



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

August 7, 1992

Jeff Mortensen, P.E.
Jeff Mortensen & Associates, Inc.
6010-B Midway Park Boulevard, NE
Albuquerque, New Mexico 87109

RE: ENGINEER'S CERTIFICATION FOR PAVILIONS PHASE IIA & IIB
(E-22/D11) CERTIFICATION STATEMENT DATED JULY 28, 1992

Dear Mr. Mortensen:

Based on the information provided on your submittal of July 29, 1992,
Engineer's Certification for the referenced site is acceptable.

If I can be of further assistance, please feel free to call me at 768-2650.

Cordially,

Bernie J. Montoya
Bernie J. Montoya, C.E.
Engineering Assistant

BJM/bsj
(WP+1017)

PUBLIC WORKS DEPARTMENT

91082017

FILED WITH CITY CLERK'S OFFICE

9/30/91

0004323

E 22-D11

AMENDMENT TO REAL PROPERTY
ENCROACHMENT AGREEMENT AND
COVENANTS UPON REAL ESTATE

THIS AMENDMENT is made as of the date of the last signature below, by and between PROPERTY TRUST OF AMERICA, a Maryland real estate investment trust ("User"), successor-in-interest to Mark Development Corporation and Jeffrey and Lisa Mark (collectively "Mark"), on the one hand, and THE CITY OF ALBUQUERQUE, NEW MEXICO ("City"), and amends and extends that certain Real Property Encroachment Agreement and Covenants Upon Real Estate between "Mark Development, Inc." and the City, and recorded August 29, 1989 as Document No. 8975021 in the real property records of Bernalillo County, New Mexico (the "Original Agreement").

1. Recital. The User has purchased from Mark all of Mark's right, title and interest in the land covered by the Original Agreement, and the User and the City desire to make certain amendments to the Original Agreement, to delete certain provisions, to add certain property and to clarify certain matters, all as set forth herein.

2. User's Property. Paragraph 1 of the Original Agreement is hereby amended to provide that the "User's Property" to which the Amended Agreement pertains is:

Tracts A-1-a and A-2-a, Sunwest Trustee Tract, as designated and shown on the Plat thereof recorded as Document No. 91-077019, real property records of Bernalillo County, New Mexico.

3. Improvement. Paragraph 1 of the Original Agreement is hereby amended by addition of the following at the end:

The "Improvements" as defined herein may include future-constructed paving improvements and irrigated turf, as shown on the approved grading and drainage plan for the User's Property, in addition to or instead of those shown on the attached sketch. No bedding plants, trees or shrubs shall be permitted.

4. Demand for Repair, Modification or Removal. Paragraph 4 of the Original Agreement is hereby deleted in its entirety, and replaced with the following:

The User understands that the City requires, pursuant to its existing ordinances and regulations, that the City's Property be maintained in such a condition that the

inlets to the storm sewer pipe underlying the City's Property are not obstructed, and further that the surface of the City's Property now is and remains capable of carrying a flow equal to ten percent (10%) of the One Hundred Year storm as calculated for the applicable drainage basin, as shown in the City's approved Drainage Plan for Special Assessment District 205. The User shall not construct any improvements within the City's Property which would obstruct such inlets or obstruct or impede the surface flow of such runoff over and across the City's Property. In addition, the User shall not permit, plant, or cultivate any trees, shrubs or bedding plants within the City's Property, the roots of which or the planting of which could cause damage to the 36" RCP storm drain line or any additional or replacement lines running under the City's Property or sedimentation damage downstream. If, in the City's sole judgment, the User has constructed or placed any Improvement which is prohibited by the foregoing, the City may send written notice ("Notice") to the User requiring the User to repair, modify or remove the prohibited Improvement within ninety (90) days after mailing of the written notice to User ("Deadline"), and the User will promptly comply with the Notice. If removal is demanded, the User shall nevertheless have the right to construct and maintain alternative improvements which are satisfactory to the City in accordance with the above-stated requirements. The User will perform all required work by the Deadline at User's sole expense.

5. Notice. The User's address for all notices to be given hereunder is hereby changed to:

Property Trust of America
c/o Southwest Realty Advisors
141 East Palace Avenue
Santa Fe, New Mexico 87501

6. Term. Paragraph 9 of the Original Agreement is hereby deleted in its entirety, and the following is inserted in its place:

This Agreement may be terminated in writing at any time by the User, its successors or assigns, without cause. If the User terminates this Agreement, the User shall remove all Improvements within thirty (30) days of Notice from the City. The City agrees that it shall not terminate this Agreement or User's right to access across the City's Property. Such access must be constructed in a manner consistent with the City's use of its Property.

7. Effect of Amendment. As amended hereby, the Original Agreement shall remain in full force and effect, and is ratified and confirmed.

PROPERTY TRUST OF AMERICA
a Maryland real estate
investment trust

By: Paul Dymal
Its: Secretary

THE CITY OF ALBUQUERQUE

By: Bob V. Stover
Chief Administrative Officer
Dated: 9-19-91

[Signature]
City Engineer
9-19-91

0004326

ACKNOWLEDGEMENT

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

The foregoing instrument was acknowledged before me this
12th day of September, 1991, by Paul E. Szurek,
Secretary of Property Trust of America, a Maryland
real estate investment trust.

Diana R. Inkefeld
Notary Public

My Commission Expires:

Aug 23, 1995

ACKNOWLEDGEMENT

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

The foregoing instrument was acknowledged before me this 19th
day of September, 1991 by Bob V. Storer, for Chief
Administrative Officer of The City of Albuquerque, New Mexico, a
New Mexico municipal corporation, on behalf of the City.

Elsie Davis
Notary Public

My Commission Expires:
4-2-94
CAS[116]

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
-FILED FOR RECORD

91 SEP 30 PM 3:38

9/17 PG. 4323 4326
GLADYS M. DAVIS
CO CLERK & RECORDER



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

April 29, 1992

Jeff Mortensen
Jeff Mortensen & Associates Inc.
6010-B Midway Park Blvd., NE
Albuquerque, New Mexico 87109

RE: PARTIAL ENGINEER'S CERTIFICATION FOR PAVILIONS PHASE II (E-22/D11) PHASE
II-A CERTIFICATION STATEMENT DATED APRIL 7, 1992

Dear Mr. Mortensen:

Based on the information provided on your April 7, 1992 submittal, Engineer
Certification for Phase II-A is acceptable.

If I can be of further assistance, please feel free to contact me at 768-2650.

Sincerely,

Bernie J. Montoya
Bernie J. Montoya
Engineering Assistant

BJM:jc
WP+1017

PUBLIC WORKS DEPARTMENT



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

July 24, 1991

Jeff Mortensen, P.E.
Jeff Mortensen & Associates, Inc.
6010-B Midway Park Boulevard, NE
Albuquerque, New Mexico 87109

RE: ENGINEER'S CERTIFICATION FOR PAVILIONS PHASE I
(E-22/D11) ENGINEER'S STATEMENT DATED JULY 19, 1991

Dear Mr. Mortensen:

Based on the information provided on your submittal of July 19, 1991, Certification for the referenced site is acceptable.

Please advise your clients that building permits for Phase II will not be issued until the erosion control plan has been implemented and certified.

If I can be of further assistance, please feel free to contact me at 768-2650.

Cordially,

Bernie J. Montoya, C.E.
Engineering Assistant

xc: Alan Martinez

BJM/bsj
(WP+1017)

PUBLIC WORKS DEPARTMENT

Walter H. Nickerson, Jr., P.E.
Assistant Director Public Works

ENGINEERING GROUP

Telephone (505) 768-2500

AN EQUAL OPPORTUNITY EMPLOYER



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

E22/D11

January 14, 1992

JAN 17 1992

PROJECT ACCEPTANCE LETTER

Mr. Dennis Gauman
Mark Development
1620 West Fountainhead Parkway
Tempe, AZ 85282

RE: THE PAVILIONS APARTMENTS - PHASE I AND II, PROJECT NO. 3821.91 & 3821.92

Dear Mr. Gauman:

The above referenced phased project has been completed according to the plans and specifications for Phase I and Phase II. Phase I consisted of a deceleration lane located on Academy Rd. west of Lowell, along with a median opening and left turnbay for the entrance into the Pavilions' development and a left turn lane on Lowell St. Also included is a loop water line system comprising of an 8" and 10" water line from Lowell St. running through the project and looping in on Academy Rd. along with 3 fire hydrants and 5 water line services. Also, a 6" tap fire hydrant leg and fire hydrant on Academy Rd. located at the west boundary of the project. Phase II consisted of a ten inch (10") water main connection from Phase I limits to San Victorio Ave. N.E.; two (2) fire hydrants at the southeast and southwest property corners on San Victorio Ave. N.E.; one (1) additional fire hydrant in the Phase II parking lot; and one (1) two inch (2") water service.

The City of Albuquerque accepts the above referenced project and the contractual correction period began July 17, 1990, for Phase I and January 14, 1992 for Phase II. The correction period on the project is for one (1) year.

Sincerely,

Brian L. Speicher, P.E.
Chief Construction Engineer
Design/Construction Division
Engineering Group
Public Works Department



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

Legal Department

(505) 768-4500

September 19, 1991

SEP 21 1991

HYDROLOGY DIVISION

Charles A. Seibert III
Montgomery & Andrews, P.A.
P.O. Box 26927
Albuquerque, New Mexico 87125-6927

**RE: Amendment to Real Property Encroachment Agreement -
[Pavillon Apartments]**


Dear Charles:

Enclosed please find one original signed copy of the Amendment to the Real Property Encroachment Agreement pertaining to Tracts A-1-a and A-2-a, Sunwest Trustee Tract.

Pursuant to our conversation of today, I contacted First American Title Company to obtain the plat recording information but Kathy Carrillo was out of the office until the 30th and her secretary has not returned my call. I will hold one original of the Amendment until we have that plat recording information before recording the Amendment. After recordation of the amendment, we will furnish you with a copy of the recorded document.

It has been a pleasure working with you on this project. Please contact me if I may be of further assistance.

Very truly yours,


Sylvia R. Fettes
Law Specialist

SRF/lrn
3769LDF

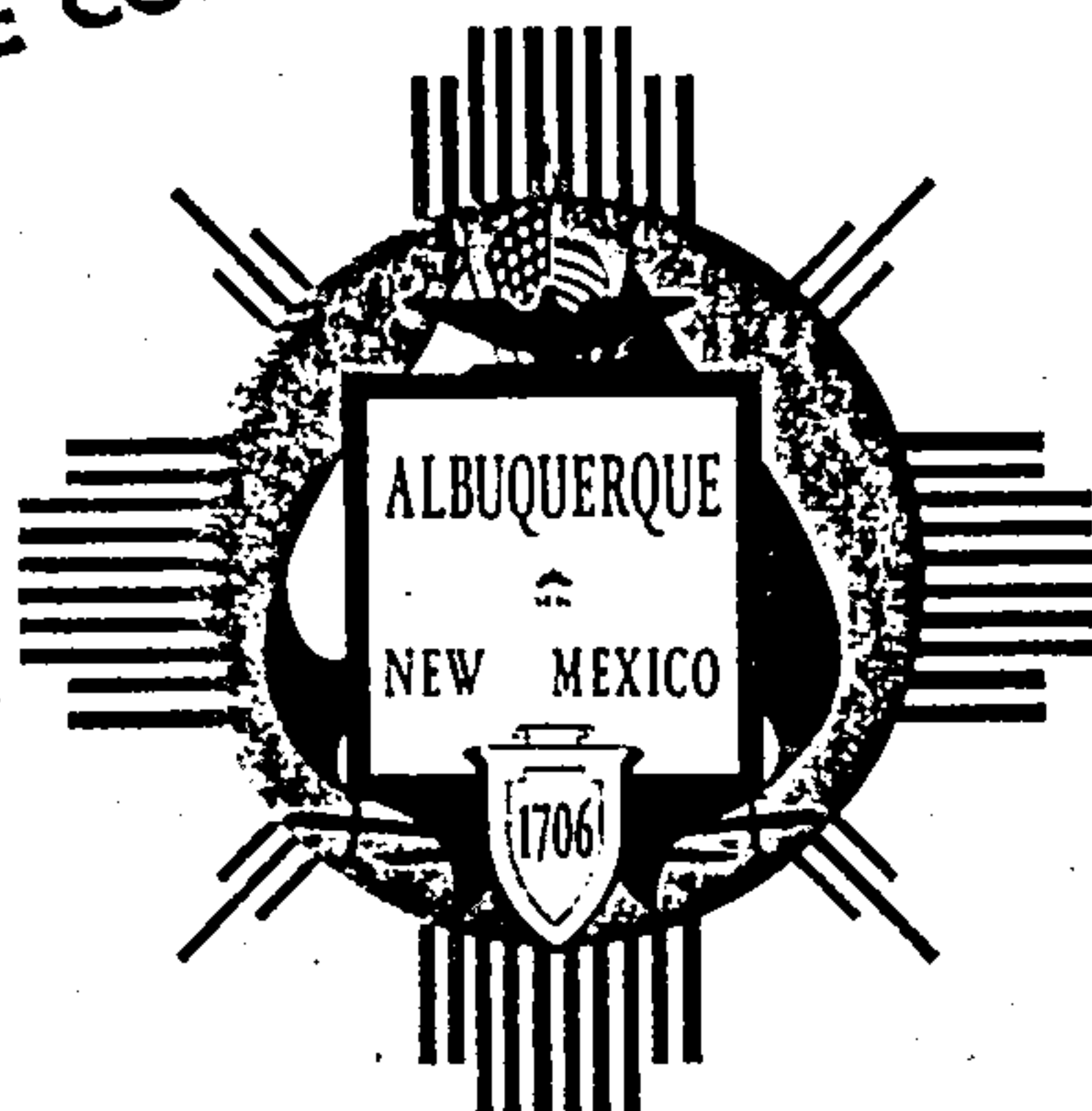
Enclosure

cc: Dan Hogan, Division Director, Hydrology Design (w/encl.)
Public Works Department

Fred Aguirre, Hydrology (w/encl.)
Public Works Department

LyndaMichelle DeVanti, Project Administrator (w/encl.)
Project Review, Public Works Department

FILE COPY



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

November 27, 1990

Jeff Mortensen, P.E.
Jeff Mortensen & Associates, Inc.
6010-B Midway Park Boulevard, NE
Albuquerque, New Mexico 87109

RE: REVISED DRAINAGE PLAN FOR PHASE II OF THE PAVILIONS
(E-22/D11) ENGINEER'S STAMP DATED NOVEMBER 8, 1990

Dear Mr. Mortensen:

Based on the information provided on your submittal of November 13, 1990, the referenced drainage plan is approved for rough grading and S.O. #19.

Please be advised that once the erosion control plan is implemented and certified by you, building permits will be issued.

Engineer's Certification for Phase II was brought to your attention on my April 9, 1990 correspondence to you.

The letter of acceptance for work order 3821.81 indicates that the storm drainage work has not been accepted. Acceptance must include the storm drainage work when you submit the Certification for Phase I.

If I can be of further assistance, please feel free to call me at 768-2650.

Cordially,

for Bernie J. Montoya
Fred J. Aguirre, P.E.
Hydrologist

xc: George Tibheraney

BJM:FJA/bsj
(WP+1017)

PUBLIC WORKS DEPARTMENT

Walter H. Nickerson, Jr., P.E.
Assistant Director Public Works

ENGINEERING GROUP

Telephone (505) 768-2500

AN EQUAL OPPORTUNITY EMPLOYER



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

010113
900653

E22 / D11

August 14, 1990

*****PARTIAL***
PROJECT ACCEPTANCE LETTER**

Mr. Dennis Gauman
Mark Development
1620 West Fountainhead Parkway
Tempe, AZ 85282

RE: THE PAVILIONS APARTMENTS - PHASE I, PROJECT NO.3821.81

Dear Mr. Gauman:

The above referenced phased project has been completed according to the plans and specifications for Phase I. Phase I consisted of a deceleration lane located on Academy Rd. west of Lowell, along with a median opening and left turnbay for the entrance into the Pavilions' development and a left turn lane on Lowell St. Also included is a loop water line system comprising of an 8" and 10" water line from Lowell St. running through the project and looping in on Academy Rd. along with 3 fire hydrants and 5 water line services. Also, a 6" tap fire hydrant leg and fire hydrant on Academy Rd. located at the west boundary of the project.

The City of Albuquerque accepts the above referenced project with the exception of the storm drainage work and the contractual correction period began July 17, 1990. The correction period on this project is for one (1) year.

Sincerely,

Brian L. Speicher, P.E.
Chief Construction Engineer
Design/Construction Division
Engineering Group
Public Works Department

BLS:kt



KEN SCHULTZ
MAYOR

City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

September 18, 1989

Jeff Mortensen, P.E.
Jeff Mortensen & Associates, Inc.
811 Dallas, NE
Albuquerque, New Mexico 87110

RE: GRADING & DRAINAGE PLAN FOR PAVILIONS, SUBMITTED SEPTEMBER
13, 1989, FOR BUILDING PERMIT AND ROUGH GRADING APPROVALS
(E-22/D11)

Dear Mr. Mortensen:

Your submittal, referred to above, with your stamp dated September 12, 1989, sheets 5, 6, and 8 of 8, is approved for Building Permit sign-off by the Hydrology Section. Please include these sheets in the construction sets routed for sign-off.

We will require that the construction of this project be certified by a New Mexico Professional Engineer as to its substantial compliance with the approved construction plans before we sign the Certificate of Occupancy. If you have any questions, please call me at 768-2650.

Cordially,

Stuart Reeder

G. Stuart Reeder, P.E.
C.E./Hydrology Section

GSR
(WP+1017)

PUBLIC WORKS DEPARTMENT

Walter H. Nickerson, Jr., P.E.
Assistant Director Public Works

ENGINEERING GROUP

Telephone (505) 768-2500

AN EQUAL OPPORTUNITY EMPLOYER: