

PRIVATE FACILITY DRAINAGE COVENANT

PROJECT NAME: STARBUCKS COFFEE SHOP 200 TRAMWAY
HYDROTRANS NUMBER: L23D015A

This Drainage Covenant ("Covenant"), between KRF Tramway LLC ("Owner"), whose address is 1509 York St., Suite 201, Denver, CO 80206 and whose telephone number is (303) 219-0903 and the City of Albuquerque, a New Mexico municipal corporation ("City"), whose address is P.O. Box 1293, Albuquerque, New Mexico 87103, is made in Albuquerque, Bernalillo County, New Mexico and is entered into as of the date the City Engineer signs this Covenant.

1. Recital. Owner is the current owner of certain real property described as: TRACT J1B PLAT FOR TRACTS J-1-A AND J-1-B, FOUR HILLS VILLAGES SHOPPING CENTER AND APARTMENT COMPLEX (BEING COMPRISED OF TRACT J-1, FOUR HILLS VILLAGE SHOPPING CENTER AND APARTMENT in Bernalillo County, New Mexico (the "Property"). (Give legal description and filing information).

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

2. Description and Construction of Drainage Facilities. Owner shall construct the following "Drainage Facility" within the Property at Owner's sole expense in accordance with the standard plans and specifications approved by the City pursuant to Drainage File No. (3) Storm water quality ponds. File No. L23D015A

The Drainage Facility is more particularly described in the attached Exhibit A. The Owner will not permit the Drainage Facility to constitute a hazard to the health or safety of the general public.

3. Maintenance of Drainage Facility. The Owner will maintain the Drainage Facility at the Owner's cost in accordance with the approved Drainage Report and plans.

4. City's Right of Entry. The City has the right to enter upon the Property at any time and perform whatever inspection, maintenance or repair of the Drainage Facility it deems appropriate, without liability to the Owner.

5. Demand for Construction or Repair. The City may send written notice ("Notice") to the Owner requiring the Owner to construct or repair the Drainage Facility within thirty (30) days ("Deadline") of receipt of the Notice, as provided in Section 11, and the Owner will comply

promptly with the requirements of the Notice. The Owner will perform all required work by the Deadline, at Owner's sole expense.

6. Failure to Perform by Owner and Emergency Work by City. If the Owner fails to comply with the terms of the Notice by the Deadline, or if the City determines that an emergency condition exists, the City may perform the work itself. The City may assess the Owner for the cost of the work and for any other expenses or damages, which result from Owner's failure to perform. The Owner agrees promptly to pay the City the amount assessed. If the Owner fails to pay the City within thirty (30) days after the City gives the Owner written notice of the amount due, the City may impose a lien against Owner's Property for the total resulting amount.

7. Liability of City for Repair after Notice or as a Result of Emergency. The City shall not be liable to the Owner for any damages resulting from the City's maintenance or repair following Notice to the Owner as required in this Covenant or in an emergency unless the damages are the result of the reckless conduct or gross negligence of the City

8. Indemnification. The Owner agrees to indemnify and hold the City, its officials, agents and employees harmless from all claims, actions, suits and proceedings arising out of, or resulting from the Owner's negligent maintenance, construction, repair or use of the Drainage Facility. To the extent, if at all, Section 56-7-1 NMSA 1978 is applicable to this Covenant, this Covenant to indemnify will not extend to liability, claims, damages, losses or expenses, including attorneys' fees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications by the Owner or its agents or employees; or (2) the giving of or the failure to give directions or instructions by the Owner, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

9. Cancellation of Agreement and Release of Covenant. This Covenant may be released if the Drainage Facility is no longer required for the protection of the public health, safety and welfare by the City filing a "Notice of Release" with the Bernalillo County Clerk. The Notice of Release must be signed by the City's Chief Administrative Officer or his designee, and the approval of the City Hydrologist must be endorsed thereon.

10. Assessment. Nothing in this Covenant shall be construed to relieve the Owner, its heirs, assigns and successors from an assessment against the Owner's Property for improvements to the Property under a duly authorized and approved Special Assessment District. The parties specifically agree that the value of the Drainage Facility will not reduce the amount assessed by the City.

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

KRF Tramway LLC

1509 York Street, Suite 201

Denver CO 80206

Notice may be given to the Owner either in person or by mailing the Notice by regular U.S.

OWNER:

By [signature]: 

Name [print]: Chris Viscardi

Title: Authorized Signer

Dated: 11/26/24

STATE OF COLORADO)
)ss
COUNTY OF DENVER)

MARLA KAY PERAGALLO
NOTARY PUBLIC - STATE OF COLORADO
NOTARY ID 20204040114
MY COMMISSION EXPIRES NOV 13, 2028

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mail, postage paid. Notice will be considered to have been received by the Owner within three (3) days after the Notice is mailed if there is no actual evidence of receipt. The Owner may change Owner's address by giving written notice of the change by Certified Mail-Return Receipt Requested, to City Hydrologist, P.O. Box 1293, Albuquerque, New Mexico 87103.

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

13. Binding on Owner's Property. The covenants and obligations of the Owner set forth herein shall be binding on Owner, its heirs, personal representatives, assigns and successors and on Owner's Property and shall constitute covenants running with the Owner's Property until released by the City.

14. Entire Agreement. This Covenant contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith regarding this subject matter.

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

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

17. Captions. The captions to the sections or paragraphs of this Covenant are not part of this Covenant and will not affect the meaning of construction of any of its provisions.

CITY OF ALBUQUERQUE:

By: _____

Shahab Biazar, P.E., City Engineer

Dated: _____

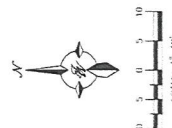
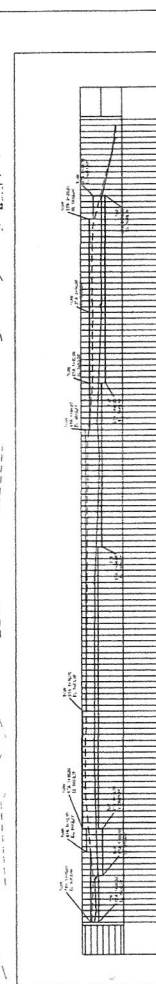
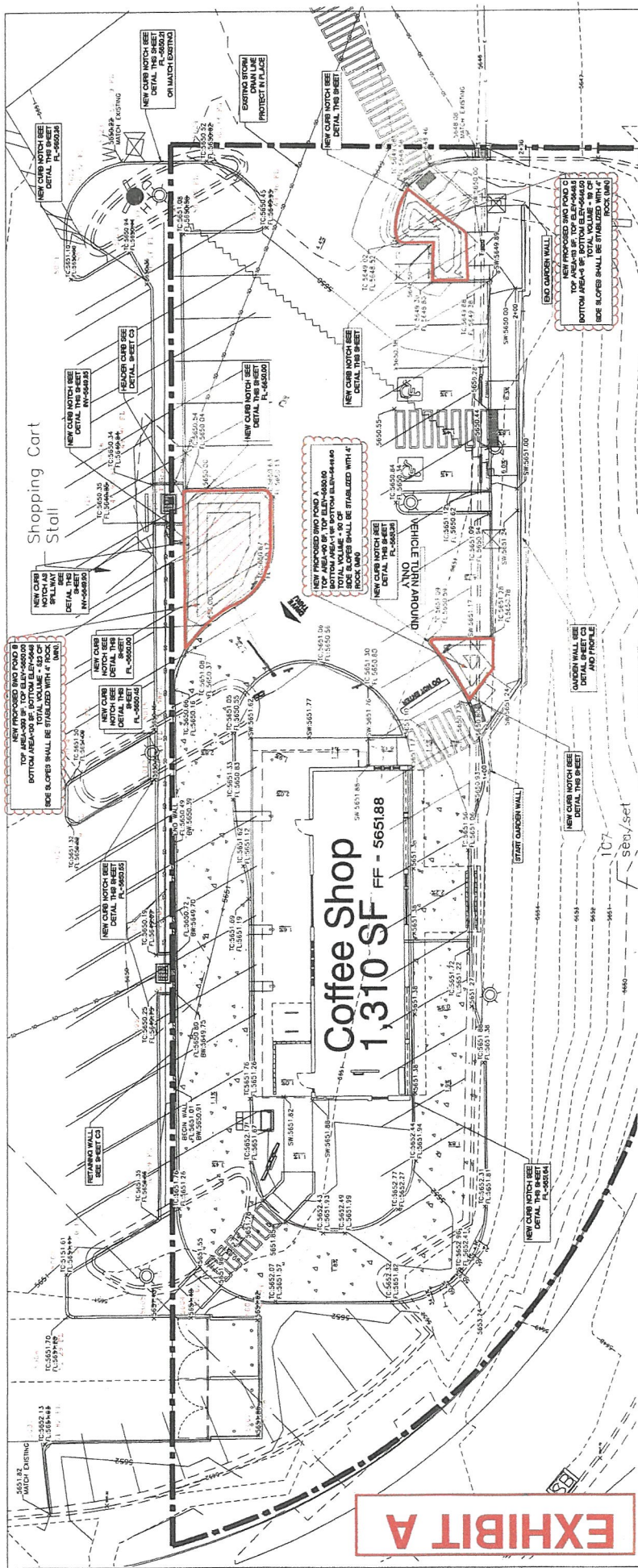
CITY'S ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)ss
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this _____ day of _____
20__, by Shahab Biazar, P.E., City Engineer, of the City of Albuquerque, a municipal
corporation, on behalf of said corporation.

Notary Public
My Commission Expires: _____

(EXHIBIT A ATTACHED)



STARBUCKS ON TRAMWAY ALBUQUERQUE, NM GRADING & DRAINAGE PLAN	DRAWN BY BF	DATE 01/29/2024	20230417_C06	SHEET #	C2
	3571001 100' X 100' 3571 100' X 100' PLACE IN ALBUQUERQUE, NM 87109 (505) 856-1100 www.starbucks.com				
PROJECT'S 524	05/09/24 NICHOLAS P. EICHENMAN P 17668				

CAUTION ALL EXISTING UTILITIES/TOPOGRAPHY SHOWN WERE OBTAINED FROM RESEARCH, AS-BUILT, SURVEYS OR INFORMATION PROVIDED BY OTHERS. SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR TO CONDUCT ALL NECESSARY FIELD INVESTIGATIONS PRIOR TO AND INCLUDING ANY EXCAVATION, TO DETERMINE THE ACTUAL LOCATION OF UTILITIES AND OTHER IMPROVEMENTS, PRIOR TO STARTING THE WORK. ANY CHANGES FROM THIS PLAN SHALL BE COORDINATED WITH AND APPROVED BY THE ENGINEER.

PRIVATE DRAINAGE FACILITIES WITHIN CITY RIGHT-OF-WAY (80-2)

1. BUILD DRAINAGE FACILITIES PER CITY STD. DWG 323L
2. CONTACT UTILITY SERVICE MAINTENANCE AT (505) 457-4037 TO SCHEDULE A MEETING PRIOR TO FORMING
3. AN EXCAVATION PERMIT MUST BE OBTAINED BEFORE BEGINNING ANY WORK WITHIN CITY RIGHT-OF-WAY
4. ALL WORK ON THE PROJECT SHALL BE PERFORMED IN ACCORDANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL LAWS, RULES AND REGULATIONS CONCERNING CONSTRUCTION SAFETY AND QUALITY
5. THE CONTRACTOR SHALL OBTAIN THE NECESSARY STREET CLOSURE PERMIT FROM THE CITY OF ALBUQUERQUE FOR THE LOCATION OF DRAINAGE UTILITIES
6. PRIOR TO CONSTRUCTION, THE CONTRACTORS SHALL RECONSTRUCT AND REPAIR THE EXISTING SIDEWALKS AND/OR OBSTRUCTIONS, SHOULD ANY DAMAGE OCCUR. THE CONTRACTOR SHALL NOTIFY THE ENGINEER SO THAT THE CONTRACT CAN BE RESUMED WITH A MINIMUM AMOUNT OF DELAY
7. CAREFUL CONSTRUCTION SHALL BE ACCORDING TO BRATTLE STREET USE
8. MAINTENANCE OF THE FACILITY SHALL BE THE RESPONSIBILITY OF THE OWNER OF THE PROPERTY BEING SERVED
9. WORK ON WETTED SHEETS MAY BE REQUIRED ON A 24-HOUR BASIS
10. CONTRACTOR SHALL CONTACT UTILITY SERVICE MAINTENANCE AT (505) 457-4037 PRIOR TO SCHEDULING A SPECIFIC TIME PERIOD FOR EXCAVATING AND BACKFILLING

SPOT ELEVATION LEGEND





















LEGEND		CURB & GUTTER		EXISTING CURB & GUTTER
		BOUNDARY LINE		EXISTING CONTOUR MAJOR
		RIGHT-OF-WAY		EXISTING CONTOUR MINOR
		BUILDING		EXISTING SPOT ELEVATION
		CONCRETE SIDEWALK		GRADE BREAK
		CONTOUR MAJOR		RETAINING WALL
		CONTOUR MINOR		
		SPOT ELEVATION		
		FLOW ARROW		
				

EXHIBIT A