

When recorded, return to:

Thomas A. Robinson
Longford Group, Inc.
3077 E. Warm Springs Rd.
Las Vegas, Nevada 89120

Commerce Title Company
of New Mexico, LLC
GF# Courtesy

EASEMENT VACATED
By 16 DRB-70241

DECLARATION AND GRANT OF TEMPORARY DRAINAGE EASEMENT

This Declaration and Grant of Temporary Drainage Easement ("Declaration") is made this 15th day of July 2004 by The Trails, LLC, a Nevada limited liability company ("Declarant").

RECITALS

- A. Declarant desires to record this Declaration to establish a blanket drainage easement on Parcel B for the benefit of Parcel A over that certain area of Parcel B more particularly described in Exhibit A (the "Easement Area").
- B. Centex Homes, a Nevada general partnership ("Centex"), is the owner of the real property described on Exhibit B attached hereto and incorporated herein ("Parcel A").
- C. Declarant is the owner of the real property described on Exhibit C attached hereto and incorporated herein ("Parcel B").

NOW, THEREFORE, Declarant hereby declares that the easement created herein shall run with the land and benefit all subsequent owners, successors and assigns of Parcel A or any portion thereof only for the duration of such easement as provided herein.

1. Drainage Easement. Declarant hereby establishes a temporary, blanket drainage easement in favor of Parcel A and its owners and their successors and assigns over, upon, across and under the Easement Area on Parcel B for the purpose of receiving drainage and water flows from Parcel A and for creating, installing, operating, maintaining, repairing and replacing a retention pond ("Retention Pond") within the Easement Area to collect such drainage and water flows (the "Easement"). The Easement shall include the incidental rights of access upon, over and across Parcel B as reasonably necessary for the purpose of exercising the easement rights granted herein and the right to install, operate, maintain, repair and replace drainage lines, facilities and related structures necessary for the operation of the Retention Pond.
2. Conditions of Easement: Construction, Maintenance and Removal of Retention Pond As a material consideration and an inducement for Declarant to grant the easement rights expressly set forth in Section 1 above (collectively, the "Easement Rights"), Centex acknowledges and agrees as set forth below.

(a) Insurance. Before exercising any of the Easement Rights or entering onto



July 15, 2004

Parcel B, Centex shall obtain and maintain comprehensive general liability insurance covering all of the activities it will perform on Parcel B and in connection with exercising any of the Easement Rights in an amount not less than Two Million Dollars (\$2,000,000) aggregate. Such insurance policy shall name as additional insureds the individuals and entities designated by Declarant and shall provide that such policy cannot be cancelled without first providing at least thirty (30) days prior written notice to the additional insureds.

- (b) City of Albuquerque and Declarant Pre-Approval. At least forty-five (45) days before commencing any work on Parcel B, Centex shall provide Declarant with an engineering and drainage plan approved by the City of Albuquerque and a schedule describing all work that will be performed on Parcel B for Declarant's approval, which approval shall not be unreasonably withheld, conditioned or delayed. No approval granted by Declarant shall constitute or be deemed a representation, warranty or affirmation that any work to be performed by Centex conforms to any applicable laws, building codes or construction standards and shall in no way relieve Centex from its obligation to comply with all laws and to perform the work in a proper and safe manner nor give rise to any liability on the part of Declarant arising or resulting from such approval.
- (c) Compliance with Laws. Centex shall at all times comply with all applicable laws, rules, regulations, ordinances and governmental requirements relevant to the construction, operation, maintenance, repair and removal of the Retention Pond and to Centex's exercise of any of the Easements Rights.
- (d) Sole Cost and Expense of Centex. Centex shall be solely responsible for all costs and expenses arising or resulting from Centex's construction, operation, maintenance, repair and removal of the Retention Pond and exercise of any of the Easements Rights. These shall include, but not be limited to, the cost of surveys, construction plans, grading, excavating, fill dirt, materials, equipment, labor, insurance, permits, bonds, operation, maintenance, repair and removal. Centex shall not use any of the existing soil or dirt but shall import any fill dirt needed for the Retention Pond or exercise of the Easement Rights.
- (e) No Nuisance. In the course of operating the Retention Pond and otherwise exercising the Easement Rights, Centex shall not do anything that would constitute a public or private nuisance and shall use its best efforts to prevent and eliminate the creation or emission of any odors from the Retention Pond.
- (f) No Encumbrances. Centex shall prevent the imposition of any mechanic's or materialman's liens, security instruments or any other encumbrances against Parcel B without the express, prior written approval of Declarant. In the event that any such encumbrances are placed against Parcel B without the express, prior written approval of Declarant, Centex shall cause the removal of any such encumbrance(s) at its sole cost and expense within fifteen (15) days of learning of any such encumbrance(s). If Centex fails to remove any such encumbrance(s) within the specified time, Declarant may take any and all action



to remove the encumbrance(s) and charge all costs and expenses in connection therewith to Centex, which shall pay all such amounts within fifteen (15) days of receiving notice thereof from Declarant.

- (g) Co-Existence with Slope Easement. Centex acknowledges that a slope easement has been or will be established on Parcel B for the benefit of Parcel A. Centex shall not interfere with or disrupt the creation or existence of the slope easement and shall cooperate with Declarant and third parties as necessary to permit the mutual construction and operation of both the slope easement and the Retention Pond.
 - (h) Remedies. Centex acknowledges and agrees that Declarant shall have recourse to all remedies in the event that Centex breaches this Declaration, including, without limitation, the remedy of specific performance.
 - (i) Agreement by Centex. By virtue of exercising any of the Easement Rights, Centex will be deemed to have agreed with and accepted all of the terms and conditions of this Declaration.
3. Reservations From Easement. Declarant hereby reserves for itself and its successors, assigns and designees all rights in and to Parcel B that are not expressly granted in Section 1 above, including without limitation the right upon thirty (30) days advance notice to Centex, its successors or assigns (a) to perform work on, over, across and under Parcel B, (b) to place fill dirt on Parcel B, and (c) to install, maintain, operate, repair and replace drainage, sewer, water and other utility lines and facilities on, over, across and under Parcel B, so long as Declarant does not materially diminish the effectiveness of the Easement granted herein.
4. Termination of Easement. Notwithstanding anything to the contrary, the Easement and this Declaration shall automatically terminate upon the recordation of a bulk plat whose area includes Parcel B. Such termination shall occur without the need for any consent, approval, notice, filing, recording or any other act, condition or event whatsoever. Promptly after receiving notice from Declarant following termination of the Easement, Centex shall diligently begin removing the Retention Pond and any other facilities or items constructed or placed by Centex on Parcel B as instructed by Declarant. Centex acknowledges that Parcel B will be developed following termination of the Easement and therefore agrees to expedite the removal of items as instructed by Declarant and to complete such removal work no later than ninety (90) days after termination of the Easement.
5. No Merger. Notwithstanding the union of (a) the fee simple title to any of the Parcels, the Easement Area or any portion thereof or any other real property of Declarant with (b) any right, title or interest in the Easement, it is the intention of Declarant that the separation of such fee simple estate and such right, title or interest in the Easement shall be maintained, and that a merger shall not take place without the express prior written consent of Declarant.
6. No Public Dedication or Rights. Nothing herein shall be deemed to be a gift or dedication of any portion of any Parcel, the Easement Area or the Easement to the general public or for any public use or purpose whatsoever.



7. Notices. Any notice or other communication to be given or served upon any party hereto in connection with this Declaration must be in writing, and delivered to the other parties by any one of the following acceptable methods: (a) in person to the attention of the individual noted below, (b) by facsimile transmission (with the original and a copy of the facsimile confirmation following in the United States mail), (c) by overnight delivery service, or (d) by certified mail, return receipt requested. If such notice is given in person or via facsimile transmission, such notice will be deemed given on the next business day after transmission or delivery. If such notice is given by overnight delivery service, such notice is deemed received the on the next business day following delivery to the delivery service of such notice. If such notice is given by certified mail, such notice is deemed delivered upon the date shown on the return receipt request. Notice or other communication shall be delivered or addressed to the parties at the following addresses:

Declarant:

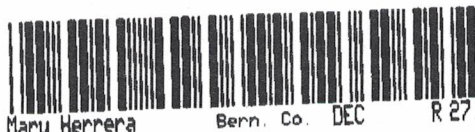
The Trails, LLC
c/o Longford Group, Inc., Manager
Attn: Mike Mandilakis/Thomas Robinson
3077 East Warm Springs Road
Las Vegas, Nevada 89120
Telephone: (702) 454-5300
Cell: (702) 419-5019
Facsimile: (702) 454-8715
E-Mail: mmandilakis@longfordgroup.com
trobenson@longfordgroup.com

With a copy to:

John K. Murtagh, President
Longford Group, Inc., Manager
3077 East Warm Springs Road
Las Vegas, Nevada 89120
Telephone: (702) 454-5300
Facsimile: (702) 454-8715
E-Mail: jmurtagh@longfordgroup.com

Centex Homes:

Centex Homes
5120 Masthead NE
Albuquerque, New Mexico 87109
Attn: Virgil Polk/Rick Bressan
Telephone: (505) 761-9606
Facsimile: (505) 761-9850
E-Mail: vpolk@centexhomes.com and
rbressan@centexhomes.com



With a copy to:

Centex Homes - Southwest Region Office
Koll Perimeter Center
Building B, 8665 East Hartford Drive, Suite 217
Scottsdale, Arizona 85255
Attn: Darrell Sherman, Esq.
Telephone: (480) 889-0893 (Sherman)
Facsimile: (480) 889-0672

8. Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Declaration.
9. Legal Action and Attorney's Fees. If any legal action is commenced by any party to enforce any provision of this Declaration, the losing party will pay to the prevailing party all actual expenses incurred by the prevailing party, including costs and attorney's fees. The prevailing party is the party who receives substantially the relief sought, whether by judgment, summary judgment, dismissal, settlement, or otherwise.

IN WITNESS WHEREOF, Declarant has hereunto affixed the following signature as of the date first above written.

THE TRAILS, LLC

By: Longford Group, Inc., its Manager

By: 
Mike Mandilakis, Vice President

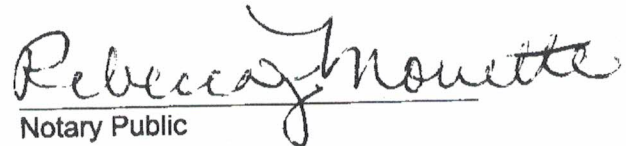
STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

On July 15, 2004, before me the undersigned, a NOTARY PUBLIC in and for said County and State, personally appeared Mike Mandilakis known to me to be the person described in and who executed the foregoing instrument, and who acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein mentioned.

WITNESS my hand and official seal.

My Commission Expires: 8/23/2005

Notary Seal / Stamp


Notary Public



OFFICIAL SEAL
REBECCA J. MONETTE
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: 8/23/2005





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EXHIBIT A

Blanket Drainage Easement

within

Sheet 2 of 2

UNPLATTED LANDS OF THE TRAILS, LLC

In PROJECTED SECTION 16, T.11N., R.2E., N.M.P.M.
TOWN OF ALAMEDA GRANT, CITY OF ALBUQUERQUE
BERNALILLO COUNTY, NEW MEXICO
JULY 2004

PASEO DEL NORTE NW (R/W VARIES)

PASEO DEL NORTE NW (R/W VARIES)

P.O.B.

S89°48'23"E 449.97'

S56°42'49"W 211.12'

U.S.G.S. STATION "UNION-1969"

TRACT B, THE TRAILS
(12/15/2003, 2003C-375)

GRAPHIC SCALE



(IN FEET)

1 inch = 200 ft.

RAINBOW BLVD. NW

OPEN SPACE, THE TRAILS
(12/15/2003, 2003C-375)

NOTES:

1. BASIS OF BEARINGS ARE NAD27 NM CENTRAL ZONE, GRID NORTH, BASED ON USGS STATION "UNION-1969".
2. ALL DISTANCES SHOWN ARE GROUND DISTANCES.
3. FIELD SURVEY PERFORMED APRIL 2004.

Date Prepared: 7/8/04

Layout: EXHIBIT 2

Drawing: SX4218008_EASEMENT_BASE.dwg

Network Address: X:\Public\PROJECTS\X4218008\5\THE TRAILS

20' PUBLIC UTILITY
EASEMENT FILED: JUNE 19,
1989 (BK:D862,PG:539)

UNPLATTED LANDS
20' PUBLIC UTILITY
EASEMENT FILED:
OCTOBER 6, 1980
(BK:D129,PG:398)
FILED: OCTOBER 22,
1980
(BK:D130-A,PG:707)

UNPLATTED LANDS

UNPLATTED LANDS

UNPLATTED LANDS
OF THE
ARCHDIOCESE OF
SANTA FE
BK D328A PG 727
03/23/1988

UNPLATTED LANDS
OF THE
ARCHDIOCESE OF
SANTA FE
BK D328A PG 727
03/23/1988

UNPLATTED LANDS OF
THE TRAILS, LLC.
BK A59 PG 5015
07/02/2003

N89°43'58"W 449.90'

S00°06'44"W 488.82'

N00°05'56"E 977.00'

WILSON & COMPANY

4900 LANG AVENUE N.E.
ALBUQUERQUE, NEW MEXICO

87109

(505) 348-4000

EXHIBIT A

**LEGAL DESCRIPTION
(BLANKET DRAINAGE EASEMENT)**

Being that certain parcel of land to be designated as a "BLANKET DRAINAGE EASEMENT" situate within projected Section 16, Township 11 North, Range 2 East, New Mexico Principal Meridian, Town of Alameda Grant, City of Albuquerque, Bernalillo County, New Mexico, being comprised of unplatted lands of The Archdiocese of Santa Fe as described in book D328A, page 727, as document no. 1988024973, filed for record with the Bernalillo County Clerk on March 23, 1988, and unplatted lands of The Trails, LLC., as described in book A59, page 5015, as document no. 2003115266, filed for record with the Bernalillo County Clerk on July 2, 2003 and being more particularly described as follows:

Commencing at the **TRUE POINT OF BEGINNING** being the Northwest corner of said comprised parcel herein described, and being a point on the Southerly right of way line of Paseo Del Norte NW; whence, the U.S.G.S. triangulation station "Union-1969" having NAD 27 New Mexico Central Zone State Plane Coordinate values of X=353,409.02 feet and Y=1,523,440.96 feet, bears S.66°42'46"W., a distance of 2,174.12 feet; thence, from said point of beginning, along said Southerly right of way line,

S.89°48'23"E., a distance of 449.97 feet to the Northeast corner of said comprised parcel herein described; thence, leaving said Southerly right of way line,

S.00°05'36"W., a distance of 488.76 feet to an angle point; thence,

S.00°06'44"W., a distance of 488.82 feet to the Southeast corner of said comprised parcel herein described; thence,

N.89°43'58"W., a distance of 449.90 feet to the Southwest corner of said comprised parcel herein described, being a point on the East line of a Bulk Land Plat identified as THE TRAILS (Filed: 12/15/2003, Book: 2003C, Page: 375); thence, along said East line,

N.00°05'56"E., a distance of 977.00 feet to the Northwest corner of said parcel herein described and being the **POINT OF BEGINNING**; said parcel herein described containing an area of 422,239.91 square feet (9.693 acres), more or less.

End of Description

SEE ATTACHED SKETCH

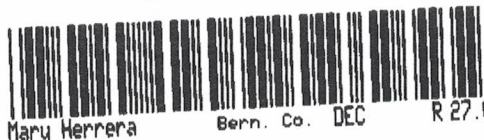

Christopher A. Medina, N.M.P.S. No. 15702

July 9, 2004
Date

SHEET 1 OF 2



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EXHIBIT "B"

Tract lettered "B" of the Plat of THE TRAILS a replat of a Portion of Tract 4, Black Ranch, Albuquerque, New Mexico, as the is shown and designated on the plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on December 15, 2003, in Book 2003, page 375.

EXHIBIT C

A tract of land situate within the Town of Alameda Grant, projected Section 17, Township 11 North, Range 2 East, New Mexico Principal Meridian, Bernalillo County, New Mexico being a portion of TRACT 4, BLACK RANCH and being more particularly described as follows:

BEGINNING at the southeast corner of the herein described tract, from whence the
USGLO/ACS Monument "CC 16/15 TA" bears S 29° 40' 16" E, 3218.75 feet;
THENCE N 89° 47' 21" W, 450.00 feet to the southwest corner;
THENCE N 00° 02' 32" E, 488.74 feet to the northwest corner;
THENCE S 89° 48' 49" E, 449.93 feet to the northeast corner;
THENCE S 00° 02' 02" W, 488.93 feet to the point of beginning and containing 5.0496 acres
more or less.

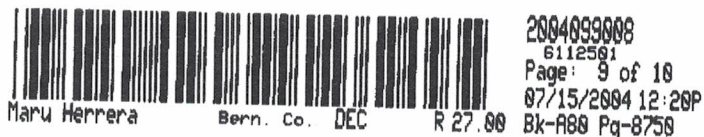


EXHIBIT "C"

LEGAL DESCRIPTION

Commencing at the **TRUE POINT OF BEGINNING** being the Northwest corner of said comprised parcel herein described, and being a point on the Southerly right of way line of Pasco Del Norte NW; whence, the U.S.G.S. triangulation station "Union-1969" having NAD 27 New Mexico Central Zone State Plane Coordinate values of X=353,409.02 feet and Y=1,523,440.96 feet, bears S.66°42'46"W., a distance of 2,174.12 feet; thence, from said point of beginning, along said Southerly right of way line,

S.89°48'23"E., a distance of 449.97 feet to the Northeast corner of said comprised parcel herein described; thence, leaving said Southerly right of way line,

S.00°05'36"W., a distance of 488.76 feet to an angle point; thence,

S.00°06'44"W., a distance of 488.82 feet to the Southeast corner of said comprised parcel herein described; thence,

N.89°43'58"W., a distance of 449.90 feet to the Southwest corner of said comprised parcel herein described, being a point on the East line of a Bulk Land Plat identified as THE TRAILS (Filed: 12/15/2003, Book: 2003C, Page: 375); thence, along said East line,

N.00°05'56"E., a distance of 977.00 feet to the Northwest corner of said parcel herein described and being the **POINT OF BEGINNING**; said parcel herein described containing an area of 422,239.91 square feet (9.693 acres), more or less.

End of Description



Mary Herrera

Bern. Co. DEC

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