

SANTA FE COUNTY

RESOLUTION NO. 2003 - 35

2357792

A RESOLUTION ACCEPTING CERTAIN ROADS WITHIN THE ELDORADO SUBDIVISION FOR COUNTY MAINTENANCE AS CONDITIONED

Whereas, Santa Fe County encompasses a geographical area of approximately 2,000 square miles; and

Whereas, the County is primarily rural with small areas of concentrated development; and

Whereas, a comprehensive road system is a necessary and vital link between communities; and

Whereas, there are an estimated 1,500 total miles of roads within the County; and

Whereas, of the total miles, approximately 581 miles are recognized as County Roads and maintained by the County; and

Whereas, the County's goal is to provide the best services possible to its residents within the available resources; and

Whereas, the Eldorado at Santa Fe Subdivision is located within Santa Fe County; and

Whereas, the County currently maintains approximately 77 miles of roads within the Eldorado Subdivision; and

Whereas, the developers of Eldorado at Santa Fe have an existing agreement with the County agreeing to accept these roads for maintenance upon their completion; and

Whereas, the County has the authority and capability to accept these roads for maintenance; and

Whereas, the County has conducted an inspection on these roads, and determined that they meet county standards; and

Whereas, the Board of County Commissioners believes it to be in the best interest of the citizens of Eldorado and Santa Fe County to accept the roads for maintenance; and

NOW, THEREFORE, BE IT RESOLVED that the Santa Fe County Board of County Commissioners accepts the following described roads for County maintenance as conditioned.

The Board of County Commissioners hereby accepts the following described roads for County maintenance:

- ***Avenida Eldorado***, A base coursed, 22 foot wide driving surface, beginning at the intersection with Avenida Casa del Oro and continuing west to the dead end, a distance of 0.41 miles.
- ***Cagua Road***, A base coursed, 22 foot wide driving surface, beginning at the intersection with Avenida Eldorado and continuing west to the intersection with Condesa Road, a distance of 0.53 miles.
- ***Condesa Road***, A base coursed, 22 foot wide driving surface, beginning at the intersection with Mago Road and continuing north to the intersection with Avenida Eldorado, a distance of 0.71 miles.
- ***Elena Court***, A base coursed, 22 foot wide driving surface, beginning at the intersection with Avenida Eldorado and continuing south to the dead end, a distance of 0.03 miles.
- ***Jacinto Road***, A base coursed, 22 foot wide driving surface, beginning at the intersection with Condesa Road and continuing south to the dead end, a distance of 0.07 miles.
- ***Quedo Road***, A base coursed, 22 foot wide driving surface, beginning at the intersection with Avenida Eldorado and continuing north to the dead end, a distance of 0.55 miles.
- ***Recado Road***, A base coursed, 22 foot wide driving surface, beginning at the intersection with Avenida Casa del Oro and continuing west to the intersection with Quedo Road, a distance of 0.43 miles.

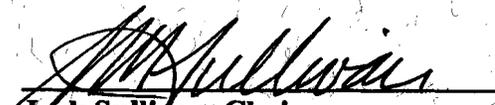
2357794

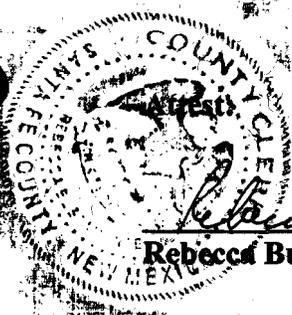
Santa Fe County does not accept any maintenance responsibility for residential driveways or drainage structures on driveways. It is advisable that residents repair damaged culverts and reinstall culverts to the proper flow line elevation. In the event that improper installation or lack of maintenance of drainage structures causes damage to the County maintained road, the County reserves the right to collect damages for repair against the responsible party.

PASSED, APPROVED and ADOPTED THIS 25 DAY OF February, 2003

SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

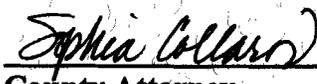

Jack Sullivan, Chairman




Rebecca Bustamante, Santa Fe County Clerk



Approved as to legal form:

for 
County Attorney

1252.578
COUNTY OF SANTA FE
STATE OF NEW MEXICO
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE 5 DAY OF March A.D.
20 03 AT 2:17 O'CLOCK P.M.
AND WAS DULY RECORDED IN BOOK 2357
PAGE 797-000 OF THE RECORDS OF
SANTA FE COUNTY

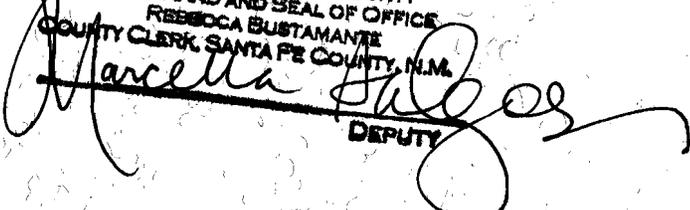
WITNESS MY HAND AND SEAL OF OFFICE
REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.

DEPUTY

EXHIBIT B

2357795

A G R E E M E N T

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY (referred to in this Agreement as "County") and ELDORADO AT SANTA FE, INC., (referred to in this Agreement as "ELDORADO"), agree as follows:

1. Recitals

A. Eldorado has caused to be filed for public record plats of its subdivision as follows:

- (1) filing July 10, 1972 - Plat pages 2, 3, 4, (also identified as recorded in Plat Book 26, pages 30, 31, 33); Plat page 8 (also identified as recorded in Book 26, page 32); Plat page 13 (also identified as recorded in Book 26, page 34).
- (2) filing July 22, 1974 - Plat pages 11, portion of 12, and portion of 16.
- (3) filing June 29, 1977 - Plat pages 5, 6, 7, 9, 10, 14, portion of 12 and portion of 16

B. In order to guarantee construction of roads within the platted subdivision areas to County standards, Eldorado has obtained the following surety bonds:

- (1) For A (1) above, General Insurance Company of America, bond #92-32-24, \$522,104.00 dated 5/23/72 (matures May 23, 1979)
- (2) For A (2) above, General Insurance Company of America, bond #2-42-83-15, \$310,064.00 dated 7/18/74 (matures July 18, 1981)

2357796

C. Eldorado and the County entered into an Agreement concerning a portion of the recorded plats dated July 8, 1974, (a copy of such Agreement is attached as Exhibit "A"). The conditions of such Agreement require Eldorado to construct all roads within certain units prior to July 8, 1979.

D. Eldorado and the County wish to reach an ^{amended} agreement concerning the construction of all roads within ^{to 7/12/81} Eldorado's recorded plats which will permit the orderly construction of roads as they become necessary and allow the County to fully control the road construction process, subject to the right of Eldorado, its successors and assigns, to construct additional roads at its own expense.

E. Eldorado has offered for sale certain properties within those plats filed on July 10, 1972. (Plat pages 2, 3, 4, 8, and 13) and in its offering material has stated that, within seven years of the filing date of such plats, the roads on such plats would be completed and upon completion would be accepted by the County for maintenance. The roads shown on Plat pages 8 and 13 have been completed but the roads shown on the remainder of the Plats have not been completed. Eldorado will post a suitable guarantee for the completion of the roads the remainder of the Plats as set forth in Paragraph 5.

2. Procedure For Construction of Roads Shown on Plat Pages 2, 3, and 4.

Eldorado shall at a time or times to be determined by it construct the roads shown on Plat pages 2, 3, and 4 in accordance with the plans and specifications prepared by Scanlon & Associates, Inc., dated in 1972, hereinafter referred to as "approved plans". The approved plans consist of the plans and specifications and the memorandum of agreement attached hereto as Exhibit "A", or such other plans and specifications as may be agreed to by the County and Eldorado. Upon completion of such roads (or portions thereof, from time to time), the County agrees to accept for maintenance the roads shown on Plat pages

2357797

2, 3, and 4, as they are completed, upon inspection and approval thereof by the County Land Use Administrator or his designee.

3. Procedure for Construction of Other Roads.

The following procedure shall be followed prior to the initiation of any construction of roads by Eldorado or its successors and assigns (Petitioner) in the subdivision (other than on Plat pages 2, 3, and 4):

A. Petitioner shall submit a written request to construct roads to the Santa Fe County Land Use Administrator (referred to in this Agreement as the "Land Use Administrator"). The request shall specify the roads to be constructed and shall be accompanied by an estimate certified by a registered professional engineer of the cost of the construction of the proposed roads.

B. Within thirty (30) days of the date of the receipt of the request, the Land Use Administrator shall approve or deny the request to construct roads. Approval of the request shall not be unreasonably withheld or denied. If the request is approved, Petitioner shall construct the roads in accordance with the plans and specifications set forth in the approved plans, or such other plans and specifications as may be agreed to by the County and Eldorado. The County shall accept such roads for maintenance upon their completion in accordance with the plans and specifications set forth in the approved plans, or such other plans and specifications as may be agreed to by the County and Eldorado, and upon inspection and approval by the Land Use Administrator or his designee. The County further agrees that upon such acceptance it shall release from the appropriate guarantee (as further described in paragraph 5 below) the amount of the registered engineer's certified cost estimate of the road, if Eldorado provides the County with a sworn statement by a Registered professional Engineer licensed to practice in New Mexico that the cost of

2357798

construction of all the roads shown on the Plats described in Paragraph 1-A(1), (2), and (3) which have not been accepted by the County is less than the value of the guarantee.

C. If the request to construct roads is denied, Eldorado may construct the roads, but County is under no obligation to accept those roads for maintenance or to permit the reduction of any of the guarantees referred to in paragraph 5 below by Eldorado in the amount of the construction.

4. Road Construction Initiated by County.

A. The County shall have the right to request and obtain from Eldorado, its successors and assigns, construction of any road described on Eldorado's recorded plats. The procedure to be followed by County in this case is as follows:

(1) The County shall transmit to Eldorado a request to construct a certain portion of the roads described on the recorded plats. Within One Hundred Twenty (120) days of the receipt of the request, Eldorado shall present to the County a letter requesting approval for construction of the road specified by County together with a cost estimate for the construction of the roads proposed certified by a registered professional engineer.

(2) Upon completion of the requested construction in accordance with the plans and specifications set forth in approval plans, or such other plans and specifications as may be agreed to by the County and Eldorado, the County shall accept said roads for

2357799

maintenance upon inspection and approval by the County Land Use Administrator or his designee of the roads to be constructed and shall permit Eldorado to reduce its appropriate guarantee, in the amount of the certified engineering cost estimate, if Eldorado provides the County with a sworn statement by a Registered professional Engineer licensed to practice in New Mexico that the cost of construction of all roads shown on the Plats described in Paragraph 1-A(1), (2), and (3) which have not been accepted by the County is less than the value of the guarantee.

5. Guarantee

Eldorado agrees to grant to the County a first mortgage on the form attached, in the amount of \$1,000,000.00 on certain property owned by it in its subdivision described in Paragraph 1 above. The County hereby accepts said mortgage as suitable guarantee of construction of those roads providing, however, that at the County's request, said mortgage shall be increased in its face amount as may be required for periodic increases in construction costs.

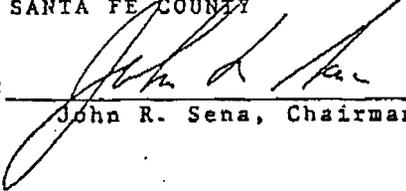
Eldorado may substitute a mortgage for property other than that described in the mortgage attached with the consent of the County; provided that such consent shall not be unreasonably withheld upon proof of the title and value of the property to be substituted in a manner acceptable to the County.

6. Assignment (Construction of Roads by Others.)

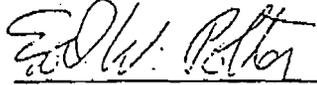
In the event that Eldorado assigns its rights and obligations under this Agreement to a third party, Eldorado shall not be relieved of any of its obligations hereunder unless the County in writing relieves Eldorado of such obligations.

7. This Agreement constitutes the entire Agreement between the parties on the matters contained herein and supercedes any pre-existing Agreements between the parties concerning road construction. It may be modified only in writing, is specifically enforceable, and shall be governed by the Laws of New Mexico.

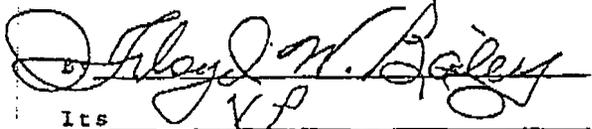
BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By: 
John R. Sena, Chairman

APPROVED:


Earl W. Potter, County Attorney

ELDORADO AT SANTA FE, INC.


Its VP

Attest:

