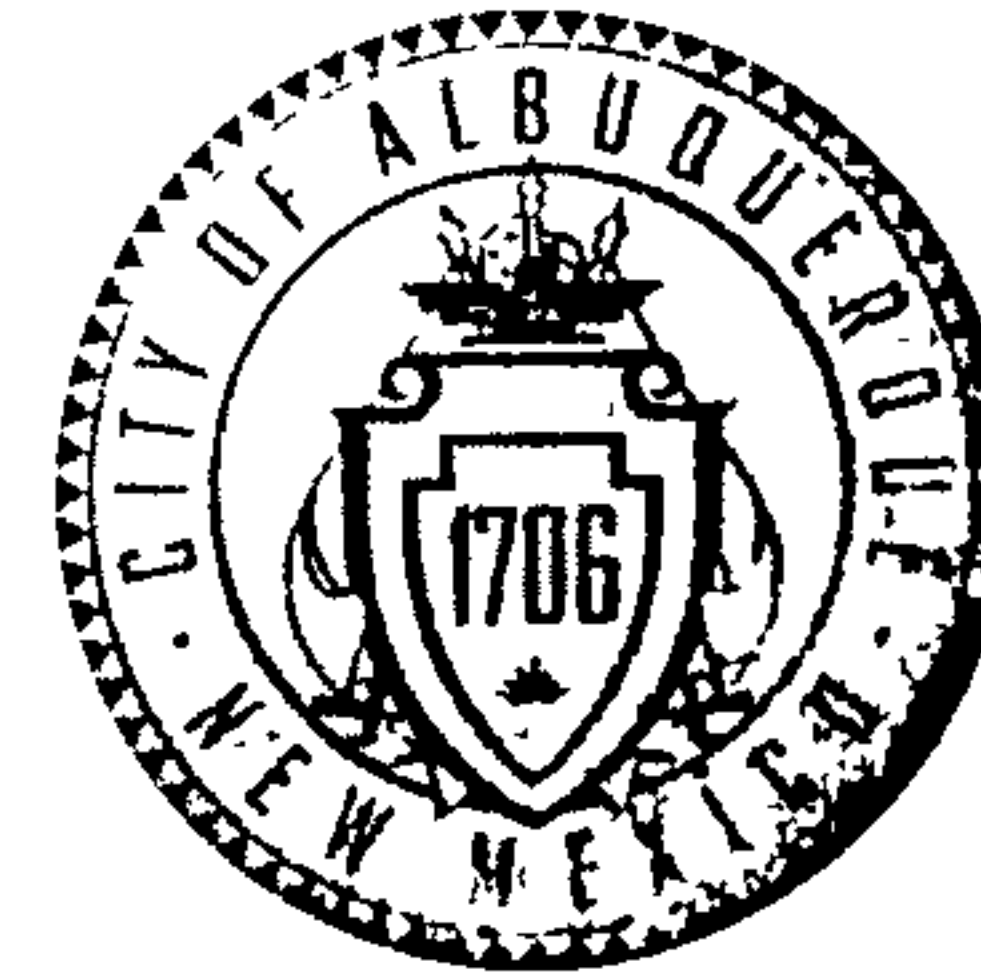


# CITY OF ALBUQUERQUE



**Planning Department  
Transportation Development Services Section**

March 20, 2009

Richard Bennett, Registered Architect  
1104 Park Avenue SW  
Albuquerque, NM 87102

Re: Certification Submittal for Final Building Certificate of Occupancy for  
Precious Moments Daycare II, [G-11 / D037]  
401 Ladera NW  
Architect's Stamp Dated 03/19/09

Dear Mr. Bennett:

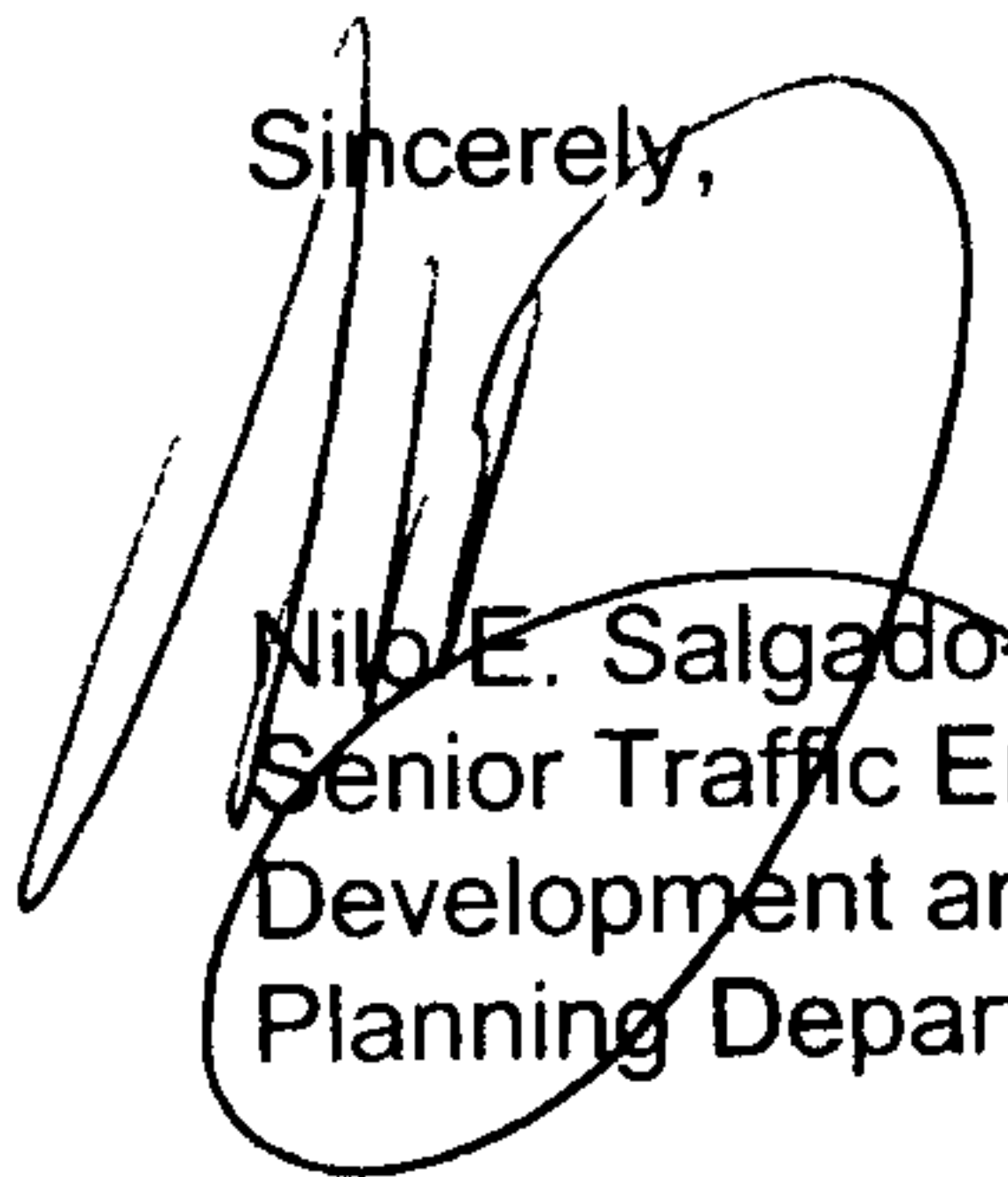
PO Box 1293

The TCL / Letter of Certification submitted on March 19, 2009 is sufficient for acceptance by this office for final Certificate of Occupancy (C.O.). Notification has been made to the Building and Safety Section.

Albuquerque

Sincerely,

NM 87103

  
Nilo E. Salgado-Fernandez, P.E.  
Senior Traffic Engineer  
Development and Building Services  
Planning Department

www.cabq.gov

c: Engineer  
Hydrology file  
CO Clerk

## DRAINAGE AND TRANSPORTATION INFORMATION SHEET

(Rev. 12/05)

PROJECT TITLE: Precision Moments Dayton II ZONE MAP/DRG. FILE # G-11/D037  
 DRB#: \_\_\_\_\_ EPC#: \_\_\_\_\_ WORK ORDER#: \_\_\_\_\_

LEGAL DESCRIPTION: Lot 3 Flamingo Heights, Unit 0-1  
 CITY ADDRESS: 401 Ladera NW

ENGINEERING FIRM: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
 PHONE: \_\_\_\_\_  
 ZIP CODE: \_\_\_\_\_

OWNER: Roger Cox & Associates, Inc  
 ADDRESS: 1717 Louisiana St Suite 111  
 CITY, STATE: Albuquerque, NM

CONTACT: Brad B. Allen  
 PHONE: 254-2305  
 ZIP CODE: 87110

ARCHITECT: Rick Bennett / RBA Inc  
 ADDRESS: 1104 Park Ave SW  
 CITY, STATE: Albuquerque, NM

CONTACT: Rick Bennett  
 PHONE: 242-1859  
 ZIP CODE: 87102

SURVEYOR: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
 PHONE: \_\_\_\_\_  
 ZIP CODE: \_\_\_\_\_

CONTRACTOR: Arson Bennett / Bennett Co  
 ADDRESS: 5109 Crestview Place  
 CITY, STATE: Albuquerque, NM

CONTACT: Arson Bennett  
 PHONE: 232-0918  
 ZIP CODE: 87105

## TYPE OF SUBMITTAL:

- ☐ DRAINAGE REPORT  
☐ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL  
☐ DRAINAGE PLAN RESUBMITTAL  
☐ CONCEPTUAL G & D PLAN  
☐ GRADING PLAN  
☐ EROSION CONTROL PLAN  
☐ ENGINEER'S CERT (HYDROLOGY)  
☐ CLOMR/LOMR  
☒ ~~TRAFFIC CIRCULATION LAYOUT~~  
☒ ~~ENGINEER/ARCHITECT CERT (TCL)~~  
☒ ~~ENGINEER/ARCHITECT CERT (DRB S.P.)~~  
☐ ENGINEER/ARCHITECT CERT (AA)  
☐ OTHER (SPECIFY) \_\_\_\_\_

## CHECK TYPE OF APPROVAL SOUGHT:

- ☐ SIA/FINANCIAL GUARANTEE RELEASE  
☐ PRELIMINARY PLAT APPROVAL  
☐ S. DEV. PLAN FOR SUB'D APPROVAL  
☐ S. DEV. FOR BLDG. PERMIT APPROVAL  
☐ SECTOR PLAN APPROVAL  
☐ FINAL PLAT APPROVAL  
☐ FOUNDATION PERMIT APPROVAL  
☐ BUILDING PERMIT APPROVAL  
☒ CERTIFICATE OF OCCUPANCY (PERM)  
☐ CERTIFICATE OF OCCUPANCY (TEMP)  
☐ GRADING PERMIT APPROVAL  
☐ PAVING PERMIT APPROVAL  
☐ WORK ORDER APPROVAL  
☐ OTHER (SPECIFY) \_\_\_\_\_

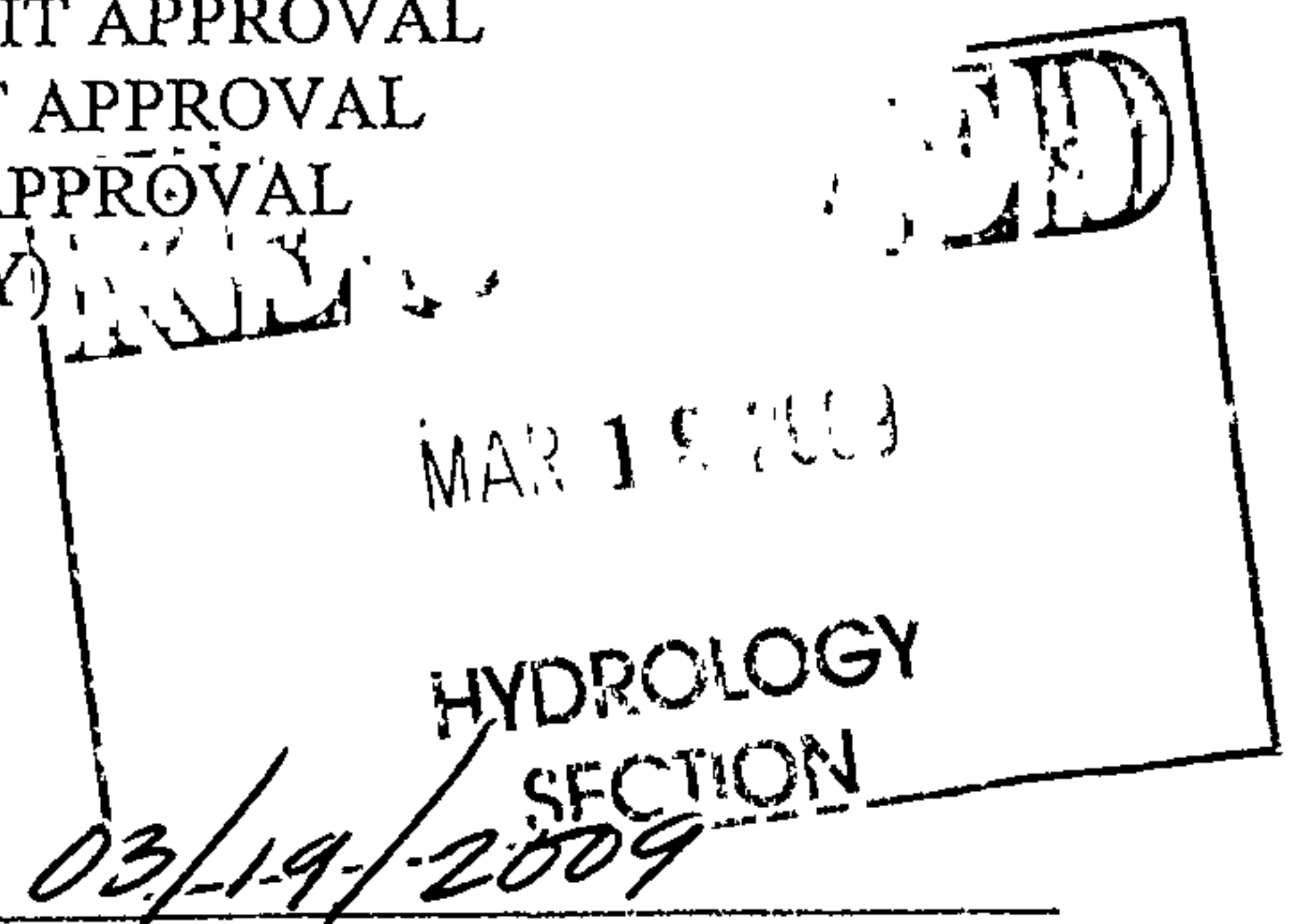
WAS A PRE-DESIGN CONFERENCE ATTENDED:

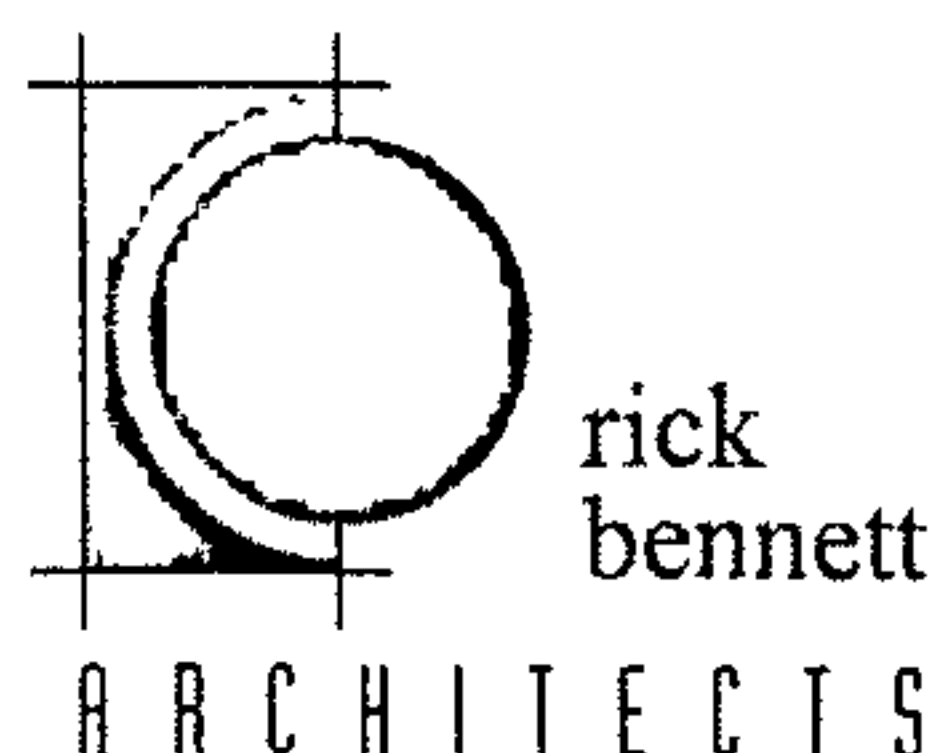
- ☐ YES  
☐ NO  
☐ COPY PROVIDED

SUBMITTED BY: [Signature] DATE: 03/19/2009

Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location and scope to the proposed development define the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. **Conceptual Grading and Drainage Plan:** Required for approval of Site Development Plans greater than five (5) acres and Sector Plans.
2. **Drainage Plans:** Required for building permits, grading permits, paving permits and site plans less than five (5) acres.
3. **Drainage Report:** Required for subdivision containing more than ten (10) lots or constituting five (5) acres or more.





March 19, 2009

Re: Precious Moments Day Care II  
4011 Ladera Dr, N.W.  
Project # 0820

## TRAFFIC CERTIFICATION

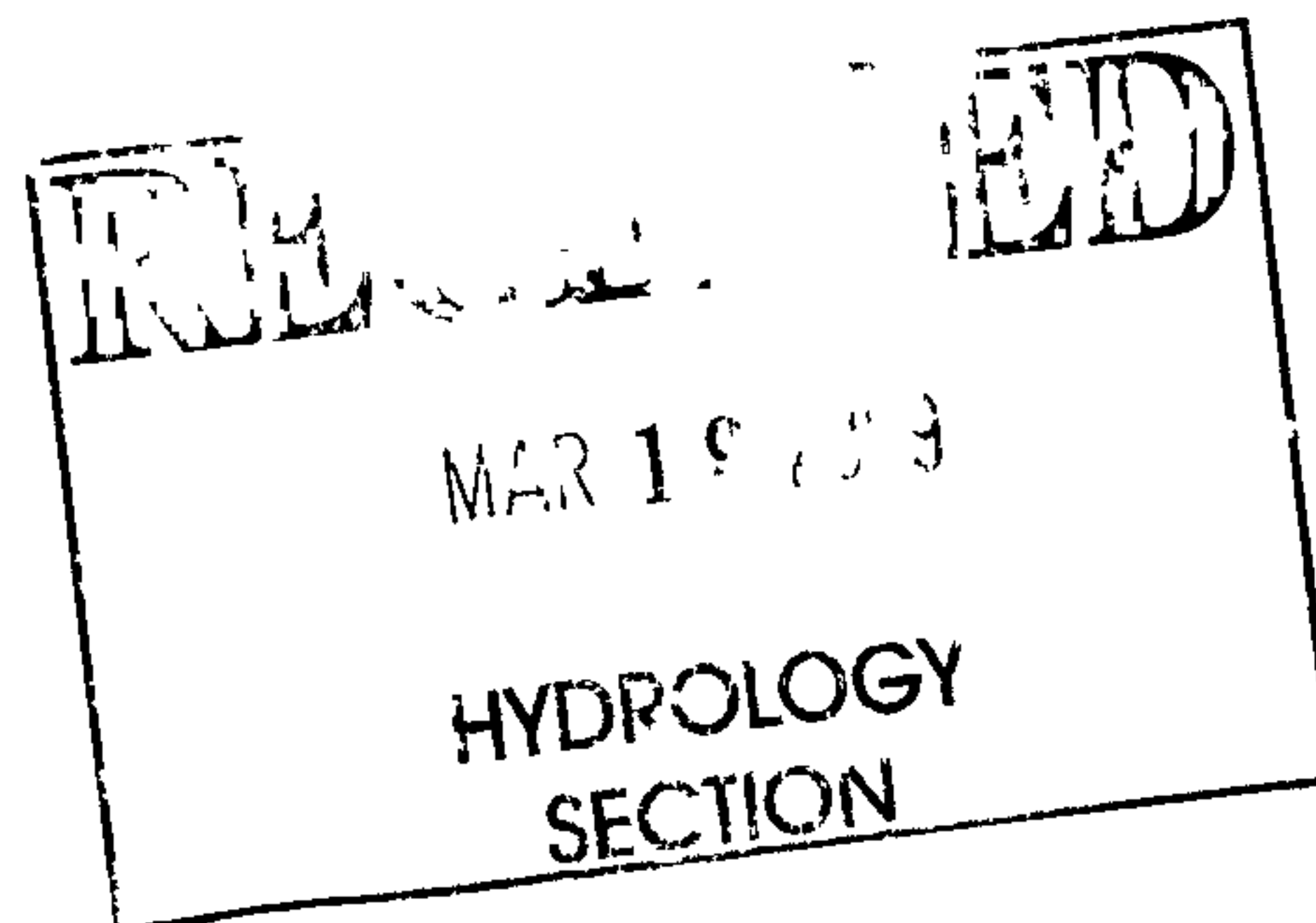
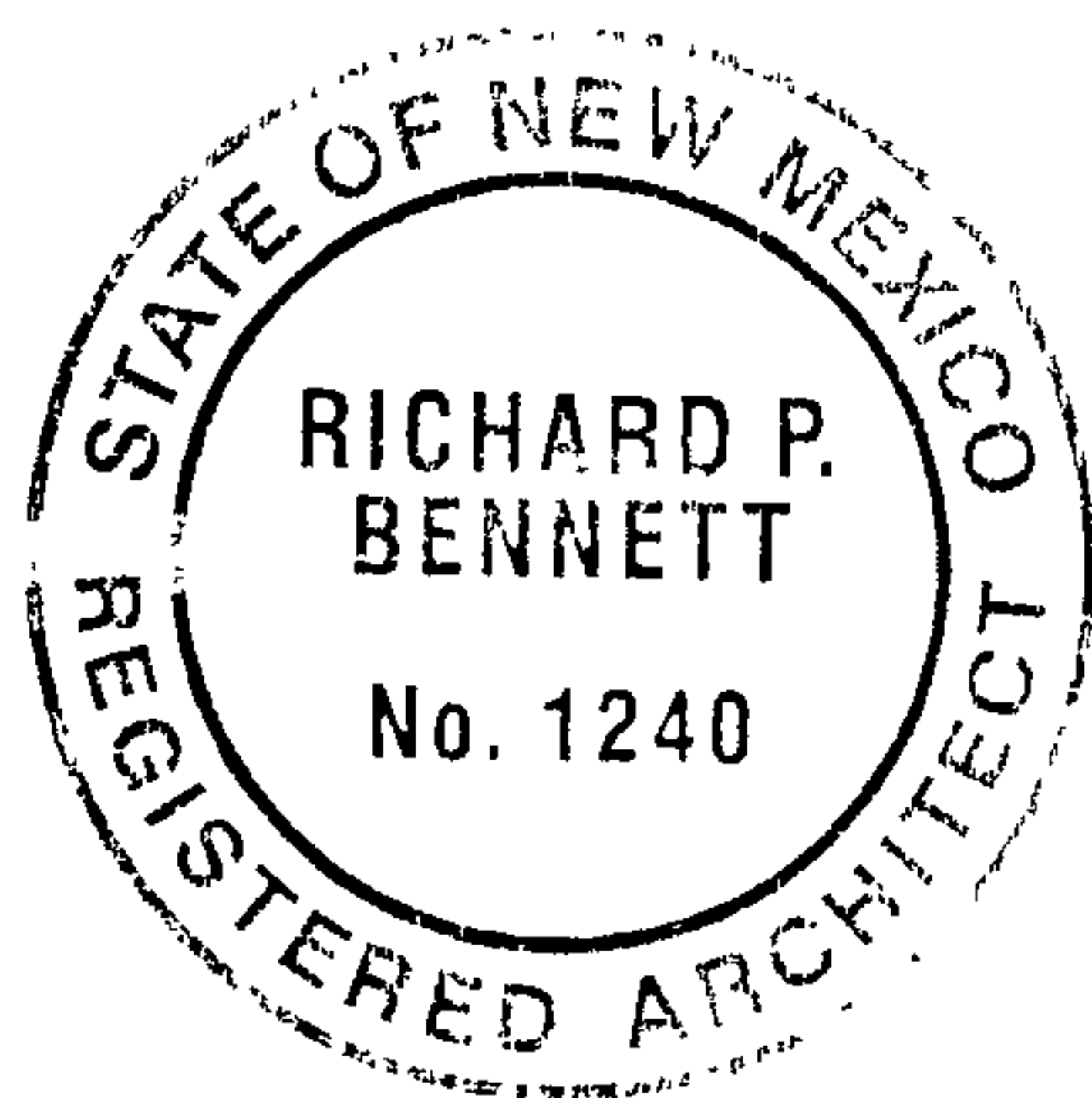
I, **Rick Bennett**, NMRA # 1240, of The Firm of RBA Inc. hereby certify that this project is in substantial compliance with and in accordance with the design intent of the Traffic Circulation Layout, approved plan dated, 09-04-08

The record information edited onto the original design document has been obtained by **Rick Bennett**, of the firm. I further certify that I have personally visited the project site on March 19, 2009 and have determined by visual inspection that the survey data provided is representative of actual site conditions and is true and correct to the best of my knowledge and belief. This certification is submitted in support of a request for Certificate of Occupancy (Permanent) for Precious Moments Day Care II. Located at 4011 Ladera Dr. N.W., Lot 3, Flamingo Heights, Unit 0-1.

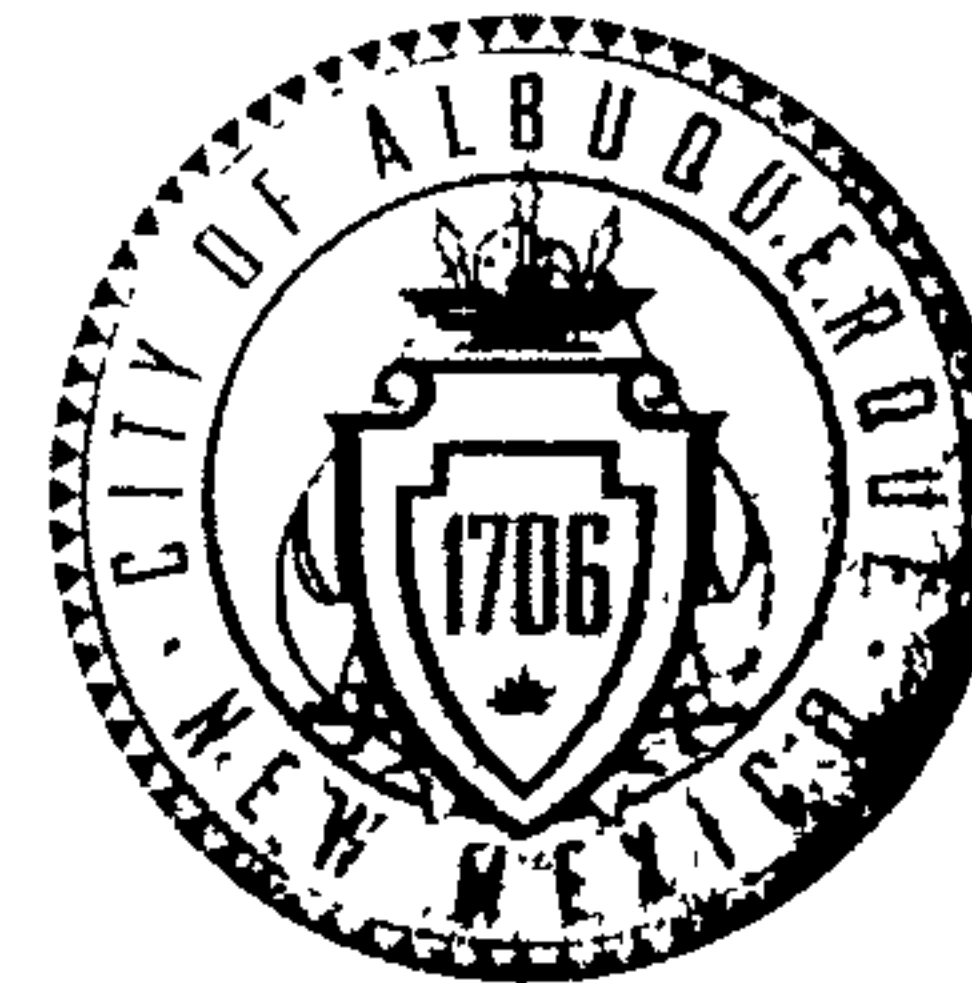
The record information presented hereon is not necessarily complete and intended only to verify substantial compliance of the traffic aspects of this project. Those relying on the record document are advised to obtain independent verification of its accuracy before using it for any other purpose.

Engineer's or Architect's Stamp

Signature of Engineer or Architect



# CITY OF ALBUQUERQUE



March 27, 2009

David B. Thompson, P.E.  
**Thompson Engineering Consultants, Inc.**  
P.O. Box 65760  
Albuquerque, NM 87193

**Re: Precious Moments Daycare, 4011 Ladera NW,  
(G-11/D037)  
Approval of Permanent Certificate of Occupancy,  
Engineer's Revised Stamp Dated: 9-10-08  
Engineer's Certification Date: 3-25-09**

Dear Mr. Thompson,

PO Box 1293

Based upon the information provided by our visual inspection on 3/27/09, the above referenced certification is approved for release of Permanent Certificate of Occupancy by Hydrology.

Albuquerque

If you have any questions, you can contact me at 924-3982.

NM 87103

Sincerely,

www.cabq.gov

Timothy E. Sins  
Plan Checker-Hydrology, Planning Dept  
Development and Building Services

C: CO Clerk—Katrina Sigala  
file



# DRAINAGE INFORMATION SHEET

(REV. 1/28/2003rd)

PROJECT TITLE: PRECIOUS MOMENTS DAYCARE

ZONE MAP/DRG. FILE #: G-11/D037

DRB #: \_\_\_\_\_ EPC #: \_\_\_\_\_

WORK ORDER#: \_\_\_\_\_

LEGAL DESCRIPTION: LOT 3, FLAMINGO HEIGHTS, UNIT 1

CITY ADDRESS: 4811 LADERA

ENGINEERING FIRM: Thompson Engineering Consultants, Inc.

ADDRESS: P.O. Box 65760

CITY, STATE: Albuquerque, NM

CONTACT: David Thompson

PHONE: 271-2199

ZIP CODE: 87193

OWNER: Roger Cox & Associates, Inc.

ADDRESS: 1717 Louisiana NE, Suite 111

CITY, STATE: Albuquerque, NM

CONTACT: Brad Allen

PHONE: 254-2305

ZIP CODE: 87110

ARCHITECT: Rick Bennett Architects, Inc.

ADDRESS: 1104 Park Ave. SW

CITY, STATE: Albuquerque, NM

CONTACT: Rick Bennett

PHONE: 242-1859

ZIP CODE: 87102

SURVEYOR: Terrametrics NM

ADDRESS: 4175 Montgomery Blvd. NE

CITY, STATE: Albuquerque, NM

CONTACT: Phil Turner

PHONE: 881-2903

ZIP CODE: 87109

CONTRACTOR: Bennett Company

ADDRESS: 1116 Park Ave. SW

CITY, STATE: Albuquerque, NM

CONTACT: Arron Bennett

PHONE: 238-0918

ZIP CODE: 87102

## CHECK TYPE OF SUBMITTAL:

- ☐ DRAINAGE REPORT
- ☐ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL
- ☐ DRAINAGE PLAN RESUBMITTAL
- ☐ CONCEPTUAL GRADING & DRAINAGE PLAN
- ☐ GRADING PLAN
- ☐ EROSION CONTROL PLAN
- ☒ ENGINEER'S CERTIFICATION (HYDROLOGY)
- ☐ CLOMR/LOMR
- ☐ TRAFFIC CIRCULATION LAYOUT (TCL)
- ☐ ENGINEER'S CERTIFICATION(TCL)
- ☐ ENGINEER'S CERTIFICATION (DRB APPR. SITE PLAN)
- ☐ OTHER

## CHECK TYPE OF APPROVAL SOUGHT:

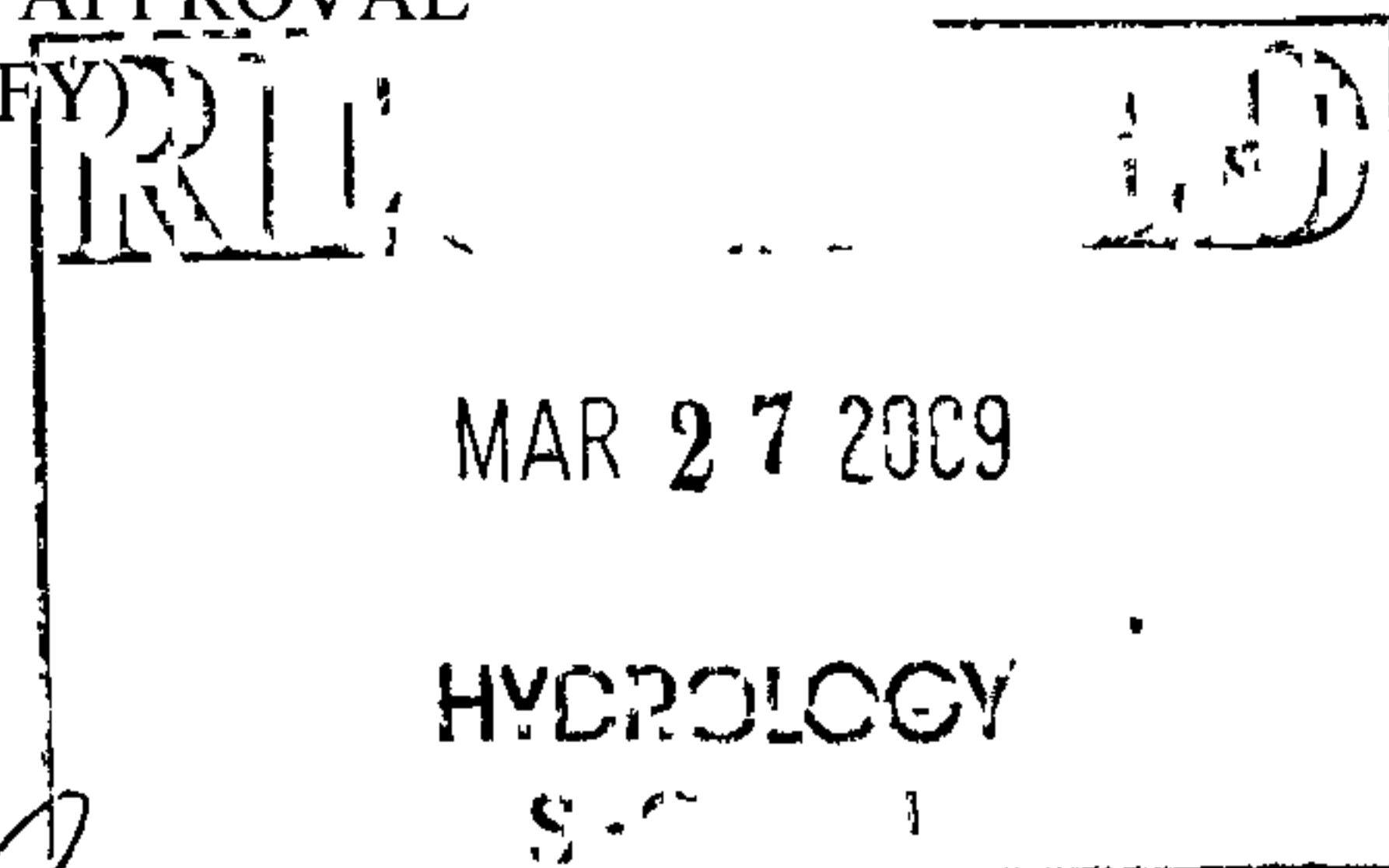
- ☐ SIA/FINANCIAL GUARANTEE RELEASE
- ☐ PRELIMINARY PLAT APPROVAL
- ☐ S. DEV. PLAN FOR SUB'D. APPROVAL
- ☐ S. DEV. PLAN FOR BLDG. PERMIT APPROVAL
- ☐ SECTOR PLAN APPROVAL
- ☐ FINAL PLAT APPROVAL
- ☐ FOUNDATION PERMIT APPROVAL
- ☐ BUILDING PERMIT APPROVAL
- ☒ CERTIFICATE OF OCCUPANCY (PERM.)
- ☐ CERTIFICATE OF OCCUPANCY (TEMP.)
- ☐ GRADING PERMIT APPROVAL
- ☐ PAVING PERMIT APPROVAL
- ☐ WORK ORDER APPROVAL
- ☐ OTHER (SPECIFY)

## WAS A PRE-DESIGN CONFERENCE ATTENDED:

- ☐ YES
- ☒ NO
- ☐ COPY PROVIDED

DATE SUBMITTED: March 27, 2009

BY: 



Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location and scope of the proposed development defines the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. **Conceptual Grading and Drainage Plan:** Required for approval of Site Development Plans greater than five acres
2. **Drainage Plans:** Required for building permits, grading permits, paving permits, and site plans less than five (5)
3. **Drainage Report:** Required for subdivisions containing more than ten (10) lots or constituting five (5) acres or

**Sims, Timothy E.**

---

**From:** Thompson Engineering consultan [tecnm@yahoo.com]  
**Sent:** Friday, March 20, 2009 2:44 PM  
**To:** Sims, Timothy E.  
**Subject:** Precious Moments Daycare - Ladera NW

4011

G-11/D037

Tim,

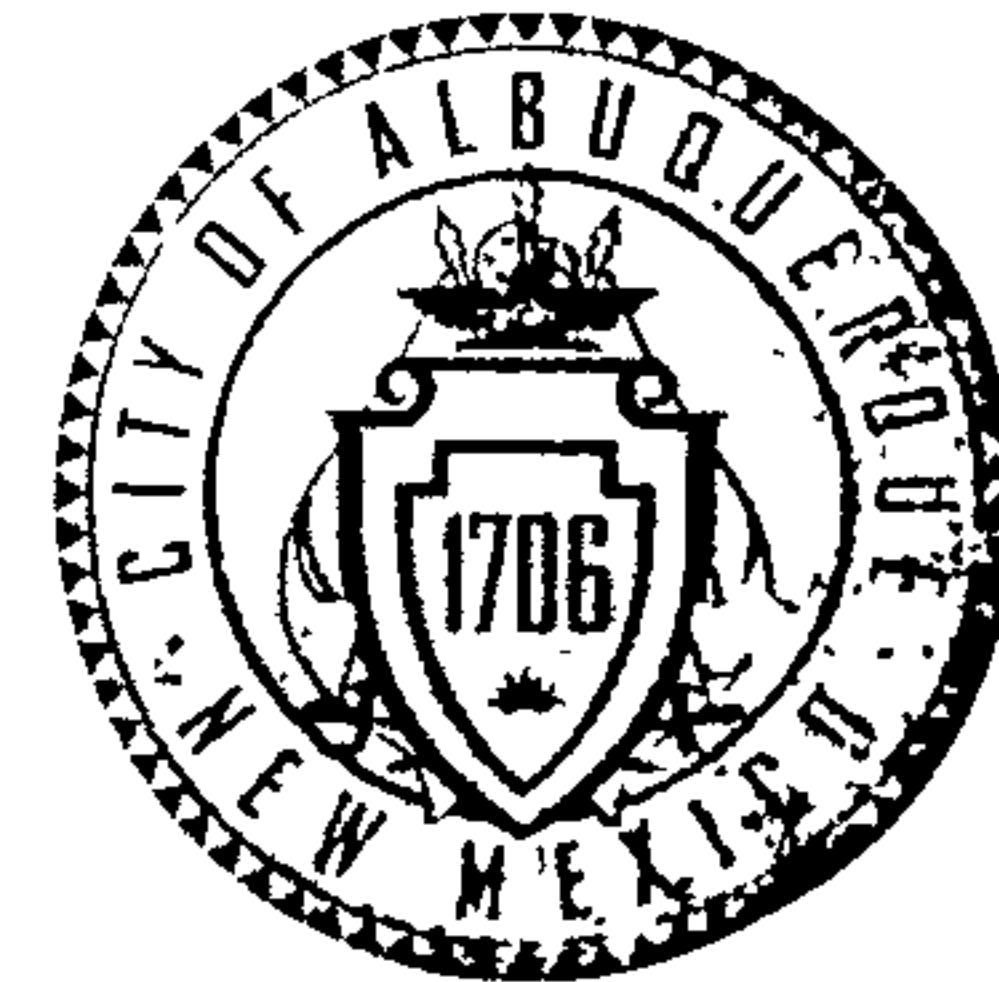
I have visited the site for drainage certification. While the as-built survey is not yet complete, from my review the site looks to be in substantial compliance with the grading and drainage plan that I prepared. I fully expect that the as-built survey will be completed on Monday and that I will submit a certification plan to you on Tuesday. Please approve a 90-day temporary C.O. for the site.

Thanks,

David B. Thompson, P.E. (NMPE 9677)  
Thompson Engineering Consultants, Inc.  
P.O. Box 65760  
Albuquerque, NM 87193  
Office: (505) 271-2199  
Fax: (505) 830-9248

90 DAY -  
VERBAL  
JS 3/20/9

# CITY OF ALBUQUERQUE



October 14, 2008

Dave Thompson, PE  
Thompson Engineering Consultants, Inc.  
PO Box 65760  
Albuquerque, NM 87193

**Re: Precious Moments Daycare Grading and Drainage Plan  
Engineer's Stamp dated 9-10-08, (G11/D37)**

Dear Mr. Thompson,

Based on information contained in your submittal dated 9-18-08, the above referenced plan is approved for Building Permit. Please include a copy of this plan in the construction sets prior to signoff by Hydrology.

Also, prior to Certificate of Occupancy release, Engineer Certification of the grading plan per the DPM checklist will be required.

If you have any questions, you can contact me at 924-3986.

Sincerely,

Bradley L. Bingham, PE  
Principal Engineer, Planning Dept.  
Development and Building Services

C: file

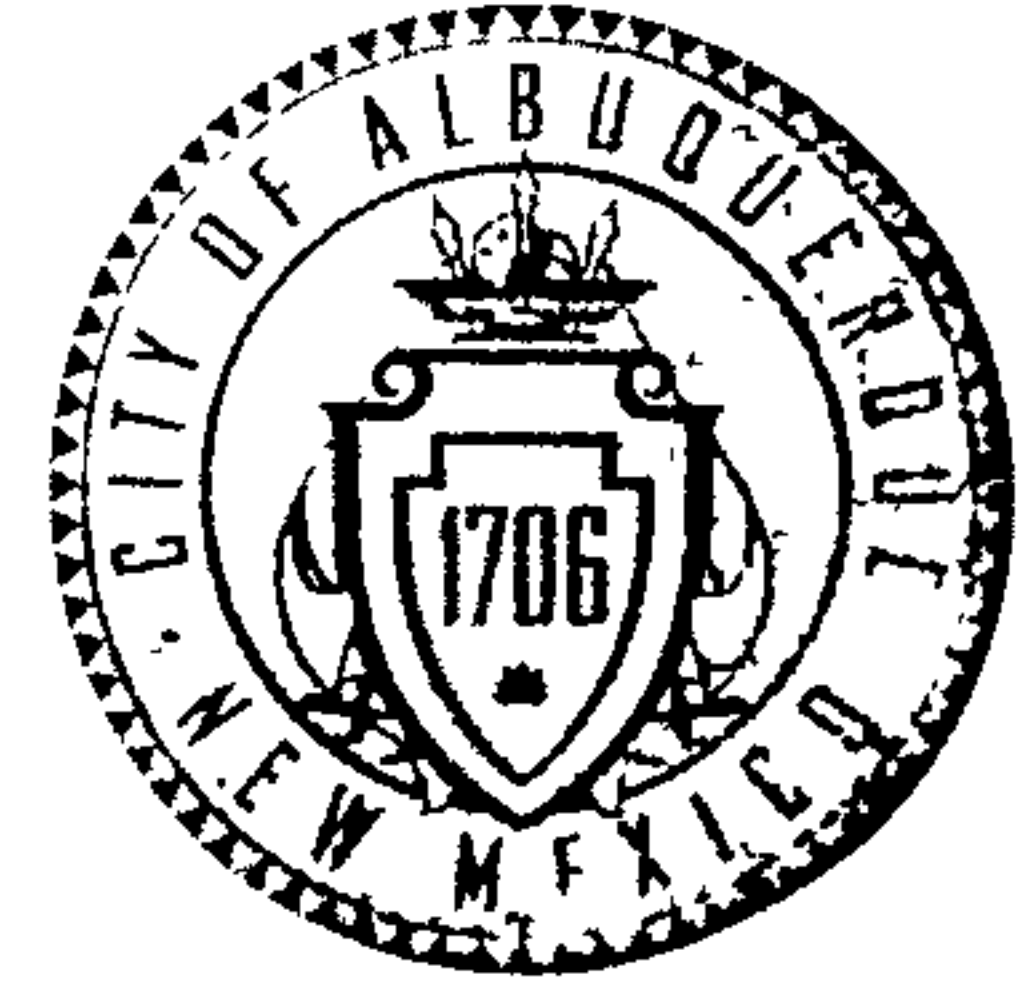
PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)

# CITY OF ALBUQUERQUE



September 12, 2008

Richard P. Bennett, R.A.  
Rick Bennett Architects  
1104 Park Avenue SW  
Albuquerque, NM 87102

Re: Precious Moments Daycare II, 4011 Ladera NW, Traffic Circulation Layout  
Architect's Stamp dated 9-04-08 (G-11/D037)

Dear Mr. Bennett,

The TCL submittal received 9-04-08 is approved for Building Permit. The plan is stamped and signed as approved. A copy of this plan will be needed for each of the building permit plans. Please keep the original to be used for certification of the site for final C.O. for Transportation. **Public infrastructure or work done within City Right-of-Way shown on these plans is for information only and is not part of approval. A separate DRC and/or other appropriate permits are required to construct these items.**

PO Box 1293

If a temporary CO is needed, a copy of the original TCL that was stamped as approved by the City will be needed. This plan must include a statement that identifies the outstanding items that need to be constructed or the items that have not been built in "substantial compliance," as well as the signed and dated stamp of a NM registered architect or engineer. Submit this TCL with a completed Drainage and Transportation Information Sheet to Hydrology at the Development Services Center of Plaza Del Sol Building.

Albuquerque

NM 87103

When the site is completed and a final C.O. is requested, use the original City stamped approved TCL for certification. A NM registered architect or engineer must stamp, sign, and date the certification TCL along with indicating that the development was built in "substantial compliance" with the TCL. Submit this certification TCL with a completed Drainage and Transportation Information Sheet to Hydrology at the Development Services Center of Plaza Del Sol Building.

www.cabq.gov

Once verification of certification is completed and approved, notification will be made to Building Safety to issue Final C.O. To confirm that a final C.O. has been issued, call Building Safety at 924-3306.

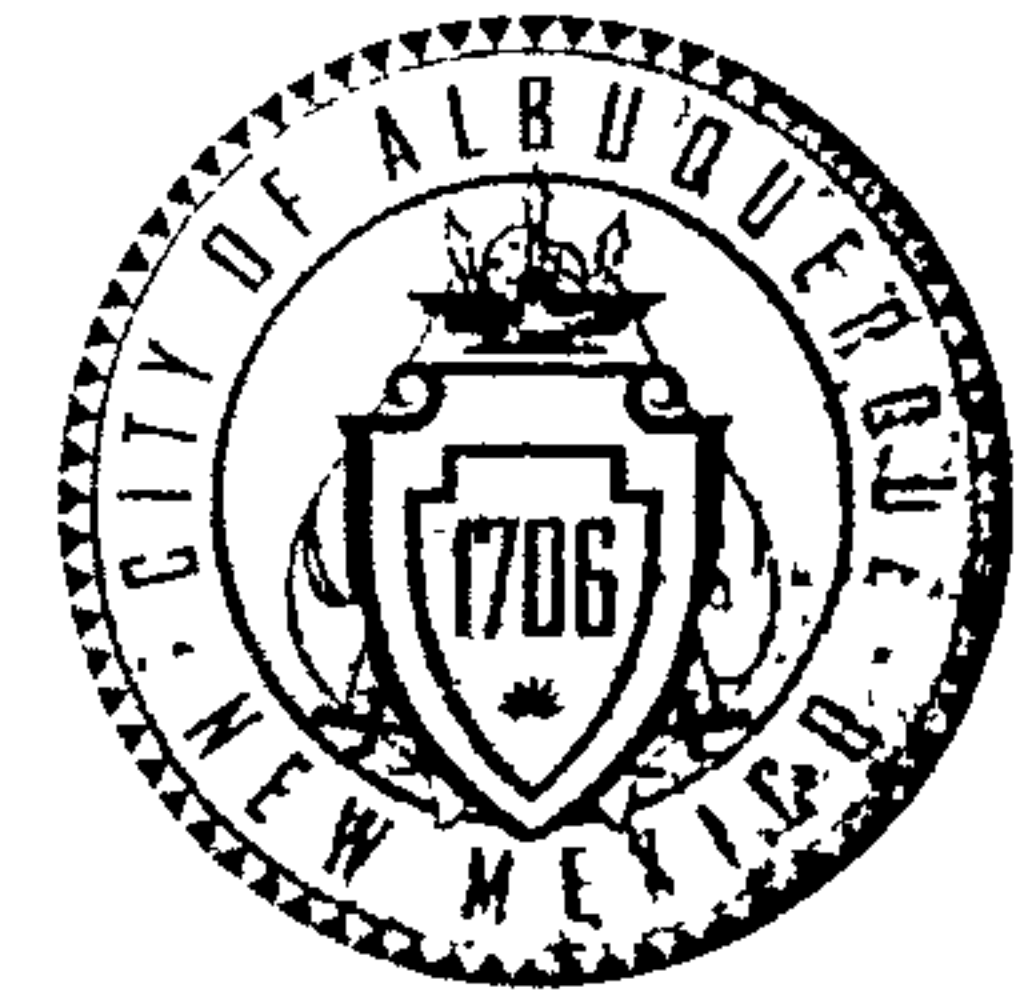
Sincerely,

Kristal D. Metro, P.E.  
Traffic Engineer, Planning Dept.  
Development and Building Services

C: File



# CITY OF ALBUQUERQUE



August 29, 2008

Richard P. Bennett, R.A.  
**Rick Bennett Architects**  
1104 Park Avenue SW  
Albuquerque, NM 87102

**Re: Precious Moments Daycare II, 4011 Ladera NW, Traffic Circulation Layout**  
**Architect's Stamp dated 8-26-08 (G-11/D037)**

Dear Mr. Bennett,

Based upon the information provided in your submittal received 8-26-08, the above referenced plan cannot be approved for Building Permit until the following comments are addressed:

- ✓ 1. Include additional information (dimensions, etc.) and call out the equestrian path along the property. Details must be provided.
- ✓ 2. Define the maximum slope for all wheelchair ramps. Please amend the 6:12 slope for the pedestrian ramp. All slopes should read "1:12 Max."
- ✓ 3. Provide a detail for the wheelchair ramp adjacent to the handicapped parking stall. Please note the width of the landing.

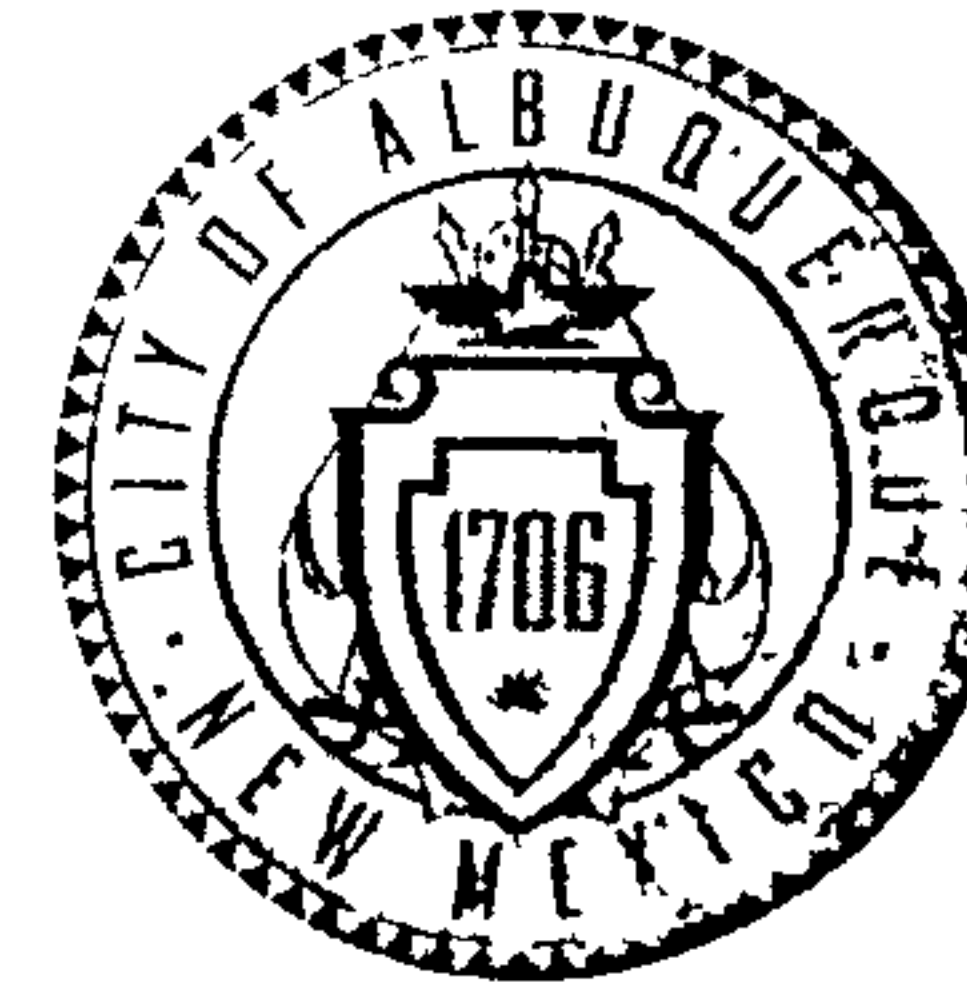
If you have any questions, you can contact me at 924-3991.

Sincerely,

Kristal D. Metro, P.E.  
Traffic Engineer, Planning Dept.  
Development and Building Services

C: File

# CITY OF ALBUQUERQUE



August 15, 2008

Richard P. Bennett, R.A.  
**Rick Bennett Architects**  
1104 Park Avenue SW  
Albuquerque, NM 87102

**Re: Precious Moments Daycare II, Lot 3 Flamingo Heights Unit 0-1, Traffic  
Circulation Layout**

**Architect's Stamp dated 7-31-08 (G-11/D037)**

Dear Mr. Bennett,

Based upon the information provided in your submittal received 8-01-08, the above referenced plan cannot be approved for Building Permit until the following comments are addressed:

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

1. ✓ Include the address for this site.
2. ✓ Provide a recorded copy of the reciprocal access easement.
3. ✓ Include the width of the proposed sidewalk along Ladera Drive. Show any obstructions.
4. → Please note that you must provide an adequate crossing at the equestrian path. Details must be provided. ←
5. ✗ Call out the distance from Atrisco Drive to the proposed curb cut.
6. ✓ A six-foot wide, ADA accessible, pedestrian pathway must be provided from Ladera Drive.
7. → Define the maximum slope for all wheelchair ramps. *revise the 6:12 slope*
8. ✓ Please note that the 2-foot overhang is not allowed to encroach on the 6 foot required width of sidewalk.

If you have any questions, you can contact me at 924-3991.

Sincerely,

Kristal D. Metro, P.E.  
Traffic Engineer, Planning Dept.  
Development and Building Services

C: File

*call out landing width*

RETURN TO: FIRST AMERICAN TITLE  
LISA ORTEGA GF: 1154977

## AGREEMENT FOR RECIPROCAL ACCESS EASEMENT

This Agreement for Reciprocal Access Easement ("Agreement") is entered into effective as of August 6, 2008, by and between William B. O'Connell, a single man ("O'Connell"), its successors and assigns, and Allen Family Investments 2, LLC ("Allen"), its successors and assigns. O'Connell and Allen are sometimes individually referred to as the "Owner" and collectively as the "Owners".

### Recitals

A. O'Connell is the Owner of the following described real property:

Lot numbered Two (2) of Flamingo Heights Subdivision, Bernalillo County, New Mexico, as the same is shown and designated on the plat of said subdivision, filed in the Office of the County Clerk of Bernalillo County, New Mexico on March 21, 1968, in Plat Book C6, folio 206 ("Lot 2").

B. Allen is the Owner of the following described real property:

Lot numbered Three (3) of Flamingo Heights Subdivision, Bernalillo County, New Mexico, as the same is shown and designated on the plat of said subdivision, filed in the Office of the County Clerk of Bernalillo County, New Mexico on March 21, 1968, in Plat Book C6, folio 206 ("Lot 3").

C. Lot 2 and Lot 3 are sometimes individually referred to as the "Property" and jointly referred to as the "Properties".

D. The City of Albuquerque is willing to allow a thirty foot (30') wide shared curb cut for the joint benefit of the Properties provided the Owners of these Properties enter into an agreement for reciprocal access.

### Agreement

Now, therefore, in consideration of the benefits and burdens relative to the Properties, and the covenants and agreements set forth in this Agreement, the Owners agree as follows:

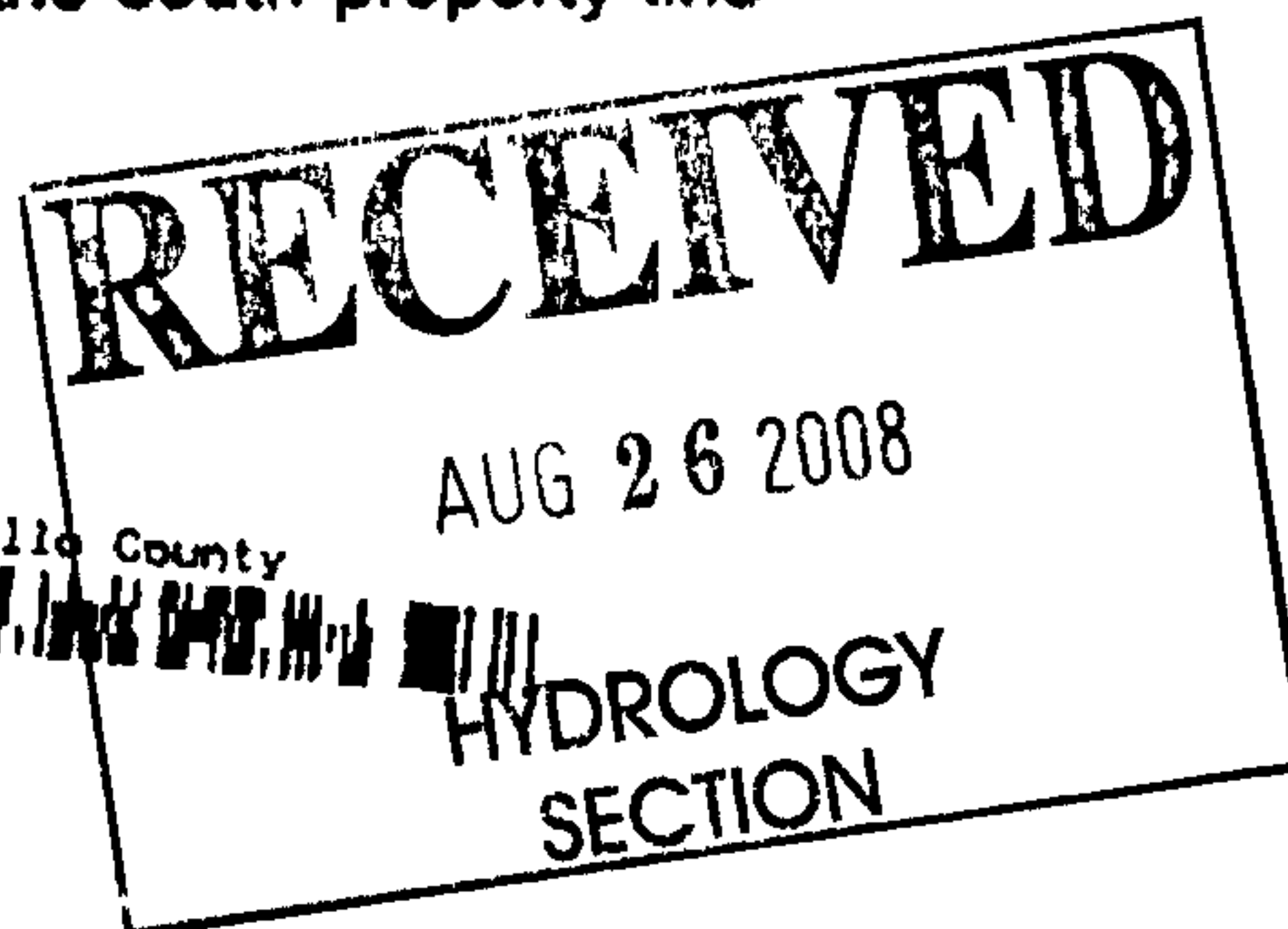
#### 1. Establishment of Easements.

1.1 Grant of Easement by O'Connell. O'Connell grants to Allen a perpetual access easement appurtenant to Lot 3 for the benefit of the Owners, mortgagees and tenants of Lot 3, and to the licensees, employees, guests and invitees of the Owners, mortgagees and tenants of Lot 3 (collectively, the "Lot 3 Permittees"). The access easement shall be forty-five feet (45') in length from the south property line and shall be the westerly fifteen feet (15') of Lot 2.

Doc# 2008088336

08/06/2008 02:40 PM Page 1 of 6  
AGRE R: \$19.00 H. Toulouse Oliver, Bernalillo County

08/06/2008 02:40 PM Page 1 of 6  
AGRE R: \$19.00 H. Toulouse Oliver, Bernalillo County





1.2 Grant of Easement by Allen. Allen grants to O'Connell a perpetual access easement appurtenant to Lot 2 for the benefit of the Owners, mortgagees and tenants of Lot 2, and to the licensees, employees, guests and invitees of the Owners, mortgagees and tenants of Lot 2 (collectively, the "Lot 2 Permittees"). The access easement shall be forty-five feet (45') in length from the south property line and shall be the easterly fifteen feet (15') of Lot 3.

1.3 Interpretation. The easements described in Sections 1.1 and 1.2 are sometimes individually referred to as the "Easement" and collectively as the "Easements", and the areas where the Easements are located are sometimes individually referred to as the "Easement Area" and collectively as the "Easement Areas".

1.4 General Management of Easement Areas.

(a) No Obstruction. No Owner nor any of such Owners' Permittees shall obstruct any portion of an Easement Area which will impair the continuous and uninterrupted use of any Easement Area for the purposes set forth in this Agreement.

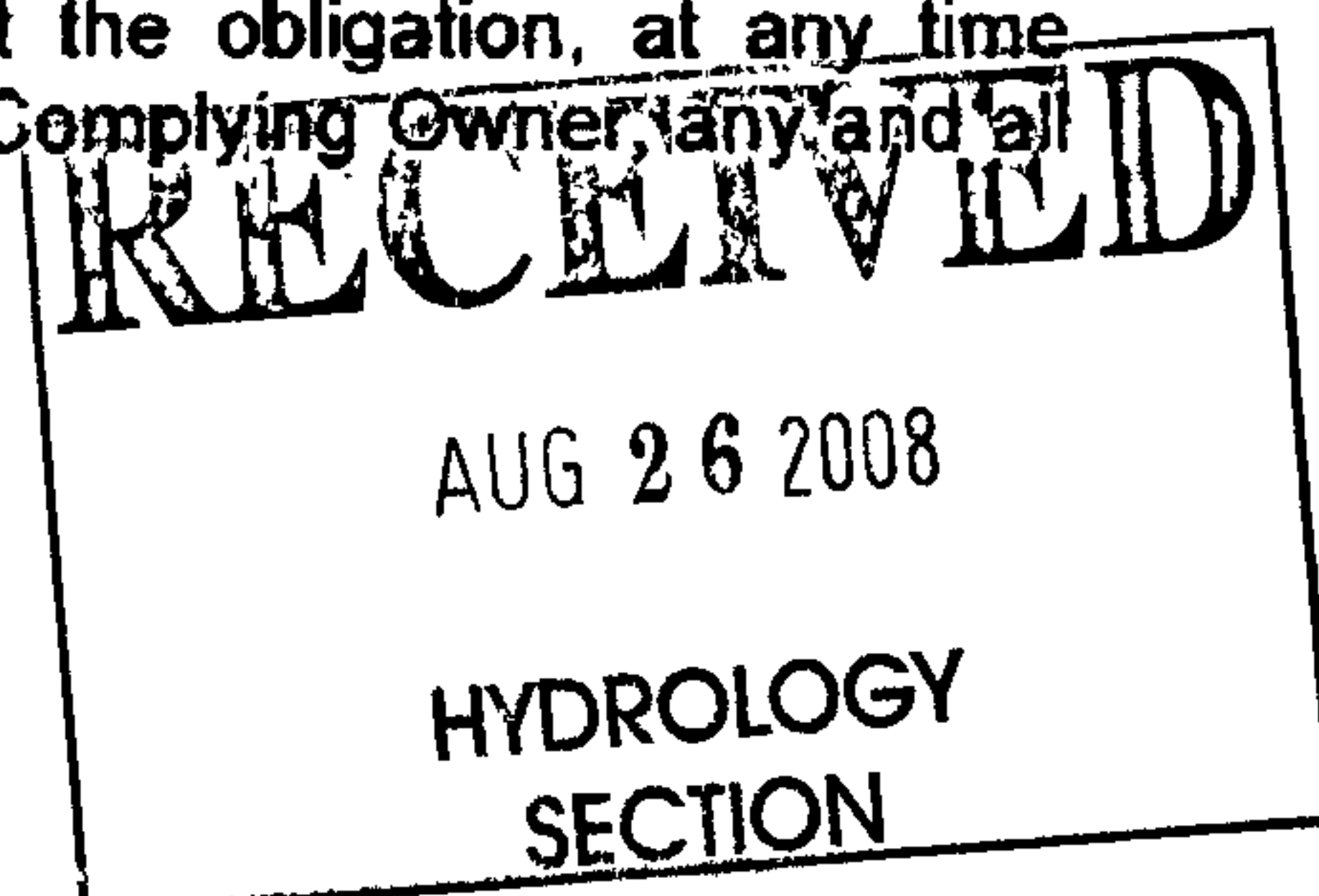
(b) No Charges. No Owner shall collect, attempt to collect or permit the collection of any charge for the use of an Easement Area.

1.5 Reasonable Care. The Owners and their respective Permittees shall exercise reasonable care in the use and enjoyment of the Easement Areas and in exercising any of their respective rights under the Easements. The Owners shall not utilize portions of the other Owner's Property other than the Easement Areas without obtaining the prior written approval of the other Owner, which approval may be withheld in the sole discretion of the other Owner.

2. Maintenance and Use of Easement Areas.

2.1 Required Maintenance. Maintenance or repair of the Easement Areas and all improvements constructed on the Easement Areas, whether ordinary or extraordinary, capital or expense in nature, major or minor, shall be performed by the Owner owning the Property on which such maintenance or repair work is required, at such Owner's sole cost and expense. All such work shall be performed in such manner and at such intervals by the Owner of the Property covered by an Easement Area as shall be required to at all times maintain the Easement Area in a first class condition throughout the term of this Agreement.

2.2. Failure to Maintain. If an Owner fails to meet its obligation to maintain or repair its Easement Area in accordance with this Agreement (the "Non-Complying Owner"), the other Owner may deliver written notice of such failure to the Non-Complying Owner. If the Non-Complying Owner fails to commence the necessary maintenance or repair within thirty (30) days of the giving of notice, the other Owner shall have the absolute and unconditional right, but not the obligation, at any time thereafter to cause to be performed, on behalf of the Non-Complying Owner, any and all





appurtenant to and run with the Properties, and shall inure to the benefit of the Properties and any subsequent owners of the Properties and their respective successors and assigns. Any reference in this Agreement to "O'Connell" shall mean the current or future owner(s) of Lot 2. Any reference in this Agreement to "Allen" shall mean the current or future owner(s) of Lot 3.

5.3 Dedication. The provisions of this Agreement shall not be deemed to constitute a dedication for public use nor create any rights to the general public.

5.4 Enforcement Rights.

(a) An Owner may enforce the provisions of this Agreement (i) by a suit at law for damages for any compensable breach of or noncompliance with any of the provisions of this Agreement or for declaratory relief to determine the enforceability of any such provisions, (ii) by an action in equity or otherwise for specific performance to enforce compliance with the provisions of this Agreement or for any injunction to enjoin the continuance of any breach or violation of the provisions of this Agreement, or (iii) through any other right or remedy to which such Owner may be entitled at law or in equity.

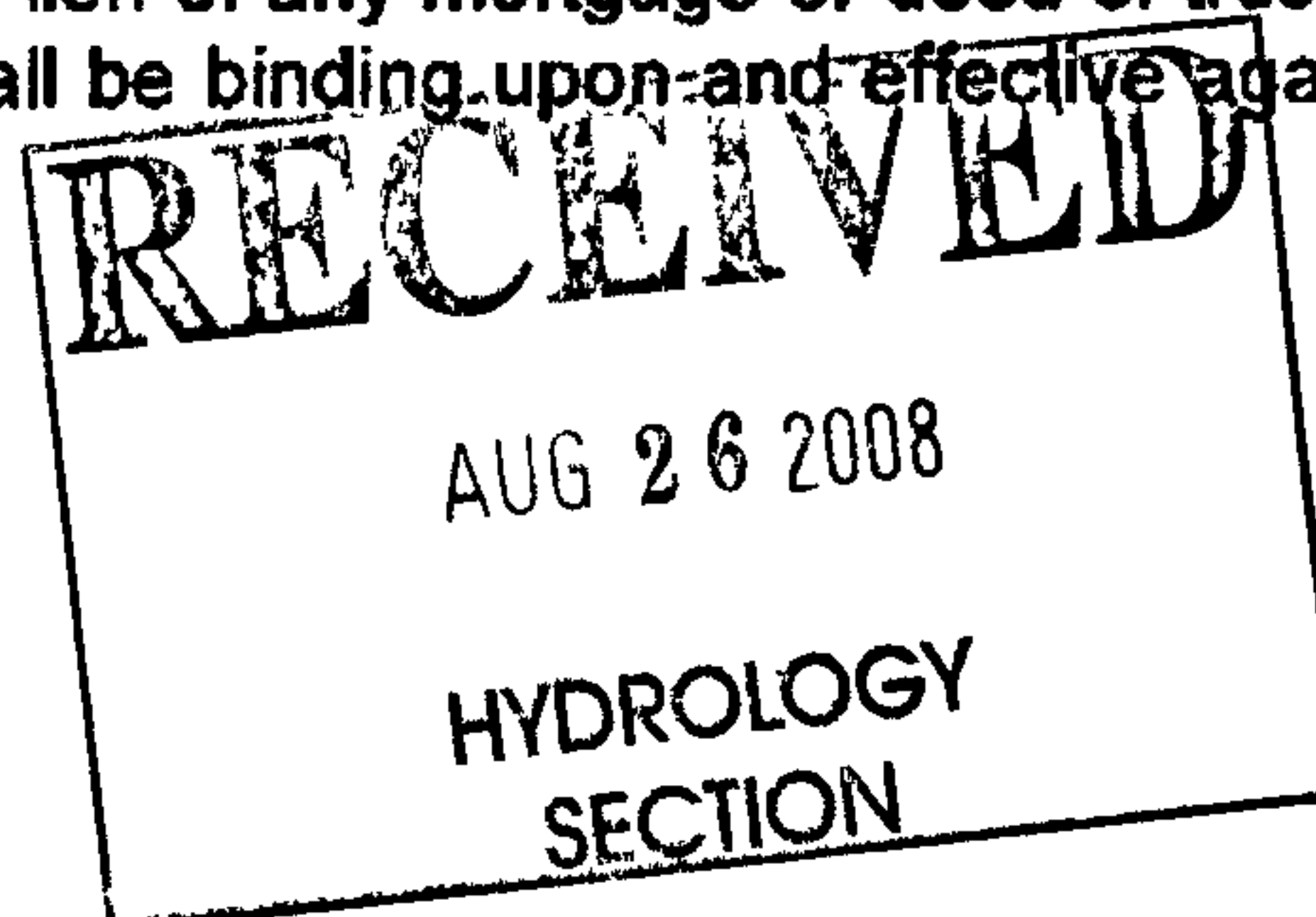
(b) The rights and remedies established under this Agreement shall be deemed to be cumulative, and no one of such rights and remedies shall be exclusive of any other right or remedy which either Owner might otherwise have by virtue of the terms of this Agreement or under law. The exercise of any particular right or remedy shall not impair the right to exercise any other right or remedy.

(c) This Agreement contains the complete agreement of the Owners and may not be altered or amended except by a written agreement signed by the Owners.

5.5 No Waiver. No waiver of any default under this Agreement shall be implied from any omission by an Owner to take any action in respect to such default, if such default continues or is repeated. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. A waiver of any default in the performance of any provision contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other provision. The consent to or approval of an Owner to any act or request requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to any subsequent similar acts or requests.

5.6 Invalidation. The invalidation of any provision of this Agreement shall in no way affect any other provision, or the application of any other provision, and the same shall remain in full force and effect.

5.7 Mortgagee Protection. A breach of any of the provisions of this Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust on either of the Properties, but such provisions shall be binding upon and effective against



maintenance or repair on the Non-Complying Owner's Easement Area. Notwithstanding the foregoing, with respect to emergency situations, no notice or cure rights need be afforded to the Non-Complying Owner before the other Owner may commence maintenance or repair. The cost of any such maintenance or repair shall be charged to, and paid by, the Non-Complying Owner within thirty (30) days after the giving of written notice to the Non-Complying Owner by the other Owner who caused such work to be performed. The notice shall set forth the nature of the work performed, the name and address of the party or parties who performed the work, and the costs incurred for such performance including copies of any applicable invoices from the party or parties who performed the work. If the Non-Complying Owner fails to reimburse the other Owner for the costs within the thirty (30) day period, then (i) the other Owner shall have the right to enforce payment by an action at law and/or in equity and (ii) the other Owner shall have the right to file a lien against the Non-Complying Owner's Property in an amount equal to the sum of (x) all unpaid costs billed to the Non-Complying Owner, plus (y) interest on such amount at the prime rate as established in the Federal Reserve's Statistical Release H15 (519), adjusted on the date of any change in the prime rate, from the date of billing until paid, plus (z) any and all attorneys' fees, costs and disbursements incurred by such other Owner in collecting the same, enforcing the provisions of this Agreement and filing and foreclosing such lien. Such lien may be foreclosed in the manner provided by applicable law.

4. Insurance.

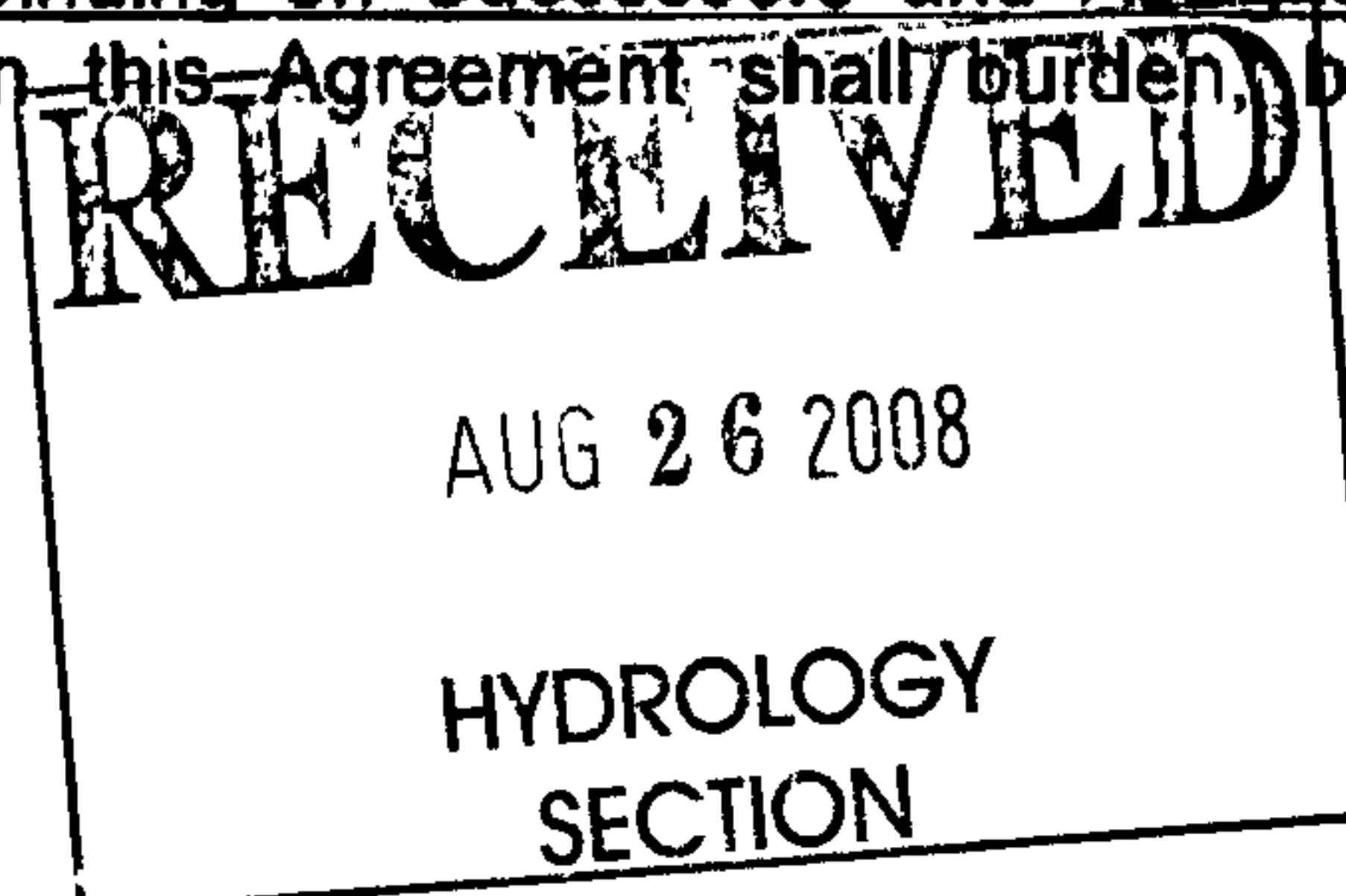
4.1 Public Liability Insurance. Each Owner at its own cost shall pay for and keep, or cause to be kept, in full force and effect a policy or policies of commercial general liability insurance with coverage limits of not less than One Million Dollars (1,000,000) combined single limit for bodily injury and property damage, insuring against any and all liability of an Owner with respect to its Easement Area or arising out of the use of its Easement Area or related to the exercise of any rights of an Owner and its Permittees pursuant to this Agreement. Each Owner shall, upon execution of this Agreement, and thereafter within ~~ten (10)~~ <sup>thirty (30)</sup> days of any written request by the other Owner, deliver to the other Owner a certificate evidencing such insurance.

4.2 Indemnity. To the fullest extent permitted by law, each Owner shall defend, indemnify, protect and hold the other Owner harmless from any and all liability whatsoever on account of any damage, injury, lien, claim or demands arising from the use by the indemnifying Owner and its Permittees, or related to the breach by the indemnifying Owner of its duties and obligations under this Agreement. The obligations to indemnify set forth above shall also include reasonable attorneys' fees.

5. General Provisions.

5.1 Compliance with Law. The Owners shall comply with the governmental regulations in connection with the Owners' use and enjoyment of the Easement Areas.

5.2 Easements and Covenants Binding on Successors and Assigns. The Easements and the provisions contained in this Agreement shall burden, be



any parties whose title to such Properties is acquired by foreclosure, trustee's sale or otherwise.

5.8 Attorneys' Fees. If an Owner shall obtain legal counsel or bring an action against the other Owner by reason of the breach of any provision of this Agreement, the unsuccessful Owner shall pay to the prevailing Owner reasonable attorney's fees and other related costs including court costs, which shall be payable whether or not any action is prosecuted to judgment. The term "prevailing Owner" shall include, without limitation, an Owner who obtains legal counsel or brings an action against the other Owner by reason of the other Owner's breach or default and obtains substantially the relief sought, whether by compromise, settlement or judgment.

5.9 General Interpretation.

(a) This Agreement shall be governed by, enforced and construed in accordance with the laws of the State of New Mexico. If any provision in this Agreement, or the application of any provision, shall to any extent be invalid or unenforceable, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(b) When the context in which the words are used indicates that such is the intent, words in the singular number shall include the plural and vice versa. All pronouns shall be deemed to refer to all genders, and the term "Owner" shall include natural individuals, associations, trusts, estates and all other forms of entities. The captions of the articles and sections of this Agreement are for convenience of reference only and shall not be considered or referred to in resolving questions of interpretation or construction.

(c) The language of this Agreement shall not be construed for or against any Owner.

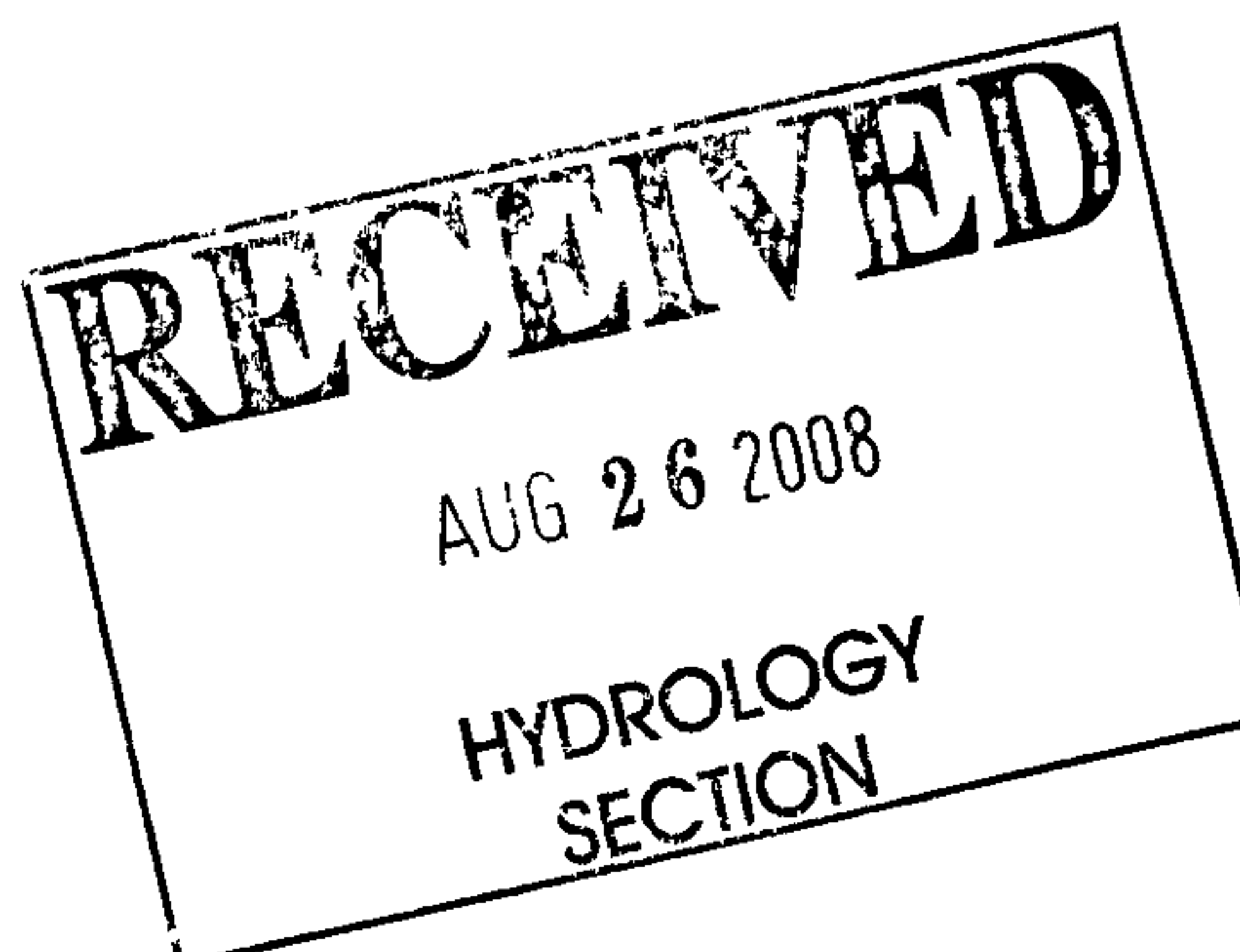
"O'CONNELL"

  
William B. O'Connell

"ALLEN"

Allen Family Investments 2, LLC  
a New Mexico limited liability company

By:   
Brad B. Allen  
Managing Member






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

This instrument was acknowledged before me on August 6, 2008 by William B. O'Connell.

*[Handwritten signature]*

My commission expires:  
5/23/2012


Notary Public      OFFICIAL SEAL  
 LISA M. CHAVEZ  
NOTARY PUBLIC-STATE OF NEW MEXICO  
My commission expires: \_\_\_\_\_

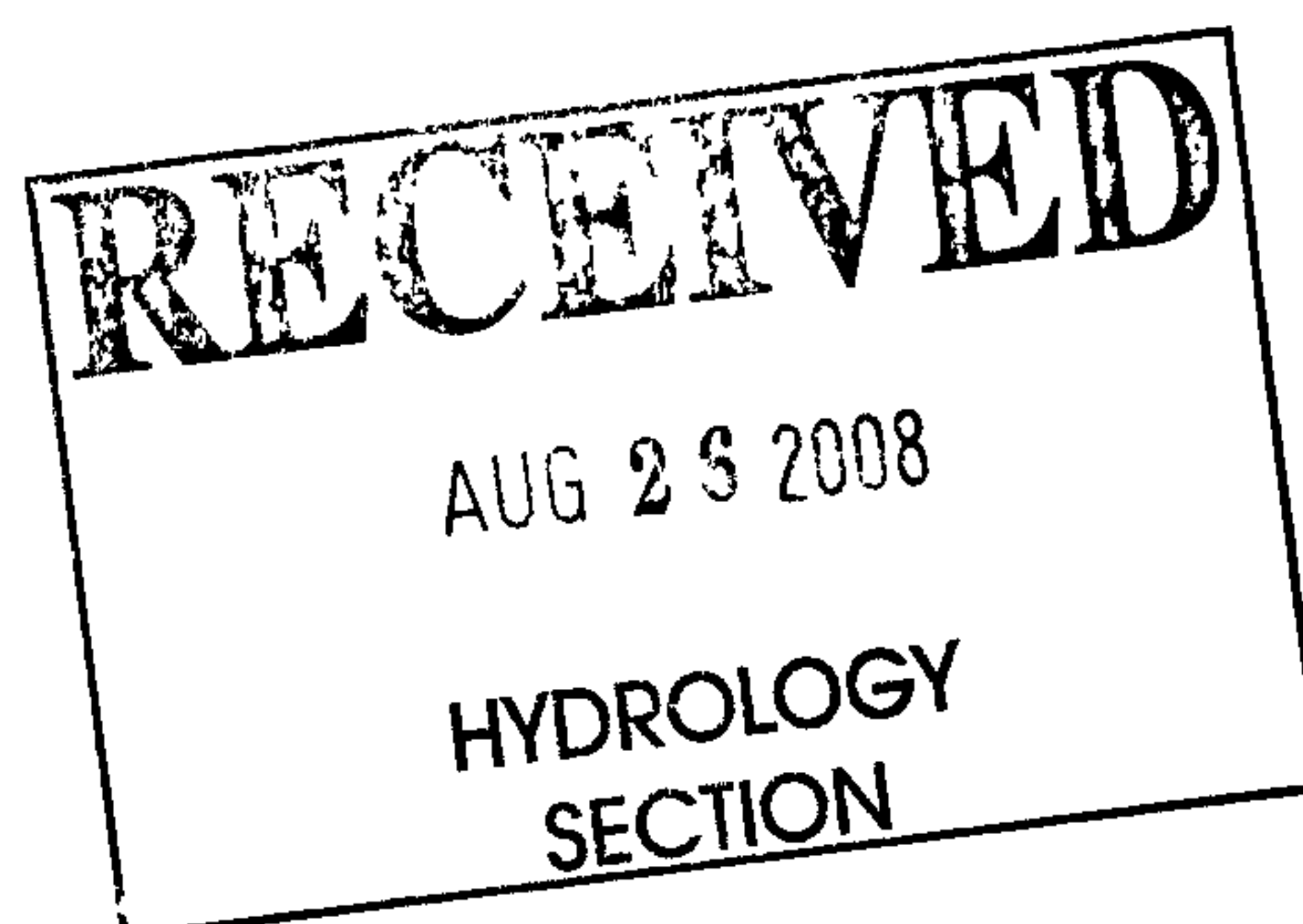
STATE OF NEW MEXICO       )  
  ) ss.  
COUNTY OF BERNALILLO    )

This instrument was acknowledged before me on August 6, 2008 by Brad B. Allen, Managing Member of Allen Family Investments 2, LLC, a New Mexico limited liability company.

*[Handwritten signature]*

My commission expires:  
5/23/2012

Notary Public  
 OFFICIAL SEAL  
LISA M. CHAVEZ  
NOTARY PUBLIC-STATE OF NEW MEXICO  
My commission expires: \_\_\_\_\_





RETURN TO: FIRST AMERICAN TITLE  
LIBA ORTEGA GF: 1154977

## AGREEMENT FOR RECIPROCAL ACCESS EASEMENT

This Agreement for Reciprocal Access Easement ("Agreement") is entered into effective as of August 6, 2008, by and between William B. O'Connell, a single man ("O'Connell"), its successors and assigns, and Allen Family Investments 2, LLC ("Allen"), its successors and assigns. O'Connell and Allen are sometimes individually referred to as the "Owner" and collectively as the "Owners".

### Recitals

A. O'Connell is the Owner of the following described real property:

Lot numbered Two (2) of Flamingo Heights Subdivision, Bernalillo County, New Mexico, as the same is shown and designated on the plat of said subdivision, filed in the Office of the County Clerk of Bernalillo County, New Mexico on March 21, 1968, in Plat Book C6, folio 206 ("Lot 2").

B. Allen is the Owner of the following described real property:

Lot numbered Three (3) of Flamingo Heights Subdivision, Bernalillo County, New Mexico, as the same is shown and designated on the plat of said subdivision, filed in the Office of the County Clerk of Bernalillo County, New Mexico on March 21, 1968, in Plat Book C6, folio 206 ("Lot 3").

C. Lot 2 and Lot 3 are sometimes individually referred to as the "Property" and jointly referred to as the "Properties".

D. The City of Albuquerque is willing to allow a thirty foot (30') wide shared curb cut for the joint benefit of the Properties provided the Owners of these Properties enter into an agreement for reciprocal access.

### Agreement

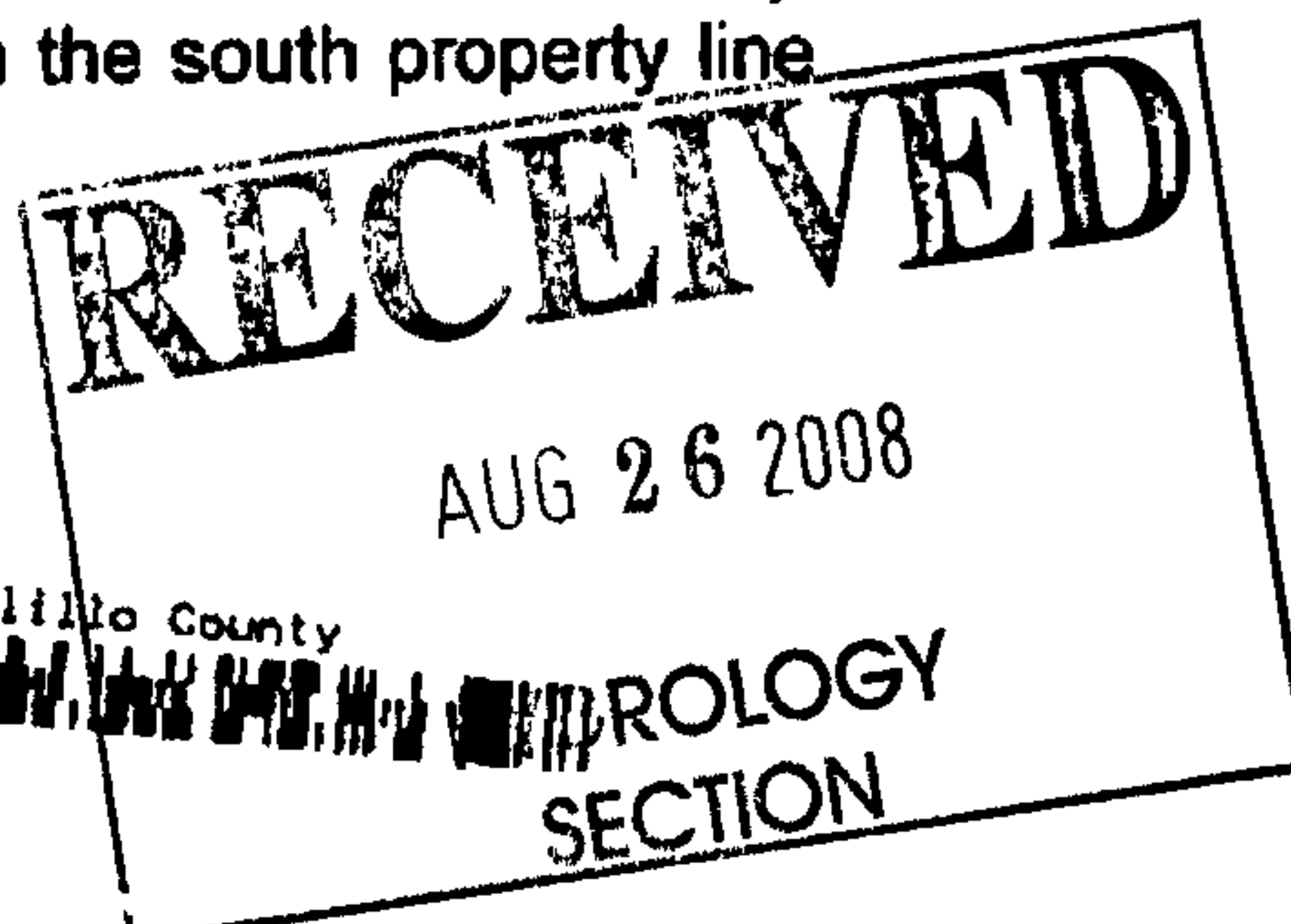
Now, therefore, in consideration of the benefits and burdens relative to the Properties, and the covenants and agreements set forth in this Agreement, the Owners agree as follows:

#### 1. Establishment of Easements.

1.1 Grant of Easement by O'Connell. O'Connell grants to Allen a perpetual access easement appurtenant to Lot 3 for the benefit of the Owners, mortgagees and tenants of Lot 3, and to the licensees, employees, guests and invitees of the Owners, mortgagees and tenants of Lot 3 (collectively, the "Lot 3 Permittees"). The access easement shall be forty-five feet (45') in length from the south property line and shall be the westerly fifteen feet (15') of Lot 2.

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AGRE R: \$19.00 M. Toulouse Oliver, Bernalillo County



1.2 Grant of Easement by Allen. Allen grants to O'Connell a perpetual access easement appurtenant to Lot 2 for the benefit of the Owners, mortgagees and tenants of Lot 2, and to the licensees, employees, guests and invitees of the Owners, mortgagees and tenants of Lot 2 (collectively, the "Lot 2 Permittees"). The access easement shall be forty-five feet (45') in length from the south property line and shall be the easterly fifteen feet (15') of Lot 3.

1.3 Interpretation. The easements described in Sections 1.1 and 1.2 are sometimes individually referred to as the "Easement" and collectively as the "Easements", and the areas where the Easements are located are sometimes individually referred to as the "Easement Area" and collectively as the "Easement Areas".

1.4 General Management of Easement Areas.

(a) No Obstruction. No Owner nor any of such Owners' Permittees shall obstruct any portion of an Easement Area which will impair the continuous and uninterrupted use of any Easement Area for the purposes set forth in this Agreement.

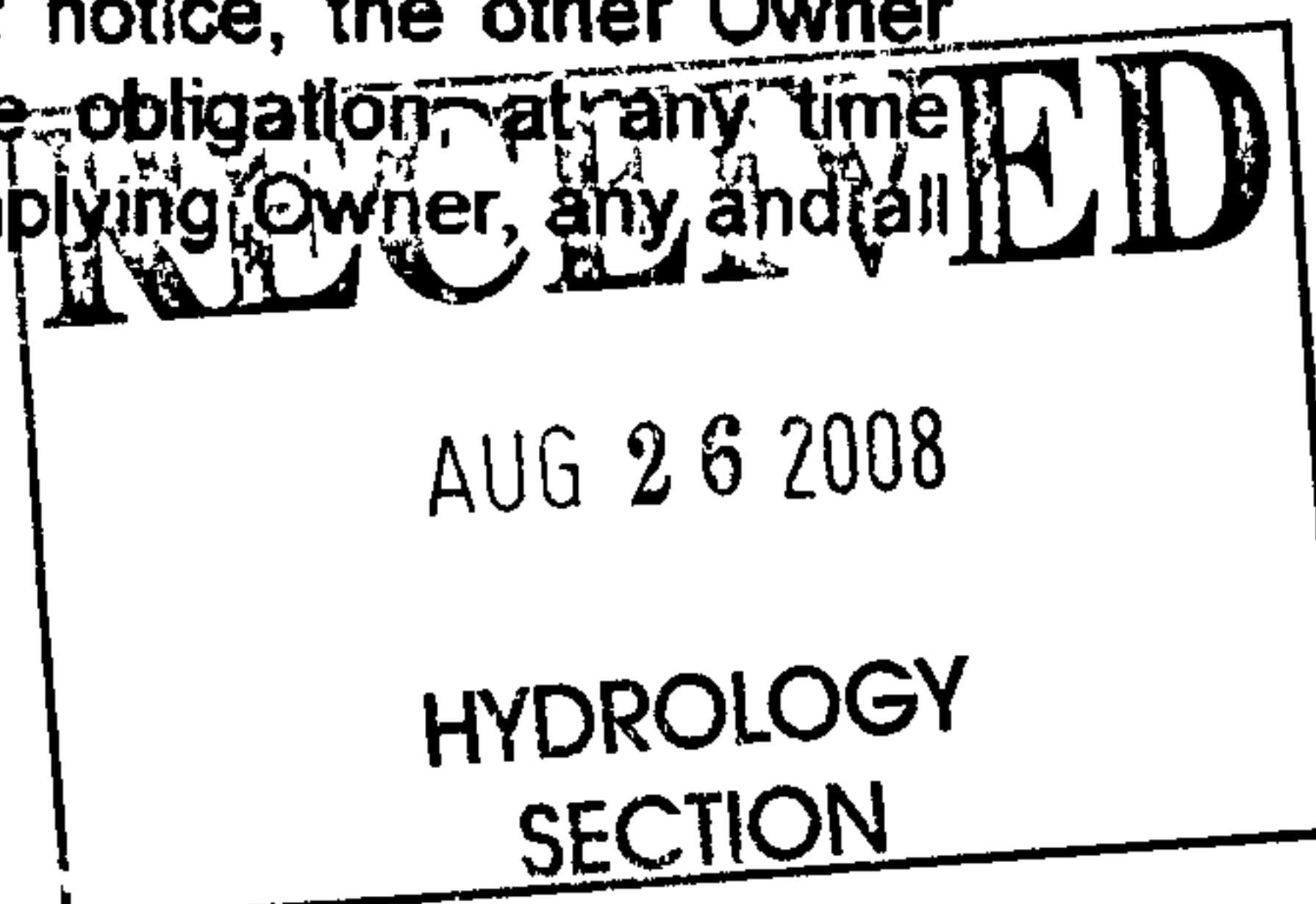
(b) No Charges. No Owner shall collect, attempt to collect or permit the collection of any charge for the use of an Easement Area.

1.5 Reasonable Care. The Owners and their respective Permittees shall exercise reasonable care in the use and enjoyment of the Easement Areas and in exercising any of their respective rights under the Easements. The Owners shall not utilize portions of the other Owner's Property other than the Easement Areas without obtaining the prior written approval of the other Owner, which approval may be withheld in the sole discretion of the other Owner.

2. Maintenance and Use of Easement Areas.

2.1 Required Maintenance. Maintenance or repair of the Easement Areas and all improvements constructed on the Easement Areas, whether ordinary or extraordinary, capital or expense in nature, major or minor, shall be performed by the Owner owning the Property on which such maintenance or repair work is required, at such Owner's sole cost and expense. All such work shall be performed in such manner and at such intervals by the Owner of the Property covered by an Easement Area as shall be required to at all times maintain the Easement Area in a first class condition throughout the term of this Agreement.

2.2. Failure to Maintain. If an Owner fails to meet its obligation to maintain or repair its Easement Area in accordance with this Agreement (the "Non-Complying Owner"), the other Owner may deliver written notice of such failure to the Non-Complying Owner. If the Non-Complying Owner fails to commence the necessary maintenance or repair within thirty (30) days of the giving of notice, the other Owner shall have the absolute and unconditional right, but not the obligation, at any time thereafter to cause to be performed, on behalf of the Non-Complying Owner, any and all



appurtenant to and run with the Properties, and shall inure to the benefit of the Properties and any subsequent owners of the Properties and their respective successors and assigns. Any reference in this Agreement to "O'Connell" shall mean the current or future owner(s) of Lot 2. Any reference in this Agreement to "Allen" shall mean the current or future owner(s) of Lot 3.

5.3 Dedication. The provisions of this Agreement shall not be deemed to constitute a dedication for public use nor create any rights to the general public.

5.4 Enforcement Rights.

(a) An Owner may enforce the provisions of this Agreement (i) by a suit at law for damages for any compensable breach of or noncompliance with any of the provisions of this Agreement or for declaratory relief to determine the enforceability of any such provisions, (ii) by an action in equity or otherwise for specific performance to enforce compliance with the provisions of this Agreement or for any injunction to enjoin the continuance of any breach or violation of the provisions of this Agreement, or (iii) through any other right or remedy to which such Owner may be entitled at law or in equity.

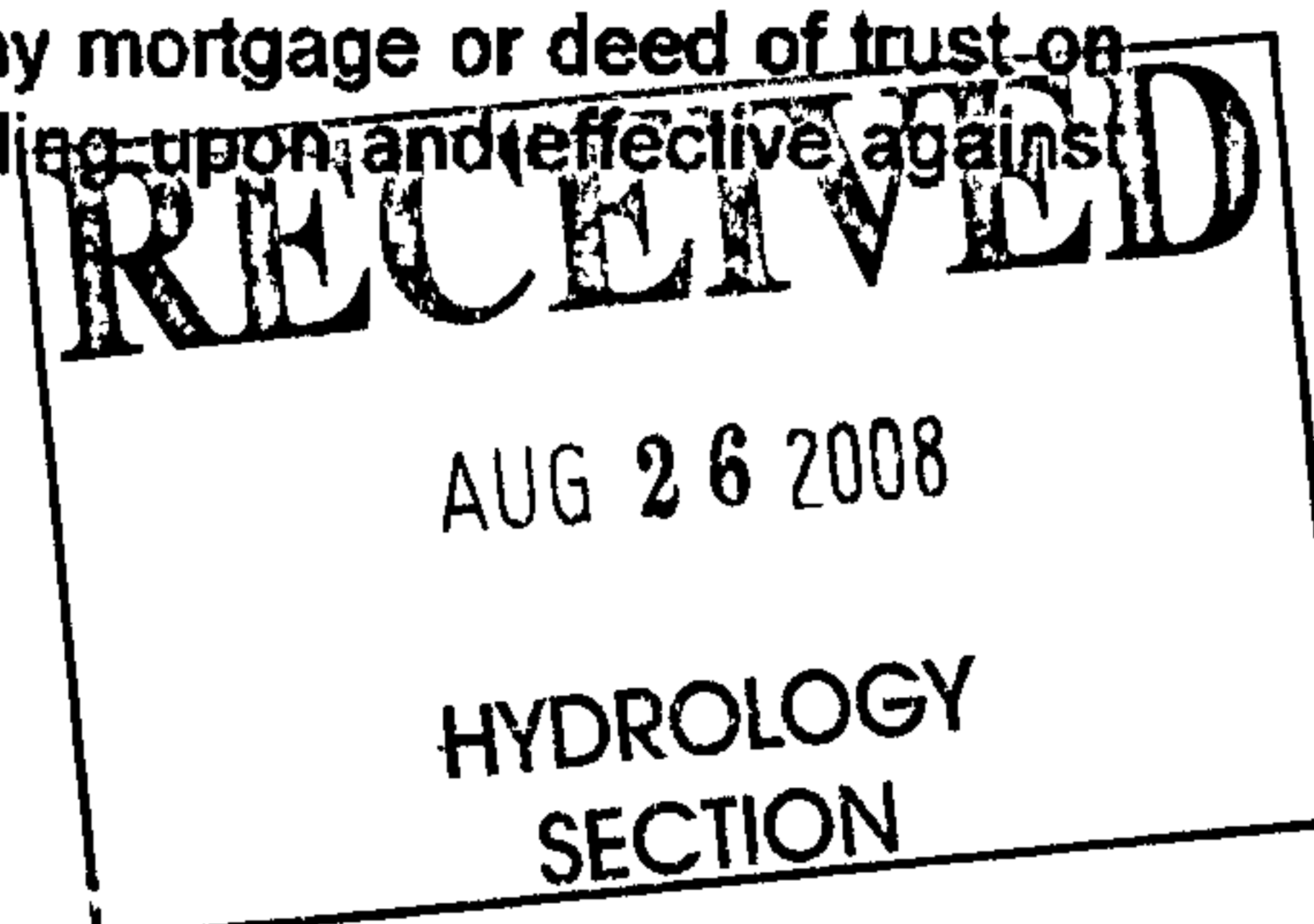
(b) The rights and remedies established under this Agreement shall be deemed to be cumulative, and no one of such rights and remedies shall be exclusive of any other right or remedy which either Owner might otherwise have by virtue of the terms of this Agreement or under law. The exercise of any particular right or remedy shall not impair the right to exercise any other right or remedy.

(c) This Agreement contains the complete agreement of the Owners and may not be altered or amended except by a written agreement signed by the Owners.

5.5 No Waiver. No waiver of any default under this Agreement shall be implied from any omission by an Owner to take any action in respect to such default, if such default continues or is repeated. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. A waiver of any default in the performance of any provision contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other provision. The consent to or approval of an Owner to any act or request requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to any subsequent similar acts or requests.

5.6 Invalidation. The invalidation of any provision of this Agreement shall in no way affect any other provision, or the application of any other provision, and the same shall remain in full force and effect.

5.7 Mortgagee Protection. A breach of any of the provisions of this Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust on either of the Properties, but such provisions shall be binding upon and effective against





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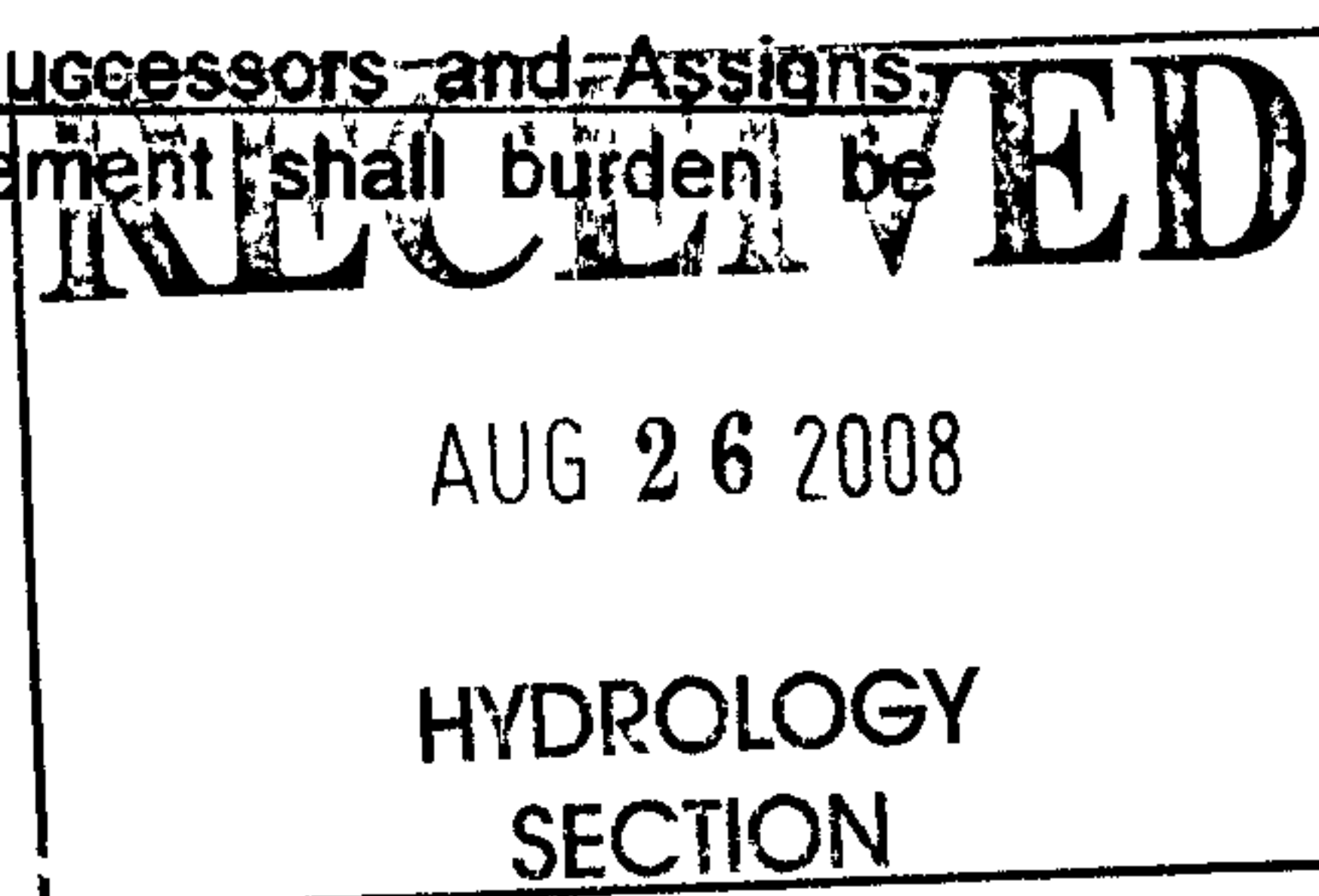
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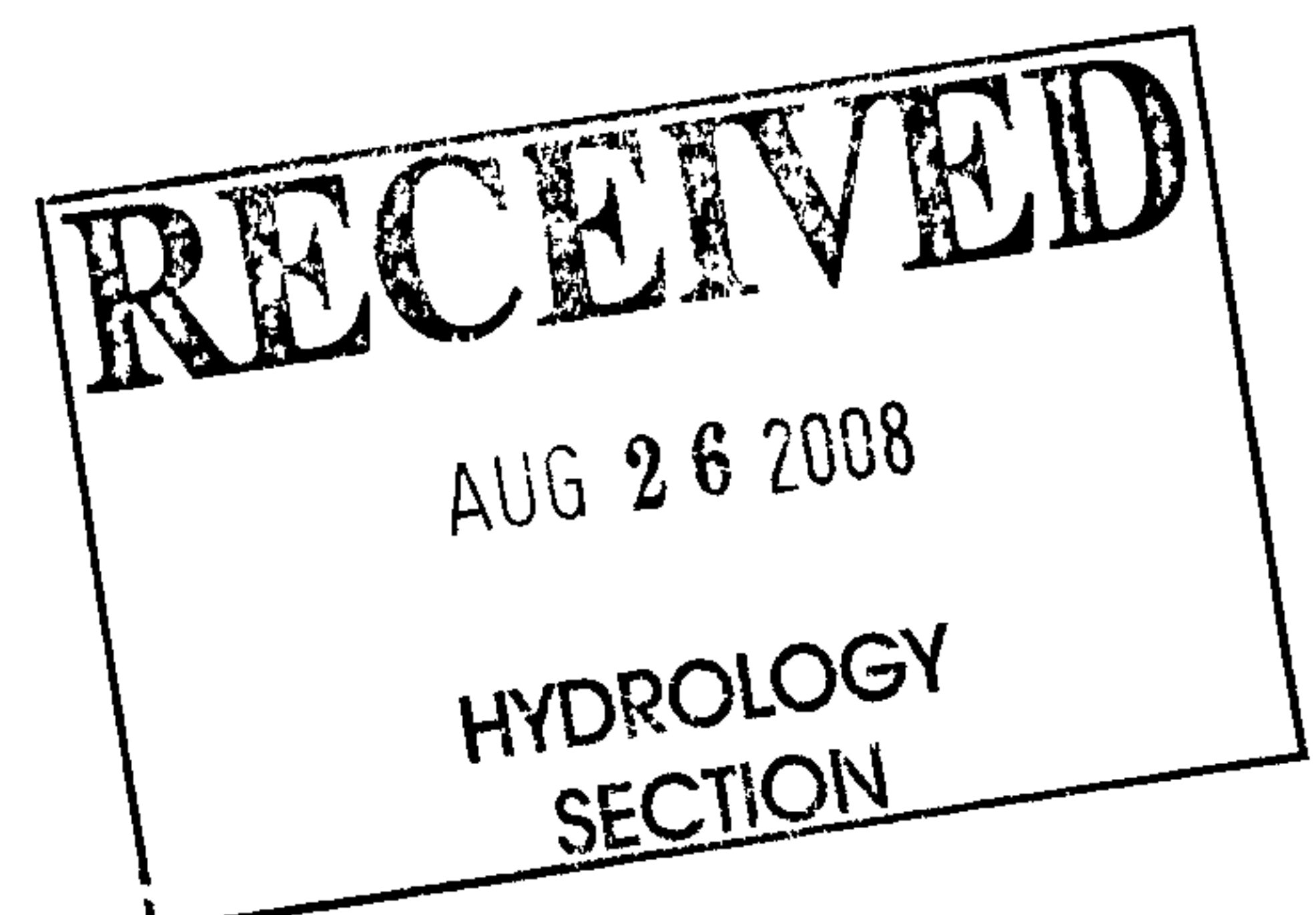
"O'CONNELL"

  
William B. O'Connell

"ALLEN"

Allen Family Investments 2, LLC  
a New Mexico limited liability company

By:   
Brad B. Allen  
Managing Member



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

This instrument was acknowledged before me on August 6, 2008 by William B. O'Connell.

My commission expires:

5/23/2012

Notary Public



OFFICIAL SEAL  
LISA M. CHAVEZ  
NOTARY PUBLIC-STATE OF NEW MEXICO  
My commission expires: \_\_\_\_\_

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

This instrument was acknowledged before me on August 6, 2008 by Brad B. Allen, Managing Member of Allen Family Investments 2, LLC, a New Mexico limited liability company.

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5/23/2012

Notary Public



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