

ACCESS EASEMENT AGREEMENT

This Access Easement Agreement ("Agreement") is by and among the City of Albuquerque, a New Mexico Municipal Corporation ("City") and Dialysis Clinic, Inc. ("DCI"), a Tennessee nonprofit corporation.

RECITALS

1. City is the owner of that certain real property known as "Tracts A and B, West Route 66 Addition Town of Atrisco Grant and as described and depicted on Exhibit A attached hereto and incorporated herein via reference as if set verbatim within this Agreement (the "City Parcel").
2. DCI is the owner of that certain real property known as "Tract C-44B" and as described and depicted on Exhibit A attached hereto and incorporated herein via reference as if set verbatim within this Agreement (the "DCI Parcel").
3. DCI desires to obtain a vehicular and pedestrian access easement allowing DCI and the general public to access DCI's Parcel, and the City wishes to grant said access easement.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree:

1. Grant of Access Easement by the City. City hereby grants and conveys to DCI a non-exclusive perpetual vehicular and pedestrian easement for ingress and egress to and from DCI's Parcel, for use by DCI's contractors, employees, agents, patients, vendors, visitors, guests, licensees, invitees, and tenants, along the City Parcel as described and depicted on Exhibit A. The "*Legal Description for the Access Easement*" is included within Exhibit A and incorporated herein via reference as if set verbatim within this Agreement (the "Easement"). DCI may divide the DCI Parcel into two (2) separate and platted parcels, and at that time this Agreement will apply to the parcel on which DCI has constructed its outpatient dialysis clinic.
2. No Barriers. Except for periods of maintenance, repair or upkeep of the Easement, the City and DCI will not construct or maintain, or permit to be constructed or maintained, any barrier, fence or other temporary or permanent structure that would adversely impact the use of the Easement. Temporary fencing maybe required during construction projects, as well as lane reduction. Both parties will provide 30 days written notice of such construction projects, to include a time line of the project.

3. **Maintenance.** The City will pay all costs and expenses associated with the maintenance, repair and upkeep of the Easement in order to maintain its current usable condition. In consideration of the above, DCI agrees to pay \$3,000 annually towards contributions on any future projects for the maintenance, repair and upkeep of the Easement as deemed necessary by the City.
4. **Payment.** Annual payments shall be due in advance and payable at the Closing date of the land purchase and on the anniversary date thereafter. All payments shall be made payable to the City of Albuquerque Transit Dept., Fiscal Division Manager, 8001 Daytona Rd. SW, Albuquerque, NM 87121.
5. **Binding Effect.** This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors (including successors in title to the City Parcel), assigns and/or legal representatives. The Easement is appurtenant to the City Parcel and will run with the land. Only the parties hereto and/or their successors in interest may amend this Agreement and alter the Easement granted herein. For any such amendment to be effective, it will be in writing, executed by the parties and/or their successors, as applicable, and recorded in the official records of Bernalillo County, New Mexico.
6. **Default.** In the event a party breaches or defaults regarding any obligations pursuant to this Agreement, after thirty (30) days written notice from the non-breaching party to the breaching party and at such times the breaching party fails to cure such breach, the non-breaching party will be entitled to all available rights and remedies according to law and in equity, pursuant to this Agreement and otherwise.
7. **Severability.** In the event that a court of competent jurisdiction adjudicates and declares any term, condition or obligation within this Agreement as invalid, illegal or unenforceable, in whole or in part, the remainder of the Agreement will continue in full force and effect.
8. **Counterparts.** The parties may execute this Agreement in one or more counter parts, each of which is a binding agreement, but all of which, when taken together, constitute one binding agreement.
9. **Notices.** Any notice required or permitted pursuant to this Agreement will be in writing and delivered by hand, a recognized overnight courier or mailed via US certified mail/return receipt requested and addressed to the parties as follows:

City of Albuquerque
Attn: Transit Department Director
PO Box 1293
Albuquerque, NM 87103

And

City of Albuquerque
Attention: Real Property Division
PO Box 1293
Albuquerque, NM 87103
Dialysis Clinic, Inc.
Attention: President
1633 Church Street
Suite 500
Nashville, TN 37203

10. **Authority.** Each party represents and warrants to the other party that it has full legal power, authority and right to execute, deliver and perform the obligations pursuant to this Agreement. Each party represents and warrants to the other party that the transactions contemplated by this Agreement are duly authorized, and that all persons executing this Agreement are authorized representatives of the respective party and that no additional action or third-party consent is required to render this Agreement fully binding.
11. **Governing Law.** The laws of the State of New Mexico will govern this Agreement.
12. **Waiver.** A party's failure to enforce any breach or deviation from any provision of this Agreement will not constitute a waiver of any other provision or subsequent breach. Any waiver of matters contemplated by this Agreement will be in writing and executed by all parties.
13. **Effective Date.** This Easement shall not be effective until approved by the City Engineer, and signed by the City's Chief Administrative Officer or his authorized designee as shown in the signature block below.

[SIGNATURE PAGES IMMEDIATELY FOLLOWING]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth herein.

DIALYSIS CLINIC, INC., a Tennessee non-profit corporation

By: Ed Attrill
Print Name: Ed Attrill
Its: President

ACKNOWLEDGMENTS

COUNTY OF DAVIDSON)

STATE OF TENNESSEE) ss

This instrument was acknowledged before me on this 1st day of December, 2015, by Ed Attrill, as President of Dialysis Clinic, Inc.



Karen A. Gates
Notary Public
My Commission Expires: July 8, 2019

**GRANTOR: CITY OF ALBUQUERQUE,
a New Mexico municipal corporation**

JmH *RJW*

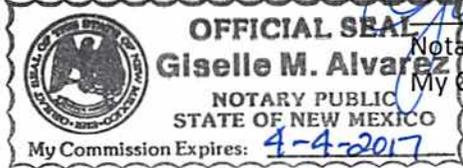

Robert J. Perry, Chief Administrative Officer

Date: 1/20/16

COUNTY OF BERNALILLO)

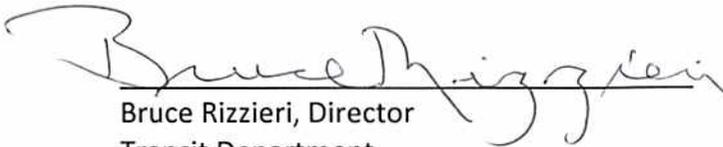
STATE OF NEW MEXICO) ss

This instrument was acknowledged before me on this 20 day of January 2015,
by Robert J. Perry, Chief Administrative Officer of the City of Albuquerque, a New Mexico
municipal corporation.



Giselle M. Alvarez, Notary Public
My Commission Expires: 4-4-2017

RECOMMEND BY:



Bruce Rizzieri, Director
Transit Department

Date: 12.31.15

RECOMMEND BY:



Michael J. Riordan, P.E
Chief Operations Officer

Date: 1/14/16

APPROVED BY:



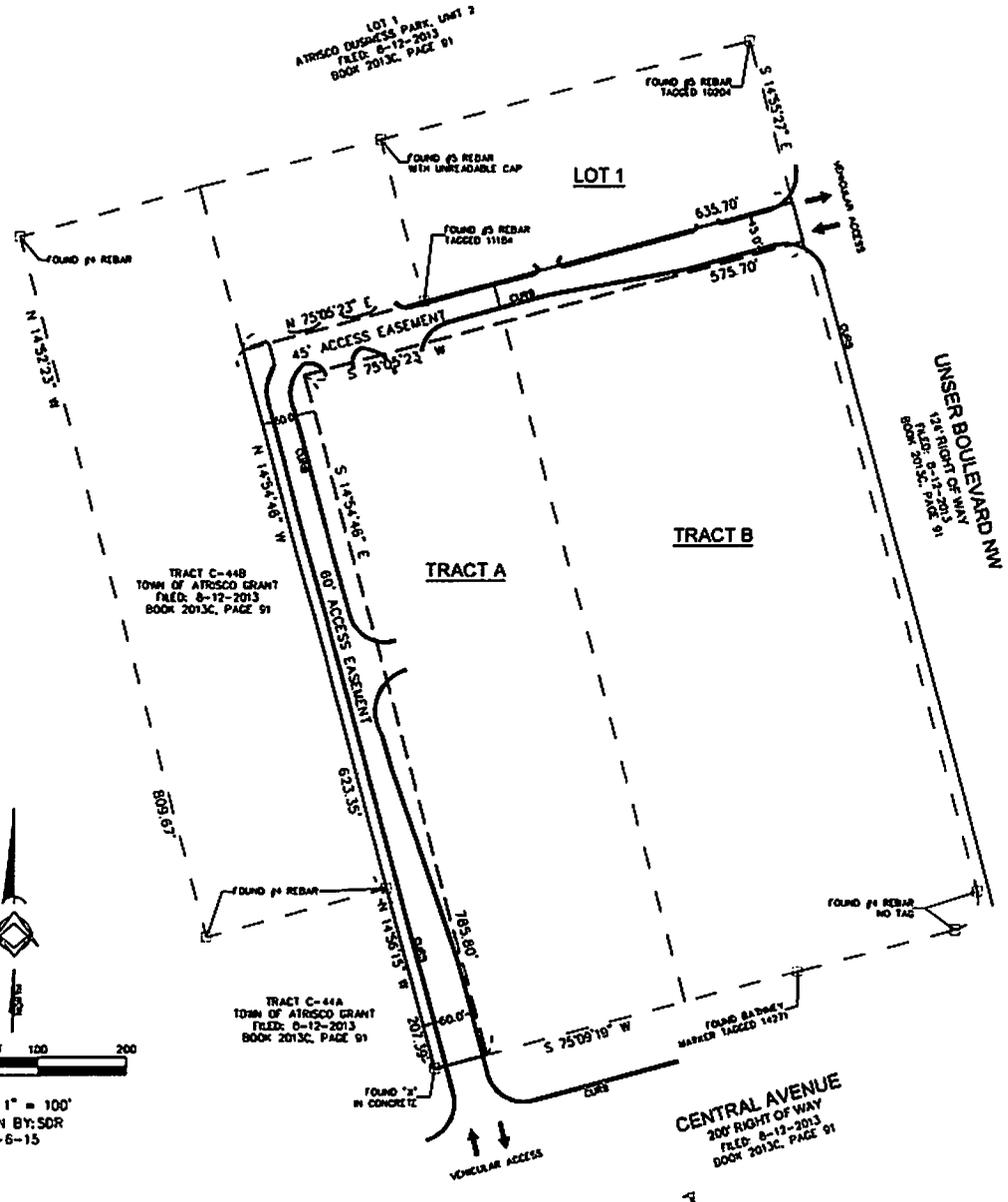
Shahab Biazar
City Engineer

Date: 1/7/16

EXHIBIT A
EASEMENT EXHIBIT
AND
LEGAL DESCRIPTION

EASEMENT EXHIBIT

TRACT A AND B, WEST ROUTE 66 ADDITION
 TOWN OF ATRISCO GRANT
 BERNALILLO COUNTY, NEW MEXICO
 MAY 2015



LEGAL DESCRIPTION FOR ACCESS EASEMENT

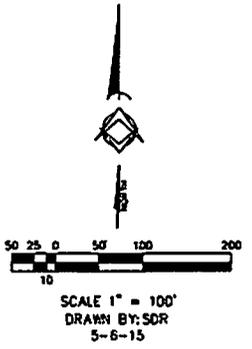
A CERTAIN TRACT OF LAND BEING A PUBLIC ACCESS EASEMENT LOCATED WITHIN TRACTS A AND B, WEST ROUTE 66 ADDITION, BERNALILLO COUNTY, NEW MEXICO AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT THEREOF FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON AUGUST 12, 2013 SAID PUBLIC ACCESS EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED ACCESS EASEMENT, BEING COMMON WITH THE SOUTHWEST CORNER OF SAID TRACT A, RUNNING THENCE AS AN EASEMENT:

- N 14°56'15" W, A DISTANCE OF 207.30 FEET TO AN ANGLE POINT; THENCE
- N 14°54'45" W, A DISTANCE OF 623.35 FEET CONTINUING THE WESTERLY LINE OF TRACT A TO AN ANGLE POINT; BEING THE NORTHWEST CORNER OF SAID ACCESS EASEMENT.
- N 75°05'22" E, A DISTANCE OF 635.70 FEET ALONG THE NORTHERLY LINE OF TRACTS A AND B TO THE WESTERLY RIGHT OF WAY OF UNSER BOULEVARD NW TO THE NORTHEAST CORNER OF SAID ACCESS EASEMENT.
- S 14°52'27" E, A DISTANCE OF 45.00 FEET ALONG THE WESTERLY RIGHT OF WAY LINE OF UNSER BOULEVARD NW TO AN ANGLE POINT; THENCE
- S 75°05'22" W, A DISTANCE OF 575.70 FEET TO AN ANGLE POINT; THENCE
- S 14°54'45" E, A DISTANCE OF 785.60 FEET TO THE SOUTHEAST CORNER OF SAID ACCESS EASEMENT BEING A POINT ON THE NORTHERLY LINE OF CENTRAL AVENUE; THENCE
- S 75°05'19" W, A DISTANCE OF 60.00 FEET ALONG THE NORTHERLY LINE OF CENTRAL AVENUE TO THE SOUTHWEST CORNER OF SAID TRACT AND POINT OF BEGINNING

NOTES

1. Bearings are Grid and Distances are Ground.
2. Documents used in preparation of Survey
 A. Plat and Vacation Request for, Tracts A and B, West Route 66 Addition, Filed: August 12, 2013, in Book 2013C, Page 91.
3. Date of Field Work: May 5, 2015



MONUMENT LEGEND

□	- FOUND MONUMENT AS NOTED
⊙	- SET 1/2" REBAR W/PLASTIC CAP STAMPED "PLS 11463" UNLESS OTHERWISE NOTED

Anthony L. Harris
 Anthony L. Harris, N.M.L.S. No. 11463

STATE OF NEW MEXICO
 ANTHONY L. HARRIS
 #11463
 LICENSED PROFESSIONAL LAND SURVEYOR

5-16-15
 Date

THE SURVEY OFFICE, LLC

333 LOMAS BLVD., N.E. PHONE: (505) 998-0303
 ALBUQUERQUE, NEW MEXICO 87102 FAX: (505) 998-0306

EASEMENT EXHIBIT

TRACT A AND B, WEST ROUTE 66 ADDITION TOWN OF ATRISCO GRANT BERNALILLO COUNTY, NEW MEXICO MAY 2015

LEGAL DESCRIPTION FOR ACCESS EASEMENT

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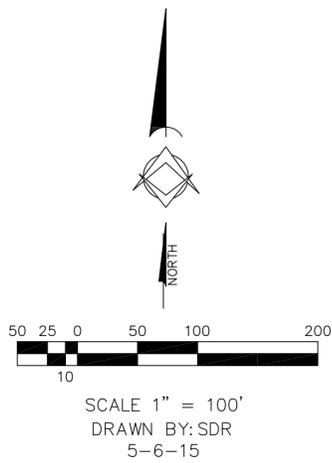
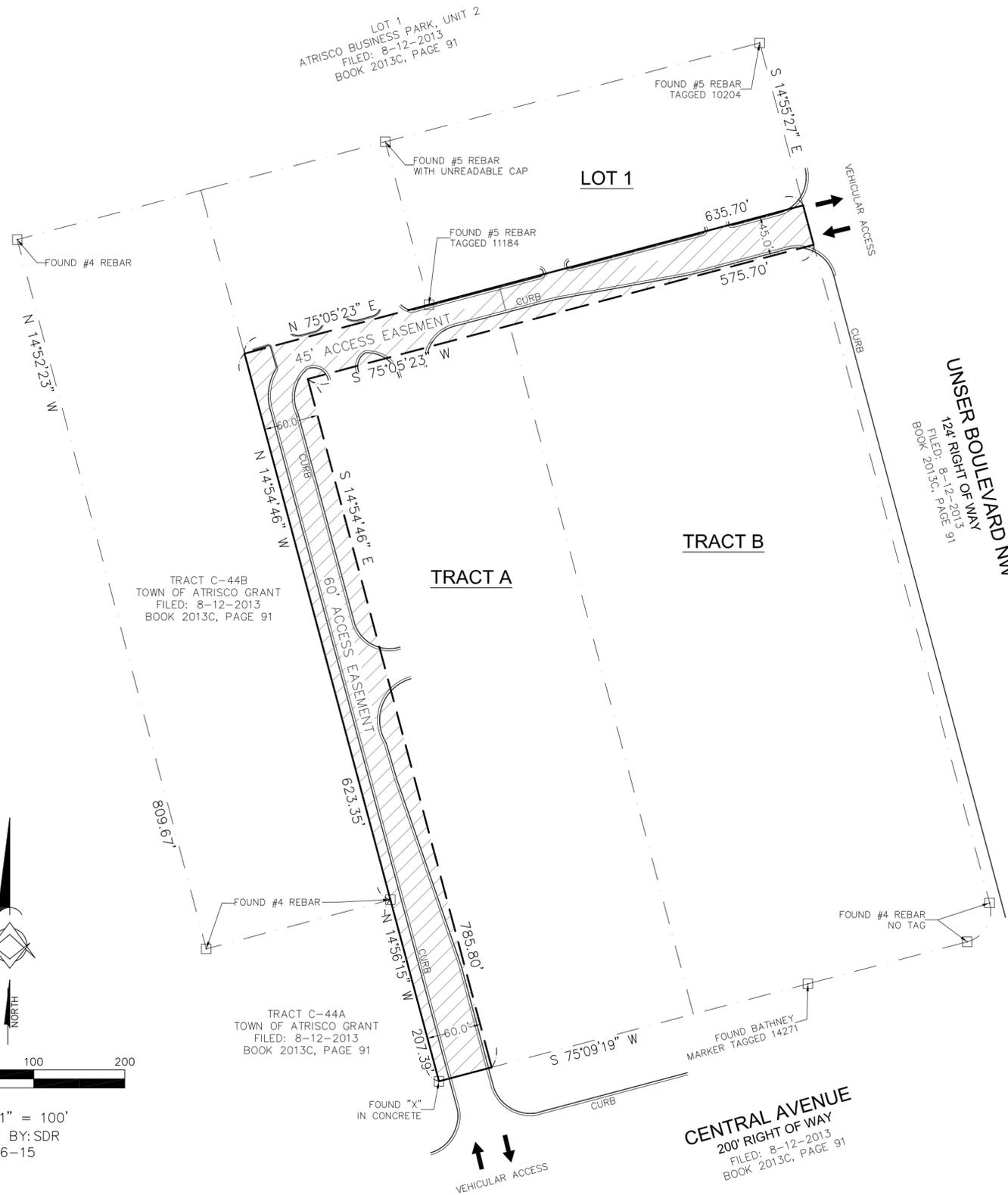
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Anthony L. Harris
Anthony L. Harris, N.M.L.S. No. 11463

5-18-15
Date

THE SURVEY OFFICE, LLC

333 LOMAS BLVD., N.E.
ALBUQUERQUE, NEW MEXICO 87102

PHONE: (505) 998-0303
FAX: (505) 998-0306