

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY
RESOLUTION NO. 2019-134**

**A RESOLUTION
AUTHORIZING THE COUNTY MANAGER TO ACQUIRE THROUGH NEGOTIATED
AGREEMENT A DRAINAGE EASEMENT ACROSS 14 CAMINO TORCIDO LOOP
AND FURTHER AUTHORIZING THE COUNTY ATTORNEY TO INITIATE AND
PROSECUTE AN APPROPRIATE ACTION TO HAVE JUDICIALLY DETERMINED
THE EXISTENCE AND SCOPE OF ANY EXISTING DRAINAGE EASEMENT ON 14
CAMINO TORCIDO LOOP AND CONDEMNATION PROCEEDINGS TO ACQUIRE (IF
NECESSARY) A DRAINAGE EASEMENT ON 14 CAMINO TORCIDO LOOP**

WHEREAS, Santa Fe County (County) undertook a roadway and drainage improvement project on and near Camino Torcido Loop (the Project); and

WHEREAS, Martin Montoya (Owner) owns 14 Camino Torcido Loop (the Property); and

WHEREAS, a dispute has arisen between the County and Owner concerning the existence and scope of any existing drainage easement on the Property; and

WHEREAS, Owner has made improvements on the Property that obstructs water flow over what the County believes to be existing drainage easements seemingly without acquiring necessary authorizations from the County, in violation of Santa Fe County Ordinance 2016-9, the Sustainable Land Development Code (Code); and

WHEREAS, Owner has rejected the County's offer to purchase any necessary easement; and

WHEREAS, the Board of County Commissioners (Board) of the County desires to authorize the County Manager to negotiate the acquisition of any necessary easement if, in her opinion, such negotiations would be prudent; and

WHEREAS, if necessary, the Board desires to authorize the County Attorney to initiate and prosecute an appropriate action to have judicially determined the existence and scope of any existing drainage easement on the Property and condemnation proceedings to acquire (if necessary) a drainage easement on the Property; and

WHEREAS, if an adequate drainage easement does not already exist, acquisition by the County of a drainage easement on the Property and removal of the unpermitted improvements would be for a public purpose and would be necessary for the Project to function as intended; and

WHEREAS, the Code authorizes Code Enforcement Officers and the County Attorney's Office to pursue criminal and injunctive actions against property owners who violate the Code.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. The Board authorizes the County Manager to negotiate on behalf of the County the purchase of any necessary easement over the Property.
2. The Board further authorizes the County Manager to execute on behalf of the County the purchase and sale agreement and/or such other agreement and instruments as may be necessary or advisable to acquire the necessary easement.
3. The Board authorizes the County Attorney, upon the direction of the County Manager, to initiate and prosecute an appropriate action to have judicially determined the existence and scope of any existing drainage easement on the Property and condemnation proceedings to acquire (if necessary) a drainage easement on the Property. If appropriate and advantageous to the County to do so, these actions may be combined with any Code enforcement action initiated by Code Enforcement Officers or the County Attorney.
4. The Board further authorizes and directs the County Attorney to seek dismissal of any actions brought pursuant to this Resolution upon the Owner's voluntary grant of the necessary easement pursuant to an agreement between the Owner and the County.

PASSED, APPROVED, AND ADOPTED THIS 12th DAY OF NOVEMBER 2019.

BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for
Record On The 14TH Day Of November, 2019 at 11:17:12 AM
And Was Duly Recorded as Instrument # 1901871
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy _____ County Clerk, Santa Fe NM

E. Estrella
Martinez

Date: 11/12/2019

BY: *Anna T. Hamilton*
Anna T. Hamilton, Chair
TESTATION:
Geraldine Salazar
Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

By: *Rachel A. Brown*
Rachel A. Brown, Interim County Attorney

Date: 11-4-19

SFC CLERK RECORDED 11/14/2019