

**AMENDMENT AND 3rd EXTENSION AGREEMENT TO
Procedure "B"**

Project No. 666786
Project Name: Eagle Vista, LLC

This Amendment and Extension Agreement made this ____ day of _____, 20____, by and between the City of Albuquerque, New Mexico, a municipal corporation ("City") and (name of Developer) Eagle Vista, LLC Developer"), whose address is 9201 Montgomery NE, Bldg 1, Albuquerque, NM 87111 whose telephone number is 505-884-4699 and whose email address is Lance@allensigmon.com, 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 on the 21st day of July 2017, which was recorded on 26th day of July 2017 pages 1 through 10 as Document No. 2017072463, in the records of Bernalillo County Clerk, State of New Mexico (Earlier Agreement"), by which the Developer agreed to complete the construction of certain infrastructure improvements on or before the 12th day of July, 2019; and

WHEREAS, the City and the Developer entered into a 1st Extension Agreement on the 4th day of February 2020, which was recorded on February 4, 2020 pages 1 through 3 as Document No. 2020011068, in the records of Bernalillo County Clerk, State of New Mexico (Earlier Agreement"), by which the Developer agreed to complete the construction of certain infrastructure improvements on or before the 12th day of July, 2020; and

WHEREAS, the City and the Developer entered into a 2nd Extension Agreement and amendment on the 9th day of August, 2021 which was recorded on August 18, 2021 pages 1 through 3 as Document No. 2020011068, in the records of Bernalillo County Clerk, State of New Mexico (Earlier Agreement"), by which the Developer agreed to complete the construction of certain infrastructure improvements on or before the 26th day of March, 2022; 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 26th day of March, 2023.

B. On portions of the improvements as follows:

<u>IMPROVEMENTS</u>	<u>COMPLETION DATE</u>
_____	_____
_____	_____
_____	_____

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

Type of Financial Guaranty: Loan Reserve Letter #

Amount: \$ 56,954.50

Name of Financial Institution or Surety providing Guaranty:

Bank of Albuquerque

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

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

Additional information:

CITY OF ALBUQUERQUE:

By: _____
Shahab Biazar, P.E., City Engineer

Dated: _____

CITY'S NOTARY

STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on _____ day of _____, 20____, by Shahab Biazar, P.E., City Engineer of the City of Albuquerque, a municipal corporation, on behalf of said corporation.

(SEAL)

Notary Public

My Commission Expires: _____