

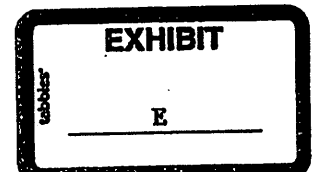
DEVELOPMENT AGREEMENT

SANDOVAL COUNTY
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THIS DEVELOPMENT AGREEMENT (the "Agreement") is made as of the 1st day of May, 2007, by and between the SANDOVAL COUNTY, NEW MEXICO (the "COUNTY"), a political subdivision of New Mexico, RECORP PARTNERS INC. DEVELOPMENT COMPANY, L.L.C., an Arizona limited liability company ("RECORP"), is referred to herein as "DEVELOPER".

RECITALS:

- A. "RECORP PARTNERS INC." otherwise known as the DEVELOPER is the owner(s) of certain real property known as, consisting of approximately 11,673.3 acres, as described in Exhibits "A" (the "Property").
- B. The real property located generally west of the City of Rio Rancho in RECORP PARTNERS, INC., as depicted on Exhibit "B" (the M.P.D.D.), is included within the Master Planned Development District adopted on October 5, 2006, pursuant to Section 19 of the County Zoning Ordinance (the "Zoning Ordinance"), County Ordinance No.04-12-02.4, and the document entitled "Rio West Master Plan RECORP PARTNERS INC.", dated April 2006, prepared by Consensus Planning, Inc. (collectively referred to herein as the "M.P.D.D.").
- C. It is the desire and intention of the DEVELOPER to develop the Property in the COUNTY, pursuant to this Agreement and in accordance with the M.P.D.D., DEVELOPER'S conceptual plan for RECORP PARTNERS INC. (the "Conceptual Plan"), attached as Exhibit "C" that certain Preliminary Plat of RECORP PARTNERS INC., dated April 2006, prepared by Consensus Planning, Inc. All references herein to the "Agreement" shall include the Master Plan, and all other exhibits attached hereto.
- C. The COUNTY and DEVELOPER desire to enter into this Agreement in order to, among other things: (I) facilitate development of the Property by providing for and establishing public infrastructure improvements; (II) confirm the type of land uses approved by the COUNTY for the Property and the location, density and intensity of such land uses; and (III) confirm other matters relating to the development of the Property and the location, density and intensity of such land uses; and (IV) confirm other matters relating to the development of the Property as described in the M.P.D.D. and this Agreement in accordance with the Sandoval County Ordinances. Appropriate officials of the COUNTY have studied and reviewed this Agreement and related submittals by DEVELOPER and find that: (V) the M.P.D.D. and this Agreement are in substantial conformance with the County Ordinances and can be coordinated with existing and planned development of surrounding areas; (VI) development of the Property in accordance with this Agreement and the M.P.D.D. will result in the planning, design, engineering, construction, acquisition and/or installation of public and other infrastructure improvements which will support development of the Property, which the COUNTY has examined and determined will be of a sufficient size and capacity to adequately provide for the health and safety needs of the of the future residents of the Property and, where applicable, the larger land area which includes the Property, including that the streets and thoroughfares contemplated by the M.P.D.D. and this Agreement are suitable and adequate to serve the proposed uses and the anticipated traffic that will be generated, and
- (VII) that the M.P.D.D. and this Agreement are consistent with planned area development districts as contemplated by Section 6 of the Zoning Ordinance, are appropriate in all respects and should be adopted. The COUNTY expressly acknowledges and agrees that,



to the best of its knowledge, there are no features of the M.P.D.D., including, without limitation, the intensity of development and range of land uses described therein, that cannot be accommodated within the scope of the General Plan. The COUNTY further acknowledges and agrees that delivery of potable and nonpotable water to the Property is critical to its successful development.

- E. The COUNTY and DEVELOPER understand and acknowledge that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to the terms of, Sandoval County Zoning & Subdivision Ordinances, and that the terms of this Agreement are binding upon the COUNTY and DEVELOPER and their successors and assigns and that such terms run with the land.
- F. The COUNTY and DEVELOPER acknowledge that the development of the Property pursuant to this Agreement will result in significant planning and economic benefits to the COUNTY and its residents by (I) initiating the kind of detailed planning, development and growth with respect to the Property that is consistent with the applicable County ordinances and the M.P.D.D.; (II) increasing the amount of available housing in the COUNTY; (III) providing additional tax and other revenues to the COUNTY based on improvements to be constructed on the Property; (IV) creating quality housing and employment through the development of the Property consistent with the M.P.D.D.; and (V) providing for the planning, design, engineering, construction, acquisition and/or installation of private and public infrastructure in order to support anticipated development of the Property and the larger land area which includes the Property.

In reliance upon and for the reasons set forth above and in consideration of the covenants set forth herein, the parties hereto agree as follows:

1. Development in Accordance With M.P.D.D. and Development Agreement.

- 1.1. Approvals. The COUNTY has approved the M.P.D.D. The M.P.D.D., the Overall Preliminary Plat and this Agreement set forth the land uses, densities and intensities of such land uses, and development standards for the Property. The M.P.D.D. was incorporated into and became part of the COUNTY's Zoning Map for all purposes when the COUNTY approved the M.P.D.D. on October 5, 2006.
- 1.2. Development. The development of the Property shall be in accordance with the M.P.D.D., and this Agreement, as may be amended from time to time pursuant to Paragraph 19 below. Without limitation to the foregoing, the COUNTY agrees that the Overall Master Plan shall be deemed approved for a period of five (5) years from the date hereof and shall require no further COUNTY approvals prior to the expiration of such 5-year period (the "Master Plan Renewal Date"). In addition, the COUNTY's approval of the Master Plan shall, to the extent possible, be deemed to vest all rights necessary to develop the Property in accordance therewith, such approval and vested rights to extend in accordance with County Attorney Letter dated August 10, 2007 without the need for further approvals by the COUNTY (and the event DEVELOPER requests an extension of the Overall Master Plan Renewal Date, the COUNTY shall exercise its review and approval rights in a reasonable manner and, except for modifications required in order to satisfy subsequent public health or safety concerns, shall not unreasonably withhold such approval). Nothing herein shall be construed to relieve the Developers from compliance with Sandoval County's Zoning and Subdivision Ordinances.

1.3. **Reliance.** The COUNTY's approval of the M.P.D.D., and the COUNTY's acceptance of this Agreement, constitute affirmative representations by the COUNTY, on which DEVELOPER are entitled to rely, that the COUNTY has reviewed and approved the studies, plans and other submittals provided by or on behalf of DEVELOPER in support of the M.P.D.D., and has considered other information known and available to the COUNTY related to the public health, safety and welfare of the future residents of the Property and projected needs for public services and infrastructure and that DEVELOPER:

1.3.1. shall be entitled to develop the Property in accordance with the land uses, densities, intensities, and development standards and regulations in effect as of the date of the COUNTY's approval of the M.P.D.D., as more particularly set forth in the Zoning Ordinance, the M.P.D.D. and this Agreement, including that development of the Property shall comply with the Master Plan;

1.3.2. shall be entitled to have granted and issued the approvals and permits reasonably necessary to allow DEVELOPER to develop the Property in accordance with the Zoning Ordinance, the M.P.D.D., and this Agreement through the development review and approval process as set forth in the COUNTY's ordinances and regulations, provided that DEVELOPER pay all applicable permit and application fees;

1.3.3. shall not be subject to any action by the COUNTY that would result in restricting the availability of building permits or other applicable permits or approvals necessary to allow construction of the type of improvements and uses that are, as of the date of this Agreement, permitted under the M.P.D.D. and/or that limit the maximum intensity of development and range of uses consistent with the M.P.D.D. and this Agreement. Any such moratorium, restriction or limitation on the availability of building permits or other applicable permits or approvals shall be of no effect against the Property, the owner(s), or any person or entity having any interest in the Property, except as necessary to protect public health and safety in circumstance where less restrictive measures are not available or effective; and

1.3.4. Developer understands and agrees that all public safety concerns have not yet been resolved. These issues include, but are not limited to, arrangements for adequate fire protection.

1.4. **Breach.**

1.4.1. **COUNTY Breach.** Except as otherwise provided in this Agreement, the COUNTY's failure to approve plans and specifications, to issue permits and/or to grant approval of such other matters as are reasonably necessary to permit DEVELOPER to develop the Property in accordance with the Zoning Ordinance, the M.P.D.D., the Overall Preliminary Plat, and this Agreement, or as the same may be modified from time to time upon request of DEVELOPER and approval of the COUNTY, or any action by the COUNTY that would otherwise restrict, impair, delay or preclude DEVELOPER from developing the Property in accordance with the land use, densities and intensities, and development standards specified in the Zoning Ordinance, the M.P.D.D., and this Agreement, subject only to the development regulations contained therein or such rules, regulations or official policies of the COUNTY as provided in

Paragraph 12 below, shall be a breach of this Agreement; provided, however, that nothing herein shall preclude the COUNTY from the reasonable exercise of its enacted review processes and the reasonable exercise of its obligation to protect the public health and safety. Developer acknowledges that "contract zoning" is prohibited by New Mexico law and nothing herein shall be construed to permit the developer from strict compliance with the Sandoval County zoning and subdivision ordinances as amended from time to time.

1.4.2. DEVELOPER Breach. Except as otherwise provided in this Agreement, DEVELOPER'S failure to comply with the terms and conditions of the M.P.D.D., this Agreement, and the applicable County ordinances, as the same may be modified from time to time upon request of DEVELOPER and approval by the COUNTY, shall be a breach of this Agreement; provided, however, that this Agreement is intended to set forth conditions to the development of the Property and nothing herein requires, or shall be construed to require, development of the Property and related public improvements to occur within a specified time frame, it being understood and agreed that market conditions and other factors will affect the time frame within which development of the Property commences and/or proceeds.

1.5. No Delay. Subject to the qualifications set forth hereinafter, the COUNTY shall use its best efforts to ensure that its plan review and approval process do not result in unusual delay in the use and/or development of the Property. DEVELOPER acknowledge that the COUNTY has both a "standard" review process (whereby plans and specifications are reviewed "in-house") and an "expedited" review process (whereby the COUNTY retains outside consultants to assist in, and facilitate, the expedited review of plans and specifications). The plan review and approval process for the "Infrastructure Improvements" (as defined in Paragraph 2 below) shall be conducted on an expedited basis, subject to fees and charges levied in accordance with applicable COUNTY Ordinances.

2. Infrastructure Improvements. The parties acknowledge that a primary purpose of this Agreement is to provide for the planning, design, engineering, construction, acquisition and/or installation of public infrastructure improvements, as more particularly described in those certain RECORP PARTNERS INC. Infrastructure Improvement Plans prepared by the Developer and this Agreement (the "Infrastructure Improvements"). The COUNTY acknowledges and agrees that the Infrastructure Improvements confer a benefit on the Property and the larger land area including the Property and, based on the COUNTY's detailed review and approvals, comprise all public infrastructure improvements and/or will result in the provision of all necessary public services that will be required by the COUNTY in connection with the development of the Property in accordance with the Zoning Ordinance, the M.P.D.D., and this Agreement. Without limitation of the foregoing, the COUNTY acknowledges and agrees that the Improvement Plans, as and when approved, shall have satisfied all requirements to prepare and deliver to the COUNTY a "master street plan for an major and collector streets abutting or within the site", the Zoning and Subdivision Ordinance. However, developer recognizes that provisions for adequate fire protection for this development have not yet been determined.

The Infrastructure Improvements include the following:

2.1 Water and Sanitary Sewer Facilities. The COUNTY acknowledges and agrees that there is no existing COUNTY sewer and/or water facilities within the Property. The Developer shall

provide adequate capacity to serve the development of the Property in accordance with the Zoning Ordinance, the M.P.D.D., the Master Plan and this Agreement. The DEVELOPER shall have the right to establish a retail water company or to contract for said services.

2.1.1. Potable Water. The primary source of potable water will be derived by the treatment of non-potable resources in the area. The Developer acknowledges that the County shall retain the rights to a portion of 18,000 acre feet of water, based on the proportion of County participation in the cost of drilling any exploratory wells, and hydrogeologic studies conducted for State Engineer review and approval. The DEVELOPER shall petition the COUNTY to form a Public Improvement District (referred to herein as the P.I.D.) to construct a desalination plant. The COUNTY shall have a proportional equity position in the plant dependent on the actual cost of the plant, and shall have a proportional vote in determining the rate structure for consumption purposes.

2.1.2 Sewer: The DEVELOPER shall have the right to develop on site wastewater treatment facility(ies). The DEVELOPER shall have the water rights to any and all effluent/tertiary treated water produced by the water plant. The DEVELOPER shall have the right to utilize the effluent water as it deems appropriate as regulated by Local, State, and Federal laws. DEVELOPER will make its best efforts to use effluent water for its proposed golf course site.

2.2. Streets: Streets, roadways, and parking facilities to be used for motorized vehicular travel, ingress, egress and parking and pedestrian, bicycle or other facilities to be used for non-motor vehicular travel, ingress, egress and parking to, through, within and from the Property as described in the Improvement Plans, including street lighting with underground electric service distribution and all striping, street sign posts, street name signs, stop signs and all other directional/warning/advisory signage as required, except for speed limit signs. Speed limit signs shall be provided and installed by the COUNTY.

2.2.1 Offsite Streets. The primary access to the property will be westerly along Southern Boulevard, northerly along 60th Street, and Northern Boulevard. The DEVELOPER shall be responsible for the construction of the road. The ultimate road section shall be 68 feet in width (a 4-lane divided facility) from the alignment of Paseo Del Volcan westerly to the Developer's property. Phasing of the roadway construction will be allowed in accordance with the level of services outlined in the Master Plan. The first phase shall be the construction of a two lane roadway. The roadway shall be constructed in accordance with County roadway standards. Phase 2 shall complete the roadway to a four lane (4) divided facility. The COUNTY shall be responsible for the cost of all traffic control, except for striping. The COUNTY shall be responsible for the construction of a two lane road along 20th Street from Southern Boulevard to the southern County line. The COUNTY shall be responsible for all frontage roads required to limit access to the road to half mile intervals.

2.3. Landscaping. Landscaping including earthworks, structures, plants, trees, shrubs, flowers, ground cover (vegetation and/or other cover) and related water delivery systems, as described in the Improvement Plans shall be installed and maintained by the DEVELOPER or assignee.

2.4. Dry Utilities. All dry utilities shall be placed underground including the installation of trenches, conduits and "dry utilities", together with the relocation of certain existing electric distribution overhead transmission lines and the installation underground of certain existing electric distribution overhead transmission lines, up to and including 12 KV of power, that

are adjacent to arterial or collector streets abutting or within the Property.

- 2.5. **Drainage Improvements.** Drainage and flood control systems and facilities for collection, diversions, detention, retention, disbursal, use and discharge, consistent with the Master Grading and Drainage Improvement Plans prepared by the DEVELOPER and approved by the COUNTY ("the "Master Grading and Drainage Plans") and applicable FEMA regulations shall be submitted with Preliminary Plat submission, including certain drainage and flood control systems to be constructed and installed in the Property, adjacent to and via conduits through the existing Rio Puerco (depicted on the Improvement Plans) in order to address the COUNTY's regional drainage and flood control concerns.

2.5.1. To the extent not concluded prior to the date of this Agreement, the COUNTY shall cooperate with DEVELOPER, and exercise all reasonable efforts to facilitate approval of the Master Grading and Drainage Plans.

2.5.2. Following approval of the Master Grading and Drainage Plans for the Property by the County, DEVELOPER shall prepare final Master Grading and Drainage Plans for the Property consistent with the approved Master Grading and Drainage Plans previously approved by the COUNTY (and other required governmental authorities) and provide the same to the COUNTY for inclusion by the COUNTY in any future drainage and flood control plans adopted by the COUNTY for any land area that encompasses the Property. The COUNTY acknowledges and agrees that, upon final approval by the COUNTY of the Master Grading and Drainage Plans, all requirements of the Zoning Ordinance and other applicable laws, rules and regulations for submission and approval of the Master Grading and Drainage Plans for the M.P.D.D. shall have been fully satisfied.

2.5.3. The COUNTY agrees and covenants that it shall not approve any plat for property that is submitted after the effective date of this Agreement, if, to the best of the COUNTY's knowledge such approval shall result in an increase in the amount of flows across the DEVELOPER'S Property above the level and amount of historical flows.

- 2.6. **Parks and Recreational Facilities.** Parks, recreational facilities and open-space areas are for the use of the residents only for assembly and recreation, as described within the M.P.D.D. (the "Parks and Open Space Plans"), provided that it is contemplated that all or portions of the land area occupied by such parks, recreational facilities and open-space areas shall also be available for collection, diversion, detention, retention, and disbursal of surface water as necessary to fully satisfy the requirements of any governmental or other body with jurisdiction over drainage and flood control aspects of the M.P.D.D. Concurrently with the recordation of the Master Plat for RECOP PARTNERS INC. there shall either be reflected on a Master Plat or DEVELOPER(S) (as applicable) shall execute, have acknowledged and deliver, for recordation in the Official Records of the County, one or more Drainage Easement[s] in favor of the COUNTY or other appropriate governmental body. DEVELOPER acknowledge that COUNTY's acceptance of the Drainage Easement(s) shall not, and is not intended to, constitute the COUNTY's agreement to accept dedication of all or any portion of the property which is the subject of the Drainage Easement(s) and that DEVELOPER and, when formed, the "Association" (as hereinafter defined) shall retain responsibility for the maintenance of all landscaping and recreation improvements located thereon in perpetuity. The "Association" shall not be allowed to convey any open space or recreational facility to the County for maintenance.

- 2.7. Phasing. Installation and construction of the Infrastructure Improvements shall be phased in accordance with the Master Plan attached hereto to coincide with the development of parcels within RECOP PARTNERS INC. Without limitation of the foregoing, installation of the landscaping along arterial streets and collector streets within the Property with the exception of the landscaping associated with "entry features" to be installed at certain intersections, shall similarly be phased to coincide with the development of adjacent parcels.
- 2.8. Dedication. From time to time, upon completion of the installation and construction of portions of the Infrastructure Improvements described in this Paragraph 2, the COUNTY shall accept the conveyance, for dedication, (except for open spaces or recreational facilities) of the land area in or on which such improvements are constructed and installed, together with an assignment of the contractor(s)' warranty (ies) (which, for all improvements other than landscaping, shall be for a period no less than one year from completion of installation and COUNTY acceptance of such improvements). The COUNTY shall concurrently execute, acknowledge and deliver to the appropriate party(s) for recordation in the Official Records of the County, a permanent maintenance easement in respect of the landscaping portion of the Infrastructure Improvements either on the Master Plat for the Property in favor of the "RECOP PARTNERS INC. Homeowners Association", a to-be-formed New Mexico not-for-profit corporation (the "Association"). The Association shall thereafter be responsible for the continuing maintenance, repair and replacement of the plants, trees, shrubs, flowers, ground cover and watering systems installed within the landscaped areas located within the land area occupied by the Infrastructure Improvements; provided, however, that it shall be a condition to the Association's continuing maintenance, repair and replacement obligations that the COUNTY shall not thereafter modify or reconfigure the plan for, or composition or configuration of, such landscaping improvements in a manner that would materially increase the cost of maintenance, repair and replacement without the prior written consent of the Association.
3. On-Site Facilities. DEVELOPER shall construct on-site facilities including the following:
- 3.1 On-Site Water Distribution Facilities. DEVELOPER shall be responsible for constructing on-site water facilities needed to serve DEVELOPER' proposed development of the Property in accordance with the Zoning Ordinance, the Subdivision Ordinance, the M.P.D.D., the Master Final Plats and this Agreement, along with any amendments thereto.
- 3.2 On-Site Sanitary Sewer Facilities. DEVELOPER shall be responsible for constructing on-site sewer facilities and associated sewer collection systems, to include ROW easements, etc. needed to serve DEVELOPER' proposed development of the Property in accordance with the Zoning Ordinance, the Subdivision Ordinance, the M.P.D.D., the Master Plat and this Agreement, along with any amendments and appendices thereto.
- 3.3 COUNTY Access. DEVELOPER agrees that, in conjunction with the recordation of the Master Plat, DEVELOPER shall grant to the COUNTY and/or other appropriate parties access and/or maintenance easement(s) and, if and to the extent necessary, provide perpetual access for the operation, maintenance and repair of public and other utilities and facilities included within such platted portion of the Property.
- 3.4 Roadway Improvements. DEVELOPER shall be responsible for constructing any required on-site roadways consistent with the subdivision improvement plans approved

by the COUNTY.

4. Water Resources. It is the intent of the parties that the COUNTY and DEVELOPER shall work together as provided in this Agreement so that the Property will be supplied with water (and obtain certificates of 100 years of assured water supply) by the most cost-efficient means possible. Accordingly, it is agreed as follows:
 - 4.1 Commitment to Provide. The DEVELOPER agrees to serve water to throughout the Property in quantity and quality sufficient to satisfy all of the present and future domestic, municipal and commercial demands for potable water at the Property, subject to those restrictions and limitations of applicable laws, rules and regulations.
 - 4.2 Potable Water. The COUNTY agrees and covenants that it shall not approve any plat that is submitted after the effective date of this Agreement, if, to the best of COUNTY's knowledge, such approval shall impair the DEVELOPER's ability to provide adequate potable water to the Property, or shall impair the DEVELOPER's ability to obtain or retain a designation of assured water supply.
 - 4.3 Certificate of Assured Supply. The DEVELOPER represents and warrants to the COUNTY that the COUNTY /DEVELOPER will file an application with the New Mexico State Engineer's Office for a designation of assured water supply and shall diligently prosecute such application to completion. The COUNTY agrees to take such reasonable steps as may be required to assist in obtaining and retaining a designation of assured water supply from the New Mexico State Engineer's Office until complete development of the Property in accordance with the Zoning Ordinance, the Subdivision Ordinance, the M.P.D.D. and this Agreement.
5. Right-of-Way Maintenance. The DEVELOPER (or Association) shall maintain, at its sole expense, all road improvements in all dedicated road rights-of-way located within or adjacent to the boundaries of the Property. All landscaping located in the right-of-way shall be initially maintained by DEVELOPER until it becomes feasible to form a homeowner's association for the Property (the "Association"), which shall then be responsible to perpetually maintain the right-of-way landscaping.
6. Open Space Areas.
 - 6.1 The COUNTY and DEVELOPER acknowledge to satisfy all requirements and conditions set forth by the approval of the Rio West Master Plan, and any other requirements applicable by the Sandoval County Comprehensive Zoning Ordinance or the Sandoval County Subdivision Ordinance. DEVELOPER shall provide those open space areas as designated in the Master Grading and Drainage Plan for drainage retention/detention basins and channels, which the COUNTY acknowledges and agrees are in accordance with the COUNTY engineer's standards and guidelines.
 - 6.2 There shall be additional open space within the Property to accommodate the proposed golf course, which shall be privately operated and maintained.
 - 6.3 An open space area shall be dedicated (as appropriate) by specific purpose and by designated land tract on the Property's final plat document(s).
 - 6.4 All open space areas shall be initially maintained by DEVELOPER until the Association is formed. The Association shall then be responsible from that time on for the perpetual maintenance of the open space area.

7. Public Facilities - School Site. The COUNTY acknowledges that DEVELOPER will incorporate a significant quantity of public facilities in the M.P.D.D. and the Overall Preliminary Plat, including a proposed school site and other public facilities to be maintained by the Association, sufficient to satisfy all requirements of Section ____ of the Zoning Ordinance, the Subdivision Ordinance, and the P.A.D.D. and any applicable laws, rules and regulations. In consideration of, and in reliance upon, the agreements of the COUNTY contained herein, RECORP has agreed to convey that portion of the Property which has been designated for use as the "School Site", to the appropriate School District (the "District") for purposes of constructing and operating an elementary school facility thereon as and when requested by the District to do so, at no cost to the District; provided, however, that the deed of conveyance shall reserve a right of reversion (the "Deed Reversion"). In the event the Deed Reversion Event is triggered, resulting in reversion of fee title to the School Site to RECORP, RECORP shall thereafter be entitled to proceed with development of the School Site consistent with the underlying zoning, as described in the M.P.D.D. DEVELOPER have the right but not the obligation to contribute an alternative school site for development and, in such event, the COUNTY agrees to make the corresponding changes to the school site locations.
8. Airport Facility: Upon County request, DEVELOPER will donate fee simple property, within 30 days, that is necessary to accommodate a landing strip and FBO operation that meets FAA requirements. Any profits ascertained from the Operation of the airport shall be split equally between the DEVELOPER and the COUNTY.
9. Public Facilities - EMS/Fire Provision. The DEVELOPER agrees to petition the COUNTY for the establishment of a fire district in accordance with N.M.S.A. Section 59A-53-5 (2006) to provide for adequate fire and EMS services.
10. Easements. DEVELOPER shall dedicate all necessary and required easements including but not limited to: public utility easements, drainage easements, sewer/water easements, landscape easements, and vehicular non-access easements. All easements shall be dedicated as required and shall be clearly identified and described by specific purpose on the Property's final plat document(s).
11. Fees. DEVELOPER shall pay for any and all COUNTY, State and Federal licenses, permits and application fees associated with the development of the Property, as required by ordinance or law.
12. Regulation of Development.
- 12.1 Except as specifically provided in Paragraph 13 hereof, the ordinances; rules, regulations, development fees and official policies applicable to and governing the development of the Property shall be those ordinances, rules, regulations, development fees and official policies that are existing and in force upon the approval of each final plat within the Master Plan.
- 12.2 In addition to the vesting rights described in County Attorney's letter dated August 10, 2007 the COUNTY acknowledges and agrees that, when the M.P.D.D. zoning for the Property was approved, and in consideration of the obligations undertaken by DEVELOPER under this Agreement, the M.P.D.D. and existing development regulations became vested rights and may not be changed, limited or impaired without the consent of DEVELOPER.

13. COUNTY Representations and Warranties. The COUNTY acknowledges that DEVELOPER acquired the Property and is entering into this Agreement, and has, and will continue to, expend substantial time and money with regard to development of the Property, in reliance upon the representations, warranties and covenants of the COUNTY as described elsewhere in this Agreement and herein below. The COUNTY represents and warrants to DEVELOPER that all of the COUNTY's representations and warranties set forth in this Agreement are, to the best of its knowledge, true in all material respects as of the date of this Agreement, including the following:

13.1 Organization. The COUNTY is a duly organized, a valid existing governmental subdivision in the State of New Mexico. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and the COUNTY's performance hereunder, have been duly authorized by all requisite actions of the COUNTY and/or other parties. The execution and delivery of this Agreement and any other document required herein and the consummation of the transaction contemplated hereby and thereby shall not result in any violation of, or default under, any term or provision of any applicable agreement, instrument, law, rule, regulation or official policy to which the COUNTY is a party or by which the COUNTY is bound.

13.2 No Litigation. There is no litigation, investigation or proceeding pending or, to the knowledge of the COUNTY, contemplated or threatened against the COUNTY, which would impair or adversely affect the COUNTY's ability to perform its obligations under this Agreement or under any instrument or document related hereto.

13.3 Restatement of Warranties. At any time, or from time to time, upon the request of DEVELOPER, the COUNTY shall reaffirm and restate any or all of its representations, warranties and covenants as set forth in this Agreement and any other agreements and instruments executed in connection herewith.

14. RECORP Representations and Warranties. RECORP acknowledges that the COUNTY has and will continue to expend substantial time with regard to development of the Property, in reliance upon the representations, warranties and covenants of RECORP as described elsewhere in this Agreement and herein below. RECORP represents and warrants to the COUNTY that all of RECORP's representations and warranties set forth in this Agreement are, to the best of RECORP's individual and actual knowledge, true in all material respects as of the date of this Agreement, including the following:

14.1 Organization. RECORP is a duly organized, validly existing limited liability company in the State of New Mexico. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and RECORP's performance hereunder, have been duly authorized by all requisite actions of RECORP and/or any other necessary parties. The execution and delivery of this Agreement and any other document required herein and the consummation of the transaction contemplated hereby and thereby shall not result in any violation of, or default under, any term or provision of any applicable agreement, instrument, law, rule, regulation or official policy to which RECORP is a party or by which RECORP is bound.

14.2 No Litigation. There is no litigation, investigation or proceeding pending or, to the knowledge of RECORP, contemplated or threatened against RECORP, which would impair or adversely affect RECORP's ability to perform its obligations under this Agreement or under any instrument or document related hereto.

- 14.3 Restatement of Warranties. At any time, or from time to time, upon the request of the COUNTY, RECOP shall reaffirm and restate any or all of its representations, warranties and covenants as set forth in this Agreement and any other agreements and instruments executed in connection herewith.
15. Moratorium. No moratorium, ordinance, resolution or other land use rule or regulation limiting or conditioning the rate, timing or sequencing of the development of the Property or any portion thereof shall apply to or govern the use, development or improvement of the Property during the term hereof, whether affecting parcel or subdivision maps (whether tentative, vesting tentative, or final), building permits, occupancy permits or other entitlements to use, except as otherwise provided for in this Agreement, and except for any ordinance, resolution or regulation enacted by the COUNTY after the date of this Agreement as may be necessary to:
- 15.1 comply with any future State or Federal law or mandatory regulation, provided that in the event any such future State or Federal law or mandatory regulation prevents or restricts the COUNTY from complying with this Agreement, the COUNTY is obligated in a timely fashion to make reasonable efforts to remove the moratorium or other restrictions on the Property and simultaneously to mitigate their effects, or
- 15.2 alleviate or otherwise deal with a future unforeseen or unforeseeable threat to the health or safety of the general public, in a non-arbitrary and non-capricious fashion. In the event of any such subsequent action, the DEVELOPER shall continue to be entitled to apply for and receive approvals for the implementation of the final plats and development plans, consistent with the Zoning Ordinance, the M.P.D.D., the Master Plat and this Agreement.
16. Amendments to M.P.D.D. and this Agreement. DEVELOPER and the COUNTY agree to cooperate and pursue any future amendments to the M.P.D.D., the Overall Preliminary Plat, the Master Plat and this Agreement that are reasonably necessary to accomplish the goals expressed in this Agreement and the M.P.D.D., in light of any changes in market conditions or as may be reasonably necessary for DEVELOPER and the COUNTY to comply with those special circumstances specified in Paragraphs 5, 11 and 17. Any such amendments to the M.P.D.D. or this Agreement shall be in writing and must be approved and signed DEVELOPER and the COUNTY. Any amendment to this Agreement shall be approved and recorded pursuant to Paragraph 24.1 Q below.
17. Cooperation and Expedited COUNTY Decisions Alternative Dispute Resolution.
- 17.1 Appointment of Representatives. To further the commitment of the parties to cooperate in the implementation of the final plat and this Agreement, the COUNTY and DEVELOPER each shall designate and appoint a representative (the "Representatives") to act as a liaison between the COUNTY and its various departments and DEVELOPER. The Representatives shall be available at all reasonable times to discuss and review the performance of the parties to this Agreement and the development of the Property pursuant to the M.P.D.D., the Overall Preliminary Plat, the Master Plat, this Agreement and/or the final plats. The Representatives may recommend amendments to the M.P.D.D., the Master Plat, or this Agreement or the final plats which may be agreed upon by the parties pursuant to Paragraph 19 above. The COUNTY representative is the County

Development Director and the DEVELOPER'S representative is the Project Manager.

- 17.2 COUNTY Decisions. The implementation of this Agreement shall be in accordance with the COUNTY's development review process. The COUNTY and DEVELOPER agree that DEVELOPER must be able to proceed in a timely manner with the development of the Property and that, accordingly, a timely COUNTY review process is necessary. Accordingly, the parties agree that if at any time DEVELOPER believe that an impasse has been reached with the COUNTY staff concerning any issue affecting the Property, DEVELOPER shall have the right to immediately appeal to the COUNTY Representative for an expedited decision pursuant to this Paragraph. If the issue on which an impasse has been reached is an issue where a final decision can be reached by COUNTY staff, the COUNTY Representative shall give DEVELOPER a final decision within thirty (30) days after the request for an expedited decision is made. If the issue on which an impasse has been reached is one where a final decision requires action by the COUNTY Commission, the COUNTY Representative shall use his or her best efforts to schedule a COUNTY Commission hearing on the issue as soon as possible but not later than two (2) weeks after the request for an expedited decision is made; provided however, that if the issue is appropriate for review by the COUNTY's Planning and Zoning Commission, the matter shall be submitted to the Planning and Zoning Commission first, and then to the COUNTY Commission. Both parties agree to continue to use reasonable good faith efforts to resolve any impasse pending any such expedited decision.

18. Default. Failure or unreasonable delay by either party to perform any term or provision of this Agreement for a period of thirty (30) days (the "Cure Period") after written notice thereof from the other party shall constitute a default under this Agreement. Said notice shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible.

19. Notices and Filings.

- 19.1 Manner of Serving. All notices, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally or sent by registered or certified United States Mail, postage prepaid, if to:

The COUNTY:
Sandoval County
711 Camino Del Pueblo
P.O. Box 40
Bernalillo, NM 87004
Attn: Michael R. Springfield Community Development Director

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with a copy to:
COUNTY ATTORNEY
711 Camino Del Pueblo
P.O. Box 40
Bernalillo, NM 87004
Attn: David Mathews, Esq.

DEVELOPER:

RECORP PARTNERS INC. Development L.L.C.
7835 E. Redfield Road, Ste. 100 Scottsdale, AZ 85260
Attn: Gary Lane, Senior Project Manager
with a copy to:
Mr. David P. Maniatis
RECORP PARTNERS INC. Development L.L.C.
7835 E. Redfield Road, Ste. 100 Scottsdale, AZ 85260

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- 19.2 Mailing Effective. If not received sooner, notices, filings, consents, approvals and communication given by mail shall be deemed delivered seventy-two (72) hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above.
20. Term. The term of this Agreement shall be thirty (30) years, from the date of execution of this Agreement by both parties. Upon mutual agreement of the parties, as evidenced by a written amendment recorded in the Official Records of Sandoval County, New Mexico prior to the expiration of the initial term, the term may be extended for one additional period not to exceed twenty (20) years.
21. Status Statements. Any Party (the "Requesting Party") may, at any time, and from time to time, deliver written notice to any other Party requesting such other Party (the "Providing Party") to provide in writing that, to the knowledge of the Providing Party, (a) this Agreement is in full force and effect and a binding obligation of the Parties, (b) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, and (c) the Requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults (a "Status Statement"). A Party receiving a request hereunder shall execute and return such Status Statement within 10 days following the receipt thereof. All Parties acknowledge that a Status Statement hereunder may be relied upon by transferees and mortgagees.
22. General.
- 22.1 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the COUNTY or DEVELOPER of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.
- 22.2 Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof) or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorney's fees by the other party, and in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein) such fees to be set by the court and not by jury.
- 22.3 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to single instruments so that the signature of all parties may be physically attached to a single document.

22.4 Headings. The descriptive headings of the Paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

22.5 Exhibits. Any exhibit attached hereto shall be deemed to have been incorporated herein by this reference with the same force and effect as if fully set forth in the body hereof.

22.6 Further Acts. Each of the parties hereto shall execute and deliver all such documents and perform all such acts as are reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement. Without limiting the generality of the foregoing, the COUNTY shall cooperate in good faith and process promptly any requests and applications for plan and specification, plat or permit approvals or revisions, and other necessary approvals relating to the development of the Property by DEVELOPER and its successors.

23.Future Effect.

23.1 Time Is Of The Essence and Successors. Time is of the essence of this Agreement. All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto, except as provided in Paragraph 25.7.2 below with respect to any Public Lot. Notwithstanding the foregoing, DEVELOPER (or any of them) shall have the right, upon five (5) business days prior written notice to the COUNTY, to assign all or part of their rights hereunder to any one or more persons or entities. DEVELOPER' rights and obligations hereunder may only be assigned by a written instrument, recorded in the Official Records of Sandoval County, New Mexico, expressly assigning such rights and obligations. In the event of a complete assignment by DEVELOPER (or any of them) of all rights and obligations of DEVELOPER (or any of them) hereunder, DEVELOPER' (or such party's) liability hereunder shall terminate effective upon the assumption by another DEVELOPER' (or such party's) assignee.

23.2 Termination Upon Sale to Public. It is the intention of the parties that although recorded, this Agreement shall not create conditions or exceptions to title or covenants running with the Property. Any title insurer can rely on this Paragraph when issuing any commitment to insure or when issuing a title insurance policy. In order to alleviate any concern as to the effect of this Agreement on the status of title to any of the Property, this Agreement shall terminate without the execution or recordation of any further document or instrument as to any lot that has been finally subdivided and individually (not in "bulk") leased (for a period of longer than one year) or sold to the purchaser or user thereof (a "Public Lot") and thereupon such Public Lot shall be released from and no longer be subject to or burdened by the provisions of this Agreement.

23.3 Assignment. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other similar arrangement between DEVELOPER and the COUNTY except as outlined in 21.1., Memorandum of Understanding-Sandoval County 200718194. No term or provision of this Agreement is intended to, or shall be for the benefit of any person, firm, organization or corporation not a party hereto to which DEVELOPER may assign their rights and obligations under this Agreement, with notice to the County and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

23.4 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

23.5 Amendment. No changes or additions may be made to this Agreement, except by a written amendment executed by the parties hereto. Within ten (10) days after any amendment to this Agreement, such amendment shall be recorded, at DEVELOPER' expense, in the Official Records of Sandoval County, New Mexico.

23.6 Names and Plans. RECOP shall be the sole owner of all names and titles in connection with the Property, and all plans, drawings, specifications, ideas, programs, designs and work products of every nature at anytime developed, formulated or prepared by or at the instance of RECOP in connection with the Property.

23.7 Good Standing: Authority. Each party hereby represents and warrants to the other parties follows: (i) it is duly formed and validly existing under the laws of New Mexico; and is in good standing under applicable state laws; and (ii) each individual executing this Agreement on behalf of the respective parties is authorized and empowered to bind such party.

23.8 Governing Law. This Agreement is entered into in New Mexico and shall be construed and interpreted under the laws of the State of New Mexico.

23.9 Recordation. No later than ten (10) days after this Agreement or any amendment to this Agreement has been executed by the COUNTY and DEVELOPER, it shall be recorded in its entirety, at DEVELOPER' expense, in the Official Records of Sandoval County, New Mexico.

23.10 Default and Remedies. If any party to this Agreement is in default under any provision of this Agreement, the non-defaulting party shall be entitled, without prejudice to any other right or remedy that it may have under this Agreement, at law or in equity, to specific performance by the defaulting party of this Agreement (and each party hereby waives the defense that the other party has an adequate remedy at law), or, in the alternative, to terminate this Agreement and to exercise any or all other remedies available to it at law or in equity.

23.11 Severability. If any one or more sections, clauses, sentences or parts of this Agreement shall be adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remaining provisions hereof, but shall be confined to the specific sections, clauses, sentences and parts so determined.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the 17th day of July, 2007.

DEVELOPER:


RECOP PARTNERS INC. DEVELOPMENT COMPANY.

LLC, an Arizona limited liability company

By: [Signature]

Its: President

Date: 7/13/07

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COUNTY:

SANDOVAL COUNTY, NEW MEXICO
A Statutorily Created County

By: [Signature]

Its: Commission Chairman

Date: 6-21-07

APPROVED AS TO FORM:

[Signature]
Attorney for Sandoval County

Date: 5 June 2007

ATTEST:

[Signature]
Sandoval County Clerk

Date: June 21, 2007

Appendix A
Rio West Master Plan Legal Description

Rio West is comprised of unplatted land located in Sandoval County. The legal description for Rio West is as follows:

Range 1 East

Section 7
Section 8
Section 17 (portion)
Section 18
Section 19
Section 20 (portion)
Section 29 (portion)
Section 30
Section 33 portion

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Range 1 West

Section 3
Section 4 (portion)
Section 9 (portion)
Section 10
Section 11
Section 12
Section 13
Section 14
Section 15
Section 21 (portion)
Section 22
Section 23
Section 24
Section 28 (portion)
Section 33 (portion)

Exhibit B

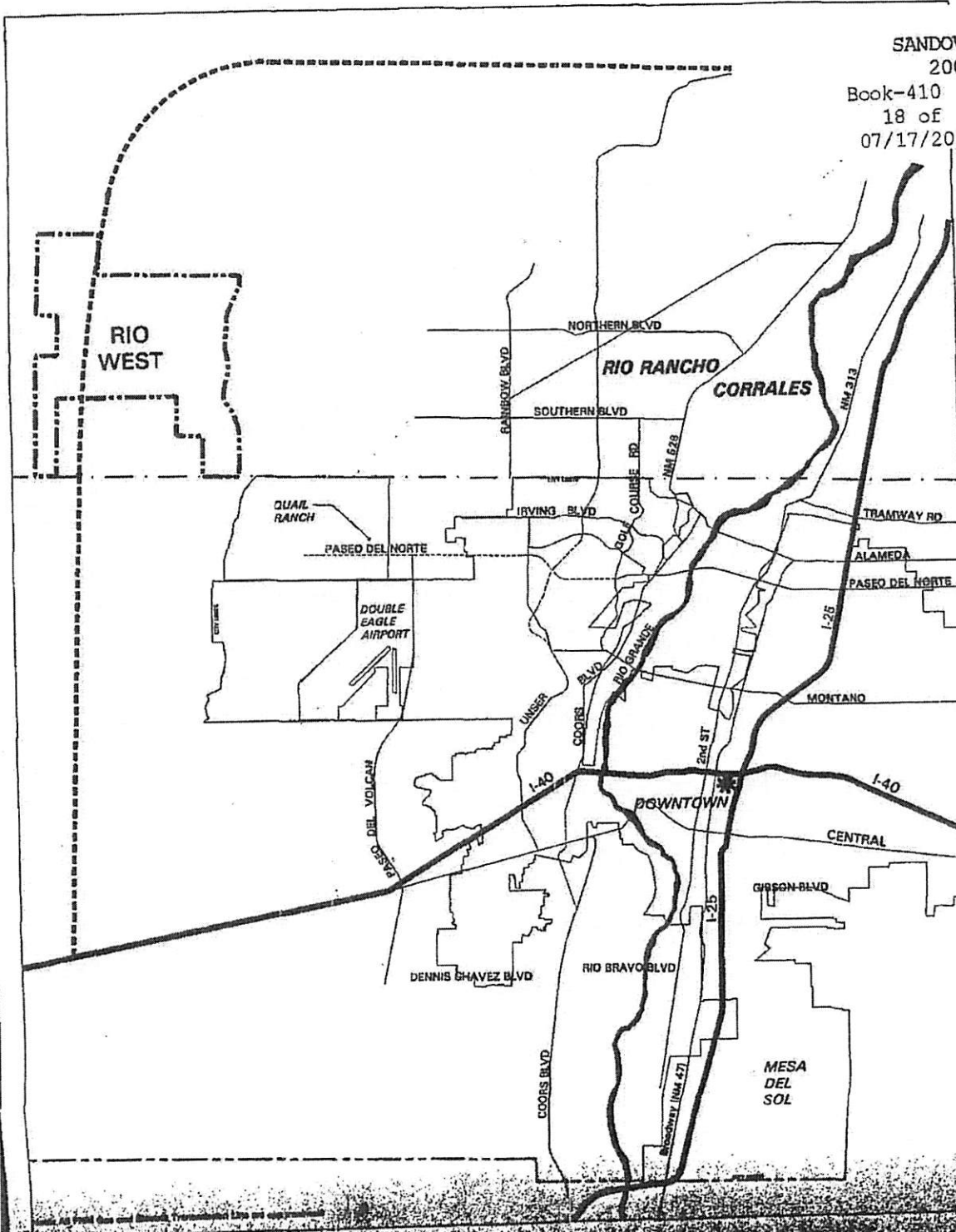
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RIO WEST
VICINITY

