



**AMENDMENT AND EXTENSION AGREEMENT TO**  
**Procedure "B"**

**Project Name: Fountain Hills Plaza Subdivision**

**Project Number: 584487**

This Amendment and Extension Agreement is made upon the date of the latest signature below, 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 **Custom Grading, Inc.** ("Developer"), a **New Mexico Limited Partnership**, [state the type of business entity e.g. "New Mexico corporation," "general partnership," "individual," etc.], whose email address is **michael@cginm.com, tru@cginm.com**, whose address is **PO BOX 94088**, (City) **Albuquerque**, (State) **NM** (Zip Code) **87199** and whose telephone number is **505-897-4225**, 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 on the **4th** day of **November, 2020**, which was recorded on **November 06, 2020**, pages **1** through **14**, as Document No. **2020111917** in the records of Bernalillo County Clerk, State of New Mexico, by which the Developer agreed to complete the construction of certain infrastructure improvements on or before the **21st** day of **April, 2022**; and

WHEREAS, the Earlier Agreement was amended by a **1<sup>st</sup> Extension** Agreement dated **April 25, 2022** recorded on **May 2, 2022**, pages **1** through **9**, as Document No. **2022043451** in the records of Bernalillo County Clerk, State of New Mexico, extending the construction deadline to **May 6, 2023**; and

WHEREAS, the Earlier Agreement was amended by a **2<sup>nd</sup> Extension** Agreement dated **May 16, 2023** recorded on **May 17, 2023, pages 1 through 4**, as Document No. **2023030722** in the records of Bernalillo County Clerk, State of New Mexico, extending the construction deadline to **November 30, 2023**; and

WHEREAS, the Earlier Agreement was amended by a **3<sup>rd</sup> Extension** Agreement dated **December 5, 2023** recorded on **December 14, 2023, pages 1 through 4**, as Document No. **2023079121** in the records of Bernalillo County Clerk, State of New Mexico, extending the construction deadline to **May 30, 2024**; and

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. Extension of Agreement:

WHEREAS, it appears that the Developer will be unable to complete construction of the improvements by the deadline specified in the Agreement; and

WHEREAS, the City is willing to grant Developer an extension of time in which to complete construction of all or part of the improvements, provided the Developer posts an acceptable financial guaranty, as required by the City's Integrated Development Ordinance and the Development Process Manual; 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:

3. The required completion date for construction of the improvements, is extended (Complete either A or B:)

A. For all improvements, the 1st day of May, 2025

B. On portions of the improvements as follows:

## IMPROVEMENTS

COMPLETION DATE

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B. With this Extension Agreement, Developer has provided the City with the following financial guaranty:

Type of Financial Guaranty: Subdivision Bond No B-3263488, Rider dated 4/21/22

Amount: \$ 1,750,726.42

Name of Financial Institution or Surety providing Guaranty:

**The Cincinnati Insurance Company**

Date City first able to call Guaranty (Construction Completion Deadline): \_\_\_\_\_


May 30, 2025

If Guaranty is a Letter of Credit or Loan Reserve, then last day City able to call Guaranty is: \_\_\_\_\_

Additional information: \_\_\_\_\_

4. **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.

DEVELOPER: Custom Grading, Inc.

By [signature]:   
Name [print]: Michael Montoya  
Title: President  
Dated: 5-8-24

**DEVELOPER'S NOTARY**

STATE OF New Mexico )

) ss

COUNTY OF Bernalillo )

This instrument was acknowledged before me on this 8<sup>th</sup> day of May, 2024 by [name of person] Michael Montoya, [title or capacity, for instance "President" or "Owner"] President of ("Developer") Custom Grading, Inc..

(SEAL)



State of New Mexico  
Notary Public  
Trish Howe  
Commission Number 1115039  
Expiration Date 5/16/2028

  
Notary Public

My Commission Expires: 5/16/2028

DS  
KV

DS  
JW

CITY OF ALBUQUERQUE:

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

Agreement is effective as of (Date): 5/9/2024 | 2:19 PM MDT

CITY'S NOTARY

STATE OF NEW MEXICO )  
COUNTY OF BERNALILLO )

This instrument was acknowledged before me on 9th day of May, 2024, by Shahab Biazar, P.E., City Engineer of the City of Albuquerque, a municipal corporation, on behalf of said corporation.

(SEAL)

Rachael M. Miranda  
Notary Public

My Commission Expires: 11-9-2025

STATE OF NEW MEXICO  
NOTARY PUBLIC  
Rachael Miranda  
Commission No. 1119740  
November 09, 2025

BERNALILLO COUNTY

Date	Type	Reference	Original Amt.	Balance Due	5/8/2024	Discount	Payment
5/8/2024	Bill	CPN#584487 IIB ext#4	25.00	25.00			25.00
					Check Amount		25.00

Southwest Capital Ba

Recording fee for IIB 4th extension - CABQ Proj

25.00

BERNALILLO COUNTY

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Bernalillo County, NM  
415 Silver Ave. SW, 2nd Floor  
P.O. Box 542  
Albuquerque, NM 87102

Receipt: 1518441

Product	Name	Extended
AMND	Amendment	\$25.00
	# Pages	4
	Document #	2024031835
	# Of Entries	0
Total		\$25.00

Tender (Check) \$25.00  
Check# 7286  
Paid By CUSTOM GRADING INC  
Phone # 5058974225

Thank You!

5/10/24 3:50 PM MST msouchet

**CONTRACT CONTROL FORM**

**PROJECT:** 584487  
**CCN:** 202/00375  
(New/Existing) Existing

**CONTACT PERSON:** Aaron Choneska

Type of Paperwork Amend and Extend IIA B  
Project Name/Description  
(From CTS): Fountain Hills Plaza Subdivision  
Developer/Owner/Vendor Custom Grading, Inc.

Contract Amount \$1,750,726.42 Contract Period: 11/4/2020 -

**FINAL CONTRACT REVIEW**

**APPROVALS REQUIRED:**

DRC Manager  
Legal Department  
City Engineer  
Hydrology Engineer  
Transportation Engineer  
Construction Engr.  
OTHER: CFO

Approved By:	Approval Date
<u>Kathleen Verhage</u> DocuSigned by: 84DFE6A454CE462...	5/8/2024   4:40 PM MDT
<u>Jeannette Whittaker</u> DocuSigned by: 8975B41C694C485...	5/8/2024   4:44 PM MDT
<u>Shahab Biazar</u> C7E1CB5481E9486...	5/9/2024   2:19 PM MDT

**DISTRUBUTION:**

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Received by City clerk \_\_\_\_\_