

City of Santa Fe, New Mexico

**Attachment E
Tierra Contenta Annexation
Agreement**

**RESTATED ANNEXATION AGREEMENT
TIERRA CONTENTA, WOLGAMOOD SUBDIVISION
AND CONTIGUOUS LANDS (EAST)**

1122756

This Restated Annexation Agreement ("Agreement") is made and entered into by and between the City of Santa Fe, New Mexico, a New Mexico municipal corporation ("City"), Tierra Contenta Corporation, a New Mexico non-profit corporation, ("Tierra"), Elisia Partnership, a New Mexico general partnership ("Elisia"), Kenneth Prater ("Prater"), New Mexico School for the Deaf ("School for the Deaf"), Santa Fe Board of Education ("Board of Education"), Herrera Associates, a New Mexico general partnership ("Herrera"), and Dr. Joe L. Hernandez, ("Hernandez"). Tierra, Elisia, Prater, School for the Deaf, Board of Education, Herrera and Hernandez, are hereinafter sometimes collectively referred to as "Landowners." This Agreement shall be effective as of the date set forth in paragraph 27 ("Effective Date").

RECITALS

- A. Landowners are the collective owner of certain real property in Santa Fe County, New Mexico consisting of approximately 1,421 acres of land situate in Township 16 North, Ranges 8E and 9E, as more fully described on Exhibit 1 attached (the "Property").
- B. On November 1985, the Governing Body adopted Resolution No. 1985-107 amending the Santa Fe Urban Area General Plan pursuant to Case # 1985-32 and Ordinance No. 1985-58, thereby annexing the Property to the City under the terms and conditions of an annexation agreement ("Original Annexation Agreement"). The Original Annexation Agreement, dated November 5, 1985, was approved by the Landowners and the City and filed for record in Book 544 at page 530, records of Santa Fe County, New Mexico.
- C. Pursuant to Ordinance No. 1985-59, approximately 1,391 acres of the Property owned by Tierra, School for the Deaf, Santa Fe Board of Education, Elisia and Prater were rezoned from a "R-1 Residential District" ("R-1") to "PRC Planned Residential Community" ("PRC"), now governed by §14-31 SFCC (1987), pursuant to a master plan ("Original Master Plan") approved by the City and the Landowners.
- D. Those portions of the Property owned by Herrera and Hernandez ("Adjoining Owners") remained zoned as R-1 and are now governed by §14-17 SFCC (1987). An application for rezoning is concurrently under consideration by the City, and, prior to the Effective Date of this Agreement these properties may have been rezoned by the City.
- E. It is the intention of the parties to this Agreement that the Original Annexation Agreement and Original Master Plan shall be superseded in their entirety and that this Agreement and attached exhibits shall substituted therefor, and further, that the Original Annexation Agreement and Original Master Plan shall be deemed to be of no further force and effect and shall not be binding upon any owner of any portion of the Property.

F. Certain provisions of this Agreement shall apply only to the properties owned by Tierra, Elisia, Prater, Board of Education, and the successors and assigns of the School for the Deaf, excluding any successor or assign that is a state or local governmental entity or agency governed by restrictions set forth in the New Mexico Constitution ("NMSD Assigns"). Collectively Tierra, Elisia, Prater, the Board of Education and NMSD Assigns are identified as the "PRC Owners".

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G. The City approved this Agreement in a duly called meeting on February 23, 1994.

AGREEMENTS

NOW, THEREFORE, in consideration of the premises, the following agreements and undertakings, the parties incorporate the foregoing recitals and further agree as follows:

1. **ANNEXATION PLAT.** The Property, previously annexed to the City, is fully described on the annexation plat titled *Annexation Plat for Tracts 1 Thru 9, Tierra Contenta, Wolgamood Subdivision and Contiguous Lands (East) within Township 16 North, Ranges 8 & 9 East, New Mexico Principal Meridian, Santa Fe County, New Mexico, June 1985*, ("Annexation Plat") a true and correct copy of said Annexation Plat is attached hereto as Exhibit 1. The Annexation Plat complies with §14-9.6(D) SFCC (1987).

2. **THE MASTER PLAN.** Landowners have approved a revised master plan for uses of the Property and as described on the plat of survey titled *Master Plan PRC and Annexation* (the "Master Plan"). Landowners have further approved a revised phasing plan as described on the plat of survey titled *Phasing Master Plan* (the "Phasing Plan"). Both the Master Plan and Phasing Plan comply with §§14-9.6(D) SFCC (1987). True and correct copies of the Master Plan and Phasing Plan are attached as Exhibit 2.

3. **CITY APPROVAL OF MASTER PLAN AND PHASING PLAN; SUBSEQUENT APPROVALS.** The Master Plan and Phasing Plan contemplate a variety of housing types and additional commercial, institutional, industrial, and recreational land uses for the Property. The City hereby approves the Master Plan and Phasing Plan and agree that each comply with the SFCC (1987). The City agrees to approve rezonings, preliminary development plans and preliminary subdivision plats for individual tracts within the Property, provided such rezonings plats and plans conform to the Master Plan and Phasing Plan, the SFCC 1987, as amended, and the provisions of this Agreement. The City agrees to approve final development plans and final subdivision plats that substantially conform to previously approved preliminary plats and plans.

4. **MODIFICATION OF URBAN AREA GENERAL PLAN; MODIFICATION OF MASTER PLAN.**

A. The Master Plan, including its designations of the PRC district, shall become part of the Santa Fe Urban Area General Plan. Modifications of the Master Plan, including, without limitation, relocations or modifications of improvements as shown on the Master Plan, must be approved by the City, as provided below.

B. Minor relocations and modifications, such as relocation of utility lines, roadways and minor variations of the Phasing Plan, otherwise consistent with the general intent of the Master Plan, shall be approved administratively by the director of the technical review division of the City or such other division later charged with the authority to review development proposals ("Technical Review Division") 1122758

C. Major modifications and relocations shall be approved by the development review committee or such other committee delegated the authority by the governing body of the City to grant final approval of final subdivision plats and final development plans ("Development Review Committee"). The determination as to whether any proposed modification is "major" or "minor" shall be made by the members of the "Development Review Team", comprised of members of City staff and the interdepartmental team charged with the responsibility to review development projects. Only major modifications to the Master Plan shall require an amendment to the Master Plan and approval by the Development Review Committee.

D. Notwithstanding the foregoing, any increase in the number of dwelling units or area of commercial use must be reviewed first by the Development Review Committee and thereafter, the Committee shall forward its recommendations to the Governing Body.

5. DEVELOPMENT OF THE PROPERTY.

A. The Property shall be developed in accordance with the Master Plan.

B. The Master Plan includes the following categories of land uses:

(1) Those portions of the Property owned by the PRC Owners, currently zoned as PRC, shall be developed in accordance with the PRC zoning ordinance outlined in §14-31 SFCC (1987). To the extent then required by the Santa Fe City Code, specific developments within these properties shall meet the standards for all individual tract development as required under §14-31.7 SFCC (1987), and if applicable, any ordinance governing approval of final subdivisions plats. In lieu of standards set forth in the PRC Zoning Ordinance, specific development standards that vary from the PRC Zoning Ordinance may be proposed by any PRC Owner for individual tract development within the PRC district as part of any application for preliminary and final subdivision plat approval or preliminary and final development plan approval to the Development Review Committee. Should any development standards be proposed that materially vary from the PRC development standards, the PRC Owner shall comply with the procedures for notification prior to adoption of specific design standards for each phase as set forth in Section 14-5.4(C)(2), SFCC 1987.

(2) Property currently zoned PRC and owned by the PRC Owners that is proposed on the Master Plan for a village center and office/business incubator uses shall be rezoned to a zoning district or districts that will permit use of the lands for such other uses.

(3) The use of the Adjoining Owners' properties for uses other than R-1 permitted uses shall require rezoning from R-1 to appropriate zoning districts that will permit use of these properties for the multi-family, commercial and industrial uses as such sites are shown on the Master Plan.

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C. Prior to any development of any portion of the Property owned by the PRC Owners, all preliminary and final subdivision plats and preliminary and final development plans shall conform to the Master Plan, this Agreement, and the Santa Fe City Code. If such plats and plans conform to the Master Plan, this Agreement, and the Santa Fe City Code the plats and plans of the PRC Owners shall be approved by the Development Review Committee.

D. The Adjoining Owners shall develop their property in accordance with this Agreement, the Master Plan, the Santa Fe City Code, and any conditions of rezoning.

6. **PHASING.**

A. The phases currently scheduled for development of the Property by PRC Owners are set forth in the Phasing Plan. Only those portions of the Property owned by PRC Owners and subject to the PRC zoning designation are governed by the Phasing Plan. Changes in the phasing timetable may be reviewed and revised from time to time as conditions change.

B. The Schedule of Improvements for PRC Owners and Adjoining Owners is attached hereto as Exhibit 3.

C. The designated improvements for water, sanitary sewers, storm drainage, streets, dedication of parks and other items as set forth in the Master Plan shall be substantially completed by a PRC Owner, to the satisfaction of the City, for each phase within the Phasing Plan before the construction of such improvements in succeeding phases may be commenced. However, two phases may be undertaken concurrently provided that the PRC Owner can demonstrate to the City a satisfactory timetable for completion of required improvements.

D. At such time as a PRC Owner proposes a particular phase for construction, the City shall determine which improvements for water, sanitary sewers, storm water drainage, streets and dedication of parks and open space are required for that particular phase. Any PRC Owner proposing a phase to be developed shall be required to present a plan to the City which shall include plans for completion of the required improvements in that phase.

E. Any approvals required under this paragraph 6 shall be obtained as provided in paragraph 4.

7. AFFORDABLE HOUSING.

A. Tierra shall develop approximately forty percent (40%) of the 3,700 lots or units planned for Tierra's property for families earning at or below eighty percent (80%) of the median family income of the City and for single person households earning under one hundred percent (100%) of the City median household income. The minimum sizes and types of these affordable units in the PRC will be determined by the City and Tierra by separate agreement.

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B. Affordable units in the below eighty percent (80%) of median family income category are exempt from impact fees as set forth in this Agreement.

C. The provision of affordable units shall be reviewed on a phase-by-phase basis by the City.

8. LAND DEDICATED TO THE CITY BY TIERRA.

A. Tierra agrees to dedicate parcels totalling approximately two hundred fourteen (214) acres of land to the City for City use as parks. The land shall be dedicated according to the Phasing Plan.

B. In addition, an estimated one hundred fourteen (114) acres will be dedicated by Tierra to the City for roadways and drainage, and 2.8 acres for community use. These dedications will occur consecutively with development and upon acceptance by the City.

C. These dedications completely fulfill and satisfy the required land dedication for parks and open space of the Santa Fe City Code and this Agreement for all development of the Tierra property.

9. PARKS, OPEN SPACE AND OTHER DEDICATIONS.

A. Concurrently with approval of any final development plan and prior to any development of the Property, each Landowner agrees to dedicate park land and open space to the City as shown on the Master Plan.

B. Such dedications shall be made under the following Schedule:

(1) Tierra will dedicate to the City an estimated 214 acres for parks and open space according to the Phasing Plan.

(2) Elisia agrees to dedicate to the City no less than forty-five (45) acres for park and open space the same being all of the land in the open space system and the neighborhood park (Tract 27) on the Elisia property, at the time Elisia obtains its approval of a Phase I final subdivision plat.

(3) The School for the Deaf, or if applicable, NMSD Assigns, agrees to dedicate to the City no less than sixty (60) acres, for park and open space, such land being described as part of the open space system during Phase 2. Such dedication will occur after the City has acquired right-of-ways for the construction of the Arroyo Chamiso bike and pedestrian trail system through the PRC Owners' properties.

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(4) The Adjoining Owners agree to dedicate to the City no less than ten (10) acres in Arroyo Chamiso for park and open space, such land being described as part of the open space system. Such dedication will occur after the City has acquired right-of-ways for the construction of the Arroyo Chamiso bike and pedestrian trail system through the PRC Owners' properties or application for a final development permit, whichever occurs first.

(5) The dedications described in this paragraph 9 will completely fulfill and satisfy the required land dedication for parks and open space of the Santa Fe City Code and this Agreement for all development of the School for the Deaf property, if applicable, the NMSD Assigns' property, the Elisia' property, and the Adjoining Owners' property.

C. Concurrently with submission of any preliminary development plan by a PRC Owner or in the case of an Adjoining Owner, a final development plan, and prior to development, the PRC Owner or Adjoining Owner shall contribute to the cost of the multipurpose trail system in the urban park as shown on the Master Plan. The contribution shall be based on the number of residential units approved for that owner's respective property. The cost per residential unit shall be computed by dividing the total cost of the trail system by the total number of residential units approved in the Master Plan. Each contribution for the trail system may be proportionately reduced in the event the City receives City, State or Federal funds for the development of the trail system. The reduction of each contribution shall be in proportion to the ratio of government funds received to total cost of the trail system.

D. At the time of development, the Board of Education shall develop ball fields and/or soccer fields on the two (2) elementary school sites shown on the Master Plan. These fields shall be open for public use subject to the scheduling of school related events by the Board of Education. The City shall maintain these fields according to a separate agreement between the City and the Board of Education.

E. At the time of development, each of the PRC Owners and Adjoining Owners shall be solely responsible for tree plantings, enhanced medians and other landscaping areas along the major roads shown on the Master Plan within each owner's property. The landscape areas and enhanced medians shall be dedicated to the City, after which the City shall maintain these areas.

F. At the time of development, each PRC Owner and Adjoining Owner of any portion of the Property shall develop the park plazas on their respective property as shown on the Master Plan, if any.

G. All parks, trail systems, and open space dedicated to the City shall thereafter be maintained by the City.

10. **CITY SERVICES.**

A. **Fire and Police Protection.** Fire and police protection for development of the Property will be provided by City Police and Fire Department facilities and personnel.

B. **Refuse.** Refuse collection and disposal services within the Property shall be provided by the City or its agents in accordance with the Santa Fe City Code.

C. **Water Service.**

(1) As a condition of development of the Property, each PRC Owner and Adjoining Owner shall connect the proposed development to the Sangre de Cristo Water Company water delivery system using dedicated easements and right-of-way which shall allow extension of water mains through the Property as required by the Sangre de Cristo Water Company and the City. Individual PRC Owners and Adjoining Owners shall dedicate easements or rights-of-way through their portions of the Property as shown on the final subdivision plat to insure the water lines can be built accordingly through the Property.

(2) Each PRC Owner and Adjoining Owner shall construct water lines, as shown on the Master Plan, that run through or adjacent to their property. Each PRC Owner and Adjoining Owner is responsible for constructing the entire water line across that owner's property. In the event that a water line, as shown in the Master Plan, runs adjacent to two or more property boundary lines, then each adjacent PRC Owner or Adjoining Owner will share proportionately in the cost, according to the ratio of each owner's lineal foot frontage adjacent to the water line.

(3) In the event a Landowner constructs a water line on property other than that owner's property, the City will require reimbursement be paid to the owner constructing the line from the property owner across whose property the water line was built prior to any development on that property. Upon completion of improvements for which reimbursement is required, the party constructing the improvements shall file a certified schedule of actual costs reasonably incurred in installing the improvements dedicated to the City ("Reimbursement Schedule") with the Technical Review Division.

(4) Reimbursement shall include payment of interest at a rate corresponding to the increase, if any, in the U.S. Bureau of Labor Statistics, All-Urban Consumer Price Index (CPI-U) for all items (the composite of all CPI components) published for the U.S. City Average, West Region, using the index base of the 1982-1984 = 100 or its succeeding index ("CPI") computed by using the CPI as of the month of the date of delivery of the Reimbursement Schedule to the City, as the base figure ("Base Month") compared with the CPI for the same Base Month in the year reimbursement is due ("CPI Interest Rate"). For example: If a Reimbursement Schedule is delivered to

the City in December, 1994 and the CPI for December, 1994 was 150.0 and the reimbursement is due in December 1995, and the CPI for December, 1995 is 157.5, the increase in the CPI would be five percent (5%) resulting in an annual interest rate of five (5%). Notwithstanding the foregoing, the annual CPI Interest Rate shall not be greater than eight percent (8%).

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(5) In exchange for receiving water service, no well shall be drilled on any property owned by the PRC Owners or Adjoining Owners after the Effective Date of this Agreement. No water rights shall be transferred to permit a diversion of water from the properties of PRC Owners and Adjoining Owners.

D. Wastewater Collection and Sewer Service.

(1) Wastewater improvements are specified in the Schedule of Improvements attached as Exhibit 3.

(2) It is understood by the parties that the City intends to construct wastewater improvements within the Property that will provide service to areas located outside of the boundary of the Property.

(3) The City and each PRC Owner and Adjoining Owner will contribute a proportionate share of the cost of the south branch Arroyo Chianiso sewer line constructed to serve development within the Property. Such proportionate share shall be based on the cost of an eight inch (8") line and shall be a fraction based on the total developable acreage in the specific tract served by the sewer line, divided by the total developable acreage of all properties served by the sewer line, or such other equitable means of cost distribution as agreed to by each PRC Owner and Adjoining Owner. Payment to the City shall be made at the earlier of recordation of a final subdivisions plat or final development plan ("Sewer Construction Assessment").

(4) Only one Sewer Construction Assessment for construction of the sewer line within the Property shall be levied against any PRC Owner and Adjoining Owner.

(5) In lieu of the procedure set forth in subparagraph 10.D.(3) above, the City and PRC Owners and Adjoining Owners may agree to establish an assessment district for construction of storm water, wastewater collection and sewer service improvements to serve the Property.

(6) Each PRC Owner and Adjoining Owner shall dedicate sewer easements on that owner's tract of the property as shown on a final subdivision plat or final development plan if not already dedicated under paragraph 14. The School for the Deaf will make such dedication of sewer easements as provided in paragraph 14.

(7) The City agrees to complete the engineering and construction of the south branch of the Arroyo Chamiso sewer line, as shown in the Master Plan, within three (3) years from the Effective Date of this Agreement.

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(8) The PRC Owners and Adjoining Owners shall construct and pay for all sewer lines on their property other than the Arroyo Chamiso Line.

(9) In the event a Landowner constructs a sanitary sewer line on property other than that Landowner's property, the City will require reimbursement be paid to the owner constructing the line from the property owner across whose property the sewer line was built prior to any development on that property. Upon completion of improvements for which reimbursement is required, the party constructing the improvements shall file a Reimbursement Schedule of actual costs reasonably incurred with the Technical Review Division of the City. Reimbursement shall include payment of interest at the CPI Interest Rate as described in paragraph 10.C.(4).

E. Streets and Other Rights of Way.

(1) All streets and roads built by PRC Owners and Adjoining Owners will be designed and constructed in accordance with the Santa Fe City Code (1987).

(2) The PRC Owners and Adjoining Owners shall construct off-site roadway improvements as specified below (a) through (e) related to development of the Property as established by the Master Plan and the detailed Traffic Impact Analysis prepared for the Property pursuant to paragraph 10.F of this Agreement (the "TIA"). The offsite roadway improvements shall exclusively consist of:

Meadows Road;

- (a) three intersections with Airport Road, exclusive of South

- (b) Three intersections with Cerrillos Road;

- (c) one at-grade intersection with the Santa Fe By-Pass;

and

- (d) Ocate Road from the Hernandez property to Cerrillos Road;

- (e) Country Club Road From Elisia property to Airport Road.

The roadway improvements listed under subparagraphs (a) through (e) above are shown on Exhibit 2 attached hereto and incorporated herein as if fully set out.

(3) The PRC Owners and Adjoining Owners shall contribute a proportionate share of the cost of building the offsite roadway improvements specified above 2 (a) through (e) based upon the traffic contribution established by the TIA as provided in this paragraph 10.E.

(4) Tierra will be entirely responsible for the cost of the at-grade intersection and signalization at Academy and the Santa Fe Bypass and the cost of two intersection improvements at Airport Road and Paseo del Sol and Golf Club Road, not including the intersection of Airport and Country Club Road.

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(5) Elisia and Tierra will be jointly responsible for the construction of Country Club Road and its intersection with Airport Road. NMSD Assigns and Tierra will be jointly responsible for the intersection of Academy Road with Cerrillos Road.

(6) The relative responsibilities for financing these improvements will be determined by the TIA prepared as part of the Phase I preliminary plat submittal and as approved by the Landowners or their then assigns.

(7) The road known as "Ocate Road" commencing at the School for the Deaf's property and running through the Hernandez property to Cerrillos Road and this road's intersection with Cerrillos Road will be the responsibility of NMSD Assigns and the Adjoining Owners although other owners along Ocate Road may also be asked to contribute. Cost sharing among these owners will be determined through separate agreement among these owners and based upon the TIA and an allocation of "service units" to each property based upon the developable acreage within each owner's property and the permitted use of the property. The term "service unit" shall mean a standardized measure of consumption, use, or generation attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a road improvements and based upon use of the properties benefitted by the road, that is, single family residential, multifamily, commercial or industrial uses.

(8) Herrera will be responsible for the cost of intersection improvements and signalization which will serve the Property at the intersection of the south bound lane of Cerrillos Road and the road which runs across the Herrera property south of Ocate Road to be known as "Herrera Road".

(9) All roadway rights-of-way within the Property which are shown on the Master Plan shall be dedicated to and maintained by the City.

(10) Other road network improvements for a north/south street extending north of Airport Road to connect with either Alameda or Rufina and for one east/west street extending across Cerrillos Road to Richards Avenue and Academy Road from South Meadows to Cerrillos Road are the responsibility of the City.

F. **Traffic Impact Analysis.** Concurrent with the submittal of the Phase I preliminary subdivision plat, the City shall prepare the TIA for the Property and shall allocate service units for each proposed development as provided in subparagraphs 10.E.(7) above. The TIA shall address the traffic impacts which will be generated by each proposed phase of development under consideration. The TIA shall be conducted according to the City of Santa Fe Public Works Department traffic analysis standards and shall be approved by the Landowners, or their assigns.

G. **Schedule of Improvements.** The Schedule of Road Improvements is attached hereto as Exhibit 3.

H. **Financial Guarantees.**

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(1) Prior to recordation of a final subdivision plat or any phase thereof, or a final development plan with the County Clerk of Santa Fe County, the PRC Owners or Adjoining Owners shall provide a letter of credit or other financial guarantee acceptable to the City for the required improvements. The amount of the financial guarantee shall be based on a certified engineer estimate acceptable to the director of the Technical Review Division.

(2) All improvements required in any final subdivision plat or final development plan must be constructed by PRC Owners or Adjoining Owners in accordance with the Santa Fe City Code, and when completed to the satisfaction of the City, said improvements may be dedicated to and thereafter maintained by the City.

I. The provisions of this paragraph 10 do not apply to developments or improvements by the School for the Deaf as a state agency or any other federal and state governments and their political subdivisions. If the School for the Deaf elects to develop any portion of its property and to connect to any portion of the City services described in this paragraph 10, or to have the right under this Agreement to use any portion of the roads described in this paragraph 10 (collectively "Improvements"), the School for the Deaf shall be entitled to do so upon payment of the proportional sums otherwise required to be paid by NMSD Assigns for such Improvements. Any duty of the New Mexico School for the Deaf to pay any funds or consideration required by or resulting from the terms of this Agreement shall be contingent upon and subject to prior sufficient appropriations and authorization by the New Mexico Legislature for such development, including proportional payments due for such Improvements, and funding of such legislative appropriation. In the event sufficient funds are not so appropriated, authorized or available, then the corresponding duty of the School for the Deaf to make payments will automatically abate upon written notice from the School for the Deaf to the City and the affected Landowners. Likewise any right provided under this Agreement to use the Improvements shall abate until sufficient appropriation or funding can be obtained by the School for the Deaf.

11. **ARCHAEOLOGICAL REVIEW ORDINANCE.** Prior to approval of any final development plan or subdivision plat proposed by PRC Owners and Adjoining Owners, an Archaeological Clearance Permit ("Clearance Permit") shall be obtained from the City's Archaeological Review Committee, as required in §14-75 of the SFCC, 1987. These Clearance Permits may be obtained for each phase of development.

12. **UTILITIES.** The Property shall be served only with underground utilities.

13. **IMPACT FEES.** Subject to the enforceability of any City ordinance under the provisions of the Development Fee Act, §§5-8-1 *et seq.* NMSA, 1978, and after offsetting any fee with the contributions and offsite improvements made or to be by any PRC Owners or Adjoining Owners, the PRC Owners and Adjoining Owners shall pay impact fees as required by Santa Fe City Code (1987), as amended.

14. **EASEMENTS AND RIGHTS-OF-WAY.** Each Landowner, its then assigns, including NMSD Assigns shall dedicate all required access and utility easements and rights-of-way to the City within corridors shown on the Master Plan to allow orderly development of all tracts within the Property. Tierra in cooperation with the Landowners will prepare a dedication plat of survey in conjunction with Tierra's final subdivision plat or final development plan for Phase I as shown on the Phasing Plan. The Landowners and their then assigns, including NMSD Assigns, and the City agree to approve the Dedication Plat if it substantially conforms to the Master Plan. In the case of PRC Owners and Adjoining Owners, such dedication shall be in compliance with the Santa Fe City Code.

15. **CONFORMANCE WITH TERRAIN MANAGEMENT AND DRAINAGE STANDARDS.** Prior to development of Property, the PRC Owners and Adjoining Owners shall demonstrate compliance with the Terrain Management provisions of Santa Fe City Code. Dip sections shall not be allowed on designated arroyos without prior administrative approval of the director of the Technical Review Division of the City.

16. **ASSIGNMENTS.** Each Landowner shall be entitled to sell, transfer or assign all or any portion of that Landowner's rights and obligations under this Agreement provided the Landowner or the Landowner's assignee delivers to the City an agreement executed by Landowner and Landowner's assignee, acknowledging such assignment, describing the portion of the real property to which the assignment applies, and evidencing the assignee's acceptance of the rights and obligation under this Agreement. Such agreement shall be deemed effective as of recordation with the Clerk of Santa Fe County, New Mexico. Any assignee shall have the same rights and obligations under this Agreement as that of the Landowner as to that portion of the Property described in any assignment.

17. **CAPTIONS.** The captions and paragraph headings of this Agreement are not necessarily descriptive, or intended or represented to be descriptive, of all the provisions thereunder, and in no manner shall such captions and paragraph headings be deemed or interpreted to limit the provisions of this Agreement.

18. **EXECUTION OF DOCUMENTS.** The parties agree to execute all documents contemplated expressly or impliedly by this Agreement or necessary to effectuate the terms of this Agreement.

19. **SEVERABILITY.** If any provision of this Agreement, or the application of such provisions to any person or circumstances, shall be held invalid, the remainder of this

Agreement, or the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

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20. **WAIVER.** No waiver of a breach of any of the covenants contained in this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

21. **CONSENT AND OBLIGATIONS.** Wherever the approval or consent of the City is required by this Agreement, it is understood that such approval or consent shall not be unreasonably withheld. Whenever it is stated in this Agreement that the Landowners or any individual Landowner shall undertake any particular act or be responsible for a particular reimbursement, cost, contribution or assessment, it shall be understood to mean that each Landowner shall be responsible only for that owner's undertaking as set forth in the Landowner's development plan or subdivision plat presented to the City. It shall be understood that the obligations of any Landowner under this Agreement arise only to the extent that a Landowner applies to the City for approval of a final subdivision plat or final development plan for that portion of the Property owned by a particular Landowner. No obligations arise in the absence of such application or development.

22. **GOVERNING LAW.** This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of New Mexico. Notwithstanding the inclusion of the School for the Deaf and the Board of Education as "Landowners" in the recitals of this Agreement, no covenant or agreement contained in this Agreement, whether referring specifically to the Landowners or not, shall be applicable to, binding on or enforceable against the School for the Deaf or the Board of Education, their respective property within the Property, their respective Board members, the State of New Mexico or any of their successors or assigns, unless a City Ordinance containing said covenant or agreement would be enforceable against the State of New Mexico, the School for the Deaf or the Board of Education under New Mexico law. Nothing in this Agreement shall enlarge the authority of the City to regulate the use or development of land now owned by the School for the Deaf or the Board of Education within the Property beyond the authority granted to or residing in the City under the existing laws and constitution of the State of New Mexico.

23. **NUMBERS AND GENDERS.** Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

24. **BINDING EFFECT.** This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective heirs, successors and assigns.

25. **AGREEMENT.** This Agreement states the entire agreement of the parties. The provisions of this Agreement shall be severable and may be modified only in a subsequent amendment duly approved as provided in paragraph 26. This Agreement shall not relieve the owners from complying with present or future City ordinances, resolutions or regulations.

26. **AMENDMENTS.** This Agreement may be amended with the consent of the City and the Landowners, or their then successors and assigns. Any amendments to this Agreement shall be reviewed by the Development Review Committee, thereafter, the Committee shall forward its recommendations to the Governing Body. Each amendment, to be effective, must be in writing, executed in the manner of this Agreement and filed for record with the Clerk of Santa Fe County, New Mexico.

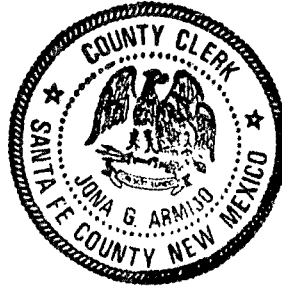
27. **EFFECTIVE DATE.** This Agreement is effective as of the date of recordation of this Agreement in the land records of Santa Fe County, New Mexico.

CITY OF SANTA FE, a New Mexico municipal corporation



By *Sam Pick*
SAM PICK, MAYOR

Frances C. Romero
FRANCES C. ROMERO, CITY CLERK



APPROVED AS TO FORM:

Dianne DeLayo
DIANNE DeLAYO, DEPUTY CITY ATTORNEY

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COUNTY OF SANTA FE)
STATE OF NEW MEXICO) SS
I hereby certify that this instrument was filed
for record on the 13 day of Dec A.D.
19 94 at 11:50 o'clock A m
and was duly recorded in book 722
page 76-78 of the records of
Santa Fe County.

Witness my Hand and Seal of Office
Jona G. Armijo
County Clerk, Santa Fe County, N.M.
Jona G. Armijo
Deputy

LANDOWNERS:

1122769

Tierra Contenta Corporation,
a New Mexico non-profit
corporation

By *[Signature]*
John C. [unclear] its President
(name printed) (title)

New Mexico School for the Deaf

By *[Signature]*
Michele B. [unclear] its President
(name printed) (title)

Elisia Partnership, a New Mexico
general partnership *[Signature]* Henry Pick

By _____,
its general partner
(name printed)

Herrera Associates, a New Mexico
general partnership

By *[Signature]*
WILLIAM R. HERRERA, its general partner
(name printed)

Santa Fe Board of Education

By *[Signature]*
MIKE MIER, its ASST. Supt
(name printed) (title)

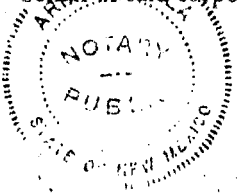
[Signature]
Dr. Joe L. Hernandez

[Signature]
Kenneth Prater

ACKNOWLEDGMENTS

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me on March 7, 1994, by Sam Pick, Mayor of the City of Santa Fe, a New Mexico municipal corporation, for and on behalf of said corporation.



[Signature]
Notary Public
My commission expires: 9-16-96

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me on April 18, 1994, by Patricia C. Laramente of Tierra Contenta Corporation, a New Mexico non-profit corporation, for and on behalf of said corporation.



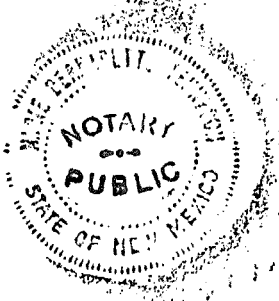
OFFICIAL SEAL

[Signature]
ELIZAS TH N. FRESQUEZ
NOTARY PUBLIC - NEW MEXICO
NOTARY BOND FILED WITH SECRETARY OF STATE
My Commission Expires 4/6/95

[Signature]
Notary Public
My commission expires: 4/6/95

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me on May 11, 1994, by Mitzy Baker - Garland, Isabel H. Delgado of New Mexico School for the Deaf.



[Signature]
Notary Public
My commission expires: 11/14/95

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me on August 4, 1994, by Henry Pick of Elisia Partnership, a New Mexico general partnership, for and on behalf of said partnership.



OFFICIAL SEAL

Elizabeth M. Fresquez
ELIZABETH M. FRESQUEZ

NOTARY PUBLIC - NEW MEXICO
SECRETARY OF STATE

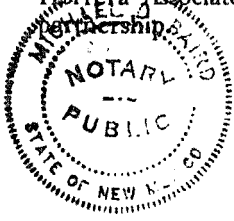
My Commission Expires 4/4/95

Elizabeth M. Fresquez
Notary Public

My commission expires: April 6, 1995

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me on APRIL 21, 1994, by William R. Herrera of Hortela Associates, a New Mexico general partnership, for and on behalf of said partnership.

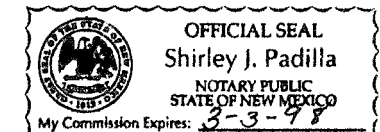


William R. Herrera
Notary Public

My commission expires: 9-15-95

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me on October 24, 1994, by Mike Mier of Santa Fe Board of Education.



OFFICIAL SEAL

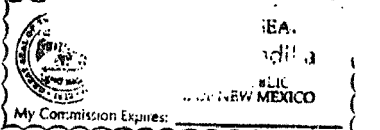
Shirley J. Padilla

NOTARY PUBLIC
STATE OF NEW MEXICO

My Commission Expires: 3-3-98

Shirley J. Padilla
Notary Public

My commission expires: 3-3-98



SEA.

Padilla

NOTARY PUBLIC
STATE OF NEW MEXICO

My Commission Expires:

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me on July 19, 1994, by Dr. Joe L. Hernandez.



OFFICIAL SEAL
Elizabeth M. Fresquez
ELIZABETH M. FRESQUEZ
NOTARY PUBLIC - NEW MEXICO
NOTARY BOND FILED WITH SECRETARY OF STATE
My Commission Expires 4/6/95

Elizabeth M. Fresquez
Notary Public
My commission expires: April 6, 1995

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me on May 13, 1994, by Kenneth Prater.



OFFICIAL SEAL
Elizabeth M. Fresquez
ELIZABETH M. FRESQUEZ
NOTARY PUBLIC - NEW MEXICO
NOTARY BOND FILED WITH SECRETARY OF STATE
My Commission Expires 4/6/95

Elizabeth M. Fresquez
Notary Public
My commission expires: April 6, 1995

Exhibit 1
Annexation Plat

1122773

Exhibit 2
Master Plan (single Sheet) and Phasing Plan (single sheet)

Exhibit 3
Master Plan for the annexed area and the PRC district
Schedule of Road Improvements

1122775

EXHIBIT 1

1122777

EXHIBIT 2

1122780

EXHIBIT 3

EXHIBIT 3
SCHEDULE OF IMPROVEMENTS FOR PHASE ONE

PROJECT DESCRIPTION	TYPE*	FUNDING SOURCE
<u>Phase One - Roads</u>		
Academy Road; improve from Tierra Contenta property line to Cerrillos Rd with intersection improvements at South Meadows and Cerrillos; approx. 3,500'	SR	City; Tierra; NMSD Assigns;
Academy Road; improve from Paseo del Sol to Tierra Contenta east property line; approx. 1,700'	OP	Tierra;
Academy Road; improve from Paseo del Sol to TCC west property line; approx. 1,350'	OP	Tierra;
Academy Road from TCC property line to Country Club Road; approx. 2,150'	OP	Elisia;
Country Club Road from Airport Road to Academy Road; 3,900'	SR & OP	Tierra; Elisia;
<u>Phase One - Water</u>		
12" water line along Academy Road from Paseo del Sol to TCC west property line; app. 1,350'	OP	Tierra;
12" water line along Academy Road from TCC property line to Country Club Road; approx 2,150'	OP	Elisia;
<u>Phase One - Sewer</u>		
8" line extending down Country Club Road, from Elisia prop to 36" trunk sewer; 1,700'	SR & OP	Tierra; Elisia;
<u>Phase One - Parks</u>		
Multipurpose play field and park development on elementary school site	OP	Board of Education;

Plaza park development
in Village Center

OP Tierra; 1122782

Neighborhood park
development

OP City;

* SR indicates major infrastructure improvements which are site related but are not physically located on the property.

OP indicates required spine infrastructure improvements which are located on the property.

EXHIBIT 3 (Cont)
 SCHEDULE OF IMPROVEMENTS FOR PHASE TWO

PROJECT DESCRIPTION	TYPE*	FUNDING SOURCE
<u>Phase Two - Roads</u>		
Academy Road; from Country Club Rd to Bypass, with an at-grade intersection; 7,200'	OP	Tierra;
Golf Club Road from Airport Rd to Academy Road; 5,200'	OP	Tierra;
Plaza Central road, from Golf Club to Academy; 4,900'	OP	Tierra;
**Ocate Road from Paseo del Sol to Cerrillos Rd; 3,700'	SR & OP	Hernandez; Herrera; NMSD Assigns;
Extension of Academy Rd east of Cerrillos to an intersection with Richards Ave.	OS	City;
South Meadows Rd extension from Airport Road north to Rufina;	OS	City;
Rufina Street Extension	OS	City;
<u>Phase Two - Water</u>		
12" water line along Academy from Country Club to Golf Club	OP	Tierra;
12" water line along Golf Club Road from Airport to Academy	OP	Tierra;
12' water line loop along Plaza Central road, 8,400'	OP	Tierra;
<u>Phase Two - Sewer</u>		
8" line along Academy Road from Country Club to Golf Club	OP	Tierra;
8" line along Golf Club Rd from Airport Rd to Academy; approx 4,800'	OP	Tierra;
8" line along Plaza Central road; approx 3,400'	OP	Tierra;

Phase Two - Parks

Neighborhood park development	OP	City;
Community park development	OP	City;
Plaza park development in Village Center;	OP	Elisia;
Plaza park development in Town Center	OP	Tierra;
Bike Trail and Pedestrian Path System (North and South Branches - to Cerrillos Rd)	SR & OP	Tierra; State of New Mexico; City; Elisia; Herrera; Hernandez; NMSD Assigns;

* SR indicates major infrastructure improvements which are site related but are not physically located on the property.

OP indicates required spine infrastructure improvements which are located on the property.

OS indicates road improvements which are off-site, but are system-side improvements which will carry some of the traffic generated by Tierra Contenta.

** Timing of Ocate Road construction is dependent upon development of the adjoining properties, both of which are not subject to the phasing plan. Consequently, road construction could occur in any of the three phases.

EXHIBIT 3 (Cont)
 SCHEDULE OF IMPROVEMENTS FOR PHASE THREE

PROJECT DESCRIPTION	TYPE*	FUNDING SOURCE
<u>Phase Three - Roads</u>		
Paseo del Sol Loop from Ocate Rd to Academy Rd; 7,100'	OP	Tierra; Elisia; NMSD Assigns;
**Herrera Rd from Cerrillos Rd to Paseo del Sol Loop; 3,100'	OP	Herrera; NMSD Assigns;
<u>Phase Three - Water</u>		
**12" water line along Herrera Rd to Paseo del Sol	OP	Herrera; NMSD Assigns;
12" water line along Paseo del Sol Loop, from Ocate to Academy Rd	OP	Tierra; Elisia; NMSD Assigns;
***Water tank construction and line extension from locations east Cerrillos Road to TC property	OS	City; Other owners east of property;
<u>Phase Three - Sewer</u>		
***16" trunk sewer line along south branch of Arroyo Chamiso from Cerrillos to Bypass	SR & OP	City; Herrera; Hernandez; Tierra; Elisia; NMSD Assigns; Other owners south of the property;
***24" trunk sewer line from location east of Cerrillos Rd to TC property line	OS	City; Other owners east of the property;
8" sewer line along Paseo del Sol Loop, from Ocate to Academy	OP	Tierra; Elisia; NMSD Assigns;
<u>Phase Three - Parks</u>		
Multipurpose play field and park development on elementary school site	OP	Board of Education;
Plaza park development		

1122786

in Village Center;

OP Tierra;

Neighborhood park
development

OP City;

- * SR indicates major infrastructure improvements which are site related but are not physically located on the property.

OP indicates required spine infrastructure improvements which are located on the property.

OS indicates road improvements which are off-site, but are system-wide improvements which will carry some of the traffic generated by Tierra Contenta.
- ** Timing of Herrera Road construction and related water system improvements are dependent upon the development of the adjoining property. This property is not subject to the phasing plan. Consequently, these improvements could occur in any of the three phases.
- *** Timing of the major water and sewer system improvements may be accelerated due to City sponsored policy initiatives. Consequently, actual improvements could occur in any of the three phases.