

**MEMORANDUM OF AGREEMENT  
BETWEEN SANTA FE COUNTY AND THE  
ELDORADO COMMUNITY IMPROVEMENT ASSOCIATION, INC.**

**THIS MEMORANDUM OF AGREEMENT** (hereinafter referred to as the “Agreement”) is entered into on this 30<sup>th</sup> day of January 2015, by and between **Santa Fe County** (hereinafter referred to as the “County”), a New Mexico political subdivision, and the **Eldorado Community Improvement Association, Inc.**, a New Mexico nonprofit corporation (hereinafter referred to as “ECIA”).

**WHEREAS**, in the spirit of cooperation, mutual respect and service to the residents of Santa Fe County, this Agreement confirms the parties’ commitment and mutual cooperation which recognizes that partnering activities between entities may produce community benefits beyond what might be produced independently; and

**WHEREAS**, the County and ECIA entered into Agreement No. 2013-0349-PW/IC dated September 24, 2013 which identifies trails listed on the Eldorado Multi-Use Path Master Plan (Master Plan) that are located within the Eldorado subdivision and within the Santa Fe County right-of-way. It also describes the roles and the responsibilities of both parties pertaining to the construction and maintenance of those trails; and

**WHEREAS**, pursuant to Agreement No. 2013-0349-PW/IC Section 7 “Funding for Trail Construction” the design and construction of new multi-use trails in the Eldorado subdivision may be completed using funds secured or acquired by the County or by ECIA; and

**WHEREAS**, the County and ECIA both wish to contribute funds for the construction of improvement to trails along Avenida Monte Alto and Avenida Vista Grande that are included on the Master Plan. The County’s contribution towards the construction of improvements will be \$90,000 and ECIA’s contribution towards the construction of improvements will be \$40,000 for a total project construction amount of \$130,000.

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:**

**1. AGREEMENT OF THE PARTIES**

A. The County shall:

- 1) Provide and contribute funding in the amount of ninety thousand dollars (\$90,000) towards the construction of improvements for trails along Avenida Monte Alto and Avenida Vista Grande in Eldorado;
- 2) Solicit ECIA comments and input for the planned trail improvements along Avenida Monte Alto and Avenida Vista Grande;
- 3) Procure and implement construction services for the trail improvements along Avenida Monte Alto and Avenida Vista Grande in Eldorado;

- 4) Maintain records in order to identify each party's cost share for the trail improvements along Avenida Monte Alto and Avenida Vista Grande in Eldorado; and
- 5) Provide an accurate accounting of the use of the funds deposited by ECIA for the construction of the trail improvements along Avenida Monte Alto and Avenida Vista Grande.

B. The ECIA shall:

- 1) Provide and contribute funding in the amount of forty thousand dollars (\$40,000) within six (6) months from the effective date of this Agreement. These funds will be directed solely towards the construction of improvements for trails along Avenida Monte Alto and Avenida Vista Grande in Eldorado; and
- 2) Provide timely input and written approval to the County regarding the Avenida Monte Alto and Avenida Vista Grande trail improvements, including review of the design, review of the construction cost estimates and review of the implementation phasing plan prior to bidding and construction of the trail improvements.

C. The County and ECIA agree that the County shall procure the design and construction contractor and the ECIA will submit the \$40,000 contribution to the County who will place such sum in a separate account to be used solely and exclusively for the purpose of this MOA.

## **2. EFFECTIVE DATE AND TERM**

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate two (2) years later, unless earlier terminated pursuant to Section 3 (Termination) or Section 6 (Appropriations and Authorizations).

## **3. TERMINATION**

This Agreement may be terminated by either party upon delivery of a written notice to the other party at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify or avoid any obligations incurred prior to termination.

## **4. LIABILITY**

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 limitations of the New Mexico Tort Claims Act, § 41-4-1, *et seq.*, NMSA 1978 as amended.

## **5. AMENDMENT**

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

**6. APPROPRIATIONS AND AUTHORIZATIONS**

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the ECIA. Such termination shall be without penalty to the County. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the ECIA in any way or forum, including a lawsuit.

**7. GOVERNING LAW**

This Agreement shall be governed by, and construed in accordance with, the laws of New Mexico.

**8. ACCOUNTABILITY**

During the term of this Agreement and for a period of three (3) years thereafter, each of the parties will maintain accurate and complete records of all disbursements made and monies received by each under this Agreement; and, upon receipt of reasonable written request, each shall make such records available to the other party and to the public, including any federal, state or local authority during regular business hours.

**9. NO THIRD PARTY BENEFICIARIES**

Nothing in this Agreement, express or implied, is intended to confer any rights, remedies, claims or interests upon a person not a party to this Agreement.

**10.** This Agreement represents the entire understanding between the County and ECIA and supersedes any prior agreements or understandings with respect to the subject of this Agreement. No changes, amendments or alterations to this Agreement will be effective until in writing and signed by the parties.

**IN WITNESS WHEREOF** the parties have duly executed this Agreement as of the dates written below.

**SANTA FE COUNTY**

  
\_\_\_\_\_  
Katherine Miller  
Santa Fe County Manager

1-30-15  
Date

**APPROVED AS TO LEGAL FORM**

Gregory S. Shaffer  
Gregory S. Shaffer  
Santa Fe County Attorney

1-20-15  
Date

**FINANCE DEPARTMENT**

Teresa C. Martinez  
Teresa C. Martinez  
Finance Director

1/24/2015  
Date

**ELDORADO COMMUNITY IMPROVEMENT ASSOCIATION, INC.**

Dag Ryen  
Signature

01/20/15  
Date

DAG RYEN  
Print Name

Pres., ECIA Bd. of Dir.  
Title