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GRANT OF BASEMENT AND AGREEMENT

The Regents of the University of New Mexico, a corporation of the State of New Mexico (hereinafter "UNM") hereby grants to the City of Albuquerque, New Mexico, a municipal corporation (hereinafter "City") an easement for purposes of a public roadway upon and across the lands described in Exhibit "A" attached hereto upon the following terms and conditions:

- 1. This easement is granted subject to existing easements and leasehold interests of record.
- Initial improvement of the roadway across the easement property is planned by the City to consist of a four-lane divided and paved roadway, which shall be constructed and maintained by the City at no cost to UNM.
- 3. The above-described roadway will be designed by the City, in consultation with UNM, in a manner which will allow reasonable access to the roadway for the purpose of ingress to and agrees from UNM property adjacent to the roadway.

Executed this 8th day of November , 1984, at

Albuquerque, New Mexico.

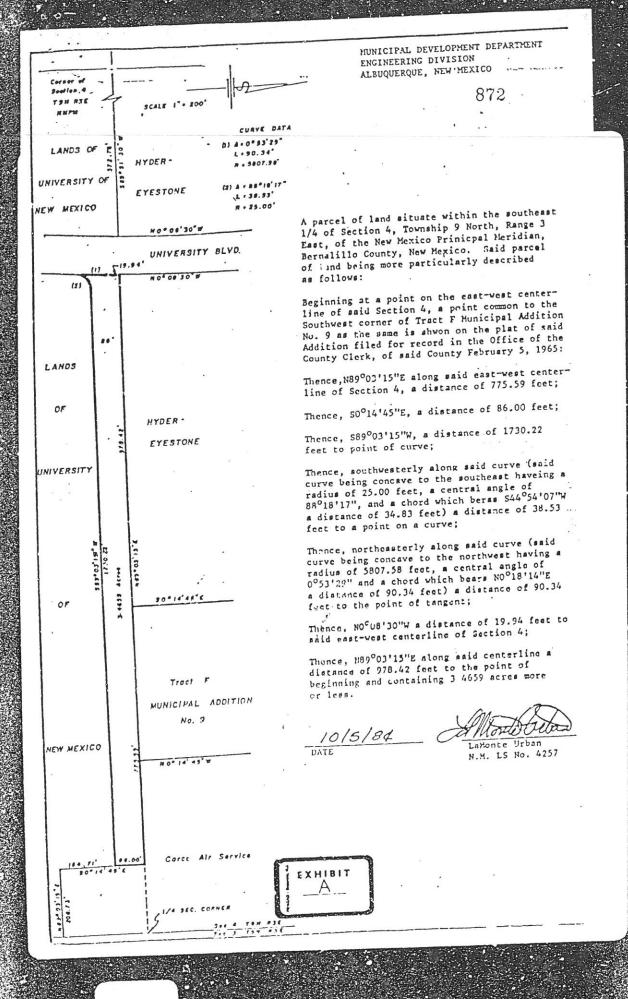
Cley Cley)

ITY OF ALBUQUEAQUE

UNIVERSITY OF NEW MEXICO

President, Board of Regents

| Reviewed by: University Counsel Reviewed by: Stal E 3. | -6 | Civi Attorna | · |
|---|----------------------------|--|---|
| STATE OF NEW MEXICO | ss | acknowledged be 984, by Henry I ard of Regents | fore me on aramillo. If of of the original of |
| My Commission Expires: STATE OF NEW MEXICO COUNTY OF BERNALILLO The foregoing in this 23 day of Chiof Administrative (municipal corporation) |) so) nstrument was | acknowledged b | efore me on k A. Kleinhenz, uerque, a on. |
| My Commission Expires | | Notary Pu | miic |
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CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

327

INTER-OFFICE CORRESPONDENCE

August 24, 1984

REF. NO.

10:

Thomas Hoever, President, City Council

FROM:

Harry E. Kinney, Mayor

SUBJECT:

Resolution Approving Drainage and Road Right of - Way

Agreement with the University of New Mexico

Storm grainage from the south part of Albuquerque International Airport crosses the University south Goif Course. An easement from the University is needed to insure continued use of the uirport's drainage system.

The Aviation Department also wishes to construct a road from University Avenue east to the airport's south General Aviation Area.

The University has agreed to provide the drainage easement and road right-of-way in exchange for one half the cost of constructing a drainage line across the golf course not to exceed \$95,000.00. The Aviation Department proposes to pay the \$95,000.00 from funds that have been appropriated in the Aviation Department Capital Fund for land acquisition.

The attached Resolution approves the proposed agreement. I recommend its approval.

HEK/REG/1c Attachment

RECOMMENDED:

R. L. Pratte, A.A.E. Director of Aviation

fank A. Kleinhen

Chief Administrat

REVIEWED:

Legal Department

REVIEWED

MAR 1 1 1999

URS GREINER WOODWARD CLYDE

AGREEMENT

THIS AGREEMENT entered into this ATT day of October 1984, by and between the Regents of the University of New Mexico, a corporation of the State of New Mexico (hereinafter "UNM") and the City of Albuquerque, New Mexico (hereinafter the "City").

WHEREAS UNM owns and operates the UNM South Golf Course, which is located tepographically below and to the west of Albuquerque International Airport, which is owned and operated by the City;

WHEREAS certain water-impervious improvements located upon the lands of the Albuquerque International Airport may have contributed in part to increased water drainage and resultant silt collection upon and across the lands of the UNM South Golf Course; and

WHEREAS both parties are interested in constructing a storm drainage system across the land of the UNM South Golf Course to prevent further water and silt collection upon the lands of the UNM South Golf Course;

NOW THEREFORE in consideration of the above and for other good and valuable consideration contained herein, the parties, without admitting any fault or liability in the above-described situation, agree as follows:

- 1. UNM shall design, construct, and maintain a water drainage system across the lands of UNM South Golf Course of a size and capacity which the parties have agreed is sufficient to conduct and transport storm runoff waters across the lands of the UNM South Golf Course in an orderly and non-damaging fashion based upon existing development of the land lying to the east of the UNM South Golf Course.
- All design, construction, and subsequent maintenance of said drainage system shall be the sole responsibility of UNM.
- 3. The City shall provide financial assistance for the design and construction of said drainage system in an amount equal to fifty percent (50%) of the actual costs of design and construction or \$95,000.00, whichever is less. In no event shall the financial participation of the City exceed the total sum of \$95,000.00.
- 4. As partial consideration for this financial assistance agreement, UNM hereby agrees to grant to the appropriate City Department, by separate document, a private drainage easement upon and through the final "as-built" location of the above-

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described storm drainage system so that storm runoff waters from 323 the lands of Albuquerque International Airport may be routed through the storm drainage system contemplated by this Agreement.

5. As further partial consideration for this financial assistance agreement, UNM agrees to grant to the City, by separate document, an easement across the Northernmost EIGHTY-SIX (86) feet of the Southeast 1/4 of Section 4, Township 9 North, Range 3 East, N.M.P.M., from the Eastern right-of-way of University Blvd., S.E., Eastward to the Eastern boundary of UNM's property to be used by the City for purposes of a public roadway, subject to existing easements and leasehold interests of record.

The roadway easement will provide that the roadway will be designed and constructed in a manner which will allow reasonable access to the roadway for the purpose of ingress to and egress from UNM property adjacent to the roadway and that UNM will be consulted concerning the design of the roadway prior to the commencement of construction.

The parties understand and agree that the initial improvement of the Roadway across the above-described Easement, which shall consist of a four-lane divided and paved roadway facility, will be constructed and maintained by the City at no cost to UNM.

- assistance agreement, UNM agrees to execute a separate document in which UNM covenants that it will never institute any action at law or in equity against the City nor institute, prosecute or in any way aid in the institution or prosecution of any claim, demand, action, or cause of action for damages, costs, loss of services, expenses, or compensation for or on account of any damage, loss or injury either to person or property, or both, whether developed or undeveloped, resulting or to result, known or unknown, past, present, or future, arising out of storm drainage or runoff waters proceeding or flowing from the lands of Albuquerque International Airport across the lands of UNM South Golf Course, due to existing development of lands of the Albuquerque International Airport lying to the east of the UNW South Golf Course, as depicted on the aerial photograph attached hereto as Exhibit "A".
- 7. The parties acknowledge that the City is a municipality having a population over one hundred thousand which has adopted a charter pursuant to Article 10, Section 6 of the constitution of New Mexico and that UNM is an agency of the State of New Mexico. As such, the parties acknowledge that any liability of UNM and the City, with respect to claims of individuals or entities not a party to this Agreement which may arise as a result of the performance of this Agreement, is governed by the New Mexico Tort Claims Act (Sections 41-4-1 through 41-4-29 N.M.S.A. (1978)), as amended. Within the limits and restrictions of the Tort Claims Act, each party agrees to be responsible for its own negligent

-2-

RECEIVED MAR 11 1999 acts or omissions which may occur during the performance of this Agreement and which result in claims by individuals or entities not parties to this Agreement against DNM, the City, or both. Nothing contained herein is intended to abrogate or modify the provisions of the New Mexico Tort Claims Act as it relates to liability of either UNM or the City.

8. This instrument reflects the entire agreement between UNM and the City and no statements, promises or inducements made by either party that are not contained herein shall be valid or binding.

ATTEST:

Sy: Ji / Lm J fundum Z Frank A. KleinHen'z Chief Administrative Officer

ALBUQUERQUE,

REVIEWED BY:

Assistant City Attorney

RECOMMENDED:

R. Lowell Pratte Director, Aviation Department

UNIVERSITY OF NEW MEXICO

By: KM-n Paracul John Perovich, President

REVIEWED BY:

University Counsel

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URS GREINER WOODWARD CLYDE

-3-

STATE OF NEW MEXICO)

COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me on this 1984, by Frank A. Kleinhenz, Chief Administrative Officer of the City of Albuquerque, a municipal corporation on behalf of said corporation.

NOTABLY

NOTABLY

STATE OF NEW MEXICO)

The foregoing instrument was acknowledged before me on this 25th day of Oct. ner 1984, by John Perovich, President of the University of New Mexico.

Dut Municipal Notary Public - Delia M. URIOSTE My commission expires:

APPROVAL OF GOVERNING AUTHORITIES

For the University of New Mexico:

The foregoing instrument was approved this $\frac{9^{1h}}{\text{May of Mexico.}}$ day of Mexico.

Attest

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President
Regents-of-the-University of
New Mexico

-4-

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WOODWARD CLYDE

For the City of Albuquerque:

326

The foregoing instrument was approved this 25 day of Correct, 1984, by the City Council of Albuquerque, New Mexico.

Attest

City Clerk)

President Albuquerque City Council

APPROVED:

State Board of Finance

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URS GREINER WOODWARD CLYDE

EASEMENT

THIS INDENTURE executed by the Regents of the University of New Mexico, a body corporate of the State of New Mexico, hereinafter called "University", and the City of Albuquerque, a municipal corporation of the State of New Mexico, hereinafter called "City", whose address is 400 Marquette N.W.

WITNESSETH:

That, for consideration paid, the University grants to the City an easement in, over, upon, and across the following described real estate in Bernalillo County, New Mexico, for the purpose of surface water drainage and temporary construction work associated therewith:

Three parcels of land being portions of Tract A of the Summary Plat of Section 9, Township 9 North, Range 3 East, N.M.P.M., within the City of Albuquerque, Bernalillo County, New Mexico, which Plat was filed in the office of the County Clerk of Bernalillo County on October 9, 1980, and being more particularly described as follows:

Parcel One

Beginning at the northwest corner of the parcel herein described, being a point on a curve on the easterly right-of-way of University Boulevard SE, whence the northeast corner of Tract B of the aforementioned Summary Plat bears N 25°58'04" E, 2037.74 feet; thence

- S 83°53'57" E, 118.44 feet; thence,
- S 15°44'06" E, 99.57 feet, thence,
- S 22017'56" W, 9.49 feet; thence,
- S 82°33'17" W, 101.98 feet; thence,

N 59°36'51" W, 117.06 feet to a point on a curve on said easterly right-of-way line of University Boulevard SE; thence,

Following said easterly right-of-way line northeasterly 93.73 feet along the arc of a curve bearing to the left, said arc having a radius of 3872.72 feet and a chord which bears N 40°33'15" E, 93.72 feet to the point of beginning of the parcel herein described and containing 0.4257 acres more or less.

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
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Beginning at the southwest corner of the parcel herein described, being a point on the easterly right-of-way of University Boulevard SE, whence the northeast corner of Tract B of the aforementioned Summary Plat bears N 17°45'36" E, 780.14 feet; thence following said right-of-way

- N 25°35'10" E, 155.00 feet; thence leaving said right-of-way
- S 64°24'50" E, 45.00 feet; thence,
- S 38004'03" E, 117.17 feet, thence,
- S 25°35'10" W, 60.00 feet; thence,
- N 89°57'05" W, 99.74 feet, thence,

N 64°24'50" W, 60.00 feet to the point of beginning of the parcel herein described and containing 0.4266 acres more or less.

Parcel Three

Beginning at the southwest corner of the parcel herein described, being a point on the easterly right-of-way of University Boulevard SE, whence the northeast corner of Tract B of the aforementioned Summary Plat bears N 52°23'19" W, 108.38 feet; thence following said right-of-way

- N 25°35'10" E, 251.50 feet; thence leaving said right-of-way
- S 64°24'50" E, 90.00 feet; thence,
- S 25°35'10" W, 150.00 feet; thence,
- S 64024'50" E, 60.00 feet; thence,
- S 25°35'10" W, 45.00 feet; thence,
- S 80°21'16" W, 97.94 feet; thence,

N 64°24'50" W, 70.00 feet to the point of beginning of the parcel herein described and containing 0.6076 acres more or less,

in accordance with the provisions hereof.

With respect to this Easement the University and the City make the following covenants which are run with the land and be binding upon successors and assigns or heirs, executors, administrators, agents, assigns and successors in interest of the respective parties as the case may be:

The City hereby agrees, upon the completion of permanent drainage facilities and improvements in, over, under, and across the easement areas, to release and reconvey those portions of the easement granted which is no longer within the 100-year

flood plain; and, that, thereafter the properties released shall be free of any rights or claims of the City or any agency claiming by or through it, provided, however, that the revision of any portions of the easements shall not effect the City's rights to gain access to the remaining properties for maintenance and operation purposes.

WITNESS the hands and seals of the parties this 1981. day of March Regents of/the University of ATTEST: New Mexic President Secretary and Treasure City of Albuquerque Director of Finance STATE OF NEW MEXICO County of Bernalillo The foregoing instrument was acknowledged before me this day of March, 19 81, by Januar Manuella fix.

President of Regents of the University of New Mexico, a body corporate of the State of New Mexico, on behalf of said body corporate. (SEAL) My commission expires STATE OF NEW MEXICO County of Bernalillo The foregoing instrument was acknowledged before me this 30 th day of Journal, 19 81, by Milliamenfuse for Chief, Administrative Officer of the City of Albuquerque, a municipal corporation of the State of New Mexico, on behalf of said municipal corporation. My commission expires .4/1.4/81... Approved as to form: Peter Rask University Counsel

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PERMANENT EASEMENT

Grant of Perminent Easement, between the Regents of the University of New Mexico, a corporation of the State of New Mexico ("Grantor" or "UNM"), whose address is Scholes Hall, University of New Mexico, Albuquerque, New Mexico, 87131 and the City of Albuquerque, a New Mexico municipal corporation, ("City"), whose address is P.O. Box 1293, Albuquerque, New Mexico 87103.

Grantor grants to the City a non-exclusive, permanent easement ("Easement") in, over, upon and across the real property described on Exhibit "A" attached hereto for the construction, installation, maintenance, repair, modification, replacement and operation of a road and utilities, together with the right to remove trees, bushes, undergrowth and any other obstacles upon the Property if the City determines they interfere with the appropriate use of this Easement.

Roadway improvements within, upon and across the Easement Property are planned by the City to consist of a two-lane paved roadway, which shall be designed, constructed and maintained by the City at no cost to UNM. Roadway and related landscape and drainage improvements shall be constructed to City standards and requirements.

Water, sanitary sewer, storm sewer, electric, gas, telephone, cable or other utility lines or facilities constructed or installed within, upon and across the Easement Property shall be designed, constructed and maintained by the City or other such public utility at no cost to UNM.

The above-described roadway, landscaping, and utility lines and facilities will be designed by the City in consultation with UNM, in a manner which will allow reasonable access to the roadway for the purpose of ingress and egress from UNM property adjacent to the roadway, as well as access to utility lines and facilities located within, upon and across the Easement Property from adjacent UNM property.

The City shall construct, install and maintain a minimum 4-strand wire fence with steel poles and corner supports, where necessary, along the Easement Property boundary adjacent to UNM property. The design for such wire fence shall be reviewed and approved by UNM.

In the event City fails to construct the roadway and landscape improvements as designed within two (2) years of the date of execution of this Easement, or the City ceases to use the Easement for the purposes provided herein and the Easement is abandoned, the Easement will be reconveyed to the Grantor or its successors-in-interest as its interest may appear, without additional compensation being paid to the City, subject to vacation of the Easement per the City's Subdivision Ordinance.

STATE OF NEW MEXICO COUNTY OF BERNALT OF

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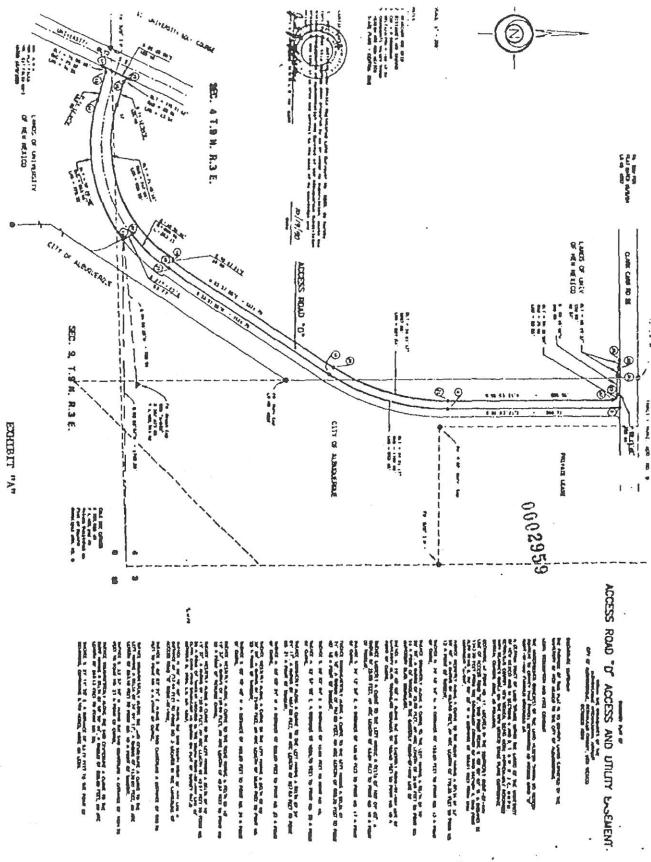
GEADIS H. DAVIS
TO CLERK L. RECORDER

As between the parties, each party acknowledges and represents that it will be solely responsible for liability arising from personal injury or damage to persons or property occasioned by the negligence of its employees or agents. The liability of the University of New Mexico and the City shall be subject in all cases to the immunities and limitations of the Tort Claims Act, Section 41-41-1 et seq., NMSA 1978, and any amendments thereto.

The grant and other provisions of this Easement constitute covenants running with the

land for the benefit of the City and its successors and assigns until terminated. WITNESS my hand and seal this 19th day of _ THE REGENTS OF THE CITY OF ALBUQUERQUE, NEW MEXICO UNIVERSITY OF NEW MEXICO avid L. McKinney Chief Administrative Officer Its: revident for Business & Finance Date of Approval: Approved as to form: University Counsel STATE OF NEW MEXICO COUNTY OF BERNALILLO The foregoing instrument was acknowledged before me this 19th day of August, 1991, by David L. McKinney, Vice President for Business and Finance of The Regents of the University of New Mexico, a corporation of the state of New Mexico, on behalf of said corpoyation. My commission expires: Notary Public 5-22-95 STATE OF NEW MEXICO COUNTY OF BERNALILLO The foregoing instrument was acknowledged before me this 28th day of August , 1991, by Arthur A. Blumenfeld, Chief Executive Officer of the City of Albuquerque, a municipal corporation, on behalf of said corporation. My commission expires:

5-22-95



PERMANENT EASEMENT

Orant of Permanent Basement, between the Chy of Albuquenque, a New Mexico municipal corporation, ("Grantor" or "City"), whose address is P.O. Box 1293, Albuquenque, New Mexico 87103, and the Regents of the University of New Mexico, a corporation of the State of New Mexico ("UNM"), whose address is Scholes Hall, University of New Mexico, Albuquenque, New Mexico, 87131.

Grantor grants to the UNM a non-exclusive, permanent easement ("Basement") in, over, upon and across the real property described on Exhibit "A" attached hereto for the construction, installation, maintenance, repair, modification, replacement and operation of a road and utilities, together with the right to remove trees, bushes, undergrowth and any other obstacles upon the Property if the City determines they interfere with the appropriate use of this Easement.

Roadway improvements within, upon and across the Easement Property are planned by the City to consist of a two-lane paved roadway, which shall be designed, constructed and maintained by the City at no cost to UNM. Roadway and related landscape and drainage improvements shall be constructed to City standards and requirements.

Water, sanitary sewer, storm sewer, electric, gas, telephone, cable or other utility lines or facilities constructed or installed within, upon and across the Easement Property shall be designed, constructed and maintained by the City or other such public utility at no cost to UNM.

The above-described roadway, landscaping, and utility lines and facilities will be designed by the City in consultation with UNM, in a manner which will allow reasonable access to the roadway for the purpose of ingress and egress from UNM property adjacent to the roadway, as well as access to utility lines and facilities located within, upon and across the Easement Property from adjacent UNM property.

In the event City fails to construct the roadway and landscape improvements as designed within two (2) years of the date of execution of this Easement, or the City ceases to use the Easement for the purposes provided herein and the Easement is abandoned, the Easement will be reconveyed to the Grantor or its successors-in-interest as its interest may appear, without additional compensation being paid to the City, subject to vacation of the Easement per the City's Subdivision Ordinance.

As between the parties, each party acknowledges and represents that it will be solely responsible for liability arising from personal injury or damage to persons or property occasioned by the negligence of its employees or agents. The liability of the University of New Mexico and the City shall be subject in all cases to the immunities and limitations of the Tort Claims Act, Section 41-41-1 et seq., NMSA 1978, and any amendments thereto.

STATE OF HEW MEXICO COUNTY OF BERNALL CO FILEO FOR FLOOD

EXHIBIT D

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| The grant and other provisions of this Easement constitute coverants running with the land for the benefit of the City and its successors and assigns until terminated. |
|---|
| WITNESS my hand and scal this 150 day of August , 1991. |
| CITY OF ALBUQUERQUE, NEW MEXICO |
| By: Arthur A. Bluptenfeld Chlef Administrative Officer |
| STATE OF NEW MEXICO)) ss. COUNTY OF BERNALILLO) |
| The foregoing instrument was acknowledged before me this 13th day of August, 1991, by Arthur A. Blumenfeld, Chief Administrative Officer for the City of Albuquerque, a New Mexico municipal corporation, on befulf of said municipal |
| corporation. |
| Elsis Quia Notary Public |
| My Commission Expires: |

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