

AMENDED AND RESTATED DEED OF CONSERVATION EASEMENT

This Amended and Restated Deed of Conservation Easement (the "Conservation Easement") is made this 30th day of May, by and between THE CITY OF SANTA FE, a municipal corporation and political subdivision of the State of New Mexico ("Grantor"), and THE SANTA FE CONSERVATION TRUST, a New Mexico nonprofit corporation ("Grantee").

This AMENDED AND RESTATED DEED OF CONSERVATION EASEMENT supersedes in full the original DEED OF CONSERVATION EASEMENT, that was entered into on or about October 1, 2004, by and between the City of Santa Fe as Grantor and the Trust for Public Land as Grantee, City Item #04-0866, and that was recorded in the records of Santa Fe County, New Mexico, on February 10, 2006, as Instrument # 1419812, as the same may have been amended or modified, commencing as of the date of recording of this Conservation Easement, and to which Grantee is assignee.

RECITALS

- A. Whereas, Grantor is the sole owner in fee simple of approximately fifteen (15.714) acres of certain real property located in the City of Santa Fe, Santa Fe County, New Mexico (the "Easement Area") described on Exhibit A attached hereto and made a part hereof. The Easement Area constitutes a portion of the fifty (50) acres of real property owned by Grantor commonly known as the North Santa Fe Railyard and Baca Railyard Properties (the "Railyard"). The Easement Area is subject to many uses, including:
- (a) an eleven (11.348) acre park (the "Park")
 - (b) a "Rail Line Corridor"
 - (c) a four (4.366) acre "Civic Places and Public Access Zone"

The Easement Area, Park, Railyard, Rail Line Corridor, Civic Places and Public Access Zone are all as shown on the map attached as Exhibit B hereto; and

- B. Whereas, the Easement Area possesses scenic, open space, natural, historical and recreational values (collectively the "Conservation and Public Benefit Values" and defined as "conservation purposes" in the Internal Revenue Code 26 U.S.C. 170(h)) of great importance to Grantor and the citizens of the City of Santa Fe, and the citizens of the State of New Mexico; and
- C. Whereas, Grantor intends that the Conservation and Public Benefit Values of the Easement Area be preserved and maintained by allowing only those land uses on

the Easement Area that do not significantly impair or interfere with them, including, without limitation, those land uses relating to recreation and park uses, rail use, specified publicly approved business use, and acequia use, among others existing at the time of this grant; and

- D. Whereas, Grantor further intends, as owner of the Easement Area to convey to Grantee the right to preserve and protect the Conservation and Public Benefit Values of the Easement Area in perpetuity; and
- E. Whereas, Grantee is a publicly supported, tax-exempt nonprofit organization and a qualified organization under Sections 501(c)(3) and 170(h), respectively, of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Internal Revenue Code"), whose general purpose is the conservation of land in its natural, scenic, recreational, historical, and/or open space condition; and
- F. Whereas, Grantor, as Buyer, and the original grantee, the Trust for Public Land (Original Grantee" or "Original Lessor"),, as Seller, entered into that certain Purchase Agreement dated September 27, 1995, pursuant to which Grantee sold certain real property to Grantor, including the Easement Area, upon the express condition that:

"31. Public Park Dedication. Seller's obligation to convey the Railyard Property to Buyer under this Agreement is conditioned upon Buyer restricting, in a manner acceptable to Seller, a minimum of ten acres of contiguous land within the Railyard Property for use as a public park"; and

- G. Whereas, Grantor, as Lessee, and Original Grantee, as Original Lessor, entered into that certain Lease and Management Agreement dated December 21, 1995, pursuant to which certain real property known as the Baca Street Property, as defined in said agreement, was leased by Grantee to Original Grantor, and which agreement contained the following provision relating to Original Grantor's obligations and commitment to create a conservation easement on the Easement Area:

"12. **Conservation Easement.** At the conclusion of the Master Plan or at such time as Lessor directs but no later than the date of donation or other conveyance of all or the last remaining portion of the Baca Property, Lessee agrees to record a conservation easement over that portion of the Catellus Property conveyed to Lessee pursuant to the Purchase Agreement described on Exhibit C attached hereto and incorporated herein by this reference. The Conservation Easement shall conform to the requirements of the

Land Use, Easement Act (§ 47-12-1 to § 47-12-6 NMSA 1978). The form and content of the conservation easement and the holder of the easement shall be subject to the prior written consent of Lessor. The conservation easement shall provide that at least ten contiguous acres would be maintained as public park and open space for public enjoyment and shall specify the permitted uses for the property. At Lessor's election, this requirement may be satisfied by Lessee restricting a minimum of ten contiguous acres of land on the property described on Exhibit C for use as a public park in a manner other than by conservation easement but acceptable to Lessor. Lessee's right to receive the donation of the Baca Property under the terms of this Agreement and/or the donation of the proceeds of sales under Section 10 above are expressly contingent upon Lessee's compliance with its obligations under this Section 12, which contingency may be waived by Lessor in its sole discretion"; and

- H. Whereas, Exhibit C of the Lease and Management Agreement dated December 21, 1995, provides as follows:

"LEGAL DESCRIPTION OF PROPERTY SUBJECT TO SECTION 12 REQUIREMENTS

Parcel B and Tract 1 as shown on Sheet 3 of that certain plat of survey entitled "Plat of Survey Prepared of Catellus Railyard and Baca Street Property" recorded in the records of Santa Fe County on December 20, 1995, at Plat Book 323 pages 017-022 as documents no. 928704"; and

- I. Whereas the Grantor and the citizens of Santa Fe have engaged in a community land use planning process, one recommendation of which was to provide "a significant additional amount of park and open space to the city. The open space should be used as a demonstration of how to co-exist with the high desert in the next century." Other such recommendations for the park's use and development are noted in Addendum A; and
- J. Whereas the Grantor and the citizens of Santa Fe have engaged in a Park Planning Process that resulted in the Railyard Park and Plaza design, construction and implementation as well as Railyard Public Policies and Procedures Volumes I and II.
- K. Whereas the Grantor intends that the majority of the Park remains visually open such that any and all development or structures be clustered. It is the intention of this Easement that 75% or more of the Park be unobstructed by buildings or improvements; and

- L. Whereas the parties desire that the Easement Area be used for community activities that support the Easement Area being a vital and active part of the City of Santa Fe, used by all of its citizens.

NOW, THEREFORE, in consideration of the above and mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the law of the State of New Mexico where the Easement Area is located, Grantor hereby grants and conveys to Grantee, and Grantee hereby accepts, a land use, conservation easement in perpetuity over the Easement Area as set forth below:

TERMS

1. Purpose. It is the purpose of this Conservation Easement to assure that the Easement Area will be retained forever as a park, open space, community gathering place, Rail Line Corridor, trail corridor and plaza area, and to prevent any use of the Easement Area that will significantly impair or interfere with the conservation values of the Easement Area. Grantors intend that this Conservation Easement will confine the use of the Easement Area to such activities, including, without limitation, those involving park, recreation, community gatherings and rail uses as are consistent with the purpose of this Easement.

2. Rights of Grantee. To accomplish the purposes of this Conservation Easement the following rights are conveyed to Grantee by this Conservation Easement:

- (a) To preserve and protect the conservation and community-benefit values of the Easement Area;
- (b) To examine and inspect the Easement Area to ensure there are no violations, breaches or defaults of any term, provision, covenant or obligation on Grantor's part to be observed or performed under this Conservation Easement and otherwise enforce the terms of this Conservation Easement; provided that such entry shall be upon twenty-four hours prior written notice to Grantor (unless access is for reasons of protection, safety or similar situations), and Grantee shall not unreasonably interfere with Grantor's use of the Easement Area. Grantee shall bear any costs associated with such inspections and maintenance of records and data associated therewith;
- (c) To prevent any activity on or use of the Easement Area that is inconsistent with the purpose of this Conservation Easement and to require the restoration of such areas or features of the Easement Area that may be damaged by any inconsistent activity or use; and
- (d) To erect or install signs or otherwise clearly mark the boundaries of the Easement Area and, with the prior written approval of Grantor, Grantee may erect or install signs announcing that the Easement Area is subject to

this Conservation Easement and may identify the parties which cooperated to complete or which are responsible for the enforcement of the Conservation Easement. For all signs allowed by this subsection, the location, number and design shall not significantly diminish the natural and scenic qualities of the Easement Area.

- (e) To review, comment upon, approve or object to any proposed plans relating to prohibited uses and allowed uses as set forth below.

3. Prohibited Uses and Practices. Any activity on or use of the Easement Area inconsistent with the purpose of this Conservation Easement is prohibited, except to the extent allowed by Paragraph 2 above or by Paragraphs 4 through 6 hereof. Without limiting the generality of the foregoing, the following uses and practices are expressly stated to be inconsistent with the purpose of this Conservation Easement and shall be and hereby are expressly prohibited upon or within the Easement Area, except to the extent allowed by Paragraph 2 above or by Paragraphs 4 through 6 hereof:

- (a) The construction, erection or expansion of any buildings, roads and roadways, parking lots (except as legally required by city code and for ingress and egress easements for use of the Easement Area), signs, billboards, satellite dishes, antennae, or other structures or improvements of any kind or nature.
- (b) De facto or direct subdivision or lease of all or any part of the Easement Area for any reason without the prior written approval of Grantee.
- (c) Commercial or industrial activities or uses. For purposes of this subsection, "commercial uses" shall include any and all forms of commercial activity or advertising including, but not limited to offices, retail or wholesale facilities, parking facilities, or any other such facility which might be reasonably construed as a commercial, private benefit enterprise.
- (d) The granting of roads, rights-of way, parking areas, loading areas or other possessory encumbrances on or over the Easement Area. Grantor, and/or its agent, shall provide to Grantee prior to the recordation of this Easement, in recordable form, a subordination by the current tenants and lessees of the Railyard of any rights and interests they have in and to the Easement Area to the terms of this Conservation Easement. Such subordination documents shall be recorded in the public records of the City of Santa Fe immediately subsequent to the recordation of this Conservation Easement.
- (e) Activities or uses that cause or are likely to cause visible and/or substantive soil degradation, erosion or water pollution, either on the surface or underground.
- (f) The use of toxic chemicals, including, without limitation, pesticides or herbicides, on the Easement Area, which might significantly impact the biological integrity of the Easement Area; provided, however, that the persons responsible for maintenance and care of the Easement Area, including the City of Santa Fe Parks and Recreation Division, may follow the City of Santa Fe Integrated Pest Management Policy. (Ord. #2001-10, §1).

- (g) The installation of underground storage tanks. Granting and/or installation of new utility systems or extensions of existing utility systems on the Easement Area, including those which might permanently affect the visual, aesthetic, environmental or wildlife values of or the physical well-being of those people who use the Easement Area, including without limitation, water, sewer, fiber optics, power, fuel and communication lines and related facilities. Existing utility installations may be repaired, maintained and expanded; provided, however, that (i) the right to expand was retained in the original granting document, and (ii) Grantor agrees to limit the area needed to repair and maintain said facility to the minimum necessary to accomplish the task. Upon completion of such maintenance and repair, the area shall be restored to its previous state or as near its previous state as practical. Notwithstanding the above, new utility systems or extensions of existing utility systems on the Easement Area may be granted or installed in order to develop the Park or Civic Areas and Public Access Zone as currently planned for the Easement Area and new utility systems or extensions to existing utility systems may be granted or installed for buildings contiguous to the Easement Area as needed and as approved by the Grantor and Grantee.
- (h) The dumping or disposal of refuse, other waste or unsightly material on the Easement Area. However, Grantor may provide small trash receptacles on the Easement Area for general public use, provided such receptacles are emptied on a regular basis, are not allowed to become unsightly, and the refuse collected from the receptacles is appropriately disposed of off-site.
- (i) The use of any "on-road" or "off-road" motorized vehicles other than on the roads on the Easement Area, including without limitation, automobiles, all-terrain vehicles, snowmobiles and motorcycles, except (i) as may be required in the construction, repair and maintenance of the Easement Area and the facilities and public amenities thereon, (ii) for temporary loading and unloading of equipment and supplies in conjunction with the activities allowed under Paragraph 4 hereof, (iii) in relation to the normal freight and excursion rail use and commuter rail use of the Rail Line Corridor (the "Rail Line Corridor Use"), (iv) for Federal, state and local emergency vehicles or security vehicles, and (v) as may be required in the construction, repair and maintenance of the Acequia Madre, the access for which shall extend along the northwest side of the Acequia Madre and shall remain clear of obstructions, for the full length, for a width of ten (10) feet.
- (j) The use, transfer or exercise of development rights on or to the Easement Area, or any portion thereof. For the purposes of this subsection, "development rights" include, without limitation, any and

all rights, however designated, now or hereafter associated with the Easement Area that may be used, pursuant to applicable zoning laws or other governmental laws or regulations, to compute allowed size, height, bulk or number of structures, development density, lot yield, or any similar development variable on or pertaining to the Easement Area.

- (k) Notwithstanding the provisions of Paragraph 4 hereof, the design and construction and/or use of open graded fields for use in organized sports or in association with organized recreational activities.
- (l) The disturbance of the surface topography of the Easement Area including, but not limited to excavation and filling activities except in conjunction with archeological testing, studies, excavation and recovery performed pursuant to and under the standards and requirements for such activity set forth in Federal, state or local laws, or as approved through a public, park planning process, and as is directly associated with the development of a public park and its associated trails, pathways and park facilities on the Easement Area. The portion of the Park upon which no construction of structures, hard surfaces (other than trails or pathways) or defined gathering places shall be allowed and shall not be less than eight (8) acres. "Gathering places" shall be defined as an area for which grading, surface treatment and landscaping is specifically designed to support the gathering of a large number of people.
- (m) The disturbance of the existing Acequia Madre except if directly associated with Grantor's effort to enhance and revitalize the water flow, wildlife habitat, and historic and cultural values of the Acequia Madre, and if expressly authorized by the Acequia Madre de Santa Fe Community Ditch Association.
- (n) The substantial disturbance of biologically significant wildlife habitat. Wildlife habitat located within the boundaries of the Easement Area shall only be disturbed or destroyed if the Grantor develops and implements a habitat management plan or other mitigation plan acceptable to Grantee in accordance with the Approval Process detailed below in Paragraph 7. Any allowed disturbance or destruction of wildlife habitat shall be in accordance with all applicable Federal, state and local laws and regulations.
- (o) The use of concrete, asphalt or other similar nonporous materials for construction of trails and pathways, except as set forth in Paragraph 2 and Paragraphs 4 through 6 below or as may be required for compliance with the American with Disabilities Act.

- (p) The use of rail cars for storage or any other use except in conjunction with the approved Rail Line Corridor Uses or in conjunction with water storage to be used with the water harvesting plan for the Easement Area, temporary historical, educational displays or tours and public entertainment such as but not limited to special excursions and varnish cars, or other storage as approved by the Grantee.
4. Specific Allowed Uses. Notwithstanding the provisions of Paragraph 3, above, the following uses, construction and/or disturbance of the Park's surface topography are expressly allowed on the Park:
- (a) The use of stone, clay-based materials, gravel, crusher fines, "grass plug pavers", elevated wood boardwalks, and/or permeable soil materials in the construction of trails, pathways, and defined gathering places.
 - (b) The design, construction and use of children's playgrounds or other similar style facilities with easy access to parking provided that such areas in the aggregate shall not exceed 5.4 percent of the total land area of the Park.
 - (c) The construction of one environmental or historical education or similar park interpretive building and the installation of interpretive signs directly related to the history, culture, or ecology of the Railyard area, designed with the Pentagon design specifications as approved in the public park planning process and with the express goal that the vistas and open space character of the majority of the park remain unimpaired. Temporary signage may be erected in connection with community events and educational activities; provided it is per established guidelines by Grantor. Signage may not be affixed to trees nor impede use of any Park facilities.
 - (d) The construction of public safety, park supervision, public restroom, and/or management facilities, as may be approved through a public, park, planning process. The location of any such facility(ies) shall be designed with the express goal of limiting the need for improved roadways or driveways. The construction material for any such roadways or driveways will be of a permeable substance and visually unobtrusive in nature such as "grass plug" paving materials.
 - (e) The maintenance or improvement of the Acequia Madre as consistent with the Horticultural Plan and the Park Master Plan, as may be amended from time to time, including but not limited to the removal of a City-approved invasive plant species list, which could include the removal of mature trees.

- (f) The construction of community memorials, provided that any designation and/or design, location and construction of such memorials shall be mutually approved by Grantor and Grantee and shall be consistent with overall design characteristics of the Park. The Spiegelburg memorial as referenced in that certain agreement regarding same between Grantor and Grantee shall be an allowed use, without any further approval. Naming and acknowledgement (plaque, sign, etc.) opportunities on park structures, improvements or landscaping for fundraising purposes to benefit the Park are allowed provided that any temporary acknowledgement does not exceed eight (8) square feet in size and any permanent acknowledgment shall not exceed four (4) inches by eight (8) inches in size. For all acknowledgments allowed by this subsection, the location, number and design shall not significantly diminish the natural and scenic qualities of the Park.
- (g) Sales by temporary and mobile commercial vendors, using means such as push carts, food trucks, and temporary open air stalls, shall be permitted in limited numbers, as set forth in the Public Policies and Procedures. Except as specifically permitted by the appropriate department of the City of Santa Fe, no vendor or their equipment or goods shall remain in the Park overnight. No vending may occur on the Park between the hours of 10 p.m. and 6 a.m., unless specifically permitted by the Grantor.
- (h) The occurrence of permitted community celebrations, outdoor performances and events, fiestas, and markets shall be allowed in the Park during the period April 1 through October 31 of any year (the "Permitted Days") including but not limited to temporary stages and movie screens, temporary activity structures, tents for sales, information and display and other such temporary structures as permitted by the City of Santa Fe,; provided that (i) a maximum of seven Park Wide Special Events (more than 1000 participants) shall be allowed in any year; (ii) a maximum of 21 Larger Special Events (500 to 1000 participants) shall be allowed if limited to the Performance Green and immediate area; (iii) a maximum of 62 Large Special Events (100-499 participants) shall be allowed if limited to the Performance Green and immediate area; (iv) Medium Special Events (50-99 participants) and Small Special Events (20-49 participants), which shall not be limited in number. Flea Markets, as defined by the ordinances of the City of Santa Fe, shall not be allowed in the Park. Notwithstanding the above, the Park shall remain open to the public 365 days a year although certain areas may be fenced and secured within the Park as required for alcohol-related events,

special ticketed seating areas, or as needed for maintenance and repairs as approved by Grantor.

- (i) The use of concrete, asphalt and other similar nonporous materials in that area of the Property which lies to the north and west of the Rail Line Corridor, as may be approved through a public, park planning process.
 - (j) The alteration of existing bodies of water, water courses, or acequias, except the Acequia Madre as set forth in Paragraph 3(m) above, or construction of new bodies of water or watercourses on the Property, and the acceptance of storm water accumulations or flows from off-site. The development and execution of the Water Harvesting and Irrigation Plan for collection of water from the rooftops of the buildings and other improvements located on or adjacent to the Easement Area or by storm water accumulation from other sources is expressly allowed, including the use and installation of water cisterns, water collection facilities, and all plumbing and other utilities necessary to further the Water Harvesting and Irrigation Plan.
 - (k) The management, maintenance and use of the Rail Line Corridor, and existing spurs, for freight, excursion and commuter rail purposes as determined by the Grantor, in accordance with all applicable local, state and federal laws and regulations.
 - (l) The use of an area twenty foot (20') in width within the Easement Area to benefit occupants of the building now known as SITE Santa Fe, as further set forth in a separate easement recorded as Instrument #1725359 in Santa Fe County, New Mexico, provided such use shall not interfere with or encroach upon that portion of the twenty foot (20') wide area needed to remain clear for compliance with fire code requirements.
 - (m) Except as otherwise provided in this Section, use of the Park by private entities and individuals as specifically authorized by and in accordance with Grantor's laws and ordinances regarding the use of City parks.
 - (n) The erection of structures, approved by Grantor and Grantee, for the enhancement of flora and fauna of the Park.
 - (o) The installation of temporary art projects or displays, approved by Grantor and Grantee.
5. Civic Places and Public Access Zone. It is expressly understood that the portion of the Easement Area within, (i) Tract 1, (ii) Tract 6, and (iii) Parcel W, as shown on Exhibit A (referred to herein as the "Civic Places and Public Access

Zone”) shall allow for a variety of economic and community-benefit uses otherwise not allowed within the Easement Area. Grantor shall retain all regulatory control over the Civic Places and Public Access Zone including, but not limited to, licensing, approval of lease or rail easement agreements, rail line operating agreements and related agreements. Such allowed uses for the Civic Places and Public Access Zone shall include:

- (a) The operation of open, periodic arts and craft fairs, farmers' and temporary open air markets that serve the public and which create opportunities for community events which may include, but shall not be limited to, music, dance, theater and automobile shows;
- (b) Vehicular access into the Civic Places and Public Access Zone for the purpose of setting up, operating and disassembling such open air markets, serving the public, and for delivery or temporary loading of equipment or products to and from the businesses which front the Civic Places and Public Access Zone;
- (c) The construction of temporary stalls, kiosks and/or tents to facilitate the operation of open-air markets, except that Flea Markets, as defined by the ordinances of the City of Santa Fe, shall not be permitted in the Civic Places and Public Access Zone;
- (d) The construction of temporary open air theaters and/or stages to facilitate use of the Civic Places and Public Access Zone for dance, music and theater events, public ceremonies, and other such community events;
- (e) The construction and maintenance of trails, paths, plazas, esplanades, greenway plantings, sidewalks and other hard surfaces for community-based economic development and public benefit uses;
- (f) The construction, maintenance, demolition and/or relocation of rail lines currently located within the boundaries of the Civic Places and Public Access Zone;
- (g) The construction, maintenance, demolition and/or relocation of a roadway right-of-way within a sixty-eight (68) foot wide easement corridor (currently known as the "Paseo de Peralta right-of-way") which currently divides the Park from the Civic Places and Public Access Zone;
- (h) The construction and maintenance of new and/or existing utilities including, but not limited to electricity, gas, and telephone lines as may be required by the Grantor; provided that, any such new construction shall require that said utilities, except for lighting, be located and

installed below grade, and that existing views and Easement Area aesthetics shall not be adversely affected;

- (i) The construction and maintenance of public restroom facilities to facilitate the public uses described above;
- (j) The construction and maintenance of shade structures such as ramadas, benches and bancos for seating, as approved in a public, park planning process;
- (k) The execution of the Water Harvesting and Irrigation Plan for collection of water from the rooftops of the buildings and other improvements located on or adjacent to the Easement Area or by storm water accumulation from other sources is expressly allowed, including the use and installation of water cisterns, water collection_ facilities, and all plumbing and other utilities necessary to further the Water Harvesting and Irrigation Plan for the Railyard.

6. Retained Rights of Grantor. Subject to the purposes and provisions of this Conservation Easement, including, without limitation, the provisions of Paragraph 2 hereof, Grantor reserves to itself and its successors and assigns, all rights accruing from its ownership of the Easement Area including the right to engage in or permit or invite others to engage in all uses of the Easement Area that are not expressly prohibited herein and are not inconsistent with the purpose of this Conservation Easement and the Conservation and Public Benefit Values of the Easement Area, including but not limited to:

- (a) The right to engage in environmental testing and remediation as is prudent and required by law, including but not limited to the use of monitoring wells, utilizing diligent efforts to preserve the Conservation and Public Benefit Values of the Easement Area.
- (b) The right to construct, repair and maintain parking facilities as required by law, or in conjunction with the development of the Easement Area as approved by a public, park planning process, including any necessary and prudent ingress and egress easements or rights-of-way. Parking shall only be allowed in designated areas. Notwithstanding the above, any such construction, repair and maintenance of parking facilities shall not be performed in a manner which would adversely affect the Conservation and Public Benefit Values intended to be protected by this Conservation Easement.

7. Park Planning Process. No additional construction, development, or building that is inconsistent with the Conservation and Public Benefit Values and terms of this Conservation Easement shall be allowed. Before undertaking any additional construction, development or building consistent with the Conservation and Public Benefit Values and

terms of this Conservation Easement, but which would cause any disruption to the surface of the Easement Area, pursuant to any reserved right under paragraphs 4 through 6 above or any exception to a prohibited use under paragraph 3 above, Grantor shall engage in a public, park planning process to address the specific construction or building or other surface disruption that is contemplated to be undertaken on the Easement Area. The parties agree that minor changes consistent with the Conservation and Public Benefit Values and the terms of this Conservation Easement may be undertaken without a public park planning process. For purposes of this section a "minor change" is a change that does not adversely affect the Conservation and Public Benefit Values. Grantor shall provide Grantee notice of any proposed minor change in writing at least thirty (30) days in advance of any implementation of such minor change.

8. Action in the Event of an Emergency. In the event of an emergency which requires immediate action by Grantor to protect the public health and safety, the requirement for contacting Grantee to advise Grantee of the need to access, modify or change the Easement Area in any fashion shall be waived to the extent necessary to enable such immediate action as is necessary in the instance can be undertaken. Notwithstanding the foregoing, the Grantor shall advise Grantee of any such emergency action taken no later than the next business day.

9. General Agreed Parameters for Certain Types of Improvements and Uses. The parties agree to the following matters with regard to particular types of possible improvements or uses of the Easement Area:

(a) Roads for Ingress, Egress and Parking. The parties agree that any road which is allowed and constructed shall be constructed of a porous material in such a fashion and manner so as to:

- i. minimize the width and length of such road;
- ii. maximize the ability of the road to be reclaimed and returned to a natural state when it is no longer required or needed;
- iii. minimize the road's impact on the Conservation and Public Benefit Values of the Easement Area.

(b) Structures and Other Improvements. The parties agree that any structure or other improvement which is allowed hereunder will be constructed in such a fashion and manner so as to minimize the structure's or improvement's impact on the Conservation and Public Benefit Values of the Easement Area.

10. Dispute Resolution. If a dispute arises between the parties pertaining to the terms or enforcement of this Conservation Easement, the party seeking to resolve a dispute (the "First Party") shall provide written notice to the other party (the "Second Party") of such dispute. The parties shall then meet within ten (10) days of the Second Party's receipt of the notice in a good faith effort to resolve the dispute. If such dispute cannot be resolved between the parties through negotiation within a thirty (30) day period after the first day

of meeting to resolve the dispute, either party may by written notice to the other party compel the parties to engage in mediation to attempt to resolve the matter. The parties shall jointly agree to a mediator and in the event that they cannot, either party can apply to the Santa Fe County District Court to appoint a mediator. Any mediation shall occur in Santa Fe, New Mexico. If no resolution is reached between the parties within sixty (60) days after the selection of a mediator, then the mediation can be abandoned by either party by provision of written notice of same to the other party. Upon termination of mediation without resolution, either party may by providing written notice of same to the other party compel the parties to engage in binding arbitration which shall be submitted to and heard by the American Arbitration Association in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association. Any such arbitration shall be heard in Santa Fe, New Mexico.

11. Amendment. If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, Grantor and Grantee are free to jointly amend this Conservation Easement, and any amendment shall be consistent with the purpose of this Conservation Easement, and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of Santa Fe County, New Mexico.

12. General Provisions.

(a) Duration of Conservation Easement. This Conservation Easement shall continue in perpetuity.

(b) Successors. The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns and shall continue as a servitude running in perpetuity with the Easement Area. Any assignment of this Conservation Easement is subject to approval by the Grantor. Grantee agrees to provide notice in writing of any proposed assignment of any portion of this Conservation Easement and Grantor shall have forty-five (45) days to either approve or disapprove any proposed assignment. The failure of the Grantor to respond within said forty-five (45) days shall be deemed an approval of such assignment. The balance of the terms set forth in this Agreement shall continue to bind said properties as set forth herein.

(c) Bifurcation of Easement Holder/Grantee. The original, or any successor, Grantee may bifurcate and assign to separate, qualified entities that portion of this Conservation Easement which encumbers the Park and that portion of this Conservation Easement which encumbers the Civic Places and Public Access Zone. Such bifurcation and assignment is subject to approval by the Grantor. Grantee agrees to provide notice in writing of any proposed assignment of any portion of this Conservation Easement and Grantor shall have forty-five (45) days to either approve or disapprove any proposed bifurcation and assignment. The failure of the Grantor to respond within said forty-five (45) days shall be deemed an approval of such bifurcation

and assignment. The balance of the terms set forth in this Agreement shall continue to bind said properties as set forth herein.

(d) Maintenance. Grantor shall bear sole responsibility for the maintenance or replacement of any structure, building, road, fence or other improvement or enhancement made to or existing on the Easement Area, including the cost or expense reasonably required for such maintenance or replacement.

(e) Proceeds. If Grantee receives proceeds from a future sale or exchange of this Conservation Easement, the proceeds shall be used in a manner and for purposes consistent with the Conservation and Public Benefit Values of the Easement Area and the purposes of this Conservation Easement.

(f) Grantee's Discretion. Enforcement of the terms of this Conservation Easement shall be at the discretion of the Grantee, and any forbearance by Grantee shall not be deemed or construed to be a waiver by Grantee of any of the terms of this Conservation Easement.

(g) Condemnation. If all or any part of the Easement Area is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Conservation Easement, in whole or in part, Grantee shall act to recover the full value of the interests in the Conservation Easement subject to the taking or in lieu of condemnation purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by the Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Any remaining amount shall be paid out to the Grantor and Grantee in accordance with the value of their interest in the remaining Easement Area. If either party determines that the party does not wish to contest or otherwise oppose or challenge the Condemnation, then the remaining party may do so at its sole cost and expense. Such party shall receive the total benefit resulting from such contest, opposition or challenge.

13. Violations and Remedies. Grantee and authorized representatives of Grantee may enforce any term or condition of this Conservation Easement with any legal or equitable remedy provided by law and as set forth herein. Any action for injunctive relief, which type of action shall not be referable to mediation or arbitration shall be brought in the Santa Fe County District Court, Santa Fe County, New Mexico.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

[Signatures and Acknowledgments to follow]

[Rest of page intentionally blank]

CITY OF SANTA FE:

Amr

ALAN M. WEBBER, MAYOR

DATE: June 11, 2018

SANTA FE CONSERVATION TRUST:

Surah harr

SARAH NOSS, EXECUTIVE DIRECTOR

DATE: 6-13-18

ATTEST:

Volanda Y. Vigil
VOLANDA Y VIGIL, CITY CLERK
cc mtg. 5/30/18

APPROVED AS TO FORM:

Miguel, assistant city attorney, for
GENO ZAMORA, INTERIM CITY ATTORNEY

APPROVED:

~~KENT D. DEYOUNG~~, FINANCE DIRECTOR

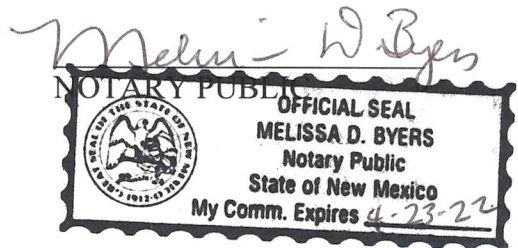
ACKNOWLEDGMENTS

State of New Mexico)
) ss
County of Santa Fe)

This instrument was acknowledged before me on June 11, 2018, by ALAN M. WEBBER, the Mayor of the City of Santa Fe, a New Mexico municipal corporation and political subdivision, on behalf of the City of Santa Fe.

My commission expires:

4|23|22
(SEAL)



State of New Mexico)
) ss
County of Santa Fe)

This instrument was acknowledged before me on June 13, 2018, by SARAH NOSS, the Executive Director of the Santa Fe Conservation Trust, a New Mexico nonprofit corporation, on behalf of said nonprofit corporation.

Melissa D. Byers
NOTARY PUBLIC

My commission expires:

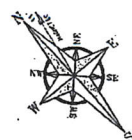
4/23/22
(SEAL)



EXHIBIT

A

tabbles



GRAPHIC SCALE 1" = 50'

DATE: 03/15/2015
 STATE OF NEW MEXICO
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS
 FILED FOR RECORD ON THE 15 DAY OF MARCH
 A.D. 2015, AT 1:53 P.M. C.D.S. 15
 AND WAS FIRST RECORDED IN PLAT BOOK 182
 PAGE 23138, OF THE RECORDS OF SANTA FE
 COUNTY.

WITNESS MY HAND AND SEAL OF OFFICE
 CAROLINE SALAZAR
 COUNTY CLERK, SANTA FE COUNTY, N.M.



LEGEND: FOR TRACT 6

- FOUND BOUNDARY
 MONUMENT AS NOTED
 CALCULATED BOUNDARY CORNER
 UNLESS IDENTIFIED AS SET
 BOUNDARY LINE
- ADJOINER BOUNDARY LINE
 SHOWN ON RECORDS
- STORM SEWER LINE
- UTILITY POLE
 GUY ANCHOR
 LIGHT POLE
 SIGN
 UTILITY HAND HOLE
 WATER VALVE
- RAIL ROAD SIGNAL (UPWARD UP TO LIGHT)
 GAS LINE MARKER
 ELECTRIC METER
 MONITORING WELL
 SANITARY SEWER MANHOLE
 WALL SIGNAL
- TRAFFIC SIGNAL (GROUND UP TO LIGHT)

CONSERVATION EASEMENT-
BOUNDARY DATA CHART

LINE	CHORD/BEARING	CHORD	ANG/DIR	RADIUS
L1	558° 01' 08" N	28.95'		
L2	269° 25' 03" N	34.53'		
L3	167° 21' 20" N	34.53'		
L4	130° 11' 28" N	25.95'		
L5	108° 31' 02" N	25.95'		
L6	107° 47' 10" N	25.95'		
L7	527° 46' 28" E	27.60'		
L8	538° 20' 17" E	26.97'		
L9	530° 10' 40" E	21.70'		
L10	267° 30' 48" E	22.72'		
L11	168° 23' 04" E	22.45'		
L12	167° 17' 00" E	9.30'		
L13	237° 24' 50" N	5.97'		
L14	163° 19' 30" E	25.95'		
C1	378° 28' 29" N	30.42'	37.30'	
C2	218° 48' 20" E	125.26'	125.26'	228.14'
L15	167° 07' 48" E	25.95'		
L16	536° 27' 48" N	11.70'		

- LEGEND:
- SURVEY CONTROL MONUMENT FOUND
 - CALCULATED POINT UNLESS IDENTIFIED AS SET
 - POINT FOUND AS NOTED
 - ADJOINER BOUNDARY LINE
 - EASEMENT LINE
 - BUILDING LINE

SANTA FE RAILYARD COMMUNITY CORPORATION

DATE: MARCH 3, 2015
 SANTA FE RAILYARD COMMUNITY CORPORATION
 RICHARD A. CROCK, EXECUTIVE DIRECTOR

STATE OF NEW MEXICO
 COUNTY OF SANTA FE
 I, THE EXECUTIVE DIRECTOR, HAVE ACKNOWLEDGED BEFORE ME THIS 3rd DAY OF MARCH, 2015, THAT RICHARD CROCK

Ante J. Martinez, 3-14-15
 NOTARY PUBLIC

CITY OF SANTA FE
 APPROVED
 OFFICIAL SEAL
 Anita L. Martinez, Mayor

3-15-15
 CITY CLERK

3-15-15
 CITY CLERK

3-5-15
 CITY CLERK

3-5-15
 CITY CLERK

3-5-15
 CITY CLERK

3-5-15
 CITY CLERK

3-5-15
 CITY CLERK

3-5-15
 CITY CLERK

CONSERVATION EASEMENT SURVEY PREPARED FOR THE CITY OF SANTA FE AND THE SANTA FE RAILYARD COMMUNITY CORPORATION OF THE SOUTH RAILYARD AREA

LYING AND BEING SITUATE WITHIN TRACTS 3, 4, 5 AND 6
 PROJECTED SECTIONS 25 AND 26, T. 17 N., R. 12 E., N.M.P.M.

SURVEYOR'S CERTIFICATE

I, MICHAEL A. HODGSON, N.M.L.S., No. 8999, DO HEREBY CERTIFY TO THE CITY OF SANTA FE AND TO THE S.F. RAILYARD COMMUNITY CORPORATION THAT THIS SURVEY, DATED 03/15/2015, WAS MADE BY ME OR UNDER MY DIRECT SUPERVISION ON JANUARY 20, 2015, THAT I AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY MEETS THE REQUIREMENTS FOR BROADCAST SURVEYING IN NEW MEXICO, AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

I FURTHER CERTIFY THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS INSTRUMENT IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS.

Michael A. Hodgson 03/15/15
 MICHAEL A. HODGSON, N.M.L.S., No. 8999

SOUTHWEST MOUNTAIN SURVEYS

1114 HICKOX ST., SANTA FE, N.M. 87501
 (505) 987-8428 FAX (505) 986-2413
 SURVEYING, LAND ACQUISITION, BOUNDARY, EASEMENT, ETC.
 MICHAEL A. HODGSON, N.M.L.S., No. 8999

SFC CLERK RECORDED 03/25/2015

2 LEGAL DESCRIPTION OF THE SOUTH RAILROAD AREA OF THE CONSERVATION EASEMENT

A certain parcel of land lying and being situate within Tracts 3-5, Santa Fe Railway South, within project Section 26, Township 17 North, Range 3 East, N.M.S., City and County of Santa Fe, New Mexico, and being more particularly described as follows:

Commencing at a point on the eastern boundary of the parcel herein described and from whence Santa Fe Control Monument No. 14 bears S88°12'35" W. 79.42', said starting point being at the corner of the intersection of the line of the Santa Fe Railway South, within project Section 26, Township 17 North, Range 3 East, N.M.S., City and County of Santa Fe, New Mexico, and being more particularly described as follows:

Commencing at a point on the eastern boundary of the parcel herein described and from whence Santa Fe Control Monument No. 14 bears S88°12'35" W. 79.42', said starting point being at the corner of the intersection of the line of the Santa Fe Railway South, within project Section 26, Township 17 North, Range 3 East, N.M.S., City and County of Santa Fe, New Mexico, and being more particularly described as follows:

Commencing at a point on the eastern boundary of the parcel herein described and from whence Santa Fe Control Monument No. 14 bears S88°12'35" W. 79.42', said starting point being at the corner of the intersection of the line of the Santa Fe Railway South, within project Section 26, Township 17 North, Range 3 East, N.M.S., City and County of Santa Fe, New Mexico, and being more particularly described as follows:

A certain parcel of land lying and being situate within Tracts 3-5, Santa Fe Railway South, within project Section 26, Township 17 North, Range 3 East, N.M.S., City and County of Santa Fe, New Mexico, and being more particularly described as follows:

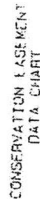
Commencing at a point on the northeast corner of the parcel herein described and from whence Santa Fe Control Monument No. 14 bears S88°12'35" W. 79.42', said starting point being at the corner of the intersection of the line of the Santa Fe Railway South, within project Section 26, Township 17 North, Range 3 East, N.M.S., City and County of Santa Fe, New Mexico, and being more particularly described as follows:

Commencing at a point on the northeast corner of the parcel herein described and from whence Santa Fe Control Monument No. 14 bears S88°12'35" W. 79.42', said starting point being at the corner of the intersection of the line of the Santa Fe Railway South, within project Section 26, Township 17 North, Range 3 East, N.M.S., City and County of Santa Fe, New Mexico, and being more particularly described as follows:

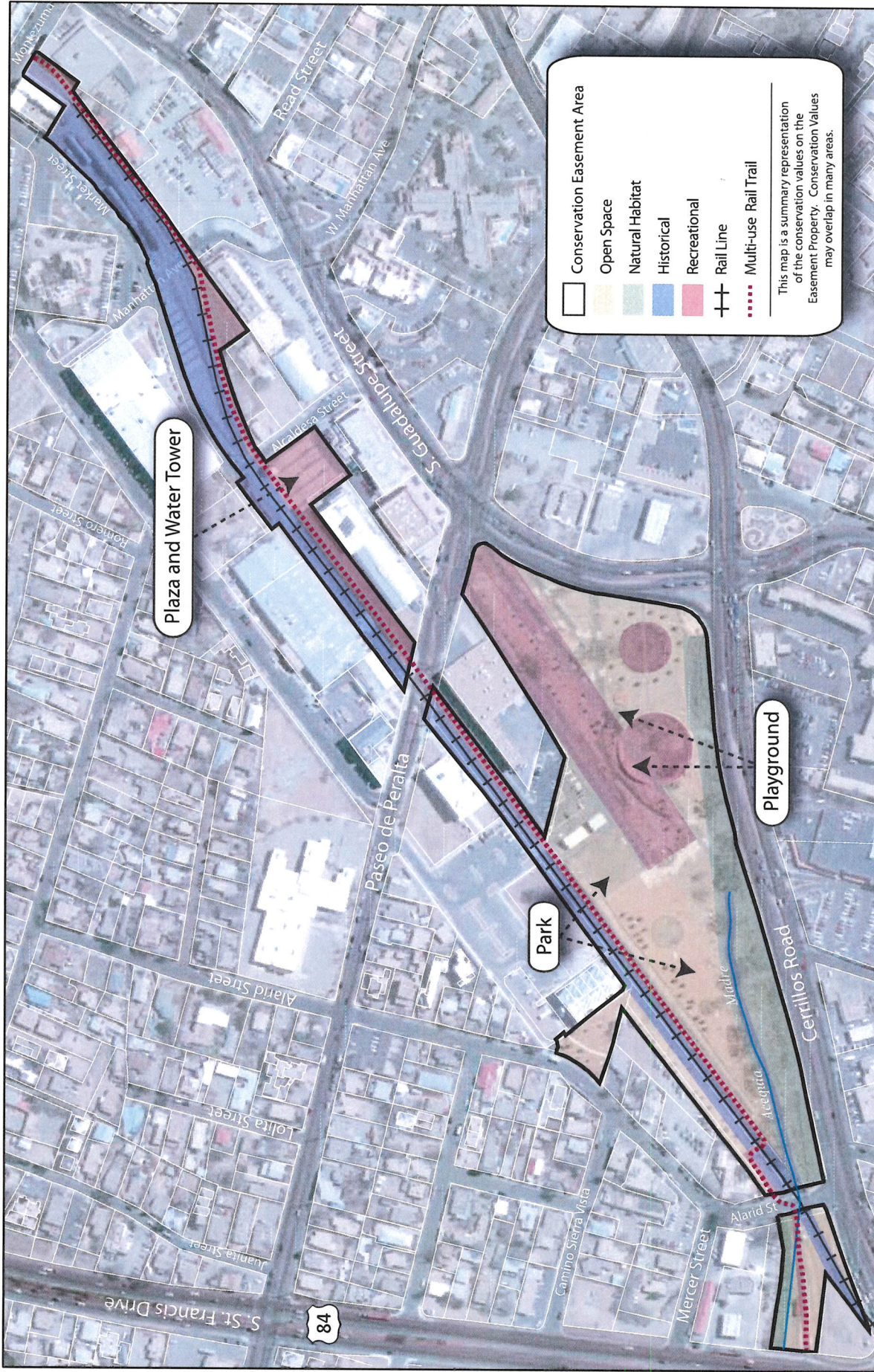
CONSERVATION EASEMENT-
BOUNDARY DATA CHART

LINE	CHORD/BEARING	CHORD	AC/DIST	RADIUS
L1	S88°12'35" W	79.42	79.42	79.42
L2	S88°12'35" W	79.42	79.42	79.42
L3	S88°12'35" W	79.42	79.42	79.42
L4	S88°12'35" W	79.42	79.42	79.42
L5	S88°12'35" W	79.42	79.42	79.42
L6	S88°12'35" W	79.42	79.42	79.42
L7	S88°12'35" W	79.42	79.42	79.42
L8	S88°12'35" W	79.42	79.42	79.42
L9	S88°12'35" W	79.42	79.42	79.42
L10	S88°12'35" W	79.42	79.42	79.42
L11	S88°12'35" W	79.42	79.42	79.42
L12	S88°12'35" W	79.42	79.42	79.42
L13	S88°12'35" W	79.42	79.42	79.42
L14	S88°12'35" W	79.42	79.42	79.42
L15	S88°12'35" W	79.42	79.42	79.42
L16	S88°12'35" W	79.42	79.42	79.42
L17	S88°12'35" W	79.42	79.42	79.42
L18	S88°12'35" W	79.42	79.42	79.42
L19	S88°12'35" W	79.42	79.42	79.42
L20	S88°12'35" W	79.42	79.42	79.42
L21	S88°12'35" W	79.42	79.42	79.42
L22	S88°12'35" W	79.42	79.42	79.42
L23	S88°12'35" W	79.42	79.42	79.42
L24	S88°12'35" W	79.42	79.42	79.42
L25	S88°12'35" W	79.42	79.42	79.42
L26	S88°12'35" W	79.42	79.42	79.42
L27	S88°12'35" W	79.42	79.42	79.42
L28	S88°12'35" W	79.42	79.42	79.42
L29	S88°12'35" W	79.42	79.42	79.42
L30	S88°12'35" W	79.42	79.42	79.42
L31	S88°12'35" W	79.42	79.42	79.42
L32	S88°12'35" W	79.42	79.42	79.42
L33	S88°12'35" W	79.42	79.42	79.42
L34	S88°12'35" W	79.42	79.42	79.42
L35	S88°12'35" W	79.42	79.42	79.42
L36	S88°12'35" W	79.42	79.42	79.42
L37	S88°12'35" W	79.42	79.42	79.42
L38	S88°12'35" W	79.42	79.42	79.42
L39	S88°12'35" W	79.42	79.42	79.42
L40	S88°12'35" W	79.42	79.42	79.42
L41	S88°12'35" W	79.42	79.42	79.42
L42	S88°12'35" W	79.42	79.42	79.42
L43	S88°12'35" W	79.42	79.42	79.42
L44	S88°12'35" W	79.42	79.42	79.42
L45	S88°12'35" W	79.42	79.42	79.42
L46	S88°12'35" W	79.42	79.42	79.42
L47	S88°12'35" W	79.42	79.42	79.42
L48	S88°12'35" W	79.42	79.42	79.42
L49	S88°12'35" W	79.42	79.42	79.42
L50	S88°12'35" W	79.42	79.42	79.42
L51	S88°12'35" W	79.42	79.42	79.42
L52	S88°12'35" W	79.42	79.42	79.42
L53	S88°12'35" W	79.42	79.42	79.42
L54	S88°12'35" W	79.42	79.42	79.42
L55	S88°12'35" W	79.42	79.42	79.42
L56	S88°12'35" W	79.42	79.42	79.42
L57	S88°12'35" W	79.42	79.42	79.42
L58	S88°12'35" W	79.42	79.42	79.42
L59	S88°12'35" W	79.42	79.42	79.42
L60	S88°12'35" W	79.42	79.42	79.42
L61	S88°12'35" W	79.42	79.42	79.42
L62	S88°12'35" W	79.42	79.42	79.42
L63	S88°12'35" W	79.42	79.42	79.42
L64	S88°12'35" W	79.42	79.42	79.42
L65	S88°12'35" W	79.42	79.42	79.42
L66	S88°12'35" W	79.42	79.42	79.42
L67	S88°12'35" W	79.42	79.42	79.42
L68	S88°12'35" W	79.42	79.42	79.42
L69	S88°12'35" W	79.42	79.42	79.42
L70	S88°12'35" W	79.42	79.42	79.42
L71	S88°12'35" W	79.42	79.42	79.42
L72	S88°12'35" W	79.42	79.42	79.42
L73	S88°12'35" W	79.42	79.42	79.42
L74	S88°12'35" W	79.42	79.42	79.42
L75	S88°12'35" W	79.42	79.42	79.42
L76	S88°12'35" W	79.42	79.42	79.42
L77	S88°12'35" W	79.42	79.42	79.42
L78	S88°12'35" W	79.42	79.42	79.42
L79	S88°12'35" W	79.42	79.42	79.42
L80	S88°12'35" W	79.42	79.42	79.42
L81	S88°12'35" W	79.42	79.42	79.42
L82	S88°12'35" W	79.42	79.42	79.42
L83	S88°12'35" W	79.42	79.42	79.42
L84	S88°12'35" W	79.42	79.42	79.42
L85	S88°12'35" W	79.42	79.42	79.42
L86	S88°12'35" W	79.42	79.42	79.42
L87	S88°12'35" W	79.42	79.42	79.42
L88	S88°12'35" W	79.42	79.42	79.42
L89	S88°12'35" W	79.42	79.42	79.42
L90	S88°12'35" W	79.42	79.42	79.42
L91	S88°12'35" W	79.42	79.42	79.42
L92	S88°12'35" W	79.42	79.42	79.42
L93	S88°12'35" W	79.42	79.42	79.42
L94	S88°12'35" W	79.42	79.42	79.42
L95	S88°12'35" W	79.42	79.42	79.42
L96	S88°12'35" W	79.42	79.42	79.42
L97	S88°12'35" W	79.42	79.42	79.42
L98	S88°12'35" W	79.42	79.42	79.42
L99	S88°12'35" W	79.42	79.42	79.42
L100	S88°12'35" W	79.42	79.42	79.42

SFC CLERK RECORDED 03/25/2015

[illegible]

LINE	RELATING	DISTANCE
1.1	537' 00" 46'	31' 12"
1.2	555' 35' 01"	5' 41"
1.3	428' 25' 19' 1"	84' 50"
1.4	764' 25' 43"	0' 00"
1.5	505' 25' 11"	30' 40"
1.6	505' 25' 11"	17' 43"
1.7	537' 25' 07"	52' 00"
1.8	538' 31' 11"	4' 16"
1.9	740' 31' 12"	33' 02"
1.10	740' 31' 40"	4' 02"
1.11	726' 31' 05"	3' 25"
1.12	726' 31' 05"	3' 25"
1.13	743' 38' 14"	0' 07"
1.14	375' 15' 16"	2' 50"
1.15	551' 25' 11"	1' 00"



Map 8: Easement Property Conservation Values

Santa Fe Railway Conservation Easement

Santa Fe County, New Mexico

March 2015

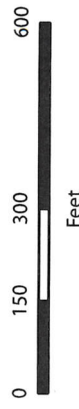
EXHIBIT



tabbles



Santa Fe Conservation Trust



The boundaries shown on this map are approximate and are intended for informational purposes only. This map does not represent a legal survey.

Addendum A

As a reference to the Community Planning process which citizens of Santa Fe undertook during the period 1996-97, it was noted that creation of the public park through use of the conservation easement emphasized the following goals and attributes and uses:

- a. The rail yard as a "park" in the broadest sense of the word and as a place which weaves together many disparate elements, including gardens, naturalistic landscapes, buildings and pathways.
- b. a botanical garden/arboretum;
- c. a water conservation garden;
- d. a healing garden (the Curandera);
- e. Prairie dog habitat;
- f. Enchanted landscape (a celebration of the New Mexico landscape with land forms and plantings of native heritage;
- g. traditional landscapes (plants and landscapes of the settlers of this place in a demonstration garden);
- h. a cienega (a small body of water placed in the Arboretum) to show naturalistic water in the arid southwest;
- i. a bosque (an arrangement of trees to suggest an orchard to provide shade and canopy);
- j. community garden;
- k. multi-modal trail (an alley of trees line a twelve foot wide path that lies along the rail corridor, connecting the ends of the park); and
- l. regional open space network (the park connects to regional trails and other parks and open space areas in the City).