

SUMMARY:

The current owner of the property acquired the property by warranty deed recorded as Instrument # 1414116 in the Santa Fe County Clerk's records dated December 30, 2005. James W. Siebert & Associates are authorized by the property owner to pursue the request for an amendment to a Plat condition to allow 0.25 acre feet per year water restriction per lot, as evidenced by a copy of the written authorization contained in the record. (Exhibit 3)

On April 10, 2007, the Board of County Commissioners (BCC) approved Preliminary and Final Development Plan and Plat for a 16 lot Residential Subdivision on 202.03 acres. The BCC imposed a number of conditions of approval on the subdivision. (Exhibit 4) The Plat was recorded on October 23, 2007. The developer of the subdivision has complied with the majority of the conditions imposed by the BCC. One of the conditions was to limit the water use to 0.20 acre feet per lot. The Applicant is now requesting to amend this condition and requests 0.25 acre feet of water per lot per year.

Condition # 9 of the 15 staff conditions presented to the BCC at the April 10, 2007, hearing, stated, "water use on this property will be restricted to 0.25 acre feet per year per lot." The BCC amended this condition to state, "water use on this property will be restricted to 0.20 acre feet per year per lot." The Applicant and the Applicants Agent were allowed to speak in regards to the amendment prior to a final vote on the motion. The BCC approved the 16 lot Subdivision (Case # S 06-5290) with staff conditions and amendments to condition #3 and #9 by a 3-2 voice vote.

At the time of approval the subdivision was subject to the criteria set forth by the Eldorado moratorium (County Ordinance 2001-14). Section C.2 of Ordinance 2001-14 stated: "New subdivision, land division and master plan applications which do not rely on EDU water service will be processed subject to the Santa Fe County Land Development Code, as amended. However, no density adjustments beneath 12.5 acres per dwelling unit, the basic Basin Fringe Hydrologic Zone Minimum Lot Size will be considered, and these approvals will be contingent upon acceptable site specific hydrology reports, water use covenants and proper well drilling and construction techniques which protect and optimize the source of supply".

The lots are being served by three shared wells. A geohydrology report was prepared and submitted with the Preliminary and Final Plat and Development Plan application in 2006 which demonstrated a 100-year water supply for the 16 lot subdivision known as Colinas del Sol. A community water system was not required due to the size and number of lots involved per the Land Development Code (Article V, Table 5.1). The report supported sufficient water supply of 0.25 acre feet per year for each lot.

The current County Hydrologist reviewed the 2006 Geohydrology Report and found that the proposed amendment to restrict water use to 0.25 acre feet per year (afy) for the proposed subdivision is consistent with the Sustainable Land Development Code (SLDC) and is supported by the geohydrologic report. (Exhibit 5)

Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the Application, the

Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for fifteen days on the property, beginning on November 28, 2016. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on November 22, 2016, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to CO's, RO's, and owners of land within 500' of the subject property and a list of persons sent a mailing is contained in the record. (Exhibit 6)

This Application was submitted on October 6, 2016.

APPROVAL SOUGHT

An amendment to the Colinas del Sol Plat condition and water restrictive covenants to allow 0.25 acre feet per year water restriction per lot.

GROWTH MANAGEMENT AREA

SDA-2

ZONING DISTRICT

Rural Residential (RUR) 10 acre base density

WATER SUPPLY

In 2006 a geohydrology report was prepared demonstrating 100-year water supply for the 16 lot subdivision. A community water system was not required due to the size and number of lots involved as per prior Code requirements (Article V, Table 5.1 of the Land Development Code). The report was reviewed by the New Mexico Office of the State Engineer and Santa Fe County Water Resources Department.

The lots are served by three shared domestic wells.

The current County Hydrologist reviewed the 2006 Geohydrology Report and found that the water restriction of 0.20 acre-foot per lot was not based on the results of the geohydrologic report, but rather a requirement of the BCC based on a moratorium in place at the time. Under the most conservative scenario, the geohydrologic report supports 0.725 acre-foot of water per 12.5 acre lot which exceeds the value in the SLDC of 0.25 acre-foot and demonstrates an acceptable long-term drawdown over a 100 year period.

The current County Hydrologist comments also stated the following: The proposed subdivision is within EAW&SD's service area but it is unknown if it is within 400 feet of any of their waterlines. The distance from the proposed subdivision to EAW&SD's waterline needs to be determined in order to establish if it is required to connect to EAW&SD's water system. If it is determined that it is not required to connect to EAW&SD's water system, EAW&SD should be given the opportunity to comment on the proposed amendment to increase water usage to 0.25 afy.

Applicant response: The developer did contact the Eldorado Area Water & Sanitation District (EAWSD) and received a letter stating that, a commitment by EAWSD to provide water service to the subdivision will require the execution of a Development Agreement with EAWSD. (Exhibit 7)

The Applicant is not proposing to subdivide further with this application. The SLDC does not require the existing 16 lot Subdivision to connect to the EAWSD as long as there is no further subdivision of the existing lots.

The current County Hydrologist comments also stated the following: the water quality report listed four constituents that exceed Secondary Maximum Contaminant Levels; aluminum, sodium, pH, and turbidity which must be addressed.

The Applicant submitted a letter dated 3/5/2007, from the County Water Resources Department which stated that the contaminants should be listed in the disclosure statement. The contaminants included aluminum, sodium, pH, and turbidity which exceed the safe drinking water standards (Exhibit 8)

Staff has reviewed the disclosure statement recorded with the County Clerk under document #1503893, as a stand-alone document. Page 8 of the disclosure statement does mention the contaminants and the proposed mitigation of those contaminants. (Exhibit 9)

EXISTING DEVELOPMENT

The 16 lots are vacant, the three wells are in place, water lines are in place, and the roads are built out.

AGENCY REVIEW

County Hydrologist Conditional Approval

STAFF RECOMMENDATION:

On April 10, 2007, the Board of County Commissioners approved Preliminary and Final Plan and Plat for a 16 lot Residential Subdivision and enacted a condition to restrict the water use to 0.20 acre feet of water per lot per year, therefore Staff cannot support the Applicants request to increase the water use to 0.25 acre feet per year.

It is at the discretion of the BCC to consider an amendment to the approved condition. The BCC may consider the information presented by staff and the Applicant to allow the increase of water use to 0.25 acre feet of water per lot per year. If the BCC approves an amendment to the condition, staff recommends the following conditions be imposed:

1. The Plat for the 16 lot Subdivision, known as Colinas del Sol, shall be re-recorded illustrating all prior conditions, include reference to the existing disclosure statement, and include reference to revised water restrictive covenants.

2. Prior to the re-recording of the Plat, the three existing wells shall be re-tested for water quality, water quality tests shall be submitted to the County Hydrologist and water treatment systems be installed at the well head if water quality is outside acceptable standards.
3. The revised water restrictive covenants shall limit the water use per lot to 0.25 acre feet of water per year, address the water contaminants and the proposed mitigation of those contaminants, require that a water meter be installed to each lot and annual meter readings be submitted to the County.
4. A note on the re-recorded Plat shall state: only one dwelling is permitted per lot. No accessory dwellings shall be permitted on any lot.

EXHIBITS:

1. Applicants Report
2. Recorded Plat
3. Real estate contract/Letter of Authorization
4. April 10, 2007, BCC Minutes
5. County Hydrologist Memo
6. Legal Notice
7. EAWSD Letter
8. 3/2/2007 County Water Resources Dept. Letter
9. Disclosure Statement
10. Restrictive Covenants
11. 2007 Final Order (Case #06-5290)
12. Aerial Photo of Property



**JAMES W. SIEBERT
AND ASSOCIATES, INC.**

915 MERCER STREET * SANTA FE, NEW MEXICO 87505
(505) 983-5588 * FAX (505) 989-7313
jim@jwsiebert.com

October 6, 2016

Vicki Lucero
Building and Development Services Manager
102 Grant Avenue
Santa Fe, NM 87504

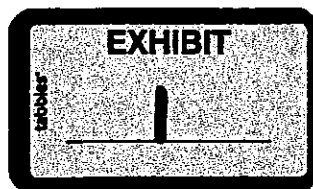
Re: Colinas del Sol, Case #S-06-5290

Dear Ms. Lucero:

On behalf of Russ McMillan, owner/developer of Colinas del Sol I am requesting a plat amendment and modification to the recorded water restrictive covenants changing the amount of annual water use per lot from .2 acre feet to .25 acre feet. This subdivision consists of 16 minimum 12.5 acre lots. The subdivision is located within the Eldorado at Santa Fe Subdivision and was approved by the Board of County Commissioners on April 10, 2007.

The following material is submitted with this application:

- Completed application form
- Check in the amount of \$300.00 for the development review fee
- 6 copies of the report that provides the background information on this request
- Vicinity map of the subdivision and surrounding platted and approved lots



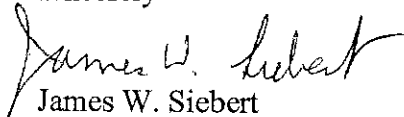
NB-5a

Vicki Lucero
Colinas del Sol
October 6, 2016
Page 2 of 2

Since the recordation of the plat on October 23, 2007, Mr. McMillan has not sold one lot within the subdivision. The majority of the potential buyers wish to keep horses on the property, since the lot size easily accommodates limited equestrian uses. Given the .2 acre feet per lot per year restriction it is extremely difficult to provide for the normal household use and 2-4 horses on the lot.

Please schedule this request for consideration by the Board of County Commissioners at their November 8, 2016 Commission meeting.

Sincerely


James W. Siebert

Xc: Russ McMillan

Prepared By:
James W. Siebert & Assoc.
October 6, 2016

**REPORT ON CASE #S 06-5290 REQUEST INCREASE IN ANNUAL WATER USE
FROM .2 ACRE FEET TO .25 ACRE FEET**

This report was prepared to provide the background information for the Board of County Commissioners' consideration. The documents in the appendix are:

Summary of hydrology report prepared for Colinas del Sol Subdivision (Exhibit A)

Letter from OSE on subdivision review (Exhibit B)

Minutes of County Commission meeting when BCC acting on the subdivision request (Exhibit C)

Reduction of recorded plat with water restriction (Exhibit D)

Recorded water restriction covenants (Exhibit E)

Research of subdivisions 2006-2007 time frame with wells and approved water use (Exhibit F)

Eldorado Moratorium on Development using EAWSD Water Resource

The County Commission imposed a moratorium on development in the Eldorado at Santa Fe Subdivision that used the Eldorado Area Water and Sanitation District water. The exception to this moratorium was the use of on-site wells and minimum 12.5 acre lots as provided by the quote from the county ordinance provided below.

"No density adjustments beneath 12.5 acres per dwelling unit, the basic Basin Fringe Hydrologic Zone Minimum Lot Size, will be considered and these approvals will be contingent upon acceptable site specific hydrology reports, water use covenants and proper well drilling and construction techniques which protect and optimize the source of supply."

Hydrology for Subdivision

A hydrology report was prepared indicating sufficient ground water supply to satisfy a 100 year requirement of 10 acre feet. The actual use for the 16 lots at .25 acre feet per year per lot limits the total annual water use for the subdivision to 4 acre feet. The permitted water use at .25 acre feet/year represents 40 percent of the ground water available to the subdivision (see Exhibit A). The Office of the State Engineer accepted the findings of the hydrology report (see Exhibit B).

Three wells were installed as shared wells under a 72-12-1 well permit. A 30,000 gallon storage tank was installed with a fire hydrant connected to the storage tank.

Vicki Lucero

McMillanColinas
supportdoc

NB 6

Vicki Lucero
Colinas del Sol
October 7, 2016
Page Two of Two

The Land Use staff had required a water restriction of .25 acre feet per lot since this was the standard County Code restriction relative to water use in residential subdivisions. At the April 10, 2007 meeting of the Board of County Commissioners, County Commissioner Campos reduced the annual water use from .25 acre feet to .2 acre feet. Commissioner Campos stated that he felt this reasonable given that the developer was not using commercial water rights for the subdivision (see Exhibit C for minutes of BCC meeting). It should be noted that shared domestic wells using 72-12-1 permits were allowed by the County Land Development Code and by the Office of the State Engineer.

A research of the County records for the years of 2006 and 2007 indicates that seven subdivisions were approved utilizing 72-12-1 on-site wells. None of these subdivisions were restricted to anything less than .25 acre feet per lot. The research cited here is found in Exhibit F.

Votes Taken by BCC for Approval of Colinas del Sol Final Plat

There were three votes in favor of the approval of the final plat for Colinas del Sol

Chair Commissioner Vigil voted against the motion with the following statement: "I do agree with the applicant that .25 is appropriate". It is assumed that Commissioner Anaya voted against the project for the same reason. I was the consultant for the subdivision and that was my recollection.

SLDC Water Well Allocations

The request to amend the BCC condition is in conformance with the Santa Fe County Sustainable Land Development Code Chapter 7 section 7.13.11.1. Section 7.13.11.1 states *"Annual water use for domestic purposes for a single family residential dwelling shall not exceed 0.25 acre foot per year."*



STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER

John R. D'Antonio, Jr., P.E.
State Engineer

Santa Fe

BATAAN MEMORIAL BUILDING, ROOM 102
SANTA FE, NM 87504-5102
(505) 827-6120
Fax: (505) 827-6682

July 21, 2006

Ms. Shelley Cobau
Development Review Specialist II
Santa Fe County
P.O. Box 276
Santa Fe, NM 87504-5102

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

Re: Colinas del Sol Subdivision

Anticipated By Fax

Dear Ms. Cobau:

The Water Use & Conservation/Subdivision Review Bureau of the Office of the State Engineer has reviewed the referenced subdivision proposal pursuant to the Santa Fe County Land Development Code, the New Mexico Subdivision Act and the OSE Rules and Regulations Governing the Appropriation and Use of Ground Water In New Mexico.

Based on the information provided, this office has determine that the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses, and that the subdivider can fulfill the proposals in his disclosure statement concerning water, excepting water quality. Accordingly, a **positive** opinion is issued.

A staff memorandum providing specific comments is attached for your information. If you have any questions, please call Jerry Keller at 505-827-3845.

Sincerely,

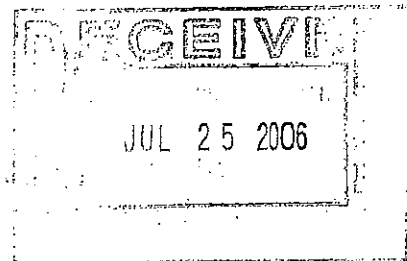
John W. Longworth, P.E.

Water Use & Conservation/Subdivision Review Bureau Chief

Encl:

cc: OSE Water Rights Division, Santa Fe Office

JK:jk



NB-8

MEMORANDUM
New Mexico Office of the State Engineer
Water Use and Conservation Bureau

DATE: July 20, 2006
TO: John Longworth, P.E., Water Use and Conservation Bureau Chief
cc: Mara Smith, Water Resource Master
FROM: Jerry Keller, Senior Water Resource Specialist *JK*
SUBJECT: Colinas Del Sol Subdivision, Santa Fe County

SUMMARY

On June 23, 2006, the Office of the State Engineer (OSE) received a request to review the subdivision proposal for Colinas Del Sol, a Type Three subdivision. The proposal is a request to subdivide 202.006 acres into 16 residential lots, with sizes ranging between 12.50 acres and 13.695 acres. The property is located in Eldorado, south of Avenida Eldorado, north of Spur Ranch Road, and west of Camino de Compadres within projected Sections 23, 24, and 25, Township 15 North, Range 9 East, NMPM, Cañada de los Alamos Grant. The proposed water supply for the subdivision is three shared 72-12-1 domestic wells to be installed by the developer.

The water supply documents submitted to this office consist of a proposed water budget, Restrictive Covenants (Covenants), Disclosure Statement, and Geohydrologic Report (Report).

This proposal was reviewed pursuant to the Santa Fe County Land Development Code (Code), the New Mexico Subdivision Act (Act), and the OSE Rules and Regulations Governing the Appropriation and Use of Ground Water In New Mexico. Based on the information provided, the water supply proposal substantially complies with the requirements of the Code and the Act. Accordingly, a **positive** opinion should be issued.

WATER DEMAND ANALYSIS AND WATER CONSERVATION

The maximum annual water requirements of the subdivision is specified under Item No. 17 of the Disclosure Statement as 0.25 acre-feet per lot (a total of 4.0 acre-feet for the subdivision). A detailed water demand analysis assuming 2.6 persons per dwelling at 65 gallons per capita per day, 200 square feet of Buffalo grass or similar drought tolerant grass, 500 square feet of horticultural area and 800 square feet of trees, and one horse, is included in the proposal. The water budget assumes that all homes will use evaporative coolers and water softeners. However, Article 18, Section 18.10 of the Covenants prohibits Evaporative coolers. The water budget does not include an estimated annual demand for the evaporative coolers. Therefore, the prohibition on evaporative coolers within the covenants should be enforced.

The provisions of the Covenants and other restrictions are summarized under Item No. 17 of the Disclosure Statement. The conservation measures are in substantial compliance with Section

NIB-9

6.6.2e of the Code. Strict enforcement of the water use restrictions should ensure that the water budget is not exceeded.

WATER AVAILABILITY ASSESSMENT

The proposed water supply for the subdivision is shared 72-12-1 domestic wells. The developer will construct three wells and the distribution system to serve the 16 lots within the subdivision. The maximum number of lots to be served by a single well is six. Article 18, Section 18.01 a, b, and c lists the lots served by each well. The shared well agreement is contained in Section 18.01 through 18.09 of the Covenants. Section 18.09 states that there shall be no more than three shared wells within the subdivision. Section 18.10 states that no additional individual domestic wells may be drilled on any lot. Item No. 17 of the Disclosure Statement specifies that no more than four wells will be drilled within the subdivision.

The developer submitted a Geohydrologic Report (Report) for the proposed subdivision in accordance with Sections 6.4.5, 6.4.2, and Table 7.4 of the Regulations. The developer drilled one on-site test well (RG-86983). The Report includes the on-site and 15 off-site well logs, drawdown and recovery well test data, geologic cross-sections, water level contours, water availability calculations, and results of 100-year schedule of effects model.

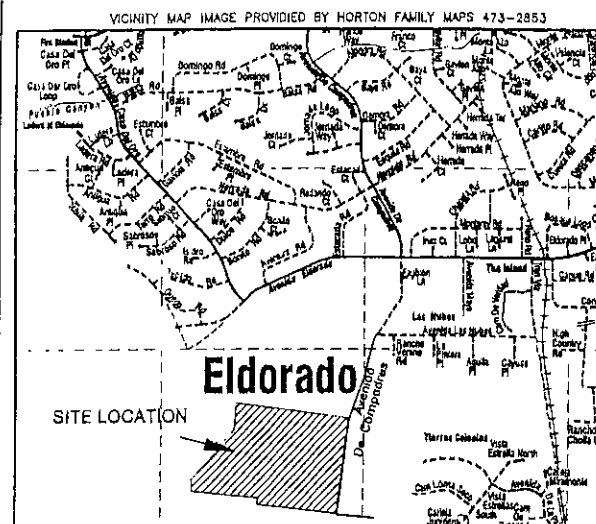
The total annual water demand in the Report is 10 acre-feet based on a development of 40 lots of 5 acres each and 0.25 acre-feet per lot. The demand for subdivision proposal is 4.0 acre-feet based on 16 lots of 12.5 acres to 13.695 acres. All calculations and analytical modeling are based on 10 acre-feet per annum. This discrepancy may result in significantly over estimating the future drawdown of the subdivision wells and effects on nearby existing wells.

The subdivider will provide all wells within the subdivision. The depth of wells, and estimated yield are shown under Item No. 19 of the Disclosure Statement. The minimum lot size calculation includes calculations for various lot sizes, including calculations that indicate 0.725 acre-feet is available to serve a 12.5-acre lot. Based on the overall conclusions in the Report, there is sufficient groundwater in storage beneath the subdivision to support the proposed 16-lot development. The report concludes that there is adequate water available for 100 years, and that the effects of pumping within the Colinas Del Sol Subdivision on nearby wells will be minor. This office concurs with these conclusions.

Subdivisions 2006-2007

1. January 10, 2006
EZ Case #S 04-4583 Tesuque Villas Residential Subdivision
.40 ac ft.
2. April 11, 2006
CDRC Case #S 05-5380 Green Ranch
.25 ac ft
3. October 10, 2006
EZ Case #S 06-4310 Ponderado subdivision
.25 ac ft.
4. January 9, 2007
CDRC Case # V 06-5570 Freedance LLC, Cliffs at Padre Springs Subdivision
.25 ac ft.
5. January 9, 2007
EZ Case #S 02-4494 La Cordilleras Subdivision. Phase III
.25 ac ft.
6. February 13, 2007
EZ Case #S 06-4200Mattson Subdivision
.35 ac ft.
7. June 13, 2006
EZ Case #S 06-4060 CP Santa Fe Investments, Sundance Ridge Subdivision
.25ac ft.





VICINITY MAP
NOT TO SCALE

DEDICATION AND AFFIDAVIT

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S) HAVE CAUSED TO BE LAYED SHOWN HEREON THIS DIVISION IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE WISHES AND DESIRES OF SAID OWNER(S) UTILITY COMPANIES ARE GRANTED EASEMENTS AS SHOWN AND FOR EXISTING UTILITIES. OTHER EASEMENTS ARE GRANTED AS SHOWN.

PRIVATE ROADS ARE DEDICATED TO THE COLINAS DEL SOL LOTOWNERS ASSOCIATION.

THIS DIVISION CONTAINS 202.03 AC.±, AND LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE COUNTY OF SANTA FE, NEW MEXICO.

Russell J. McMillan
HIGH DESERT PARTNERSHIP, LLC, RUSSELL J. McMILLAN, MANAGING MEMBER

STATE OF NEW MEXICO
COUNTY OF SANTA FE

THE FOLLOWING INSTRUMENT WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME BY
HIGH DESERT PARTNERSHIP, LLC, RUSSELL J. McMILLAN, MANAGING MEMBER
THIS 20th DAY OF SEPTEMBER, 2007.
MY COMMISSION EXPIRES 10/14/2011. NOTARY PUBLIC

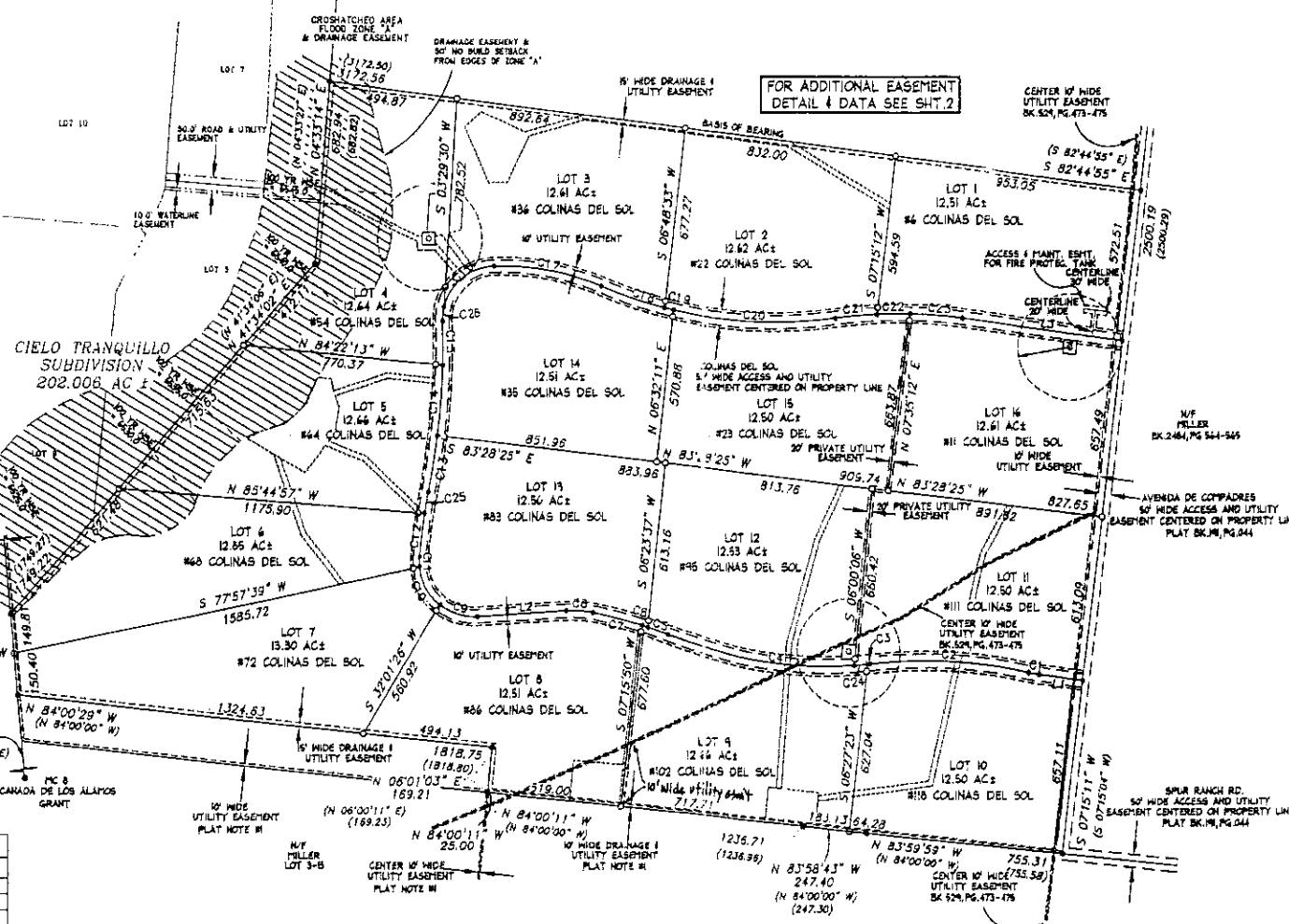
SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT AND THE NOTES HEREON ARE AN ACCURATE DELINEATION OF A FIELD SURVEY COMPLETED BY ME OR UNDER MY DIRECTION ON MAY 18TH, 2006, AND ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEET THE STANDARDS FOR PROFESSIONAL LAND SURVEYORS PRACTICING IN NEW MEXICO.

Richard A. Chatroop
RICHARD A. CHATROOP N.M.P.L.S. #11011

LINE	LENGTH	BEARING
L1	188.22	N82°44'48"W
L2	347.85	S85°37'20"W
L3	624.64	S82°18'13"E

CURVE	LENGTH	RADIUS	CHORD BRG	CHORD DIST	DELTA
C1	38.71	500.00	S80°31'44"E	38.70	4°26'08"
C2	815.08	1991.90	N87°09'26"W	812.64	1°24'11"
C3	10.68	1887.45	N84°10'40"E	10.68	0°21'45"
C4	745.87	1687.45	S81°16'35"E	739.91	2°51'31"
C5	81.35	1816.16	N72°03'21"W	81.34	2°53'02"
C6	24.27	1816.16	N71°55'40"W	24.27	0°51'37"
C7	196.6	1816.16	N75°59'37"W	196.52	8°58'16"
C8	101.53	414.29	N8°21'12"W	101.33	14°02'55"
C9	149.0	205.97	S72°39'05"E	143.79	41°27'09"
C10	167.7	205.97	S28°36'03"E	163.10	46°38'55"
C11	35.8	205.97	S00°09'07"E	36.80	10°14'56"
C12	180.74	2035.58	S07°14'05"W	180.70	4°31'28"
C13	209.99	2627.21	N08°28'59"E	209.93	4°34'48"
C14	252.47	2627.21	N04°17'52"E	252.35	5°43'27"
C15	186.78	2627.21	N00°22'58"W	186.75	3°38'14"
C16	261.42	200.41	S50°50'50"W	243.28	24°44'17"
C17	428.88	1012.21	N79°38'45"W	425.68	24°18'35"
C18	258.77	1769.14	S71°41'52"E	258.53	8°22'50"
C19	35.64	1769.14	S72°22'54"E	35.64	1°09'15"
C20	640.90	1769.14	S82°25'13"E	637.41	20°45'23"
C21	159.89	1807.71	S84°44'07"W	159.84	5°04'04"
C22	130.61	1807.71	S89°20'21"W	130.59	4°08'23"
C23	199.42	1807.71	N85°25'50"W	199.32	6°19'15"
C24	50.12	1587.45	N85°12'38"E	50.12	1°42'07"
C25	79.68	2035.58	S10°17'05"W	79.67	2°12'34"
C26	54.84	200.41	S05°38'18"W	54.67	15°40'47"



UTILITY APPROVALS:

OWEST COMMUNICATIONS *[Signature]* DATE 7/24/07
PNM ELECTRIC SERVICES *[Signature]* DATE Oct 4, 2007
PNM GAS SERVICES *[Signature]* DATE Oct 4, 2007

County Clerk, Santa Fe County, New Mexico
This is a true and correct copy of the original instrument as recorded in the public records of Santa Fe County, New Mexico.

503 890
COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed for record on the 23rd day of October, 2007, at 2:14 p.m. and was duly recorded in book 667 of the public records of Santa Fe County, New Mexico.
Witness my Hand and Seal of Office
Valerie Espinoza
County Clerk, Santa Fe County, New Mexico

SANTA FE COUNTY APPROVALS

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS.
SANTA FE COUNTY AT THEIR MEETING OF APRIL 10TH, 2007.
CHAIRMAN *[Signature]*
ATTEST *[Signature]*

10-23-07
COUNTY LAND USE ADMINISTRATOR
DEVELOPMENT PERMIT NO. 86-5290
10-5-07
COUNTY RURAL ADDRESSING
10-2-07
COUNTY FIRE MARSHAL
9-28-07
SANTA FE COUNTY PUBLIC WORKS

SANTA FE COUNTY NOTE AND CONDITIONS

- MAINTENANCE OF COLINAS DEL SOL ACCESS AND UTILITY EASEMENT AND UTILITY EASEMENTS TO BE RESPONSIBILITY OF COLINAS DEL SOL LOTOWNERS ASSOCIATION.
- THIS PARCEL LIES PARTIALLY WITHIN ZONE A AREAS INSIDE THE 100 YR. FLOOD PLAIN AS SHOWN ON F.I.R.M. PANEL #350069 03258 DATED 11/04/88 UNLESS OTHERWISE NOTED.
- SANTA FE COUNTY'S APPROVAL OF THIS SURVEY PLAT DOES NOT INCLUDE THE CONSTRUCTION OF THE PRIVATE EASEMENTS OR ROADS AS SHOWN. PRIOR TO THE CONSTRUCTION OF SAID PRIVATE EASEMENTS OR ROADS, IT IS REQUIRED THAT AN ADDITIONAL DEVELOPMENT PERMIT BE APPLIED FOR AND THEN APPROVED BY THE SANTA FE COUNTY LAND USE ADMINISTRATOR.
- THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT INCLUDING BUILDING PERMITS.
- EXISTING NATURAL DRAINAGE WAYS WILL NOT BE MODIFIED OR IMPEDED WITHOUT THE WRITTEN APPROVAL OF THE LAND USE ADMINISTRATOR OR COUNTY HYDROLOGIST. DEVELOPMENT SHALL NOT IMPEDE HISTORIC FLOW RATES OR PATTERNS TO OR FROM THESE LOTS.
- THE PARCELS AS PLATTED HEREON ARE SUBJECT TO ARTICLE VII, SECTION 3 OF THE SANTA FE COUNTY TERRAIN MANAGEMENT REGULATIONS AT THE TIME OF ANY DEVELOPMENT.
- THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR BUILDING PERMIT.
- NEW DRIVEWAY/ROAD ACCESS FROM AVENIDA DE COMPADRES IS SUBJECT TO APPROVAL BY THE PUBLIC WORKS DIRECTOR. THE DIRECTOR SHALL APPROVE THE LOCATION AND INSTALLATION OF A CULVERT AS PERMITTED BY SANTA FE COUNTY PRIOR TO ISSUING A PERMIT FOR CONSTRUCTION.
- WATER USE/WELL WITHDRAWAL ON THESE TRACTS IS RESTRICTED BY COVENANTS FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS DOCUMENT NO. 1503891.
- FIRE SUPPRESSION (SPRINKLER) SYSTEM MEETING NFPA 13-D STANDARDS SHALL BE INSTALLED IN ALL HOUSES.
- LOTS 4, 5 & 6 ARE WITHIN A FEDERAL EMERGENCY MANAGEMENT AGENCY SPECIAL FLOOD HAZARD AREA. FINISHED FLOORS MUST BE SET A MINIMUM OF 1' ABOVE THE CALCULATED 100-YEAR BASE FLOOD ELEVATION. THE COUNTY ASSUMES NO LIABILITY FOR THE INFORMATION PROVIDED BY THE PROJECTS PROFESSIONAL ENGINEER.
- NO FURTHER DIVISION OF LOTS IS PERMITTED. THIS SHALL NOT PREVENT LOT LINE ADJUSTMENTS OR CONSOLIDATIONS.
- THE DEVELOPMENT PLAN PROVIDES RECOMMENDED LOCATIONS FOR BUILDING SITES SATISFYING THE COUNTY TERRAIN MANAGEMENT REGULATIONS. OTHER SITES ARE AVAILABLE, PROVIDING THOSE SITES SATISFY COUNTY TERRAIN MANAGEMENT REGULATIONS.
- PRELIMINARY FEMA MAPS ARE PENDING ADOPTION BY SANTA FE COUNTY. THESE FEMA MAPS MAY MODIFY THE FLOOD PLAIN AS SHOWN ON THIS PLAT.
- THE BASE FLOOD ELEVATIONS AND FLOOD PLAIN BOUNDARY WERE DETERMINED BY THE PROJECT ENGINEER, AND THE MINIMUM FINISHED FLOOR ELEVATIONS WERE DETERMINED BY THESE BASE FLOOD ELEVATIONS.
- PROVISIONAL ADDRESS ASSIGNMENTS TO BE FINALIZED WHEN DRIVEWAY ENTRANCE IS DETERMINED.

SUBDIVISION PLAT OF LOT 2A-4 FOR COLINAS del SOL SUBDIVISION

LYING WITHIN CANADA DE LOS ALAMOS GRANT, LOT 9 AT S.E. AN
LYING WITHIN PROJECTED SECTIONS 23, 24, AND 25 T15N, R9E,
SANTA FE COUNTY, NEW MEXICO.

PURPOSE:
TO CREATE 15 RESIDENTIAL LOTS WITHIN LOT 2A-4

RICK CHATROOP
PROFESSIONAL LAND SURVEYOR
NEW MEXICO REGISTRATION NO. 11011
(505) 470-0037 110 WAGON TRAIL ROAD CERRILLOS, NM 87010
INDEXING INFORMATION FOR COUNTY CLERK
OWNER: HIGH DESERT PARTNERSHIP, LLC.
LOCATION: LYING WITHIN PROJECTED SECTIONS 23, 24 AND 25, T15N, R9E,
NMPN, SANTA FE COUNTY, NEW MEXICO.
SHEET 1

EXHIBIT

2

NB-12

Vicki Lucero
102 Grant Avenue
Santa Fe, NM 87504

Dear Ms. Lucero,

This letter authorizes James W. Siebert & Associates, Inc., to submit documentation and attend public hearings as it relates to the Colinas del Sol Subdivision.

Sincerely,


Russ McMillan





NB-13

REAL ESTATE CONTRACT

This form does not contain disclosures required by Federal Reserve Regulation Z and Consumer Protection Act "Truth in Lending." Use this form only in conjunction with another instrument incorporating the required disclosures or for transaction exempt from said Act.

THIS CONTRACT IS MADE in duplicate this 30th, Dec. 2005 by and between Joe Altes I Partnership, a NM General Partnership hereinafter called the "Seller", and High Desert Partnership, LLC whose address is 9 Balsa Dr., Santa Fe, NM 87508 hereinafter called the "Purchaser". Whenever a masculine pronoun is used, it shall also be considered as referring to the female gender and plural pronouns, whichever is proper.

1. **SALE:** The Seller, in consideration of the promises and agreements herein made by the Purchaser, agrees to sell and convey to the Purchaser the following described real estate, hereinafter called the Property, in the County of Santa Fe and State of New Mexico:

See Exhibit A attached hereto and made a part hereof.

Subject to: Reservations, restrictions and easements and taxes for 2006 and subsequent years.



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
Hereby Certify That This Instrument Was Filed for record On the 30TH Day Of December, A.D., 2005 at 11:33 and Was Duly Recorded as Instrument # 1414116 in the Records Of Santa Fe County

REAL ESTATE CONTRACT
PAGES: 10

Witness My Hand And Seal Of Office
Valeria Espinoza
County Clerk, Santa Fe, NM

The Seller agrees, upon completion of all terms and conditions of this contract by the Purchaser, that the Purchaser shall then receive the Warranty Deed and related documents placed in escrow with this Contract.

2. **PRICE AND PAYMENT:** The Purchaser agrees to buy the above-described Property and to pay Seller therefor the total sum of _____ Dollars payable as follows: _____ with cash down payment, the receipt of which is hereby acknowledged, and the balance of _____ payable as follows:

Subject to: Reservations, restrictions and easements of record and taxes for the year 2006 and thereafter.

The payment as above provided shall be paid to the escrow agent and continue until the entire unpaid balance of the purchase price (exclusive of any prior lien or obligation being assumed) plus any accrued interest due to the seller is fully paid. Said unpaid balance shall bear interest at the rate of _____ percentum (____%) per annum from the effective date _____.

APPLICATION OF PAYMENTS: Check and initial only one of the following two paragraphs.

(a) Payments, excepting prepayments, shall be applied to regularly scheduled installments in the order in which the same were due and shall be credited as though the payments were made on their respective due dates.

(b) Payments shall be applied as of the date of receipt by Escrow Agent first to accrued interest then to principal balance of this Contract.

All payments shall be assumed to be regular payments, and not prepayments, unless otherwise specified by Purchaser in writing at the time of delivering such payments to Escrow Agent. Unless otherwise provided, Purchaser may prepay the unpaid balance in whole or in part at any time. Any prepayment shall be credited first to accrued interest, then to the principal balance of this Contract exclusive of assumed liens or obligations, then to assumed liens or obligations as described in this paragraph. Notwithstanding any prepayments, Purchaser shall make the next regularly scheduled payments.

Should Purchaser fail to make any of the payments or perform any other obligations required hereunder, including the payment of any assumed obligation, and if Seller's attorney makes written demand therefor pursuant to Paragraph 5 below, the Purchaser shall pay within the time allowed, the additional sum of \$_____, unless otherwise stated, for Seller's attorney's fees.

The following lien(s) or obligation(s) is currently outstanding on the Property:

Type of Lien or Obligation Holder	Loan Number	Recording Data: Book & Page
None of Record		

n/a

IF ANY LIEN(S) OR OBLIGATION(S) IS/ARE CURRENTLY OUTSTANDING ON THE PROPERTY, CHECK AND INITIAL ONLY ONE OF THE FOLLOWING THREE PARAGRAPHS. ONLY THAT PARAGRAPH SHALL APPLY.

(a) Purchaser assumes and agrees to pay the above-mentioned prior lien(s) or obligations in accordance with its/their terms. Purchaser shall make the installment payments on the prior lien(s) or obligation(s), together with installment payments on this Contract, to the Escrow Agent named below, who will remit the payments to the person or company to whom they are payable. Purchaser shall advise the Escrow Agent of any change in the amount of the payment due on any assumed obligation(s). Failure to make such payments at the time required shall be a default under this Contract. At such time as the unpaid balance of the purchase price due the seller is fully paid, this Escrow shall terminate and the purchaser shall thereafter make the installment payments on said prior lien(s) or obligation(s) directly to the person(s) or company(ies) to whom the are payable.

(b) Purchaser assumes and agrees to pay the above-mentioned prior lien(s) or obligation(s) in accordance with its or their terms. Purchaser shall make the installment payments on the prior lien(s) or obligation(s) directly to the person or company to whom payable. Failure to make such payments at the time required shall be a default under this Contract.

(c) Purchaser does not assume or agree to pay the above described lien(s) or obligation(s). All payments due on such lien(s) or obligation(s) shall be remitted by the Escrow Agent to the person or company to whom they are payable out of the payment made by Purchaser. If the payments due from Purchaser are insufficient to satisfy the amounts due to be made on the above-described lien(s) or obligation(s), Seller shall pay Escrow Agent such additional funds as are necessary to keep such lien(s) or obligation(s) current. Upon payment of this Contract in full, Seller shall obtain a release of the premises from the lien(s) or obligation(s) described above.

Should Purchaser fail to pay any such installment payments prior to the same becoming delinquent, Seller may pay the same for the protection of the Property and his interest therein. Payment by Seller shall not be deemed a waiver of Purchaser's default, and the amount so paid by Seller shall be immediately due and payable to Seller and shall bear interest until paid at the same rate as provided in Paragraph 2 above.

3. PURCHASER TO PAY INSURANCE, TAXES AND PAVING LIENS, AND SELLER'S RIGHTS:

(a) Insurance. The Purchaser agrees to keep the insurable improvements upon the Property insured against the hazards covered by fire and extended coverage insurance, with an insurance company satisfactory to Seller, in the sum of not less than \$_____. n/a (vacant land) for the benefit of the Purchaser and Seller as their interests may appear, and furnish a copy of the insurance policy or certificate of insurance policy to Seller annually prior to expiration of existing insurance.

(b) Taxes. Unless otherwise stated herein, the property taxes for the current year have been divided and prorated between Seller and Purchaser as of the date of this Contract, and the Purchaser is responsible for and will pay the taxes and assessments of every kind hereafter billed.

Purchaser will have the property assessed for taxation in Purchaser's name. Upon request by Seller, Purchaser will send copies of the paid tax receipts each year to Seller.

(c) Paving and Other Improvement Liens and Standby Charges. Unless otherwise stated herein, the Purchaser assumes any paving and/or other improvement lien and/or standby charges now assessed against the Property and agrees to pay all installments of principal and interest thereon that hereafter become due.

(d) Seller's Rights. Should the Purchaser fail to pay insurance premiums, taxes and assessments, paving liens, improvement liens or standby charges, or other such matters prior to the same becoming delinquent, Seller may pay the same (but is not obligated to do so) for the protection of the Property and his interest therein. Payment of such charges shall not be deemed a waiver of any default of Purchaser for failure to pay such charges, and such amounts as have been so paid shall be immediately due and payable to Seller, and shall bear interest until paid at the same rate as provided in Paragraph 2 above.

REC'D CITY CLERK, RECORDED 12/20/2005

NB-15

4. PURCHASER'S RIGHT, SELLER'S RETENTION OF INTEREST:

Purchaser shall be entitled to take possession of the property and retain possession unless and until Purchaser's interests under this Contract shall be terminated by Seller as provided in Paragraph 5 below. Legal title to the Property shall remain in Seller's name until this Contract has been fully performed upon the part of Purchaser and the Warranty Deed delivered as specified.

5. SELLER'S RIGHTS IF PURCHASER DEFAULTS:

(a) **Default Notice.** Time is of the essence in this Contract, meaning that the parties shall perform their respective obligations within the times stated. If Purchaser fails to make any of the payments required in Paragraph 2, herein, at the time specified, or fails or refuses to maintain insurance or to pay taxes, assessments or other charges against the Property, or fails or refuses to repay any sums advanced by the Seller under the provisions of Paragraph 3 above, the Seller may make written demand upon the Purchaser, with such notice to specify the default and the curative action required, at his address as follows:

or at such other address that Purchaser may designate by a notarized statement delivered to the Escrow Agent, which change of address will be effective on the seventh (7th) calendar day after receipt by the Escrow Agent.

(b) **Manner of Giving Default Notice.** Notice in writing shall be given by certified mail, return receipt requested, addressed to the Purchaser at the effective address for Purchaser as provided in Paragraph 5(a), with a copy to Escrow Agent. Purchaser expressly acknowledges that notice to him by mail, in the manner above specified, is sufficient for all purposes, regardless of whether he actually receives such notice.

(c) **Purchaser's Failure to Cure Default Results in Termination of Contract or Acceleration of Entire Unpaid Balance.**

If the Purchaser fails or neglects to cure any default within thirty (30) days after the date Seller's default notice is mailed, then the Seller may, at his option either declare the whole amount remaining unpaid to be then due, and proceed to enforce payment of the entire remaining unpaid balance, plus any accrued interest, together with reasonable attorney's fees, or he may terminate Purchaser's rights to the Property and retain all sums paid as liquidated damages to that date for the use of the Property, and all rights of Purchaser in the Property shall thereupon end. If the final day for curing the default shall fall on a Saturday, Sunday, or non-business day of the Escrow Agent, then the period for curing the default shall extend to the close of business on the next regular business day of the Escrow Agent.

Acceptance by Escrow Agent of any payment tendered shall not be deemed a waiver by Seller, or extension of the time for cure, of any other default under this Contract. In the event of termination, Purchaser hereby waives any and all rights and claims for reimbursement for improvements he may have made upon the Property.

(d) **Affidavit of Uncured Default and Election of Termination.**

A recordable affidavit made by Seller, his agent, or Escrow Agent, identifying the parties, stating the legal description of the Property or the recording date of this Contract and stating the date that notice was duly given as provided above, that the specified default has not been cured within the time allowed and that the Seller has elected to terminate, and delivered to the Escrow Agent shall be conclusive proof for the Escrow Agent and any subsequent Purchaser or encumbrancer for value of such uncured default and election of termination.

(e) **Purchaser Becomes Tenant.** Upon termination, Purchaser has no continuing right to possession. If Purchaser remains in possession of the Property after this Contract has been terminated as above provided, Purchaser shall then become a tenant at will, for a rental amount equivalent to the installment payment heretofore required as monthly payments under this Contract, with the first such rental payment due immediately, in advance, and such tenancy being subject to termination by either party upon thirty (30) days separate prior written notice. Seller's acceptance of such rental payment(s) shall not be deemed as any waiver of his rights, nor shall it constitute any manner of estoppel.

(f) **Legal Right to Evict.** If, after termination of this Contract, rent is not paid, forcible entry and detainer proceedings and a Petition for a Writ of Restitution, in addition to any other appropriate legal remedies, may be utilized by the Seller if necessary to obtain possession of the Property following termination of this Contract and termination of Purchaser's continued tenancy thereafter. If such proceedings are filed, Purchaser shall be liable for Seller's reasonable attorney's fees plus the legal costs of such action. Upon the recording of the Special Warranty Deed and the termination of this Contract, all rights, liabilities, and responsibilities of the parties hereto shall be governed by the Uniform Owner-Resident Relations Act and the Seller shall have all rights available to an Owner of property under that Act in addition to all other legal rights.

6. TITLE INSURANCE OR ABSTRACT:

Unless otherwise provided herein, Seller is delivering a Contract Purchaser's Title Insurance Policy to Purchaser or Abstract of Title to Escrow Agent at the time this Contract is made, showing merchantable title to the Property as of the date of this Contract, subject to the matters referred to in this Contract, and Seller is not obligated to provide any other or further evidence of title.

7. PURCHASER'S RIGHT TO SELL:

(A) **First Provision:**

Purchaser shall be entitled to sell, assign, convey or encumber his entire interest in this Contract (but not a portion thereof) and the Property to any person or entity, hereinafter called Assignee, and may retain a security interest therein, without obtaining the consent or approval of the Seller. The Purchaser shall not, however, be released from his obligations hereunder by any such sale, assignment, conveyance or encumbrance. In the event Purchaser does sell, assign, convey or encumber said interest, then Purchaser, his Assignee, or any subsequent Assignee shall deliver a copy of such written sale, assignment, conveyance or encumbrance document to Escrow Agent.

REC'D CLERK RECORDED 12/30/2008

Such sale, assignment, conveyance or encumbrance document shall specify the address of the Assignee and upon receipt of such document by the Escrow Agent, Seller shall only be required to send notice of default to the most recent Assignee who has given notice of such sale or assignment and his address to the Escrow Agent as provided herein. If such document is not received by the Escrow Agent, any notice of default need be sent only to the last person or entity and address for which written notice has been provided to the Escrow Agent as provided herein.

(2) **Special Alternative Provision:** #

CAUTION: THE FOLLOWING PROVISION SEVERELY RESTRICTS THE RIGHT OF PURCHASER TO SELL, ASSIGN, CONVEY OR ENCUMBER THIS CONTRACT AND THE PROPERTY. If the parties wish to invoke this provision, they should check the box as indicated and each initial as provided. If the Special Alternative Provision is elected, the First Provision does not apply.

Initial ☒ Purchaser shall not be entitled, directly or indirectly, to sell, assign, convey or encumber all or any portion of the Purchaser's interest in this Contract or in the Property without first obtaining the written consent of Seller, and Seller shall not be under any obligation of any kind to give such consent. In the event that Purchaser shall, directly or indirectly, sell, assign, convey or encumber or contract to sell, assign, convey or encumber, directly or indirectly, all or any portion of the Purchaser's interest in this Contract or in the Property without the consent of Seller, it shall be an event of default subject to the rights of Seller in Paragraph 5, herein.

Caution: If the Property is subject to any prior mortgage(s), Deed of Trust or Real Estate Contract(s), then the provisions thereof should be examined carefully for any conflict with the above clause.

8. **BINDING EFFECT:** This Contract shall extend to and be obligatory upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties to this Contract.

9. **APPOINTMENT OF AND INSTRUCTIONS TO ESCROW AGENT:**

The parties hereby appoint as Escrow Agent:

FIRST AMERICAN TITLE: 220 Otero Street; Santa Fe, NM 87501

The following papers are herewith placed in escrow:

1. Signed copy of this Contract.
2. Original Warranty Deed signed by Seller.
3. Original Special Warranty Deed signed by Purchaser.
4. #

Add following information, if applicable:

Name and address of mortgagee:

#

Loan No. #

Name and address of Escrow Agent under any other contract on the Property:

#

(a) The fee(s) of the Escrow Agent shall be paid as follows: seller shall pay set up fee and monthly fee #

If such fee(s) is/are paid wholly or in part by Purchaser, such amount shall be in addition to the amounts due from Purchaser as provided in Paragraph 2, herein. The Escrow Agent is instructed to accept all monies paid in accordance with this Contract and remit the money received (less applicable escrow fees) as follows: #

(b) All payments shall be deemed provisionally accepted when tendered, subject to determination by the Escrow Agent of the correct amount and its timeliness.

(c) Upon full payment of all amounts due and owing to the Seller under this Contract by the Purchaser, the Escrow Agent is directed to release and deliver the escrow documents to the Purchaser.

(d) If the Seller or his agent delivers an Affidavit of Uncured Default and Election of Termination (as described in Paragraph 5 above) to the Escrow Agent, then the Escrow Agent shall release and deliver the escrow documents to the Seller. The Escrow Agent shall be entitled to rely on such Affidavit as conclusive proof of termination.

(e) The Escrow Agent is instructed that after each and every written demand is mailed to the Purchaser, pursuant to Paragraph 5 above, and a copy thereof is furnished to the Escrow Agent, not to accept less than the full amount of the sum stated as due in the written demand, plus the additional \$_____, unless otherwise stated, for Seller's attorney's fees.

(f) The Escrow Agent is entitled to charge its standard fees current as of the date the service is rendered, but all changes shall become effective only after _____ () days written notice to the party or parties paying the fee of the Escrow Agent.

(g) Seller and Purchaser will each indemnify and save harmless the Escrow Agent against all costs, damages, attorney's fees, expenses and liabilities, which it may incur or sustain in connection with this Contract, including any interpleader or declaratory judgment action brought by Escrow Agent, but excepting failure of the Escrow Agent to comply with this Paragraph 9.

SEE CLERK RECORDED 12/22/2005

(h) The Escrow Agent shall have the right to resign as Escrow Agent under this Contract by giving the parties _____ days written notice of intent to resign. The parties shall thereupon mutually select a successor Escrow Agent and give written notice to the Escrow Agent of such selection. If the parties fail, for any reason, to mutually select a successor Escrow Agent and give Escrow Agent written notice of such selection within _____ days after mailing by the Escrow Agent of notice of intent to resign as aforesaid, then the Escrow Agent may select the successor Escrow Agent. Delivery by the Escrow Agent to the successor Escrow Agent of all documents and funds, after deducting therefrom its charges and expenses, shall relieve the Escrow Agent of all liability and responsibility for acts occurring after the date of the assignment in connection with this Contract.

10. SEVERABILITY CLAUSE: The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of the remainder of this Contract.

The parties have signed and acknowledged this Contract effective as of the date stated at the beginning of this Contract.

CAUTION: YOU SHOULD READ THIS ENTIRE CONTRACT BEFORE SIGNING. IF YOU DO NOT UNDERSTAND THIS CONTRACT, YOU SHOULD CONSULT YOUR ATTORNEY.

SELLER

Richard Stahl
Los Alton Partnership

PURCHASER

High Desert Partnership LLC

ESCROW RECEIVED 12/30/2005

State- CaliforniaCounty- RiversideOn December 27, 2005 before me, Kim Alvarez Notary PublicPersonally appeared Michael L. Richter

Personally known to me or proven to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Kim Alvarez
Signature of Notary Public



OPTIONAL

Title or Type of Document: Real Estate ContractDocument Date: December 27, 2005Number of Pages: 1Signer(s) Other Than Named Above: N/A

GEO. CITRUS RECORDED 12/30/2005

AIB-19

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF California } ss.
COUNTY OF Riverside }

The foregoing instrument was acknowledged before me this 27 day of December, 2006
Los Altos 1 Partnership, a New Mexico Partnership

by: Michael Richter
My commission expires:

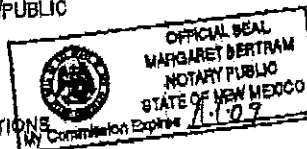
NOTARY PUBLIC

STATE OF New Mexico } ss.
COUNTY OF Santa Fe }

The foregoing instrument was acknowledged before me this 27 day of December, 2006, by .

High Desert Partnership LLC
My commission expires:

NOTARY PUBLIC



ACKNOWLEDGMENT FOR CORPORATIONS

STATE OF New Mexico } ss.
COUNTY OF Santa Fe }

The foregoing instrument was acknowledged before me this #date day of #month, 20#year, by #Name & Title of Officer, of #Name of Corporation Acknowledging a #State of Incorporation corporation, on behalf of said corporation.

The Corporation (or Association) has no Corporate Seal #

My commission expires:

NOTARY PUBLIC

RECEIPT AND ACCEPTANCE BY ESCROW AGENT

The Escrow Agent hereby acknowledges receipt of the following documents in regard to the above-captioned Escrow Contract:

(a) Escrow Set Up fee in amount of \$ _____	(d) Special Warranty Deed
(b) Signed copy of this Contract	(e) _____
(c) Warranty Deed	(f) _____
	(g) _____

By: _____
Escrow Agent

Date: _____, 20____

SET CLEARED RECORDED 12/29/2006

EXHIBIT 'A'

File No.: 718481-SF01 (GAR)
Property: 241 Spur Ranch Rd., Santa Fe, NM 87505

Lot 2A-4, as shown on plat entitled "Land Division Created by 140 Acre Exemption Lot 9A within Lot 9 of Eldorado at Santa Fe for Los Altos 1 Partnership, a New Mexico General Partnership...", filed in the office of the County Clerk, Santa Fe County, New Mexico, on April 8, 2004, in Plat Book 558, pages 019-020, as Document No. 1322037.

A.P.N. 910008808

GEN CLERK RECORDED 10/30/2005

EXHIBIT 'A'

File No.: 718481-SF01 (GAR)
 Property: 241 Spur Ranch Rd., Santa Fe, NM 87505

Lot 2A-4, as shown on plat entitled "Land Division Created by 140 Acre Exemption Lot 9A within Lot 9 of Eldorado at Santa Fe for Los Altos 1 Partnership, a New Mexico General Partnership...", filed in the office of the County Clerk, Santa Fe County, New Mexico, on April 8, 2004, in Plat Book 556, pages 019-020, as Document No. 1322037,

A.P.N. 910008808

REC CLERK RECORDED 12/28/2005

XII. A. 10. BCC Case #S 06-5290 Colinas del Sol Subdivision. High Desert Partnership LLC (Russ McMillan, President) Applicant, Jim Siebert, Agent, Request Preliminary and Final Development Plan and Plat Approval for a 16-Lot Residential Subdivision on 202.03 Acres. The Property is Located in Eldorado, South of Avenida Eldorado on Spur Ranch Road, Within Section 25, Township 15 North, Range 9 East (Commission District 5)

MS. COBAU: Thank you, Madam Chair. The applicant is requesting final development plan and plat approval for a 16-lot residential subdivision on 202.03 acres. The lot sizes range from 12.5 acres to 13.03 acres, with an average gross density of 12.5 acres per dwelling unit. The property is in the Basin Fringe Hydrologic Zone where the minimum lot size is 12.5 acres per dwelling unit with a quarter acre-foot per year per lot water restriction. This site is within the eee Area Water and Sanitation District service area.

The applicant is also requesting payment-in-lieu as an alternative means of compliance with Ordinance 2006-2, Affordable housing, rather than providing three affordable housing units on site. The applicant has addressed the criteria established by Ordinance 2006-2 and is proposing payment of a fee-in-lieu amount of \$393,100. In response to concerns expressed by the Santa Fe Southern Railway, the applicant has agreed to remit a sum of \$84,708.81 – which is corrected from the staff report that you have in front of you, based on a letter we received from Mr. Siebert's office late last week. The amount has been agreed to between the applicant and the Santa Fe Southern Railway and the County had not received the correspondence. So that number is corrected to \$84,708.81.

This amount will cover construction costs associated with rebuilding the at-grade rail crossing at Spur Ranch Road in order to reduce the current hazard to motorists and train traffic at this location.

The application has been reviewed for the following: existing conditions, roads and access, water, the Eldorado moratorium, fire protection, liquid and solid waste, terrain management, archeology, signage and lighting, homeowners association documentation, and affordable housing.

Staff's recommendation is as follows In response to the applicant's request to provide a cash payment in lieu of construction affordable housing units, staff refers to Section 16.A.2 of Ordinance 2006-02; which states that a project may alternatively meet all or a portion of its obligation to provide Affordable Housing by: "making a cash payment that is equal to or greater value than would have been required if the Project had been constructed or created Affordable Units as provided in this Ordinance, applying the methodology set forth in the Affordable Housing regulations"; and further states in Section 16.A.1. F: "that in deciding whether to accept a proposed alternative means of compliance pursuant to Sections 16 A.2, or A.3, the County shall consider the following where applicable. Now, I've addressed these conditions or these portions of the Affordable Housing Ordinance in much the same manner as a variance request, so I'll read this into the record:

1. Whether the proposed cash payment is equal to or greater than the cost of constructing equivalent Affordable Units within the Project, applying the



NB-23

methodology set forth in the Affordable Housing Regulations;

- i. The applicant states "the formula for the payment was provided by the County Housing staff and it is assumed that the payment is made in compliance with the provision of Ordinance 2006-02."
 - The County Land Use Administrator concurs with the amount of payment identified by the applicant.
2. Whether a proposed cash payment or dedication of property creates a substantial surplus of funds within the dedicated housing fund or trust specific to that purpose;
 - i. The applicant states "Very few if any cash payments have been made to Santa Fe County. The money to be provided to the Housing Fund would be available for underwriting a portion of the cost of the monthly mortgage, allowing a person to own a home with the assistance of a mortgage subsidy".
 - The County Land Use Administrator concurs that the fees collected with this project can be utilized to provide affordable housing in a more appropriate area that has wider services available to residents, and can be utilized to enable the Housing Authority to target specific locations where higher density development can be integrated in areas such as Village centers.
3. This section refers to appraised value of the property to be dedicated and is therefore not applicable in this case;
4. Whether a cash payment or property provides a greater overall public benefit than if the affordable units were constructed within the project or minor project that would have otherwise provide for mixed income development;
 - i. The applicant states "The payment of a fee in-lieu-of for this Minor Project allows for the affordable housing unit to be located in closer proximity to a variety of urban services, including grocery stores, employment, recreation and bus service. The commute to Santa Fe requires a car and all the costs associated with the maintenance and insurance for the vehicle and the gas to commute the approximate 30 miles to and from Santa Fe."
 - The County Land Use Administrator concurs that in this case, due to the large size of the lots, distance of the project from community services, and maintenance costs associated with large lots on private roadways, septic systems, and shared wells, that an alternate means of compliance is more appropriate than constructing three affordable units at this location. In addition, it is important to note that a Code compliant four-lot subdivision can be created at this location administratively, precluding compliance with the Affordable Housing Ordinance and Subdivision criteria in the Code. The four lots could subsequently be divided by family transfer, ultimately resulting in the same density without the benefit of the infrastructure included in this proposal.

Staff's position is that the Colinas del Sol subdivision is in accordance with Article III, IV and VII of the Land Use Code for Final Development Plan and Plat submittals. Staff recommends acceptance of the payment of \$393,100.00 as an alternative means of compliance with Ordinance 2006-14 (Affordable Housing), and recommends approval of the application for Preliminary and Final Development Plan and Plat for a 16-lot subdivision on 202.03-acres based on the following conditions.

Madam Chair, I need to revise condition #3. The amount in condition #3 should be corrected to \$84,708.81. And I need to add a new condition 16, as the applicant has requested some clarification. Condition 16 would read as follows:

16. The applicant shall construct Avenida de los Compadres from Spur Ranch Road to the northerly property line to County standards for a local sub-collector.

And Madam Chair, with those corrections, may I add the remaining conditions to the record?

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Department
 - c) State Department of Transportation
 - d) County Hydrologist
 - e) County Fire Marshal
 - f) County Public Works
 - g) County Housing Administrator
 - h) Santa Fe-Pojoaque Soil and Water Conservation District
 - i) County Technical Review
 - j) State Historic Preservation Division
2. Approval by the BCC of the payment of a fee of \$393,100.00 to provide an alternative means of compliance with affordable housing criteria. Payment of the \$393,100.00 fee in-lieu must be made prior to or concurrent with Final Plat recordation.
3. Payment of ~~\$50,000~~ \$84,708.81 to the Santa Fe Southern Railway for improvements to the Spur Ranch Road crossing, ~~along with a reimbursement agreement to be signed by Santa Fe County, Santa Fe Southern Railway, and High Desert LLC. This agreement shall be referenced on the Plat, and recorded in the Office of the County Clerk.~~ [Modified at motion.]
4. The developer's engineer must establish the base flood elevation in the Federal Emergency Management Agency (FEMA), Zone A Special Flood Hazard Area (SFHA), and this information along with a minimum finished floor elevation for lots adjacent to the floodplain shall be included on the Final Plat per 44CFR Subsection 60.3, Ordinance 1988-1, and Article VII, Section 1.2.3. No structures (including fences) or placement of fill will be permitted in the FEMA floodplain without prior analysis to determine the effects of such obstructions on the computed water surface elevation, flow velocity, and conveyance capacity of the floodplain. Residential structures must be setback 25' from the floodplain as established by the engineer, and this setback must be clearly depicted on the Final

- Plat. Water supply systems shall be designed to minimize infiltration of flood waters.
5. Each lot owner must comply with County water harvesting requirements set forth in Ordinance 2003-6.
 6. The applicant shall submit a cost estimate and financial surety for the completion of required improvements as approved by staff prior to Final Plat recordation.
 7. A liquid waste permit must be obtained from the Environment Department for the proposed septic systems prior to issuance of building permits.
 8. Road names and rural addressing must be approved by the County prior to recording the Final Plat.
 9. Water use on this property will be restricted to 0.25- .20 acre-foot per year per lot. Water restrictive covenants must be recorded with the Final Plat. A water meter must be installed for each lot and annual readings must be submitted to the County Hydrologist by January 31st of each year. [Modified at motion.]
 10. The Subdivision Restrictive Covenants, Subdivision Disclosure Statement, and Shared Well Agreements must be recorded with the final plat.
 11. All archeological sites, drainage courses, trails, utility easements, stormwater management facilities, and well sites must be placed within easements and recorded on the Final Plat.
 12. No further division of this land will be allowed; this shall be noted on the Final Plat and in the Subdivision Disclosure Statement.
 13. Solid waste fees in the amount of \$624.16 shall be paid prior to recording the Final Plat.
 14. Wells shall be tested for water quality, water quality tests shall be submitted to the County Hydrologist and water treatment systems installed at the well head if water quality is outside acceptable standards. This shall be noted on the Final Plat.
 15. All redline comments must be addressed, and original redlines must be returned.

CHAIR VIGIL: Thank you. Are there any questions for staff? Commissioner Sullivan, please.

COMMISSIONER SULLIVAN: Starting off with condition 16, what are the standards for a local sub-collector? What are they?

MS. COBAU: Local sub-collector is for 31 to 60 lots, 301 to 660 trips per day. It's much the same as a place lane or cul-de-sac. It has to have two driving lanes. The minimum right-of-way is 50 feet. The design speed is 25 miles per hour. The maximum slope is 11 percent, and it has to have a 6" minimum aggregate basecourse. It differs from the local lane place or cul-de-sac in that the design speed of the local lane place or cul-de-sac would be 10 miles per hour.

COMMISSIONER SULLIVAN: And how many vehicles per day traffic?

MS. COBAU: This is 16 lots and this Appendix 5A of the County Code is based on an assumption of ten trips per day per lot. So this subdivision of 16 lots would generate 160 trips per day, which would just require a place lane or a cul-de-sac. However, in the Spur Ranch Road area there are other lots that we'd be taking access to Avenida de los Compadres in the future, which is why I wanted to increase it to local sub-collector standards and have that additional design speed for the future.

There's also other criteria, Commissioner Sullivan. A local sub-collector has to

comply with AASHTO criteria and a number of other conditions that a local lane place or cul-de-sac does not have to comply with.

COMMISSIONER SULLIVAN: Okay, I could express one concern and we could discuss it later about only six inches of basecourse on a road like that that's becoming a main thoroughfare. We can talk about that later. The other question that I had is in the staff report, about the Santa Fe Southern Railway crossing, which of course before development occurred did not need to be as safe as it needs to be now. It says the applicant has agreed to remit a sum, which is now \$84,708.81, to the Santa Fe Southern Railway to cover the construction costs associated with rebuilding the at-grade rail crossing at Spur Ranch Road. But then in the conditions it says that they're going to make this payment along with a reimbursement agreement signed by Santa Fe County. Why should Santa Fe County reimburse a private developer for an improvement that's necessitated by virtue of constructing a for-profit development and then the second part of that question would be what is this reimbursement agreement and how does that work?

MS. COBAU: mc, Commissioner Sullivan, I agree that that condition is poorly written and I apologize. That reimbursement agreement is so that the applicant can try to reclaim some of the costs associated with upgrading that crossing from future people who want to subdivide in that area, not from Santa Fe County. Santa Fe County would not be participating in any of the costs associated with upgrading the crossing. The crossing became an issue because the Santa Fe Southern Railway has said it's a ranch crossing and doesn't meet the criteria or the trip traffic that's currently using it. In fact they've threatened to close the crossing, which would cut off access to approximately 80 residents out in that area on Spur Ranch Road. So the applicant has agreed to upgrade that rail crossing in order to alleviate that condition that would be experienced by road development and also by other property owners and developments in the area as a condition.

Because we weren't going to allow additional density in the area that didn't have adequate emergency access.

COMMISSIONER SULLIVAN: Does this then place Santa Fe County in the position of being the policeman to collect these payments from future developers? What's the purpose of this agreement being signed by Santa Fe County?

MS. COBAU: I think, Commissioner Sullivan, that we should strike - I think that the condition should be revised to say payment of \$84,708.81 to the Santa Fe Southern Railway for improvements to the Spur Ranch Road crossing. Period. And strike the remainder of that condition.

COMMISSIONER SULLIVAN: I would understand that better. Thank you.

MS. COBAU: And again I apologize for the unclarity there.

COMMISSIONER SULLIVAN: We'll see if the applicant's in agreement with that. And then prior to hearing the applicant, the only other thing that caught my eye was that on the payment in lieu of fee - and I think we've discussed this before. We already have several million dollars in our affordable housing funding and we haven't figured out what to do with it yet. So I think we have a lot of money in the fund. And it says that the applicant states that the payment in lieu of fee allows for affordable housing to be located in closer proximity to a variety of urban services, including grocery stores. And it goes on to say a commute to Santa Fe requires a car, and that's a good

observation, and all the costs associated with maintenance and insurance for the vehicle.

And I would just remind the applicant and others who perhaps haven't been through the area later that there is a grocery store at the Agora Center, fairly large one and not too far at all from this particular development. I think we've talked about this before, of saying we should have all the affordable housing in Agua Fria because that's where the services are and they're close to work and those kinds of things, and I think we've discussed at some length some other projects about the fact that our idea is that we want to discuss affordable housing in a variety of venues, not just downtown Santa Fe.

I think that these are fairly spurious arguments and ones that the Commission has rejected on past projects. So I wanted to point that out as we get into the discussion. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions? Seeing none, is the applicant here. Mr. Siebert, are you in agreement with everything that's been presented thus far? Do you have any comments?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer, Santa Fe. Let me just begin by saying, yes, we are in agreement with conditions as stated by staff and as amended tonight. The thing that I'd like to point out to the Commission is that when you developed the affordable housing program the idea was that in essence you end up giving up your lots, you devalue any of those lots that are affordable housing, basically, there's no value to those lots from the developer's standpoint.

In this particular case, and I think you can make projects work if you have 2.5-acre lots and especially if you have 2.5-acre lots similar to the project that's coming up tonight where you get density bonus. You get the ability to cluster those unit. In this case, the only option that the developer has is a 12.5-acre lot. Period. And I think there's a great deal of difference when you talk about giving up the value of a 2.5-acre lot which in Eldorado may range from \$100,000 to \$150,000, for a 12.5-acre lot, that goes from \$200,000 to \$300,000. What you're going to see is that it's going to be - unless you own the land free and clear, you just can't make these projects work.

In addition, what's happening is Russ McMillan, who's the developer, has agreed to do the improvements to the railroad crossing. That's an additional \$84,000. In addition, he has agreed to go from a lesser standard on the roadway, really a place and a cul-de-sac standard, to a local road standard and pay the additional cost of doing that, even though he's not obliged to do that under the Code. All these things make the project marginal at best.

In terms of the \$383,000, that's a number that was derived with the cooperation of the affordable housing staff and we feel that that is a reasonable number. It's my understanding that in terms of the actual money in the affordable housing program that that money would still be well received to do a variety of thing. It's my understanding some of the uses they would put that money to is purchase of land for affordable housing, underwrite the cost of mortgages to assist the homeowners in purchasing homes, adding energy efficiency materials and appliances to homes that are affordable, build and construct affordable homes in conjunction with the County Housing or local housing trusts, leverage funds for financing of infrastructure for affordable housing projects.

It seems to me that you could more than multiply what advantage you would have that money to accomplish a great deal of affordable housing. The issue of where this

project is, there is a grocery store in Eldorado, approximately eight miles from that grocery store. It's not like you would go from your house and walk down and get your groceries. You're just not going to do that. You're going to have to get in a car and drive down to the grocery store and drive back a total of 16 miles in order to do that.

We think what's been offered here is a reasonable solution and we certainly hope that you would consider this favorably. Russ McMillan who is the managing member for High Desert Partnership is here and he would like to say a few words on the housing issue. Thank you.

CHAIR VIGIL: Any questions for Mr. Siebert? Okay. Commissioner Campos.

COMMISSIONER CAMPOS: You don't have any water rights, right?

MR. SIEBERT: No, we would be on domestic wells, 72-12-1 wells.

COMMISSIONER CAMPOS: [inaudible]

MR. SIEBERT: Well, it would be whatever - .25 times 16, so I guess it would be four acre feet.

COMMISSIONER CAMPOS: And you're asking for .25 acre-feet per DU.

MR. SIEBERT: Correct. Actually, when we began this process we did a geohydrologic evaluation and it indicated, based on the hydrology study, it could support twice the density for the 100-year water supply of what's being proposed.

COMMISSIONER CAMPOS: But you're using free water, or somebody else's water, not paying for it, and asking for .25 when you could probably do as well with .2 as we've required of other subdivisions.

MR. SIEBERT: Commissioner, as they say, there's no free lunch and this one isn't either.

COMMISSIONER CAMPOS: This is a free lunch for you. You don't have water rights. You haven't bought water rights.

MR. SIEBERT: You still have to drill the wells. You have to build the water distribution system.

COMMISSIONER CAMPOS: I think it is a free lunch, and you're asking for .25 instead of something more reasonable. Maybe .2 is what you actually need.

MR. SIEBERT: I'm going to let you discuss that with Russ McMillan when he deals with the affordable housing.

CHAIR VIGIL: Thank you. Mr. McMillan, would you please state your name and address for the record and be sworn in.

[Duly sworn, Russell McMillan testified as follows:]

RUSSELL MCMILLAN: Russell McMillan, 9 Balsa Drive, Santa Fe. Boy, where to start with this, I'm not sure. I guess I'll start with the original plan. I've been at this for a year and six months. Trying to get this thing together. We could have done four lots, four 50s, sold them, got out. It didn't serve me any purpose. It didn't really work very well. The County didn't win. Low-cost housing didn't win. So basically, after a while, between the County and I, we came up with this other solution that maybe I could come in, pay my share.

The reason that the lots don't work is they're too big. Twelve and a half acres, to put a house on there for low-cost housing just does not work. It's not feasible. I feel it's unreasonable to put low-cost housing out there but that's me speaking, so I called the

Albuquerque low-cost housing authority. They thought it was unreasonable to put low-cost housing 30 miles outside of a metropolitan area. It didn't make sense. And then they gave me the regional office in Texas and they've never heard of putting low-cost housing 30 miles outside of a town.

Now, yes, I agree with Commissioner Sullivan. There's a grocery store, but it's also way more expensive than the grocery stores in town. That's one thing. Car expenses, just taking simple little things. Gas alone for two cars is about \$280 a month. Just on their gas. Then they're going to be put into a subdivision that has a homeowners association and those dues can go up at any time, and that puts them in another problem down the road after they have a house.

So all of these things add up. It just doesn't make sense to put them out there. I don't know what else to say. I understand what Commissioner Campos is saying about the water, however, I'm meeting County Code. I've done what I'm supposed to do. I've only got 16 lots. I'm allowed to drill the wells. I've proved water. I've done the hydrology report. It's .25, what all the other subdivisions out there have been approved with, including mine in the past last year. I'm only doing what I thought Code is and what I'm allowed to have and that's why it's there.

And as far as a free lunch, I don't think it's a free lunch. By Code I don't need to buy water rights. So I'm not sure where that's coming from. If I could do water rights and split my land smaller, I'd be glad to do it. And I'd also be glad to do the low-cost housing out there if that's what seems reasonable, if I could subdivide my land. But I'm stuck at 12.5-acre tracts. And I will say that when this Commission approved the low-cost housing a year and some months ago, someone on the Commission, and it's in the minutes; you can look it up -- brought up what are we going to do about low-cost housing in Eldorado in a moratorium? And the answer was we're going to have to deal with that when we get to it. Well, we're here and I'm stuck in the middle of it. And I'm only trying to find a solution so everybody wins.

I don't think I win putting up \$400,000 and another \$84,000 to fix the railroad for 100 people, but I'm willing to do it because at this point I need to get out of this land and move forward. And that's all I have to say. I'll take questions from there.

CHAIR VIGIL: Questions? No questions. Thank you, Mr. McMillan. This is a public hearing. Is there anyone out there who would like to address the Commission? Please come forward. Seeing that no one has come forward, I'll close the public hearing. What is the Commission's wishes on this? Further questions, comments?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me just ask staff a question about the affordable housing. This was categorized as a minor project or a major project?

MS. COBAU: Madam Chair, Commissioner Sullivan, it's classified per the ordinance as a minor project.

COMMISSIONER SULLIVAN: Okay. A minor project is not eligible for a water rights transfer waiver or a water allocation or density bonus. It may reduce the lot area for each affordably priced housing unit to the minimum presented by applicable regulations of the New Mexico Environmental Department.

MS. COBAU: Minimum lot size for the NMED is an acre. I think that's what they're getting at, right?

COMMISSIONER SULLIVAN: Yes. So, if I'm reading that correctly, and affordable housing were to go forward, even though there's a restriction and this property is still under the old moratorium ordinance; it's not under the new moratorium ordinance or it's not under the rescinder ordinance or whatever may come in the future, which is 12.5 acres, unless they hook into the water system, the Eldorado system, which they're not doing. Would this Affordable Housing Ordinance then allow them to reduce the affordable housing lots to one acre?

Cs: Madam Chair, Commissioner Sullivan, as you stated, they can't go smaller than 12.5 acres because they are in the moratorium area which is why they came forward with a 12.5-acre proposal. Duncan Sill, the affordable housing administrator is here and I think that questions of that nature could be directed to Duncan. I believe it would. However, we do have community water system and community sewer system requirements also that would affect this project where if we were to go with lots that were smaller than 2.5 acres then per the table that I've included as an exhibit - Commissioner Sullivan, I think that would them into the requirement for community water and community sewer system.

COMMISSIONER SULLIVAN: Okay, so assuming that - let's just assume that there were no moratorium but we have our current ordinances in place, they could go, not down to an acre, but they could go down to 2.5 acres.

MS. COBAU: That's correct. If they could prove a 100-year water supply [inaudible] the density could go down.

COMMISSIONER SULLIVAN: He said they already have a geo-hydro. So there's an alternative. And I'm just looking forward to, in the discussion this evening there seemed to be at least this evening some interest in rescinding the moratorium ordinance. I don't know whether that will happen or not, but I'm just understanding that 12.5-acre lots don't often make a feasible project for affordable housing, but I think there are other options here and what I'm hearing is that it would be 2.5 acres.

MS. COBAU: They could proceed with 2.5-acre lots for the Eldorado moratorium. However, they would have to transfer water rights and connect up to the EDU as Rancho San Lucas did on Spur Ranch Road, which was approved by this Commission maybe six, eight months ago. That water rights transfer takes a great deal of time and I believe that Maryann Stickler worked on that for four or five years before she brought her subdivision forward. So this applicant and his agent have indicated to me that this is their ultimate proposal, that they want to come forward now because as he said, he's worked with County staff for about a year and a half.

He came forward in August with an application for this subdivision and the affordable housing criteria, at that time he felt it was a stumbling block and he was going to proceed with a land division into the four 50-acre lots. He started with the administrative approval process of that four-lot subdivision and made the decision to come forward with the proposal that is before you today.

COMMISSIONER SULLIVAN: Yes. This is a lot quicker way to go, get the lots sold and get out and as he indicated, to get on, but my question only pertained, not to the entire subdivision but just to the affordable lot, and maybe I should clarify that. Would he be able, without connecting into a public water system, to have a 2.5-acre or slightly over 2.5-acre affordable housing lot, assuming there were no moratorium?

MS. COBAU: As long as the gross density was maintained, I believe he

could cluster them and have smaller lots. We have unfortunately, today the moratorium which says the minimum lot size is 12.5 acres.

COMMISSIONER SULLIVAN: Yes. Understand, but assuming that in 30 days that may go away. I'm looking at other options here, just to answer the question that the only option I have is to build affordable housing on 12.5 acres and I see other options here that you could build the affordable housing on 2.5 acres. Now the Commission may not think that's a good idea and I respect that, but I'm just indicating that the ordinance does allow some flexibility in that regard.

CHAIR VIGIL: Further questions. Commissioner Campos.

COMMISSIONER CAMPOS: Madam Chair, just a thought. A couple of thoughts. One is that the County should take the money for the affordable housing [inaudible]. Two, I think paragraph 9 should be amended as far as acre-feet per DU from .25 to .2. Otherwise, I think we should approve the project.

COMMISSIONER MONTOYA: As amended?

COMMISSIONER CAMPOS: As amended.

COMMISSIONER MONTOYA: With all conditions?

COMMISSIONER CAMPOS: With all conditions.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Are you making a motion with that, Commissioner Campos?

COMMISSIONER CAMPOS: Yes.

CHAIR VIGIL: And there's a second. Okay. So the only thing that's been amended here is item 3, with the accurate amount of \$84,708. Item 9, requiring .2, then addition 16, the applicant shall construct Avenida de los Compadres, all of that. But we would receive a payment in lieu of. Is that your understanding of the amendments? Okay. There's a motion and a second with amendments. Further discussion? Commissioner Anaya.

COMMISSIONER ANAYA: I wasn't clear on the amendment.

CHAIR VIGIL: Which one? There are actually four. On the conditions of approval, look at item 3. Instead of \$50,000, that amount has been changed to \$84,708.81.

MS. COBAU: Madam Chair, that condition has also been amended to end at the word crossing. The rest will be stricken.

COMMISSIONER ANAYA: So you're changing \$50,000 to \$80 -- what?

CHAIR VIGIL: \$84,708.81. And the remainder, that particular amendment also, after the word crossing, that ends that condition. Then we're also looking at changing condition number 9 where water use on this property will be restricted to .20. That's item 9. The other amendment is an additional condition, condition number 16 will be included where the applicant shall construct Avenida de los Compadres, etc. as was stated in the record. Did you need further information on that, Commissioner Anaya?

COMMISSIONER ANAYA: No.

CHAIR VIGIL: There's a motion and a second. Any further discussion?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: I feel that the applicant has done more than

enough and I don't agree with those changes.

CHAIR VIGIL: You don't agree with the amendments. Mr. Siebert.

MR. SIEBERT: Madam Chair, I guess we would like to ask for some consideration on the acre-feet as well from .25 to .2. These are large lots. The idea is that some of these lots probably would have horses on them. That really precludes that option. We would like consideration to keep the water use per lot at .25. Thank you.

CHAIR VIGIL: Mr. McMillan, did you want to address the Commission?

MR. MCMILLAN: Yes, just real quickly on the water. I understand where Commissioner Campos -- his feelings about it and somewhat I agree, but I have done a lot to make this project work for everybody. And one of the things -- this is one of the last big pieces out there and I'm willing to pin this thing in perpetuity for 12.5 acres which eliminates another 40-some houses or however many I could have if the moratorium changed. So I think in a sense my water -- .25 in comparison to waiting and having however many lots is a big difference. These are big lots. They're horse properties and .25 is not asking for very much I don't believe.

CHAIR VIGIL: Commissioner Campos, would you be wanting to respond to the applicant's request?

COMMISSIONER CAMPOS: I think we have a motion and I'd like to vote on it. I'm not -- we're going to have rooftop collection. There's a lot of restriction on the water usage. I think it's ample water.

CHAIR VIGIL: There's a motion and a second. Anything further?

The motion to approve BCC Case #S 06-5290 with the changes delineated above, passed by 3-2 voice vote with Commissioners Anaya and Vigil voting against the motion.

CHAIR VIGIL: I do agree with the applicant that .25 is appropriate. Motion passes 3-2 with amendments. Thank you. We're going to take a five-minute recess and then we'll come back and listen to Gerard A. Martinez Variance.

[The Commission recessed from 9:00 to 9:10, and reconvened with Commissioner Campos having left the meeting.]

Jose Larranaga

From: Gerard A. Schoeppner
Sent: Friday, November 18, 2016 11:04 AM
To: Jose Larranaga
Subject: Revised RE: Plat Amendment, Case # PCPA 16-5240 Colinas del Sol Review

Jose:

I reviewed the package you sent regarding the above-referenced development. The plat amendment proposes to amend the water restriction of 0.20 afy imposed by the BCC in 2007 to 0.25 afy for a 16 lot subdivision on 205 acres referenced as the Colinas del Sol subdivision which is located in Sections 25 and 26 of Township 15N, Range 9E. The proposed subdivision appears to be located in SDA-2 and within Eldorado Area Water and Sanitation District's (EAW&SD) service area. Pursuant to Table 7-18 of the SLDC, the proposed subdivision is required to connect to a public water system (EAW&SD's) if it is within a public water system's service area and within 400 feet of one of their existing waterlines.

The proposed subdivision is within EAW&SD's service area but it is unknown if it is within 400 feet of any of their waterlines. The distance from the proposed subdivision to EAW&SD's waterline needs to be determined in order to establish if it is required to connect to EAW&SD's water system. If it is determined that it is not required to connect to EAW&SD's water system, EAW&SD should be given the opportunity to comment on the proposed amendment to increase water usage to 0.25 afy.

A geohydrologic report dated April 3, 2006 was included as part of the original submittal in 2006 to support the proposal. The water restriction of 0.20 acre-foot per lot was not based on the results of the geohydrologic report, but rather a recommendation by the BCC based on a moratorium in place at the time. Under the most conservative scenario, the geohydrologic report supports 0.725 acre-foot of water per 12.5 acre lot which exceeds the value in the SLDC of 0.25 acre-foot and demonstrates an acceptable long-term drawdown over a 100 year period. However, the water quality report listed four constituents that exceed Secondary Maximum Contaminant Levels; aluminum, sodium, pH, and turbidity which must be addressed.

In summary, the proposed amendment to restrict water use to 0.25 afy for the proposed subdivision is consistent with the SLDC and is supported by the geohydrologic report. Therefore, the proposed amendment is acceptable as long as steps are taken to address the water quality issues.

If you have any questions, please contact me.

Jerry

*Jerry Schoeppner, P.G.
Santa Fe County Utilities Division
Physical address: 424 Hwy 599 New Mexico Frontage Road, Santa Fe, NM, 87507;
Mailing address: P.O. Box 276, Santa Fe, NM 87504
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Mobile: 505-231-2346*

[Link to Google Map of our Office Location](#)



NB-34

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LEGAL #81797

BCC CASE # PCPA
16-5240 Collinas
del Sol Plat
Amendment

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held to consider a request by High Desert Partnership for an amendment to a condition imposed by the Board of County Commissioners on an approved Plat for Collinas del Sol Subdivision. The Plat created sixteen 12.5 acre lots and was conditioned to 0.20 acre feet per year water restriction per lot. The Applicant is requesting an amendment to the Plat condition to allow 0.25 acre feet per year water restriction per lot. The property is zoned as Rural Residential and is located at Collinas del Sur Road, via Hwy 285, within Section 25, Township 15 North, Range 9 East, (Commission District 5), SDA-2.

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 13th day of December 2016, at 5 p.m. on a petition to the Board of County Commissioners.

Please forward all comments and questions to the County

Land Use Administration Office at 986-6225

All interested parties will be heard at the Public Hearing prior to the Commission taking action.

All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276, or presented in person at the hearing.

Published in the Santa Fe New Mexican on Tuesday, November 22, 2016.

Continued...



SantaFeNewMexican.com

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Kathryn Toll
65 Camino Acote
Santa Fe NM 87508

CERTIFICATION OF POSTING

I hereby certify that the public notice posting regarding Land Development
Case # PCPA 116-5240 was posted for 21 days on the property beginning
the 22 Day of November, 2016. **

Russell J. McMillan
SIGNATURE

* Photo of posting must be provided with certification

**** PLEASE NOTE:** Public notice is to be posted on the most visible part of the property. Improper legal notice will result in tabling of your case at the public hearing. It is the applicant's responsibility to ensure that the notice is on the property for the full 21 days.

STATE OF NEW MEXICO }
COUNTY OF SANTA FE }

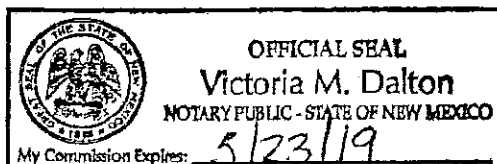
The foregoing instrument was acknowledged before me this 22 day of
November, 2016, by Russell J. McMillan

Victoria M. Dalton
NOTARY PUBLIC

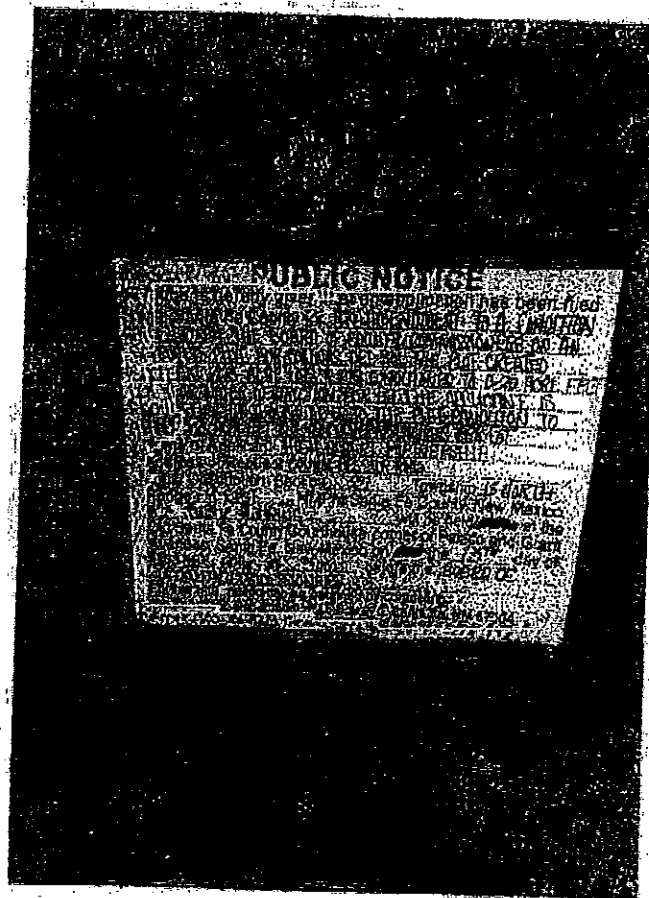
My Commission Expires:

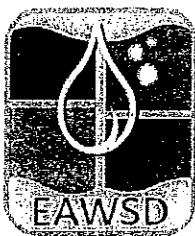
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5/23/19



NB-38





David Chakroff
GENERAL MANAGER

ELDORADO AREA WATER & SANITATION DISTRICT
2 North Chamisa Drive, Suite A • Santa Fe, NM 87508 • (505) 466-2411

James Jenkins, PRESIDENT
John Calzada, VICE PRESIDENT
Stephen Holder, SECRETARY
David Burling, DIRECTOR
Carolyn M. Horne, DIRECTOR
Elizabeth Roghair, TREASURER

November 21, 2016

Mr. Russel McMillan
9 Balsa Drive
Santa Fe, NM 87508

Dear Mr. McMillan:

You have asked about EAWSD water service to a proposed 16-lot subdivision near the northwest corner of Spur Ranch Road and Avenida de Compadres. The proposed subdivision is within the EAWSD Water Service Area. A commitment by EAWSD to provide water service to the subdivision will require the execution of a Development Agreement with EAWSD. The Development Agreement will need to be approved by the EAWSD Board of Directors before EAWSD can commit to water service.

If you wish to pursue water service by EAWSD, please contact me to discuss a potential Development Agreement for the subdivision.

Sincerely,

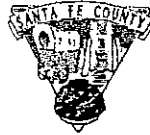
ELDORADO AREA WATER & SANITATION DISTRICT


David Chakroff
General Manager

cc: Steve King, P.E., Planning & Projects Manager



NB-40



WATER RESOURCES DEPARTMENT

TO: Shelly Cobau, Development Review Division Director

FROM: Karen Torres, Water Resources Department

RE: CDRC Case # 06-5290 Colinas del Sol Subdivision T15N R9E Sec 25 & 26; Final Development Plan

DATE: March 2, 2007

I have reviewed the Final Development Plan for the Colinas del Sol Subdivision and find it in compliance with applicable SFC Land Development Code requirements with the exception of the water conservation report and potentially water quality. A few amendments to the existing water conservation covenants are suggested to be in compliance with Ordinance 2003-6, Ordinance 2002-13 and Ordinance 2006-8 and preliminary engineering plans are lacking. Additionally the new MCL for arsenic was slightly exceeded in the test well. Re-testing, disclosure and possible treatment with monitoring are recommended.

Nature of Project

The applicant is proposing a 16 lot subdivision with an average gross density of 12.63 acres. This project is within the basin fringe hydrologic zone though the geology suggests it is the homestead hydrologic zone as there is no saturated Santa Fe Group in the subsurface. The subdivision will be supplied by onsite shared domestic wells, conventional septic tanks and a 30,000 gallon underground tank with dry hydrants for fire protection.

Land Use Code Requirements

Table 7.4 of Article VII Section 6 states all subdivisions containing 6 or more lots are required to submit water right permits if applicable, water availability assessment, water conservation report, fire protection plan and water quality analysis.

Water Availability

Source of Water

The subdivision will be supplied by 3 onsite shared domestic wells.

Hydrogeology Report Review

The applicant's consultant did two separate calculations for water availability for this subdivision. What is termed the worst case/most conservative is the most realistic for this area.

The aquifer is confined and the pump test showed 341 feet of drawdown in the well after 30 minutes of pumping at a rate of 15 gpm. As this well dewatered so quickly the upper portion of the water column is not indicative of the water table, does not appreciably



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contribute to the production of the well and should be discounted in the saturated thickness calculation.

Based on the consultant's worst case scenario analysis there appears to be sufficient water in storage to supply this subdivision.

The methodology to evaluate the lowest practical pumping level did not account for the confined nature of the aquifer in the area. Subtracting 341 feet of water column to account for the confined nature of the aquifer gives approximately 200 feet of available drawdown at the well.

Using the same parameters as the applicant's agent except quantity a theis analysis was performed to simulate pumping at the wellhead. A quantity of 4 gpm was chosen to reflect the total water budget for the project. The model run estimates 45 feet of drawdown at the well after 100 years.

To simulate regional drawdown the Shomaker and Associates 2000 report Hydrology, Groundwater Flow Model and Model Based Predictions of Drawdown and Stream flow Depletion, El Dorado Area, Santa Fe County, New Mexico was used. Figures 28 and 30 estimate approximately 15 feet of drawdown due to the pumping of El Dorado wells with other municipal and domestic wells for 100 years.

Adding the Theis drawdown to the regional drawdown gives an estimated drawdown of 60 feet at the well which is less than the 200 feet of available drawdown at the well. Due to the low amount of water required by the subdivision the well should be able to sustain the required production for 100 years.

It is recommended any additional wells be drilled at minimum to a depth of 800 feet to ensure sufficient water for 100 years.

Water Conservation Report

Water Budget

A proposed water budget is 4.0 acre-feet for residential purposes on 16 lots. This figure is exclusive of line loss and storage for fire protection, however including these should not cause the water budget to exceed the water available.

Water Conservation Measures

The applicant has submitted Declarations of Covenants and Water Restrictions filed October 10, 2005. The covenants appear standard but the following additions are suggested:

1. Kentucky Blue Grass is prohibited pursuant to Ordinance 2002-13.
2. Water Harvesting required pursuant to Ordinance 2003-6.
3. Hot water re-circulating pumps required pursuant to Ordinance 2006-8.

Liquid Waste Disposal System

Individual septic tanks are proposed for each lot.

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Water Quality

Article VII Section 6.5.1d(iv) requires preliminary engineering plans for the water system if the system will serve more than one connection. No such plan was submitted.

The water in the applicants test well has exceeded the current maximum contaminant level for arsenic. This is a new EPA drinking water standard as of January 23, 2006 and the SFC Development Code has not caught up to this new standard. Because this is a public safety issue, adherence to the current EPA Drinking Water is strongly advised but may not be technically required by the code. As the measured amount of arsenic is only slightly above this standard retesting is recommended. If upon retesting the arsenic level is exceeded treatment at the well head, disclosure of the exceeded level, disclosure of any associated maintenance cost to the homeowner and sampling of the additional wells for the project is recommended.

There are 4 (aluminum, sodium, pH and turbidity) secondary maximum contaminant levels which exceed the safe drinking water standards. These have been listed in the disclosure statement as required by Article VII Section 6.5.2b.

If you have any questions, please feel free to call me at 992-9871 or email at ktorres@co.santa-fe.nm.us.

REC CLERK RECORDED 10/23/2000

DISCLOSURE STATEMENT

COLINAS DEL SOL SUBDIVISION

PLEASE READ THIS DISCLOSURE STATEMENT BEFORE YOU SIGN ANY DOCUMENTS OR AGREE TO ANYTHING

This disclosure statement is intended to provide you with enough information to permit you to make an informed decision on the purchase, lease or acquisition of the property described in this statement. You should read carefully all of the information contained in this statement before you decide to buy, lease or otherwise acquire the described property.

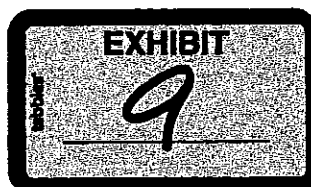
Various public agencies may have issued opinions, on both the subdivision proposal and the information contained in this disclosure statement. They may be favorable or unfavorable. You should read them closely.

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

The Board of County Commissioners recommends that you inspect the property before buying, leasing or otherwise acquiring it. **If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the six (6) month period, you have three (3) days to rescind the transaction and receive all of your money back from the subdivider when merchantable title is invested in the subdivider. To rescind the transaction, you must give the subdivider notice of your intent to rescind within three (3) days of your inspection of the property.**

County regulations require that any deed, real estate contract, lease or other instrument conveying an interest in a parcel in the subdivision be recorded with the Santa Fe County Clerk.

Building permits, wastewater permits or other use permits must be issued by state or county officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease, or otherwise acquire an interest in the land. You should also determine whether such permits are required for construction of additional improvements before you occupy the property.



1. NAME OF SUBDIVISION

Colinas del Sol Subdivision

2. NAME AND ADDRESS OF SUBDIVIDER

High Desert Partnership LCC
9 Balsa Drive
Santa Fe, NM 87508

3. NAME AND ADDRESS OF PERSON IN CHARGE OF SALES, LEASING OR OTHER CONVEYANCE IN NEW MEXICO

Russell J. McMillan
9 Balsa Drive
Santa Fe, NM 87508

4. SIZE OF SUBDIVISION BOTH PRESENT AND ANTICIPATED

Present:

Anticipated:

Number of parcels: 16

Number of parcels: 16

Number of acres: 202.006

Number of acres: 202.006

5. SIZE OF LARGEST PARCEL OFFERED FOR SALE, LEASE OR OTHER CONVEYANCE WITHIN THE SUBDIVISION.

(size of largest parcel in acres) approximately 13.30 acres

6. SIZE OF SMALLEST PARCEL OFFERED FOR SALE, LEASE OR OTHER CONVEYANCE WITHIN THE SUBDIVISION

(size of smallest parcel in acres) approximately 12.50 acres

7. PROPOSED RANGE OF PRICES FOR SELLING, LEASING OR OTHER CONVEYANCE

(\$= lowest amount) (size of parcel sold or leased) 12.5 acres \$280,000

(\$= highest amount) (size of parcel sold or leased) 12.5 acres \$380,000

REC CLERK RECORDED 10/23/2000

8. FINANCING TERMS

(interest) 10% to 12%

(term of loan or contract) 24 months with one year extension for 1%

(minimum down payment) 5%

(service charges and/or escrow fees) 1%

(premium for credit life or other insurance if it is a condition for giving credit) NA

(closing costs) \$1000 or less

(any other information required by the Truth in Lending Act if not set forth above)
None

9. NAME AND ADDRESS OF HOLDER OF LEGAL TITLE

High Desert Partnership, LLC
9 Balsa Drive
Santa Fe, NM 87508

10. NAME AND ADDRESS OF PERSON HAVING EQUITABLE TITLE

High Desert Partnership, LCC
9 Balsa Drive
Santa Fe, NM 87508

11. CONDITION OF TITLE

Include at least the following information where applicable:

(number of mortgages) No mortgage currently on property

(name of each mortgagee) Not applicable

(balance owing on each mortgage) Not applicable

(summary of the release provisions in each mortgage) Not applicable.

(number of real estate contracts on the subdivided land for which the subdivider is making payments as a purchaser) There is one real estate contract with Los Altos 1 Partnership.

(name and address of each person holding a real estate contract as owner of the subdivided land for which the subdivider is making payments as a purchaser) Los Altos 1 Partnership, 47041 Arcadia Lane, Palm Desert, California, 92260

(balance owing on each real estate contract) \$1,500,000.00

(summary of the release provisions in each real estate contract) \$190,000.00 per lot

(statement of any other conditions relevant to the state of the title) None

(statement of any other encumbrances on the land) None

12. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD THAT SUBJECT THE SUBDIVIDED LAND TO ANY CONDITIONS AFFECTING ITS USE OR OCCUPANCY

(state all deed and plat restrictions affecting the subdivided land, including water restrictions and archeological easements).

The site has secured archaeological clearance and there are no restrictions to building created by the presence of archeological or historical sites.

Covenants and Restrictions as recorded in the County Clerk's Office, Book **Inst. 1503891**, Page **✓**. These Covenants and Restrictions include requirements for water conservation, water use, and installation of a water meter and reporting of water use to the Office of the State Engineer.

No further division of land is allowed.

Fire protection is provided by an on-site 30,000 gallon storage tank, 8 inch water lines and four fire hydrants located along the Colinas del Sol. The Lotowners' Association is responsible for the maintenance of the fire protection system. The cost for maintenance of the fire protection system is included as part of the Association fees.

CLERK RECORDED 10/23/2008

13. ESCROW AGENT

(name) Capitol City Title
(address) P.O. Box 1941
Santa Fe, NM 87504-1941

(statement of whether or not the subdivider has any interest or financial ties with the escrow agent) The subdivider has no interest or financial ties with the escrow agent.

14. UTILITIES

(name of entity providing telephone service, if available) Qwest
(estimated cost) \$70,000±

(name of entity providing electricity, if available) PNM
(estimated cost) \$110,000±

(name of entity providing gas service, if available) PNM
(estimated cost) \$50,000±

(name of entity providing water if available) Subdivider provides to lot line,
owner provides from lot to house site (estimated cost) \$3,000 ±

(name of entity providing liquid waste disposal, if available) private septic tanks by
lot owner. (estimated cost) \$4,000±

(name of entity providing solid waste disposal, if available) Waste Management or
other (estimated cost) \$40.00 per house per month.

15. INSTALLATION OF UTILITIES

(water) Subdivider (date) around June, 2008

(telephone) Qwest (date) around June, 2008

(electricity) PNM (date) around June, 2008

(natural gas) (date) around June, 2008

(liquid waste disposal) private septic tanks (date) individual lot owner

(solid waste disposal) Waste Management Co. or other (date) Contract
with company as the houses are finished

16. UTILITY LOCATION

(state if all utilities are to be provided to each parcel in the subdivision.) Electricity and telephone utilities will be brought to each lot. Each Lot Owner is responsible for extending the electric and telephone to their building site. It is the responsibility of the Lot Owner to extend a water line from the lateral line at the road to the building site on the lot.

(if utilities are to be provided to some but not all parcels in the subdivision, state which utilities will be provided to each parcel.) Electric, telephone, natural gas and water will be provided to each lot in the subdivision.

(state whether or not the subdivider's proposal conforms with the County's regulation to place all utilities underground.) All utilities will be installed underground.

17. WATER AVAILABILITY

(describe the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses) .20 acre feet per year are allowed per lot.

(describe the availability and sources of water to meet the subdivision's maximum annual water requirements) The source of water for the Subdivision is a shared well system, with the typical depth of the well on the order of 800 feet.

(describe the means of water delivery within the subdivision) Depending on production capacity three wells will be constructed within the Subdivision. These wells will be constructed to a minimum depth of 800 feet. No more than four shared wells will be drilled within the subdivision.

(describe any limitations and restrictions on either indoor or outdoor water use in the subdivision). Each lot is limited to .20 acre of water per year. For further detail, see the water section of the Restrictive Covenants for the Subdivision.

(summarize the provisions of any covenants or other restrictions requiring the use of water saving fixtures and other water conservation measures). The water restrictive covenants provide a limit of .20 acre feet per year per lot. Water saving appliances and plumbing devices are required. Low water use landscaping techniques are required and non-native grasses are limited. Swimming pools are not allowed. Homeowners are required to meet the County rainwater catchment and water conservation ordinances, 2003-13 and 2003-06 respectively.

(describe what measures, if any, will be employed to monitor or restrict water use in the subdivision.) Each well will have a water meter, and each house will have a meter. Meter readings are to be documented by the property owner annually within two weeks of January 1st and shall be provided to the Santa Fe County hydrologist by April 30th of

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each year. Meter readings shall be submitted to the Office of the State Engineer on a regular basis.

18. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS

Not Applicable

19. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS

(state whether wells will be provided by the subdivider or by the prospective purchaser/lessee/subdivider) Wells will be provided by the Subdivider

(if wells are provided by subdivider, state the estimated cost to complete a domestic well, including drilling, pressure tank, control devices, storage and treatment) This section is not applicable since the Subdivider will install the wells.

(if wells are provided by the subdivider, state the cost, if any to the purchaser/lessee/subdivider) Individual homeowners must extend a water line to their house pad from the shared well. This cost is estimated at \$3,000.00

(summary of legal restrictions on either indoor or outdoor usage) As stated in the water restrictive covenants, a water meter is to be installed at each lot. Meter readings are to be documented annually by the property owner within two weeks of January 1 and provided to the Santa Fe County hydrologist with by April 30th of each year. Water use is limited to .20 acre feet per year.

(average depth to groundwater and the minimum and maximum well depths to be reasonably expected) The average depth to groundwater is approximately 160 feet. The minimum and maximum well depths to be expected are 700 feet and 800 feet respectively.

(recommended total depth of well) Approximately 700 to 800 feet.

(estimated yield in gallons per minute of wells completed to recommended total depth) Approximately 15 gallons per minute. All wells will have an underground cistern.

20. LIFE EXPECTANCY OF THE WATER SUPPLY

(state the life expectancy of each source of water supply for the subdivision under full development of the subdivision) The consulting hydrologist has determined a 100 year water supply based on the requirements of the County Land Development Code.

21. SURFACE WATER

(provide a detailed statement of the source and yield of the surface water supply and any restrictions to which the surface water supply is subject) This does not apply to this Subdivision.

22. NEW MEXICO STATE ENGINEER'S OPINION ON WATER AVAILABILITY

Include here the approved summary of the opinion made by the New Mexico State Engineer regarding (whether or not the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses). A letter from the Office of the State Engineer, dated July 21, 2006 issued a positive opinion

(whether or not the subdivider can fulfill the proposals in this disclosure statement concerning water, excepting water quality). A letter dated July 20, 2006 from the State Engineer Water Use and Conservation Bureau concurred with the positive opinion issued by the OSE.

23. WATER QUALITY

(describe the water quality in the subdivision and whether it is fit for human consumption) Water quality tests conducted by Assaigai Analytical Laboratories, Inc. indicate that no Maximum Contaminant Levels were exceeded. Four Secondary Contaminant Levels were exceeded based on the water quality testing. The water is suitable for human consumption but additional treatment is recommended at the house.

(describe any quality that would make the water unsuitable for use within the subdivision) The four Secondary Contaminant Levels that exceed Santa Fe County parameters are not necessarily a threat to human health but may affect the taste, odor or appearance of the water.

(state each maximum allowable water quality parameters that has been exceeded and the name of the element, compound, or standard that has exceeded that parameter) The four Secondary Contaminant Levels that exceeded Santa Fe County parameters are:

Aluminum - .476 mg/l versus a standard of .200 mg/l

Sodium - 141mg/l versus a standard of 100 mg/l

pH - 9.21 versus a standard of 6.5 to 8.5

Turbidity - 6.41 NTU versus a standard of 5.00 NTU

Attached as Appendix A is the assessment of the Secondary Contaminant Levels, the possible effects and the recommended treatment prepared by James Corbin, professional engineer.

24. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON WATER QUALITY

25.

Include here the approved summary of the opinion from the New Mexico Environment Department regarding:

(whether or not the subdivider can furnish water of an acceptable quality for human consumption and measures to protect the water supply from contamination in conformity with state regulations). NMED does not generally comment on water quality.

(whether or not the subdivider can fulfill the water quality proposal made in this disclosure statement). NMED does not generally comment on water quality.

(whether or not the subdivider's proposal for water quality conforms to the County's regulations on water quality). NMED does not generally comment on water quality.

25. LIQUID WASTE DISPOSAL

(describe the precise type of liquid waste disposal system that is proposed and that has been approved by the Board for use within the subdivision). Each house will have a private septic system which must be approved by the New Mexico Environment Department at the time of the building permit.

NOTE: No other liquid waste disposal system may be used in a subdivision other than the system approved by the Board.

26. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON LIQUID WASTE DISPOSAL

Include here the approved summary of the opinion received by the Board from the New Mexico Environment Department regarding:

(whether there are sufficient liquid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations). The NMED provided review comments on July 3, 2006 which requires each lot owner to obtain a liquid waste permit prior to construction.

(whether or not the subdivider can fulfill the liquid waste disposal proposals made in this disclosure statement. NMED will review individual liquid waste permit for each lot prior to construction.

(whether or not the subdivider's proposal conforms with the County's regulations on liquid waste disposal). The proposal is in compliance with the County's regulations in regards to utilizing individual septic systems as permitted by the New Mexico Environment Department

27. SOLID WASTE DISPOSAL

(describe the means of solid waste disposal that is proposed for use within the subdivision). Each landowner is responsible for contracting with a licensed solid waste hauler to pick up and remove solid waste at a frequency of no less than once each seven days.

28. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON SOLID WASTE DISPOSAL

Include here the approved summary of the opinion received by the Board from the New Mexico Environment Department regarding:

(whether or not there are sufficient solid waste disposal facilities to fulfill the needs of the subdivision in conformity with state regulations). NMED did not comment on solid waste disposal.

(whether or not the subdivider can fulfill the solid waste disposal proposals made in this disclosure statement). NMED did not comment on solid waste disposal.

(whether or not the subdivider's proposal for solid waste conforms to the County's regulations on solid waste disposal). The County's acceptance and recording of the Subdivision Plat indicates compliance with the solid waste proposal.

29. TERRAIN MANAGEMENT

(describe the suitability for residential use of the soils in the subdivision as defined in the Soil and Water Conservation District's soil survey for Santa Fe County). According to information from the National resources Conservation Service data, the most common soil types on the property are Panky loam, Zozobra-Jacocita Complex, Khapo Sandy Loam, Zepol Silt Loam, Khapo Fine Sandy Loam, Agua Fria-Paraje Complex.

(describe any measures necessary for overcoming soil and topographic limitations and who will be responsible for implementing these measures). Soils are generally suited for their intended use which is road construction, house construction and septic tank and leach fields. If clay soils are encountered it is recommended the footings be over-excavated to a soil layer more suitable for the building foundation.

(identify by lot and block numbers all parcels within the subdivision located in whole or in part on slopes in excess of 15%). Lots 3, 4, 5, 6 and 7 have slopes in excess of 15 percent.

(identify by lot and block number all parcels within the subdivision that are subject to flooding). Lots 4, 5, and 6, , are located adjacent to a 100 year flood plain as designated on the FEMA Flood Insurance Rate Map. A building setback is shown on the plat indicating the distance that buildings must be set back from this drainage.

(describe the subsurface drainage for all lots in the subdivision). Subsurface drainage runs north to south across the property.

(describe the surface drainage for all lots in the subdivision). Surface drainage is varied but generally runs from east to west across the property. Five detention ponds will be constructed by the Subdivider. Culverts will be installed at five locations along Colinas del Sol Road.

(describe the nature, location and completion dates of all storm drainage systems constructed in the subdivision, including the completion date of any required to be constructed). Five storm water detention ponds will be constructed by the Subdivider. These ponds hold storm water for several lots and take the place of ponding on individual lots. The five culverts carry water under Colinas del Sol to the central storm water ponds. The storm drainage improvements that service the development will be installed by January of 2008.

(describe restrictions and other development requirements if lots are located on 15% slopes or ridge tops). Buildings are not subject to ridgetop restrictions within this Subdivision. Leachfields must be constructed on the area of the lot with a slope of less than 15 percent.

(describe detention pond requirements for each lot). The central storm water detention ponds have been sized to accommodate the runoff from the roads and lot improvements. If the disturbed area on each lot exceeds 14,000 square feet, the runoff in excess of this amount must be detained or retained on the lot. A professional engineer must calculate the additional ponding requirements and the location and design of the pond(s) when the improved area exceeds 14,000 square feet

(describe restrictions of development within buildable areas per approved plans and County terrain management regulations). Each lot includes a buildable area meeting County standards. Building areas shown on the Development Plan are provided to show compliance with the County Terrain Management Regulations. Other sites may be selected by the Owner providing they satisfy the Terrain Management Regulations.

30. SOIL AND WATER CONSERVATION DISTRICT'S OPINION ON TERRAIN MANAGEMENT

(include here the summary of the opinion received by the Board from the Soil and Water Conservation District). A letter from the Santa Fe Pojoaque Soil and Water Conservation District, dated August 9, 2006 confirms that the proposal is in compliance with the with Terrain Management regulations of the Santa Fe County Land Development Code.

(whether or not the subdivider can furnish terrain management sufficient to protect against flooding, inadequate drainage and soil erosion). All concerns for grading and drainage and soil erosion are addressed by Morey Walker P.E. and are included within the Terrain Management plan sets.

(whether or not the subdivider can satisfy the terrain management proposals made in this disclosure statement). All terrain management comments are addressed prior to recording Subdivision plat along with Disclosure Statement and Covenants.

(whether or not the subdivider's proposal conforms with the County's regulations on terrain management. The Land Use Administrator's signature and recordation of the plat reflects conformance with Santa Fe County terrain management regulations.

31. SUBDIVISION ACCESS

(name of town nearest subdivision). Santa Fe

(distance from nearest town to subdivision and the route over which the distance is computed). The subdivision is approximately 12 miles from Santa Fe.

(describe access roads to subdivision). US 84-285, Avenida Eldorado, Camino de Compadres and North Colinas del Sol.

(state whether or not any roads are required within the subdivision which will not be built until a future date, e.g. connection roads to future developments on adjoining parcels). All roads shown on the plat will be constructed as part of the subdivision improvements.

(state whether or not subdivision is accessible by conventional vehicle). The subdivision is accessible by a conventional vehicle.

(state whether or not subdivision is ordinarily accessible in all seasons and under all weather conditions). The subdivision is ordinarily accessible in all seasons and under all weather conditions.

(describe width and type of surfacing of all roads within the subdivision). Colinas del Sol has an improved width of 20 feet with 6 inches of basecourse material on a compacted subbase.

REC CLERK RECORDED 10/23/2000

32. MAINTENANCE

(state whether the roads, drainage improvements and other improvements within the Subdivision will be maintained by the County, Subdivider or an association of lot owners). Colinas del Sol, the centralized storm water ponds, the project identification sign, are to be maintained by the Lotowners' Association. The shared wells are to be maintained by the property owners served by the respective well under shared well provisions set forth in the restrictive covenants for the Subdivision.

(if the roads within the subdivision have not been accepted for maintenance by the County, state how the roads will be maintained and describe lot owner's responsibilities and obligations with respect to road maintenance). The roads will be maintained by the Colinas del Sol Lot Owners Association.

(describe what measures have been taken to make sure maintenance takes place). As set forth in the covenants fees are assessed for the purpose of maintenance, with the Association having the right to lien landowners who fail to make their required association fees.

33. STATE HIGHWAY DEPARTMENT'S OPINION ON ACCESS

Include here the approved summary of the opinion received by the Board from the State Highway Department regarding:

(whether or not the subdivider can fulfill the state highway access requirements for the subdivision in conformity with state regulations) NMDOT in a letter dated August 11, 2006 stated that there would be no adverse impact from drainage from this Subdivision.

(whether or not the subdivider can satisfy the access proposals made in this disclosure statement) NMDOT in a letter dated August 11, 2006 stated that there would be no adverse impact from drainage from this Subdivision.

(whether or not the subdivider is conforming with the County's regulations on access). Acceptance of the Subdivision and recording of the Plat indicates the Subdivider's conformance with County regulations.

34. CONSTRUCTION GUARANTEES

(describe any proposed roads, drainage structures, water treatment facilities or other improvements that will not be completed before parcels in the subdivision are offered for sale). These improvements may not be completed prior to the sale of any lot.

(describe all performance bonds, letters of credit, or other collateral securing the completion of each proposed improvement). A financial guarantee is held by the Santa

Fe County Land Use Department for roads, and drainage structures and fire protection system. These improvements may not be completed before lots are sold.

NOTE: Unless there is a sufficient bond, letter of credit or other adequate collateral to secure the completion of proposed improvements, it is possible that the proposed improvements will not be completed. Caution is advised.

35. ADVERSE OR UNUSUAL CONDITIONS

(state any activities or conditions adjacent to or nearby the subdivision, such as feedlots, cement plants, dairies, airports and the like, that would subject the subdivided land to any unusual conditions affecting its use or occupancy). There is an existing electric line located on lots 8,9,11 and 12. This line may be relocated by the Subdivider.

36. RECREATIONAL FACILITIES

(describe all recreational facilities, actual and proposed, in the subdivision) None

(state the estimated date of completion of each proposed recreational facility) NA

(state whether or not there are any bonds, letters of credit or other collateral securing the construction of each proposed recreational facility and describe any such bond, letter of credit or other collateral) NA

37. FIRE PROTECTION

(statement as to whether or not on-site fire protection will be provided.) A 30,000 gallon underground storage tank will be constructed. Four hydrants will be serviced on an 8 inch water that extends from the 30,000 gallon storage tank.

(distance to nearest fire station from subdivision) The Avenida Vista Grande substation is approximately 7.0 miles. (state whether the fire department is full-time or volunteer) Volunteer

(state whether or not a fire hydrant is within 1000 feet of the buildable portion of each lot.) Four hydrants will be constructed within the subdivision. The location of the hydrant is not known since the house location is determined by the Lot Owner.

(state whether or not a residential sprinkler system meeting NFPA standards is required.) A residential sprinkler system meeting NFPA13-D standards is required for each house

38. POLICE PROTECTION

List the various police units that would patrol the subdivision: Santa Fe County Sheriff's Department.

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(sheriff's department, if applicable) Santa Fe County Sheriff's Department.

(municipal police, if applicable) Not Applicable.

(state police, if applicable) The State Police patrol US 285.

39. PUBLIC SCHOOLS

(name of and distance to nearest public elementary school serving the subdivision)
Eldorado Elementary School at 6.5 miles.

(name of and distance to nearest public junior high or middle school serving the subdivision) Capshaw Middle School located in Santa Fe approximately 18 miles

(name of and distance to nearest public high school serving the subdivision) Capitol High School located in Santa Fe approximately 20 miles.

40. HOSPITALS

(name of nearest hospital) St. Vincent's Hospital located in Santa Fe. The distance along US 285 and Interstate 25 is approximately 20 miles

(number of beds in nearest hospital). Licensed for 185 beds.

41. SHOPPING FACILITIES

(description of nearest shopping facilities including number of stores) The Agora Shopping Center is located in Eldorado north along US 285 approximately six miles. Villa Linda Mall is located in Santa Fe north along US 84-285, west along Interstate 25 and north along Cerrillos Road approximately 23 miles.

(distance to nearest shopping facilities and route over which that distance is computed) See above

42. PUBLIC TRANSPORTATION

(Describe all public transportation that serves the subdivision on a regular basis.)
There is no public transportation in this area.

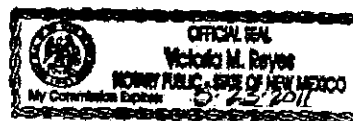
43. COMPLETION DATES

(state the projected dates upon which the items mentioned in #36 through #42 above will be available if they are not yet available). #37-#41 are currently available. #36 and #42 are not available.

IN WITNESS WHEREOF, the Owner has caused this Declaration to be signed as of the date first above written.

Russell J. McMillan
 Russell J. McMillan High Desert
 Partnership LCC, Managing Member

STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)



On this 22nd day of October, 2007, the foregoing instrument was acknowledged before me by the person(s) whose name(s) appear above.

Victoria M. Reyes
 Notary Public

My commission expires:
5/23/2011

APPROVED BY COUNTY LAND USE ADMINISTRATOR

Jack Kolkmeier 10/23/07
 Jack Kolkmeier

COUNTY OF SANTA FE) DISCLOSURE
 STATE OF NEW MEXICO) ss PAGES: 20

I Hereby Certify That This Instrument Was Filed for
 Record On The 23RD Day Of October, A.D., 2007 at 14:44
 And Was Duly Recorded as Instrument # 1503893
 Of The Records Of Santa Fe County

Valerie Espinoza
 Deputy County Clerk, Santa Fe, NM

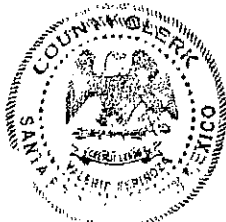


EXHIBIT A

CORBIN CONSULTING, INC.

8 Descanso Road
Santa Fe, New Mexico 87508
Phone: (505) 466-4605 • Fax (505) 466-0557
E-Mail: CorbinCons@aol.com

May 17, 2006

Jim Siebert
Siebert & Associates
Mercer Street
Santa Fe, NM 87508

Re: Colinas Del Sol – Water Quality

Dear Mr. Siebert:

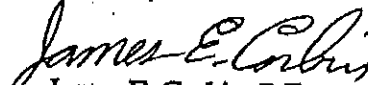
Attached is the water quality report which should be inserted in the Water Quality Appendix that was received from the state certified testing laboratory on the water samples provide from the Colinas Del Sol exploratory well (RG-86754), Enclosure #1. No Maximum Contaminant Levels (MCL's) were exceeded.

Four Secondary Maximum Contaminant Levels (SMCL's) as established by the Safe Drinking water Standards were exceeded. Paragraph 6.5.2b. requires that the following occur for contaminant levels that exceed the established SMCL's. "The subdivider must state in the disclosure statement on water quality the name of the contaminant exceeded; the contaminant level; the SMCL of the contaminant; the expected adverse effects of the contaminant for domestic water use; and, the recommended method to reduce the contaminant level to or below the SMCL." The attached addresses all of the above in table format for inclusion in the Water Quality Appendix in the report for the following contaminants, Enclosure #2,

- Aluminum – 0.467 mg/l vs a standard of 0.200 mg/l
- Sodium – 141 mg/l vs a standard of 100 mg/l
- pH – 9.21 vs a standard of 6.5 to 8.5
- Turbidity – 6.41 NTU vs the standard of 5.00 NTU

Please add this material to the Water Quality Section of the Colinas Del Sol Geohydrology Report. Thank You!

Sincerely,


James E. Corbin, P.E.

Encl: as

Cc: McMillan

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NB-60

COLINAS DEL SOL
(Secondary Maximum Contaminant Levels (SMCL'S),
Exceeding the Safe Drinking Water Standards)

Source: Assaigai Analytical Lab Report - Colinas Del Sol/McMillan (March 15, 2006)

For: Corbin Consulting, Inc.

Discussion: The following should be addressed in some form in the Disclosure Statement per the Santa Fe County Land Development Code, Paragraph 6.5.2b. It should be noted that SMCL's do not pose a significant threat to human health, and generally pose only, taste, odor, appearance, or other similar non-threatening concerns.

SAFE DRINKING				RECOMMENDED TREATMENT(S)
CONTAMINANT	WATER STANDARD	TEST RESULT	POSSIBLE EFFECTS	
• Aluminum (Common in most ground water)	0.200 mg/l	0.467 mg/l	Discolored water; linked to Alzheimer's disease in some studies at extremely high levels.	Reverse Osmosis, Distillation & Ion Exchange Systems have all been successful in removing.
• Sodium (Very common in ground water)	100 mg/l	141 mg/l	Possible high blood pressure in susceptible individuals, Otherwise no effects except maybe salty taste.	Distillation, Reverse Osmosis & Ion Exchange Systems have all been successful in reducing to acceptable levels.
• pH (Acid less than 7.0, Alkaline above 7.0)	6.5 to 8.5	9.21	Bitter taste, encrustation of pipes and appliances reducing life span and performance	Water Softener
• Turbidity	5 NTU	6.41 NTU	Staining, discoloration, abrasive effects; generally only a concern with surface water, not ground water.	Activated carbon filter or particulate filter

NOTE: Most water companies like GOOD WATER COMPANY, a local Santa Fe Company, or Culligan, a national company or others like them can develop a system(s) to deal with the above. All the above concerns are aesthetics, taste, color and appliance/pipe life concerns. None of the above, except for sodium (selected individuals), pose any health concerns.

SFC CLERK RECORDED 10/23/2007

ND-61

ASSAIGAI ANALYTICAL LABORATORIES, INC.

4301 Masthead NE, Ste. A • Albuquerque, New Mexico 87109 • (505) 345-8964 • FAX (505) 345-7259
3332 Wedgewood, Ste. N • El Paso, Texas 79925 • (915) 593-6000 • FAX (915) 593-7820
127 Eastgate Drive, 212-C • Los Alamos, New Mexico 87544 • (505) 662-2558

CORBIN CONSULTING, INC.
Attn: JAMES CORBIN
8 DESCANSO RD
SANTA FE

NM 87508

Explanation of codes

B Analyte Detected in Method Blank
E Result is Estimated
H Analyzed Out of Hold Time
N Tentatively Identified Compound
S Subcontracted
1-3 See Footnote

Assaigai Analytical Laboratories, Inc.

STANDARD

Certificate of Analysis

All samples are reported on an "as received" basis, unless otherwise noted (i.e., Dry Weight).

Client: **CORBIN CONSULTING, INC.**

Project: **MCMILLAN**

Order: **0603368 COR15** Receipt: **03-15-06**

Written By: *[Signature]* President of Assaigai Analytical Laboratories, Inc.

Sample: **MCMILLAN**

Collected: **03-15-06 9:00:00** By: **JO**

Matrix: **GRAB**

QC Group	Run Sequence	CAS #	Analyte	Result	Units	Dilution Factor	Detection Limit	Code	Prep Date	Run Date
0603368-0001A		EPA 335.2 / SM 4500 CN-C Total Cyanide						By: ECC		
W06217	W0.2006.725.25	87-12-5	Cyanide, Total	ND	mg/L	1	0.01		03-21-06	03-22-06
0603368-0001B		EPA 140.1 Threshold Odor						By: MJN		
W000R-06-015	W0.2006.885.2		Odor	No detectable odor	TON	1	1		03-16-06	03-16-06
0603368-0001C		EPA 4.1.3/200.7 ICP						By: TGA		
M06324	MT.2006.571.31	7429-90-5	Aluminum	0.20 (0.457)	mg/L	1	0.2		03-24-06	03-24-06 SMCL
M06324	MT.2006.571.31	7440-39-5	Barium	2 0.006	mg/L	1	0.003		03-24-06	03-24-06
M06324	MT.2006.571.31	7440-41-7	Beryllium	0.004 ND	mg/L	1	0.001		03-24-06	03-24-06
M06324	MT.2006.571.31	7440-70-2	Calcium	100 3.01	mg/L	1	0.5		03-24-06	03-24-06
M06324	MT.2006.571.31	7439-95-4	Magnesium	125 ND	mg/L	1	0.5		03-24-06	03-24-06
M06324	MT.2006.594.20	7440-23-5	Sodium	100 (141)	mg/L	10	0.5		03-24-06	03-28-06 SMCL
0603368-0001C		EPA 11.2.2/200.8 Metals by ICP-MS						By: BAS		
M06342	MT.2006.629.24	7440-36-0	Antimony	0.006 ND	mg/L	10	0.005		04-02-06	04-06-06
M06323	MT.2006.558.48	7440-38-2	Arsenic	0.05 0.0109	mg/L	1	0.001		03-24-06	03-27-06
M06323	MT.2006.558.48	7440-43-6	Cadmium	0.005 ND	mg/L	1	0.0005		03-24-06	03-27-06
M06342	MT.2006.611.24	7440-47-3	Chromium	0.10 0.0037	mg/L	1	0.001		04-02-06	04-03-06
M06342	MT.2006.610.24	7440-50-8	Copper	1.30 0.0074	mg/L	1	0.001		04-02-06	04-02-06
M06342	MT.2006.611.24	7439-89-6	Iron	0.30 0.264	mg/L	1	0.01		04-02-06	04-03-06
M06342	MT.2006.610.24	7439-92-1	Lead	0.015 ND	mg/L	1	0.0005		04-02-06	04-02-06
M06342	MT.2006.611.24	7439-96-5	Manganese	0.05 0.0074	mg/L	1	0.0005		04-02-06	04-03-06
M06342	MT.2006.629.24	7440-02-0	Nickel	0.10 ND	mg/L	10	0.0005		04-02-06	04-06-06
M06323	MT.2006.558.48	7782-49-2	Selenium	0.05 ND	mg/L	1	0.005		03-24-06	03-27-06
M06323	MT.2006.597.38	7440-22-4	Silver	0.10 ND	mg/L	1	0.0005		03-24-06	03-29-06

NB-62

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Assayal Analytical Laboratories, Inc.

Certificate of Analysis

All samples are reported on an "as received" basis, unless otherwise noted (i.e. - Dry Weight).

Client: CORBIN CONSULTING, INC.

Project: MCMILLAN

Order: 0603368 COR15

Receipt: 03-15-06

Sample: MCMILLAN

Matrix: GRAB

Collected: 03-15-06 9:00:00 By: JC

STANDARD
CFC CLERK RECORDED 10/23/2007
SMCL

QC Group	Run Sequence	CAS #	Analyte	Result	Units	Dilution Factor	Detection Limit	Code	Prep Date	Run Date
0603368-0001C			EPA 11.2.7/200.8 Metals by ICP-MS							
M06323	MT.2006.507.26	7440-28-0	Thallium	0.002	ND	mg/L	1	0.0005	By: BAS	03-24-06 03-29-06
M06342	MT.2006.529.24	7440-66-6	Zinc	5.0	ND	mg/L	10	0.005		04-02-06 04-06-06
0603368-0001C			EPA 245.1 Mercury by CVAA							
M06302	MT.2006.522.23	7439-97-8	Mercury	0.002	ND	ug/L	1	0.2	By: BAS	03-20-06 03-20-06
0603368-0001C			SM 2340B							
HARD	MT.2006.583.1		Hardness, as CaCO3	2.50	ND	mg/L	1	0	By: DMS	03-25-06 03-28-06
0603368-0001D			EPA 150.1 pH, Electrometric							
WPH06037	WC.2006.878.1	10-29-7	pH	6.5 to 8.5	(9.31)	units	1	0.1	By: mkm	03-18-06 03-18-06
WPH06037	WC.2006.878.1		sample temperature (°C)	18.8		deg C	1	0	H	03-18-06 03-18-06
0603368-0001D			EPA 160.1 Total Dissolved Solids							
WTDS-06-027	WC.2006.884.11	10-33-3	Total Dissolved Solids	500	378	mg/L	1	10	By: MJN	03-18-06 03-17-06
0603368-0001D			EPA 180.1 Turbidity, Nephelometric							
WTURB-06-020	WC.2006.870.4	10-08-02	Turbidity	5 NTU	(9.41)	NTU	1	0.3	By: MJN	03-18-06 03-18-06
0603368-0001D			EPA 300.0 Anions by IC							
1202	WC.2006.891.7	10987-00-8	Chloride	2.50	9.78	mg/L	5	0.05	By: JTK	03-18-06 03-18-06
W06202	WC.2006.891.7	16984-48-8	Fluoride	2.0	0.500	mg/L	5	0.05		03-18-06 03-18-06
W06202	WC.2006.891.7	14797-83-0	Nitrate, as N	10	ND	mg/L	5	0.05		03-18-06 03-18-06
W06202	WC.2006.891.7	14797-35-5	Nitrite, as N	1	ND	mg/L	5	0.05		03-18-06 03-18-06
W06202	WC.2006.891.7	14804-79-8	Sulfate	2.50	38.9	mg/L	5	0.05		03-18-06 03-18-06
0603368-0001D			EPA 310.1 Alkalinity, Titrimetric							
WALK-06-012	WC.2006.715.8	T-005	Alkalinity, Total	500	235	mg/L	1	2	By: DFC	03-22-06 03-22-06
0603368-0001D			SM 2120B							
WCOLOR-06-017	WC.2006.887.2		Color	1500	ND	APHA	1	5	By: MJN	03-18-06 03-18-06
0603368-0001E			ASTM D2330-88							
W06203	WC.2006.878.4		Surfactants	0.50	0.10	mg/L	1	0.03	By: ECO	03-17-06 03-17-06

Unless otherwise noted, all samples were received in acceptable condition and all sampling was performed by client or client representative. Sample result of ND indicates Not Detected, is result is less than the sample specific Detection Limit. Sample specific Detection Limit is determined by multiplying the sample Dilution Factor by the listed Reporting Detection Limit. All results relate only to the items tested. Any miscellaneous workorder information or functions will appear below.

Analytical results are not corrected for method blank or field blank contamination.

The percent recoveries of the matrix spike and the matrix spike duplicate, performed on this sample, are outside of QA/QC criteria (low). This is attributed to matrix interference.

**DECLARATION OF RESTRICTIVE COVENANTS
COLINAS DEL SOL SUBDIVISION**

ARTICLE 1: DECLARATION

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, High Desert Partnership LCC, the owner of the real property now duly platted as the Colinas del Sol Subdivision as shown by the plat thereof filed in the office of the County Clerk of Santa Fe County, New Mexico, on the 23 day of OCT 2007, at Plat Book 667, Page 49-508 under Reception No. 1503890 HEREBY MAKES THE FOLLOWING DECLARATION as to limitation, restrictions and uses to which the lots or tracts constituted said Subdivision may be put, HEREBY SPECIFYING that said declarations shall constitute covenants to run with all of the land, as provided by law, and shall be binding to all parties and all persons claiming under them and for the benefit of and limitations upon all future owners in said Subdivision, this declaration of restrictions being designed for the purpose of keeping said Subdivision desirable and suitable in architectural design and use as herein specified, whether or not the same are embodied in the conveyance or other instrument affecting title thereto.

ARTICLE 2: DEFINITIONS

- 2.01 "Lot" shall mean each and every numbered lot sold or held for sale in the Subdivision as shown on the Plat of survey of said Subdivision filed in the Office of the County Clerk of Santa Fe County, New Mexico, at Plat Book 667, Page 49-508 under Reception No. 1503890 "Lots" shall not include property withheld from sale by the Subdivider for dedication to the County of Santa Fe, nor property withheld from sale by the Subdivider for the exclusive use of the residents of the Subdivision or for utility services. "Lots" will mean tract.
- 2.02 "Architectural Approval" shall mean approval of plans and specifications by the person or persons designated herein to give and withhold said transferred approval, or, following the sale of thirty-three percent (33%) of the lots in the Subdivision, an Architectural Control Committee appointed by the "Lotowners" Association as provided for herein.
- 2.03 "Lotowners" Association shall mean a non-profit corporation, to be incorporated by the Subdivider, not later than thirty (30) days from the date upon which thirty-three percent (33%) of the lots in the Subdivision have been sold, and in which the ownership of each lot in the Subdivision shall give rise to one membership. Said Association shall have the power to appoint an Architectural Control Committee, and such other powers as it may be granted by the Subdivider, by the members of the "Lotowners" Association or as the Association may possess as a matter of law,



including but not limited to the right and power to own real property for the benefit of the residents of the Subdivision.

Once the "Lotowners" Association is formed, the developer shall have no voting privileges.

- 2.04 "Household pets" shall mean dogs, cats, hamsters and birds and similar small animals.

ARTICLE 3: DURATION

These restrictive covenants shall run with and bind with the land, and shall inure to the benefit of and be enforceable by the "Lotowners" Association for the owner of any lot subject to the Restrictive Covenants, the respective legal representatives, heirs, successors, and assigns, until 2020, after which time said Covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then owners of 2/3 of the lots in the Subdivision has been recorded which expressly terminates the operation of the Restrictive Covenants. These Covenants cannot be amended by the developer.

ARTICLE 4: SEVERABILITY

Invalidation of any one or more of these covenants by judgment of court order shall in no way effect any of the remaining provisions, which shall remain in full force and effect. In the event any parties hereto or their heirs or assigns shall violate or attempt to violate any of the covenants contained herein, it shall be lawful for the Subdivider, or any person or persons owning any real property situated in said parcels to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant in order to prevent them from further violation or to recover damages for such violation.

ARTICLE 5: AMENDMENTS

These Restrictive Covenants may be amended by the vote of 2/3 of the then owners of lots subject to these Restrictive Covenants. Such amendment must uniformly affect all lots within the Subdivision.

ARTICLE 6: PERMITTED USES

Upon each lot in the Colinas del Sol Subdivision there may be erected a principle residence consisting of one (1) detached single-family dwelling together with such structures and out buildings as are commonly and customarily appurtenant thereto including, but not limited to detached solar collectors; said dwellings may be used only for private residential purposes and shall be designed and built for use by a single family. All plans for every structure to be built shall be approved

as herein provided before construction shall begin. Additionally, upon each lot in said Subdivision there shall be permitted the following.

- a. One (1) private garage
- b. One (1) barn or stable; barn area not to exceed 1,400 square feet on lots allowing horses
- c. One (1) corral on lots allowing horses
- d. One (1) attached studio

ARTICLE 7: PROHIBITIONS

- 7.01 **Minimum Square Footage.** The ground floor of the structure, exclusive of portals, porches and garages, shall be not less than one thousand, seven hundred (1,700) square feet, and shall not be built without an attached garage of sufficient size to accommodate at least two (2) automobiles, which garage shall be used for vehicles and not storage. The construction of the exterior of all buildings shall be finished within one (1) year from the start of construction. Finished floors on lots 4, 5, and 6 shall be set at a minimum of one foot (1') above the FEMA 100-year base flood elevation and shown on the Plat.
- 7.02 **Set-Backs.** No structure shall be built nearer than one hundred feet (100') from any lot line. The Architectural Control Committee may grant a variance from this standard depending on the location of surrounding houses and the view corridors. Lots 4, 5, and 6 are within the FEMA Special Flood Hazard Areas, all structures shall have a fifty foot (50') setback from the limit of the one-hundred (100) year flood plain as identified by the building envelope shown on lots 4, 5 and 6. This setback from the flood plain shall not be reduced by the Architectural Control Committee.
- 7.03 **Types and Uses of Residences.** No trailer, mobile home, basement, tent, shack, garage, barn or other outbuildings shall at any time be used as a residence, nor shall any residence of temporary character be erected. Extra automobiles, trailers, boats, recreational vehicles and similar mobile structures and vehicles shall be screened from view by means of a coyote fence, wall, or similar treatment. All screening shall be located outside the Special Flood Hazard Areas (SFHA).
- 7.04 **Fencing.** Fencing of lots, or fences of any nature except enclosures for pets, horses or private gardens may be erected or maintained, provided such barriers are shown on the original plans for structure, or the plans for which are approved in the same manner as is herein provided for the approval of the original plans for construction. Not more than two and one-half (2 ½) acre shall be fenced for horses; all other fenced areas are

restricted to one-half (1/2) acre. All Fencing shall be located outside the Special Flood Hazard Areas (SFHA).

- 7.05 Animals. No animals or any poultry of any kind shall be kept or raised on said lots, except household pets, not to exceed four (4) in number. Horses, not to exceed one (1) on each lot is permitted and shall be so controlled and confined that they cannot open graze on said lot, or any other lot. Additional horses may be allowed providing that evidence of water conservation measures is submitted to Santa Fe County at time of building permit, that total water use for the lot does not exceed .20 acre feet per year. Examples of water conservation measures include rain-water harvesting from the roof of the dwelling and gray water recycling. At the time of the building permit application the Lot Owner/Builder will have to clearly describe the design solution and the water savings associated with proposed water conservation measure. A horse consumes 4380 gallons a year. For each 4380 gallons saved through water conservation, one additional horse is permitted. All barns, stables, and corrals for confining horses in combination, shall not occupy more than two and one-half (2 ½) acre of land area, and shall be of good design and sound construction, as determined by the "Lotowners" Association and the State Construction Industries Division, respectively. Solid waste from horse corrals must be removed on a regular basis. All animals should be under the control of the lot purchaser at all times. Lot purchasers shall prevent the animal in any way becoming a nuisance either from noises created by the animals, odors or other practice or conduct which may create a nuisance.
- 7.06 Oil and mineral operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on or in any lot. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot, provided, however, that this provision may not be binding upon the owners of mineral interests which have been separated from the fee simple title.
- 7.07 Hunting. No hunting or discharge of firearms shall be permitted.
- 7.08 Signage. No signs except those indicated the name and address of the residents of any lot shall be maintained or installed. No signs or other advertising shall be displayed on any lot unless first approved in writing by the "Lotowners" Association provided, however, that any owner may without such prior approval, erect (1) sign of not more than 2' x 4' advertising the lot for sale or rent.
- 7.09 Storage. No storage of building materials other than during construction shall be permitted. No storage yard for any materials other than those

commonly and regularly used in residential uses or for purposes of construction of the infrastructure of the subdivision shall be permitted. Garages shall not be used as storage.

- 7.10 Lighting. No lights mounted on a pole of otherwise suspended more than ten feet (10') above the ground and designed to illuminate an area from dusk to dawn may be placed on a lot unless it is adequately shielded to prevent being a nuisance to surrounding land owners, as determined by the "Lotowners" Association, and can be turned off at night by the resident. No mercury, sodium vapor or similar bright lights of any kind shall be allowed.
- 7.11 Antennae & Towers. Antennae, masts and towers of all types shall be governed by the general height and nuisance restrictions of these covenants. Television and other receiver dishes shall be screened from view from nearby lots and roads.
- 7.12 Nuisances. No noxious or offensive activity can be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the residents of the Subdivision. This provision shall be liberally construed to include activities which are offensive to reasonable person such as the disposal or retention of trash, retention of junked vehicles, carrying on of loud activities, the conduct of any activity which produces interference to ordinary TV reception such as improperly tuned HAM or CB reception or transmission stations, etc. The Board shall have the authority to intervene in cases where the constant barking of dogs creates a nuisance for the residents within the Subdivision. The Board can take action as permitted by law to address the barking of dogs which creates a nuisance.

ARTICLE 8: CONSTRUCTION

- 8.01 Limitations. Construction shall begin within ninety (90) days after approval of plans is given by the Subdivider or by the Architectural Control Committee; in the event construction is not timely begun, plans and specifications shall be resubmitted to the Subdivider or to the Architectural Control Committee for approval before construction is begun; once begun, exterior construction of any structure or revegetation or landscaping of any excavated area shall be completed within two hundred forty (240) weather working days; provided that nothing herein contained shall prohibit staged construction: in any stage construction of the principal residence construction shall be completed within two hundred forty (240) weather working days; provided further that the initial stage shall not be of less than one thousand, seven hundred (1700) square feet, and provided further that upon completion of any stage, the structure

which is so built shall have the exterior appearance of finished construction.

- 8.02 Protection of vegetation. Prior to construction, contractual requirements shall be made of the builder requiring him or her to refrain from damaging or removing trees and other vegetation, except as may be reasonably necessary and unavoidable for clearance of a building site and construction of driveways, parking areas and turnarounds.
- 8.03 Revegetation. Revegetation of sites damaged by construction shall occur, consisting of plant materials indigenous to the area, except for cultivated garden areas.
- 8.04 Height. No structure shall be erected that exceeds eighteen (18) feet above the highest point of the land adjacent to the building façade. The Architectural Control Committee may permit heights up to twenty-four (24) feet upon careful review of the architectural treatment of the building design.

ARTICLE 9: ARCHITECTURAL APPROVAL

- 9.01 Approval. Approval of the style and location of houses, barns and other structures shall be required for their construction, exterior modification, or additions on any lot in the Colinas del Sol Subdivision, and the location and design of all on-site water and wastewater systems. Said approval shall be given by the Architectural Control Committee following submission of plans and specifications and upon compliance with the standards herein set forth.
- 9.02 Standards. Standards for architectural approval are:
 - a. No principle residence shall be of less than seventeen hundred (1700) square feet as measured by the perimeter of the exterior walls surrounding interior heated space.
 - b. The type of construction and architecture shall be based upon and adhere generally to Santa Fe style architecture or Territorial style architecture, Northern New Mexico pitched roofs are allowed. Modifications which further the use of solar energy or other energy sources are encouraged when judged by the Architectural Control Committee to be in harmony with the overall guidelines for the development. The use of construction materials having the appearance of local, indigenous and traditional building materials is encouraged and favored, including the use of muted earth tone colors for exterior finishes, but excluding bright shades of red, blue, yellow, white, etc. Other materials may be used where their use will be in accordance

with sound architectural practice and will not be visually offensive in the sole discretion of the Subdivider or the Architectural Control Committee, as the case may be. The determination of whether modification of architectural styles is moderate and reasonable shall likewise be in the sole discretion of the Subdivider or the Architectural Control Committee. The only requirement for the said Sub divider or the Architectural Control Committee shall be that an act in good faith for the benefit of all owners of lots in the Subdivision.

- c. All extensions of utilities shall be underground to all structures at all locations. No electrical or telephone lines shall be maintained above ground at any time. Propane tanks shall be underground.
- d. No exterior floodlights or street lamps shall be installed, operated or maintained on any lot in such manner that light there from shall directly illuminate lands other than those of the owner thereof.
- e. All construction shall meet all County and State regulations and codes.

ARTICLE 10: INTERIM ARCHITECTURAL CONTROL COMMITTEE

10.01 Appointment/Terms. Until the sale of the seventh (7th) lot the Subdivider shall serve as the Architectural Control Committee. Upon the sale of the seventh (7th) lot an Interim Architectural Control Committee shall review development plans for each lot. Upon the sale of the seventh (7th) lot, the Subdivider shall appoint an Interim Architectural Control Committee consisting of three (3) members. The Subdivider shall serve as an automatic member. The other two (2) members shall be appointed by the Subdivider. At least one (1) of the appointed members shall be an owner of a lot in the Subdivision. The third (3rd) member shall be a resident of Santa Fe County. The members shall serve until the sale of the last lot in the Subdivision, at which time a permanent Architectural Control Committee will be appointed by the "Lotowners" Association, or as otherwise provided for in the "Lotowners" Association By-Laws.

10.02 Non-Liability of Committee. The Committee shall not be responsible for any defects in architectural plans or specifications or in any building or structure erected according to such plans and specifications. The Committee shall not be liable for damages to anyone so submitting plans for approval, or to any owner or owners of land covered by this instrument by reason of mistake in judgment, negligence or nonfeasance of itself, its agents or employees, arising out of or in connection with the approval or disapproval or failure to approve any such plans. Any person or entity submitting plans to the Committee for approval submitting plans to the committee for approval shall for himself, and his successors and assigns, by the submitting of such plans, waive all claims for damages resulting from any such acts or omissions. Approval of plans by the

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committee does not amount to any representation that the plans or other proposed use of the lot conform to these restrictive covenants.

ARTICLE 11: "Lotowners" ASSOCIATION

- 11.01 Assessments/Purpose. Upon the sale of thirty-three percent (33%) of the lots in the Subdivision and the formation of the "Lotowners" Association, as aforesaid, the "Lotowners" Association shall have the right and power to assess each lot owner, for the purpose of cleaning and maintaining all properties held by it for the benefit of the said owners of the lots in the Subdivision, and for the purpose of maintaining the roadways, drainage improvements, fire protection system in the Subdivision, and such assessments to be for other purposes as may be agreed upon by the members
- 11.02 Amount. The amount of the "Lotowners" Association assessment will be determined annually by the governing officers of the Association. The amount assessed shall be paid not later than sixty (60) days following the delivery of notice thereof to the owner of each lot. Delivery of said notice shall be made to the principal residence on each such lot, or if no residence exists thereupon, to the address of the owner as shown on the most recent deed of record on file in the office of the Clerk of Santa Fe County, and if no address is shown, then by posting said notice on the most public portion of said lot.
- 11.03 Liens: The said "Lotowners" Association shall have a lien against the lot of any owner to secure the payment of said assessment. Said lien shall be enforceable by the same procedure as provided for enforceable by the same procedure as provided for enforcement of a material man's lien, including the right to attorney fees.
- 11.04 Fees. In addition to the "Lotowners" Association assessment, there will be a two hundred dollar (\$200) fee payable to the "Lotowners" Association upon the initial purchase of a lot in the Subdivision, and upon resale of lots, said fee will be paid by the new buyer. All initial purchase fees received before the "Lotowners" Association is formed will be held in escrow and paid to the "Lotowners" Association upon its incorporation.
- 11.05 Taxes. The developer shall pay property taxes on the property until each lot is sold.

ARTICLE 12: SOLAR ENERGY

Solar Rights. The owners of each lot shall have the right to the use and enjoyment of radiant energy from the sun which naturally impinges on their lot(s) and neither grantor nor any Lotowners shall in any way obstruct or interfere with the path of natural radiation from the sun to any adjacent lot. No vegetation,

structure, fixture, or other object shall be so situated that it casts a shadow at a distance greater than 20 feet across any property line on December 21 between the hours of 9:00 a.m. and 3:00 p.m. standard time provided that this restriction does not apply to utility wire and similar objects which obstruct light and which are needed and situated for reasonable use of the property in a manner consistent with other covenants herein. The Landowners within the development recognize the desirability of creating and maintaining a common place to ensure access for direct sunlight on all parcels within the development for public health, aesthetic and other purposes, specifically including access to sunlight for solar energy collectors.

ARTICLE 13: COMMERCIAL ACTIVITIES ALLOWED

Nothing herein shall be construed to prohibit the use of space within a residence for professional or other office in which there is employed not more than one (1) employee or other person who does not reside on said lot which does not substantially increase the flow of traffic to such lot to a level greater than that normally generated by such a residence.

ARTICLE 14: CONSTRUCTION SITES

The selection of all construction sites on any lot shall be subject to approval of the Subdivider or the Architectural Control Committee. Said approval may be withheld if the site selected will unreasonably interfere with drainage patterns or archaeological sites, will violate set-back requirements, will result in excessive cutting and filling, would be inappropriate for location of on-site sewage disposal systems, or will require excessive removal of native vegetation.

ARTICLE 15: LIQUID WASTE DISPOSAL

All on-site liquid waste disposal systems shall comply with the requirements of Santa Fe County and New Mexico Environment Department. Prior to installation of on-site septic systems, all Lotowners are to certify to the suitability of the soil to accept domestic liquid waste, and are required to obtain Environment Department approval for installation of the individual liquid waste system. Should the soil type prove to be unacceptable for conventional on-site, septic tank and leach field systems, Lotowners are required to use Secondary treatment systems as authorized by the New Mexico Environment Department.

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ARTICLE 16: SOLID WASTE DISPOSAL

Each lot owner will contract with a qualified company to collect solid waste on a weekly basis. Should the lot owner fail to provide for the disposal of solid waste, and it becomes a nuisance for the Subdivision, the Association shall have the right and authority to arrange for solid waste pick up on a weekly basis on behalf of the negligent lot owner. The lot owner will be assessed for the cost of the solid waste collection and failure to pay the assessment will result in a lien against the property pursuant to the provisions of this Declaration.

ARTICLE 17: EASEMENTS

17.01 Restrictions. No lot owner shall build or erect any structure upon any road, utility, drainage, or other easement as shown on the plats of the Subdivision.

ARTICLE 18: SHARED WELLS; WATER USE LIMITATIONS; COUNTY DEVELOPMENT CODE; CONSERVATION PLAN; SPECIAL PROVISIONS FOR ENFORCEMENT

18.01 Shared Wells. Domestic water use is restricted to .20 acre feet per year (65,170 gallons per year). The Lots are served by the following Water Wells:

- a. A Water Well identified as #1, located on Lot 1, serves as the domestic water supply for Lots 1, 2, 3, 14, 15 and 16. Owners of these Lots are entitled to use a maximum of .20 acre feet of water (65,170 gallons) per Lot per year. The total aggregate amount of water to be drawn for domestic use from Water Well #1 is 1.20 acre feet per year or 391,021 gallons per year.
- b. A Water Well identified as #2, located on Lot 12, serves as the domestic water supply for Lots 8, 9, 10, 11, 12 and 13. Owners of these Lots are entitled to use a maximum of .20 acre feet of water per year or 65,170 gallons per Lot annually. The total aggregate amount of water for Water Well #2 is one (1.20) 391.021 gallons annually.
- c. A Water Well identified as #3, located on Lot 4, serves as the domestic water supply for Lots 4, 5, 6, and 7. Owners of These are entitled to use a maximum of .20 acre feet of water (65,170 gallons) per Lot annually. The total aggregate amount of water for Water Well #3 is .8 acre foot per year or 260,680 gallons annually.

18.02 Limited Production. In the event any Water Well is unable to produce the maximum amount of water described in § 18.01, the amount of water used by the Owners for the Owner's Lot shall be reduced proportionately to reflect the actual production from the Water Well serving the Owner's Lot.

18.03 Reserved Easements. The reserved nonexclusive Easement described in shall include the purposes of maintaining, repairing, and replacing Shared Water System facilities, including the fire protection system. These easements include the right of ingress and egress by the Administrator, Owners and their representatives to maintain and replace as necessary the Shared Well System facilities, including the right to use such vehicles and rigs as are commonly and reasonably used for the maintenance of the Water Well, pumps, storage tanks, cisterns and appurtenant facilities.

18.05 Well Administrator. The Owners of the Lots served by each Water Well shall appoint an Administrator. The first Owner to occupy a house served from a Water Well shall act as Administrator until three of the Lots served by the respective Water Well is improved by a residence, at which time the Owners of the Lots served by the Water Well shall elect by vote the Administrator. Each Owner of a Lot is entitled to one (1) vote on matters related to the Water Well serving the Lot. The Administrator has the following responsibilities:

- a. Accept and transfer ownership of the Water Well pursuant to the requirements of the Office of the State Engineer and designate well as a domestic well.
- b. Submit meter readings for the Water Well and individual Lot meters to Santa Fe County and Office of the State Engineer on an annual basis, or as may be required by the County Development Code or the Office of the State Engineer.
- c. Prepare the annual Well Budget reflecting the total annual Well Assessment and separately stating the Well Operations Assessment and the Well Reserve Assessment.
- d. Collect the Well Assessment from each Owner to ensure the continued operation of the Shared Water Well.
- e. Pay monthly utility bills.

18.06 Initial water well budget and assessment. Until such time as a Well budget is prepared by the Administrator and approved by a majority of the Owners benefited by the Water Well, the annual Well Assessment for each Lot shall be One Hundred Dollars (\$100.00) for Well Operations Assessments. The Well Assessment shall be paid by the Owner within thirty (30) days following receipt from the Well Administrator of the amount of the Owner's Well Assessment. If the Well Assessment is not paid within thirty (30) days, the Well Administrator shall notify the Board and such delinquent Well Assessment shall be deemed a Special Expense and the Association shall be entitled to collect the

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Well Assessment, on behalf of the Well Administrator, and have all remedies provided in this Declaration for collection of Common Expenses.

18.07 Allocation of costs before and after connection to well. All Owners shall pay the Well Reserve Assessment proportionately, based upon the total number of Lots to be served by the Water Well whether or not the Owner has connected the Owner's improvements to the Shared Well. In addition, those Owners who have connected their improvements to the Shared Well shall pay, in addition to the Well Reserve Assessment, the Well Operations Assessment, proportionately, based upon the total number of Lots connected to the Water Well.

18.08 Connection requirements. Each Owner must connect to the water line stubbed out to each Lot. A meter must be installed by the Owner at each Lot. The model and serial number of the meter must be submitted to the Office of the State Engineer. Well meter readings and meter readings from individual Lots must be submitted to the Santa Fe County Land Use Administrator by January 31st of each year.

18.09 Limitation on number of wells. There shall be no more than three shared wells within the subdivision.

18.10 Water use limitations, County Code. No additional individual domestic wells under NMSA 1978 § ;72-12-1 may be drilled on any Lot. The following additional provisions apply to Lots under the County Development Code:

- a. Water saving fixtures shall be installed in all new construction. Water saving fixtures shall include, but not be limited to, low flush toilets, low flow fixtures, and insulation of hot water pipes. Toilets shall use no more than 1.6 gallons per flush; shower head flows shall not exceed 2.5 gallons per minute; and faucet flow shall not exceed 2.5 gallons per minute.
- b. Evaporative coolers are prohibited.
- c. Dishwashers shall use no more than 13 gallons in a regular cycle and shall have a cycle adjustment which allows reduced water to be used for reduced loads.
- d. Washing machines shall use no more than 43 gallons in the regular cycle and shall have cycle or water level adjustments which permit reduced amounts of water to be used for reduced loads.
- e. Low water use landscaping techniques applying the principles of xeriscaping shall be utilized. Drip irrigation is encouraged

whenever possible. Low water use grasses, shrubs and trees may be watered as needed during the first and second years of their growth to become established. Thereafter, such vegetation shall receive only minimal water as needed by each species. Lawns of non-native grasses shall not exceed 200 square feet per Lot and shall only be watered with rain water collected by means confined to the property or with recycled household gray water. Gray water systems shall meet the requirements of the New Mexico Construction Industries Division and the Uniform Plumbing County Development Code and other applicable regulatory requirements.

- f. All water service connections shall be metered with a Santa Fe County approved meter. Meter readings shall be recorded annually within two weeks of January 1st. Meter readings shall be provided to the County Land Use Administrator, upon request.
- g. Swimming pools, of a permanent or temporary nature are not permitted, on the Lots. Temporary wading pools of a diameter not to exceed eight feet (8') and a depth not to exceed one foot (1') and covered spas are acceptable at each dwelling unit.
- h. The water budget submitted to the County Land Use Office assumes the following areas for landscape:

Buffalo or similar:	200 square feet
Shrubs and horticulture:	200 square feet
Trees	500 square feet

18.11 Water harvesting. Ordinance 2003-6 adopted by Santa Fe County requires water harvesting by use of various methods of rainwater catchment including cisterns, rain barrels, and directing drainage to landscaped area via swales, tree wells, raised planters or other permaculture techniques. Each Lot Owner will be required to collect roof drainage for a minimum of 85% of roof area to be reused for landscape irrigation. Homes consisting of 2,500 square feet or greater of heated area must install underground, partially buried, or insulated cisterns, and all landscaping shall be connected to a drip irrigation system. Homes under 2,500 square feet of heated area must submit a rainwater catchment plan with their development permit application.

18.12 Special enforcement of Article 18.0 by County, Severability.

- a. No amendment may remove, revoke, or make less restrictive any restriction set forth in this Article 18.0

without the written consent of the Santa Fe County Land Use Code Administrator.

- b. The covenants of this Article 18.0 shall run with and bind the land, shall inure to the benefit of and be enforceable by the County Land Use Administrator, any Owner or the Association in any proceeding at law or in equity against any Person or Persons violating or attempting to violate any covenant or restriction or to restrain any such violation. Any failure by the county Land Use Administrator, any Owner or the Association prevails in any action against any Person or Persons to enforce any provision hereof, the prevailing party shall be entitled to recover from such Person or Persons all costs and reasonable attorneys fees.
- c. The invalidity or unenforceability of any covenant, restriction, term or other provision of Article 18.0, as determined by a court of competent jurisdiction, shall not impair or adversely affect the validity or enforceability of any other covenant, restriction, term or provision hereof, which shall be and remain valid and enforceable to the fullest extent permitted by laws. The provisions of the Article 18.0 shall be governed by and interpreted under the laws of the State of New Mexico and are binding upon each Owner, and the Owner's successors and assigns.

ARTICLE 19: UTILITIES

19.01 General Requirements. All utilities shall be underground. Except for electric transformers and telephone pedestals.

IN WITNESS WHEREOF, the Owner has caused this Declaration to be signed as of the date first above written.

Russell J. McMillan
 High Desert Partnership LCC
 Russell J. McMillan, Managing Member

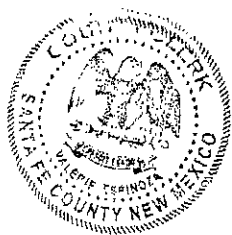
STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)



On this 30th day of July, 2007, the foregoing instrument was acknowledged before me by the person(s) whose name(s) appear above.

Victoria M. Reyes
 Notary Public

My commission expires:
5/23/2011



COUNTY OF SANTA FE)
 STATE OF NEW MEXICO) ss. DECLARATION COVENANTS
 PAGES: 16

I Hereby Certify That This Instrument Was Filed for record On The 23RD Day Of October, A.D., 2007 at 14:44 and Was Duly Recorded as Instrument # 1503891 of The Records Of Santa Fe County

Valerie Espinoza
 Witness My Hand And Seal Of Office
 Valerie Espinoza
 County Clerk, Santa Fe, NM

Harry B. Montoya
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3



Paul Campos
Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Roman Abeyta
County Manager

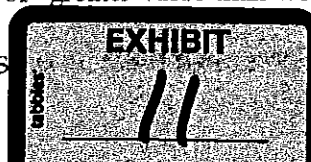
BEFORE THE BOARD OF COUNTY
COMMISSIONERS OF SANTA FE
COUNTY, NEW MEXICO

CASE NO. 06-5290
COLINAS DEL SOL SUBDIVISION,
HIGH DESERT PARTNERSHIP, LLC, APPLICANT
PRELIMINARY AND FINAL DEVELOPMENT PLAN AND PLAT APPROVAL

ORDER

THIS MATTER came before the Board of County Commissioners of Santa Fe County (hereinafter referred to as "the BCC" or "the Board") on April 10, 2007. High Desert Partnership, LLC, (hereinafter referred to as "the Applicant") requests preliminary and final development plan approval and plat approval for a 16-lot residential subdivision on 202.03 acres. The Board, having reviewed the Application and supplemental materials, staff reports and having conducted a public hearing, makes the following findings of fact and conclusions of law:

1. The Applicant submitted a vicinity map and description of existing site data and a letter of intent to request preliminary and final development plan approval and plat approval for a 16 lot subdivision on 202.03 acres. The proposed lot sizes range from 12.5-acres to 13.30-acres, with an average gross density of 12.5-acres per dwelling unit. The property is in the Basin Fringe Hydrologic Zone where the minimum lot size is 12.5-acres per dwelling unit.
2. The Applicant, pursuant to Section 16(A)(2) of Santa Fe County Ordinance No. 2006-02, seeks to make a cash payment in lieu of its obligation to provide affordable housing by making a cash payment that is equal to or of greater value than would have been required if the project



SFC CLERK RECORDED 06/20/2007

NB-80

had been constructed or created affordable units. In deciding whether to accept a cash payment as an alternative means of compliance, the County shall consider the following where applicable:

a. whether the proposed cash payment is equal to or greater than the cost of constructing equivalent affordable units within the project, applying the methodology set forth in the Affordable Housing Regulations;

b. whether a proposed cash payment or dedication of property creates a substantial surplus of funds within the dedicated housing fund or trust specific to that purpose;

c. whether the appraised value of the property proposed to be dedicated is equal to or greater than the total estimated value of the affordable units that would have been constructed within the project, applying the methodology set forth in the Affordable Housing Regulations; and

d. whether a cash payment or property provides a greater overall public benefit than if the affordable units were constructed within the project or minor project that would have otherwise provided for mixed-income development.

Ordinance No. 2006-02, § 16 (F).

3. The Applicant proposes payment of \$393,100.00 in lieu of creating affordable housing units.

4. The Applicant's proposal to make a payment in lieu of creating affordable housing units should be accepted. The proposed cash payment is equal to or greater than the cost of constructing equivalent affordable housing units. Additionally, the cash payment can be utilized to provide affordable housing in a more appropriate area that has wider services available to residents and to enable the Housing Authority to target specific locations where higher density development can be integrated. The large size of the lots, the distance of the project from community services, and the maintenance costs associated with large lots on private roadways,

septic systems, and shared wells make a cash payment more appropriate than constructing three affordable lots on the property.

5. At the April 10, 2007 public hearing, Staff stated its position that the Application meets the requirements of the Santa Fe County Land Development Code. Staff recommended approval of the Application, including the requested cash payment in lieu of the creation of affordable units on the property, subject to conditions.

6. At the April 10, 2007 public hearing, no one spoke in opposition to the Application.

7. The Application should be approved subject to Staff conditions, with the following amendments and conditions:

a. Staff's recommended condition No. 3 should be amended to read as follows: "Payment of \$84,708.81 to the Santa Fe Southern Railway for improvements to the Spur Ranch Road crossing."

b. Staff's recommended condition No. 9 should be amended to read as follows: "Water use on this property will be restricted to 0.20 acre feet per year per lot. Water restrictive covenants must be recorded with the Final Plat. A water meter must be installed for each lot and annual readings must be submitted to the County Hydrologist by January 31st of each year."

c. The following condition No. 16 is added: "The Applicant shall construct Avenida de los Compadres from Spur Ranch Road to the northerly property line to county standards for a local sub-collector."

IT IS SO ORDERED

I certify that the Application was approved by the Board of County Commissioners on this

13th day of June, 2007.

The Board of County Commissioners of Santa Fe County

Virginia Vigil

Virginia Vigil, Chair

ATTEST:

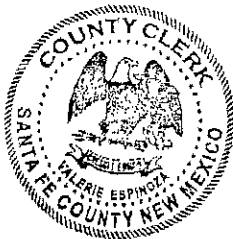
Valerie Espinoza

Valerie Espinoza, Santa Fe County Clerk

Approved as to form:

Stephen C. Ross for

Stephen C. Ross, Santa Fe County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDER
PAGES: 4

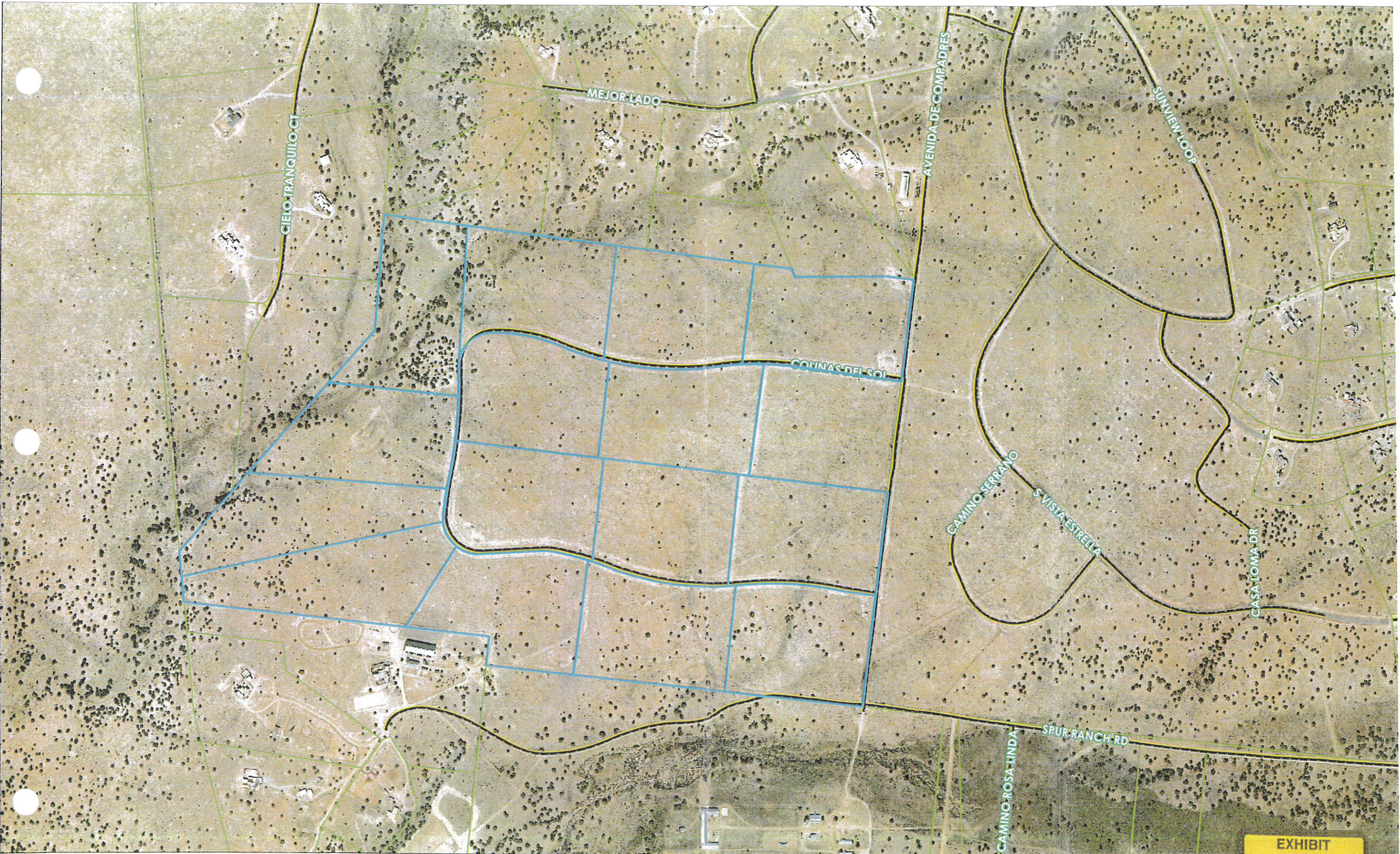
I Hereby Certify That This Instrument Was Filed for
Record On The 20TH Day Of June, A.D., 2007 at 09:35
And Was Duly Recorded as Instrument # 1488367
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy County Clerk, Santa Fe, NM

Valerie Espinoza

SFC CLERK RECORDED 06/20/2007





 Roads
 Parcels



1,000

500

0

1 inch represents 500 feet
1,000

2,000

3,000

Feet



NIR-001

EXHIBIT
12

Reference only:
no liability for
use of these data
responsible for
2014 aerial imagery



