

DRAINAGE INFORMATION SHEET

PROJECT TITLE: NEW RETAIL BUILDING FOR TJ HARDWARE ZONE ATLAS/DRNG. FILE #: 616-D57A

DRB #: _____ EPC #: _____ WORK ORDER #: _____

LEGAL DESCRIPTION: TRACT A-3-A-1-D CANDELARIA BUSINESS CENTER

CITY ADDRESS: _____

ENGINEERING FIRM: Lovelady & Associates CONTACT: Frank D. Lovelady

ADDRESS: 300 ALAMOSA NW PHONE: 345-2267

OWNER: TJ HARDWARE CONTACT: TONY PRANDO

ADDRESS: 2513 COMANCHE NE PHONE: 881-4325

ARCHITECT: CLAUDIO VIGIL CONTACT: CLAUDIO VIGIL

ADDRESS: 1305 TIJERAS NW #7102 PHONE: 842-1113

SURVEYOR: TONY HARRIS SURVEYING CONTACT: TONY HARRIS

ADDRESS: 2412-D MONROE ST #E PHONE: 889-8056

CONTRACTOR: GEORGE BRUNACINI CONST. CONTACT: GEORGE BRUNACINI

ADDRESS: 101 CANDELARIA NE #87107 PHONE: 345-3909

TYPE OF SUBMITTAL:

- ☐ DRAINAGE REPORT
- ☐ DRAINAGE PLAN
- ☐ CONCEPTUAL GRADING & DRAINAGE PLAN
- ☐ GRADING PLAN
- ☐ EROSION CONTROL PLAN
- ☒ ENGINEER'S CERTIFICATION
- ☐ OTHER

PRE-DESIGN MEETING:

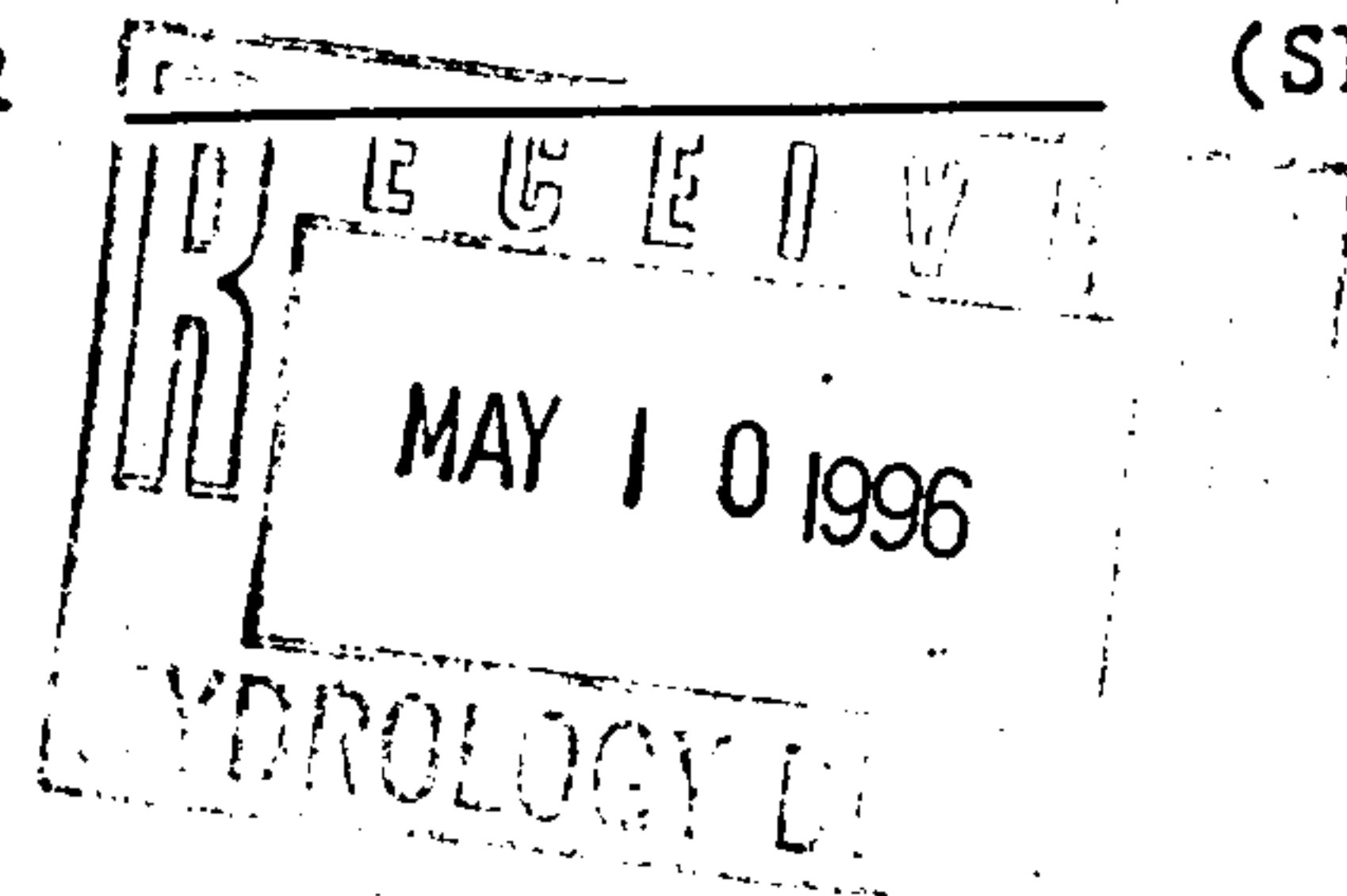
- ☐ YES
- ☐ NO
- ☐ COPY PROVIDED

CHECK TYPE OF APPROVAL SOUGHT:

- ☐ SKETCH PLAT APPROVAL
- ☐ 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 APPROVAL
- ☐ GRADING PERMIT APPROVAL
- ☐ PAVING PERMIT APPROVAL
- ☐ S.A.D. DRAINAGE REPORT
- ☐ DRAINAGE REQUIREMENTS
- ☐ OTHER (SPECIFY)

DATE SUBMITTED: May 9, 1996

BY: Frank D. Lovelady



DRAINAGE INFORMATION SHEET

PROJECT TITLE: NEW RETAIL BUILDING FOR T. J. HARDWARE ZONE ATLAS/DRNG. FILE #: G-16/D-57A

DRB #: _____ EPC #: _____ WORK ORDER #: _____

LEGAL DESCRIPTION: _____

CITY ADDRESS: _____

ENGINEERING FIRM: LOVELADY & ASSOCIATES CONTACT: FRANK D. LOVELADY

ADDRESS: 300 ALAMOSA NW PHONE: 345-2267

OWNER: T. J. HARDWARE CONTACT: TONY PRANDO

ADDRESS: 2513 COMANCHE NE PHONE: 881-4325

ARCHITECT: CLAUDIO VIGIL CONTACT: CLAUDIO VIGIL

ADDRESS: 1305 TIERAS NW PHONE: 842-1113

SURVEYOR: HARRIS SURVEYING CONTACT: TONY HARRIS

ADDRESS: 2412-D MONROE ST NE PHONE: 889-8056

CONTRACTOR: _____ CONTACT: _____

ADDRESS: _____ PHONE: _____

TYPE OF SUBMITTAL:

- ☐ DRAINAGE REPORT
- ☒ DRAINAGE PLAN RESUBMITTAL
- ☐ CONCEPTUAL GRADING & DRAINAGE PLAN
- ☐ GRADING PLAN
- ☐ EROSION CONTROL PLAN
- ☐ ENGINEER'S CERTIFICATION
- ☒ OTHER DRAINAGE EASEMENT

PRE-DESIGN MEETING:

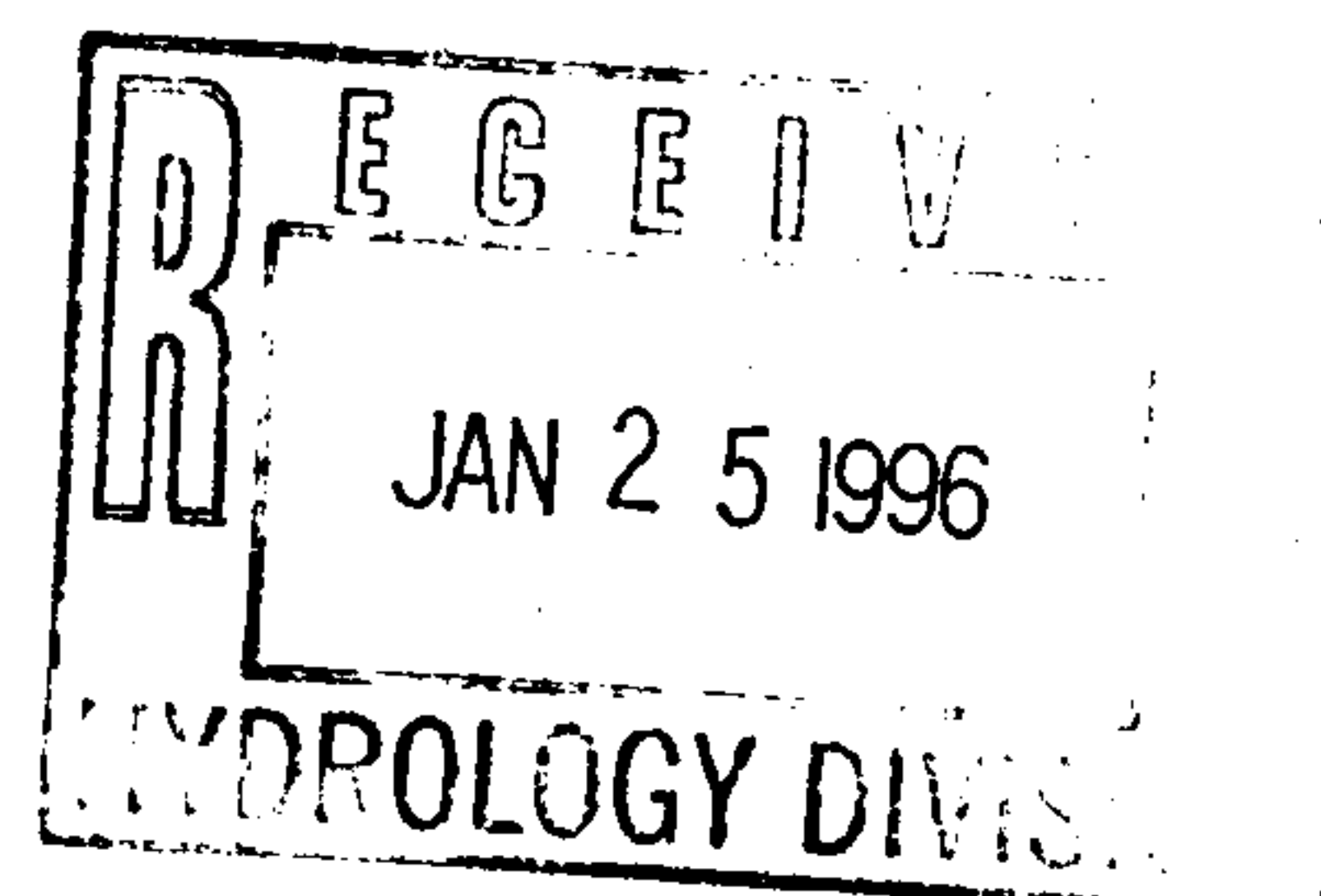
- ☐ YES
- ☒ NO
- ☐ COPY PROVIDED

CHECK TYPE OF APPROVAL SOUGHT:

- ☐ SKETCH PLAT APPROVAL
- ☐ PRELIMINARY PLAT APPROVAL
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- ☐ SECTOR PLAN APPROVAL
- ☐ FINAL PLAT APPROVAL
- ☐ FOUNDATION PERMIT APPROVAL
- ☒ BUILDING PERMIT APPROVAL
- ☐ CERTIFICATE OF OCCUPANCY APPROVAL
- ☐ GRADING PERMIT APPROVAL
- ☐ PAVING PERMIT APPROVAL
- ☐ S.A.D. DRAINAGE REPORT
- ☐ DRAINAGE REQUIREMENTS
- ☐ SUBDIVISION CERTIFICATION
- ☐ OTHER _____ (SPECIFY)

DATE SUBMITTED: January 25, 1996

BY: Frank D. Lovelady



95129322

7318

4505

95123730

96007490

**DRAINAGE EASEMENT, COVENANT
AND AGREEMENT**

5344

THIS DRAINAGE EASEMENT, COVENANT AND AGREEMENT is entered into by and between **CARLO, INC.**, a New Mexico corporation ("Carlo"), **TONY F. PRANDO** and **JESUSITA PRANDO** ("Prando") and **SUNWEST BANK OF ALBUQUERQUE, N.A.** ("Sunwest").

R E C I T A L S:

A. Carlo is the owner of the following property (the "Carlo Property"):

Tract A-2-A-1 as shown on the Plat of Tract A-2-A-1 and A-3-A-1, Candelaria Business Center, Section 03, T 10 N, R 3E, NMPM, Albuquerque, Bernalillo County, New Mexico dated June 1994 and filed for record with the Bernalillo County Clerk on June 29, 1995 in Vol. 95C, Folio 239 as Document #95064385 ("Carlo Plat").

B. Prando is the owner of the following property (the "Prando Property"):

Tract lettered A-three-A-1-D (A-3-A-1-D) of the plat of tracts A3A1A, A3A1B, A3A1C and A3A1D, Candelaria Business Center, Albuquerque, Bernalillo County, New Mexico, as the same are shown and designated on the plat thereof, filed in the office of the County Clerk of Bernalillo County, New Mexico on August 09, 1995 in Volume 95C, Folio 295.

C. Sunwest is the owner of the following property (the "Sunwest Property"):

Tract lettered A-three-A-1-C (A-3-A-1-C) of the plat of tracts A3A1A, A3A1B, A3A1C and A3A1D, Candelaria Business Center, Albuquerque, Bernalillo County, New Mexico, as the same are shown and designated on the plat thereof, filed in the office of the County Clerk of Bernalillo County, New Mexico on August 09, 1995 in Volume 95C, Folio 295.

D. The Sunwest Property and the Prando Property are presently benefitted by that certain 30' private access easement

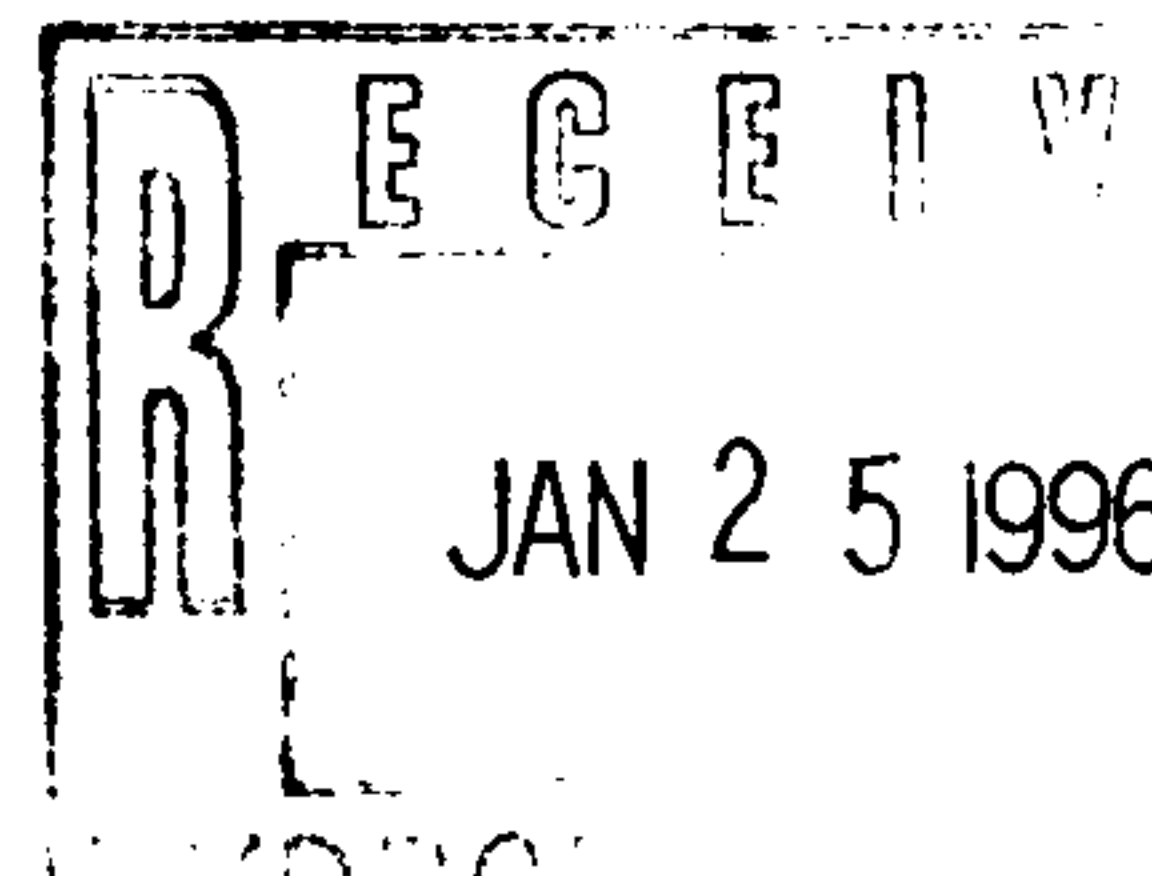
Note: This easement is being re-recorded to include Exhibit "A",

Page 11.

car25030\drainage.eas.8

1

NOTE: This easement is being rerecorded to add the word Drainage to the easement.



granted by the Carlo Plat (the "Carlo Access Easement").

E. Prando may be in the process of developing the Prando Property into a residential or commercial subdivision (the "Prando Subdivision"), and as a condition of approval of the Prando Subdivision, the City of Albuquerque ("City") may require Prando to obtain this Agreement and the easement described herein (the "Easement").

F. Prando wishes to relocate the Carlo Access Easement and to construct upon, improve, repair and maintain certain drainage facilities on the Carlo Access Easement and/or the Carlo Property.

G. Carlo and Sunwest agree to permit the contemplated relocation of the Carlo Access Easement and the construction, improvement, repair and maintenance of said drainage facilities provided that Prando complies with the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and conditions, the parties agree as follows:

1. **Grant of Easement.** Carlo grants to Prando a non-exclusive easement over the Carlo Property as described on **Exhibit "A"** hereto for purposes of accepting storm drainage waters from the Prando Property.

The storm drainage waters which the Carlo Property shall be obligated to accept shall be the historic storm waters which have flowed from the Prando Property to the Carlo Property together with flows from any upstream properties developed as of the date of this Agreement, if any (the "Prando Property Historic Flows"), together with the increased flows from the Prando Property resulting from

the development of the Prando Subdivision (the "Prando Property Developed Flows"). The Prando Property Historic Flows and the Prando Property Developed Flows are jointly referred to herein as the "Prando Flows".

Prando shall have the right to construct drainage facilities within the Easement to detain and/or alter the flow characteristics of the Prando Flows which facilities may include, but are not limited to, valley gutter, asphalt pavement, asphalt curbs and other drainage improvements necessary to convey the Prando Flows across and through the Easement (the "Drainage Facilities"). The Drainage Facilities shall be those approved by the City of Albuquerque ("City") pursuant to drainage plans submitted to, and approved by, the City and Carlo for the benefitted properties.

The Carlo Access Easement shall hereafter be located and described as set forth on **Exhibit "A"** hereto rather than as shown on the Carlo Plat.

2. Points of Discharge of Flows. Upon development of the Prando Subdivision, Prando, at Prando's sole expense (or public expense if agreed upon by the public agency) may construct drainage facilities upon the Prando Property which collect the Prando Flows and discharge the Prando Flows onto the Carlo Property at the northernmost location of the Easement (the "Prando Discharge Point"). The Prando Discharge Point shall be shown and designated on any Prando Subdivision plat, and any easements required by the City shall be granted on the Prando Subdivision Plat.

3. Carlo's Obligations. Upon the full execution hereof,

Carlo's obligation shall be to: (i) accept the Prando Flows at the Prando Discharge Point and to allow the Prando Flows across the Carlo Property along the 30' private access and drainage easement (94C - 170) as depicted on the Carlo Plat (the "East-West Easement") in any manner acceptable to Carlo and, if necessary, approved by the City; and (ii) allow Prando access to the Easement and the East-West Easement to satisfy the obligations of this Agreement and Covenant regarding construction, repair and maintenance of the Drainage Facilities.

4. Prando's Responsibilities. Prando will be solely responsible for any modification or changes to existing improvements in the Easement and the East-West Easement, constructing, maintaining, repairing and, if required, removing the Drainage Facilities, all in accordance with this Agreement and any standards required by the City pursuant to any approved Grading and Drainage Plan. Prando shall also be responsible for any improvements, upgrades, maintenance or repairs to the Easement, the East-West Easement and/or the Prando Property necessary in Carlo's sole opinion to properly convey the Prando Flows without damage to Carlo's Property, neighboring properties or existing improvements. Prando will be solely responsible for paying all related costs including, but not limited to, Carlo's attorney's fees for document preparation and otherwise related to the matters covered herein, survey costs and engineering fees. Prando will not permit the Drainage Facilities to constitute a hazard to the health or safety of the general public or to interfere with Carlo's use of Carlo's

Property. Prando will conform with all applicable laws, ordinances and regulations.

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

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

7. Carlo's Right to Maintain. In the event that Prando fails to maintain the Drainage Facilities, then in addition to the rights granted to Carlo above, Carlo shall have the right, but not the obligation, to enter upon the Easement to perform any required inspections, installation, repairs, modification or maintenance and to remove any improvements, and/or landscaping required for the

performance of such maintenance. Carlo shall not be responsible for any damage to the improvements and/or landscaping of the Prando Property resulting from the exercise of such rights.

8. Cancellation of Agreement. In the event of Prando's default on any obligation hereunder, this Agreement may be cancelled by Carlo's mailing to Prando notice of Carlo's intention to record a Cancellation with the Bernalillo County Clerk. Unless Prando cures such default to Carlo's satisfaction, the Cancellation will be effective thirty (30) days after the date of mailing the notice to Prando unless a later date is stated in the notice or the Cancellation. After the effective date, Carlo will record the Cancellation with the Bernalillo County Clerk.

9. Automatic Termination. In the event that Prando records a Prando Subdivision plat or drainage plan in the Bernalillo County, New Mexico real estate records which concerns the Prando Property but which does not require use of this Easement, this Easement shall automatically terminate and be of no further force or effect. The termination of this Easement shall not enlarge or diminish any common law rights which the parties hereto have with respect to the acceptance or discharge of historic storm drainage waters.

10. Indemnity. Prando agrees to defend, indemnify and hold Carlo harmless from any and all claims, actions, suits or proceedings of any kind including any claims of third parties, including all attorneys fees and costs, resulting from the use of the Easement and properties appurtenant to the Easement. To the

extent, if at all, Section 56-7-1 NMSA 1978 is applicable to this Agreement, this obligation will not extend to liability, claims, damages, losses or expenses, including attorney's fees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or (2) the giving of or the failure to give directions or instructions by Carlo, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

11. Appurtenant Agreement. The rights and obligations set out herein are appurtenant to the Prando Property, and the Carlo Property, as applicable, shall run with, benefit and burden the Prando Property and Carlo Property and shall be binding upon the parties' successors and assigns and constitute covenants running with the land of each party unless terminated or released as provided herein.

12. Execution. This Easement may be executed in counterparts.

13. Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes any and all agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

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

15. Construction and Severability. If any part of this Agreement is held to be invalid or unenforceable, the remainder of

the Agreement will remain valid and enforceable if the remainder is reasonably capable of completion.

16. 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.

17. Method and Place of Notice. All notices and other communications required or permitted hereunder shall be in writing and shall be given either by receipted facsimile, by personal delivery, or by placing with an overnight commercial courier correctly addressed to the intended recipient as provided in this Section. Any such notice or other communication shall be deemed received upon actual receipt, if delivered by facsimile or personally, or one (1) day after deposit with an overnight courier. The addresses of the parties for purposes of this Section shall be as follows:

Seller:

Carlo, Inc.
C/O Victor J. Bachechi
P.O. Box 25966
Albuquerque, N.M. 87125

With a copy to:

Terry D. Farmer
Moses, Dunn, Farmer & Tuthill, P.C.
P.O. Box 27047
Albuquerque, N.M. 87125-7047

Purchaser:

Tony F. Prando & Jesusita Prando

Albuquerque, New Mexico

The parties may, from time to time, designate a different address for purposes of this Section by giving notice to the other in the manner set forth herein not less than fifteen (15) days prior to

7326

5352 4513

the effective date of the change.

IN WITNESS WHEREOF, the parties have executed this Agreement
this 29th day of November, 1995.

CARLO, INC., a New Mexico corporation

By: Victor J. Bachechi - Pres
Victor J. Bachechi
Its President

Tony F. Prando
TONY F. PRANDO

Jesúsita Prando
JESUSITA PRANDO

SUNWEST BANK OF ALBUQUERQUE, N.A.

By: David Navett
Its Asst. Vice President

STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss.

THIS INSTRUMENT WAS ACKNOWLEDGED before me on the 29th day of
November, 1995 by Victor J. Bachechi, the President of
Carlo, Inc., a New Mexico corporation for and on its behalf.

Denise M. Richard
Notary Public

(SEAL)

My commission expires:

7/28/99

car25030\drainage.eas.8

STATE OF NEW MEXICO
COUNTY OF BERNALILLO

1995 DEC -4 PM 1:52

95-29 4505-4514

CO. CL.

STATE OF NEW MEXICO
COUNTY OF BERNALILLO

1996 JAN 23 AM 8:24

96-2 6344-6354

CO. CL.

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

THIS INSTRUMENT WAS ACKNOWLEDGED before me on the 30th day of November, 1995 by Tony F. Prando.

[Signature]
Notary Public

(SEAL)

My commission expires:

January 15, 1997

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

THIS INSTRUMENT WAS ACKNOWLEDGED before me on the 30th day of November, 1995 by Jesusita Prando.

[Signature]
Notary Public

(SEAL)

My commission expires:

January 13, 1997

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

THIS INSTRUMENT WAS ACKNOWLEDGED before me on the 1st day of December, 1995 by David Garza, the Assistant Vice President of Sunwest Bank of Albuquerque, N.A. for and on its behalf.

OFFICIAL SEAL
EVELYN UNALE

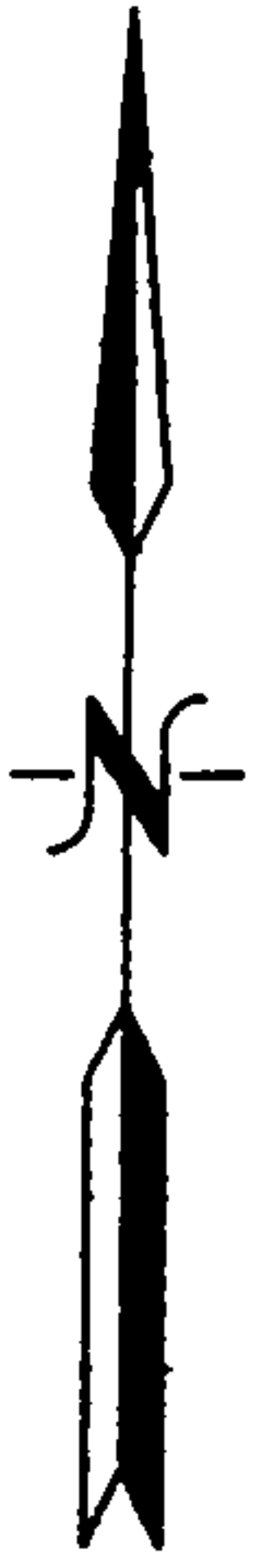
NOTARY PUBLIC - NEW MEXICO
Notary Bond Filed with Secretary of State
My Commission Expires 4-5-98

[Signature]
Notary Public

My commission expires:

4-5-98

EXHIBIT "A"



SCALE: 1" = 40'

10' P.N.M. & MST-T
ESMT.
FILED: 5/19/94 IN
VOL. 94C, FOLIO 170(2)

TRACT A-3-A-1-C

TRACT A-3-A-1-D

N.E.

DRIVE

60' R/W

AMHERST

S 00° 11' 38" W

TRACT A-2-A-1
CANDELARIA BUSINESS CENTER
FILED: JUNE 29, 1995 IN
VOL. 95C, FOLIO 239.

N 33° 12' 42" E
68.46'
N 61° 00' 19" W
30.08'

30'
S 33° 12' 42" W
89.79'

31.70'

S 60° 26' 49" E
82.96'

EXISTING 30' PRIVATE ACCESS
and Drainage easement,
FILED: JUNE 29, 1995 IN
VOL. 95C, FOLIO 239.

40.73'
S 89° 48' 22" E

30' PRIVATE ACCESS AND
DRAINAGE ESMT.

15'
15'



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

January 30, 1996

Frank Lovelady P.E.
300 Alamosa Road NW
Albuquerque, NM 87107

**RE: T.J. HARDWARE (G16-D57A) DRAINAGE PLAN FOR BUILDING PERMIT
APPROVAL. ENGINEER'S STAMP DATE 1-22-96.**

Dear Mr. Lovelady:

Based on the information provided on your January 25, 1996
submittal, the above referenced project is approved for Building
Permit.

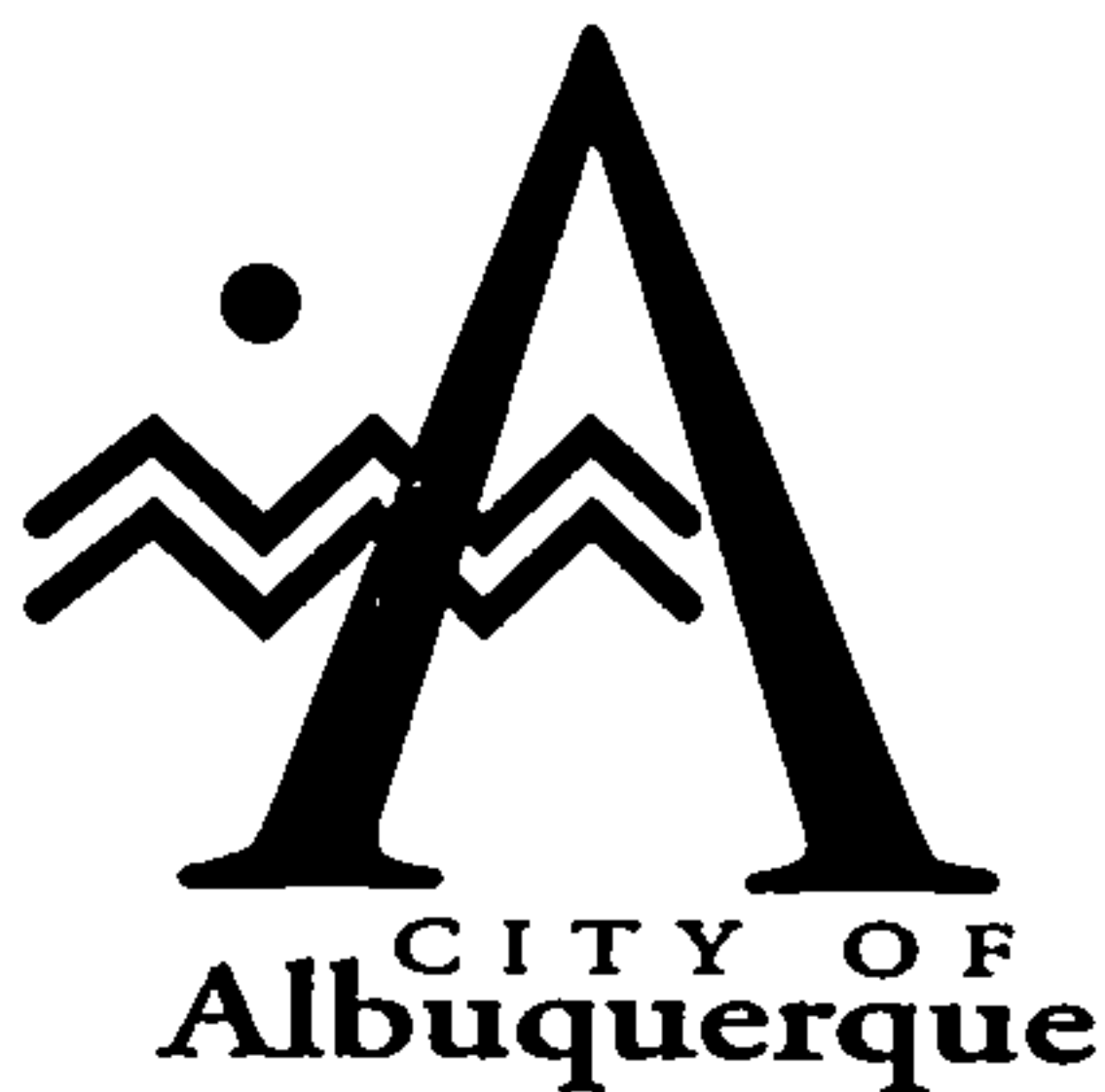
Prior to Certificate of Occupancy, an Engineer's Certification
will be required.

If I can be of further assistance, please feel free to contact me
at 768-3622.

Sincerely,

Lisa Ann Manwill
Engineering Assoc./Hyd.

c: Andrew Garcia
File



May 31, 1996

Martin J. Chávez, Mayor

Frank Lovelady P.E.
300 Alamosa Road NW
Albuquerque, NM 87107

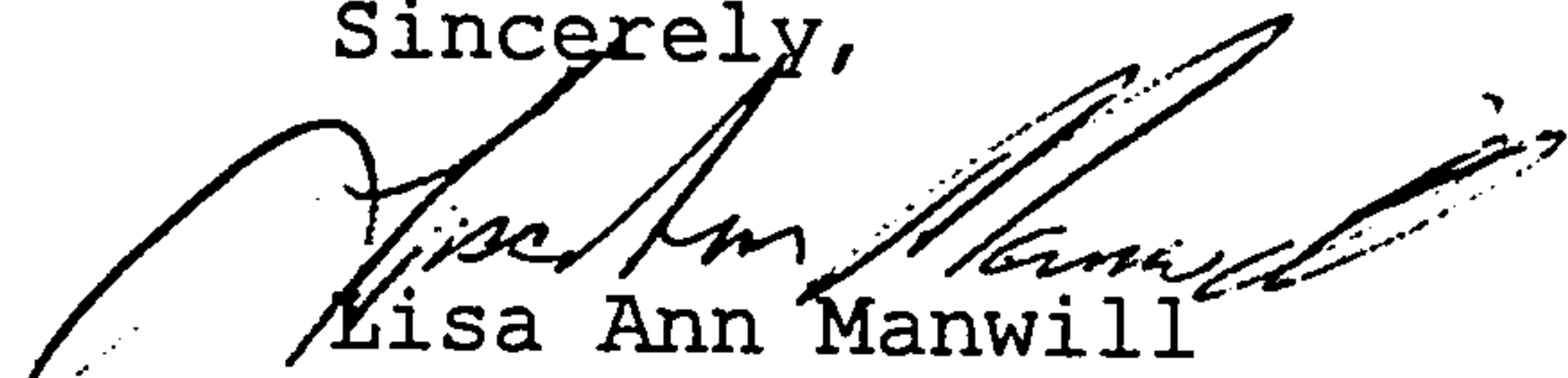
**RE: T.J. HARDWARE (G16-D57A). ENGINEER'S CERTIFICATION FOR
CERTIFICATE OF OCCUPANCY. ENGINEER'S CERTIFICATION DATED
MAY 9, 1996.**

Dear Mr. Lovelady:

Based on the information provided on your May 10, 1996 submittal,
the above referenced project is approved for Certificate of
Occupancy.

If I can be of further assistance, please feel free to contact me
at 768-3622.

Sincerely,



Lisa Ann Manwill
Engineering Assoc./Hyd.

c: Andrew Garcia
<File>



95123730

**DRAINAGE EASEMENT, COVENANT
AND AGREEMENT**

THIS DRAINAGE EASEMENT, COVENANT AND AGREEMENT is entered into by and between CARLO, INC., a New Mexico corporation ("Carlo"), TONY F. PRANDO and JESUSITA PRANDO ("Prando") and SUNWEST BANK OF ALBUQUERQUE, N.A. ("Sunwest").

R E C I T A L S:

A. Carlo is the owner of the following property (the "Carlo Property"):

Tract A-2-A-1 as shown on the Plat of Tract A-2-A-1 and A-3-A-1, Candelaria Business Center, Section 03, T 10 N, R 3E, NMPM, Albuquerque, Bernalillo County, New Mexico dated June 1994 and filed for record with the Bernalillo County Clerk on June 29, 1995 in Vol. 95C, Folio 239 as Document #95064385 ("Carlo Plat").

B. Prando is the owner of the following property (the "Prando Property"):

Tract lettered A-three-A-1-D (A-3-A-1-D) of the plat of tracts A3A1A, A3A1B, A3A1C and A3A1D, Candelaria Business Center, Albuquerque, Bernalillo County, New Mexico, as the same are shown and designated on the plat thereof, filed in the office of the County Clerk of Bernalillo County, New Mexico on August 09, 1995 in Volume 95C, Folio 295.

C. Sunwest is the owner of the following property (the "Sunwest Property"):

Tract lettered A-three-A-1-C (A-3-A-1-C) of the plat of tracts A3A1A, A3A1B, A3A1C and A3A1D, Candelaria Business Center, Albuquerque, Bernalillo County, New Mexico, as the same are shown and designated on the plat thereof, filed in the office of the County Clerk of Bernalillo County, New Mexico on August 09, 1995 in Volume 95C, Folio 295.

D. The Sunwest Property and the Prando Property are presently benefitted by that certain 30' private access easement

granted by the Carlo Plat (the "Carlo Access Easement").

E. Prando may be in the process of developing the Prando Property into a residential or commercial subdivision (the "Prando Subdivision"), and as a condition of approval of the Prando Subdivision, the City of Albuquerque ("City") may require Prando to obtain this Agreement and the easement described herein (the "Easement").

F. Prando wishes to relocate the Carlo Access Easement and to construct upon, improve, repair and maintain certain drainage facilities on the Carlo Access Easement and/or the Carlo Property.

G. Carlo and Sunwest agree to permit the contemplated relocation of the Carlo Access Easement and the construction, improvement, repair and maintenance of said drainage facilities provided that Prando complies with the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and conditions, the parties agree as follows:

1. **Grant of Easement.** Carlo grants to Prando a non-exclusive easement over the Carlo Property as described on **Exhibit "A"** hereto for purposes of accepting storm drainage waters from the Prando Property.

The storm drainage waters which the Carlo Property shall be obligated to accept shall be the historic storm waters which have flowed from the Prando Property to the Carlo Property together with flows from any upstream properties developed as of the date of this Agreement, if any (the "Prando Property Historic Flows"), together with the increased flows from the Prando Property resulting from

the development of the Prando Subdivision (the "Prando Property Developed Flows"). The Prando Property Historic Flows and the Prando Property Developed Flows are jointly referred to herein as the "Prando Flows".

Prando shall have the right to construct drainage facilities within the Easement to detain and/or alter the flow characteristics of the Prando Flows which facilities may include, but are not limited to, valley gutter, asphalt pavement, asphalt curbs and other drainage improvements necessary to convey the Prando Flows across and through the Easement (the "Drainage Facilities"). The Drainage Facilities shall be those approved by the City of Albuquerque ("City") pursuant to drainage plans submitted to, and approved by, the City and Carlo for the benefitted properties.

The Carlo Access Easement shall hereafter be located and described as set forth on **Exhibit "A"** hereto rather than as shown on the Carlo Plat.

2. **Points of Discharge of Flows.** Upon development of the Prando Subdivision, Prando, at Prando's sole expense (or public expense if agreed upon by the public agency) may construct drainage facilities upon the Prando Property which collect the Prando Flows and discharge the Prando Flows onto the Carlo Property at the northernmost location of the Easement (the "Prando Discharge Point"). The Prando Discharge Point shall be shown and designated on any Prando Subdivision plat, and any easements required by the City shall be granted on the Prando Subdivision Plat.

3. **Carlo's Obligations.** Upon the full execution hereof,

Carlo's obligation shall be to: (i) accept the Prando Flows at the Prando Discharge Point and to allow the Prando Flows across the Carlo Property along the 30' private access and drainage easement (94C - 170) as depicted on the Carlo Plat (the "East-West Easement") in any manner acceptable to Carlo and, if necessary, approved by the City; and (ii) allow Prando access to the Easement and the East-West Easement to satisfy the obligations of this Agreement and Covenant regarding construction, repair and maintenance of the Drainage Facilities.

4. Prando's Responsibilities. Prando will be solely responsible for any modification or changes to existing improvements in the Easement and the East-West Easement, constructing, maintaining, repairing and, if required, removing the Drainage Facilities, all in accordance with this Agreement and any standards required by the City pursuant to any approved Grading and Drainage Plan. Prando shall also be responsible for any improvements, upgrades, maintenance or repairs to the Easement, the East-West Easement and/or the Prando Property necessary in Carlo's sole opinion to properly convey the Prando Flows without damage to Carlo's Property, neighboring properties or existing improvements. Prando will be solely responsible for paying all related costs including, but not limited to, Carlo's attorney's fees for document preparation and otherwise related to the matters covered herein, survey costs and engineering fees. Prando will not permit the Drainage Facilities to constitute a hazard to the health or safety of the general public or to interfere with Carlo's use of Carlo's

Property. Prando will conform with all applicable laws, ordinances and regulations.

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

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

7. Carlo's Right to Maintain. In the event that Prando fails to maintain the Drainage Facilities, then in addition to the rights granted to Carlo above, Carlo shall have the right, but not the obligation, to enter upon the Easement to perform any required inspections, installation, repairs, modification or maintenance and to remove any improvements, and/or landscaping required for the

performance of such maintenance. Carlo shall not be responsible for any damage to the improvements and/or landscaping of the Prando Property resulting from the exercise of such rights.

8. Cancellation of Agreement. In the event of Prando's default on any obligation hereunder, this Agreement may be cancelled by Carlo's mailing to Prando notice of Carlo's intention to record a Cancellation with the Bernalillo County Clerk. Unless Prando cures such default to Carlo's satisfaction, the Cancellation will be effective thirty (30) days after the date of mailing the notice to Prando unless a later date is stated in the notice or the Cancellation. After the effective date, Carlo will record the Cancellation with the Bernalillo County Clerk.

9. Automatic Termination. In the event that Prando records a Prando Subdivision plat or drainage plan in the Bernalillo County, New Mexico real estate records which concerns the Prando Property but which does not require use of this Easement, this Easement shall automatically terminate and be of no further force or effect. The termination of this Easement shall not enlarge or diminish any common law rights which the parties hereto have with respect to the acceptance or discharge of historic storm drainage waters.

10. Indemnity. Prando agrees to defend, indemnify and hold Carlo harmless from any and all claims, actions, suits or proceedings of any kind including any claims of third parties, including all attorneys fees and costs, resulting from the use of the Easement and properties appurtenant to the Easement. To the

extent, if at all, Section 56-7-1 NMSA 1978 is applicable to this Agreement, this obligation will not extend to liability, claims, damages, losses or expenses, including attorney's fees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or (2) the giving of or the failure to give directions or instructions by Carlo, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

11. Appurtenant Agreement. The rights and obligations set out herein are appurtenant to the Prando Property, and the Carlo Property, as applicable, shall run with, benefit and burden the Prando Property and Carlo Property and shall be binding upon the parties' successors and assigns and constitute covenants running with the land of each party unless terminated or released as provided herein.

12. Execution. This Easement may be executed in counterparts.

13. Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes any and all agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

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

15. Construction and Severability. If any part of this Agreement is held to be invalid or unenforceable, the remainder of

the Agreement will remain valid and enforceable if the remainder is reasonably capable of completion.

16. **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.

17. **Method and Place of Notice.** All notices and other communications required or permitted hereunder shall be in writing and shall be given either by receipted facsimile, by personal delivery, or by placing with an overnight commercial courier correctly addressed to the intended recipient as provided in this Section. Any such notice or other communication shall be deemed received upon actual receipt, if delivered by facsimile or personally, or one (1) day after deposit with an overnight courier. The addresses of the parties for purposes of this Section shall be as follows:

Seller: Carlo, Inc.
C/O Victor J. Bachechi
P.O. Box 25966
Albuquerque, N.M. 87125

With a copy to: Terry D. Farmer
Moses, Dunn, Farmer & Tuthill, P.C.
P.O. Box 27047
Albuquerque, N.M. 87125-7047

Purchaser: Tony F. Prando & Jesusita Prando

Albuquerque, New Mexico

The parties may, from time to time, designate a different address for purposes of this Section by giving notice to the other in the manner set forth herein not less than fifteen (15) days prior to

the effective date of the change.

IN WITNESS WHEREOF, the parties have executed this Agreement
this 29th day of November, 1995.

CARLO, INC., a New Mexico corporation

By:

Victor J. Bachechi - Pres
Victor J. Bachechi
Its President

Tony F. Prando
TONY F. PRANDO

Jesusita Prando
JESUSITA PRANDO

SUNWEST BANK OF ALBUQUERQUE, N.A.

By:

David Navett
Its Asst. Vice President

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

THIS INSTRUMENT WAS ACKNOWLEDGED before me on the 29th day of
November, 1995 by Victor J. Bachechi, the President of
Carlo, Inc., a New Mexico corporation for and on its behalf.

Denise M. Richard
Notary Public

(SEAL)

My commission expires:

7/28/99

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
FILED

1995 DEC -4 PM 1:52

car25030\drainage.eas.8

95-29-4505-4514

JUDY F. RICHARD
CO. CLERK

Edith

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

THIS INSTRUMENT WAS ACKNOWLEDGED before me on the 7th day of January, 1995 by Tony F. Prando.

[Signature]
 Notary Public

(SEAL)

My commission expires:
January 18, 1997

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

THIS INSTRUMENT WAS ACKNOWLEDGED before me on the 7th day of January, 1995 by Jesusita Prando.

[Signature]
 Notary Public

(SEAL)

My commission expires:
January 18, 1997

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

THIS INSTRUMENT WAS ACKNOWLEDGED before me on the 1st day of December, 1995 by DAVID GARRETT, the Assistant Vice President of Sunwest Bank of Albuquerque, N.A. for and on its behalf.

OFFICIAL SEAL
 EVELYN UNALE

NOTARY PUBLIC - NEW MEXICO
 Notary Bond Filed with Secretary of State
 My Commission Expires 4-5-98

Evelyn Unale
 Notary Public

My commission expires:

4-5-98

NEW RETAIL BLDG FOR
T.J. HARDWARE

ERC #:

WORK ORDER #:

816/1157A

TRACT A-3-A-1-D

CANDELARIA BUSINESS CENTER

CITY ADDRESS:

ENGINEERING FIRM: Lovelady & Associates

CONTACT: Frank D. Lovelady

ADDRESS: 300 ALAMOSA NW

PHONE: 345-2267

OWNER: T.J. HARDWARE

CONTACT: TONY PANDO

ADDRESS: 2513 COMMANCHE NE

PHONE: 681-4325

ARCHITECT: CLAUDIO VIGIL

CONTACT: CLAUDIO VIGIL

ADDRESS: 1305 ~~THE~~ TWEEDS NW

87102

PHONE: 842-1113

SURVEYOR: TONY HARRIS SURVEYING

CONTACT: TONY HARRIS

ADDRESS: 2412-D MONROE ST NE

PHONE: 889-8056

CONTRACTOR:

CONTACT:

ADDRESS:

PHONE:

TYPE OF SUBMITTAL:

☐ DRAINAGE REPORT

☒ DRAINAGE PLAN

☐ CONCEPTUAL GRADING & DRAINAGE PLAN

☐ GRADING PLAN

☐ EROSION CONTROL PLAN

☐ ENGINEER'S CERTIFICATION

☐ OTHER

CHECK TYPE OF APPROVAL SOUGHT:

☐ SKETCH PLAT APPROVAL

☐ 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 APPROVAL

☐ GRADING PERMIT APPROVAL

☐ PAVING PERMIT APPROVAL

☐ S.A.D. DRAINAGE REPORT

☐ DRAINAGE REQUIREMENTS

☐ OTHER (SPECIFY)

PRE-DESIGN MEETING:

☐ YES

☒ NO

☐ COPY PROVIDED

DATE SUBMITTED:

NOVEMBER 22, 1995

BY:

Frank D. Lovelady



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

December 4, 1995

Frank Lovelady P.E.
300 Alamosa Road NW
Albuquerque, NM 87107

**RE: T.J. HARDWARE (G16-D57A) DRAINAGE PLAN FOR BUILDING PERMIT
APPROVAL. ENGINEER'S STAMP DATE 11-22-95.**

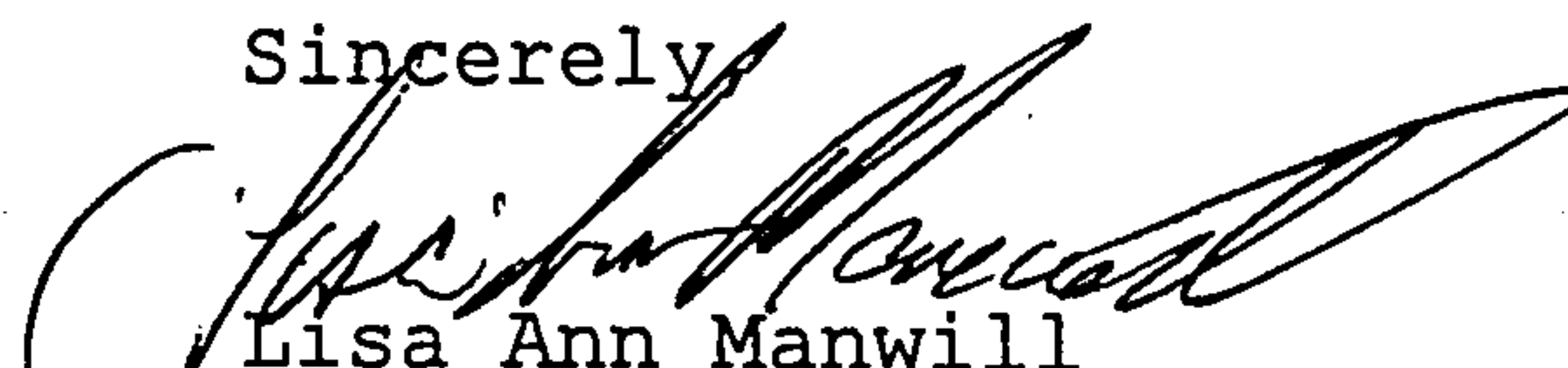
Dear Mr. Lovelady:

Based on the information provided on your November 22, 1995
submittal, City Hydrology has the following comments:

1. Please provide a copy of the document that created the
30 foot drainage easement located on adjacent property
to the south. The plat in our files shows a 30 foot
access easement only.

If I can be of further assistance, please feel free to contact me
at 768-3622.

Sincerely,



Lisa Ann Manwill
Engineering Assoc./Hyd.

c: Andrew Garcia
File



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

November 6, 1995

Frank Lovelady P.E.
300 Alamosa Road NW
Albuquerque, NM 87107

**RE: T.J. HARDWARE (G16-D57A) DRAINAGE PLAN FOR BUILDING PERMIT
APPROVAL. ENGINEER'S STAMP DATE 10-23-95.**

Dear Mr. Lovelady:

Based on the information provided on your October 24, 1995
submittal, City Hydrology has the following comments:

1. Because you are carrying flows through adjacent
property to the south, a drainage easement from the
property owner will be required.

If I can be of further assistance, please feel free to contact me
at 768-3622.

Sincerely,

Lisa Ann Manwill
Engineering Assoc./Hyd.

c: Andrew Garcia
File



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

October 18, 1995

Frank Lovelady P.E.
300 Alamosa Road NW
Albuquerque, NM 87107

**RE: T.J. HARDWARE (G16-D57A) DRAINAGE PLAN FOR FOUNDATION PERMIT
APPROVAL. ENGINEER'S STAMP DATE 10-12-95.**

Dear Mr. Lovelady:

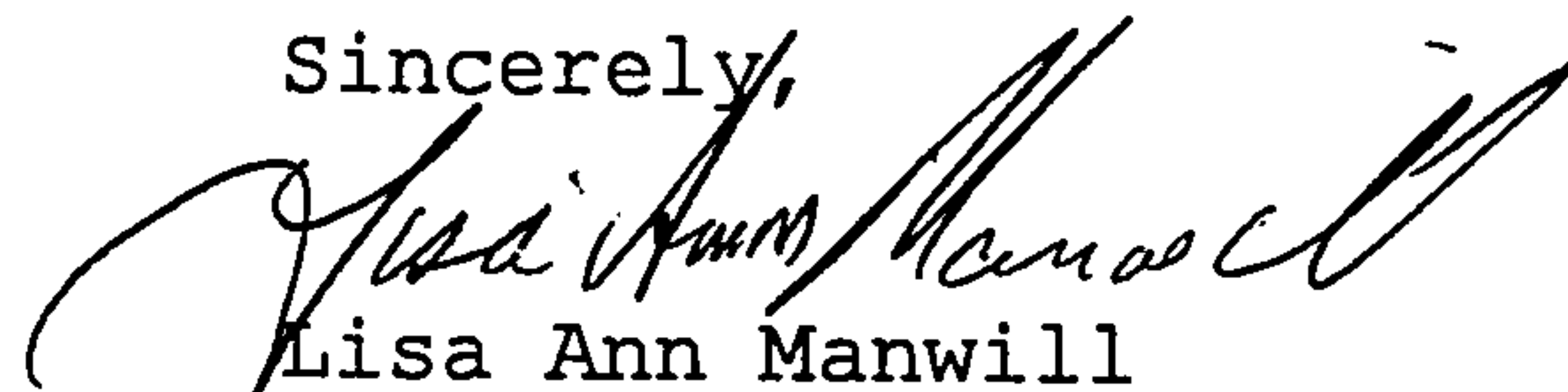
Based on the information provided on your October 17, 1995
submittal, the above referenced project is approved for
Foundation Permit.

Prior to Building Permit approval, please address the following
comments:

1. Show the existing 66" storm drain line on your plan.
2. Because you are carrying flows through adjacent
property to the south, a drainage easement from the
property owner will be required.

If I can be of further assistance, please feel free to contact me
at 768-3622.

Sincerely,


Lisa Ann Manwill
Engineering Assoc./Hyd.

c: Andrew Garcia
File

DRAINAGE INFORMATION SHEET

PROJECT TITLE: NEW RETAIL BUILDING FOR T.J. HARDWARE ZONE ATLAS/DRNG. FILE #: 616/1157A
DRB #: _____ EPC #: _____ WORK ORDER #: _____
LEGAL DESCRIPTION: TRACT A-3-A-1-D, CANDELARIA BUSINESS CENTER
CITY ADDRESS: _____
ENGINEERING FIRM: Lovelady & Associates CONTACT: Frank D. Lovelady
ADDRESS: 300 ALAMOSA NW PHONE: 345-2267
OWNER: TJ HARDWARE CONTACT: TONY PANDO
ADDRESS: 2513 COMMANCHE NE PHONE: 881-4325
ARCHITECT: CLAUDIO VIGIL CONTACT: CLAUDIO VIGIL
ADDRESS: 1305 ~~THE~~ TWEEDS NW 87102 PHONE: 842-1113
SURVEYOR: TONY HARRIS SURVEYING CONTACT: TONY HARRIS
ADDRESS: 2412-D MONROE ST NE PHONE: 889-8056
CONTRACTOR: _____ CONTACT: _____
ADDRESS: _____ PHONE: _____

TYPE OF SUBMITTAL:

- ☐ DRAINAGE REPORT
☒ DRAINAGE PLAN
☐ CONCEPTUAL GRADING & DRAINAGE PLAN
☐ GRADING PLAN
☐ EROSION CONTROL PLAN
☐ ENGINEER'S CERTIFICATION
☐ OTHER

PRE-DESIGN MEETING:

- ☐ YES
☒ NO
☐ COPY PROVIDED

CHECK TYPE OF APPROVAL SOUGHT:

- ☐ SKETCH PLAT APPROVAL
☐ 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 APPROVAL
☐ GRADING PERMIT APPROVAL
☐ PAVING PERMIT APPROVAL
☐ S.A.D. DRAINAGE REPORT
☐ DRAINAGE REQUIREMENTS
☐ OTHER _____ (SPECIFY)

DATE SUBMITTED:

OCTOBER 23, 1995

BY:

Frank D. Lovelady

OCT 24 1995

DRAINAGE INFORMATION SHEET

PROJECT TITLE: RETAIL HARDWARE STORE FOR
T. J. HARDWARE ZONE ATLAS/DRNG. FILE #: G16/0574

DRB #: _____ EPC #: _____ WORK ORDER #: _____

LEGAL DESCRIPTION: TRACT A-3-A-1-D, CANDELARIA BUSINESS PARK

CITY ADDRESS: _____

ENGINEERING FIRM: FRANK LOVELADY CONTACT: FRANK LOVELADY

ADDRESS: 300 ACAMOSA NW PHONE: 345-2267

OWNER: T. J. HARDWARE CONTACT: TONY PANDO

ADDRESS: 2513 COMMANCHE NE 87107 PHONE: 881-4325

ARCHITECT: CLAUDIO VIGIL CONTACT: CLAUDIO VIGIL

ADDRESS: 1305 TIENAS AVE NW PHONE: 842-1113

SURVEYOR: HARRIS SURVEYING CONTACT: TONY HARRIS

ADDRESS: 2412 MONROE PHONE: 889-8056

CONTRACTOR: _____ CONTACT: _____

ADDRESS: _____ PHONE: _____

TYPE OF SUBMITTAL:

☐ DRAINAGE REPORT

☒ DRAINAGE PLAN

☐ CONCEPTUAL GRADING & DRAINAGE PLAN

☐ GRADING PLAN

☐ EROSION CONTROL PLAN

☐ ENGINEER'S CERTIFICATION

☐ OTHER _____

PRE-DESIGN MEETING:

☐ YES

☒ NO

☐ COPY PROVIDED

CHECK TYPE OF APPROVAL SOUGHT:

☐ SKETCH PLAT APPROVAL

☐ 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 APPROVAL

☐ GRADING PERMIT APPROVAL

☐ PAVING PERMIT APPROVAL

☐ S.A.D. DRAINAGE REPORT

☐ DRAINAGE REQUIREMENTS

☐ SUBDIVISION CERTIFICATION

☐ OTHER _____ (SPECIFY)

DATE SUBMITTED: OCTOBER 13, 1995

BY: Frank D. Forelady