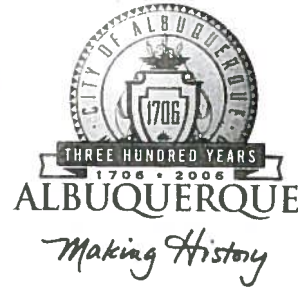


CITY OF ALBUQUERQUE

File



December 19, 2005

VIA FACSIMILE (243-8255) and U.S. MAIL

Margaret Ludewig, Esq.
Landry & Ludewig LLP
1007 Marquette NW
Albuquerque, NM 87102-1937

Re: Rancho Mirage v. Vista del Norte; CV 2004-06541

This letter is written in response to your letter of December 7, 2005, and to follow up on our phone conversation of December 14, 2005, regarding the status of the City taking over maintenance of the storm-water inlet that is the subject of the above-referenced lawsuit.

P.O. Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

My understanding is that the City has inspected the inlet and will shortly issue a Certificate of Completion and Acceptance. The Certificate of Completion should occur within a few days. In addition, the easement from Vista del Norte Development LLC to the City for maintenance of the inlet has been recorded, a copy of which is attached. If these issues are as I have presented them to you, then the City will begin maintaining the inlet in the very near future.

Of course, the City is still expecting your client, Ranch Mirage, to complete the rock plating of the slope as required by Brad Bingham, and as shown on the original plans submitted by Rancho Mirage. The rock plating is a necessary component of the drainage plan for the development, and as such, must be approved by the City before and after the work is completed.

Should you have any questions, please feel free to call me at 924-3995.

Sincerely,



Kevin J. Curran
Assistant City Attorney

Enclosure

cc: Daniel Lewis, Esq.
Beatrice Brickhouse, Asst. City Attorney
Richard Dourte, City Engineer

EASEMENT

This grant of Easement, between VISTA DEL NORTE DEVELOPMENT, LLC, a New Mexico limited liability company ("Grantor"), whose address is c/o Brown and Associates, Carlisle Comanche Center 3804 Carlisle, NE, Albuquerque, New Mexico 87107 and the CITY OF ALBUQUERQUE, a New Mexico municipal corporation ("City"), whose address is P.O. Box 1293, Albuquerque, New Mexico 87103, is made in Albuquerque Bernalillo County, New Mexico, and is entered into as of the date Grantor signs this Easement.

1. Recital. Grantor is the owner of certain real property within the Vista del Norte subdivisions, Albuquerque, New Mexico, Bernalillo County, New Mexico.

2 Grant of Easement. The Grantor grants to the City a non-exclusive, permanent easement for vehicular and pedestrian access, ingress and egress over and across the property as described and shown on Exhibit A attached hereto ("Easement Property"), together with the right of the City to improve the property with roadway improvements and to enter upon the Easement Property at any time for the inspection, installation, maintenance, repair or modification of the roadway improvements and the right to remove trees, bushes, undergrowth and any other obstacles upon the Easement Property if the City determines they interfere with the appropriate use of the easement.

3. Purpose. The purpose of this Easement is to provide to the City access to maintain the storm drainage improvements constructed, or to be constructed, at the western end of the Easement Property.

4 Warranty. Grantor covenants and warrants that it is the owner in fee simple of the Easement Property and that it has a good lawful right to convey the Easement Property or any part thereof, that the Easement Property is free from all encumbrances except encumbrances of record in the Bernalillo County, New Mexico real estate records

H:\SUNDT\JAM\LEGAL\DOC\vanhornmirageeasement.doc

1



Mary Herrera

Bern. Co. ERSE

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Page: 1 of 3

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(the "Record Encumbrances") and taxes due and owing the Treasurer of Bernalillo County, and that the Grantor will forever warrant and defend the title to the Easement Property against all claims from all persons or entities, except the Record Encumbrances.

5. Disclosure. The Grantor has disclosed to the Grantee that the Easement Property is encumbered with a prior easement for an underground natural gas line (the "Gasline Easement"). This Easement is subject to and subordinate to the Gasline Easement as well as all other Record Encumbrances.

6 Binding on Grantor's Property. The grant and other provisions of this Easement constitute covenants running with the Easement Property for the benefit of the City and its successors and assigns until terminated.

Witness my hand and seal this 22nd day of August, 2005.

VISTA DEL NORTE DEVELOPMENT, LLC, a
New Mexico limited liability company

By: _____

John A. Myers
Assistant Manager Pro Tem

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

This instrument was acknowledged before me on August 22, 2005, by John A. Myers, Assistant Manager Pro Tem, of Vista del Norte Development, LLC, a New Mexico limited liability company.

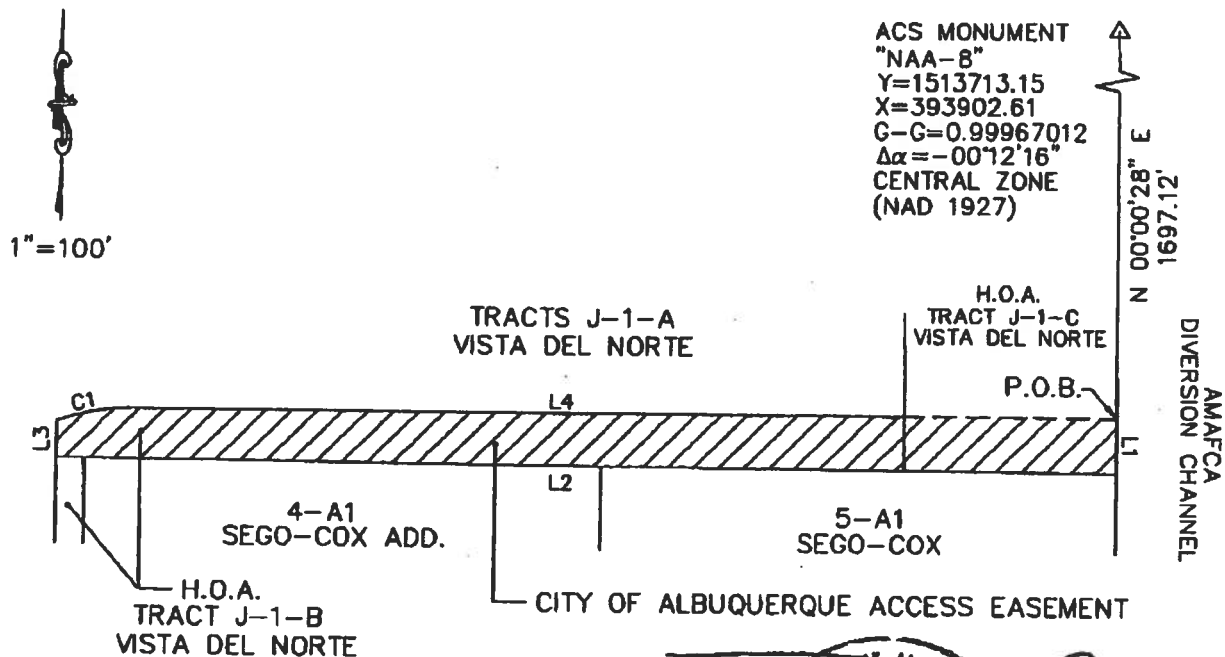
Karen Lee Anderson
Notary Public

My commission expires: 11-18-2005



"EXHIBIT FOR"

CITY OF ALBUQUERQUE ACCESS EASEMENT



NUMBER	DIRECTION	DISTANCE
L1	S 00°00'24" W	30.98'
L2	N 89°42'03" W	593.91'
L3	N 00°00'00" E	20.02'
L4	N 90°00'00" E	552.22'

NUMBER	DELTA ANGLE	CHORD DIRECTION	RADIUS	ARC LENGTH	CHORD LENGTH
C1	21°22'58"	N 79°18'58" E	114.33'	42.67'	42.42'

DESCRIPTION

A City of Albuquerque Access Easement within the Elena Gallegos Grant, projected Section 27, Township 11 North, Range 3 East, New Mexico Principal Meridian, City of Albuquerque Bernalillo County, New Mexico being within TRACTS J-1-B AND J-1-C, VISTA DEL NORTE, as the same is shown and designated on said plat filed for record in the office of the County Clerk of Bernalillo County, New Mexico on March 31, 2003 in Book 2003C, Page 87 and being more particularly described as follows:

BEGINNING at the northeast corner of the herein described Easement from whence the Albuquerque Control Survey Monument "NAA-8" bears N 00°00'28" E 1697.12 feet;

THENCE S 00°00'24" W, 30.98 feet to the southeast corner;

THENCE N 89°42'03" W, 593.91 feet to the southwest corner;

THENCE N 00°00'00" E, 20.02 feet to a point;

THENCE 42.67 feet along a curve to right, whose radius is 114.33 feet through a central angle of 21°22'58" and whose chord bears N 79°18'58" E, 42.42 feet to a point;

THENCE S 90°00'00" E, 552.22 feet to the point of beginning and containing 0.3988 acres more or less.



Mary Herrera

Bern. Co. EASE

R 13.00

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Page: 3 of 3

09/12/2005 02:31P

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1900
Bernardo Trails Unit 1
Proj. No. 668681

D16/D011

#668681

AGREEMENT AND COVENANT

8/30/2001

This Agreement and Covenant, between the City of Albuquerque, New Mexico ("City") and Vista del Norte Development LLC. ("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 east of Vista del Norte Drive & North of Cricket Hill Drive, in Albuquerque, New Mexico, and more particularly described as: (give legal description and filing information)

Tract T-2 - A-2, Vista del Norte recorded in the office of the County Clerk of Bernalillo County, New Mexico, on June 19, 2001, Book 2001c, Page 171.

The City is the owner of certain easement ("City's Property") within User's Property, and more particularly described as:

A Portion of Tract T-2 - A-2 Temporary Public Drainage Easement, recorded in the office of the county Clerk of Bernalillo County, New Mexico on June 19, 2001, Book 2001c, Page 171.

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):

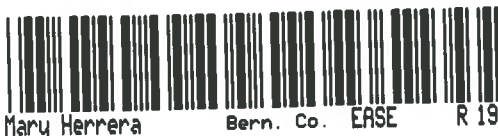
Temporary Retention Pond with temporary asphalt rundown.

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

Exhibit B is the plat with legal description of temporary public drainage easement.

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 D16/D11 on file at the City Engineer's office. 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:

Vista del Norte Development LLC.
3411 Candelaria NE
Albuquerque, NM 87190

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 expense, 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 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 release 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 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:

By: Fred J. Ceguirre
Chief Administrative Officer
Dated: 8-30-01

USER: Vista del Norte Development
LLC., a New Mexico Limited
Liability Company
By: [Signature]
Title: ASST. MANAGER PRO TEM
Dated: 8/21/01

APPROVED:

Fred J. Ceguirre 8/30/01
Director, Public Works Dept.

Reviewed by:

Fred J. Ceguirre
City Engineer
8/28/01 8/30/01

CITY'S ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) SS
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on August 30th, 2000, by Fred J. Ceguirre Chief Administrative Officer for the City of Albuquerque, a New Mexico municipal corporation, on behalf of the corporation.

My Commission Expires:

11-15-2003

Dolores O. Saavedra
Notary Public



USER'S ACKNOWLEDGMENT

STATE OF New Mexico)
COUNTY OF Bernalillo) SS

This instrument was acknowledged before me on August 21,
2008, by John A. Myers, Asst. Manager Pro 2000,
on behalf of Vista del Norte Development, LLC, a New
Mexico limited liability company.

My Commission Expires:

Karen Lee DePina
Notary Public

11-18-01



Mary Herrera

Bern. Co. EASE

R 19.00

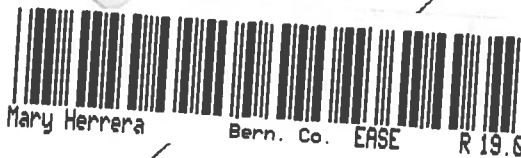
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Page: 5 of 7

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Page: 6 of 7
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Bk-A24 Pg-984

Mary Herrera

Bern. Co. EASE

R 19.00

TRACT A

(FUTURE) TRACT N

4.9342 AC. ±

(SU-1 FOR PERMISSIVE C-2 USES)



SCALE: 1" = 50'

EXISTING 20' PUBLIC WATERLINE &
SANITARY SEWER EASEMENT (FILED
03/16/99 BK. 99C, PG-57)

TYPE L RIP-RAP
10' x 10' BLANKET
1.5' DEEP

TEMPORARY SOUTH RETENTION POND
TOP AREA=96' x 96' @ ELEV. 5035.0
BOTTOM AREA= 60' x 60' @ ELEV. 5029.0
DEPTH= 6.0'
REQ'D (100 YR) VOLUME=0.835 AC. FT.
DESIGN VOLUME= 0.853 AC. FT.
3:1 SIDE SLOPES

SMT.

Vista del Norte Drive

BLOCK A

FP=38.74
1-P1

FP=38.74
2-P1

38.45TW
37.70BW

GRICKET HILL
DRIVE NE

38.45

38.52

Twisted Branch

Bernardo Trails Subdivision

FP=40.04
1-P1

FP=42.17

FP=42.53
3-P1

FP=40.05
P1

Exhibit A



Mary Herrera

Bern. Co. EASE

R 19.00

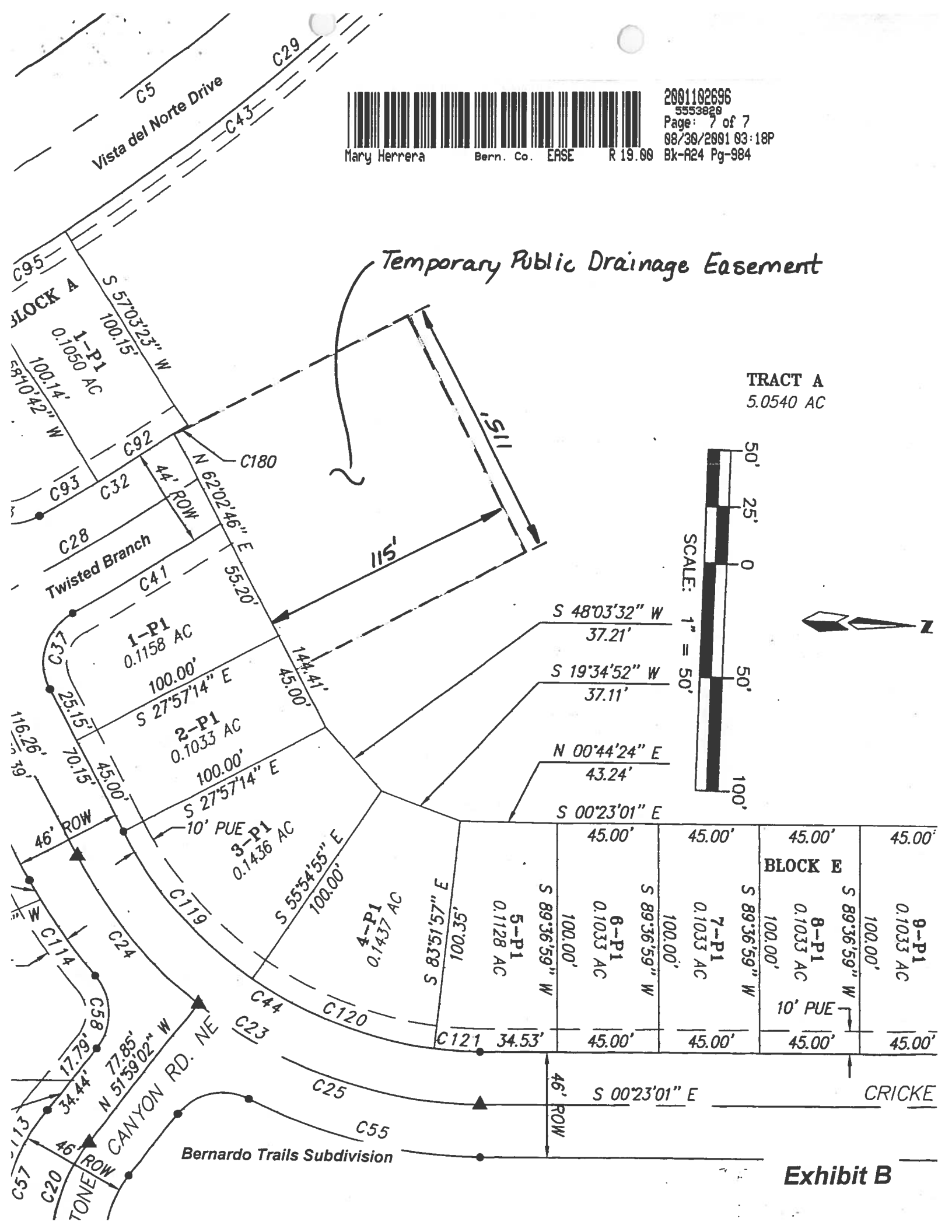
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Page: 7 of 7

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CONTRACT CONTROL FORM

PRELIMINARY REVIEW

Contact Person KATHY JARAMILLO
Phone No. 924-3996

Project # 668681
CCN# 200200346
New or Ext. #

Type of Agreement: 2 agreement & covenants

Description/Project Name: Bernardo Trails Unit 1, 2, 3

Public Works Dept./Div.: DESIGN REVIEW

Developer: Vista Del Norte LLC

Contract Amount \$ -0- SIA Contract Period: 8/31/2001 - 12/31/2002

Contract Amount \$ -0- SIA Contract Period: 8/31/2001 - 12/31/2002

Contract Amount \$ S/W Contract Period: -

DRAFT CONTRACT:

Rec'd by Legal: Rejected/Returned to Dept.:

Returned to Legal: Approved: Initials:

FINANCIAL GUARANTY:

Letter of Credit No.: Date: Attached: Yes No Initial

Other: Type Date: Attached: Yes No Initial

FINAL CONTRACT REVIEW

APPROVALS REQUIRED:

	Date Delivered	Returned to Dept.	Approved By	Approval Date
Utility Div	<u>8/24/01</u>	<u>8/27/01</u>	<u>BAB</u>	<u>8/27/01</u>
Hydrology Div	<u>8/27/01</u>	<u>8/28/01</u>	<u>ON</u>	<u>8/28/01</u>
Transportation Div	<u>8/28/01</u>	<u>8/28/01</u>	<u>cf</u>	<u>8/28/01</u>
DRC Chairman	<u>8/28/01</u>	<u>8/30/2001</u>	<u>FA</u>	<u>8/30/2001</u>
Legal Dept	<u> </u>	<u> </u>	<u> </u>	<u> </u>
City Engineer	<u> </u>	<u> </u>	<u> </u>	<u> </u>
PWD Director	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Finance	<u> </u>	<u> </u>	<u> </u>	<u> </u>
City Clerk	<u> </u>	<u> </u>	<u> </u>	<u> </u>
CAO	<u> </u>	<u> </u>	<u> </u>	<u> </u>

DISTRIBUTION:

	Date:	By:
User Department.	<u>8/30/2001</u>	<u> </u>
Vendor	<u>9-7-01</u>	<u> </u>
City Clerk	<u> </u>	<u> </u>
Treasury	<u> </u>	<u> </u>
Other:	<u> </u>	<u> </u>

ADDENDUM TO COVER PAGE

8/24/01
(Date)

TO: Kevin Curran, Assistant City Attorney, Legal Department

FROM: Project Administrator, Project Review Sec., PWD

SUBJECT: PROJECT TITLE: Bonanda Trails PROJECT # 668681

The attached documents have been review, approved, initialed and/or signed by the DRC Chairman and are submitted for your action as noted.

ITEM	ACTION		
	Review & Approval	Reference	Comments
Procedure "A".....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Procedure "B".....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Procedure "B" Modified Non Work Order.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Procedure "C".....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Procedure "C" Modified.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Special Agreement.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Sidewalk Deferral Agreement.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Amendment.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Assignment.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Financial Guarantee.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Construction Paperwork:			
Contractors Proposal.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Performance/Warranty Bonds.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Labor/Material Bonds.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Certificate of Insurance.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Engineers Cost Estimate.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Extension.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Release/Agreement.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Release/Financial Guarantee.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Calling Notice.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Letter of Commitment.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Reduction Letter.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
License Agreement.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Monitoring Well Permit.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Agreement & Covenant.....	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Drainage Covenant.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Revocable Permit.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Encroachment.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Permanent Easement.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____
Temporary Easement.....	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	_____

Other:

Please Call Kathy at 3996 if you have any questions regarding the above or when the documents are ready to be picked up.

No. of Attachments (2)

1900
Bernardo Trails Unit 1
Proj. No. 668681

D16/D011

8/30/2001
AGREEMENT AND COVENANT

668681

This Agreement and Covenant, between the City of Albuquerque, New Mexico ("City") and Vista del Norte Development LLC., ("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 east of Vista del Norte Drive & North Bridle Road, in Albuquerque, New Mexico, and more particularly described as: (give legal description and filing information)

Tract T-2 - A-2, Vista del Norte recorded in the office of the County Clerk of Bernalillo County, New Mexico, on June 19, 2001, Book 2001c, Page 171.

The City is the owner of certain easement ("City's Property") within User's Property, and more particularly described as:

A Portion of Tract T-2 - A-2 Temporary Public Drainage Easement, recorded in the office of the county Clerk of Bernalillo County, New Mexico on June 19, 2001, Book 2001c, Page 171.

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):

Temporary Retention Pond with temporary asphalt rundown.

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

Exhibit B is the plat with legal description of temporary public drainage easement.

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.



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 D16/D11 on file at the City Engineer's office. 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:

Vista del Norte Development LLC.
3411 Candelaria NE
Albuquerque, NM 87190

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 expense, 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 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 release 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 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:

By: *Fred J. Aguirre*
Chief Administrative Officer

Dated: 8-30-01

USER: Vista del Norte Development

LLC, *a New Mexico Limited Liability Company*

By: *[Signature]*
Title: Asst. Manager *Pro tem*

Dated: 8/21/01

APPROVED:

Fred J. Aguirre *8/30/01*
Director, Public Works Dept.

Reviewed by:

Fred J. Aguirre
8/28/01 City Engineer *8/30/01*

CITY'S ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) SS
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on August 30th, 2001, by *Fred J. Aguirre* *for* Chief Administrative Officer for the City of Albuquerque, a New Mexico municipal corporation, on behalf of the corporation.

My Commission Expires:

11-15-2003

Gloria O. Saavedra
Notary Public



USER'S ACKNOWLEDGMENT

STATE OF New Mexico)
) SS
COUNTY OF Bernalillo)

This instrument was acknowledged before me on August 21,
2000, by John A. Myers, Asst. Manager Pro Gen.,
on behalf of Vista del Norte Development, L.L.C. a New
Mexico limited liability company

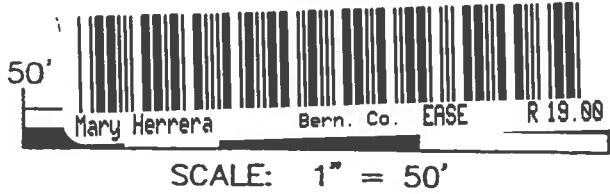
My Commission Expires:

Karen Lee Anderson
Notary Public

11-18-2001

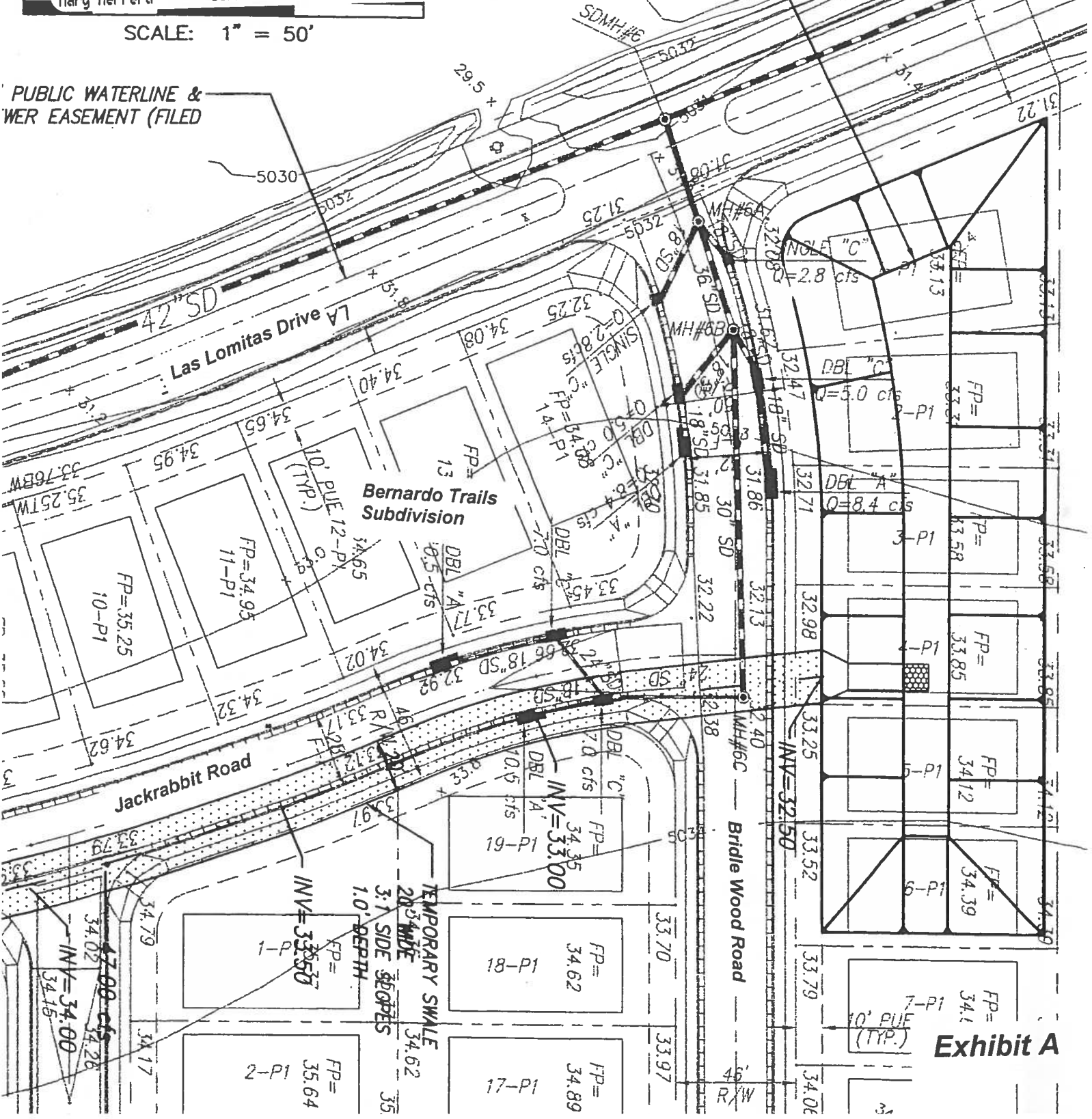


TEMPORARY NORTH RETENTION POND
 TOP AREA= 300' x 90' @ ELEV.=5032.00'
 BOTTOM AREA=18' x 228' @ ELEV.=5020.0'
 DEPTH= 12.0'
 REQ. VOLUME= 3.80 AC. FT
 DESIGN VOLUME=3.82 AC. FT.
 3:1 SIDE SLOPES



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 Page: 6 of 7
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 Bk-A24 Pg-983

PUBLIC WATERLINE &
 WATER EASEMENT (FILED)



APRIL 2001



Mary Herrera

Bern. Co. EASE

R 19.00

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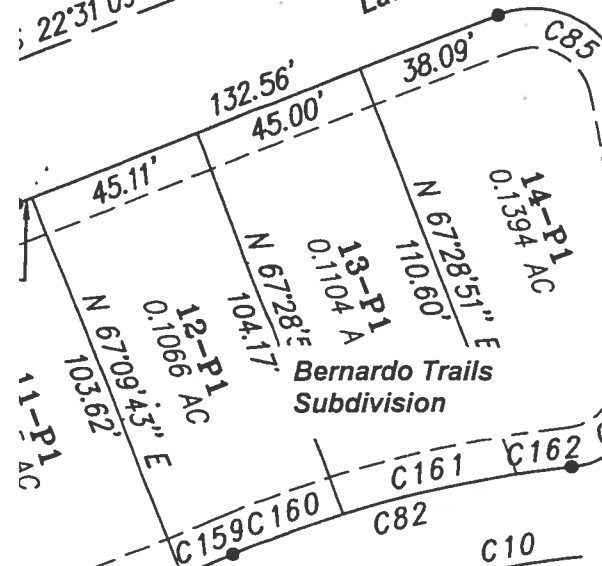


SCALE: 1" = 50'

09" E

22°31'09" E 186.80'

Las Lomitas Drive



Bernardo Trails Subdivision

Jackrabbit Road



1-P1
0.1568 AC

2-P1
0.1033 AC

3-P1
0.1033 AC

19-P1
0.1396 AC

18-P1
0.1074 AC

17-P1
0.1074 AC

16-P1
0.1074 AC

Bridle Wood Road

46' ROW

327.83'

BRIL

341.34'

341.34'

154.54'

S 67°28'51" W
25.82'

1-P1
0.1850 AC

2-P1
0.1139 AC

3-P1
0.1033 AC

4-P1
0.1033 AC

5-P1
0.1033 AC

6-P1
0.1033 AC

7-P1
0.1033 AC

8-P1
0.1033 AC

S 89°59'36" E

TRACT "C"
0.7123 AC.
TEMPORARY PUBLIC
DRAINAGE EASEMENT

TRACT T-1
VISTA DEL NORTE
FILED: 12/10/99 VOL. 99C FOLIO 331

Exhibit B