

C20 DOS2

AGREEMENT AND COVENANT

This Agreement and Covenant, between the City of Albuquerque, New Mexico ("City") and LEAVE Construction PC ("User") is made in Albuquerque, New Mexico and is entered into as of the date of recording this Agreement with the Bernalillo County Clerk.

1. Recital. The User is the owner of certain real property ("User's Property") located at 8839 BLAK OAK CT NE in Albuquerque, New Mexico, and more particularly described as: (give legal description and filing information)

Lot 6 P1 OAKLAND SOUTH SUBDIVISION
filed 1/13/05 @ 2:21 PM BK 2005C
Pg-12

The City is the owner of certain real property, easement or public right-of-way ("City's Property") in the vicinity of, contiguous to, abutting or within User's Property, and more particularly described as:

The User wishes to construct upon, improve or repair and to maintain the following "Improvement" on the City's Property (or already has done so):

A sketch of the proposed or existing Improvement is attached as Exhibit A and made a part of this Agreement.

The City agrees to permit the Improvement to exist on the City's Property provided the User complies with the terms of this Agreement.

2. City Use of City's Property and City Liability. The City has the right to enter upon the City's Property at any time and perform whatever inspection, installation, maintenance, repair, modification or removal ("Work") it deems appropriate without liability to the User. If the Work affects the Improvement the City will not be financially or otherwise responsible for rebuilding or repairing the Improvement. The User promptly will repair the Improvement to the City's satisfaction. The cost of repairing the Improvement will be paid by User.



3. User's Responsibility for Improvement. The User will be solely responsible for constructing, maintaining, repairing and, if required, removing the Improvement, all in accordance with standards required by the City as per the approved Grading and Drainage Plan 11-9-04 on file at the City Engineer's office. The User will be solely responsible for paying all related costs. The User will be solely responsible for paying all related costs. The User will not permit the Improvement to constitute a hazard to the health or safety of the general public or to interfere with the City's use of the City's Property. The User will conform with all applicable laws, ordinances and regulations.

4. Use of the Improvement. If the City's Property is a public right-of-way, it shall be open to the use of the general public at all times, subject to reasonable curtailment during periods of construction, maintenance or repair.

5. Demand for Repair, Modification or Removal. The City may send written notice ("Notice") to the User requiring the User to repair, modify or remove the Improvement within 30 days ("Deadline") and the User will comply promptly with the requirements of the Notice. If removal is demanded, the City also may require the User to return the City's Property to its original condition by the Deadline. The User will perform all required work by the Deadline, at User's sole expense.

6. Failure to Perform by User and Emergency Work by City. If the User fails to comply with the terms of the Notice by the Deadline stated, or, if the City determines that an emergency condition exists, the City may perform the work itself. The City then may assess the User for the cost of the work and for any other expenses or damages which result from User's failure to perform. The User agrees promptly to pay the City the amount assessed. If the User fails to pay the City within thirty (30) days after the City gives the User written notice of the amount due, the City may impose a lien against User's Property for the total resulting amount.

7. Cancellation of Agreement and Release of Covenant. This Agreement may be canceled and User's covenants released by the City at will by the City's mailing to the User notice of the City's intention to record a Cancellation and Release with the Bernalillo County Clerk. The Cancellation and Release will be effective thirty (30) days after the date of mailing the notice to the User unless a later date is stated in the notice or the Cancellation and Release. After the effective date, the City will record the Cancellation and Release with the Bernalillo County Clerk.

8. Condemnation. If any part of the User's Property is ever condemned by the City, the User will forego all claims to compensation for any portion of User's structure which encroaches on City Property and for severance damage to the remaining portion of User's structure on User's Property.

9. Assessment. Nothing in this Agreement shall be construed to relieve the User, his heirs, assigns and successors from an assessment against User's Property for improvements to the City Property under a duly authorized and approved Special Assessment District. The parties specifically agree that the value of the improvement will not reduce the amount assessed by the City.

10. Notice. For purposes of giving formal written notice to the User, User's address is:

*PO Box 92620
Albuquerque NM 87122*

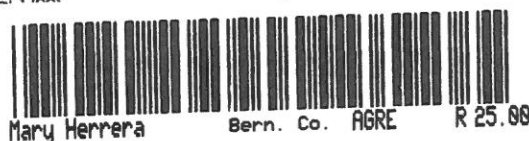
Notice may be given to the User either in person or by mailing the notice by regular U.S. mail, postage paid. Notice will be considered to have been received by the User within 3 days after the notice is mailed if there is no actual evidence of receipt. The User may change User's address by giving written notice of the change by certified mail, return receipt requested, to the City Engineer at P.O. Box 1293, Albuquerque, New Mexico 87103.

11. Indemnification. The User agrees to defend, indemnify and hold harmless the City, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties as a result of User's use of the City's Property. To the extent, if at all, Section 56-7-1 NMSA 1978 is applicable to this Agreement, this Agreement to indemnify will not extend to liability, claims, damages, losses or expenses, including attorney's fees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications by the indemnitee, or the agents or employees of the indemnitee; or (2) the giving of or the failure to give direction or instructions by the indemnitee, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

12. Term. This Agreement shall continue until revoked by the City pursuant to Section 7 above.

13. Binding on User's Property. The covenants and obligations of the User set forth herein shall be binding on User, his heirs assigns and successors and on User's Property and constitute covenants running with User's Property until released by the City.

14. 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.

15. Changes of Agreement. Changes to this Agreement are not binding unless made in writing, signed by both parties.

16. 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.

17. 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.

CITY OF ALBUQUERQUE:

USER:

By: [Signature]
Title: City Engineer

Dated: 1-27-05

By: [Signature]
Title: President
Dated: 1/21/05

CITY'S ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on January 27, 2005 by Richard Duarte, City Engineer, Planning Department, for the City of Albuquerque, a New Mexico municipal corporation, on behalf of the corporation.

[Signature]
Notary Public

My Commission Expires:

08/20/2005

USER'S ACKNOWLEDGMENT

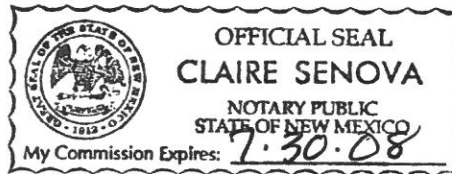



STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

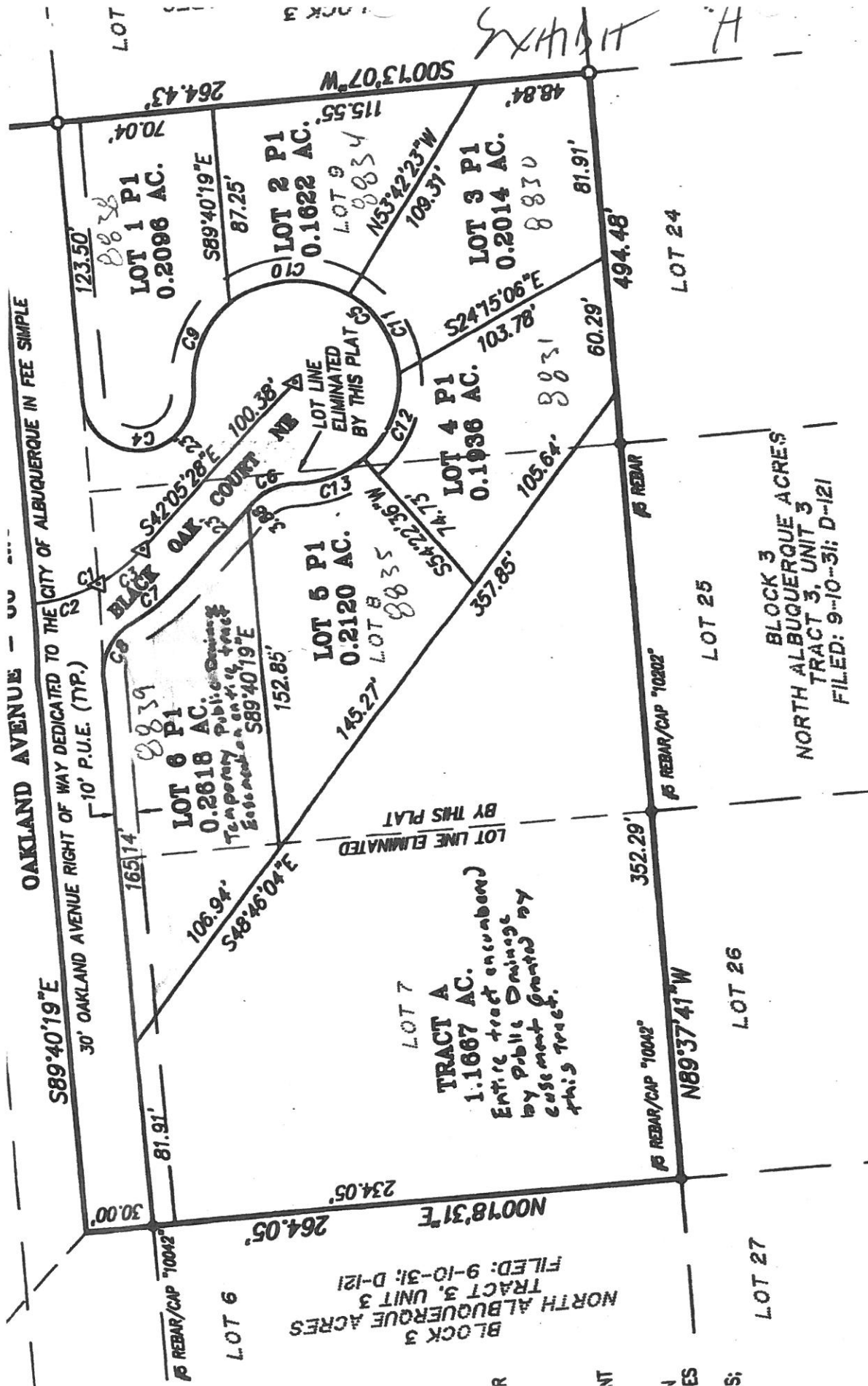
This instrument was acknowledged before me on January 21, 20
05 by Robert Keenan, President, on behalf of Llave Construction
Inc.

Claire Senova
Notary Public

My Commission Expires:
7.30.2008




Mary Herrera Bern. Co. AGRE R 25.00 2005013045
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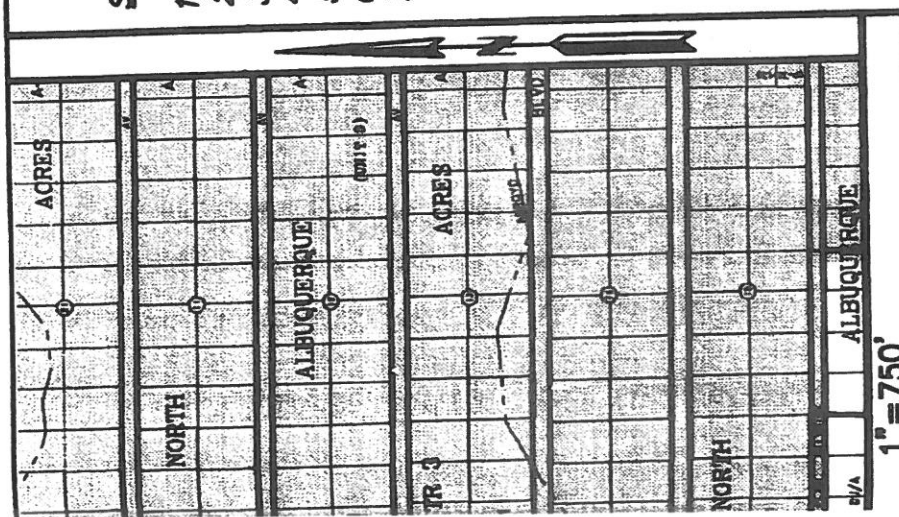
CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING
C1	55.82	75.00	42°38'46"	S20°46'05"E
C2	30.84	75.00	23°33'28"	S11°13'26"E
C3	24.99	75.00	19°05'18"	S32°32'49"E
			170°17'38"	S00°45'52"W

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 R 25.00 BX-R81 Pg-3065

Mary Herrera
 Bern. Co. HGRE

UTILITY NOTE:
 PUBLIC UTILITY EASEMENTS SHOWN ARE TEN FEET (10') WIDE ALONG
 OAKLAND AVENUE AND BLACK OAK COURT AND ARE GRANTED FOR THE
 MAINTENANCE AND



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SUBDIVISION DATA

- 1) CASE No. _____
- 2) ZONE ATLAS INDEX No. C-20
- 3) GROSS SUBDIVISION AREA: 2.9982 ACRES
- 4) TOTAL NUMBER OF LOTS CREATED: 6 LOTS
- 5) DRB PROJECT No. 1003673
- 6) TOTAL MILEAGE OF FULL WIDTH STREETS CREATED: .031
- 7) TALOS LOG No. 2004431006

ACS CONTROL STATION 1-B20
X=410237.56
Y=1524092.46
ELEV.=5474.510 - NGVD 1929
CONVERGENCE=-00'10'23"
COMBINED FACTOR=0.99964740
(NEW MEXICO COORDINATE SYSTEM CENTRAL ZONE-NAD27)

LEGEND

- SET #5 REBAR WITH
- FOUND SURVEY MARK
- P.U.E. PUBLIC UTILITY EJECTA
- △ C.O.A. MONUMENT



NOTE: BLACK OAK COURT NORTHEAST
ALBUQUERQUE IN FEE SIMPLE WITH
RANTY COVENANTS BY THIS PLAT.

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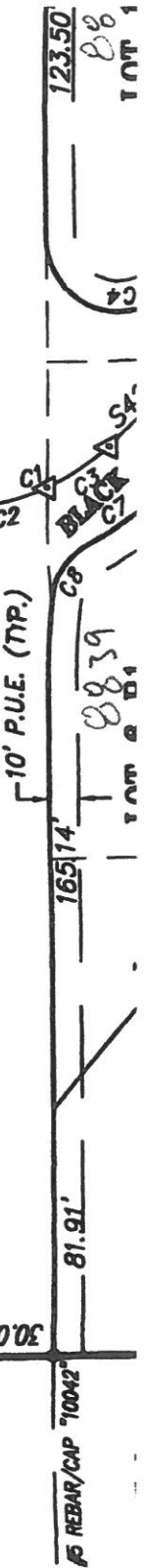
TE: N41°31'06"W
1457.76'

7, 8 & 9 OF BLOCK 3
LOTS 1 THROUGH 6,
SUBDIVISION AND TO
HERETO.

TOWNSHIP 11 NORTH,
NT, BERNALILLO COUNTY,
INIT 3 OF NORTH
D ON THE PLAT FILED
S OF BERNALILLO COUNTY,

OAKLAND AVENUE - 60' R.O.W. 494.07'

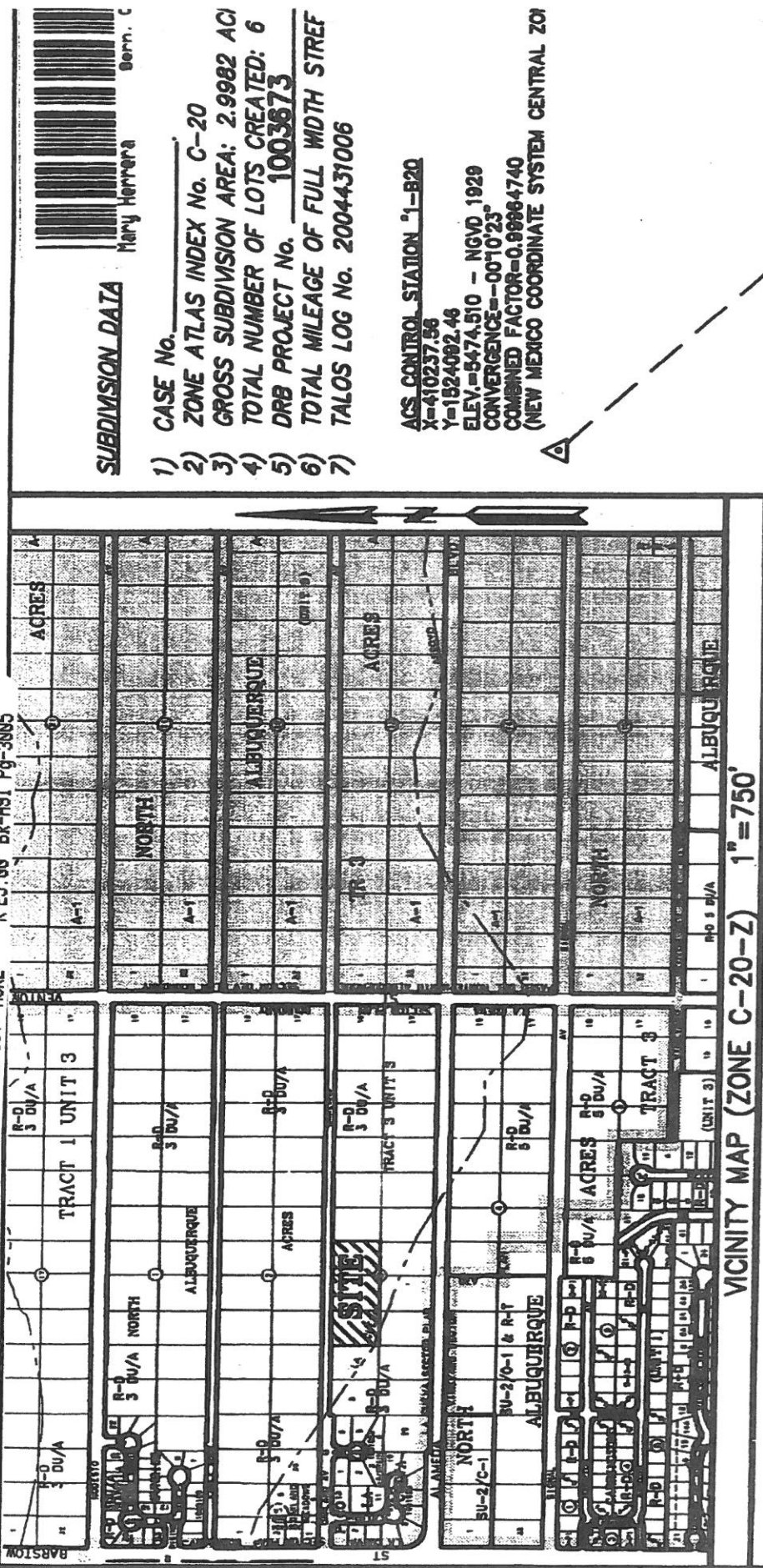
30' OAKLAND AVENUE RIGHT OF WAY DEDICATED TO THE CITY OF ALBUQUERQUE IN FEE SIMPLE



DESCRIBED, A POINT IN
OF ALBUQUERQUE
T DISTANT; THENCE
A DISTANCE OF 494.07



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THE PURPOSE OF THIS PLAT IS TO RESUBDIVIDE LOTS 7, 8 & 9 OF BLOCK 3 NORTH ALBUQUERQUE ACRES, TRACT 3, UNIT 3, INTO LOTS 1 THROUGH 6, PLUS TRACTS A AND B OF OAKLAND HEIGHTS SOUTH SUBDIVISION AND TO GRANT EASEMENTS AND DEDICATE ROADS PURSUANT THERETO.

PROPERTY DESCRIPTION

A CERTAIN TRACT OF LAND SITUATE IN PROJECTED SECTION 17, TOWNSHIP 11 NORTH, RANGE 4 EAST, N.M.P.M. WITHIN THE ELENA GALLEGOS LAND GRANT, BERNALILLO COUNTY, NEW MEXICO, BEING LOTS 7, 8 AND 9 OF BLOCK 3, TRACT 3, UNIT 3 OF NORTH ALBUQUERQUE ACRES AS THE SAME ARE SHOWN AND DESIGNATED ON THE PLAT FILED SEPTEMBER 9, 1931, IN VOLUME D, FOLIO 121 OF THE RECORDS OF BERNALILLO COUNTY, NEW MEXICO, AND DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF THE TRACT HEREIN DESCRIBED, A POINT IN THE CENTERLINE OF OAKLAND AVENUE, NORTHEAST, WHENCE CITY OF ALBUQUERQUE CONTROL STATION 1-B20 BEARS N41°31'06"W AND 1457.76 FEET DISTANT; THENCE S89°40'19"E ALONG THE CENTER LINE OF SAID OAKLAND AVENUE A DISTANCE OF 494.07

SUBDIVISION DATA

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- 4) TOTAL NUMBER OF LOTS CREATED: 6
- 5) DRB PROJECT No. 1003673
- 6) TOTAL MILEAGE OF FULL WIDTH STREETS
- 7) TALOS LOG No. 2004431006

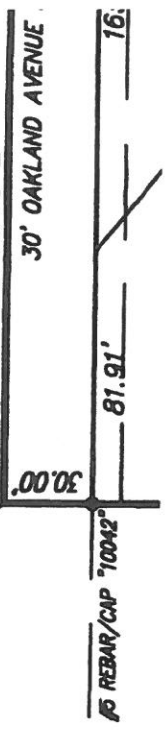
Mary Herrera
Bern. C

ACS CONTROL STATION 1-B20
X=410237.56
Y=1524092.48

ELEV.=5474.510 - NGVD 1929
CONVERGENCE=-00°10'23"
COMBINED FACTOR=0.99964740
(NEW MEXICO COORDINATE SYSTEM CENTRAL ZONE)

TIE: N41°31'06"W
1457.76'

S89°40'19"E



Bois copy

11-02-02
11-02-02
11-02-02

THIS IS TO CERTIFY THAT TAXES ARE CURRENT

AND PAID ON UPC # 102006410841020326
102006412441020325
AND PAID ON UPC # 102006414041020324

AND PAID ON UPC # 1030063 140410 20324

PROPERTY OWNER OF RECORD

Conchita Lopez 1-13-05
BERNALILLO COUNTY TREASURER'S OFFICE

PLAT OF

**OAKLAND SOUTH SUBDIVISION
A REPLAT OF LOTS 7, 8 AND 9
— BLOCK 3, TRACT 3, UNIT 3
NORTH ALBUQUERQUE ACRES**

LEGEND

SITUATE WITHIN

○ SET #5 REBAR WITH CAP "PWT 10204"

● FOUND SURVEY MONUMENT AS DESCRIBED

P.U.E. PUBLIC UTILITY EASEMENT

△ C.O.A. MONUMENT (CENTERLINE & ACS)

PROJECTED SECTION 17

T.11N., R.4E., N.M.P.M.

ELENA GALLEGOS LAND GRANT
CITY OF ALBUQUERQUE

BERNALILLO COUNTY, NEW MEXICO

JANUARY 2005

0 60
1" = 60'

**OUR NORTHEAST
LOCATED TO THE CITY
FREE SIMPLE WITH
\$ BY THIS PLAT.**

APPROVALS as specified by the City of Albuquerque Subdivision Ordinances:
PROJECT NO. DRB 1003673 APPLICATION NO. 04-04637

1/13/05
DATE

Sharon P. Breen
PLANNING DIRECTOR, CITY OF ALBUQUERQUE

1-13-05
DATE

N/A
PROPERTY MANGEMENT, CITY OF ALBUQUERQUE
DATE 1/13/01

TRAFFIC ENGINEER, CITY OF ALBUQUERQUE

LOT 10