

**3rd AMENDMENT TO AGREEMENT TO
CONSTRUCT INFRASTRUCTURE IMPROVEMENTS**

City Project # **654887**

This Amendment Agreement made this 9th day of April, 2021, by and between the City of Albuquerque, New Mexico, a municipal corporation ("City") and (name of Developer) **Eastside Development, Inc.** ("Developer"), whose email address is **rvsg7@rayleehomes.com**, whose address is **PO Box 57060, Albuquerque, NM, 87187**, and whose telephone number is **(505) 899-6768**, is made in Albuquerque, New Mexico and is entered into as of the date of final execution of this Agreement.

WHEREAS, the parties agree that the word "Subdivider" used in any previous Agreements is replaced with the word "Developer" for this Agreement. This change has no substantive effect on any other provision of the agreement.

WHEREAS, the City and the Developer entered into an Agreement to Construct Public and/or Private Infrastructure Improvements ("Original Agreement") on **December 11, 2017**, which was recorded on **December 18, 2017**, as Document No. **2017120203** in the records of the Bernalillo County Clerk, State of New Mexico, wherein the Developer agreed to satisfactorily construct certain infrastructure improvements

WHEREAS, the Original Agreement was amended by a **1st Extension** Agreement dated **February 6, 2018** recorded on **February 13, 2018**, as Document No. **2018045781** in the records of Bernalillo County Clerk, State of New Mexico, extending the construction deadline to **January 24, 2020**; and

WHEREAS, the Original Agreement was amended by a **1st Amendment** Agreement dated **May 22, 2018** recorded on **May 25, 2018**, as Document No. **2018045781** in the records of Bernalillo County Clerk, State of New Mexico, extending the construction deadline to **January 24, 2020**; and

WHEREAS, the Original Agreement was amended by a **2nd Amendment** Agreement dated **May 03, 2019** recorded on **May 06, 2019**, as Document No. **2019036842** in the records of Bernalillo County Clerk, State of New Mexico, extending the construction deadline to **January 24, 2020**; and

WHEREAS, the Original Agreement was amended by a **2nd Extension** Agreement dated **February 20, 2020** recorded on **February 27, 2020**, as Document No. **2020018628** in the records of Bernalillo County Clerk, State of New Mexico, extending the construction deadline to **January 24, 2022**; and

WHEREAS, the Developer has requested a reduction to the financial guarantee in the construction of the public and/or private infrastructure; and

WHEREAS, the Developer is able to provide the required financial guaranty.



NOW THEREFORE in consideration of the above and the mutual promises contained herein, the parties agree:

THEREFORE, the Developer and the City agree to amend the Original Agreement as follows:

1. Amending paragraph 4. Work Order Requirements: Paragraph 4 in the original Agreement is deleted and replaced by the following amended paragraph 4:

The Developer must procure a New Mexico licensed Contractor to construct the improvements per the specifications contained in the City-approved construction drawings. The Contractor shall provide proof of proper licensure to complete the improvements. If the Contractor that has been identified by the Developer does not possess all of the proper licenses for the improvements then proof of proper licensure of the subcontractors must be provided. The Developer's Contractor shall obtain a Performance & Warranty bond and a Labor & Materials bond utilizing the bond templates provided and approved by the City. The mandatory bonds obtained by the Contractor are independent of, and in addition to, the Financial Guaranty provided by the Developer. If the Developer or the City determines that the Contractor failed to faithfully construct or maintain the specified and warranted work, the Developer and the City shall each have standing to make claim on the applicable bonds.

2. Amending Section 6. Financial Guaranty, second paragraph, to read as follows:

To meet the Integrated Development Ordinance requirements, the Developer has acquired or is able to acquire the following "Financial Guaranty":

Type of Financial Guaranty: Subdivision Bond No. 1155093
Amount: \$200,000.00
Name of Financial Institution or Surety providing Guaranty:
Lexon Surety Company
Date City first able to call Guaranty (Construction Completion Deadline):
January 24, 2022
If Guaranty is a Letter of Credit or Loan Reserve, then last day City able to call Guaranty is:
Additional information: FG Reduction from \$891,872.73 to \$200,000.00

3. Other Terms Unchanged: Except as amended herein, the terms and conditions of the Original Agreement will remain unchanged and will continue in full force and effect unless there is a conflict between the terms and conditions of this Amendment, and the terms and conditions of the Original Agreement, in which case the terms and conditions of the Amendment to the Original Agreement will control.

Executed on the date stated in the first paragraph of this Agreement.

DEVELOPER: Eastside Development, Inc.

By [signature]: *Rex Wilson*

Name [print]: Rex Wilson

Title: Co-President

Dated: 4/6/2021

DEVELOPER'S NOTARY

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this 6th day of April, 2021 by [name of person] Rex Wilson, [title or capacity, for instance, "President" or "Owner"] Co-President of ("Developer") Eastside Development, Inc.



Sherrí Repichowski
Notary Public

My Commission Expires: May 23, 2023

CITY OF ALBUQUERQUE:

DocuSigned by:
By: Shahab Biazar
Shahab Biazar, P.E., City Engineer

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AMV

Dated: 4/9/2021 | 11:14 AM MDT

CITY'S NOTARY

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

This instrument was acknowledged before me on 9th day of April, 2021, by Shahab Biazar, P.E., City Engineer of the City of Albuquerque, a municipal corporation, on behalf of said corporation.

Charlotte Labadie
Notary Public

My Commission Expires: March 15, 2025

