

**AGENDA**  
**City of Hobbs Planning Board – Regular Meeting**  
**September 17, 2019 at 10:00 AM**

**W. M. “Tres” Hicks, Chairman**  
**Bill Ramirez**  
**Brett Drennan**  
**Larry Sanderson**

**Guy Kesner, Vice Chairman**  
**Philip Ingram**  
**Ben Donahue**

**Tentative Agenda for the Planning Board Regular Session Meeting to be held on Tuesday, September 17, 2019 at 10:00 AM at the City of Hobbs Annex Building, First Floor Commission Chambers located at 200 E. Broadway, Hobbs, NM 88240.**

**AGENDA**

- 1) Call To Order.**
- 2) Review and Consider Approval of Agenda.**
- 3) Review and Consider Approval of Minutes.**

**August 20, 2019 – Special Meeting**

- 4) Communications from Citizens.**
- 5) Review and Consider Preliminary Plan Approval for Subdivision of Lots 1, 2, 3 & 4, Block 2 of the Gale Addition, as submitted by property owner, Daniel Johncox.**
- 6) Review Sketch Plan for Tanglewood, Unit 4 Subdivision, as submitted by property owner, Alberto Caballero.**
- 7) Review and Consider Subdivision Approval of property located south west of the intersection of Joe Harvey Boulevard and Grimes Street, as submitted by property owner, Horizon Partners, LLC..**
- 8) Review and Consider proposed Development Agreement with Yes Housing, Inc., a Non Profit NM Corporation, concerning the development of property located SW of the intersection of Navajo and Dal Paso.**
- 9) Review and Consider side yard setback variance request for an open wall carport currently under construction at 2220 N. Thomas, located southeast of the intersection of East Bender (a Major Arterial) and Thomas (a Minor Residential). The side yard setback at this location should be 10' from the property line; the proposed structure is being constructed on the side yard property line requiring a 10' variance.**
- 10) Review and Consider Block Closure Guidelines.**
- 11) Adjournment.**

**The City will make every effort to provide reasonable accommodations for people with disabilities who wish to attend a public meeting. Please notify the City at least 24 hours before the meeting. Telephone 397-9351.**

*“Notice is hereby given that a quorum of the Hobbs City Commission may be in attendance at this meeting.”*

**PLANNING BOARD MEETING  
MINUTES  
August 20, 2019**

The Hobbs Planning Board met on August 20, 2019 at 10:00 a.m. at City of Hobbs Annex Building, First Floor Commission Chambers, located at 200 E. Broadway, Hobbs, NM 88240 with Mr. . W.M. “Tres” Hicks Chairman, presiding.

**Members Present:**

Tres Hicks, Chairman  
Guy Kesner, Vice Chairman  
Bill Ramirez  
Larry Sanderson

**Members Absent**

Brett Drennan  
Philip Ingram  
Ben Donahue

Also present were members of the public and City staff as follows:

Kevin Robinson, Development Director  
Julie Nymeyer, Staff Secretary  
Shawn Williams, Fire Marshal  
Veronica Gallegos

Eric Scramlin, Deputy City Attorney  
Todd Randall, City Engineer  
Gene Strickland

**1) Call To Order.**

Chairman Hicks called the meeting to order at 10:02 am.

**2) Review and Consider Approval of Agenda.**

The first item of business was to review and approve the Agenda for the August 20, 2019 meeting. Mr. Hicks asked if there were anyone at the meeting for today’s items? Mr. Robinson said there was someone here for items #8 and #9. Mr. Hicks suggested moving items 9 and 8 up before item 5. Mr. Kesner made a motion, seconded by Mr. Ramirez to approve the agenda as amended. The vote on the motion was 4-0 and the motion carried.

**3) Review and Consider Approval of Minutes.**

**July 31, 2019 – Special Meeting**

Mr. Hicks asked if everyone has had a chance to read the Special Meeting Minutes from July 31, 2019? Mr. Kesner made a motion, seconded by Mr. Ramirez to approve the Special Meeting Minutes as presented. The vote on the motion was 4-0 and the motion carried.

**4) Communications from Citizens.**

There were no communications from citizens.

- 9) **Review and Consider a proposed subdivision, as submitted by property owner Veronica Gallegos, located northwest of the intersection of Byers and Selman.**

Mr. Hicks said this is a project that Pettigrew and Associates is working on. Mr. Robinson said this proposed subdivision requires a minimum lot width of 35 feet. He said this is to make sure there is 10 feet of separation for each unit.

Mr. Robinson said the owner of the property is here. He said a manufactured home has to be located 5 feet from the property lines because it does not have the required fire walls. Mr. Hicks suggest sitting the mobile home parallel to the house which is angled towards the west side of the property so they will have room for steps out the back and the front of the mobile home. Mr. Robinson suggested that would allow the mobile home to sit on the lot in compliance. He said he would recommend requiring that the survey plat also shows the location of the unit. He said if they take the fence down they will then have to move their existing fence in the front 20 feet from back of curb. The owner said they were going to take their fence down anyway.

Mr. Kesner made a motion, seconded by Mr. Sanderson to approve the variances on the subdivision and the permitting process to show the minimum setback and the requirement that the mobile home be place at the skew. The vote on the motion is 4-0 and the motion carried.

- 8) **Review and Consider various fence height and location variances for 800 N. Jefferson as submitted by property owner, Hobbs Municipal Schools.**

Mr. Robinson said this is a fence variance. He said it will be a fence height and a setback in other locations. He said this fence will be at the High School and will be block and wrought iron.

Mr. Gene Strickland said in front of you is a collection of efforts from several entities to accomplish the perimeter security fencing at Hobbs High School. He said it has become necessary to install a perimeter fence around Hobbs High. He said there are a number of fence types and heights and various gate systems to accomplish that.

Mr. Randall said there will be slide gates and different heights of fences. Mr. Strickland said they are going to expand the sidewalk 10 feet and turn the parking into parallel parking along the fence. Mr. Kesner asked why they wanted to do 10 foot sidewalk adjacent to Scharbauer. Mr. Randall said that was a suggestion by staff. He said part of the reason is to keep the sidewalks ADA compliant. Mr. Kesner asked why there was fence that is only 3 feet tall? Mr. Strickland said it is based on site lines.

Mr. Ramirez made a motion, seconded by Mr. Sanderson to approve the fence variances as discussed. The vote on the motion was 4-0 and the motion carried.

- 5) **Review and Consider side yard setback variance request for a residential single family housing unit to be located at 4917 Grey Ghost Road, as submitted by ABS Homes, property owner. This particular lot, Lot #34 of Zia Crossing Subdivision Unit 6, is**

**located in the southeast corner of Grey Ghost Road (a Minor Residential) and Zia Crossing Parkway (a designated Minor Arterial developed as a Major Collector). The side yard setback at this location should be 10' from the property line; the proposed structure is requested to be located 5' from the property line requiring a 5' variance.**

Mr. Robinson said the City of Hobbs requires a 20 foot setback on a minor collector. He said staff is not in favor of a front yard setback variance. He said the site triangles would become an issue if this becomes a higher speed roadway. Mr. Hicks said the reason he asked about the front yard setback and the he understands the site triangle but the purpose of the 21 foot is the driveway width which is over on the east side of the house originated in the ability to park a car between the garage and back of sidewalk. Mr. Robinson said it used to be 21 feet but it is now just two vehicles spaces on the property. Mr. Randall said it is not a site obstruction.

Mr. Robinson said this is a classic example of this house is too big for this lot to be compliant. Mr. Hicks said all of the fences are at the property line? Mr. Robinson said nothing is being changed from the back of curb to the fence line. He said what makes this one unique is that this is adjacent to a residential collector. Mr. Kesner said he did not have a problem with this property even with the front setback he did not believe it would be an issue. Mr. Kesner made a motion to approve the 5 foot setback on the side and front yard setback. The vote on the motion was 4-0 and the motion carried.

- 6) Review and Consider front yard setback variance request for 608 Sunset Circle as submitted by property owner, Art McMinn. Sunset Circle has a ROW width of 50', a BOC to BOC of 36' and is classified as a Minor Residential requiring a front yard setback of 21' from Property line.**

Mr. Robinson said there were variance granted in 2014 and the Planning Board reviewed them and granted a setback variance for these properties for all structures to be located 7 feet from back of curb. Mr. Kesner made a motion to approve the variance with as long as it is 7 feet back of curb. The vote on the motion was 4-0 and the motion carried.

- 7) Review and Consider front yard setback variance request for 1806 Gila Drive as submitted by property owner, Juan S. Porras. Gila Drive has a ROW width of 57', a BOC to BOC of 38' and is classified as a Minor Residential requiring a front yard setback of 21' from Property line.**

Mr. Robinson said this was a staff approval for a variance in 2016. He said the variance allows a structure to be place 15 feet from back of curb. The said the home owner would like to have the structure to within 10 feet of back of curb.

Mr. Ramirez made a motion, seconded by Mr. Kesner approved the variance as long as the roof structure is 10 feet from back of curb but no support shall be closer than 15 feet from back of curb. The vote on the motion was 4-0 and the motion carried.

- 10) Adjournment.**

With nothing further to discuss Mr. Kesner made a motion, seconded by Mr. Sanderson to adjourn the meeting at 11:14 am.

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Tres Hicks, Chairman

**September 17, 2019**  
**Planning Board Regular Meeting**

- 5) **Review and Consider Preliminary Plan Approval for Subdivision of Lots 1, 2, 3 & 4, Block 2 of the Gale Addition, as submitted by property owner, Daniel Johncox.**



SUBDIVISION PLANS  
YMH, INC.

GALE ADDITION  
BLOCK 2

CITY OF HOBBS, NEW MEXICO  
LEA COUNTY, NEW MEXICO

JULY, 2019

L O C A T I O N      M A P



I N D E X      O F      S H E E T S

SHT. No.	TITLE
1	COVER SHEET, TABLE OF CONTENTS, LOCATION MAP
2	GENERAL NOTES
3	SEWER PLAN AND PROFILE AND PROJECT OVERVIEW
4	ALLEY PLAN AND PROFILE
D1-D3	DETAILS

- ALLEY CONSTRUCTION:**
- 1. Chamfer Alley 20'x20' min. and build radius
  - 2. Recommend dedication of additional alley to utilize existing pavement and avoid additional costs for the relocation of existing fire hydrant and water meter in existing alley
  - 3. Build Alley Driveways as indicated
- WATERLINE / FIRE HYDRANT:**
- 1. Extend waterline and place fire hydrant at curb return
  - 2. Coordinate with Xcel for installation of new residential LED street light
- ADDITIONAL DEDICATION**  
Provide additional roadway dedication on north boundary with a minimum of 10' from back of existing and/or proposed curb. In addition, provide either additional dedication or easement 10' from centerline of any existing or proposed City utility.

NO.	DATE	BY	CHK	ENGR	APP.
1					
2					
3					
4					
5					

GALE ADDITION  
BLOCK 2  
COVER SHEET

Drawn By:	Checked by:
PLR	PLR
Date:	Disk:
7-24-19	YMH
File Name:	Job No.:
COVER	

SHEET  
**1**  
1 of 7 sheets



SPECIFICATIONS: Street Construction

- All work shall meet or exceed the applicable requirements of the "New Mexico Standard Specifications for Public Works Construction" 1987 Edition (herein--after abbreviated NMSS), except as otherwise specified herein.
- Earthwork shall be considered incidental to the street construction unless otherwise indicated in the bid proposal. All roots and other vegetation shall be removed from areas to be covered by asphalt or concrete. The subgrade shall be accurately shaped to lines and grades as indicated on the drawings and compacted as indicated on the details. Minimum compaction in areas not otherwise shown shall be 90% of the maximum density as determined by ASTM D-1557, Method A.
- All Portland Cement Concrete for pavement shall conform to NMSH&TD Specification-- Section 451 or Section 503, for structures. The contractor shall submit a proposed job mix for the engineer's approval in ample time before placing any concrete.
- Base course materials and placement shall conform to the requirements of NMSH&TD Specification, Section 304--Base Course. The contractor shall submit an aggregate analysis for the engineer's approval in ample time before placing any base course material.
- Prime coat material and placement shall conform to the requirements of NMSH&TD Specifications, Section 408--Prime Coat. The contractor shall submit certification of quality for his proposed material for the engineer's approval in ample time before placing any prime coat.
- Asphaltic concrete surface course material and placement shall conform to the requirements of NMSH&TD Specification, Section 420 OR 422--Plant Mix Bituminous Pavement (Dense Graded or Super Pave). The contractor shall submit a proposed mix design for the engineer's approval in ample time before placing any surface course.
- The water and sewer contractor shall complete his work, including trench compaction and clean--up, in any one street before the paving contractor starts final subgrade preparation for the street construction. Final adjustment to grade of valve boxes and manhole covers, pouring concrete collars, etc., shall be left for the paving contractor.
- All construction, including compaction, shall be guaranteed for a period of 12 months after completion of construction.

SPECIFICATIONS -- Water and Sewer Systems

- All work shall meet or exceed the applicable requirements of the "New Mexico Standard Specifications for Public Works Construction", 1987 Edition (herein--after abbreviated NMSS), except as otherwise specified herein.
- Manufacturer's brochure cuts, and certificates of quality where applicable, shall be submitted for the engineer's approval for all items installed on the job.
- Water mains shall be PVC Water Pressure Pipe, Class 150, DR 18, C--900 water pipe as specified in NMSS Section 121, joints may be either mechanical or push--on type except where otherwise specifically indicated, or shall be Polyethylene Water Pressure Pipe, DR 17 as specified by AWWA C--906.
- The use of tapping sleeves for connection to existing mains or repair sleeves will not be permitted except with the express permission of the engineer for each instance.
- Water service lines shall be 1" diameter, polyethylene tubing and accessories shall conform with NMSS Section 560.2 -- Water Service Pipe.
- All sections of new water mains shall be hydrostatically tested in accordance with AWWA C--600, Sec. 13, in the presence of the engineer and a city representative. The contractor shall furnish all equipment and labor required to make the tests. The mains shall be tested with the service connections complete in place. The leakage shall not exceed the calculated allowable leakage as specified in test sheet 801.16.2 in NMSS Section 801. The contractor shall locate and repair all leaks until there are no visible leaks and the overall leakage is within the specified maximum.
- Sanitary sewer pipe shall be Polyvinyl Chloride (PVC) pipe, DR 35, as specified in the NMSS Section 121.
- Manholes shall be constructed with precast reinforced concrete sections conforming to ASTM C--478. Block manholes are expressly prohibited. All portland cement concrete and mortar used in manhole construction shall utilize Type II cement. Care shall be taken to properly finish manhole inverts.
- The water and sewer contractor shall complete his work, including trench compaction and clean--up, in any one street before the paving contractor starts final subgrade preparation for the street construction. Final adjustment to grade of valve boxes and manhole covers, pouring concrete collars, etc., shall be left for the paving contractor.
- All watermains shall be chlorinated as specified in NMSS Section 801.17. Each service connection shall be operated to thoroughly flush the lines on completion.
- All construction, including compaction, shall be guaranteed for a period of 12 months after completion of construction.
- All service line connections for water and sewer shall be made with fittings specifically for the material used, and as per the manufacturer's installation requirements.

NOTES -- Water and Sewer Construction

- Sewer services shall be located 5 feet ± down--stream from the center of the lot frontage except where otherwise indicated on the plans. Opposing connections shall be spaced at least 4 feet apart along the sewer mains. Water services shall be located 5 feet ± upstream from the common lot lines except where otherwise indicated on the plans, and 10 feet minimum away from the sewer services. Water taps shall be spaced at least 2 feet apart on the water mains.
- Stationing is as shown on the plan and profile sheets.
- Water mains shall not be located less than 10 feet away from sewer lines nor closer than 3 feet to the lip of the curb and gutter, except where lines cross.
- Where a water line passes beneath or less than 18 inches above a sewer line, the sewer line shall be encased in concrete 6 inches thick as shown in the "Standard Details" for at least 10 feet on each side of the water line, or the sewer line shall be Ductile or Cast Iron Pipe with pressure--type joints for 10 feet on each side of the water line. This shall also apply where a parallel water line is less than 10 feet horizontally and less than 2 feet above the sewer.

GENERAL NOTES:

- Testing of construction materials, including subgrade compaction, shall be performed as required by the engineer and at the expense of the owner, except that the contractor shall pay for any re--testing required. The contractor shall cooperate in allowing opportunity for testing and furnishing samples and job site assistance as required. The contractor shall furnish manufacturer's certificates of quality as required.
- The contractor shall maintain a reasonably clean job site throughout the construction period and at completion shall remove all debris and dress up all areas disturbed by his operations.
- Measurement and payment of the various items of construction shall be made by the units indicated in the bid proposal and at the unit prices bid, work and materials not specifically called out in the bid proposal shall be considered incidental to the nearest associated item listed in the proposal.
- The contractor shall do his own layout and construction staking from bench marks and and centerline reference points furnished by the owner. The contractor shall be responsible for properly referencing all triangulation stations, bench marks, monuments, and grant markers, section corners, or other permanent reference marker, that may be destroyed during the construction of this project. The Project Manager, at the contractor's expense, shall reference and reset destroyed monuments according to government regulations and state law. Design survey for Owner provided by John West Surveying Company.
- Haul shall be considered incidental to construction, and no direct payment shall be made.
- For estimating purposes only, earthwork quantities are based on a shrinkage factor of 0% in roadway embankment and 0% swell in roadway excavation.
- No underground utilities (water or sewer) shall be backfilled prior to inspection and approval by the ENGINEER. Any backfill placed prior to inspection and approval will be removed at the contractor's expense.
- Locations of all existing utilities shown were taken from record drawings or field surveys and are located as accurately as possible from information available. It will be the contractor's responsibility to protect, maintain in service, and at points required, verify exact locations of these utilities during construction operations of this project.
- The contractor shall never unnecessarily interfere with or interrupt the services of any public utility having property within or adjacent to the construction area. He shall give all public utility companies a reasonable notice in writing, in no event less than 48 hours, for any work that he contemplates would interfere in any what whatsoever with the service of any existing public utility and city--owned facility.
- When construction under this project connects to existing improvements the contractor shall build an easy--riding connection.
- When abutting new pavement to edges of existing pavement, the existing pavement shall be cut a straight neat edge and tack coat shall be applied to edges of existing pavement prior to beginning of new pavement operations.
- The Contractor shall coordinate any work required by others in the construction area with the construction of this project.
- No underground utilities (water or sewer) shall be backfilled prior to inspection and approval by the CITY OF HOBBS. Any backfill placed prior to inspection and approval will be removed at the contractor's expense.
- Where proposed elevations in the plans are shown with two digits preceeding the decimal, it shall be assumed that 3600 feet is to be added.
- All concrete shall contain fiber reinforcement. Fiber reinforcement shall be virgin polypropylene strands approximately 3/4 inches in length, mixed into the concrete at a rate of 1.5 pounds per cubic yard or fibers shall be Anti--Crack HD (AR glass fibers) as manufactured by Saint--Gobain Vetrotex America and mixed into the concrete at a rate of 1.0 pounds per cubic yard (fiber length 3/4 inch). Use of fiber reinforcement does NOT substitute for any structural reinforcement required by teh project drawings and contract documents. No separate measurement or payment will be made for fiber reinforcement, it shall be considered incidental to the item being installed.
- Construction will not be considered complete until all drainage structures, including new curb and gutter, are tested flowing and found satisfactory by the project manager. Finished concrete grade tolerance shall not deviate from those shown on the plans by more than =/-- 0.002 feet. This shall be considered incidental to the construction of this project.

MATERIAL SPECIFICATION:

Materials and equipment used in the installation of water and sewer improvements shall be in accordance with the City of Hobbs standards and shall be new and unused, manufactured in compliance with standards published by the American Society for Testing and Materials (ASTM), the Americal Water Works Association (AWWA) or other published applicable standards.

Where specific items are called for by name, make, or catalog number such reference shall be interpreted as establishing a standard quality and not construed as limiting competition. The use of substitutes is permissible in most cases, provided written requires and proper certification are submitted to the ENGINEER for review and approval prior to Bid Opening for City of Hobbs approval.

SANITARY SEWER

Collector: PVC, SDR 26 (under 18" Dia.) (Stiffness of 46 for over 18" Dia.), push--on, gasketed (or glued) sewer pipe.

Service: PVC, SCH 40 or SDR 21, push--on, gasketed (or glued) sewer pipe.

Fittings: PVC, SCH 40, push--on, gasketed sewer pipe,

Manholes: Fiberglass (preferred) or Precast reinforced concrete, 4 ft. inside diameter, type "C" Concentric manholes.

Manhole rim and Lid: A. Vented in pavement areas, East Jordan Iron Works #41430120A01 or approved equal. Frame & cover shall be AASHTO H--20 load rated, Ductile Iron castings shall be grade 70--50--05 conforming to ASTM A536 (latest edition), Grey Iron castings shall be CL35 conforming to ASTM A48 (latest edition), frame & cover to be uncoated. (See Details) B. Sealing in drainage swale and bar--dich areas, shall be as required by the City of Hobbs.

Force Mains: HDPE DR 13.4 C--906 (WPR 130 psi) or PVC DR 14 Class 200 C--900 (WPR 145 psi).

POTABLE WATER

Distribution Lines: PVC, DR 18, Class 150, C--900 push--on, gasketed water pipe -- OR -- HDPE, DR 17, C--906 blue or blue stripe.

Fittings: Mechanical joint (MJ), class 250 or 350 S.S.B. type, ductile iron pipe fittings for PVC. Polyethylene fittings may be MJ or fused fittings, ductile iron pipe sizes. All HDPE pipe shall utilize MJ adapters when connection to Ductile Iron Fittings. Mega Lug restrained fittings shall be used along with concrete thrust blocking. Valves may be FL X MJ when connected at fittings.

Gate Valves: Mueller bonded resilient seat, non--raising stem type, mechanical joint, fuse bonded epoxy coated inside and out, 2 inch operating nut, opens counter--clockwise. Valves may be FL x MJ when connected at fittings.

Fire Hydrants: Kennedy Guardian -- K81D Main valve fire hydrant, Exterior painted "chrome yellow" as per NM APWA specs.

Valve Boxes: Tyler 461S, or equal

Water Meter Box -- Regular Meter Box -- East Jordan product number 32234002A04, round 18" x 18" and DFW Plastics Inc. plastic blue cover product number (18AMR--49).



NO.	DATE	REVISIONS:				BY	CHK	ENGR	APP.
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3									
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YMH, INC.  
GALE ADDITION  
BLOCK 2

GENERAL NOTES AND SPECIFICATIONS

the ROSS GROUP  
CONSULTING ENGINEERS

410 N. DAL PASO  
HOBBS, NEW MEXICO 88240  
(575) 392-7918 TELE.  
(575) 392-9114 FAX

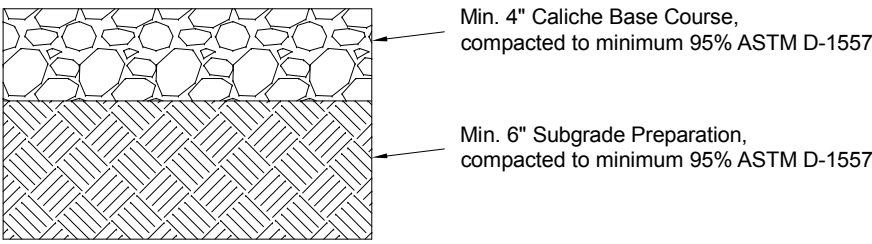
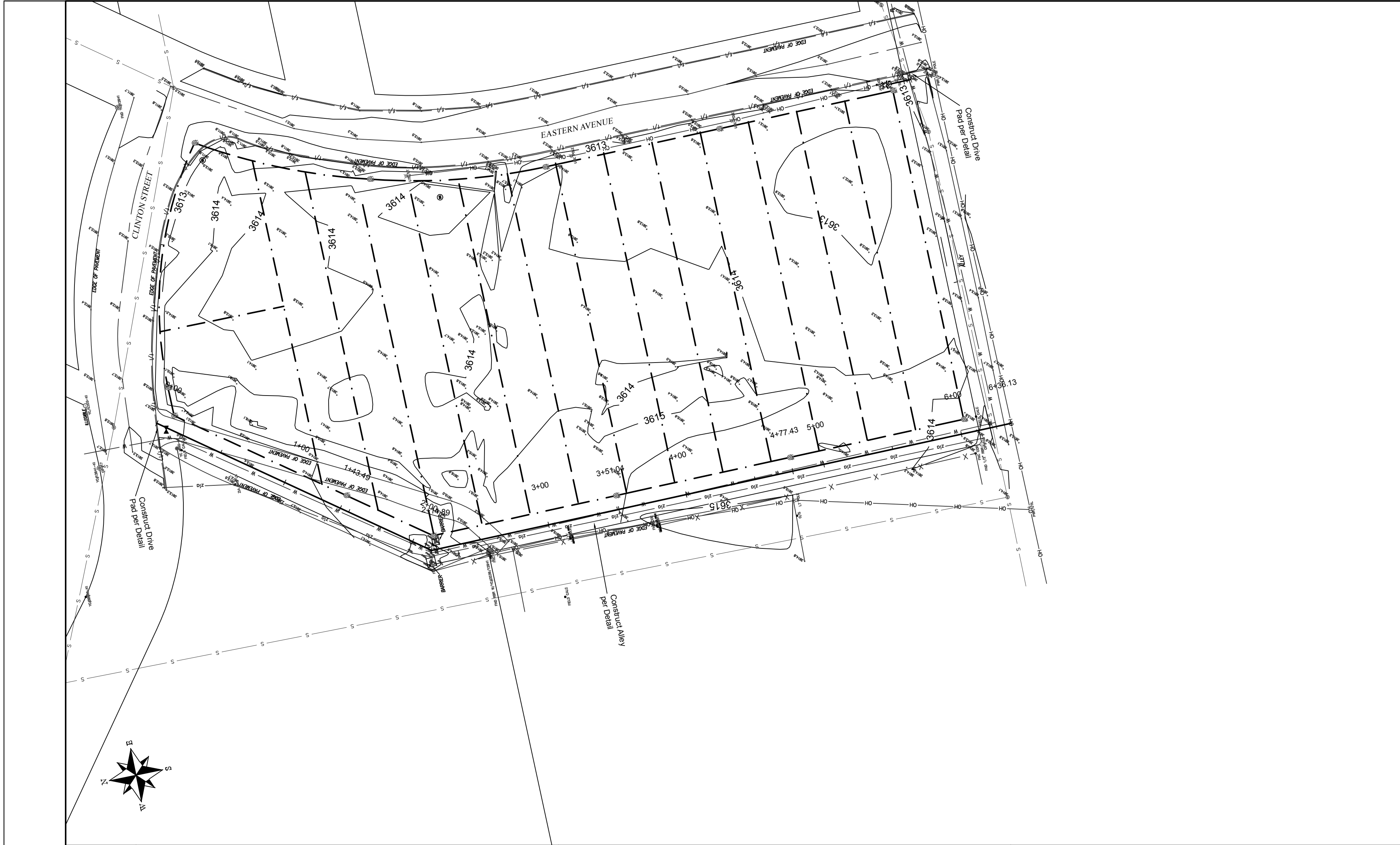
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Date:	Disk:
7--24--19	YMH
File Name:	Job No.:
GEN NOTES	

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ORIGINAL DRAWING SIZE 24" X 36"

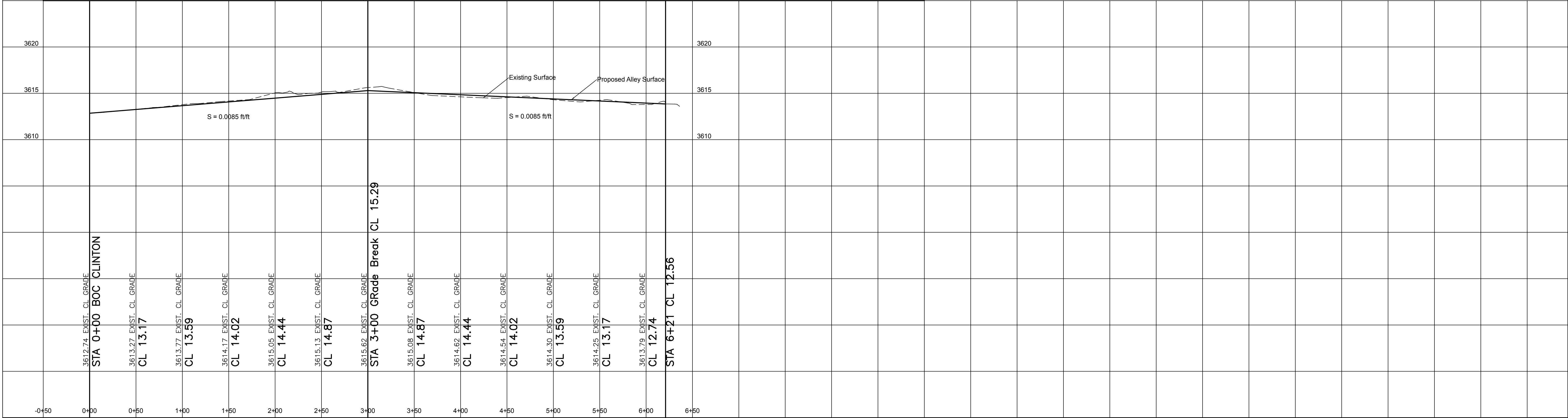






Alley section to be minimum 15' in width.

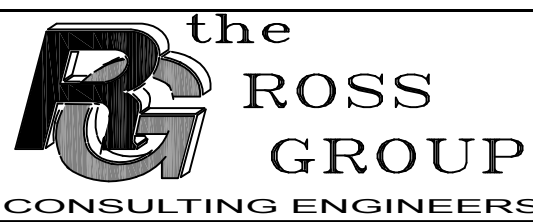
Alley Construction Detail  
Not to Scale



NO.	REVISIONS	BY	DATE	DES
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				CHK
				APPD

DATE  
07/09/2019

SCALE  
H: 1" = 50'  
V: 1" = 5'



410 N. Dal Paso  
Hobbs, New Mexico 88240  
Telephone (575) 392-7918  
Fax (575) 392-9114

YMH, INC.  
GALE ADDITION, BLOCK 2

PROPOSED WEST ALLEY  
STA 0+00 TO STA 6+36.13

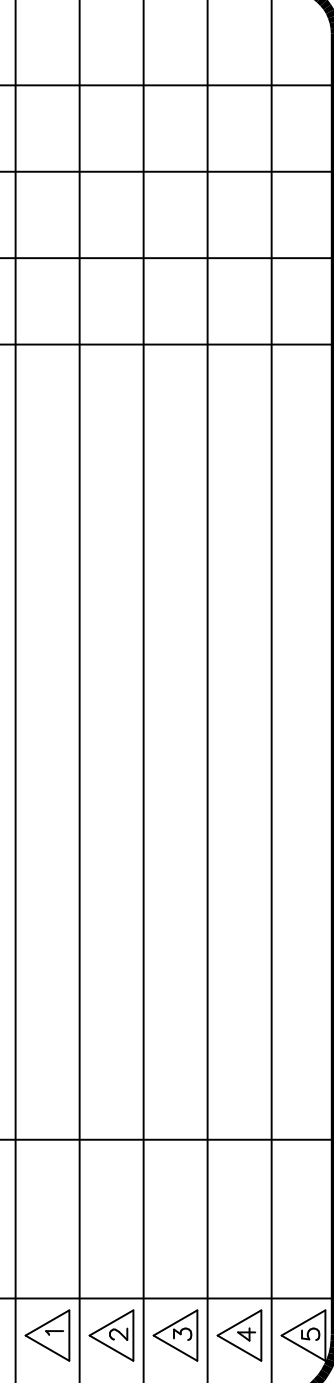
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ORIGINAL DRAWING 24" X 36"





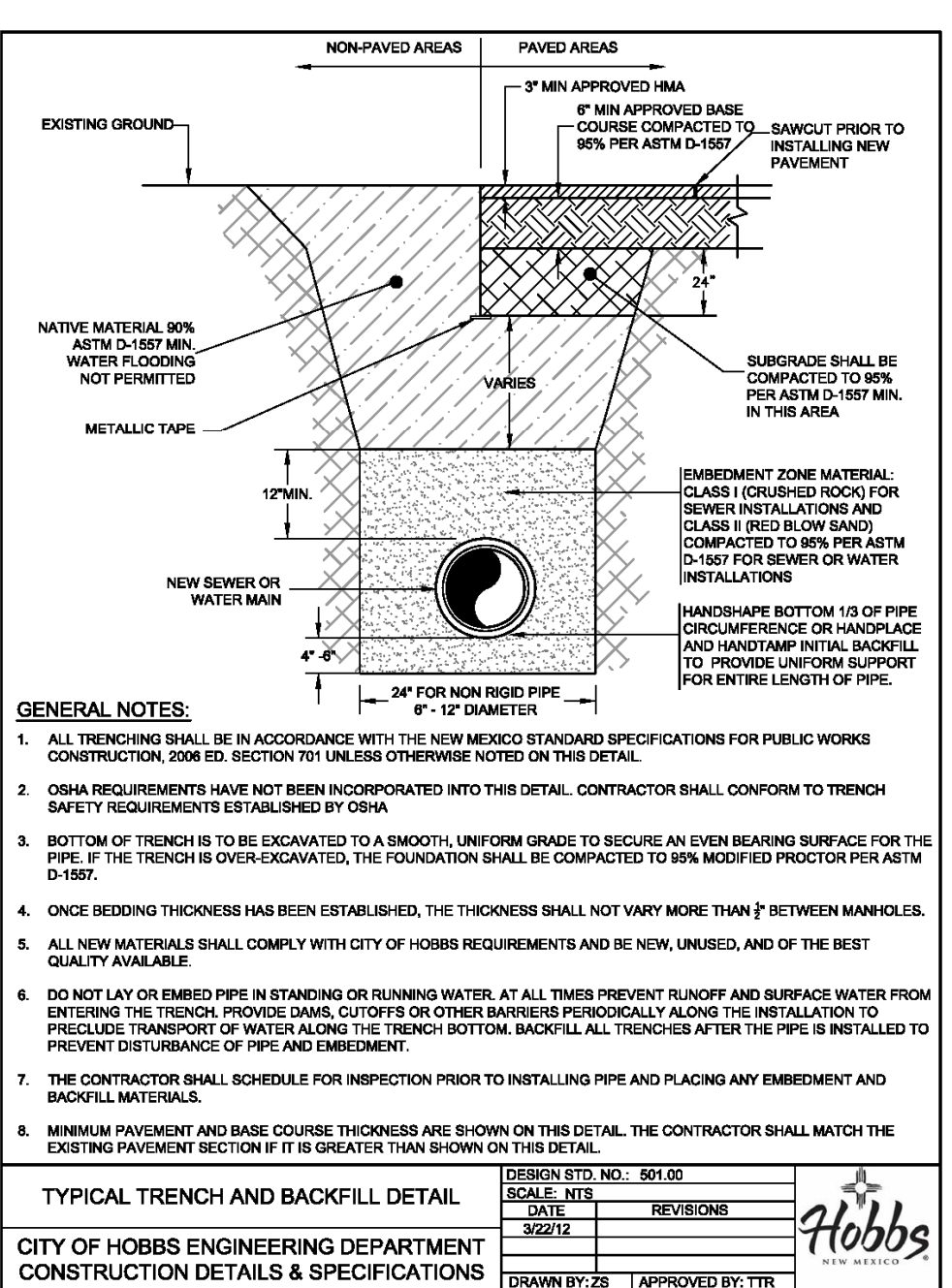




**ROSS GROUP**  
CONSULTING ENGINEERS  
410 N. DAL PASO  
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(575) 392-7918 TELE.  
(575) 392-9114 FAX

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D2



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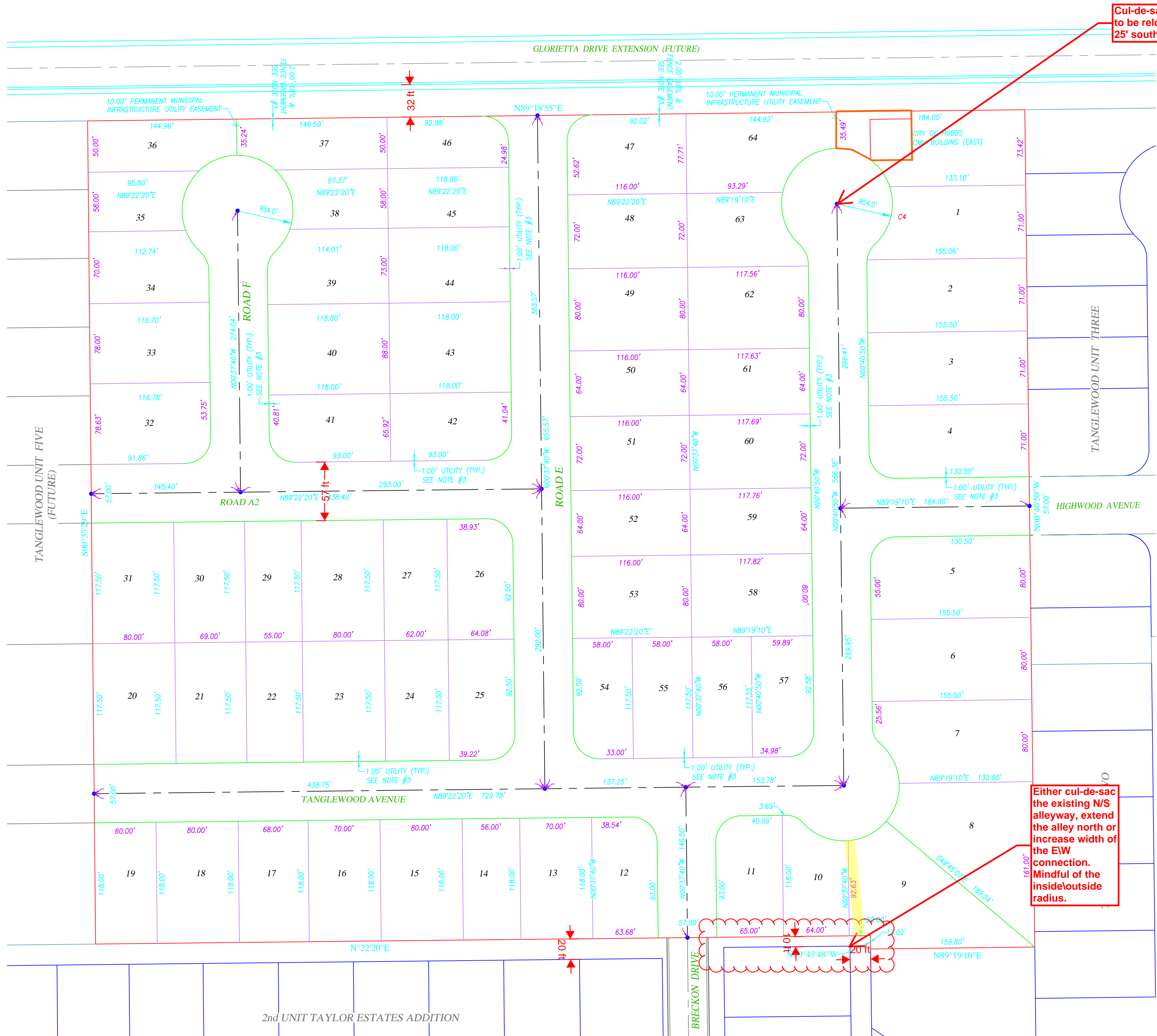


ORIGINAL DRAWING SIZE 24" X 36".

**September 17, 2019**  
**Planning Board Regular Meeting**

- 6) **Review Sketch Plan for Tanglewood, Unit 4 Subdivision, as submitted by property owner, Alberto Caballero.**

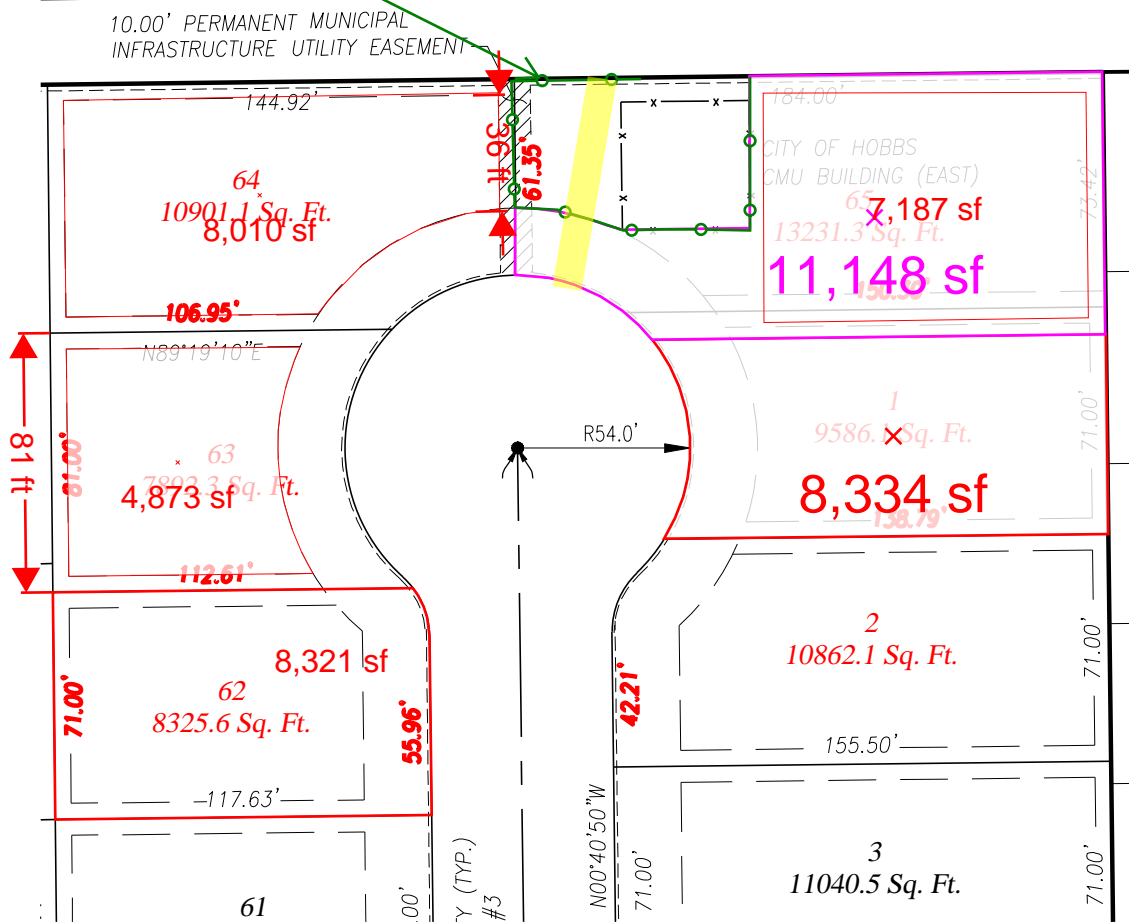




Cul-de-sac centroid  
to be relocated +/-  
25' south

Either cul-de-sac  
the existing N/S  
alleyway, extend  
the alley north or  
increase width of  
the E/W  
connection.  
Mindful of the  
inside/outside  
radius.

New CMU Perimeter  
with Gloriette Gate  
accessing interior  
building.

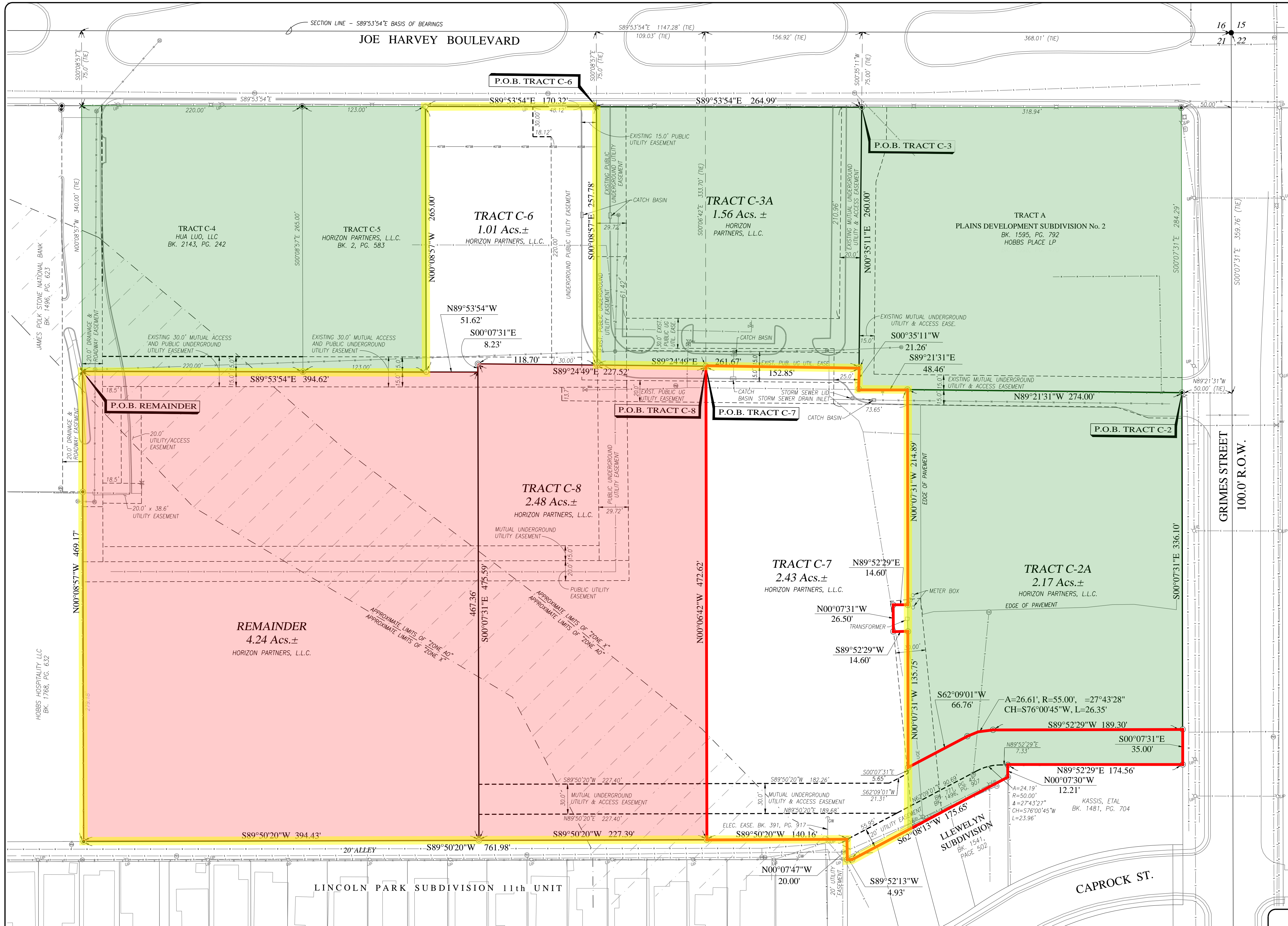




**September 17, 2019**  
**Planning Board Regular Meeting**

- 7) **Review and Consider Subdivision Approval of property located south west of the intersection of Joe Harvey Boulevard and Grimes Street, as submitted by property owner, Horizon Partners, LLC..**

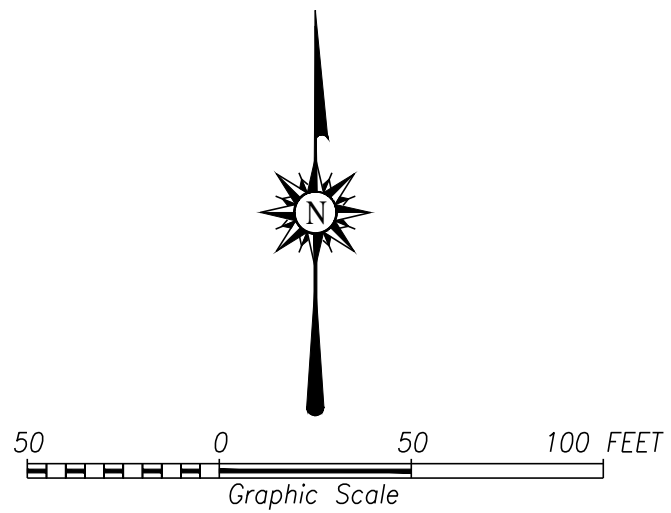
PRELIMINARY - SEPTEMBER 11, 2019  
This document shall not be recorded for any purpose and shall not be used or relied upon as a final survey document.



**SUMMARY** SUBDIVISION TO CREATE TRACTS C-6, C-7 AND C-8 AND **SUMMARY** REPLAT OF TRACTS C-2 AND C-3

SITUATED WITHIN THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO

THE FOREGOING SUMMARY SUBDIVISION OF THE "REMAINDER" TRACT AS SHOWN ON THAT CERTAIN PLAT RECORDED IN BOOK 2 ON PAGE 583 AND CABINET F, SLIDE 123, FILED ON AUGUST 5, 2019, IN THE OFFICIAL RECORDS OF LEA COUNTY, NEW MEXICO.



**LEGEND:**

- ⊙ - DENOTES SET 1/2" STEEL ROD W/CAP MARKED "JWSC PS 12641"
- - DENOTES FOUND 1/2" STEEL ROD W/CAP MARKED "JWSC PS 12641"
- - DENOTES FOUND 1/2" STEEL ROD W/CAP MARKED "NM 21400"
- - DENOTES FOUND BRASS CAP IN CONCRETE
- ✕ - DENOTES SET "X" CHISELED IN CONCRETE
- - DENOTES GAS LINE W/METER
- S— - DENOTES SEWER LINE W/MANHOLE
- C— - DENOTES SEWER LINE CLEANDOUT
- W— - DENOTES STORM DRAIN LINE W/MANHOLE
- W— - DENOTES WATER LINE W/METER
- H— - DENOTES FIRE HYDRANT
- E— - DENOTES ELECTRIC LINE
- U— - DENOTES UTILITY POLE
- L— - DENOTES LIGHT POLE
- G— - DENOTES GUY/ANCHOR WIRE
- ⊕ - DENOTES ELECTRIC PANEL BOX
- X— - DENOTES FENCE LINE
- 47'58"— - DENOTES 40' BUILDING SETBACK LINE

**NOTE:**

- BEARINGS SHOWN HEREON ARE BASED UPON RECORD BEARINGS SHOWN ON THAT CERTAIN PLAT "SUMMARY SUBDIVISION OF A TRACT IN THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO, AND THE VACATION OF LOT 1 AND LOT 2, TRACT B, PLAINS DEVELOPMENT SUBDIVISION No. 3, TO THE CITY OF HOBBS, LEA COUNTY, NEW MEXICO", FILED IN SURVEY BOOK 8, PAGE 430, CABINET F, SLIDE 60, ON DECEMBER 27, 2016, IN THE OFFICIAL RECORDS OF LEA COUNTY, NEW MEXICO.
- UTILITY LOCATIONS SHOWN ON THIS PLAT ARE PLOTTED FROM INFORMATION OBTAINED FROM THE CITY OF HOBBS AND OBSERVED SURFACE EVIDENCE AND MAY NOT BE SHOWN IN THEIR TRUE LOCATION. ACTUAL LOCATIONS SHOULD BE VERIFIED.
- WITH RESPECT TO THE FLOOD INSURANCE RATE MAP FOR LEA COUNTY, NEW MEXICO AND INCORPORATED AREAS, PANEL 1335 OF 2150, MAP No. 35025C13350, EFFECTIVE DATE, DECEMBER 16, 2008, A PORTION OF THE SOUTHWEST CORNER OF TRACT "C" IS LOCATED WITHIN "ZONE A0", DEFINED AS AREAS OF FLOOD DEPTHS OF 1 TO 3 FEET (USUALLY SHEET FLOW ON SLOPING TERRAIN); AVERAGE DEPTH DETERMINED FOR AREAS OF ALLUVIAL FAN FLOODING; VELOCITIES ALSO DETERMINED. THE REMAINDER OF THIS TRACT IS WITHIN "ZONE X", DEFINED AS AREAS DETERMINED TO BE OUTSIDE OF THE 500-YEAR FLOOD PLAIN, THE APPROXIMATE BOUNDARIES AS SHOWN HEREON.
- ADJACENT OWNERSHIP OBTAINED FROM LEA COUNTY ASSESSOR'S OFFICE.

**SURVEYOR'S CERTIFICATE:**  
I, GARY G. EIDSON, NEW MEXICO PROFESSIONAL SURVEYOR No. 12641, DO HEREBY CERTIFY THAT THIS SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

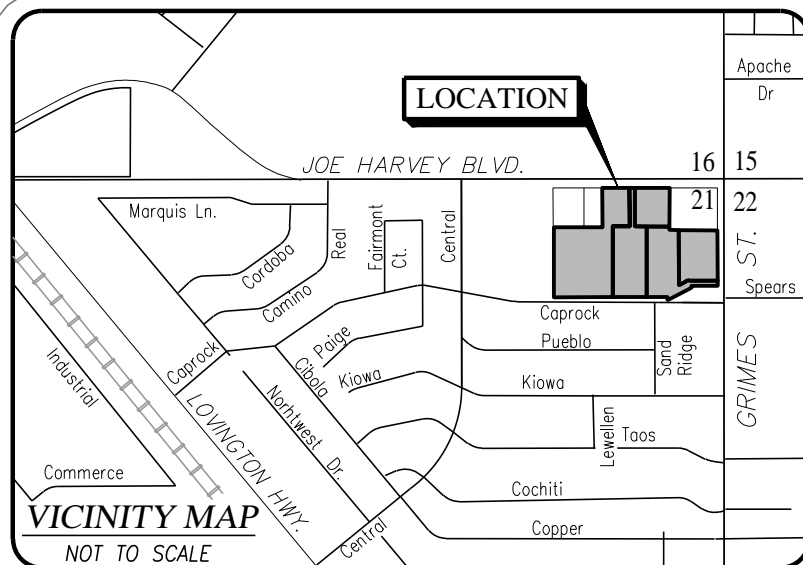
GARY G. EIDSON

DATE:

PROVIDING SURVEYING SERVICES  
SINCE 1946  
**JOHN WEST SURVEYING COMPANY**  
412 N. DAL PASO HOBBS, N.M. 88240  
(575) 393-3117 www.jwsc.biz  
TBPLS# 10021000



Existing Parcels created excluding Remainder  
Existing Boundary of Remainder



Scale: One Inch = Fifty Feet  
CAD Drafter & Date: DSS - 07/31/19  
JWSC W.O. No.: 19.11.0607  
JWSC File No.: E-3541

STATE OF NEW MEXICO  
COUNTY OF LEA - FILED.



SUMMARY SUBDIVISION TO CREATE TRACTS C-6, C-7 AND C-8 AND SUMMARY REPLAT OF TRACTS C-2 AND C-3  
SITUATED WITHIN THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M.,  
CITY OF HOBBS, LEA COUNTY, NEW MEXICO,

THE FOREGOING SUMMARY SUBDIVISION OF THE "REMAINDER" TRACT AS SHOWN ON THAT  
CERTAIN PLAT RECORDED INBOOK 2 ON PAGE 583 AND CABINET F, SLIDE 123, FILED ON  
AUGUST 5, 2019, IN THE OFFICIAL RECORDS OF LEA COUNTY, NEW MEXICO.

TRACT C-6:

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF JOE HARVEY BOULEVARD FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, WHICH LIES N89°53'54"W ALONG THE NORTH LINE OF SAID SECTION 21 A DISTANCE OF 633.96 FEET AND S00°08'57"E A DISTANCE OF 75.00 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 21; THEN S00°08'57"E A DISTANCE OF 257.78 FEET TO THE SOUTHEAST CORNER OF THIS TRACT; THEN N89°24'49"W A DISTANCE OF 118.70 FEET TO A CORNER OF THIS TRACT; THEN S00°07'31"E A DISTANCE OF 8.23 FEET TO A CORNER OF THIS TRACT; THEN N89°53'54"W A DISTANCE OF 51.62 FEET TO THE SOUTHEAST CORNER OF TRACT C-5, RECORDED AUGUST 8, 2019 IN CABINET F, SLIDE 123, LEA COUNTY RECORDS, FOR THE SOUTHWEST CORNER OF THIS TRACT; THEN N00°08'57"W ALONG THE EAST LINE OF SAID TRACT C-5 A DISTANCE OF 265.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF JOE HARVEY BOULEVARD FOR THE NORTHWEST CORNER OF THIS TRACT; THEN S89°53'54"E ALONG SAID RIGHT-OF-WAY A DISTANCE OF 170.32 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 1.01 ACRES MORE OR LESS.

TRACT C-7:

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT OF LAND, WHICH LIES N89°53'54"W ALONG THE NORTH LINE OF SAID SECTION 21 A DISTANCE OF 524.93 FEET AND S00°06'42"E A DISTANCE OF 333.70 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 21; THEN S89°24'49"E A DISTANCE OF 152.85 FEET TO A POINT ON THE WEST LINE OF TRACT "A", PLAINS DEVELOPMENT SUBDIVISION NO. 2 FOR A CORNER OF THIS TRACT; THEN S00°35'11"W ALONG THE WEST LINE OF SAID TRACT "A", A DISTANCE OF 21.26 FEET FOR A CORNER OF THIS TRACT; THEN S89°21'31"E ALONG THE SOUTH LINE OF SAID TRACT "A", A DISTANCE OF 48.46 FEET FOR A CORNER OF THIS TRACT; THEN S00°07'31"E A DISTANCE OF 214.89 FEET FOR A CORNER OF THIS TRACT; THEN S89°52'29"W A DISTANCE OF 14.60 FEET FOR A CORNER OF THIS TRACT; THEN S00°07'31"E A DISTANCE OF 26.50 FEET FOR A CORNER OF THIS TRACT; THEN N89°52'29"E A DISTANCE OF 14.60 FEET FOR A CORNER OF THIS TRACT; THEN S00°07'31"E A DISTANCE OF 135.75 FEET FOR A CORNER OF THIS TRACT; THEN N62°09'01"E A DISTANCE OF 66.76 FEET TO A CORNER OF THIS TRACT AND THE BEGINNING OF A CURVE TO THE RIGHT HAVING A CHORD BEARING N76°00'45"E A DISTANCE OF 26.35 FEET; THEN NORTHEASTERLY ALONG SAID CURVE HAVING A RADIUS OF 55.00 FEET, A CENTRAL ANGLE OF 27°43'28" A DISTANCE OF 26.61 FEET FOR A CORNER OF THIS TRACT; THEN N89°52'29"E A DISTANCE OF 189.30 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF GRIMES STREET FOR A CORNER OF THIS TRACT; THEN S00°07'31"E ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 35.00 FEET TO THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO KASSIS, ETAL AND THE SOUTHEAST CORNER OF THIS TRACT; THEN S89°52'29"W ALONG THE NORTH LINE OF SAID KASSIS TRACT A DISTANCE OF 174.56 FEET TO THE NORTHWEST CORNER OF SAID KASSIS TRACT; THEN S00°07'31"E ALONG THE WEST LINE OF SAID KASSIS TRACT A DISTANCE OF 12.21 FEET TO NORTHEAST CORNER OF THE LLEWELYN SUBDIVISION TO THE CITY OF HOBBS FOR A CORNER OF THIS TRACT; THEN S62°08'13"W ALONG THE NORTH LINE OF SAID SUBDIVISION A DISTANCE OF 175.65 FEET FOR A CORNER OF THIS TRACT; THEN S89°52'13"W ALONG THE NORTH LINE OF SAID SUBDIVISION A DISTANCE OF 4.93 FEET TO A POINT ON THE EAST LINE OF THE ELEVENTH UNIT, LINCOLN PARK SUBDIVISION TO THE CITY OF HOBBS; THEN N00°07'47"W ALONG SAID EAST LINE A DISTANCE OF 20.00 FEET FOR A CORNER OF THIS TRACT; THEN S89°50'20"W ALONG THE NORTH LINE OF SAID SUBDIVSION A DISTANCE OF 140.16 FEET FOR THE SOUTHWEST CORNER OF THIS TRACT; THEN N00°06'42"W A DISTANCE OF 472.62 FEET TO THE POINT OF BEGINNING, CONTAINING 2.43 ACRES MORE OR LESS.

TRACT C-8:

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT OF LAND, WHICH LIES N89°53'54"W ALONG THE NORTH LINE OF SAID SECTION 21 A DISTANCE OF 524.93 FEET AND S00°06'42"E A DISTANCE OF 333.70 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 21; THEN S00°06'42"E A DISTANCE OF 472.62 FEET TO A POINT ON THE NORTH LINE OF THE ELEVENTH UNIT, LINCOLN PARK SUBDIVISION TO THE CITY OF HOBBS FOR THE SOUTHEAST CORNER OF THIS TRACT; THEN S89°50'20"W ALONG SAID NORTH LINE A DISTANCE OF 227.39 FEET FOR THE SOUTHWEST CORNER OF THIS TRACT; THEN N00°07'31"W A DISTANCE OF 475.59 FEET FOR A CORNER OF THIS TRACT; THEN S89°24'49"E A DISTANCE OF 227.52 FEET TO THE POINT OF BEGINNING, CONTAINING 2.48 ACRES MORE OR LESS.

REMAINDER:

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT OF LAND, WHICH LIES N89°53'54"W ALONG THE NORTH LINE OF SAID SECTION 21 A DISTANCE OF 1147.28 FEET AND S00°08'57"E A DISTANCE OF 340.00 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 21 AND BEING A POINT ON THE EAST LINE OF A TRACT CONVEYED TO JAMES POLK STONE NATIONAL BANK AND THE SOUTHWEST CORNER OF TRACT C-4, SUMMARY SUBDIVISION FILED ON NOVEMBER 15, 2018, IN BOOK 2, PAGE 531, OF THE OFFICIAL RECORDS OF LEA COUNTY, NEW MEXICO; THEN S89°53'54"E ALONG THE SOUTH LINE OF TRACT C-4, C-5 AND C-6 A DISTANCE OF 394.63 FEET TO THE NORTHEAST CORNER OF THIS TRACT; THEN S00°07'31"E A DISTANCE OF 467.36 FEET TO A POINT ON THE NORTH LINE OF THE ELEVENTH UNIT, LINCOLN PARK SUBDIVISION TO THE CITY OF HOBBS FOR THE SOUTHEAST CORNER OF THIS TRACT; THEN S89°50'20"W ALONG THE NORTH LINE OF SAID ELEVENTH UNIT A DISTANCE OF 394.43 FEET TO A POINT ON THE EAST LINE OF A TRACT CONVEYED TO HOBBS HOSPITALITY LLC FOR THE SOUTHWEST CORNER OF THIS TRACT; THEN N00°08'57"W A DISTANCE OF 469.17 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 4.24 ACRES MORE OR LESS.

SAID TRACT BEING SUBDIVIDED WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER THEREOF SURVEYED AND SUBDIVDED ACCORDING TO THE TRACTS AS THEY APPEAR ON THE PLAT AFFIXED HEREON.

IN WITNESS WHEREOF, THE UNDERSIGNED OWNERS OF SAID LAND, HAVE HEREUNTO SET THEIR HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019 A.D.

RODGER GRAY  
HORIZON PARTNERS, L.L.C.

ACKNOWLEDGMENT:

STATE OF NEW MEXICO  
COUNTY OF LEA

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019 A.D., BY RODGER GRAY, HORIZON PARTNERS, L.L.C.

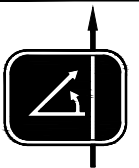
NOTARY PUBLIC

MY COMMISSION EXPIRES

SURVEYOR'S CERTIFICATE:

I, GARY G. EIDSON, NEW MEXICO PROFESSIONAL SURVEYOR No. 12641, DO HEREBY CERTIFY THAT THIS SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

GARY G. EIDSON \_\_\_\_\_ DATE: \_\_\_\_\_



PROVIDING SURVEYING SERVICES  
SINCE 1946  
JOHN WEST SURVEYING COMPANY  
412 N. DAL PASO HOBBS, N.M. 88240  
(575) 393-3117 www.jwsc.biz  
TBPLS# 10021000



REPLAT OF TRACT C-2 TO TRACT C-2A:

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST RIGHT-OF-WAY LINE OF GRIMES STREET, FOR THE SOUTHEAST CORNER OF TRACT "A", PLAINS DEVELOPMENT SUBDIVISION NO. 2 AND THE NORTHEAST CORNER OF THIS TRACT, WHICH LIES S00°07'31"E ALONG THE EAST LINE OF SAID SECTION 21 A DISTANCE OF 359.76 FEET AND N89°21'31"W A DISTANCE OF 50.00 FROM THE NORTHEAST CORNER OF SECTION 21; THEN S00°07'31"E ALONG THE WEST RIGHT-OF-WAY LINE OF GRIMES STREET A DISTANCE OF 336.10 FEET TO THE SOUTHEAST CORNER OF THIS TRACT; THEN S89°52'29"W A DISTANCE OF 189.30 FEET TO A CORNER OF THIS TRACT AND THE BEGINNING POINT OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 55.00 FEET AND A CENTRAL ANGLE OF 27°43'28", THEN ALONG THE ARC OF SAID CURVE A DISTANCE OF 26.61 FEET FOR A CORNER OF THIS TRACT; THEN S62°09'01"W A DISTANCE OF 66.76 FEET FOR THE SOUTHWEST CORNER OF THIS TRACT; THEN N00°07'31"W A DISTANCE OF 135.75 FEET FOR A CORNER OF THIS TRACT; THEN S89°52'29"W A DISTANCE OF 14.60 FEET FOR A CORNER OF THIS TRACT; THEN N00°07'31"W A DISTANCE OF 26.50 FEET FOR A CORNER OF THIS TRACT; THEN N89°52'29"E A DISTANCE OF 14.60 FEET FOR A CORNER OF THIS TRACT; THEN N00°07'31"W A DISTANCE OF 214.89 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT "A" AND THE NORTHWEST CORNER OF THIS TRACT; THEN S89°21'31"E ALONG THE SOUTH LINE OF SAID TRACT "A" A DISTANCE OF 274.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2.17 ACRES MORE OR LESS.

REPLAT OF TRACT C-3 TO TRACT C-3A:

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF JOE HARVEY BOULEVARD, FOR THE NORTHWEST CORNER OF TRACT "A", PLAINS DEVELOPMENT SUBDIVISION NO. 2 AND THE NORTHEAST CORNER OF THIS TRACT, WHICH LIES N89°53'54"W A DISTANCE OF 368.01 FEET AND S00°35'11"W A DISTANCE OF 75.00 FROM THE NORTHEAST CORNER OF SECTION 21; THEN S00°35'11"W ALONG THE WEST LINE OF SAID TRACT "A" A DISTANCE OF 260.00 FEET FOR THE SOUTHEAST CORNER OF THIS TRACT; THEN N89°24'49"W A DISTANCE OF 261.67 FEET FOR THE SOUTHWEST CORNER OF THIS TRACT; THEN N00°08'57"W A DISTANCE OF 257.78 FEET TO A POINT ON SAID SOUTH RIGHT-OF-WAY LINE FOR THE NORTHWEST CORNER OF THIS TRACT; THEN S89°53'54"E ALONG SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 264.99 FEET TO THE POINT OF BEGINNING, CONTAINING 1.56 ACRES MORE OR LESS.

SAID TRACTS ARE BEING REPLATED WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER THEREOF SURVEYED AND REPLATED AS THE SAME APPEARS HEREON.

IN WITNESS WHEREOF, THE UNDERSIGNED OWNER OF SAID LAND, HAS HEREUNTO SET HIS HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

RODGER GRAY  
HORIZON PARTNERS, L.L.C.

ACKNOWLEDGMENT:

STATE OF NEW MEXICO  
COUNTY OF LEA

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019 A.D., BY RODGER GRAY, HORIZON PARTNERS, L.L.C.

NOTARY PUBLIC

MY COMMISSION EXPIRES

CERTIFICATE OF APPROVAL BY THE CITY PLANNING BOARD:

THE PLAT, RESTRICTIONS AND DEDICATION REVIEWED AND APPROVED ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2019 A.D., BY THE CITY PLANNING BOARD OF HOBBS, NEW MEXICO.

CHAIRMAN: WILLIAM M. HICKS III

ACKNOWLEDGMENT:

STATE OF NEW MEXICO  
COUNTY OF LEA

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019 A.D., BY WILLIAM M. HICKS III.

NOTARY PUBLIC

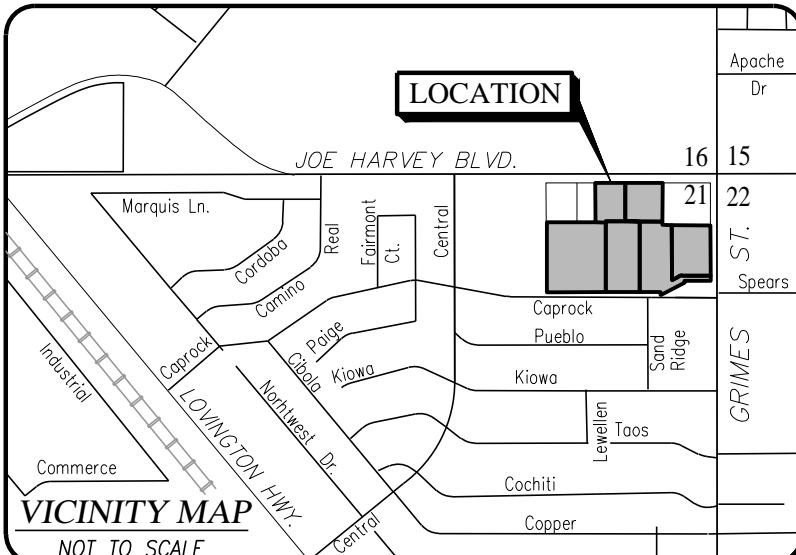
MY COMMISSION EXPIRES

CERTIFICATE OF MUNICIPAL APPROVAL BY RESOLUTION:

STATE OF NEW MEXICO  
COUNTY OF LEA

I, JAN FLETCHER, THE DULY APPOINTED AND ACTING CITY CLERK OF THE CITY OF HOBBS, LEA COUNTY, NEW MEXICO, DO HEREBY CERTIFY THAT THE FOREGOING PLAT OF "SUMMARY SUBDIVISION TO CREATE TRACTS C-6, C-7 AND C-8 AND SUMMARY REPLAT OF TRACTS C-2 AND C-3" WAS APPROVED BY THE COMMISSION OF THE CITY OF HOBBS BY RESOLUTION No. \_\_\_\_\_ ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2019 A.D.

JAN FLETCHER, CITY CLERK



Scale: One Inch = Fifty Feet  
CAD Drafter & Date: DSS - 07/31/19  
JWSC W.O. No.: 19.11.0607  
JWSC File No.: E-3541

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STATE OF NEW MEXICO  
COUNTY OF LEA - FILED.

# Excerpts from MC

## Title 16

### Chapter 16.12 **ALTERNATE SUMMARY PROCEDURE**

#### **16.12.010 Eligible subdivisions.**

B. The land shall abut on a public street or streets of adequate width and is so situated that no additional streets, alleys, easements for utilities or other public property are required; or if required to conform to other public streets, alleys or other public ways and such additional property is shown on the plat as "Herein Dedicated", or if within the extraterritorial jurisdiction those public ways required being conveyed as a surface and sub-surface easement.

#### **16.12.030 Approval procedure.**

A. The City Manager's designated representative is authorized to approve subdivisions meeting the conditions of this section and conforming to the provisions of this chapter and shall, within ten (10) days of final submittal of all requested information, accept the proposed subdivision or send a written rejection detailing the reason for the rejection. Any municipal infrastructures serving the subdivision shall be completed or adequate surety provided prior to receiving final approval.

B. The subdivider or the City Manager's designated representative may choose to have the subdivision reviewed by the Planning Board under the standard procedures if difficulties or unusual circumstances exist.

#### **16.16.050 Lots.**

(E) Access to Existing Public Streets. The subdividing of the land shall be such as to provide, by means of a public street, and each lot shall be provided with a thirty-five (35) feet minimum access to an existing public street. Minimum access width for each lot fronting a cul-de-sac shall be thirty (30) feet minimum measured on the property line to the curb line, and a thirty-five (35) feet minimum width measured at the building setback line. Each "flag" lot, defined herein as a parcel of land accessible only by an extension of land connecting a public access street to the building site area of the parcel, shall have a minimum continuous access width of thirty-five (35) feet. Access shall mean a contiguous and continuous direct property boundary connecting to the public street.

#### **16.04.020 Variances and modifications.**

A. Hardships. Where the Planning Board finds that extraordinary hardships may result from strict compliance with this title, it may vary the regulations contained in this title, so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of such regulations.



**September 17, 2019**  
**Planning Board Regular Meeting**

- 8) **Review and Consider proposed Development Agreement with Yes Housing, Inc., a Non Profit NM Corporation, concerning the development of property located SW of the intersection of Navajo and Dal Paso.**

## **DEVELOPMENT AGREEMENT**

**By and between the  
City of Hobbs, New Mexico  
a municipal corporation,**

**and**

**Yes Housing, Inc.  
901 Pennsylvania St. NE  
Albuquerque, NM, 87110**

\_\_\_\_\_, 2019

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## DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2019, by and between the City of Hobbs, New Mexico, a municipal corporation, (hereinafter "City") and Yes Housing, Inc., a Non Profit New Mexico Corporation, (hereinafter "Developer"). City and Developer are sometimes hereinafter referred to collectively as "the Parties" and individually as "a Party."

### RECITALS

WHEREAS, the City amended Municipal Code Chapter 3.14 by adopting Ordinance #1050 on December 5, 2011 allowing a local contribution to developers providing for the affordable housing needs of working families; and

WHEREAS, the City has adopted a Resolution adopted February 4, 2019, Resolution #6759, appropriating \$1,570,000 to the Developer project; and

WHEREAS, the Development (defined below) includes a mixed income, affordable rental project located at 3600 Skyview Street, located within the corporate limits of the City; and

WHEREAS, the Developer has received an allocation of Low-Income Housing Tax Credits ("LIHTC") (the "Tax Credit Award") from the New Mexico Mortgage Finance Authority (hereinafter "MFA") which will fund a significant portion of the overall cost of the Project; and

WHEREAS, the Developer has the necessary construction, and marketing expertise to develop and market the Development; and

WHEREAS, the Developer has formed Skyview Terrace Apartments Limited Partnership, LLLP, a New Mexico limited liability limited partnership (the "Partnership") to develop, own and operate the Project. The Developer, through its wholly owned subsidiary, YES Skyview Terrace, LLC, will serve as general partner of the Partnership. The obligations of the "Developer" under this Agreement will be assigned to, and assumed by, the Partnership prior to or at the time of the closing of the City Loan described hereunder.

NOW, THEREFORE, and in consideration of the premises and the mutual covenants hereinafter, set forth, the Parties formally covenant and agree as follows:

### ARTICLE I

#### Definitions

Section 1.1 The Definitions in the City's Municipal Code Chapter 3.14, if any, as they exist at the time of the execution of this Agreement or as amended during the term of this Agreement are adopted by reference and incorporated herein as though set forth in full in this paragraph.



## ARTICLE II

### Project Purpose and Description

Section 2.1 Purpose of Project. The purpose of the Project is to develop an affordable, mixed income, rental housing development. Populations to be served will range from the very low income to moderate income tenants. Rents shall be restricted for Low to Moderate households.

Section 2.2 Project Term. The development of the Project and the provision of the Affordable Housing Units (as defined below) shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement but, in any event, the obligation to provide the Affordable Housing Units required hereunder shall be continued for thirty five (35) years from the completion of the Project ("Affordability Period").

Section 2.3. Project Description. The Project named Skyview Terrace is located at 3600 Skyview Street, as legally described in Exhibit A. The community will consist of 12 one-bedroom units, 44 two-bedroom units, 16 three-bedroom units, and a community building. The site will be sustainable, provide for efficient use of water and energy, and keep the community healthy for residents. All units in this development will have rents at or below 80% of AMI, and be compliant with the affordability requirements of the New Mexico Mortgage Finance Authority Low Income Housing Tax Credit Allocation.

## ARTICLE III

### Funds Committed to the Project

Section 3.1 Description of City Loan. To assist with the Development, the City shall lend to the Developer an amount not to exceed One Million Five Hundred Seventy Thousand Dollars and Zero Cents (\$1,570,000.00) of Municipal Funds (the "Funds") subject to the terms and conditions contained herein. Funds loaned to the Developer will be evidenced by a City Note in the form attached as Exhibit B. The Developer shall loan the Funds to the Partnership, which loan will be evidenced by a Promissory Note (the "YES Note") and secured by a Mortgage, Assignment of Rents and Security Agreement (the "YES Mortgage") on the Project. The City acknowledges that, except as otherwise provided in the Collateral Assignment described below, the Developer shall have the right to retain all amounts repaid to Developer by the Partnership in repayment of the Loan. Notwithstanding anything in the Development Agreement to the contrary, the YES Note is not forgivable and requires payment in full by the maturity date stated therein. In order to ensure that the terms of the Development Agreement are met, the Developer and the Partnership shall execute the Restrictive Real Estate Covenants attached as Exhibit C. The Funds proceeds shall be subject to repayment, without interest, to the City by the Developer or the Partnership in the event of an uncured violation of the Restrictive Real Estate Covenants or the Development Agreement (the "City Repayment Obligation"). The City Repayment Obligation shall be secured by a collateral assignment of the YES Note and the YES Mortgage to the City (the "Collateral Assignment").

Section 3.2 Project Budget. The Project Budget is attached in Exhibit F.

Section 3.3 Other Loans/Subsidies. Other loans and subsidies, if applicable, are listed on the attached Exhibit F and incorporated herein as though set forth in full in this paragraph. Without the prior knowledge and written approval of the City, the Developer shall not encumber either the Project or the Developer as a whole with obligations which could impede the success of the Project.

Section 3.4 Tax Credits. Tax Credits are listed on the attached Exhibit F and incorporated herein as though set forth in full in this paragraph.

## ARTICLE IV

### Commencement and Completion of the Project

Section 4.1 Agreement to Construct and Complete the Project. Developer agrees that:

A. It shall construct the Project in accordance with the Plans, Specifications and Elevations (the "Plans") prepared by Developer, including any and all supplements, amendments and additions or deletions thereon or therein, as approved by the City.

B. It shall construct the Project with all reasonable dispatch and according to the Development Schedule attached as Exhibit G. An updated Development Schedule shall be provided within sixty (60) days after execution of the Agreement and shall be provided as part of the subsequent quarterly reports.

C. Developer, through the Partnership, shall have sole responsibility for construction of the Project and shall perform the responsibilities by itself or through affiliates, agents, contractors, subcontractors or others selected by it in whatever lawful manner it deems necessary or advisable provided it is in conformance with all applicable funding sources. Developer shall procure from the appropriate state, county, municipal and other authorities and corporations appropriate building permits and certificates of occupancy, connection arrangements for the supply of water, electricity and other utilities and discharge of sewage and industrial waste disposal for the operation of the Project.

Section 4.2 Establishment of Completion Date.

A. The Developer shall complete the construction of the Project no later than December 31, 2021.

B. The completion date shall be evidenced to the City by a permanent Certificate(s) of Occupancy issued by the City; (ii) if applicable, a certificate of completion and acceptance by the City accepting public infrastructure required to be constructed; and (iii) release of liens by contractors, subcontractors and suppliers employed in the Project. Such documents shall be delivered to the City promptly but not later than thirty (30) days after the completion of the Project, unless an extension of such date has been agreed to in writing by the parties to this Agreement. Notwithstanding the foregoing, such certificates of occupancy shall be given without prejudice to any rights of the City against any third party existing at the date of such documents or which may subsequently come into being.

C. City may conduct inspections of the Project during normal business hours after giving reasonable notice

to Developer. Notwithstanding the above, Developer shall arrange for a Project walk through within five (5) days after substantial completion of the Project with the Developer's Authorized Representative, City's Authorized Representative, Construction Contractor and Independent Architect/Engineer.

Section 4.3 Developer to Pursue Remedies Against Contractor and Subcontractors and their Sureties. In the event of default of any contractor or subcontractor under any contract made in connection with the Project, Developer shall promptly precede either separately or in conjunction with others to exhaust any remedies against the contractor or subcontractor so in default and against each surety for the performance of such contractor or subcontractor. Developer may prosecute or defend any action or proceeding or take other action involving such contractor or subcontractor or surety or other guarantor or indemnitee which Developer deems reasonably necessary.

## ARTICLE V

### Plans and Financing.

Section 5.1 Project Plans. The Developer shall submit one complete set of the Plans, Specifications and Elevations for the Project to the City. The City shall review and approve the proposed Plans, Specifications and Elevations prior to the commencement of any construction work pursuant hereto. In a case of material change, the Authorized Developer Representative shall certify to the City that such revised Plans, Specifications and Elevations (not to be confused with plans for building permits) will not materially affect the purpose of the Project as a 'livable' affordable housing project, provided that no such material change shall be made without the prior written consent of the City.

Section 5.2 Construction Financing. The Developer shall submit, or cause to be submitted to the City evidence of the Tax Credit Award and commitments to the Developer to provide the balance of all construction financing for this Project. In the event that the Developer does not receive the Tax Credit Award, this Agreement shall terminate and the City shall have no obligation to loan the Funds.

## ARTICLE VI

### Usage and Documentation of City Funds

Section 6.1 Use of Loan Proceeds, Repayment, Discharge. The City Funds shall be an amount not greater than ONE MILLION FIVE HUNDRED SEVENTY THOUSAND DOLLARS AND NO CENTS (\$1,570,000.00), which includes all City funds allocated for this Project, and shall be used for the development and construction of the Project. The City Funds shall be repayable to the City by the Developer in accordance with the terms and conditions of this Agreement.

Section 6.2 Disbursement of City Loan Proceeds Authorized Under This Agreement. The City Loan authorized under this Agreement in the amount of ONE MILLION FIVE HUNDRED SEVENTY THOUSAND DOLLARS (\$1,570,000.00) shall be disbursed to the Developer, which funds will be loaned by the Developer to the Partnership, to pay actual costs incurred by the Partnership for purposes authorized under this Agreement and per the project budget attached hereto and incorporated herein as Exhibit F.

A. In addition to any other requirements herein, the City Funds shall only be disbursed in the event Developer meets the criteria set forth herein.

B. Developer agrees to provide City with a Request for City Loan Disbursement, in a form acceptable to City and, not less than ten (10) days prior to distribution date.

C. Plans and Specifications. Developer shall submit one complete set of the Plans and Specifications for the units to the City. The City shall review and approve the proposed Plans and Specifications prior to the commencement of any construction work pursuant hereto. In a case of material change, the Authorized Development Representative shall certify to the City that such revised Plans and Specifications will not materially affect the purpose of the development Project as set forth herein, provided that no such material change shall be made without the prior written consent of the City.

Section 6.3 Loan Documentation. Developer shall execute and deliver the City Note to the City in order to evidence the obligation to repay to the City the City Loan.

Section 6.4 Subordination and Release. The YES Mortgage shall be subject to and subordinate to any mortgage or bond securing the Construction Loan(s) and the initial Permanent Loan(s), and the New Mexico Mortgage Finance Authority Mortgage and Land Use Restriction Agreement, and City shall execute documents as may be necessary to effectuate such subordination. City acknowledges and agrees that (a) the YES Mortgage and YES Note will be subject to the terms and provisions of a Subordination Agreement (the "Subordination Agreement") with Wells Fargo Bank, N.A. ("Senior Lender"), which, among other things, will subordinate the YES Mortgage to the lien, terms and provisions of the mortgage in favor of Senior Lender; (b) the assignment of the YES Mortgage and the YES Note by Developer to the City will include the assignment of the Subordination Agreement and; (c) the City agrees to be bound by the terms of the Subordination Agreement.

## ARTICLE VII

### Warranties and Obligations

Section 7.1 Warranties and Obligations by the City. The City makes the following warranties as the basis for the undertakings on its part contained herein.

A. The City is a municipal corporation organized and existing under and pursuant to the laws of the State of New Mexico and is authorized by the Act to provide financing for, acquire, construct, own, lease, rehabilitate, improve, sell and otherwise assist projects for the purpose of providing adequate residential housing including residential housing for individuals and families of low and moderate income by inducing private enterprise to locate, develop and expand such residential housing facilities in the City.

Section 7.2 Warranties and Obligations by Developer. Developer makes the following warranties as the basis for the undertakings on its part herein contained.

A. Developer is a New Mexico non-profit Corporation duly organized and validly existing as such under the laws of the State of New Mexico with authority to perform the transactions set forth herein, has the power to enter into this Agreement and by proper action has duly authorized the execution and delivery of this Agreement.

B. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the compliance with the terms and conditions of this Agreement violate or will violate the terms of Developer's Articles of Incorporation or Bylaws or conflict with or result in a breach of any of the terms, conditions or provisions of any corporate restriction or any agreement or any instrument to which Developer is now a party or by which it is bound or constitutes or will constitute a default under any of the foregoing or will result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the Real Property or assets of Developer under the terms of any instrument or agreement.

C. There are no pending or threatened legal or administrative proceedings against Developer or affecting the Project which, if determined adversely, would have a material adverse effect on Developer or the Project.

D. The Real Property shall be used for the development of the Project.

E. The Restrictive Real Estate Covenants attached hereto as Exhibit C will be binding on the Project and the Developer who shall comply therewith.

F. The Developer shall comply with the following provisions including, but not limited, to:

1. Requirements of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (49 CFR Part

24) and Section 104(d) of the Housing and Community Development Act of 1974.

2. Regulations of the Uniform Administrative Requirements as described in 24 CFR Part 92.505.
3. Federal laws and regulations as described in 24 CFR Part 92, Subpart E.
4. Maintain accurate records which document and verify affirmative marketing efforts.

G. None of the units in the Project shall at any time be utilized on a transient basis; and none of the Project nor any portion thereof shall ever be used as a hotel, motel dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park.

H. At all times material hereto, the Project shall comply in all material respects with all applicable municipal codes, planning ordinances, building codes, Federal Model Energy Code, flood regulations, environmental laws, ordinances, statutes, rules and regulations relating to the Project.

I. Developer shall not, during the term of this Agreement, amend or change its Bylaws or Articles of Incorporation in any manner if such amendment or change would result in a conflict with the terms of this Agreement.

J. The Developer shall comply with the provisions of, and act in accordance with, all federal laws, rules and regulations, and Executive Orders related to equal employment opportunity, affirmative action, equal access to programs and services, and the enforcement of Civil Rights, including, but not limited to, Section 3 of the Housing and Urban Development Act of 1968, Sections 103 and 109 of the Housing and Community Development Act of 1974, as amended, Title VI and Title VII of the Civil Rights Act of 1964, as amended, Title VIII of the Civil Rights Act of 1968, Sections 502, 503, 504 and 505 of the Rehabilitation Act of 1973, Equal Pay Act of 1963, Age Discrimination in Employment Act of 1967, as amended, the Vietnam Era Veterans Readjustment Act of 1974, the 1986 U.S. Immigration Reform and Control Act, Americans With Disabilities Act of 1990, Executive Order 11063 of 1962 and Executive Order 11246 of 1965, as amended, and the Nontraditional Employment for Women Act of 1991; the New Mexico Human Rights Act and the Albuquerque Human Rights Ordinance, and as well as all rules and regulations pertaining to each such statute or ordinance; and will not discriminate against any person or applicant because of race, color, religion, sex, age, family status, national origin or ancestry, physical or mental handicap, sexual orientation, gender identity, disability, or Vietnam-era or disabled veteran status, and will make reasonable accommodation to the known physical or mental handicap or disability of an otherwise qualified applicant for tenancy.

K. Required Assurances: During the performance of this Agreement, the Developer agrees as follows:

1. Compliance with Civil Rights Laws and Executive Orders:

a. The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual preference, sexual orientation, age, national origin or ancestry, physical or mental handicap, disability, or Vietnam era or disabled veteran status.



b. The Developer will make reasonable accommodation to the known physical or mental handicap or disability of an otherwise qualified employee or applicant for employment.

c. The Developer will ensure and maintain a working environment free of sexual harassment and other unlawful forms of harassment, intimidation, and coercion in all facilities at which the Developer's employees are assigned to work.

d. The Developer will in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration of employment without regard to race, color, religion, gender, sexual preference, sexual orientation, age, national origin or ancestry, or physical or mental handicap or disability.

L. The Developer shall comply with all applicable provisions of the Act including, but not limited to:

1. Provide the City with an approved schedule of activities from the date of acquisition of the Real Property through completion of construction of the Project

2. Requirements of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) and Section 104(d) of the Housing and Community Development Act of 1974.

3. Regulations of the Uniform Administrative Requirements as described in 24 CFR Part 92.505.

4. Federal laws and regulations as described in 24 CFR Part 92, Subpart E.

5. Federal laws and regulations as described in 24 CFR Part 92, Subpart F.

6. Federal laws and regulations as described in 24 CFR Part 92, Subpart H.

7. Federal laws and regulations as described in 24 CFR Part 893.6(b).

8. Adhere to all applicable labor provisions outlined in 24 CFR 92.354.

M. The Plans and Specification for the construction of the Project shall be reviewed by the City.

N. At no time are the units in the Project to be utilized on a transient basis; and none of the Project nor any portion thereof shall ever be used as a hotel, motel dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park.

O. The provisions contained herein shall be binding on the successors and assigns of Developer.

P. At all times material hereto, the Project shall comply in all material respects with all applicable municipal codes, planning ordinances, building codes, Federal Model Energy Code, flood regulations, environmental laws, ordinances, statutes, rules and regulations relating to the Project.

Q. Developer shall have sole responsibility for construction of the units and may perform the same by itself or through affiliates, agents, contractors, subcontractors or others selected by it in whatever lawful manner it deems necessary or advisable provided it is in conformance with the terms of this Agreement. Developer shall procure from the appropriate state, county, municipal and other authorities and corporations appropriate building permits and certificates of occupancy, connection arrangements for the supply of gas, water, electricity and other utilities and discharge of sewage and industrial waste disposal for the operation of the units.

R. Developer shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry or physical handicap.

## ARTICLE VIII

### Monitoring /Reports Required

Section 8.1 The Developer shall report, in writing, at least quarterly during the construction and lease-up phases of the Project. The quarterly report shall include the progress of construction as a percentage complete, construction funds expended with remaining balance, and number of units completed.

Section 8.2 The Developer shall comply with all applicable monitoring provisions of the New Mexico Mortgage Authority as determined by the NMMFA.

## Article IX

### **Fees, Taxes, Insurance and Other Amounts Payable**

Section 9.1 Payment. Fees and Other Amounts Payable. Developer shall promptly pay or cause to be paid, as the same become due, all governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project or any interest therein or other property constructed, installed or bought by Developer therein or thereon which, if not paid, will become a lien on the Real Property prior to or on a parity with the City Mortgage including all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project, provided that with respect to governmental charges that may lawfully be paid in installments over a period of years, Developer shall be obligated to pay only such installments as are required to be paid during the term of this Agreement when due. Developer may, in good faith, contest any such charges and in the event of any such contest may permit the charges so contested to remain unpaid during the period of such a contest and any appeal therefrom, provided that during such period, enforcement of any such contested item shall be effectively stayed. If Developer shall fail to pay any of the foregoing items required herein to be paid by Developer, the City may (but shall be under no obligation to) pay the same and any amounts so advanced therefore by the City shall become an additional obligation of Developer to the City, which amounts, together with interest thereon at

statutory judgment interest rate from the date thereof, Developer agrees to pay on demand. Any such amounts so advanced by the City shall be secured by the City Mortgage.

Section 9.2 Payments Required. The obligations of Developer to make the payments required in Section 9.1 hereof and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional without offset or counterclaim for claims against the City or any other party.

Section 9.3 Maintenance of Project. Developer agrees that, during the term of this Agreement, it shall, at its own expense, keep, or cause to be kept, the Project in as reasonably safe condition as its operations shall permit and keep the buildings and all other improvements forming a part of the Project in good repair and in good operating condition making, from time to time, all necessary repairs thereto and renewals and replacements thereof. Any tangible property purchased or installed with proceeds from the City Funds or Loans or received in exchange for tangible property purchased or installed with proceeds from the City Funds or Loans shall become a part of the Project and the Real Property thereof. Developer shall not permit any mechanic's lien, security interest, or other encumbrance to be established or to remain against the Project for labor or materials furnished in connection with the construction or installation of the Project or any additions, modifications, improvements, repairs, renewals or replacements made by it, provided that if Developer shall notify the City of its intention to do so, Developer may, in good faith, contest any mechanic's or other liens filed or established against the Project and such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless Developer determines or the City shall notify Developer that, in the opinion of the City, by non-payment of any such items, the City Mortgage as to any part of the Project shall be materially endangered or the Project or any part thereof shall be subject to loss or forfeiture in which event the Developer shall promptly pay and cause to be satisfied and discharged all such unpaid items.

Section 9.4 Insurance Required. During the construction period and throughout the term of this Agreement, Developer itself through its contractors, subcontractors or agents shall keep the Project insured against loss or damage by maintaining policies of insurance and by paying, as the same become due and payable, all premiums with respect thereto including but not necessarily limited to the following coverage:

A. **COMPREHENSIVE GENERAL LIABILITY INSURANCE.** Developer shall obtain comprehensive general liability insurance, including automobile insurance, with liability limits in amounts not less than \$1,000,000 aggregate limit of liability for bodily injury, including death, and property damage in any one occurrence. Said policies of insurance must include coverage for all operations performed on or about the Project, including coverage for collapse, explosion and underground liability coverage, coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off the Project site and contractual liability coverage which shall specifically insure the indemnification provisions of this Agreement. The above requirement shall include but shall not be limited to protection against damage or destruction of public and private property, including telephone conduit, telegraph conduit, power conduit, telephone signal cables, fiber optics cables, television cables, computer cables, fire alarm circuits, gas mains, water service connections, sanitary sewer, sewer, house or building connections, water mains, water service connections, steam lines, petroleum products pipelines, storm drains, storm inlet lines including all appurtenances thereto while located below the surface of the ground including injury or death to person or persons caused by Developer's operations including blasting and trenching, backfilling, tamping, with or without the use of mechanical equipment, and the collapse of or structural damage to a building, house or structure including power, telephone, telegraph, fire alarm, street light poles, curb, gutter and sidewalk on public or private property and destruction of or damage to other public or private property resulting therefrom including injury or death to person or persons and all causes by Developer's operations in the removal of other building structures including their supports, trees and utility poles or by excavation including blasting and trenching, backfilling, tamping with or without use of mechanical equipment. Other public and private property as used above shall include but not be limited to lawns, plants, flowers, trees, fences, yards, walls.

B. WORKER'S COMPENSATION INSURANCE. Developer shall comply with the provisions of the Worker's Compensation Act, the Subsequent Injury Act and the New Mexico Occupational Disease Disablement Law. Developer shall procure and, maintain, during the life of the Project complete Worker's and Employer's Liability Insurance in accordance with New Mexico law and regulations. Such insurance shall include coverage permitted under NMSA 1978, §52-1-10 for safety devices. With respect to worker's compensation insurance, if Developer elects to be self-insured, it shall comply with the applicable requirements of law. If any portion of the construction of the Project is to be subcontracted or sublet, Developer shall require the contractor and subcontractor to similarly provide such coverage (or qualify as self-insured) for all latter's employees to be engaged in such work. It is agreed with respect to all worker's compensation insurance, Developer and its surety shall waive any right of subrogation they may acquire against the City, its officers, agents and employees by reason of any payment made on account of injury, including death, resulting therefrom sustained by any employee of the insured arising out of performance of this Agreement. Neither the Developer nor its employees are considered to be employees of the City of Albuquerque for any purpose whatsoever. The Developer is considered to be an independent contractor at all times in the performance of this Agreement. The Developer further agrees that neither it nor its employees are entitled to any benefits from the City under the provisions of the Worker's Compensation Act of the State of New Mexico, nor to any of the benefits granted to employees of the City under the provisions of the Merit System Ordinance as now enacted or hereafter amended.

C. BUILDER'S RISK INSURANCE. Developer shall procure and maintain, until completion of the construction, builder's risk, vandalism and malicious mischief insurance. Alternatively, Developer shall procure and maintain insurance against loss or damage to the Project by fire, lightning, vandalism, and malicious mischief with the uniform extended coverage endorsement limited only as may be provided in the standard form or extended coverage endorsement at the time in use by the State of New Mexico to provide for not less than 90% recovery of the market value of the buildings and other improvements but in any event no less than the cost of fully paying the City Note.

D. INCREASED LIMITS: The City may require Developer to reasonably increase the maximum limits of any insurance required herein and Developer shall promptly comply.

E. PROOF OF INSURANCE: Prior to any funding and during the term of this Agreement, not less than once each year, on or before May 31, Developer shall provide to the City without demand, or more frequently upon demand, proof of all required insurance coverages.

Section 9.5 Performance. Payment and Other Bonds. Developer or Contractor shall furnish or cause to be furnished, performance and payment bonds, or other security such as an irrevocable letter of credit, acceptable to the City, as security for the faithful performance and payment of all its obligations pursuant to the construction of the Project. These bonds shall be in amounts at least equal to the amount of the City Note and in such form and with such sureties as are licensed to conduct business in the State of New Mexico and are named in the current list of surety companies acceptable on federal bonds as published in the Federal Register by the Audit Staff of Accounts, U. S. Treasury Department. The performance bond shall also include coverage for any guaranty period provided by the contractor. The surety on the performance bond shall furnish a waiver whereby it consents to the progress or partial payment to any contractor of amounts for materials and acknowledges that such payment shall not preclude enforcement of such remedied as may be available against such surety. Developer shall cause the City to be named a joint obligee on such bonds. If the surety on any bond furnished by Developer is declared bankrupt or becomes insolvent or its right to do business in the State of New Mexico is revoked, Developer shall substitute or cause to be substituted another bond and surety within ten (10) days thereafter. The Developer may furnish an irrevocable letter

or letters of credit in form satisfactory to the City as an alternative to the performance, payment bonds specified above. Any such letter must be drawn against a New Mexico institution whose deposits are federally insured and shall be payable exclusively to the City on demand.

Section 9.6 Application of Net Proceeds of Insurance. The Net Proceeds of builder's risk insurance and of fire and other hazard and casualty insurance, carried pursuant to the provisions of this Agreement hereof, shall be applied as provided in this Agreement and the Net Proceeds of liability insurance carried pursuant to the provisions of this Agreement hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds have been paid. The net proceeds of the bonds provided pursuant to this Agreement shall be applied to curing the defect in performance or payment.

Section 9.7 Additional Provisions Respecting Insurance. All insurance required to be taken out by Developer pursuant to this Agreement shall be taken out and maintained in generally recognized responsible insurance companies authorized to do business in the state of New Mexico selected by Developer. All applicable policies evidencing such insurance shall name both the City and Developer as named insured and the City shall be named as loss payee as to the City's mortgages under the builder's risk and property insurance required by this Agreement. An original or duplicate copy of the insurance policies providing the coverage required by Section 6 hereof shall be deposited with the City. Prior to expiration or exchange of such policy, Developer shall furnish the City evidence satisfactory to the City that the policy has been renewed or replaced or is no longer required by this Agreement. All policies required hereunder shall provide that the City shall be given thirty (30) days prior written notice of cancellation, non-renewal or material alteration of coverage. Provisions that the insurance company shall "endeavor to give the City notice" shall not be allowed.

Section 9.8 Advances by City. If Developer shall fail to maintain the full insurance coverage required by this Agreement or shall fail to keep the Project in as reasonably safe condition as its operating condition shall permit or shall fail to keep the buildings in good repair and good operating condition, the City may, but shall be under no obligation to, obtain the required policies of insurance and pay the premiums on the same or make the required repairs, renewals and replacements and all amounts so advanced therefore by the City shall become an additional obligation of Developer to the City which amounts, together with any interest thereon at the statutory judgment interest rate thereof, Developer agrees to pay on demand. Any such amounts advanced by the City shall be secured by the City Mortgage and shall be paid upon demand by the City.

## **ARTICLE X**

### **Damage, Destruction and Condemnation**

Section 10.1 Damage, Destruction, and Condemnation. In the event the Project is destroyed or damaged, in whole or in part, by fire, or other casualty or title to or the temporary use of the Project or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or any person, firm or corporation, acting under governmental authority, Developer shall have the right to use the net proceeds of insurance or from any award made in such eminent domain proceedings to be applied to the restoration of the buildings and other improvements located on the Real Property to substantially the same conditions as existed prior to the casualty causing the damage or destruction or the exercise of eminent domain; provided that such proceeds are sufficient to rebuild the Project or if such proceeds are insufficient, then Developer shall fund any deficiency.

Section 10.2 Partial Damage, Destruction, and Condemnation If the casualty or condemnation affects only part of the

Project and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the City Loan, in a manner that provides adequate security to the City for repayment of the remaining balance of the City Loan. In the event City and Developer cannot agree on the approach to take, City shall make the final decision and Developer agrees to be bound by that decision. In the event of any conflicts between the terms of mortgages encumbering the Project regarding the application of casualty proceeds or condemnation proceeds, the terms of the mortgages shall control in the order of their priority.

## **ARTICLE XI**

### **Special Covenants**

Section 11.1 City's Right of Access to the Project. Developer agrees that the City and any of its duly authorized agents shall have the right at all reasonable times, and subject to the rights of the tenants to enter upon and examine and inspect the Project provided that any such inspections shall be conducted in a manner that will minimize any intrusion on the operations of the Project.

Section 11.2 Good Standing. Developer warrants and represents that it has executed, filed and recorded all certificates and other documents and has done and shall continue to do throughout the term of this Agreement such other acts as may be necessary or appropriate to comply with all applicable requirements for the formation, qualification and operation of a limited liability company and the operation and ownership of the Project under the laws of the State of New Mexico.

Section 11.3 Granting of Easements. If no Event of Default under this Agreement shall then be continuing, Developer may at any time grant easements, licenses, rights-of-way including the dedication of public roads, streets or highways, and other rights or privileges in the nature of easements with respect to any Real Property included in the Project, consistent with the purposes of the Project, free from the lien of the City Mortgage or Developer may release existing easements, licenses, rights-of-way and other rights or privileges with or without consideration subject to review and approval by the City. Developer shall furnish to the City a survey showing such easement, license or right-of-way, a copy of the instrument of grant and a certificate executed by a duly Authorized Developer Representative stating that such grant or release is not detrimental to the proper conduct of the business of Developer and that such grant or release shall not impair the effective use of market value or interfere with the effective operation of the Project.

Section 11.4 Release and Indemnification Agreement. Developer releases the City from, and covenants and agrees that the City shall not be liable to the Developer for any loss or damage to property or any injury to or death of any person or persons occasioned by any cause whatsoever pertaining to the Project or the use thereof.

Developer shall defend, indemnify and hold harmless the City from any loss, claim, damage, acts, penalty, liability, disbursement, litigation expense, attorney's fees and expense or court costs arising out of or in any way relating to this Agreement, the City Mortgage, the City Note or any other cause whatsoever pertaining to the Project, subject to the limitations found in NMSA 1978 § 56-7-1. The City shall promptly, after receipt of notice of the existence of a claim in respect of which indemnity hereunder shall be sought or of the commencement of any action against the City in respect of which indemnity hereunder may be sought, notify Developer in writing of the existence of such claim or commencement of such action. This section shall not apply to the negligent act or failure to act of the City or of its officials, employees and agents.

**This indemnification agreement shall survive the term or termination of this Agreement.**

Section 11.5 Sale, Assignment or Encumbrance of Project. Except as otherwise expressly permitted herein including the financing referenced in Exhibit F or in the YES Mortgage, the Partnership shall not sell, assign, dispose of, mortgage or in any way encumber the Project or any part thereof without the prior written consent of the City. Any conveyance of the Project during the term of this Agreement shall incorporate the covenants found in Exhibit C and agreements contained herein.

Section 11.6 Exceptions. Notwithstanding the foregoing, the following shall not constitute a sale or conveyance, cause a default under this Agreement, or cause an acceleration of the City Loan: (A) the withdrawal, removal, and/or replacement of the General Partner of the Partnership pursuant to the terms of the Partnership Agreement of the Partnership, provided that any required substitute General Partner is reasonably acceptable to the City; (B) an admission of a Limited Partner into the Partnership, or a transfer of a Limited Partner's interest in the Partnership; (C) the execution and delivery of a purchase option and right of first refusal agreement (the "Option"), as described in the Partnership Agreement of the Partnership; and (D) the exercise of the Option by the project sponsor identified therein.

The City's consent to (a) the exercise of the Option by the project sponsor identified therein shall not be unreasonably withheld.

Section 11.7 Authority of Authorized City Representative. Whenever, under the provisions of this Agreement, the approval of the City is required or Developer is required to take some action at the request of the City, such approval or such request shall be made by the Authorized City Representative unless otherwise specified in this Agreement and Developer shall be authorized to act on any such approval or request.

Section 11.8 Authority of Authorized Developer Representative. The Developer represents and warrants to the City that the Authorized Developer Representative is empowered to take all actions contemplated herein and that reliance by the City on the authority of the Authorized Developer Representative shall not give rise to a complaint against the City as a result of any action taken by the City.

Section 11.9 Financial Statement of Developer. During the term of this Agreement, Developer agrees to furnish the City a copy of its audited annual financial statements at least annually within ninety (90) days of the end of the Developer's fiscal year.

## ARTICLE XII

### Events of Default Defined and Remedies Upon Default



Section 12.1 Events of Default Defined. The following shall be "material events of Default" under this Agreement, also referred to as "Events of Default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

A. Failure by Developer to pay within fifteen (15) days of the receipt of notice of monies due any amount required to be paid pursuant to the City Note.

B. Failure by Developer to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, for a period of thirty (30) days after written notice from City to Developer specifying such failure and requesting that it be remedied. Provided, however, if the default in question is not reasonably susceptible to cure within such thirty (30) day period Developer shall not be in default if, within such ten day period, Developer notifies City that it has undertaken reasonable measures to cure the default and specifies the nature of such measures. If Developer fails to take corrective action or to cure the default within a reasonable time, the investor member of the Developer may remove and replace the managing member with a substitute managing member reasonably acceptable to the City who and shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions.

C. Developer agrees that as long as this Agreement is in effect, it shall maintain its existence as a New Mexico Non-Profit Corporation, shall not dissolve or otherwise dispose of all or substantially all of its assets and shall not consolidate with or merge into another entity.

D. The occurrence of an "Event of Default" under the City Note or Restrictive Real Estate Covenants.

Section 12.2 No Remedy Exclusive. No remedy herein conferred upon or reserved to the City nor any remedy conferred upon or reserved to the City pursuant to the or the City Note is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice other than such notice as may be herein expressly required.

Section 12.3 Agreement to Pay Attorneys' Fees and Expenses. If Developer defaults under any of the provisions of this Agreement or the City Note or the Restrictive Real Estate Covenants and the City employs attorneys, in house or outside, or incurs other expenses for the enforcement of performance or observance or any obligations or agreement on the part of Developer herein contained in this Agreement, the City Note or the Restrictive Real Estate Covenants, Developer agrees that it shall on demand therefore pay to the City the reasonable fees of such attorneys and such other reasonable expenses incurred by the City.

Section 12.4 No Additional Waiver Implied by One Waiver. If any agreement contained in this Agreement should be breached by any Party and thereafter waived by the Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

Section 12.5 Remedies Upon Default.

A. Upon any Event of Default ("Default") and regardless of any other notices previously provided, the City shall send a Final Notice of Default to Developer describing the Default and requiring cure within thirty (30) days from the date of the mailing or delivery of the Notice.

B. If the Default is not cured or arrangements satisfactory to the City made to cure the Default, the City may elect to (1) accelerate, impose interest and call due the City Note; and (2) sue for compensatory and consequential damages suffered by the City due to the Default as well as, if appropriate, punitive damages.

## ARTICLE XIII

### Miscellaneous

Section 13.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the City:           Authorized City Representative  
                                  Legal & Planning Department  
                                  City of Hobbs  
                                  200 E. Broadway  
                                  Hobbs, NM 88240

If to Developer:        Yes Housing, Inc.  
                                  901 Pennsylvania St, NE  
                                  Albuquerque, NM, 87110

The City and Developer may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificate or other communication shall be sent.

Section 13.2 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the City and Developer, and their respective successors and assigns, subject however to the limitations contained herein.

Section 13.3 Severability. In the event any covenant, condition or provision herein is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, such covenant, condition or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Agreement shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the City of, or the Developer in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Agreement.

Section 13.4 Amendments, Changes and Modifications. Except as otherwise provided in this Agreement or in the City Mortgage, this Agreement shall not be effectively amended, changed, modified, altered or terminated except by mutual written agreement of the Parties. The City Manager is authorized to enter into amendments to this Agreement which do not materially adversely impact the City's rights or obligations pursuant to this Agreement.

Section 13.5 Execution of Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.6 Other Instruments. Developer and the City covenant that they shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such instrument, supplemental hereto and further acts, instruments and transfers as may be required hereunder.

Section 13.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

Section 13.8 Recording. This Agreement as well as the Restrictive Real Estate Covenants and every assignment and modification thereof shall be recorded in the office of the County Clerk of Lea County New Mexico, by the Planning Department.

Section 13.9 No Pecuniary Liability of City. No provision, covenant or agreement contained in this Agreement or any obligations herein imposed upon the City or the breach thereof shall constitute an indebtedness of the City within the meaning of any constitutional provision or statutory limitations of the State of New Mexico or shall constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.

Section 13.10 Officials, Agents and Employees Not Personally Liable. No official, agent or employee of the City and no member of the City Council shall be personally liable on this Agreement.

Section 13.11 Waiver. No provisions of this Agreement shall be deemed to have been waived by either party unless such waiver is in writing, signed by the party making the waiver and addressed to the other party, nor shall any custom or practice which may evolve between the parties in the administration of the terms of this Agreement be construed to waive or lessen the right of either party to insist upon the performance of the other party in strict accordance with the terms of this Agreement. Further, the waiver by any party of a breach by the other party or any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition thereof.

Section 13.12 Gender, Singular/Plural. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

Section 13.13 Captions and Section Headings. The captions, section headings, and table of contents contained in this Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Agreement.

Section 13.14 Relationship of Contract Documents. All documents attached to this Agreement or incorporated into this Agreement are complementary, and any requirement of one contract document shall be as binding as if required by all. Any inconsistency among the various documents shall be resolved in favor of the language in this Development Agreement which, along with its amendments, if any, is deemed to be the primary document.

Section 13.15 Exhibits, Certificates, Documents Incorporated and Attachments. Incorporation by Reference: All certificates, documents, exhibits, attachments, riders, and addenda referred to in this Agreement are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

Section 13.16 Governmental Rights and Powers. Nothing in this Agreement shall be construed or interpreted as limiting, relinquishing, waiving, or defining governmental rights and the police powers of the City or abrogating the requirement of any ordinance.

Section 13.17 Cross References. References in the text of this Agreement to articles, sections, or exhibits pertain to articles, sections or exhibits of this Agreement unless otherwise specified.

Section 13.18 Time is of the Essence. Subject to the qualifications otherwise set forth herein, time is of the essence in the performance of this Agreement.

Section 13.19 Assignment and Subletting. The Developer shall not delegate, assign, sublet, mortgage or otherwise transfer, in whole or in part, any of the rights or responsibilities granted in this Agreement or the City Mortgage, the City Note and the Restrictive Real Estate Covenants without the prior written approval of the City, except that the Developer may assign such rights and responsibilities under this Agreement and such other documents to the Partnership without the consent of the City. The City has no obligation to and shall not be required to approve any assignment or other transfer of this Agreement that would result in the services required in this Agreement being performed by any other person or entity other than the Developer.

Section 13.20 No Partnership or Agency. Nothing contained in this Agreement is intended or shall be construed in any respect to create or establish any relationship other than that of the owner and contractor, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Developer the general representative or agent of City for any purpose whatsoever.

Section 13.21 Force Majeure. Except as expressly provided in this Agreement, neither City, nor Developer shall be deemed to be in default hereunder if either party is prevented from performing any of the obligations, other than payment of rental, fees and charges hereunder, by reason of strikes, boycotts, labor disputes, embargoes, shortages of energy or materials, acts of the public enemy, weather conditions and the results of acts of nature, riots, rebellion, sabotage, or any other similar circumstances for which it is not responsible or which are not within its control. After the termination of any such event of Force Majeure forbearance shall terminate, and the obligation to perform shall recommence with an appropriate and reasonable extension to any deadlines.

Section 13.22 Forum Selection. Any cause of action, claim, suit, demand, or other case or controversy arising from or related to this Agreement shall only be brought in a state district court located in Lea County, New Mexico or in a federal district court located in New Mexico. The parties irrevocably admit themselves to, and consent to, the jurisdiction of either of both said courts. The provisions of this section shall survive the termination of this Agreement.

Section 13.23 Compliance with Laws. The Developer shall comply with all applicable laws, ordinances, regulations and procedures of Federal, State, and local governments in the development, construction, maintenance and management of the Project

Section 13.24 Savings. City and Developer acknowledge and agree that they have thoroughly read this Agreement, including all exhibits thereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein. City and Developer further acknowledge that the Agreement is the result of negotiations between them and this Agreement shall not be construed against either party by reason of that party's preparation of all or part of this Agreement.

Section 13.25 Survival. All obligations, covenants and agreements contained herein which are not performed at or before the closing but which are to be performed after the closing as provided in this Agreement shall survive the closing of this transaction.

Section 13.26 Approval Required. This Agreement shall not become effective or binding until approved by the City of Hobbs Commission. The effective date of this Agreement shall be the date of the Commission's approval.

Section 13.27 Agreement Binding This Agreement and all parts contained herein shall be binding upon each party and such transferees, their successors, assigns and all parties claiming by, through or under any of them. It is further agreed that each and every conveyance of any portion of the Project shall contain the covenants specified in this Agreement and those contained in Exhibit I, Restrictive Real Estate Covenants, attached hereto.

WITNESS WHEREOF the City and Developer have caused this Agreement to be executed in their respective names and all as of the date first written above.

Developer: Yes Housing, Inc.  
a Non Profit New Mexico Corporation  
901 Pennsylvania St. NE  
Albuquerque, NM, 87110

By: \_\_\_\_\_  
Joseph R. Ortega Senior Vice President of Development

Date: \_\_\_\_\_

CITY OF HOBBS, a New Mexico municipal corporation:

\_\_\_\_\_  
Sam D. Cobb - Mayor

ATTEST:

\_\_\_\_\_  
Jan Fletcher, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael Stone, City Attorney

Legal Description

## PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned YES HOUSING, INC ("Maker") promises to pay to the order of the CITY OF HOBBS ("Holder"), a New Mexico municipal corporation, organized and existing under the Constitution and laws of the State of New Mexico and its charter, and having an office at 200 E. Broadway, Hobbs, New Mexico 88240, or its assigns, the principal sum of ONE MILLION FIVE HUNDRED SEVENTY THOUSAND DOLLARS AND NO CENTS (\$1,570,00.00), Affordable Housing Funds Loan, or so much thereof as shall have been advanced to Maker by Holder from time to time, together with all charges as provided herein and in the Mortgage, as hereinafter defined, and accrued interest on the principal balance thereof outstanding from time to time at the applicable rate of interest as hereinafter specified.

On \_\_\_\_\_, 2019, the Maker and the Holder entered into a certain Development Agreement (the "Development Agreement") which provided for the above referenced loan and grants by the Holder to the Maker of an amount not to exceed the Principal Sum of this Note. All capitalized terms used in this Note have the meaning provided in the Development Agreement.

No interest shall accrue on this Note.

The proceeds of the loan evidenced by this City Note may be assigned, with prior written City approval, to any successors, assignees or purchasers of the Project who agree in writing to assume all of the obligations of Maker, its successors and assigns under the Agreement, this City Note and the Maker shall thereupon be released from all future liability hereunder.

Except as otherwise provided in the next sentence, no payments shall be made under the Note. However, the \$1,570,000.00 shall become immediately due and payable, to the extent and if permitted by federal bankruptcy law, upon: (i) the dissolution or liquidation of the Maker prior to the permitted assignment of Maker's rights and assumption of its obligations hereunder; and (ii) Maker's uncured default in any warranty, obligation or other term, condition, of the Development Agreement.

Prepayments of all or any part of the principal balance of this City Note may be made at any time and from time to time by Maker. No premium or penalty shall be charged in connection with such prepayment.

The proceeds of this City Note shall be disbursed or applied by the Holder to or for the benefit of the Maker for the construction and development of the improvements on the Project site as provided in the Development Agreement, and for costs related thereto. Disbursements of principal hereon shall be made in accordance with the terms of the Agreement.

The Maker waives presentment for payment, protest notice of protest and notice of dishonor. The Maker consents to any number of renewals or extensions of the time of payment hereof. Any such renewals or extensions may be made without notice to Maker and without affecting its liability.



Failure to accelerate the indebtedness evidenced hereby by reason of default in the payment of an installment of principal, interest, or principal and interest, or the acceptance of a past due installment of the same, shall not be construed as a novation of this City Note or as a waiver of the right of the Holder to thereafter insist upon strict compliance with the terms of this City Note without previous notice of such intention being given to the Maker. This City Note shall not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

As used herein, the terms "Maker" and "Holder" shall be deemed to include their respective successors, legal representatives and assigns, whether voluntary by action of the parties or involuntary by operation of law. This City Note shall be construed according to the laws of the State of New Mexico.

Any and all references in the City Note to any other document or documents shall be references to such document or documents as the same may from time to time be modified, amended, renewed, consolidated or extended.

Subject to the qualification otherwise set forth herein, time is of the essence in the performance of this Note.

The representative of Maker subscribing below represents that he has full power, authority and legal right to execute and deliver this Note and that the debt evidenced hereby constitutes a valid and binding obligation of Maker.

IN WITNESS WHEREOF, the said Maker, Yes Housing, Inc. a Non Profit New Mexico Corporation, hereunto duly authorized, has caused this instrument to be executed on this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Yes Housing, Inc. a Non Profit New Mexico Corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

[illegible]

This instrument was acknowledged before me on \_\_\_\_\_, 2019,  
by \_\_\_\_\_ of Yes Housing, Inc. a Non Profit New Mexico Corporation,  
on behalf of the corporation.

---

Notary Public

My Commission Expires:

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## RESTRICTIVE REAL ESTATE COVENANTS

Made in Hobbs, New Mexico

Date \_\_\_\_\_

These Restrictive Real Estate Covenants are made by YES Housing, Inc., a Non Profit New Mexico Corporation ("Developer") and Skyview Terrace Limited Partnership, LLLP (the "Partnership") in favor of the City of Hobbs whose address is 200 E. Broadway, Hobbs, New Mexico, 88240, a municipal corporation ("City"), and shall run with the land until modified or released by the City.

1. Recitals:

A. The Partnership is the owner fee simple, and the Developer is the developer of the Project on, that certain real estate ("Real Property") in Lea County New Mexico, which is located in Hobbs, NM and whose legal description is:

B. For consideration for the assistance given by the City directly to the Developer and the Partnership , the Developer and the Partnership have agreed to restrictions on the use and rental of the Real Property.

2. Definitions

"AMI" means Area Median Income which is the annual income figure for a specific geographic area which is determined annually by the Department of Housing and Urban Development and adjusted for family size.

"Annual Income" means the anticipated total income from all sources, as defined in 24 CFR 5.609, to be received by the Family Head and spouse and each additional member of the household during a twelve month period.

"Low Income" families means households earning Family Income of 80% or less of the City's median income for the area, as determined by the U.S. Department of Housing and Urban Development.

"Very Low-Income" families means households earning Family Income of 50% or less of Median Family Income.

"Family" means one or more individuals residing in a household.

"Family Income" means the gross annual income earned or received through all sources by a Family.

"HUD" means the U. S. Department of Housing and Urban Development.

"Project" means the residential apartment development to be constructed upon the Real Property, including a flood water retention area located upon Tract Two, related on-site and off-site improvements, equipment and related rights therein.

"Special Needs" households means homeless people and/or people with physical or developmental disabilities or chronic mental illnesses as defined in HUD's Handbook 4571.2, Section 1-5, Parts A.2. and A.3.

"Utility Allowance" is the amount established by a schedule that is appropriate for a specific rent to cover the cost of utilities that are paid to the utility company as approved by the City.

### 3. Restrictive Covenants

A. Use of Property. The Real Property shall be used as and only for the Project. The Project shall consist of seventy-two (72) units; all units shall have rents at or below 80% of AMI, and shall remain compliant with affordability requirements of the NMMFA throughout the term of this covenant.

B. Income Qualifications. The Partnership shall determine the annual income of a household occupying or seeking to occupy the Affordable Units, in accordance with 24 CFR Part 5.609. The income of the household shall not exceed sixty percent (80%) of the City's Median Income for the Affordable Units.

(1) The Partnership shall determine whether the annual income of household(s) occupying or seeking to occupy the Affordable Units, exceeds the applicable income limit prior to admission of the household(s) to occupancy.

(2) The Partnership shall annually re-examine and document the income of households residing in the Affordable Units to ensure compliance with Sections B of these covenants.

C. Rent Determination. Rents charged occupants of the affordable units must not exceed 30% of the imputed income limit applicable to such unit.

1) Affordable Units continue to qualify as affordable housing despite a temporary noncompliance caused by

increases in the income of existing tenants, if actions are being taken to ensure that a vacancy is filled in accordance with B above, until the noncompliance is corrected.

2) The Partnership shall ensure that each household occupying the affordable units will have an executed lease with the Owner in compliance with 24 CFR Part 92.253.

3) Any rent increases of the affordable units must be approved in writing by the City prior to implementation. If utilities are not included in the rent, an allowance must be made using the City's established utility allowance.

5) Encumbrances. The Partnership covenants and agrees that it shall not refinance, mortgage, suffer or allow the creation of a lien, nor otherwise encumber the Real Property, without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed; however the Owner may enter into a Land Use Restriction Agreement with the New Mexico Mortgage Finance Authority without the consent of the City and the Owner may encumber the Real Property with the mortgages securing the construction and permanent financing of the Project.

6) Property Standards Requirements. The project will meet all Housing Quality Standards, or other physical property standards regulated by HUD, and local building code requirements, and allow the City to inspect the property, for the duration of this Agreement.

7) Monitoring/Reporting Requirements

a) The Partnership shall report, in writing, at least quarterly during the construction and lease-up phases of the Project. The quarterly report shall include the process of construction as a percentage complete, construction funds expended with remaining balance, and number of units completed. Following completion of construction and the lease-up of 65% of the units, income, the City, at its discretion, may require an Administrative Fee from the Partnership for the purpose of monitoring the project, if monitoring is so requested.

b) At any time during normal business hours and as often as the City and/or the appropriate funding entity may deem necessary, there shall be made available to the City for examination, all of the Owner's records with respect to all matters covered by this Agreement. The Partnership shall permit the City, at the City's expense, and/or the appropriate funding entity to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.

9) Term. The Developer's and the Partnership's obligations designated herein are to commence upon the execution of this Restrictive Real Estate Covenants by the last party to sign ("Commencement Date"), and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement but, in any event, the provision of the Affordable Units required hereunder shall be continued for forty five (45) years from the completion of the Project ("Affordability Period"). These Restrictive Real Estate Covenants shall be and constitute covenants running with the Real Property during the term of these Covenants and shall be enforceable by the City by legal and equitable action, including an action for injunctive relief.

10) The City has contributed the sum of \$1,570,000.00 Funds towards the development of the Project on the Real Property. The Funds must be repaid, without interest, to the City by the Developer in the event of a violation of the Affordable Unit obligations pursuant to these Restrictive Real Estate Covenants, by the Partnership (the "Funds Repayment Obligation") during the first thirty five (35) years of the term of these Restrictive Real Estate Covenants. The Funds, Repayment Obligation is the sole obligation of the Developer, its successors and assigns. In the event of violation

of this Restrictive Real Estate Covenant the City shall give written notice to the Developer and the Partnership, the Partnership's Tax Credit Investor, (the "Investor") and all holders of financial encumbrances against the Real Property, and these parties shall have thirty (30) days to cure the violation (or if the violation cannot reasonably be cured within thirty (30) days, then to commence to cure the violation and diligently pursue to cure the violation) before the Funds Repayment Obligation shall become due. The addresses for the Developer and the Tax Credit Investor are as follows:

Developer: YES Housing, Inc.  
901 Pennsylvania St NE  
Albuquerque, New Mexico 87110

Partnership: Skyview Terrace Limited Partnership, LLLP  
901 Pennsylvania St NE  
Albuquerque, New Mexico 87110

Limited Partner:

[REDACTED]

11) Binding Effect.

Upon execution of these Restrictive Real Estate Covenants by the Developer and the Partnership, the terms, conditions and covenants under these Restrictive Real Estate Covenants shall be binding and inure to the benefit of the parties and their representatives, successors and assigns.

12) Construction and Severability. If any parts of these Restrictive Real Estate Covenants are held to be invalid or unenforceable, the remainder of the Restrictive Real Estate Covenants will remain valid and enforceable if the remainder is reasonably capable of completion.

IN WITNESS WHEREOF, the said Developer and the Partnership hereunto duly authorized, have caused, this instrument to be executed on this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

DEVELOPER:  
Yes Housing, Inc. a Non Profit New Mexico Corporation

By: \_\_\_\_\_  
Joseph R. Ortega, Senior Vice President of Development

Its: \_\_\_\_\_

PARTNERSHIP:

Skyview Terrace Limited Partnership, LLLP, a New Mexico Limited Liability Limited Partnership

By YES Skyview Terrace, LLC, a New Mexico Limited Liability Company, General Partner

---

By YES Housing Inc., Its Manager

By: \_\_\_\_\_  
Joseph R. Ortega, Senior Vice President of Development

STATE OF NEW MEXICO    )  
                                          )  
COUNTY OF BERNALILLO )

This instrument was acknowledged before me on \_\_\_\_\_, 2019, by Joseph R. Ortega, Senior Vice President of Development of Yes Housing, Inc. a Non Profit New Mexico Corporation, on behalf of the corporation.

---

Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF NEW MEXICO    )  
                                          ) ss.  
COUNTY OF BERNALILLO )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me personally appeared JOSEPH R. ORTEGA, Senior Vice President of Development for YES Housing Inc., Manager of YES Skyview Terrace, LLC, a New Mexico limited liability company, as General Partner of Skyview Terrace Limited Partnership, LLLP, a New Mexico limited liability limited partnership.

---

Notary Public

My Commission Expires:

\_\_\_\_\_



**September 17, 2019**  
**Planning Board Regular Meeting**

- 9) **Review and Consider side yard setback variance request for an open wall carport currently under construction at 2220 N. Thomas, located southeast of the intersection of East Bender (a Major Arterial) and Thomas (a Minor Residential). The side yard setback at this location should be 10' from the property line; the proposed structure is being constructed on the side yard property line requiring a 10' variance.**



Building Inspection Department  
200 E. Broadway, Hobbs, NM 88240  
Phone (575) 391-8158



Application # 22988  
2020-0246

Building Permit Application

Application Received Date

Phone 432-258-2965

Owner Raul Navarrete Address 2220 N. Thomas

Circle One: Residential or Commercial Type: New ☐ Remodel ☐ Addition ☐ Other ☐ *please attach required plans*

Job Location 2220 N. Thomas Hobbs NM 88240  
Address City State Zip

Contractor Raul Navarrete Hobbs NM 88240 432-258-2965  
Name Address City State Zip Phone License #  
Email RNavarrete96@gmail.com

Architect or Engineer Name Address City State Zip Phone License #

Subdivision Lot Block Lot Size

Building is to be 34 ft. wide by 25 ft. long by \_\_\_\_\_ ft. in height and shall conform in construction.

Area or 850  
Volume Cubic/ Square Feet

Type VB Use Group U Basement walls or foundation Type

% of improvements	Flood Zone	Elevation Certificate Received
Subdivision Approved	Drainage Plan Approved	

Job Description: car port

Valuation \$ 15,000 Permit Fee \$ 120.00 Plan Review Fee \$ \_\_\_\_\_ Total \$ 120.00

I, Raul Navarrete as the Contractor, hereby agree to comply under this permit with all City, State and Federal codes.

Contractor's Signature Raul Navarrete Date 7-31-19



## PLANNING DIVISION

200 E. Broadway St.  
Hobbs, NM 88240

575-397-9351 bus  
575- 397-9227 fax

*City of Hobbs, New Mexico*

Raul Navarrette  
2220 N. Thomas  
Hobbs, NM 88240

**Subject:** Front Yard Setback Variance (Major Thoroughfare Plan) for 2220 N. Thomas.  
**Date:** July 29, 2019

The following Administrative Variance to the Hobbs Major Thoroughfare Plan is hereby granted at 2220 N. Thomas, to Raul Navarrette, property owner, by the City of Hobbs, New Mexico. Minimum Front Yard Setback in this location should be 21' from the property line. However, the new structure will be 5' from the property line (15' from Back of Curb) resulting in the need of a setback variance of 16' feet.

This variance allows the placement of a new **open walled structure** utilizing the above setbacks to be located at 2220 N. Thomas, pursuant to an approved site plan, based on the facts: 1) the application was properly submitted; 2) the structure is consistent with other structures within the vicinity; 3) no negative impact is associated with granting the variance; and 4) adjacent property owners were notified of the proposed variance.

This Variance is issued with the following conditions:

**Building permit must be obtained for the structure.** The entirety of the structure can be no closer than 5' to the property line (15' from BOC). To the applicant's best knowledge, there are no current deed restrictions which may affect this use at this address

Sincerely,

CITY OF HOBBS, NEW MEXICO

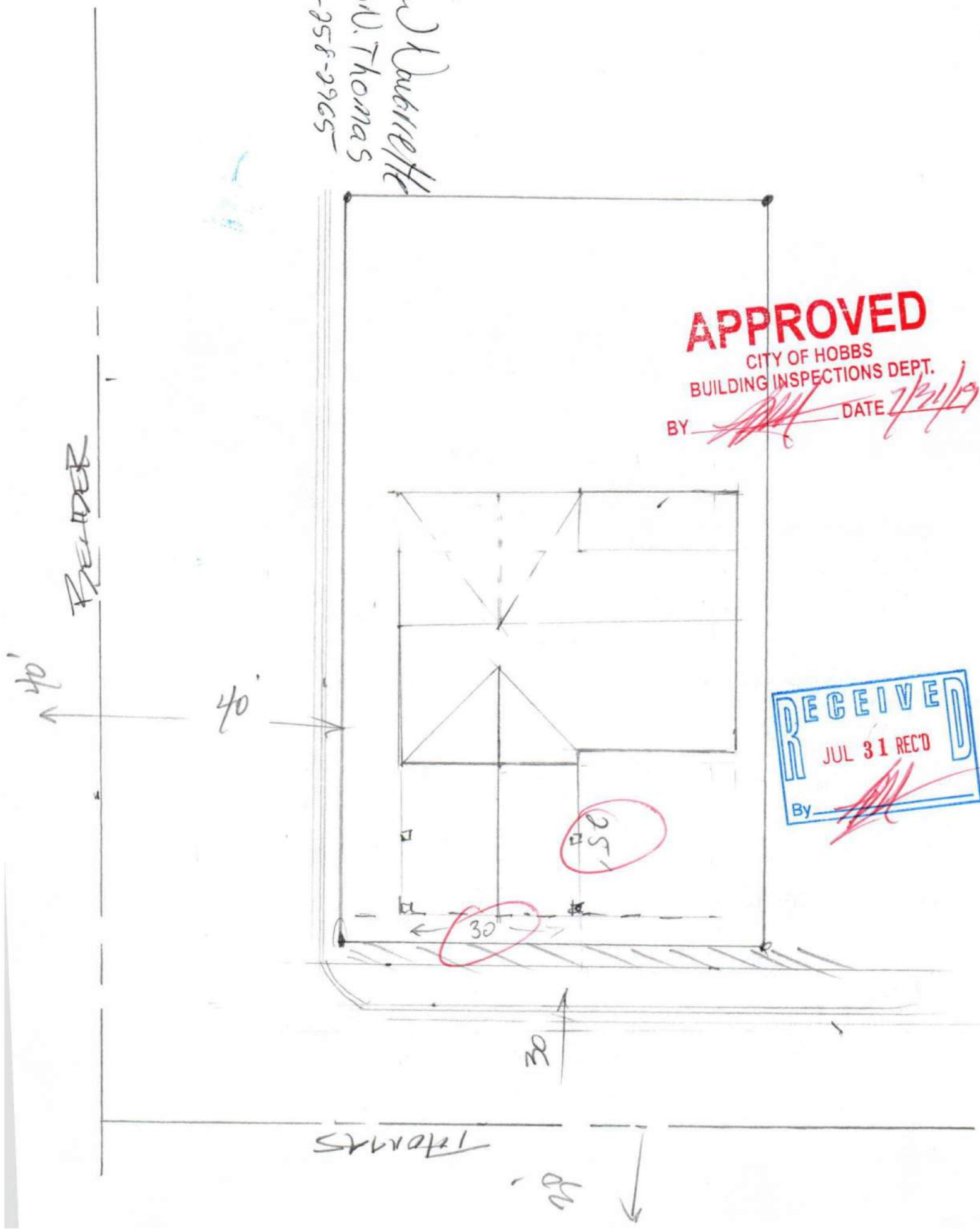
**Kevin Robinson – Planning Department**



Raul Gutierrez  
2920 N. Thomas  
432-258-2965

**APPROVED**  
CITY OF HOBBS  
BUILDING INSPECTIONS DEPT.  
BY [Signature] DATE 7/21/19

**RECEIVED**  
JUL 31 REC'D  
By [Signature]





1/2" OSB  
flashed runner/  
install ~~per spec~~  
per  
Master  
Specs,

Cover  
Brackets

1/2" 12x12

2x8

2x8  
Crown Joist

2x10

Respect

RECEIVED  
JUL 31 REC'D  
By *[Signature]*

6x6 post

6x6  
Red Bracket

EXIST  
24x2  
Spot  
Foot.

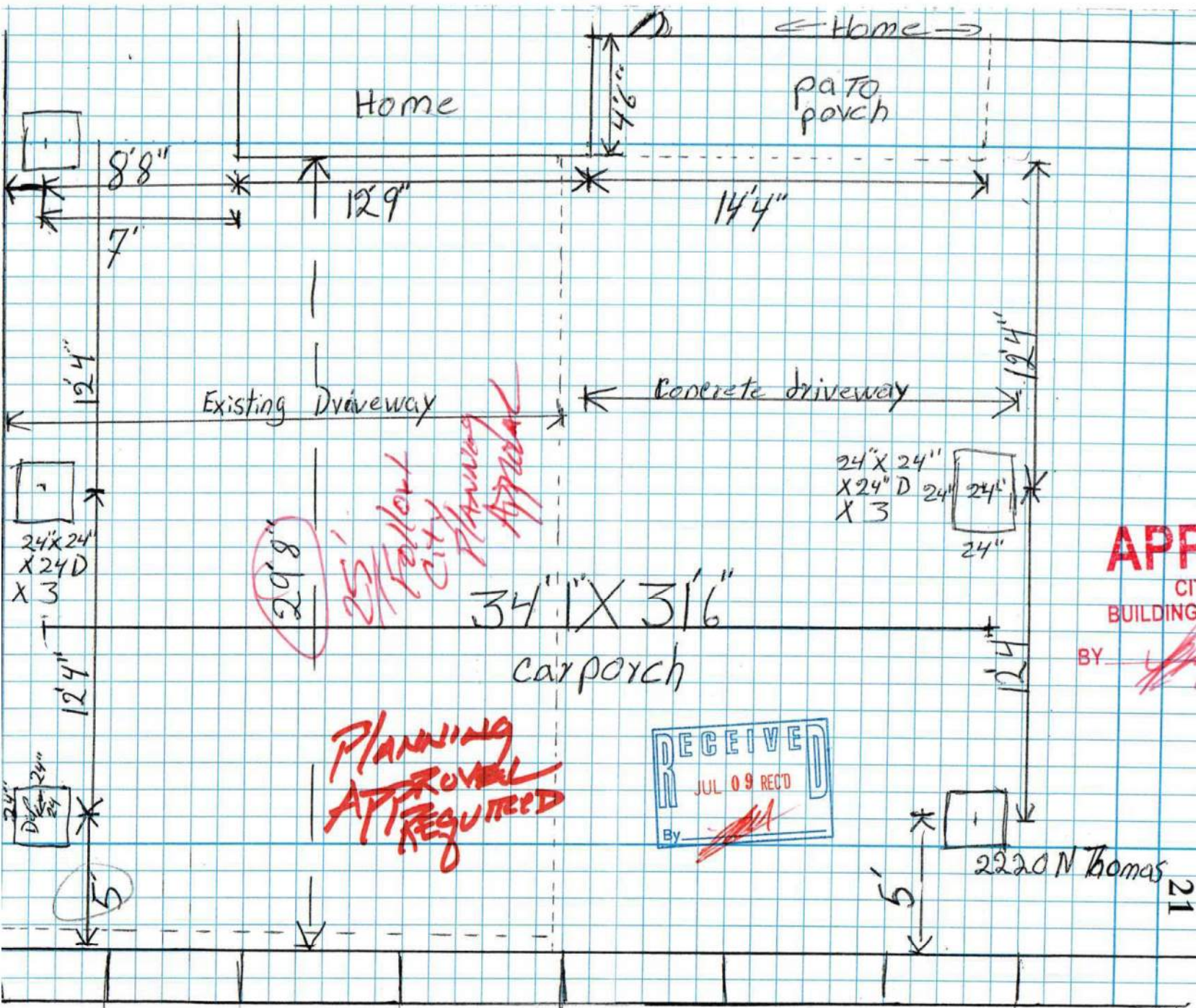
H-clips

**APPROVED**

CITY OF HOBBS  
BUILDING INSPECTIONS DEPT.

BY *[Signature]* DATE 7/31/19





*20'8"*  
*Follow City Planning Approval*

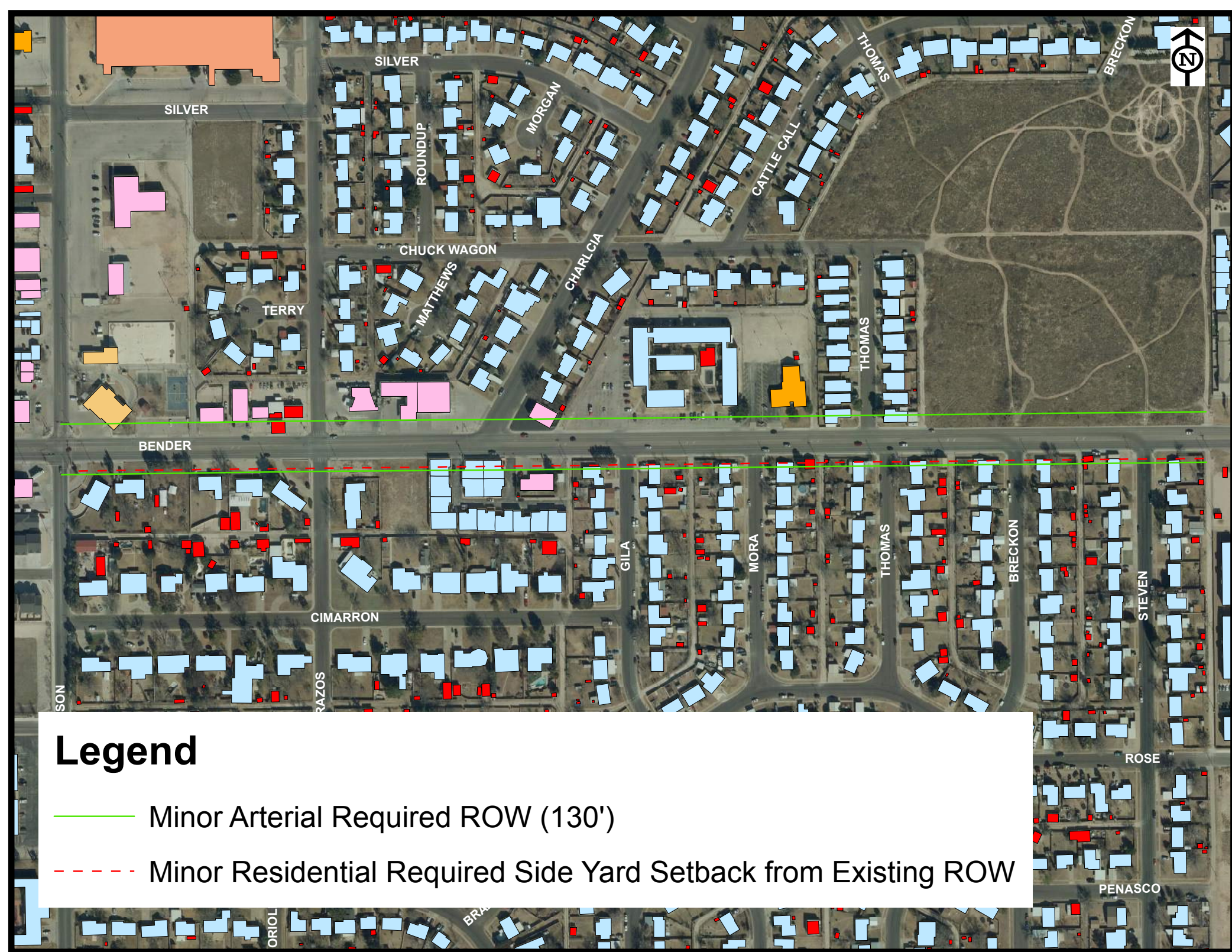
*PLANNING APPROVAL REQUIRED*

RECEIVED  
JUL 09 REC'D  
By *[Signature]*

**APPROVED**  
CITY OF HOBBS  
BUILDING INSPECTIONS DEPT.

BY *[Signature]* DATE *7/31/19*





## Legend

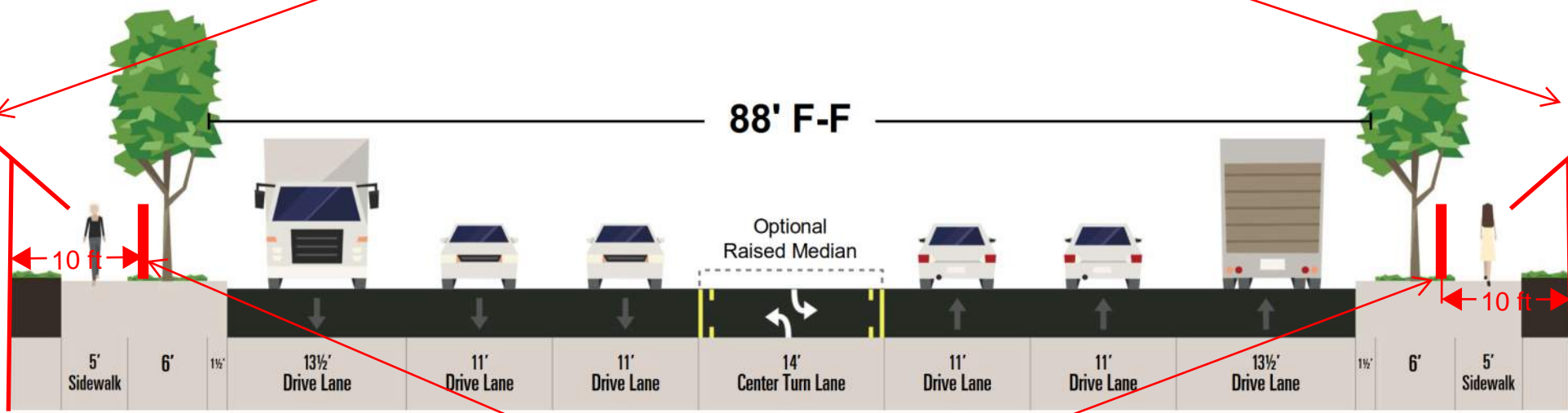
- Minor Arterial Required ROW (130')
- - - Minor Residential Required Side Yard Setback from Existing ROW

Existing Structures

# PRINCIPAL ARTERIAL A - 110'

88' F-F

Optional  
Raised Median



Existing Fences

**September 17, 2019**  
**Planning Board Regular Meeting**

- 10) Review and Consider Block Closure Guidelines.





**CITY OF HOBBS -- BLOCK PARTY GUIDELINES**

- **Applicant** - The applicant must reside on the block and is responsible for the event – including setup and take-down of the barricades, cleanup of the public right-of-ways and maintaining a clear lane for emergency vehicles.
- **Conditions** - The Block Party may begin no earlier than 8:00 am and must end no later than 9:00 pm. Block Party request should not be for more than two (2) consecutive days. No admission fee may be charged. Entertainment must not interfere with neighbors of the block. All local, state, and federal, laws, codes and regulations must be complied with. The Block Party Venue shall be clean, free of equipment, and restored to public access immediately upon conclusion of the Block Party.
- **Street Closings** - Block Parties may only be held on Minor Residential Streets recommended by the City Engineer and approved by the City Manager. Only one (1) block may be closed from intersection to intersection. The street must always be accessible to emergency personnel and vehicles. No block parties will be approved for Arterial or Collector Streets or streets adjacent to a School or Park Facility.
- **Barricades** - Barricades are to be used for all street closures. Barricades can only be placed in the street between the hours of 8:00 am and 9:00 pm, and must be easily removed for access by emergency vehicles. Tables or vehicles cannot be used to block the streets. Barricades will be dropped off on the corner of the intersections the day before the requested day of the party or Friday for block closures on a Saturday or Sunday.
- **Alcoholic Beverages** - Consumption of alcoholic beverages on any public property including streets, curb lawn and sidewalks **is prohibited. (MC 5.44.060)**
- **Clean Up** - The applicant is responsible for the removal of trash and debris. If event area is not returned to the original condition, the City may provide cleanup services and assess cost to the applicant.
- **Damages** - The City retains the right to assess for damages to City property and/or equipment.
- **Permit** - Upon approval of the application by all departments, a copy of the approved block party application will be given to the applicant. The applicant should carefully read the guidelines and application and comply with any requirements listed. The applicant must be present at the Block Party at all times.
- **Inflatables** - Inflatables (bouncy houses, slides, obstacle courses, etc.) are not allowed on city right-of-way.
- **Noise** - Block Party participants must comply with the [City's Noise Ordinance](#).
- **Permit Revocation** – A permit may be revoked by any City Official, Public Safety Personnel, or Code Enforcement at any time for violation of any City, State or Federal Law; Conditions are deemed unsafe due to weather conditions, traffic conditions, or other life, health and safety concerns; or breach of any the established guidelines.
- **Fourth of July** – For Fourth of July Block parties, the only fireworks permitted within the City of Hobbs are those classified as “Safe and Sane”. Possession or discharge of any other type of fireworks is illegal and may be subject to a \$### Fine. No Fireworks shall be discharged on a public street, alley, or right of way.



Engineering Department  
200 E. Broadway Hobbs, NM 88240  
(575) 397-9232

**BLOCK PARTY APPLICATION**

APPLICATION DATE: \_\_\_\_\_

**PERMIT APPLICANT INFORMATION**

Name: \_\_\_\_\_ ☐ Owner or ☐ Tenant

Address: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Driver's License No. \_\_\_\_\_ State: \_\_\_\_\_

Contact Number: \_\_\_\_\_ (Home / Cell) Email Address: \_\_\_\_\_

**EVENT / ACTIVITY:**

Date of Event: \_\_\_\_\_ Hours of Event: From: \_\_\_\_\_ To: \_\_\_\_\_

Description of Event: \_\_\_\_\_

Road Requested to be Block: \_\_\_\_\_ (Provide Site Map)

Between (street): \_\_\_\_\_ and (street) \_\_\_\_\_

- Road Closure should for a street block and from an intersection to an intersection.
- Road Closures no later than 9:00 p.m.
- No Alcohol Consumption within public right of way or public property

I hereby certify by signing below that I have read the policy guidelines and understand my responsibility for adhering to all requirements and any fees related to my event. I understand that this is merely an application for permit, and if granted, do hereby agree to comply with all Federal, State, and Local laws, statues, and ordinances. I further understand that any false information provided will be grounds for denial and permit and/or termination of event.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

**FOR OFFICE USE ONLY**

Application Received By: \_\_\_\_\_ Date: \_\_\_\_\_

Approval Engineering: \_\_\_\_\_ Date: \_\_\_\_\_

Approval City Manager: \_\_\_\_\_ Date: \_\_\_\_\_

**Distribution List** ☐ Hobbs Police Dept. ☐ Hobbs Fire Dept. ☐ Street Dept. ☐ Code Enforcement

**Comments**




Engineering Department  
200 E. Broadway Hobbs, NM 88240  
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**BLOCK PARTY PETITION**

**EVENT / ACTIVITY:**

Date of Event: \_\_\_\_\_ Hours of Event: From: \_\_\_\_\_ To: \_\_\_\_\_

Description of Event: \_\_\_\_\_

Road Requested to be Block: \_\_\_\_\_ (Provide Site Map)

Between (street): \_\_\_\_\_ and (street) \_\_\_\_\_

**Invite / Notify all residents along the Roadway to be Blocked**  
(Minimum of 2/3 or 67% of the signatures required)

**Address:**

**Signature:**

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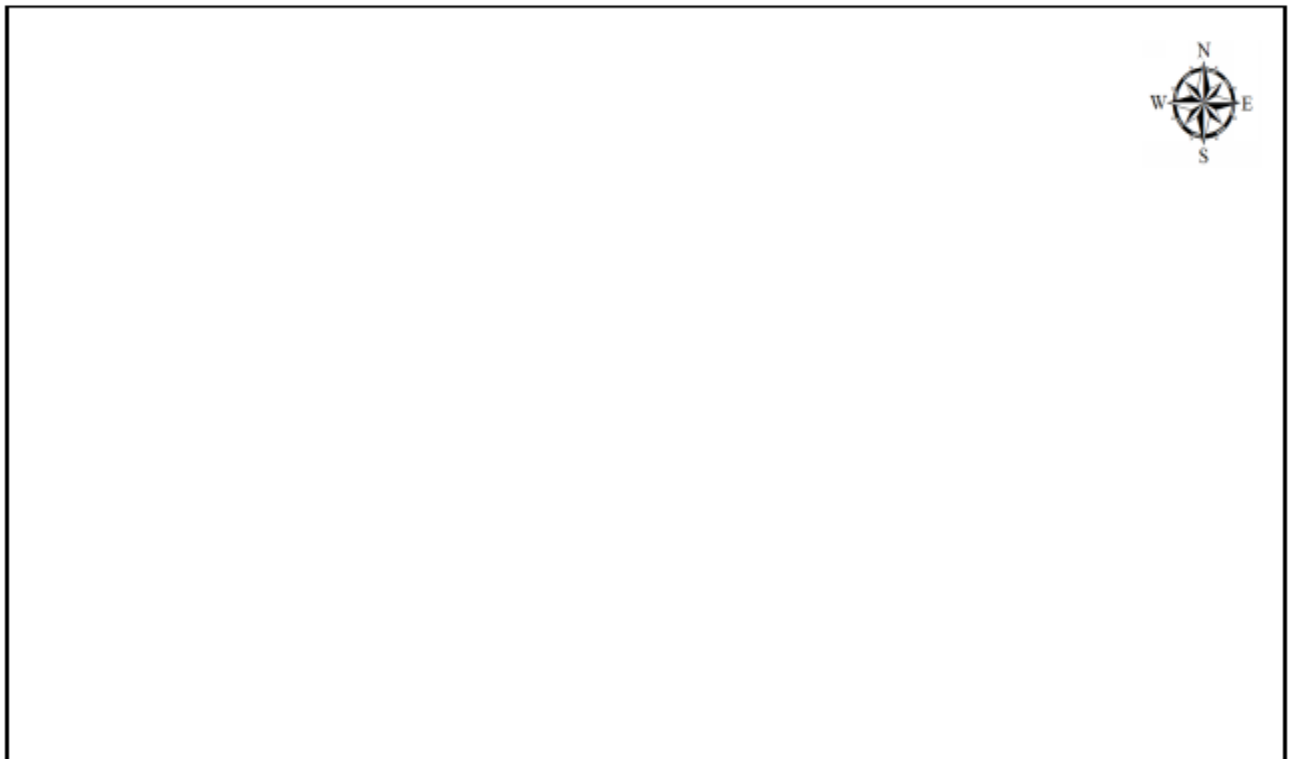
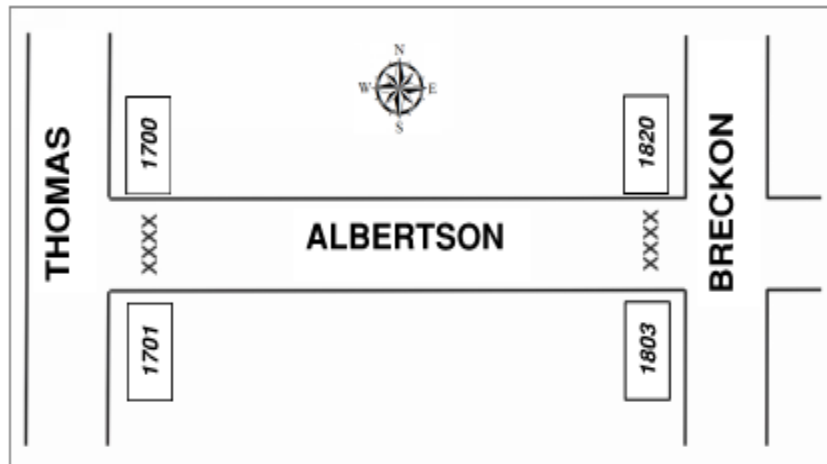
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**Engineering Department**  
**200 E. Broadway Hobbs, NM 88240**  
**(575) 397-9232**  
**Road Closure Diagram**

Please draw a diagram of the proposed street closure for you block party, including the barricade and street house numbers at each end of the closure. Use "XXX" where the barricades will be placed. The following is an example on Albertson Dr. between Thomas Dr. and Breckon Dr.



**Note: You may attach a Google Map photo in place of a hand drawn sketch.**