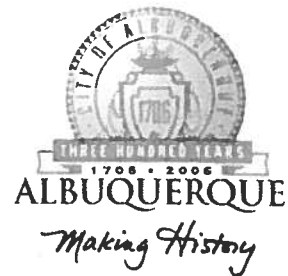


CITY OF ALBUQUERQUE

*Office of the City Attorney
David J. Tourek, City Attorney
PO Box 2248
Albuquerque, NM 87103
Phone 505- 768-4500 Fax 505 768-4525*



August 10, 2012

Timothy V. Flynn-O'Brien
817 Gold Ave SW
Albuquerque, NM 87102-3014

Richard Leverick
5120 San Francisco Rd NE Ste. B
Albuquerque, NM 87109-4610

Re: Memorandum of Agreement

Dear Counsel:

P.O. Box 1293

Please find enclosed a fully executed Memorandum of Agreement in connection with the Trails Development. Thank you.

Albuquerque

New Mexico 87103

Sincerely,

Kevin Curran

www.cabq.gov

CC: Richard Durate
Maria Martinez-Siemel via email
Blake Whitcomb via email

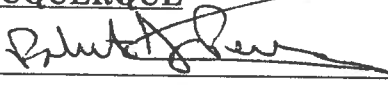
Memorandum of Agreement

Comes now the City of Albuquerque ("City"), The Trails, LLC ("Trails"), and RCS – Cantata Residences I, LLC, RCS – Taos, LLC and RCS – Trails 9-A, LLC (collectively referred to as "RCS") and agree as follows:

1. Trails affirms its obligations under the Agreement to Provide Design, Construction and Maintenance for Boca Negra Detention Dam and Outfall Pipe and Adjacent Unser Blvd. Improvements ("Boca Negra Dam Agreement"). The precise nature and amount of such obligations are currently subject to arbitration. Trails will pay and perform its obligations as determined by the arbitration.
2. RCS agrees to comply with the recommendation from Mr. Scott Steffen, PE dated August 1, 2012 attached hereto as "Exhibit A".
3. Within two (2) years of final execution of this Memorandum, Trails agrees to complete construction of the Universe Storm Drain described in Bohannon Huston's summary (attached hereto as "Exhibit B") to serve as the drainage outfall for the Trails Development. Within two (2) months of final execution of this Memorandum, RCS will submit to the City Engineer for approval an engineering design for the Universe Storm Drain. The Trails will obtain City approval for construction drawings from the Design Review Committee ("DRC") for the Universe Storm Drain within six (6) months of the execution of this Memorandum.
4. Trails' federal lawsuit 12-CV-00357 will be stayed pending final execution of this Memorandum. Within five (5) days of final execution of this Memorandum, the Trails shall file a motion and order to dismiss that suit with prejudice. This dismissal shall not preclude the Trails from a claim made or which could be made in the arbitration or for claims arising out of impact fee credit issues.
5. The City Engineer shall recommend to the Development Review Board ("DRB") that Subdivision Improvement Agreements ("SIA") 730081 and 730085 be extended for up to two (2) years and amended to incorporate the Trails' obligations under the Boca Negra Dam Agreement per Paragraph 1 above. In connection therewith, Trails shall cause the bond company that issued the \$1.25 Million bond held by City under SIA 730081 and the \$250,000 bond held by City under SIA 730085 to issue corresponding bond riders, in a form reasonably acceptable to the City, acknowledging the foregoing SIA amendments.
6. RCS – Cantata Residences I, LLC shall amend the infrastructure list for SIA 730078 to include the Universe Storm Drain as described in Exhibit B. RCS will provide a bond in a form acceptable to City in the amount of \$724,864.28 financially securing the Universe Storm Drain.

7. The City Engineer agrees that the foregoing is sufficient to resolve the concerns of the City Engineer regarding final plat approval for Taos and Tierra Vista subdivisions currently pending and scheduled for a final approval hearing on August 8, 2012. RCS and Trails acknowledge that there may be additional conditions associated with such approval of the Taos subdivision and agree to comply with reasonable requirements regarding conveyances or dedications of real property as part of the re-platting approval of the referenced subdivisions.
8. With respect to Cantata, RCS agrees to construct the storm drain pipe from Cantata Universe outfall to Treeline within Universe Blvd. ("Cantata Storm Drain") as shown on "Exhibit C". Within two (2) months of final execution of this Memorandum, RCS will submit to the City Engineer for approval an engineering design for the Cantata Storm Drain. RCS will obtain City approval for construction drawings from the DRC for the Cantata Storm Drain within six (6) months of the execution of this Memorandum.
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10. The City has requested a new grading plan for Cantata reflecting the change of zoning from park to multi-family for Tract A, adjacent to Cantata. RCS will submit the revised grading plan to the City within two (2) months of the final execution of this Memorandum.
11. Within one (1) month of the final execution of this Memorandum, RCS shall submit to the City for approval a revised drainage report for the Trails Drainage Master Plan that incorporate the foregoing changes.
12. RCS will withdraw or consent to remand its appeal of the DRB actions denying the preliminary plat extensions and final plat requests for the Taos and Tierra Vista subdivisions.
13. All parties mutually agree to act in good faith in exercising their duties and fulfilling their obligations under this agreement.
14. This Memorandum may be executed in counterparts, each of which shall be deemed an original and together which shall be deemed one instrument.

THE CITY OF ALBUQUERQUE

By: 

Printed Name: Robert J. Perry

Title: Cheif Administrative Officer Date: 8/10/12

CITY'S NOTARY

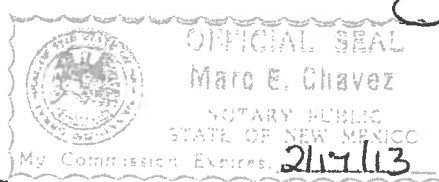
STATE OF NEW MEXICO)
)ss.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this 10th day of August, 2012, by [name of person:] Robert J. Perry, [title or capacity, for instance, "President" or "Owner":] Cao of the City of Albuquerque.

My Commission Expires:

2/17/13

Notary Public



RCS - CANTATA RESIDENCES I, LLC

By: 

Printed Name: Sharon K. Eshima

Title: Manager Date: August 7, 2012

RCS - CANTATA RESIDENCES I, LLC'S NOTARY

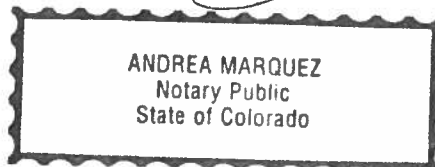
STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

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My Commission Expires:

2/16/2013

Notary Public



RCS - TAOS, LLC

By: Sharon K. Eshima

Printed Name: Sharon K. Eshima

Title: Manager Date: August 7, 2012

RCS - TAOS, LLC'S NOTARY

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

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Notary Public

My Commission Expires:

12/16/2013

ANDREA MARQUEZ
Notary Public
State of Colorado

RCS - TRAILS 9-A, LLC

By: Sharon K. Eshima

Printed Name: Sharon K. Eshima

Title: Manager Date: August 7, 2012

RCS - TRAILS 9-A, LLC'S NOTARY

STATE OF COLORADO)
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COUNTY OF BOULDER)

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Notary Public

My Commission Expires:

12/16/2013

ANDREA MARQUEZ
Notary Public
State of Colorado

THE TRAILS, LLC, by Longford Group, Inc., its Manager

By: Kelly Calhoun

Printed Name: Kelly Calhoun

Title: Secretary Date: 8/7/12

THE TRAILS' NOTARY

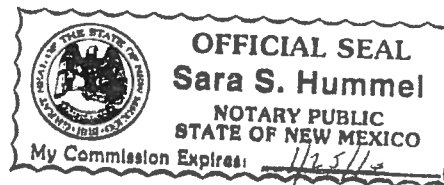
STATE OF NEW MEXICO)
)ss.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this 7th day of Aug., 2012, by [name of person:] Secretary, [title or capacity, for instance, "President" or "Owner":] Longford Group, Inc., Manager of the Trails, LLC of The Trails, LLC.

Sara S. Hummel
Notary Public

My Commission Expires:

1/25/16



Longford at the Trails, LLC, hereby joins that certain Memorandum of Agreement by and among the City of Albuquerque ("City"), The Trails, LLC ("Trails"), and RCS – Cantata Residences I, LLC, RCS – Taos, LLC and RCS – Trails 9-A, LLC (collectively referred to as "RCS") made and delivered on August 7, 2012, by RCS and The Trails for purposes of committing to the terms of committing to the City and RCS its obligation, as the party to SIA 730085, to cause the bonding company which issued the bond for SIA 730085 to issue a corresponding bond rider in form reasonably acceptable to the City acknowledging the amendment to SIA 730085 as contemplated by the terms of Paragraph 5 of the Memorandum of Agreement.

LONGFORD AT THE TRAILS, LLC, by Longford Group, Inc., its Manager

By: Kelly Calhoun

Printed Name: Kelly Calhoun

Title: Secretary Date: 5/7/12

LONGFORD AT THE TRAILS' NOTARY

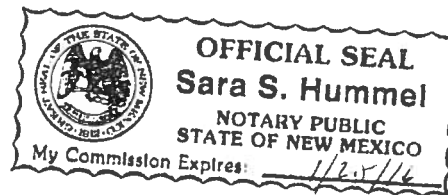
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COUNTY OF BERNALILLO)

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Sara S. Hummel
Notary Public

My Commission Expires:

1/25/16



August 1, 2012

Mr. Richard Dourte
City Engineer
City of Albuquerque
600 2nd Street NW
Albuquerque, NM 87102

Re: Memorandum of Agreement, The Trails

Dear Richard:

This letter provides our recommendation for interim retention ponding for the Trails Development in support of the Memorandum of Agreement related to the construction of interim and permanent drainage infrastructure for the Trails. The developed tracts within the Trails currently drain to one of two interim retention ponds on the east side of Universe Boulevard known as Ponds J and K. The majority of the flows go to Pond K. In order to reduce the flow to Pond K on an interim basis, until the Universe storm drain outfall is constructed, we recommend that Pond D be converted from a surge pond to a retention pond.

In support of this recommendation I visited Pond D in the field on 7/31/12 and conclude the following based on visual observation and review of the Trails AHYMO analysis:

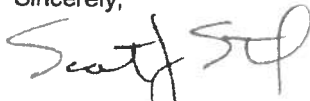
- The condition of Pond D appears to be similar to the as-built condition dated 4/9/07.
- The 100-year, 24-hour storm volume entering Pond D is close to the storage volume of Pond D.
- If Pond D were to spill the flows would be contained within a low lying area of undeveloped land north of the Santa Fe 3 at the Trails subdivision. This area provides additional storage volume that is equal to or greater than what exists in Pond D.
- If the low lying area were to spill, it is my opinion that runoff would enter Oakridge Street to the east or into Santa Fe 3 through a landscape/pedestrian access tract before threatening existing houses in Santa Fe 3. Flows in Santa Fe 3 would be collected by existing storm drain in Tijeras Creek Road.

In order to reduce the flows to Pond K we recommend the following:

- Plug the 24-inch storm drain outfall in the manhole in Pond D
- Remove the plug in the Pond D manhole once the Universe storm drain is operational.

If you have questions or require additional information, please contact me at 823-1000.

Sincerely,



Scott J. Steffen, P.E.
Vice President
Community Development & Planning

Engineering ▲

Spatial Data ▲

Advanced Technologies ▲

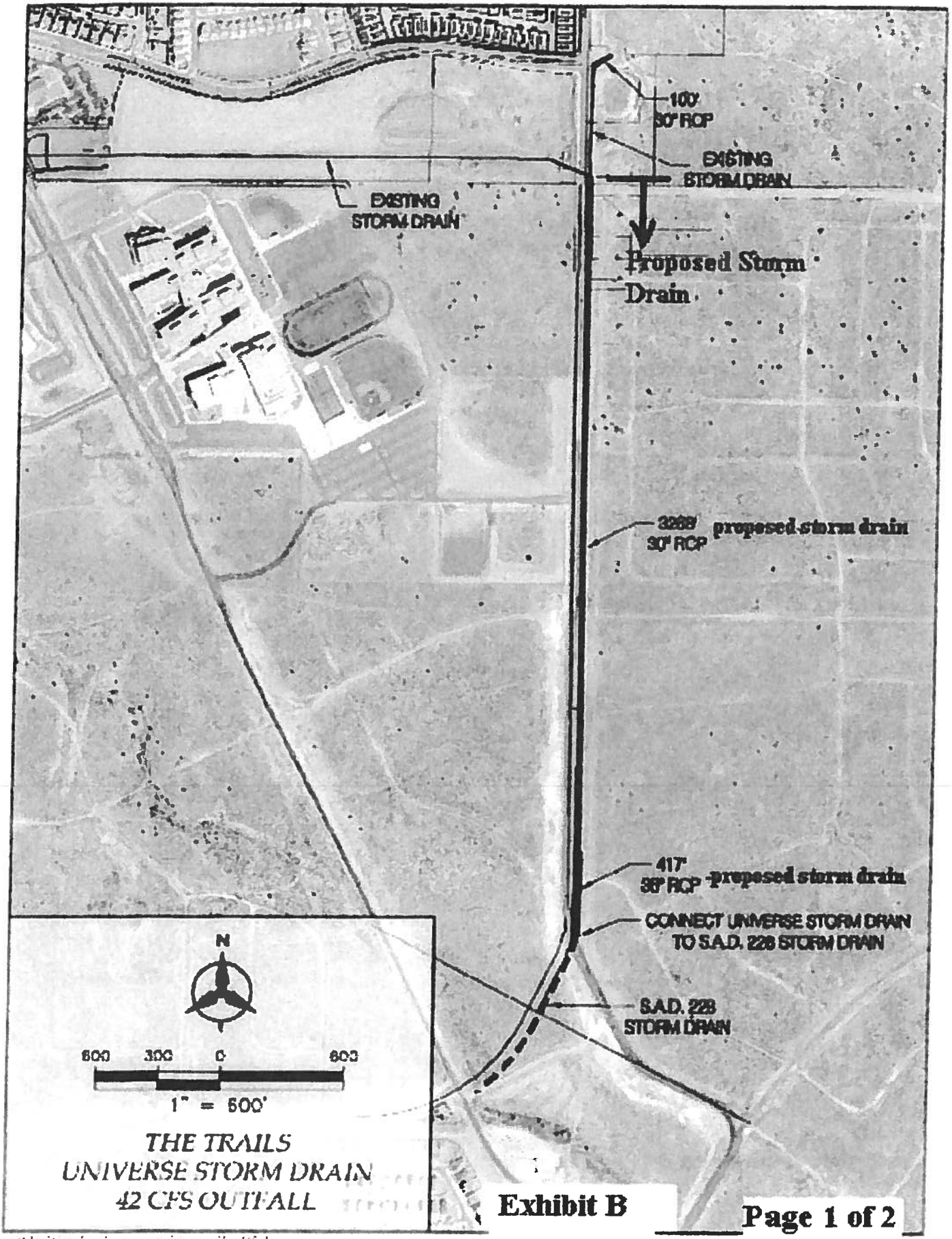


Exhibit B

**UNIVERSE STORM DRAIN OUTFALL
THE TRAILS
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST
7/31/2012**

<u>Item No.</u>	<u>Short Description</u>	<u>Estimate Unit Price</u>	<u>Unit</u>	<u>Quantity</u>	<u>Estimate Amount</u>
STORM DRAIN					
204.010	FILL, EXCAV, BF & COMP, U, >2'	\$7.00	CY	2148	\$15,040.00
204.XXX	SELECT FILL	\$5.00	CY	2801	\$14,000.00
701.100	BACKFILL, 18-36" SWR, <8"	\$14.00	LF	2985	\$41,790.00
701.110	BACKFILL, 18-36" SWR, 8-12"	\$18.27	LF	800	\$14,620.00
701.XXX	ROCK EXCAVATION, BLASTING	\$33.41	CY	4100	\$136,981.00
910.013	30" RCP, III	\$44.00	LF	3368	\$148,190.00
910.017	36" RCP, III	\$68.00	LF	417	\$28,360.00
920.010	MH, 4' DIA, C, <6' D	\$1,810.00	EA	2	\$3,620.00
920.070	MH, 4' DIA, C or E	\$2,800.00	EA	4	\$11,200.00
920.080	MH, 4' DIA, C or E, >10'-14'D	\$3,580.00	EA	1	\$3,580.00
920.140	MH, 6' DIA, C or E, 6-10' D	\$4,075.48	EA	1	\$4,080.00
	DRY UTILITY CROSSING ALLOW	\$10,000.00	EA	1	\$10,000.00
	SUBTOTAL STORM DRAIN				\$431,461.00
4.010	STKG		%		\$10,679.00
6.050	MOB		%		\$17,799.00
30.020	NPOES PERMITTING		%		\$2,243.00

FINANCIAL GUARANTY

APPROVED ESTIMATE AMOUNT	\$462,182
CONTINGENCY (10%)	\$46,218
SUBTOTAL	\$508,400
NMGRT (7.00%)	\$35,588
SUBTOTAL	\$543,988
ENGINEERING FEE (6.6%)	\$35,903
TESTING FEE (0.0%)	\$0
SUBTOTAL	\$579,891
FINANCIAL GUARANTY RATE (1.25)	
TOTAL FINANCIAL GUARANTY REQUIRED	\$724,864

This estimate of construction costs is only an opinion. BHI cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from this opinion.

P:\2011\0333\CDP\Universe SD\Estimate\TRAILS UNIVERSE STORM DRAIN ESTIMATE.xls

Memorandum of Agreement

Comes now the City of Albuquerque ("City"), The Trails, LLC ("Trails"), and RCS – Cantata Residences I, LLC, RCS – Taos, LLC and RCS – Trails 9-A, LLC (collectively referred to as "RCS") and agree as follows:

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2. RCS agrees to comply with the recommendation from Mr. Scott Steffen, PE dated August 1, 2012 attached hereto as "Exhibit A".
3. Within two (2) years of final execution of this Memorandum, Trails agrees to complete construction of the Universe Storm Drain described in Bohannon Huston's summary (attached hereto as "Exhibit B") to serve as the drainage outfall for the Trails Development. Within two (2) months of final execution of this Memorandum, RCS will submit to the City Engineer for approval an engineering design for the Universe Storm Drain. The Trails will obtain City approval for construction drawings from the Design Review Committee ("DRC") for the Universe Storm Drain within six (6) months of the execution of this Memorandum.
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Doc# 2012083962

08/17/2012 02:12 PM Page: 1 of 10
MEMO R \$25.00 M. Toulouse Oliver, Bernalillo County



7. The City Engineer agrees that the foregoing is sufficient to resolve the concerns of the City Engineer regarding final plat approval for Taos and Tierra Vista subdivisions currently pending and scheduled for a final approval hearing on August 8, 2012. RCS and Trails acknowledge that there may be additional conditions associated with such approval of the Taos subdivision and agree to comply with reasonable requirements regarding conveyances or dedications of real property as part of the re-platting approval of the referenced subdivisions.

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THE CITY OF ALBUQUERQUE

By: 

Printed Name: Robert J. Perry

Title: Cheif Administrative Officer Date: 8/10/12

CITY'S NOTARY

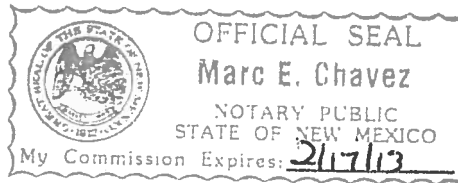
STATE OF NEW MEXICO)
)ss.
COUNTY OF BERNALILLO)

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Notary Public

My Commission Expires:

2/17/13



RCS - CANTATA RESIDENCES I, LLC

By: 

Printed Name: Sharon K. Eshima

Title: Manager Date: August 7, 2012

RCS - CANTATA RESIDENCES I, LLC'S NOTARY

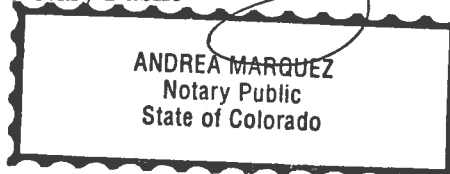
STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

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Notary Public

My Commission Expires:

12/16/2013



RCS - TAOS, LLC

By: Sharon K. Eshima

Printed Name: Sharon K. Eshima

Title: Manager Date: August 7, 2012

RCS - TAOS, LLC'S NOTARY

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

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Notary Public

My Commission Expires:

12/11/2013

ANDREA MARQUEZ
Notary Public
State of Colorado

RCS - TRAILS 9-A, LLC

By: Sharon K. Eshima

Printed Name: Sharon K. Eshima

Title: Manager Date: August 7, 2012

RCS - TRAILS 9-A, LLC'S NOTARY

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

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Notary Public

My Commission Expires:

12/11/2013

ANDREA MARQUEZ
Notary Public
State of Colorado

THE TRAILS, LLC, by Longford Group, Inc., its Manager

By: Kelly C

Printed Name: Kelly Calhoun

Title: Secretary Date: 8/7/12

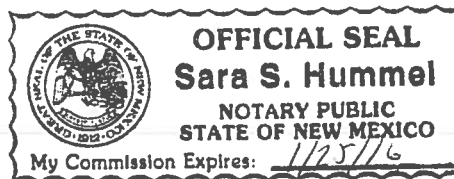
THE TRAILS' NOTARY

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

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Sara S. Hummel
Notary Public

My Commission Expires:
1/25/16



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LONGFORD AT THE TRAILS, LLC

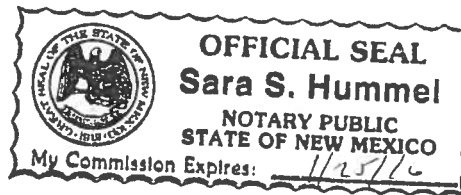
By: Kelly Calhoun
Printed Name: Kelly Calhoun
Title: Secretary Date: 8/7/12

LONGFORD AT THE TRAILS' NOTARY

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

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Sara S. Hummel Longford at the Trails, LLC
Notary Public

My Commission Expires:
1/25/16



August 1, 2012

voice 505.823.1000
facsimile 505.798.7988
toll free 800.877.5332

Mr. Richard Dourte
City Engineer
City of Albuquerque
600 2nd Street NW
Albuquerque, NM 87102

Re: Memorandum of Agreement, The Trails

Dear Richard:

This letter provides our recommendation for interim retention ponding for the Trails Development in support of the Memorandum of Agreement related to the construction of interim and permanent drainage infrastructure for the Trails. The developed tracts within the Trails currently drain to one of two interim retention ponds on the east side of Universe Boulevard known as Ponds J and K. The majority of the flows go to Pond K. In order to reduce the flow to Pond K on an interim basis, until the Universe storm drain outfall is constructed, we recommend that Pond D be converted from a surge pond to a retention pond.

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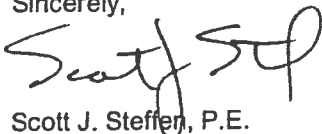
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If you have questions or require additional information, please contact me at 823-1000.

Sincerely,



Scott J. Steffen, P.E.
Vice President
Community Development & Planning

Engineering ▲

Spatial Data ▲

Advanced Technologies ▲

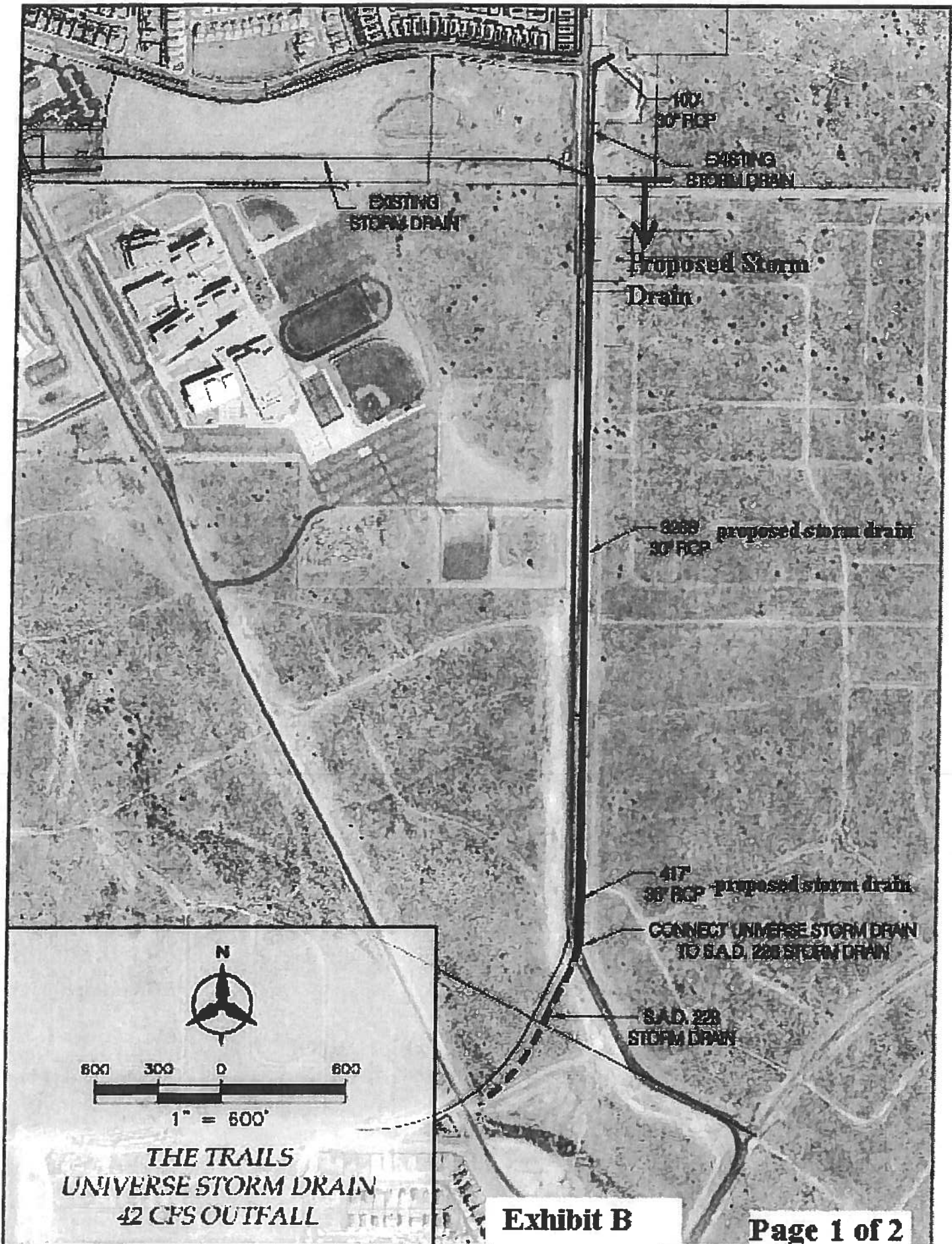


Exhibit B

**UNIVERSE STORM DRAIN OUTFALL
THE TRAILS
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST
7/31/2012**

<u>Item No.</u>	<u>Short Description</u>	<u>Estimate Unit Price</u>	<u>Unit</u>	<u>Quantity</u>	<u>Estimate Amount</u>
	STORM DRAIN				
204.010	FILL, EXCAV, BF & COMP, U, >2'	\$7.00	CY	2148	\$15,040.00
204.00X	SELECT FILL	\$5.00	CY	2801	\$14,000.00
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701.110	BACKFILL, 18-36" SWR, 8-12"	\$18.27	LF	800	\$14,620.00
701.00X	ROCK EXCAVATION, BLASTING	\$33.41	CY	4100	\$136,981.00
910.013	30" RCP, III	\$44.00	LF	3368	\$148,190.00
910.017	36" RCP, III	\$68.00	LF	417	\$28,360.00
920.010	MH, 4' DIA, C, <6' D	\$1,810.00	EA	2	\$3,620.00
920.070	MH, 4' DIA, C or E	\$2,800.00	EA	4	\$11,200.00
920.080	MH, 4' DIA, C or E, >10'-14'D	\$3,580.00	EA	1	\$3,580.00
920.140	MH, 6' DIA, C or E, 6-10' D	\$4,075.48	EA	1	\$4,080.00
	DRY UTILITY CROSSING ALLOW	\$10,000.00	EA	1	\$10,000.00
	SUBTOTAL STORM DRAIN				\$431,461.00
4.010	STKG		%		\$10,679.00
6.050	MOB		%		\$17,799.00
30.020	NPOES PERMITTING		%		\$2,243.00

FINANCIAL GUARANTY

APPROVED ESTIMATE AMOUNT	\$462,182
CONTINGENCY (10%)	\$46,218
SUBTOTAL	\$508,400
NMGRT (7.00%)	\$35,588
SUBTOTAL	\$543,988
ENGINEERING FEE (6.6%)	\$35,903
TESTING FEE (0.0%)	\$0
SUBTOTAL	\$579,891
FINANCIAL GUARANTY RATE (1.25)	
TOTAL FINANCIAL GUARANTY REQUIRED	\$724,864

This estimate of construction costs is only an opinion. BHI cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from this opinion.

