

## EASEMENT GRANT

This Easement Grant is made between FOUNTAIN HILLS PLAZA, LLC, a New Mexico limited liability company, ("Grantor") and THR PROPERTIES, LLC, a New Mexico limited liability company ("Grantee").

The following Recitals are a material part of this instrument.

A. Grantor is the owner of that parcel of land more particularly described in Exhibit A attached hereto and hereafter referred to as "Parcel One".

B. Grantee is the owner of the tract of land more particularly described in Exhibit A attached hereto and hereafter referred to as "Parcel Two."

C. Grantor wishes to grant and Grantee wishes to receive an easement over and across Parcel One for access to Parcel Two.

D. Parcels One and Two are presently unimproved lots. The easement granted hereby is necessary for the construction of planned improvements on Parcel Two.

E. The other Parcels in the Fountain Hills Plaza Subdivision enjoy mutual blanket easements as reflected on the Plat of Fountain Hills Plaza Subdivision, Bernalillo County, New Mexico, filed in the office of the County Clerk of Bernalillo County, New Mexico on September 19, 2007, in Plat Book 2007 C, folio 270 as Document No. 2007134047. The purpose of the blanket easements is to allow for access and construction activities to interior lots during project construction and development.

F, Grantee purchased Parcel Two from the Grantor. At the time of Grantee's purchase of Parcel Two, Grantor intended for Grantee to enjoy the benefits of the blanket easement which Grantee and Grantor believed to include and encumber Parcel One for the benefit of Parcel Two.

G. Grantor and Grantee have since learned that Plat One is not included in the blanket easement affecting the other lots in the Fountain Hills Plaza Subdivision. Grantor and Grantee therefore wish to create the easement granted hereby.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties state that the following grants, agreements, covenants and restrictions are made:

1. Grant of Easement. Grantor hereby grants to the Grantee and its assigns as an easement appurtenant to Parcel Two a non-exclusive, perpetual easement for drainage, parking, construction access, ingress and egress over and across Parcel One as that parcel is identified and described in Exhibit A attached hereto and made a part hereof ("Easement Premises").



2. Use of Easement Premises. The primary use of the Easement Premises shall be for access to Parcel Two, including ingress, egress, and parking, during construction of the improvements reflected on the Site Plan attached hereto as Exhibit "B." The Easement Premises shall not be used in connection with any unlawful, noxious or other use of Parcel Two which unreasonably increases the burden and use of the Easement. Ingress and egress to Parcel Two will, to the extent reasonably possible, follow the course of the access road depicted on the Site Plan attached hereto as Exhibit "B." Exhibit B is incorporated by reference as though fully restated herein.

3. Use of Parcel Two. As long as this Easement Grant remains in effect Parcel Two shall not be used for other than commercial purposes and no building other than one suited only for commercial purposes shall be constructed thereon.

4. Increase of Burden and Use of Easement. During the term of this Easement, Grantee shall not use Parcel Two in such a manner as to materially increase the burden and/or use of the Easement. Any such material increase of burden and use of the Easement may be enjoined.

5. Parking. Both parties covenant that vehicles may be parked on the Easement Premises, but only as necessary for the construction of improvements on Parcel Two as reflected in Exhibit B.

6. Paving, Repair and Maintenance of Easement. Grantees will, at all times, maintain any driveways, roadways, access lanes, or parking areas constructed on the Easement Premises in good repair. Grantees shall be responsible for and bear all costs associated with the construction, repair, maintenance, improvement and insuring of the Easement Premises. Grantees shall maintain at their expense as long as the grant of easement is in effect insurance against loss or liability in connection with bodily injury, death or property damage or destruction, occurring in or upon the Easement Premises or arising out of the use by Grantees or their respective agents, employees, officers, invitees, visitors or guests, under one or more policies of public liability insurance having such limits as to each as are agreed upon by the Grantor and Grantees in writing from time to time (but in any event of not less than (a) One Million Dollars (\$1,000,000.00) for bodily injury to or death of any one person during any one occurrence, and (b) One Million Dollars (\$1,000,000.00) for property damage or destruction during any one occurrence).

7. Running of Benefits and Burdens - Obligations a Lien. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the benefit of the assigns, successors, tenants and personal representatives of the parties hereto and to the transferees of the real estate owned by the Grantor and the Grantees. All Obligations of Grantees hereunder shall constitute a lien on Parcel One. The liens granted hereby are subject to foreclosure in accordance with the statutory procedure for foreclosing mortgages, and such liens shall survive any transfer of the real estate of the Grantor and Grantees or their respective successors in interest.

8. Warranty of Title. Grantor warrants its title to Parcel One pursuant to a Warranty Deed, properly recorded in the records of the Bernalillo County Clerk.



9. Termination of Liability. Whenever a transfer of ownership of either parcel takes place, the personal liability of the Grantor or Grantees for breach of covenants, promises and representations occurring thereafter automatically terminates, except that the Grantor and Grantees remain liable for breaches of covenants, promises and representations occurring prior to such transfer.

10. Attorney's Fees. Either party may enforce this instrument by appropriate action and should it prevail in such litigation it shall recover as part of its costs a reasonable attorney's fee.

11. Construction. The rule of strict construction does not apply to this Grant. This Grant shall be given a reasonable construction so that the intention of the parties to confer a commercially usable right of enjoyment in favor of the Grantees is carried out.

12. Notice. Grantor's address is 1501 Polo Ct. NW, Albuquerque, NM 87114, and Grantees' address is 8201 Golf Course Rd. NW, Suite C3, Albuquerque, NM 87120. Either party may give written notice of change of address with the other. All notices shall be sent by U.S. Mail, Certified, Return Receipt Requested to the addresses provided for in this paragraph and shall be deemed given when placed in the mail.

13. Release of Easement. The Grantees herein may terminate this instrument by recording a Release in recordable form with directions of delivery of the same to Grantor at its last address given pursuant hereto, whereupon all rights, duties, and liabilities hereby created shall terminate.

IN WITNESS HEREOF, the Grantor and the Grantees have executed this document effective the \_\_\_\_\_ day of March, 2015.

**GRANTOR:**

FOUNTAIN HILLS PLAZA, LLC, by Mogul, LLC,  
its managing member

By: \_\_\_\_\_

Jason Shaffer, Manager of Mogul, LLC

**GRANTEE:**

THR Properties, LLC

By: \_\_\_\_\_

James Tasker, Manager

STATE OF New Mexico  
COUNTY OF Bernalillo

This instrument was acknowledged before me on March 30, 2015, by Jason Shaffer, Manager of Mogul, LLC, a New Mexico limited liability company which is the managing member of Fountain Hills Plaza, LLC, a New Mexico limited liability company.

Stephanie Elizabeth Flanagan  
Notary Public

My Commission Expires: 4/10/16



STATE OF New Mexico  
COUNTY OF Bernalillo

This instrument was acknowledged before me on March 26, 2015, by James Tasker, Manager of THR Properties, LLC, a New Mexico limited liability company.

Stephanie Elizabeth Flanagan  
Notary Public

My Commission Expires: 4/10/16



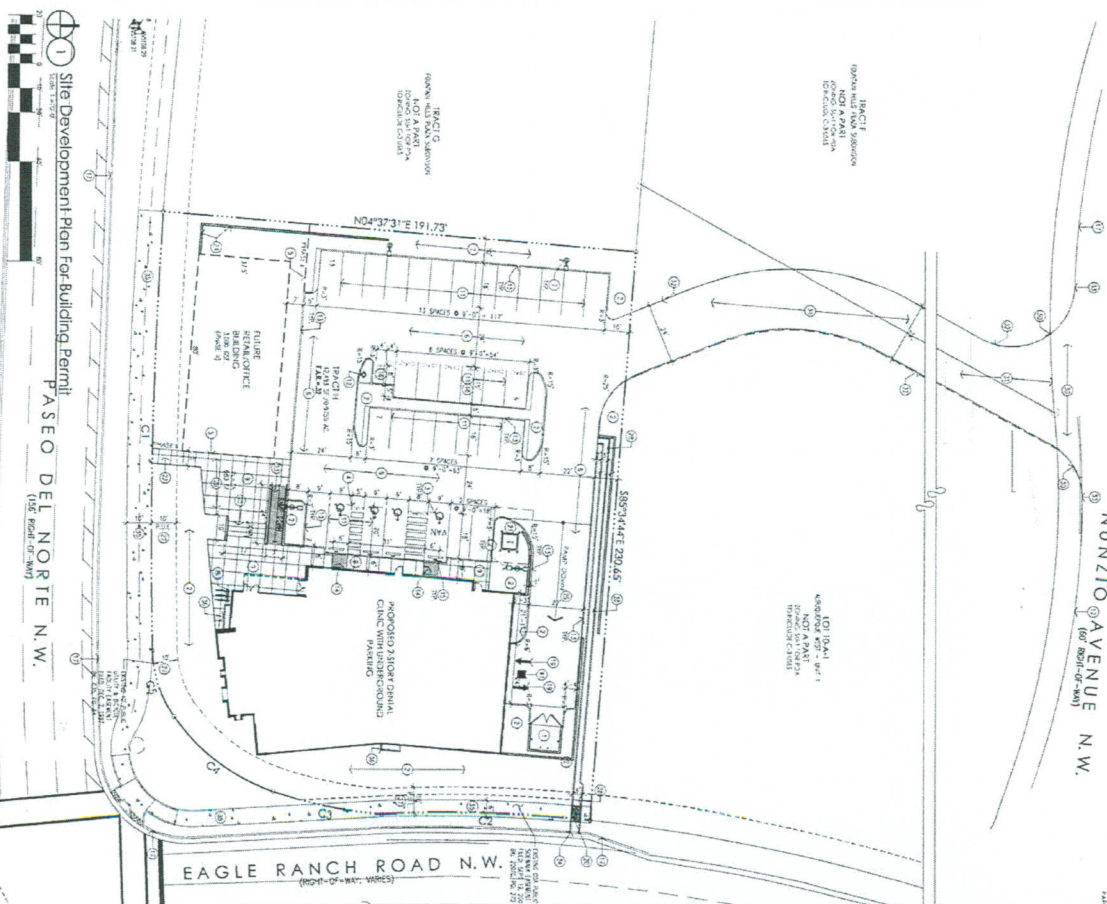
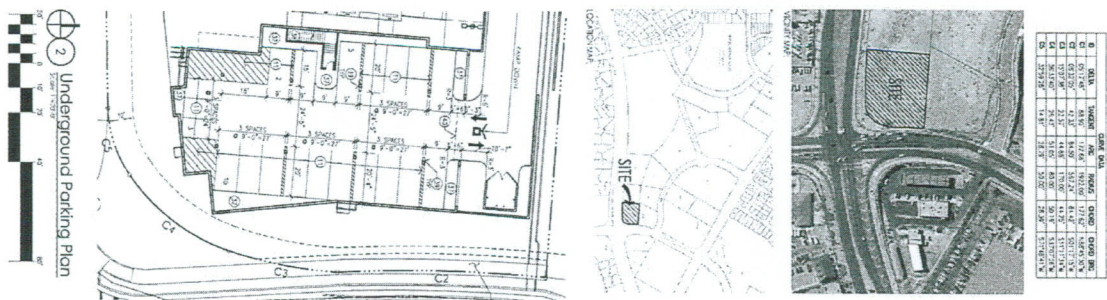
## **EXHIBIT A TO GRANT OF EASEMENT**

**Legal description of "Parcel One":** Lot 10-A-1 Block D Platt for Albuquerque West Unit 1 (lots 10-A-1 and 10-A-2) Block D within the Town of Alameda Grant, as shown on the plat of said subdivision filed in the office of the County Clerk for Bernalillo County, New Mexico, on June 13, 1996 in Plat Book 1996C, Folio 256.

**Legal description of "Parcel Two":** Tract lettered "H," Plat of Fountain Hills Plaza Subdivision, Bernalillo County, 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 September 19, 2007, in Plat Book 2007C, Folio 270 as Document No. 2007134047.



# Exhibit B to Grant of Easement



NO.	DATE	BY	REVISION
1	10/15/15	MLH	INITIAL DESIGN
2	11/10/15	MLH	REVISED PER COMMENTS
3	12/15/15	MLH	REVISED PER COMMENTS
4	01/15/16	MLH	REVISED PER COMMENTS
5	02/15/16	MLH	REVISED PER COMMENTS
6	03/15/16	MLH	REVISED PER COMMENTS
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Bernalillo County, NM  
One Civic Plaza NW  
P.O. Box 542  
Albuquerque, NM 87102

Receipt: 0628007

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	In Person/Interested Person	false
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Total		\$25.00
Tender (Cash)		\$25.00
Paid By insight construction		

Thank You!

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