Figure	12
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Nearest Major Streets:	MCMAHON/FINELAND
No. of Lots:	2

INFRASTRUCTURE IMPROVEMENTS AGREEMENT (Procedure B)

AGREEMENT TO CONSTRUCT PUBLIC AND/OR PRIVATE INFRASTRUCTURE IMPROVEMENTS

THIS AGREEMENT is made this (Date) December 3 20 18, by
A Character Mary Marian ("City") whose address is P. U. BOX 1293
one Civic Plaza), Albuquerque, New Mexico 87103, and LBJ ENTERPRISES, LLC
"Developer"), a DELAWARE "Developer"), a DELAWARE , [state the type of business entity e.g.
New Mexico corporation," "general partnership," "individual," etc.]
IMITED LIABILITY COMPANY, whose address is PO BOX 171416 (City)
EMPHIS , (State) TN (Zip Code) 38187 and whose telephone number is
928-486-3897, in Albuquerque, New Mexico, and is entered into as of the date of
inal execution of this Agreement.
inal execution of mis Agreement.
1. Recital. The Developer is developing certain lands within the City of Albuquerque,
Bernalillo County, New Mexico, known as [existing legal description:]
PARCEL A-1-B FINELAND DEVELOPMENT
recorded on JANUARY 12, attached, pages 1 through 2, as Document No. 201800331
in the records of the Bernalillo County Clerk, State of New Mexico (the "Developer's Property").
The Developer certifies that the Developer's Property is owned by [state the name of the present
real property owner exactly as shown on the real estate document conveying title for the
Developer's Property to the present owner:] MCMAHON, TENANCY IN COMMON ("Owner").
The Developer has submitted and the City has approved a preliminary plat or Site Plan
identified as MCMAHON CAR WASH identified as MCMAHON CAR WASH describing Developer's Property
("Developer's Property").
As a result of the development of the Developer's Property, the Integrated Development
Ordinance ("I.D.O.") requires the Developer, at no cost to the City, to install certain public and/or
private improvements, which are reasonably related to the development of the Developer's
Property, or to financially guarantee the construction of the public and/or private improvements
as a prerequisite to approval of the final plat, building permit or the Site Plan.
2. Improvements and Construction Deadline. The Developer agrees to install and
complete the public and/or private improvements described in Exhibit A, the required
infrastructure listing ("Improvements"), to the satisfaction of the City, on or before the
OCTOBER 1,2019 ("Construction Completion Deadline"), at no cost to the City. The
Improvements are shown in greater detail on the Developer's proposed and approved plans,
which have been filed with the City Engineer and are identified as Project No. 709084
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Note: To compute the Construction Completion Deadline: If a final plat will be filed after Developer meets the requirements of this Agreement, the Construction Completion Deadline can be no later than two years after execution of this Agreement. (See DPM, Chapter 5.) If a final plat will not be filed pursuant to this Agreement, the Construction Completion Deadline can be no later than one year after approval of the preliminary plat by the City's Development Review Board ("DRB"), unless the DRB grants an extension, not to exceed one additional year per extension, and the Developer processes an amendment to the Agreement. If this Agreement, with any amendments does not utilize the maximum time allowed for completion of construction, the Developer may obtain an extension of the Construction Completion Deadline if the Developer shows adequate reason for the extension.

3. <u>Albuquerque Bernalillo County Water Utility Authority</u>. Pursuant to the Memorandum of Understanding between the City of Albuquerque and the Albuquerque Bernalillo County Water Utility Authority ("ABCWUA") dated March 21, 2007, the City is authorized to act on behalf of the ABCWUA with respect to improvements that involve water and sewer infrastructure.

4. Work Order Requirements. The City agrees to issue a Work Order after:

A. The Developer causes to be submitted all documents, and meets all requirements listed in Development Process Manual ("DPM"), Chapter 2, Work Order Process,, including submitting a Certificate of Insurance in a form acceptable to the City. The certificate must establish that the Developer has procured, or has caused to be procured, public liability insurance in the amount of not less than One Million Dollars (\$1,000,000) combined single limit for accidents or occurrences which cause bodily injury, death or property damage as a result of any condition of the Developer's Property, the Improvements, or the Developer's construction activities within, or related to the Developer's Property. The insurance policy must name the City of Albuquerque, its employees and elected officials, as their interest may appear, as additional insured. If the Improvements include water and wastewater infrastructure, the insurance policy must name the ABCWUA, its employees, officers and agents, as their interest may appear, as additional insureds. The Developer must maintain the insurance until the City accepts the public Improvements and/or approves the private Improvements. The cancellation provision must provide that if the policy is either canceled prior to the expiration date of the policy or is materially changed or not renewed, the issuing company will mail thirty (30) days written notice to the City, attention City Engineer.

B. The Developer complies with all applicable laws, ordinances and regulations, including, but not limited to the City Excavation Ordinance and Sidewalk Ordinance, and pays the following required engineering, staking, testing fees, and other related City fees and County Clerk recording fees:

Type of Fee	Amount			
Engineering Fee	3.6%			
Street Excavation and Barricading Ordinance and street restoration fees	As required per City-approved estimate (Figure 7)			

Note: The Developer must pay the City all City fees which have been incurred during construction before the City will accept the public Improvements.

5. <u>Surveying, Inspection and Testing</u>. The Improvements shall be inspected, surveyed and tested in accordance with all applicable laws, ordinances, and regulations, and according to the following terms:

public Improvements shall be performed by <u>COMMUNITY SCIENCES</u> and construction surveying of the private Improvements shall be performed by <u>COMMUNITY</u>	VITY,
and construction surveying of the private Improvements shall be performed by COMMU!	VITY
MATTING ALMOST AND	***************************************
SCIENCES. If the construction surveying is performed by an entity other than	the City,
the City may monitor the construction surveying and the Developer shall ensure that the	
construction surveying entity provides all construction surveying field notes, plats, repo	rts and
related data to the City which the City requires for review. Record drawings shall be pr	ovided by
the entity performing the survey. The Developer shall pay the City a reasonable fee for	any
construction surveying performed by the City.	

- B. <u>Construction Inspection Methods</u>. Inspection of the construction of the public Improvements shall be performed by <u>RIO GRANDE ENGINEERING</u> and inspection of the private Improvements shall be performed by <u>RIO GRANDE ENGINEERING</u>, both New Mexico Registered Professional Engineers. If the inspection is performed by an entity other than the City, the City may monitor the inspection and the Developer shall ensure that the inspecting entity provides all inspection results, reports and related data to the City which the City requires for review. The City retains the right to perform its own general overall inspection of the construction project at any time prior to final acceptance of the Improvements, if deemed necessary or advisable by the City Engineer. The Developer shall pay the City a reasonable fee for the level of inspection performed by the City.
- C. Field Testing. Field testing of the construction of the public Improvements shall be performed by GEOTEST , and field testing of the private Improvements shall be performed by GEOTEST , both certified testing laboratories under the supervision of a New Mexico Registered Professional Engineer, in accordance with the current City of Albuquerque Standard Specifications for Public Works Construction. If any field testing is performed by an entity other than the City, the City may monitor the field testing and the Developer shall ensure that the field testing entity provides

all field testing results, reports and related data to the City which the City requires for review. The Developer shall pay the City a reasonable fee for any field testing performed by the City.

- D. <u>Additional Testing</u>. The City retains the right to perform all additional testing which the City Engineer deems is necessary or advisable, and the Developer shall pay the City a reasonable fee therefore.
- 6. Financial Guaranty. If final plat approval is not requested prior to construction of the Developer's Property, a financial guaranty is not required. If final plat approval is requested, the Developer must provide the City with a financial guaranty in an amount of not less than 125% of the estimated cost of constructing the Improvements, as approved by the City Engineer. The financial guaranty must be irrevocable and may be in the form of a letter of credit, escrow deposit, or loan reserve letter issued by a Federally Insured Financial Institution; a bond issued by a surety qualified to do business in New Mexico; or other pledge of liquid assets which meets all City requirements. The City must be able to call the financial guaranty at any time within the sixty (60) days immediately following the Construction Completion Deadline.

To meet the City's I.D.O.requirements, the Developer has acquired, or is able to acquire, the following Financial Guaranty:

Type of Financia	l Guaranty: CHECK #6177
Amount: \$ 105	
	al Institution or Surety providing Guaranty:
OCTOBER 1,	ole to call Guaranty (Construction Completion Deadline): 2019
If Guaranty is a	Letter of Credit or Loan Reserve, then last day City able to call CEMBER 1,2019
Additional infor	

- 7. Notice of Start of Construction. Before construction begins, the Developer shall deliver an acceptable Notice to Proceed to the City and shall arrange for a preconstruction conference and all required inspections.
- 8. Completion, Acceptance and Termination. When the City receives Developer's final acceptance package, the City shall review it for completeness and accuracy. (See DPM Chapter 2). If the package is acceptable, the City shall approve the package and issue a Certificate of Completion and Acceptance for the Public Improvements and a Certificate of Completion for the Private Improvements. Thereafter, the Developer's obligations to the City pursuant to this Agreement shall terminate, with the exception of the bond or other guarantee which the Developer has provided to assure the materials and workmanship, as required by the I.D.O. After the City approves the final acceptance package, the City will promptly release this Agreement and the Financial Guaranty.

- 9. Conveyance of Property Rights. When the Improvements are completed, if the City does not own the real property upon, or in which, the public Improvements are constructed, the Developer will convey to the City all real and personal property rights which the City deems reasonably necessary, and all public Improvements, free and clear of all claims, encumbrances and liens before the City will accept the public Improvements. Conveyance may be made by appropriate dedication on the final plat.
- 10. <u>Reduction of Financial Guaranty Upon Partial Completion</u>. The Developer shall be entitled to a reduction of the Financial Guaranty as a result of completing construction of part of the Improvements if the following conditions are met:
- A. <u>Loan Reserve Financial Guaranty</u>. If a loan reserve letter was provided as the Financial Guaranty, the Developer must follow the procedures and meet the requirements detailed in the DPM, Chapter 2.
- B. Non-Loan Reserve Financial Guaranty. If a Financial Guaranty other than a loan reserve letter has been provided, the completed Improvements must be free-standing, functionally independent of any Improvements which have not yet been completed, and completed in substantial compliance with the approved construction plans, as determined by City on-site inspection in order to qualify for a Financial Guaranty reduction. If the Improvements which have been completed meet all City requirements, the City Engineer will estimate the cost of completing the remaining Improvements. Thereafter, the Developer must submit the following documents to the City for review and approval:
- (1) A revised Financial Guaranty in an amount of not less than 125% of the cost of completing the remaining Improvements, as estimated by the City;
- (2) A bond or other instrument acceptable to the City, which guarantees the completed Improvements against defective materials and workmanship for the period required by the I.D.O.
- (3) Conveyance of real and personal property rights which meet the requirements of section 8 of this Agreement.

After the City receives and approves the required documents, the City shall issue a Partial Certificate of Completion and Acceptance for the completed public Improvements and a Certificate of Partial Completion for the completed private Improvements.

11. <u>Indemnification</u>. Until the Improvements are accepted by the City, the Developer shall be solely responsible for maintaining the premises upon which the Improvements are being constructed in a safe condition. The Developer agrees to indemnify and hold harmless the City and its officials, agents and employees and, if the Improvements include water and wastewater infrastructure, the ABCWUA, its employees, officers and agents, from any claims, actions, suits or other proceedings arising from or out of the acts or omissions of the Developer, its agents,

representatives, contractors or subcontractors or arising from the failure of the Developer, its agents, representatives, contractors or subcontractors to perform any act or duty required of the Developer herein. The indemnification required hereunder shall not be limited as a result of the specifications of any applicable insurance coverage. Nothing herein is intended to impair any right or immunity under the laws of the State of New Mexico.

- 12. <u>Assignment</u>. This Agreement shall not be assigned without the prior written consent of the City and the Developer and the express written concurrence of any financial institution or surety which has undertaken to guarantee the completion of the Improvements. The City's approval will not be withheld unreasonably. If so assigned, this Agreement shall extend to and be binding upon the successors and assigns of the parties hereto.
- 13. <u>Release</u>. If the Developer's Property or any part thereof is sold, conveyed or assigned, the City will not release the Developer from its obligations under this Agreement and will continue to hold the Developer responsible for all Improvements until a successor in interest to the Developer has entered into an Infrastructure Improvement Agreement with the City. Thereafter, if the Developer's successor in interest has provided a substitute financial guaranty acceptable to the City, the City will release this Agreement and any related Financial Guaranty.
- 14. Payment for Incomplete Improvements. If the Developer fails to satisfactorily complete construction of the Improvements by the Construction Completion Deadline, the City may construct or cause the Improvements to be constructed as shown on the final plat and in the approved plans and specifications. The Developer shall be jointly and severally liable to pay to, and indemnify the City for the total cost, including, but not limited to, engineering, legal, and contingent costs, together with any damages, either direct or consequential, which the City may sustain as a result of Developer's failure to perform as required by this Agreement. If the direct or indirect costs and damages to the City exceed the amount of the City's Claim of Lien or any Financial Guaranty, the Developer shall be liable to, and shall pay, the City for all such costs and damages. The surety or sureties shall be jointly and severally liable to pay to and indemnify the City for the total cost to the extent of their obligations pursuant to any Financial Guaranty.
- 15. <u>Binding on Developer's Property</u>. The provisions of this Agreement constitute covenants running with Developer's Property for the benefit of the City and its successors and assigns until terminated, and are binding on the <u>Developer</u> and the Owner and their heirs, successors and assigns.
- 16. Notice. For purposes of giving formal written notice, including notice of change of address, the Developer's and the City's addresses are as stated in the first paragraph of this Agreement. Notice may be given either in person or by certified U.S. mail, postage paid. Notice will be considered to have been received within six (6) days after the notice is mailed if there is no actual evidence of receipt.
- 17. Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

- 18. <u>Changes to Agreement</u>. Changes to this Agreement are not binding unless made in writing, signed by both parties.
- 19. <u>Construction and Severability</u>. If any part of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement will remain valid and enforceable if the remainder is reasonably capable of completion.
- 20. <u>Captions</u>. The captions to the sections or paragraphs of this Agreement are not part of this Agreement and will not affect the meaning or construction of any of its provisions.
- 21. Form Not Changed. Developer agrees that changes to this form are not binding unless initialed by the Developer and signed by the City Legal Department on this form.
- 22. <u>Authority to Execute</u>. If the Developer signing below is not the Owner of the Developer's Property, the Owner must execute the Power of Attorney below.

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

DEVELOPER: LBJ ENTERPRISES, LLS	CITY OF ALBUQUERQUE
By [Signature]: SANASTUS Name [Print]: LESLIE DON LAMASTUS	By: A
Name [Print]: LESLIE DON LAMASTUS	Shahab Biazar, P.E., City Engineer
Title: MANAGING MEMBER	Dated:
Dated: //- 7/0-18	

DEVELOPER'S NOTARY

STATE OF New Mexico	
COUNTY OF Bernalille) ss.	
	31. 31 June 10 Lane 20/2 has
This instrument was acknowledged before m	e on this 26 day of November, 20/8, by
[name of person:] LESLIE DON LEMASTUS	, [title or capacity, for instance,
"President" or "Owner":] MANAGING MEMB	ER
[Developer:] LBJ ENTERPRISES, LLC	÷
	Notary Public
	My Commission Expires: Sep 25, 2022
Jarred Mondragon NOTARY PUBLIC - STATE OF NEW MEXICO My Commission Expires: Sep 25th 2002 CITY	'S NOTARY
STATE OF NEW MEXICO)	
COUNTY OF BERNALILLO)	
This instrument was acknowledged before	ne on this 3rc1 day of December, 20 18,
by Shahab Biazar, P.E., City Engineer of the Cit	y of Albuquerque, a municipal corporation, on behalf of
said corporation.	Ohwatte Rabadie
	Notary Public
	My Commission Expires: March 15, 2021
The state of the s	
[EXHIB] [POWER OF ATTORN]	T A ATTACHED] EY ATTACHED IF DEVELOPER
IS NOT THE OWNER OF	THE DEVELOPER'S PROPERTY]

POWER OF ATTORNEY

NOTE: Must be signed and notarized by the owner if the Developer is not the owner of the Developer's Property.
STATE OF NEW MEXICO) ss.
COUNTY OF BERNALILLO
[State name of present real property owner exactly as shown on the real estate document conveying title for the Developer's Property to the present owner:]
MCMAHON TENANCY IN COMMON ("Owner"), of [address:]
PO BOX 35640 [City:]
ALBUQUERQUE, [State:] NE [zip code:]87176, hereby
makes, constitutes and appoints [name of <u>Developer</u> :] LBJ ENTERPRISES, LLC ("Developer") as my true and lawful
attorney in fact, for me and in my name, place and stead, giving unto the Developer full power to do and perform all and every act that I may legally do through an attorney in fact, and every proper power necessary to meet the City of Albuquerque's ("City") Integrated Development Ordinance requirements regarding the real estate owned by me and described in Section 1 of the Infrastructure Improvements Agreement ("Agreement") above, including executing the Agreement and related documents required by the City, with full power of substitution and revocation, hereby ratifying and affirming what the Developer lawfully does or causes to be done by virtue of the power herein conferred upon the Developer.
This Power of Attorney can only be terminated: (1) by a sworn document signed and notarized by the Owner, which shall be promptly delivered to the City Engineer in order to provide notice to City of the termination of this Power of Attorney; or (2) upon release of the Agreement by the City.
NOTE: Alternate wording may be acceptable, but must be submitted to the City Legal Department for review and approval before the final contract package is submitted to the City for

review. The City may require evidence of ownership and/or authority to execute the Power of

Attorney, if the Owner is not the Developer. If Owner is a corporation, the Power of Attorney

must be signed by the president or by someone specifically empowered by the Board of

Directors, in which case the corporate Secretary's certification and a copy of the Board's

resolution empowering execution must accompany this document.

OWNER By [Signature:]: Aad J. Claffer By [Signature:]: Aad J. Cl	
Name [Print]: JASK CLIPFORD	•••••
Title: MANAGER, MCMAHON TENANCY IN COM	MON
Dated: 11/26/18	
The foregoing Power of Attorney was acknowledge 20 \(\frac{\gamma}{2} \) by [name of person:] \(\text{JACK CLIFFORD} \)	d before me on November 26, (title or capacity, for
instance "President":] MANAGER	of [Owner:]
MCMAHON TENANCY IN COMMON	on behalf of the Owner.
(SEAL)	Mary Public My Commission Expires: 3/06/2020

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FEMA Flood Map Service Center: Search By Address

Navigation

Search

Languages

MSC Home (/portal/)

MSC Search by Address (/portal/search)

MSC Search All Products (/portal/advanceSearch)

MSC Products and Tools (/portal/resources/productsandtools)

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LOMC Batch Files (/portal/resources/lomc)

Product Availability (/portal/productAvailability)

MSC Frequently Asked Questions (FAQs) (/portal/resources/faq)

MSC Email Subscriptions (/portal/subscriptionHome)

Contact MSC Help (/portal/resources/contact)

Enter an address, place, or coordinates: 🔞

2049 METZGAR ROAD SW, ALBUQUERQUE NM

Search

Whether you are in a high risk zone or not, you may need <u>flood insurance (https://www.fema.gov/national-flood-insurance-program)</u> because most homeowners insurance doesn't cover flood damage. If you live in an area with low or moderate flood risk, you are 5 times more likely to experience flood than a fire in your home over the next 30 years. For many, a National Flood Insurance Program's flood insurance policy could cost less than \$400 per year. Call your insurance agent today and protect what you've built.

Learn more about steps you can take (https://www.fema.gov/what-mitigation) to reduce the risk flood damage.

Search Results—Products for BERNALILLO COUNTY

UNINCORPORATED AREAS

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The flood map for the selected area is number 35001C0339H, effective on 08/16/2012 🚷

DYNAMIC MAP



MAP IMAGE



_(https://msc.fema.gov/portal/downloadProduct?

filepath=/35/P/Firm/35001C0339H.png&productTypeID=FINAL_PRODUCT&productSubTypeID=FIRM_PANEL Changes to this FIRM ®

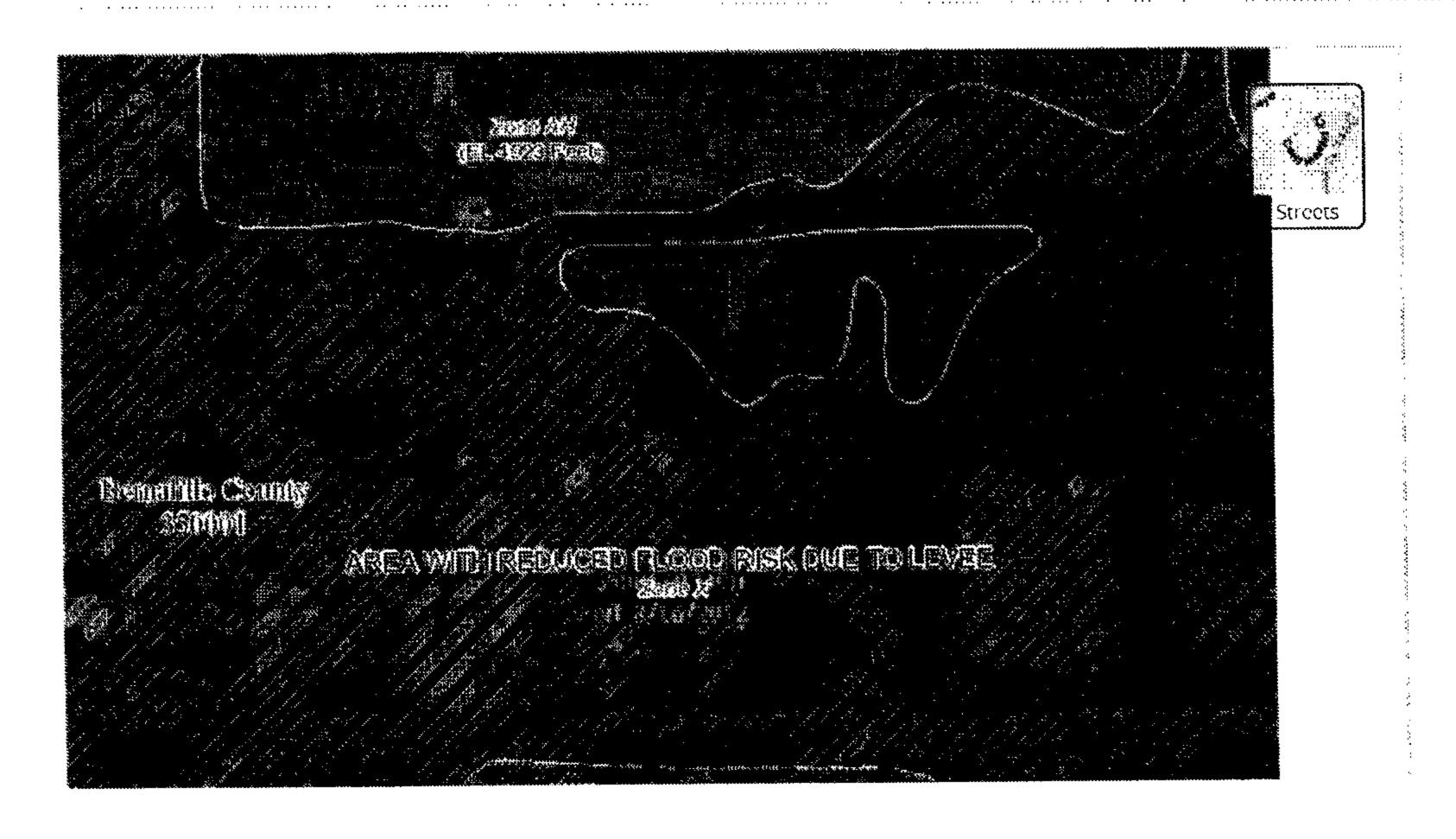
Revisions (2)

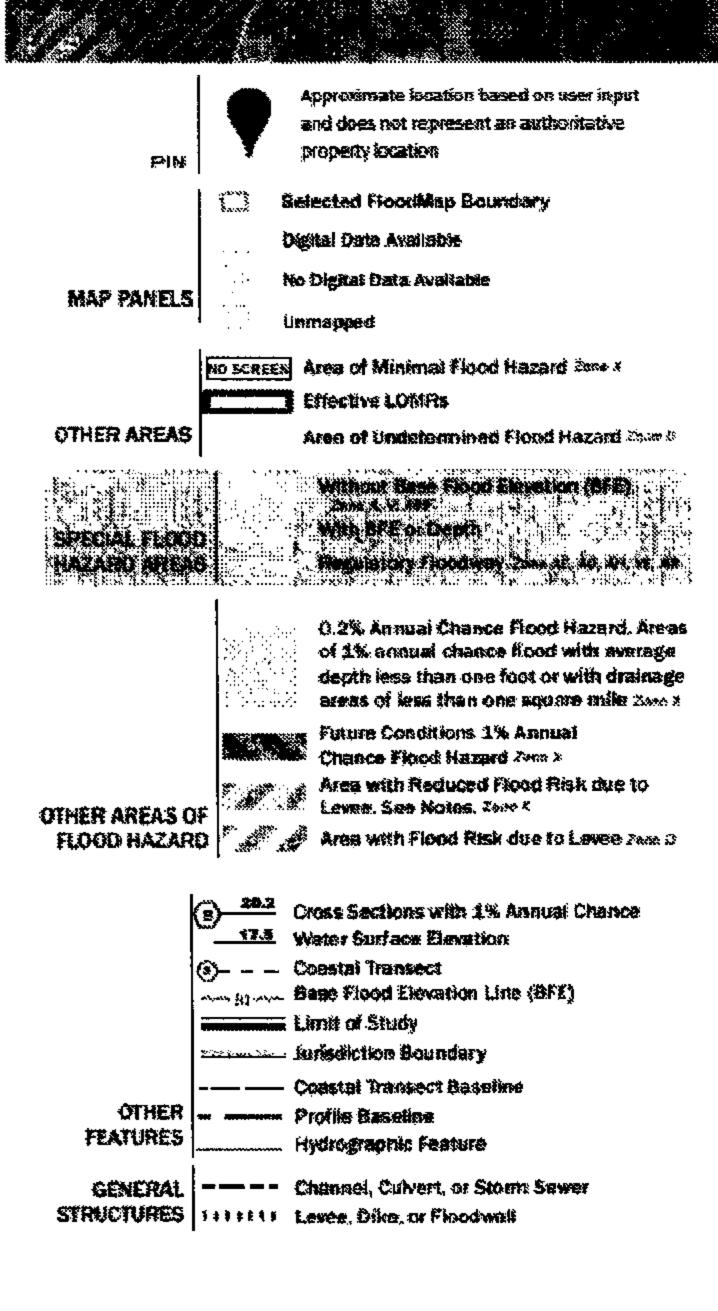
Amendments (6)

Revalidations (4)

You can choose a new flood map or move the location pin by selecting a different location on the locator map below or by entering a new location in the search field above. It may take a minute or more during peak hours to generate a dynamic FIRMette.

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