

(M15-D004B)  
Cien Aguas Charter School  
2501 BUENAS VISTA DR SE

Prepared by and upon recordation return to:

AOC New Mexico, LLC  
1475 Powell Street, #101  
Emeryville, CA 94608

COPY

**CORRECTIVE  
THIRD AMENDMENT TO ESTABLISHMENT OF EASEMENTS  
WITH COVENANTS AND RESTRICTIONS AFFECTING LAND**

**THIS CORRECTIVE THIRD AMENDMENT** to Establishment of Easements With Covenants and Restrictions Affecting Land (the "Third Amendment") is made and entered into this 21<sup>st</sup> day of December, 2020 by **AOC NEW MEXICO, LLC**, a New Mexico limited liability company ("AOC"), **RM 2501, LLC**, a New Mexico limited liability company ("RM") and **STORE MASTER FUNDING XI, LLC**, a Delaware limited liability company ("Sequel").

**WHEREAS**, AOC is the record titleholder of the real property located in Bernalillo County, New Mexico known as Tract 2-B-1-A-1, and RM is the record titleholder of Tract 2-B-1-A-2, said Tracts 2-B-1-A-1 and 2-B-1-A-2 formerly being Tract 2-B-1-A and more particularly described and depicted on Exhibit "A" attached (the "Subdivided Property"); and

**WHEREAS**, AOC's predecessor in title to the Project executed an Establishment of Easements with Covenants and Restrictions Affecting Land dated July 17, 1984, recorded July 20, 1984 in Book Misc. 136A, Pages 386-393, as Document No. 84-54741 in the Official Records of Bernalillo County ("Official Records"), as amended by Amendment to Establishment of Easements with Covenants and Restrictions Affecting Land dated April 2, 1987, filed in Book Misc. 470A, Pages 486-491 as Document No. 8733662 (collectively and as so amended, the "Original CC&Rs"), which Original CC&Rs established certain easements, covenants and restrictions affecting the use of the Project; and

**WHEREAS**, AOC filed a replat of the Project on December 20, 2016, in Plat Book 2016C, Page 158 (the "Replat"), which Replat resulted in a re-designation of the original Tracts 2-A and 2-B into Tract 2-A-1 and Tract 2-B-1-A, and established Tract 2-A-1 as a separate parcel; and

**WHEREAS**, on or about March 2, 2017, AOC transferred Tract 2-A-1, more particularly described on Exhibit "B" attached, to Sequel. The Subdivided Property and Tract 2-A-1, comprising the "Sunport Corporate Center Campus", are sometimes collectively referred to in this Third Amendment as the "Project"; Tracts 2-A-1, 2-B-1-A-1 and 2-B-1-A-2 are sometimes individually referred to in this Third Amendment as a "Parcel" and collectively as the "Parcels"; and the respective owners of each of the Parcels is referred to individually as an "Owner" and collectively as the "Owners"; and

5. **Maintenance of Exterior Areas.** As provided in the Second Amendment, and to the full extent provided in said Second Amendment, each Owner, including without limitation the Owner(s) of Tract 2-B-1-A-2 from time to time, shall be solely responsible for the maintenance and repair of the Exterior Areas, Exterior Area improvements and Exterior Area utilities located on each such Owner's Parcel in a first-class condition and repair consistent with similar projects in Albuquerque, NM. Without limiting the generality of the foregoing, and supplementing the provisions of the Second Amendment, the Owner of Tract 2-B-1-A-2 shall be solely responsible for the maintenance and repair of the Tract 2-B-1-A-2 Outdoor Areas and the Tract 2-B-1-A-2 Parking Areas. A Majority of Owners (which, for purposes of this Third Amendment, shall mean the Owner(s) of a majority of the building square footage in the Project) shall have the right to perform or cause to be performed necessary repairs, upgrades and replacements to the Project's Exterior Areas as a whole ("Majority-Approved Repairs"), including without limitation upgrades and replacements to the Exterior Area utilities. Each Owner whose Tract is benefitted from such Majority-Approved Repairs will be required to pay its proportionate share (based on building square footage) toward the cost of such repairs. If any Owner should fail to pay its share of any Majority-Approved Repairs, the Owner(s) advancing or incurring such costs shall have the right to impose Assessments and Liens as described in the Second Amendment in order to recover the defaulting Owner's share of such costs.

6. **Owners' Cooperation.** The last sentence of Section 1(e) of the Second Amendment is hereby amended in its entirety to read as follows:

"In addition, in the event the Owner(s) of Tract 2-B-1-A-1 shall further subdivide Tract 2-B-1-A-1, or should the Owner(s) of Tract 2-B-1-A-1 decide to operate the Project as a planned unit development, all Owner(s) shall execute and deliver for recordation such documents necessary to (i) establish an Owners' association for the allocation of maintenance responsibilities and sharing of costs based on building square footage, and (ii) such other matters as a Majority of Owners shall determine at such time. In no event shall the further subdivision of Tract 2-B-1-A-1, the ground leasing or conversion of Tract 2-B-1-A-1, or the conversion of the Project as a planned unit development affect the maintenance and repair obligations of Tracts 2-A-1 or 2-B-1-A-2."

7. **Grant of Parking Access, Emergency Access and Signage Easements**

(a) **Driveway and Parking Access Easements.** There is hereby established for the benefit of Tract 2-B-1-A-1 the following easements as depicted on Exhibit "F" in order to provide vehicular and pedestrian access to the parking areas serving Tract 2-B-1-A-1 (the "Tract 2-B-1-A-1 Parking Access Easements"): (i) a 22 foot wide, 225 foot long cross-access right-of-way over the easterly portion of Buena Vista Access Drive; and (ii) a 23 foot wide, 290 foot long cross-access right-of-way, located in the Tract 2-B-1-A-2 Parking Area north of the Kirkland Channel. The areas subject to the Tract 2-B-1-A-1 Parking Access Easements are referred to in this Third Amendment as the "Tract 2-B-1-A-1 Parking Access Easement Areas". The Tract 2-B-1-A-1 Parking Access Easement Areas, and any improvements thereon, may not hereafter be relocated, removed, altered or modified at any time without the written consent of the owner of

Tract 2-B-1-A-1. The easements created herein shall be for the non-exclusive use and benefit of the Owner of Tract 2-B-1-A-1 and its Permittees, but otherwise subject to the provisions of the Original CC&Rs, as amended hereby and by the Second Amendment. The Owner of Tract 2-B-1-A-2 shall do nothing to prohibit or interfere with the free and uninterrupted flow of vehicular or pedestrian traffic within the Tract 2-B-1-A-1 Parking Access Easement Areas. The Owner of Tract 2-B-1-A-2 shall keep and preserve (including, but not limited to, surface repair, overlayment and concrete/asphalt replacement, striping and refuse pick-up) the Tract 2-B-1-A-1 Parking Access Easement Areas in good condition and repair at all times. The Owner of Tract 2-B-1-A-2 shall also provide liability insurance for the Tract 2-B-1-A-1 Parking Access Easement Areas as described in Section 5(b) of the Second Amendment.

(b) **Emergency Access/Staging Easement.** There is hereby established for the benefit of Tract 2-B-1-A-1, as the "Dominant Parcel", over Tract 2-B-1-A-2, as the "Servient Parcel", an emergency access easement in the area crosshatched on Exhibit "G" for emergency egress access from the Dominant Parcel in the event of fire or other emergency, including without limitation emergency drills. Such area is hereafter referred to as the "Tract 2-B-1-A-1 Emergency Access Area". The Tract 2-B-1-A-1 Emergency Access Area, and any improvements existing thereon, may not hereafter be relocated, removed, altered or modified at any time without the written consent of the Owner of Tract 2-B-1-A-1. The easement created herein shall be for the non-exclusive use and benefit of the Owner(s) of Tract 2-B-1-A-1, its successors and assigns, and Permittees, as might be designated by the Owner(s) of Tract 2-B-1-A-1 from time to time but otherwise subject to the provisions of the Original CC&Rs. The Owner(s) of Tract 2-B-1-A-2 shall do nothing to prohibit or impede the use of the Tract 2-B-1-A-1 Emergency Access Area by the Tract 2-B-1-A-1 Permittees for the purposes set forth herein. The Owner(s) of Tract 2-B-1-A-1 shall give at least 24 hours' advance notice to the Owner(s) of Tract 2-B-1-A-2 of any emergency drills to occur that will utilize the Emergency Access Area. The Owner(s) of Tract 2-B-1-A-2 shall keep and preserve (including, but not limited to, surface repair, overlayment, striping and concrete/asphalt replacement) the improvements within the Tract 2-B-1-A-1 Emergency Access Area in good condition and repair at all times. The Owner of Tract 2-B-1-A-2 shall also provide liability insurance for the Tract 2-B-1-A-1 Emergency Access Area as described in Section 5(b) of the Second Amendment.

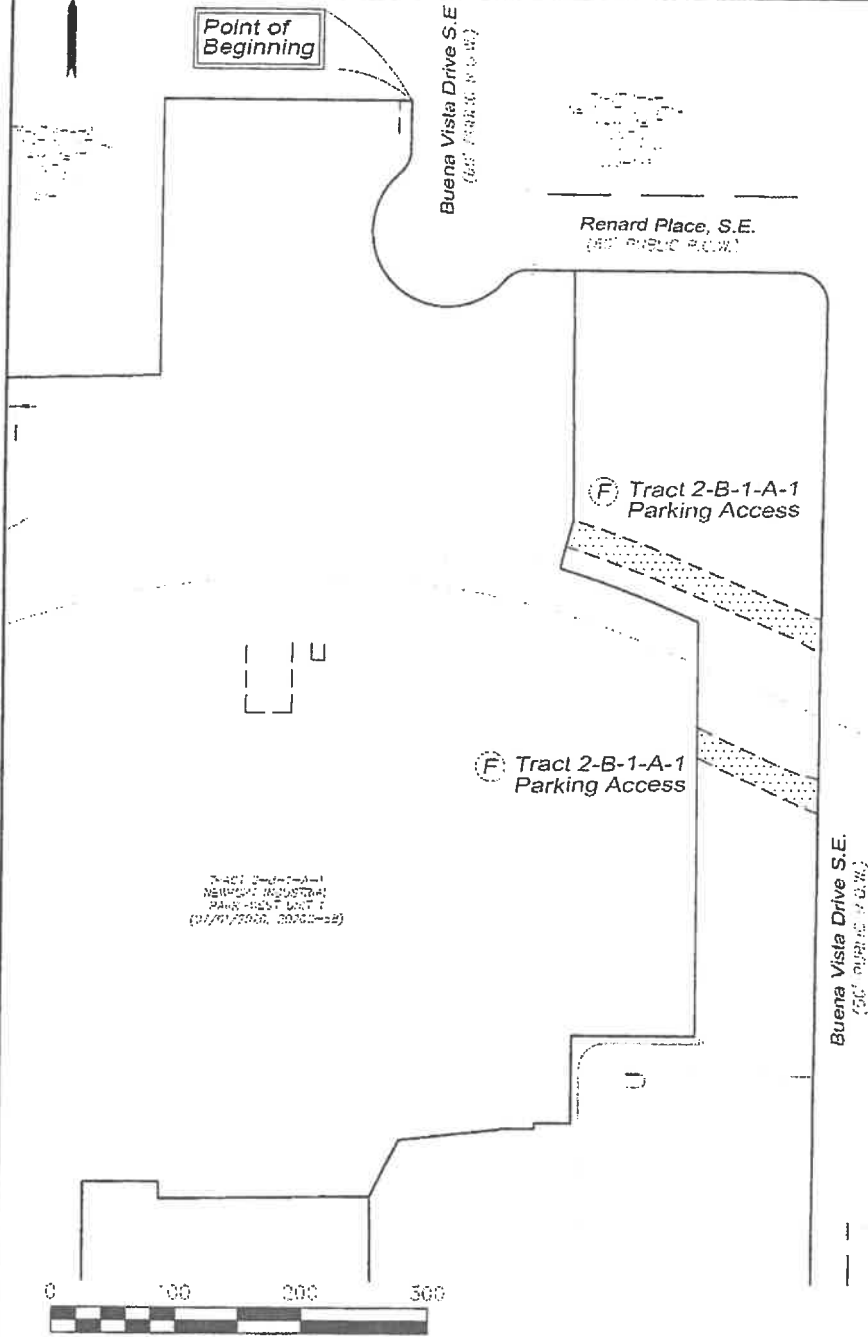
(c) **Easements Appurtenant to Parcels.** Easements that benefit or burden any Parcel shall be appurtenant to that Parcel and shall automatically accompany the conveyance of the Parcel to any subsequent Owner(s), even though the description in the instrument of conveyance may refer only to the fee title to the Parcel.

(d) **General.** The Owners of Tract 2-B-1-A-1 and Tract 2-B-1-A-2 may construct signage and/or barricades in any manner that does not restrict or impede (except as allowed in this Paragraph 7) the access rights and easements set forth in this Third Amendment, and may mark the parking areas on each respective Owner's Parcel as being for the exclusive use of such Parcel's Owner(s), tenants and invitees. Without limiting the generality of the foregoing, AOC (or any successor owner of Tract 2-B-1-A-1) may place "No Trespassing" or similar signs in or near the entrance to the Tract 2-B-1-A-1 Parking Areas in order to restrict access to Tract 2-B-1-A-1 to the Owner(s), tenants and authorized invitees of Tract 2-B-1-A-1. In addition, the Owner(s) of Tract 2-B-1-A-2 may install "School Parking Only", "No Trespassing" or similar

# EXHIBIT "F"

## Tract 2-B-1-A-1

### Driveway & Parking Access



COORDINATE AND DIVISION INFORMATION			PLS INFORMATION			PROJECT INFORMATION			INDEXING INFORMATION	
NM-C	GRID	ASRS	LAND SURVEY	NOA		DATE TESTED	DATE OF SURVEY	PROPERTY OWNER		
NACE	NAVIG					07/20/03	07/20/03	ACCNEX VECO LLC		
ALBUQUERQUE GEOGRAPHIC REFERENCE SYSTEM			SECTION	TOWNSHIP	RANGE	MERIDIAN	CREATED BY	SUBDIVISION NAME		
GR 0 TO GROUND: 1.00014811			33	10 NORTH	23 EAST	10WPM	LM	NEWPORT INDUSTRIAL PARK WEST, UNIT 1		
GROUND TO GR D: 0.000076211			DATE	CITY	COUNTY	STATE	PROJECT NO	DATE/INITIALS	UPC	
GR D			07/20/03	ALBUQUERQUE	BERNARDILLO	NM	20023	12 OF 15	3450042440000000	