

**FIRST AMENDMENT TO  
DRAINAGE COVENANT**

**PROJECT NO. 639781**

The **City of Albuquerque**, a New Mexico municipal corporation ("**City**"), **Village at Avalon Apartments LLLP**, a New Mexico limited liability limited partnership ("**Tract 8 Lessee**"), and **Bernalillo County, New Mexico**, a county duly organized and existing under the laws of the State of New Mexico ("**County**") agree:

1. Recitals. City and Curb Inc., a New Mexico corporation, are parties to that certain Drainage Covenant dated as of July 11, 2000 recorded July 12, 2000 in Book A7, Page 7217, records of Bernalillo County, New Mexico as Document No. 2000067484 (the "**Drainage Covenant**"). Terms not otherwise defined herein are defined in the Drainage Covenant.

The "Drainage Facility" (as defined in the Drainage Covenant) is located on Tract 8 (as further defined on **Exhibit B** attached hereto). Tract 8 Lessee has acquired leasehold title to **Tract 8**, pursuant to Lease Agreement dated as of December 1, 2015, as evidenced by Memorandum of Lease recorded December 11, 2015 as Document #2015107505, records of Bernalillo County, New Mexico. Tract 8 Lessee plans to construct certain improvements on Tract 8, as approved by City in 15EPC-40040 Site Plan for Building Permit (the "**Approved Site Plan**").

The parties wish to amend the Drainage Covenant to provide for relocation of the Drainage Facility as provided in this First Amendment.


2. Drainage Facility. Exhibit A to the Drainage Covenant, designating the "Interim Retention Pond," is hereby replaced with **Exhibit A** attached to this First Amendment, designating the "Private Detention/Retention Drainage Facility." Upon completion of construction as provided in the Approved Site Plan, in the event that improvements encroach upon the Private Detention/Retention Drainage Facility, Tract 8 Lessee will process with the City any necessary amendment or modification to the Drainage Covenant as amended by this First Amendment.

3. Assumption of Obligations. Tract 8 Lessee hereby assumes and agrees to perform the obligations of the "Owner" as set forth in the Drainage Covenant, as amended by this First Amendment.

4. Notices. Tract 8 Lessee's notice address is:

Village at Avalon Apartments LLLP  
2164 SW Park Place  
Portland, OR 97205

**Doc# 2016018826**

02/29/2016 02:46 PM Page: 1 of 6  
AMND R:\$25.00 M. Toulouse Oliver, Bernalillo County  


County's notice address is:

Bernalillo County, New Mexico  
10<sup>th</sup> Floor  
One Civic Plaza NW  
Albuquerque, NM 87102  
Attention: County Manager

with a copy to: Sherman & Howard L.L.C.  
500 Marquette Avenue Northwest  
Suite 1203  
Albuquerque, New Mexico 87102  
Attention: Jill Sweeney

5. No County Liability. By its execution of this First Amendment, County consents to the Drainage Covenant as amended hereby; County assumes no liabilities or obligations under or with respect to the Drainage Covenant.

6. No Other Change. Except as amended by this First Amendment, the Drainage Covenant is unchanged, in full force and effect.

*[signature pages follow]*

Dated: January 26, 2016

City of Albuquerque  
a New Mexico municipal corporation

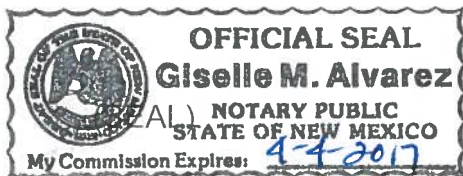
By: [Signature]  
Robert J. Perry  
Chief Administrative Officer *JMP*  
Dated: 2/26/16

Reviewed by:

By: [Signature]  
Shahab Biazar, P.E.  
City Engineer  
Dated: 1/20/16

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

This instrument was acknowledged before me on 26 day of February, 2016,  
by Robert J. Perry, Chief Administrative Officer for the City of Albuquerque, a New  
Mexico municipal corporation, on behalf of the corporation.



[Signature]  
Notary Public  
My commission expires:  
4-4-2017

Dated: January 5, 2016

**Village at Avalon Apartments LLLP**

a New Mexico limited liability limited partnership

By DBG Village at Avalon Investors LLC

a New Mexico limited liability company

Its General Partner

By: \_\_\_\_\_

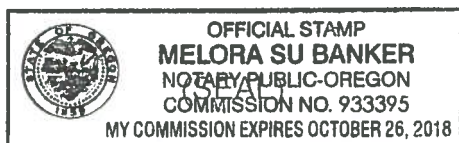
Walter Grodahl

Manager

Dated: \_\_\_\_\_

STATE OF Oregon )  
 ) ss.  
COUNTY OF Multnomah )

This instrument was acknowledged before me on 5 day of January, 2016,  
by Walter Grodahl, Manager of DBG Village at Avalon Investors LLC, general partner of  
Village at Avalon Apartments LLLP, on behalf of the partnership.



Melora Su Banker  
Notary Public

My commission expires:

Oct. 26, 2018



CONSTRUCTION SURVEY TECHNOLOGIES, INC.

MAILING: PO BOX 65365, ALBUQUERQUE, NM 87193 505-817-8921  
OFFICE: 1806 CENTRAL AVE SE, SUITE 101, ALBUQUERQUE, NM 87106  
NMSURVEYOR@GMAIL.COM

EXHIBIT "A"  
OF

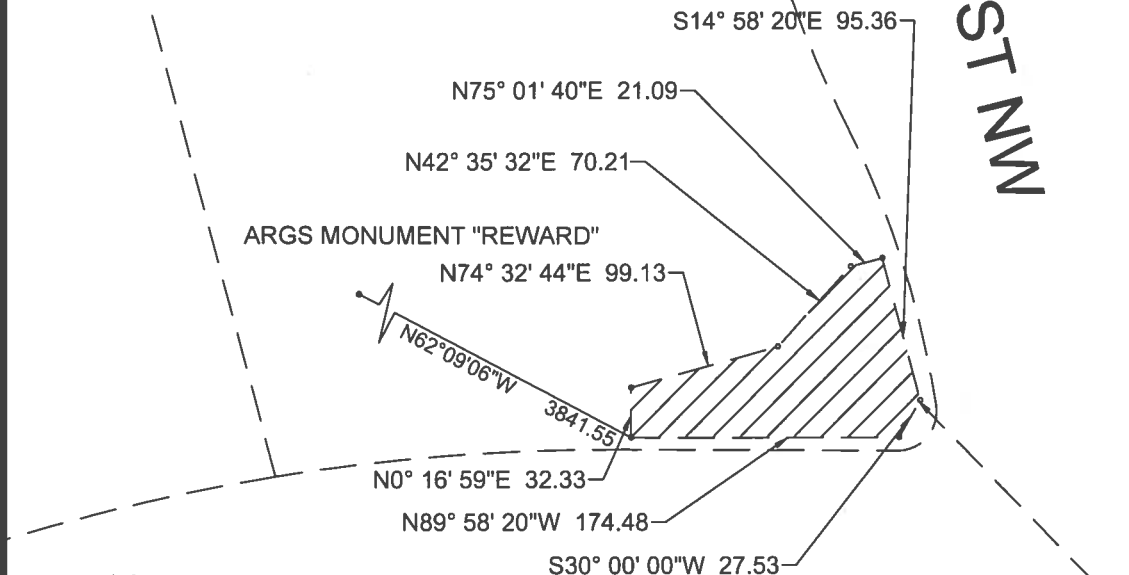
Private Detention/Retention Drainage Facility  
WITHIN TRACT 8, UNIT 5 AVALON SUBDIVISION  
NOVEMBER 2015

A PRIVATE DETENTION/RETENTION DRAINAGE FACILITY WITHIN TRACT 8 OF THE AVALON SUBDIVISION UNIT 5 AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO IN PLAT BOOK 2014C, FOLIO 0046 AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

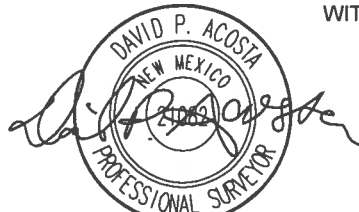
BEGINNING AT THE NORTHWEST CORNER OF THE EASEMENT HEREIN DESCRIBED, WHENCE FOR A TIE TO THE ARGS MONUMENT "REWARD" BEARS N62°09'06"W A DISTANCE OF 3841.55 FEET DISTANCE; THENCE N00°16'59"E A DISTANCE OF 32.33 FEET TO A POINT; THENCE, N74°32'44"E A DISTANCE OF 99.13 FEET TO A POINT; THENCE, N42°35'32"E A DISTANCE OF 70.21 FEET TO A POINT; THENCE, N75°01'40"E A DISTANCE OF 21.09 FEET TO A POINT; THENCE, S14°58'20"E A DISTANCE OF 95.36 FEET TO A POINT; THENCE, S30°00'00"W A DISTANCE OF 27.53 FEET TO A POINT; THENCE, N89°58'20"W A DISTANCE OF 174.48 FEET TO A POINT AND PLACE OF BEGINNING. SAID EASEMENT COVERS AN AREA OF 12244 SQUARE FT (0.28107 ACRES) MORE OR LESS.

TRACT 8  
AVALON SUBDIVISION UNIT 5  
BOOK 2014C, FOLIO 0046

90TH ST NW



Scale 1"=150'



11-06-2015

Private Detention/Retention Drainage Facility  
WITHIN TRACT 8 OF THE AVALON SUBDIVISION  
GRANTED BY THIS INSTRUMENT

**Exhibit B**  
(Tract 8)

Tract numbered Eight (8), Plat of Tracts 1 through 12, of AVALON SUBDIVISION UNIT 5, Albuquerque, Bernalillo County, New Mexico, as the same is shown and designated on the plat of said Subdivision, filed in the office of the County Clerk of Bernalillo County, New Mexico, on May 22, 2014, in Plat Book 2014C, folio 46 as Document No. 2014040949