

AGREEMENT TO DEDICATE PUBLIC IMPROVEMENTS

THIS AGREEMENT TO CONSTRUCT AND DEDICATE PUBLIC IMPROVEMENTS (the "Agreement") is made this 18th day of April 2024, by and between The City of Santa Fe ("City"), whose mailing address is, P.O. Box 909, Santa Fe New Mexico 87504 and Vista Primera's Homeowner's Association, Inc ("Vista Primera"), whose address is, WestGate Properties, LLC, C/O Erica A. Griego, 508 West Cordova Road, Santa Fe, New Mexico 87507. The date of this Agreement shall be the date of the last signature.

RECITALS:

WHEREAS, the Santa Fe City Code mandates that "the owners of private sanitary sewer systems constructed to city standards may request that the city accept dedication of the private sewer system for public ownership and maintenance. In this event, the owner must meet the requirements for acceptance of new sanitary sewers in subsection 22-5.11 SFCC 1987 and provide appropriate easements and rights-of-way in accordance with Exhibit B of this chapter."

WHEREAS, on November 10, 2022, the City sent a letter to Vista Primera identifying the requirements for dedicating a private sewer system to the City;

WHEREAS, the November letter also identified a list of items associated with the sanitary sewer system that remain the responsibility of the Vista Primera Home Owners Association and/or the individual property owners regardless of the ownership of the sewer system. This list includes:

- Asphalt/Concrete Roads, Paths or Sidewalks:

The City Wastewater Division is not responsible for the normal maintenance, repair, or replacement of the roads, paths and sidewalks. The Wastewater Division will repair a section of the roads, paths or sidewalks as part of work performed by The Wastewater Division on the public sewer lines or sewer manholes if required.

- Fences, Walls, Structures and Landscaping:

The City Wastewater Division is not responsible for the repair or replacement of fences, walls, structures, and landscaping features when said features are located within a utility easement. This condition also applies to areas where the public sewer line easement goes through private property or open space areas. The Wastewater Division will restore to the best of its ability the original grading of the disturbed area.

- Sanitary Sewer Service Lines:

Replacement of sanitary sewer service lines between the point of connection and the point when the service line crosses the property line shall be the responsibility of the city, whenever the public sewer segment which includes the point of connection is reconstructed or replaced. The city shall own such service line and all service line segments installed by customer after July 1, 1997; but all work for purposes of preventive or corrective maintenance of these lines shall remain the sole responsibility of the owner of the property receiving wastewater service. All preventive or corrective maintenance work on these service line segments shall be performed by a licensed plumber or plumbing contractor and in accordance with the city ordinances including the obtaining of permits for excavation within public rights of way. Persons performing preventive or corrective maintenance work on any service line, whether privately or publicly owned, shall report such work in a manner to be established by the division. (City Sewer Code 22-3.3 Replacement of sanitary sewer service lines)

- **Missing Easements:**

The Vista Primera Homeowners Association will grant, or act to have granted, to the City of Santa Fe a sewer easement in the event it is discovered such an easement was never formally dedicated to the City for a portion of the public sewer system.

WHEREAS, the purpose and subject matter of this Agreement is to affect the transfer of the Sanitary Sewer System to the City.

AGREEMENT:

2. Improvements; Completion, and Payment.

A. Vista Primera represents and hereby notifies the City that it has completed the construction and installation of:

- i. The grouting of 108 sewer manholes
- ii. The replacement of 10 (ten) sewer manhole covers with new concrete collars
- iii. The replacement/repair of 34 concrete benches in 34 sewer manholes
- iv. The epoxy coating of 43 sewer manholes
- v. The required grouting and root removal for all manholes
- vi. The T.V. inspection video and logs for the 108 sewer manholes

B. Vista Primera represents and warrants that the total construction cost for the Sanitary Sewer System that is the subject of this Agreement has been paid for directly by Vista Primera, and by executing this Agreement and accepting the Sanitary Sewer System, the City shall not be deemed to have assumed responsibility to any contractor or subcontractor for the payment of such costs.

3. Documentation; Fees, and Security.

A. The City acknowledges receipt of the following information and documentation and accepts the same as being complete and in compliance with City requirements:

i. Easements rights as contained in the following instruments filed in the Office of the Santa Fe County Clerk;

- In Plat Book 165, page 036
- In Plat Book 193, page 006
- In Plat Book 232, pages 049-050
- In Plat Book 241, pages 024-025
- In Plat Book 262, page 043
- In Plat Book 272, pages 022-023
- In Plat Book 377, page 20
- In Plat Book 455, page 43
- In Plat Book 596, page 24
- In Plat Book 836, page 044
- Vista Primera As-Built (1)
- Vista Primera As-Built (2)

4. Improvement Acceptance.

A. The City agrees to issue a Certificate of Acceptance for the Sanitary Sewer System and shall assume ownership of the Sanitary Sewer System thereafter.

B. Upon issuance by the City of the Certificate of Completion and Acceptance for the Sanitary Sewer System in accordance with this Paragraph 4 and as consideration for the City's agreement to own, operate and maintain the Sanitary Sewer System, Vista Primera shall dedicate, assign, convey and deliver the Sanitary Sewer System to the City and warrant and represent that the Sanitary Sewer System is transferred and conveyed free and clear of all liens, encumbrances, rights and claims of third parties. Vista Primera shall also convey all necessary easements and rights-of-way as well as the rights of ingress and egress and the right of excavation as required for maintenance, repair or replacement for any of the Sanitary Sewer System installed. All easements shall be of public record and clearly shown on plats prior to final recording in the City's Sanitary Sewer System. FOR PURPOSES OF EFFECTING ALL SUCH DEDICATIONS, ASSIGNMENTS, CONVEYANCES, AND TRANSFERS, UPON ALL SUCH WARRANTIES AND REPRESENTATIONS, THIS EXECUTED AGREEMENT TOGETHER WITH THE CERTIFICATE OF COMPLETION AND ACCEPTANCE,

SHALL CONSTITUTE A FULL, COMPLETE, LEGALLY BINDING AND ENFORCEABLE BILL OF SALE, CONVEYANCE, ASSIGNMENT, AND DEED FROM VISTA PRIMERA TO THE CITY FOR THE SANITARY SEWER SYSTEM AND RELATED EASEMENTS, RIGHTS OF WAY AND RIGHTS. DEVELOPER SHALL, NEVERTHELESS, EXECUTE SUCH OTHER OR ADDITIONAL INSTRUMENTS THE CITY MAY REASONABLY REQUEST FOR SUCH PURPOSES. The Sanitary Sewer System shall then be and remain the property of the City and the City shall, subject to the terms and conditions of this Agreement, assume full responsibility for future operations and maintenance of the Sanitary Sewer System.

Final Inspection.

A. The City acknowledges that a final inspection has been completed and the items as noted by the City have been corrected.

6. Post Acceptance Obligations.

A. **City's Right to Cure.** If Vista Primera fails to perform any work or any other duties or obligations required of Vista Primera under this Agreement with respect to the Sanitary Sewer System including any work required under applicable warranties or guarantees, the City may, but shall not be obligated to, give Vista Primera written notice of the City's intention to perform or arrange for the performance of such work, duties or obligations on Vista Primera's behalf and at Vista Primera's expense. If, within a period of ten (10) days after the date of such notice Vista Primera, fails to initiate performance of such work, duties and obligations, or if Vista Primera thereafter fails to pursue and complete the same with reasonable diligence, the City may proceed in accordance with the notice. Vista Primera shall thereupon be obligated to reimburse the City for all reasonable costs and expenses incurred by the City in connection with the performance of such work, duties and obligations on Vista Primera's behalf, and Vista Primera shall pay such costs and expenses to the City immediately upon demand.

7. General Terms and Conditions.

A. **Assignment.** This Agreement shall not be assigned without the prior written consent of the City and the express written concurrence of any surety that has undertaken to guarantee the completion of the Sanitary Sewer System. Such approval will not be withheld unreasonably. If so assigned, this Agreement shall extend to and be binding upon the successors and assigns of the parties hereto.

B. **Notice.** For purposes of giving formal written notice, including notice of change of address, the Vista Primera's and the City's addresses are as stated in the first paragraph of this Agreement. Notice may be given either in person or by certified U.S. mail, postage paid. Notice shall be considered to have been received within three (3) days after the notice is mailed if there is no actual evidence of receipt.

C. Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the transfer of the Sanitary Sewer System and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith with respect to the transfer of the Improvements.

D. Changes to Agreement. Changes to this Agreement are not binding unless made by written amendment, signed by both parties.

E. Construction and Severability. If any part of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement will remain valid and enforceable if the remainder is reasonably capable of completion.

F. Captions. The captions to the sections or paragraphs of this Agreement are not part of this Agreement and will not affect the meaning or construction of any of its provisions.

G. Authority to Execute. If the Vista Primera signing below is not the Owner of the Property and/or of such additional easements as may be the subject of this Agreement, the Vista Primera shall provide the City with satisfactory proof of Vista Primera's authority to execute this Agreement.

H. Effective Date. This Agreement shall become effective when signed by all parties hereto.

IN WITNESS WHEREOF, the parties have agreed to this Agreement as of the date when it is executed by the parties, whichever signature occurs last.

**CITY OF SANTA FE, A
MUNICIPAL CORPORATION**

BY: John Blair
John Blair (Apr 17, 2024 12:24 MDT)

JOHN BLAIR
CITY MANAGER

APPROVED AS TO FORM:

Marcos Martinez
Marcos Martinez (Mar 22, 2024 11:35 MDT)

MARCOS MARTINEZ
SENIOR ASSISTANT CITY ATTORNEY

ATTEST:

GERALYN F. CARDENAS
GERALYN CARDENAS (Apr 18, 2024 08:33 MDT)

GERALYN F. CARDENAS
INTERIM CITY CLERK XIV

APPROVED:

Emily K. Oster

EMILY K. OSTER
FINANCE DIRECTOR

VISTA PRIMERA'S HOMEOWNER'S ASSOCIATION, INC.

By: Anna Vanderlann

DATE

3/19/2024

ACKNOWLEDGMENT

STATE OF NEW MEXICO)

) ss.

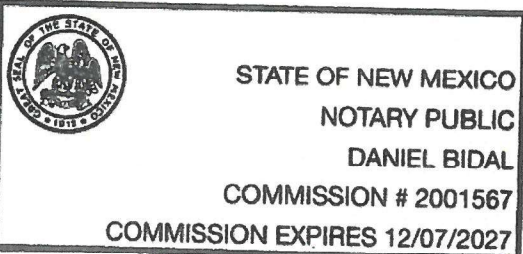
COUNTY OF SANTA FE)

The foregoing document was acknowledged before me on this 19th day of March, 2024, by

Daniel A. Bidal

Notary

My commission expires: 12-07-2027



(Handwritten mark)

SKM_C36824041714120

Interim Agreement Report




2024-04-17

Created:	2024-04-17
By:	Paul Heerbrandt (pfheerbrandt@ci.santa-fe.nm.us)
Status:	Out for Signature
Transaction ID:	CBJCHBCAABAAGe0L0Xx0hv9S2Z5JjtSGfkCYFWgjocVf

Agreement History

Agreement history is the list of the events that have impacted the status of the agreement prior to the final signature. A final audit report will be generated when the agreement is complete.

"SKM_C36824041714120" History

-  Document created by Paul Heerbrandt (pfheerbrandt@ci.santa-fe.nm.us)
2024-04-17 - 7:22:10 PM GMT
-  Document emailed to GERALYN CARDENAS (gfcardenas@santafenm.gov) for signature
2024-04-17 - 7:23:18 PM GMT
-  Email viewed by GERALYN CARDENAS (gfcardenas@santafenm.gov)
2024-04-17 - 7:24:03 PM GMT






24-0304 Vista Primera Homeowners's Association Inc.

Final Audit Report

2024-04-18

Created:	2024-04-18
By:	Xavier Vigil (xivigil@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAACb-BuEcGrpHLszAI1u8I81zM-vUIL0iJ

"24-0304 Vista Primera Homeowners's Association Inc." History

-  Document created by Xavier Vigil (xivigil@ci.santa-fe.nm.us)
2024-04-18 - 2:15:14 PM GMT- IP address: 63.232.20.2
-  Document emailed to GERALYN CARDENAS (gfcardenas@santafenm.gov) for signature
2024-04-18 - 2:16:01 PM GMT
-  Email viewed by GERALYN CARDENAS (gfcardenas@santafenm.gov)
2024-04-18 - 2:32:51 PM GMT- IP address: 104.47.65.254
-  Document e-signed by GERALYN CARDENAS (gfcardenas@santafenm.gov)
Signature Date: 2024-04-18 - 2:33:05 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2024-04-18 - 2:33:05 PM GMT