



PRIVATE FACILITY DRAINAGE COVENANT

PROJECT NAME: RAISING CANE'S C0852
HYDROTRANS NUMBER: G17D011

This Drainage Covenant ("Covenant"), between Raising Cane's Restaurants, LLC ("Lessee"), whose address is 6800 Bishop Road, Plano, TX 75024 and whose telephone number is (972) 769-3364 and the City of Albuquerque, a New Mexico municipal corporation ("City"), whose address is P.O. Box 1293, Albuquerque, New Mexico 87103, is made in Albuquerque, Bernalillo County, New Mexico and is entered into as of the date the City Engineer signs this Covenant.

1. Recital. Lessee is the current lessee of certain real property described as: See attached Exhibit B.

in Bernalillo County, New Mexico (the "Property"). (Give legal description and filing information).

Pursuant to City ordinances, regulations and other applicable laws, the Lessee is required to construct and maintain certain drainage facilities (“Drainage Facility”) on the Property, and the parties wish to enter into this Covenant to establish the obligations and responsibilities of the parties.

2. Description and Construction of Drainage Facilities. Lessee shall construct the following “Drainage Facility” within the Property at Lessee’s sole expense in accordance with the standard plans and specifications approved by the City pursuant to Drainage File No. G17D011

The Drainage Facility is more particularly described in the attached Exhibit A. The Lessee will not permit the Drainage Facility to constitute a hazard to the health or safety of the general public.

3. Maintenance of Drainage Facility. The Lessee will maintain the Drainage Facility at the Lessee's cost in accordance with the approved Drainage Report and plans.

4. City's Right of Entry. The City has the right to enter upon the Property at any time and perform whatever inspection, maintenance or repair of the Drainage Facility it deems appropriate, without liability to the Lessee.

5. Demand for Construction or Repair. The City may send written notice (“Notice”) to the Lessee requiring the Lessee to construct or repair the Drainage Facility within thirty (30) days (“Deadline”) of receipt of the Notice, as provided in Section 11, and the Lessee will comply

promptly with the requirements of the Notice. The Lessee will perform all required work by the Deadline, at Lessee's sole expense.

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

7. Liability of City for Repair after Notice or as a Result of Emergency. The City shall not be liable to the Lessee for any damages resulting from the City's maintenance or repair following Notice to the Lessee as required in this Covenant or in an emergency unless the damages are the result of the reckless conduct or gross negligence of the City

8. Indemnification. The Lessee agrees to indemnify and hold the City, its officials, agents and employees harmless from all claims, actions, suits and proceedings arising out of, or resulting from the Lessee's negligent maintenance, construction, repair or use of the Drainage Facility. To the extent, if at all, Section 56-7-1 NMSA 1978 is applicable to this Covenant, this Covenant to indemnify will not extend to liability, claims, damages, losses or expenses, including attorneys' fees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications by the Lessee or its agents or employees; or (2) the giving of or the failure to give directions or instructions by the Lessee, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

9. Cancellation of Agreement and Release of Covenant. This Covenant may be released if the Drainage Facility is no longer required for the protection of the public health, safety and welfare by the City filing a "Notice of Release" with the Bernalillo County Clerk. The Notice of Release must be signed by the City's Chief Administrative Officer or his designee, and the approval of the City Hydrologist must be endorsed thereon.

10. Assessment. Nothing in this Covenant shall be construed to relieve the Lessee, its heirs, assigns and successors from an assessment against the Lessee's Property for improvements to the Property under a duly authorized and approved Special Assessment District. The parties specifically agree that the value of the Drainage Facility will not reduce the amount assessed by the City.

11. Notice. For purposes of giving formal written notice to the Lessee, Lessee's address is:

6800 Bishop Road
Plano, TX 75024

Notice may be given to the Lessee 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 Lessee within three (3)

days after the Notice is mailed if there is no actual evidence of receipt. The Lessee may change Lessee's address by giving written notice of the change by Certified Mail-Return Receipt Requested, to City Hydrologist, P.O. Box 1293, Albuquerque, New Mexico 87103.

12. Term. This Covenant shall continue until terminated by the City pursuant to Section 9 above.

13. Binding on Lessee's Property. The covenants and obligations of the Lessee set forth herein shall be binding on Lessee, its heirs, personal representatives, assigns and successors and on Lessee's Property and shall constitute covenants running with the Lessee's Property until released by the City.

14. Entire Agreement. This Covenant 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 regarding this subject matter.

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

16. Construction and Severability. If any part of this Covenant is held to be invalid or unenforceable, the remainder of the Covenant will remain valid and enforceable if the remainder is reasonably capable of completion.

17. Captions. The captions to the sections or paragraphs of this Covenant are not part of this Covenant and will not affect the meaning of construction of any of its provisions.

LESSEE:

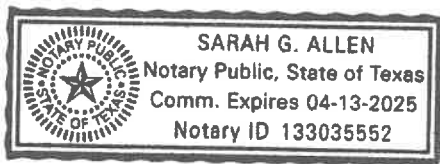
By [signature]: *Bryan Brown*
Name [print]: Bryan Brown
Title: Chief Development Officer
Dated: 3/14/23

LESSEE'S ACKNOWLEDGMENT

Texas
STATE OF ~~NEW MEXICO~~)
Collin)ss
COUNTY OF ~~BERNALILLO~~)

This instrument was acknowledged before me on this 14th day of March,
2023, by Bryan Brown (name of person signing permit),
Chief Development Officer (title of person signing permit) of
Raising Cane's Restaurants, LLC (Lessee).

(SEAL)



Sarah G. Allen
Notary Public
My Commission Expires: 4/13/2025

CITY OF ALBUQUERQUE:

DocuSigned by:
By: Shahab Biazar

C7E1CB5481E9486...
Shahab Biazar, P.E., City Engineer

Dated: 3/21/2023 | 1:35 PM MDT

CITY'S ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)ss
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this 21st day of
March 2023 by Shahab Biazar, P.E., City Engineer, of the City of Albuquerque,
a municipal corporation, on behalf of said corporation.

Rachael Miranda
Notary Public
My Commission Expires: 11-9-2025



(EXHIBIT A ATTACHED)



Montgomery & San Mateo
ALBUQUERQUE, NM 87112
Restaurant #R6352
PAE-V AV SCHEME A

Project Information
Kimley-Horn
2023 KIMLEY-HORN
ALBUQUERQUE, NM 87112
1315 West Street
Two Colorado Office Tower
Denver, CO 80202
CONTACT: KIMLEY-HORN
720.770.7000
KIMLEY-HORN.COM

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06/27/2022

Project: PEA-MT-2021-10 RELEASE
Project Start Date: 10/04/2021
Project End Date: 08/07/2021
Client: Kimley-Horn
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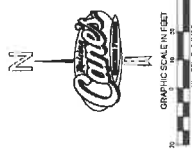
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VICINITY MAP
06/27/2022



UTILITY LEGEND

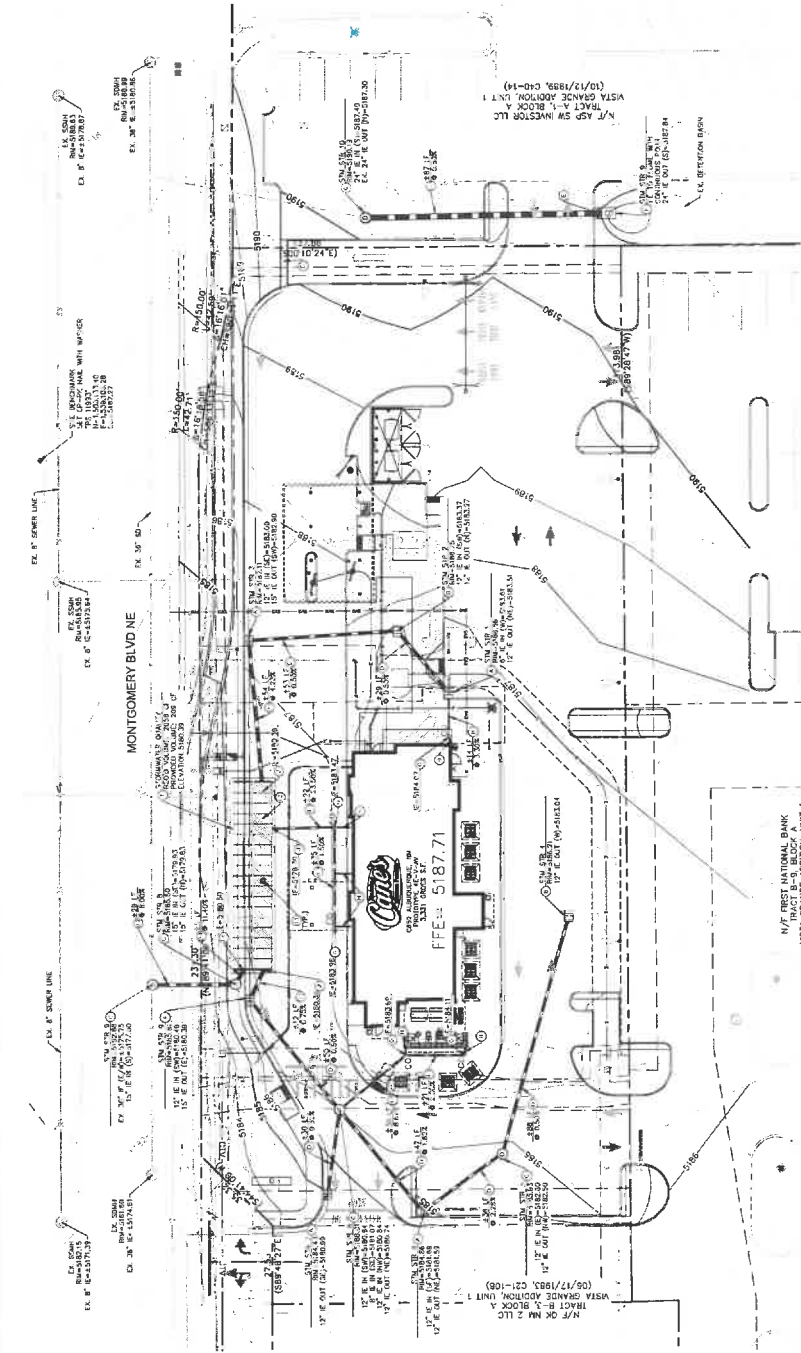
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- PROPOSED FIRE LINE
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- PROPOSED GAS LINE
- PROPOSED UNDERGROUND ELECTRIC LINE
- PROPOSED UNDERGROUND TELEPHONE LINE
- EXISTING STORM DRAINAGE LINE
- EXISTING 12" DRAINAGE LINE
- EXISTING OVERHEAD POWER LINE
- EXISTING GAS LINE
- EXISTING WATER LINE
- EXISTING SANITARY SEWER LINE
- PROPOSED FIRE HYDRANT
- PROPOSED WATER METER
- PROPOSED WATER VALVE
- PROPOSED TEE
- PROPOSED BEND
- PROPOSED SEWER CLEAN OUT
- EXISTING FIRE HYDRANT
- EXISTING SANITARY SEWER MANHOLE
- EXISTING BURN
- THROAT BLOCK

STORM KEYNOTE LEGEND

- 1. PER CITY OF ALBUQUERQUE STANDARD DETAILS (DMS NO. 220)
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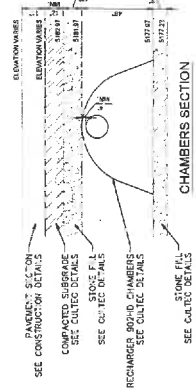


C7.0



STORM NOTES

1. REFER TO CITY STANDARD AND DETAILS FOR TRENCHING, BACKFILL, AND TRENCH COMPACTION REQUIREMENTS.
2. CONTRACTOR IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSURANCE REQUIREMENTS.
3. THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION AND/OR ELEVATION OF EXISTING UTILITIES AS SHOWN ON THESE PLANS IS BASED ON RECORDS OF THE UTILITY COMPANIES AND WHERE POSSIBLE, INSPECTIONS TAKEN IN THE FIELD. THE CONTRACTOR SHALL VERIFY THE LOCATION AND/OR ELEVATION OF EXISTING UTILITIES PRIOR TO EXCAVATION. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO RELOCATE ALL EXISTING UTILITIES WHICH CONFLICT WITH THE PROPOSED IMPROVEMENTS SHOWN ON THE PLANS.
4. CONTRACTOR IS RESPONSIBLE FOR ALL NECESSARY PERMITS, INSPECTIONS AND/OR CERTIFICATIONS REQUIRED BY CITY CODES AND/OR ORDINANCES.
5. CONTRACTOR IS RESPONSIBLE FOR THE REPLACEMENT REQUIRED FOR ALL UTILITY INSTALLATIONS PER CITY STANDARDS.
6. THE AREA OF LAND IN THIS PLAN IS WITHIN THE PROJECT AREA TO BE RELOCATED TO THE PROJECT AREA.



LEGAL DESCRIPTION

The legal description below is per the ALTA/NSPS Land Title Survey prepared for the Site by Precision Surveys, Inc. dated August 9 2021.

Parcel I

A tract of land lying and situate within Section 2, Township 10 North, Range 3 East, N.M.P.M. City of Albuquerque, Bernalillo County, New Mexico, comprising of Tract B-1, Block A, Vista Grande Addition, Unit 1, as the same is shown and designated on the plat thereof filed in the Office of the County Clerk of Bernalillo County on November 23, 1981 in Map Book C19, Page 27, said tract being more particularly described by New Mexico State Plane Coordinate System grid bearings (NAD 83-Central Zone) and ground distances (US Survey Feet) as follows;

Beginning at the northwest corner of described tract lying on the south right of way line of Montgomery Boulevard, N.E., marked by a found no. 5 rebar with yellow plastic cap "Erkenhoff LS 243" from whence a tie to A.G.R.S. monument "9_F18" bears in N 39°13'52" E, a distance of 1687.08 feet.

Thence from said point of beginning, along said south right of way line, S 89°47'53" E, a distance of 27.53 feet to an angle point, marked by a found chiseled "X";

Thence continuing along said south right of way line, N 45°00'17" E, a distance of 35.32 feet to an angle point, marked by a found no. 4 rebar;

Thence continuing along said south right of way line, N 89°50'05" E, a distance of 237.30 feet to a point of curvature, marked by a found no. 5 rebar;

Thence continuing along said south right of way line, along a curve to the right, having an arc length of 42.71 feet, a radius of 150.00 feet, a delta angle of 16°18'56", a chord bearing of S 83°33'32" E, and a chord length of 42.57 feet to a point of reverse curvature, marked by a set no. 5 rebar with pink plastic cap "PS 11993"

Thence continuing along said south right of way line, along a reverse curve to the left, having an arc length of 42.59 feet, a radius of 150.00 feet, a delta angle of 16°16'01", a chord bearing of S 80°34'11" E, and a chord length of 42.44 feet to the northeast corner of described tract, marked by a found no. 5 rebar;

Thence leaving said south right of way line, S 00°10'24" E, a distance of 137.88 feet to the southeast corner of described tract, marked by a found chiseled "X";

Thence S 89°28'47" W, a distance of 373.98 feet to the southwest corner of described tract, marked by a found pk nail with washer (Illegible);

Thence N 00°11'51" W, a distance of 127.44 feet to the point of beginning, containing 1.2632 acres (55,027 square feet), more or less.

Parcel II

Together with non-exclusive rights of easement under and in accord with the declaration of restrictions and grant of easement recorded November 30, 1977 in Book Misc. 573, Page 575, as Document No. 77-74436 and that certain special covenants, conditions and restrictions recorded November 25, 1971 in Book Misc. 893, Page 908, as Document No. 81-62056, and shared parking agreement filed December 5, 2003, recorded in Book A69, Page 7686 as Document No. 2003218150, re-recorded December 17, 2003, in Book A78, Page 3351 as Document No. 2003223828 and ratification of shared parking agreement filed December 17, 2003, recorded in Book A70, Page 2876 as Document No. 2003223353, records of Bernalillo County, New Mexico, to the extent of and only for the duration as provided for therein.

Bernalillo County, NM
415 Silver Ave. SW, 2nd Floor
P.O. Box 542
Albuquerque, NM 87102

Receipt: 1425183

Product	Name	Extended
COV	Covenant	\$25.00
	# Pages	7
	Document #	2023018668
	# Of Entries	0
Total		\$25.00

Tender (Check)
Check# 9746
Paid By Modulus Architects, Inc
Phone # 505-338-1499

\$25.00

Thank You!

3/30/23 8:28 AM moniqueo