

## DRAINAGE COVENANT

THIS COVENANT made this 2 day of November, 1981, by and between the City of Albuquerque, a municipal corporation, (City) and Mr. James T. Curry (Owner, which term includes successors and assigns.)

### RECITAL

The Owner is owner of certain real property located at 501 Kinley N.E. in Albuquerque, New Mexico, (the Property) and more particularly described as follows:

Block: 5, Springer Transfer Addition Number 1

Lots: ~~XXXXXXX~~

Tract 1F - Block 2 per VL-81-1

That pursuant to City ordinances, regulations, and other applicable laws, the Owner is required to install and/or maintain certain drainage facilities on the Property, and the parties wish to provide for an agreement as to the obligations and responsibilities for same.

### DESCRIPTION OF FACILITIES

The following facilities are to be constructed and/or maintained by the owner:

Those shown on the approved plan

### CONSTRUCTION OF DRAINAGE FACILITIES

The Owner shall construct the drainage facilities in accordance with standards, plans, and specifications prescribed and approved by the City.

### MAINTENANCE OF FACILITIES

The Owner shall, at his cost in accordance with the standards, plans, and specifications prescribed by the City, maintain said drainage facility. The City shall have the right to enter periodically upon the Property to inspect the drainage facility.

### FAILURE TO COMPLY AND LIEN

In the event that the Owner shall fail to construct the drainage facility in accordance with standards, plans, and specifications prescribed and approved by the City or fail to adequately maintain said facilities, the City shall give the Owner notice in writing to construct, correct, or maintain said

facilities, and if the Owner fails to comply therewith within 30 days, the City may enter upon said property to perform the necessary construction or maintenance. The cost of the City's performing such construction or maintenance shall be paid by the Owner. In the event the Owner fails to pay said cost within thirty (30) days after being billed for same, the City may file a lien against the Property.

#### LIABILITY

The City shall not be liable for any damages to the Owner resulting from its construction, modification, or maintenance of said facilities.

#### NOTICE

The written notice provided for herein shall be accomplished by mailing same to:

James T. Curry  
501 Kinley N.E.  
Albuquerque, New Mexico 87102

The Owner may change said address by giving written notice, certified mail, return receipt requested, to the City Engineer, City Hall, at 505 Marquette Street, Albuquerque, New Mexico, 87103.

#### INDEMNIFICATION AND HOLD HARMLESS

The Owner agrees to defend, indemnify, and hold harmless, the City, its officials, agents and employees from and against any and all claims, actions, suits, or proceedings of any kind brought against said parties for or on account of any matter arising from the drainage facility provided for herein or the Owner's failure to construct, maintain, or modify the drainage facility under this Covenant.

#### COVENANT RUNNING WITH THE PROPERTY

The obligation of the Owner set forth herein shall be binding upon the Owner, his heirs, and assigns, and the property of the Owner as described herein and will run with said property until released by the City.

OWNER

By: James T. Curry

Title: Owner

REVIEWED BY THE LEGAL  
DEPARTMENT:

Assistant City Attorney

CITY OF ALBUQUERQUE

Chief Administrative Officer

## ACKNOWLEDGEMENTS

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

The foregoing instrument was acknowledged before me this  
 \_\_\_\_\_ day of \_\_\_\_\_, 1981, by \_\_\_\_\_  
 \_\_\_\_\_, \_\_\_\_\_  
 (Name of Officer) (Title)  
 \_\_\_\_\_, a \_\_\_\_\_  
 (Name of Corporation) (State of Incorporation)  
 corporation, on behalf of said corporation.

Notary Public

My Commission Expires:

STATE OF NEW MEXICO           )  
COUNTY OF BERNALILLO         ) ss.

The foregoing instrument was acknowledged before me this  
 \_\_\_\_\_ day of \_\_\_\_\_, 1981, by \_\_\_\_\_  
 \_\_\_\_\_  
 (Name of Acknowledging Partner or Partners)  
 on behalf of \_\_\_\_\_  
 \_\_\_\_\_  
 (Name of Partnership)  
 a partnership.

Notary Public

My Commission Expires:  
July 23, 1984

STATE OF NEW MEXICO           )  
COUNTY OF BERNALILLO       ) ss.

The foregoing instrument was acknowledged before me by  
James T. Curry, on this 2 day of November  
1981.

Notary Public

**My Commission Expires:**

STATE OF NEW MEXICO )  
COUNTY OF BERNALILLO ) ss.

The foregoing instrument was acknowledged before me this  
day of \_\_\_\_\_, 1981, by \_\_\_\_\_  
Chief Administrative Officer of the City of Albuquerque, municipi-  
pal corporation, on behalf of said corporation.

Notary Public

My Commission Expires: