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09/03/2002 02:33 PM 76.00  
Book - 8642 Pg - 5898-5906  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
FIRST AMERICAN TITLE  
BY: KCC, DEPUTY - WI 9 P.

8340237

### DECLARATION OF RECIPROCAL ACCESS EASEMENT

This Declaration of Reciprocal Easement ("**Declaration**") is made and entered into this 30<sup>th</sup> day of August, 2002, by **KNUDSON INVESTMENTS, LLC**, a Utah limited liability company ("**Declarant**") whose mailing address is 1409 East 2100 South, Salt Lake City, Utah 84105.

#### WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property located in the State of Utah, County of Salt Lake, City of Salt Lake, as more particularly described in Exhibit A which is attached hereto and incorporated herein ("**Declarant's Owned Tract**"); and

WHEREAS, Declarant and Wendy's Old Fashioned Hamburgers of New York, Inc. ("**Wendy's**") entered into a Ground Lease on or about March 18, 2002, and which was subsequently amended by a First Amendment to Lease on or about May 2, 2002 and a Second Amendment to Lease on or about May 29, 2002 (the "**Wendy's Lease**"), whereby Wendy's is leasing a portion of Declarant's Owned Tract, as more particularly described in Exhibit B which is attached hereto and incorporated herein (the "**Wendy's Parcel**"). The remainder of Declarant's Owned Tract less and except the Wendy's Parcel is described in Exhibit C attached hereto and incorporated herein ("**Declarant's Retained Parcel**"); and

WHEREAS, Declarant desires to establish a reciprocal access easement over a portion of the Wendy's Parcel and a portion of the Declarant's Retained Parcel for the construction of a road for the shared use and benefit of the owners and/or occupiers of the Wendy's Parcel and the Declarant's Retained Parcel.

NOW, THEREFORE, Declarant provides as follows:

Reciprocal Access Easement. Declarant hereby establishes, for the use and benefit of Wendy's, Declarant, their successors, assigns, licensees, suppliers, customers,

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invitees and employees, a non-exclusive, perpetual easement, appurtenant to the Wendy's Parcel and the Declarant's Retained Parcel, for the purpose of vehicular and pedestrian ingress, egress and access to and from the Wendy's Parcel, the Declarant's Retained Parcel and North Temple Street over, upon and through that portion of the Wendy's Parcel and the Declarant's Retained Parcel described on **Exhibit D** attached hereto and incorporated herein (the "**Reciprocal Access Easement**").

TO HAVE AND TO HOLD the easement and rights unto Wendy's, Declarant, their successors and assigns forever. Declarant, for Declarant and its successors and assigns, hereby warrants that it is the true and lawful owner in fee simple of the Declarant's Owned Tract and has the full right and power to establish the easement and rights herein established and that Declarant shall warrant and defend the easement and rights herein granted against all claims of all persons whomsoever.

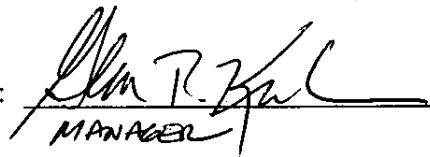
The above-described easement shall be for the use and benefit of the Declarant's Owned Tract and the owners or occupiers thereof from time to time of all or any part thereof. All provisions of this Declaration shall run with the land and be binding upon and inure to the benefit of the heirs, executors, administrators, personal and/or legal representatives, successors, assigns and tenants of Declarant and Wendy's. All rights and benefits accruing to Wendy's under this Declaration shall not be modified except with the express written consent of Wendy's during the term and any renewal terms of the Wendy's Lease. The rule of strict construction shall not apply to this Declaration.

IN WITNESS WHEREOF, this Declaration is executed as of the day year first above written.

Witnesses:

**KNUDSON INVESTMENTS, LLC**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By:   
MANAGER

\_\_\_\_\_  
Print Name: \_\_\_\_\_

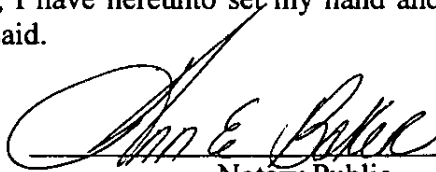
*{Acknowledgments on next page}*

STATE OF Utah  
COUNTY OF Salt Lake, SS:

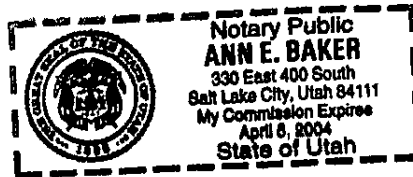
The undersigned, a Notary Public in and for the above state and county, hereby certifies that on the 30<sup>th</sup> day of August, 2002, before me personally appeared Mark R. Reynolds the Manager of **KNUDSON INVESTMENTS, LLC**, a Utah limited liability company, who is known to me as the person and officer described in and who executed the foregoing instrument on behalf of said company, and who acknowledged that he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the company by proper authority, and the instrument was the act of the company for the purpose therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last aforesaid.

(SEAL)

  
\_\_\_\_\_  
Notary Public

This instrument prepared by:  
Mark Reynolds, Attorney at Law  
Wendy's International, Inc.  
4288 West Dublin-Granville Road  
P. O. Box 256  
Dublin, Ohio 43017



72 EXHIBIT A

Parcel # 08-34-378-002

beginning at the North... at corner of Lot 5, Block 3, CHARLES, DESKY'S THIRD ADDITION, according to the official plat thereof, running thence South along the East line of Lots 4 and 5 of said subdivision 272.2 feet; thence South 89°58'38" West 173.5 feet, more or less, to the East line of the Anaconda Company property, thence North along the East line of said Anaconda property 272.2 feet, more or less, to the South line of North Temple; thence East along the South line of North Temple Street 173.5 feet, more or less to the point of beginning.

PARCEL 2: 08-34-383-001

Also, all of Lots 1 to 47, inclusive, Block 1, CHARLES S. DESKY'S 3rd Addition, according to the plat thereof, recorded in the office of the County Recorder of Salt Lake County. Also, all of Lots 1 to 8, inclusive, Block 2, CHARLES S. DESKY'S 3rd Addition, according to the plat thereof, recorded in the Office of the County Recorder of Salt Lake County.

EXCEPTING THEREFROM that portion thereof contained within the right of way of a state highway on the East.

TOGETHER with vacated streets and alleys abutting above described lots.

SUBJECT TO easement for public utilities over the South 5 feet, East 5 feet and the North 5 feet of said property, as disclosed by an inspection of said premises.

PARCEL 3: 08-34-378-003

Also, beginning at a point North 89°58'38" East 18.00 feet from the Southeast Corner of Lot 1, Block 3, of CHAS S. DESKY'S THIRD ADDITION as the same is located according to information on file in the Salt Lake City Engineer's Office, and running thence South 89°58'38" West 133.50 feet to the West line of said addition thence South 0°03'08" East along said West line 341.20 feet to a point North 0°03'08" West 18.96 feet and South 89°58'38" West 812.41 feet from the South Quarter Corner of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian; thence South 89°58'38" West 144.59 feet to a point South 89°12'10" West along the Section line, 957.00 feet and North 30.83 feet from said South quarter corner of Section 34; thence North 381.20 feet; thence North 89°58'38" East 277.74 feet; thence South 0°03'08" East 40 feet to the point of beginning.

FOR COPY RECORDED

Subject to an easement for utility installation and maintenance reserved over the East 18 feet abutting Lot 1.

PARCEL 4: 08-34-378-003

Beginning at a point North 89°58'38" East 18.0 feet from the Northeast corner of Lot 8, Block 3 of Charles S. Desky's Third Addition as located in the Southwest 1/4 of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running thence South 89°58'38" West 108.5 feet; thence South 0°03'08" East 272.2 feet; thence North 89°58'38" East 108.5 feet; thence North 0°09'08" West 272.2 feet to the point of beginning.

Subject to all existing rights of way and easements of any and every description now located in, on, under or over the confines of that part of said property described as vacated alley (and vacated street); and also subject to the right of entry thereon for the purpose of inspecting, maintaining, repairing, replacing, removing, altering, or re-routing said utilities and all of them.

08-34-378-005 EXHIBIT A (continued)

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Certain property located in the rear of 1737 West North Temple, Salt Lake City, Utah, more particularly described as follows:

Beginning South 89°12'10" West 858.5 feet from the South  $\frac{1}{4}$  Corner of Section 34, Township 1 North, Range 1 West, Salt Lake Meridian; thence South 89°12'10" West 98.5 feet; thence North 18 feet more or less; thence North 89°58'38" East 98.5 feet; thence South 18 feet more or less to beginning 0.04 acres.

POOR COPY-  
CO. RECORDER

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## **EXHIBIT B**

### **LEGAL DESCRIPTION**

Situated in the County of Salt Lake, State of Utah, and described as follows:

Beginning at a point on the South Line of North Temple Street said point being North 89°58'38" East 18.0 feet from the Northeast Corner of Lot 8, Block 3, CHARLES S. DESKY'S THIRD ADDITION as located in the Southwest Quarter of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running thence South 0°03'08" West 250.00 feet; thence South 89°58'38" West 145.00 feet; thence North 0°03'08" West 250 feet to the South line of the North Temple Street; thence North 89°58'38" East along said South line 145.00 feet to the point of beginning.

Together with a portion of the vacated street abutting on the East and also the vacated alley along the South line of Lots 5, 6, 7 and 8 and the North line of Lots 1, 2, 3 and 4 of said subdivision.

# EXHIBIT C

Parcel # 08-34-378-002

Beginning at the North ~~at~~ corner of Lot 5, Block 3, CHARLES S. DESKY'S THIRD ADDITION, according to the official plat thereof, running thence South along the East line of Lots 4 and 5 of said subdivision 272.2 feet; thence South 89°58'38" West 173.5 feet, more or less, to the East line of the Anaconda Company property, thence North along the East line of said Anaconda property 272.2 feet, more or less, to the South line of North Temple; thence East along the South line of North Temple Street 173.5 feet, more or less to the point of beginning.

PARCEL 2: 08-34-383-001

Also, all of Lots 1 to 47, inclusive, Block 1, CHARLES S. DESKY'S 3rd Addition, according to the plat thereof, recorded in the office of the County Recorder of Salt Lake County. Also, all of Lots 1 to 8, inclusive, Block 2, CHARLES S. DESKY'S 3rd Addition, according to the plat thereof, recorded in the Office of the County Recorder of Salt Lake County.

EXCEPTING THEREFROM that portion thereof contained within the right of way of a state highway on the East.

TOGETHER with vacated streets and alleys abutting above described lots.

SUBJECT TO easement for public utilities over the South 5 feet, East 5 feet and North 5 feet of said property, as disclosed by an inspection of said premises.

PLAT COPY-  
CO. RECORDER

PARCEL 3: 08-34-378-003

Also, beginning at a point North 89°58'38" East 18.00 feet from the Southeast corner of Lot 1, Block 3, of CHAS S. DESKY'S THIRD ADDITION as the same is located according to information on file in the Salt Lake City Engineer's Office, and running thence South 89°58'38" West 133.50 feet to the West line of said addition; thence South 0°03'08" East along said West line 341.20 feet to a point North 0°03'08" West 18.96 feet and South 89°58'38" West 812.41 feet from the South Quarter Corner of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian; thence South 89°58'38" West 144.59 feet to a point South 89°12'10" West along the Section line, 957.00 feet and North 30.83 feet from said South quarter corner of Section 34; thence North 381.20 feet; thence North 89°58'38" East 277.74 feet; thence South 0°03'08" East 40 feet to the point of beginning.

Subject to an easement for utility installation and maintenance reserved over the East 18 feet abutting Lot 1.

PARCEL 4: 08-34-378-003

Beginning at a point North 89°58'38" East 18.0 feet from the Northeast corner of Lot 8, Block 3 of Charles S. Desky's Third Addition as located in the Southwest 1/4 of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running thence South 89°58'38" West 108.5 feet; thence South 0°03'08" East 272.2 feet; thence North 89°58'38" East 108.5 feet; thence North 0°09'08" West 272.2 feet to the point of beginning.

Subject to all existing rights of way and easements of any and every description now located in, on, under or over the confines of that part of said property described as vacated alley (and vacated street); and also subject to the right of entry thereon for the purpose of inspecting, maintaining, repairing, replacing, removing, altering, or re-routing said utilities and all of them.

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EXHIBIT 9 (continued)

08-34-378-005

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Certain property located in the rear of 1737 West North Temple, Salt Lake City, Utah, more particularly described as follows:

Beginning South 89°12'10" West 858.5 feet from the South  $\frac{1}{4}$  Corner of Section 34, Township 1 North, Range 1 West, Salt Lake Meridian; thence South 89°12'10" West 98.5 feet; thence North 18 feet more or less; thence North 89°58'38" East 98.5 feet; thence South 18 feet more or less to beginning 0.04 acres.

Less and except therefrom:

Beginning at a point on the South Line of North Temple Street said point being North 89°58'38" East 18.0 feet from the Northeast Corner of Lot 8, Block 3, CHARLES S. DESKY'S THIRD ADDITION as located in the Southwest Quarter of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running thence South 0°03'08" West 250.00 feet; thence South 89°58'38" West 145.00 feet; thence North 0°03'08" West 250 feet to the South line of the North Temple Street; thence North 89°58'38" East along said South line 145.00 feet to the point of beginning.

Together with a portion of the vacated street abutting on the East and also the vacated alley along the South line of Lots 5, 6, 7 and 8 and the North line of Lots 1, 2, 3 and 4 of said subdivision.

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CO. RECORDER

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## **EXHIBIT D**

### **ACCESS EASEMENT LEGAL DESCRIPTION**

Situated in the County of Salt Lake, State of Utah, and described as follows:

Beginning at a point South 89°58'38" West 11.50 feet from the Northwest Corner of Lot 5, Block 3, CHARLES S. DESKY'S THIRD ADDITION as located in the Southwest Quarter of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian and running thence South 0°03'08" East 250.00 feet to a point of terminus.

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