9.0-14

# AGREEMENT AND COVENANT

City Project No. 767381

This Agreemen New Mexico ("City") ar ("User"), is made in Al recording this Agreem	ouguerque, New Mex	ding, LLC cico, and is ente	ered into as	s of the date	
Recital. located at 4300 Alexardicularly described.	The User is the owner cander Blvd., NE as: (give legal descri	,in Albuqu	erque, Nev	w Mexico, an	1
Parcel D-1, Renaissar					1
Recording No:	Book	Page_			1
and is attached as <b>Ex</b>	nibit A.				
The City is the ("City's Property") in the and more particularly (	owner of a certain real ne vicinity of, contigue described as:	al property, eas	sement or portion or within U	oublic right-of Jser's Proper	ty,
Public Drainage	e Easement, See Atta	ached Exhibit '	"B"		4
	perty is an easemen			on and filing	t2)
Parcel D-1, Re	naissance Center 3				Les
Recording No:	Book		Page		8 (T)
following drainage imp done so): <u>Concrete</u>	Drainage Channel ar proposed or existing	ment") on the C nd 30" Storm So	city's Prope ewer Pipe	erty (or alread	<u> </u>
The City agree provided the User cor	s to permit the Impro	vement to exist of this Agreem	on the Cit	y's Property	
2. City Use enter upon the City's maintenance, repair, or otherwise responsi promptly will repair the Improvement will be p	or modification or ren the Work affects the	and perform whoval ("Work") in the Improvement,	natever ins t deems ap the City wi	pection, insta opropriate wit ill not be finar	allation, thout ncially

- 3. <u>User's Responsibility for Improvement</u>. 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 <u>F16/D3A, Dated 06/10/2005</u> 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. <u>Use of the Improvement.</u> 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. <u>Demand for Repair, Modification or Removal</u>. The City may send written notice ("Notice") to the User requiring the User to repair, modify or remove the Improvement within <u>30</u> 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. <u>Failure to Perform by User and Emergency Work by City</u>. 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, State of New Mexico. 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 of the Cancellation and Release. After the effective date, the City will record the Cancellation and Release with the Bernalillo County Clerk, State of New Mexico.

Cancellation of this Agreement for any reason shall not release the User from any liability or obligation relating to the installation, operation, maintenance, or removal of the Improvement or any other term of this Agreement.

8. <u>Condemnation</u>. 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. <u>Assessment</u>. 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:

  4300 Alexander Blvd., NE
  Albuquerque, NM 87107

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. <u>Indemnification</u>. The User shall be solely responsible for maintaining the premises upon which the Improvements are being constructed in a safe condition. The User agrees to indemnify and hold harmless the City and its officials, agents and employees from any claims, actions, suits or other proceedings arising from or out of the acts or omissions of the User, its agents, representatives, contractors or subcontractors or arising from the failure of the User, its agents, representatives, contractors or subcontractors to perform any act or duty required of the User herein. The indemnification required hereunder shall not be limited as a result of the specifications of any applicable insurance coverage. Nothing herein is intended to impair any right or immunity under the laws of the State of New Mexico.
- 12. <u>Term.</u> This Agreement shall continue until revoked by the City pursuant to Section 7 above.
- 13. <u>Binding on User's Property</u>. 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. <u>Entire Agreement</u>. 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. <u>Changes of Agreement</u>. Changes to this Agreement are not binding unless made in writing, signed by both parties.
- 16. <u>Construction and Severability</u>. 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.

AGREEMENT AND COVENANT PROJE	CCT No DATE:
17. <u>Captions</u> . The captio are not part of this Agreement and its provisions.	ns to the sections or paragraphs of this Agreement will not affect the meaning or construction of any of
By:Shahab Biazar, P.E., City Enginee	By signature]: HOW DOWN  Name [print]: ALAN W. BROWN  Title: TRASWER  Dated: 8-14-14
	S ACKNOWLEDGMENT
by Shahah Biazar P.F. City	edged before me this day of, 20 / Engineer, Planning Department, for the City of al corporation, on behalf of the corporation.
	Notary Public:
	My Commission Expires:
USER	'S ACKNOWLEDGMENT
STATE OF NEW MEXICO ) Santa Fe ) ss COUNTY OF BERNALILLO )	
This instrument was acknowled to the second	edged before me this 14 <sup>th</sup> day of <u>August</u> , 20 a., <u>Treas urer</u> , on behalf of <u>The Tortilla</u>
OFFICIAL SIAL  Barbara L. Avery  NOTARY PURILE - STATE OF NEW MEDICO  My Commission Expires: 2/2/6/1/8	Notary Public: Barbara L. Cuvery  My Commission Expires: 2/26/18
	My Commission Expires.

COA# 767381

its provisions. **USER:** CITY OF ALBUQUERQUE: By signature]: Name [print]: Title: Dated: CITY'S ACKNOWLEDGMENT STATE OF NEW MEXICO ) ss **COUNTY OF BERNALILLO** Albuquerque, a New Mexico municipal corporation, on behalf of the corporation. My Commission Expires: 10-17-16 **USER'S ACKNOWLEDGMENT** STATE OF NEW MEXICO ) ss **COUNTY OF BERNALILLO** This instrument was acknowledged before me this \_ day of \_ August \_\_\_ , on behalf of The Tortilla Building, LLC Notary Public: \_ My Commission Expires: \_\_\_\_

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

EURPOSE, OF PLAT:
THE PURPOSE OF THIS PLAT IS TO COMBINE TRACT 6—B
AND PARCEL D INTO TRACT D—1 VACATE THE EXISTING DRAINAGE
ASSEMENTS AS SHOWN.

PARCEL LETTERED "YO OF THE PLAT DIF RENAISSANCE 3, ALBUDUERDUE, NEV WEXICO, AS THE SAME IS SHOWN AND DESIGNATION OF THE PLAT THERED. FILED IN THE DIFFLE D' THE COUNTY, URLAW HE COUNTY, NEV WEXICOD NUME 26, 1987 IN VOLUME C34, PAGE 6 AND LOTI NUMBERED SIX-8 (e-2) DE SUNDY'S INDUSTRIAL CENTER, ABUDGENOUS, NEW WEXICO, AS THE SAME IS SHOWN AND DESIGNATED DN THE PLAT THERED. FILED IN THE DIFFLE OF THE COUNTY CLERK DF MERNALLLO COUNTY, NEW MEXICO ON DECEMBER 22, 1983 IN VOLUME C22, FOLL DIS OLD SHOWN OF THE PREVENCE OF THE COUNTY CLERK DF MERCATION TRACT, BEING A POINT OF THE STUTHWEST COUNTY CLERK DF THE HEREIN DESCRIBED TRACT, BEING A POINT OF THE STUTHWEST COUNTY OF THE STUTHWEST COUNTY OF ALL SHOWN OF THE CASTERY LINE OF ALEXANDER BULLEVARD, VHENCE CITY OF ALBUQUEROUS CONTROL MOUNTY T-25-20" AND INSOLUTION OF ALEXANDER BULLEVARD, VHENCE CITY OF ALBUQUEROUS CONTROL MOUNTY T-25-20" AND INSOLUTION OF ALEXANDER BULLEVARD. THE AND INSOLUTION OF ALLS 157-68 FEET ALONG THE REATE OF THE CASTERY THEN OF A CHEVE OF THE HAVING A POINT OF ALGORIVAT THENCE OF 1800 FEET TO A DISTANCE OF 1800 FEET TO AN AMGLE POINT THENCE N. AS DEG. 39.7 E.C. AD DISTANCE OF 1800 FEET TO THE RICHT HAVING A ROBIN OF 2000 FEET TO THE RICHT HAVING A ROBIN OF 2000 FEET TO THE RICHT HAVING A ROBIN OF 2000 FEET TO THE RICHT HAVING A ROBIN OF 2000 FEET TO THE RICHT HAVING A ROBIN OF 2000 FEET TO A CHREVE TO THE RICHT HAVING A ROBIN OF 2000 FEET TO A ANGLE OF 2000 FEET TO A CHREVE TO THE RICHT HAVING A ROBINS OF 2000 FEET TO A ANGLE OF 2000 FEET A CHREVE TO THE RICHT HAVING A ROBINS OF 2000 FEET TO A ANGLE OF 2000 FEET A CHREVE TO THE RICHT HAVING A ROBINS OF 2000 FEET TO A CHREVE TO THE SCHOLER AND STANCE OF 1800 FEET A DISTANCE OF 1800 FEET A CH

PUBLIC UTILITY EASEMENTS

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P.S.#1463 WERE SET AT ALL PROPERTY CORNERS.
THIS PLAT SHOWS ALL EASEMENTS OF RECORD.
TOTAL AREA OF PROPERTY. — BASSAB. ACKES.
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COORDINATE SYSTEM, CENTRAL ZONE, NAD 1983.
DISTANCES ARE GROUND, BEARINGS ARE GRID.
BEARINGS AND DISTANCES SHOWN IN PARENTHESIS ARE RECORD.

A: RENAISSANCE CENTER II
FILED. JULY 20, 1995 IN PLAT BOOK 95C, 266
FILED. DECEMBER 27, 1983 IN VOLUME C22. FOLIO 180
C: RENAISSANCE CENTER II VOLUME C34, FOLIO 6
FILED. JUNE 28, 1987 IN VOLUME C34, FOLIO 6

DATE OF FIELD WORK: FEBRUARY, 2012.
CURRENT ZONING: M-2.
DOCUMENTS USED TO ESTABLISH BOUNDARY

QUBLIC UTILITY EASEMENTS shown on this plat are granted for the common and joint

Chemical Service, Company of Mar Bandica (PPNA). O New Jarkov comprosition (PNA) Electric) for hatfoldison, motitatorone, and services of confriend and underground necessary to provide electrical services. every property of confittee reasonably necessary to provide electrical services. every confittee reasonably necessary to provide electrical services. every confittee reasonably programments and every of network of network of the service and gather explanation and total litera reasonably necessary to provide lines, valvies and gather explanation and total litera reasonably necessary to provide

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replace A Exhibit A W/ New Pernal plat as Exhibit

8 THIS IS TO CERTIFY THAT TAXES ARE CURRENT AND PAID

PROPERTY OWNER OF RECORD:

BERNALILLO CO. TREASURER'S OFFICE:

FREE CONSENT

THE SUBDISSON HEREON DESCRIBED IS WITH THE FREE CONSENT ON IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED ONNERS. AND OWNERS AND PROPERTIES OF THE UNDERSIGNED ONCE HEREON GRANT AND AND ALL EXBERIES AS MAY BE CREATED BY THIS PLAT. THOSE SOWING SO OWNERS WARRANT THAT THE HOLD ANDOW THEN OMNERS AND OWNERS AND THE IN FEE SIMPLE TO THE LAND SUBDIVIDED.

**ACKNOWLEDGMENT** 

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME A NOTARY PUBLIC STATE OF NEW MEXICO ) S.S. COUNTY OF BERNALILLO ) DAY OF THIS

BY: OWNERS NAME

BY: NOTARY PUBLIC MY COMMISSION EXPIRES:

PLAT OF

D39610 T

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# RENAISSANCE CENTER PARCEL D-1

MITIM

ELENA GALLEGOS LAND GRANT
PROJECTED SECTION 34, TOWNSHIP 11 NORTH, RANGE 3 EAST, N.M.P.M.
BERNALILLO COUNTY, NEW MEXICO
JUNE, 2013

DATE OWEST CORPORATION D/B/A CENTURYLINK OC PUBLIC SERVICE COMPANY OF NEW MEXICO NEW MEXICO GAS COMPANY APPLICATION NUMBER: UTILITY APPROVALS: PROJECT NUMBER:

CITY APPROVALS:

DATE \*\*ENVIRONMENTAL HEALTH DEPARTMENT (CONDITIONAL) TRAFFIC ENGINEERING, TRANSPORTATION DIVISION DRB CHAIRPERSON, PLANNING DEPARTMENT \*REAL PROPERTY DIVISION (CONDITIONAL) PARKS AND RECREATION DEPARTMENT CITY SURVEYOR CITY ENGINEER AMAFCA

STATE OF NEW MEXICO ) S.S. COUNTY OF BERNALILLO ) SURVEYORS CERTIFICATE:

1, ANTHONY L. HARRIS, A DULY PROFESSIONAL LICENSED LAND SURVEYOR, UNDER THE LAWS OF THE STATE OF NEW WEARD UNDER WY DIRECT SUBFENSION, THAT I, AM RESPONSIBLE FOR SAID PLAT AND MEET'S THE RECUMENMENTS FOR MONUMENTATION AND SURVEY OF THE RERNALLO COUNTY SUBDIVISION OFFINANCE AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND MEET'S THE MINIMUM REQUIREMENTS FOR LAND SURVEYS AS SET FORTH BY THE STATE OF NEW MAXIO.

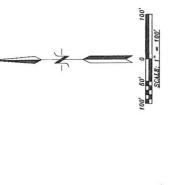
ANTHONY L. HARRIS. P.S. # 11463

SHEET 1 OF 2

PLAT OF

RENAISSANCE CENTER PARCEL D-1

WITHIN
ELENA GALLEGOS LAND GRANT
PROJECTED SECTION 34, TOWNSHIP 11 NORTH, RANGE 3 EAST, N.M.P.M.
BERNALILLO COUNTY, NEW MEXICO
JUNE, 2013

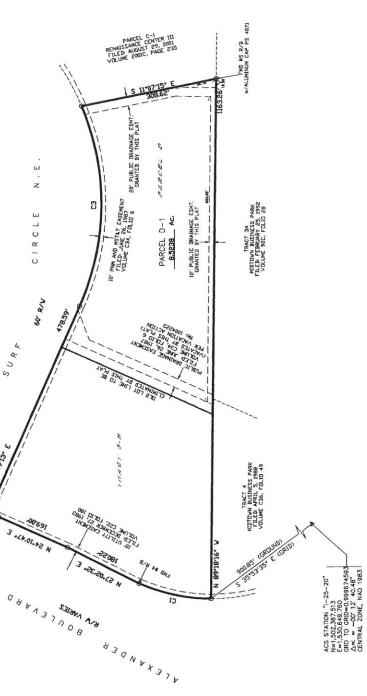


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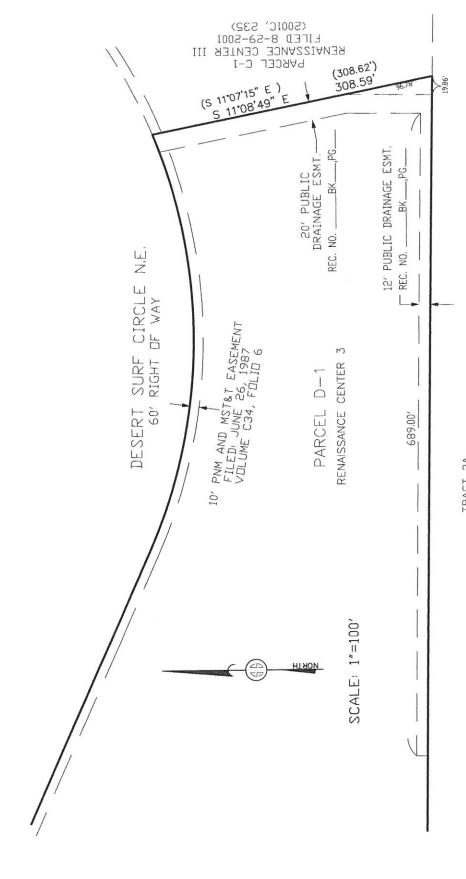


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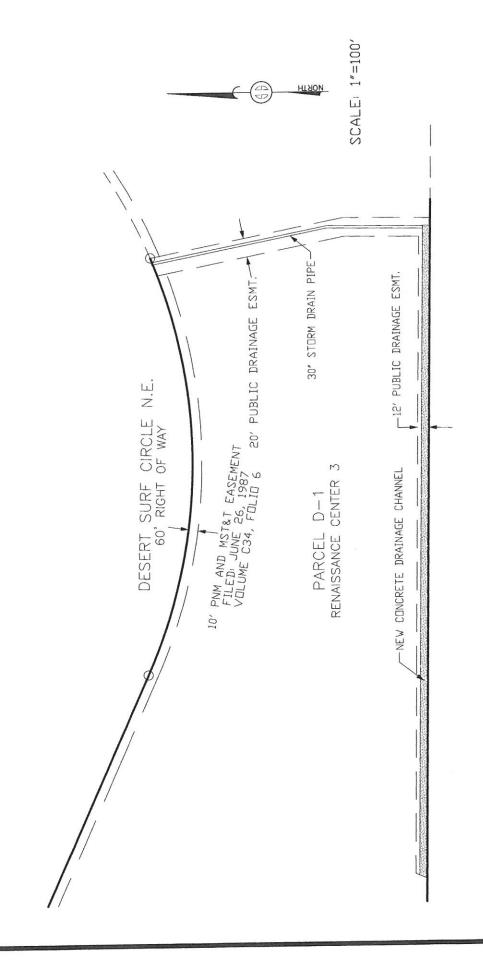
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COLE FINANCE SUMMER STATES ME, PERONE (306) 000-0006

SHEET 2 OF 2



TRACT 3A MIDTOWN BUSINESS PARK FILED: FEBRUARY 25, 1992 VOLUME 92C, FOLIO 28



## **CONTRACT CONTROL FORM**

### PRELIMINARY REVIEW

PROJECT:	767381		CONTACT PERSON:	Madeline Carrut	hers
CCN:	20060	00390			
(New/Existing)					
Type of Agreer	ment:	Agreement and	Covenant		
Description/Pro	oject Name:	Albuquerque To	rtilla Building		
Developer:		The Tortilla Bui	lding, LLC		
Contract Amou	int \$	SIA Co	ontract Period:		
Contract Amou	int \$		ontract Period:		
Contract Amou			ontract Period:		
Contract Amou			ontract Period:		
DRAFT CONT	RACT:				
Received by Le	egal:	Reje	cted/Returned to Dept.:	/	
			Approv		
FINANCIAL G	JUAKANI I:		Arrivation de la pre-	NO.	Initial
			Attached: YF	SNO	 Initial
		_ Date:	Attached: YF	ES NO	
		FINAI	CONTRACT REVIEW	V	
APPROVALS	REQUIRED:	<u> </u>			
		Date Delivered	Returned to Dept.	Approved By	Approval Date
Utility Divisio	n		Section (1997) (1997) (1997) (1997)		
Hydrology Div	_			Cint a ch	2-25-17
Transportation				V	
DRC Chairma			8-25-2014	7	8-25-2014
	on one of the second			ne	08/28/2014
Legal Departm	_	8/20/11		< X	8/24/14
City Engineer	-	2/29/19		-0-	
County Clerk	2-		-		
CAO	-		/		
DISTRUBUTI	ON:				
		Date:	By:		
User Departme	ent .				
Vendor	0		_		
City clerk					
Treasury					
Other:	:-				

### ADDENDUM TO COVER PAGE

The state of the s	s, Project Administrator, Projec	t Review Section		
FROM: Madeline Carruthers				E ( E 2 0 1
SUBJECT: (Project Name)	Albuquerque Tortilla	Building	Project #:	767381
he attached documents have been rev	viewed approved initialed and	or signed by the D	RC Chairman an	d are submitted fo
he attached documents have been rev	newed, approved, initiated and	or signed by the z	¥-	0.77
our action as noted.			8-25-2	014
<u>ITEM</u>		<u>ACTION</u>		
	Review & Approval	Reference	Cc	mments
Procedure "A"				
Procedure "B"	0000			
Procedure "C" Modified	0000			
Special Agreement	попо			
Sidewalk Deferral Agreement	0000			
Amendment				
Assignment	0000	0000		
Financial Guarantee	0000	0000		
Treasurer's Report of Deposit				
Construction Paperwork:				
Contractors Proposal		0000		
Sub-Contractors Proposal	0000			
Performance/Warranty Bonds				
Labor/Material Bonds				
Certificate of Insurance				
Figure 7 with Engineers Cost Estima	te			
Figure 8		0000		
Figure 9			_	
Extension				
Release/Agreement				
Release/Financial Guarantee				
Calling Notice				
Reduction Letter				
License Agreement				
Monitoring Well Permit		0000		
Agreement & Covenant	<b>`</b> X``	0000		
Drainage Covenant	000			
Revocable Permit	000			
Permanent Easement				
Power of Attorney				
Certificate of Work Order Completion	on 🗆 🗆 🗆	0000		
Certificate of Completion and Accep	otance 🗆 🗆 🗆	0000		
Grading & Drainage Certification	0000			
Notice of Acceptance - Centerline M	Ionu 🗆 🗆 🗆			
Corporate Resolution	0000	0000		
Sidewalk Verification/Calculation	0000			
Lease Agreement				
	0000			
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