.



BY: [Signature]
Name: J.E. MONTANO
Notary Public

My Commission Expires: 6/1/02

EXHIBIT A

Legal Description of Road Easement

EXHIBIT "A"

DAHLE STREET DEDICATION PARCEL "C"

Beginning at a point which is N 00°10'24" E 514.210 feet along the Monument line of Pony Express Road and S 89°57'35" W 1616.340 feet from the Monument found marking the intersection of said Monument line with the South line of Section 36, Township 3 South, Range 1 West Salt Lake Base and Meridian which Monument is calculated to be S 89°59'24" W 122.460 feet from the SE Corner of said Section 36, and running thence Southerly 230.067 feet along the arc of a 612.00-foot radius curve to the right (Note: Chord for said curve bears S 11°35'57" E, 228.715 feet.); thence S 00°49'47" E 355.010 feet; thence Southerly 119.350 feet along the arc of a 408.000-foot radius curve to the left (Note: Chord for said 408.000-foot radius curve bears S 09°12'36" E for a distance of 118.930 feet.); thence S 02°36'54" E 66.345 feet; thence S 35°30'09" W 69.370 feet; thence N 29°07'56" W. 7.420 feet; thence Northerly 243.037 feet along the arc of a 492.000-foot radius curve to the right (Note: Chord for said 492.000-foot radius curve bears N 14°58'51" W for a distance of 240.573 feet.); thence N 00°49'47" W 355.010 feet; thence Northerly 206.718 feet along the arc of a 528.000-foot radius curve to the left (Note: Chord for said 528.000-foot radius curve bears N 12°02'44" W for a distance of 205.400 feet.) ; thence N 23°15'42" W 26.470 feet; thence N 89°57'35" E 91.321 feet to the point of beginning.
Contains 66,423.28 sq. ft. or 1.52 acres more or less

BK83143PG0599

EXHIBIT "A" (Continued)

DAHLE STREET DEDICATION PARCEL "H"

Beginning at a point which is N 00°10'24" E 514.21 feet along the Monument line of Pony Express Road, and S 89°57'35" W 1951.12 feet from the Monument found marking the intersection of said Monument line with the South line of Section 36, Township 3 South, Range 1 West Salt Lake Base and Meridian which Monument is calculated to be S 89°59'24" W 122.460 feet from the SE Corner of said Section 36, and running thence Westerly 121.39 feet along the arc of a 612.00-foot radius curve to the right (chord bears S84°16'39"W 121.19 feet; thence S 89°57'35" W 876.67 feet to a point of tangency with the arc of a 798.00-foot radius curve to the right; thence Westerly 308.66 feet along the arc of said curve (chord bears N 78°57'33 W 306.74 feet); thence N 67°52'42"W 94.49 feet; thence N 22°10'44" E 12.00 feet; thence S 67°52'42" E 94.49 feet to a point of tangency with the arc of a 786.00-foot radius curve to the left; thence Easterly 304.02 feet along the arc of said curve (chord bears S 78°57'33" E 302.13 feet); thence N 89°57'35" E 997.27 feet to the point of beginning.

Contains 16291.05 sq. ft. or 0.374 acre, more or less.

BK8343PG0600

EXHIBIT B

Legal Description of Slope Easements

EXHIBIT "B"

Dahle West Slope Easement

Beginning at a point which is N 00°10'24" E 514.21 feet along the Monument line of Pony Express Road and S 89°57'35" W 1707.66 feet from the Monument found marking the intersection of said Monument line with the South line of Section 36, Township 3 South, Range 1 West Salt Lake Base and Meridian, which Monument is calculated to be S 89°59'24" W 122.460 feet from the SE Corner of said Section 36, and running thence S 23°15'42" E 26.47 feet to a point on the arc of a 528.00-foot radius curve to the right; thence Southerly 206.72 feet along the arc of said curve (chord bears S 12°02'44" E 205.40 feet); thence S 00°49'47" E 355.01 feet to a point on the arc of a 492.00-foot radius curve to the left; thence Southerly 242.09 feet along arc of said curve (chord bears S 14°55'32"E 239.66 feet); thence S 35°30'09" W 44.15 feet; thence N 29°07'56" W 17.72 feet to a point on the arc of a 532.00-foot radius curve to the right; thence Northerly 262.79 feet along the arc of said curve (chord bears N 14°58'51" W 260.13 feet); thence N 00°49'47" W 355.01 feet; thence N 89°10'13" E 30.00 feet to a point of the arc of a 518.00-foot radius curve to the left; thence Northerly 202.80 feet along the arc of said curve (chord bears N 12°02'44" W 201.51 feet); thence N 23°15'42" W 30.76 feet; thence N 89°57'35" E 10.88 feet to the point of beginning.

Contains 26826.12 sq. ft. or 0.616 acre, more or less.

BK8343PG0602

EXHIBIT "B" (Continued)

Dahle South - West Slope Easement

Beginning at a point which is N 00°10'24" E 514.21 feet along the Monument line of Pony Express Road, S 89°57'35" W 2948.39 feet, and South 00°02'25" E. 12.00 feet from the Monument found marking the intersection of said Monument line with the South line of Section 36, Township 3 South, Range 1 West Salt Lake Base and Meridian which Monument is calculated to be S 89°59'24" W 122.460 feet from the SE Corner of said Section 36, and running thence S 00°02'25" E 18.00 feet to a point on the arc of a 816.00-foot radius curve to the right; thence Westerly 315.63 feet along the arc of said curve (chord bears N 78°57'33" W 313.66 feet); thence N 67°52'42" W 114.52 feet; thence N 22°10'44" E 208.51 feet to a point on the arc of a 1950.00-foot radius curve to the left; thence Northerly 157.81 feet along the arc of said curve (chord bears N 19°51'38" E 157.77 feet); thence S 72°27'28" E 20.00 feet to a point on the arc of a 1970.00-foot radius curve to the right; thence Southerly 159.43 feet along the arc of said curve (chord bears S 19°51'38" W 159.39 feet); thence S 22°10'44" W 190.49 feet; thence S 67°52'42" E 94.49 feet to a point on the arc of a 798.00-foot radius curve to the left; thence Easterly 308.66 feet along the arc of said curve (chord bears S 78°57'33" E 306.74 feet) to the point of beginning.
Contains 14661.85 sq. ft. or 0.337 acre, more or less.

BK8343PG0603

EXHIBIT "B" (Continued)

DAHLE EAST SLOPE EASEMENT

Beginning at a point which is N 00°10'24" E 514.210 feet along the Monument line of Pony Express Road and S 89°57'35" W 1577.92 feet from the Monument found marking the intersection of said Monument line with the South line of Section 36, Township 3 South, Range 1 West Salt Lake Base and Meridian which Monument is calculated to be S 89°59'24" W 122.460 feet from the SE Corner of said Section 36, and running thence S 02°36'54" E 697.162 feet; thence Northerly 119.350 feet along the arc of a 408.000-foot radius curve to the right (Note: Chord for said curve bears N 09°12'36" W for a distance of 118.930 feet.); thence N 00°49'47" W 355.010 feet; thence Northerly 230.067 feet along the arc of a 612.000-foot radius curve to the left (Note: Chord for said 612.000-foot radius curve bears N 11°35'57" W for a distance of 228.715 feet.); thence N 89°57'35" E 38.42 feet to the point of beginning.
Contains 7678 sq. ft. or 0.176 acre more or less

BK8343PG0604

EXHIBIT C

Legal Description of Trail Right of Way Easement

EXHIBIT "C"

DAHLE TRAIL RIGHT-OF-WAY PARCEL "E"

Beginning at a point which is N 00°10'24" E 514.210 feet along the Monument line of Pony Express Road and S 89°57'35" W 1577.92 feet from the Monument found marking the intersection of said Monument line with the South line of Section 36, Township 3 South, Range 1 West Salt Lake Base and Meridian which Monument is calculated to be S 89°59'24" W 122.460 feet from the SE Corner of said Section 36, and running thence S 02°36'54" E 697.162 feet; thence Northerly 119.350 feet along the arc of a 408.000-foot radius curve to the right (Note: Chord for said curve bears N 09°12'36" W for a distance of 118.930 feet.); thence N 00°49'47" W 355.010 feet; thence Northerly 230.067 feet along the arc of a 612.000-foot radius curve to the left (Note: Chord for said 612.000-foot radius curve bears N 11°35'57" W for a distance of 228.715 feet.); thence N 89°57'35" E 38.42 feet to the point of beginning.
Contains 7678 sq. ft. or 0.176 acre more or less

BK 834 3 P 60606

EXHIBIT D

Legal Description of Storm Drainage Easement

244177.1

BK8343PG0607

EXHIBIT "D"

STORM DRAIN EASEMENT

PART OF THE SOUTH HALF OF SECTION 36, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT POINT NORTH $00^{\circ}10'24''$ EAST 579.07 FEET AND WEST 3267.43 FEET FROM THE WITNESS CORNER MONUMENT FOUND MARKING THE INTERSECTION OF PONY EXPRESS ROAD AND THE SOUTH LINE OF SAID SECTION 36, SAID MONUMENT IS CALCULATED TO BE SOUTH $89^{\circ}59'24''$ WEST 122.46 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 36; AND RUNNING THENCE SOUTH $19^{\circ}26'23''$ WEST 371.33 FEET; THENCE NORTH $70^{\circ}33'37''$ WEST 20.00 FEET; THENCE NORTH $19^{\circ}26'23''$ EAST 372.27 FEET; THENCE SOUTH $67^{\circ}52'42''$ EAST 20.02 FEET TO THE POINT OF BEGINNING.

CONTAINS 7436 SQUARE FEET OR 0.17 ACRES.

NOTE: THE BASIS OF BEARING IS THE MONUMENT LINE OF PONY EXPRESS ROAD WHICH BEARS NORTH $00^{\circ}10'24''$ EAST FOR A DISTANCE OF 2671.24 FEET.

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