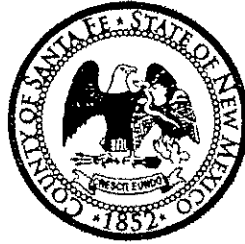


Henry P. Roybal
Commissioner, District 1

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

MEMORANDUM

DATE: *December 28, 2016*

TO: *Board of County Commissioners*

VIA: *Katherine Miller, County Manager*

FROM: *Michael K. Kelley, Public Works Director*

ITEM AND ISSUE: **Request Delegation of Authority to the County Manager to Sign an Amendment of New Mexico State Land Office (SLO) Right-Of-Way (ROW) Easement No. R-35280 on Behalf of Santa Fe County**

BACKGROUND AND DISCUSSION

On September 13, 2016, the Board of County Commissioners (BCC) approved the Water and Wastewater Line Extension, Water Delivery and Wastewater Discharge Agreement (Agreement) between Santa Fe County (County) and Caja del Rio Holdings, LLC (Developer). Among other things, the Agreement requires the Developer to acquire easements at the Developer's sole expense, as necessary, to extend the County's water and wastewater service lines to the Senior Campus at Caja del Rio Subdivision (Senior Campus). A portion of the line extension must be constructed across New Mexico State Trust Lands, which requires acquisition of a 99-year Right-of-Way Easement from the SLO. On November 28, 2016, the BCC delegated authority to the County Manager to sign SLO ROW Easement No. R-35280. Because of a utility realignment, R-35280 must be amended to allow further extension of the wastewater and water lines onto State Trust Land. The Developer has tendered the total acquisition cost of \$66,772.53 plus a \$500.00 surface damage bond to the SLO.

ACTION REQUESTED:

Delegate authority to the County Manager to review and approve attached amendment to Right-of-Way Easement No. R-35280 on behalf of the County.

Attachments:

(1) Right-Of-Way Easement No. R-35280 (Amendment)





Aubrey Dunn
COMMISSIONER

State of New Mexico
Commissioner of Public Lands

310 OLD SANTA FE TRAIL
P.O. BOX 1148
SANTA FE, NEW MEXICO 87504-1148

COMMISSIONER'S OFFICE

Phone (505) 827-5760

Fax (505) 827-5766

www.nmstatelands.org

December 19, 2016

Santa Fe County, Public Works Department
424 Hwy. 599 Frontage Road
Santa Fe, New Mexico 87507

Attn: Ms. Jennifer Jenkins

Re: NM State Land Office Right of Way Easement No. R-35280 (Amendment)

Dear Ms. Jenkins:

Enclosed in duplicate is the grant for the above referenced right of way requesting your signature and notary. Please have the grant signed in the presence of a Notary Public and return both copies to this office for approval.


PLEASE DO NOT DATE THE GRANT. It will be dated when the Commissioner's signature and official seal are affixed to the document. If any corrections are necessary, notify this office and we will retype or amend the grant as required. **PLEASE RETURN BOTH COPIES OF THE SIGNED GRANT WITHIN 30 DAYS.** If you are not able to return the signed grants within this time, please call for an extension. A signed copy will be returned to you.

We are requesting you please submit the balance due of \$29,734.65. You were charged to extend the route for an additional 105.12 rods of an 8" buried gravity sewer line & a 12" buried water line at \$60/rod for the 1st line and \$40/rod for the 2nd line based on fair market value plus a 99 year term factor = \$29,734.65 Total for amendment of easement is \$29,734.65. Please submit balance due along with the signed and notarized grants. If you feel this is in error, please contact this office as soon as possible.

Please be advised that any projects started on state trust land before the grants are finalized will result in a trespass penalty. Please do not begin the project unless you have an executed grant from this office.

If you have any questions, or if we may be of further assistance, please do not hesitate to contact Philip Garcia of the Rights of Way Department at (505) 827-5784 or pgarcia@slo.state.nm.us.

Sincerely,


Aubrey Dunn
Commissioner of Public Lands

Enclosures
XC: File

AD/pg

**STATE OF NEW MEXICO
COMMISSIONER OF PUBLIC LANDS
PIPELINE RIGHT-OF-WAY
Amendment**

Right-of-Way Easement No. R-35280
Senior Campus @ Caja del Rio Sewer Line Project

This indenture made this 8th day of December, 2016 by and between the State of New Mexico, acting by and through its Commissioner of Public Lands, "Grantor", and Santa Fe County, Public Works Department whose address is 424 Highway 599 Frontage Road, Santa Fe, New Mexico 87507 Grantee;

WITNESSETH:

That Grantor, for and in consideration of the sum of \$66,772.53 -----Sixty Six Thousand Seven Hundred Seventy Two Dollars and 53/100-----cash in hand, receipt of which is hereby acknowledged, and other good and valuable consideration, hereby conveys to Grantee a right-of-way for the sole and exclusive purpose of amendment to extend route of an 8" buried gravity sewer line and a 12" buried water line including the right to enter upon the real estate hereinafter described at any time that it may see fit to construct, maintain and repair the structures upon the right-of-way, together with the right to remove trees, brush, undergrowth, and other obstructions interfering with the location, construction, and maintenance of said right-of-way.

The right-of-way hereby granted covers a strip of land 30 feet in width in Santa Fe County (ies), as more particularly described by the attached centerline description and survey plats, which are incorporated herein as Exhibit A.

This grant is made upon the following express terms and conditions:

1. This right-of-way is granted for a term of 99 years. The grant may be renewed for additional periods upon application to Grantor. Any such renewals are subject to such terms and conditions as the Grantor may require, and payment of compensation.
2. Grantor reserves the right to authorize or grant rights-of-way or other easements to third parties, which may be over, parallel to, or across this right-of-way. In such cases, the subsequent grantee may, at the discretion of the Grantor, be required to post a bond guaranteeing payment for damages to the installations and improvements of Grantee herein. In crossing any right-of-way for a highway, road, telephone, telegraph, transmission line, etc. Grantee herein will exercise due care so as not to interfere with said rights-of-way and will comply with all applicable laws, rules, and regulations in connection with the making of such crossings.
3. The right to grant additional rights-of-way or easements within this right-of-way belongs exclusively to Grantor. Grantor hereby agrees, however, that in the event Grantor elects to exercise such right and if Grantee herein is the New Mexico State Highway and Transportation Department, Grantor will secure in writing the agreement of subsequent right-of-way grantee that no facilities will be constructed or installed within the right-of-way subsequently granted without first obtaining from the Department a permit prescribing the conditions under which facilities may be placed within such right-of-way in accordance with the Department's applicable rules and regulations.
4. GRANTEE EXPRESSLY AGREES THAT PRIOR TO THE CONSTRUCTION OR INSTALLATION OF ANY FACILITIES WITHIN THE RIGHT-OF-WAY GRANTED HEREIN, GRANTEE WILL DETERMINE WHETHER THE RIGHT-OF-WAY IS WITHIN A PREVIOUSLY ESTABLISHED NEW MEXICO STATE HIGHWAY AND TRANSPORTATION DEPARTMENT RIGHT-OF-WAY, AND IF IT IS, GRANTEE WILL OBTAIN FROM THE DEPARTMENT A PERMIT THAT PRESCRIBES THE CONDITIONS UNDER WHICH

FACILITIES MAY BE PLACED WITHIN THE RIGHT-OF-WAY IN ACCORDANCE WITH THE DEPARTMENT'S APPLICABLE RULES AND REGULATIONS. GRANTEE FURTHER UNDERSTANDS AND AGREES THAT THE FAILURE TO OBTAIN SUCH PERMIT SHALL RESULT IN THE FORCIBLE REMOVAL BY THE DEPARTMENT OF ANY FACILITIES THAT MAY BE CONSTRUCTED OR INSTALLED WITHIN THE RIGHT-OF-WAY.

5. In clearing the right-of-way, Grantee agrees to dispose of brush and other debris so as not to interfere with the movement of livestock of state agriculture lessees.
6. All pipelines placed on said lands by virtue of this grant shall be buried not less than twenty inches (20") deep. An exception to this requirement may be granted on other than agricultural lands when hard rock is encountered which would require blasting, or when a temporary pipeline is necessary and will not unduly hamper other surface uses. Deviation of the twenty-inch depth must be shown on the plat accompanying the application for right-of-way or by the filing of an amended plat upon completion of construction.
7. Grantee hereby agrees to carefully avoid destruction or injury to any improvements or livestock lawfully upon the premises described herein, to close all gates immediately upon passing through same, and to pay promptly the reasonable and just damages for any injury or destruction arising from construction or maintenance of this right-of way.
8. Grantee shall not assign this right-of-way without the prior written approval of Grantor, which shall not be unreasonably withheld. Such approval may be conditioned upon the agreement by Grantee's assignee to additional conditions and covenants and may require payment of additional compensation to Grantor. This right-of-way is for the sole purpose stated and no other. Grantee agrees not to sell or otherwise grant to any person or entity any interest therein or the right to use any portion thereof.
9. The rights granted herein are subject to valid existing rights.
10. Grantor reserves the right to execute leases for oil and gas, coal, and minerals of whatsoever kind and for geothermal resources development and operation, the right to sell or dispose of same and the right to grant rights-of-way and easements related to such leasing.
11. In all matters affecting the premises described herein or operations thereon, Grantee, its employees, agents and contractors shall, at their own expense, fully comply with all laws, regulations, rules, ordinances, and requirements of any governmental authority or agency, which may be enacted or promulgated, including, but not limited to, requirements or enactments pertaining to conservation, sanitation, aesthetics, pollution, cultural properties, fire, or ecology, including those provisions of the New Mexico Cultural Properties Act, §§18-6-1 through 17, NMSA 1978, that attach criminal penalties to the appropriation, excavation, injury or destruction of any site or object of historical, archaeological, architectural, or scientific value located on state lands. In addition, Grantee, its employees, agents and contractors must comply with the provisions of the Pipeline Safety Act, §§ 70-3-11 through 20, NMSA 1978, and rules enacted pursuant to the Act, and agree to provide the Public Regulation Commission access to records of compliance.

Non-use of the right-of-way granted herein for any period in excess of one (1) year without the prior written consent of Grantor shall be conclusive proof of abandonment of the right-of-way, and shall cause the right-of-way to lapse *ipso facto* and revert to Grantor without further action or notice required of Grantor; and non-use for shorter periods shall place upon grantee the burden of providing that there was no intent to abandon. Grantee's abandonment cannot be waived by any action or inaction of Grantor or by Grantor's failure to discover such abandonment. The resumption of use by Grantee after abandonment shall be deemed a trespass. Grantee, if other than a governmental entity that is provided

immunity from suit by the New Mexico Tort Claims Act, agrees to save and hold harmless, defend and indemnify the State of New Mexico, the Commissioner of Public Lands, and his agents or employees, in their official and individual capacities, of and from any and all liability, claims, losses, or damages arising out of or alleged to arise out of or indirectly connected with the operations of Grantee, its employees, agents, or contractors hereunder; provided however that such claims, losses, or damages are not caused by the negligence or willful misconduct of Grantor.

12. Notwithstanding anything contained herein, Grantor may cancel this grant for violation of any of the covenants of this agreement; provided, however, that before any such cancellation shall become effective, Grantor shall mail to grantee or any approved assignee, by certified mail addressed to the post office address of Grantee or such assignee shown by Land Office records, a - sixty (60) day notice of intention to cancel, specifying the default for which the grant is subject to cancellation. No proof of receipt of notice shall be necessary and sixty (60) days after such mailing, Grantor may enter cancellation unless Grantee shall have sooner remedied the default to the satisfaction of Grantor.
13. Grantee agrees to preserve and protect the natural environmental conditions of the land encompassed in this grant, and to take those reclamation or corrective actions that are accepted soil and water conservation practices and that are deemed necessary by Grantor to protect the land from pollution, erosion, or other environmental degradation.
14. Grantee agrees to reclaim by grading, leveling, or terracing all areas disturbed by the construction or maintenance of the right-of-way or operations thereon and to landscape such areas at its own cost and expense. Landscaping shall include the planting of native grasses, shrubs, or other vegetation so as to return disturbed areas to their natural state and prevent water and wind erosion.
15. This grant shall become effective upon its execution by Grantor.

Stipulations:

- **Temporary Construction Space is granted up to 20' during initial construction and maintenance. Exclude remediation phase. Temporary Work Space not to exceed 180 days.**

(4)

Right-of-Way Easement No. R-35280

GRANTEE: **Santa Fe County, Public Works Department**

By: _____

ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
by _____ of _____ a
_____ corporation, on behalf of said corporation.

My Commission Expires:

NOTARY PUBLIC

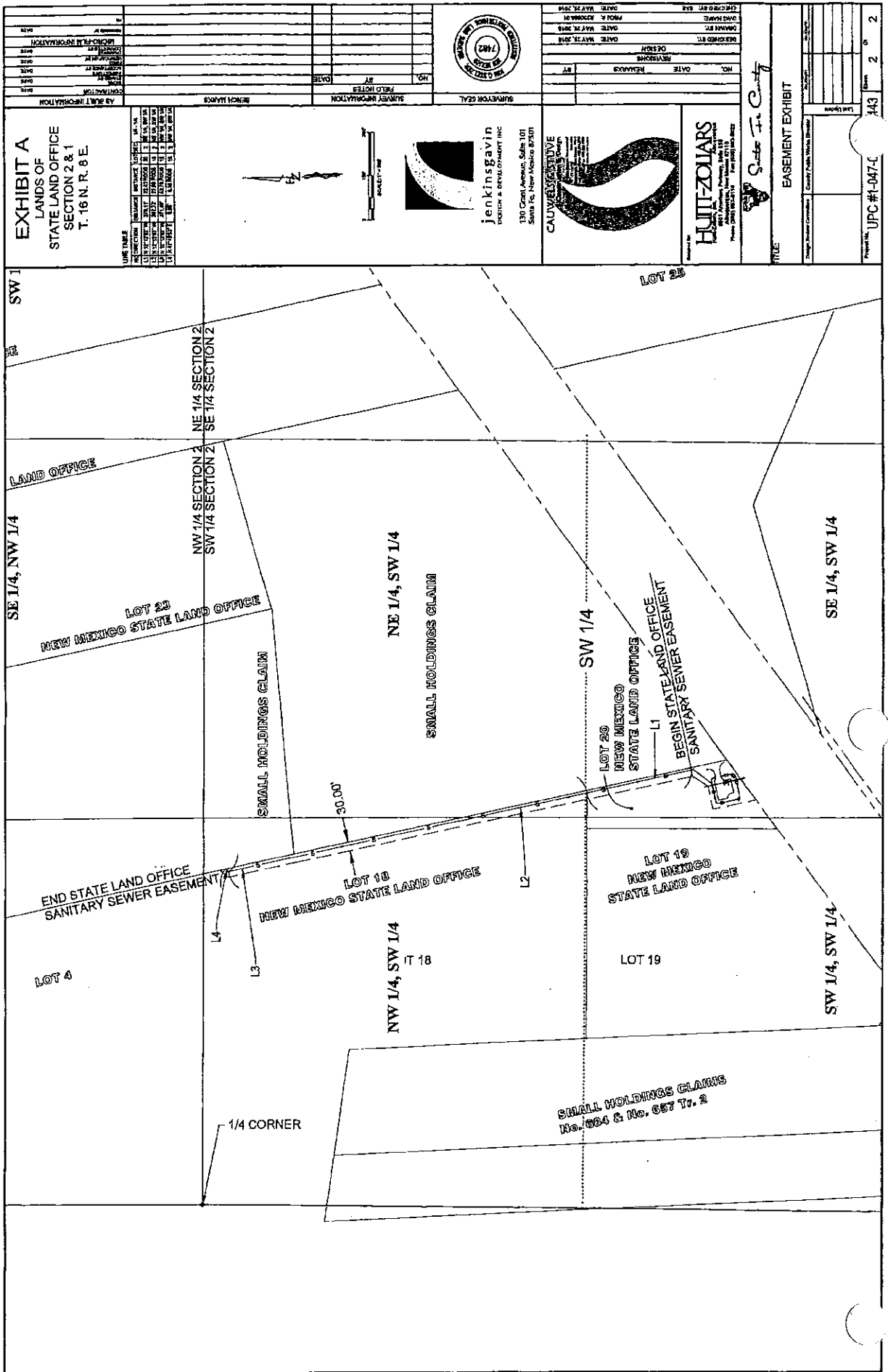
STATE OF NEW MEXICO

BY: _____
Aubrey Dunn
Commissioner of Public Lands

DATE: _____

S
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L

R - 35280
EXHIBIT A
1 OF 1



LINE TABLE

LINE NO.	BEARING	DISTANCE	SECTION	TOWNSHIP	RANGE
1	N 89° 56' 38" W	270.00	2	16 N	8 E
2	S 89° 56' 38" E	270.00	2	16 N	8 E
3	S 89° 56' 38" E	270.00	2	16 N	8 E
4	N 89° 56' 38" W	270.00	2	16 N	8 E
5	S 89° 56' 38" E	270.00	2	16 N	8 E
6	S 89° 56' 38" E	270.00	2	16 N	8 E
7	S 89° 56' 38" E	270.00	2	16 N	8 E
8	S 89° 56' 38" E	270.00	2	16 N	8 E
9	S 89° 56' 38" E	270.00	2	16 N	8 E
10	S 89° 56' 38" E	270.00	2	16 N	8 E
11	S 89° 56' 38" E	270.00	2	16 N	8 E
12	S 89° 56' 38" E	270.00	2	16 N	8 E
13	S 89° 56' 38" E	270.00	2	16 N	8 E
14	S 89° 56' 38" E	270.00	2	16 N	8 E
15	S 89° 56' 38" E	270.00	2	16 N	8 E
16	S 89° 56' 38" E	270.00	2	16 N	8 E
17	S 89° 56' 38" E	270.00	2	16 N	8 E
18	S 89° 56' 38" E	270.00	2	16 N	8 E
19	S 89° 56' 38" E	270.00	2	16 N	8 E
20	S 89° 56' 38" E	270.00	2	16 N	8 E
21	S 89° 56' 38" E	270.00	2	16 N	8 E
22	S 89° 56' 38" E	270.00	2	16 N	8 E
23	S 89° 56' 38" E	270.00	2	16 N	8 E
24	S 89° 56' 38" E	270.00	2	16 N	8 E
25	S 89° 56' 38" E	270.00	2	16 N	8 E
26	S 89° 56' 38" E	270.00	2	16 N	8 E
27	S 89° 56' 38" E	270.00	2	16 N	8 E
28	S 89° 56' 38" E	270.00	2	16 N	8 E
29	S 89° 56' 38" E	270.00	2	16 N	8 E
30	S 89° 56' 38" E	270.00	2	16 N	8 E



jenkinsgavin
Professional Surveyor
130 East Avenue, Suite 101
Santa Fe, New Mexico 87501



Santa Fe County

EASEMENT EXHIBIT

