

9

Joy Swallow

# PNM PUBLIC SERVICE COMPANY OF NEW MEXICO

Post Office Box 2667 / Albuquerque, New Mexico 87103

## 91067248

## 0003549

### EASEMENT ENCROACHMENT AGREEMENT

This Easement Encroachment Agreement made this 9th day of July, 1991  
 by and between the Regents of the University of New Mexico  
 whose address is C/O Director of Real Estate, Scholes Hall Room 233, Albuquerque, NM  
 (hereinafter called "First Party"), (his)(her)(their)(its) heirs, successors and assigns, and PUBLIC SERVICE COMPANY OF NEW  
 MEXICO, a New Mexico corporation (hereinafter called "PNM") ("Parties").

**WITNESSETH:**

WHEREAS, PNM is the Grantee of a certain easement filed on the 18th day of July, 1940  
 in Book 176, Page 79, (Document No. \_\_\_\_\_) of the records of the County of Bernalillo,  
 State of New Mexico (the "Easement"); and

WHEREAS, First Party desires to encroach upon the Easement as more particularly specified hereinafter; and WHEREAS, PNM has  
 agreed to said encroachment; NOW, THEREFORE, for and in consideration of the sum of One and No/100 (\$1.00) DOLLAR, in hand  
 paid, and other valuable consideration, the receipt of which is hereby acknowledged, PNM does hereby grant First Party the right to  
 encroach upon the Easement only to the extent and for the purposes set forth below.

PNM Project No.: 91230

Encroachment of a building within the southerly four and  
 one-half (4.5) foot utility easement in Lot Z, Block 1, as shown  
 on the Plat of SIGMA CHI ADDITION, a subdivision situate in  
 Section 16, T.10N., R.3E., N.M.P.M., filed for record in the  
 office of the County Clerk, Bernalillo County, in Plat Book B-1,  
 page 167, on May 16, 1951.

Encroachment is more particularly shown on Exhibit "A"  
 attached and made a part of this document.

By granting the aforesaid right to encroach PNM does not waive or relinquish any rights or benefits that it may have under or by  
 reason of the Easement, including, but not limited to, the right to build, rebuild, construct, reconstruct, locate, relocate, change,  
 modify, renew, operate and maintain its electric lines (including underground lines), poles, guywires and other electric equipment,  
 fixtures and structures that are now located, or may in the future be located, through, on, within, or under the Easement. First Party,  
 at its sole cost and expense, agrees to remove or relocate its encroachment upon the written request of PNM within 90 days of such  
 written request. First Party appoints PNM its agent to accomplish said removal or relocation at First Party's expense if First Party fails  
 to remove or relocate such encroachment within such time period.

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In consideration of PNM granting First Party the right to encroach upon the Easement, First Party hereby agrees to indemnify and hold harmless PNM, its agents and employees, from any and all claims whatsoever for personal injuries or damages to property, when such injuries or damages directly or indirectly arise out of the existence, construction, maintenance, repair, condition, use or presence of the encroachment upon the Easement, regardless of the cause of said injuries or damages; provided, however, that notwithstanding anything to the contrary in this paragraph, First Party shall not be required to indemnify PNM for liability, claims, damages, losses or expenses, arising out of (a) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications by PNM, or the agents or employees of PNM; or (b) the giving of or the failure to give directions or instructions by PNM, or the agents or employees of PNM, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

In consideration of PNM permitting First Party to encroach upon the Easement, First Party agrees that PNM shall not be responsible for any damage caused to facilities, equipment, structures or other property of First Party if damaged by reason of PNM's use of the Easement.

First Party shall comply with all applicable laws, ordinances, rules and regulations enacted or promulgated by any federal, state or local governmental body having jurisdiction over First Party's encroachment.

The provisions hereof shall inure to the benefit of and bind the heirs, executors, administrators, personal representatives, successors and assigns of the Parties hereto; provided, however, that no such heir, executor, administrator, personal representative, successor or assign of First Party shall have the right to use, alter or modify the encroachment in a manner which will increase the burden of the encroachment on the Easement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first above written.

FIRST PARTY: Kim D. Murphy PUBLIC SERVICE COMPANY OF NEW MEXICO  
Director of Real Estate BY: Rob Roberts  
Evan "Rob" Roberts  
Manager, Right of Way Dept.

PNM USE ONLY STATE OF NEW MEXICO COUNTY OF BERNALILLO } SS  
The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of August, 1991,  
by Evan "Rob" Roberts Manager, Right of Way Dept.  
DOUG HENDREN Notary Public - NEW MEXICO  
Notary Bond Filed with Secretary of State My Commission Expires: 6-15-93  
PNM USE ONLY

STATE OF NEW MEXICO COUNTY OF Bernalillo } SS  
The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of July, 1991,  
by The Regents of the University of New Mexico by Kim D. Murphy, Director  
of Real Estate

[Signature] NOTARY PUBLIC  
My Commission Expires: 11/15/91

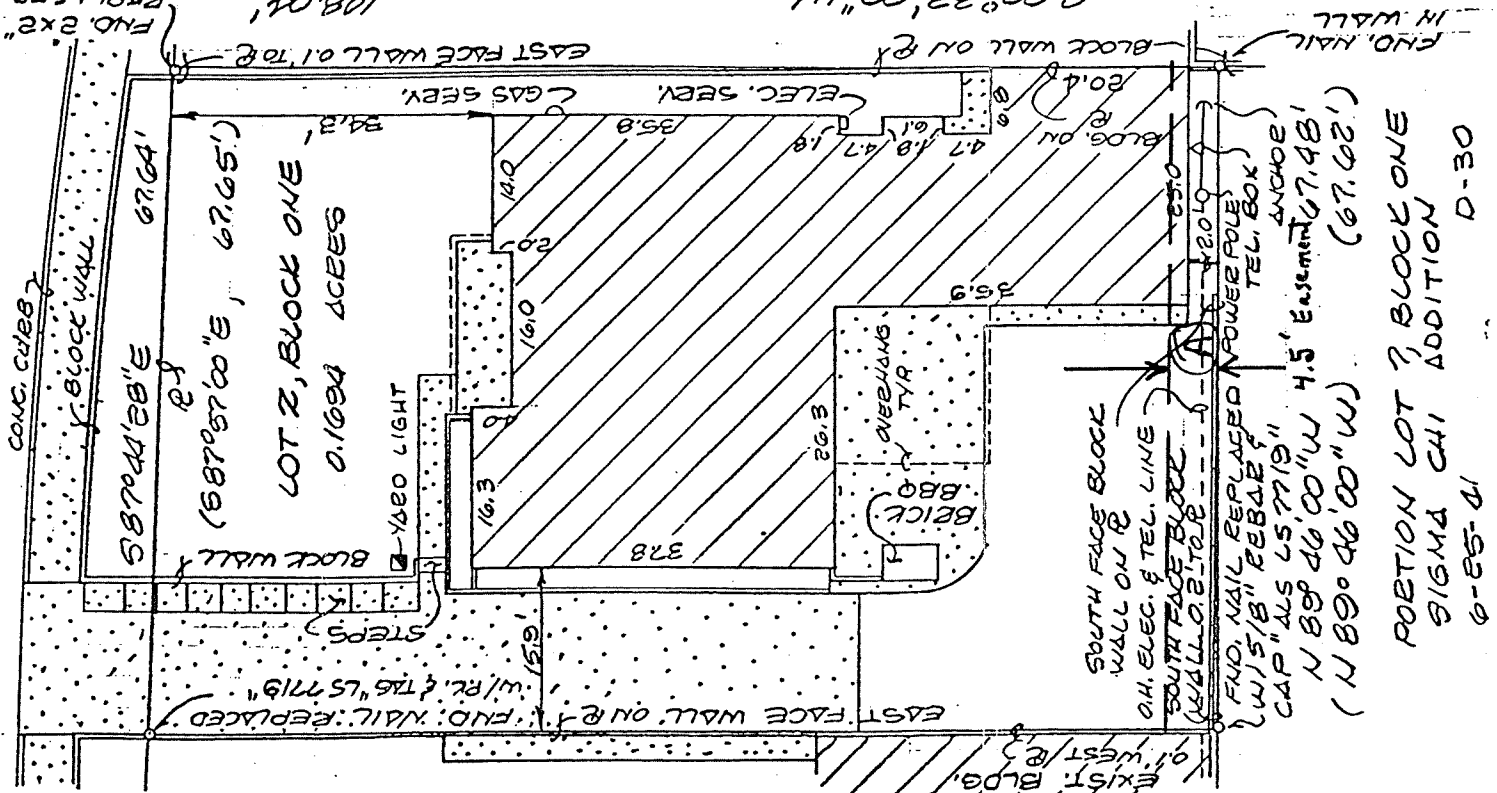
FOR RECORDER'S USE ONLY  
STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
FILED FOR RECORD  
1991 AUG 15 AM 8:47  
9174 PG 3549-3551  
BRUCE G. DAVIS  
CLERK & RECORDER  
DEPUTY

BOUNDARY SURVEY FOR  
LOT Z, BLOCK ONE  
SIGMA CHI ADDITION

Exhibit "A"

0003551

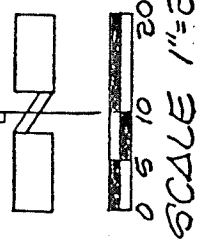
1820 SIGMA CHI ROAD N.E.  
(60' E/W)



LOT Y, BLOCK ONE SIGMA CHI ADDITION  
(10.50')  
(N 07° 14' 20" E)  
(108.36')

FND. 2x2" WOOD STAKE  
REPLACED W/ 5/8" REBAR  
(108.00')

PORTION LOT 11, BLOCK ONE  
SIGMA CHI ADDITION  
6-25-41  
D-30



(A) Building - 9' 8"  
Secondary - 21' 8"

OK  
6-25-91

NOTES

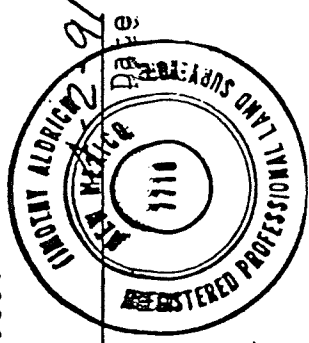
1. Bearings and distances in parentheses are record.
2. Basis of boundary is the plat of record entitled "REPLAT of LOTS 8, 9 and 10, and of portions of LOTS 7 and 11, in BLOCK ONE of SIGMA CHI ADDITION filed May 16, 1951 in Volume Bl, Folio 167.

PORTION LOT 7, BLOCK ONE  
SIGMA CHI ADDITION  
6-25-41 D-30

LOT Z, BLOCK ONE, SIGMA CHI ADDITION as the same is shown and designated on said plat filed for record in the office of the County Clerk of Bernalillo County, New Mexico on May 16, 1951 in Volume Bl, Folio 167.

" I, Timothy Aldrich, do hereby certify that this survey was prepared by me or under my direct supervision, and that this survey meets the Minimum Standards for Land Surveying in the State of New Mexico effective November 1, 1989."

*Timothy Aldrich*



Timothy Aldrich, N.M.P.S. No. 7719

ALDRICH LAND SURVEYING  
3620 Wyoming Blvd. N.E., Suite L-4  
Albuquerque, New Mexico 87111  
505-271-2911