**(PROCEDURE “C-COMMITMENT”)**

**INFRASTRUCTURE IMPROVEMENTS AGREEMENT**

**COMMITMENT FOR PAYMENT FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS**

**Project Name:**

**Project Number:**

THIS COMMITMENT 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 \_\_\_\_\_[both spouses are required if married]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("Owner"), a[n] [individual, spouses or an entity)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, [state the type of business entity, e.g. "New Mexico corporation," "general partnership," "individual," etc.], whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (City) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (State) \_\_\_\_\_ (Zip Code) \_\_\_\_\_\_\_ whose telephone number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and whose email address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and is entered into as of the date of final execution of this Agreement.

1. Recital. The Owner is constructing a new residential house on a certain parcel of land within the City of Albuquerque, Bernalillo County, New Mexico, known as : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_recorded on (Date) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, in Book \_\_\_\_\_\_\_, pages \_\_\_\_\_ through \_\_\_\_\_ as Document No. in the records of the Bernalillo County Clerk, State of New Mexico ("Owner's Property"). The Owner certifies that the Owner's Property is owned by [state the name of the present real property owner exactly as shown on the real estate document conveying title in Owner's Property to the present owner:] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("Owner").
2. Commitment To Pay: The City requires the Owner to pay for all the Public Infrastructure Improvements (“Improvements”) related to the Owner’s Property when those Improvements are constructed by the City of Albuquerque or another constructing entity/property owner. Owner acknowledges and agrees that the Owner shall be responsible for paying the cost of all Improvements, upon City property or within utility easements, which abut/front the Owner's Property. Said cost shall consist of the prorated amount of the total overall cost of the Improvements.
3. Construction Estimate: The Construction Estimate will be provided to the Owner prior to start of the Improvements construction by the City of Albuquerque or other constructing entity/property owner. The Owner acknowledges and agrees that the Construction Estimate is provided to the Owner as a courtesy only, and that the Construction Estimate is in no way as a limitation on the Final Construction Costs of the Improvements.
4. Final Construction Cost: Once Improvements construction is completed, a Final Construction Cost Invoice will be given to the Owner based on the Final Construction Cost. “Final Construction Cost” includes design, construction, inspection, testing, workorder closeout, fees, taxes, and cost of all other needed services to complete the Improvements related to the Owner’s Property.
5. Deadline For Payment. The Owner agrees to pay the Final Construction Costs within three (3) months from receipt of the Final Construction Cost Invoice. The Owner shall pay only in the following forms: certified check, cashier’s check, electronic or other form of payment approved by the City.
6. Failure to Pay; Lien on Owner’s Property. If the Owner fails to pay the full Final Construction Cost Invoice, the City of Albuquerque shall place a Lien on the Owner’s Property and take further legal actions to recover the costs of the Improvements. The Owner shall be fully responsible for all legal costs.
7. Albuquerque Bernalillo County Water Utility Authority (“ABCWUA”) and Albuquerque Metropolitan Arroyo Flood Control Authority (“AMAFCA”). Pursuant to the Memorandum of Understanding between the City of Albuquerque and ABCWUA dated March 21, 2007, and the Memorandum of Understanding with AMAFCA dated February 6, 2013, the City is authorized to act on behalf of the ABCWUA and AMAFCA with respect to Improvements that involve storm drain and water/sewer infrastructure.
8. Temporary Construction Easement. With this agreement, the Owner is giving the City or its designee a twenty foot (20’) temporary construction easement along the City right-of-way to enter the Owner’s Property during design and construction of the Improvements. Therefore, the City will be allowed to make necessary changes within the Owner’s Property to tie to the Improvements. The cost of any necessary changes withing the 20’ construction easement will be the responsibility of the Owner and will be invoiced as part of the Final Construction Cost Invoice.
9. Assignment. This Commitment shall not be assigned without the prior written consent of the City and the Owner and the express written concurrence of any 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.
10. Covenant. This commitment will constitute a covenant running with the title to the Owner’s Property, and shall be binding upon the Owner, its heirs, personal representatives, successors and assigns.
11. Notice. For purposes of giving formal written notice, including notice of change of address, the Owner'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 three (3) days after the notice is mailed if there is no actual evidence of receipt.
12. 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.
13. Changes to Agreement. Changes to this Agreement are not binding unless made in writing, signed by both parties.
14. 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.
15. 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.
16. Form Not Changed. Owner agrees that changes to this form are not binding unless initialed by the Owner and signed by the City’s Legal Department on this form.
17. Authority to Execute. If the Owner signing below is not the Owner of the Owner's Property, the City may require the Owner to provide the City with satisfactory proof of Owner's authority to execute this Agreement.

OWNER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By [signature]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name [print]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# OWNER'S NOTARY

STATE OF NEW MEXICO )

 )ss.

COUNTY OF BERNALILLO )

 This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20\_\_\_ by [name(s) of person(s):] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, [title or capacity, for instance, "President" or "Owner":] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Owner:].

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(SEAL) Notary Public

 My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

CITY OF ALBUQUERQUE:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Shahab Biazar, P.E., City Engineer

Agreement is effective as of (Date): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# CITY'S NOTARY

STATE OF NEW MEXICO )

 )ss.

COUNTY OF BERNALILLO )

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

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(SEAL) Notary Public

 My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

[POWER OF ATTORNEY ATTACHED IF OWNER

IS NOT THE OWNER OF THE SUBDIVISION]