

INFRASTRUCTURE IMPROVEMENTS AGREEMENT
(Procedure B)

AGREEMENT TO CONSTRUCT
PUBLIC AND/OR PRIVATE INFRASTRUCTURE IMPROVEMENTS

THIS AGREEMENT is made this (Date) March 20, 2019, by and between the City of Albuquerque, New Mexico ("City"), whose address is P. O. Box 1293 (One Civic Plaza), Albuquerque, New Mexico 87103, and Presbyterian Healthcare Services ("Developer"), a _____, [state the type of business entity e.g. "New Mexico corporation," "general partnership," "individual," etc.] _____, whose address is P.O. Box 26666 (City) Albuquerque, (State) NM (Zip Code) 87125 and whose telephone number is 505-563-6641, in Albuquerque, New Mexico, and is entered into as of the date of final execution of this Agreement.

1. Recital. The Developer is developing certain lands within the City of Albuquerque, Bernalillo County, New Mexico, known as [existing legal description:] Tract numbered 3 of the Plat of Tracts 1 thru 4, Coors Village (Being a Replat of Tract A-1-A, University of Albuquerque Urban Center), within the Town of Albuquerque Grant in projected section 35, Township 11 North, Range 2 East recorded on 12/31/2018, attached, pages 1 through 2, as Document No. 2018112094 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:] Presbyterian Healthcare Services ("Owner").

The Developer has submitted and the City has approved a preliminary plat or Site Plan identified as Lots 3-A and 3-B Coors Village 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, 2021 ("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. 550982.



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. Albuquerque Bernalillo County Water Utility Authority. 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. Surveying, Inspection and Testing. The Improvements shall be inspected, surveyed and tested in accordance with all applicable laws, ordinances, and regulations, and according to the following terms:

A. Construction Surveying. Construction surveying for the construction of the public Improvements shall be performed by Cartesian Surveys, Inc., and construction surveying of the private Improvements shall be performed by Cartesian Surveys, Inc. . 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, reports and related data to the City which the City requires for review. Record drawings shall be provided by the entity performing the survey. The Developer shall pay the City a reasonable fee for any construction surveying performed by the City.

B. Construction Inspection Methods. Inspection of the construction of the public Improvements shall be performed by Tierra West, LLC and inspection of the private Improvements shall be performed by Tierra West, LLC, 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 Terracon Consultants Inc., and field testing of the private Improvements shall be performed by Terracon Consultants Inc. 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. Additional Testing. 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 Financial Guaranty: Bond #30060821 and Cashier's Ck No.0648602109
Amount: \$ 1,095,661.85 (Bond amt:\$558,787.54) (Cashiers Ck amt:\$536,874.31)
Name of Financial Institution or Surety providing Guaranty:
Bond: "Western Surety Company"
Date City first able to call Guaranty (Construction Completion Deadline):
October 1, 2021
If Guaranty is a Letter of Credit or Loan Reserve, then last day City able to call
Guaranty is: December 1, 2021
Additional information: _____

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. Reduction of Financial Guaranty Upon Partial Completion. 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. Loan Reserve Financial Guaranty. 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. Indemnification. 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. Assignment. 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. Release. 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. Binding on Developer's Property. 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 Developer 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. Changes to Agreement. Changes to this Agreement are not binding unless made in writing, signed by both parties.

19. Construction and Severability. 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. Captions. 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. Authority to Execute. 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: Presbyterian Healthcare Services

By [Signature]: 
Name [Print]: James R. Jesson
Title: VP Real Estate
Dated: March 5, 2019

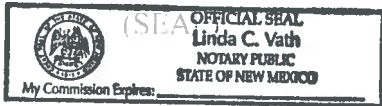
CITY OF ALBUQUERQUE

By: 
Shahab Biazar, P.E., City Engineer
Dated: 3/20/19

DEVELOPER'S NOTARY

STATE OF New Mexico)
) ss.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this 5 day of MARCH, 2019, by
[name of person:] JAMES R. JEFFSON, [title or capacity, for instance,
"President" or "Owner":] VICE PRESIDENT OF REAL ESTATE of
[Developer:] Presbyterian Healthcare Services.



Linda C. Vath
Notary Public

My Commission Expires: SEPT. 22 2022

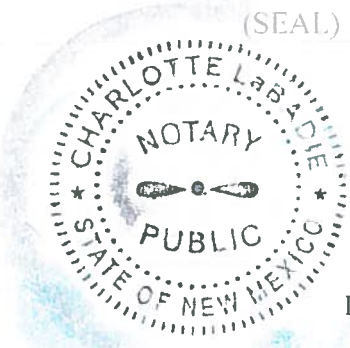
CITY'S NOTARY

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

This instrument was acknowledged before me on this 20th day of March, 2019,
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, 2021



[EXHIBIT A ATTACHED]
[POWER OF ATTORNEY ATTACHED IF DEVELOPER
IS NOT THE OWNER OF THE DEVELOPER'S PROPERTY]

Current DRC
Project Number: _____

FIGURE 12

INFRASTRUCTURE LIST

(Rev. 2-16-18)

EXHIBIT "A"

TO SUBDIVISION IMPROVEMENTS AGREEMENT

DEVELOPMENT REVIEW BOARD (D.R.B.) REQUIRED INFRASTRUCTURE LIST

TRACT 3-A COORS VILLAGE - SITE PLAN FOR BUILDING PERMIT
PROPOSED NAME OF PLAT AND/OR SITE DEVELOPMENT PLAN

TRACT 3 PLAT OF TRACTS 1 THRU 4 COORS VILLAGE (BEING A REPLAT OF TRACT A-1-A, UNIVERSITY OF ALBUQUERQUE URBAN CENTER)
EXISTING LEGAL DESCRIPTION PRIOR TO PLATTING ACTION

Following is a summary of PUBLIC/PRIVATE Infrastructure required to be constructed or financially guaranteed for the above development. This Listing is not necessarily a complete listing. During the SIA process and/or in the review of the construction drawings, if the DRC Chair determines that appurtenant items and/or unforeseen items have not been included in the infrastructure listing, the DRC Chair may include those items in the listing and related financial guarantee. Likewise, if the DRC Chair determines that appurtenant or non-essential items can be deleted from the listing, those items may be deleted as well as the related portions of the financial guarantees. All such revisions require approval by the DRC Chair, the User Department and agent/owner. If such approvals are obtained, these revisions to the listing will be incorporated administratively. In addition, any unforeseen items which arise during construction which are necessary to complete the project and which normally are the Subdivider's responsibility will be required as a condition of project acceptance and close out by the City.

Financially Guaranteed DRC #	Constructed Under DRC #	Size	Type of Improvement	Location	From	To	Construction Certification	
							Inspector	City Cnst Engineer
		12' Lane	NM 45 Lane addition, Paving, Striping, 6' sidewalk (west side), 6' landscaping	NM 45 (Coors Blvd)	Start at Crn. NM 45 / Western Trail	1,100 feet to Crn. NM 45 / Milne Rd	/	/
		6' Byc. Lane	NM 45 cycle lane addition, Paving, Striping	NM 45 (Coors Blvd)	Start at Crn. NM 45 / Western Trail	1,100 feet to Crn. NM 45 / Milne Rd	/	/
		12' Turn Lane	Deceleration lane, Paving, Striping, Curb, 300'-150' transition plus 370' turn lane	NM 45 (Coors Blvd)	Start at Crn. NM 45 / Western Trail	375' south at Private Driveway Entrance	/	/
		12' Turn Lane	Signal Modification (reimling & SW corner pole relocation for RT)	NM 45 (Coors Blvd)	Crn. NM 45 / Western Trail	Crn. NM 45 / Western Trail	/	/
		12' Turn Lane	Re-stripe north bound left turn lane on NM 45 for dual left turn movement	NM 45 (Coors Blvd)	215' south of Crn. NM 45 / Western Trail	End at Crn. NM 45 / Western Trail	/	/
		12' Turn Lane	Construct east bound right turn lane with 150'-150' transition	Western Trail NW	Start 277' west of Crn. Western Trail / NM 45	End at Crn. Western Trail / NM 45	/	/
		6' Byc. Lane	6' cycle Lane in Western Trail, paving, striping, signage	Western Trail NW	North Property Line	600' west of Crn. Western Trail / NM 45	/	/
		6' SW, 6' LS	Construct 6' sidewalk and 6' landscaping	Western Trail NW	North Property Line	560' west of Crn. Western Trail / NM 45	/	/
		Driveway	Curb Cut, Driveway Entrance, Install HC ramps for SW driveway entrance curb return, Restricted left turn with pork chop island.	270' west of Crn. Western Trail / NM 45	Private Entrance on Western Trail	400' west of Crn. Western Trail / NM 45	/	/

ORIGINAL

Date Submitted: 10-31-2018
Date Site Plan Approved: 10-31-2018
Date Preliminary Plat Approved: _____
Date Preliminary Plat Expires: _____
DRB Project No.: RR-2018-001584
DRB Application No.: _____

Financially Guaranteed DRC #	Constructed Under DRC #	Size	Type of Improvement	Location	From	To	Construction Certification			
							Inspector	P.E.	City Crst Engineer	
		30' Driveway	Curb Cut, Driveway Entrance. Install HC ramps for SW driveway entrance curb return	340' west of Milne Rd. / Coors intersection	Private Entrance on Milne Road (310' west of Milne Rd. / Coors intersection)	Private Entrance on Milne Road (310' west of Milne Rd. / Coors intersection)	/	/	/	
		30' Driveway	Curb Cut, Driveway Entrance. Install HC ramps for SW driveway entrance curb return	125' north from Quaker Heights Pl / Milne Rd intersection	Private Entrance on Quaker Hts. (125' north of Quaker Heights Pl / Milne Rd)	Private Entrance on Quaker Hts. (95' north of Quaker Heights Pl / Milne Rd)	/	/	/	
		30' Driveway	Curb Cut, Driveway Entrance. Install HC ramps for SW driveway entrance curb return	330' south of Quaker Heights Rd. / Western Trail	Private Entrance Quaker Hts. (330' south of Quaker Heights Rd. / Western Trail	Private Entrance Quaker Hts. (360' south of Quaker Heights Rd. / Western Trail	/	/	/	
		-	Relocate existing bus shelter and signage	135' south of NM 45 / Western Trail intersection	at East Property Line	same location at East Property Line	/	/	/	
		-	Modify curb for westbound left turn lane into Quaker Heights private driveway	300' west of NM 45 / Western Trail intersection	300' west of NM 45 / Western Trail intersection	220' west of NM 45 / Western Trail intersection	/	/	/	
		12' Turn Lane	Deceleration lane, Paving, Striping, Curb, 300'-150' transition plus 370' turn lane	NM 45 (Coors Blvd)	120' south of Private Driveway Entrance on NM 45	475' south of Private Driveway at NM 45 / Milne Rd intersection	/	/	/	
		1.110'	8" Distribution Line Water Line	Along internal site road in 20' Easement	Driveway at Milne Rd	Driveway on Western Trail	/	/	/	
		10" WL	Extension of 10" Distribution Line	Milne Road	Quaker Heights Rd	To internal roadway (345' length east)	/	/	/	
		-	Extend median 22' west of the existing median terminus on Quaker Heights	Quaker Heights median at the Site Driveway intersection	Existing median terminus	22' extension to the west along Quaker Heights	/	/	/	
		Engineers Certification of the Grading Plan required for Release of Financial Guarantees and SIA						/	/	/

The items listed below are on the CCIP and approved for Impact Fee credits. Signatures from the Impact Fee Administrator and the City User Department is required prior to DRB approval of this listing. The items listed below are subject to the standard SIA requirements.

Financially Guaranteed DRC #	Constructed Under DRC #	Size	Type of Improvement	Location	From	To	Construction Certification		
							Inspector	Private P.E.	City Cnst Engineer
							/	/	/
							/	/	/

Approval of Creditable Items: _____

Impact Fee Administrator Signature _____ Date _____

Approval of Creditable Items: _____

City User Dept. Signature _____ Date _____

NOTES

If the site is located in a floodplain, then the financial guarantee will not be released until the LOMR is approved by FEMA.

Street lights per City requirements.

- _____
- _____
- _____

AGENT / OWNER _____ **DEVELOPMENT REVIEW BOARD MEMBER APPROVALS**

Richard Juvenon
NAME (print)
Tierra West LLC

[Signature]
FIRM
10/31/2018

[Signature] 10-31-18
DRB CHAIR - date

[Signature] 10/31/18
TRANSPORTATION DEVELOPMENT - date

[Signature] 10-31-18
UTILITY DEVELOPMENT - date

[Signature] 10-31-18
CITY ENGINEER - date

_____ PARKS & RECREATION - date

_____ AMAFCA - date

2-2 _____ CODE ENFORCEMENT - date

10/31/15 _____

_____ - date

DESIGN REVIEW COMMITTEE REVISIONS

REVISION	DATE	DRC CHAIR	USER DEPARTMENT	AGENT / OWNER