

# CITY OF ALBUQUERQUE



May 15, 2009

David B. Thompson, P.E.  
**Thompson Engineering Consultants, Inc.**  
P.O. Box 65760  
Albuquerque, NM 87193

**Re: Adams Street Studios, 308-312 Adams Street,  
(K-17/D101)  
Approval of Permanent Certificate of Occupancy,  
Engineer's Stamp Dated: 09-23-08  
Engineer's Certification Date: 4-29-09**

PO Box 1293

Dear Mr. Thompson,

Albuquerque

Based upon the information provided on 4/29/09, the above referenced certification is approved for release of Permanent Certificate of Occupancy by Hydrology.

NM 87103

If you have any questions, you can contact me at 924-3982.

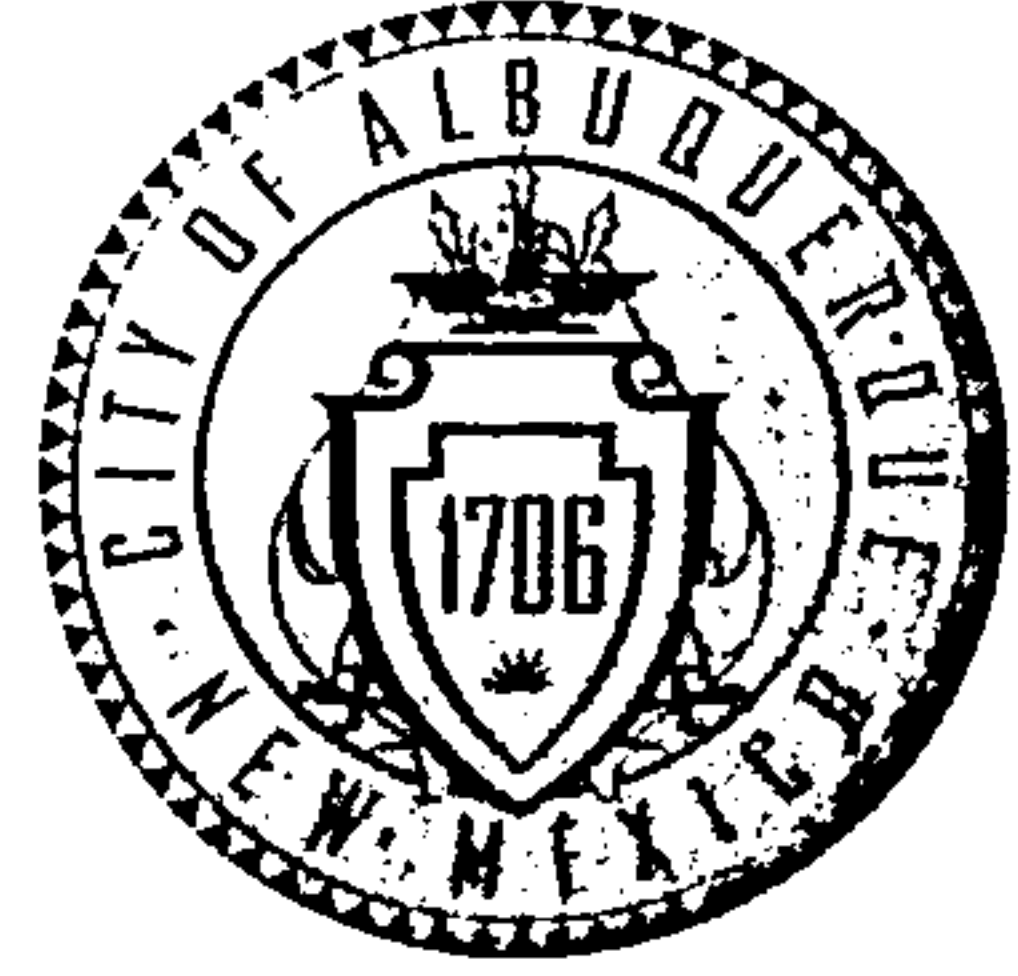
Sincerely,

[www.cabq.gov](http://www.cabq.gov)

Timothy E. Sims  
Plan Checker-Hydrology, Planning Dept  
Development and Building Services

C: CO Clerk—Katrina Sigala  
file

# CITY OF ALBUQUERQUE



May 1, 2009

David B. Thompson, P.E.  
**Thompson Engineering Consultants, Inc.**  
P.O. Box 65760  
Albuquerque, NM 87193

**Re: Adams Street Studios, 308-312 Adams Street,  
Reject of Certificate of Occupancy - Not Approved  
Engineer's Stamp dated 09/23/08 (K-17/D101)  
Certification dated 04-29-09**

Dear Mr. Thompson,

Based upon the information provided in the Certification received 4-29-09 the above referenced Certification is not approved for Permanent Certificate of Occupancy.

PO Box 1293

The sidewalk culvert will need Duane Schmitz's approval prior to any permanent or temporary Certificate of Occupancy approval.

Albuquerque

If you have any questions, you can contact me at 924-3695.

NM 87103

Sincerely,

Timothy E. Sims  
Plan Checker—Hydrology  
Development and Building Services

[www.cabq.gov](http://www.cabq.gov)

C: File

# DRAINAGE INFORMATION SHEET

(REV. 1/28/2003rd)

PROJECT TITLE: ADAMS STREET STUDIOS

ZONE MAP/DRG. FILE #: K17/D101

DRB #: \_\_\_\_\_ EPC #: \_\_\_\_\_

WORK ORDER#: \_\_\_\_\_

LEGAL DESCRIPTION: LOTS 34, 35, & 36, BLOCK 11, VALLEY VIEW ADDITION

CITY ADDRESS: \_\_\_\_\_

ENGINEERING FIRM: Thompson Engineering Consultants, Inc.

ADDRESS: P.O. Box 65760

CITY, STATE: Albuquerque, NM

CONTACT: David Thompson

PHONE: 271-2199

ZIP CODE: 87193

OWNER: Devin Cannady

ADDRESS: 332 Adams Street SE

CITY, STATE: Albuquerque, NM

CONTACT: Devin Cannady

PHONE: 299-1111

ZIP CODE: 87108

ARCHITECT: Devin Cannady Architect Studio

ADDRESS: 332 Adams Street SE

CITY, STATE: Albuquerque, NM

CONTACT: Devin Cannady

PHONE: 299-1111

ZIP CODE: 87108

SURVEYOR: AM Surveying Company

ADDRESS: 612 Cerro de Ortega

CITY, STATE: Rio Rancho, NM

CONTACT: Mike Shook

PHONE: 896-1716

ZIP CODE: 87124

CONTRACTOR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_

PHONE: \_\_\_\_\_

ZIP CODE: \_\_\_\_\_

## CHECK TYPE OF SUBMITTAL:

- ☐ DRAINAGE REPORT  
☐ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL, REQUIRES TCL or equal  
☐ DRAINAGE PLAN RESUBMITTAL  
☐ CONCEPTUAL GRADING & DRAINAGE PLAN  
☐ GRADING PLAN  
☐ EROSION CONTROL PLAN  
☒ ENGINEER'S CERTIFICATION (HYDROLOGY)  
☐ CLOMR/LOMR  
☐ TRAFFIC CIRCULATION LAYOUT (TCL)  
☐ ENGINEER'S CERTIFICATION(TCL)  
☐ ENGINEER'S CERTIFICATION (DRB APPR. SITE PLAN)  
☐ OTHER

## CHECK TYPE OF APPROVAL SOUGHT:

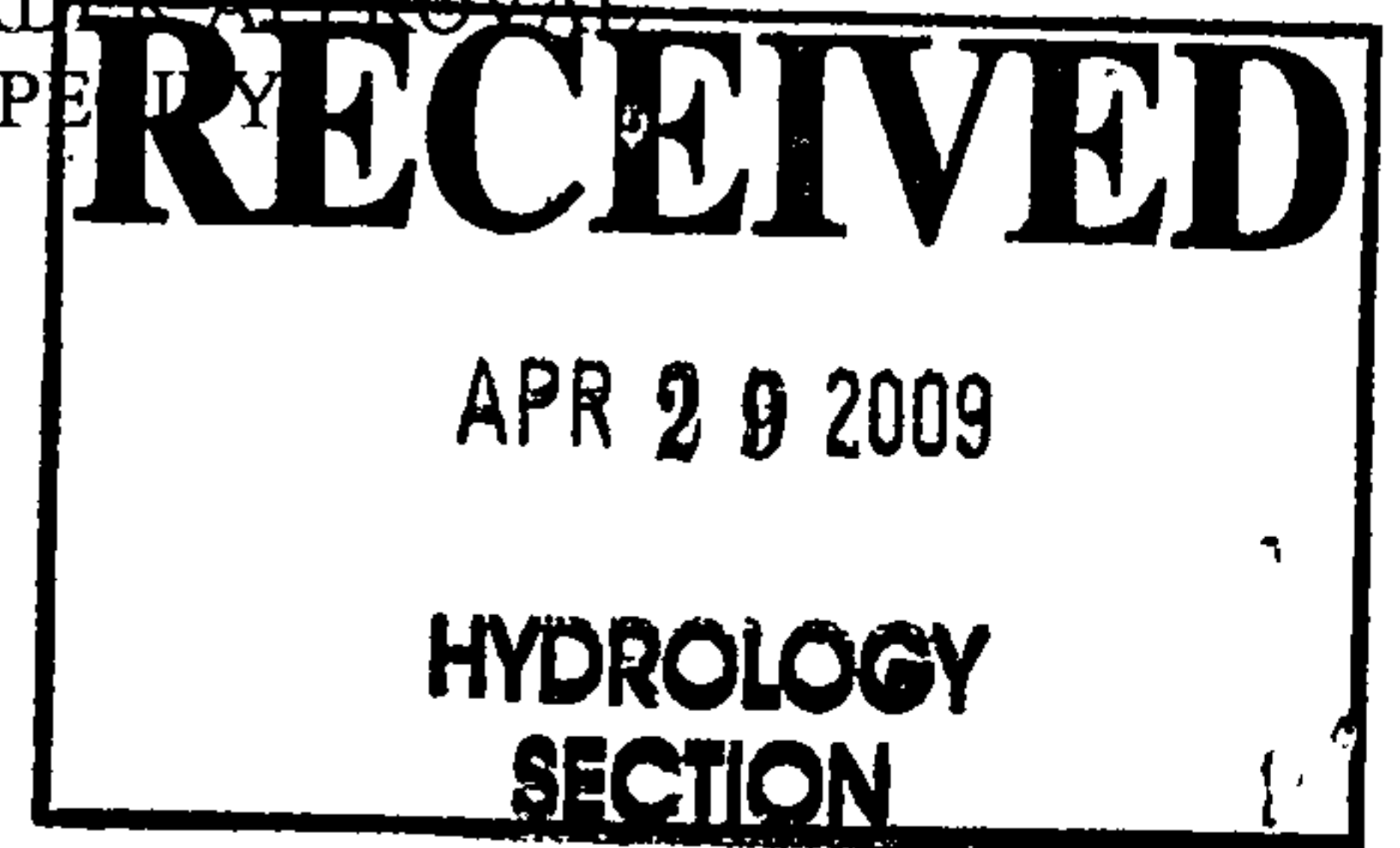
- ☐ SIA/FINANCIAL GUARANTEE RELEASE  
☐ PRELIMINARY PLAT APPROVAL  
☐ S. DEV. PLAN FOR SUB'D. APPROVAL  
☐ S. DEV. PLAN FOR BLDG. PERMIT APPROVAL  
☐ SECTOR PLAN APPROVAL  
☐ FINAL PLAT APPROVAL  
☐ FOUNDATION PERMIT APPROVAL  
☐ BUILDING PERMIT APPROVAL  
☒ CERTIFICATE OF OCCUPANCY (PERM.)  
☐ CERTIFICATE OF OCCUPANCY (TEMP.)  
☐ GRADING PERMIT APPROVAL  
☐ PAVING PERMIT APPROVAL  
☐ WORK ORDER APPROVAL  
☐ OTHER (SPECIFY \_\_\_\_\_)

## WAS A PRE-DESIGN CONFERENCE ATTENDED:

- ☐ YES  
☒ NO  
☐ COPY PROVIDED

DATE SUBMITTED: April 29, 2009

BY: \_\_\_\_\_



Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location and scope of the proposed development defines the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. **Conceptual Grading and Drainage Plan:** Required for approval of Site Development Plans greater than five acres
2. **Drainage Plans:** Required for building permits, grading permits, paving permits, and site plans less than five (5)
3. **Drainage Report:** Required for subdivisions containing more than ten (10) lots or constituting five (5) acres or



# CITY OF ALBUQUERQUE



August 21, 2008

Devin Cannady, R.A.  
Devin Cannady Architect Studio  
332 Adams St. SE  
Albuquerque, NM 87108-2837

Re: Adams Street Studios—Lots 34, 35, & 36, 4518 Coal Avenue SE,  
Traffic Circulation Layout  
Architect's Stamp dated 8-19-08 (K17-101)

Dear Mr. Cannady,

The TCL submittal received 8-19-08 is approved for Building Permit. The plan is stamped and signed as approved. A copy of this plan will be needed for each of the building permit plans. Please keep the original to be used for certification of the site for final C.O. for Transportation. **Public infrastructure or work done within City Right-of-Way shown on these plans is for information only and is not part of approval. A separate DRC and/or other appropriate permits are required to construct these items.**

PO Box 1293

Albuquerque

If a temporary CO is needed, a copy of the original TCL that was stamped as approved by the City will be needed. This plan must include a statement that identifies the outstanding items that need to be constructed or the items that have not been built in "substantial compliance," as well as the signed and dated stamp of a NM registered architect or engineer. Submit this TCL with a completed Drainage and Transportation Information Sheet to Hydrology at the Development Services Center of Plaza Del Sol Building.

NM 87103

www.cabq.gov

When the site is completed and a final C.O. is requested, use the original City stamped approved TCL for certification. A NM registered architect or engineer must stamp, sign, and date the certification TCL along with indicating that the development was built in "substantial compliance" with the TCL. Submit this certification TCL with a completed Drainage and Transportation Information Sheet to Hydrology at the Development Services Center of Plaza Del Sol Building.

Once verification of certification is completed and approved, notification will be made to Building Safety to issue Final C.O. To confirm that a final C.O. has been issued, call Building Safety at 924-3306.

Sincerely,

Kristal D. Metro, P.E.  
Traffic Engineer, Planning Dept.  
Development and Building Services

C: File

# CITY OF ALBUQUERQUE



**Planning Department  
Transportation Development Services Section**

May 8, 2009

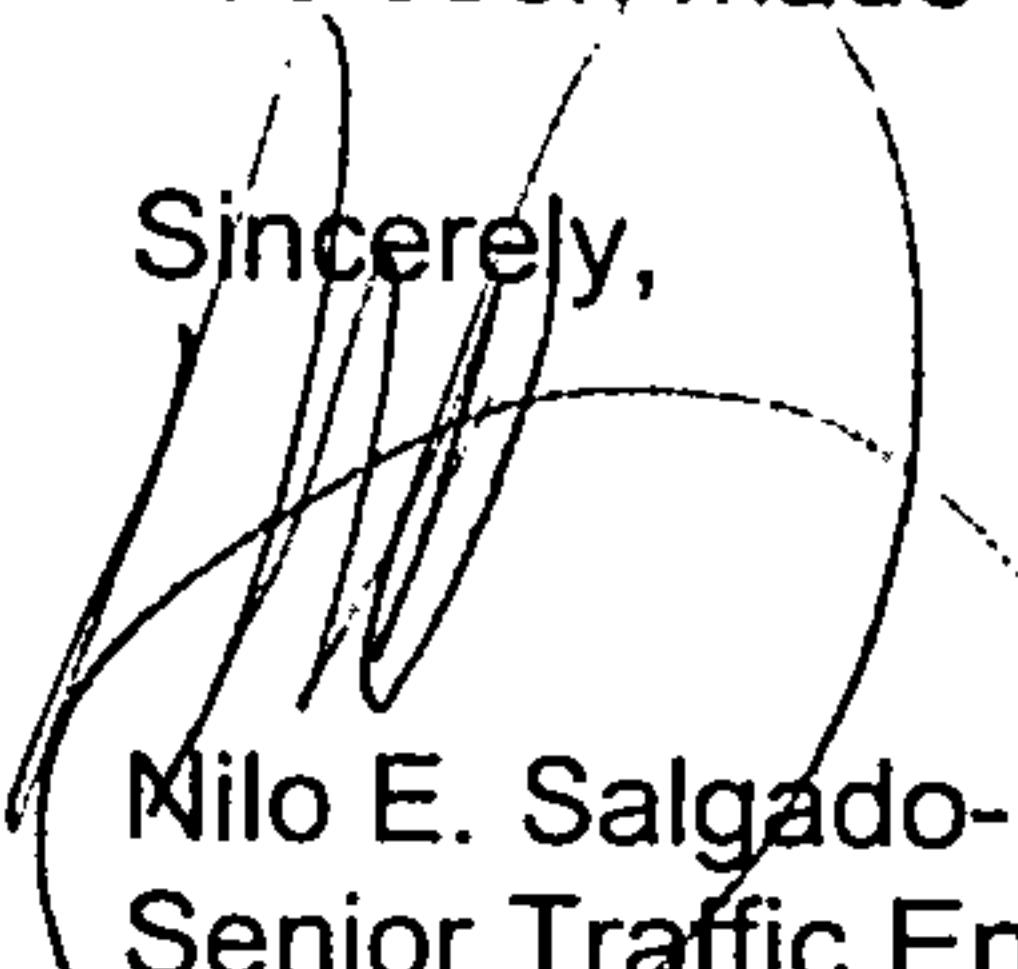
Devin B. Cannady, Registered Architect  
332 Adams Street SE  
Albuquerque, NM 87108

Re: Certification Submittal for Final Building Certificate of Occupancy for  
Adams Street Studios - Lots 34, 35, & 36, [K-17 / D101]  
4518 Coal Ave. SE  
Architect's Stamp Dated 05/08/09

Dear Mr. Cannady:

The TCL / Letter of Certification submitted on May 7, 2009 is sufficient for acceptance by this office for final Certificate of Occupancy (C.O.). Notification has been made to the Building and Safety Section.

Sincerely,

  
Nilo E. Salgado-Fernandez, P.E.  
Senior Traffic Engineer  
Development and Building Services  
Planning Department

c: Engineer  
Hydrology file  
CO Clerk

PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)

**DRAINAGE AND TRANSPORTATION INFORMATION SHEET**  
(REV 12/2005)

PROJECT TITLE: ADAMS STREET STUDIOS ZONE MAP: K-17/D101  
DRB#: \_\_\_\_\_ EPC#: \_\_\_\_\_ WORK ORDER#: \_\_\_\_\_

LEGAL DESCRIPTION: LOTS 34, 35, 36, BLOCK 11, VALLEY VIEW  
CITY ADDRESS: 4518 COAL AVE S.E. ALB. NM 87108

ENGINEERING FIRM: \_\_\_\_\_ CONTACT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

OWNER: \_\_\_\_\_ CONTACT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

ARCHITECT: DEVIN CANNADY ARCHITECT CONTACT: DEVIN  
ADDRESS: 332 ADAMS ST SE PHONE: 299-1111  
CITY, STATE: ALB NM ZIP CODE: 87108

SURVEYOR: \_\_\_\_\_ CONTACT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_ CONTACT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

TYPE OF SUBMITTAL:  
☐ DRAINAGE REPORT  
☐ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL  
☐ DRAINAGE PLAN RESUBMITTAL  
☐ CONCEPTUAL G & D PLAN  
☐ GRADING PLAN  
☐ EROSION CONTROL PLAN  
☐ ENGINEER'S CERT (HYDROLOGY)  
☐ CLOMR/LOMR  
☐ TRAFFIC CIRCULATION LAYOUT  
☒ ENGINEER'S CERT (TCL)  
☐ ENGINEER'S CERT (DRB SITE PLAN)  
☐ OTHER (SPECIFY) \_\_\_\_\_

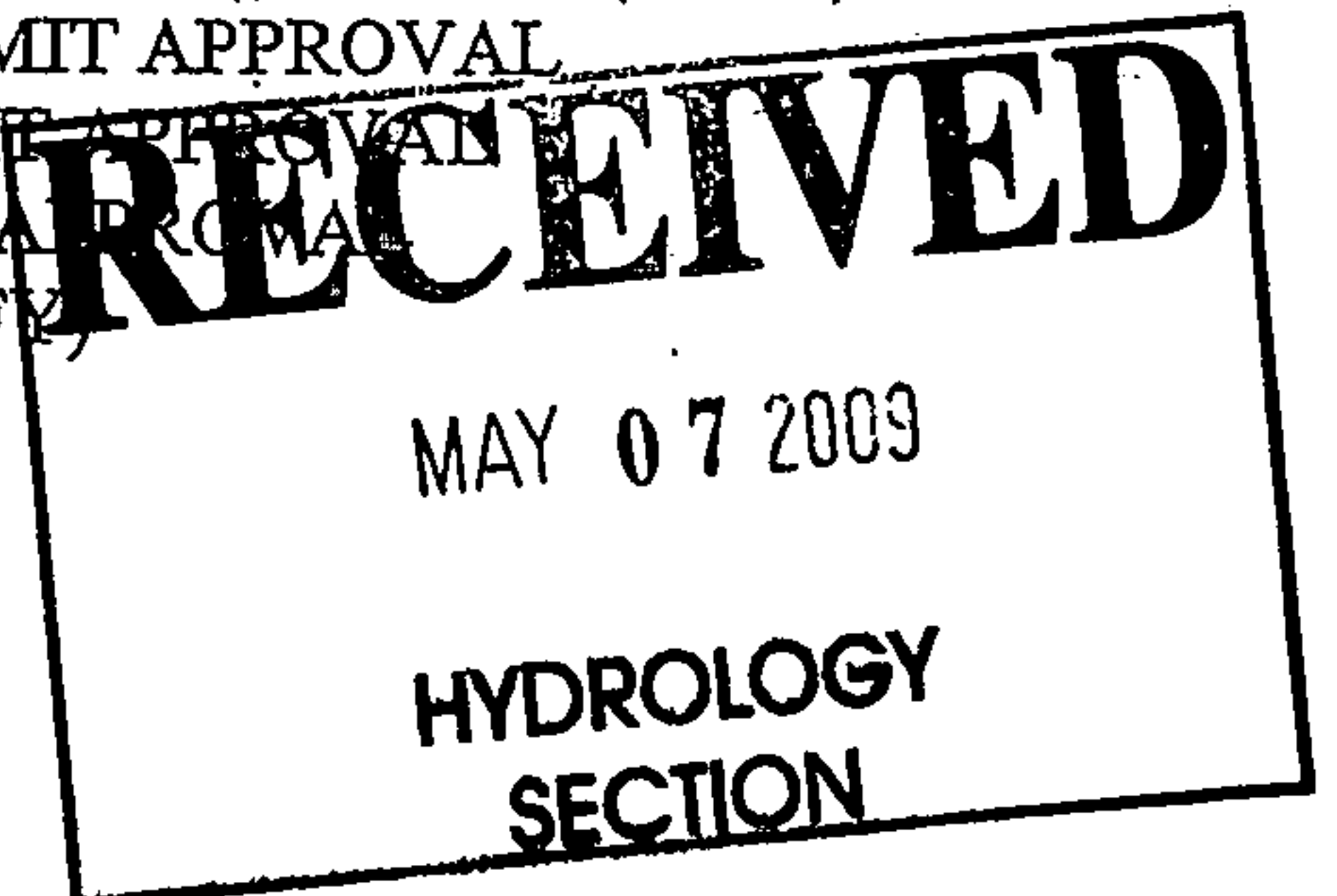
CHECK TYPE OF APPROVAL SOUGHT:  
☐ SIA/FINANCIAL GUARANTEE RELEASE  
☐ PRELIMINARY PLAT APPROVAL  
☐ S. DEV. PLAN FOR SUB'D APPROVAL  
☐ S. DEV. FOR BLDG. PERMIT APPROVAL  
☐ SECTOR PLAN APPROVAL  
☐ FINAL PLAT APPROVAL  
☐ FOUNDATION PERMIT APPROVAL  
☐ BUILDING PERMIT APPROVAL  
☒ CERTIFICATE OF OCCUPANCY (PERM)  
☐ CERTIFICATE OF OCCUPANCY (TEMP)  
☐ GRADING PERMIT APPROVAL  
☐ PAVING PERMIT APPROVAL  
☐ WORK ORDER APPROVAL  
☐ OTHER (SPECIFY) \_\_\_\_\_

WAS A PRE-DESIGN CONFERENCE ATTENDED:  
☐ YES  
☒ NO  
☐ COPY PROVIDED

DATE SUBMITTED: 5.7.09 BY: [Signature]

Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location, and scope to the proposed development defines the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. **Conceptual Grading and Drainage Plan:** Required for approval of Site Development Plans greater than five (5) acres and Sector Plans.
2. **Drainage Plans:** Required for building permits, grading permits, paving permits and site plans less than five (5) acres.
3. **Drainage Report:** Required for subdivision containing more than ten (10) lots or constituting five (5) acres or more.







## Substantial Compliance Verification

May 8, 2009

City of Albuquerque  
Planning Department, 1st Floor  
600 Second Street NW  
Albuquerque, NM 87102

RE: Adams Street Studios - Lots 34, 35 & 36  
Project Address - 4518 Coal Ave. SE 87108  
Permit No. - 200890388

I, Devin Cannady, NMRA 4257, of the Firm Devin Cannady Architect Studio, hereby attest that the above mentioned project is in substantial compliance with and in accordance with the design intent of the Traffic Circulation Layout approved plan dated August 19, 2008. I further attest that I have personally visited the project site on May 1st, 2009 and have determined by visual observation that the survey data provided is representative of actual site conditions and is true and correct to the best of my knowledge and belief. This certification is submitted in support of a request for Certificate of Occupancy.

### Exceptions:

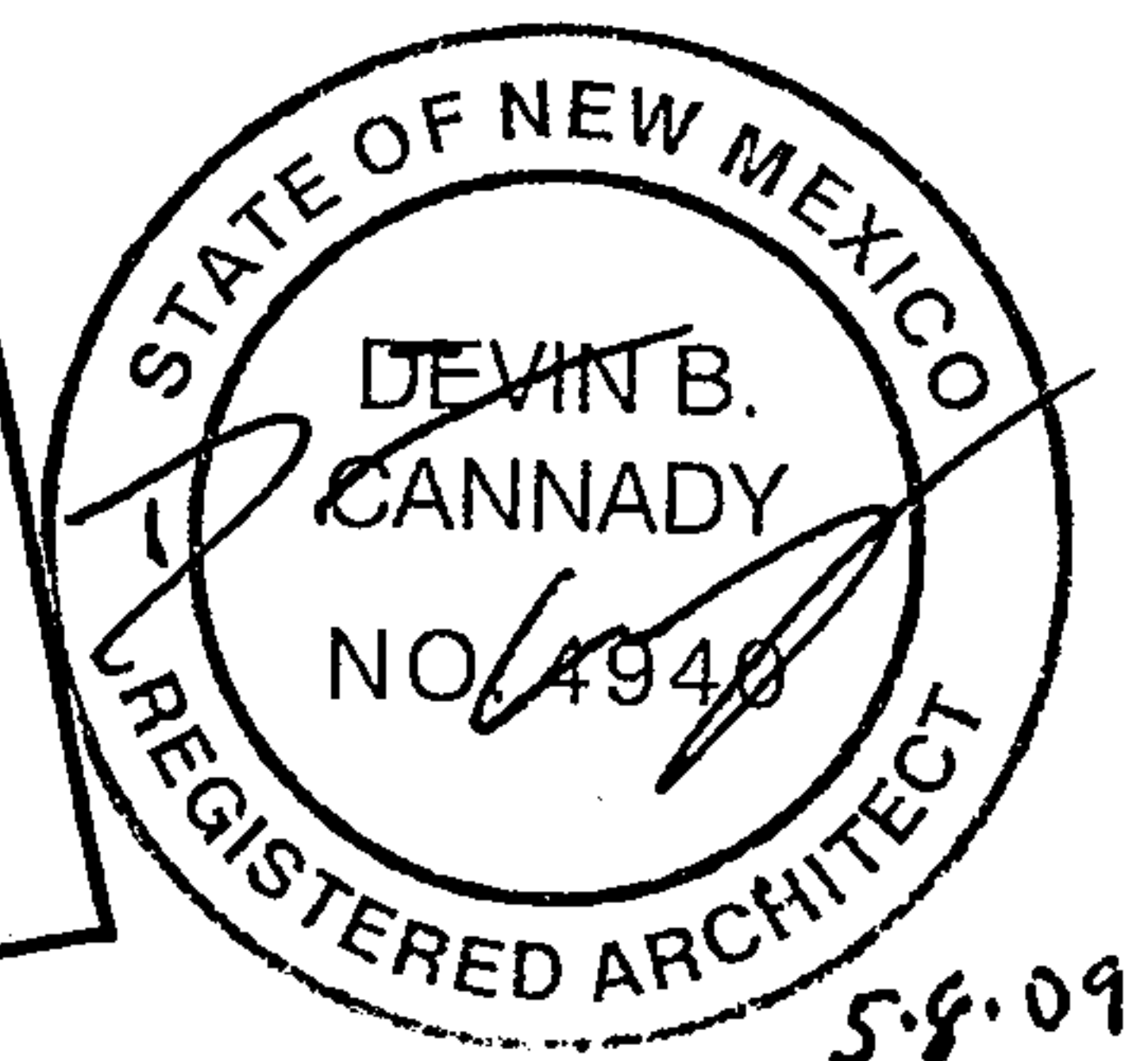
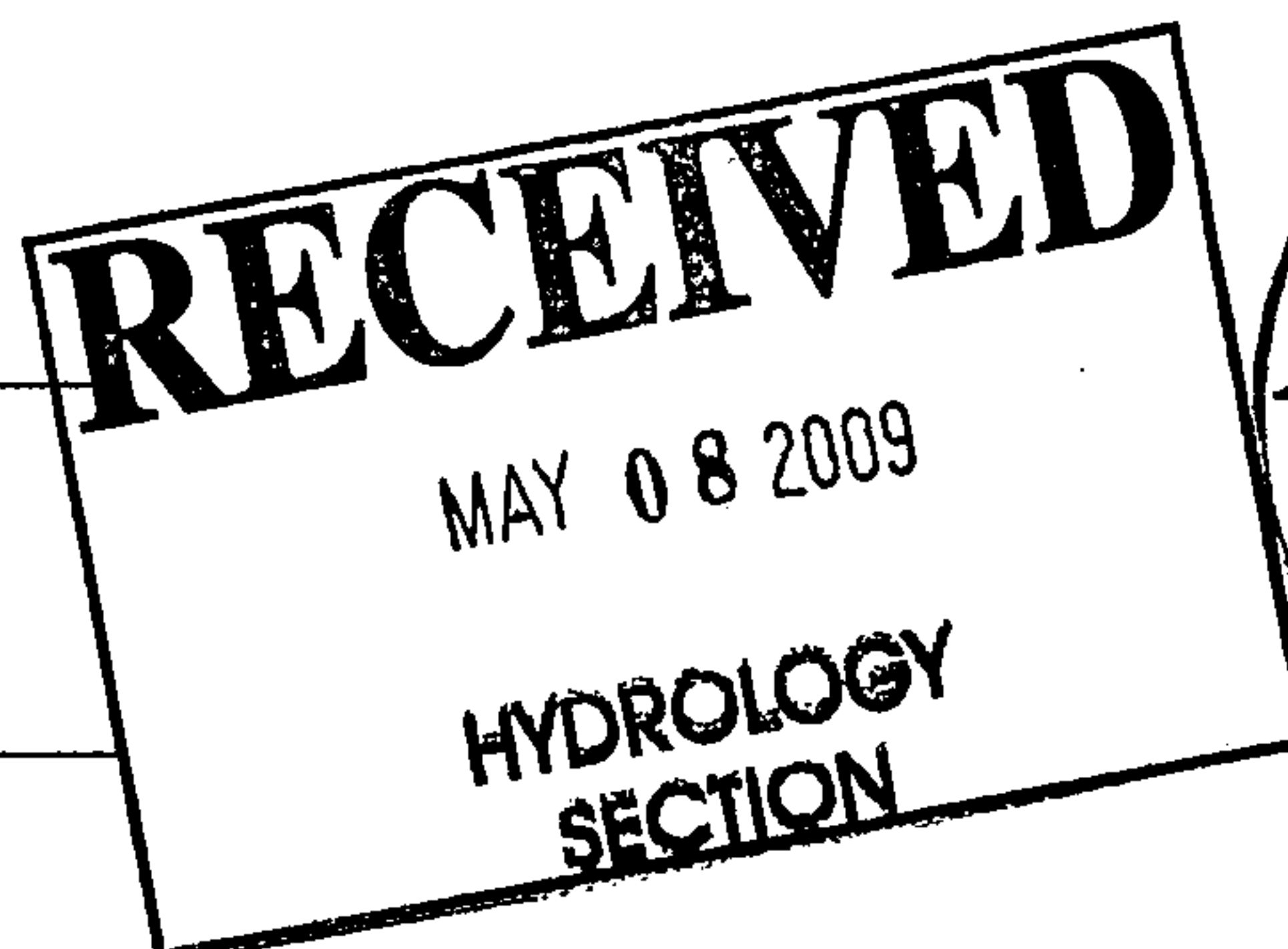
1. The proposed dumpster enclosure to be located on Lot 34 and shared by the property owners has been deleted from the site plan. A shared dumpster agreement dated April 23, 2009, between the Adams Street Studios Owners and the the Highland Loft Association was approved by the Refuse department thus eliminating the requirement of an on-site refuse facility. The Shared Dumpster Agreement was filed with the County Clerk's Office on April 24, 2009 (Document #2009044471).

The record information presented hereon is not necessarily complete and intended only to verify substantial compliance of the traffic aspects of this project. Those relying on the record document are advised to obtain independent verification of its accuracy before using it for any other purpose.

Architect's Stamp

  
Signature of Architect

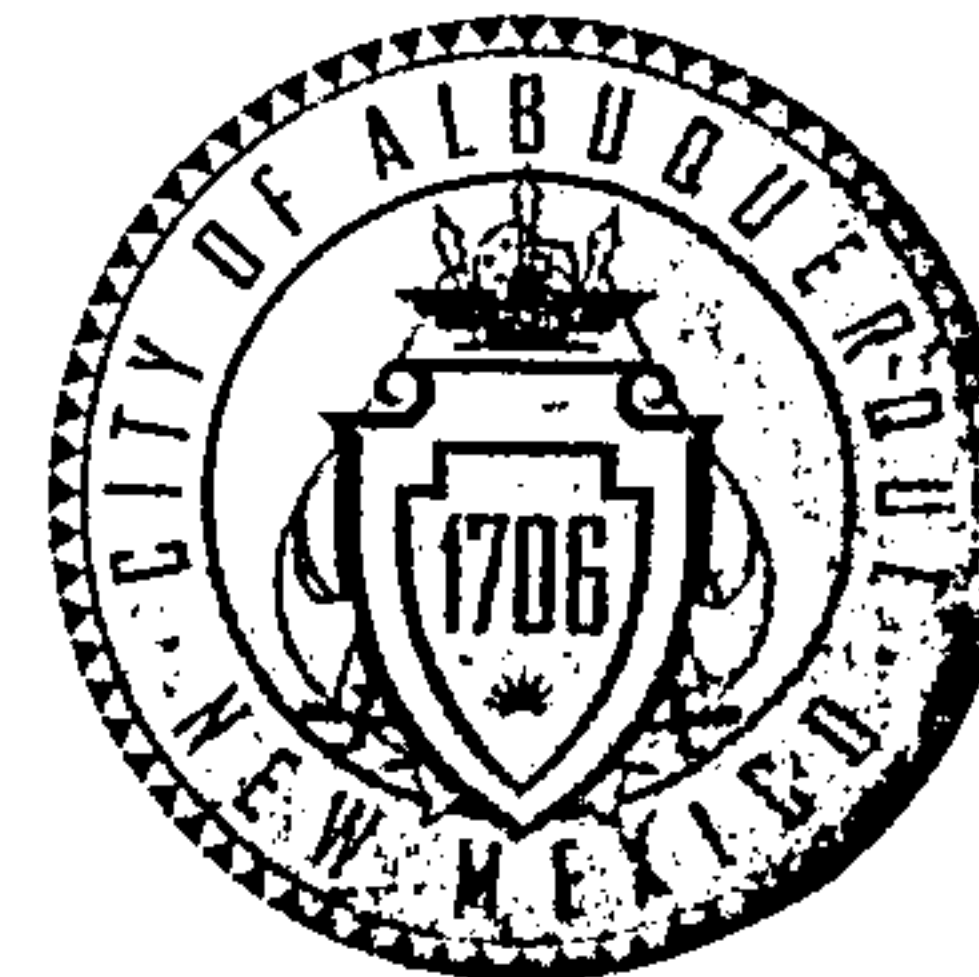
MAY 8<sup>th</sup>, 2009  
Date



332 Adams Street SE | Albuquerque, NM 87108 | 505.299.1111 Phone | 505.349.4167

Fax

# CITY OF ALBUQUERQUE



September 29, 2008

David B. Thompson, P.E.  
Thompson Engineering Consultants, Inc.  
P.O. Box 65760  
Albuquerque, NM 87193

**Re: Adams Street Studios Grading and Drainage Plan**  
**Engineer's Stamp dated 9-23-08 (K17/D101)**

Dear Mr. Thompson,

Based upon the information provided in your submittal received 9-23-08 and the Declaration of Easements and Covenants received 8-27-08, the above referenced plan is approved for Building Permit and SO 19 Permit. Please attach a copy of this approved plan to the construction sets prior to sign-off by Hydrology.

PO Box 1293

A separate permit (SO 19) is required for construction within City ROW. A copy of this approval letter must be on hand when applying for the excavation/barricading permit.

Albuquerque

To obtain a temporary or permanent CO, Engineer Certification of the Grading Plan per the DPM is required and the storm drain work in the City ROW must be inspected and accepted. Please contact Duane Schmitz, 235-8016, to schedule an inspection.

NM 87103

If you have any questions, you can contact me at 924-3695.

Sincerely,

Curtis A. Cherne, P.E.  
Senior Engineer, Planning Dept.  
Development and Building Services

[www.cabq.gov](http://www.cabq.gov)

C: file  
Antoinette Baldonado, Excavation and Barricading  
Duane Schmitz, Street/Storm Drain Maintenance



**DRAINAGE INFORMATION SHEET**  
(REV. 1/28/2003rd)

PROJECT TITLE: ADAMS STREET STUDIOS ZONE MAP/DRG. FILE #: K17 /D101  
DRB #: \_\_\_\_\_ EPC #: \_\_\_\_\_ WORK ORDER#: \_\_\_\_\_

LEGAL DESCRIPTION: LOTS 34, 35, & 36, BLOCK 11, VALLEY VIEW ADDITION  
CITY ADDRESS: \_\_\_\_\_

ENGINEERING FIRM: Thompson Engineering Consultants, Inc.  
ADDRESS: P.O. Box 65760  
CITY, STATE: Albuquerque, NM

CONTACT: David Thompson  
PHONE: 271-2199  
ZIP CODE: 87193

OWNER: Devin Cannady  
ADDRESS: 332 Adams Street SE  
CITY, STATE: Albuquerque, NM

CONTACT: Devin Cannady  
PHONE: 299-1111  
ZIP CODE: 87108

ARCHITECT: Devin Cannady Architect Studio  
ADDRESS: 332 Adams Street SE  
CITY, STATE: Albuquerque, NM

CONTACT: Devin Cannady  
PHONE: 299-1111  
ZIP CODE: 87108

SURVEYOR: AM Surveying Company  
ADDRESS: 612 Cerro de Ortega  
CITY, STATE: Rio Rancho, NM

CONTACT: Mike Shook  
PHONE: 896-1716  
ZIP CODE: 87124

CONTRACTOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

CHECK TYPE OF SUBMITTAL:

- ☐ DRAINAGE REPORT  
☐ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL, REQUIRES TCL or equal  
☒ DRAINAGE PLAN RESUBMITTAL  
☐ CONCEPTUAL GRADING & DRAINAGE PLAN  
☐ GRADING PLAN  
☐ EROSION CONTROL PLAN  
☐ ENGINEER'S CERTIFICATION (HYDROLOGY)  
☐ CLOMR/LOMR  
☐ TRAFFIC CIRCULATION LAYOUT (TCL)  
☐ ENGINEER'S CERTIFICATION (TCL)  
☐ ENGINEER'S CERTIFICATION (DRB APPR. SITE PLAN)  
☐ OTHER

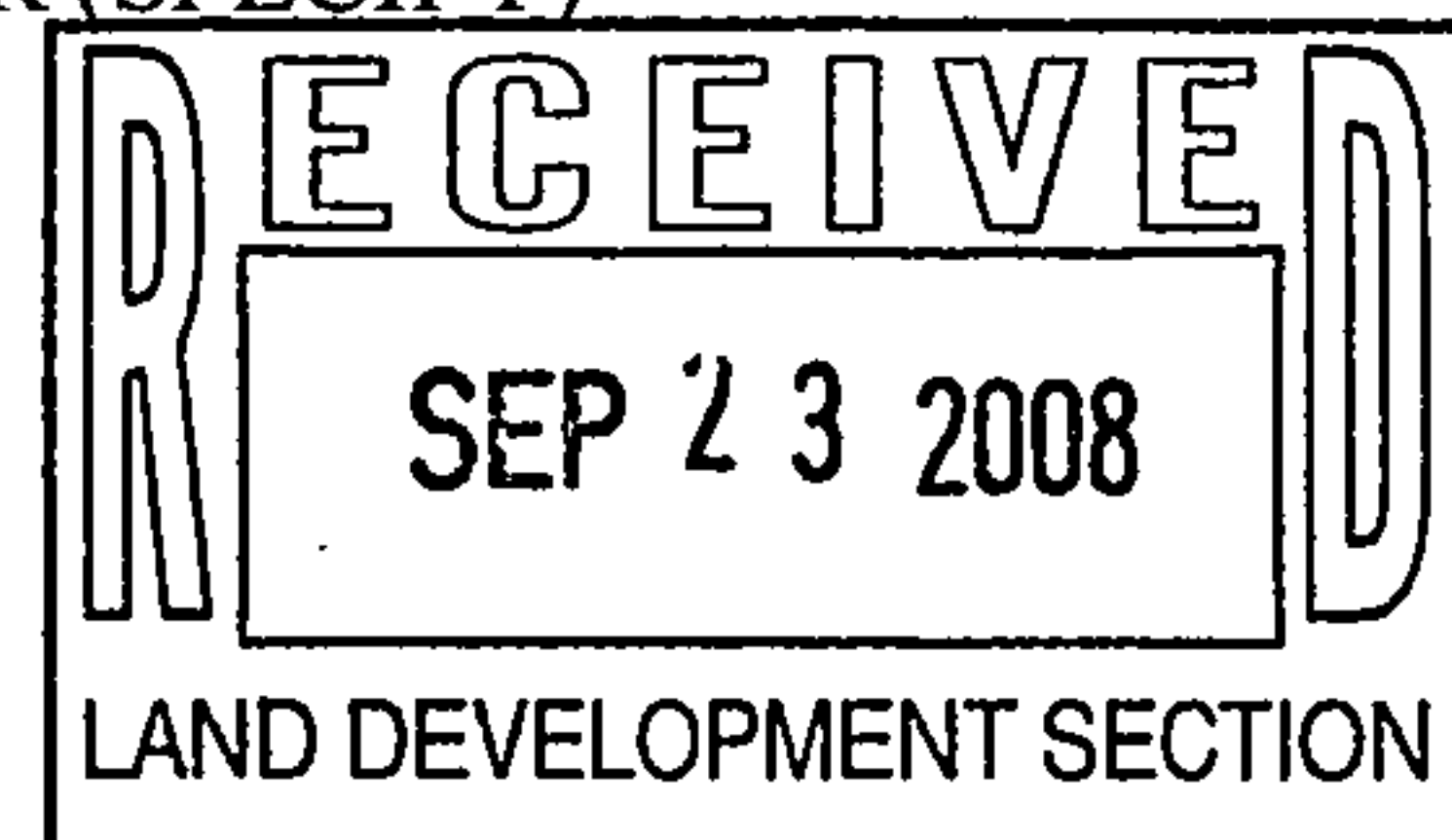
CHECK TYPE OF APPROVAL SOUGHT:

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☐ S. DEV. PLAN FOR BLDG. PERMIT APPROVAL  
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☐ FINAL PLAT APPROVAL  
☐ FOUNDATION PERMIT APPROVAL  
☒ BUILDING PERMIT APPROVAL  
☐ CERTIFICATE OF OCCUPANCY (PERM.)  
☐ CERTIFICATE OF OCCUPANCY (TEMP.)  
☒ GRADING PERMIT APPROVAL  
☒ PAVING PERMIT APPROVAL  
☐ WORK ORDER APPROVAL  
☒ OTHER (SPECIFY)

WAS A PRE-DESIGN CONFERENCE ATTENDED:

- ☐ YES  
☒ NO  
☐ COPY PROVIDED

5019

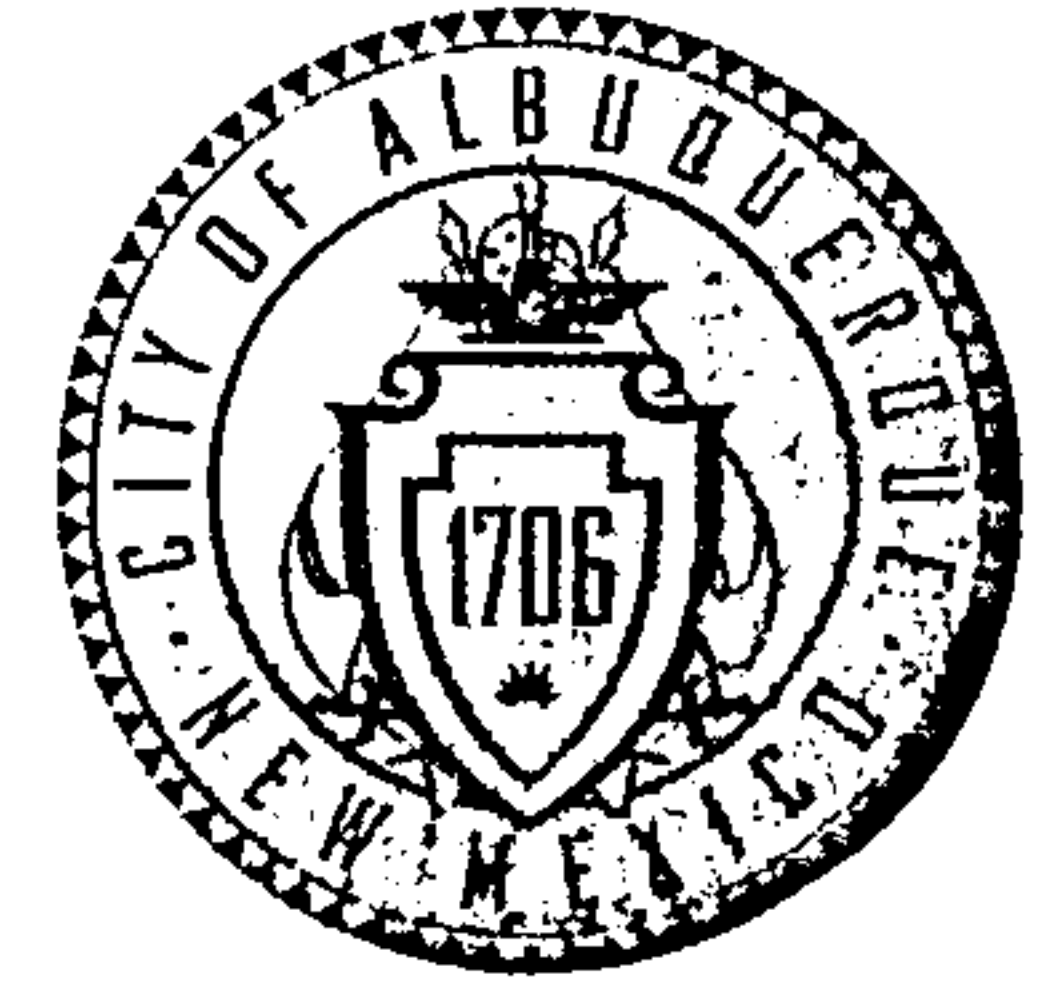


DATE SUBMITTED: September 23, 2008 BY: *David B. Thompson*

Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location and scope of the proposed development defines the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. **Conceptual Grading and Drainage Plan:** Required for approval of Site Development Plans greater than five acres
2. **Drainage Plans:** Required for building permits, grading permits, paving permits, and site plans less than five (5)
3. **Drainage Report:** Required for subdivisions containing more than ten (10) lots or constituting five (5) acres or

# CITY OF ALBUQUERQUE



August 28, 2008

David B. Thompson, P.E.  
Thompson Engineering Consultants, Inc.  
P.O. Box 65760  
Albuquerque, NM 87193

**Re: Adams Street Studios Grading and Drainage Plan**  
**Engineer's Stamp dated 6-29-08 (K17/D101)**

Dear Mr. Thompson,

Based upon the information provided in your submittal received 6-30-08 and the Declaration of Easements and Covenants received 8-27-08, the above referenced plan is approved for Building Permit. Please attach a copy of this approved plan to the construction sets prior to sign-off by Hydrology.

PO Box 1293

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

Albuquerque

If you have any questions, you can contact me at 924-3695.

NM 87103

Sincerely,

Curtis A. Cherne, P.E.  
Senior Engineer, Planning Dept.  
Development and Building Services

[www.cabq.gov](http://www.cabq.gov)

C: file



# RECEIVED

AUG 28 2008

HYDROLOGY  
SECTION

**DECLARATION OF EASEMENTS WITH COVENANTS  
AND RESTRICTIONS AFFECTING LAND  
FOR ADAMS STREET STUDIOS ("ECR")**

WHEREAS, CANNADY STUDIOS, LLC, a New Mexico Limited Liability Company ("Declarant") is the Owner of the following described real property located in the County of Bernalillo, State of New Mexico, and more particularly described as follows:

Lot 36, Block 11, Valley View Addition. Albuquerque, New Mexico, as the same are shown and designated on the Plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico.

WHEREAS, Jamilla Naji is the Owner of the following described real property located in the County of Bernalillo, State of New Mexico, to wit:

Lot 35, Block 11, Valley View Addition. Albuquerque, New Mexico, as the same are shown and designated on the Plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico.

WHEREAS, Ruben Ramirez is the Owner of the following described real property located in the County of Bernalillo, State of New Mexico, to wit:

Lot 34, Block 11, Valley View Addition. Albuquerque, New Mexico, as the same are shown and designated on the Plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico.

(individually designated by Lot number or as a "Lot", and collectively as "Lots"); and

WHEREAS, Declarant, Naji and Ramirez desire to have the Lots developed in conjunction with each other pursuant to a general plan of improvement to form office/retail studios to be called "ADAMS STREET STUDIOS", and further desires to make all of the Lots subject to the easements, covenants, conditions and restrictions herein set forth.

NOW, THEREFORE, for and in consideration of the premises, and intending that the following easements covenants, conditions and restrictions shall be binding upon parties hereto and their respective successors and assigns and shall attach to and run with the land which is the subject of this ECR and shall be for the benefit of and shall be limitation upon all future Owners of the Lots, and that all easements, restrictions and other covenants herein set forth shall be appurtenant to the dominant estates and obligations on the servient estates, and in consideration of the promises, covenants, conditions, restrictions, easements and encumbrances contained herein, the sufficiency of which are hereby acknowledged, Declarant, Naji and Ramirez, for themselves and their successors and assigns, do hereby agree as follows:

1. **Definitions.** The following terms shall have the meanings set forth below:
  - a. **"Building(s)":** means those buildings constructed within the Building Areas which are for use as offices and/or retail spaces.
  - b. **"Building Area(s)":** means those areas on each Lot shown on the "Site Plan" attached hereto as Exhibit "A" and incorporated hereby by reference, and as further amended with governmental approval.
  - c. **"Common Area":** means those areas on each Lot which are not Building Areas, together with those portions of the Building Area on each Lot which are not from time to time actually covered by a Building. Canopies which extend over the Common Area, together with any columns or posts supporting same, shall be deemed to be a part of the Building to which they are attached and not a part of the Common Area.
  - d. **"Floor Area":** means the total number of square feet of floor space in a Building whether or not actually occupied, including basements or subterranean, balcony and mezzanine spaces. Floor Area shall be measured from the exterior line of the exterior walls and the center-line of any party or common interior walls without deduction for columns, walls or other structural or nonstructural components.
  - e. **"Owner":** means the person owning the fee simple interest in a Lot and shall include the contract purchaser on a real estate contract for the sale and purchase of a Lot, but not the contract seller nor the lessee of a lease for a term of less than twenty (20) years.
  - f. **"Person":** means individuals, partnerships, firms, associations, corporations, limited liability companies, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity.

2. **Use.**

a. **General Use.** Subject to the provisions of this Declaration, all Buildings in the Adams Street Studios shall be used for commercial purposes as offices, retail or related uses as defined in the Nob Hill Highlands Sector Development Plan in effect on the date of the filing of this Declaration within an OR-2 zone.

b. **General Restrictions on Use.** The following businesses are hereby prohibited on any portion of the Adams Street Studios:

Doc# 2008096224

08/27/2008 02:02 PM Page: 1 of 7  
DEC R.\$21.00 M. Toulouse Oliver, Bernalillo County



of 6



- (1) retail sales, except those permitted under the as defined in the Nob Hill Highlands Sector Development Plan in effect on the date of the filing of this Declaration within an OR-2 zone;
- (2) a veterinary clinic or other animal related businesses;
- (3) a blood services operation;
- (4) a training or educational facility, including, without limitation, a beauty school, barber college, reading room, place of instruction or any other operation catering to students or trainees as opposed to customers.
- (5) alcoholic beverage sales, or consumption businesses;
- (6) wireless telecommunications facility;

3. **Buildings and Improvements.**

a. **Buildings and Improvements.** Each Building and the other improvements in the Adams Street Studios, now and in the future, shall be of first quality construction and architecturally designed so that its exterior elevations (including, without limitation, signage), will be architecturally and aesthetically compatible and harmonious with all other Buildings and improvements in the Adams Street Studios. No Building may be constructed nor may the exterior of any existing Building be changed in any way (including, without limitation, signage) without the prior written approval of Declarant. Before the construction of any Building or other Improvement, or the modification thereof, sufficient information shall be sent to Declarant enabling Declarant to make a reasonable determination as to the architectural and aesthetic compatibility of said Building, improvement or modification with all other Buildings and improvements in the Adams Street Studios ("Construction Plans"). Declarant may not arbitrarily or unreasonably withhold its approval of the Construction Plans if they are architecturally and aesthetically compatible and harmonious with all other Buildings and improvements in the Adams Street Studios. Declarant must approve or disapprove of the Construction Plans within thirty (30) days after receipt thereof, and, if Declarant disapproves of the Construction Plans, it shall provide a written explanation in reasonable detail of its reasons for disapproval. If Declarant does not approve or disapprove of the Construction Plans within said thirty (30) day period, the Construction Plans shall be deemed approved as to architecture and aesthetics only; provided further, that any construction pursuant to the Construction Plans must comply with the remaining provisions of this Declaration.

b. **Height.** All Buildings within the Adams Street Studios shall meet the height restrictions as defined in the City of Albuquerque Zoning Code or as referenced in the Nob Hill Highlands Sector Development Plan.

c. **Location.** All Buildings and other structures (except those permitted in the Common Area) shall be placed or constructed upon the Lots only in the Building Area; provided, however, that canopies, eaves and roof overhangs (including columns or posts supporting same), normal foundations, utility cabinets and meters and signs may project from the Building Area into the Common Area.

d. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Building or other improvements located in the Adams Street Studios shall be effected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay (i) access to and from or within the Adams Street Studios, or (ii) vehicular parking within the improved Common Area of a Lot.

4. **Common Area.**

a. **Grant of Easements.**

(1) **Reciprocal Ingress and Egress.** Each Lot is subject to: non-exclusive perpetual easements for parking, ingress, and egress by vehicular and pedestrian traffic upon, over and across that portion of the Common Area located on said Lot for the benefit of every other Lot and the Owners thereof. The reciprocal rights of parking, ingress, and egress set forth in this Section 4a(1) shall apply to the Common Area for each Lot as such area may be changed from time to time pursuant to this Declaration.

(2) **Shared Parking.** Each Lot is subject to an open/shared parking arrangement, whereby, the Owners shall not segregate property access/parking rights or significantly impair access to parking on the property by users of any portion of the property.

(3) **Utilities.** Each Lot is subject to non-exclusive perpetual easements under, through and across the Common Area of said Lots for the installation, operation, maintenance, repair and replacement of water drainage systems or structures, water mains, sewers, water sprinkler system lines, telephones, electrical conduits or systems, gas mains and other public or private utilities for the benefit of every other Lot and the Owners thereof. All such systems, structures, mains, sewers, conduits, lines and other utilities shall be installed and maintained below the ground level or surface of such easements except for ground mounted electrical transformers and such other facilities as are required to be above ground by the utility providing such service (including temporary service required during the construction, maintenance, repair, replacement, alteration or expansion of any buildings or improvements located in the Adams Street Studios). The installation, operation, maintenance, repair and replacement of such easement facilities shall not unreasonably interfere with the use of the improved Common Area or with the normal operation of any business in the Adams Street Studios. The Owners of each Lot shall execute such additional easements as are reasonably required by any public or private utility for the purpose of providing the utilities described herein provided such easements are not otherwise inconsistent with the provisions of this Declaration.



(4) Drainage. Each Lot is subject to non-exclusive perpetual drainage easements under, through and across the Common Area of said lots for the purpose of surface drainage and runoff of rainwater for the benefit of every other Lot and the Owners thereof.

b. Limitations on Use.

(1) General. The Common Area is hereby reserved for the sole and exclusive use of the Owners, their tenants, contractors, employees, agents, customers, licensees and invitees and the subtenants, contractors, employees, agents, customers, licensees and invitees of such tenants. The Common Area may be used for vehicular driving, parking, pedestrian traffic, directional signs, sidewalks, walkways, landscaping, perimeter walls and fences, parking lot lighting, services drives and dumpsters and for no other purpose unless otherwise specifically approved by Declarant. All Buildings and improvements placed or constructed in the Common Area shall be approved by Declarant and shall be in accordance with the Site Plan. The Common Area shall be kept and maintained as provided in Section 4d. All portions of a Building Area which are not used for Buildings shall be developed by the Owner of the Lot, at such Owner's sole cost and expense, in accordance with the Construction Plans approved by Declarant and shall be maintained as improved Common Area. No changes in the Common Area improvements, including, without limitation, service drives and parking areas, striping, traffic directional arrows and signs, concrete bumpers, parking lot lighting, perimeter walls and fences, and landscaped areas, together with necessary plantings, may be made without the prior written approval of Declarant.

(2) Sales. No portion of the Common Area shall be used for the sale or display of merchandise.

(3) Parking. There shall be no charge for parking in the Common Area without the prior written consent of Declarant or unless otherwise required by law. Only employees, customers and invitees of businesses on each Lot shall be permitted to park in the Common Area on said Lot. The Owner of each Lot shall use reasonable efforts to enforce said policy. Declarant and the Owners of the Lots shall each have the right to enforce the provisions of this Section 4b(3).

c. No Barriers. No walls, fences or barriers of any kind shall be constructed or maintained on the Common Area, or any portion thereof, which shall prevent or impair the use or exercise of any of the easements granted herein, or the free access and movement, including, without limitation, of pedestrians and vehicular traffic between the various Lots; provided however, reasonable traffic controls approved in advance by Declarant as may be necessary to guide and control the orderly flow of traffic may be installed so long as access driveways to the parking areas in the Common Area are not closed or blocked. The only exceptions to this provision shall be (1) for changes to the Building Area and Common Area permitted by this Declaration and (2) for temporary blockages of certain areas deemed necessary by the Declarant to prevent a public dedication of an easement or access right.

d. Maintenance.

(1) Standards. Commencing on the date the first Owner, tenant or occupant of a Lot opens for business ("Maintenance Commencement Date"), Declarant shall maintain or cause to be maintained the Common Area at all times in good and clean condition and repair, said maintenance to include, without limitation, the following:

(a) Maintaining, repairing, replacing and resurfacing, when necessary, all paved surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal or superior in quality, use and durability; and re-striping, when necessary;

(b) Removing all snow, papers, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

(c) Maintaining, repairing and replacing, when necessary, all traffic directional signs, markers and lines;

(d) Operating, maintaining, repairing and replacing, when necessary, such artificial lighting facilities as shall be reasonably required;

(e) Maintaining all landscaped areas (including, without limitation, those on the perimeter of the Adams Street Studios); maintaining, repairing and replacing, when necessary, automatic sprinkler systems and water lines; and replacing shrubs and other landscaping as is necessary;

(f) Maintaining, repairing and replacing, when necessary, all Common Area walls and fences;

(g) Maintaining, repairing and replacing, when necessary, all storm drains, sewers and other utility lines and facilities not dedicated to the public or conveyed to any public or private utility which are necessary for the operation of the Buildings and improvements located in the Adams Street Studios (with the cost of all such items being allocated between the Owners of all Buildings and improvements serviced or to be serviced by said facilities on the basis of their respective Building Area);

(h) Maintaining, repairing and replacing, when necessary, the Monument Signs; and  
(i) Performing itself or contracting with a third party or parties to perform any of the services described herein.

(3) Lighting. It is agreed that the artificial lighting for the Common Area shall remain on not less than two (2) hours after dusk or while a majority of the businesses in the Adams Street Studios remain open for business. If artificial lighting for a time later than the foregoing ("After Hours Lighting") is needed by any Owner or occupant of a Lot, then such artificial lights to service such Owner or occupant shall be separately metered or otherwise measured or reasonably estimated and all expenses thereof shall be paid by such Owner or occupant to the extent appropriate.



(4) **Dumpsters.** Portions of the Common Area on Lot 34 are dedicated for dumpsters. The dumpster site on Lot 34 is for the mutual reciprocal benefit of all Lots. Declarant hereby declares that the Lot containing dumpsters is subject to a non-exclusive perpetual easement for access to and use of the dumpster site for the benefit of the other Lots. The expenses for dumpster service shall be paid pro rata by the Lots utilizing said dumpster based on common area guidelines set forth herein. The Owner of the Lot containing the dumpster shall bill the other Owners of the Lot utilizing the dumpster monthly for said Owner's pro-rata share of said expenses. Failure to pay said dumpster expenses shall be subject to the same interest charges and lien rights as the Common Area Expenses. All maintenance and repairs to the dumpster enclosure and concrete pad related thereto shall be performed as a Common Area maintenance item and shall be paid by the Owners of the Lots utilizing said dumpster in the same relationship as the dumpster service bills are paid.

(5) **Assessment and Collection of Common Area Expenses.** Each Owner shares in the responsibility for upkeep and maintenance for the common area as defined herein and tasks shall be bourn equally between Owners. Owners are responsible to provide estimates for work and receive approval from both Owners before a task can be approved to be performed. If there is dispute as to costs or tasks, a vote shall be taken with majority (2 to 1) votes being the proposed solution. If this situation occurs, the outvoted Owner shall be responsible for payment to the Owner responsible for the proposed work.

(a) **Proportionate Share.** The Owner of each Lot shall reimburse the other Owners for said Owner's proportionate share of all of the out-of-pocket expenses in operating and maintaining the Common Area. The costs for operating and maintaining the Common Area are collectively "Common Area Expenses".

(b) **Billing.** Each Owner shall be responsible for reimbursing any other Owner in advance of maintenance expenses for one-third (1/3) of their proportionate shares of all Common Area Expenses. The proportionate share of the total Common Area Expenses to be borne by the Owners of each Lot for any year shall be that percentage set forth below:

<u>Lot</u>	<u>Building Area</u>	<u>Percentage</u>
Lot 34	1570	33.33%
Lot 35	1570	33.33%
Lot 36	1570	33.33%

In the event any Owner expands its Building with the approval of Declarant and the City of Albuquerque to a Floor Area in excess of the Building area for said Lot provided for herein above, the above percentages shall be recalculated based upon any increase in the total Floor Area of said Building.

5. **Indemnification/Insurance/Waiver of Subrogation.**

a. **Indemnification.** Each Owner hereby agrees to indemnify and hold the other Owners harmless from any and all liability, damage, expense, causes of action, suits, claims or judgments of third parties arising from personal injury, death or property damage and occurring on or from said Owner's Lot, including the Common Area, except to the extent proximately caused, in whole or in part, by the act or omission of the party claiming indemnification hereunder.

b. **Insurance.**

(1) Each Owner shall provide and maintain commercial general liability insurance with broad form coverage endorsement (including broad form property damage endorsement) covering its obligations under this Section 5 and insuring it against claims for personal injury, bodily injury or death, and property damage or destruction. Such insurance shall be written with an insurer licensed to do business in New Mexico and shall name the other Owners as additional insureds. The limits of liability of all such insurance shall be not less than \$2,000,000 for personal injury or bodily injury or death of any one Person, \$2,000,000 for personal injury or bodily injury or death of more than one Person in one occurrence and \$2,000,000 with respect to damage to or destruction of property; or, in lieu of such coverage, a combined single limit (covering personal injury, bodily injury or death and property damage or destruction) with a limit of not less than \$2,000,000 per occurrence. Each Owner shall furnish the other Owners with certificates evidencing such insurance. The policies of such insurance shall provide that the insurance represented by such certificates shall not be canceled, materially changed or non-renewed without the giving of thirty (30) days prior written notice to the holders of such insurance and the holders of such certificates.

(2) At all times during the term of this Declaration, each Owner shall keep the Buildings and improvements (including all Common Area improvements) on its Lot insured against loss or damage by fire and other perils and events as may be insured against under the broad form of Uniform Extended Coverage Clause in effect from time to time in the state in which the parties' respective properties are located, with such insurance to be for the full replacement value of the insured improvements.

(3) **Notification.** The Owner of each Lot shall notify the Owners of all other Lots within thirty (30) days after any transfer of ownership interest in a Lot, to include the name, including contact individual, address and telephone number of the new Owner.

c. **Waiver of Subrogation.** Neither Declarant nor the other Owners, their successors and assigns shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any Building, improvement or other tangible property, or any resulting loss of income and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees if any such loss or damage is covered by insurance benefitting the party suffering such loss or damage or was required to be covered by insurance pursuant to this Declaration. Declarant and the other Owners, their successors and assigns shall require their respective Insurance companies to include a standard waiver of subrogation provision in their respective policies.



6. **Eminent Domain.**

a. **Owner's Right to Award.** Except as provided in Section 6b, nothing herein shall be construed to give any Owner any interest in any award or payment made to any other Owner in connection with any exercise of eminent domain, condemnation or transfer in lieu thereof affecting said other Owner's Lot or giving the public or any government any rights in said Lot. In the event of any exercise of eminent domain, condemnation or transfer in lieu thereof of any part of the Common Area, the award attributable to the land and improvements of such portion of the Common Area shall be payable only to the Owner thereof, and no claim thereon shall be made by the Owners of any other portion of the Common Area related to the value of the land and improvements.

b. **Collateral Claims.** All other Owners of Lots in the Adams Street Studios may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another Owner.

7. **Restoration of the Adams Street Studios - Casualty or Eminent Domain.** In the event all or any portion of any Buildings or other improvements in the Adams Street Studios are damaged or destroyed by fire or other casualty, or are taken or damaged as a result of the exercise of the power of eminent domain, condemnation or any transfer in lieu thereof, the Owner of the Lot so damaged or taken shall promptly restore or cause to be restored: (i) the remaining portion of the improvements in the Common Area on said Owner's Lot as nearly as practicable to the condition of the same immediately prior to such casualty or eminent domain, condemnation or transfer in lieu thereof, and (ii) the remaining portion of such Building or improvement or, in lieu thereof, shall remove or cause to be removed the damaged portion of such Building or improvement together with all rubble and debris related thereto. All Building Area on which Buildings are not reconstructed following a casualty or eminent domain, condemnation or transfer in lieu thereof shall be graded or caused to be graded by the Owner of said Lot to the level of the adjoining property and in such a manner as not to adversely affect the drainage of or access to and from the Adams Street Studios or any portion thereof, shall be covered by asphalt pavement, crushed granite, neatly maintained lawn, or other means as agreed to by Declarant and shall be maintained as Common Area.

8. **Obligation of and Conditions to Release from Liability as to Successors and Assigns.** Declarant and all other Owners, their successors and assigns shall be bound by this Declaration, but only during the period such Persons own a fee or leasehold interest in such Lot or portion of a Lot, except as to obligations, liabilities or responsibilities that accrue during said ownership period.

9. **Breach.** In the event of a breach or threatened breach of this Declaration, only the Declarant or all non-breaching record Owners of a Lot as a group shall be entitled to give written notice of the alleged default and to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. The unsuccessful party or parties in any such action shall pay to the prevailing party or parties all costs of enforcement and/or recovery of damages, including reasonable attorneys' fees. The failure of the Declarant or the Owners of any of the Lots to insist in any one or more cases upon the strict performance of any of the promises, covenants, conditions, restrictions or agreements herein, shall not be construed as a waiver or relinquishment of any future breach of the same or other provisions hereof.

10. **Remedies for Default; Claim of Lien; Waiver.** If the Owner of any Lot shall default in the full, faithful and punctual performance of any obligation hereunder, including the payment of Common Area Expenses, and if at the end of thirty (30) days after receipt of written notice from the Declarant or non-defaulting Owners, stating that: (i) the defaulting Owner has failed to cure a monetary default ("Monetary Claims"), the amount due shall bear interest at fifteen percent (15%) per annum; or (ii) the defaulting Owner has failed to cure a non-monetary default, or diligently commence a cure, then the Declarant, an Owner or group of Owners who gave the written notice of default shall, in addition to all other remedies available at law or in equity, have the right to perform such obligation of this Declaration on behalf of such defaulting Owner and be reimbursed by such defaulting Owner for the cost thereof ("Reimbursement for Non-Monetary Claims") and the amount due shall bear interest at the rate of fifteen percent (15%) per annum. Any such claims (Monetary Claims or Reimbursement for Non-Monetary Claims), together with interest as aforesaid, shall be a secured claim and a lien shall attach and take effect upon recordation of a claim of lien by the claimant in the office of the County Clerk of Bernalillo County, New Mexico. The claim of lien shall include the following: (1) the name of the claimant or group of claimants, as the case may be; (2) a statement concerning the basis of the claim of lien; (3) the last known name and address of the Owner or reputed Owner of the Lot against which the lien is claimed; (4) a description of the Lot against which the lien is claimed; (5) a description of the monetary amount or work performed and reimbursement sought which has given rise to the claim of lien hereunder and a statement itemizing the amount thereof; and (6) a statement that the lien is claimed pursuant to the provisions of this Declaration. The claim of lien shall be duly verified, acknowledged and contain a certificate that a copy thereof has been served upon the party against whom the lien is claimed, either by personal service or by mailing (first class, certified, or return receipt requested) to the defaulting Owner, at the address for mailing of tax statements with respect to the property against which the lien is claimed. The lien so claimed shall attach from the date of recordation in the amount claimed thereby and it may be enforced in any manner allowed by law for the foreclosure of liens in New Mexico. Notwithstanding the foregoing, such claims of lien for Monetary Claims and Reimbursement for Non-Monetary Claims shall be subordinate to any first mortgage or first deed of trust given in good faith and for value now or hereafter encumbering the Adams Street Studios or any portion thereof, and any purchaser at any foreclosure or trustee's sale (as well as any grantee by deed in lieu of foreclosure or trustee's sale) under any first mortgage or first deed of trust shall take free and clear from such then existing lien but otherwise subject to the provisions of this Declaration. The failure of the Declarant or Owners of any of the Lots to insist in any one or more cases upon the strict performance of any of the promises, covenants, conditions, restrictions or agreements herein, shall not be construed as a waiver or relinquishment of any future breach of the same or other provisions hereof.

11. Rights of Successors. The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitude's running with the land. This Declaration shall bind and inure to the benefit of the parties hereto, their respective successors and assigns. Following the sale of all of its interest in all of the Lots, the rights of the Declarant hereunder shall be exercised by a Majority in Ownership or an association created by the unanimous consent of all Owners.

12. Rights and Obligations of Lien-holders. Except as otherwise provided in Section 10, the charges and burdens of this Declaration are, and shall at all times be, prior and therefore superior to the lien or charge of any mortgage or deed of trust made in good faith and for value affecting the Lots or any part thereof, or any improvements now or hereafter placed thereon; provided however, a breach of any of the easements, covenants or restrictions hereof shall not defeat or render invalid the lien or charge of any mortgage or deed of trust. Any Lot acquired through sale under foreclosure of any mortgage or deed of trust effected by powers of sale, judicial proceedings or otherwise, including, but not limited to, a deed in lieu of foreclosure, shall be subject to all of the charges and burdens of this Declaration.

13. Limitation on Indemnities. To the extent, if at all, any indemnity, hold harmless or insurance provision of this Declaration is invalidated pursuant to the terms of §56-7-1 N.M.S.A. 1978 as amended, the remaining indemnity, hold harmless and insurance provisions of this Declaration shall remain in full force and effect.

14. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Common Area to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties hereto that this Declaration shall be strictly limited to and for the purposes herein expressed. The right of the public or any Person to make any use whatsoever of the Common Area of a Lot, or any portion thereof (other than any use expressly allowed by a written or recorded map, agreement, deed or dedication) is by permission, and subject to the control of the Owner. Notwithstanding any other provisions herein to the contrary, the Owners of the Lot affected hereby may periodically restrict ingress and egress to and from the Common Area in order to prevent a prescriptive easement from arising by reason of continued public use. Any restriction on ingress and egress shall be limited to the minimum period necessary to prevent the creation of a prescriptive easement and shall occur at such a time as to have a minimum effect on the parties in occupancy within the Adams Street Studios, and shall be approved by Declarant.

15. Duration. Unless otherwise canceled or terminated, all of the easements granted in this Declaration shall continue in perpetuity and all other rights and obligations hereof shall automatically terminate and be of no further force and effect after ninety-nine (99) years from the date hereof.

16. Headings/Singular/Plural. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof. The singular number includes the plural and vice versa. The use of either masculine, feminine or neuter includes the other two.

IN WITNESS WHEREOF, the parties have executed this Declaration the day and year first written above.

Devin Cannady Architect llc., a New Mexico Limited Liability Company

By: [Signature]  
Devin Cannady, Owner - Lot 38

By: n/a  
Jamilla Najj, Owner - Lot 35

By: [Signature]  
Ruben Ramirez, Owner - Lot 34

STATE OF NEW MEXICO )  
COUNTY OF BERNALILLO )

This instrument was acknowledged before me on 22nd August 2008, by Devin Cannady of Cannady Studios, llc., a New Mexico Limited Liability Company.

MY COMMISSION EXPIRES:  
11/3/2011

[Signature]  
NOTARY PUBLIC



OFFICIAL SEAL  
MARGARET M. TORRES  
NOTARY PUBLIC - STATE OF NEW MEXICO  
My commission expires 11/3/2011



SIGNATURE PAGE NO. 2 TO ECR

IN WITNESS WHEREOF, the parties have executed this Declaration on August 20th, 2008.

On August 22, 2008, before me, Elicia R Sizemore, appeared Jamilla Naji, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. WITNESS my hand and official seal.

Signature of Notary:

Elicia R Sizemore

Affiant

       Known

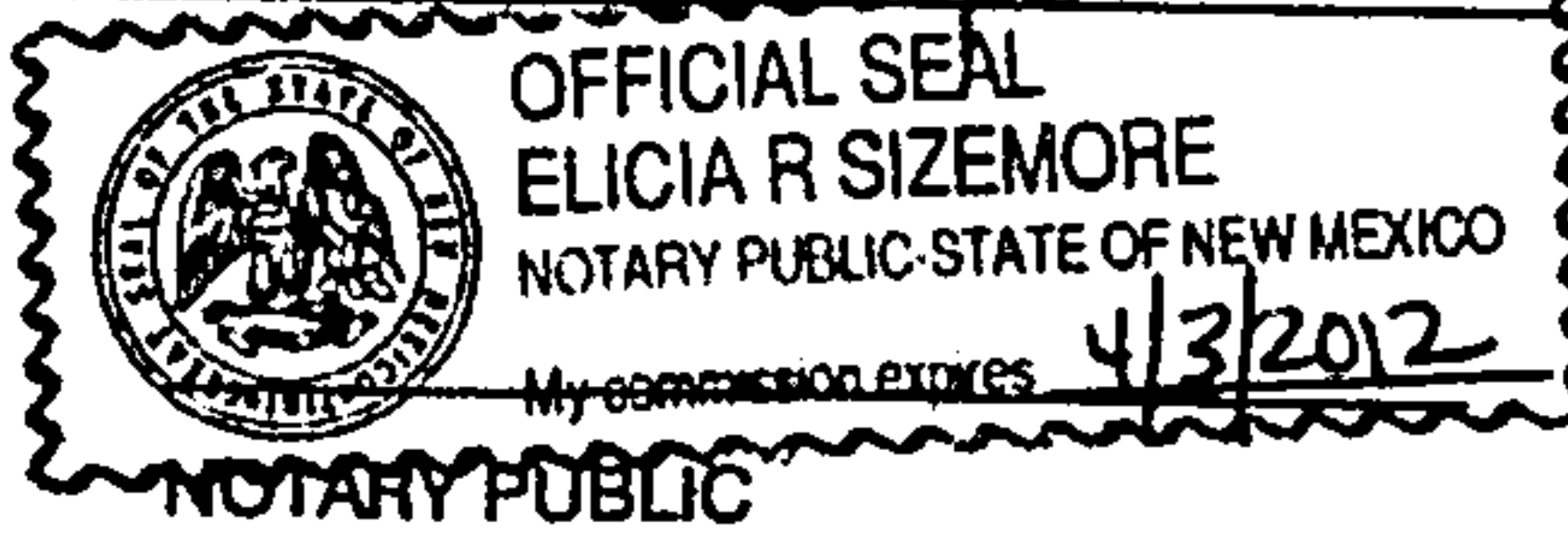
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Type of ID

NM DL 502928716 EXP 03/12

MY COMMISSION EXPIRES:

4/3/2012



[Signature]  
SIGNATURE

8/22/08  
DATE



K-17/D101

Metro, Kristal D.

**From:** Devin Cannady [devin@dcarchitectstudio.com]  
**Sent:** Wednesday, July 09, 2008 3:42 PM  
**To:** Metro, Kristal D.  
**Subject:** Adams Street Studios Parking Surface  
**Attachments:** pastedGraphic.pdf; ATT5427634.htm

Krystal, as discussed this afternoon regarding the parking surface of the above mentioned project I have located text within the ABQ Zoning Code that allows various parking surfaces if under 20 spaces which we accomodate:

**§ 14-16-2-15 O-1 OFFICE AND INSTITUTION ZONE.**

This zone provides sites suitable for office, service, institutional, and dwelling uses.

(12) Parking lot, providing it complies with the following:

(a) Paving, all of which shall be maintained level and serviceable.

1. The lot must be graded and surfaced with one of the following:

a. ~~Blacktop or equal: Two inches of asphalt concrete on a prime coat over a four inch compacted subgrade, or a surface of equal or superior performance characteristics.~~

b. **For parking lots of 20 or fewer spaces, Gravel: A layer at least two inches thick of gravel sized from 3/8 minimum to one inch maximum diameter, at least 1 inch of which shall be maintained on the surface; gravel shall be kept off the right-of-way.**

(this text is similarly used in various other zoning descriptions...Our project is zoned OR-2 which refers to the O-1 zone for parking/landscaping specifics in the Sector Development Plan)

In order to generate a sustainable project I ask for your assistance in allowing us to utilize a crushed rock parking surface in our project. The accessible spaces will be a "hard" (concrete) surface meeting accessible standards.

Please let me know if I need to do anything further to resolve this issue.

Thanks  
 Devin Cannady  
 Principal - dCAs

7/9/2008

DECLARATION OF EASEMENTS WITH COVENANTS  
AND RESTRICTIONS AFFECTING LAND  
FOR ADAMS STREET STUDIOS

THIS DECLARATION is executed effective the 17th day of July, 2008, by Cannady Studios, llc., a New Mexico Limited Liability Company ("Declarant").

WHEREAS, Declarant is the Architect/Builder of the following described real property located in the County of Bernalillo, State of New Mexico, to wit:

Lots 34, 35 & 36, Block 11, Valley View Addition. Albuquerque, New Mexico, as the same are shown and designated on the Plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico.

(individually designated by Lot number or as a "Lot", and collectively as "Lots"); and

WHEREAS, Declarant desires to have the Lots developed in conjunction with each other pursuant to a general plan of improvement to form office/retail studios to be called "ADAMS STREET STUDIOS", and further desires to make all of the Lots subject to the easements, covenants, conditions and restrictions herein set forth.

NOW THEREFORE:

1. Definitions. The following terms shall have the meanings set forth below:

a. "Building(s)": means those buildings constructed within the Building Areas which are for use as offices and/or retail spaces.

b. "Building Area(s)": means those areas on each Lot shown on the "Site Plan" attached hereto as Exhibit "A" and incorporated hereby by reference, and as further amended with governmental approval.

c. "Common Area": means those areas on each Lot which are not Building Areas, together with those portions of the Building Area on each Lot which are not from time to time actually covered by a Building. Canopies which extend over the Common Area, together with any columns or posts supporting same, shall be deemed to be a part of the Building to which they are attached and not a part of the Common Area.

d. "Floor Area": means the total number of square feet of floor space in a Building whether or not actually occupied, including basements or subterranean, balcony and mezzanine spaces. Floor Area shall be measured from the exterior line of the exterior walls and the center-line of any party or common interior walls without deduction for columns, walls or other structural or nonstructural components.

e. "Owner": means the person owning the fee simple interest in a Lot and shall include the contract purchaser on a real estate contract for the sale and purchase of a Lot, but not the contract seller nor the lessee of a lease for a term of less than twenty (20) years.

f. "Person": means individuals, partnerships, firms, associations, corporations, limited liability companies, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity.

2. Use.

a. General Use. Subject to the provisions of this Declaration, all Buildings in the Adams Street Studios shall be used for commercial purposes as offices, retail or related uses as defined in the Nob Hill Highlands Sector Development Plan in effect on the date of the filing of this Declaration within an OR-2 zone.

b. General Restrictions on Use. The following businesses are hereby prohibited on any portion of the Adams Street Studios:

- (1) retail sales, except those permitted under the as defined in the Nob Hill Highlands Sector Development Plan in effect on the date of the filing of this Declaration within an OR-2 zone;
- (2) a veterinary clinic or other animal related businesses;
- (3) a blood services operation;
- (4) a training or educational facility, including, without limitation, a beauty school, barber college, reading room, place of instruction or any other operation catering to students or trainees as opposed to customers.
- (5) alcoholic beverage sales, or consumption businesses;
- (6) wireless telecommunications facility;

3. Buildings and Improvements.

a. Buildings and Improvements. Each Building and the other improvements in the Adams Street Studios, now and in the future, shall be of first quality construction and architecturally designed so that its exterior elevations (including, without limitation, signage), will be architecturally and aesthetically compatible and harmonious with all other Buildings and improvements in the Adams Street Studios. No Building may be constructed nor may the exterior of any existing Building be changed in any way (including, without limitation, signage) without the prior written approval of Declarant. Before the construction of any Building or other improvement, or the modification thereof, sufficient information shall be sent to Declarant enabling Declarant to make a reasonable determination as to the architectural and aesthetic compatibility of said Building, improvement or modification with all other Buildings and improvements in the Adams Street Studios ("Construction Plans"). Declarant may not



arbitrarily or unreasonably withhold its approval of the Construction Plans if they are architecturally and aesthetically compatible and harmonious with all other Buildings and improvements in the Adams Street Studios. Declarant must approve or disapprove of the Construction Plans within thirty (30) days after receipt thereof, and, if Declarant disapproves of the Construction Plans, it shall provide a written explanation in reasonable detail of its reasons for disapproval. If Declarant does not approve or disapprove of the Construction Plans within said thirty (30) day period, the Construction Plans shall be deemed approved as to architecture and aesthetics only; provided further, that any construction pursuant to the Construction Plans must comply with the remaining provisions of this Declaration.

b. Height. All Buildings within the Adams Street Studios shall be restricted in height from finished grade as provided for in the grading and drainage plan for the Lot approved by the City of Albuquerque.

Lot 34	26 feet
Lot 35	25 feet
Lot 36	20 feet

c. Location. All Buildings and other structures (except those permitted in the Common Area) shall be placed or constructed upon the Lots only in the Building Area; provided, however, that canopies, eaves and roof overhangs (including columns or posts supporting same), normal foundations, utility cabinets and meters and signs may project from the Building Area into the Common Area.

d. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Building or other improvements located in the Adams Street Studios shall be effected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay (i) access to and from or within the Adams Street Studios, or (ii) vehicular parking within the improved Common Area of a Lot.

4. Common Area.

a. Grant of Easements.

(1) Reciprocal Ingress and Egress. Declarant hereby declares that each Lot is subject to: non-exclusive perpetual easements for parking, ingress, and egress by vehicular and pedestrian traffic upon, over and across that portion of the Common Area located on said Lot for the benefit of every other Lot and the Owners thereof. The reciprocal rights of parking, ingress, and egress set forth in this Section 4a(1) shall apply to the Common Area for each Lot as such area may be changed from time to time pursuant to this Declaration.

*Surface drainage* (2) Utilities and Drainage. Declarant hereby declares that each Lot is subject to non-exclusive perpetual easements under, through and across the Common Area of said Lot for the installation, operation, maintenance, repair and replacement of ~~water drainage~~ systems or structures, water mains, sewers, water sprinkler system lines, telephones, electrical conduits or systems, gas mains and other public or private utilities for the benefit of every other Lot and the Owners thereof. All such systems, structures, mains, sewers, conduits, lines and other utilities shall be installed and maintained below the ground level or surface of such easements except for ground mounted electrical transformers and such other facilities as are required to be above ground by the utility providing such service (including temporary service required during the construction, maintenance, repair, replacement, alteration or expansion of any buildings or improvements located in the Adams Street Studios). The installation, operation, maintenance, repair and replacement of such easement facilities shall not unreasonably interfere with the use of the improved Common Area or with the normal operation of any business in the Adams Street Studios. The Owner of the dominant Lot utilizing the easement shall bear all costs related to the installation, operation, maintenance, repair and replacement of such easement facilities, shall repair to the original specifications any damage to the Common Area resulting from such use and shall provide as-built plans for all such easement facilities to the Owner of the servient Lot within thirty (30) days after the date of completion of construction of same. No construction activities shall take place on the servient Lot related to utilities and drainage without the Owner of the dominant Lot providing not less than thirty (30) days prior written notice to the Owner of the servient Lot, except in the event of an emergency, in which case reasonable notice shall be provided. At any time and from time to time the Owner of the servient Lot shall have the right to relocate any utility line or facility installed on its Lot pursuant to the foregoing grant of easement, provided that any such relocation (i) shall be performed only after sixty (60) days notice of the intention to undertake the relocation shall have been given to the Owner of the dominant Lot, (ii) shall not unreasonably interfere with or diminish utility service to the dominant Lot(s) served by the utility line or facility, (iii) shall not reduce or unreasonably impair the usefulness or function of the utility line or facility, (iv) shall be performed without cost or expense to the Owner of the dominant Lot, and (v) shall provide for the original and relocated area to be restored to the original specifications. The Owner of the servient Lot shall provide as-built plans for all such relocated utility lines and facilities to the Owner of the dominant Lot within thirty (30) days after the date of completion of such relocation. The Owners of each Lot shall execute such additional easements as are reasonably required by any public or private utility for the purpose of providing the utilities described herein provided such easements are not otherwise inconsistent with the provisions of this Declaration.



b. Limitations on Use.

(1) General. The Common Area is hereby reserved for the sole and exclusive use of the Owners, their tenants, contractors, employees, agents, customers, licensees and invitees and the subtenants, contractors, employees, agents, customers, licensees and invitees of such tenants. The Common Area may be used for vehicular driving, parking, pedestrian traffic, directional signs, sidewalks, walkways, landscaping, perimeter walls and fences, parking lot lighting, services drives and dumpsters and for no other purpose unless otherwise specifically approved by Declarant. All Buildings and improvements placed or constructed in the Common Area shall be approved by Declarant and shall be in accordance with the Site Plan. The Common Area shall be kept and maintained as provided in Section 4d. All portions of a Building Area which are not used for Buildings shall be developed by the Owner of the Lot, at such Owner's sole cost and expense, in accordance with the Construction Plans approved by Declarant and shall be maintained as improved Common Area. No changes in the Common Area improvements, including, without limitation, service drives and parking areas, striping, traffic directional arrows and signs, concrete bumpers, parking lot lighting, perimeter walls and fences, and landscaped areas, together with necessary plantings, may be made without the prior written approval of Declarant.

(2) Sales. No portion of the Common Area shall be used for the sale or display of merchandise.

(3) Parking. There shall be no charge for parking in the Common Area without the prior written consent of Declarant or unless otherwise required by law. Only employees, customers and invitees of businesses on each Lot shall be permitted to park in the Common Area on said Lot. The Owner of each Lot shall use reasonable efforts to enforce said policy. Declarant and the Owners of the Lots shall each have the right to enforce the provisions of this Section 4b(3).

c. No Barriers. No walls, fences or barriers of any kind shall be constructed or maintained on the Common Area, or any portion thereof, which shall prevent or impair the use or exercise of any of the easements granted herein, or the free access and movement, including, without limitation, of pedestrians and vehicular traffic between the various Lots; provided however, reasonable traffic controls approved in advance by Declarant as may be necessary to guide and control the orderly flow of traffic may be installed so long as access driveways to the parking areas in the Common Area are not closed or blocked. The only exceptions to this provision shall be (1) for changes to the Building Area and Common Area permitted by this Declaration and (2) for temporary blockages of certain areas deemed necessary by the Declarant to prevent a public dedication of an easement or access right.

d. Maintenance.

(1) Standards. Commencing on the date the first Owner, tenant or occupant of a Lot opens for business ("Maintenance Commencement Date"), Declarant shall maintain or cause to be maintained the Common Area at all times in good and clean condition and repair, said maintenance to include, without limitation, the following:

(a) Maintaining, repairing, replacing and resurfacing, when necessary, all paved surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal or superior in quality, use and durability; and re-striping, when necessary;

(b) Removing all snow, papers, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

(c) Maintaining, repairing and replacing, when necessary, all traffic directional signs, markers and lines;

(d) Operating, maintaining, repairing and replacing, when necessary, such artificial lighting facilities as shall be reasonably required;

(e) Maintaining all landscaped areas (including, without limitation, those on the perimeter of the Adams Street Studios); maintaining, repairing and replacing, when necessary, automatic sprinkler systems and water lines; and replacing shrubs and other landscaping as is necessary;

(f) Maintaining, repairing and replacing, when necessary, all Common Area walls and fences;

(g) Maintaining, repairing and replacing, when necessary, all storm drains, sewers and other utility lines and facilities not dedicated to the public or conveyed to any public or private utility which are necessary for the operation of the Buildings and improvements located in the Adams Street Studios (with the cost of all such items being allocated between the Owners of all Buildings and improvements serviced or to be serviced by said facilities on the basis of their respective Building Area);

(h) Maintaining, repairing and replacing, when necessary, the Monument Signs; and

(i) Performing itself or contracting with a third party or parties to perform any of the services described herein.

(2) Insurance. In addition to the foregoing, Declarant shall provide and maintain commercial general liability insurance with broad form coverage endorsement (including broad form property damage endorsement) insuring the Declarant against claims for personal injury, bodily injury or death, and property damage or destruction, occurring in, on or about the Common Area. Such insurance shall be written with an insurer licensed to do business in New Mexico and all present and future Lot Owners shall be named on the policy as additional insureds. The limits of liability of all such insurance shall be not less than \$2,000,000.00 for personal injury or bodily injury or death of any one Person, \$2,000,000.00 for personal injury or bodily injury or death of more than one Person in one occurrence and \$2,000,000.00 with respect to damage to or destruction of property; or, in lieu of such coverage, a combined single limit (covering personal injury, bodily injury or death and property damage or destruction) with a limit of not less than \$2,000,000.00 per occurrence. Declarant may increase the limits of such insurance as reasonably necessary to reflect then appropriate limits for such insurance, taking into consideration such things as changes in the Consumer Price Index, or similar index. Declarant shall furnish the Lot Owners, upon request, with certificates



evidencing such insurance. The policies of such insurance shall provide that the insurance represented by such certificates shall not be canceled, materially changed or non-renewed without the giving of thirty (30) days prior written notice to the holders of such insurance and the holders of such certificates.

(3) Lighting. It is agreed that the artificial lighting for the Common Area shall remain on not less than two (2) hours after dusk or while a majority of the businesses in the Adams Street Studios remain open for business. If artificial lighting for a time later than the foregoing ("After Hours Lighting") is needed by any Owner or occupant of a Lot, then such artificial lights to service such Owner or occupant shall be separately metered or otherwise measured or reasonably estimated and all expenses thereof shall be paid by such Owner or occupant to the extent appropriate.

(4) Dumpsters. Portions of the Common Area on Lot B are dedicated for dumpsters. The dumpster site on Lot B is for the mutual reciprocal benefit of all Lots. Declarant hereby declares that the Lot containing dumpsters is subject to a non-exclusive perpetual easement for access to and use of the dumpster site for the benefit of the other Lots. The expenses for dumpster service shall be paid pro rata by the Lots utilizing said dumpster based on the square footage of Floor Area of each Lot which has been granted final certificates of occupancy by the City of Albuquerque or which is actually occupied, whichever is greater. The Owner of the Lot containing the dumpster shall bill the other Owner of the Lot utilizing the dumpster monthly for said Owner's prorata share of said expenses. The failure to pay said dumpster expenses shall be subject to the same interest charges and lien rights as the Common Area Expenses. All maintenance and repairs to the dumpster enclosure and concrete pad related thereto shall be performed as a Common Area maintenance item, but shall be paid by the Owners of the Lots utilizing said dumpster in the same relationship as the dumpster service bills are paid.

(5) Managing Agent. Declarant is hereby appointed agent (the "Managing Agent") to oversee, administer and manage the Common Area in the manner provided above. Declarant shall resign as Managing Agent at such time as Declarant no longer owns at least one (1) Lot, and thereafter a majority in Ownership of all of the Lot Owners shall appoint a successor Managing Agent or form an association to perform said activities. Wherever used in this Declaration, a majority in Ownership of the Lot Owners shall mean Lot Owners who own more than fifty percent (50%) of the total square footage of Building Area. Managing Agent shall contract for and pay for all of the items enumerated as maintenance and insurance expenses in this Section 4d, and shall use commercially reasonable efforts to operate and maintain the Common Area in accordance with the final approved "Budget" (defined below).

(6). Assessment and Collection of Common Area Expenses.

(a) Proportionate Share. The Owner of each Lot shall cause Managing Agent to be reimbursed for said Owner's proportionate share of all of the out-of-pocket expenses in operating and maintaining the Common Area, plus a service charge to cover management and administration costs of fifteen percent (15%) of said expenses ("Service Charge"). The costs for operating and maintaining the Common Area and the Service Charge are collectively the "Common Area Expenses". For purposes of calculating the fifteen percent (15%) cap for the Service Charge, the cost of insurance premiums shall not be included. The Common Area Expenses shall not include any costs incurred by Managing Agent for the services of a management company or for office overhead or compensation of its employees except to the extent included in the Service Charge. Further, although the Service Charge is a required item in the final approved Budget, as such an item it will not itself be subject to a service charge.

(b) Billing. Managing Agent shall bill the Owners of each Lot on a monthly basis in advance for one-third (1/3) of their proportionate shares of all Common Area Expenses included in the final approved Budget. Said bill shall be due and payable within thirty (30) days after receipt. The proportionate share of the total Common Area Expenses to be borne by the Owners of each Lot for any year shall be that percentage set forth below:

<u>Lot</u>	<u>Building Area</u>	<u>Percentage</u>
Lot 34	1570	33.33%
Lot 35	1570	33.33%
Lot 36	1570	33.33%

In the event any Owner expands its Building with the approval of Declarant and the City of Albuquerque to a Floor Area in excess of the Building area for said Lot provided for herein above, the above percentages shall be recalculated based upon any increase in the total Floor Area of said Building.

(c) Statements. Within ninety (90) days following the end of each calendar year, Managing Agent shall furnish the Owners of each Lot a statement covering the Common Area Expenses for the year just expired, showing the actual Common Area Expenses for that year, the amount of each Owner's proportionate share of Common Area Expenses for that year, and the monthly payments made by each Owner during that year for the Common Area Expenses. Managing Agent shall deliver to all Owners copies of such additional documents and records concerning Common Area Expenses as are reasonably requested to verify the accuracy and content of the statements therefor. If the Owners' proportionate share of the Common Area Expenses exceeds the Owners' prior payments, said Owners shall pay Declarant the deficiency within thirty (30) days after receipt of such annual statement. If the Owners' payments for the year exceed the Owners' actual share of the Common Area Expenses, the Owners will receive a credit against future Common Area Expenses.

(d) Inspection of Records. Any Owner may, upon not less than ten (10) days prior written notice to the Managing Agent, inspect Managing Agent's records for all Common Area Expenses incurred during the preceding calendar year at Managing Agent's offices or at such other location reasonably designated by Managing Agent at any time during reasonable business hours within one (1) year after the end of said calendar year. If said inspection reveals an overpayment of Common Area Expenses, Managing Agent will credit such overpayment to future Common Area Expenses. If said inspection reveals an underpayment of Common Area Expenses, the Owners shall reimburse Managing Agent their proportionate share of any such underpayment within thirty (30) days after receipt of proper billing. If said inspection reveals that Managing



Agent misstated Common Area Expenses by more than five percent (5%), Managing Agent shall reimburse the Owner making such inspection for all costs reasonably incurred in making such inspection within thirty (30) days after receipt of the notice of determination of any such misstatement. The Common Area Expenses for any calendar year shall be deemed correct if the Owners do not give Managing Agent written notice of any such overpayment within one (1) year and three (3) months after the end of the calendar year in question.

(e) Lien for Common Area Expenses. The Common Area Expenses shall be secured by a lien on each Lot that shall attach and be governed by the provisions of Section 10.

5. Indemnification/Insurance/Waiver of Subrogation.

a. Indemnification. Each Owner hereby agrees to indemnify and save the other Owners harmless from any and all liability, damage, expense, causes of action, suits, claims or judgments of third parties arising from personal injury, death or property damage and occurring on or from said Owner's Lot, including the Common Area, except to the extent proximately caused, in whole or in part, by the act or omission of the party claiming indemnification hereunder.

b. Insurance.

(1) Each Owner shall provide and maintain commercial general liability insurance with broad form coverage endorsement (including broad form property damage endorsement) covering its obligations under this Section 5 and insuring it against claims for personal injury, bodily injury or death, and property damage or destruction. Such insurance shall be written with an insurer licensed to do business in New Mexico and shall name the other Owners as additional insureds. The limits of liability of all such insurance shall be not less than \$2,000,000 for personal injury or bodily injury or death of any one Person, \$2,000,000 for personal injury or bodily injury or death of more than one Person in one occurrence and \$2,000,000 with respect to damage to or destruction of property; or, in lieu of such coverage, a combined single limit (covering personal injury, bodily injury or death and property damage or destruction) with a limit of not less than \$2,000,000 per occurrence. Each Owner shall furnish the other Owners with certificates evidencing such insurance. The policies of such insurance shall provide that the insurance represented by such certificates shall not be canceled, materially changed or non-renewed without the giving of thirty (30) days prior written notice to the holders of such insurance and the holders of such certificates.

(2) At all times during the term of this Declaration, each Owner shall keep the Buildings and improvements (including all Common Area improvements) on its Lot insured against loss or damage by fire and other perils and events as may be insured against under the broad form of Uniform Extended Coverage Clause in effect from time to time in the state in which the parties' respective properties are located, with such insurance to be for the full replacement value of the insured improvements.

(3) Notification. The Owner of each Lot shall notify the Owners of all other Lots within thirty (30) days after any transfer of ownership interest in a Lot, to include the name, including contact individual, address and telephone number of the new Owner.

c. Waiver of Subrogation. Neither Declarant nor the other Owners, their successors and assigns shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any Building, improvement or other tangible property, or any resulting loss of income and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees if any such loss or damage is covered by insurance benefitting the party suffering such loss or damage or was required to be covered by insurance pursuant to this Declaration. Declarant and the other Owners, their successors and assigns shall require their respective insurance companies to include a standard waiver of subrogation provision in their respective policies.

6. Eminent Domain.

a. Owner's Right to Award. Except as provided in Section 6b, nothing herein shall be construed to give any Owner any interest in any award or payment made to any other Owner in connection with any exercise of eminent domain, condemnation or transfer in lieu thereof affecting said other Owner's Lot or giving the public or any government any rights in said Lot. In the event of any exercise of eminent domain, condemnation or transfer in lieu thereof of any part of the Common Area, the award attributable to the land and improvements of such portion of the Common Area shall be payable only to the Owner thereof, and no claim thereon shall be made by the Owners of any other portion of the Common Area related to the value of the land and improvements.

b. Collateral Claims. All other Owners of Lots in the Adams Street Studios may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another Owner.

7. Restoration of the Adams Street Studios - Casualty or Eminent Domain. In the event all or any portion of any Buildings or other improvements in the Adams Street Studios are damaged or destroyed by fire or other casualty, or are taken or damaged as a result of the exercise of the power of eminent domain, condemnation or any transfer in lieu thereof, the Owner of the Lot so damaged or taken shall promptly restore or cause to be restored: (i) the remaining portion of the improvements in the Common Area on said Owner's Lot as nearly as practicable to the condition of the same immediately prior to such casualty or eminent domain, condemnation or transfer in lieu thereof, and (ii) the remaining portion of such Building or improvement or, in lieu thereof, shall remove or cause to be removed the damaged portion of such Building or improvement together with all rubble and debris related thereto. All Building Area on which Buildings are not reconstructed following a casualty or eminent domain, condemnation or transfer in lieu thereof shall be graded or caused to be graded by the Owner of said Lot to the level of the adjoining property and in such a manner as not to adversely affect the drainage of or access to and from the Adams Street Studios or any portion thereof, shall be covered by asphalt pavement, crushed granite, neatly maintained lawn, or other means as agreed to by Declarant and shall be maintained as Common Area.

8. Obligation of and Conditions to Release from Liability as to Successors and Assigns. Declarant and all other Owners, their successors and assigns shall be bound by this Declaration, but only during the period such Persons own a fee



or leasehold interest in such Lot or portion of a Lot, except as to obligations, liabilities or responsibilities that accrue during said ownership period.

9. Breach. In the event of a breach or threatened breach of this Declaration, only the Declarant or all non-breaching record Owners of a Lot as a group shall be entitled to give written notice of the alleged default and to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. The unsuccessful party or parties in any such action shall pay to the prevailing party or parties all costs of enforcement and/or recovery of damages, including reasonable attorneys' fees. The failure of the Declarant or the Owners of any of the Lots to insist in any one or more cases upon the strict performance of any of the promises, covenants, conditions, restrictions or agreements herein, shall not be construed as a waiver or relinquishment of any future breach of the same or other provisions hereof.

10. Remedies for Default; Claim of Lien; Waiver. If the Owner of any Lot shall default in the full, faithful and punctual performance of any obligation hereunder, including the payment of Common Area Expenses, and if at the end of thirty (30) days after receipt of written notice from the Declarant or non-defaulting Owners, stating that: (i) the defaulting Owner has failed to cure a monetary default ("Monetary Claims"), the amount due shall bear interest at fifteen percent (15%) per annum; or (ii) the defaulting Owner has failed to cure a non-monetary default, or diligently commence a cure, then the Declarant, an Owner or group of Owners who gave the written notice of default shall, in addition to all other remedies available at law or in equity, have the right to perform such obligation of this Declaration on behalf of such defaulting Owner and be reimbursed by such defaulting Owner for the cost thereof ("Reimbursement for Non-Monetary Claims") and the amount due shall bear interest at the rate of fifteen percent (15%) per annum. Any such claims (Monetary Claims or Reimbursement for Non-Monetary Claims), together with interest as aforesaid, shall be a secured claim and a lien shall attach and take effect upon recordation of a claim of lien by the claimant in the office of the County Clerk of Bernalillo County, New Mexico. The claim of lien shall include the following: (1) the name of the claimant or group of claimants, as the case may be; (2) a statement concerning the basis of the claim of lien; (3) the last known name and address of the Owner or reputed Owner of the Lot against which the lien is claimed; (4) a description of the Lot against which the lien is claimed; (5) a description of the monetary amount or work performed and reimbursement sought which has given rise to the claim of lien hereunder and a statement itemizing the amount thereof; and (6) a statement that the lien is claimed pursuant to the provisions of this Declaration. The claim of lien shall be duly verified, acknowledged and contain a certificate that a copy thereof has been served upon the party against whom the lien is claimed, either by personal service or by mailing (first class, certified, or return receipt requested) to the defaulting Owner, at the address for mailing of tax statements with respect to the property against which the lien is claimed. The lien so claimed shall attach from the date of recordation in the amount claimed thereby and it may be enforced in any manner allowed by law for the foreclosure of liens in New Mexico. Notwithstanding the foregoing, such claims of lien for Monetary Claims and Reimbursement for Non-Monetary Claims shall be subordinate to any first mortgage or first deed of trust given in good faith and for value now or hereafter encumbering the Adams Street Studios or any portion thereof, and any purchaser at any foreclosure or trustee's sale (as well as any grantee by deed in lieu of foreclosure or trustee's sale) under any first mortgage or first deed of trust shall take free and clear from such then existing lien but otherwise subject to the provisions of this Declaration. The failure of the Declarant or Owners of any of the Lots to insist in any one or more cases upon the strict performance of any of the promises, covenants, conditions, restrictions or agreements herein, shall not be construed as a waiver or relinquishment of any future breach of the same or other provisions hereof.

11. Rights of Successors. The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitude's running with the land. This Declaration shall bind and inure to the benefit of the parties hereto, their respective successors and assigns. Following the sale of all of its interest in all of the Lots, the rights of the Declarant hereunder shall be exercised by a Majority in Ownership or an association created by the unanimous consent of all Owners.

12. Rights and Obligations of Lien-holders. Except as otherwise provided in Section 10, the charges and burdens of this Declaration are, and shall at all times be, prior and therefore superior to the lien or charge of any mortgage or deed of trust made in good faith and for value affecting the Lots or any part thereof, or any improvements now or hereafter placed thereon; provided however, a breach of any of the easements, covenants or restrictions hereof shall not defeat or render invalid the lien or charge of any mortgage or deed of trust. Any Lot acquired through sale under foreclosure of any mortgage or deed of trust effected by powers of sale, judicial proceedings or otherwise, including, but not limited to, a deed in lieu of foreclosure, shall be subject to all of the charges and burdens of this Declaration.

13. Limitation on Indemnities. To the extent, if at all, any indemnity, hold harmless or insurance provision of this Declaration is invalidated pursuant to the terms of §56-7-1 N.M.S.A. 1978 as amended, the remaining indemnity, hold harmless and insurance provisions of this Declaration shall remain in full force and effect.

14. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Common Area to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties hereto that this Declaration shall be strictly limited to and for the purposes herein expressed. The right of the public or any Person to make any use whatsoever of the Common Area of a Lot, or any portion thereof (other than any use expressly allowed by a written or recorded map, agreement, deed or dedication) is by permission, and subject to the control of the Owner. Notwithstanding any other provisions herein to the contrary, the Owners of the Lot affected hereby may periodically restrict ingress and egress to and from the Common Area in order to prevent a prescriptive easement from arising by reason of continued public use. Any restriction on ingress and egress shall be limited to the minimum period necessary to prevent the creation of a prescriptive easement and shall occur at such a time as to have a minimum effect on the parties in occupancy within the Adams Street Studios, and shall be approved by Declarant.

15. Duration. Unless otherwise canceled or terminated, all of the easements granted in this Declaration shall continue in perpetuity and all other rights and obligations hereof shall automatically terminate and be of no further force and effect after ninety-nine (99) years from the date hereof.

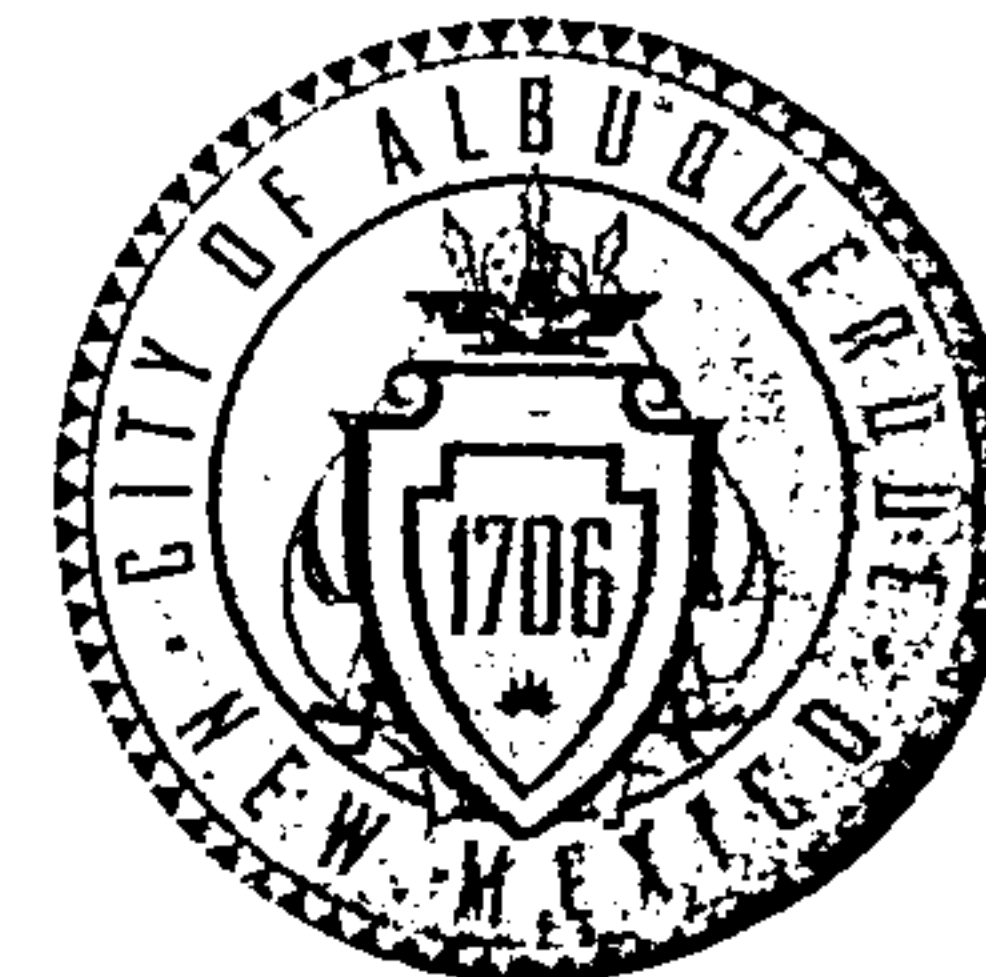


IN WITNESS WHEREOF, the parties have executed this Declaration the day and year first written above.

By: Devin Cannady, Managing Member

MY COMMISSION EXPIRES: \_\_\_\_\_  
NOTARY PUBLIC

# CITY OF ALBUQUERQUE



July 2, 2008

Devin Cannady, R.A.  
Devin Cannady Architect Studio  
332 Adams St. SE  
Albuquerque, NM 87108-2837

**Re: Adams Street Studios—Lots 34, 35, & 36, 4518 Coal Avenue SE,  
Traffic Circulation Layout  
Architect's Stamp dated 6-29-08 (K-17/D101)**

Dear Mr. Cannady,

Based upon the information provided in your submittal received 6-30-08, the above referenced plan cannot be approved for Building Permit until the following comments are addressed:

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

Will  
Build  
Ramp →

IN  
ZONING  
CODE

1. Remove note in Adams Street referencing "1 existing on-street parking space." Unless you have been approved for on-street parking credits, you may not count on-street parking within your parking calculations.
- ~~2. The existing curb cut must be widened to 25 feet in width.~~
- ~~3. Will the drive aisle be concrete or will it be asphalt? Please clarify.~~
4. Are there existing wheelchair ramps at the intersection of Coal Avenue and Adams Street? If no wheelchair ramp exists at the Southeast corner of Coal and Adams, one will need to be installed. Please show all ramps at the intersection of Coal and Adams on the plan.
5. The *Development Process Manual*, Chapter 23, Section 2, Part G.4, states that "Parking areas shall be paved with a minimum 2 inches asphaltic concrete or equal." Please provide the City Standards specifying "crushed rock parking surface" as an acceptable surface for a parking lot.
- ~~6. The van access aisle will need to be to the right of the handicapped parking stall. Will this area be flush with the sidewalk? Please provide additional information.~~
- ~~7. Provide a legend defining all hatching and symbols.~~

If you have any questions, you can contact me at 924-3991.

Sincerely,

Kristal D. Metro, P.E.  
Traffic Engineer, Planning Dept.  
Development and Building Services  
C: File