

FILED IN OFFICE  
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CHEROKEE COUNTY, GA  
04 MAY 24 AM 10:01  
BOOK 7098 PAGE 318  
Anne M. Renshaw

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ACWORTH, GEORGIA  
5600 Bells Ferry Road  
L/C: 010-0232  
File # 7203

PLEASE RECORD AND RETURN TO:  
DELA DE LA FUENTE  
FIRST AMERICAN TITLE INSURANCE COMPANY  
NATIONAL COMMERCIAL SERVICES  
5775 GLENRIDGE DRIVE, SUITE A-240  
ATLANTA, GEORGIA 30328  
FILE NO.: NCS-65313-ATL  
5/5 26.00 20957

SECOND AMENDMENT AND CONSENT TO EASEMENT AGREEMENT

THIS SECOND AMENDMENT AND CONSENT TO EASEMENT AGREEMENT ("Second Amendment") is dated May 5, 2004 by and between **CHEROKEE CORNERS HOLDINGS, LLC** ("Grantor") **McDONALD'S CORPORATION**, a Delaware corporation ("Grantee") and **W.T. MOBLEY, JR** ("Mobley"). The following statements are a material part of this agreement:

- A. Grantee is, or will be at the time of recording of this document, the owner of Parcel 1 described in Exhibit A, attached.
- B. Grantor is the owner of Parcel 2, consisting of the three parcels which are described in Exhibits B, C and D, attached.
- C. Parcel 1 and Parcel 2 are the subject of a certain Easement Agreement entered into between Mobley and Grantee, dated January 31, 1984, and recorded on May 11, 1984 in Book 398 Page 115, Official Records of Cherokee County, Georgia (the "Easement Agreement"). The Easement Agreement was modified by that certain Amendment and Consent to Easement Agreement entered into between Mobley, Grantee and Trust Company Bank, successor by corporate merger to Bank of Woodstock (the "Bank") dated April 12, 1984, and recorded on May 11, 1984 in Book 398, Page 124 the Official Records of Cherokee County, Georgia (the "First Amendment").
- D. The Lease dated October 4, 1983, between Mobley as Lessor and Bank as Lessee (the "Bank's Lease") referenced in the second paragraph of the First Amendment has expired, has not been renewed or extended, and is no longer in effect.
- E. Grantor is the successor in interest to Mobley with respect to Parcel 2. Grantee, has or is about to purchase Parcel 1 from Mobley and become the fee owner thereof. Grantor, Mobley and Grantee wish to modify and clarify certain of the provisions of the Easement and the First Amendment.

THEREFORE, in consideration of TEN AND NO/100THS DOLLARS (\$10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, the following grants, agreements, covenants and restrictions are made:

- 1. Paragraph 2 of the Easement Agreement is modified by the clarification that the printed phrase "20 feet" in the last sentence thereof should read "10 feet."
- 2. Paragraph 3 of the Easement Agreement is hereby deleted. In its place and stead is substituted the following:

"The easements set forth in Paragraphs 1 and 2 herein shall be perpetual."

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Grantee and Mobley

- Section 9 of the First Amendment provides, in pertinent part, that "all rights granted to the Bank in this Agreement shall be for the full term of [the Bank's Lease] and any extensions or renewals thereof. ~~The parties to this Second Amendment~~ acknowledge and agree that the Bank's Lease has expired and is no longer in effect, and that therefore the easements and rights granted to the Bank, its heirs, executors, administrators, legal representatives, successors and assigns, are terminated and extinguished.
- Except as set forth above, the Easement Agreement is hereby ratified and affirmed and remains in full force and effect.

*ny*

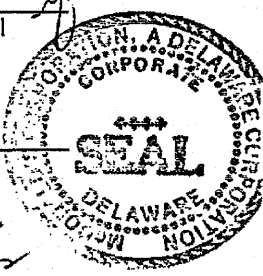
TO INDICATE THEIR CONSENT TO THIS AGREEMENT, Grantor and Grantee, or their authorized representatives or officers, have signed this document.

GRANTOR  
**CHEROKEE CORNERS HOLDINGS LLC**  
 By: MIMMS INVESTMENTS, a Georgia  
 general partnership, its sole member  
 By: *[Signature]*  
 Its: General Partner

GRANTEE  
**MCDONALD'S CORPORATION,**  
 a Delaware corporation  
 By: *[Signature]*  
 Edward J Krzyminski, Senior Counsel

ATTEST:  
 By: \_\_\_\_\_  
 Its: \_\_\_\_\_

ATTEST:  
 By: *[Signature]*  
 Christopher M. Bailey, Counsel



WITNESS:  
*[Signature]*  
*[Signature]*

WITNESS:  
*[Signature]*  
 Mary L. Simms  
*[Signature]*  
 Sheryle Valles

*[Signature]*  
 WILLIAM T. MOBLEY, JR

WITNESS:  
*[Signature]*  
*[Signature]*

(ATTACH ACKNOWLEDGMENTS AND EXHIBITS A, B, C and D)

- Exhibit A: Legal Description of Grantee's property (including easements reserved by Grantor)
- Exhibit B: Legal Description of Retention Pond Easement
- Exhibit C: Legal Description of Sign Easement
- Exhibit D: Water Line and Electrical Conduit Easement

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ACKNOWLEDGMENT - McDONALD'S

STATE OF ILLINOIS )  
 ) SS:  
COUNTY OF KANE )

I, **Judith L. Lemm**, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that **Edward J Krzyminski, Senior Counsel, and Christopher M. Bailey, Counsel**, of McDonald's Corporation, a Delaware corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such authorized parties appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act as such authorized parties 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 5<sup>th</sup> day of May, 2004.

Judith L. Lemm  
Notary Public

My commission expires March 3, 2007.



ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_ of **CHEROKEE CORNERS HOLDINGS, LLC.**, who are personally known to me to be the persons whose names are subscribed to the foregoing instrument as such authorized parties, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act as such authorized parties 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 \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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

My commission expires \_\_\_\_\_.

ACKNOWLEDGMENT

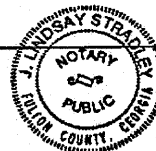
STATE OF Georgia )  
 ) SS:  
COUNTY OF Fulton )

I, J. Lindsay Stradley, Jr., a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that **WILLIAM T. MOBLEY, JR.**, who is personally known to me to be the person whose name is subscribed to the foregoing instrument as such person, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 10<sup>th</sup> day of May, 2004.

J. Lindsay Stradley, Jr.  
Notary Public

My commission expires \_\_\_\_\_.



My Commission Expires July 25, 2004

CONSENT

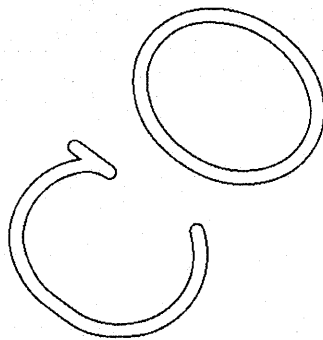
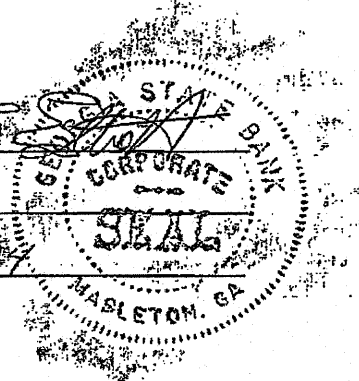
Georgia State Bank, a Georgia Banking corporation, holds a Deed to Secure Debt that encumbers the property shown on Exhibit B to this Second Amendment to Easement Agreement. The Deed to Secure Debt and Security Agreement is dated July 15, 2003 recorded July 16, 2003 in Deed Book 6344 at Page 31; Assignment of Leases and Rents dated July 15, 2003 recorded July 16, 2003 in Deed Book 6344 at Page 58 together with UCC Financing Statement recorded July 16, 2003 in Deed Book 6344 at Page 66; and UCC Financing Statement recorded July 16, 2003 as File No. 028-2003-1929 in the Cherokee County, Georgia Records. Georgia State Bank hereby consents to the foregoing Second Amendment and Consent to Easement Agreement.

Georgia State Bank,  
A Georgia banking corporation

By: 

Its: *EVA*

Date: *5/20/04*



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PARCEL 1

## McDONALD'S FEE PARCEL

All that tract or parcel of land lying and being in Land Lot 1224 of the 15th District, 2nd Section of Cherokee County, Georgia and being more particularly described as follows:

BEGINNING at an iron pin set at the intersection of the northeasterly right-of-way line of Bells Ferry Road (having a 100' right-of-way width) with the westerly line also being the easterly line of Land Lot 1189, 21st District of the above referenced section and county; thence leaving the northeasterly right-of-way line of last said road and running N00°35'05"E along the westerly line of said Land Lot 1224, 15th District of the above referenced section and county for a distance of 80.53' to a 1/2" rebar found; thence leaving the westerly line of last said land lot and running N29°51'32"E a distance of 135.63' to a 1/2" rebar found; thence S60°08'28"E a distance of 179.94' to a point; thence S29°51'32"W a distance of 249.90' to a 1/2" rebar found; thence S85°33'06"W a distance of 46.77' to a point located on the northeasterly right-of-way line of Bells Ferry Road (100'R/W); thence N24°14'10"W a distance of 139.85' along said right-of-way to the POINT OF BEGINNING. Said property contains 42,028 square feet or 0.965 acres of land.

SUBJECT TO THE FOLLOWING DESCRIBED RESERVATIONS OF EASEMENTS TO GRANTOR:

## STORM SEWER EASEMENT

All that tract or parcel of land lying and being in Land Lot 1224 of the 15th District, 2nd Section of Cherokee County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin set at the intersection of the northeasterly right-of-way line of Bells Ferry Road (having a 100 foot right-of-way width) with the westerly line of Land Lot 1224, 15th District of the above referenced section and county, said westerly line also being the easterly line of Land Lot 1189, 21st District of the above referenced section and county, thence leaving the northeasterly right-of-way line of last said road and running North 00°-35'-05" East along the westerly line of said Land Lot 1224, 15th District of the above referenced section and county for a distance of 14.03 feet to a point; thence leaving the westerly line of last said land lot and running North 17°-43'-17" East for a distance of 168.56 feet to a point; thence North 29°-51'32" East for a distance of 34.10 feet to an iron pin set; thence South 60°-08'-28" East for a distance of 8.01 feet to a point; thence South 17°-43'-17" West for a distance of 225.62 feet to a point located on the northeasterly right-of-way line of Bells Ferry Road (having a 100 foot right-of-way width); thence North 24°-26'-54" West along the northeasterly right-of-way line of last said road for a distance of 16.19 feet to the POINT OF BEGINNING, containing 3141 square feet or 0.0721 acre of land. The above described parcel of land being Parcel 6 as shown and delineated on plat of survey for McDonald's by Travis Pruitt & Associates, P.C. dated November 11, 1983 and last revised February 28, 1984.

## SANITARY SEWER EASEMENT

All that tract or parcel of land lying and being in Land Lot 1224 of the 15th District, 2nd Section of Cherokee County, Georgia, and being more particularly described as follows:

To find the true POINT OF BEGINNING, begin at an iron pin set at the intersection of the northeasterly right-of-way line of Bells Ferry Road (having a 100 foot right-of-way width) with the westerly line of Land Lot 1224, 15th District of the above referenced section and county, said westerly line also being the easterly line of Land Lot 1189, 21st District of the above referenced section and county; thence South 24°-26'-54" East along the northeasterly right-of-way line of said Bells Ferry Road for a distance of 134.38 feet to a point; thence leaving the northeasterly right-of-way line of last said road and running North 65°-33'-06" East for a distance of 14.73 feet to a point at the TRUE POINT OF BEGINNING; from the TRUE POINT OF BEGINNING as thus established; thence North 29°-51'-32" East for a distance of 277.57 feet to a point; thence South 60°-08'-28" East for a distance of 20.00 feet to an iron pin; thence South 29°-51'-32" West for a distance of 249.98 feet to a point; thence running South 65°-33'-06" West for a distance of 34.28 feet to the POINT OF BEGINNING, containing 5273 square feet or 0.1211 acre of land. The above described parcel of land being Parcel 5 as shown and delineated on plat of survey for McDonald's by Travis Pruitt & Associates, P.C. dated November 11, 1983 and last revised February 28, 1984.

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PARCEL 2

RETENTION POND EASEMENT TO McDONALD'S

All that tract or parcel of land lying and being in Land Lot 1224 of the 15th District, 2nd Section of Cherokee County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin set on the westerly line of Land Lot 1224, 15th District of the above referenced section and county, said westerly line also being the easterly line of Land Lot 1189, 21st District of the above referenced section and county, located 86.51 feet and on a bearing of North 00°-35'-05" East from the intersection of said westerly line of Land Lot 1224, 15th District of the above referenced section and county with the northeasterly right-of-way line of Bells Ferry Road (having a 100 foot right-of-way width) and running thence North 00°-35'-05" East along the westerly line of last said land lot for a distance of 190.92 feet to a point; thence leaving the westerly line of last said land lot and running South 89°-24'-55" East for a distance of 71.72 feet to a point; thence South 60°-08'-28" East for a distance of 70.79 feet to a point; thence South 29°-51'-32" West for a distance of 65.94 feet to a point; thence North 60°-08'-28" West for a distance of 40.00 feet to a point; thence South 29°-51'-32" West for a distance of 135.67 feet to the POINT OF BEGINNING, containing 12,588 square feet or 0.2890 acre of land. The above described parcel of land being Parcel 4 as shown and delineated on plat of survey for McDonald's by Travis Pruitt & Associates, P.C. dated November 11, 1983 and last revised February 28, 1984.

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EXHIBIT B

PARCEL 2 (continued)

## SIGN EASEMENT TO McDONALD'S

All that tract or parcel of land lying and being in Land Lot 1224 of the 15th District, 2nd Section of Cherokee County, Georgia, and being more particularly described as follows:

To find the true POINT OF BEGINNING, begin at an iron pin set at the intersection of the northeasterly right-of-way line of Bells Ferry Road (having a 100 foot right-of-way width) with the westerly line of Land Lot 1224, 15th District of the above referenced section and county, said westerly line also being the easterly line of Land Lot 1189, 21st District of the above referenced section and county; thence South  $24^{\circ}-26'-54''$  East along the northeasterly right-of-way line of said Bells Ferry Road for a distance of 134.38 feet to an iron pin found; thence leaving the northeasterly right-of-way line of last said road and running North  $65^{\circ}-33'-06''$  East for a distance of 49.01 feet to a point; thence North  $29^{\circ}-51'-32''$  East for a distance of 515.00 feet to an iron pin found located at the TRUE POINT OF BEGINNING; thence running North  $08^{\circ}-25'-02''$  East for a distance of 67.25 feet to an iron pin found located on the southwesterly right-of-way line of Georgia Highway No. 92, also known as Alabama Road, (having a 100 foot right-of-way); thence South  $78^{\circ}-32'-00''$  East along the southwesterly right-of-way line of last said road for a distance of 25.88 feet to a point; thence leaving the southwesterly right-of-way line of last said road and running South  $29^{\circ}-51'-32''$  West for a distance of 70.70 feet to the POINT OF BEGINNING, containing 869 square feet or 0.0199 acre of land. The above described parcel of land being Parcel 2 as shown and delineated on plat of survey for McDonald's by Travis Pruitt & Associates, P.C. dated November 11, 1983 and last revised February 28, 1984.

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PARCEL 2 (continued)

WATER LINE EASEMENT TO McDONALD'S

All that tract or parcel of land lying and being in Land Lot 1224 of the 15th District, 2nd Section of Cherokee County, Georgia, and being more particularly described as follows:

To find the true POINT OF BEGINNING, begin at an iron pin set at the intersection of the northeasterly right-of-way line of Bells Ferry Road (having a 100 foot right-of-way width) with the westerly line of Land Lot 1224, 15th District of the above referenced section and county, said westerly line also being the easterly line of Land Lot 1189, 21st District of the above referenced section and county; thence South 24°-26'-54" East along the northeasterly right-of-way line of said Bells Ferry Road for a distance of 134.38 feet to an iron pin found; thence leaving the northeasterly right-of-way line of last said road and running North 65°-33'-06" East for a distance of 49.01 feet to a point; thence North 29°-51'-32" East for a distance of 249.98 feet to an iron pin set at the TRUE POINT OF BEGINNING; thence running North 60°-08'-28" West for a distance of 20.00 feet to point; thence North 29°-51'-32" East for a distance of 316.20 feet to a point; thence North 29°-51'-32" East for a distance of 13.18 feet to a point located on the southwesterly right-of-way line of Georgia Highway No. 92, also known as Alabama Road, (having a 100 foot right-of-way width); thence South 78°-32'-00" East along the southwesterly right-of-way line of last said road for a distance of 21.06 feet to a point; thence leaving the southwesterly right-of-way line of last said road and running South 29°-51'-32" West for a distance of 70.70 feet to a point; thence continuing South 29°-51'-32" West for a distance of 265.02 feet to the POINT OF BEGINNING, containing 6654 square feet or 0.1528 acre of land. The above described parcel of land being Parcel 3, which also includes a portion of the Sign Easement of McDonald's being Parcel 2 as shown and delineated on plat of survey for McDonald's by Travis Pruitt & Associates, P.C. dated November 11, 1983 and last revised February 28, 1984.

REC 7-19-2004

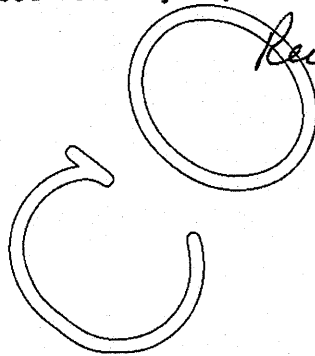


EXHIBIT D