

WHEN RECORDED, RETURN TO:

Benchmark Properties, LLC
PO Box 160332
Clearfield, UT 84016

PARKING AND ACCESS EASEMENT AGREEMENT

12-764-0001 and 12-048-0138 (A.P.N.)

THIS PARKING AND ACCESS EASEMENT AGREEMENT (the "Agreement"), is entered into this 13 day of Feb., 2013, by and among **BND Partners, LLC**, a Utah limited liability company ("BND") and **Benchmark Properties LLC**, a Utah limited liability company ("Benchmark") collectively the "Parties".

RECITALS

WHEREAS, BND is the owner of a parcel of real property improved with an office building (the "BND Parcel"), with a street address of 736 S. 2000 W., Davis County, Utah, that is more particularly described on Exhibit "A" attached hereto; Syracuse, UT 84075

WHEREAS, Benchmark is the owner of a parcel of real property improved with an office building (the "Benchmark Parcel"), with a street address of 780 South 2000 West, Syracuse, Davis County, Utah, that is more particularly described on Exhibit "B" attached hereto.

WHEREAS, the Parties desire to establish, as hereinafter provided, certain non-exclusive easements over and upon the Parcels for access and parking purposes, as provided in this Agreement.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements made herein and for other valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Grant of Parking Easement. BND hereby grants and conveys to Benchmark for the benefit of Benchmark and the successors or assigns of Benchmark as owners of the Benchmark Parcel, and lessees, employees, customers, invitees and guests working at or visiting the Benchmark Parcel (the "Benchmark Permitted Users"), a non-exclusive easement, license, and privilege of passage, use and right of way (the "Parking Easement") on and over the BND Parcel for the parking of a maximum of three (3) vehicles, together with vehicular and pedestrian access to and from parking stalls.

2. Restrictions on Use of Parking Easement. The rights and privileges set forth herein are granted only for the benefit of the Benchmark Permitted Users and may not be assigned, conveyed or conferred upon any other party. The Parking Easement may only be used for the parking of automobiles, light trucks or motorcycles used for transportation by Benchmark Permitted Users. BND shall maintain, utilize and operate the BND Parcel in a manner which enables Benchmark Permitted Users to have access to approximately three (3) parking stalls during normal business hours. The Parking Easement may not be used for overnight parking. Under no circumstances shall the Easement be utilized for storage of vehicles or for the sale of vehicles.

3. Location and Relocation. BND shall have the right to locate the parking stalls and access driveways and related facilities upon the BND Parcel in BND's sole discretion. BND may utilize and develop any portion of the BND Parcel not required for the Easement in BND's sole discretion, provided that BND continues to ensure the availability of parking stalls for Benchmark's use, as required pursuant to Section 1 above. Benchmark and BND may establish or may not establish exclusive use of specific parking stalls. BND may relocate the parking stalls and access driveways at any time, provided, however, that BND shall use reasonable efforts to ensure that the process of such relocation does not unduly disturb Benchmark's use of the BND Parcel.

4. Benchmark Access Easement. Benchmark hereby grants to BND a non-exclusive easement across the Benchmark Parcel for vehicular access between 2000 West and the BND and Benchmark Parcels (the "Benchmark Access Easement"). The rights and privileges set forth herein are granted only for the benefit of the BND Permitted Users and the successors or assigns of BND as owners of the BND Parcel, and lessees, employees, customers, invitees and guests working at or visiting the BND Parcel (the "BND Permitted Users"), and may not be assigned, conveyed or conferred upon any other party. The Benchmark Access Easement may only be used for automobiles, light trucks or motorcycles used for transportation by BND Permitted Users. Benchmark shall maintain, utilize and operate the Benchmark Parcel in a manner which will allow vehicular access between 2000 West and the BND and Benchmark Parcels during normal business hours. Such access and the Benchmark Easement is identified on the attached Exhibit "C". Benchmark shall have the right to relocate the access driveways and related facilities upon the Benchmark Parcel in Benchmark's sole discretion, provided that such driveways and related facilities permit vehicular access from 2000 West to the driveway and parking area located on the BND Parcel.

5. BND Signage Covenant. BND has disclosed the proposed location of BND's signage on the BND parcel to Benchmark, by showing Benchmark a copy of BND's plan for its building and signage, a copy of which is attached as Exhibit "D". BND believed that Benchmark was okay with the placement of BND's sign as disclosed on Exhibit "D". Other than the placement of its signage as aforementioned and agreed to by Benchmark, BND hereby covenants to Benchmark that during the term of this Agreement, BND shall not cause any other blockage, whether by improvement, building, sign or any other improvement which would cause the visibility of Benchmarks' current signage to be impeded.

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6. Term. The Term of this Agreement shall be for Five (5) years from the date hereof, and may only be extended by the mutual consent of the parties.

7. Easements Appurtenant. Each of the easements, rights and privileges granted or created herein are appurtenances to the dominant estate and the easements, rights or privileges may not be transferred, assigned or encumbered except as an appurtenance of such parcel. For the purpose of the easements, rights and privileges provided hereunder, the Parcel on which the easement is located will constitute the dominant estate and the Parcel or Parcels benefited by the easement shall constitute the servient estate.

8. Covenants Running with the Land. Each and all of the covenants, restrictions, conditions and provisions contained in this Agreement (whether affirmative or negative in nature) are made for the direct mutual benefit of the dominant estate; will create servitudes upon each Parcel in favor of the dominant estate; will constitute covenants running with the land; will bind every person having a fee, leasehold, or other interest in any portion of the easement at any time or from time to time to the extent that such portion is effected or bound by the covenants, restrictions, or provision in question, or that the covenants, restrictions or conditions or provisions are to be performed on such portions; and will run to the benefit of the parties and the respective successors and assigns of the Parcels. The Easements created herein shall survive for the Term of this Agreement.

9. Not a Public Dedication. Nothing contained in this Agreement will be deemed to be a gift or dedication of any portion of any parcel to the general public or for any public purposes whatsoever. It is the intention of the parties that this Agreement will be strictly limited to and for the purposes expressed herein. Unless provided otherwise, each Party has the right to temporarily close all or a portion of the easement to such extent as is legally necessary and sufficient to prevent the dedication of the easement or any accrual of any rights therein in any person other than created hereby or in the public generally.

10. Maintenance and Upkeep. Each party shall be responsible for the maintenance and upkeep of each Party's respective Parcel during the Term of this Agreement. The Parties agree to reasonably cooperate to arrange for their own snow removal, repairs and maintenance.

11. Indemnification. The Parties agree that they will each have liability insurance on their respective parcels in the amount of at least one million dollars (\$1,000,000.00), and that the purpose of these liability insurance policies is to pay for any claims for any damages that any person suffers on the Parties' respective parcels. To the extent that BND's insurance policy will not cover any damages as set forth herein, BND hereby agrees to indemnify and hold Benchmark harmless from any increase in Benchmark's insurance premiums caused by any claim for damages to person or property resulting from use of the easement by BND, BND's successors and assigns, lessees, employees, invitees or guests. To the extent that Benchmark's insurance policy will not cover any damages as set forth herein, Benchmark

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hereby agrees to indemnify and hold BND harmless from any increase in BND's insurance premiums caused by any claim for damages to person or property resulting from use of the BND Parcel by Benchmark, Benchmark's successors and assigns, lessees, employees, invitees or guests.

12. Miscellaneous Provisions.

- a. This Agreement shall not create an association, partnership, joint venture or principle, or agency relationship among any owners of the Parcels.
- b. Each party shall be excused for the period of any delay in the performance of any obligations hereunder prevented by any cause or causes beyond the parties' control including but not limited to fire or other casualty, force majeure, natural disasters, flood or Acts of God.
- c. Failure of a party to insist on the performance of any provision or to exercise any option hereunder shall not be construed as a waiver from the future enforcement of any such provision or option. No provision in this Agreement shall be deemed to have been waived unless such waiver be in writing signed by each of the parties.
- d. No provision of this Agreement, nor the easements created hereunder, shall confer any interest or right in any condemnation or casualty award or proceeds other than on the owner of the condemned or damaged property.
- e. The benefits and burdens imposed under this Agreement shall be the obligation of the parties hereto, their lessees, successors and assigns and shall terminate upon the termination of that party's interest in the Parcels.
- f. If any provision of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those which it is held invalid, shall not be affected thereby. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- g. Except as otherwise provided, all provisions herein shall be binding upon and shall inure to the benefit of the parties, their legal representatives, heirs, tenants, licensees and invitees, successors and assigns.
- h. Any violation of the restrictions and provisions of this Agreement shall be grounds for injunctive and equitable relief. Relief may be sought and obtained by any owner of all or a portion of the Parcels.

- i. This agreement contains the entire agreement between the parties and there are no other terms, expressed or implied, except as contained herein.
- j. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.
- k. If any action of law or in equity shall be brought to enforce the terms of the Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in connection with such action.

IN WITNESS WHEREOF the parties have executed this agreement on the date first written above.

BND Partners, LLC,
a Utah Limited Liability Company

By: Brett R. Coleman
Its: Manager

Benchmark Properties, LLC,
a Utah Limited Liability Company

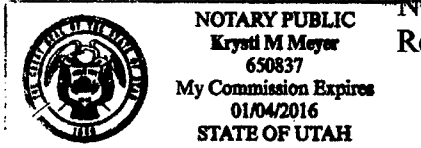
By: [Signature]
Its: [Signature]

STATE OF UTAH)
 : SS.
COUNTY OF DAVIS)

The foregoing instrument was acknowledged before me this 15th day of February 2013, by Brett Cote the Manager of BND Partners, LLC, on behalf of such company.

My Commission Expires:

01/04/16



[Signature]
NOTARY PUBLIC
Residing at: 975 W 1700 S
St. George, UT 84075

STATE OF UTAH)
 : SS.
COUNTY OF DAVIS)

The foregoing instrument was acknowledged before me this 14th day of February 2013, by Michael Nelson the Manager of Benchmark ~~Real Estate LLC~~ Properties, on behalf of such company.

My Commission Expires:

[Signature]
NOTARY PUBLIC
Residing at: Davis County

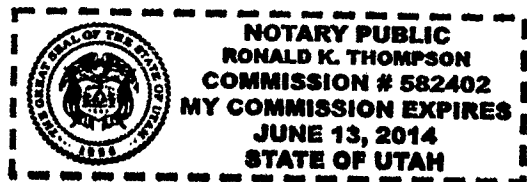


Exhibit "A"

BND Parcel

ALL OF LOT 1, PHEASANT CROSSING BUSINESS PARK, ACCORDING TO THE OFFICIAL
PLAT THEREOF ON FILE AND OF RECORD IN THE DAVIS COUNTY RECORDER'S OFFICE.

TAX ID # 12-764-0001

Exhibit "B"

Benchmark Parcel

A PART OF THE NE 1/4 OF SEC 9-T4N-R2W, SLM; BEG AT A PT 333.00 FT S 0°09'42" W & 50.00 FT W FR THE NE COR OF SD SEC 9; RUN TH S 0°09'42" W 69.81 FT ALG THE W LINE OF PPTY CONV IN QC DEED RECORDED 03/29/2010 AS E# 2519371 BK 4991 PG 1049 TO THE NE COR OF PPTY CONV IN QC DEED RECORDED 05/09/2005 AS E# 2071890 BK 3783 PG 2113; TH ALG THE N LINE OF SD PPTY THE FOLLOWING COURSE: N 87°47'24" W 170.00 FT TO THE NE COR OF PPTY CONV IN QC DEED RECORDED 10/31/2007 AS E# 2318055 BK 4400 PG 1476; TH THE FOLLOWING THREE COURSES ALG THE N, W & S LINES OF SD PPTY: N 89°47'24" W 135.00 FT & S 0°09'42" W 130.00 FT & S 89°47'24" E 135.00 FT TO THE SW COR OF PPTY CONV IN SD QC DEED RECORDED AS E# 2071890; TH ALG THE S LINE OF SD PPTY THE FOLLOWING COURSE: S 89°47'24" E 170.00 FT TO THE W LINE OF PPTY CONV IN SD QC DEED RECORDED 03/29/2010 AS E# 2519371; TH ALG SD W LINE S 0°09'42" W 357.81 FT; TH W 643.77 FT TO THE E'LY LINE OF CANTERBURY MEADOWS NO. 1; TH ALG SD SUB N 27°51'14" E 632.14 FT; TH S 89°47'24" E 300.00 FT TO THE POB. LESS & EXCEPTING: A PART OF THE NE 1/4 OF SEC 9-T4N-R2W, SLB&M: BEG AT A PT BEING 672.81 FT S 0°09'42" W ALG THE SEC LINE & 220.00 FT W FR THE NE COR OF SD 1/4 SEC; RUN TH N 89°47'24" W 135.00 FT; TH S 0°09'42" W 130.00 FT; TH S 89°47'24" E 135.00 FT; TH N 0°09'42" E 130.00 FT TO THE POINT OF BEGINNING.

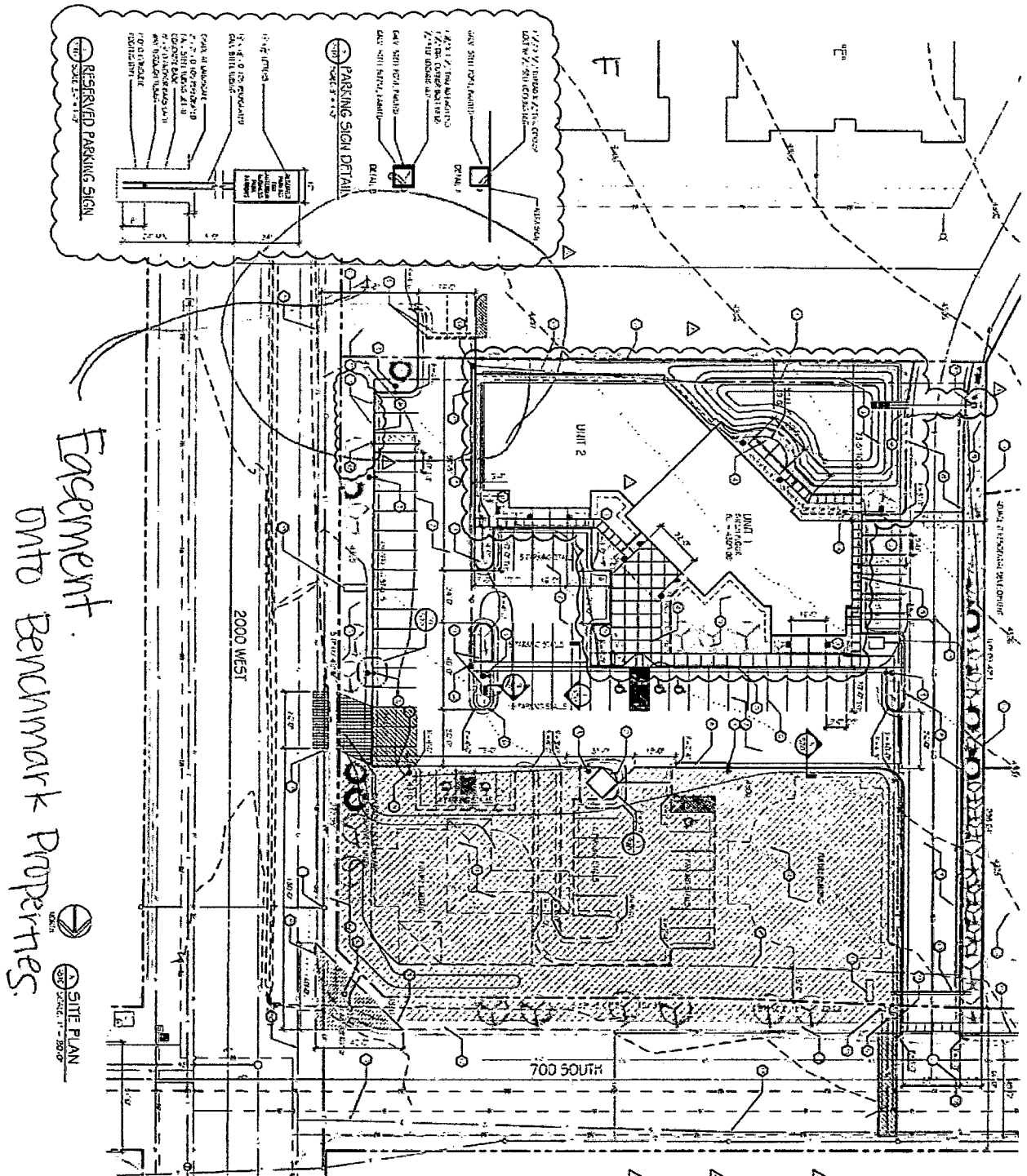
TAX ID #: 12-048-0138

Exhibit "C"

Access Easement Description

Exhibit "D"

BND PLAN DISCLOSING BND SIGN LOCATION



Excerpt.  

Onto Benchmark Properties.




SHEET NUMBER:
AS101

STILL PLANNING



OWNER:

BND PARTNERS, LLC

PROJECT: PHEASANT CROSSING BUS. PARK

LOCATION

*36 S. 200 W. 51E W2SE, 1T 11 R4E S

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