

Laurelwood II Joint Venture

March 22, 1990

Mr. Fred Aguirre
Public Works Department
City of Albuquerque
P. O. Box 1293
Albuquerque, New Mexico 87103

Dear Mr. Aguirre:

This letter confirms the intent of Laurelwood II Joint Venture, owner of Laurelwood II Subdivision, to have the easement agreement now in effect between it and Westland Development Company (copy attached) redone in a manner acceptable to the City of Albuquerque.

It is further our understanding that future development approvals may be denied by the City should the subject easement not be redone.

Sincerely,


Max Lee Kiehne
Managing Partner

MLK:jg

Attachment

FRED: 3-22-90
ATTACHED IS MAX'S AGREEMENT
TO REDO THE WESTLAND/LAURELWOOD
EASEMENT (ATTACHED) WHICH ALSO
GIVES LAURELWOOD EQUITABLE
OWNERSHIP TO ENTER INTO THE
COVENANT FOR MAINTENANCE WITH
THE CITY, WHICH YOU ALSO
REQUESTED. ^(ALSO ATTACHED) HOPEFULLY THESE
WILL TAKE CARE OF YOUR CONCERNS
EXCEPT FOR THE CERTIFICATION
OF CONSTRUCTION — PLEASE CALL
WITH ANY COMMENTS — THANKS
VEA 294-6545

TEMPORARY DRAINAGE EASEMENT

This grant of Easement, between: Westland Development Co., Inc., a New Mexico corporation ("Grantor"), whose address is 401 Coors Boulevard NW, Albuquerque, New Mexico 87105 and Laurelwood II Joint Venture, a joint venture, ("Grantee"), whose address is 2400 Comanche Road NE, Albuquerque, New Mexico 87107, is made in Albuquerque, Bernalillo County, New Mexico and is entered into as of the date Grantor signs this Easement.

1. Recital. Grantor is the owner of certain unplatted real property located adjacent to the West Boundary of Laurelwood II Subdivision in Bernalillo County, New Mexico (the "Property").

2. Grant of Easement. The Grantor grants to the Grantee a temporary easement ("Easement") in, over, upon and across the Property for: Drainage Facilities. The Easement is more particularly described in the attached Exhibit "A" and is illustrated on the attached Exhibit "B".

The grant of the Easement includes the right of the Grantee to enter upon the Easement at any time for inspection, installation, maintenance, repair or modification to its drainage facilities and the right to remove trees, bushes, undergrowth and any other obstacles if the Grantee determines they interfere with the appropriate use of the Easement for its drainage facilities.

3. Binding on Grantor's Property. The grant and other provisions of this Easement constitute covenants running with the land for the benefit of the Grantee and its successors and assigns.

4. Indemnification. As a part of the consideration for this grant, the Grantee agrees to save Grantor harmless from any and all liability arising from the Grantee's negligent use of the Easement for the purposes set forth herein. The Grantee does not agree to save Grantor harmless from any liability which may arise from Grantor's use of the easement and the Property.

5. This grant of Easement shall be relinquished by the Grantee at that point in time when the Grantor and Grantee both agree that the Easement is no longer needed or when the City of Albuquerque no longer requires said Easement.

6. This Easement shall extend to and bind the heirs personal representatives and assigns of each of the parties and shall inure to the benefit of all successors, transferees and assigns of the parties.

GRANTEE:

GRANTOR:

LAURELWOOD II JOINT VENTURE

WESTLAND DEVELOPMENT CO., INC.

By: Skip Buchanan
 Title: MANAGING PARTNER
 Dated: 9/26/88

By: Gil Cordova
 Gil Cordova
 Its President and C.E.O.
 Dated: 9/13/88

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

The foregoing instrument was acknowledged before me this 13th day of September, 1988, by Gil Cordova, President, of Westland Development Co., Inc., a New Mexico corporation, on behalf of said corporation.

Veronica Herrera
 NOTARY PUBLIC

My Commission Expires:

8/2/92

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

The foregoing instrument was acknowledged before me this 26th day of September, 1988, by SKIP BUCHANAN, MANAGING PARTNER, of LAURELWOOD II JOINT VENTURE a New Mexico joint venture, on behalf of said joint venture.

Janet Garland
 NOTARY PUBLIC

My Commission Expires:

3-14-92

August 22, 1988

EXHIBIT "A"

329

That certain parcel of land situate within projected Section 9, Township 10 North, Range 2 East of the New Mexico Principal Meridian; lying within the Town of Atrisco Land Grant, Bernalillo County, New Mexico; and being more particularly described as follows:

BEGINNING at a point on the west boundary of the parcel of land shown on the plat entitled "Plat of Laurelwood II Subdivision", as filed for public record with the Office of the Bernalillo County Clerk on February 11, 1988, in Volume C35, Folio 170; whence, the southwest corner of said Laurelwood II Subdivision bears S 16° 44' 13" W, 860.36 feet; and whence, the New Mexico State Highway Commission/Albuquerque City Survey monument "I40-19" bears S 27° 47' 01" E, 7039.36 feet;

Thence, N 54° 18' 19" W, 65.00 feet leaving said west boundary;

Thence, N 08° 45' 00" E, 290.00 feet;

Thence, N 39° 31' 37" E, 315.82 feet;

Thence, S 57° 22' 44" E, 30.00 feet to said west boundary;

Thence, following said west boundary for the remaining three (3) courses:

S 32° 37' 16" W, 20.00 feet;

Thence, S 03° 45' 52" E, 227.01 feet;

Thence, S 35° 41' 41" W, 380.00 feet to the POINT OF BEGINNING of the parcel of land herein described.

The above delineated parcel of land contains 1.7695 acres, more or less.

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
FILED FOR RECORD

88 NOV 10 PM 4:28

MS 67A PG 327330

GLADYS M. DAVIS
CLERK & RECORDER

DRAINAGE COVENANT

This Drainage Covenant, between (state the name of the present real property owner wxactly as shown on the real estate document conveying title to the present owner and state the legal satus of the owner, for example, "single person," "husband and wife," "corporation of the State of X," "partnership":) LAURELWOOD II JOINT VENTURE, a Joint Venture ("Owner"), whose address is 4520 Montgomery Blvd. NE, Suite 4-A, Albu. NM and the City of Albuquerque, 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 Owner signs this Covenant.

1, Recital. Owner is the owner of certain real property located at (give legal description, e.g., subdivision, lot and block and street address:)

REFERENCE EXHIBIT "A", AND EXHIBIT "B"

in Bernalillo County, New Mexico (the "Property").

Pursuant to City ordinances, regulations and other applicable laws, the Owner is required to construct and maintain certain drainage facilities on the Property, and the parties wish to enter into this agreement to establish the obligations and responsibilities of the parties.

2. Description and Construction of Drainage Facilities. Owner shall construct the following "Drainage Facility" within the Property at Owner's sole expense in accordance with the standards, plans and specifications approved by the City:

AS PER ATTACHMENT "A"

The Drainage Facility is more particularly described in the attached Exhibit A. The Owner 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 Owner will maintain the Drainage Facility at Owner'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 of the Drainage Facility it deems appropriate, without liability to the Owner.

5. Demand for Construction or Repair. The City may send written notice ("Notice") to the Owner requiring the Owner to construct or repair the Drainage Facility within _____ days ("Deadline") of receipt of the Notice, as provided in Section 12, and the Owner will comply promptly with the requirements of the Notice. The Owner will perform all required work by the Deadline, at Owner's sole expense.

(Approved by Legal Dept.
as to form only 12/89)

6. Failure to Perform by Owner and Emergency Work by City. If the Owner 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 Owner for the cost of the work and aofr any other expenses or damages whhich reulst from Owner's failure to perform. The Owner agrees promptly to pay the City the amount assessed. If the Owner fails to pay the City within thirty (30) days after the City gives the Owner written notice of the amount due, the City may impose a lien against Owner'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 Owner for any damages resulting from the City's repair or maintenance following notice to the Owner as required in this agreement or in an emergency unless the damages are the result of the reckless conduct or gross negligence of the City.

8. Indemnification. As a part of the consideration for this grant, subject to the provisions of the New Mexico Tort Claims Acts and all other applicable New Mexico Laws, the City agrees to save owner harmless from any and all liability arising from the City's negligent use of the Drainage Facility. The City does not agree to save Owner harmless from any liability which may arise from Owner's use of the Drainage Facility and Property. Owner agrees to indemnify and save the City its officials, agents and employees harmless from all claims, actions, suits and proceedings arising out of or resulting from the Owner's negligent maintenance, construction or use of the Drainage Facility. 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; of (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.

9. Cancellation of Agreement and Release of Covenant. This agreement may be cancelled and Owner's covenants by the City following by the City's mailing to the owner notice of the City's intention to record a cancellation and release with the Bernalillo County Clerk. The Cancellation and Release will be effective thirty (30) days after the date of mailing the notice to the user unless a later date is stated in the notice or in the Cancellation and Release. After the effective date, the City will record the Cancellation and Release with the Bernalillo County Clerk.

10. Assessment. Nothing in this agreement shall be construed to relieve the Owner, his heirs, assigns, and sucessors from an assessment against owner's property for improvement 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.

(Approved by Legal Dept.
as to form only 12/89)

11. Notice. For purposes of given formal written notice to the Owner, owner's address is:

Laurelwood II Joint Venture
4520 Montgomery Boulevard NE, Suite 4-A
Albuquerque, NM 87109

Notice may be given to the Owner 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 Owner within three days after the notice is mailed if there is no actual evidence of receipt. The Owner may change owner's address by given written notice of the change by Certified Mail, return receipt requested, to the City Public Works Department, P.O. Box 1293, Albuquerque, New Mexico, 87103.

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

13. Binding on Owner's Property. The covenants and obligations of the owner said forth herein shall be binding on owner, his heirs, assigns and successors and on owner's property and constitute covenants running the owner's property until released by the City.

14. Entire Agreement. This agreement contains the entire agreement of the parties and supercedes any and all other agreements or understanding, oral or written, whether previous to the execution hereof or contemporaneous herewith.

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

16. 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.

17. 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.

18. Form Not Changed. Owner agrees that changes to the wording of this form are not binding upon the City unless initialed by the Owner and approved and signed by the City Legal Department in writing on this form.

OWNER:

By:

Its:

Dated:

Max Lee Kibler
Managing Partner
March 22, 1990

(Approved by Legal Dept.
as to form only 12/89)

STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss

The foregoing instrument was acknowledged, before me this 22nd. day
of March, 1989, by [name of person signing:] Max Lee Keihne,
{title or capacity, for instance, "President" or "Owner":} Managing Partner
of {name of the entity which owns the Property if other than the individual
signing, for instance, the name of the corporation, partnership, or joint
venture:} Laurelwood II Joint Venture.

Janet Garland
Notary Public

My commission Expires:
3/14/92

CITY OF ALBUQUERQUE:

Approved:

By: _____
Title: _____
Dated: _____

(EXHIBIT A ATTACHED)

(Approved by Legal Dept.
as to form only 12/89)

EXHIBIT "A"

That certain parcel of land situate within projected Section 9, Township 10 North, Range 2 East of the New Mexico Principal Meridian; lying within the Town of Atrisco Land Grant, Bernalillo County, New Mexico; and being more particularly described as follows:

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Thence, N 54° 18' 19" W, 65.00 feet leaving said west boundary;

Thence, N 08° 45' 00" E, 290.00 feet;

Thence, N 39° 31' 37" E, 315.82 feet;

Thence, S 57° 22' 44" E, 30.00 feet to said west boundary;

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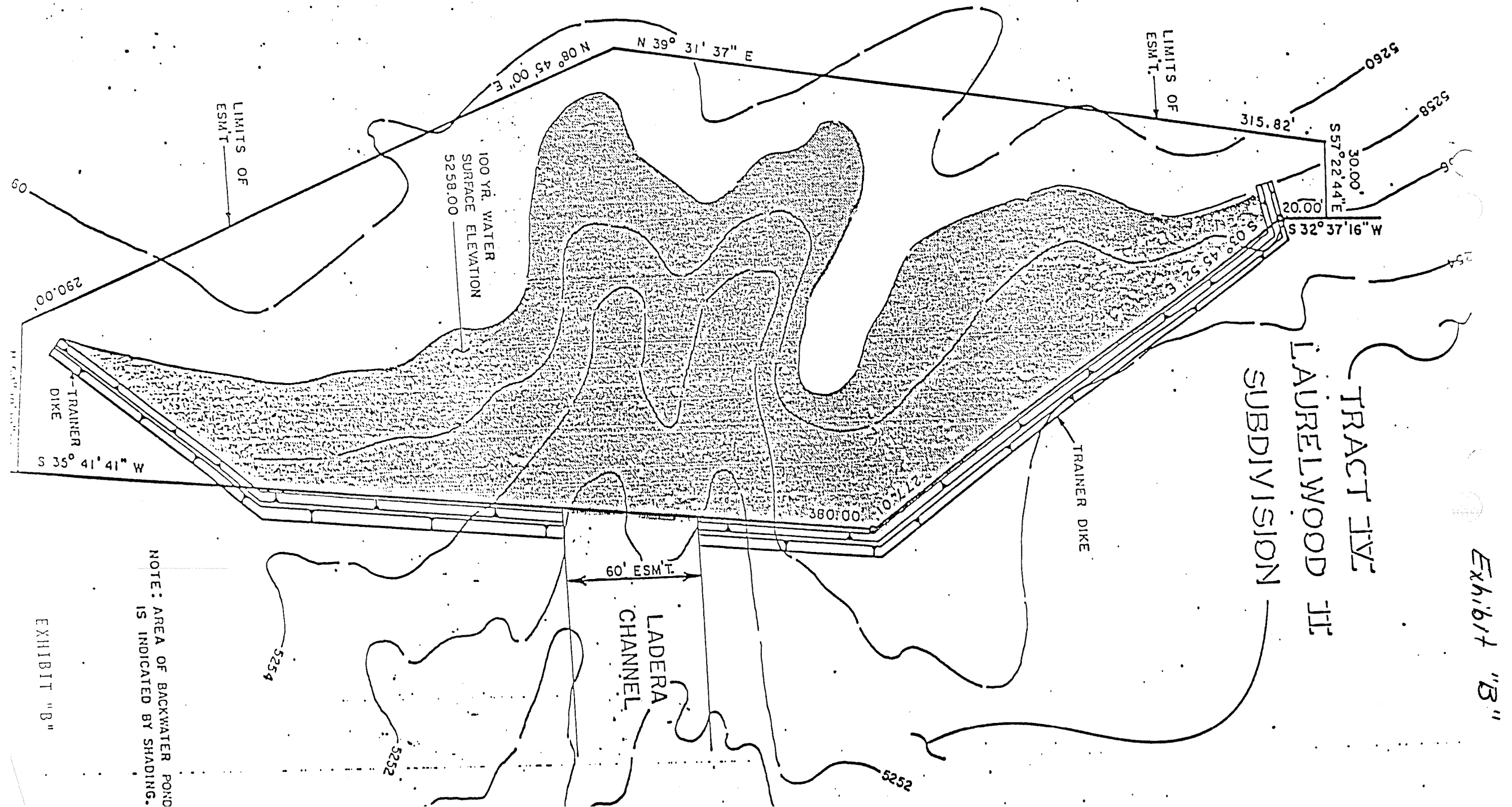
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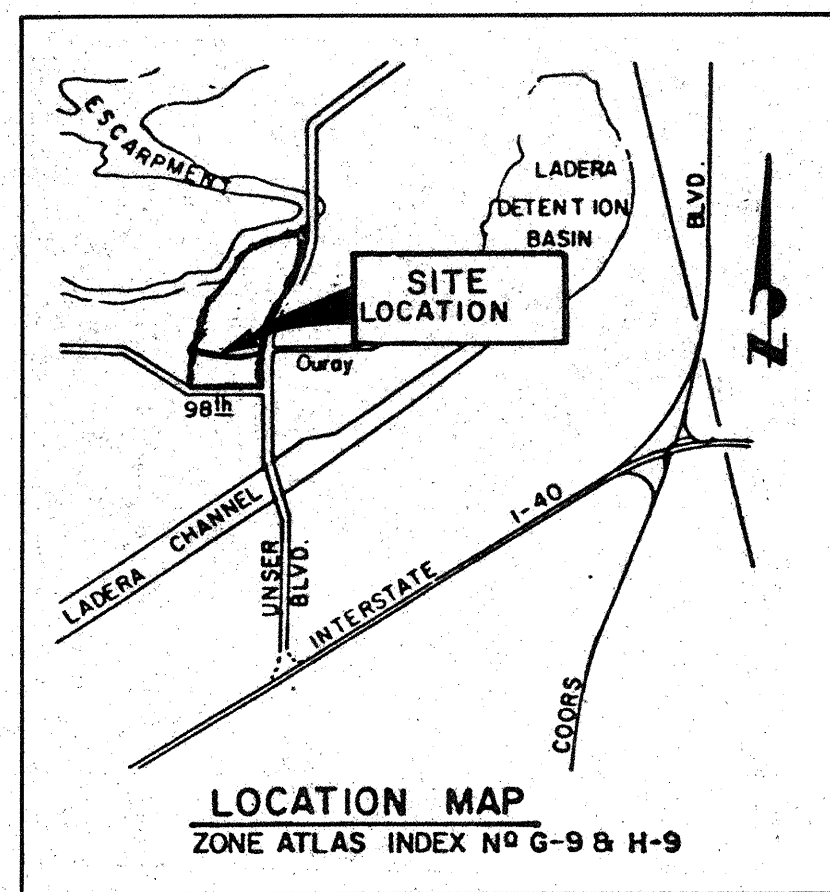
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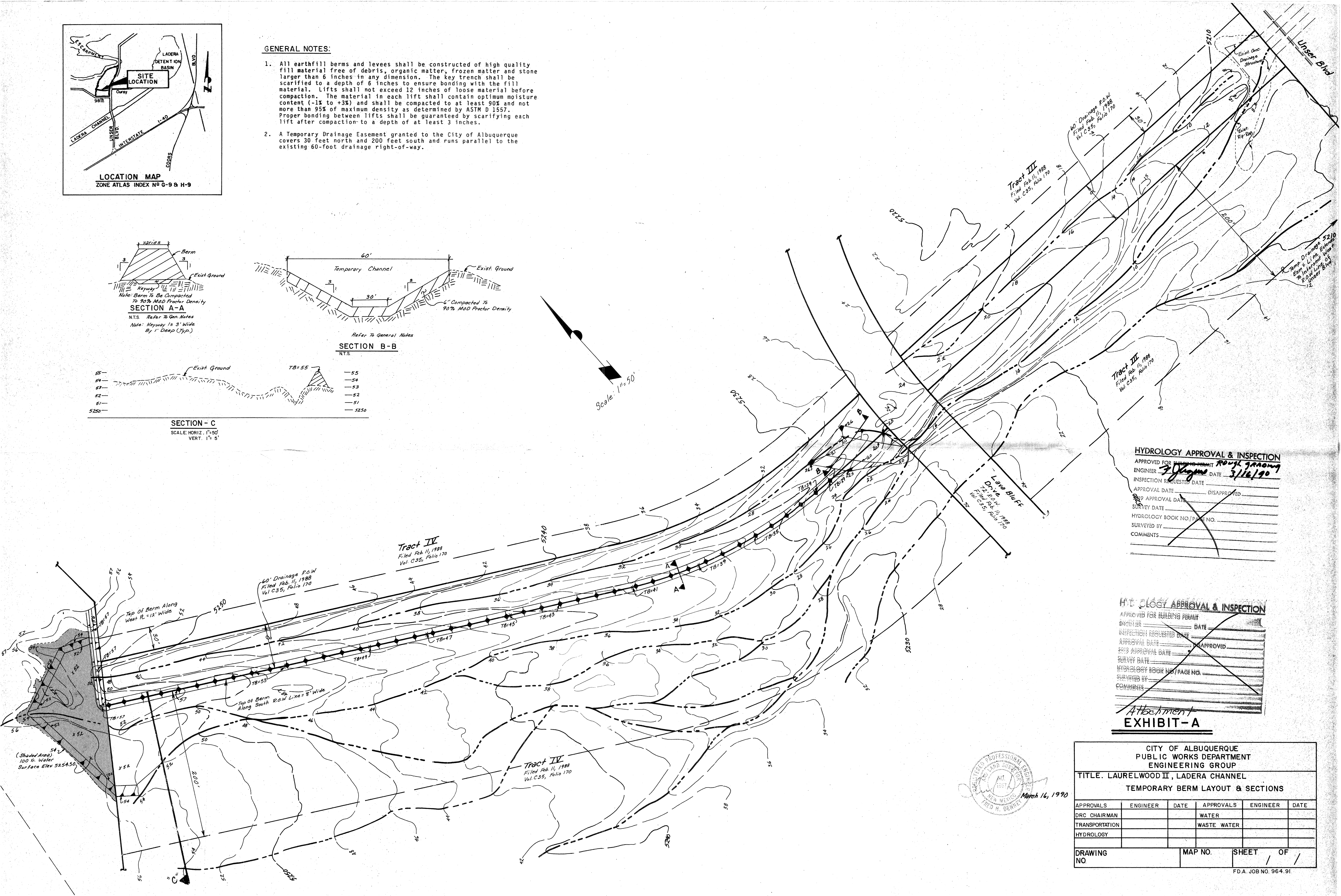
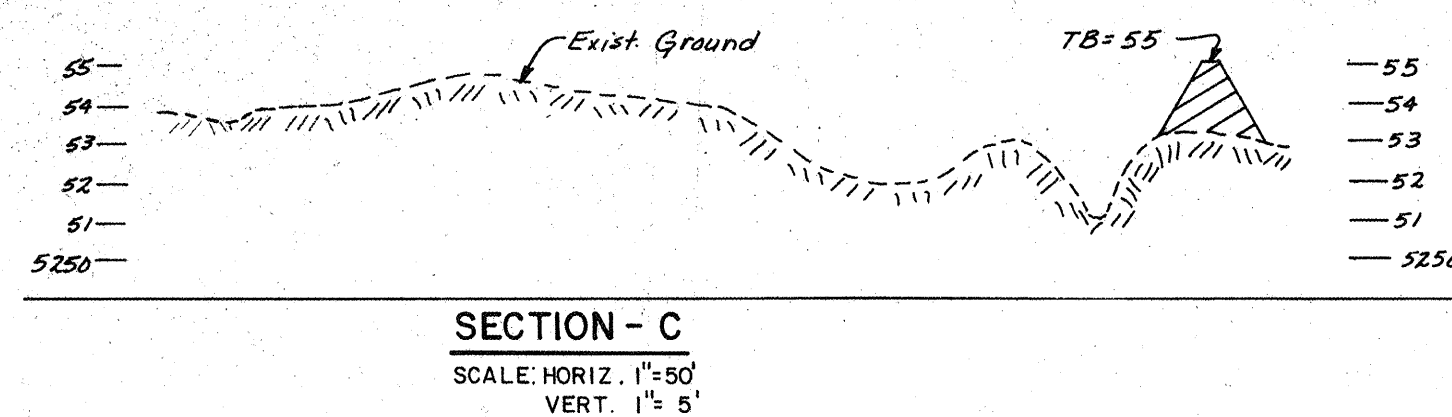
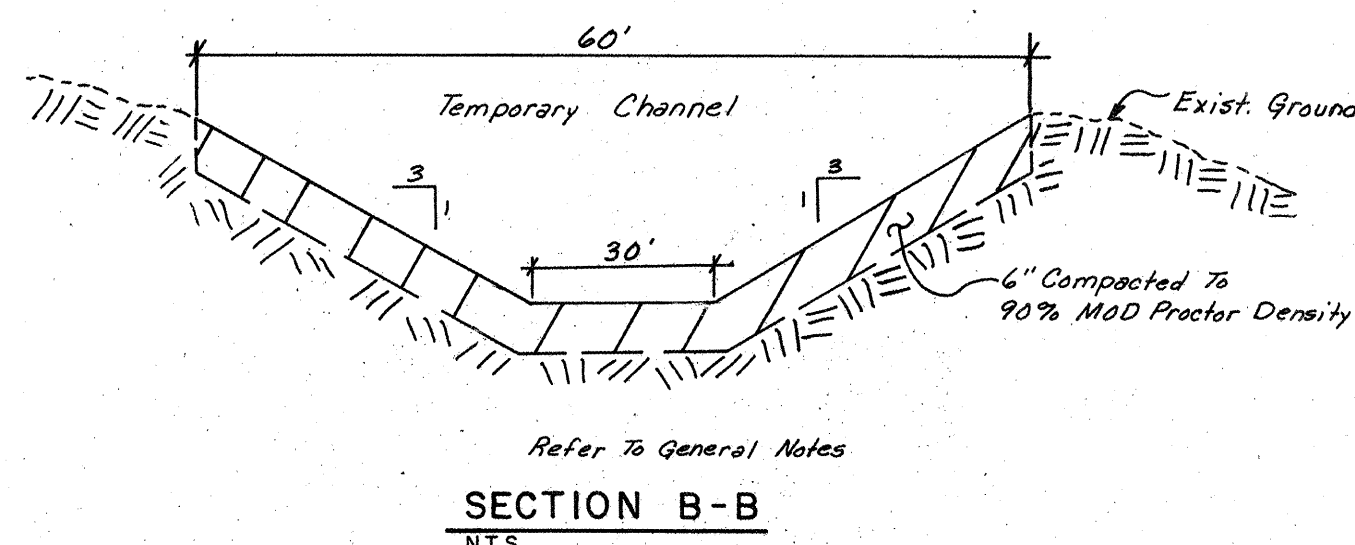
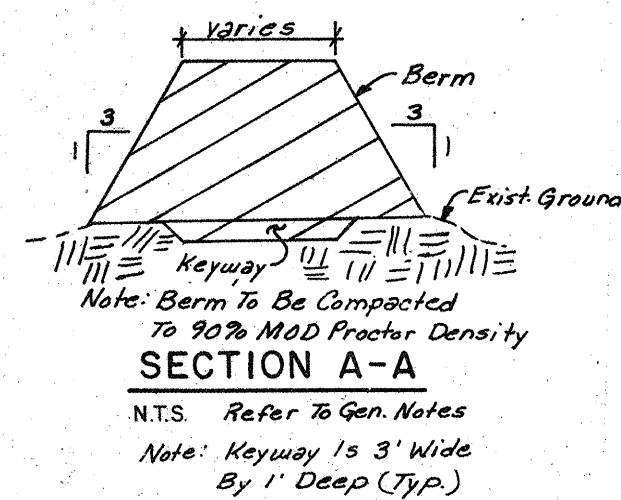
LANDS OF WESTLAND DEVELOPMENT CORPORATION





GENERAL NOTES:

1. All earthfill berms and levees shall be constructed of high quality fill material free of debris, organic matter, frozen matter and stone larger than 6 inches in any dimension. The key trench shall be scarified to a depth of 6 inches to ensure bonding with the fill material. Lifts shall not exceed 12 inches of loose material before compaction. The material in each lift shall contain optimum moisture content (-1% to +3%) and shall be compacted to at least 90% and not more than 95% of maximum density as determined by ASTM D 1557. Proper bonding between lifts shall be guaranteed by scarifying each lift after compaction to a depth of at least 3 inches.
2. A Temporary Drainage Easement granted to the City of Albuquerque covers 30 feet north and 200 feet south and runs parallel to the existing 60-foot drainage right-of-way.



HYDROLOGY APPROVAL & INSPECTION
APPROVED FOR BUILDING PERMIT *Rough Grading*
ENGINEER *J. J. J. J.* DATE *3/16/90*
INSPECTION REQUESTED DATE _____
APPROVAL DATE _____ DISAPPROVED _____
APPROVAL DATE _____
SURVEY DATE _____
HYDROLOGY BOOK NO./PAGE NO. _____
SURVEYED BY _____
COMMENTS _____

HYDROLOGY APPROVAL & INSPECTION
APPROVED FOR BUILDING PERMIT _____
ENGINEER _____ DATE _____
INSPECTION REQUESTED DATE _____
APPROVAL DATE _____ DISAPPROVED _____
APPROVAL DATE _____
SURVEY DATE _____
HYDROLOGY BOOK NO./PAGE NO. _____
SURVEYED BY _____
COMMENTS _____

**Attachment
EXHIBIT-A**

CITY OF ALBUQUERQUE PUBLIC WORKS DEPARTMENT ENGINEERING GROUP					
TITLE. LAURELWOOD II, LADERA CHANNEL TEMPORARY BERM LAYOUT & SECTIONS					
APPROVALS	ENGINEER	DATE	APPROVALS	ENGINEER	DATE
DRC CHAIRMAN			WATER		
TRANSPORTATION			WASTE WATER		
HYDROLOGY					
DRAWING NO.	MAP NO.		SHEET		OF