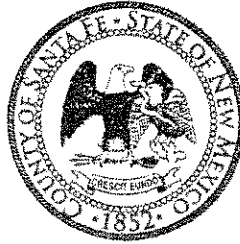


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

DATE: *May 24, 2018*

TO: *Board of County Commissioners*

FROM: *Michael Kelley, Public Works Department Director MK 5/30/18*

VIA: *Katherine Miller, County Manager*

ITEM AND ISSUE: *BCC Meeting June 12, 2018.*

Approval of Grant of Permanent Drainage Easement Agreement Between Daniel C. Cobb and Karen H. Cobb as Grantors and Santa Fe County as Grantee for the Race Track Subdivision Drainage Improvement Project - (Public Works/Terry Lease)

SUMMARY:

The Public Works Department is requesting approval of the attached Permanent Drainage Easement Agreement ("Easement") that is essential for the successful completion of a drainage improvement project known as the Race Track Subdivision Drainage Improvement Project ("Project").

BACKGROUND:

The Race Track Subdivision has been experiencing drainage and erosion problems for many years and the Santa Fe County Board of County Commissioners have authorized funding for the Project. Daniel C. Cobb and Karen H. Cobb are the fee owners of the residential property located at 41 Camino Largo, within the traditional community of La Cieneguilla/La Ceinega ("the Property"). The Cobbs have agreed to sell the Easement to the County for the appraised value of \$5,474.00. Acquisition of this Easement will allow surface water to move from the road surfaces, across the Property and into a 20' wide arroyo and drainage easement that dissects the Property.

ACTION REQUESTED:

Approval and execution of the Easement.

PERMANENT DRAINAGE EASEMENT AGREEMENT

This Permanent Drainage Easement Agreement (the "Agreement") is entered into between Daniel C. Cobb and Karen H. Cobb, husband and wife (collectively, "Grantor"), and Santa Fe County, a political subdivision of the State of New Mexico ("Grantee" or "County").

RECITALS

- A. Grantor is the fee owner of the real property located at 41 Camino Largo, Santa Fe, New Mexico ("the Property"), which is more particularly described in that certain Warranty Deed filed as Instrument No. 1200899 in the records of the County Clerk.
- B. Grantee is conducting a drainage improvement project known as the Race Track Subdivision Drainage Improvement Project (the "Project") in order to improve drainage through the subdivision.
- C. Grantee requires a perpetual drainage easement across a portion of the Property to complete the Project.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, Grantor and Grantee agree as follows:

1. Grant of Drainage Easement and Temporary Construction Permit.

1.1 Drainage Easement. Grantor hereby grants to Grantee, its successors and assigns, a permanent easement (the "Drainage Easement") over, under, in, along, across and upon the area of the Property described on the attached and incorporated Exhibit A (the "Easement Area"), solely for the purpose of facilitating and maintaining the controlled conveyance of surface water through the Easement Area, which may include construction, installation, maintenance, operation, repair, replacement, and use of permanent drainage improvements and other structures within the Easement Area to minimize erosion and control the flow of surface water and to access the drainage easement on adjacent properties (collectively, "Authorized Purposes").

1.2 Temporary Construction Permit. Grantor hereby issues Grantee a temporary construction permit (the "Temporary Construction Permit") upon so much of the Property around the Easement Area as may reasonably be necessary for the initial construction and installation of drainage improvements and to conduct any studies, testing, or surveys that may be necessary prior to such construction and installation.

2. Terms of Drainage Easement and Temporary Construction Permit.

2.1 Drainage Easement. The Drainage Easement shall commence on the Effective Date and shall run with the land and continue in perpetuity in full force and effect.

2.2 Temporary Construction Permit. The Temporary Construction Permit shall commence on the Effective Date and shall automatically terminate upon the first occurrence of (i) the completion of the construction and installation of the drainage improvements and restoration of any disturbed surface or (ii) five years after the Effective Date.

3. Reservation by Grantor. Grantor reserves all right, title and interest in and to the Easement Area not granted to Grantee under this Agreement; *provided*, however, that Grantor shall not erect or maintain any buildings or other structures within the Easement Area, obstruct the flow of surface water within the Easement Area, or otherwise interfere with Grantee's right to carry out the Authorized Purposes.

4. Restoration. Grantee will seek to avoid or minimize any disturbance of the Property outside the Easement Area during the term of the Temporary Construction Permit. However, if such disturbance occurs, Grantee shall restore the disturbed area outside the Easement Area to its condition immediately prior to the disturbance, except that Grantee shall have no obligation to replant native vegetation.

5. General Provisions.

5.1 Assignment. Grantee's rights under this Agreement are assignable at Grantee's discretion, and upon such assignment Grantee shall be forever released and discharged from any and all claims, demands and damages which Grantor may have, make or suffer as a result of anything done or occurring after the date of such assignment. Nothing contained in this Section 5.1, however, shall in any way be construed as releasing Grantee's successors and assigns from any obligations to Grantor created by this Agreement or to in any way limit Grantor's remedies at law or in equity as against such successors and assigns.

5.2 Effective Date. This Agreement shall be effective upon the last date of signature below ("Effective Date").

5.3 Authorized Representative. Each individual signing on behalf of a Party states that he or she is the duly authorized representative of that Party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the Party on whose behalf the representative is signing. The County Manager is authorized to execute this Agreement under County Resolution 2017-121.

5.4 Further Cooperation. The Parties agree to execute such other documents and to perform such other acts as may reasonably be necessary or desirable to further the purposes of this Agreement.

5.5 Cancellation of Prior Agreement. This Agreement shall supersede and replace all prior written or oral agreements between the Parties concerning the Project or Drainage Easement, if any.

5.6 No Third-Party Beneficiaries. The Parties do not intend by this Agreement to benefit any person who is not a party to this Agreement. No person other than the Parties may enforce this Agreement.

5.7 Bateman Act. Grantor acknowledges that Grantee is governed by the Santa Fe County Board of County Commissioners ("BCC"). BCC is subject to the Bateman Act, NMSA 1978, Section 6-6-11(1968), which prohibits BCC from contracting any debts during any current year which, at the end of such current year, is not and cannot be paid out of money actually collected by Grantee and belonging to that current year. Any indebtedness for any current year that is not and cannot be paid out of funds belonging to that year is void.

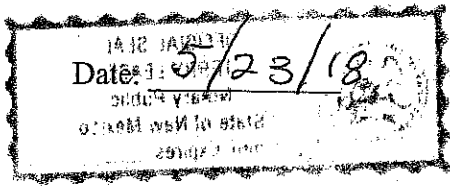
5.8 Sovereign Immunity. The County's sovereign immunity shall not be waived, if at all, except to the extent provided in NMSA 1978, Section 37-1-23, and the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1 *et seq.*

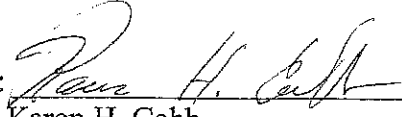
IN WITNESS of this, the undersigned have executed this Agreement as of the last date written below.

GRANTOR:


By: _____

Daniel C. Cobb
41 Camino Largo
Santa Fe, New Mexico




By: _____

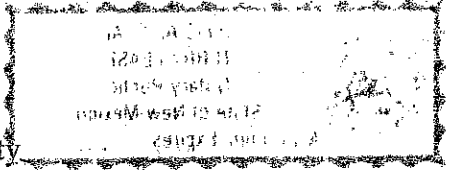
Karen H. Cobb
41 Camino Largo
Santa Fe, New Mexico

Date: 5/23/18

BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY - GRANTEE

By: _____

Anna Hansen, Chair
Board of County Commissioners of Santa Fe County



[Acknowledgement of Grantor follows on next page]

ATTESTATION:

Date: _____

Geraldine Salazar
Santa Fe County Clerk

Approved as to form:



Date: 5/16/2018

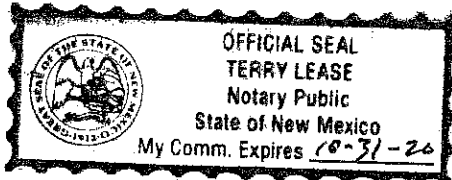
R. Bruce Frederick
Santa Fe County Attorney

ACKNOWLEDGEMENT OF DANIEL C. COBB

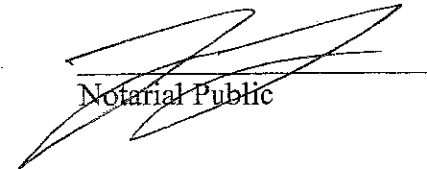
State of New Mexico)
)ss:
County of Santa Fe)

This instrument was acknowledged before me on this 27 day of MAY,
2018, by Daniel C. Cobb.

(seal)



My commission expires: 10-31-20


Notarial Public

ACKNOWLEDGEMENT OF KAREN C. COBB

State of New Mexico)
)ss:
County of Santa Fe)

This instrument was acknowledged before me on this 27 day of MAY,
2018, by Karen H. Cobb.

(seal)



My commission expires: 10-31-20

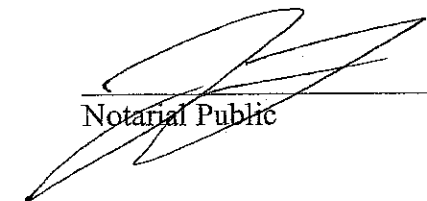
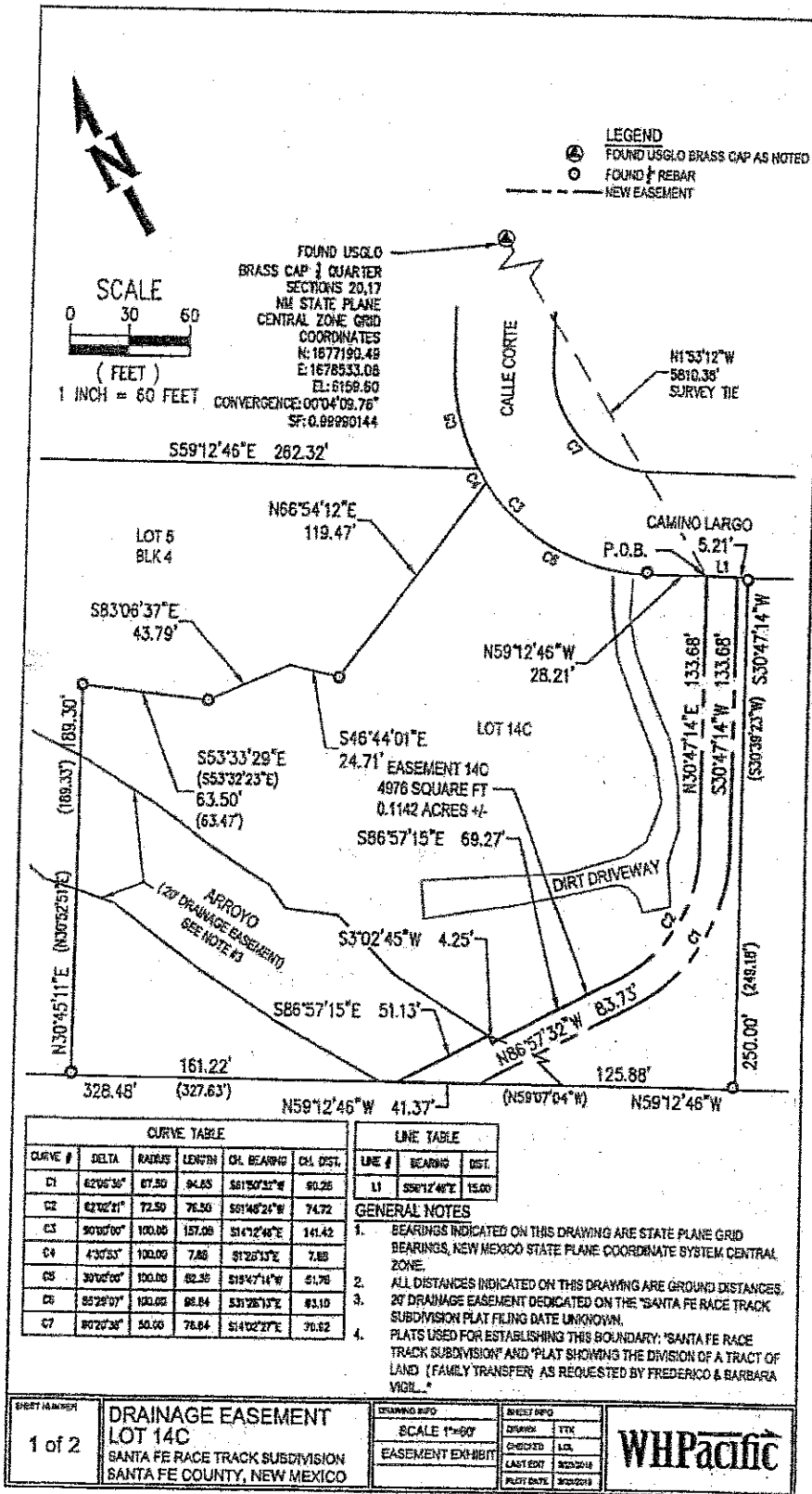

Notarial Public

EXHIBIT "A"



LEGAL DESCRIPTION

AN EASEMENT FOR DRAINAGE PURPOSES, BEING A PORTION OF LOT 14C OF THE PLAT NAMED "PLAT SHOWING THE DIVISION OF A TRACT OF LAND (FAMILY TRANSFER) AS REQUESTED BY FREDERICO & BARBARA VIGIL" FILED ON MARCH 7, 1997, BOOK 357, PAGE 013 OF THE RECORDS OF THE SANTA FE COUNTY CLERK AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID DRAINAGE EASEMENT BEING A POINT ON THE NORTHERN BOUNDARY OF LOT 14C AND BEING COMMON TO THE SOUTHERN RIGHT OF WAY OF CAMINO LARGO, WHENCE A FOUND USGLO BRASS CAP HAVING NEW MEXICO STATE PLANE NAD 83 STATE PLANE CENTRAL ZONE GRID COORDINATES N=1677190.49, E=1678533.08, BEARS N1°53'12"W A DISTANCE OF 5,810.38 FEET;

THENCE CONTINUING ALONG THE SAID EASEMENT AND THE SOUTHERN RIGHT OF WAY OF CAMINO LARGO, S59°12'46"E A DISTANCE OF 15.00 FEET TO AN ANGLE POINT;

THENCE DEPARTING THE SAID SOUTHERN RIGHT OF WAY OF CAMINO LARGO AND ALONG THE BOUNDARY OF SAID DRAINAGE EASEMENT, S30°47'14"W A DISTANCE OF 133.68 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 94.85 FEET, A RADIUS OF 87.50 FEET, A CENTRAL ANGLE OF 62°06'36", AND A CHORD BEARING S81°50'32"W A DISTANCE OF 90.28 FEET TO A POINT OF TANGENCY;

THENCE ALONG SAID TANGENT S86°57'32"W A DISTANCE OF 83.73 FEET TO A POINT INTERSECTING THE SOUTHERN MOST BOUNDARY LINE OF LOT 14C;

THENCE ALONG THE SAID SOUTHERN MOST BOUNDARY LINE OF LOT 14C N59°12'46"W A DISTANCE OF 41.37 FEET TO AN ANGLE POINT;

THENCE DEPARTING THE SAID SOUTHERN MOST BOUNDARY LINE OF LOT 14C AND ALONG THE NORTHERLY LINE OF SAID DRAINAGE EASEMENT S86°57'15"E A DISTANCE OF 51.13 FEET TO AN ANGLE POINT;

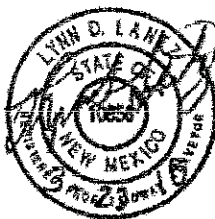
THENCE S3°02'45"W A DISTANCE OF 4.25 FEET TO AN ANGLE POINT;

THENCE S66°57'15"E A DISTANCE OF 69.27 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 78.50 FEET, A RADIUS OF 72.50 FEET, A CENTRAL ANGLE OF 62°02'21", AND A CHORD BEARING N61°48'24"E A DISTANCE OF 74.72 FEET TO A POINT OF TANGENCY;

THENCE ALONG SAID TANGENT N30°47'14"E A DISTANCE OF 133.68 TO THE POINT OF BEGINNING.

PARCEL CONTAINS 4976 SQUARE FEET, OR 0.1142 ACRES, MORE OR LESS.



SURVEYOR CERTIFICATION

I, LYNN D. LANTZ NEW MEXICO REGISTERED PROFESSIONAL SURVEYOR NO. 10658, HEREBY CERTIFY THAT THIS PERMANENT EASEMENT WAS PREPARED FROM AN ACTUAL GROUND SURVEY PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION, THAT I AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THIS EASEMENT SURVEY PLAT AND THE FIELD SURVEY UPON WHICH IT IS BASED MEET THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO, AND THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT. THIS IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS.

Lynn D. Lantz MAR 23, 2018
 LYNN D. LANTZ DATE
 N.M.R.P.S. NO. 10658

SHEET NUMBER 2 of 2	DRAINAGE EASEMENT LOT 14C SANTA FE RACE TRACK SUBDIVISION SANTA FE COUNTY, NEW MEXICO	DATE PREPARED	BY	SCALE 1"=50'	CHECKED BY DATE REVISION	TITLE JOB NO. PROJECT NO.	DRAWN BY DATE	TYPED BY	APP. NO.	REV. NO.
		EASEMENT EXHIBIT	DATE	DATE						

