

TERMINATION AND RELEASE of PRIVATE FACILITY DRAINAGE COVENANT

Project No. M16-002

2037

THIS TERMINATION AND RELEASE of Private Facility Drainage Covenant is made and entered into as of October 15, 2012, by the City of Albuquerque, (the "City").

WHEREAS, Herbert A. Pluemer and Barbara A. Pluemer, husband and wife, owners of Lot 13-A, Block 1, Airport Industrial Park and Herbert A. Pluemer and Barbara A. Pluemer, husband and wife, owners of Lot 13-A-1, Block 1, Airport Industrial Park ("the Grantors"), entered into Private Facility Drainage Covenant dated April 25, 2012, ("Covenant"), which Covenant was recorded May 2, 2012, in the office of the County Clerk of Bernalillo County, State of New Mexico, as Document No. 2012044284; and

WHEREAS, the City has determined that the Covenant is no longer required.

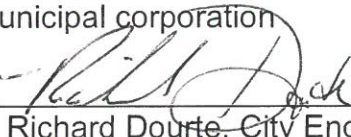
THEREFORE, the City terminates the Covenant and hereby releases and discharges the Property described in the grant of Covenant:

IN WITNESS WHEREOF, the undersigned has executed this Termination and Release of Private Facility Drainage Covenant as of the day and year first above written.

CITY OF ALBUQUERQUE

a municipal corporation

By:



Richard Dourte, City Engineer

10-15-12

Date



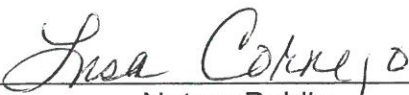
10-8-2012

STATE OF NEW MEXICO)

) ss

COUNTY OF BERNALILLO)

This instrument was acknowledged before me on October 15, 2012, by Richard Dourte, City Engineer of the City of Albuquerque, a New Mexico municipal corporation on behalf of said corporation.



Notary Public

My Commission Expires:



Doc# 2013015627

02/11/2013 02:02 PM Page: 1 of 1
TERM R:\$25.00 M. Toulouse Oliver, Bernalillo County



✓

ADDENDUM TO COVER PAGE10-15-2012
(Date)

TO: Blake Whitcomb, Assistant City Attorney, Legal Department

FROM: Project Administrator, Design Review Section, Planning Department

SUBJECT: PROJECT NAME: 2601 Baylor SE PROJECT # M16-002 + M16-004

The attached documents have been review, approved, initialed and/or signed by the DRC Chairman and are submitted for your action as noted.

kr
10-8-2012

ITEM	ACTION		Comments
	Review & Approval	Reference	
Procedure "A".....	<input type="checkbox"/>	<input type="checkbox"/>	
Procedure "B".....	<input type="checkbox"/>	<input type="checkbox"/>	
Procedure "B" Modified Non Work Order.....	<input type="checkbox"/>	<input type="checkbox"/>	
Procedure "C".....	<input type="checkbox"/>	<input type="checkbox"/>	
Procedure "C" Modified.....	<input type="checkbox"/>	<input type="checkbox"/>	
Special Agreement.....	<input type="checkbox"/>	<input type="checkbox"/>	
Sidewalk Deferral Agreement.....	<input type="checkbox"/>	<input type="checkbox"/>	
Amendment.....	<input type="checkbox"/>	<input type="checkbox"/>	
Exhibit "A" Infrastructure List.....	<input type="checkbox"/>	<input type="checkbox"/>	
Assignment.....	<input type="checkbox"/>	<input type="checkbox"/>	
Amendment to Financial Guarantee.....	<input type="checkbox"/>	<input type="checkbox"/>	
Financial Guarantee.....	<input type="checkbox"/>	<input type="checkbox"/>	
Construction Paperwork:			
Contractors Proposal.....	<input type="checkbox"/>	<input type="checkbox"/>	
Performance/Warranty Bonds.....	<input type="checkbox"/>	<input type="checkbox"/>	
Labor/Material Bonds.....	<input type="checkbox"/>	<input type="checkbox"/>	
Certificate of Insurance.....	<input type="checkbox"/>	<input type="checkbox"/>	
Engineers Cost Estimate	<input type="checkbox"/>	<input type="checkbox"/>	
Extension.....	<input type="checkbox"/>	<input type="checkbox"/>	
Release/Agreement..... <u>M16-002</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Private Drainage</u>
Release/Financial Guarantee.....	<input type="checkbox"/>	<input type="checkbox"/>	
Calling Notice.....	<input type="checkbox"/>	<input type="checkbox"/>	
Official Notice of Decision.....	<input type="checkbox"/>	<input type="checkbox"/>	
License Agreement.....	<input type="checkbox"/>	<input type="checkbox"/>	
Monitoring Well Permit.....	<input type="checkbox"/>	<input type="checkbox"/>	
Agreement & Covenant.....	<input type="checkbox"/>	<input type="checkbox"/>	
Drainage Covenant.....	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>(2)</u>
Revocable Permit.....	<input type="checkbox"/>	<input type="checkbox"/>	
Encroachment.....	<input type="checkbox"/>	<input type="checkbox"/>	
Permanent Easement.....	<input type="checkbox"/>	<input type="checkbox"/>	
Temporary Easement.....	<input type="checkbox"/>	<input type="checkbox"/>	
Power of Attorney.....	<input type="checkbox"/>	<input type="checkbox"/>	
Release of Lien.....	<input type="checkbox"/>	<input type="checkbox"/>	
Certificate of Completion and Acceptance.....	<input type="checkbox"/>	<input type="checkbox"/>	
Grading & Drainage Certification.....	<input type="checkbox"/>	<input type="checkbox"/>	
Notice of Acceptance - Centerline Monu.....	<input type="checkbox"/>	<input type="checkbox"/>	
Corporate Resolution.....	<input type="checkbox"/>	<input type="checkbox"/>	
Sidewalk Verif/Calc.....	<input type="checkbox"/>	<input type="checkbox"/>	

Other:

Please call Pamela Lujan at 924-3996 if you have questions regarding the above or when the documents are ready to be picked up.

No. of Attachments ()

**PRIVATE FACILITY
DRAINAGE COVENANT**

This Drainage Covenant ("Covenant"), between **Herbert A. Pluemer and Barbara A. Pluemer, husband and wife** [state the name of the present real property owner exactly as shown on the real estate document conveying title to the present owner and state the legal status of the owner, for example, "single person", "husband and wife", "corporation of the State of _____," or "partnership"] ("Owner"), whose address is **2646 Baylor SE, Albuquerque, NM 87103**, 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 Owner signs this Covenant.

1. **Recital.** The Owner is the current owner of the following described real property located at [give legal description including recording information, and street address]

Lots 13-A and 13-A-1, Block 1, Airport Industrial Park, recorded on April 10, 1974, in the records of the Clerk of Bernalillo county, New Mexico, in Volume C-9, Folio 174, as Document No. 1974003441 in Bernalillo County, New Mexico (the "Property").

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

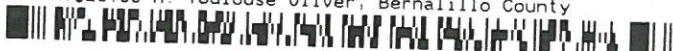
2. **Description and Construction of Drainage Facility.** The Owner shall construct the following "Drainage Facility" within the Property at the at the Owner's sole expense in accordance with the standards, plans and specifications approved by the City:
retention pond and drainage pipe.

The Drainage Facility is more particularly described in **Exhibit A** attached hereto and made a part hereof.

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

4. **Benefit to Property.** The Owner acknowledges and understands that the Drainage Facility required herein to be constructed on the Owner's property is for the private benefit and protection of the Owner's property and that failure to maintain such facility could result in damage or loss to the Property.

5. **Inspection of Drainage Facility.** The City shall have no duty or obligation whatsoever to perform any inspection, maintenance or repair of the Drainage Facility, it being the duty of the Owner, its heirs, successors and assigns to construct and maintain the facility in accordance with approved plans and specifications.



6. Liability of City. The Owner understands and agrees that the City shall not be liable to the Owner, its heirs, successors or assigns, or to any third parties for any damages resulting from the Owner's failure to construct, maintain or repair the Drainage Facility.

7. Indemnification. The Owner owns and controls the Drainage Facility and shall not permit the Drainage Facility to constitute a hazard to the health or safety of the general public. The Owner agrees to indemnify, defend and hold harmless the City, its officials, agents and employees, from any claims, actions, suits or other proceedings arising from or out of the negligent acts or omissions of the Owner, its agents, representatives, contractors or subcontractors or arising from the failure of the Owner, its agents, representatives, contractors or subcontractors to perform any act or duty required of the Developer or Owner herein; provided, however, 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 respective indemnitee, or the agents or employees of the respective indemnitee; or (2) the giving of or the failure to give direction or instructions by the respective indemnitee, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

8. 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.

9. Binding on Owner's Property. The covenants and obligations of the Owner set forth herein shall be binding on the Owner, its heirs, assigns and successors and on the Owner's property and constitute covenants running with the Owner's property until released by the City. This Covenant can only be released by the City's Chief Administrative Officer with concurrence of the City Engineer.

10. Entire Covenant. 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.

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

12. Effective Date of Covenant. This Covenant shall be effective as of the date of signature of the Owner.

Lots 13-A and 13-A-1, Block 1, Airport Industrial Park owners:

By: [Signature]
Herbert A. Pluemer
Dated: 4/11/12

By: [Signature]
Barbara A. Pluemer
Dated: 4/11/12

CITY OF ALBUQUERQUE:

Accepted:

By: [Signature]
Robert J. Perry
Chief Administrative Officer
Dated: 4/25/12

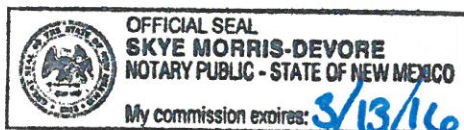
Approved:

for By: [Signature]
City Engineer
4-18-12

4-18-2012

Lots 13-A and 13-A-1, Block 1, Airport Industrial Park OWNER'S ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)



This instrument was acknowledged before me on this 11 day of April, 2012,
by Herbert A. Pluemer and Barbara A. Pluemer, husband and wife, owners of Lots 13-A and 13-A-1, Block 1, Airport Industrial Park.

(SEAL)

My Commission Expires:
3/13/16

[Signature]
Notary Public

CITY'S ACKNOWLEDGMENT

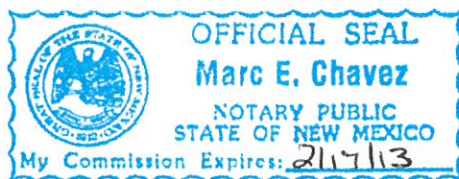
STATE OF NEW MEXICO)
)ss
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this 29th day of April 2012, by Robert J. Perry, Chief Administrative Officer of the City of Albuquerque, a New Mexico municipal corporation, on behalf of the corporation.

(SEAL)

My Commission Expires:
2/17/13

Marc E. Chavez
Notary Public



(EXHIBIT A ATTACHED)

