

REVOCABLE PERMIT

THIS REVOCABLE PERMIT ("Permit"), made and entered into this ²⁰May, 2006, by and between the City of Albuquerque, New Mexico, a New Mexico municipal corporation (hereinafter referred to as the "City") as grantor and Coolidge Pinnacle LLC, a Delaware limited liability company, (registered as a foreign New Mexico limited liability company), (hereinafter referred to as the "Permittee") as permittee.

WITNESSETH, that in consideration of the mutual obligations and covenants herein, the parties hereto do mutually agree as follows:

1. Permit. Subject to the terms and conditions of this Permit, the City grants Permittee the right to operate, maintain, replace and remove a block wall that is 2 and one-half feet in height that encroaches 8.80 square feet (hereinafter referred to as the "Facility") within the public rights-of-way at the following location, as more particularly shown on the survey dated March 2006 prepared by Surveys Southwest, LTD., which is attached hereto as Exhibit A and made a part of this Permit along with a copy of Zone Atlas Page G-19-Z.

Pinnacle View Apartments,
7600 Montgomery Boulevard NE
Albuquerque, NM 87109
(hereinafter referred to as the "Location")

2. Use. The Permittee shall use the Location solely for a property perimeter wall and will not use it for any other purpose whatsoever without first obtaining the written consent of the City.

3. Compensation. As compensation for this Permit, the Permittee shall pay the City the sum of \$2.50 per square feet of encroachment Dollars (\$22.00) for each year this Permit is in effect (hereinafter referred to as the "Annual Fee").

The Annual Fee shall be paid to the City upon execution of this Permit, and by the same month and day each year thereafter for the term of this Permit.

4. Term, Termination and Removal. This Permit will remain in effect for a period of Ten (10) years from the date of execution of this Permit (hereinafter referred to as the "Term"), unless terminated and revoked as a result of:

a. The Permittee's breach of any provision of or default in the performance of any obligation pursuant to this Permit. If Permittee breaches any of the provisions hereof or is in default in the performance of any obligation imposed hereunder, the City may give thirty (30) days written notice (the "Notice Period") to the Permittee of the termination of this Permit. If the Permittee remains in default or the breach of any provision hereof remains incurred at the end of the Notice Period, this Permit shall terminate; or

b. The City's giving the Permittee written notice ninety (90) days in advance of termination; or



- c. The Permittee's giving the City written notice ninety (90) days in advance of termination; or
- d. An order of a court of competent jurisdiction.

Upon termination of this Permit and any renewal hereof, the Permittee shall abandon the use of the Facility, and shall remove the Facility and restore the right-of-way as nearly as possible to the condition it was in prior to removal, all at the sole expense of the Permittee.

If, after termination and within thirty (30) days after being directed to do so by the City, the Permittee fails to remove the Facility and restore the right-of-way, the City may perform the work and the Permittee shall reimburse the City within thirty (30) days after the City submits a bill to the Permittee for the costs of such work.

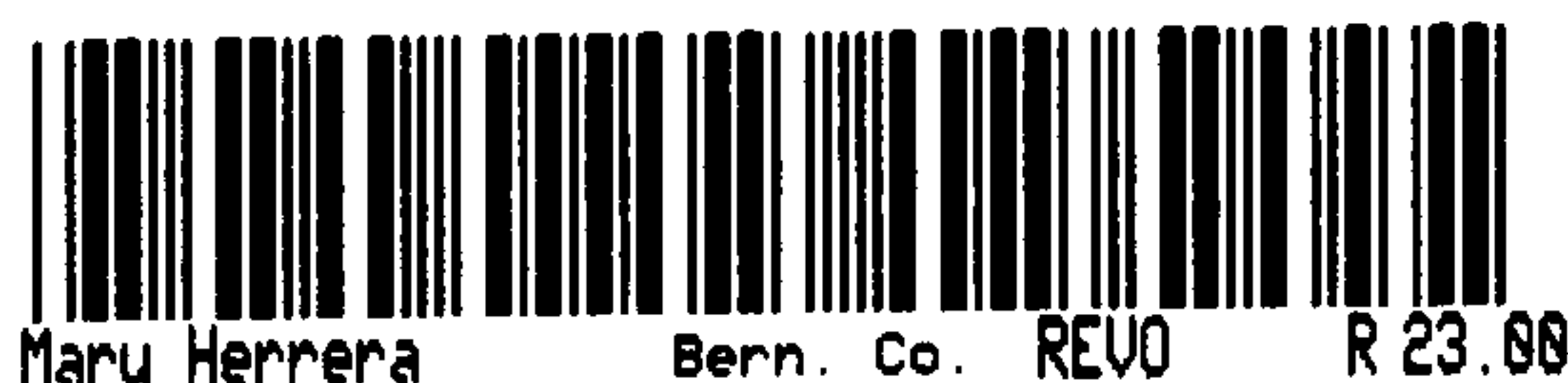
Termination of this Permit for any reason shall not release the Permittee from any liability or obligation relating to the installation, operation, maintenance or removal of the Facility or any other term of this Permit.

5. Renewal of Permit. If both the City and the Permittee wish to extend the Term of this Permit, then, before the expiration of the Term, the City and the Permittee shall enter into good faith negotiations, the object of which will be to agree upon the terms of a renewal of this Permit. The agreement of the City shall not be withheld unreasonably. If an agreement is reached, all terms, including the agreed-upon consideration, shall be reduced to a writing signed by both parties.

6. Location, Installation, Maintenance and Removal. The "Facility" is an existing structure that was installed and constructed of such material, and in a manner that will not at any time be a source of danger to, or interfere with the City's present or future use of the right-of-way, or the use of the right-of-way by any utility presently franchised by the City, or interfere with its use as a public way. If it becomes evident that the Permittee's proposed installation will interfere with existing City installations or any existing underground installations, then the Permittee shall modify its installation at the Location to avoid the conflict, after obtaining the City's approval for the change, at the sole expense of the Permittee. All permits required by the City for work within the right-of-way will be the responsibility of the Permittee's contractor.

If, in the judgement of the City, the Permittee at any time fails to perform its obligations under this section, the City, at the City's option, may perform whatever work the City deems necessary for the public safety, health and welfare, and the Permittee shall reimburse the City within thirty (30) days after the City submits a bill to the Permittee for the costs of performing such work. However, the City is not required to perform such work, and any failure by the City to perform the Permittee obligations shall not release the Permittee from liability for any loss or damage caused by the Permittee's failure to perform its obligations.

Installation, maintenance and removal of the Facility shall be accomplished in a manner which will not unreasonably impede traffic adjacent to the Location or impede its use as a public way, as determined by the City. The timing and manner of such construction, maintenance and removal shall be done in compliance with the City's requirements.



If the facility or any part thereof is the cause of an emergency condition, and the City determines that the situation makes it unreasonable to notify the Permittee or await action by the Permittee, the City may take whatever actions it deems necessary to remedy the emergency situation at the sole expense of the Permittee, which will reimburse the City within thirty (30) days after the City submits a bill to the Permittee for the costs of such actions.

7. As-Builts. The "Facility" is an existing block wall and as built is unavailable. The wall is constructed of cinderblock and is 2 and one-half feet in height.

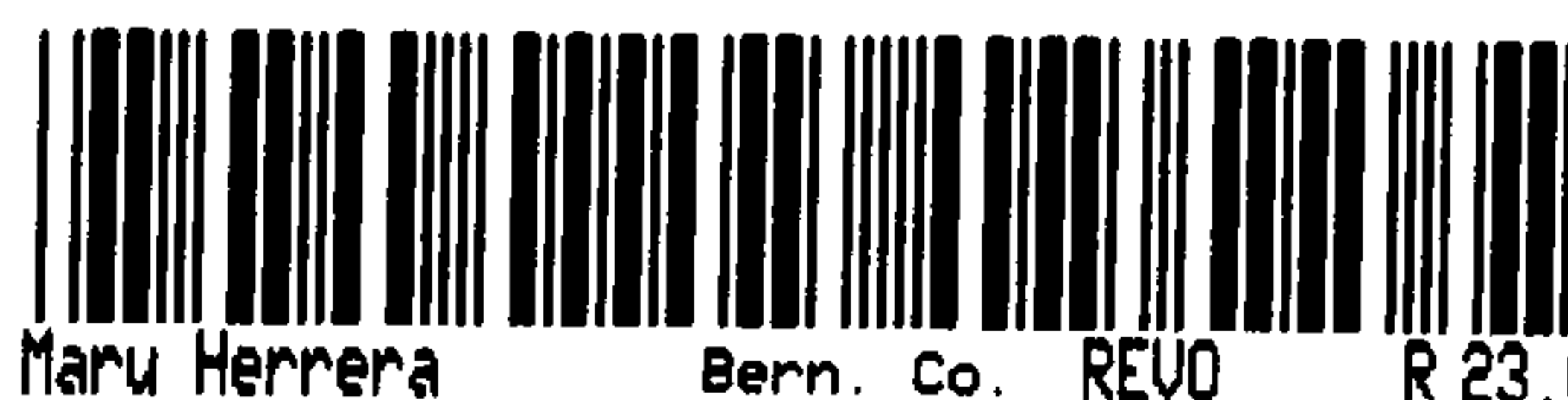
8. Insurance. During the Term of this Permit, including renewals, if any, the Permittee shall obtain and maintain liability insurance in an amount of not less than \$1,000,000 combined single limit for accidents or occurrences which cause bodily injury, death or property damage to any member of the public caused by or related to the construction, installation, operation, maintenance, replacement, removal or other activity related to the Facility. The insurance policy shall name the City of Albuquerque, its employees and elected officials, as their interest may appear, as additional insured. Any cancellation provision must provide that if the policy is cancelled prior to the expiration date of the Permit, materially changed or not renewed, the issuing company will mail thirty (30) days written notice to the City, Attention: Risk Management. A certificate of insurance in compliance with the above must be furnished to the City with the execution of this Permit and prior to commencement of construction.

9. Indemnity/Liability. At all times the Permittee shall defend, indemnify and save harmless the City, its officers, agents and employees against all claims, demands, damages and causes of action which results from or arises out of the construction, installation, operation, maintenance, replacement or removal of the Facility including any loss, damage or expense arising out of loss of or damage to property, injury to or death of persons, or mechanics' or other liens of any character, or taxes or assessments of any kind, except to the extent or degree that the City itself is found contributorily negligent. To the extent, if at all, Section 56-7-1 NMSA 1978 is applicable to this Agreement, this Agreement to indemnify 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 by the indemnitee, or the agents or employees of the indemnitee; or (2) the giving of or the failure to give direction or instructions by the indemnitee, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property. The indemnification required hereunder shall not be limited as a result of the specifications of any applicable insurance coverage. Nothing herein is intended to impair any right or immunity under the laws of the State of New Mexico.

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

11. Changes. Changes to this Permit are not binding unless made in writing, signed by both parties.

12. Captions. The captions to the sections or paragraphs of this Permit are not part of this Permit and will not affect the meaning or construction of any of its provision.



13. Binding Effect. This Permit is binding upon and inures to the benefit of the successors and/or assigns of the parties.

14. Compliance with Laws. The Permittee and its contractors shall comply with all federal, state and local laws, ordinances, regulations and rules and will not discriminate illegally against any person. The Permittee's attention is specifically drawn to 62-14-1 et seq. NASA, (1978 Comp., 1984 Repl. Pamphlet) regarding excavation damage to pipelines and underground utility lines.

15. Applicable Law. This Permit is governed by and construed and enforced in accordance with the laws of the State- of New Mexico.

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

17. Assignment. The Permittee shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation) without the prior written consent of the City, which shall not be unreasonably withheld. Permittee does have the prior written consent of the City to assign its interest to proposed Purchaser of the Location as shown on attached Exhibit "A" to this Permit ("Assignee"), subject to the following: upon assignment of this Permit to Assignee, Permittee agrees to provide a copy of the assignment to the City with a certificate of insurance provided by Assignee in compliance with the insurance requirements of Paragraph 8 of this Permit. The Notice address of Assignee is:

c/o Hamilton Zanze & Company
37 Graham Street, Suite 200B
San Francisco, CA 94129-0454
Attention: Kurt E. Houtkooper
Phone No. (415) 561-6800

With a copy to:

Greenberg Glusker Fields Claman Machtinger & Kinsella LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, CA 90067
Attention: Craig P. Wood, Esq.
Phone No. (310) 785-6838

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

Coolidge, Pinnacle LLC
One West Red Oak Lane
White Plains, NY 10604
Attention: Theodore Sannella
Phone No. 914) 694-6070



Greenberg Nicoletta & Stein LLP
18 East 41st Street, Suite 1201
New York, NY 10017
Phone No. (212) 532-5501

For purposes of giving formal, written notice of the City, the City's address is:

Mayor
City of Albuquerque
P.O. Box 1293
Albuquerque, New Mexico 87103

Copies of any notices to the City must also be given to:

City Engineer, Planning Department, City of Albuquerque
600 2nd Street NW, Room, 400
Albuquerque, New Mexico 87102

Written notice must be made either personally or by certified United States Mail. If the notice is mailed, the notice will be complete when deposited in the United State Mail, postage paid, and addressed as required in this Section. Notice of change of address will be given in the same manner as required by this section.

19. Approval Required. This Permit Agreement shall not become effective or binding until approved by the City's Public Works Department Director.

IN WITNESS WHEREOF, the City and the Permittee have executed this Permit Agreement the day and year first above written.

CITY OF ALBUQUERQUE

Approved By:



City Engineer
Planning Department

COOLIDGE PINNACLE LLC

By: Coolidge Pinnacle Realty Corp.

Permittee:

By:

Title:

Vice President

Date: 5-03-06

lge stlae

ju
4-5-06



CITY'S NOTARY

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on 3rd day of May, 2006, by Richard Morte City Engineer, Planning Department of the City of Albuquerque, a New Mexico municipal corporation, on behalf of said corporation.

Glória W. Saavedra
Notary Public

My Commission Expires:

11-25-2007

PERMITTEE'S NOTARY

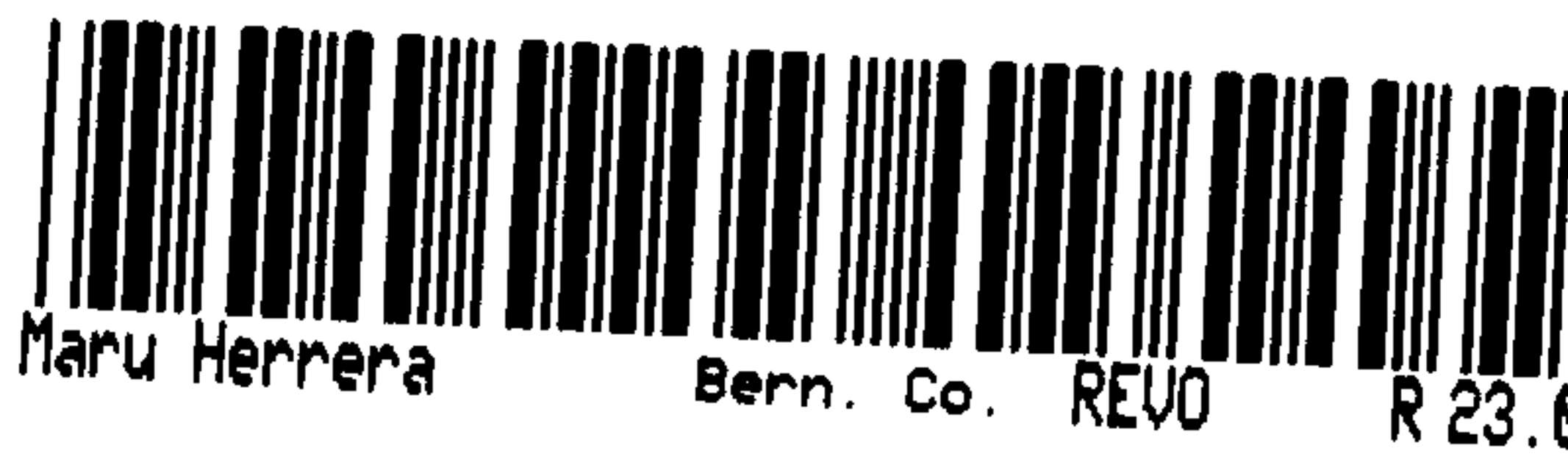
STATE OF New York)
~~NEW MEXICO~~)
COUNTY OF Westchester)
~~BERNALILLO~~)

This instrument was acknowledged before me on 29th day of March, 2006, by Ted Sannella, of Coolidge Pinnacle Realty Corp. _____ on behalf of said Coolidge Pinnacle LLC _____, a New Mexico limited liability company.

Steven B. Burd
Notary Public

My Commission Expires:

STEVEN B. BURD
Notary Public, State of New York
No. 41-4624332
Qualified in Rockland County
Commission Expires Jan. 31, 20 07



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Page: 6 of 8
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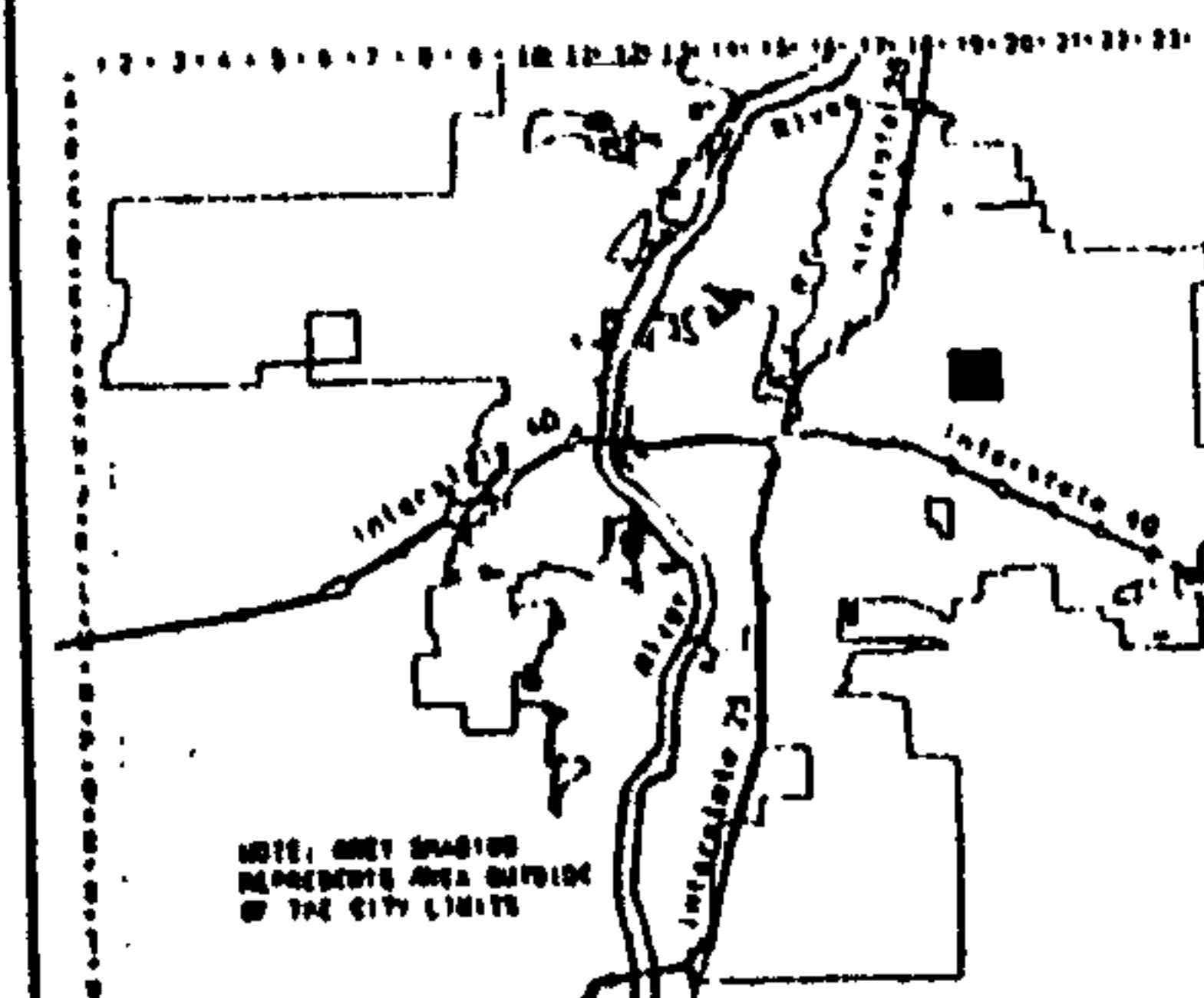
EXHIBIT "A"

Proposed Purchaser

1. AES Pinnacle View, LLC
2. RAW Pinnacle View, LLC
3. Cypress Point Pinnacle View, LLC
4. 15th & Sanchez Pinnacle View, LLC
5. Lake South Pinnacle View, LLC
6. Javan Pinnacle View, LLC
7. Hamilton Cypress Pinnacle View, LLC
8. DAS Pinnacle View, LLC
9. MOB Pinnacle View, LLC
10. Oleson Cypress Pinnacle View, LLC
11. PH Pinnacle View, LLC
12. ESG Pinnacle View, LLC
13. Pinnacle View Apartments, LLC



This is a detailed plat map of the Sandia Heights area in Albuquerque, New Mexico. The map shows a grid of streets including Montgomery Blvd, Candelaria Rd, and various residential streets like Stardust, Comanche, and Sierra. It identifies several schools: Sandia High School, Sandia High Pool, and Yucca Annex. Other landmarks include Stardust Skis Park, Rachael Light Park, and the Church & Rel Fac. The map also shows various zoning districts such as C-2, R-3, SU-1, and C-1. A large area is labeled 'LANDS OF BOARD OF EDUCATION'. The map is oriented with North at the top.



**Map Amended through
September 16, 1999**

[REDACTED]

May Herrera

TREASURER'S REPORT OF DEPOSITS

DEPOSITOR:

Rodney, Dickason, Sloan, Akin - Robb PA
Counsellors, Attorneys @ Law
201 Bro Street NW Suite 2200
P.O. Box 1888
Albuquerque, NM 87103

DESCRIPTION:

City Permit No. 6119-004
Revocable Permit

Wells Fargo Bank, N.A.
Albuquerque, NM 87103 CK# 137841

COMMENTS:

C: Christa Wagner - Accounting
File - Design Review project #
6119-004

FUND:

ACCOUNT: 425015

ACTIVITY: 4985000

AMOUNT: \$22.00

FUND:

ACCOUNT:

ACTIVITY:

AMOUNT:

TOTAL AMOUNT: \$22.00

VERIFIED BY: :

PHONE NUMBER:

DEPOSIT DATE:

PAMELA LUJAN

924-3996

5-15-06

DEPOSITOR

DUPLICATE

City Of Albuquerque
Treasury Division

AMOUNT

5/17/2006 1:46PM LDC: ANNX
RECEIPT# 00063046 WSH 007 TRANSH 0019
Account 425015 Fund 0110
Activity 4985000 TRSASR
Trans Amt \$22.00
J24 Misc

\$22.00

CK
CHANGE

\$22.00
** AA

THIS CHECK IS VOID WITHOUT A COLORED BORDER AND BACKGROUND PLUS A KNIGHT & FINGERPRINT WATERMARK ON THE BACK - HOLD AT ANGLE TO VIEW

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

COUNSELLORS AND ATTORNEYS AT LAW

201 3RD STREET N.W., SUITE 2200

P.O. BOX 1888

ALBUQUERQUE, NEW MEXICO 87103

Check No. **137841**

WELLS FARGO BANK, N.A.
ALBUQUERQUE, NM 87103

95-219
1070

Date: **May 3, 2006**

AMOUNT OF CHECK

*****\$22.00**

*****Twenty-two and 00/100 DOLLARS*****

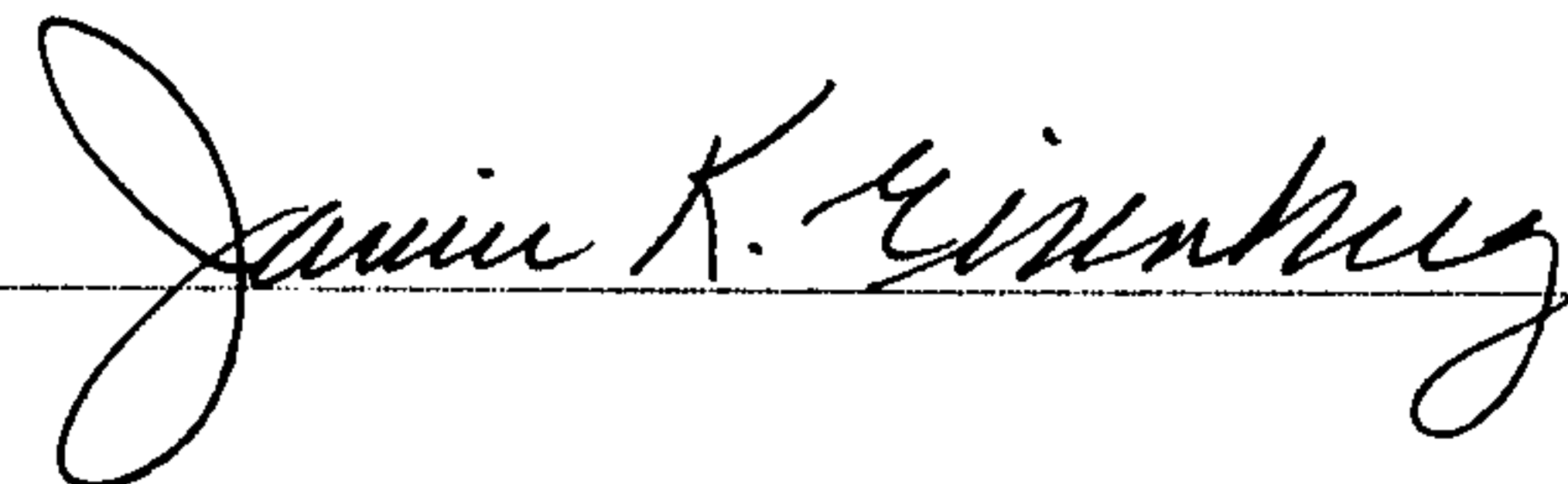
PAY TO THE ORDER OF:

City of Albuquerque

PO Box 1293

Albuquerque, NM 87103

By



By

TWO SIGNATURES REQUIRED IF AMOUNT
OF CHECK IS \$1000.00 or above

SIGNATURE AREA CONTAINS A KNIGHT & FINGERPRINT CHECK WORDING

U.S. PATENTS 5532290, 5575503, 5641183, 5785353, 5834384, 6030000

⑈137841⑈ ⑆1070021920627 44962 61⑈

DRAINAGE INFORMATION SHEET

(AKA CIMARRON VILLAGE APTS)

PROJECT TITLE: PINNACLE VIEW APTS ZONE ATLAS/DRAINAGE FILE # G-19/D36

LEGAL DESCRIPTION: TRACT G, UNIT 8, STARDUST SKIES

CITY ADDRESS: 7600 MONTGOMERY BLVD NE

ENGINEERING FIRM: ISAACSON & ARFMAN

CONTACT: SCOTT MCGEE

ADDRESS: 128 MONROE 87108

PHONE: 268-8828

OWNER: TRAMMELL CROW RESIDENTIAL

CONTACT: DAVID LUKE

ADDRESS: 2222 E. CAMELBACK RD, PHOENIX, AZ 85016

PHONE: (602) 381-8181

ARCHITECT: TODD & ASSOCS.

CONTACT: _____

ADDRESS: 4148 N. 48TH ST PHOENIX, AZ 85018

PHONE: (602) 840-2795

SURVEYOR: SW SURVEYING

CONTACT: TOM PATRICK

ADDRESS: 333 LOMAS NE

PHONE: 247-4444

CONTRACTOR: _____

CONTACT: _____

ADDRESS: _____

PHONE: _____

PRE-DESIGN MEETING:

☒ YES

DRB NO. _____

☐ NO

EPC NO. _____

☐ COPY OF CONFERENCE
RECAP SHEET PROVIDED

PROJECT NO. _____

TYPE OF SUBMITTAL:

☐ DRAINAGE REPORT

☒ DRAINAGE PLAN

☐ CONCEPTUAL GRADING & DRAIN PLAN

☐ GRADING PLAN

☐ EROSION CONTROL PLAN

CHECK TYPE OF APPROVAL SOUGHT:

☐ SECTOR PLAN APPROVAL

☐ SKETCH PLAT APPROVAL

☐ PRELIMINARY PLAT APPROVAL

☐ SITE DEVELOPMENT PLAN APPROVAL

☐ FINAL PLAT APPROVAL

☒ BUILDING PERMIT APPROVAL

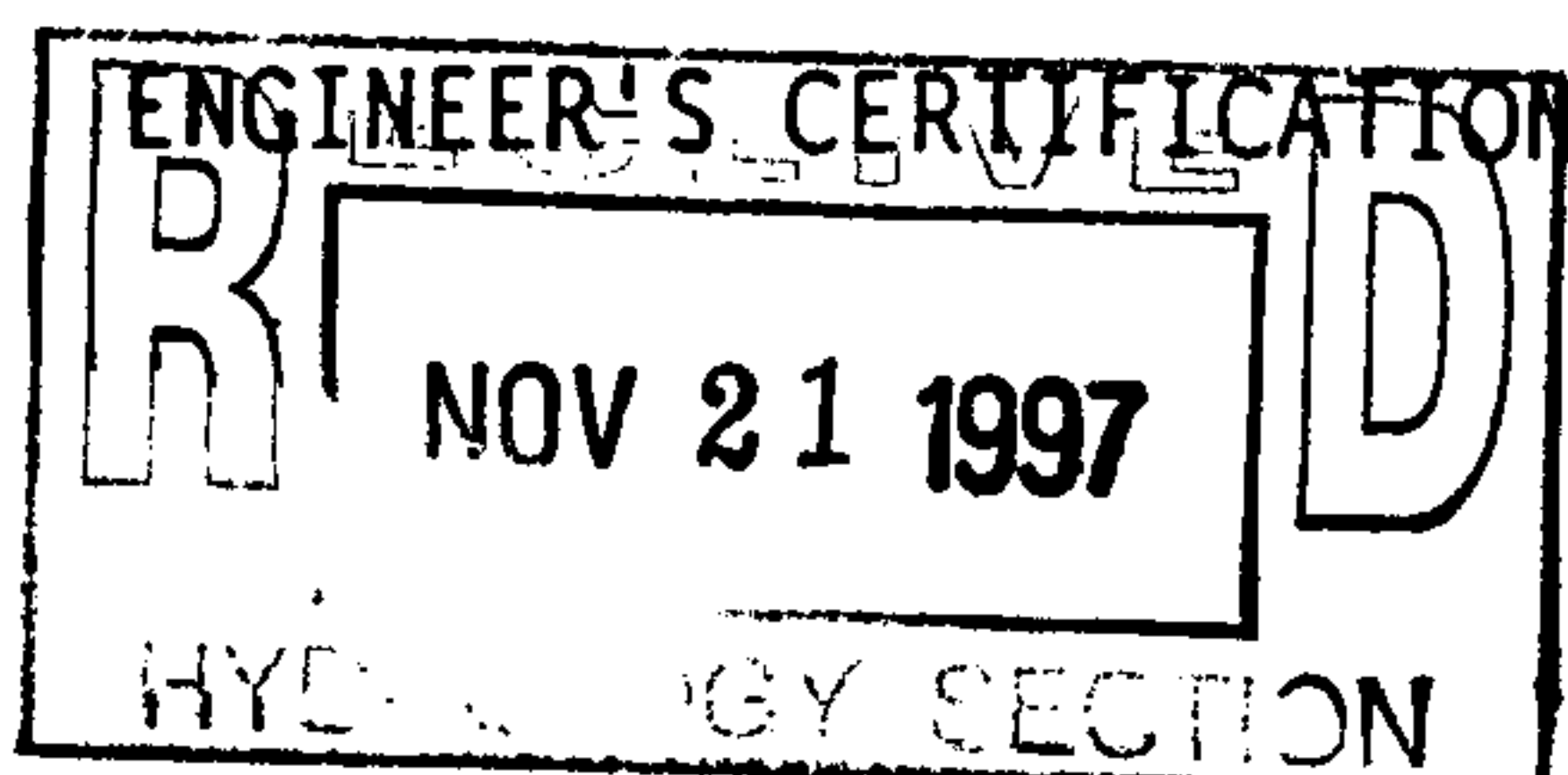
☐ FOUNDATION PERMIT APPROVAL

☐ CERTIFICATE OF OCCUPANCY APPROVAL

☐ ROUGH GRADING PERMIT APPROVAL

☐ GRADING/PAVING PERMIT APPROVAL

☐ OTHER _____ (SPECIFY)



DATE SUBMITTED: 11-21-97

BY: Scott M McGee

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CONTACT: TOM PATRICK

ADDRESS: 333 LOMAS NE

PHONE: 247-4444

CONTRACTOR: _____

CONTACT: _____

ADDRESS: _____

PHONE: _____

PRE-DESIGN MEETING:

X

YES

DRB NO. _____

NO

EPC NO. _____

COPY OF CONFERENCE
RECAP SHEET PROVIDED

PROJECT NO. _____

TYPE OF SUBMITTAL:

CHECK TYPE OF APPROVAL SOUGHT:

 DRAINAGE REPORT

 SECTOR PLAN APPROVAL

 DRAINAGE PLAN

 SKETCH PLAT APPROVAL

 CONCEPTUAL GRADING & DRAIN PLAN

 PRELIMINARY PLAT APPROVAL

 GRADING PLAN

 SITE DEVELOPMENT PLAN APPROVAL

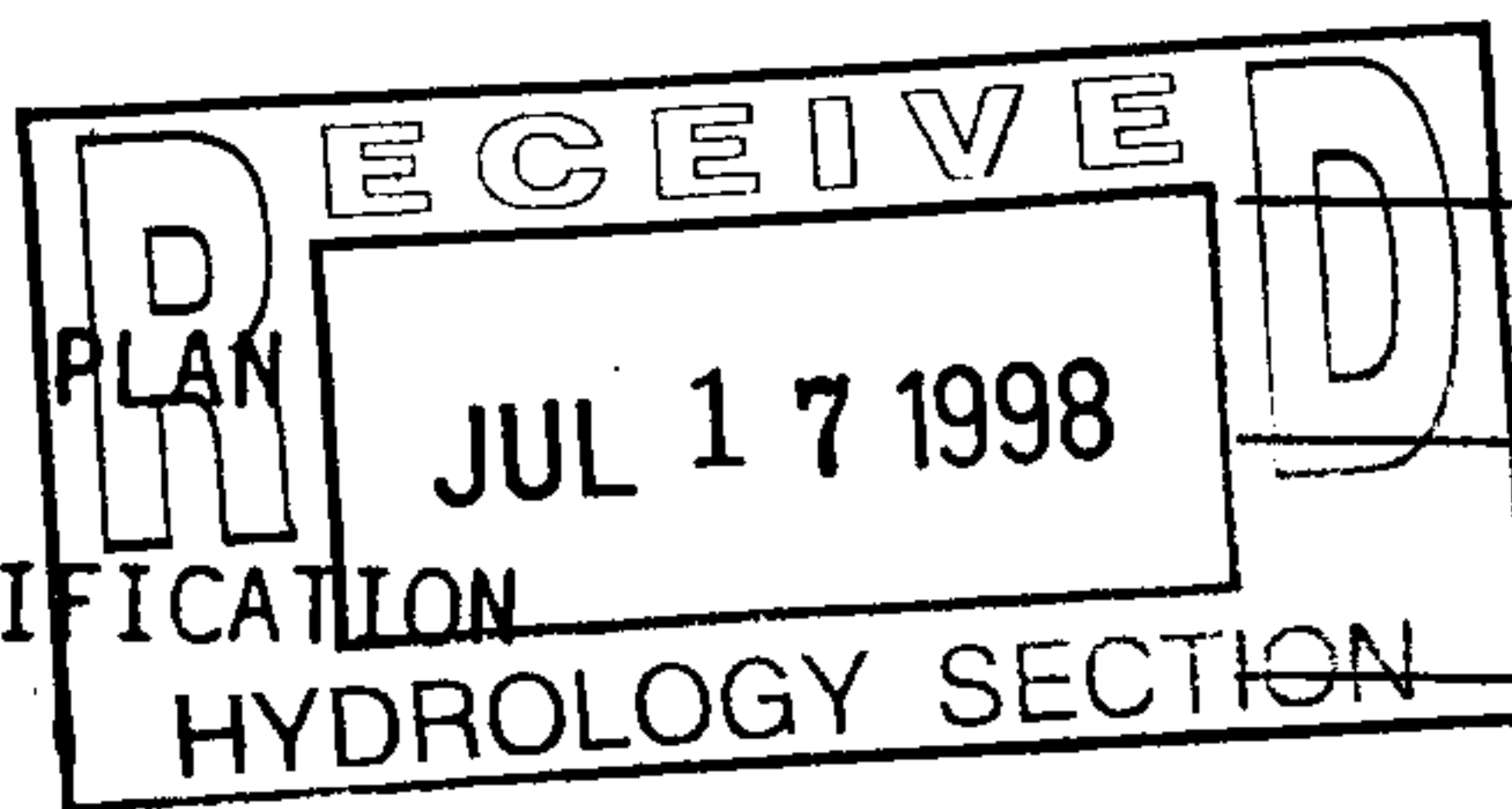
 EROSION CONTROL PLAN

 FINAL PLAT APPROVAL

X

ENGINEER'S CERTIFICATION

 BUILDING PERMIT APPROVAL



 FOUNDATION PERMIT APPROVAL

X

CERTIFICATE OF OCCUPANCY APPROVAL

 ROUGH GRADING PERMIT APPROVAL

 GRADING/PAVING PERMIT APPROVAL

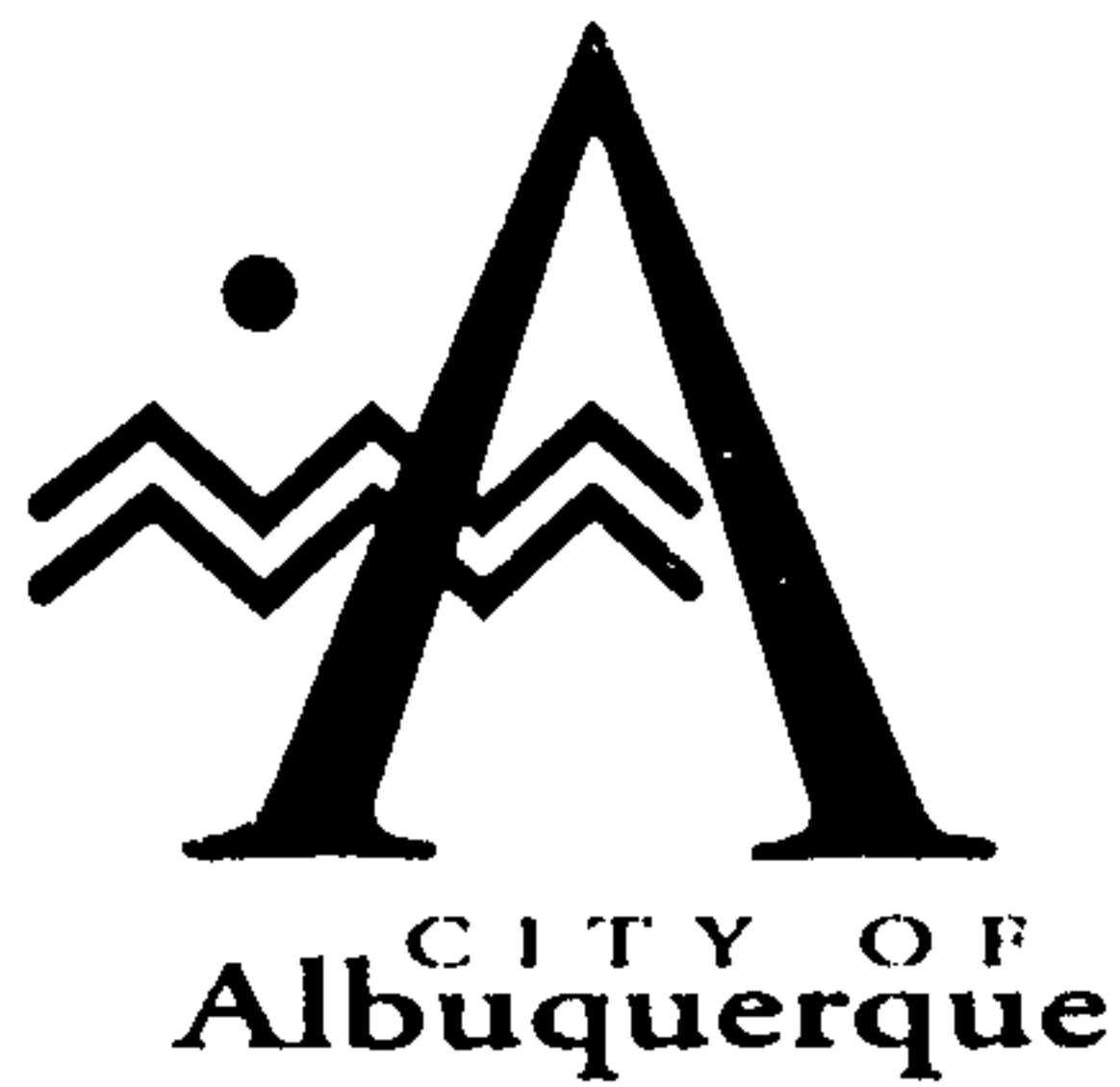
 OTHER _____ (SPECIFY)

DATE SUBMITTED: 7-17-98

BY: Scott M McGee

REV. 6/85

30 day Temp CO. issued on 7-17-98 Ag



Martin J. Chávez, Mayor

November 25, 1997

Scott McGee
Isaacson & Arfman
128 Monroe NE
Albuquerque, New Mexico 87108

RE: DRAINAGE PLAN FOR AN ADDITION TO THE PINNACLE VIEW APARTMENTS
(G19-D36) ENGINEER'S STAMP DATED 10/20/97

Dear Mr. McGee:

Based on the information provided on your October 20, 1997 submittal, the above referenced site is approved for Building Permit.

Please attach a copy of this approved plan to the construction sets prior to sign-off by Hydrology.

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

If I can be of further assistance, please feel free to contact me at 924-3986.

C: Andrew Garcia

File

Sincerely

Bernie J. Montoya CE
Associate Engineer

Good for You, Albuquerque!



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SURVEYOR: SW SURVEYING CONTACT: TOM PATRICK

ADDRESS: 333 LOMAS NE 87102 PHONE: 247-4444

CONTRACTOR: _____ CONTACT: _____

ADDRESS: _____ PHONE: _____

PRE-DESIGN MEETING:

☒ YES

☐ NO

☐ COPY OF CONFERENCE
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DRB NO. _____

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TYPE OF SUBMITTAL:

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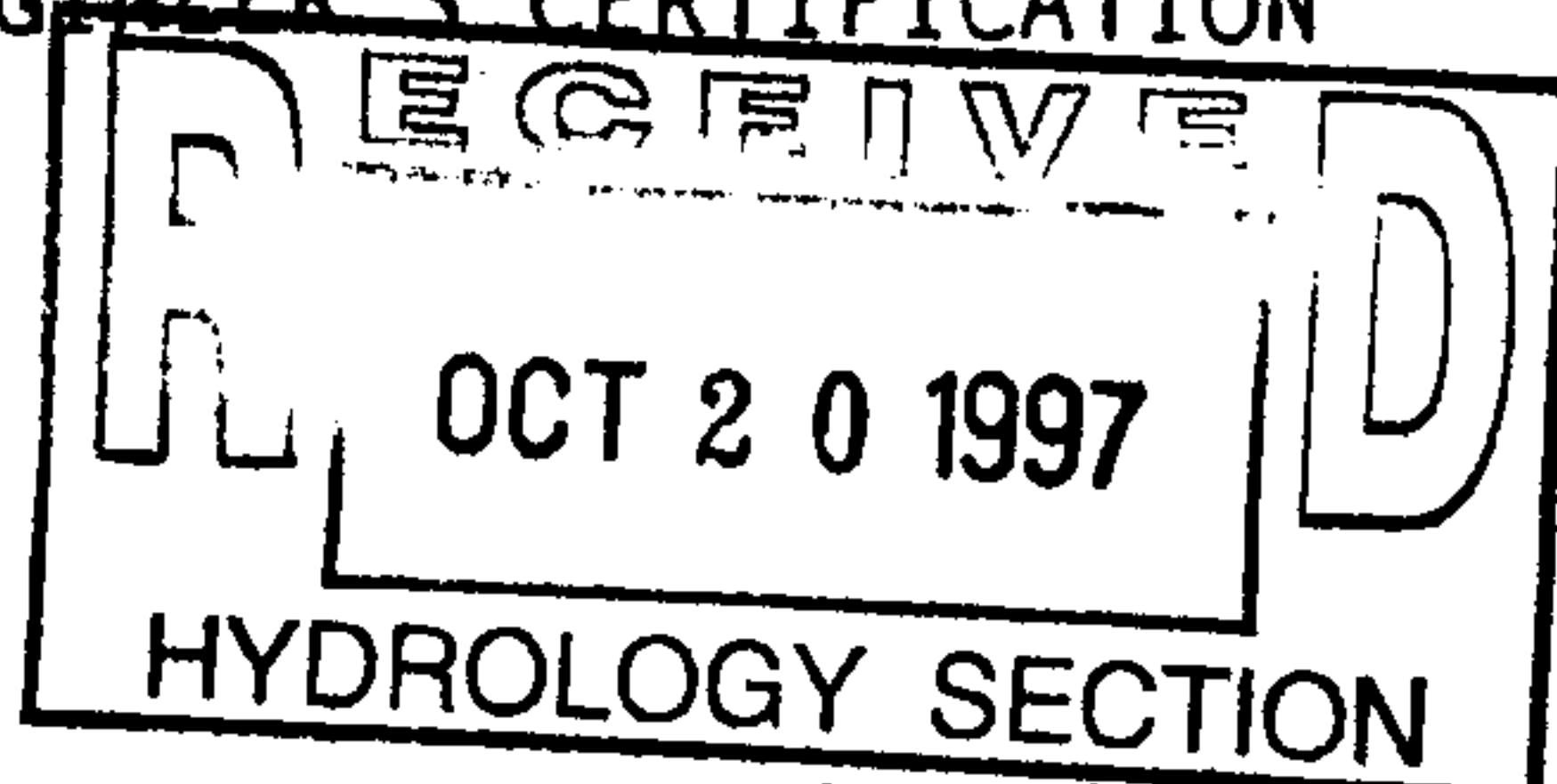
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☐ CONCEPTUAL GRADING & DRAIN PLAN

☐ GRADING PLAN

☐ EROSION CONTROL PLAN

☐ ENGINEER'S CERTIFICATION



DATE SUBMITTED: 10/17/97

BY: Scott M McGee

CHECK TYPE OF APPROVAL SOUGHT:

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☐ OTHER _____ (SPECIFY)