

AFTER RECORDING, RETURN TO:

PepsiCo Real Estate
17901 Von Karman Avenue
Irvine CA 92714
Attention: Law Department-Real Estate
Site No. 03-1034

(Above for _____ Only)
DECLARATION OF RESTRICTIVE COVENANT

WHEREAS, under that certain Real Property Purchase Agreement (the "Agreement"), Motel 6 Subdivision Partnership ("Seller") agreed to sell to _____ (the "Buyer"), a California corporation ("Buyer"), a parcel of real property described as _____, particularly on Exhibit "A" hereto (the "Property"); and

WHEREAS, the Agreement states that Seller shall restrict the the remaining lots in the Motel 6 Subdivision, which is the only real estate owned by Seller, and more specifically identified as Lot 2 Motel 6 Subdivision, Lots 1B-21B Motel 6 Subdivision Replat B, and Lot 3C Motel 6 Subdivision Replat C, (the "Restricted Property");

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller covenants and agrees as follows:

1. No part of the Restricted Property will be leased or used for the operation of any restaurant deriving twenty percent (20%) or more of its gross sales of prepared foods from the sale of prepared Mexican food.
2. No improvements shall be erected on the Restricted Property which will materially interfere with access to the Property or the visibility from the streets adjacent to the Property of Buyer's restaurant and signs on the Property.
3. This foregoing restrictions are for the benefit of Buyer and run with the Property and the Restricted Property, and are for the benefit of and binding upon all successive owners of the Property and the Restricted Property.
4. This instrument shall be recorded in each county or parish in which the Property and the Restricted Property are located and shall expire automatically upon the expiration twenty years from the date set forth above. Exhibits A is incorporated herein by this reference.
5. Failure to comply with any of the foregoing restrictions be grounds for relief which may include, without limitation, an action to recover damages, injunctive relief or any combination thereof.

IN WITNESS WHEREOF, the undersigned has executed this Declaration of Restrictive Covenant as of the date set forth above.

By: Motel 6 Subdivision Partnership,
a New Mexico General Partnership

Name: C. Michael Shyne
C. Michael Shyne
General Partner

Name: Arnold A. Kolb
Arnold A. Kolb
General Partner

Name: Florence A. Kolb
Florence A. Kolb
General Partner

Date: February 10, 1995

ACKNOWLEDGMENT

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

The foregoing instrument was acknowledged before me this 10th day of February, 1995, by C. Michael Shync, General Partner, Motel 6 Subdivision Partnership, who personally appeared before me and whose identity was proved to me on the basis of satisfactory evidence to be the signer of the above document.

Latanya Boyce
Notary Public

My commission expires: 7-13-98

ACKNOWLEDGMENT

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

The foregoing instrument was acknowledged before me this 10th day of February, 1995, by Arnold A. Kolb, General Partner, Motel 6 Subdivision Partnership, who personally appeared before me and whose identity was proved to me on the basis of satisfactory evidence to be the signer of the above document.

Latanya Boyce
Notary Public

My commission expires: 7-13-98

ACKNOWLEDGMENT

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

The foregoing instrument was acknowledged before me this 10th day of February, 1995, by Florence A. Kolb, General Partner, Motel 6 Subdivision Partnership, who personally appeared before me and whose identity was proved to me on the basis of satisfactory evidence to be the signer of the above document.

Latanya Boyce
Notary Public

My commission expires: 7-13-98

EXHIBIT A
Page 1 of 3

EXHIBIT A

To Real Property Purchase Agreement

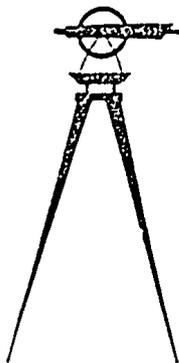
Legal Description of the Property

Fee Interest:

Lot 2C, Replat C, Motel 6 Subdivision to the City of Alamogordo, Otero County, New Mexico. Subject to and including all easements and other rights appurtenant thereto.

Highway Right-of-way:

That particular 0.319 acre track of land designated "Description - Parking, Taco Bell" attached and that particular 0.035 acre track of land designated "Description - Landscaping, Taco Bell", attached, both prepared by Burke & Associates, P.C., Consulting Engineers and Surveyors of Alamogordo, New Mexico.



OCTOBER 13, 1994
JOB NO. 931115

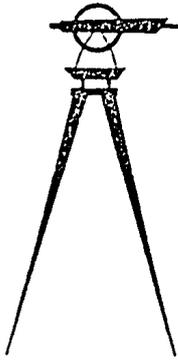
DESCRIPTION - PARKING. TACO BELL

A TRACT OF LAND IN SECTION 30, T16S, R10E, NMPM, BEING A PORTION OF THE RIGHT-OF-WAY OF U.S. HIGHWAY 54/70 LYING WEST OF AND ADJACENT TO LOT 2C, REPLAT C, MOTEL 6 SUBDIVISION, ALAMOGORDO, OTERO COUNTY, NEW MEXICO, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2C AND GOING ALONG THE WEST LINE OF SAID LOT 2C ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE CENTRAL ANGLE IS $07^{\circ}43'59''$ AND WHOSE RADIUS IS 2060.10 FEET AN ARC DISTANCE OF 134.22 FEET; THENCE $N55^{\circ}07'13''W$ A DISTANCE OF 113.66 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT WHOSE CENTRAL ANGLE IS $03^{\circ}14'15''$ AND WHOSE RADIUS IS 1946.45 FEET AND WHOSE CHORD BEARS $N32^{\circ}52'37''E$ AN ARC DISTANCE OF 109.98 FEET; THENCE $S67^{\circ}16'57''E$ A DISTANCE OF 114.86 FEET TO THE SAID PLACE OF BEGINNING, AND CONTAINING 0.319 ACRES, MORE OR LESS.

SUBJECT TO ANY RIGHTS-OF-WAY OR OTHER EASEMENTS AS GRANTED OR RESERVED BY INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID TRACT.





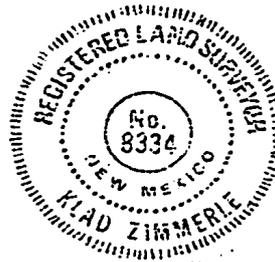
OCTOBER 13, 1994
JOB NO. 931115

DESCRIPTION - LANDSCAPING. TACO BELL

A TRACT OF LAND IN SECTION 30, T16S, R10E, NMPM, BEING A PORTION OF THE RIGHT-OF-WAY OF U.S. HIGHWAY 54/70 LYING WEST OF LOT 2C, REPLAT C, MOTEL SIX SUBDIVISION, ALAMOGORDO, OTERO COUNTY, NEW MEXICO, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

STARTING AT THE NORTHWEST CORNER OF SAID LOT 2C AND GOING ALONG THE WEST LINE OF SAID LOT 2C ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE CENTRAL ANGLE IS 03°43'59" AND WHOSE RADIUS IS 2060.10 FEET AN ARC DISTANCE OF 134.22 FEET; THENCE N55°07'13"W A DISTANCE OF 113.66 FEET TO THE PLACE OF BEGINNING OF THE HEREIN DESCRIBED LANDSCAPE AREA; THENCE CONTINUING N55°07'13"W A DISTANCE OF 11.21 FEET; THENCE ALONG THE ARC OF CURVE TO THE RIGHT WHOSE CENTRAL ANGLE IS 30°50'18" AND WHOSE RADIUS IS 20.00 FEET AN ARC DISTANCE OF 10.76 FEET; THENCE ALONG THE ARC OF CURVE TO THE LEFT WHOSE CENTRAL ANGLE IS 02°55'54" AND WHOSE RADIUS IS 1932.38 FEET AN ARC DISTANCE OF 98.87 FEET; THENCE S58°44'30"E A DISTANCE OF 14.07 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE CENTRAL ANGLE IS 03°14'15" AND WHOSE RADIUS IS 1946.45 FEET AN ARC DISTANCE OF 109.98 FEET TO THE SAID PLACE OF BEGINNING, AND CONTAINING 0.035 ACRES, MORE OR LESS.

SUBJECT TO ANY RIGHTS-OF-WAY OR OTHER EASEMENTS AS GRANTED OR RESERVED BY INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID TRACT.



1909 CUBA AVENUE, SUITE #5 ALAMOGORDO, NEW MEXICO 88310 (505) 437-7074 FAX No. (505) 437-7075

STATE OF NEW MEXICO } S.S.
OTERO COUNTY

FILED FOR RECORD IN MY OFFICE

This 22 day of March 1995

At 4:00 o'clock P M and duly recorded

in Book No. 799 Page 456-459

the records of Otero County, New Mexico

Mary D. Puente
County Clerk, Otero County, New Mexico
Robyn Silva Deputy

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