

SANTA FE COUNTY, NEW MEXICO

ORDINANCE NO. 1998 - 3

1475976

AN ORDINANCE

**RELATING TO SANTA FE, NEW MEXICO HYDE PARK ESTATES ROAD
IMPROVEMENT SPECIAL ASSESSMENT DISTRICT; RATIFYING THE
PROCEEDINGS TAKEN IN PROVIDING FOR CERTAIN ROAD PAVING AND
DRAINAGE IMPROVEMENTS IN SUCH DISTRICT; PROVIDING FOR THE
PAYMENT OF THE COSTS AND EXPENSES OF SUCH IMPROVEMENTS;
PROVIDING FOR THE FILING OF A CLAIM OF LIEN; ASSESSING THE
COST OF SUCH IMPROVEMENTS AGAINST THE TRACTS, PARCELS AND
LOTS OF LAND BENEFITTED BY SUCH IMPROVEMENTS; AND
PROVIDING FOR A PENALTY FOR DELINQUENT PAYMENTS:
BE IT ORDAINED BY THE GOVERNING BODY OF SANTA FE COUNTY:**

**WHEREAS, the Board of County Commissioners (the "Commission")
of Santa Fe County (the "County"), has provided for certain road and drainage
improvements to be constructed all within the County (collectively the**

"improvements") and designated as Hyde Park Estates Road Improvement Special Assessment District (the "District"), all pursuant to and in conformity with Sections 4-55A-1 through 4-55A-42 NMSA 1978; and

WHEREAS, the Commission has determined and does hereby reaffirm the improvements are being constructed, and the District is comprised of, the following roads, areas and parts thereof:

Hyde Park Estates Subdivision including Camino Lisa, Camino Primero, La Entrada, Paseo Primero, Paseo Iglesias, Paseo del Monte, El Paseo and Paseo Ponderosa.

ALL WITHIN SANTA FE COUNTY, NEW MEXICO; and

WHEREAS, the Commission determined there shall be assessed to each lot, parcel or tract of land specially benefited its proportionate share of the costs of constructing the improvements, and has provisionally ordered the construction of the improvements by action on July 9, 1996 which finally passed on all protests and objections questioning the propriety and advisability of constructing the improvements, the estimated costs of the improvements, the manner of paying for the improvements, and the maximum amount to be assessed against the individual lots, tracts and parcels of land in the District, created the District and directed the County Clerk to advertise for bids for doing work of constructing the improvements, and

WHEREAS, the Commission received bids for construction of the improvements, and on September 30, 1997, the County formally entered into a contract for such work with the lowest qualified bidder, R.L. Leeder, Co., and

WHEREAS, after the making of such contract the Commission determined the sum of \$910,617.00 to be paid by the properties specially benefited; and

WHEREAS, the Commission, together with the Public Works Department's, Professional Engineers, prepared the assessment roll containing, among other things, the names of last-known owners of the properties to be assessed, or if not known, that the name is unknown, a description of each tract or parcel of land to be assessed, and the amount of the assessment; and

WHEREAS, the Commission has determined that all of the property in the County which is specially benefited by the improvements in the District, and only the property which is specially benefited, is included on said assessment roll; and

WHEREAS, the assessments do not exceed the estimated maximum benefit to the properties assessed nor that portion of the total cost of the improvements payable in assessments as heretofore determined; and

WHEREAS, the Commission gave legal notice that any owner of any lot, tract or parcel of land proposed to be assessed for the cost of the improvements could file with the County Clerk a specific protest or objection to the assessment roll, and that the Commission would hear and consider such protests or objections and revise, confirm, or set aside the assessments at a public hearing held at the County Commission Chambers in Santa Fe County, New Mexico, and

WHEREAS, all protests and objections to the assessment roll, both written and oral, were heard and considered by the Commission, on Tuesday, December 9, 1997 at 6:00 p.m.; and

WHEREAS, it is incumbent upon the Commission to determine when assessments shall become due and delinquent, the rate of interest payable thereon, and the penalties after delinquency.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THAT:

Section 1. All action previously taken by the County, not inconsistent with the provisions of this ordinance, directed toward the constructing of the improvements in the District and toward performing all prerequisites to the levying of special assessments and to fixing the assessment lien against the lots, tracts and parcels of land in the District be, and the same hereby is, ratified, approved and confirmed.

Section 2. For the purpose of paying a portion of the costs and expenses of the improvements there shall be levied and assessed against the lots, tracts and parcels of land specially benefited by the improvements and described in the assessment roll for the District, adopted on January 13, 1998, the amounts and the assessments shown in the assessment roll.

Section 3. The assessments shall be due and payable at the office of the County Treasurer within thirty days after the effective date of this ordinance without interest and without demand; provided that all or any part of assessments may, at the election of the owner of the lot, tract or parcel, be paid in installments with interest as hereinafter provided. Failure to pay the whole assessment within the thirty-day period shall be conclusively considered to be an election by the property owner, whether under disability or otherwise, to pay the unpaid

assessments in installments. In the case of an election to pay in installments, the unpaid assessments shall be payable in twenty substantially equal semi-annual installments of principal, until paid in full, with interest in all cases on the unpaid installments of principal until paid in full, from the date of publication of this ordinance, at the rate of seven and three quarter percent (7.75%) per annum. Both principal and interest are payable semi-annually at the office of the County Treasurer on the fifteenth day of May and November of each year, commencing the fifteenth day of May 1998. Failure to pay any installment when due shall bear penalty interest at the rate of one percent (1%) per month, plus reasonable attorney's fees and expenses incurred by the County in taking action preliminary to and in the foreclosure of a delinquent assessment, including without limitation, expenses incurred in making title searches, serving proceedings, publishing notices and filing recorded instruments pertaining to such delinquent assessments, until paid. The owner of any property not in default may, at any time, prepay the whole or any semi-annual installment of the unpaid principal with interest accruing thereon to the next interest payment date. Any sums paid as required hereunder shall be apportioned for the payment of the costs of the improvements or for the payment of the bonds issued to defray such costs, in the proportion that the property owner's original assessment for each of the improvements bears to the property owner's original total assessment for all of the improvements.

Section 4. From the date of publication of this ordinance, the amounts assessed together with any interest or penalty accruing on such assessed amounts is a lien upon the lot, tract or parcel of land. Such lien is coequal with the lien for

general ad valorem taxes and the lien of other improvement districts, and is superior to all other liens, claims and titles. The sale of any such lot, tract or parcel of land for general taxes or any other assessment shall not relieve such lot, tract or parcel of land from such assessment or the lien. All purchasers, mortgagees or encumbrancers of a lot, tract or parcel of land shall hold the lot, tract or parcel of land subject to the lien.

Section 5. In the event that any owner of any lot, tract or parcel of land is delinquent in the payment of the assessment or any installment of an assessment, the Commission shall cause the purchaser of the bonds hereafter authorized to be issued by ordinance for the purpose of defraying a portion of the cost of the improvements, and the affected property owner at his last-known address, respectively; and if the delinquency is not paid within one year after such notice has been given by deposit in the United States mail, then the Commission, at its own expense, shall institute proceedings to foreclose the special assessment lien against the property or properties wherein the delinquency exists in the method now or hereafter provided by the statutes for the foreclosure of mortgages on real estate, or as otherwise provided by law. Fifteen days after the date that an order, judgement or decree of foreclosure is issued by the court, there may be held a sale of the affected property, as provided by law, to satisfy the delinquent assessment, and at such sale, if there is no other purchaser, the County shall purchase the lot, tract or parcel of land for the amount of the balance due on the assessment plus any interest, penalties or costs which have accrued against the assessment. If the Commission fails or refuses to initiate foreclosure proceedings to sell a lot, tract or parcel of land for a delinquent

assessment or installment of an assessment, then any bondholder secured by the assessment may initiate and prosecute a foreclosure action in the name of the County. Any bondholder may also proceed under this ordinance by suit, action, or special proceedings in equity or at law, either for the appointment of a receiver or for the specific performance of any provision contained herein or in an award of execution have any power herein granted for the enforcement of any proper legal, or equitable, remedy as such any bondholder or bondholders may deem most effectual to protect and enforce the rights aforesaid. All such proceedings at law or in equity shall be instituted and maintained for the equal benefit of all holders of the bonds then outstanding.

Section 6. It shall be the duty of the County Clerk to prepare, sign, attest with the seal of the County, and file of record within sixty days after the publication of this ordinance, but after the thirty-day period provided for in Section 3, in the office of the County Clerk of Santa Fe County, a claim of lien for the amount due and assessed against each lot, tract or parcel of land, then remaining unpaid, and showing separately the amount of lien for the assessments for each of the improvements, and all purchasers, mortgagees and encumbrancers of said lots, tracts and parcels of land shall take the same subject to said lien. When the assessments and any interest and penalties have been paid in full, it shall be the duty of the County Clerk to release and discharge the lien and liability.

Section 7. The claim of lien to be filed of record shall be in substantially the following form:

1475983

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CLAIM OF LIEN
BY SANTA FE COUNTY
SANTA FE, NEW MEXICO

_____, 1998

WHEREAS, Santa Fe County (the "County"), in the State of New Mexico, in accordance with the Petition Method, provided by Section 4-55A-1 through 4-55A-42 NMSA 1978, has created "Hyde Park Estates Road Improvement Special Assessment District" (the "District"), for the purpose of providing certain road paving and drainage improvements all within the County (collectively, the "improvements") which improvements have been constructed in, along and around all of the following roads, rights-of-way, areas and parts thereof:

Hyde Park Estates Subdivision including Camino Lisa, Camino Primero, La Entrada, Paseo Primero, Paseo Iglesias, Paseo del Monte, El Paseo and Paseo Ponderosa.

ALL WITHIN SANTA FE COUNTY, NEW MEXICO;

and

WHEREAS, the County entered into a contract on September 30, 1997, for the construction of the improvements with the lowest qualified bidder; and

WHEREAS, the County by Ordinance No. 1998 - 3, passed and adopted March 31, 1998, levied assessments against the lots, tracts and parcels of property benefited by the improvements and against the

owners thereof certain amounts, as hereinafter described, totaling the sum of \$910,617.00; and

WHEREAS, Ordinance No. 1998 - 3, provided that the assessments shall be due and payable within thirty days after the ordinance became effective, without interest and without demand, provided, that all or any part of such assessments may, at the election of the affected property owner, be paid in twenty substantially equal semi-annual installments of principal until paid in full; and

WHEREAS, the unpaid assessments shall bear interest at the rate of (seven and three quarter percent (7.75%)) per annum from the date of publication of the ordinance, both principal and interest being payable semi-annually on the fifteenth day of May and November of each year commencing on the fifteenth day of May, 1998, at the office of the County Treasurer.

NOW THEREFORE, the undersigned County Clerk, on behalf of the County, in accordance with the provisions of Section 4-55A-19 NMSA 1978, and all enabling ordinances, resolutions and proceedings of the County, does hereby prepare, sign, attest with the seal of the county, and file of record in the office of the County Clerk of the County of Santa Fe, New Mexico, a Claim of Lien for the amount due and assessed against each lot, tract and parcel of land in the District, in accordance with the terms and provisions of Ordinance No. 1998 - 3, duly passed and adopted by the County on March 31, 1998 as follows:

DESCRIPTION

<u>ITEM NO.</u>	<u>NAME AND ADDRESS</u>	<u>ASSESSMENT</u>
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(Insert here those assessments listed in the assessment roll designated in Section 2 of this ordinance which are not paid during the thirty-day period described in Section 3 of this ordinance.)

1475987

All purchasers, mortgagees, or encumbrancers of each of the lots, tracts or parcels of land in the District shall hereafter take the same subject to the aforesaid lien in accordance with the laws of the State of New Mexico and the County of Santa Fe.

WITNESS my hand and the seal this ____ day of _____, 1998.

Rebecca Bustamante, County Clerk

On this ____ day of _____, 1998, before me appeared Rebecca Bustamante, to me personally known, who being by me duly sworn (or affirmed) did say that she is the County Clerk of Santa Fe County, State of New Mexico, and that said instrument was signed and sealed on behalf of Santa Fe County by authority of its Commission and laws of the State of New Mexico, and Rebecca Bustamante acknowledged said instrument to be her free act and Claim of Lien of Santa Fe County.

NOTARY PUBLIC

My Commission Expires:

(End of form of Claim of Lien)

Section 8. The County Clerk shall publish, as soon as reasonably possible, a notice in a newspaper which maintains an office and is of general circulation in the County, once a week for two consecutive weeks, stating that the assessments have been levied and are due and payable; the notice shall be in substantially the following form:

(INTENTIONALLY LEFT BLANK)

(FORM OF NOTICE)

1475989

NOTICE OF LEVY OF ASSESSMENTS

SANTA FE, NEW MEXICO

**HYDE PARK ESTATES ROAD IMPROVEMENT SPECIAL ASSESSMENT
DISTRICT**

NOTICE IS HEREBY GIVEN to the property owners within the proposed Hyde Park Estates Road Improvement Special Assessment District (the "District") and to all interested persons that:

1. The Board of County Commissioners (the "Commission") of Santa Fe County (the "County"), in the State of New Mexico, has, pursuant to the requisite preliminary proceedings, provided for certain road paving and drainage improvements all within the County (collectively, the "improvements") in and along the following roads and areas and parts thereof as designated:

ROAD IMPROVEMENTS

Hyde Park Estates Subdivision including Camino Lisa, Camino Primero, La Entrada, Pasco Primero, Pasco Iglesias, Paseo del Monte, El Pasco and Pasco Ponderosa.

ALL IN THE COUNTY OF SANTA FE, NEW MEXICO.

2. For the purpose of paying a portion of the costs and expenses of the improvements there shall be, and there hereby is, levied and assessed against the lots, tracts and parcels of land specially benefited by the improvements in the District, and described in the assessment roll for the District, as filed in the office of

the County Clerk on November 12, 1997, and as confirmed and approved by the Commission adopted on December 9, 1997, the amounts and the assessments shown in the assessment roll.

3. The assessments shall be due and payable at the office of the County Treasurer within thirty days after this ordinance becomes effective, i.e., within thirty days after the date of this ordinance's publication, without interest and without demand; provided that all or any part of such assessments may, at the election of the owner of the lot, tract or parcel of land, be paid in installments with interest. Failure to pay the whole assessment within the thirty-day period shall be conclusively considered to be an election by the property owner, whether under disability or otherwise, to pay the unpaid assessments in installments. In the case of an election to pay in installments, the unpaid assessments shall be payable in twenty substantially equal semi-annual installments of principal, until paid in full, with interest in all cases on the unpaid and deferred installments of principal until paid in full, from the date of publication of this ordinance, at the rate of seven and three quarter percent (7.75%) per annum. Both principal and interest shall be payable semi-annually at the office of the County Treasurer on the fifteenth day of May and November of each year, commencing the fifteenth day of May 1998. Failure to pay any installment, whether of principal or interest, when due, shall cause the whole of the unpaid principal to become due and payable immediately, at the option of the County as indicated by its commencement of foreclosure proceedings; and the whole amount of the unpaid principal and accrued interest shall, after such delinquency, whether such option is or is not exercised, bear penalty interest at the rate of one

percent (1%) per month, as additional penalty, plus reasonable attorney's fees and expenses incurred by the County in taking action preliminary to and in the foreclosure of a delinquent assessment, including without limitation, expenses incurred in making title searches, serving proceedings, publishing notices and filing recorded instruments pertaining to such delinquent assessments, until paid. The owner of any property not in default may, at any time, prepay the whole or any semi-annual installment of the unpaid principal with interest accruing thereon to the next interest payment date. Any sums paid as required hereunder shall be apportioned for the payment of the costs of the improvements, or for the payment of the bonds issued to defray such costs, in the proportion that the improvements bear to the property owner's original total assessment for all of the improvements.

BY THE ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF SANTA
FE COUNTY, NEW MEXICO DATED THIS 3 DAY OF

April, 1998.

Rebecca Bustamante

Rebecca Bustamante, County Clerk



(END OF FORM NOTICE)

Section 8. If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the validity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

PASSED, APPROVED AND ADOPTED THIS 31 DAY OF March

1998.

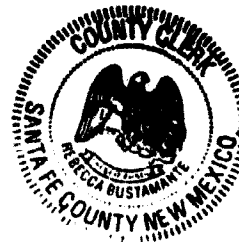

Javier Gonzales, Chairman



Attest: 
Rebecca Bustamante, County Clerk

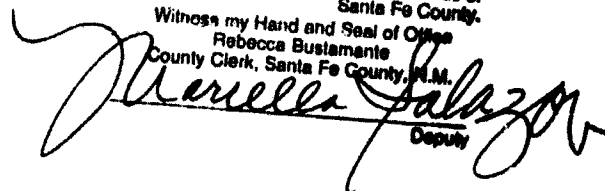
Approved as to legal form:


Steve Kopelman, County Attorney



1018.877

COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on the 31 day of Mar, A.D.
19 98, at 7:47 o'clock PM
and was duly recorded in book 1425
page 916-942 of the records of
Santa Fe County.

Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.

Deputy