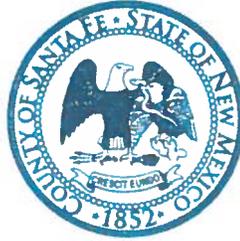


**Daniel "Danny" Mayfield**  
*Commissioner, District 1*

**Miguel Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

## ***MEMORANDUM***

**DATE:** *June 25, 2013*

**TO:** *Board of County Commissioners*

**FROM:** *Adam Leigland, Public Works Department Director* *AL*  
*6/27/13*

**VIA:** *Katherine Miller, County Manager*

**ITEM AND ISSUE:** *BCC Meeting July 9, 2013*  
IN RECOGNITION OF MIA BARELA, ADOPT-A ROAD COORDINATOR WITH THE SANTA FE COUNTY SOLID WASTE PROGRAM, FOR RECEIVING THE "KEEP SANTA FE BEAUTIFUL" BOARD MEMBER OF THE YEAR. (PUBLIC WORKS/ROBERT MARTINEZ)

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## ASSESSOR'S MEMORANDUM

**To:** The Board of County Commissioners  
**From:** Domingo Martinez, County Assessor *GR.*  
**Via:** Katherine Miller  
**Date:** June 25, 2013  
**Subject:** **Introduction And Possible Approval On Resolution No. 2013-\_\_\_, A Resolution Approving The County Assessor's Property Valuation Program In Accordance With State Statute, And Associated Waiver Of Requirements Of Resolution No. 2013-026.**

---

### **BACKGROUND:**

At the June 11, 2013 BOCC meeting, Chief Deputy Assessor Gary Perez presented the Board of County Commission with the Assessor's Property Valuation Program and Annual Report.

### **ISSUE:**

In accordance with section 7-38-38.1 (D) NMSA 1978, expenditures from the county property valuation fund shall be made pursuant to a property valuation program presented by the county assessor and approved by the majority of the county commissioners.

### **REQUEST ACTION:**

The County Assessor requests the board's consideration and approval of: 1) a waiver of the requirements of Resolution 2013-26, and 2) the approval of the attached resolution approving the Assessor's Property Valuation Program.

# SANTA FE COUNTY

## RESOLUTION NO. 2013-

### A Resolution Approving The County Assessor's Valuation Maintenance Program In Accordance With State Statute And Associated Waiver of Requirements of Resolution No. 2013-026

WHEREAS, in accordance with Section 7-36-16 (E) NMSA 1978, to aid the board of county commissioners in determining whether the county assessor is operating an efficient program of property valuation maintenance and in determining the amount to be allocated to him for this function, the county assessor shall present with his annual budget request a written report, (known as the annual report). The report contains improvements of property added to valuation records during the year, additions of new property to valuation records during the year, increases and decreases of valuation during the year, the relationship of sales prices of property sold to values of the property for property taxation purposes and the current status of the overall property valuation maintenance program in the county; and

WHEREAS, in accordance with 7-38-38.1 (D) NMSA 1978, expenditures from the county property valuation fund shall be made pursuant to a property valuation program presented by the county assessor and approved by the majority of the county commissioners; and

WHEREAS, at the June 11, 2013 BOCC meeting, Chief Deputy Assessor Gary Perez presented the Board of County Commission with the Assessor's Property Valuation Program and Annual Report.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Santa Fe County that a waiver of the requirements of Resolution No. 2013-026 is approved, and this Resolution to approve the Assessor's Valuation Maintenance Program and governed by NMSA 1978, Section 7-38-38.1 (D), is hereby adopted.

APPROVED, ADOPTED AND PASSED this 9th day of July 2013.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Geraldine Salazar, County Clerk

\_\_\_\_\_  
Kathy Holian, Chairman

Approved As To Form:

  
\_\_\_\_\_  
Stephen C. Ross, County Attorney

\_\_\_\_\_  
Teresa C. Martinez, Finance Director

Daniel "Danny" Mayfield  
*Commissioner, District 1*

Miguel M. Chavez  
*Commissioner, District 2*

Robert A. Anaya  
*Commissioner, District 3*



Kathy Holian  
*Commissioner, District 4*

Liz Stefanics  
*Commissioner, District 5*

Katherine Miller  
*County Manager*

## MEMORANDUM

**DATE:** July 9, 2013  
**TO:** Board of County Commissioners  
**FROM:** Juan Rios, Constituent Services Liaison  
**VIA:** Daniel Mayfield, Commissioner, Dist. 1  
**SUBJECT:** Introduction and possible approval of a Resolution requesting the transfer of property by the Pojoaque Valley School District to Santa Fe County for Community Sports Fields and Associated waiver of requirements of Resolution No. 2013-026.

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### ISSUE:

Attached is a Resolution requesting the transfer of property by the Pojoaque Valley School District to Santa Fe County for Community Sports Fields and Associated waiver of requirements of Resolution No. 2013-026.

### REQUESTED ACTION:

Commissioners Mayfield respectfully requests the Commission's support of this Resolution.

THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY

RESOLUTION NO. 2013 \_\_\_\_\_

**Introduced by Commissioner Mayfield**

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**A RESOLUTION REQUESTING THE TRANSFER OF PROPERTY BY THE  
POJOAQUE VALLEY SCHOOL DISTRICT TO SANTA FE COUNTY FOR  
COMMUNITY SPORTS FIELDS**

---

**WHEREAS**, a 2013 report on the health of the citizens of Santa Fe County notes that obesity has increased to twenty percent for adults and to nine percent for high school students and the amount of physical activity by high school students is significantly declining;

**WHEREAS**, the Board of County Commissioners has recognized the importance of good health on numerous occasions;

**WHEREAS**, team sports activities allow for safe, affordable, healthy recreation for families and all steps should be taken to encourage these activities;

**WHEREAS**, the Board of County Commissioners and Commissioner Mayfield has budgeted capital outlay funds for the purpose of developing recreational fields in northern Santa Fe County;

**WHEREAS**, the Board of Santa Fe County Commissioners recognizes that sports fields in Pojoaque have been used and enjoyed by the community for decades for safe, affordable and healthy recreational purposes;

**WHEREAS**, the sports fields are in need of improvements and upgrading to continue to provide recreational opportunities for the community;

**WHEREAS**, supported by local New Mexico State Senators and Representatives, the 2013 New Mexico Legislature appropriated two hundred twenty-five thousand dollars (\$225,000) to purchase, plan, design, construct, equip and improve the recreational and baseball fields in the Pojoaque valley in Santa Fe County;

**WHEREAS**, the Pojoaque Valley School District could donate the sports fields to Santa Fe County and the State and County funds could be fully utilized to make improvements to the facility for the continued benefit and enjoyment of County residents;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SANTA FE COUNTY**, that it strongly urges the Pojoaque Valley Schools District to donate said property to the County for this purpose.

**PASSED, APPROVED AND ADOPTED THIS 9<sup>th</sup> DAY OF JULY, 2013.  
THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY**

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

**Kathy Holian, Chair**

**Attest:**

\_\_\_\_\_

**Geraldine Salazar, Santa Fe County Clerk**

**Approved to form:**

 \_\_\_\_\_

**Stephen C. Ross, Santa Fe County Attorney**

# Santa Fe County

## Fiscal Impact Report

Department / Division:

Action Item to be Considered:

Agreement Number:

Indicate with a <input checked="" type="checkbox"/> below	Section 1 - Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input type="checkbox"/>	Loan/Grant Agreement
<input checked="" type="checkbox"/>	Other: <input type="text" value="Resolution requesting donation of property"/>

Indicate with a <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc.
<input checked="" type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds) <input type="text"/>
<input checked="" type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % <input type="text" value="100"/> \$ <input type="text" value="225,000"/> Source <input type="text" value="State Capital Appropriation"/>
<input type="checkbox"/>	Other: <input type="text"/>

<b>Section 3 - Ongoing operations and maintenance (O&amp;M) requirements:</b>	
Short Term (Specify needs for the current fiscal year only)	
<input type="text"/>	
New FTE's # <input type="text"/>	Position <input type="text"/> Hourly Rate \$ <input type="text"/>
Current Fiscal Year Cost \$ <input type="text"/>	Annual Cost \$ <input type="text"/>
Initial Costs (Vehicle, computer, office space, etc.)	
<input type="text" value="Up to \$1,225,000 for design and construction of capital improvements."/>	
O & M (Concisely identify the recurring needs, supplies, equipment, and the resources	

necessary for carrying out the job duties)

It is the County's intention to come to agreement with the school district or another local non-profit to manage and schedule the ball fields and provide ongoing operation, maintenance and custodial and related services for the improved facilities. Therefore there should only be minor ongoing maintenance costs.

Current Fiscal Year Cost \$  Annual Cost \$

Long Term (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs)

Salary & Benefits:

N/A

All other expenses:

N/A

#### Section 4 - Revenue

Short Term (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Current FY Estimate \$

Long Term (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Annual Estimate \$  Total (next 4 years) \$

#### Additional Narrative

(Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

The resolution requests donation of property by the Pojoaque Valley School District to Santa Fe County for Community Sports Fields. The State of New Mexico appropriated \$225,000 to purchase, plan, design, construct and equip these fields and Santa Fe County has budgeted \$1,000,000 in capital funds for the same.

Prepared by Erik Aaboe

Reviewed by

 File Attachment

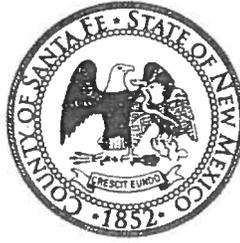
**NO PACKET MATERIAL  
FOR THIS ITEM**

**NO PACKET MATERIAL  
FOR THIS ITEM**

**Daniel "Danny" Mayfield**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

**CASE NO. MIS 13-5150**  
**MISCELLANEOUS**  
**ONEWEST BANK FSB, APPLICANT**

**ORDER**

**THIS MATTER** came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on June 11, 2013, on the Application of Onewest Bank FSB (hereinafter referred to as "the Applicants") for approval to vacate a platted twenty foot (20') wide public utility, drainage and ingress/egress easement on 25 acres. The BCC, having reviewed the Application and supplemental materials, staff reports and conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests approval to vacate a platted twenty foot (20') wide public utility, drainage and ingress/egress easement which is parallel east to west on the property at 42 Lime Kiln Road, within Section 33, Township 15 North, Range 10 East ("Property").

2. Tract 1-A has a single family residence located on the property as well as a horse barn and two accessory structures (pool house and storage building).

3. Article V, Section 5.7 of the Land Development Code states in part:

"In approving the vacation of all or part of a final plat, the Board shall decide whether the vacation will adversely affect interests of persons on contiguous land or persons within the subdivision being vacated."

4. The subject property consists of one legal lot of record, which was created through a Lot Consolidation in May of 1999. The Applicant intends to relocate the twenty foot (20') wide public utility, drainage and ingress/egress easement which runs through a portion of the existing residence. The Applicant will relocate the twenty foot (20') wide public utility, drainage and ingress/egress easement to the southeast and west of the residence. Staff and the Applicant's Agent confirmed that the vacation of the public utility, drainage and ingress/egress easement would not adversely affect the interests of persons on contiguous property.

5. Upon approval of a Vacation of Plat, the Plat shall be filed with the County Clerk's Office with a note stating that the twenty foot (20') wide public utility, drainage and ingress/egress easement is vacated from its current location and relocated on the plat.

6. Staff recommended imposition of the following conditions on approval of the application: the Applicant must provide proof of permits or proof that the structures on the property are legal non-conforming, and if the Applicant cannot provide proof that the structures are legal, then the Applicant must obtain after the fact development permits.

7. In support of the Application, the Applicant agreed with staff's conditions.

8. No members of the public spoke in favor or opposition to the Application.

9. The Application is well taken and should be granted.

**WHEREFORE**, the Board of County Commissioners of Santa Fe County hereby approves the request to vacate the platted twenty foot (20') wide public utility, drainage and ingress/egress easement parallel east to west on the property at 42 Lime Kiln Road, within Section 33, Township 15 North, Range 10 East ("Property") subject to the staff conditions set forth in paragraph 6.

**IT IS SO ORDERED.**

This Order was approved by the Board of County Commissioners of Santa Fe County on  
this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

**BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Kathy Holian, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, County Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Stephen C. Ross, County Attorney

## **XVIII. PUBLIC HEARINGS**

### **A. Growth Management Department**

#### **1. BCC CASE # 13-5150 One West Bank FSB Vacation of Easement. One West Bank FSB, Applicant, (High Desert Surveying, Inc.) Dean L. Shrader, Agent, Request Approval to Vacate a Platted Twenty Foot (20') Wide Public Utility and Drainage Easement on 25 Acres. The Property is Located at 42 Lime Kiln Road, within Section 33, Township 15 North, Range 10 East (Commission District 4)**

MIKE ROMERO (Case Manager): Good evening. The subject property originally was made up of two legal non-conforming lots that were consolidated into one lot in May of 1999, and is considered a legal lot of record. There is currently one dwelling unit, two accessory structures and one barn/horse stable on the property. Staff has found no record of development permits for the horse barn and one accessory structure. The existing twenty-foot wide public utility, drainage and ingress/egress easement runs parallel east to west on the property. The Applicant wishes to relocate the easement to the southeast and west of the residence due to the easement running through a portion of the existing residence. The following utility companies have reviewed and signed the proposed easement survey: New Mexico Gas Company, Public Service Company of NM, Century Link, Comcast Cable and Eldorado Area Water & Sanitation District.

Staff recommendation: Approval to vacate a platted twenty foot wide public utility, drainage and ingress/egress easement on one lot totaling 25 acres. If the decision of the BCC is to approve the Applicant's request, staff recommends imposition of the following conditions. May I enter these into the record?

CHAIR HOLIAN: Yes, you may.

[The conditions are as follows:]

1. The applicant shall file the portion of the Final Plat (Tract 1-A) affected by the vacated easement with the County Clerk's Office (As per Article V § 5.7.3).
2. The Applicant must provide proof of permits or proof that the structures on the property are legal non-conforming. If the Applicant cannot provide proof that the structures are legal, than the Applicant must obtain After the Fact development permits (As per As per Article II, § 4.5.2b Article II, § 2).

MR. ROMERO: I stand for any questions.

CHAIR HOLIAN: Are there any questions for staff?

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I appreciate the presentation.

This requests provides cleanup language and clarity in a situation that's pretty much unresolvable unless we move the easement because of the structures. Is that an accurate reflection of the easement that's in place?

MR. ROMERO: Correct.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR HOLIAN: I have a question, Mike. Is there any utility structure currently in that easement?

MR. ROMERO: What's indicated on the plat is that there is a utility easement that runs through there. As far as any structures on the property –

CHAIR HOLIAN: I mean is there anything actually in the easement, like any electric lines or anything like that?

MR. ROMERO: I believe there is. According to the survey plat I believe there was designated and marked. I believe one of the utility companies did go out there and mark the area. When I went and conducted my site visit, as to which utility company it wasn't, I couldn't tell you; I don't know.

CHAIR HOLIAN: So there is some infrastructure that actually goes underneath the house then.

MR. ROMERO: Correct. And I think to clarify that – I've got Dean Shrader who can probably clarify that answer.

CHAIR HOLIAN: Right. Is the applicant here? Please step forward and state your name and address for the record, and if you're not an attorney, please be sworn in.

[Duly sworn, Dean Shrader testified as follows]

DEAN SHRADER: I'm not an attorney. My name is Dean Shrader, address, 1925 Aspen Drive, Santa Fe. My understanding is that there is no utility within the easement, that it is vacant. The easement originally was a typical easement that went around one of the large Eldorado tracts, and it was set up, if you're familiar with the Eldorado large tracts they had drainage and utility easements around all sides of each parcel and that's what this was originally. So there never was any utilities installed. The utilities come up Lime Kiln Road and then service the house but they don't run within this easement. We've had the utility companies out there, all of them, and they've all signed off on the plat acknowledging the vacation.

CHAIR HOLIAN: Thank you, Mr. Shrader. Any further questions for the applicant? Commissioner Chavez.

COMMISSIONER CHAVEZ: More for staff, maybe. Not to disrespect the applicant, but in vacating this easement then that would mean that this would be buildable area, basically, right? Or now if it's an easement, you're not supposed to build on that dedicated easement?

MR. SHRADER: Madam Chair, Commissioner Chavez, from my understanding, for vacating the easement that's been recorded on the plat and just moving it to the south, I believe it was to the southwest of the property line, which is essentially towards the bottom of the house, there's an arroyo that runs through, which is a drainage easement, and also from my understanding when it as platted it wasn't – there was some concern it might not have been recorded correctly. So they want to correct that by relocating in and distinguishing from the plat and making the correction if they were ever able to lay the line there, that it would flow, that a [inaudible] doesn't run through the residence.

COMMISSIONER CHAVEZ: Got it. Thank you, Madam Chair.

CHAIR HOLIAN: Any further questions?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Just a question for staff or the applicant. So there is nobody I guess downstream or upstream of this utility easement that is provided any service or potential service off of this utility easement?

MR. SHRADER: No, the house is kind of at the end. It's almost a dead-end road. You can see it kind of on the County map that was attached. The utilities come up from the Village of Lamy and kind of end here with the exception at the end, there's a buried telephone line that runs through there that goes all the way through Eldorado up to Los Vaqueros that goes way out there. So there is a line that runs through there. Now we – that line is platted and is not affected by this and we did not break the chain of this easement. So in other words as it comes into the property we vacated it but we also made like a V shape around to make sure that the easement is still connected.

COMMISSIONER MAYFIELD: Madam Chair, so the utilities will still have an easement around.

MR. SHRADER: Yes. They can still get through. They still have an easement around the house.

COMMISSIONER MAYFIELD: That's all I have. Thank you, sir.

CHAIR HOLIAN: This is a public hearing. Is there anyone here who would like to speak on this case, either in favor or in opposition? Seeing none, the public hearing is closed.

MR. SHRADER: Can I – I would like to ask something. Mike had noted about the structure. There's currently one dwelling unit, two accessory structures. Staff has found no record of development permit for the horse barn and one accessory structure. And then in staff recommendations #2 they say if we don't have the proof of permits that the property there is legally non-conforming that we have to get an after-the-fact development permit, and I don't know which structures don't have permits.

CHAIR HOLIAN: Mike, could you address that?

MR. ROMERO: Madam Chair, Commissioners, the structures in question would be there is a small storage unit that's right before the pool house. That's the structure that I couldn't find any permits for, and then also the horse stable and the barn, which is I guess would be to the northeast of the house, the main residence.

CHAIR HOLIAN: Okay. Thank you. Yes, Mr. Shrader.

MR. SHRADER: The structure that he's talking about by the pool house shows on the plat from 200 which was signed off by Land Use I'm pretty sure. There's the pool. So the structure that he's asking about does show on the plat that was recorded in 2000 and signed off by staff, so –

CHAIR HOLIAN: It's recorded but I guess it doesn't have a permit. Is that correct?

MR. SHRADER: It's a small. Yes. I don't know if it doesn't have a permit but it's a small, like a utility shed structure. And the barn does not show on the old survey so the barn might have been built without a permit. I'm not involved with the property; I'm just a surveyor.

CHAIR HOLIAN: So are you okay with getting the permits?

MR. SHRADER: For the horse barn? And the accessory structure? But we shouldn't have to do it on that since it shows on the plat, right?

MR. ROMERO: You have to prove it has a permit.

CHAIR HOLIAN: Oh, okay.

MR. SHRADER: Yes.

CHAIR HOLIAN: Okay. Yes, Commissioner Anaya.

COMMISSIONER ANAYA: I just want clarity on what you're talking about right now. If there's a plat that's signed off that shows the accessory structure that the County signed off on, then I would probably tend to agree that we don't need a permit on that if we signed off on that plat. Now if there's not – if the barn is not on that plat, then I think we absolutely need a permit for that one. That's my take on it. No?

CHAIR HOLIAN: Vicki, do you have a comment on that? Or Wayne?

COMMISSIONER ANAYA: Are you guys okay if they signed off on the plat with the accessory on there but the barns not on there?

VICKI LUCERO (Land Use Department): Madam Chair, Commissioner Anaya, if the structures were actually shown on the plat that we approved then we would recognize them as legal structures. If they were not there then they would require permits.

COMMISSIONER ANAYA: So based on what the gentleman just said then the only one would be the barn that's not reflected on that plat.

MR. ROMERO: Madam Chair, Commissioner Anaya, correct.

COMMISSIONER ANAYA: Okay. Thank you, Madam Chair.

CHAIR HOLIAN: Well, I think, Commissioner Anaya, I think that the way that condition #2 is worded it should be okay. It says the applicant must provide proof of permits or proof that the structures on the property are legal non-conforming. Is there a motion?

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: I have a comment and then I'd like to pass on to our County Attorney. When it comes time for code and if Penny was here I'd be directing it to her and you. I want to make a comment about the new code. I think that we have gone overboard about when people need permits. And I'm not talking about building onto homes. I'm talking about a stable. I'm talking about little storage units, etc. So I really hope that when we are looking at the new code, and I bet you're going to get a lot of agreement about that, that stuff like that is taken out.

MR. ROSS: Madam Chair, Commissioner, it's way taken out. It's been out for a long time. It should be a lot simpler and easier for people to do things with a zoning map and a zoning table with a whole list of permissible uses for which if you use the property for that purpose you don't have to get a permit. Our current system is, as you've observed, very difficult.

COMMISSIONER STEFANICS: Thank you very much, Madam Chair.

CHAIR HOLIAN: Okay. Is there a motion?

COMMISSIONER ANAYA: Are you okay? It's in your district, Madam Chair.

CHAIR HOLIAN: Okay. Then I will make a motion then to approve with staff conditions.

COMMISSIONER ANAYA: Second.

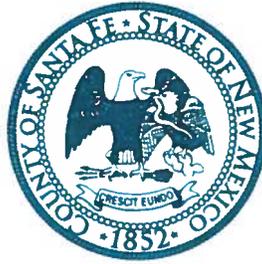
CHAIR HOLIAN: Okay. I have a motion and a second for approval with staff conditions for BCC Case #13-5150.

**The motion passed by unanimous [5-0] voice vote.**

Daniel "Danny" Mayfield  
Commissioner, District 1

Miguel Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathleen Holian  
Commissioner, District 4

Elizabeth Stefanics  
Commissioner District 5

Katherine Miller  
County Manager

## **Memorandum**

**To:** Santa Fe County Board of County Commissioners

**Through:** Rachel O'Connor  
Santa Fe County Health and Human Services Department

**From:** Teresa Casados  
Santa Fe County Senior Services

**Date:** July 9, 2013

**Subject:** Approval of Direct Purchase of Service Vendor Agreement, NSIP Agreement, Certification Regarding Debarment, Suspension, and Other Responsibility Matters, Assurances, Certification Regarding Lobbying; Resolution Authorization; and Letter of Commitment.

---

### **Issue:**

Approval of Grant Agreement from the Area Agency on Aging to provide congregate meals, home delivered meals and transportation services to seniors in Santa Fe County.

### **Background:**

Santa Fe County responded to an RFP issued by the Non Metro Area Agency on Aging in March 2012 for a 4 year contract to provide services to seniors within Santa Fe County. The attached grant is for the second year and provides funding to provide congregate meals, home delivered meals and transportation to seniors in FY14.

### **Staff Recommendation:**

Senior Services staff recommends approval of the attached documents, which were included in our budget projections for FY14.

**NORTH CENTRAL NEW MEXICO  
ECONOMIC DEVELOPMENT DISTRICT  
NON-METRO AREA AGENCY ON AGING  
NUTRITION SERVICE INCENTIVE PROGRAM (NSIP) AGREEMENT**

This Agreement is made and entered into this 1<sup>st</sup> day of July 2013, by and between the North Central New Mexico Economic Development District(NCNMEDD) Non-Metro Area Agency on Aging (Non-Metro AAA), hereinafter referred to as the "Agency" and Santa Fe County, hereinafter referred to as the "Contractor."

**IT IS AGREED BETWEEN THE PARTIES:**

**1. Scope of Work**

**The Contractor will:**

- A. Establish procedures to insure that such cash payments are used solely for the purchase of United States agricultural commodities and other foods produced in the United States for use in their feeding operations. No imported foods may be purchased with these funds, e.g. coffee, tea, cocoa, and bananas.
- B. Ensure that meals furnished under contractual arrangement with food service management companies, caterers, restaurants, or institutions, contain United States produced commodities or foods at least equal in value to the per meal cash payment.
- C. Encourage the purchase and use of locally sourced farm fresh food products that meet the nutritional standards of the Agency. Vendors must ensure that the farm food products meet the state EID requirements.
- D. Ensure that meals meet Title III-C standards for nutritional adequacy and sanitation.
- E. **Maintain accounting records for NSIP separate and apart from other accounting records maintained for other nutrition funding sources (i.e., Title III-C1 and C2 and other cash used for raw food).**
- F. Report on a monthly basis to the Agency on forms provided by the Agency and submit such other reports as deemed necessary by the Agency.
- G. Maintain and retain for three years from close of the federal year to which they pertain, complete and accurate records of all amounts received and disbursed under this Agreement.
- H. Allow the Agency to monitor periodically the Contractor's fiscal accountability of NSIP.
- I. Abide by and comply with the conditions and requirements set forth in Title 45, Part 74 dated August 2, 1978 (Grant Administration); Implementation of OMB Circular No. A110; Uniform Policies). Moreover, the Contractor will abide by Volume 38, No. 181 dated September 19, 1973 (Part II-Administration of Grants) as well as other applicable federal regulations that are currently in effect or will come into effect during the term of this contract.
- J. **Ensure eligible participants are assessed and registered in SAMS.**

K. Ensure meals served meet the following:

**Congregate Meals** – A hot or other appropriate meal served to an eligible person which meets one-third (1/3) of the dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and which is served in a congregate setting 5 or more days per week. There are two types of congregate meals:

- Standard meal – A regular meal from the standard menu that is served to the majority of the participants.
- Therapeutic meal or liquid supplement – A special meal or liquid supplement that has been prescribed by a physician and is planned specifically for the participant by a dietician (e.g., diabetic diet, renal diet, tube feeding).

**Home Delivered Meals** – Hot, cold, frozen, dried, canned or supplemental food (with a satisfactory storage life) which provides a minimum of one-third (1/3) of the dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and is delivered to an eligible person in the place of residence. The objective is to assist the recipient sustain independent living in a safe and healthful environment 5 or more days per week. Home delivered meals may be served as breakfast, lunch, dinner or weekend meals.

2. **Compensation**

- A. The total amount payable to the Contractor under this Agreement shall not exceed **\$33,758** for eligible meals served during the period July 1, 2013 through June 30, 2014 regardless of funding sources, to eligible participants and their spouses.
- B. All subsequent payments will be disbursed upon receipt of actual service delivery data from the Contractor.

3. **Gross Receipts Tax**

Not applicable. Tax exempt.

4. **Term**

No terms of this Agreement shall become effective until approved by the Department of Finance and Administration and shall terminate on June 30, 2014, unless terminated pursuant to paragraph 5, infra.

5. **Termination**

- A. This Agreement may be terminated by the Agency without cause upon written notice delivered to the Vendor at least thirty (30) days prior to the intended date of termination.

By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. This Agreement may be terminated immediately upon written notice to the Vendor if the Vendor becomes unable to perform the services contracted for, as determined by the Agency, or if, during the term of this Agreement, the Vendor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein, or if the Vendor fails to comply with any of the terms contained herein or is in breach of this Agreement. This provision is not exclusive and does not waive the Agency's other legal rights and remedies caused by the Vendor's default or breach of this Agreement. This Agreement also may be terminated by the Vendor upon thirty (30) days written notice to the Agency.

B. Termination Management. Immediately upon receipt by either the Agency or the Vendor of notice of termination of this Agreement, the Vendor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and client records generated under this Agreement and any non-expendable personal property or equipment purchased by the Vendor with contract funds shall become property of the Agency upon termination. On the date the notice of termination is received, the Vendor shall furnish to the Agency a complete, detailed inventory of non-expendable personal property purchased with funds provided under the existing and previous Agency agreements with the Vendor; the property listed in the inventory report including client records and a final closing of the financial records and books of accounts which were required to be kept by the Vendor under the paragraph of this Agreement regarding financial records.

6. **Status of Contractor**

The Contractor, his agents and employees, are independent contractors performing services for the Agency and are not employees of the Agency. The Contractor, his agents and employees, shall not accrue leave, retirement, insurance, bonding, or any other benefit afforded to employees of the Agency as a result of this Agreement.

7. **Assignment**

The Contractor shall not assign any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

8. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

9. **Records and Audit**

A. The Contractor shall maintain detailed records which indicate the date, time, and nature of services rendered. These records shall be subject to inspection by the Agency,

Aging & Long Term Services Department (ALTSD), the Department of Finance and Administration, the State Auditor, the U.S. Department of Agriculture, and the U.S. General Accounting Office. The Agency shall have the right to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the Agency to recover excessive, improper, or illegal payments.

B. The Contractor will provide a financial and compliance audit report to the Agency covering the period July 1, 2013 to June 30, 2014. The audit reports provided to the Agency must include a copy of the Auditor's management letter. This audit shall be conducted in accordance with generally accepted auditing standards and shall encompass the following provisions.

1. The Contractor, expending \$500,000 or more in combined federal funds, shall have an audit conducted in accordance with Revised Circular A-133, which incorporates the 1996 Single Audit Act amendments. A fair allocation of the audit costs may be charged to both federal and state funds under this Agreement. A copy of the complete report package as required to be submitted by A-133 to the designated clearinghouse shall also be provided to the Agency. The audit report shall include a schedule of administrative and program expenses for each separate federal title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, NSIP, etc.), which facilitates a reconciliation of audited costs to the final report. The NCNMEDD Non-Metro AAA further requires the inclusion of the final units of services provided and final number of persons served. This information may be included within the supplementary section of the audit report.
2. Governmental type vendors/contractors expending less than \$500,000 in combined federal awards shall continue to follow the guidance of the New Mexico State Auditor. Since a full scope audit will continue to be required by the State Auditor, only a fair allocation of state funds within this Agreement may be expended for such audit costs. The audit report shall include a schedule of administrative and program expenses for each separate federal title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, NSIP, etc.) which facilitates a reconciliation of these audited costs to the final report. The NCNMEDD Non-Metro AAA further requires the inclusion of the final units of services provided and final number of persons served by this Agreement. This information may be included within the supplementary section of the audit report.
3. Non-governmental contractors/vendors expending between \$25,000 in federal and state funds combined less than \$500,000 in federal funds, shall have an audit conducted in accordance with the GAO Government Auditing Standards. A fair allocation of the audit costs may be charged to the state funds awarded under the Agreement. Federal funds shall not be charged for audit costs under this section. The audit report shall include a schedule of administrative and program expenses for each separate title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, NSIP, etc.), which

facilitates a reconciliation of these audited costs to the final report. The NCNMEDD Non-Metro AAA further requires the inclusion of the final units of services provided and final number of persons served by this agreement. This information may be included within the supplementary section of the audit report.

4. For those contractors/vendors that expend less than \$15,000 in federal and state dollars, no audit is required. The close out of this grant will be based on information required by the Non-Metro AAA such as financial reports (trial balances, general ledgers, etc.), monitoring efforts and final numbers of services provided and final number of individuals served.
5. Submittal of the audit report for government entities shall be within ten (10) working days after releases by the New Mexico State Auditor's Office. For non-governmental entities, the audit report is due four (4) months after the end of the entity's fiscal year.
6. The contractor's/vendor's independent auditor shall be made aware of Office of Management and Budget Circular (OMB) A-87, Cost Principles for State, Local and Indian Tribal Governments, and OMB Circular A-122, Cost Principles of Nonprofit Organizations in determining the allowability of costs.

**10. Appropriations**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the U.S. Congress for the performance of this Agreement. If sufficient appropriations and authorizations are not made, the Agreement shall terminate upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

**11. Release**

The Contractor, upon final payment of the amount due under this Agreement, releases The Agency, its officers and employees, the ALTSD and the State of New Mexico from all liabilities, claims, and obligations arising from or under this Agreement. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed herein unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**12. Product of Services; Copyright**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing produced, in whole or in part, by the Contractor under this Agreement shall be subject to an application for copyright by or on behalf of the Contractor.

**13. Conflict of Interest**

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of service required under this Agreement.

**14. Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**15. Non-Discriminating Service Delivery**

The Contractor will not, on the ground of race, religion, color, ancestry, sex, sexual preference, national origin, age or handicap:

1. Deny any individual receiving services under this Agreement any service or other benefits provided under the program;
2. Provide any services or other benefits to an individual which is different, than those funded under this Agreement;
3. Subject any individual to segregation or separate treatment in any manner related to his receipt of any services or other benefits provided under the funding for this program;
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any services or other benefits provided under this program;
5. Treat an individual differently from others in determining whether he satisfies any eligibility or other requirements or condition which individuals must meet in order to receive any aid, care, services, or other benefits provided under the funding for this program;
6. Deny any individual an opportunity to participate in the program through the provision of services or otherwise afford him/her an opportunity to do so which is different from that afforded others under the program.
7. The Contractor, in determining (1) the types of services or other benefits to be provided under the program, (2) the class of individuals to whom, or the situation in which such services or other benefits will be provided under this program, or (3) the class of individuals to be afforded an opportunity to participate in the program, will not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, sex, sexual preference, national

origin, or handicap, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program in respect to individuals of a particular race, color, sex, sexual preference, national origin, or handicap.

16. **Confidentiality**

The use or disclosure of any information concerning a recipient of assistance or service, for any purpose not connected with the administration of the Agency's or the Contractor's responsibilities with respect to services hereunder, is prohibited, except on written consent of recipient, his attorney, or his responsible parent or guardian.

17. **Amendment**

This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto.

18. **Penalties for Violation of law**

The Procurement Code, Sections 13-1-28 through 13-1-199, N.M.S.A. 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

19. **Scope of Agreement**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings, have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties, or their agents shall be valid or enforceable unless embodied in this Agreement.

20. **Applicable Laws**

This Agreement shall be governed by the laws and regulations of the (a) State of New Mexico, (b) the Older Americans Act of 1965, as amended, (c) the Agricultural Act of 1949, as amended; and (d) any other applicable laws and regulations of the federal government.

21. **Internal Dispute Mediation**

The Contractor shall attempt to resolve all disputes with participants by negotiation in good faith and with such mediators as may be acceptable to the parties involved. The Contractor shall implement an internal grievance policy with procedures in place to effectively and fairly negotiate and resolve disputes with participants. The Contractor must provide all participants with notice, at the commencement of the contract year, that disputes may be resolved in this manner. If negotiation and mediation through the grievance procedure fail, any party may submit the dispute to the ALTSD in accordance with the following provisions:

1. In any dispute submitted, the Agency and the Contractor hereby agree to and consent to the ALTSD mediation of the dispute.
2. Mediation may only be instituted by written request, which request shall include a statement of the matter in controversy.

3. Initial contacts and negotiation shall be conducted by the appropriate Agency staff.
4. Any resolution of the matter shall be binding and final on the Contractor and the Contractor hereby agrees to be bound by said resolution.
5. Failure of the Contractor to resolve any dispute pursuant to the procedures set forth herein or to comply with a resolution ordered by the ALTSD shall amount to a material breach of Agreement.
6. Internal Dispute Mediation does not supersede the appeal hearing policies and procedures.

**22. Invalid Term or Condition**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

**23. Enforcement of Agreement**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**24. Notices**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

**Agency:**

NCNMEDD  
 Attn: Jenny Martinez  
 P.O. Box 5115  
 Santa Fe, NM 87502

**Contractor:**

|||||  
 Santa Fe County Senior Services  
 ATTN: Teresa Casados  
 P.O. Box 276  
 Santa Fe, NM 87504

**25. Other Provisions**

Compliance with Grant conditions. The Contractor shall abide by all grant conditions set out in the Notification of Grant Award (NGA) attached hereto and hereby incorporated by reference.

**26. Indemnification**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitation of the New Mexico Tort Claims Act.

27. **Authority**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represent and warrant that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

28. **Signatures**

For the faithful performance of the terms of this agreement, the parties affix their signatures and bind themselves effective July 1, 2013.

Santa Fe County  
*Legal Name of Vendor/Contractor*

NCNMEDD Non-Metro AAA  
*Name of Area Agency on Aging*

\_\_\_\_\_  
*Signature*

  
\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Printed/Typed Name of Signatory*

Tim Armer, Executive Director  
*Printed/Typed Name of Signatory*

\_\_\_\_\_  
*Date*

**JUN 12 2013**  
\_\_\_\_\_  
*Date*

NORTHCENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT  
NON-METRO AREA AGENCY ON AGING  
NOTIFICATION OF GRANT AWARD (NGA)  
SPECIAL PROJECTS - NUTRITION SERVICE INCENTIVE PROGRAM (NSIP)

GRANTEE: Santa Fe County ADDRESS:		APPROVED BUDGET FOR THE PERIOD			Type of Grant or Action		NGA DATE
PHONE:		FROM: 07/01/2013 TO: 06/30/2014			New/Cont: X Revision: Other:		06/04/13
Indirect Cost % of \$	Fund: 210 Title of Project: NSIP				CFDA # 93.053		
DESCRIPTION	FEDERAL	STATE	LOCAL CASH	LOCAL IN-KIND	PROJECT INCOME	TOTAL	
Personnel Services	\$0.00	\$0.00				\$0.00	
Fringe Benefits	0.00	0.00				0.00	
Travel	0.00	0.00				0.00	
Maintenance & Repair	0.00	0.00				0.00	
Supplies (Raw Food)	\$33,758.00	0.00				\$33,758.00	
Contractual Services	0.00	0.00				0.00	
Other Operating Costs	0.00	0.00				0.00	
Capital Outlay	0.00	0.00				0.00	
Subtotal	\$33,758.00	\$0.00				\$33,758.00	
PERCENT OF TOTAL COST	100%	0%	0%	0%	0%	100%	
COMPUTATION OF GRANT				b. Federal/State Shares will be Comprised of:			
1. Estimated Total Cost .....	\$33,758.00		a. Federal/State grant				
2. LESS Anticipated Project Income .....	\$0.00		unearned in previous		FY	Federal:	0.00
3. Estimated Net Cost .....	\$33,758.00		project year(s)		FY	State:	0.00
4. Non-federal and Non-state Share of Net Cost .....	\$0.00		b. Carry Over				0.00
5. Project Income (Used as Match) .....	\$0.00		c. New Obligational				0.00
6. Federal Share of Net Cost .....	\$33,758.00		Authority Herein		FY	Federal:	\$33,758.00
7. State Share of Net Cost .....	\$0.00		Awarded				
<input checked="" type="checkbox"/> Unless revised, the amount of lines 6 and 7 (Computation of Grant) will constitute a ceiling for federal and/or state participation in the approved cost. <input checked="" type="checkbox"/> The federal and/or state share of the project cost is earned only when the cost is accrued and the non-federal and/or non-state share of the cost has been contributed. Receipt of federal and/or state funds (either through advance or reimbursement) does not constitute earning of these funds. <input checked="" type="checkbox"/> If the actual net cost is less than the amount on line 3 (Computation of Grant) the non-federal and/or non-state share, the federal share, and the state share will meet the percentages indicated on Page 1 of the NGA. <input checked="" type="checkbox"/> As shown in the Computation of Grant (assuming satisfactory progress, adequate justification and the availability of funds), the federal and state shares shall meet the amounts shown on lines 6 and 7 of the estimated net project cost shown on line 3. <input checked="" type="checkbox"/> Funds herein awarded will remain available during the length of the project period, however, state and/or federal funds are dependent upon availability. <input checked="" type="checkbox"/> In accepting the grant awarded for support of the expanded portion of an existing program, the grantee agrees to maintain expenditures for the existing program in the amount of Line 6 during the approved project period.							
All accounting records are to be kept in accordance with federal and state policy and readily available for examination by Area Agency personnel or other federal and/or state officials authorized to examine any or all financial and programmatic records. Such records shall be retained in accordance with the following:							
1. Keep adequate and complete financial records, and to report promptly and fully to the Area Agency. 2. If a federal and/or state audit has not been made within three (3) years after project termination, project records may then be destroyed, on approval of the Agency. 3. In all cases, an over-riding requirement exists to retain records until resolution of any audit questions relating to individual grants. 4. Non-federal resources must be contributed equally to the percentage of the non-federal share of actual net costs for a project year. If a Grantee reports federal and/or state cash received but unearned on the final project report for a project year, the Grantee then owes the Area Agency this amount. This amount may constitute a cash advance on any funds awarded to the Grantee by the Area Agency for the following project year. 5. The disposition of unearned portions of federal and/or state funds at the end of the project year shall be made in accordance with current state policies. 6. Unearned federal and/or state cash at the time the project is terminated shall be returned in full to the Area Agency. 7. All obligations will be liquidated within 30 days after the end of the project year and before final program and financial reports are submitted. 8. Inventory of project equipment will be maintained and submitted as requested. 9. Project records will be preserved and kept available to federal and state auditors at the primary offices of the Grantee.							
Signature of Area Agency on Aging Authorizing Official Tim Armer, Executive Director				We, the undersigned officers of the Grantee organization, certify that we are in agreement with the terms and conditions of this award.			
 JUN 12 2013				Date:			
Signatures				Date:			

SANTA FE COUNTY  
INDIGENT CLAIMS ADMINISTRATION

06/26/13

Claim Number: 035034

APPLICATION

Page:03

1. I hereby certify that I am a resident of Santa Fe County, and that I am unable to pay for the cost of medical care rendered to me by CHRISTUS ST. VINCENT REGIONAL MED. CEN. .
2. I hereby authorize the Indigent Claims Board and/or its agents to request from any source, information or documentation regarding my assets, obligations or any other information which bears directly upon eligibility to receive payments from the Board. I hereby expressly waive any rules, regulations, statutory provisions and/or policy considerations which would preclude the Indigent Claims Board and/or its agents from receiving the information requested.
3. I hereby authorize CHRISTUS ST. VINCENT REGIONAL MED. CEN. to release information and records concerning any medical treatment, diagnosis or procedures performed upon me which is the subject of this claim and application.
4. I hereby specifically agree to a Right of Subrogation in favor of the Indigent Hospital Claims Board and/or its agents to the extent that the Board has paid medical and hospital expenses on my behalf. I further agree that no settlement may be consummated or judgement collected on my behalf unless the said Board is notified and that the monies due and owing the Fund are paid out in full at the time of the disbursement of settlement proceeds or judgement.
5. I hereby certify that I have read this application and the information contained is true to the best of my knowledge.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
APPLICANT

SUBSCRIBED TO AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
19\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

MY COMMISSION EXPIRES \_\_\_\_\_

**Certification Regarding Debarment, Suspension,  
and Other Responsibility Matters**

Certification for Contracts, Grants, Loans,  
And Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

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Organization State

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Authorized Signature Title Date

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Printed Name of Authorized Signatory

## CERTIFICATION REGARDING LOBBYING

### Certification for Contracts, Grants, Loans, And Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief that:

- 1) No Federal appropriated funds have been aid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Organization

State

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Authorized Signature

Title

Date

**A RESOLUTION AUTHORIZATION**

WHEREAS, \_\_\_\_\_ has determined that there is a need to provide services for senior citizens; and

WHEREAS, \_\_\_\_\_ were afforded an opportunity to submit suggestions and recommendations at advertised public hearings;

NOW THEREFORE BE IT RESOLVED BY \_\_\_\_\_

that \_\_\_\_\_ and \_\_\_\_\_ is authorized to sign and enter into a contract(s) with the Non-Metro Area Agency on Aging.

ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_, 2013.

City Council/ County Commission/ Board President

\_\_\_\_\_  
Mayor/ Chairman/ President

Attest:

\_\_\_\_\_

## ASSURANCES

*Revised to incorporate the 2000 Reauthorization of the Older Americans Act.*

1. Older Americans Act. The grantee will comply with the Older Americans Act of 1965, as Amended, and its implementing regulations as contained in 45 CFR Part 1321.
2. DHHS Grants Administration. The grantee will comply with the U.S. Department of Health and Human Services Grants Administration Regulations as contained in 45 CFR Part 74.
3. Civil Rights. In accordance with Title VI of the Civil Rights Act of 1965, the grantee will not discriminate individuals because of age, race, color, creed, ethnic origin, sex or sexual preference in administering programs or providing services to the elderly.
4. Accessibility for Individuals with Disabilities. Incompliance with Section 504 of the Rehabilitation Act of 1973, as Amended, the grantee will ensure that facilities and services are made accessible to individuals with disabilities.
5. State Policy. The grantee shall comply with the State Policy Manual and all policy issuances by Aging and Long Term Services Department and the Governor of New Mexico
6. Area Policy. The grantee shall comply with the Area Agency on Aging policy Manual and all issuances by the Area Agency on Aging.
7. Affirmative Action and Employment of the Elderly. The grantee shall maintain current affirmative action plans. In implementing their personnel hiring procedures, older individuals shall be given preference and the elderly shall be actively recruited for all available jobs.
8. Other State and Local Laws, Rules and Regulations. The grantee shall comply with all applicable state and local laws, rules or regulations.
9. Confidentiality. The personal case information of program participants shall be maintained in a confidential manner. Procedures have been established by grantee to restrict access to this information to only authorized individuals. Release of any confidential information to unauthorized individuals shall be made only with full written consent by the participant whose records are being disclosed.
10. Contributions. Voluntary contributions from participants shall be accepted. Procedures for documenting and safeguarding the collections and handling of this income have been established by the grantee. Contributions are not a requirement for participation in the programs or for receipt of services funded by this plan.

11. Coordination. The grantee will coordinate with all other programs serving the elderly. In particular coordinate efforts will focus on Foster Grandparent, Senior Companion, Retired and Senior Volunteer and Title VI Programs. In addition, the grantee will establish effective and efficient procedures for coordination between programs funded in this plan and programs described in Section 203(b) of the Act.

Coordination efforts will also focus on community-based long-term care services; entities involved in prevention, identification, and treatment of abuse, neglect and exploitation of older individuals; program providing supportive services to families of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and providers of mental health services

The grantee will ensure that each activity undertaken, including planning, advocacy and systems development, will include a focus on the needs of low-income minority older individuals and older residing in rural areas; and assure that the grantee will coordinate planning, identification, assessment of needs, and provision of services for older individuals with disabilities, with agencies that develop or provide services for individuals with disabilities.

The grantee provides that it will facilitate the coordination of community-based, long-term care services designed to enable older individuals to remain in their homes, by means including: (A) Development of case management services as a component of the long-term care services, consistent with the requirements of paragraph (25) ; (B) Involvement of long-term care providers in the coordination of such services; and (C) Increasing community awareness of and involvement in addressing the needs of residents of long-term care facilities.

12. Low Income Minority Individuals. The grantee, in determining the extent of need in the service area, has taken into consideration the number of older individuals with the greatest economic or social need. Preference will be given to providing services to older individuals with the greatest economic or social needs, with particular residing in rural areas.

All activities undertaken by the grantee, including planning, advocacy and systems development, will include a focus on the needs of low-income minority, older individuals and older individuals residing in rural areas.

The grantee specifies how they intend to satisfy the service needs of low-income minority individuals and older individuals residing in rural areas, in the area served by the grantee, and to provide services to low-income minority individuals and older individuals residing in rural areas in accordance with their need for such services.



19. Special Menus. Meals programs will reasonably accommodate participants special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals.
20. Case Management Services. Case Management services provided under this Plan will:
- a. not duplicated, but will be coordinated with, case management services provided through other Federal and State programs; and,
  - b. be provided by a public agency or a nonprofit private agency that (1) gives each older individual seeking services under this title a list of agencies that provides similar services within the jurisdiction of the Area Agency on Aging; (ii) gives each individual described in clause (i) a statement specifying that the individual has a right to make an independent choice of service providers and documents receipt by such individual of such statement; (iii) has case managers acting as agents for the individuals receiving the services and not as promoters for the agency providing such services; or (iv) is located in a rural area and obtains a waiver of the requirements described in clauses (i) through (iii).
21. Rights Relating to In-home Services for Frail Older Individuals. The grantee assures that programs that provide in-home services (as defined in the Older Americans Act) will promote the following rights of each individual who receives such services:
- a. The right to be fully informed in advance about each in-home service provided by the program and about any change in such service that may affect the well-being of such individual; and the right to participate in planning and changing an in-home service provided by the program, unless such individual is judicially adjudged incompetent;
  - b. The right to voice a grievance with respect to such service that is fails to be provided, without discrimination or reprisal as a result of voicing such grievance;
  - c. The right to confidentiality of records relating to such individual;
  - d. The right to have the property of such individual treated with respect; and
  - e. The right to be fully informed (orally and in writing), in advance of receiving an in-home service, of these rights and obligations.

\_\_\_\_\_  
 Grantee Authorized Individual

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Program Director

\_\_\_\_\_  
 Date

**North Central New Mexico Economic Development District  
Non-Metro Area Agency on Aging**

**DIRECT PURCHASE OF SERVICES  
VENDOR AGREEMENT**

Santa Fe County, hereinafter referred to as Vendor, and the North Central New Mexico Economic Development District (NCNMEDD) Non-Metro Area Agency on Aging (Non-Metro AAA), hereinafter referred to as Agency, enter this Agreement effective July 1, 2013, in accordance with the Older Americans Act of 1965 (OAA), as amended, as provided by the State of New Mexico Aging and Long Term Services Department, and the Agency's Direct Purchase of Services program.

The Agency's Direct Purchase of Services program is designed to promote the development of a comprehensive and coordinated service delivery system to meet the needs of older individuals (age 60 and older). This agreement provides a mechanism for the creation of an individualized network of community resources on a client-by-client basis through the Older Americans Act, as amended, the State of New Mexico Aging and Long Term Services Department and the Agency.

**1. SCOPE OF SERVICES.**

A. Services. The Vendor agrees to provide service(s) to eligible clients as identified in accordance with the Direct Purchase of Service vendor application or Service Delivery Plan, all required assurances, licenses, certifications and rate setting documents, as applicable.

Service:

Congregate Meals  
Home Delivered Meals  
Homemaker/Housekeeping  
Adult Day Care  
Respite  
Transportation  
Assisted Transportation  
IIID Health Promotion Activities (Evidenced-Based)  
    Health Education/Training  
    Health Screening  
    Health Physical Fitness/Exercise  
Chore Services  
Case Management  
Other Health Promotion Activities (Non IIID)  
IIIE Family Caregiver Support Program

Service Definitions:

**Congregate Meals** – A hot or other appropriate meal, served to an eligible person, which meets one-third (1/3) of the dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and which is served in a congregate setting five (5) or more days per week. There are two types of congregate meals:

- Standard meal – A regular meal from the standard menu that is served to the majority of the participants.
- Therapeutic meal or liquid supplement – A special meal or liquid supplement that has been prescribed by a physician and is planned specifically for the participant by a dietician (e.g., diabetic diet, renal diet, tube feeding).

**Home Delivered Meals** – Hot, cold, frozen, dried, canned or supplemental food (with a satisfactory storage life) which provides a minimum of one-third (1/3) of the dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and is delivered to an eligible person in the place of residence. The objective is to assist the recipient to sustain independent living in a safe and healthful environment five (5) or more days per week. Home delivered meals may be served as breakfast, lunch, dinner or weekend meals.

**Homemaker/Housekeeping** – Assistance with meal preparation, shopping, managing money, making telephone calls, light housework, doing errands and/or providing occasional transportation.

**Adult Day Care** – A supervised, protective, congregate setting in which social services, recreational activities, meals, personal care, rehabilitative therapies and/or nursing care are provided to dependent adults. Facility must be licensed by the State of New Mexico.

**Respite** – Temporary, substitute supports or living arrangements for care recipients, which provide a brief period of relief or rest for caregivers. This may be provided in the client's home environment, a congregate or residential setting (e.g., hospital, nursing home, and adult day center) to dependent older adults who need supervision.

**Transportation** – Taking an older person from one location to another. This does not include any other activity. Demand/Response – transportation designed to carry older persons from specific origin to specific destination upon request.

**Assisted Transportation** – Providing assistance and transportation, including escort, to an older individual who has difficulties (physical or cognitive) using



**Chore** – Assistance with heavy housework, yard work or sidewalk maintenance at a person’s place of residence.

**Case Management** - Assistance either in the form of access or care coordination in circumstances where the older person is experiencing diminished functioning capacities, personal conditions or other characteristics which require the provision of services by formal service providers or family caregivers. Activities of case management include such practices as assessing needs, developing care plans, authorizing and coordinating services among providers, and providing follow-up and reassessment, as required. Note: This is an ongoing process including assessing needs of a client and effectively planning, arranging, coordinating and follow-up services which most appropriately meet the identified needs as mutually defined by the client, staff, and where appropriate, a family member(s) or other caregiver(s).

**III E Family Caregiver Support Program** - Services for family caregivers and grandparent caregivers. The following are the allowable service categories:

**Information Services** - Information about available services (c.g. public education, participation at health fairs, etc);

**Access Assistance** - Assistance to caregivers in gaining access to services which is considered one-on-one contact (e.g., information and assistance, care coordination, case management);

**Counseling** - Individual counseling, organization of support groups, and caregiver training to assist the caregivers in making decisions and solving problems relating to their responsibilities (e.g. advice, guidance, and instruction to caregivers on an individual or group basis);

**Respite Care** - Enable caregivers to be temporarily relieved from their care- giving responsibilities. See above for complete definition.

**Supplemental Services** – Services provided on a limited basis, to compliment the care provided by caregivers. No more than 20 percent of the federal funding can be dedicated to supplemental services. Examples of supplemental services include: home safety audits, home modification, assistive technologies, emergency alarm response systems, home delivered meals, medical transportation and incontinent and other caregiving supplies. Services must be on a temporary basis.

Unit Measurements

Congregate Meal:	One Meal
Home Delivered Meal:	One Meal

Homemaker/Housekeeping	One Hour
Adult Day Care	One Hour
Respite Care (Includes IIIIE)	One Hour
Transportation	One, One-Way Trip
Assisted Transportation	One, One-Way Trip
Health Promotion (IIID/Non-IIID)	
Health Education/Training	One Hour
Health Screening	One Hour
Physical Fitness/Exercise	One Session per Participant
Chore	One Hour
Case Management	One Hour
IIIIE Access Assistance	One Contact
IIIIE Counseling	One Session per Participant
IIIIE Information Services	One Activity
IIIIE Supplemental Services	One Distribution Event

Service Area: Santa Fe County.

Targeting: Services are designed to identify eligible clients, with an emphasis on high risk clients and serving older individuals with the greatest economic and social need, low income minorities and those residing in rural areas, as identified in the Older Americans Act.

B. Payment for Services. For the services determined by the Agency to be satisfactorily provided by Vendor hereunder, the Agency shall pay the vendor, during the term, an aggregate amount, including gross receipts tax, not to exceed \$381,260. Said aggregate amount is to be derived from the following sources, when performance levels/units are met.

1. \$0 from Title III-B of the OAA;
2. \$52,145 from Title III-C1 of the OAA;
3. \$22,191 from Title III-C2 of the OAA;
4. \$0 from Title III-D of the OAA;
5. \$0 from Title III-E of the OAA; and
6. \$306,924 from the NMGAA-State/HB-2.

C. Services and Reimbursement Methodology:

Service	Total Unit Cost (III,State,PI,Local)	Federal Title III & State Negotiated Unit Costs	Units of Service	Persons
Congregate Meals	\$7.10797	\$4.48885	35500	900
Home Delivered Meals	\$8.72150	\$5.78881	32000	150
Transportation	\$16.18080	\$3.66640	10000	175
Assisted Transportation	\$	\$		
Case Management	\$	\$		
Adult Day Care	\$	\$		
Respite	\$	\$		
Chore Services	\$	\$		
Homemaker/Housekeeping	\$	\$		
Health Education/Training	\$	\$		
Physical Fitness/Exercise	\$	\$		
Health Screening	\$	\$		
Home Safety	\$	\$		
Medication Management	\$	\$		
<b>NFCSP – Family Caregivers: Elderly</b>				
CG - Counseling	\$	\$		
CG – Respite Care	\$	\$		
CG - Supplemental	\$	\$		
CG - Assistance	\$	\$		
CG - Information	\$	\$		
<b>NFCSP – Family Caregivers: Grandchildren</b>				
CG - Supplemental	\$	\$		
CG – Respite Care	\$	\$		
CG - Assistance	\$	\$		

D. Payment for services shall be consistent with all applicable federal and state laws and regulations.

E. Payments to the Vendor will be made subsequent to receipt of funds by the Agency. Any expenditure made prior to the receipt of funds or pending the Agency's approval shall be made at the Vendor's own risk, and the Agency shall not be liable for such expenditures.

F. Payments to the Vendor may be withheld or denied by the Agency for expenditures which are not authorized by, or are in excess of, the regulations, terms and conditions contained in this Agreement or for expenditures which are not properly documented or substantiated by the Vendor. The Vendor agrees to hold the Agency harmless against all audit exceptions arising from the Vendor's violation and shall make restitution to the Agency of such amounts of money due to the Vendor's non-compliance.

G. The total payments for services rendered by the Agency under the terms and conditions of this Agreement shall not exceed those listed in this Agreement.

## 2. **TERMS OF AGREEMENT.**

In addition to the other provisions contained in this Agreement, the parties agree to the following:

A. The Vendor agrees to:

1. Provide services in accordance with current or revised Agency and State of New Mexico Aging and Long Term Services Department policies and the OAA.
2. Target services to older individuals with greatest economic and social need, including low-income minorities and older individuals residing in rural areas, as applicable.
3. Submit timely and accurate consumer/client tracking service documentation (rosters and transmittals) as required by the AAA by the close of business on the second (2<sup>nd</sup>) day of each month following the last day of the month in which services were provided. If the second (2<sup>nd</sup>) day falls on a weekend or AAA holiday, the information shall be delivered by the close of business on the next business day.
4. Submit timely and accurate consumer/client assessment and reassessment documentation (including transmittals) on the day conducted.
5. Encourage client contributions (program income) on a voluntary and confidential basis. Such contributions will be properly safeguarded and accurately accounted for as receipts and expenditures on its financial reports, if they are not required to be forwarded to the AAA. Client contributions (program income) will be reported fully, as required, to the AAA. Vendor agrees to expend all program income to expand or enhance the program/service under which it is earned.

6. Provide letters from local City or County governments to the NCNMEDD Non-Metro AAA committing local funds to senior programs. Any changes in local funds (increases or decreases) will be provided in writing to the NCNMEDD Non-Metro AAA. An automatic charge of 1/12 of budgeted local income will be applied monthly. The Letter of Commitment of local funds shall be submitted with the signed contract.
7. Maintain communication and correspondence concerning clients' status with the Agency.
8. Submit timely and accurate information necessary for reimbursement.
  - a. All SAMS data should be verified and reconciled by the Vendor prior to submitting the SAMS Verification Statement and the Agency Summary Report (ASR) to the Non-Metro AAA Santa Fe office by the 7<sup>th</sup> working day. The signed Agency Summary Report (ASR) is the official document used to initiate reimbursement of services provided by the Vendor.
  - b. Quarterly financial reports with year-to-date to include approved budget, year-to-date expenses and year-to-date revenue, to be submitted by the 15<sup>th</sup> working day of the month following the end of the quarter.
9. This agreement does not guarantee a total level of reimbursement other than for individual units/services authorized, contingent upon availability of Federal and State funds.
10. Employees shall not solicit nor accept gifts or favors of monetary value by or on behalf of clients as a gift, reward or payment.
11. Encourage the purchase and use of locally sourced farm fresh food products that meet the nutritional standards of the Agency. Vendors must ensure that the farm food products meet the state EID requirements.

B. Through Direct Purchase of Service, the Agency agrees to:

1. Review client intake and assessment forms completed by the Vendor, as applicable, to determine client eligibility. Client intake and assessment forms will be housed at the NCNMEDD Non-Metro Area Agency on Aging (as applicable).
2. Maintain communication and correspondence concerning clients' status.
3. Provide timely consultation and technical assistance to the Vendor as requested and as available.
4. Conduct quality-assurance procedures, which may include on-site visits, to ensure quality services are being provided.
5. Provide written policy, procedures and standard documents concerning client authorization to release information (both a

general and medical/health related release), ability to contribute to the cost of services provided, complaints/grievances and appeals to all clients.

6. Provide start-up funds if applicable.
7. Allow re-negotiation of cost of services based on special circumstances.
8. Employ a full-time manager and financial individual to oversee funds contracted through Non-Metro AAA.

### 3. ASSURANCES.

- A. *Americans with Disabilities Act of 1990 –*  
The Vendor shall comply with the requirements, established under the Americans with Disabilities Act, in meeting statutory deadlines under the Act as they pertain to operation for employment, public accommodations, transportation, state and local government operations and telecommunications.
- B. *Section 504 of the Rehabilitation Act of 1973 –*  
The Vendor shall provide that each program activity, when viewed in its entirety, is readily accessible to and usable by persons with disabilities in keeping with 45 CFR, Part 84.11, etc. Seq., and as provided for in Section 504 of the Rehabilitation Act of 1974, as amended. When structural changes are required, these changes shall be in keeping with 45 CFR, Part 74. The Vendor shall ensure that benefits and services, available under the agreement, are provided in a non-discriminatory manner as required by the Title VI of the Civil Rights Act of 1964, as amended.
- C. *Age Discrimination in Employment Act of 1967 –*  
The Vendor shall comply with Age Discrimination in Employment Act of 1967 (29 USC 621, etc. Seq.).
- D. *Drug Free Workplace*  
The Vendor shall comply with the Drug-Free Workplace Act of 1988.
- E. *Certification Regarding Debarment*  
The Vendor shall certify annually that it is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any Federal department or agency.
- F. *Independent Audit*  
The Vendor will provide a financial and compliance audit report to the Agency covering the period of July 1, 2013 through June 30, 2014. The audit report provided to the Agency must include a copy of the Auditor's management letter. This audit shall be conducted in accordance with

generally accepted auditing standards and shall encompass the following provisions:

1. The Vendor, expending \$500,000 or more in combined federal funds, shall have an audit conducted in accordance with Revised Circular A-133, which incorporates the 1996 Single Audit Act amendments. A fair allocation of the audit costs may be charged to both federal and state funds under this Agreement. A copy of the complete report package as required to be submitted by A-133 to the designated clearinghouse shall also be provided to the Agency. The audit report shall include a schedule of administrative and program expenses for each separate federal title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, etc.), which facilitates a reconciliation of audited costs to the final report. The Agency further requires the inclusion of the final units of services provided and final number of persons served. This information may be included within the supplementary section of the audit report.
2. Governmental-type vendors expending less than \$500,000 in combined federal awards shall continue to follow the guidance of the New Mexico State Auditor. Since a full scope audit will continue to be required by the State Auditor, only a fair allocation of state funds within this Agreement may be expended for such audit costs. The audit report shall include a schedule of administrative and program expenses for each separate federal title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, etc.) which facilitates a reconciliation of these audited costs to the final report. The Agency further requires the inclusion of the final units of services provided and final number of persons served by this Agreement. This information may be included within the supplementary section of the audit report.
3. Non-governmental vendors expending between \$25,000 in federal and state funds combined and less than \$500,000 in federal funds, shall have an audit conducted in accordance with the GAO Government Auditing Standards. A fair allocation of the audit costs may be charged to the state funds awarded under the Agreement. Federal funds shall not be charged for audit costs under this section. The audit report shall include a schedule of administrative and program expenses for each separate title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, etc.), which facilitates a reconciliation of these audited costs to the final report. The Agency further requires the inclusion of the final units of services provided and final number of persons served by this agreement. This information may be included within the supplementary section of the audit report.

4. For those vendors that expend less than \$15,000 in federal and state dollars, no audit is required. The close out of this grant will be based on information required by the Agency, such as financial reports (trial balances, general ledgers, etc.), monitoring efforts and final numbers of services provided and final number of individuals served.
5. Submittal of the audit report for government entities shall be within ten (10) working days after release by the New Mexico State Auditor's Office. For non-governmental entities, the audit report is due four (4) months after the end of the entity's fiscal year.
6. The vendor's independent auditor shall be made aware of Office of Management and Budget Circular (OMB) A-87, Cost Principles for State, Local and Indian Tribal Governments, and OMB Circular A-122, Cost Principles of Nonprofit Organizations in determining the allowability of costs.

G. *Equal Opportunity Compliance.*

The Vendor agrees to abide by all federal and state laws, rules, regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Vendor agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Vendor is found not to be in compliance with these requirements during the life of this Agreement, Vendor agrees to take appropriate steps to correct these deficiencies.

H. *Compliance with Aging and Long-Term Services Department Functions.*

The Vendor shall perform in accordance with the OAA and directives of the U.S. Administration on Aging: rules, regulations, policies and procedures established by the Aging and Long-Term Services Department, for the provision of services, and administration of programs funded under the OAA and the New Mexico State Legislature, the approved Area Plan, the approved Service Plan, and the terms and conditions of this Agreement.

I. *Non-Discrimination Service Delivery.*

The Vendor, in determining (a) the services or other benefits provided under this Agreement, (b) the class of individuals to whom, or situation in which such services or other benefits will be provided under this program, or (c) the class of individuals to be afforded an opportunity to participate in the program, will not utilize criteria or methods of administration which

have the effect of subjecting individuals to discrimination because of their race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program in respect to individuals of a particular race, religion, color, national origin, ancestry, sex, sexual preferences, age or handicap.

**4. TERM.**

This Agreement shall begin on July 1, 2013 and terminate on June 30, 2014, unless terminated pursuant to Paragraph 5, below. In accordance with NMSA 1978, § 13-1-150, no contract term, including extensions and renewals, shall exceed four (4) years, except as set forth in NMSA 1978, § 13-1-150.

**5. TERMINATION.**

A. This Agreement may be terminated by the Agency without cause upon written notice delivered to the Vendor at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. This Agreement may be terminated immediately, upon written notice to the Vendor, if the Vendor becomes unable to perform the services contracted for, as determined by the Agency, or if, during the term of this Agreement, the Vendor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein, or if the Vendor fails to comply with any of the terms contained herein or is in breach of this Agreement as set forth in Paragraph 6, below. This provision is not exclusive and does not waive the Agency's other legal rights and remedies caused by the Vendor's default or breach of this Agreement. This Agreement may also be terminated by the Vendor upon thirty (30) days written notice to the Agency.

B. Termination Management. Immediately upon receipt of notice of termination of this Agreement by either the Agency or the Vendor, the Vendor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and client records generated under this Agreement and any non-expendable personal property or equipment purchased by the Vendor with contract funds shall become property of the Agency upon termination. On the date the notice of termination is received, the Vendor shall furnish to the Agency a complete, detailed inventory of non-expendable personal property purchased with funds provided under the existing and previous Agency agreements with the Vendor; the property listed in the inventory report including client records and a final closing of the financial records and books of accounts which were required to be kept by the Vendor under the paragraph of this Agreement regarding financial records.

**6. BREACH OF AGREEMENT BY VENDOR.**

A. In addition to the breach of any term, provision, covenant, agreement, or obligation of Vendor contained in this Agreement, the following constitute a breach of Vendor's obligations and duties hereunder:

1. The Vendor's failure to provide proof of insurance coverage sufficient to meet the requirements of this Agreement or any applicable federal, state or local laws, rules or regulations.
2. The Vendor's failure to adequately safeguard its assets in such a manner that would adversely impact the interests of the intended recipients of the services to be performed, hereunder, and jeopardize their receipt of such services.
3. Unless otherwise duly authorized in writing by the Agency, the Vendor's failure to meet line-item budgetary ceilings set forth in its approved budget for delivering the services contemplated hereunder.

B. Upon a determination by the Agency that the Vendor shall be in breach of this Agreement, the Agency shall provide written notice to the Vendor specifying the facts and circumstances constituting the breach(es) and advising the Vendor that such breach(es) must be cured to the Agency's satisfaction within thirty (30) days from the date of such written notice. If such cure is not timely made, then the Agency may elect to implement one or more of the following intermediate sanctions:

1. The Agency may install a program monitor for a specified time period to closely observe the Vendor's efforts to comply with obligations remaining under this Agreement. Unless otherwise deemed confidential under applicable law, such monitor shall have authority to review any or all of the Vendor's records, policies, procedures, and financial records germane to the Vendor's delivery of the services contemplated by this Agreement. Such monitor may also serve as a consultant to the Vendor to advise in the correction of the determined deficiencies. All costs associated with the Agency's selection and installation of such monitor shall be paid from the state and federal funds paid to the Vendor hereunder.
2. The Agency may appoint a temporary manager who shall have primary responsibility to oversee the operation of the Vendor's services contemplated by this Agreement. All costs associated with the Agency's selection and installation of such a temporary manager shall be paid from the compensation paid to Vendor.
3. The Agency may deem the Vendor ineligible for the receipt of any additional funds to be paid to Vendor hereunder.
4. The Agency may cancel, terminate, or suspend this Agreement in whole or in part.

5. In addition to other remedies available to the Agency hereunder, the Agency may, in its discretion, establish a period of probation with specific objectives to be accomplished by the Vendor hereunder, or to be in compliance with applicable policies, procedures, laws, and regulations.
6. The Agency may pursue any other remedy as may be provided under applicable law

**7. APPROPRIATIONS.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico and utilized by the Agency for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the Agency to the Vendor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Vendor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Vendor shall have the option to terminate the Agreement or agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

**8. STATUS OF VENDOR.**

The Vendor, its agents, and employees are independent contractors performing professional services for the Agency and are not employees of the Agency. The Vendor, its agents and employees shall not accrue leave, retirement, insurance, bonding, use of Agency vehicles, or any other benefits afforded to employees of the Agency as a result of this Agreement. The Vendor acknowledges that all sums received hereunder are reportable for income tax purposes.

**9. ASSIGNMENT.**

The Vendor shall not assign or transfer any interest in this Agreement, assign any claims for money due, or to become due under this Agreement, without the prior written approval of the Agency.

**10. SUBCONTRACTING.**

The Vendor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

**11. RELEASE.**

The Vendor acceptance of final payment of the amount due under this Agreement shall operate as a release of the Agency, its officers and employees from all liabilities, claims and obligations, whatsoever, arising from or under this Agreement. The Vendor agrees not to purport to bind the Agency unless the Vendor has express written authority to do so, and then only within the strict limits of that authority.

**12. CONFIDENTIALITY.**

Any information provided to or developed by the Vendor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization, by the Vendor without the prior written approval of the Agency. Disclosure of confidential information shall only be made in accordance with the Inspection of Public Records Act or the applicable state or federal laws or regulations. Vendor shall establish a method to guarantee the confidentiality of all information relating to clients in accordance with applicable federal, state and local laws, rules and regulations, as well as the terms of this Agreement. However, this provision shall not be construed as limiting the rights of the Agency or any other federal or state authorized representative to access client case records or other information relating to clients served under this Agreement.

**13. PRODUCT OF SERVICE – COPYRIGHT.**

All materials developed or acquired, by the Vendor, under this Agreement, shall become the property of the Agency and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing produced, in whole or in part, by the Vendor, under this Agreement, shall be the subject of an application for copyright or other claim of ownership, by or on behalf, of the Vendor.

**14. CONFLICT OF INTEREST.**

The Vendor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree, with the performance or services required under the Agreement. The Vendor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

**15. AMENDMENT.**

This Agreement shall not be altered, changed or amended, except by instrument in writing, executed by the parties hereto.

**16. MERGER.**

This Agreement incorporates all the agreements, covenants and understandings between the parties hereto, concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**17. PENALTIES.**

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

**18. APPLICABLE LAW.**

The laws of the State of New Mexico shall govern this Agreement.

**19. WORKERS COMPENSATION.**

The Vendor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Vendor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

**20. RECORDS AND FINANCIAL AUDIT.**

The Vendor shall maintain detailed time and expenditure records, including, but not limited to, client records, books, supporting documents pertaining to services provided, that indicate the date, time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments. If, pursuant to this Agreement, the Vendor receives federal funds subject to the Single Audit Act, the Vendor shall submit to the Agency an audit conducted by a certified public accountant in compliance with the Single Audit Act.

**21. INDEMNIFICATION.**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitation of the New Mexico Tort Claims Act.

**22. INTERNAL DISPUTE MEDIATION.**

The Vendor shall attempt to resolve all disputes with participants by negotiation in good faith and with such mediators as may be acceptable to the parties involved. The Vendor shall implement an internal grievance policy with procedures in place to effectively and fairly negotiate and resolve disputes with participants. The Vendor must provide all participants with notice, at the commencement of the contract year, that disputes may be resolved in this manner. If negotiation and mediation through the grievance procedure fail, any party may submit the dispute to the ALTSD in accordance with the following provisions:

1. In any dispute submitted, the Agency and the Vendor hereby agree and consent to the ALTSD mediation of the dispute.
2. Mediation may only be instituted by written request, which request shall include a statement of the matter in controversy.
3. Initial contacts and negotiation shall be conducted by the appropriate Agency staff.
4. Any resolution of the matter shall be binding and final on the Vendor and the Vendor hereby agrees to be bound by said resolution.

5. Failure of the Vendor to resolve any dispute pursuant to the procedures set forth herein or to comply with a resolution ordered by the ALTSD shall amount to a material breach of Agreement.
6. Internal Dispute Mediation does not supersede the appeal hearing policies and procedures.

**23. PARTICIPANT GRIEVANCE.**

The Vendor will establish a system through which applicants for, and recipients of services, may present grievances about the operation of the service program. The Vendor will advise applicants and recipients of their right to appeal denial of service and their right to a fair hearing of these respects. The Vendor shall notify the Agency of termination of services, to a client, as part of a monthly service report, on any services funded by this Agreement. The Agency reserves the right to perform follow-up investigations with the client to determine adequate performance and adherence to due process.

**24. KEY PERSONNEL.**

The Agency shall be notified of changes in, and must concur with the selection process for, Key Personnel. The Agency considers the following positions as Key Personnel:

1. Program Director
2. Financial Manager

**25. INVALID TERM OR CONDITION.**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

**26. ENFORCEMENT OF AGREEMENT.**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless expressed in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**27. NOTICES.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

**AGENCY:**

NCNMEDD  
Attn: Jenny Martinez  
PO Box 5115  
Santa Fe, NM 87502

**VENDOR:**

|||||  
Santa Fe County Senior Services  
ATTN: Teresa Casados  
P.O. Box 276  
Santa Fe, NM 87504

**28. INSURANCE.**

The Vendor shall secure and maintain, during the term of this Agreement, at its own expense, comprehensive and general public liability insurance and/or other types of insurance as the Agency may require. The Vendor shall secure and maintain, during the term of this Agreement, at its own expense, workers' compensation insurance in the amounts required by the applicable laws of the State of New Mexico covering the Vendor's employees. All policies of liability insurance that Vendor is obligated to maintain, according to this Agreement, except for any policy of workers' compensation insurance, shall name Agency as an additional insured. The Vendor shall furnish to the Agency a memorandum or certification of both the comprehensive and general liability insurance, as well as the workers' compensation insurance, before the payment of any monies as consideration for the services rendered hereunder shall be made. Upon such certificates and/or memoranda being furnished to the Agency, the same shall be annexed to this Agreement and by reference made a part hereof.

**29. AUTHORITY.**

The individual(s) signing this Agreement on behalf of Vendor represents and warrants that he or she has the power and authority to bind Vendor, and that no further action, resolution, or approval from Vendor is necessary to enter into a binding contract.

**30. SIGNATURES.**

For the faithful performance of the terms of this agreement, the parties affix their signatures and bind themselves effective July 1, 2013.

Santa Fe County  
*Legal Name of Vendor*

NCNMEDD  
Non-Metro Area Agency on Aging  
*Name of Area Agency on Aging*

\_\_\_\_\_  
*Signature*

  
\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Printed/Typed Name of Signatory*

Tim Armer, Executive Director  
*Printed/Typed Name of Signatory*

\_\_\_\_\_  
*Date*

  
\_\_\_\_\_  
*Date*

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT  
NON-METRO AREA AGENCY ON AGING  
NOTIFICATION OF GRANT AWARD (NGA)

GRANTEE: Santa Fe County		APPROVED BUDGET PERIOD				Grant/Action		NGA DATE
ADDRESS:		FROM: 7/1/2013				New/Cont:	X	6.3.13
PHONE:		TO: 6/30/2014				Revislon:		
						BAR:		
						Other:		
DESCRIPTION		FEDERAL	STATE	LOCAL	Fundraising-Foundatlons	PROJ. INC.	TOTAL	
Title IIIB	Access	\$ -	\$ 36,664	\$ 120,144	\$ -	\$ 5,000	\$ 161,808	
	In-Home	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Community All Other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Subtotal	\$ -	\$ 36,664	\$ 120,144	\$ -	\$ 5,000	\$ 161,808	
Title IIIC1	Meal Costs	\$ 52,145	\$ 107,209	\$ 60,979	\$ -	\$ 32,000	\$ 252,333	
	Subtotal	\$ 52,145	\$ 107,209	\$ 60,979	\$ -	\$ 32,000	\$ 252,333	
Title IIIC2	Meal Costs	\$ 22,191	\$ 163,051	\$ 86,346	\$ -	\$ 7,500	\$ 279,088	
	SubTotal	\$ 22,191	\$ 163,051	\$ 86,346	\$ -	\$ 7,500	\$ 279,088	
Title IIID	Health Promotion	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Title IIIE	Care Giver Support	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
DEMONSTRATON GRANT								
ALZHEIMER	Respite Care	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
ALL STATE OTHER		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
SUB TOTALS	Title IIIB	\$ -	\$ 36,664	\$ 120,144	\$ -	\$ 5,000	\$ 161,808	
	Title IIIC1	\$ 52,145	\$ 107,209	\$ 60,979	\$ -	\$ 32,000	\$ 252,333	
	Title IIIC2	\$ 22,191	\$ 163,051	\$ 86,346	\$ -	\$ 7,500	\$ 279,088	
	Title IIID	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Title IIIE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Alzheimer Respite Care	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	All State Other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	GRAND TOTAL	\$ 74,336	\$ 306,924	\$ 267,469	\$ -	\$ 44,500	\$ 693,229	
COMPUTATION OF GRANT		8.Federal/State Shares will be comprised of:						
1.Estimated Total Cost.....	\$ 693,229	a.Federal/State		FY 20 __	Federal State			
2.LESS Anticipated Proj. Inc.	\$ 44,500	grant unearned						
3.Estimated Net Cost.....	\$ 648,729	In previous project year(s)						
4.Non-federal and Non-state Share of Net Cost.....		b. Carry Over		FY 20 __	Federal State			
5.Proj. Inc. (Used as Match).....	\$ 44,500							
6.Federal Share of Net Cost.....	\$ 74,336							
7.State Share of Net Cost....	\$ 306,924	c. New Obligational		FY-	Federal State		\$ 74,336	
		Authority Herein Awarded					\$ 306,924	

NOTIFICATION OF GRANT AWARD

REMARKS: In addition to the conditions contained in the agreement on the application form, the conditions below apply to this grant.

- 1. Unless revised, the amount of lines 6 and 7 (Computation of Grant) will constitute a ceiling for federal and/or state participation in the approved cost.
- 2. The federal and/or state share of the project cost is earned only when the cost is accrued and the non-federal and/or non-state share of the cost has been contributed. Receipt of federal and/or state funds (either through advance or reimbursement) does not constitute earning of these funds.
- 3. If the actual net cost is less than the amount on line 3 (Computation of Grant) the non-federal and/or non-state share, the federal share, and the state share will meet the percentages indicated on Page 1 of the NGA.
- 4. As shown in the Computation of Grant (assuming satisfactory progress, adequate justification and the availability of funds), the federal and state shares shall meet the amounts shown on lines 6 and 7 of the estimated net project cost shown on line 3.
- 5. Funds herein awarded will remain available during the length of the project period, however, state and/or federal funds are dependent upon availability.
- 6. Percentages indicated on this Notification of Grant Award are adjustable at year end based on the amount of program income earned and expended. All program income must be expended within the program period indicated on page 1.
- 7. Programs must meet the units of services projected in order to be reimbursed or submit a recalculation of service costs request detailing reasons approved units are not being met. Amendments must be approved by the Area Agency on Aging.

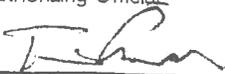
The Grantee organization is responsible for retaining records of all federal and/or state accounts as follows:

All accounting records are to be kept in accordance with federal and state policy and readily available for examination by Area Agency on Aging personnel or other federal and/or state officials authorized to examine any or all financial and programmatic records. Such records shall be retained in accordance with the following:

- 1. Keep adequate and complete financial records, and to report promptly and fully to the Area Agency on Aging on a monthly basis.
- 2. If a federal and/or state audit has not been made within three (3) years after project termination, project records may then be destroyed, on approval of the Area Agency on Aging.
- 3. In all cases, an over-riding requirement exists to retain records until resolution of any audit questions relating to individual grants.
- 4. Non-federal resources must be contributed equally to the percentage of the non-federal share of actual net costs for a project year. If a Grantee reports federal and/or state cash received but unearned on the final project report for a project year, the Grantee then owes the Area Agency on Aging this amount. This amount may constitute a cash advance on any funds awarded to the Grantee by the Area Agency on Aging for the following project year.
- 5. The disposition of unearned portions of federal and/or state funds at the end of the project year shall be made in accordance with current state policies.
- 6. Unearned federal and/or state cash at the time the project is terminated shall be returned in full to the Area Agency on Aging.
- 7. All obligations will be liquidated within 30 days after the end of the project year and before final program and financial reports are submitted.
- 8. Inventory of project equipment will be maintained and submitted as requested.

Project records will be preserved and kept available to federal and state auditors at the following address:

NCNMEDD Non-Metro Area Agency on Aging  
Authorizing Official



Signature: Tim Armer, Executive Director

Date:

We, the undersigned officers of the Grantee organization, certify that we are in agreement with the terms and conditions of this award.

Signature:

Date:

Signature:

Date:

# Santa Fe County

## Fiscal Impact Report

Department / Division:

Action Item to be Considered:

Agreement Number:

Indicate with a <input checked="" type="checkbox"/> below	Section 1 - Identify the type of document below for BCC Consideration and Approval
<input checked="" type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input type="checkbox"/>	Loan/Grant Agreement
<input type="checkbox"/>	Other: <input type="text"/>

Indicate with a <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc. <input type="text"/>
<input type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds) <input type="text"/>
<input checked="" type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % <input type="text" value="0"/> \$ <input type="text" value="0"/> Source <input type="text" value="N/A"/>
<input type="checkbox"/>	Other: <input type="text"/>

### Section 3 - Ongoing operations and maintenance (O&M) requirements:

**Short Term (Specify needs for the current fiscal year only)**

New FTE's #  Position  Hourly Rate \$

Current Fiscal Year Cost \$  Annual Cost \$

**Initial Costs (Vehicle, computer, office space, etc.)**

**O & M (Concisely identify the recurring needs, supplies, equipment, and the resources**

necessary for carrying out the job duties)

**Current Fiscal Year Cost \$**

**Annual Cost \$**

**Long Term** (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs)

**Salary & Benefits:**

**All other expenses:**

**Section 4 - Revenue**

**Short Term** (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Grant awarded by the Area Agency on Aging to provide congregate meals, home delivered meals and transportation services to Seniors throughout Santa Fe County. The award is based on projected units of service provided.

**Current FY Estimate \$**

**Long Term** (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

This award is for the second year of our four year award. The award is based on 35,500 units of congregate meals; 32,000 units of home delivered meals; and 10,000 units of transportation. The long-term amount is difficult to estimate given that funding is based on units of service, and discussions have included anticipated funding cuts next fiscal year due to federal budget cuts.

**Annual Estimate \$**

**Total (next 4 years) \$**

**Additional Narrative**

(Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

The total budget for senior services is \$1,799,351, which includes the anticipated grant award from the Area Agency on Aging. These funds are heavily relied upon by Santa Fe County for reimbursement for both meals and transportation provided to seniors.

**Prepared by**

**Reviewed by**

 **File Attachment**

 **File Attachment**

 **File Attachment**

**Daniel "Danny" Mayfield**  
Commissioner, District 1

**Miguel Chavez**  
Commissioner, District 2

**Robert A. Anaya**  
Commissioner, District 3



**Kathy Holian**  
Commissioner, District 4

**Liz Stefanics**  
Commissioner, District 5

**Katherine Miller**  
County Manager

## MEMORANDUM

**DATE:** *June 25, 2013*

**TO:** *Board of County Commissioners*

**FROM:** *Adam Leigland, Public Works Department Director*

**VIA:** *Katherine Miller, County Manager*

*Jul 2, 2013*

**ITEM AND ISSUE: *BCC Meeting July 9, 2013***  
**PRESENTATION AND DISCUSSION OF THE COUNTY FIXED ASSET INVENTORY  
PREPARED IN COMPLIANCE WITH RESOLUTION 2013-1**

On January 8, 2013, the BCC approved Resolution 2013-1, which called for staff to research the status of each County real property and prepare such a complete list, chart or spreadsheet of all County-owned real property. Each property was to be included in a layer contained within the County's geographic information system (GIS) and the property list was to include all relevant details concerning the property. This list was to be completed and transmitted to the BCC within six months of adoption of the resolution.

A working group, comprising members from Legal, GIS, the Assessor, Finance, and Public Works, formed and met at least once a week for the six months, a total of over 500 FTE hours, to examine and consolidate existing property lists, research and identify all properties, create a storage archive in GIS, and develop a workflow process to preserve and continue the work done to date. The master list is attached.

The working group has been successful thus far, and, as of the date of this memo, has identified 175 individual properties. That said, this is a work in progress, both to continue to confirm that all properties and all data elements for those properties are identified, and to implement the workflow process to ensure that the inventory remains up to date as mentioned above. The attached slide presentation gives more details on the GIS storage tool as well as the next steps in the overall effort.

**REQUESTED ACTION:**  
None; for discussion only.



# Santa Fe County

Asset Name	Location	Deed or Patent	Survey Plat	Restrictions	Improvement	Leased From Other	Leased To Other	Water Rights	Title Insurance	Environmental Assessment
100 Catron Courthouse (Old 1st Judicial)	100 Catron	Y	Y		Y				N	
1st Judicial District Attorney's Office	327 Sandoval	Y	Y	Y	Y	N	N		Y	N
1st Judicial New (Steven Herrera Judicial Complex, Blue Monkey, Enecon, P 225 Montezuma Ave	327 Montezuma Ave	Y	Y	Y	Y	N	N		Y	Y
Abedon Lopez Senior Center	155 A Camino De Quintana	Y	Y	Y	Y		Y		N	
Santa Fe County Administration Building	102 Grant Ave.	Y			Y				N	
Agua Fria Fire Station #1 (Agua Fria)	2020 Caja Del Oro Grant Rd	Y	Y	Y	Y				N	
Agua Fria Fire Station #2 (La Tierra)	6 Arroyo Calabasa Rd	Y	Y	Y	Y				Y	
Romero Park (Agua Fria River Park, Agua Fria Park, BLM Patent)		Y	Y	Y	Y				N	Y
Animal Control	100 Caja Del Oro Rd		Y	Y	Y	Y			N	
Arroyo Hondo Open Space	74 E Old Agua Fria Rd & County Road 58	Y	Y	N	Y	N	N	Y	Y	Y
Arroyo de la Piedra		Y	Y	Y	Y	N	N	N	Y	Y
Marcos Trujillo Teen Center (Arroyo Seco Teen Center)	89 La Puebla Rd	Y	Y	Y	Y	Y	Y		N	
Bennie J. Chavez Community Center (Playground & Substation)	354 Juan Medina Rd		Y		Y	Y			N	
Bokum Building	142 W Palace Ave		Y		Y	Y			N	
Burro Lane Park	3801 Quail View Ln	Y	Y	Y	Y				N	
Camino de Jacobo Boys & Girls		Y	Y	Y	Y					
La Bajada Ranch (Santa Fe Canyon Ranch)	20 Entrada la Cienega	Y	Y	Y	Y			Y	Y	Y
Cerrillos Church Lot										
Chimayo Detention Pond	28 El Potrero Rd	Y								
Chimayo Fire Station #1	226 Juan Medina Rd	Y	Y	Y	Y				N	
Chimayo Fire Station #2 (Cundiyo)	5 Jose Simon Dr	Y	Y	Y	Y		?			
Chimayo Head Start	205 A Juan Medina Rd	Y	Y	Y	Y		?		N	
Chimayo Potrerros	280 Juan Medina Rd	Y	Y	Y	Y			Y	Y	
Chimayo Sheriff Sub Station	354 B Juan Medina Rd	N	Y	N	Y	Y				
Cerrillos Hills State Park (Alger, Shelton, Pilnock, Sheridan, Cooper, Kohl, Ev	44/88 Camino Turquesa	Y	Y	N	Y	N	Y	N	Y	Y
Santa Fe River Greenway (San Isidro Park, Community Farm)	1901 San Ysidro Crossing	Y	Y	N	Y	N	N	N	Y	
Community Health Building	2052 Galisteo Rd	Y	Y	Y	Y				?	
New Solana Center 1 (Women's Health - Southwest Care)	901 W Alameda Suite 20C	Y	Y	Y	Y		Y		Y	
County Fairgrounds (Extension, Exhibit Hall, Small Animal Barn)	3237 Rodeo Rd	Y	Y		Y		Y		N	
County Health Office	605 Letrado St	Y	Y		Y		Y		N	
Agua Fria County Shop	Agua Fria Park Road	Y	Y	Y	Y				N	
Cundiyo Community Center	5 Jose Simon Dr	Y	Y	Y	Y				N	
Edgewood Fire Station #1 / Community Park	23 E Frontage Rd	Y	Y	Y	Y				N	
Edgewood Fire Station #2	650 NM 344	Y	Y	Y	Y				N	
Edgewood Fire Station #3	3 Oro Quay Rd	Y	Y	Y	Y				N	
Edgewood Fire Station #4/ Thunder Mountain	18 Dinkle Rd	Y	Y	Y	Y				N	
Edgewood Senior Center / Park	114 Quail Trl	Y	Y	Y	Y				N	

# Santa Fe County

Asset Name	Location	Deed or Patent	Survey Plat	Restrictions	Improvement	Leased From Other	Leased To Other	Water Rights	Title Insurance	Environmental Assessment
Santa Fe River Greenway (El Camino Real Park)	3500 Constellation Dr	Y	Y	Y	Y	Y	N	N	N	Y
El Penasco Blanco (El Tanque, Las Golondrinas)	357 B Los Pinos Rd, 10 Farmer's Pond Road, 334 Los Pinos Rd	Y	Y	Y	Y	N	N	N	Y	N
Los Potreros (Esperanza, Isabel)	Juan Median Rd	Y	Y	Y	Y	N	Y	Y	Y	Y
El Rancho Community Center / Playground	394 County Rd 84	Y	Y	Y	Y	N	N	Y	N	N
El Rancho Open Space	224 County Rd 84C	Y	Y	Y	Y	N	N	Y	Y	N
Eldorado Fire Station #1	144 Avenida Vista Grande	Y	Y	Y	Y					
Eldorado Fire Station #2	167 Avenida Casa Del Oro	Y	Y	Y	Y				Y	
Eldorado Fire Station #3	28734 US Highway 285	Y	Y	Y	Y					
Eldorado Transfer Station (Landfill)	28736 US Highway 285	Y	Y	Y	Y					
Esperanza Administration Building	2845 Agua Fria St									
Santa Fe River Greenway (Fischer Tract)	1698 Cerro Gordo Rd	Y	Y	Y	N	N	N	N	Y	N
Gallisteo Fire Station	39 Avenida Vieja	Y		Y	Y					
Gallisteo Community Park (Phillip C. Watts II Memorial Park)	924 Camino Los Abuelos									
Georgia Place	128 Grant Street				Y					
Glorieta Fire Station	45 Fire Station Rd	Y	FIND	Y	Y					
Herman C. Sena Station NO. 2	11 W Kinsell Ave	Y	Y	Y	Y		N			
Hondo Fire- East Regional	645 Old Las Vegas Hwy									
Hondo Fire Station #1	21 Seton Village Rd	Y	Y	Y	Y		N			
Hondo Fire Station #2	645 Old Las Vegas Hwy	Y	Y	Y	Y		N			
HR Offices	949 W Alameda St	Y	Y	Y	Y			Y	Y	
Jacona Transfer Station	1696 NM 502		Y	Y	Y	Y Poj.			N	
Ken & Patty Adams Senior Center	16 Avenida Torreón		Y	Y	Y				N	
La Cienega Community Center	136A Camino San Jose	Y	Y	Y	Y				N	
La Cienega Fire Station #1	37 Rancho Viejo Blvd	N	Y	Y	Y	Y			N	
La Cienega Fire Station #2	136B Camino San Jose	Y	Y	Y	Y				N	
La Cienega Landfill	25 County Rd 54B	Y	Y	Y	Y				N	
La Cienega Future Community Center and Park Site	Paseo Del Canon	N	Y	Y	Y	Y	N	N	N	N
La Cienega Transfer Station	25 County Rd 54B									
La Cienega Water Rights		Y							N	
Santa Fe River Greenway (La Cieneguilla Open Space)	265 Paseo Real/22 CR 56 C	Y	Y	N	Y	N	N	Y	Y	Y
La Familia Medical Center	2145 Caja Del Oro Grant Rd				Y	Y			N	
La Puebla Fire Station #2 / Arroyo Seco	1 Cowboy Ln			Y	Y				N	
La Puebla Fire Station #1	31 Firehouse Rd	Y	Y	Y	Y				N	
La Puebla Park	51 Placita Rd	Y	Y	Y	Y	Y	Y	N	N	
La Tierra Fire Squad 62	6 Arroyo Calabasa Rd	Y	Y	Y	Y				N	
La Tierra Fire Station/ Agua Fria #2	6 Arroyo Calabasa Rd	Y	Y	Y	Y				Y	

# Santa Fe County

7/2/20:

Asset Name	Location	Deed or Patent	Survey Plat	Restrictions	Improvement	Leased From Other	Leased To Other	Water Rights	Title Insurance	Environmental Assessment
Lamy Community Park	78 Old Lamy Trl	Y	Y	Y	Y				N	
Lamy Open Space	38 Old Lamy Trl	Y	Y	Y	Y	N	N	N	Y	Y
Las Acequias Property	2480 Alamo Ln									
Las Campanas Fire/ Agua Fria #2	6 Arroyo Calabasa Rd	Y	Y	Y	Y				Y	
Law Complex										
Life Link	1318 Luana St									
Lift Station	38 B E Ramanda Way		Y	Y	Y				N	
Little Tesuque Creek	554/534 SR 475	Y	Y	Y	Y	N	N	N		
Santa Fe River Greenway (San Isidro Park, M & R Gravel)	4752 Rivers Edge Ln	Y	Y	Y	Y	N	N	Y	Y	
Madrid Fire Station #1	5 Fire House Ln	Y	Y	Y	Y				N	
Madrid Grandstands	2897 NM 14	Y	Y	Y	Y					
Madrid Open Space (Church Lot, Greenbelt, Wilderness)	16 Cave Rd, 2905 NM 14, 22 Backroad	Y	Y	Y	Y					
Madrid Landfill										
Madrid Restroom Facility	2903 NM 14		Y	Y	Y					
Maternal Health										
New Solana Center 2 (Morgan Stanley, HR Offices)	949 W Alameda St									
Nambe Fire/ Pojoaque #2	302 NM 503		Y	Y	Y	Y			N	
Nambe Community Center (Nambe Head Start)	180 B NM 503	Y	Y	Y	Y				Y	
Nambe Community Center Park	180 B NM 503		Y	Y	Y	Y	N	N		
Nambe Transfer	605 NM 503			Y	Y	Y			N	
New Public Works	424 NM 599									
Old Agua Fria Landfill	221 N cja Del Oro Grant Rd		Y	Y	Y				N	
Old County Landfill			Y	Y	Y				N	
Old Jacona Landfill	1502 NM 502									
Old Pecos Trail Gateway (Pops)	11 Old Las Vegas Hwy	Y	Y	Y	Y	N	N	N	Y	
Ortiz Mountains Open Space (Ortiz Mountains Educational Preserve)	580 Goldmine Rd	Y	Y	Y	Y	N	N	N	Y	Y
Paramount Building (New CourtHouse)	225 Montezuma Ave									
Talaya Hill Open Space (Parker, Picacho Peak)	1137 E Ridge Rd, Canyon Road)	Y	Y	Y	Y	N	N	N	Y	
Arroyo Hondo Trail (Petchesky, Rancho Viejo easements)	5430 Richards Ave		Y	Y	Y	N	N	N	N	Y
Pojoaque Fire Station #1	29 Ogo Wii		Y	Y	Y	Y			N	

# Santa Fe County

Asset Name	Location	Deed or Patent	Survey Plat	Restrictions	Improvement	Leased From Other	Leased To Other	Water Rights	Title Insurance	Environmental Assessment
Pojoaque Fire Station #2	302 NM 503		Y		Y	Y			N	
Pojoaque Tennis Courts	1812 NM 502	Y	Y	Y	Y				N	
Public Safety Complex	35 Camino Justicia	Y	Y	Y	Y				N	
Public Works Galisteo (Old)	2600 Old Galisteo Rd	Y	Y	Y	Y				N	
Rancho Viejo Fire Station	37 Rancho Viejo Blvd	Y	Y	Y	Y				N	
Rio en Medio Community Center (Playground)	1 El alto	Y	Y	Y	Y				N	
Rio en Medio Open Space	93 Rio En Medio Rd AKA CR 78 B	Y	Y		Y	N	N			
San Marcos Landfill	366 Camino Los Abuelos									
San Pedro Open Space	1686 NM 344	Y	Y		Y	N	N		Y	Y
Santa Fe River Greenway (San Isidro Park, Cook)	4740 Rivers Edge Ln	Y	Y	N	Y	N	N		Y	Y
Sana Fe County Fire Training Center Complex	05 Martin Rd	Y	Y						Y	
Santa Cruz Boys & Girls Club	153/155 B Camino De Quintana	Y	Y	Y	Y				N	
Santa Cruz Housing	Camino De Quintana	Y	Y	Y	Y				N	
Santa Fe River Greenway (Moellenbeck)	5431 Agua Fria St	Y	Y	N	N	N	N		Y	Y
Santa Fe County Adult Detention CTI Jail	28 Camino Justicia									
Santa Fe County Business Park	31 Santa fe Studios Rd									
Santa Fe County Extension Building	3229A Rodeo Rd	Y	Y	Y	Y	Y			N	
Santa Fe County Housing Authority										
Santa Fe County Maintenance Yard										
Santa Fe County Mountain Center	1160 Parkway Dr	Y	Y	Y	Y				Y	
Santa Fe County Youth Development Facility	4250 Airport Rd			Y	Y	Y				
Santa Fe Recovery Center	4090 Calle Lucia Ln									
Santa Fe Rail Trail (Rabbit Road Trailhead, Nine Mile Trailhead)	I-25 to 285			Y	Y	Y	N			Y
Socorro Water Rights										
South Meadows Open Space (South Meadows Field)	3600 South Meadows Rd	Y	Y	N	Y	N	N		Y	Y
Spur Trail	Richards to Rail Trail			Y	Y					Y
Stanley Community Center	13 W Kinsell Ave									
Stanley Community Park	11 W Kinsell Ave									
Stanley Fire Station #1	685A NM 472	Y	Y	Y	Y				N	
Stanley Fire Station #2	11 W Kinsell Ave	Y	Y	Y	Y				N	
Stanley Maintenance Yard	685B NM 472		Y	Y	Y					
Stanley Transfer Station	20 County Rd 14 A	Y		Y	Y					
State Health Offices										
Tesugue Fire Station #1	4 Senda De Fuego	Y	Y	Y	Y				N	

# Santa Fe County

Asset Name	Location	Deed or Patent	Survey Plat	Restrictions	Improvement	Leased From Other	Leased To Other	Water Rights	Title Insurance	Environmental Assessment
Tesuque Fire Station #2	444 SR 592	Y	Y	Y	Y	N	N	N	N	Y
Tesuque Fire Station #3	15 TP 806		Y	Y	Y	Y			N	
Tesuque Transfer Station	50 NM 592									
Thornton Ranch Open Space (Section 28, Section 29, 75 West Basin, Anand	75 West Basin Ridge	Y	Y	Y	Y	N	N	Y	Y	Y
Thunder Mountain Fire/ Edgewood #4	18 Dinkle Rd						Y			
Top of the World										
Turquoise Trail Fire Station #1	10 River St	Y								
Turquoise Trail Fire Station #2	3609 NM 14	Y	Y	Y	Y				N	
Turquoise Trail Fire Station #3	3 Turquoise Trail Ct	Y	Y	Y	Y					
Vacant Lot										
Valle Vista Housing	6 Las Lomas Dr									
Vista Grande Public Library	14 Avenida Torreon									
Edgewood Open Space (Wildlife West)	87 W Frontage Rd	Y	Y	Y	Y	N	N	N	Y	Y
Youth Shelter & Family Services	5686 Agua Fria St									



---

# ***Public Works***

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## **Santa Fe County's Fixed Assets Resolution 2013-1**



**Adam Leigland**  
Director

---



# Overview

---

- Resolution No. 2013-01
- Where property was tracked in the County
- Process to consolidate data
- Asset Listing and contents
- Next steps



# Resolution No. 2013-01

---

- Preparation of a list of all real property owned or leased by the County
    - Land
    - Facilities / Structures
    - Water Rights and wells
    - Easements
    - Open space and trails
  - Benefits
    - Property adequately maintained, managed and insured
    - Auditing and internal controls
    - Safeguarded against misuse or misappropriation
    - Accessible data and transparency
    - Address many years of inattention
- 

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# Where is Property Tracked in the County?

---

- Risk Management
  - Insurance purposes
- Public Works
- Finance
  - Financial tracking and auditing purposes
- Legal
- Assessor
- GIS
  - Central Repository of integrated & coordinated data
    - Location of properties
    - Links to photos, documents, aerial photography



# ***Process to Consolidate Data***

---

- **Established a Working Group**
  - **Approximately 30 staff/500 hours working on project**
    - **GIS**
    - **Finance**
    - **Legal/Assessor's Office**
    - **Public Works**
- **Process**
  - **Compared and combine lists**
  - **Researched Properties**
  - **Development of an all inclusive list**



# Developed Master List

Property	Location	Dead	Survey Plat	Restrictions	Improvements	Leased From Other	Leased To Other	Water Rights	Title Insurance	Environmental Assessment	Clothing Documents	Purchase Price	Current Value	Fixed Asset Code	Covered by County Ins.	Easements	Encroachment Issues	Special Conditions	
100 Catron Courthouse	100 Catron	Y	Y		Y				N							Y			
1st Judicial Catron																			
1st Judicial D/A'S		Y	Y	Y	Y	N	N	Y	Y	N	7					Y	Y	Y	
1st Judicial New	225 Montezuma Ave	Y	Y	Y	Y	N	N	Y	Y	N	7					Y	Y	Y	
Abcedon Lopez Senior Center	155 Juan Medina Rd	Y	Y	Y	Y	N	N	Y	Y	N						Y	Y	Y	
Admin	102 Grant Ave	Y	Y	Y	Y		Y		N							Y	Y	Y	
Agua Fria #1	2020 Caja Del Oro Grant Rd	Y	Y	Y	Y				N							Y	Y	Y	
Agua Fria #2/ La Tierra	6 Arroyo Calabasa Rd	Y	Y	Y	Y				N							Y	Y	?	
Agua Fria River Park									N										
Agua Fria River Park									N										
Animal Control		Y	Y	Y	Y	Y	Y	Y	N										
Arroyo Hondo GIS	100 Caja Del Rio Rd								N										
Arroyo Hondo OPSP									N										
Arroyo Hondo Trail	74 E Old Agua Fria Rd	Y	Y	Y	Y				Y							Y			
Arroyo Seco Fina/ La Puebla #2	74 E Old Agua Fria Rd								Y										
Arroyo Seco Teen Center	1 Cowbooy Ln																		
Bennie Chavez Playground	89 La Puebla Rd	Y	Y	Y	Y	Y	Y		N										
Bennie Chavez Sub Station	354 Juan Medina Rd	Y	Y	Y	Y	Y	Y		N										Y
Bennie J. Chavez Community Center	354 Juan Medina Rd	Y	Y	Y	Y	Y	Y		N										Y
Blue Monkey (Gone New Courthouse)	327 Montezum								N										
Bokum Building	154 W Palace Ave								N										
Burro Lane Country Park	3801 Oual View Ln	Y	Y	Y	Y				N										
Caja del Rio Landfill									N										
Caja del Rio Landfill	149 Caja Del Rio Rd								N										
Caminero de Jacobo Boys & Girls									N										
Canyon Ranch		Y	Y	Y	Y			Y	Y		Y					Y			Y
Cedar Grove Fire/ Edgewood #2	20 Estrada la Cienega	Y	Y	Y	Y			Y	Y		Y					Y			Y
Cerrillos Church Lot	650 NM 344	Y	Y	Y	Y														
Cerrillos Hills																			
Chimayo Detention Pond	28 El Potrero Rd	Y																	
Chimayo Fire Station	226 Juan Medina Rd	Y	Y	Y	Y				N							Y			
Chimayo Head Start	205 A Juan Medina Rd	Y	Y	Y	Y				N							Y			
Chimayo Poireros	280 Juan Medina Rd	Y	Y	Y	Y			Y	N							Y			
Chimayo Sheriff Sub Station	354 B Juan Medina Rd	Y	Y	Y	Y				Y							Y			Y
Chimayo Station #2/ Cundiyo Fira	5 Jose Simon Dr	Y	Y	Y	Y	Y	Y		N							Y			
Cerrillos Hills Historic Park	44/88 Camino Turquesa																		
Community Farm	1901 San Ysidro Crossing																		
Community Health Building	2052 Galisteo Rd	Y	Y	Y	Y				?							Y			
Community Health Building on Galisteo	2052 Galisteo Rd	Y	Y	Y	Y				Y							Y			
Community Projects Department aea- 1st Floor Women's Health	901 W Alameda Suite 20C	Y	Y	Y	Y				Y							Y			
County Fairgrounds	3237 Rodeo Rd	Y	Y	Y	Y				N							Y			
County Fairgrounds Extension Building	3239A Rodeo Rd	Y	Y	Y	Y				N							Y			
County Fairgrounds Main Exhibit Hall	3239B Rodeo Rd	Y	Y	Y	Y				N							Y			
County Fairgrounds Small Animal Barn	3229C Rodeo Rd	Y	Y	Y	Y				N							Y			
County Health Office	605 Leiraño St	Y	Y	Y	Y				N							Y			
County Shop Agua Fria									N										
Cundiyo Community Center	5 Jose Simon Dr	Y	Y	Y	Y				N							Y			
Edgewood Community Park Edgewood Fire Station #1	23 E Frontage Rd	Y	Y	Y	Y				N							Y			
Edgewood Fire Station #2	650 NM 344	Y	Y	Y	Y				N							Y			
Edgewood Fire Station #3	3 Oro Quay Rd	Y	Y	Y	Y				?							Y			
Edgewood Fire Station #4/ Thunder Mountain	18 Dinkie Rd	Y	Y	Y	Y				?							Y			

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# Example GIS Query

**Identify**

Identify from: <Top-most layer >

PUBLISH.LAND.PARCELS  
SANTA FE COUNTY

Location: 1,792,116.332 1,706,114.178 Feet

Field	Value
OBJECTID	53495
RKEY	78830
LPC	1054099160227000000
Parcel Number	910017952
Pact_Code	REAL
Roll_Code	LNDIM
Eff_From_Date	1/1/1980
Eff_To_Date	12/31/2006
Active_Status	I
Situs_Care_Of	102 GRANT AVE
Situs_Line_1	SANTA FE
Situs_Line_2	NM
Situs_Line_3	87501
Situs_City	US
Situs_State	SANTA FE COUNTY
Situs_Zip	102 GRANT AVE
Situs_Country	SANTA FE
OwnerName	NM
Owner_Care_Of	87504
Owner_Line_1	US
Owner_Line_2	<null>
Owner_Line_3	T17N
Owner_City	R9E
Owner_State	<null>
Owner_Zip	
Owner_Country	
Tca_Number	
Township	
Range	
Section	

Identified 1 feature

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# Click to see Photos of Facility

The screenshot displays a photo viewer interface. The top-left corner shows the filename "RIMG0313.JPG - Windo...". The main area is split into two panels. The left panel shows an aerial photograph of a large, multi-story building with a flat roof, surrounded by a parking lot filled with cars. The building is situated between "JOHNS ST" and "SANDOVAL ST". A red location pin is visible on the map, labeled "SANTA FE COUNTY". The right panel shows an interior view of a room with wood-paneled walls and a large, colorful mural on the wall. The viewer includes standard navigation controls: a close button (X), a full-screen button, a zoom-in button (+), a zoom-out button (-), a refresh button, a back button, a forward button, and a search button.

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# Click to see Related Documents

WHS Amendment #2.pdf - Adobe Reader

Amendment No. 2 to

**AMENDMENT NO. 2  
TO LEASE AGREEMENT BETWE  
SANTA FE COUNTY, WOMEN'S HEALTH  
AND SOUTHWEST C.A.R.E. SERVICE**

**THIS AMENDMENT** is made and entered into as of this 2013, by and between **Santa Fe County**, a political subdivision (hereinafter referred to as "the County"), and **Women's Health Ser**

**WHEREAS**, in 2007 Santa Fe County and Women's corporation, entered into a five (5) year lease agreement for the service facility in a building owned by Santa Fe County at 901 Santa Fe, NM;

**WHEREAS**, according to Paragraph 2 (Term and Option initial 5-year term is subject to automatic renewal for another five (5)

8.50 x 11.00 in

SFC PROPERTY 901

*We Make It Happen*



# Next Steps

---

- **Produce documented workflow for new acquisitions (Aug 2013)**
    - **Adhered to by every Department and Office**
    - **Complete property database (Sept 2013)**
    - **Include licenses in database**
  - **Refine property acquisition process (Jan 2014)**
    - **Disseminate the data**
    - **Track data in GIS**
  - **Accessing the data (Jan 2014)**
    - **GIS interactive tools**
-



# Summary

---

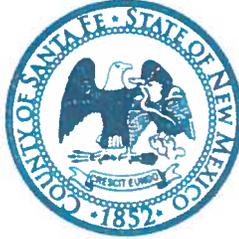
- Database has been compiled and is an on-going effort.
- Documented workflow is being implemented to ensure continuity of property management.
- Collection and maintenance of this data cuts across all departments and elected offices.
- Questions



**Daniel "Danny" Mayfield**  
Commissioner, District 1

**Miguel Chavez**  
Commissioner, District 2

**Robert A. Anaya**  
Commissioner, District 3



**Kathy Holian**  
Commissioner, District 4

**Liz Stefanics**  
Commissioner, District 5

**Katherine Miller**  
County Manager

## **MEMORANDUM**

**DATE:** *June 25, 2013*

**TO:** *Board of County Commissioners*

**FROM:** *Adam Leigland, Public Works Department Director* <sup>pk</sup> 4/26/13

**VIA:** *Katherine Miller, County Manager*

**ITEM AND ISSUE:** *BCC Meeting July 9, 2013*

**INTRODUCTION OF A RESOLUTION INCORPORATING THE HYDE PARK ESTATES COOPERATIVE DOMESTIC WATER CONSUMERS ASSOCIATION SERVICE AREA INTO THE SANTA FE COUNTY WATER AND WASTEWATER UTILITY SERVICE AREA AND COMMITTING TO EXECUTE THE PROPER LEGAL INSTRUMENT DETAILING TRANSFER OF WATER ASSETS AND INFRASTRUCTURE TO SANTA FE COUNTY**

---

The Hyde Park Estates Cooperative Domestic Water Association (HPE) is a non-profit water system that serves 76 customers in the Hyde Park Estates subdivision located to the northeast of the City of Santa Fe limits. The infrastructure of the system comprises well-producing wells, storage tanks, and a small pressurized distribution system. The system is also connected to the City of Santa Fe system as a back-up source of supply.

The system is well run and recently upgraded. It also has a small cash reserve. However, the governing body of the system has long realized that it cannot continue to run the system effectively. In mid-August 2012, a representative of the system approached the County to have the Santa Fe County Water and Wastewater Utility take over the Hyde Park Estates system in light of Resolution 2012-58, a resolution approved by the Board of County Commissioners in April 2012 which allows County Utility to incorporate small rural water systems such as Hyde Park Estates' into the County Utility service area, as both a means to increase the County Utility customer base and a way to help small rural water systems. The HPE board passed a resolution in September 2012 to this effect (attached). The County delayed acting on this resolution because the Hyde Park Estates area was originally planned for Phase III annexation. However, now that Hyde Park Estates has been excluded from any annexation, the County and HPE are rejuvenating this effort.

The subject resolution takes the first step for the County Utility to incorporate the Hyde Park Estates' system. If approved, the County will eventually take on the entire Hyde Park Estates customer base as retail customers.

**REQUESTED ACTION:**

None; for discussion only at this point.

The Board of Hyde Park Estates Cooperative Domestic Water Association met on Monday, September 10, 2012 and approved the following resolution with a unanimous vote.

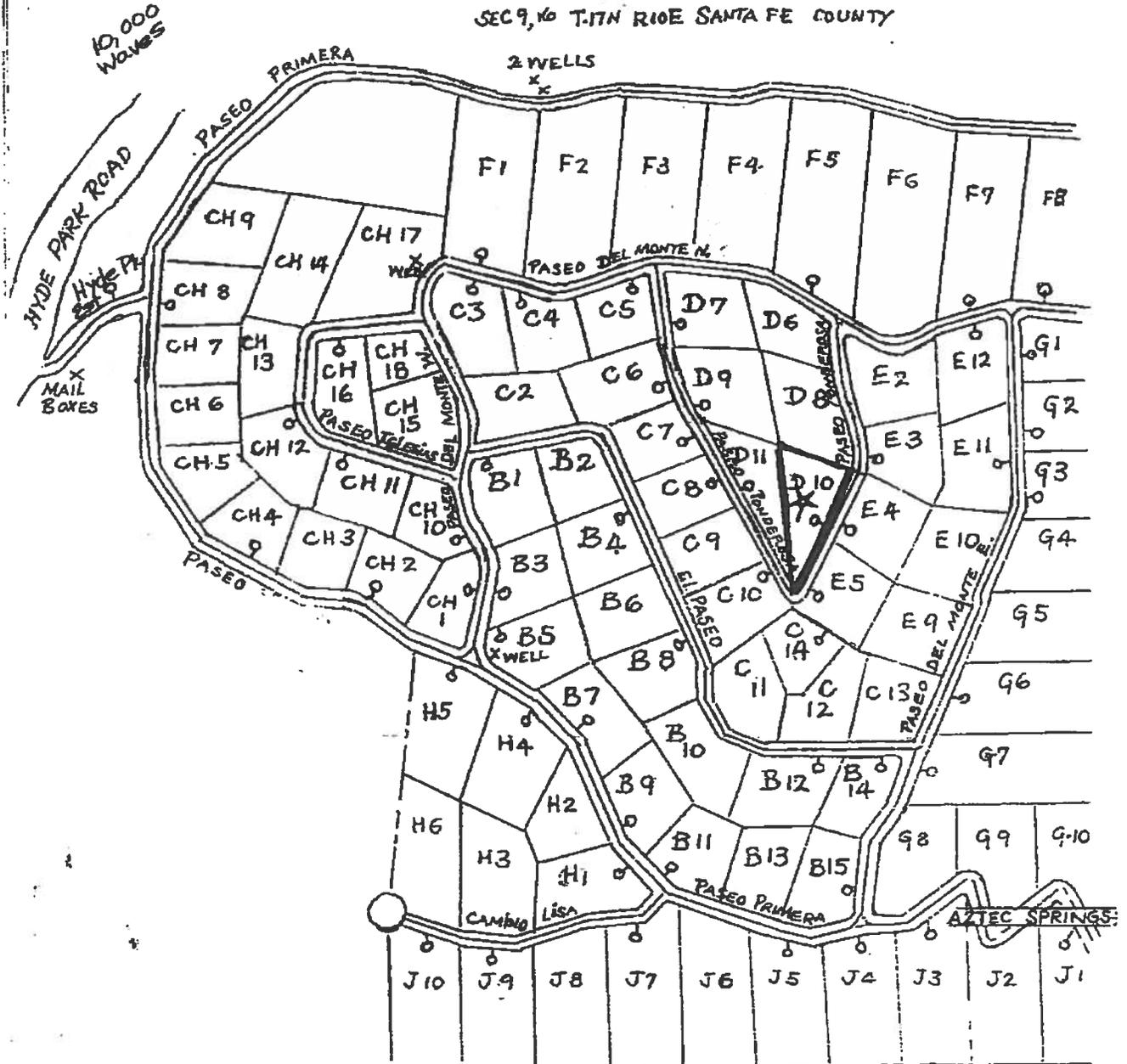
**"Be it resolved that the Hyde Park Estates Cooperative Domestic Water Association expresses its desire to become part of the Santa Fe County utility subject to the finalization of the proper legal documents agreed to by both parties".**

  
Melvin Goering, Board Chair  
September 10, 2012

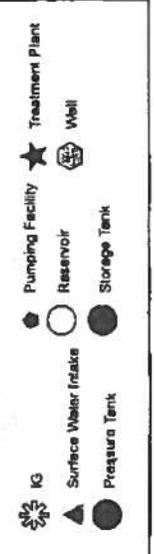
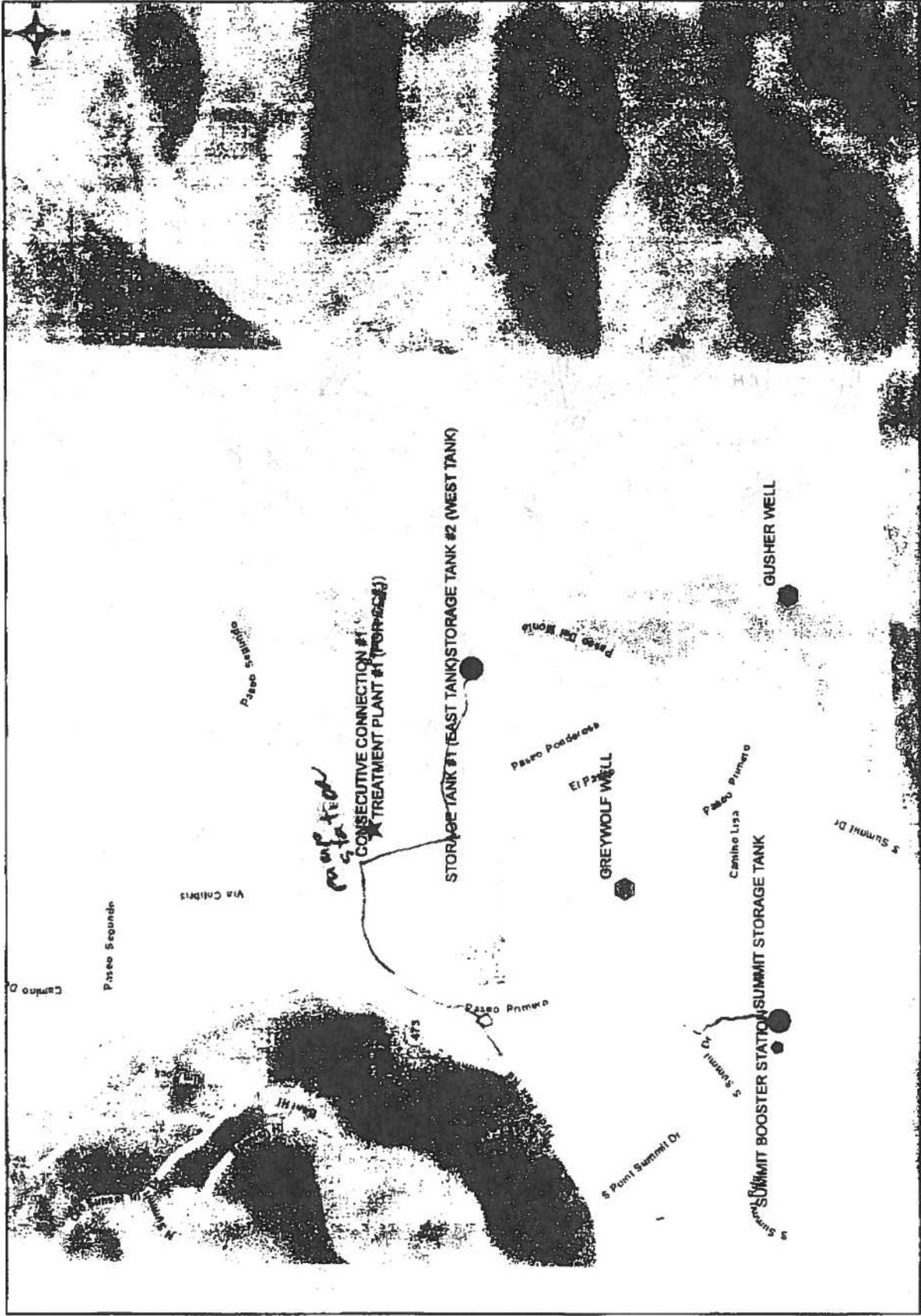


# HYDE PARK ESTATES

SEC 9, 10 T. 17N R. 10E SANTA FE COUNTY







**Hyde Park Estates**



**SANTA FE COUNTY  
RESOLUTION NO. 2013-**

**A RESOLUTION COMMITTING TO INCORPORATE THE HYDE PARK ESTATES COOPERATIVE DOMESTIC WATER CONSUMERS ASSOCIATION SERVICE AREA INTO THE SANTA FE COUNTY WATER AND WASTEWATER UTILITY SERVICE AREA UPON EXECUTION OF PROPER LEGAL INSTRUMENTS DETAILING TRANSFER OF WATER ASSETS AND INFRASTRUCTURE FROM THE HYDE PARK ESTATES COOPERATIVE DOMESTIC WATER CONSUMERS ASSOCIATION TO SANTA FE COUNTY**

**WHEREAS**, the service area of the Hyde Park Estates Cooperative Domestic Water Association ("Hyde Park Water Association") in northern Santa Fe County is currently outside the boundaries of the Santa Fe County Water and Wastewater Utility's ("County Utility") Water Service Area;

**WHEREAS**, the Board of County Commissioners ("BCC") takes responsibility for the management of the County's water resources as one of its highest priorities;

**WHEREAS**, the Hyde Park Association desires to transfer their water system to Santa Fe County in order to ensure that their customers continue to receive the current level of service;

**WHEREAS**, Resolution 2012-58 sets forth the County's policy of expending resources on the operation, maintenance and improvement of private water systems only if the water system becomes a customer of the County and the County takes control of the water source;

**WHEREAS**, Santa Fe County ("the County") owns, operates, and is actively acquiring infrastructure capable of supplying safe and reliable water for human consumption, agriculture, industrial uses, construction, and other uses of its Utility customers;

**WHEREAS**, the Board of the Hyde Park Water Association resolved to become part of the Santa Fe County Utility at their September 10, 2012 meeting;

**WHEREAS**, the County Utility has begun an orderly expansion with the ultimate goal of achieving financial autonomy and of serving as many residents of Santa Fe County as possible and economically feasible; and

**WHEREAS**, the orderly expansion of the County Utility's Water Service Area boundaries will ultimately allow for water system improvement projects and millions of dollars in public and private capital investments.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Santa Fe County, as follows:

1. The County Utility Water Service Area boundaries shall expand to include the boundaries of the Hyde Park Water Association area, which area is identified on the map



attached hereto as Exhibit A, immediately following the County's acquisition of the Hyde Park Water Association water system.

2. Upon execution of this Resolution the County shall complete an asset inventory and inspection of the Hyde Park Water Association water system for use in attempting to negotiate a contract transferring the water system to the County.

3. The County and the Hyde Park Water Association shall attempt to negotiate and bring before the BCC for consideration a contract substantially in the form of the template attached hereto as Exhibit B, detailing the conditions of the County's acquisition of the Hyde Park Water Association water system, which contract shall conform to the requirements of any relevant policies adopted by Santa Fe County;

4. The County's acquisition of the Hyde Park Water Association water system shall include all necessary easements for ownership and maintenance of the system and transfer of all water rights held or used by the Hyde Park Water Association to the County.

**PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013**

**THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

By: \_\_\_\_\_  
Kathy Holian, Chair

Attest:

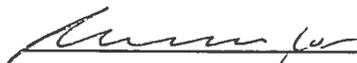
\_\_\_\_\_  
Geraldine Salazar, Santa Fe County Clerk

Approved as to Form:

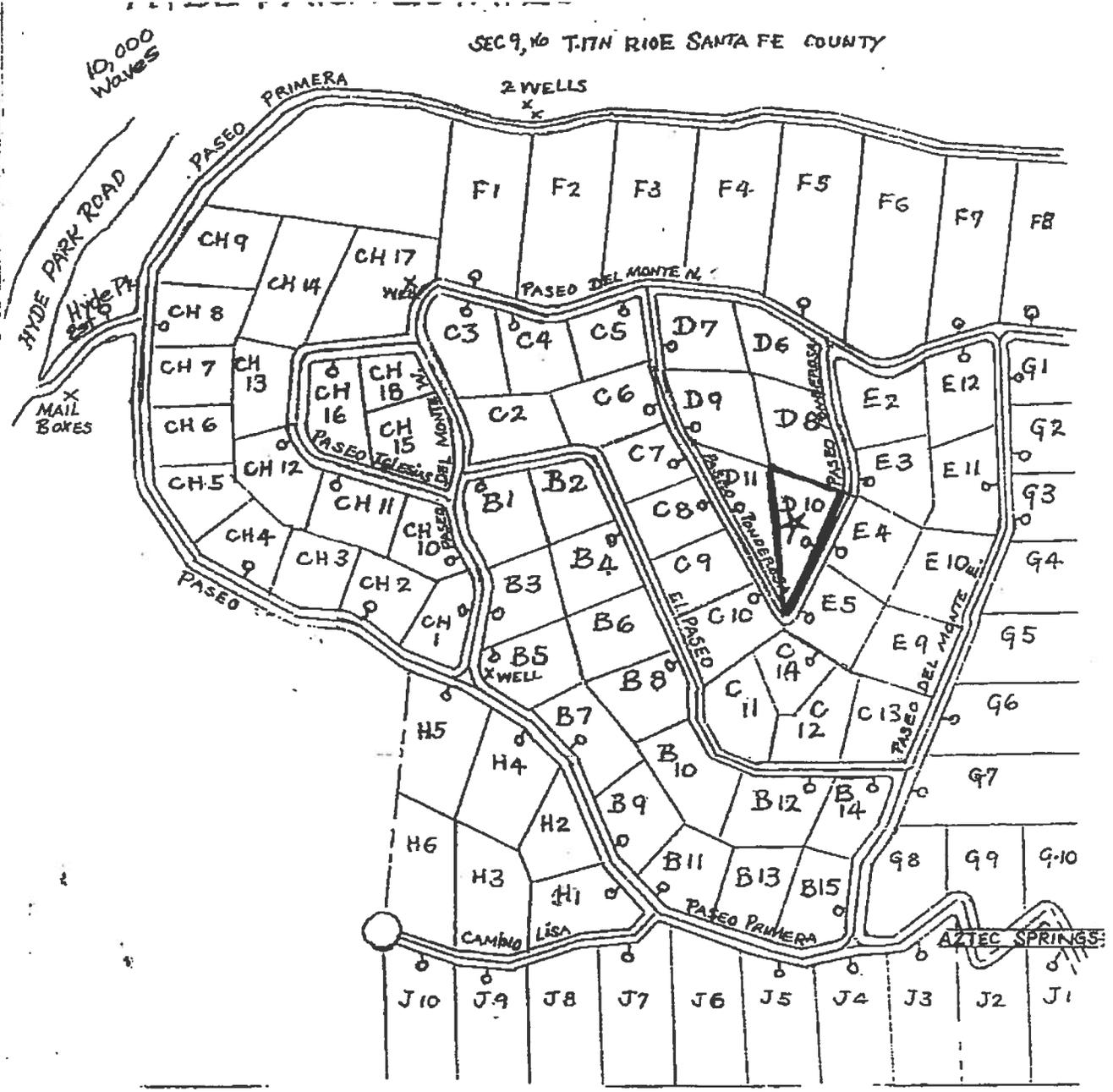
  
\_\_\_\_\_  
Stephen C. Ross, County Attorney



Approved as to Form:

  
\_\_\_\_\_  
Stephen C. Ross, County Attorney





**EXHIBIT**

A







**AGREEMENT FOR THE PURCHASE AND SALE OF A WATER SYSTEM  
TOGETHER WITH ITS ASSETS AND ALL APPLICABLE WATER RIGHTS  
as between**

**HYDE PARK ESTATES COOPERATIVE DOMESTIC WATER CONSUMERS  
ASSOCIATION, Seller  
and**

**SANTA FE COUNTY, BUYER**

Dated as of \_\_\_\_\_, 2013

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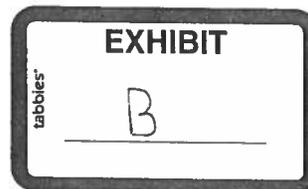
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**AGREEMENT FOR THE PURCHASE AND SALE OF A WATER SYSTEM  
TOGETHER WITH ITS ASSETS AND APPLICABLE WATER RIGHTS**

**THIS AGREEMENT FOR PURCHASE AND SALE OF A WATER SYSTEM TOGETHER WITH ITS ASSETS AND RELATED WATER RIGHTS** (the "Agreement"), dated for convenience and reference purposes only the \_\_\_\_\_ day of \_\_\_\_\_, 2012, is made and entered into by and between Hyde Park Estates Cooperative Domestic Water Consumers Association, (the "Seller") and Santa Fe County, New Mexico, a political subdivision of the State of New Mexico ("Buyer").

**WHEREAS**, Seller is a cooperative association formed pursuant to NMSA 1978, Sections 53-4-1 et seq. that collects, treats, stores, supplies, distributes and sells water to an identifiable set of customers who pay the Seller for water and costs associated with the delivery and upkeep of delivering water ("Water system" or "System");

**WHEREAS**, Seller owns and maintains the System to serve its identifiable customers in the area or subdivision of Santa Fe County known as Hyde Park Estates;

**WHEREAS**, Buyer is a political subdivision of the State of New Mexico and is authorized to collect, treat, store, supply, distribute and sell water to the public ("Water System" or "System"), as well as to operate and acquire a Water System including its infrastructure and/or assets;

**WHEREAS**, subject to the terms and conditions set forth herein, Seller desires to sell, and Buyer desires to purchase, substantially all of the assets and rights of Seller used in connection with Seller's Water System";

**NOW THEREFORE**, in consideration of the mutual covenants, warranties, representations and agreements set forth herein, and intending to be legally bound, Buyer and seller, (collectively referred to as the "Parties") agree as follows:

[Remainder of page intentionally left blank.]



**Article 1**  
**THE TRANSACTION**

**1.1 Incorporation of Recitals**

The recitals set forth above are incorporated herein by reference and are a part of this Agreement.

**1.2 Sale and Purchase of Assets and Water Rights**

At Closing, as defined in Section 1.11 of this Agreement, subject to the terms and conditions of this Agreement, Seller shall sell, assign, transfer, deliver and convey to Buyer and Buyer shall purchase the Assets, as defined in Section 1.3 of the Agreement, and water rights for the Purchase Price, as defined in Section 1.8 of this Agreement.

**1.3 Description of Assets**

The term "Assets" means, subject to Sections 1.4 and 1.5 of the Agreement, all of the Seller's right, title and interest in, under and to all of the assets, properties and rights related to or used in connection with the Water System as a going concern of every kind, nature and description existing on the Closing Date, as defined in Section 1.11 of this Agreement, wherever such assets, properties and rights are located and whether such assets, properties and rights are real, personal or mixed, tangible or intangible. The Assets are being sold subject to "Permitted Encumbrances," as defined in Section 2.1(g) of the Agreement. Subject to the terms and conditions of this Agreement, the Assets are being sold in "AS-IS" and "WHERE-IS" condition, including environmental condition, operating condition and condition of repair. Buyer may not rely on any representations made by Seller in connection therewith, except for representations and warranties contained in this Agreement.

Without limiting the generality of the foregoing, the Assets shall include the following:

- a) *[here describe all land and real property (which will be listed on Schedule \_\_) including type of deed and language such as "Seller conveys water facility easements and reserves sewer facility easements for its continued use, rights of use, licenses, permits, hereditaments, tenements, privileges and other appurtenances belonging or related to the Water System such as appurtenant rights in and to public streets, except as limited by Section 1.3 of this Agreement;"]*
- b) all water tanks, water distribution towers, water lines, pumping stations, pumps, water lines, water mains, service lines, distribution facilities, meters, curb boxes, curb stops, services lines, public fire hydrants, valves, fittings, water meters, and



all appurtenances along with other tangible personal property related to the Water System;

- c) (reserved);
- d) All equipment, machinery, vehicles, tools, motors, spare parts, materials, supplies, fixtures and improvement, construction in progress, jigs, molds, patterns, gauges, production fixtures, office equipment, computer systems with their related software, telephone systems and other tangible personal property related to the Water System;
- e) to the extent transferable, all of Seller's rights under any written or oral contract, agreement, lease, plan, instrument, registration, license, sub-license (including any railroad crossing license or sub-license, permit, certificate, document, commitment, arrangement, undertaking, practice, authorization or approval of any nature relating to the Water System and entered into in the ordinary course of business consistent with past practice, but specifically excluding the Excluded Contracts (as listed in Schedule \_\_\_\_\_ of this Agreement));
- f) to the extent transferable, all of Seller's water rights, water withdrawal rights, water reservation rights, water appropriation rights and rights to water flow relating to the Water System;
- g) to the extent transferable, all Seller's rights under any permit, franchise, license, sub-license, approval, authorization, order, registration, certificate, variance, document and any other similar rights obtained from any authority relating to the Water System, and all pending applications therefor;
- h) all job classification, service length and wage information relating to Seller's Employees;
- i) all information, books, records, ledgers, files, documents, correspondence, data, plans, models, system maps, engineering records, Mylars, planning, studies, architectural plans, drawings and specifications, customer records and data, supplier lists, records of operations, quality control records and procedures, equipment maintenance records, manual and warranty information, laboratory books, intellectual property and goodwill (including, to the extent transferable, any licenses and sub-licenses granted or obtained with respect thereto) and inspection processes relating to the Water System; and
- j) accumulated and unexpended availability fees (e.g., \_\_\_\_\_) which shall be deposited by Seller into an escrow account subject to the terms of the Escrow Agreement, a form of which is in Schedule \_\_\_\_ of this Agreement.



#### **1.4 Excluded Assets**

Notwithstanding the foregoing, the Assets shall not include any of the assets, properties or rights listed on Schedule \_\_\_\_ (the "Excluded Assets").

#### **1.5 Description of Water Rights**

At Closing, subject to the terms and conditions of the Agreement, Seller shall sell, assign, transfer, deliver and convey to buyer and Buyer shall purchase all water rights owned by Seller, whether they be consumptive use water rights of surface waters, ground water rights, or water rights appropriated for beneficial use. Documentation of Seller's complete water rights are attached at Schedule \_\_\_\_ .

#### **1.6 Assumption of Contracts**

Buyer shall assume the contractual rights, duties, liabilities and obligations of Seller with respect to the transferable contracts, agreements and commitments relating to the Water System, all such contacts, agreements and commitments being more specifically listed or described in Schedule \_\_\_\_ ("Assumed Contracts"), except that (i) Buyer shall not assume any liabilities or obligations for any breach or default by, or payment obligation of, Seller under such Assumed Contracts occurring or arising on or prior to the Closing Date; and (ii) Buyer shall not assume any liabilities or obligations for any contracts, agreements or commitments listed on Schedule \_\_\_\_ ("Excluded Contracts").

#### **1.7 Assumption of Liabilities**

- a) Buyer shall assume and agree to pay or discharge only the following liabilities and obligations of Seller: (i) all rights, duties, liabilities and obligations of Seller under the Assumed Contracts schedule not required to be performed prior to the Closing Date; (ii) any change orders on projects in progress that were entered into between the date hereof and the Closing Date and that were requested by Buyers and approved by Seller before the Closing Date; and, (iii) any change orders that are approved or requested by Buyer after the Closing Date ("Assumed Liabilities").
- b) Seller shall retain and discharge: (i) all rights, duties, liabilities and obligations required to be performed under the Excluded Contracts; (ii) all rights, duties, liabilities and obligations of Seller under the Assumed Contracts required to be performed prior to the Closing Date; (iii) any change orders on projects in progress that were approved by Seller but were not requested by Buyer before the Closing Date; and, (iv) all the liabilities and obligations arising out of the ownership, operation or use of the Assets or Water System prior to the Closing Date, excepting only the Assumed Liabilities ("Retained Liabilities").



**1.8 Purchase Price**

The total purchase price for the Assets and water rights to be paid by Buyer to Seller is the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (“Unadjusted Purchase Price”), which shall be subject to adjustment as set forth in Section 1.9 of this Agreement (“Purchase Price”).

Upon execution of this Agreement, Buyer shall pay to Seller the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be held by [ \_\_\_\_\_ Bank] (the “Escrow Agent”) under the Escrow Agreement in Schedule \_\_\_\_ of this Agreement. Said amount, together with earnings thereon shall be the “Deposit”. Buyer shall be responsible for all costs, fees or other charges for services provided by the Escrow Agent.

**1.9 Adjustments to Unadjusted Purchase Price**

The Purchase Price to be paid to Seller, as set forth in Section 1.8 of this Agreement shall be determined by reducing and/or increasing the Unadjusted Purchase Price, on a dollar for dollar basis, as follows:

- a) reduce the Unadjusted Purchase Price by the amount of refundable customer advances, deposits, or accumulated and unexpended availability fees held by Seller which are not placed in escrow or otherwise remitted to Buyer at the closing;
- b) (reserved);
- c) reduce the Unadjusted Purchase Price by the amount of any contract retainage held by Seller for the Assumed Contracts which is not placed in escrow or otherwise remitted to Buyer at Closing;
- d) increase the Unadjusted Purchase Price by the amount of the verifiable cost to Seller of any capital improvements which Seller makes to the Water System after the date first written above and prior to Closing; provided, that any such capital improvement is pre-approved by Buyer. This subsection shall not apply to repairs, replacements and items occurring in the normal course of business to provide adequate service to Seller’s customers;



- e) reduce the Unadjusted Purchase Price by the amount of all accrued Employee benefits, as stated on Schedule \_\_\_\_, for which (i) the Employee is entitled during the calendar year of Closing; and, (ii) the employee has not taken, used or been compensated prior to Closing;
- f) reduce the Unadjusted Purchase Price by the amount of the Deposit that is paid to Seller at Closing;
- g) increase the Unadjusted Purchase Price by the amount of any transition fees agreed to by the parties.

#### **1.10 Proration of Expenses**

The Parties agree hereto that the following expenses shall be calculated and prorated as of the Closing Date, with Seller responsible for such expenses for the period up to the Closing Date, and Buyer to be responsible for the period on and after the Closing Date:

- a) electric, fuel, gas, telephone, water and other utility charges, in each case, to the extent relating to and incurred by operation of the Water System; and
- b) rentals and other charges under the Assumed Contracts pursuant to Section 1.6 of this Agreement.

#### **1.11 Closing**

The date of closing of this transaction (“Closing Date”) shall occur on or before forty-five (45) days after satisfaction (or waiver) of the conditions to Closing set forth in Article 4 of this Agreement, or such other date mutually agreed to by the Parties in writing.

On the Closing Date, at a time of day to be mutually agreed upon by the Parties, subject to the terms and conditions of this Agreement, the act of closing pertaining to this transaction (“Closing”) shall occur and title and possession of the Assets shall be sold, assigned, transferred, delivered and conveyed to Buyer.

The Closing shall take place at the offices of Buyer, or such other location as the Parties may mutually agree in writing, which writing can consist of an email, letter or memorandum.

#### **1.12 Deliveries at Closing by Seller to Buyer**

Subject to the terms and conditions of this Agreement, at the Closing, Seller shall deliver or cause to be delivered to Buyer:

- a) bills of sale and instruments of assignment to the Assets, duly executed by Seller (an acceptable form of bill of sale is attached hereto in Schedule \_\_\_\_ );



- b) consents of transfer, of all transferable or assignable contracts, agreements, licenses and permits to the extent specifically required hereunder;
- c) title certificates to any motor vehicles included in the Assets, duly executed by Seller, (together with any other transfer forms necessary to transfer title to such vehicle);
- d) (i) an assignment of water facility easements rights associated with the Assets, subject to Permitted Encumbrances; and (ii) deed(s), in recordable form, duly executed by Seller, with a covenant against Seller's acts, sufficient to convey to Buyer good and valid title to all fee parcels in the Assets, subject to Permitted Encumbrances; except for parcels that were conveyed to Seller by way of a deed without warranty, or covenant of title, and for which Seller shall provide a quit claim deed(s), duly executed by Seller, and in recordable form, subject to Permitted Encumbrances;
- e) Seller's Closing Certificates/Resolutions pursuant to Section 4.1(d) of this Agreement;
- f) All agreements and other documents required by this Agreement;
- g) Seller's updated meter reading information pursuant to Section 3.2(j) of this Agreement;
- h) a receipt for the payment of the Purchase Price;
- i) all such other instruments of conveyance as shall be, in the reasonable opinions of Buyer and its counsel and Seller and its counsel, necessary to transfer to Buyer the Assets in accordance with this Agreement and where necessary or desirable, in recordable form;
- j) any agreements transferring water rights to Seller are attached as Schedule \_\_\_\_;
- k) the Assignment and Assumption Agreement (a form of which is attached hereto in Schedule \_\_\_\_);
- l) the General Assignment Agreement (a form of which is attached hereto in Schedule \_\_\_\_);
- m) the Warranty Deed (a form of which is attached hereto in Schedule \_\_\_\_);
- n) the Deed of Easement (a form of which is attached hereto in Schedule \_\_\_\_);



- o) if applicable, a lease for a portion of Seller's Property Yard, a form of which is attached hereto in Schedule \_\_\_\_ ; and
- p) the balance of accumulated and unexpended availability fee for the expansion of the Water System delivery capacity, which shall be held in escrow pursuant to the Availability Fee Escrow Agreement, a form of which is attached hereto in Schedule \_\_\_\_ .

### **1.13 Deliveries at Closing by Buyer to Seller**

Subject to the terms and conditions of this Agreement, at the Closing, Buyer shall deliver or cause to be delivered to Seller:

- a) a wire transfer or negotiable draft of immediately available funds in an amount equal to the Purchase Price to such account (or accounts) as shall be designated by Seller;
- b) Buyer's Closing Certificates/Resolutions pursuant to Section 4.2 (c) of this Agreement;
- c) all agreements and other documents required by this Agreement; and
- d) all such other documents that are, in the reasonable opinion of Seller and its counsel, necessary to consummate the transactions contemplated by this Agreement.

## **Article 2 REPRESENTATIONS AND WARRANTIES**

### **2.1 Representations and Warranties of Seller**

Seller represents and warrants to Buyer as follows:

- a) **Organization and Good Standing.** Seller is a cooperative domestic water association formed pursuant to NMSA 1978, Section 53-4-1 et seq. and is not in good standing under the laws of the State of New Mexico.
- b) **Authorization and Enforceability.** Seller has the full power and lawful authority to execute this Agreement and to perform its obligations contemplated hereby and has duly and validly authorized the execution of the Agreement, including but not limited to executing such other necessary agreements, instruments and documents in connection herewith, taking votes if required on its actions at an open meeting in compliance with the Open Meetings Act, and attending any necessary proceedings.

This Agreement constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable laws relating to bankruptcy,



insolvency, fraudulent conveyance, reorganization or affecting creditor's rights generally.

- c) **Noncontravention.** Seller's performance of its obligations contemplated hereby, as of the Closing Date, shall not (i) require any further approvals or consents from any other party; (ii) violate any law, ordinance or regulation; or, (iii) conflict with or result in a breach of, or constitute a default under, any contract, lease, permit or other agreement or commitment to which Seller is a Party; except where the approvals, consents, violations or conflicts would not have a Material Adverse Effect (as defined in Section 8.10 of this Agreement) on the ability of the Parties to consummate the transactions contemplated by this Agreement.
- d) **No Pending Litigation or Proceeding.** Except as listed on Schedule \_\_\_\_, to the best of Seller's knowledge, there is no action, claim, litigation, arbitration, proceeding, judgment, injunction, audit or legal, administrative or governmental investigation pending or threatened against Seller which could reasonably be expected to have a Material Adverse Effect on the Assets, water rights and the Water System or the transaction contemplated by this Agreement.
- e) **Brokerage.** Seller has not made any agreement or taken any other action which might cause any person to become entitled to a broker's or finder's fee or commission as a result of the transactions contemplated hereunder which could result in liability to Buyer.
- f) **Permits and Compliance with Law.** To the best of Seller's knowledge, all of Seller's permits relating to the operation of the Water System are in full force and effect, except those the failure of which to be in full force and effect would not individually or in the aggregate have a Material Adverse Effect.

Except as disclosed in Schedule \_\_\_\_, to the best of Seller's knowledge, Seller possesses and is in substantial compliance with all permits required to operate the Water System as presently operated, and to own, lease, or otherwise hold the Assets under all applicable laws, rule, regulations, ordinances, and codes (including environmental laws), except to the extent that any failure to possess, or to comply with, any permit, laws, rules, regulations or orders would not, individually or in the aggregate have a Material Adverse Effect.

To the best of Seller's knowledge, there are no proceedings pending or threatened that seek the revocation, cancellation, suspension or any adverse modification of any permits presently possessed by Seller and relating to the operation of the Water System, other than those revocations, cancellations, suspensions or modifications which would not individually or in the aggregate have a Material Adverse Effect.

Except as disclosed in Schedule \_\_\_\_, to the best of Seller's knowledge, the Water System is conducted by Seller in substantial compliance with all applicable laws,



including zoning, building and similar laws and environmental laws, rules, regulations, ordinances, codes, judgments and orders except for such failures to comply which do not individually or in the aggregate have a Material Adverse Effect.

- g) **Title to and Condition of Assets.** Seller owns and shall convey, subject to matters of public record other than mortgages, liens, and security interests: (i) good and valid title to the real property included in the Assets which was required by seller by way of a deed with warranty or covenant of title; (ii) by quitclaim deed, its interests in the real property included in the Assets which was acquired by Seller by way of a deed without warranty or covenant of title; (iii) good and valid leasehold interest in any leased real property included in the Assets; and, (iv) good title to, or valid interest in, the water rights and any personal property included in the Assets.

Any mortgages, liens and security interests with the Assets will be removed as of the Closing, to the effect that the Assets will be conveyed free and clear of all mortgages, liens, pledges and security interests, excepting only the following which shall constitute "Permitted Encumbrances": (i) those imposed by law and incurred in the ordinary course of business for indebtedness not yet due to carriers, warehousemen, laborers, or material men and the like; (ii) those in respect of pledges or deposits under the Workers' Compensation Act [Chapter 52, Article 1 *et seq.* NMSA 1978] or similar legislation; (iii) those for property taxes, assessments or governmental charges not yet subject to penalties for nonpayment; (iv) those affecting real property, which is owned by third parties, containing easements or rights-of-way relating to the Assets; (v) matters that would be revealed by a physical inspection, or complete and accurate survey, of the real property; (vi) rights of way and easements that do not materially interfere with the existing use of the real property; (vii) zoning and other governmental restrictions; (viii) matters common to any plat or subdivision in which the real property is located; and (ix) taxes, assessments, and other public charges on real property not yet due as of the Closing; provided, however, in no even shall Permitted Encumbrances include monetary liens.

- h) **Contracts.** To the best of Seller's knowledge, the Assumed Contracts are valid and enforceable in accordance with their terms.
- i) **Employees.** The regular or full-time employees who Seller expects will be employed by Seller on the Date of Closing are listed on Schedule \_\_\_\_ .
- j) **Customer Advances.** Seller has (i) completed construction of all water facilities construction projects for which Seller received customer advances; or, (ii) placed in an escrow account all unexpended, refundable customer advances for projects in progress pursuant to Section 3.2(h) of this Agreement. Except as listed on Schedule \_\_\_\_, to the best of Seller's knowledge, Seller is not a party to contracts or agreements for future payment of refunds under main extension agreements,



customer deposit agreements or other commitments which would result, on the Closing Date, in an outstanding refund.

- k) **Condition of Assets.** To the best of Seller's knowledge, all of the buildings, machinery, equipment, tools, furniture, improvements and other tangible assets of the system, which are included in the Assets, are being sold in working condition, normal wear and tear excepted.
- l) **Environmental Matters.** Except as listed on Schedule \_\_\_\_\_, and with such exceptions as are not reasonably likely, individually or in the aggregate to have a Material Adverse Effect:
- i. Seller has not knowingly disposed of or arranged for the disposal of or released any hazardous substance, other than in conformity with applicable laws and regulations at any real estate included in the Assets, or at any other facility, location or site to be transferred to Buyer pursuant to the terms of this Agreement.
  - ii. Seller has not received any written notice or request for information with respect to, and to the best of Seller's knowledge, Seller has not been designated a potentially liable party for remedial action or response costs, in connection with any real property included in the Assets, or, as of the date hereof, with respect to the Assets or the operation of the Water System, at any other facility, location or other site under the federal Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") or comparable state statutes or rules.
  - iii. To the best of Seller's knowledge, except for such use or storage of hazardous substances as is incidental to the operation of the Water System, which use and storage is or has been in compliance with applicable laws and regulations, no real property included in the Assets has been used for the storage, treatment, generation, processing, production, or disposal of any hazardous substances or as a landfill or other waste disposal site in violation of any law, rule or regulation.
  - iv. To the best of Seller's knowledge, underground storage tanks, other than tanks for the storage of potable water, are not, and have not been in the past located on or under any real property in violation of any law, rule or regulation.
  - v. To the best of Seller's knowledge, there are no pending or unresolved claims against Seller or the Water System for investigatory costs, clean-up, removal, remedial or response costs, or natural resource damages arising out of any releases or threat of release of any hazardous substances at any real property included in the Assets or, as of the date hereof, with respect to the Water System or the Assets or any other facility, location or other site.



- vi. Section 2.1 contains the sole and exclusive representations and warranties of Seller with respect to any matters arising under or related to any environmental, health and safety requests, regulated substances and environmental conditions.

## 2.2 Representations and Warranties of Buyer

Buyer represents and warrants to Seller as follows:

- a) **Organization and Good Standing.** Buyer is a political subdivision of the State of New Mexico and is authorized to collect, treat, store, supply, distribute and sell water to the public, as well as to operate and acquire a Water System including its water rights, infrastructure and/or assets.
- b) **Authorization and Enforceability.** Buyer has the full power and lawful authority to execute this Agreement and to perform its obligations contemplated hereby and has duly and validly authorized the execution of this Agreement including but not limited to executing such other necessary agreements, instruments and documents in connection herewith, taking votes if required on its actions at an open meeting in compliance with the Open Meetings Act, and attending any necessary proceedings.

This Agreement constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer, in accordance with its terms, except as such enforceability may be limited by applicable laws relating to bankruptcy, insolvency, fraudulent conveyance, reorganization or affecting creditors generally.

- c) **Noncontravention.** Buyer's performance of its obligations contemplated hereby, as of the Closing Date, shall not (i) require any further approvals or consents from any other party; (ii) violate any law, ordinance or regulation; and (iii) conflict with or result in a breach of any contract, lease of permit to which Buyer is a party.
- d) **No Pending Litigation Proceedings.** Except as listed on Schedule \_\_\_\_, to the best of Buyer's knowledge, there is no claim, litigation, arbitration, proceeding, judgment, injunction, audit or governmental investigation pending or threatened against Buyer which could reasonably be expected to have a Material Adverse Effect on the transaction contemplated by this Agreement.
- e) **Brokerage.** Neither Buyer nor any of its employees or agents have made any agreement or taken any other action which might cause any person to become entitled to a broker's or finder's fee or commission as a result of the transactions contemplated hereunder which could result in liability to Seller.
- f) **Financing.** Buyer has, or at the Closing Date will have, sufficient resources to pay the Purchase Price to Seller.
- g) **Condition of Assets.** Buyer is purchasing the Assets in their "AS-IS" condition, including their environmental condition, operating condition and condition of repair, and



is not relying on any representation of Seller in connection therewith except for representations and warranties contained in this Agreement.

### ARTICLE 3 COVENANTS

#### 3.1 Mutual Covenants of Seller and Buyer

The Parties mutually covenant and agree that, except as otherwise approved by the other party in advance and in writing:

- a) **Cooperation**. The parties shall cooperate and shall cause their respective officers, employees, agents and representatives to cooperate to ensure the orderly transition of the Assets from Seller to Buyer and to minimize any disruption to the customers of the Water System from the transactions contemplated by the Agreement.
- b) **Further Assurances**. The parties shall cooperate and deliver such instruments and take such action as may be reasonably requested by the other party in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby.

After the Closing, the Parties shall take such other actions and execute such other documents as may be reasonably requested by the other party (i) in order to transfer more effectively to Buyer or to put Buyer more fully in possession of any of the Assets; or, (ii) in connection with the preparation of any tax return, audit or examination by any governmental or taxing authority.

- c) **Expenses**. The Parties shall each bear their own respective accounting, legal and other expenses incurred in connection with the transactions contemplated by this Agreement.
- d) **Unbilled Services**. Seller shall maintain its normal billing cycle prior to Closing. After closing, Buyer shall, without cost to Seller, issue bills to the customers transferred from Seller to Buyer for water service which was (i) provided by Seller to the transferred customers prior to Closing; (ii) provided during the billing period in which closing occurs; and, (iii) not previously billed by Seller (“Unbilled Service”).

Buyer does not guarantee the collectability of Seller’s Unbilled Service. Buyer will not terminate water service for Seller’s uncollectible accounts, except as may be required by law.

#### 3.2 Covenants of Seller

Seller hereby covenants and agrees that, except as otherwise approved in advance in writing by Buyer:



- a) **Continuation of Business**. Seller shall operate the Water System until the Closing Date in the ordinary course of business, consistent with past practice, so as to preserve (i) its business organization intact; and, (ii) the relationships of the Water System with suppliers, customers and others.
- b) **Continuation of Insurance**. Seller shall keep in existence and maintain current all policies of insurance insuring the Assets and the Water System against liability and property damage, fire and other casualty through the Closing Date, consistent with the policies in effect on the date first written above.
- c) **Standstill Agreement**. Until the Closing Date, unless this Agreement is earlier terminated pursuant to Article 5 of this Agreement, Seller shall not, directly or indirectly, solicit offers for the Assets, water rights or the Water System, or respond to inquiries from, share confidential information with, negotiate with or in any way facilitate inquires or offers from, third parties who express or who have heretofore expressed an interest in acquiring any or all of the Assets, water rights or the Water System.
- d) **Access**. Seller shall (i) give to Buyer and its representatives, from the date first written above until the Closing Date, full access during normal business hours, upon reasonable notice, to all the properties, books, data, contracts, agreements, documents and records connected to the Assets, water rights and/or the Water System; and, (ii) make available to Buyer and its representatives all other information with respect to the Assets, water rights and/or the business and affairs of the Water System as Buyer may reasonably request. Provided, such access does not interfere with Seller's operation of the Water System and the Assets in the ordinary course of business.
- e) **Contractual Consents**. Seller shall, at all times, use its best efforts and diligently pursue all approvals, authorizations and consents of transfer to all material transferable or assignable contracts, agreements, licenses and permits to the extent specifically required by the terms of such contacts, agreements, licenses or permits.
- f) **Customer Advances**. Prior to closing, Seller shall either (i) complete construction of all water facilities construction projects for which Seller received customer advances; or, (ii) place the amount of all unexpended, refundable customer advance for projects in progress together with the amount of any other refunds which are outstanding as of the Closing Date in an escrow account or otherwise remit such amount to Buyer.
- g) **Projects in Progress**. The capital improvements projects and/or studies which may still be in progress at the time of Closing are listed on Schedule \_\_\_\_.

Should there be any capital improvements projects and/or studies still in progress at the time of Closing, Seller shall place into an escrow account for each project



the balance of the contracted project costs including retainage if any held and including any change orders approved by Seller up to the Closing Date. Payments on the contracts will be made from the escrow account after the Closing. Prior to closing, Seller shall be required to approve any and all change orders that are known to be necessary at that time in order to complete the scope of each capital improvement project in progress at or prior to Closing.

Any change order requested by Buyer that changes the scope of the project and is not required to be approved by Seller in the normal course of business prior to Closing and all change orders generated after the Closing will be the responsibility of Buyer to pay. After the Closing, it will be the responsibility of Buyer to complete any project contract and to approve any change orders.

Seller will not be responsible for any change orders approved by Buyer. Any costs incurred for the close out of the project not specifically included in the escrow account will also be the responsibility of Buyer. Prior to the Closing, the Parties will calculate and agree to the amounts of the outstanding balances on projects in progress before the escrow account is established.

- h) **Regulatory Consents**. To the extent applicable, Seller shall, at all times, use its best efforts and diligently pursue all approvals, authorizations, consents and permits required to be obtained by Seller for Seller to sell the Assets.
- i) **Meter Reading Information**. Within thirty (30) days of the execution of this Agreement, Seller shall provide to Buyer with a complete list of customers, including names, service addresses, billing addresses, meter sizes and meter serial numbers in meter reading route sequence. This complete list shall be updated at closing and provided to Buyer at Closing so as to be true and correct on the Closing Date.

### 3.3 Covenants of Buyer

Buyer hereby covenants and agrees that, except as otherwise approved in advance in writing by Seller:

- a) **Regulatory Consents**. Buyer shall, at all times, use its best efforts and diligently pursue all approvals, authorizations, consents and permits required to be obtained to consummate the transaction contemplated by this agreement, including, without limitation, the approval of every regulatory agency of federal, state or local government that may be required.

Buyer shall (i) as promptly as practicable, make or cause to be made such filings and submissions under laws, rules and regulations applicable to it as may be required to consummate the terms of this Agreement; and, ii) keep Seller apprised of the status of any filing or submission to any governmental or regulatory agency.



- b) **Maintenance of Books and Records.** No files, books, documents or records existing on the Closing Date and relating to the Assets or related water rights, or the operation of the Water System, shall be destroyed by Buyer for a period of five (5) years after the Closing Date without first giving Seller at least thirty (30) days prior written notice, during which time Seller shall have the right to examine during normal business hours and copy at its own expense such files, books, documents or records.
  
- c) **Confidentiality.** Until the Closing Date, Buyer will maintain in confidence, and will to the extent permitted by law cause the directors, officers, employees, agents and advisors of Buyer to maintain in confidence, and not use to the detriment of Seller, any written, oral or other information that is designated by Seller to be private, proprietary such as a trade secret, privileged unless (i) such information is already known to Buyer or to others not bound by a duty of confidentiality; (ii) such information becomes publicly available through no fault of Buyer; (iii) the use of such information is necessary or appropriate in making any filing or obtaining any approval, authorization or consent required for the consummation of the transactions contemplated by this Agreement; (iv) the furnishing or use of such information is required by public records laws or by legal proceedings; or, (v) Seller otherwise consents in writing to use of such information.

For purpose of this Section, the following information is designated by Seller as private, proprietary, privileged or obtained in confidence from Seller: (i) information not required to be disclosed by seller under New Mexico law; (ii) information entitled to confidential treatment under statute, regulation, case law, administrative court order or other legal authority including, but not limited to, the social security numbers, home addresses and home/mobile telephone numbers of Seller's employees and customers; and (iii) any other information reasonably designated or identified in writing by Seller as private, proprietary, privileged or confidential.

If this Agreement is terminated pursuant to Article 5 of this Agreement, Buyer will return such private, proprietary, privileged or confidential information to Seller.

- d) **Taxes.** Buyer shall be responsible for all state and local sales, use, transfer, real property transfer, documentary stamp, recording and other taxes arising from and with respect to the sale and purchase of the Assets.

### **3.4 Special Covenants of Buyer for the Water System**

Buyer hereby covenants and agrees to comply with the following special covenants relating to the Water System:

- a) **Rates.** Buyer shall charge the customers it acquires through this transaction in accordance with rates for County Water Utility Customers. Buyer shall charge



reasonable rates for water service in the area served by the Water System, subject to any required government approvals.

- b) **Application of Rules**. Nothing in this Section shall prevent Buyer from applying its rules, regulations, ordinances and resolutions regarding conditions of service after Closing.

### 3.5 Reserved

Reserved.

### 3.6 Special Covenants of Buyer for the System

In addition to the special covenants in Section 3.4 of this Agreement, Buyer hereby covenants and agrees to comply with the following additional special covenants relating to the Water System:

- a) **Employees**. Prior to Closing, Seller shall make reasonable attempts to assist employees in finding new employment. Seller shall be responsible to the employees for all employee benefits that accrue prior to Closing. Employees of Seller are encouraged to apply for available employment with Buyer in any position for which an employee is qualified.
- b) **Local Payment Locations**. To the extent practicable, Buyer shall maintain, on a permanent basis, arrangements within Seller for at least one (1) location where customers can make walk-in-bill payments.
- c) **Uniform Rate**. Pursuant to any applicable rules of the Public Regulation Commission, Buyer shall charge a uniform commodity rate for all customers in the current service area of Seller's System.

## ARTICLE 4 CONDITIONS PRECEDENT

### 4.1 Conditions Precedent to Buyer's Obligations

The obligation of Buyer to consummate the transactions contemplated by this Agreement is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions any one or more of which may be waived in writing in whole or in part, by Buyer, in its sole discretion:

- a) **Representations and Warranties**. Seller's representations and warranties contained in this Agreement or in any Schedule, list, certificate or document



delivered pursuant to the provisions of this Agreement shall be true in all material respects at and as-of the time of Closing, except for changes in the ordinary course of business after the date first written above that are in conformity with the covenants, warranties, representations and agreements contained in this Agreement.

- b) **Performance of Agreements.** Seller shall have performed and complied, in all material respects, with all covenants, agreements and conditions required by this Agreement to be performed, or complied with by it prior to or at the Closing.
- c) **Adverse Change.** There shall not have been a material adverse change, occurrence or casualty, financial or otherwise, to the Water System or the Assets, whether covered by insurance or not.
- d) **Closing Resolutions.** Seller shall have delivered to Buyer a duly signed resolution of the Seller adopted by its governing body relating to this Agreement and the transactions contemplated hereby; and, certifying the incumbency and authority of the individual from Seller executing this Agreement and any documents delivered by Seller hereunder.
- e) **Closing Deliveries.** Seller shall have delivered the documents and other items described in Section 1.12 of this Agreement.
- f) **No Litigation.** There shall not be any pending, or to the best of Seller's knowledge, threatened action, proceeding or investigation by or before any court, arbitrator, governmental body or agency which seeks to restrain, prohibit or invalidate the transactions contemplated hereby or which, if adversely determined, would result in a breach of a representation, warranty or covenant of either party herein.
- g) **Regulatory Consents.** Seller shall have obtained the written, final and unappealable approvals, authorizations and consents, including consents for permit transfers that are required to consummate the transactions contemplated by this Agreement, for the sale of the Water System and water rights to Buyer and the approval of every regulatory agency of federal, state or local government that may be required in the opinion of either Buyer or Seller.
- h) **Contractual Consents and Voter Approval.** Seller shall have obtained written approvals, authorizations, resolutions and consents of transfer to all material transferable or assignable contracts, agreements, licenses and permits to the extent specifically required by the terms of such contracts, agreements, licenses or permits.
- i) **Defeasance.** As of the Closing, all mortgages, liens and security interests associated with the Assets, water rights or the Water System will be removed subject to the exceptions listed in Section 2.1(g) of the Agreement.



## 4.2 Conditions Precedent to Seller's Obligations

The obligation of Seller to consummate the transactions contemplated by this Agreement is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions any one or more of which may be waived in writing in whole or in part by Seller, in its sole discretion:

- a) **Representations and Warranties.** Buyer's representations and warranties contained in this Agreement or in any Schedule, list, certificate or document delivered pursuant to the provisions of this Agreement shall be true in all material respects at and as-of the time of Closing, except for changes in the ordinary course of business after the date first written above that are in conformity with the covenants, warranties, representations and agreements contained in this Agreement.
- b) **Performance of Agreements.** Buyer shall have performed and complied, in all material respects, with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing.
- c) **Closing Resolutions/Certificates.** Buyer shall have delivered to Seller a duly signed resolution of the Buyer adopted by its Board of County Commissioners at a properly noticed open meeting relating to this Agreement and the transactions contemplated hereby; and, certifying the incumbency and authority of the individual from Buyer executing this Agreement and any documents delivered by Buyer hereunder.
- d) **Closing Deliveries.** Buyer shall have (i) paid the Purchase Price to Seller as described in Sections 1.8, 1.9, 1.10 and 1.12 of this Agreement; and, (ii) delivered the documents and other items described in or required by Section 1.13 of this Agreement.
- e) **No Litigation.** There shall not be any pending, or to the knowledge of Buyer, threatened action, proceeding or investigation by or before any court, arbitrator, governmental body or agency which seeks to restrain, prohibit or invalidate the transactions contemplated hereby or which, if adversely determined, would result in a breach of a representation, warranty or covenant of either party herein.
- f) **Regulatory Consents.** Buyer shall have obtained the written, final and unappealable approvals, authorizations and consents, including consents for permit transfers, that are required to consummate the transactions contemplated by this Agreement, and the approval of every regulatory agency of federal, state or local government that may be required in the opinion of either Buyer or Seller.



- g) **Other Consents.** Buyer shall have obtained any other approvals, authorizations and consents that are required to enable Buyer to consummate the transactions contemplated by this Agreement and to operate the Water System.

## **ARTICLE 5 TERMINATION**

### **5.1 Termination**

This Agreement may be terminated prior to the Closing Date only as follows and in each case only by written notice:

- a) by the mutual written consent of both Seller and Buyer;
- b) by either Seller or Buyer, if the Closing has not occurred, other than through the failure of any party seeking to terminate this Agreement to comply fully with its obligations under this Agreement, on or before the first (1<sup>st</sup>) anniversary of the date first written above, or such later date as the Parties may agree upon;
- c) by either Seller or Buyer, if a material breach of any covenant, warranty, representation, agreement or provision of this Agreement, that individually or in the aggregate would have a Material Adverse Effect, has been committed by the other party and such breach has not been (i) cured within thirty (30) days after the non-breaching party gives written notice of said breaching party; or, (ii) waived by the non-reaching party;
- d) by Buyer, if any of the conditions in Section 4.1 of this Agreement (i) have not been satisfied as of the Closing Date; or, (ii) have become impossible (other than through the failure of Buyer to comply with its obligations under this Agreement); and buyer has not waived such condition on or before the Closing date; and
- e) by Seller, if any of the conditions in Section 4.2 of this Agreement (i) have not been satisfied as-of the Closing Date; or, (ii) have become impossible, other than through the failure of Seller to comply with its obligations under this Agreement; and, Seller has not waived such condition on or before the Closing Date.

### **5.2 Effect of Termination**

Each party's right of termination under Section 5.1 of this Agreement is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies.



If this Agreement is terminated pursuant to Section 5.1 of the Agreement, all further obligations of the Parties under the Agreement shall terminate, except that the obligations in Sections 3.1(c) (Expenses), 3.3(c) (Confidentiality) and 8.14 (Jurisdiction) of this Agreement shall survive. Provided, however, that if this Agreement is terminated by a party pursuant to Section 5.1(c) of this Agreement, the terminating party's right to pursue all legal remedies and damages will survive such termination unimpaired.

If this Agreement is terminated pursuant to Section 5.1(a),(b),(d) or (e) of the Agreement, and there is no written objection to the termination filed by a party with the Escrow Agent, Seller shall within five (5) business days after such termination repay to Buyer the Deposit. In all other events of termination pursuant to Section 5.1 of this Agreement, the Deposit shall remain in escrow until the final resolution of any claim for damages, including a right to attorney fees, if applicable.

## **ARTICLE 6 INDEMNIFICATION**

### **6.1 Definition of Damages**

For purposes of this Agreement, "Damages" means the aggregate amount of all damages, claims, losses, obligations, liabilities (including any governmental penalty, fines or punitive damages), deficiencies, interest, costs and expenses arising out of or relating to a matter and any actions, judgments, costs and expenses (including reasonable attorney's fees and all other expenses incurred in investigating, preparing, or defending any litigation or proceeding, commenced or threatened) incident to such matter or to the enforcement of this Agreement.

### **6.2 Indemnification by Seller**

To the extent permitted by New Mexico law, Seller agrees to indemnify, defend and hold harmless Buyer, and its employees, officers, Board of Commissioners whether jointly or separately and agents from and against any and all Damages arising out of or resulting from:

- a) any representation, breach of warranty, or non-fulfillment of any covenant or agreement made by Seller in this Agreement or in any deliveries furnished pursuant to Section 1.12 of this Agreement;
- b) any and all liabilities of Seller of any nature, whether due or to become due, whether accrued, absolute, contingent or otherwise, existing prior to the Closing



Date or arising out of any transaction entered into, any state of acts existing or any even occurring prior to the Closing Date, other than Assumed Liabilities;

- c) the Retained Liabilities; and
- d) the successful enforcement of this Section of this Agreement.

Seller's obligations under this Section of the agreement shall be discharged, and all amounts payable hereunder, including costs and fees in the defense of any litigation, shall be paid to Buyer as they are incurred by Buyer.

### **6.3 General Indemnification Procedures**

- a) During the applicable survival period specified in Article 7 of this Agreement, Buyer, in seeking indemnification pursuant to Article 6 of this Agreement ("Indemnified Party"), shall give prompt written notice to the Seller from whom such indemnification is sought ("Indemnifying Party") of the assertion of any claim, the incurrence of any Damages, or the commencement of any action, suit or proceeding, of which it has knowledge in respect of which indemnity may be sought hereunder, and will give the Indemnifying Party such information with respect thereto as the Indemnifying Party may reasonably request, but failure to give such required notice shall relieve the Indemnifying Party of any liability hereunder only to the extent that the Indemnifying Party has suffered actual prejudice thereby.

The Indemnifying Party (Seller) shall have the right exercisable by written notice to the Indemnifying Party after receipt of notice from the Indemnified Party of the commencement of or assertion of any claim or action, suit or proceeding by a third party in respect of which indemnity may be sought hereunder (a "Third Party Claim"), to assume the defense of such Third Party Claim which involves and continues to involve solely monetary damages; provided, that (i) the Indemnifying Party expressly agrees in such notice that, as between the Indemnifying Party and the Indemnified Party, solely the Indemnifying Party shall be obligated to satisfy and discharge the Third Party Claim; (ii) such Third Party Claim does not include a request or demand for injunctive or other equitable relief; and, (iii) the Indemnifying Party makes reasonably adequate provision to assure the Indemnified Party of the ability of the Indemnifying Party to satisfy the full amount of any adverse monetary judgment that is reasonably likely to result.

- b) Neither the Indemnified Party nor the Indemnifying Party shall settle any Third Party Claim without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed.
- c) The Indemnifying Party or the Indemnified Party, as the case may be, shall have the right to participate (but not control), at its own expense, in the defense of any



Third Party Claim which the other party is defending as provided in this Agreement.

- d) In no event shall either Party be liable to the other for any reason under this Agreement for any form of special, incidental, indirect, consequential, or punitive damages of any kind whether or not foreseeable, even if informed in advance of the possibility of such damages and whether arising in contract, tort including negligence, equity or otherwise.

## **ARTICLE 7 SURVIVAL**

### **7.1 Survival**

All covenants, warranties, representations and agreements made by the parties in this agreement or in any Schedule, document, statement, certificate or resolution furnished in connection with the transaction contemplated by this Agreement shall survive the Closing.

### **7.2 Limitations on Survival**

- a) The covenants, warranties, representations and agreements set forth in Section 3.6(b), (c) and (d) of this Agreement shall survive the Closing for an unlimited period of time.
- b) The covenants, warranties, representations and agreements set forth in Section 2.1, Section 3.1(a) through (c), and Section 3.3(b) of this Agreement shall survive the Closing for a period of five (5) years.
- c) The covenants, warranties, representations and agreements set forth in Section 3.4(b) of this Agreement shall survive the Closing for a period of three (3) months.
- d) Article 6 of this Agreement shall survive the Closing for the applicable period(s) of the indemnified covenants, warranties, representations and agreements as limited by this Article 7.
- e) The covenants, warranties, representations and agreements that are not explicitly limited by Section 7.2(a) through (d) of herein shall survive the closing for a period of one (1) year.

### **7.3 Covenant Running with the Land**

Reserved.



## **ARTICLE 8 MISCELLANEOUS**

### **8.1 Schedules**

All Exhibits and Schedules (“Schedules”) annexed or referred to in this Agreement are hereby incorporated in and made a part of this Agreement as if set forth in full herein.

Schedules are made to the best of the Parties’ knowledge as of the date first written above. Prior to Closing, the parties shall promptly deliver an amended or supplemented Schedule when any change in fact, condition or information requires an amendment or supplement to such Schedule.

### **8.2 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties concerning the sale and purchase of the Assets, and supersedes all prior oral or written agreements, understandings, representations and warranties, and courses of conduct and dealing between the Parties on the subject matter hereof.

### **8.3 Amendment**

This Agreement may be amended or modified only by a writing executed by all of the Parties hereto or their respective successors in interest and expressly stating that it is an amendment of this Agreement.

### **8.4 Extension or Waiver of Performance**

Either Seller or Buyer may extend the time for or waive the performance of any of the obligations of the other, waive any inaccuracies in the warranties or representations by the other, or waive compliance by the other with any of the covenants, conditions or agreements contained in this Agreement, provided that any such extension or waiver shall be in writing and signed by the waiving party in the case of a waiver, or by both Seller and Buyer in the case of an extension.

### **8.5 Assignment or Delegation**

The Parties shall not assign, delegate or otherwise transfer any of their duties, rights or obligations under this Agreement without the prior written consent of the other party.

### **8.6 Successors and Assigns; Binding Effect**

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.



## **8.7 Governing Law**

This Agreement shall be governed and construed under the laws of the State of New Mexico.

## **8.8 Notices**

All notices provided for in this Agreement shall be in writing, addressed to Seller or Buyer, as the case may be, at the addresses set forth in this Paragraph and may be (a) delivered in person; (b) sent by United States registered or certified mail, return receipt requested; (c) sent by recognized overnight courier or delivery service from which a receipt may be obtained; or, (d) sent by facsimile or telefax transmission during regular business hours (9 a.m. to 5 p.m., Monday-Friday, excluding weekends and holidays observed by Santa Fe County). Notice sent by facsimile shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation.

If to Sellers:

Address:

If to Buyer:	Santa Fe County, Attn: Stephen C. Ross, County Attorney 102 Grant Ave. P.O. Box 276 Santa Fe, NM 87504-0276 Telephone: 505-986-6279 Facsimile: 505-986-6362
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The parties shall have the right to designate a new address for the receipt of notices by written notice to the other party as provided in Section 8.8 of this Agreement.

## **8.9 Captions**

The headings and captions used with the subsections, sections, articles and schedules of this Agreement are for convenience or reference only and shall not be deemed to modify or limit the provisions of this Agreement.

## **8.10 Construction**

In the event any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall



arise favoring or disfavoring either party by virtue of the authorship of any of the provisions of this Agreement.

Any reference to any federal, state, local or foreign law shall be deemed to refer to all amendments, as well as to all rules and regulations promulgated thereunder, unless the context requires otherwise.

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context may require. The word “including” shall mean “included,” without limitation.

“Material Adverse Effect” means a change or effect, or series of related changes or effects, which has or is reasonably likely to have a material adverse change in or effect upon the business, assets, condition (financial or otherwise), or results of operations of the Water System, water rights or Assets, taken as a whole, provided, however, that none of the following, either alone or in combination, shall be considered in determining whether there has been a “Material Adverse Effect”: (i) events, circumstances, change or effects that generally affect similarly situated water systems, including changes in law or generally accepted accounting principles; (ii) general economic or political conditions or events, circumstances, changes or effects affecting the financial, securities, lending or commodities markets or other market conditions generally; (iii) changes arising from the consummation of the transactions contemplated by, or the announcement of, this Agreement; (iv) changes caused by a material worsening of current conditions caused by acts of terrorism or war, whether or not declared, occurring after the date of this Agreement; (v) any existing circumstance, event or occurrence with respect to which the Buyer has knowledge as of the date of this Agreement; and (vi) any adverse circumstance, change or effect that is cured by Seller or buyer prior to the Closing in accordance with this Agreement.

#### **8.11 Cumulative Remedies**

The remedies afforded in this Agreement are cumulative to each other and to all other remedies provided by law.

#### **8.12 No Waiver**

Except as otherwise provided herein, no delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by any other party



under this Agreement shall impair any such right, power or remedy; nor shall it be construed as a waiver of our acquiescence in any such breach or default, or any similar breach or default occurring later; nor shall any waiver of a single breach or default be deemed a waiver of any other breach or default occurring before or after that waiver.

**8.13 Time of the Essence**

Time is of the essence in this Agreement.

**8.14 Jurisdiction and Venue**

The Parties each irrevocably submit to the exclusive jurisdiction of (a) the First Judicial District Court in Santa Fe, New Mexico, and (b) where appropriate, an appellate court for the State of New Mexico.

When the above-mentioned courts may properly exercise jurisdiction over an action, suit or proceeding relating to this Agreement, the Parties agree not to commence or maintain any such action, suit or proceeding in a court or forum other than the above-mentioned courts.

**8.15 Third Party Beneficiaries**

Nothing herein expressed or implied is intended or should be construed to confer upon or give to any person, other than the Parties, any rights or remedies under or by reason of this Agreement.

**8.16 Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. This Agreement shall be binding upon the parties only when a copy or a counterpart has been signed by each party and delivered to each other party. Signatures, copies and counterparts may be transmitted by mail, facsimile or overnight courier service and when so transmitted are as effective as if a manually-signed, original document had been delivered.

**8.17 Incorporation of Exhibits and Schedules**

All exhibits and schedules attached hereto and referred to herein are incorporated in this Agreement as though fully set forth herein.

WHEREFORE, in consideration of the foregoing and intending to be legally bound by the terms herein, the Parties have caused this Agreement to be executed as set forth below.

**SELLER:**

**BUYER:**



\_\_\_\_\_,  
YYYYYYYYYYYYYY,

**COMMISSIONERS  
OF  
SANTA FE COUNTY,  
NEW MEXICO**

By: \_\_\_\_\_  
\_\_\_\_\_  
Title: \_\_\_\_\_  
\_\_\_\_\_  
Date: \_\_\_\_\_  
\_\_\_\_\_

**SANTA FE COUNTY, NEW MEXICO,**  
a political subdivision of the State of  
New Mexico

**BOARD OF COUNTY  
COMMISSIONERS  
OF SANTA FE COUNTY, NEW**

By: \_\_\_\_\_  
KATHY HOLIAN  
Title: Chairperson  
Date: \_\_\_\_\_  
\_\_\_\_\_

**Approved as to form:**

By: \_\_\_\_\_  
STEPHEN C. ROSS  
Title: County Attorney  
Date: \_\_\_\_\_  
\_\_\_\_\_

**Attest:**

By: \_\_\_\_\_  
GERALDINE SALAZAR  
Title: County Clerk  
Date: \_\_\_\_\_  
\_\_\_\_\_

**SCHEDULES**

**A through ZZZ**



**SCHEDULE A**

(other schedules when added should be labeled in alphabetical order)



# Santa Fe County

## Fiscal Impact Report

Department / Division: Public Works

Action Item to be Considered: Resolution to adopt Hyde Park Estates Water System

Agreement Number: \_\_\_\_\_

Indicate with a <input checked="" type="checkbox"/> below	Section 1 - Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input type="checkbox"/>	Loan/Grant Agreement
<input checked="" type="checkbox"/>	Other: <u>Resolution to adopt water system</u>

Indicate with a <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc.
<input checked="" type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds)
<input type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. %      \$      Source
<input checked="" type="checkbox"/>	Other: <u>Utility Enterprise Funds</u>

Section 3 - Ongoing operations and maintenance (O&M) requirements:		
Short Term (Specify needs for the current fiscal year only)		
Routine O&M will be needed once the system is adopted. It is estimated that once all the relevant agreements are signed, system will be adopted no sooner than January 2014.		
New FTE's #	Position	Hourly Rate \$
Current Fiscal Year Cost \$ 5000	Annual Cost \$	
Initial Costs (Vehicle, computer, office space, etc.)		
Asset inventory contract will be required to exercise due diligence. This is estimated to cost \$5000. This will be an FY14 expense.		



**O & M** (Concisely identify the recurring needs, supplies, equipment, and the resources necessary for carrying out the job duties)

Resolution asks for the creation of a new FTE utility maintenance position, due to its geographic remoteness from the rest of the County utility

Current Fiscal Year Cost \$  Annual Cost \$

**Long Term** (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs)

Resolution asks for the creation of a new FTE utility maintenance position, due to its geographic remoteness from the rest of the County utility

**Salary & Benefits:**

\$32,000

**All other expenses:**

\$1200/year estimated for annual O&M of well and tanks

#### Section 4 - Revenue

**Short Term** (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Revenue from retail water customers. There are currently 76 meters in the system. Current County retail customers pay on average \$48/month, so HPE is estimated to generate \$21,400 in revenue in the second half of FY14 (76 x 48 x 6). HPE is a higher-income community, so water usage may be higher than County average.

Current FY Estimate \$

**Long Term** (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

HPE will become retail water customers. There are currently 76 meters in the system. Current County retail customers pay on average \$48/month, so HPE is estimated to generate \$43,800 a year in revenue (76 x 48 x 12). HPE is a higher-income community, so water usage may be higher than County average.

Annual Estimate \$  Total (next 4 years) \$

#### Additional Narrative

(Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

This

Prepared by

Reviewed by



 **File Attachment**

 **File Attachment**

 **File Attachment**



**Daniel "Danny" Mayfield**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

**MEMORANDUM**

**Date:** July 2, 2013

**To:** Santa Fe County Board of County Commissioners

**From:** Bill Taylor, Procurement Manager

**Via:** Adam Leigland, Public Works Director  
Mark Hogan, Properties Facilities Director

**Re:** *Request Approval of Change Order #3 to Agreement #2013-0145-OS/PL with Meridian Contracting, Inc. for Construction Services for the Santa Fe River Restoration from County Road 62 to San Ysidro Crossing in the amount of \$195,820.00 for a total contract amount of \$ 1,539,324.86 exclusive of GRT.*

---

***Issue and Background:***

The Santa Fe County Projects, Facilities, Open Space & Trails Division received authorization from the Board of County Commissioners to enter into a contract with Meridian Contracting, Inc. for construction services for the Santa Fe River Greenway at San Isidro Park, which is County open space property located in the Agua Fria Village between County Road 62 and San Ysidro Crossing. Contract #2013-0145-OS/PL was executed with Meridian Contracting on October 18, 2012 in the amount of \$1,185,578.00 exclusive of GRT. The Santa Fe River restoration includes earthwork, removal of some existing structures, construction of rock retaining walls, grade control structures, rock riffle rundowns, rock deflectors, rock vanes, storm water catchment ponds and drainage, recreational trail, landscaping and re-vegetation.

Approved Change Order #1 was executed with Meridian Contracting in the amount of \$11,756.86, exclusive of GRT, to add additional services for traffic control on River's Edge Lane and revisions to drainage ponds to accommodate the City's sanitary sewer line easement.

Approved Change Order #2 was executed with Meridian Contracting in the amount of \$146,170.00, exclusive of GRT, for the removal, sorting, hauling and disposal of an estimated 1,000 tons of buried rubble and debris discovered during construction.

Change Order #3 in the amount of \$195,820.00, exclusive of GRT, provides for additional large rocks and concrete flowfill required for the construction of additional rock structures and retaining walls deemed by the engineer necessary to properly complete the project.

The total contract amount incorporating Change Orders #1, 2, and 3 will be \$1,539,324.86 exclusive of GRT.

***Action Requested:***

Purchasing Division and Public Works Department request approval of Change Order #3 for additional services to Agreement #2011-0148-CSD/PL with Meridian Contracting, Inc. for the construction of additional rock structures and retaining walls in the amount of \$195,820.00 exclusive of GRT.

# Change Order No. 3

Date of Issuance: \_\_\_\_\_ Effective Date: Upon Acceptance by Owner

Project: <b>SF River Restoration</b> <b>CR 62 to San Ysidro Crossing</b>	Owner: <b>SANTA FE COUNTY</b>
Contractor: <b>Meridian Contracting</b>	Owner's Contract No.: <b>2013-0145-OS/PL</b>
Contract: _____	Date of Contract: <b>10/18/12</b>
Contractor: <b>Meridian Contracting</b>	Engineer's Project No.: _____

**The Contract Documents are modified as follows upon execution of this Change Order:**

1. Increase Quantity of Bid Item #12 (Large Rocks) by 750.
2. Increase Quantity of Bid Item #11 (Const. Tall Rock Wall) by 165 l.f.
3. Increase Quantity of Bid Item #10 (Const. Short Rock Wall) by 40 l.f.
4. Increase Quantity of Bid Item #17 (Flowable Fill) by 370 c.y.

NOTE: To be paid at Contract Unit Prices.

Attachments (list documents supporting change):

<b>CHANGE IN CONTRACT PRICE:</b>	<b>CHANGE IN CONTRACT TIMES:</b>
----------------------------------	----------------------------------

Original Contract Price: (Excluding GRT) <b>\$ 1,185,578.00</b>	Original Contract Times: <input checked="" type="checkbox"/> Working days <input type="checkbox"/> Calendar days Substantial completion (days or date): <u>150</u> Ready for final payment (days or date): <u>180</u>
--	---

Increase from previously approved Change Orders No. 1 to No. 2: <b>\$157,926.86</b>	Increase from previously approved Change Orders No. 1 to No. 2: Substantial completion (days): <u>24</u> Ready for final payment (days): <u>24</u>
--	--

Contract Price prior to this Change Order: <b>\$1,197,334.86</b>	Contract Times prior to this Change Order: Substantial completion (days or date): <u>174</u> Ready for final payment (days or date): <u>204</u>
---	---

Increase of this Change Order: <b>\$195,820.00 (+GRT)</b>	Increase of this Change Order: Substantial completion (days or date): <u>20</u> Ready for final payment (days or date): <u>20</u>
--	---

Contract Price incorporating this Change <b>\$1,539,324.86</b>	Contract Times with all approved Change Orders: Substantial completion (days or date): <u>194</u> Ready for final payment (days or date): <u>224</u>
---	--

RECOMMENDED:	ACCEPTED:
By: _____ Project Engineer (Authorized Signature)	By: _____ Owner (Authorized Signature)
Date: _____	Date: _____
By: _____ Contractor (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Date: _____	Date: _____

**SAN YSIDRO PROJECT CHANGE ORDER #3 ESTIMATED COST**  
**Based on Unit Prices in Contract (rev. 7-2-13)**

Bid Item	Item	Quantity	Unit	Bid Price	Total Cost
12	FURNISH LARGE ROCKS	750	EA	\$ 195.00	\$ 146,250.00
17	FLOWABLE FILL BACKFILL	370	CY	\$ 110.00	\$ 40,700.00
11	CONSTRUCT TALL WALL	165	LF	\$ 46.00	\$ 7,590.00
10	CONSTRUCT SHORT WALL	40	LF	\$ 32.00	\$ 1,280.00
					<u>\$ 195,820.00</u>
	CO #3				\$ 195,820.00
	Contract				\$ 1,185,578.00
	CO #1 & 2				\$ 157,926.86
	CO #3				\$ 195,820.00
	Total				\$ 1,539,324.86

**NO PACKET MATERIAL  
FOR THIS ITEM**

**A. MISCELLANEOUS UPDATES**



NO PACKET MATERIAL FOR THIS  
ITEM  
EXECUTIVE SESSION



**Daniel "Danny" Mayfield**  
Commissioner, District 1  
**Miguel M. Chavez**  
Commissioner, District 2  
**Robert A. Anaya**  
Commissioner, District 3



**Kathy Holian**  
Commissioner, District 4  
**Liz Stefanics**  
Commissioner, District 5  
**Katherine Miller**  
County Manager

**DATE:** July 9, 2013

**TO:** Board of County Commissioners

**FROM:** Miguel "Mike" Romero, Development Review Specialist Senior *MR*

**VIA:** Penny Ellis-Green, Land Use Administrator  
Vicki Lucero, Building and Development Services Manager *VL*  
Wayne Dalton, Building and Development Services Supervisor *WD*

**FILE REF.:** BCC CASE #PCEV 13-5160 Lackehart Inc.

**ISSUE:**

Lackehart Inc., Applicant, requests approval to vacate a platted ten foot (10') wide private equestrian and pedestrian easement on two (2) lots totaling 25 acres.

The properties are located at #4 and #15 Lone Coyote Ridge, in the vicinity of Eldorado, within Section 22, Township 15 North, Range 10 East, (Commission District 4).

**Vicinity Map:**





**SUMMARY:**

The subject properties were created by way of a lot split in 1991, and are considered legal lots of record.

The Applicant requests to vacate a ten foot (10') wide private equestrian and pedestrian easement on two vacant lots, the subject easement is located on the northern boundary of Tract 8A and 8B, which intersects with a ten foot (10') wide drainage and utility easement that runs from north to south between the Applicant's eastern property line and the Eldorado Wilderness. The Applicant states that the private equestrian and pedestrian easement is not a legally permitted access and was created without the consent of Eldorado's Community Homeowners Improvement Association and the owners of the Eldorado Community Preserve. The Applicant also states that the private equestrian and pedestrian easement is not used by the Eldorado Community and the Applicant believes that the terrain is not suitable for walking or horseback riding and presents a liability for the Applicant.

Article V, § 5.7.1 (Cause) states any Final Plat filed in the office of the County Clerk may be vacated or a portion of the Final Plat if:

- a) The owners of the land proposed to be vacated sign an acknowledgment statement, declaring the Final Plat or a portion of the Final Plat to be vacated, and the statement is approved by the Board; or
- b) The Board finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.

The Applicant states that they are the only ones affected by this easement vacation. Therefore, per Article V, § 5.7.7 a. the Applicants request approval to vacate the ten foot (10') wide private equestrian and pedestrian easement.

Article V, § 5.7.2 (Action) states action shall be taken at a public meeting. In approving the vacation of all or a part of a Final Plat, the Board shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a Final Plat, the Board may require that roads dedicated to the County in the Final Plat continue to be dedicated to the County.

Article V, § 5.7.3 (Filing) states the approved statement declaring the vacation of a portion or all of a Final Plat shall be filed in the office of the County Clerk.

Article V, § 5.7.4 (Utilities) the rights of any utility existing before the total or partial vacation of any Final Plat are not affected by the vacation of a Final Plat.

**This Application was submitted on May 14, 2013.**

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for this type of request.

**APPROVAL SOUGHT:** Approval to vacate a platted ten foot (10') wide private equestrian and pedestrian easement on two lots totaling 25 acres.

**GROWTH MANAGEMENT AREA:** Galisteo, SDA-2

**HYDROLOGIC ZONE:** Homestead Hydrologic Zone, minimum lot size per Code is 160 acres per dwelling unit. Lot size can be further reduced to 40 acres per dwelling unit with signed and recorded water restrictions.

**FIRE PROTECTION:** Eldorado

**WATER SUPPLY:** Domestic Well

**LIQUID WASTE:** None

**VARIANCES:** None

**AGENCY REVIEW:** None

**STAFF RECOMMENDATION:** Approval to vacate a platted ten foot (10') wide private equestrian and pedestrian easement on two lots totaling 25 acres, subject to the following conditions:

1. The Applicant shall file the portion of the Final Plat (Tract 8A and 8B) affected by the vacated easement with the County Clerk's Office (As per Article V § 5.7.3).

**EXHIBITS:**

1. Letter of request
2. Article V, § 5.7 (Vacations of Plats)
3. Site Photographs
4. Site Plan/Survey Plat
5. Aerial of Site and Surrounding Area
6. Letters of Support

Donald H. Keith & Toni L. Carrell  
LackeHart, Inc.  
39 Condesa Road  
Santa Fe, NM 87508

April 26, 2013

Penny Ellis-Green  
Land Use Administrator  
Santa Fe County  
PO Box 276  
Santa Fe, NM 87504-0276

RE: Request to vacate a 10' Equestrian & Pedestrian Easement located on Tract 8A and 8B Lot 15A-2 located within Lot 15 of Eldorado at Santa Fe

Dear Ms. Ellis-Green,

We are writing to request the removal of an easement located on the northern boundary of our property, Tract 8A and 8B, Lot 15A-2. With this letter we are submitting documents and letters in support of removal of this easement for the following five reasons:

- It is not a legally permitted access of the Eldorado Community Improvement Association (the Eldorado Homeowner's Association) into the Community Preserve
- Removal will not adversely impact our neighbors
- The terrain is not suitable for walking or horseback riding
- It is not legal to encourage people to break the law and trespass on private property
- It presents a liability hazard for us and our neighbors

Supporting Documents to Remove Easement

*1) Not a legally permitted access*

This easement was placed on the property at the behest of Dr. Michael Eisenberg, the managing partner for Red Sky Land and Cattle, in 1991 during a lot split of 15A-2. It is described in the Declaration of Covenants, Conditions and Restrictions, Article VII, Easement to Wilderness, recorded March 6, 1991, Book 709, pages 729-745. In the 1991 CCRs, the easement is described as:

A five-foot wide easement solely for walking or horseback riding and for the exclusive use of the home owner's association members [of Lot 15A-2], their family and guest, shall be established, leading from the main interior road to the Eldorado Wilderness Area to the east of this parcel....

This easement was established without the knowledge or consent of the Eldorado Community Homeowner's Improvement Association (ECIA), the owners of the Eldorado Community Preserve. It should be noted that the Preserve is not publically owned and is not part of a local, state, or Federal wilderness area. In both email and in person discussions with Bill Donahue, General Manager of the ECIA, and Mark Young, Covenants Compliance Division, I was informed that no legal or permitted easement and access from Camino Acote into the preserve exists.



Attachment 1: Letter from ECIA dated April 13, 2013. At my request the ECIA has provided a letter to the above effect.  
Attachment 2: Eldorado Community Preserve Brochure and Trail map showing the location of all legal access points into the preserve and the location of our property.

2) *Removal will not adversely impact neighbors*  
The neighbors whose property abuts our northern boundary are concerned that continued presence of this easement will subject them to trespassing by pedestrian or equestrian traffic.

Attachment 3: Letter from Marilyn and Andre Von Reiter, 157B Camino Acote, dated March 6, 2013, supporting removal of easement.

3) *The terrain is not suitable for walking or horseback riding*  
Above and beyond the issue that this easement is not a legal access into the Preserve, the corridor selected is not suitable for walking or horseback riding. It crosses two deep arroyos, is rocky and tree covered. To stay strictly within the platted easement would require pushing through large trees. To avoid trees requires trespassing on private land on either side. Further, the easement ends at a steep drop off at the eastern boundary of our property and the western boundary of the Preserve. There is no way to safely enter the preserve on horseback and to enter it on foot requires scrambling down a steep incline.

See Bird's Eye View and ECIA Community Preserve trail maps.

4) *It is not legal to encourage people to break the law and trespass on private property*  
Because there is no safe way to access the Preserve from the easement, anyone wishing to enter the preserve will be forced to walk either to the north, to the Von Reiter property, or south to our property; by doing so they will be trespassing. The presence of the easement is an invitation to break the law and trespass on private land.

5) *It presents a liability hardship for us and our neighbors*  
The presence of this easement is a public nuisance. The possibility that individuals could injure themselves in an effort to access the Preserve by using it places us and our neighbors in an untenable situation. We are either forced to act as the "easement police" and attempt to prevent its use or be prepared for a lawsuit should human or animal be injured on our property. The liability is an unreasonable burden particularly in light of the fact it is an illegal easement and an unpermitted access.

Thank you for your support and consideration in our request to have this easement removed. Should you require additional information, we would be happy to provide it.

Sincerely,



Toni L. Carrell



Donald H. Keith

### 5.7 Vacation of Plats

- 5.7.1 Cause. Any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if:
- a. the owners of the land proposed to be vacated sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board; or
  - b. the Board finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.

5.7.2 Action. Action shall be taken at a public meeting. In approving the vacation of all or a part of a final plat, the Board shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a final plat, the Board may require that roads dedicated to the County in the final plat continue to be dedicated to the County.

5.7.3 Filing. The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the office of the County Clerk

5.7.4. Utilities. The rights of any utility existing before the total or partial vacation of any final plat are not affected by the vacation of a final plat.

### 5.8 Requirements Prior to Sale, Lease or Other Conveyance

It is unlawful to sell, lease, or otherwise convey land within a subdivision before the following conditions have been met:

- a. Final plat approval. The final plat shall be approved by the Board and shall be filed with the County Clerk. If a subdivision lies within more than one county, the final plat shall be approved by the Board of each county in which the subdivision is located and shall be filed with the County Clerk of each county in which the subdivision is located.
- b. Relevant documents. The subdivider shall furnish the Board a sample copy of sales contracts, leases and any other documents that will be used to convey an interest in the subdivided land.
- c. Permanent markers. All corners of all parcels and blocks within a subdivision shall be permanently marked with metal stakes in the ground and a reference stake placed beside one corner of each parcel.

### 5.9 Succeeding Subdivisions

Any proposed subdivision may be combined and upgraded for classification purposes by the Board with a previous subdivision if the proposed subdivision includes:

- a. Part of a previous subdivision that has been created in the preceding seven (7) year period; or
- b. Any land retained by a subdivider after creating a previous subdivision when the previous subdivision was created in the preceding seven (7) year period.

History. Section 5 was updated and revised by Ordinance 1996-8 for the purpose of clarification and to bring this Section into compliance with the NMSA.



6

10

PCEV 13-5160  
LACKEHART INC.

Variance / Vacation of Easement



PCEV 13-5160

LACKEHART INC.

Variance /Vacation of Easement







Summary Review Subdivision  
of  
**TRACT 8**  
for  
**LackeHart, Inc.**

6400038

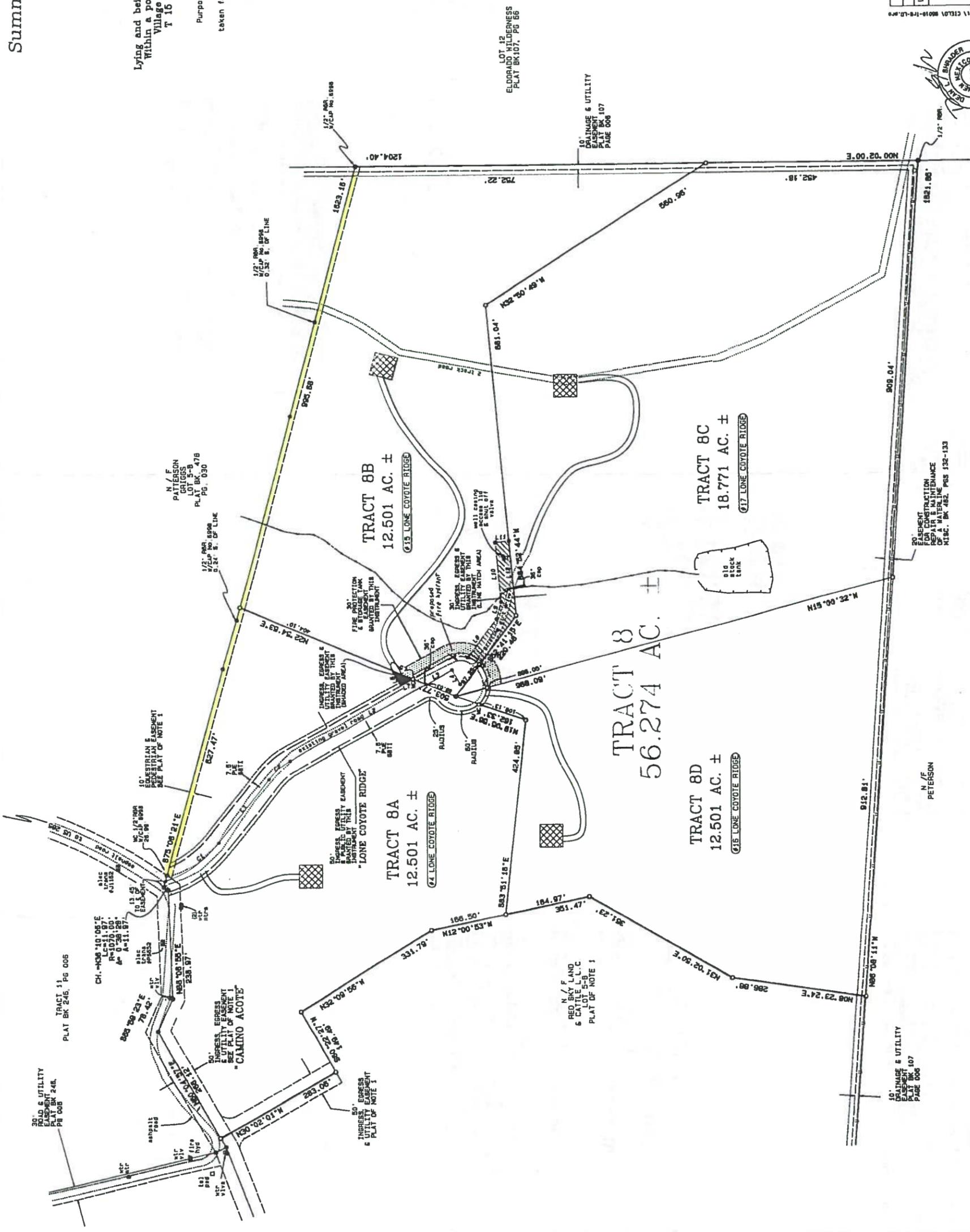
Lying and being situate within Lot 15 of Eldorado at Santa Fe  
Within a portion of the Bishop John Lamy Grant, near the  
Village of Lamy, and within Projected Section 22,  
T 16 N, R 10 E, Santa Fe County, New Mexico.

Tract 8 - 56.274 Acres ±

Purpose Statement: This plat creates 4 residential lots.  
(This purpose statement is required by  
the Santa Fe County Land Use Department and is  
taken from and required by their checklist for plat approval.)

**Legend**

- FOUND POINT
- SET POINT (1/2" DIA. W/CDP NO. 12451 UNLESS OTHERWISE INDICATED)
- CALCULATED POINT (NOT SET)
- EXISTING ROAD OR TRAIL
- APPROXIMATE CENTERLINE OF DRAINAGE/ARROYO
- UTILITY POLE W/OVERHEAD LINES
- MC WITNESS CORNER
- GR11 GRANTED BY THIS INSTRUMENT
- PUE PUBLIC UTILITY EASEMENT
- 2500 30 FT BUILDING SITE < 18% SLOPE
- PROPOSED ACCESS ROAD/DRIVEWAYS AND BUILDINGS SITE HAVE EXISTING SLOPES LESS THAN 18%
- PROPOSED DRIVEWAY < 18% SLOPE



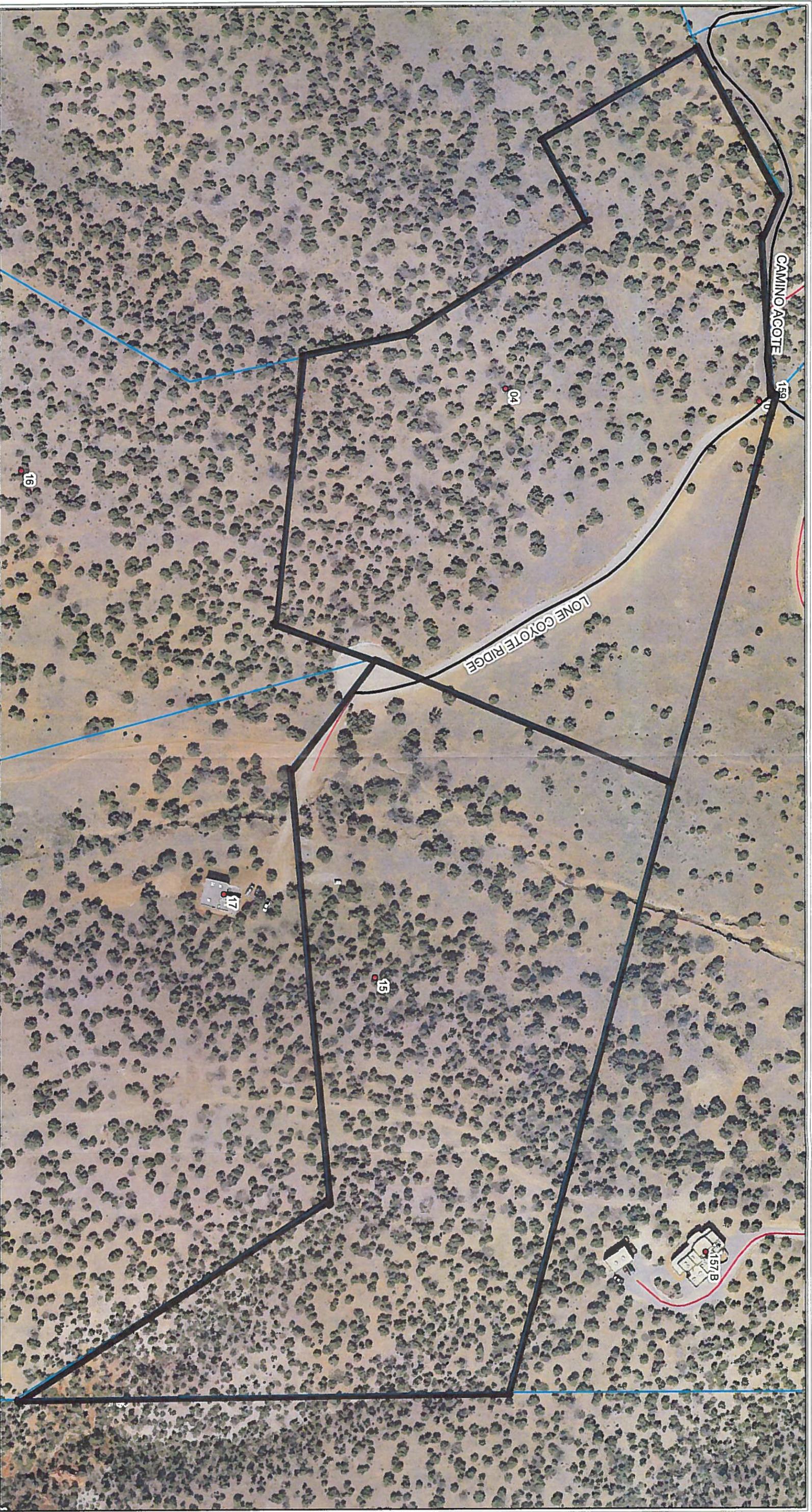
SHEET 2 OF 2

OWNER	SECTION	TOWNSHIP	RANGE	STREET
LACKEHART, INC.	PROJ. 8, 22	T 15 N	R 10 E	CAMINO ACOTE & LONE COYOTE RIDGE

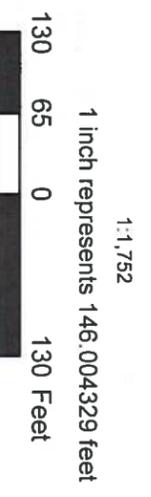
**HIGH DESERT SURVEYING, INC.**  
PROFESSIONAL SURVEYING

19226 ASPEN DRIVE, SUITE 401  
SANTA FE, N.M. 87505  
PHONE: (800) 458-5084 FAX: 424-1700





- Legend**
-  ROADS
  -  DRIVEWAYS
  -  Parcels

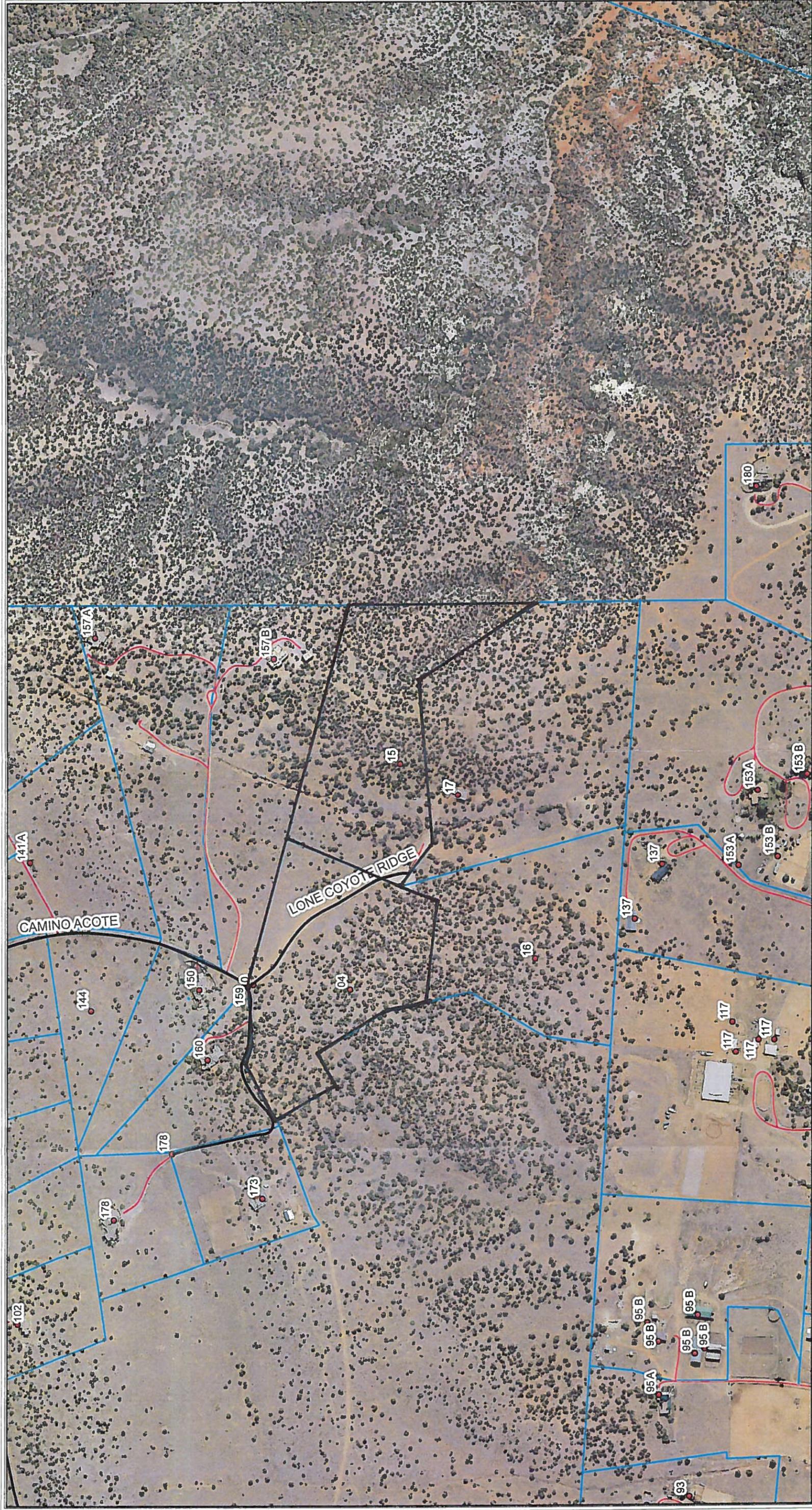


2008 Orthophotography  
2 FOOT CONTOURS

This information is for reference only.  
Santa Fe County assumes no liability for  
errors associated with the use of these data.  
User are solely responsible for  
confirming data accuracy.



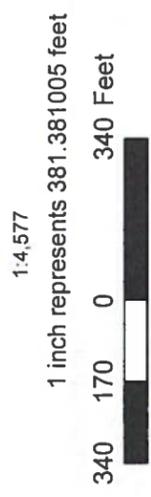
June 25, 2013



June 25, 2013

2008 Orthophotography  
2 FOOT CONTOURS

This information is for reference only.  
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errors associated with the use of these data.  
User are solely responsible for  
confirming data accuracy.



- Legend**
- ROADS
  - DRIVEWAYS
  - Parcels

Andre and Marilyn Von Reiter  
157B Camino Acote  
Santa Fe, NM 87508  
505-466-2582

March 6, 2013

Penny Ellis-Green  
Land Use Administrator  
Santa Fe County  
PO Box 276  
Santa Fe, NM 87504-0276

**RE: Request to vacate a 10' Equestrian & Pedestrian Easement located on Tract 8A and 8B Lot 15A-2 located within Lot 15 of Eldorado at Santa Fe.**

Dear Ms. Ellis-Green,

We support the removal of the 10' Equestrian & Pedestrian Easement located on Tract 8A and 8B, Lot 15A-2, owned by our neighbors Drs. Toni L. Carrell and Donald H. Keith as LackeHart, Inc. This easement currently abuts our property, Tract 5 B Lot 15A-2, along our southern perimeter (see attached plat). The easement runs from the Camino Acote roadway to the privately-owned Eldorado Community Preserve.

This easement ends at a steep drop off that makes it unsafe for equestrian or pedestrian use as an access to the Preserve. Furthermore, any possible users of this easement **must be permitted** by the Eldorado Community Improvement Association (ECIA); such permission is only given to owners of lots or homes within Eldorado proper on the west side of Hwy 285. In an email dated April 5, 2011 from Mark Young, ECIA Compliance and Covenants, and Bill Donahue (President of ECIA), I was informed that there is "no legal easement into the Eldorado Community Preserve from Camino Acote.

Removal of the 10' easement **will not** adversely impact our property, Tract 5 B. Instead it will protect our property rights by removing any potential pedestrian and equestrian traffic, which would most definitely overlap onto our private property.

Sincerely,

  
Andre A Von Reiter



Marilyn Von Reiter



**ELDORADO COMMUNITY  
IMPROVEMENT ASSOCIATION, INC**

One Hacienda Loop  
Santa Fe NM 87508  
505-466-4248

April 13, 2013

Toni L. Carrell & Donald H. Keith  
LackeHart Inc.  
39 Condesa Road  
Santa Fe, NM 87508

Dear Toni and Donald:

As per your request we are writing to state that we the staff of the ECIA are not aware of any legal access into the Eldorado Preserve, except for the established trailheads that the ECIA maintains. Furthermore the preserve is an amenity only for the use of Eldorado residents, and their guests, and Camino Acote residents are not part of Eldorado.

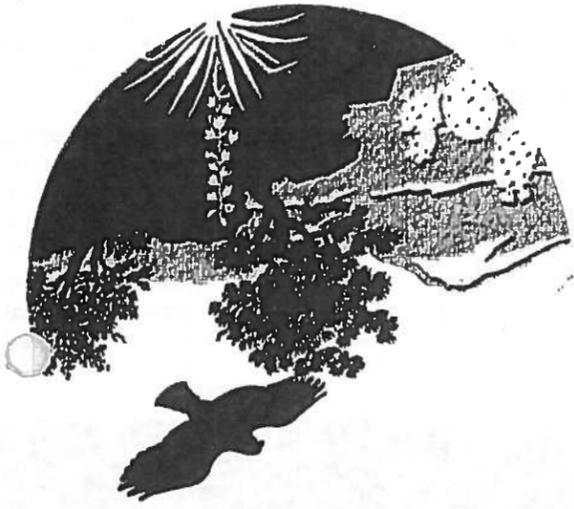
If you have any questions please call us at 466-4248.

Best regards,



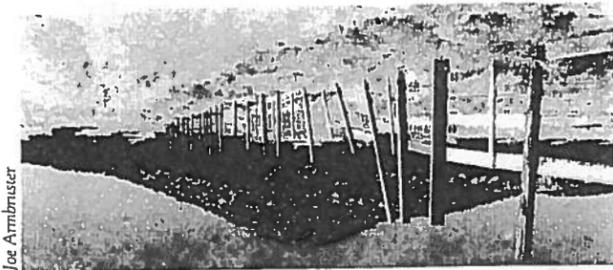
Mark Young  
Covenant Compliance Representative  
Eldorado Community Improvement Association  
466.4248, Ext. 15  
mark@eldoradosf.org

# Trail Maps Brochures



## Eldorado's Community Preserve

15



Joe Armbruster

- Take a litter bag. Pack it in - pack it out.
- Mountain bikers who overtake hikers and riders will warn of their presence and then pass in a safe manner.
- Mountain bikers will stop and let hikers pass when meeting.
- Hikers and mountain bikers will move uphill off trail and wait quietly until horses pass.

### Trail Courtesy

- Please report any suspicious activities to the ECI or Committee Chairman.
- Plants, minerals, and animals are not to be disturbed or collected.
- Cook with backpack stoves only. Fires not permitted in line cabins or on the ground. No smoking.
- No motorized vehicles permitted. Horses or mountain bikes permitted only on trails designated for their use.
- Persons under 15 must be with an adult.

• Guests using the Preserve must be with an Eldorado resident.

### Regulations for Use

- Wear brimmed hat to help prevent heat stroke.
- Avoid exposed areas during a storm and don't hike if storm threatens.
- Lightning storms occur most often in the summer - 911 to report lost or overdue persons.
- Tell someone your destination and return time. Call matches, a first aid kit.
- Take water (one gallon per person in summer), map, food, protective clothes for rain, wind and warmth, can injure you.
- Stay on designated trails, wear sturdy hiking shoes with non-slip soles.
- Steep cliffs, loose rock, rattlesnakes, cacti, lightning

### For your Safety

Keep in mind that hazards exist here that you may not find elsewhere. Use the Preserve at your own risk.



Carry Carlson

ended for beginning mountain bike riders.)  
ky sections and a long climb back out. (Not on which mountain bikes may ride. There are moderate 5 mile round trip hike to Hidden the East Line Camp with mesa top vistas. Trail 402 is an easy, along old wagon traces. Trail 402 is an easy, tenuous 4 mile loop through forest, meadows, d 4 is 2.7 miles on the right side of CR 51. Trail 401 between 302 and 303.

re allowed except on the steep .8 mile section 201 trails. Offers several loops and scenic vistas. ad from parking. Connects to Trailhead 1 and strenuous trail system (301) of 4.7 miles starts d 3 is .7 miles on the left side of CR 51. od. Connects to Trailhead 3. Horses are allowed. rful rock area, grassy meadows, and ponds with m (201) of 2 miles with some connecting links. d 2 is .5 miles on the left side of CR 51. Easy t onto the frontage Road; follow it 2.2 miles ght underneath I-25. This is County Road 51. r three parking/entry points are along County 102 and 103.

ad 3. Horses are allowed on these trails except 5 to 5.2 miles are possible and Trail 101 connects is), the West Line Camp, and the marsh. Loops rth to trails. Trails lead to Bishop's Peak ce to a parking lot. Walk from parking area .2 sta Grande. We have an easement along the d 1 is directly across from the second entrance

/riding across private property.  
and Canocito by not driving on private roads, and neighboring communities such as the Ridges, Los for your hiking/riding enjoyment. Please respect e only four parking and entry points to the

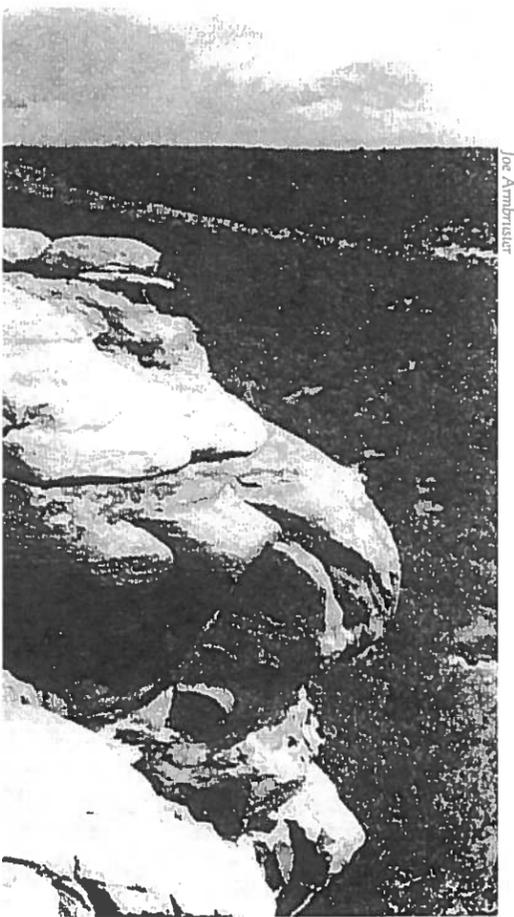
### and Trails

## Eldorado's Community Preserve

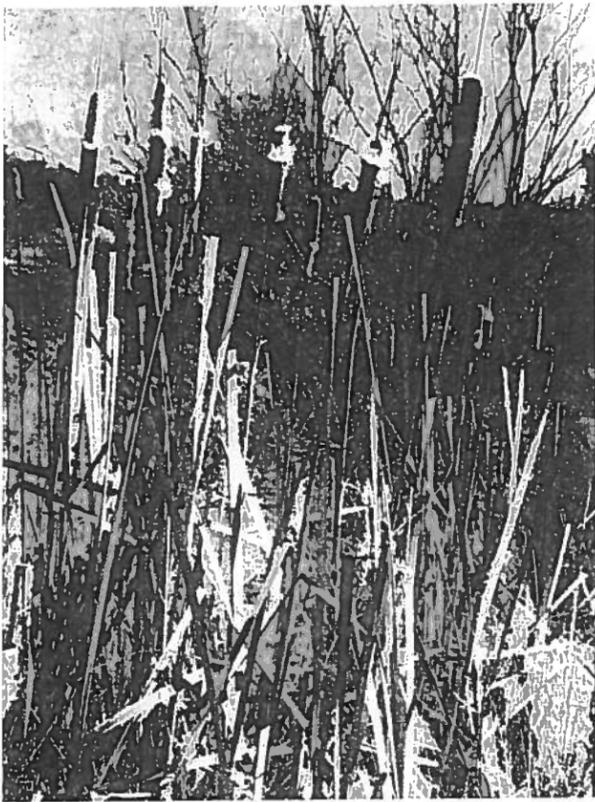
Eldorado's Community Preserve encompasses 4,094 acres of undeveloped land across U.S. Highway 285 from Lamy to and south to Lamy. This land was deeded in 1985 to the Eldorado Community Improvement Association (ECIA) as long as it is used only as a permanent nature preserve by ECIA members.

The Preservation Committee of the ECIA is responsible for the management of this day-use area. Members plan trails, post boundaries, develop use policies, and ensure that Eldorado residents can enjoy this wild area so close to our homes.

It is one of every lot owner's amenities that is not found in any other local community.



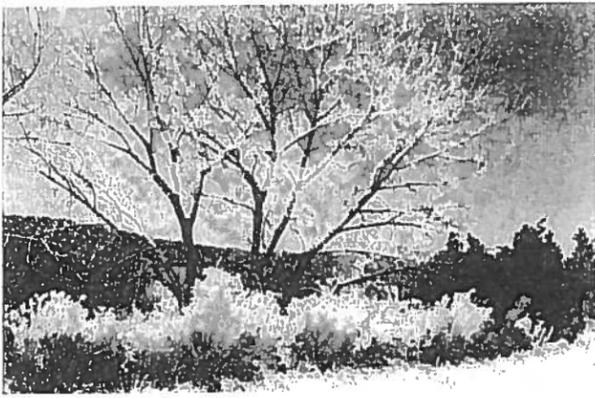
Joe Ambuster



Cary Carlson

This map/brochure, committee members' names and further information regarding Eldorado's Community Preserve, is available at the ECIA office. Your comments and suggestions are encouraged.

Contour maps by the U.S. Geological Survey may be purchased from local outfitting stores. The four quadrangles that cover the Preserve are Seton Village, Galisteo, Glorieta, and Bull Canyon.



Cary Carlson

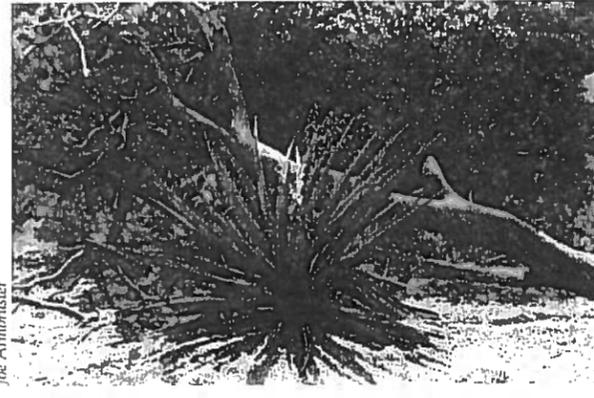


Cary Carlson

**Topography** of the Preserve is varied and diverse. It includes desert-grassland, some formerly grazed; heavily wooded ridges and mesas; steep-walled canyons; chalky white, buff, or red limestone cliffs; and several riparian areas, where the presence of water supports abundant flora and fauna. The land is crisscrossed by many arroyos, both broad and narrow, sandy and rocky. Elevations range from 6500 ft. along Galisteo Creek to almost 7500 ft. on Bishop's Peak.

**Vegetation** consists mostly of the pinon-juniper woodland. Ponderosa pine grow in the cooler canyons, gambel oak on some higher ridges and mesas. Cottonwoods, alders, willows, and cattails grow in some arroyos. The grasslands flourish with chamisa, wildflowers, cacti and yuccas.

**Wildlife** is fairly abundant in this largely undisturbed area. Many species of birds, small mammals and other wildlife abound. Elk, deer, and bear are occasionally spotted. Tracks of mountain lion were even found a few years ago. Lizards and snakes live here, also.



Joe Ambuster

# ELDORADO TRAILS MAP

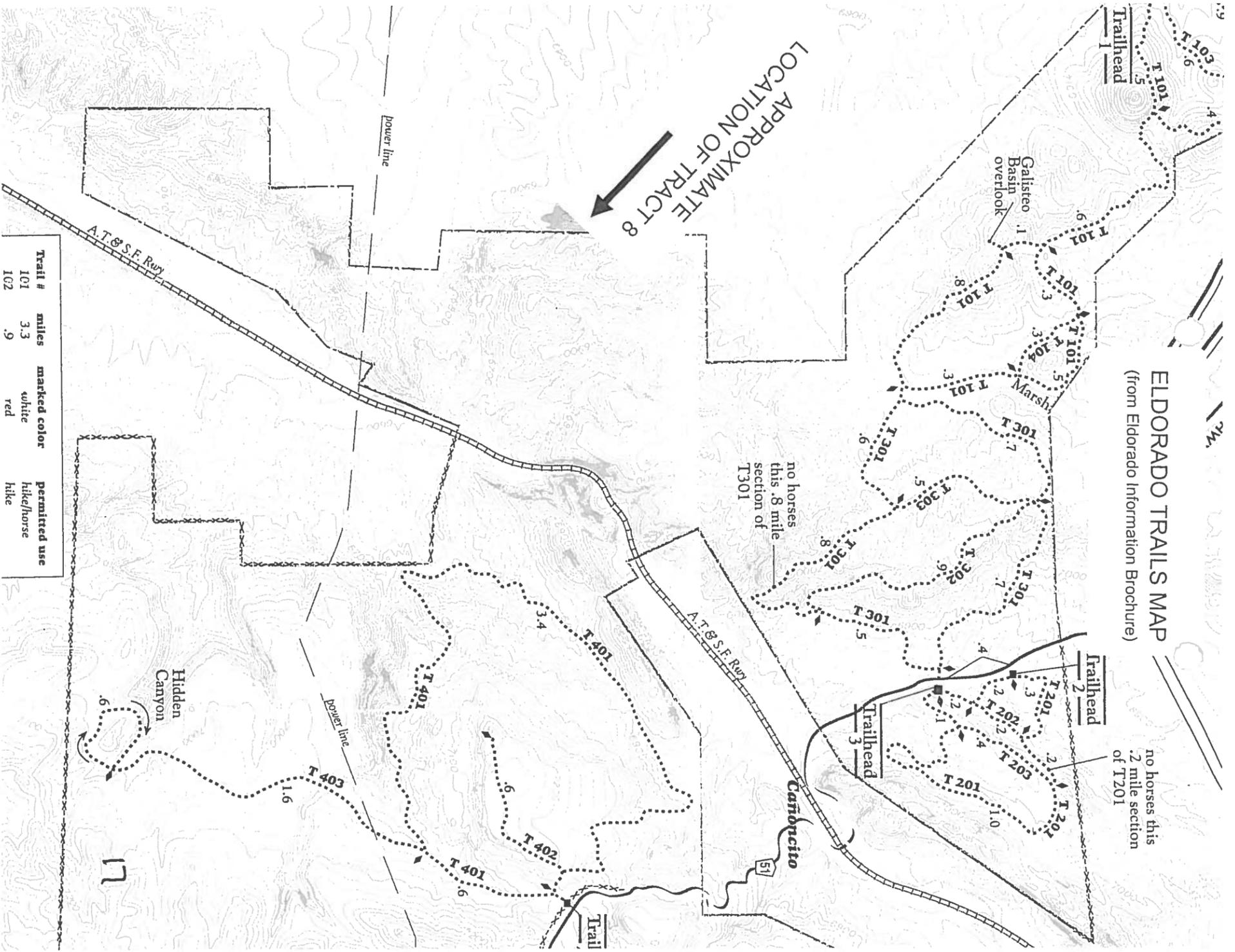
(from Eldorado Information Brochure)

no horses this  
.2 mile section  
of T201

no horses  
this .8 mile  
section of  
T301

APPROXIMATE  
LOCATION OF TRACT 8

Trail #	miles	marked color	permitted use
101	3.3	white	hike/horse
102	.9	red	hike





**Daniel "Danny" Mayfield**  
Commissioner, District 1  
**Virginia Vigil**  
Commissioner, District 2  
**Robert A. Anaya**  
Commissioner, District 3



**Kathy Holian**  
Commissioner, District 4  
**Liz Stefanics**  
Commissioner, District 5  
**Katherine Miller**  
County Manager

**DATE:** July 9, 2013

**TO:** Board of County Commissioners

**FROM:** Vicente Archuleta, Development Review Team Leader *VA*

**VIA:** Penny Ellis-Green, Land Use Administrator  
Vicki Lucero, Building and Development Services Manager *VL*  
Wayne Dalton, Building and Development Services Supervisor *WD*

**FILE REF.:** BCC CASE # Z/S 13-5130 La Bajada Ranch Master Plan Amendment

**ISSUE:**

Santa Fe County, Applicant, requests a Master Plan Amendment for a previously approved Master Plan (Santa Fe Canyon Ranch) to amend the water supply plan and to provide consistency with the current property owner boundaries. The amended Master Plan will allow for 156 residential lots on the 470.55 acres that the County of Santa Fe now owns. The amended Master Plan will utilize the Santa Fe County Water Utility (instead of the previously proposed new on-site community water system).

The property is located off Entrada La Cienega along Interstate 25 in the La Cienega/La Cieneguilla Traditional Historic Community within Sections 1, 2, 10, 12, 13, Township 15 North, Range 7 East and Sections 5, 6, 7, 8, Township 15 North, Range 8 East (Commission District 3).

**SUMMARY:**

This case is tabled pending a recommendation from the County Development Review Committee (CDRC).

