

For Plat

2023C-0024

Doc 2023022834



EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the “Agreement”) is made as of 2-15, 2023 (the “Date Hereof”), by and between **BRUNACINI BUILDERS I OPPORTUNITY LAND, LLC**, a New Mexico limited liability company (“BBI”) and **BD DEVELOPMENT II, LLC**, a New Mexico limited liability company (“BDD”). BBI and BDD are sometimes collectively referred to herein as the “Parties”.

WHEREAS, BDD is the owner of the following described real property located in the County of Bernalillo, State of New Mexico, to-wit:

Lot 7-A of the Plats of Lots 7-A and 7-B, Meridian Business Park, City of Albuquerque, New Mexico, ass the same is shown and designated on the plat of said subdivision, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on May 4, 2001, in Volume 2001C, Folio 128; and Lot 10 of the Plats of Lots 1 Thru 23, Meridian Business Park, City of Albuquerque, New Mexico (“Lot 7A”),

WHEREAS, BBI is the owner of the following described real property located in the County of Bernalillo, State of New Mexico, to-wit:

Lot 7-B of the Plats of Lots 7-A and 7-B, Meridian Business Park, City of Albuquerque, New Mexico, ass the same is shown and designated on the plat of said subdivision, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on May 4, 2001, in Volume 2001C, Folio 128 (“Lot 7B”); and

Lot 10 of the Plats of Lots 1 Thru 23, Meridian Business Park, City of Albuquerque, New Mexico, as the same is shown and designated on the plat of said subdivision, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on May 16, 1997, in Volume 97C, Folio 157 (“Lot 10”, collectively with Lot 7A and Lot 7B, the “Lots”, and each, individually, a “Lot”).

WHEREAS, it is the expectation that Lot 7B and Lot 10 will be replatted into a single, combined lot consisting of all of Lot 7B and all of Lot 10. The replat has not been drafted or recorded; however, the combination of Lot 7B and Lot 10 (whether replatted or not) may be referred to herein, collectively, as Lot 7-B-1.

NOW, THEREFORE in consideration of the mutual agreements hereinbelow, the Parties agree as follows:

1. Grant of Access Easement. BDD hereby declares that Lot 7A and BBI hereby declares that Lot 7-B-1 are subject to reciprocal non-exclusive perpetual easements for the benefit of the other Lots, over, through and across the “Access Area” (as hereinafter defined) located on said Lot for access, ingress, egress and movement by vehicular and pedestrian traffic, including to and from public rights of way.

2. Grant of Utility Easement. BDD hereby declares that Lot 7A and BBI hereby declares that Lot 7-B-1 are subject to reciprocal non-exclusive, perpetual easements for the benefit of the other Lots for the construction, placement, use maintenance and repair of utilities over, through and across the Access Areas located on said Lots.

3. Grant of Parking Easement. BDD hereby declares that Lot 7A and BBI hereby declares that Lot 7B are subject to reciprocal non-exclusive, perpetual easements for the benefit of the other Lots for the purpose of vehicular parking. Lot 10, or the portion of Lot 7-B-1 which may otherwise be described herein as Lot 10, is specifically excluded from being a servient estate as it pertains to the parking easement; however, all Lots benefit from the parking easements granted in Lot 7A and Lot 7B.

4. Access Area, defined. The “Access Areas” are the portions of each Lot designated and used by the respective owners thereof from time to time for vehicular and pedestrian ingress and egress, but specifically excluding the Propak License Area and the Pepsi Parking Area. The Propak License Area and the Pepsi Parking are shown on Exhibit A, and legally described on Exhibit B and Exhibit C, respectively.

5. Right to Relocate Access Area. The Access Areas on each Lot may be relocated from time to time by the respective owners thereof, provided the relocated Access Areas are reasonably accessible for ingress and egress to and from the Lots.

6. Access Area Not to be Obstructed. Except during periods of construction, repairs, maintenance and replacements, the Access Areas shall not be blocked, nor shall any barriers or other obstructions be placed within or adjoining the Access Areas to prevent the reasonable ingress, or egress, within said Access Areas to prevent the reasonable ingress, or egress within said Access Areas.

7. Maintenance; Repair. The owner of each Lot shall maintain the Access Areas on said owner’s Lot in good order and repair, with such maintenance to include, but not be limited to lighting; signage; removal of snow, ice, rubbish, debris and other hazards; and the surfacing, resurfacing and striping of said Access Areas.

8. Insurance Requirements. The owner of each Lot agrees to: (a) maintain commercial general liability insurance in an amount of not less than \$1,000,000.00 single limit (the “Financial Limits of Coverage”), naming the owner of the other Lot as an additional insured for claims related to this Agreement; (b) said policies shall provide for not less than thirty (30) days prior written notice to each other Lot owner of any cancellation or change in said policies; (c) each such policy shall further include provisions which deny to the insurer acquisition by subrogation of rights of recovery against the other Lot

owner to the extent that such provisions may be effective without making it impossible to obtain insurance coverage from responsible companies qualified to do business in the state of New Mexico; and (d) each Lot owner hereby waives all rights of recovery against the other Lot owners for loss or injury against which the waiving party is or may be protected by insurance containing said provisions.

9. Default. In the event the owner of any Lot fails to maintain the Access Area on said owner's Lot (a) another Lot owner may serve written notice on the defaulting Lot owner, and if said defaulting Lot owner does not cure said default within fifteen (15) days of the receipt of said notice, the non-defaulting Lot owner shall have the right to undertake the repairs, maintenance and/or replacements required within the Access Areas, as applicable, and the defaulting Lot owner shall reimburse the other Lot owner for said expenses, plus interest at 18% per annum from the date of each expenditure until repaid; and (b) if either Lot owner pays maintenance, repair or replacement expenses for a defaulting Lot owner pursuant to the provisions of this paragraph, the non-defaulting Lot owner shall have the right to file a lien against the defaulting owner's Lot for the amount of said expenditures, plus interest thereon, and said lien shall be subject to foreclosure in the same manner as mortgages and judgment liens.

10. Attorney Fees; Costs. In the event the owner of either Lot is required to enforce the provisions of this Agreement by judicial proceedings, the prevailing party shall be entitled to reasonable attorneys' fees and court costs from the non-prevailing party.

11. Notice. Notices given pursuant to the provisions of this Agreement that are necessary to carry out the provisions of this Agreement shall be in writing and delivered personally to the owner or its representative, or mailed, postage prepaid, registered or certified, return receipt requested, and properly addressed to the owner/representative shown on the records of the (i) Bernalillo County Assessor for the Lot; and (ii) New Mexico Secretary of State for the owner of the Lot, if the owner of the Lot is an entity, unless the owner of a Lot has previously provided notice, as requires herein, to the owner to the other Lot of a different address.

12. Binding; Runs With Land. This Agreement shall be binding upon the undersigned, their successors and assigns in all respects, and shall be deemed to run with the land forever.

[Remainder of page intentionally left blank.]

WITNESS MY HAND the day and year first above written.

BRUNACINI BUILDERS I OPPORTUNITY LAND, LLC,
a New Mexico limited liability company

By: [Signature]
Angelo Brunacini, its Manager

Date of Execution: 2-15-2023

STATE OF NEW MEXICO)
)ss.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on February 15, 2023, by Angelo Brunacini, as Manager of **BRUNACINI BUILDERS I OPPORTUNITY LAND, LLC**, a New Mexico limited liability company.

[Signature]
NOTARY PUBLIC

My Commission Expires:
6/26/2023

STATE OF NEW MEXICO
NOTARY PUBLIC
VERONICA GABALDON
COMMISSION # 1126428
EXPIRES JUNE 26, 2023

BD DEVELOPMENT II, LLC,
a New Mexico limited liability company

By: [Signature]
Angelo Brunacini, its Manager

Date of Execution: 2-15-2023

STATE OF NEW MEXICO)
)ss.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on February 15, 2023, by Angelo Brunacini, as Manager of **BD DEVELOPMENT II, LLC**, a New Mexico limited liability company.

[Signature]
NOTARY PUBLIC

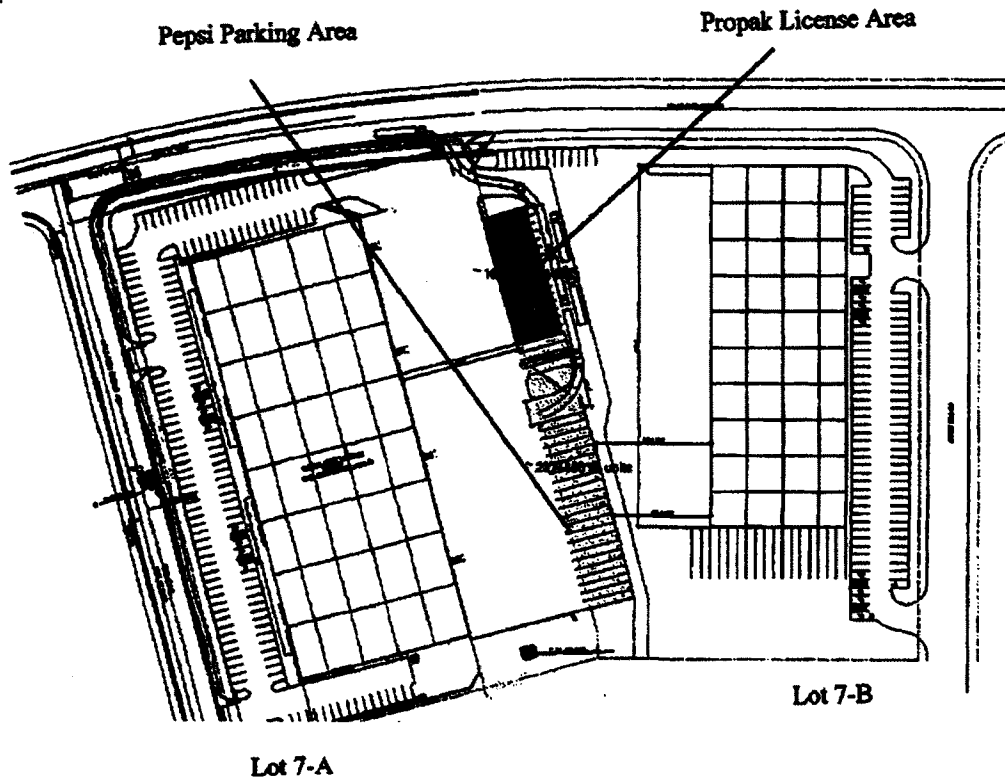
My Commission Expires:
6/26/2023

STATE OF NEW MEXICO
NOTARY PUBLIC
VERONICA GABALDON
COMMISSION # 1126428
EXPIRES JUNE 26, 2023

EXHIBIT A

PROPAK LICENSE AREA AND THE PEPSI PARKING AREA

Exhibit "A"



EXHIBIT

"B"

Propak License Area

LEGAL DESCRIPTION

A CERTAIN TRACT OF LAND BEING THE WESTERLY PORTION OF LOT NUMBERED SEVEN-B (7-B) MERIDIAN BUSINESS PARK, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT THEREOF, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON MAY 4, 2001, BOOK 2001C, PAGE 128, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT, BEING A POINT ON THE WESTERLY LINE OF LOT 7-B, WHENCE THE NORTHWEST CORNER OF LOT 7-B BEARS S. 30°02'06" E, A DISTANCE OF 87.00 FEET RUNNING THENCE.

N 59°57'47" E, A DISTANCE OF 60.00 FEET TO A POINT;

THENCE S 30°02'06" E, A DISTANCE OF 142.00 FEET TO A POINT;

THENCE S 59°57'47" W, A DISTANCE OF 60.00 FEET TO THE WESTERLY LINE OF LOT 7-B;

THENCE N 30°02'06" W, ALONG THE WESTERLY LINE OF LOT 7-B A DISTANCE OF 142.00 FEET TO THE PLACE OF BEGINNING.

EXHIBIT

"c"

Pepsi Parking Area

LEGAL DESCRIPTION

A CERTAIN TRACT OF LAND BEING THE WESTERLY PORTION OF LOT NUMBERED SEVEN-B (7-B) MERIDIAN BUSINESS PARK. AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT THEREOF, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON MAY 4, 2001, BOOK 2001C, PAGE 128, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT, BEING A POINT ON THE WESTERLY LINE OF LOT 7-B, WHENCE THE NORTHWEST CORNER OF LOT 7-B BEARS S. 30°02'06" E, A DISTANCE OF 304.00 FEET RUNNING THENCE.

N. 59°57'47" E., A DISTANCE OF 60.00 FEET TO A POINT;

THENCE S 30°02'06" E, A DISTANCE OF 229.00 FEET TO A POINT;

THENCE S 59°57'47" W, A DISTANCE OF 60.00 FEET TO THE WESTERLY LINE OF LOT 7-B;

THENCE N 30°02'06" W, ALONG THE WESTERLY LINE OF LOT 7-B A DISTANCE OF 229.00 FEET TO THE PLACE OF BEGINNING.