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STATE OF NEW MEXICO
COMMISSIONER OF PUBLIC LANDS
PUBLIC SIDEWALK EASEMENT

Right of Way Easement No. R-41240
Farolito Senior Community Sidewalk

This indenture made this 9th day of January 2024 by and between the State of New Mexico, acting by and through its Commissioner of Public Lands, as "Grantor", and City of Albuquerque, whose address is 320 Gold Ave. SW, Suite 918 Albuquerque, NM 87102, "Grantee;"

WITNESSETH:

That Grantor, for and in consideration of the rent paid by the lessee under State Land Office Business Lease No. BL-2976 and the sum of \$1,000.00 ----- One Thousand Dollars and 00/100----- cash in hand, receipt of which is hereby acknowledged, and other good and valuable consideration, hereby conveys to Grantee a sidewalk easement in, over, upon and across the real property described on Exhibit "A" attached hereto (the "Easement Property"), located in Bernalillo County and the City of Albuquerque, for the sole and exclusive purpose of constructing, installing, maintaining, repairing, modifying, replacing and operating a sidewalk, together with the right to remove trees, bushes, undergrowth and any other obstacles upon the Easement Property that may interfere with Grantee's use of the Easement Property in accordance with this Easement.

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

1. This right-of-way is granted for so long as Grantee is using the Easement.
2. Grantor reserves the right to authorize or grant rights-of-way or other easements to third parties, which may be over, parallel to, or across this right-of-way, so long as such grants do not unreasonably interfere with Grantee's use of the Easement Property in accordance with this Easement. In such cases, the subsequent grantee may, at the discretion of the Grantor, be required to post a bond guaranteeing payment for damages to the installations and improvements of Grantee herein.
3. The right to grant additional rights-of-way or easements within this right-of-way belongs exclusively to Grantor.
4. Grantee shall not assign this right-of-way without the prior written approval of Grantor, which shall not be unreasonably withheld. Such approval may be conditioned upon the agreement by Grantee's assignee to additional conditions and covenants and may require payment of additional compensation to Grantor. This right-of-way is for the sole purpose stated and no other. Grantee agrees not to sell or otherwise grant to any person or entity any interest therein or the right to use any portion thereof.
5. The rights granted herein are subject to valid existing rights.
6. In all matters affecting the premises described herein or operations thereon, Grantee, its employees, agents and contractors shall, at their own expense, fully comply with all laws, regulations, rules, ordinances, and requirements of any governmental authority or agency, which may be enacted or promulgated, including, but not limited to, requirements or enactments pertaining to conservation, sanitation, aesthetics, pollution, cultural properties, fire, or ecology, including those provisions of the New Mexico Cultural Properties Act, §§ 18-6-1 through 17, NMSA 1978, that attach criminal penalties to the appropriation, excavation, injury or destruction of any site or object of historical, archaeological, architectural, or scientific value located on state lands. In addition, Grantee, its employees, agents and contractors must comply with the provisions of the Pipeline Safety Act, §§ 70-3-11 through 20, NMSA 1978, and rules enacted pursuant to the Act, and agree to provide the Public Regulation Commission access to records of compliance.



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7. Grantee agrees to reclaim by grading, leveling, or terracing all areas disturbed by the construction or maintenance of the right-of-way or operations thereon and to landscape such areas at its own cost and expense. Landscaping shall include the planting of native grasses, shrubs, or other vegetation so as to return disturbed areas to their natural state and prevent water and wind erosion.
8. The grant and other provisions of this Easement constitute covenants running with the Easement Property for the benefit of the Grantee its successors and assigns until terminated.
9. This grant shall become effective upon its execution by both Grantee and Grantor.

Stipulations:

- **Temporary Construction Space is granted up to 20' during initial construction and maintenance.**
- **Exclude remediation phase. Temporary Work Space not to exceed 180 days.**
- **Grantee shall notify Grantor in writing within ten (10) days of (i) Grantee's receipt of any compliance order, enforcement order, notice of violation, warning letter, or other written notice of final or contemplated enforcement action taken by any federal, state, or local governmental entity arising out of or concerning any of Grantee's operations anywhere on New Mexico state trust land; (ii) Grantee's receipt of any order, judgment, or decree (on consent or otherwise) entered by any federal or state court against Grantee arising out of or concerning any of Grantee's operations anywhere on New Mexico state trust land; or (iii) Grantee's receipt of any written notice of claim, written pre-suit notice, or lawsuit arising out of or concerning any of Grantee's operations anywhere on New Mexico state trust land. Upon Grantor's request, Grantee shall promptly provide Grantor with a copy of any such order, judgment, decree, notice, letter, or lawsuit. Grantee shall reasonably cooperate with Grantor, including providing Grantor with requested records that may be necessary to determine whether Grantee is in compliance with applicable laws with respect to its operations on fstate trust land.**

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DS
KV

Initial
SS

GRANTEE: City of Albuquerque

BY: 

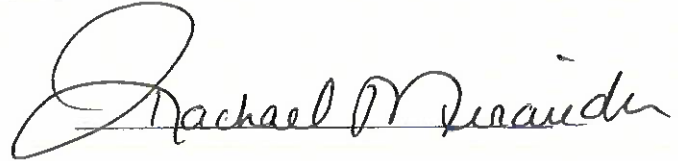
ACKNOWLEDGMENT

STATE OF New Mexico)
) ss.
COUNTY OF Bernalillo)

The foregoing instrument was acknowledged before me this 9th day of January, 2025, by _____ of _____ a _____ corporation, on behalf of said corporation.

My Commission Expires:


11-9-2025



STATE OF NEW MEXICO
NOTARY PUBLIC
Rachael Miranda
Commission No. 1119740
November 09, 2025

2025 JAN 15 AM 11:32

STATE OF NEW MEXICO

BY: 
Stephanie Garcia Richard
Commissioner of Public Lands

DATE: 1-16-25



E X H I B I T ' A '

An easement situate within the N1/2 of the NW1/4 of the NW1/4 of Section 28, Township 10 North, Range 4 East, New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, being the southerly 6 feet of Parcel A, VIDEO ADDITION as the same is shown and designated on the plat entitled "BOUNDARY SURVEY OF TRACT C, VIDEO ADDITION AND PARCELS OF LAND OWNED BY THE STATE OF NEW MEXICO SITUATED WITHIN THE NW1/4 NW1/4 SEC. 28 T.10N., R.4E., N.M.P.M. CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, APRIL 2016" filed in the office of the County Clerk of Bernalillo County, New Mexico on February 12, 2020 in Bk 2020S, Pg 0014, more particularly described using New Mexico State Plane, Central Zone (NAD83) grid bearings and ground distances as follows:

Beginning at the southeast corner of the easement herein described and being the southeast corner of aforesaid Parcel A, marked by a 1 inch pipe, being on the north Right-of-Way line of Central Avenue and running thence,

N 82°15'59" W, 302.00 feet along the northerly Right-of-Way line of Central Avenue, thence,

leaving said Right-of-Way line and running N 00°54'59" E, 6.04 feet along the west boundary of Parcel A, thence,

leaving the west boundary line of Parcel A and running S 82°15'59" E, 302.01 feet, to a point on the east boundary line of Parcel A, thence,

S 00°56'12" W, 6.04 feet along the east boundary line of Parcel A to the POINT OF BEGINNING.

Said easement containing 0.0416 acres or 18.3 Rods, more or less.

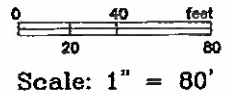
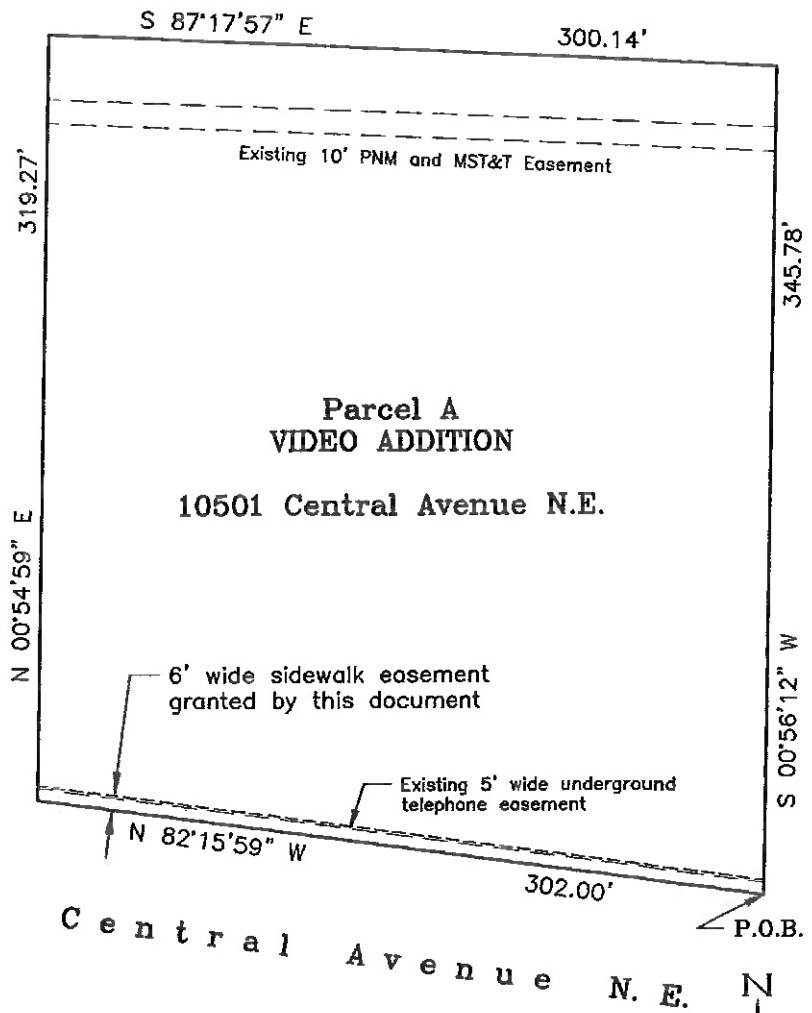
Note

Bearings and distances shown are from the "Boundary Survey, ALTA/NSPS Land Title Survey, and Topographic Map for A Certain Parcel Situate Within The NW1/4 NW1/4 of Section 28, T.10N., R.4E., N.M.P.M. a.k.a. 'Parcel A'. Lands of The State of New Mexico" signed January 9, 2023

Surveyor's Statement

I, Rex J. Vogler, a registered Professional Surveyor licensed under the laws of the State of New Mexico, state that this easement exhibit and description were prepared under my responsible direction; is true and correct to the best of my knowledge and belief, and meets the Minimum Standards for Land Surveying in New Mexico.

Rio Grande Surveying Co.
POB 7155, Abq., NM 87194
505-379-4579 m
rgsc360@gmail.com



12/30/2024
Date

Exhibit B

New Mexico State Land Office Required Best Management Practices for Surface Users

1. **Design.** To ensure public safety and the protection of trust resources, projects should be designed to minimize new surface disturbance and should be in compliance with New Mexico State Land Office (NMSLO) best management practices for surface users. The Commissioner of Public Lands may review design plans, and may determine whether professional engineering design or construction oversight is necessary. The Commissioner may waive or include any additional specific best management practices as necessary in the best interest of the trust.
 - a. **Design.**
 - i. No new surface disturbance will be permitted in riparian areas, wetlands, playas or floodplains. There will be a 150-foot setback from the outer wet edges (normal high water mark) of wetlands and playas, and a 50-foot setback from the 100-year flood stage of the floodplain associated with riparian areas. Boring under water features may be allowed if designs are approved.
 - ii. All efforts shall be made to minimize new surface disturbance: new construction shall be located in pre-existing disturbed areas, including existing roadbeds, rights-of-way, or in pre-existing or dedicated development areas and corridors.
 - iii. No new surface disturbance will be permitted within 50-feet of the normal high water mark of ephemeral drainages, floodways, arroyos or other short duration flow channels, except when crossing these channels and drainages. Drainage crossings will be perpendicular to flow, and will be built to accommodate flood events and to control erosion.
 - iv. Design plans shall:
 1. Include a cadastral survey;
 2. Minimize new surface disturbance by locating in pre-existing disturbance areas, or designated development areas or corridors, and designing for minimum necessary area of impact according to expected purpose and use;
 3. Avoid wetlands, known critical habitat and protected areas;
 4. Avoid steep slopes (>12%); grades from 4-10% are preferred for managing drainage; roads and rights-of-way are best placed at the toe of slopes where cross slope is between 5% and 40%;
 5. Preserve as much natural vegetation and living root structure as possible. Use blading only where not to do so would create an unsafe work environment. Mow, or cut and shred vegetation, rather than blading whenever possible. Grubbing is less destructive than blading, and may be used as an alternative where mowing is not possible; in mowing or grubbing, if mesquite or other colonizing non-desirable vegetation is involved, include an herbicide treatment to inhibit spread that may be caused by mowing or grubbing;
 6. Avoid alteration of natural drainage patterns;
 7. Provide adequate surface drainage; as grade steepens drainage features, such as water bars, must be closer together; drainage features on fine grained soils should be closer together;
 8. Reduce impervious surfaces by limiting area of impact;
 9. Account for specific site topography, soil type, drainage and hydrology, i.e. fit construction to the natural terrain by conforming to the ground, rolling the grade,

- minimizing cuts and fills, and managing for erosion; medium to coarse textured soils (sand-sized particles and larger) are best suited to low-standard rural roads;
10. Account for cultural resources at least in accordance with minimum standards set forth in NMSLO policy;
11. Account for biological resources at least in accordance with minimum standards set forth in NMSLO Policy;
12. Include a spill containment and prevention plan where hazardous materials are involved, including requirements for berms and lining where necessary;
13. Include a storm water pollution and prevention plan where hazardous materials are involved and the site falls within a 100-year flood plain of any major drainage;
14. Include an erosion control plan for drainage crossings, head-cuts, gullies and rills, including soil stabilization structures, ditches, water-bars, and the size and location of culverts and bridges;
15. Include a reclamation plan detailing the removal of improvements, soil stabilization and the re-vegetation process;
16. Include an access control plan;
17. Use only native weed-free certified seed for reclamation;
18. Use only certified freshwater (<140 ppm chloride, certified safe drinking water) for reclamation;
19. Use local materials where possible;
20. Include a noxious weed prevention plan;
21. Include a dust abatement plan;
22. Address clearing, grading, and cut and fill processes;
23. Address crown, inslope, outslope and shoulder design (roads);
24. Address trenching and boring design, including depth, casing, core sampling, valve location and access management (pipelines);
25. Include professional engineer plans and specifications for bores, bridges, or other major construction elements that present a potential hazard to the public or environment;
26. Address span and pole design (powerlines);
27. Define use, location and size of temporary work space, temporary storage and turnouts;
28. Address logistics of construction;
29. Address all pertinent state and federal regulations.

2. **Construction.** Construction involves all aspects of implementation of the design.

a. **Construction Practices:** During construction the lessee shall:

- i. Control access to the construction site;
- ii. Control unauthorized use of space adjacent to permitted rights-of-way, easements and lease use areas;
- iii. Maintain temporary erosion control structures, such as silt fencing to prevent sediment flow during construction;
- iv. Implement dust abatement plan and use only certified freshwater (<140 ppm chloride, certified safe drinking water) on areas that will be revegetated;
- v. When requested by the Commissioner, engage a compliance inspection officer to monitor quality control and compliance with NMSLO best management practices;
- vi. Sample, test and monitor to ensure construction materials meet design specifications;
- vii. Dispose of unsuitable or excess construction or excavation material in approved locations to minimize adverse impacts to water quality or other resources; construction waste and

debris will not be buried on state trust land without express permission from the Commissioner

3. **Maintenance.** Roads should be maintained routinely during active use and after major storm events to ensure that road surfaces are intact and serviceable and drainage structures are functioning properly. Pipeline, transmission line and other exclusive rights-of-way should be monitored routinely and maintained when necessary to ensure that public access is closed, drainage is functioning properly, and that reclamation efforts are successful. Operational equipment, work spaces, facilities, and structures shall be maintained routinely during use to function properly and to minimize adverse impacts to the public or the environment. Reclaimed areas, including temporary work spaces, yards, pads, pits, roads, pipelines, transmission lines or other lease areas, should be monitored for at least two years and retreated where necessary to manage erosion, noxious weeds and seeding success. Lessees sharing a right-of-way will be held jointly and severally responsible for maintenance of the right-of-way. The NMSLO encourages holders of shared rights-of-way to develop maintenance agreements.

a. **Maintenance Practices:** At all times, lessees must stay within the length and width of the permitted right-of-way. If maintenance requires work outside the boundaries of the right-of-way, the lessee must seek an amendment to the right-of-way or a right-of-entry for reclamation or maintenance:

- i. Grade and shape roadway surfaces to maintain distinct inslope, outslope or crown shape to move water effectively off the road surface;
- ii. Compact graded roadway surfaces to preserve hard driving surface; replace surface material when needed; implement dust abatement plans;
- iii. Fill ruts and potholes with gravel or compacted fill or remove ruts through rolling dips and water bars; reshape structures to maintain proper function;
- iv. Clean ditches and reshape when necessary to allow adequate flow capacity;
- v. Remove debris from the entrance of culverts to prevent plugging and overtopping; check for signs of damage;
- vi. Replace or repair rock armor, erosion control structures, or vegetation used for slope protection, scour protection or energy dissipation;
- vii. Inspect and repair fencing, gates, cattle-guards and other access control structures;
- viii. Inspect facilities, structures, equipment and operations for leaks, hazardous material releases, hazardous conditions, and proper functioning condition;
- ix. Inspect reclamation, revegetation and noxious weed treatments and re-treat as necessary to maintain proper functioning of erosion control and establishment of native vegetation.

4. **Reclamation.** See Attachment A for Sample NMSLO Surface Reclamation Plan.

a. **Reclamation Objectives:** To reduce and prevent erosion, remove contaminants and contaminated materials, restore clean soils, restore native plant diversity and abundance, restore and maintain hydrological regime, and restore and maintain productive habitat for livestock and wildlife;

b. **Applicability:** These Reclamation Requirements are applicable to all reclamation activities on state trust lands including: hazardous materials spills/releases, site closure for oil and gas, mineral and business leases, plug and abandon site reclamation, mine site reclamation, pit, pad,

or pond reclamation, illegal dump reclamation, road and pipeline reclamation, dairy farm or other agricultural impact reclamation, and any other clean up or reclamation activity on state trust land;

- c. **Access:** If the spill/release or reclamation project extends beyond the lease boundary or permitted right of way, the responsible party shall contact the NMSLO Rights Of Way Division and **obtain a remediation right-of-entry;**
- d. **Compliance:** Before commencing any new ground disturbing activity, the responsible party shall:
 - i. Conduct an archaeological survey of the impacted area, or verify that the area has already been surveyed and that no cultural properties will be impacted by ground disturbing activities;
 - ii. **Immediately stop all ground disturbing activities and contact NMSLO for further direction, if cultural properties have been impacted by a spill/release or reclamation project;**
 - iii. Verify compliance with NMSLO biological and cultural resource policies for the area to be reclaimed; conduct surveys where necessary;
 - iv. Verify compliance with all state and federal regulations, including but not limited to storm water pollution and prevention, air quality control, and hazardous materials disposal;
- e. **Hazardous Material Spill/Releases:**
 - i. **Oil and Gas Activity:**
 - Upon discovery of any oil and gas related hazardous material spill or release, either current or historic, the responsible party shall:
 - immediately notify OCD and NMSLO;
 - File C-141 form with OCD;
 - ii. **Other Spill/Releases:**
 - Upon discovery of any non-oil and gas related hazardous material release, including mine waste, either current or historic, the responsible party shall:
 - immediately notify NMED and NMSLO;
- f. **Delineation:** Upon discovery of contaminated soils, the responsible party shall delineate the horizontal and vertical extent of the contamination; submit a delineation plan for approval by the NMSLO; for oil and gas related contamination, the NMOCD must also approve the delineation plan; the NMSLO may review NMOCD approved plans for adequacy of sampling related to restoration of surface conditions; for non-oil and gas related contamination, the NMED may require delineation and monitoring related to surface and ground water impacts; the NMSLO may require any necessary sampling or reclamation related to the restoration of surface conditions;
- g. **Reclamation Plan:** A reclamation plan shall be submitted with all lease applications involving surface disturbance. In the event of a spill or hazardous materials release, the responsible party shall submit a reclamation plan for approval by the NMSLO within 30 days of completion of delineation. In all other situations, the responsible party must submit a reclamation plan to the

NMSLO within 30 days of receiving a notice to reclaim. The reclamation plan shall address each of the matters cited below; these best management practices shall constitute minimum requirements for reclamation plans submitted under the following rules: leasing for general mining 19.2.2.24, leases and permits for caliche, gypsum, clay, sand, gravel, stone, shale, perlite, volcanic deposits and borrow dirt 19.2.5.9(B); unless otherwise permitted by the NMSLO, the reclamation plan and all earthworks required for reclamation must be approved and completed within 6 months of completion of construction for any right of way lease, or improvement under an agricultural lease, or within 6 months of closure or final use of any business lease, mineral lease, or oil and gas lease;

- h. **Removal/Containment:** The responsible party will remove and replace any contaminated soils, including contaminated caliche or base course. Contaminated soils and caliche shall be disposed of only in state permitted disposal locations such as land farms or hazardous disposal sites, and in accordance with state and federal regulations. Contaminated soils shall be removed at least to the rooting zone. Removal shall be based on site delineation, but in areas of deep saturation and deep soils this depth is typically four feet; removal depth may be less in shallow soils. If any contaminated soil remains at the site the reclamation plan must address containment, including the potential for the contaminant to wick upward into the rooting zone or downward toward groundwater. If complete removal is impossible, the responsible party may apply to the NMSLO for a variance to stabilize and contain the hazardous material that cannot be removed. If the NMSLO agrees, a stabilization and containment plan may replace or supplement the removal and replacement plan. In addition to the removal of contaminated soils, the responsible party will remove all uncontaminated caliche or base course.
- i. **Soil Replacement:** The responsible party will replace contaminated soils, caliche or base course, and uncontaminated caliche or base course, with certified clean top soil; replacement soils should have comparable structure and chemistry to healthy, native undisturbed soils in the vicinity.
- j. **Trash and Debris:** Unless equipment is to be re-used onsite, the responsible party shall remove any trash, debris, garbage, rubbish, junk, scrap, or broken or contaminated equipment, such as pipelines, plastic lining, surface flowlines, tanks, scrap materials of any kind, or other equipment and shall dispose of all such trash and debris in accordance with state and federal regulations within 30 days of final use or completion of construction; no hazardous substances, trash or litter will be buried or placed in pits on state trust land without express written permission of the Commissioner.
- k. **Surface Preparation:** The responsible party will contour the ground surface to blend in with the surrounding topography to allow the natural hydrology of the basin to function without impediment or impact; no major depressions or pits will be left that will trap water or cause ponding except where the project involves a mining pit where there is no possible outlet, slopes will not exceed 3:1 (run to rise).
- l. **Erosion Control:** Where active transportation of sediment through gullying, headcutting, slumping or deep or excessive rills (greater than 3 inches deep) occurs within the lease area or within the adjacent area of impact, the responsible party will install erosion control structures to repair and control gullies, head-cuts, rills, and other forms of sediment movement;
 - i. Erosion control structures shall be designed to restore natural hydrological function and

- flood regime, and to the extent possible should use local rock or bio-degradable materials and low-energy, minimum-necessary designs;
- ii. Erosion control structures may include, but are not limited to, one rock dams, rock mulch rundowns, zuni bowls, media lunas, swales, berms, terraces, wattles, rock or log mats, hay mulch, gabions, bales or other stabilizing enhancements to control erosion;
- m. **Drainage Control:** Where ephemeral, intermittent or permanent water flow-ways or drainages cross, intersect or bisect a lease, the responsible party shall install drainage control structures to manage water flow, especially across roads, pipeline rights of way, or other structures that may interfere with natural drainage;
- i. Drainage control structures shall be designed to mimic natural hydrological function and flood regime as much as possible so as not to increase the erosional impact of hydrologic flows to the structure or to the upstream or downstream landscape; drainage control designs shall be engineered or built in consultation with the NRCS and approved by the NMSLO;
 - ii. Drainage control structures may include but are not limited to road bars, culverts, water bars, parallel and lateral ditches, drains, and low water crossings;
- n. **Seedbed Preparation:** All disturbed soils within the lease area will be revegetated. The responsible party will prepare the seedbed in consultation with the NMSLO to maximize potential for success. This may include, but is not limited to, a combination of watering with certified fresh water (<140 ppm chloride), mechanical packing to consolidate loose soils, disking or ripping to loosen compacted soils (up to 18 inch depth with furrow spacing of 2 feet), crimping hay mulch into the soil (2 tons/acre), furrowing or imprint rolling to create microhabitats, scarifying (minimum 4 inch depth), adding soil amendments, contouring and/or importing top soil. Note: Caliche is not top soil and should not be mixed or flipped into the top soil.
- o. **Revegetation:** The responsible party will seed the prepared seedbed with a drill seeder or hydraulic seeder with different sized seed boxes; unless otherwise authorized by the NMSLO, hydro-seeding will be used on 3:1 slopes or greater; all disturbed areas will be seeded with the seed mixture(s) provided or approved by the NMSLO; the seed mixture will be planted in the amounts specified in pounds of pure live seed per acre; the seed will contain no primary or secondary noxious weeds; commercial seed will be either certified or registered seed; the seed drill will be equipped with a depth regulator, and seed will be planted at the depth prescribed by the NMSLO; the seed mixture will be evenly and uniformly planted over the disturbed area; seed mixes should be provided in bags separating seed types into size categories, to ensure that the appropriate seed drill box is used for each species; broadcast seeding will only be allowed when no other option is available; where broadcast seeding, the area should be disked with a tandem, double-disk harrow, one day prior to broadcast seeding and the lbs/acre are to be doubled; seeding will be conducted no more than two weeks following completion of final seedbed preparation; seeding should take place at the beginning of the growing season prior to the monsoon season unless otherwise directed; seeding will be repeated until a satisfactory stand is established as determined by the NMSLO; evaluation of growth will not be made before completion of at least one full growing season after seeding; seeding will be repeated until a satisfactory stand is established.
- p. **Noxious Weeds.** The responsible party will prepare a noxious weed plan in consultation with the NMSLO and noxious weeds will be monitored and treated on an annual basis until controlled.

- q. **Access Control.** Unless otherwise authorized by the NMSLO, the responsible party will close all reclamation areas to public access; private access points will be gated, fenced and signed; unauthorized or trespass access points will be permanently closed and signed;
- i. **Gate and Fencing Specifications:** Unless otherwise directed by the NMSLO, a locked metal gate with 4-inch H-braces and a permanent fence extending at least 100 feet from either side of the gate, or to the next adjacent gate, will be installed to block public access to all closed reclamation sites; fence will be constructed with steel T-posts on 16-foot spacing, with stays every 8 feet and 4 strands of barbed wire; the top wire should be set at 42 inches above the ground surface; inline braces will be used at intervals not to exceed 660 feet; corners will be braced and set in concrete; fence wire will be attached on the outside of the T-posts with wire ties;
 - ii. **Permanent Closure Specifications:** Dirt berms, permanent hard barriers or rock barricades will be installed to block unauthorized access points to reclamation sites; berms and barriers will be at least 3 feet high and will extend the width of the access point; berms will be hard packed; barriers and barricades may be constructed of metal pipe rail, concrete, or rock and may be used in combination with berm work to ensure closure of an access point;
 - iii. **Signage:** Signs should be noticeably visible and should clearly state that public access is not authorized.
- r. **Monitoring.** The responsible party will monitor the reclamation site annually until relinquished by the NMSLO; prior to relinquishment, the NMSLO may require supplemental clean up, maintenance of erosion control structures, additional reseeding efforts, or noxious weed treatments to ensure success of reclamation; the NMSLO may request detailed annual monitoring reports depending on the severity of the situation.
- s. **Reporting.** The NMSLO may require weekly updates during the course of the initial reclamation work; weekly updates will include a brief narrative statement of work completed with photo documentation; upon completion of the initial reclamation work, the responsible party will notify the NMSLO that the site is ready for inspection; annual monitoring reports may be required depending on the severity of the situation.
- t. **Relinquishment:** The NMSLO will inspect the initial reclamation work upon completion and will provide the responsible party with a statement indicating that the initial work has been completed as required and detailing any follow up work that may be necessary prior to relinquishment; notice of relinquishment will be provided upon complete satisfaction of all NMSLO reclamation requirements.

5. Resources.

Reducing Erosion from Unpaved Rural Roads in New Mexico, A Guide to Road Construction and Maintenance Practices; State of New Mexico Natural Resources Department Soil and Water Conservation Division, November 1983.

The Gold Book, Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development; Bureau of Land Management, Fourth Edition—Revised 2007.

New Mexico Forest Practices Guidelines; Energy, Minerals and Natural Resources Department, Forestry Division.

Low-Volume Roads Engineering BMPs; https://www.fs.fed.us/t-d/programs/forest_mgmt/projects/lowvolroads/ch4.pdf

Water Harvesting from Low-Standard Rural Roads; Bill Zeedyk, A Joint Publication of The Quivira Coalition, Zeedyk Ecological Consulting, LLC, The Rio Puerco Management Committee—Watershed Initiative, and the New Mexico Environment Department—Surface Water Quality bureau, April 2006. http://altarvalleyconservation.org/wp-content/uploads/pdf/1597-A_Good_Road_Lies_Easy_on_the_Land.pdf

Revegetation Guidelines Handbook for Southeastern New Mexico, New Mexico State Land Office, July 2018.

6. Authorities.

ROW Rule: (19.2.10 NMAC)

A ROW lessee shall file an affidavit of completion within 60 days of completion. 19.2.10.21 NMAC

ROWs may be used only for authorized uses as granted (e.g. a pipeline or powerline ROW may not be used as a public road). 19.2.10.22 NMAC

The CPL may terminate any ROW for failure to comply with any term or condition of the grant. 19.2.10.26 NMAC

Anyone constructing a ROW, in consultation with the CPL, must take all steps necessary to preserve and protect the natural environmental conditions of the land including reclamation and re-vegetation. 19.2.10.28 NMAC.

Road Rule: (19.2.20 NMAC)

All roads constructed on state trust lands shall be constructed in accordance with the minimum requirements described in 19.2.20.10 NMAC and maintained in accordance with the standards described in 19.2.20.11 NMAC. 19.2.20.9(A) NMAC.

Construction and maintenance of these roads will be done in a manner that insures that authorized traffic remains within the right-of-way and erosion damage is mitigated. 19.2.20.9(C) NMAC.

Road Construction Standards: (19.2.20.10 NMAC)

Width. 14' single lane, 20' double lane, maximum grade 10% without engineered design. 19.2.20.10(A) NMAC.

Drainage. Drainage control shall be ensured through the use of dips, turnouts, and culverts etc. Drainages will be constructed in such frequency necessary to prevent headcuts or other forms of accelerated erosion or damage on adjacent areas. 19.2.20.10(A) NMAC.

Culverts. Culverts shall be used on grades in excess of 10% and all major drainages and on roads when dips are not feasible.

Road Surfacing: Roadbeds should be surfaced where all weather access is needed. Roadbeds should be reasonably smooth, free of ruts, chuckholes, rocks, slides, washboards, dust pockets, soft spots or other driving hazards.

Fencing: 4-strand barbed wire, 12-inch spacing.

Road Maintenance Standards: (19.2.20.11 NMAC)

Lessees shall be responsible for preventative and/or corrective road maintenance, including roadbeds, shoulders, ditches, culverts and drainages, fences, gates and cattle guards, ford and low water crossings. 19.2.20.11 NMAC.

Reclamation: (19.2.20.12 NMAC)

The seedbed will be prepared and the roadbed reseeded. 19.2.20.12 NMAC.

Oil and Gas Rule: (19.2.100 NMAC)

Site Development: All access roads shall be built, maintained and reclaimed in accordance with 19.2.20 NMAC.

Review and Inspection: State land office personnel or oil conservation division personnel may, from time to time, recommend actions necessary to comply with reasonable use of the surface and prudent operator standards. (19.2.100.66(D) (1) NMAC

ATTACHMENT A to EXHIBIT B

(SAMPLE)

SURFACE RECLAMATION AND CLOSE OUT PLAN

Lessee: _____

1. **Purpose.** The purpose of this Reclamation Plan is to provide for the restoration of trust land to its original condition existing prior to the placement of any improvements.
2. **Timing.** Unless otherwise permitted by the NMSLO, this reclamation plan and all earthworks required for reclamation must be implemented and completed within six months following closure of all activity or final use under this business lease. Monitoring, maintenance, revegetation and noxious weed treatments may be required to continue until final relinquishment.
3. **Interim Reclamation.** After initial construction has been completed, all portions of the location not essential to necessary operations or maintenance will be reclaimed within six months of completion of construction and in accordance with the provisions below.
4. **Structures, Equipment, Trash and Debris.** Unless structures or equipment are to be re-used on site, any structure, equipment, trash, debris, garbage, rubbish, junk, scrap, or broken or contaminated equipment, such as pipelines, plastic lining, surface flowlines, tanks, vehicles, scrap materials of any kind, or other equipment must be removed and disposed of in accordance with state and federal regulations within 30 days of final use or completion of construction; no hazardous substances, trash or litter will be buried or placed in pits.
5. **Delineation.** If hazardous materials have been used on site and if such materials may have leaked or spilled or been released on site, or if such materials have caused contamination to the soils, the Lessee will delineate the horizontal and vertical extent of the contamination; a hazardous materials delineation plan must be approved by the NMSLO; for oil and gas related contamination, the NMOCD must also approve the delineation plan; the NMSLO may review NMOCD approved plans for adequacy of sampling related to restoration of surface conditions; for non-oil and gas related contamination, the NMED may require delineation and monitoring related to surface and ground water impacts; the NMSLO may require any necessary sampling or reclamation related to the restoration of surface conditions.

- 6. Hazardous Materials Reclamation Plan.** In the event of a spill or hazardous materials release, a specific hazardous materials reclamation plan must be submitted to, and approved by, the NMSLO within 30 days of completion of delineation. The hazardous materials reclamation plan should address each of the matters described below.
- 7. Removal/Containment.** The Lessee will remove and replace any contaminated soils, including contaminated caliche or base course. Contaminated soils and caliche should be disposed of only in state permitted disposal locations such as land farms or hazardous disposal sites, and in accordance with state and federal regulations. Contaminated soils should be removed at least to the rooting zone. Removal should be based on site delineation, but in areas of deep saturation and deep soils this depth is typically four feet; removal depth may be less in shallow soils. If any contaminated soil remains at the site the reclamation plan must address containment, including the potential for the contaminant to wick upward into the rooting zone or downward toward groundwater. If complete removal is impossible, the Lessee may apply to the NMSLO for a variance to stabilize and contain the hazardous material that cannot be removed. If the NMSLO agrees, a stabilization and containment plan may replace or supplement the removal and replacement plan. In addition to the removal of contaminated soils, the Lessee will remove all uncontaminated caliche or base course.
- 8. Soil Replacement.** The Lessee will replace contaminated soils, caliche or base course, and uncontaminated caliche or base course, with certified clean top soil; replacement soils should have comparable structure and chemistry to healthy, native undisturbed soils in the vicinity.
- 9. Trash and Debris:** Unless equipment is to be re-used onsite, the Lessee shall remove any trash, debris, garbage, rubbish, junk, scrap, or broken or contaminated equipment, such as pipelines, plastic lining, surface flowlines, tanks, scrap materials of any kind, or other equipment and dispose of such trash and debris in accordance with state and federal regulations within 30 days of final use or completion of construction; no hazardous substances, trash or litter will be buried or placed in pits on state trust land without the express written permission of the Commissioner.
- 10. Surface Preparation.** The Lessee will contour the ground surface to blend in with the surrounding topography and to allow the natural hydrology of the basin to function without impediment or impact; no major depressions or pits will be left that will trap water or cause ponding except where the project involves a mining pit where there is no possible outlet; slopes will not exceed 3:1 (run to rise).
- 11. Erosion Control:** Where active transportation of sediment through gullying, head-cutting, slumping or deep or excessive rills (greater than 3 inches deep) occurs within the lease area or within the adjacent area of impact, the Lessee will install erosion control

structures to repair and control gullies, head-cuts, rills, and other forms of sediment movement;

- a. Erosion control structures will be designed to restore natural hydrological function and flood regime, and to the extent possible will use local rock or bio-degradable materials and low-energy, minimum-necessary designs;
- b. Erosion control structures may include, but are not limited to, one rock dams, rock mulch rundowns, zuni bowls, media lunas, swales, berms, terraces, wattles, rock or log mats, hay mulch, gabions, bales or other stabilizing enhancements to control erosion.

12. Drainage Control: Where ephemeral, intermittent or permanent water flow-ways or drainages cross, intersect or bisect the lease area, the Lessee will install drainage control structures to manage water flow, especially across roads, pipeline rights of way, or other built obstacles that may interfere with natural drainage;

- a. Drainage control structures will be designed to enhance natural hydrologic function and flood regime as much as possible so as not to increase the erosional impact of water flows to any built structures or to the upstream or downstream landscape; drainage control designs will be engineered or built in conformance with industry standards (e.g. the NRCS, BLM or USFS) and approved by the NMSLO;
- b. Drainage control structures may include but are not limited to road bars, culverts, water bars, parallel and lateral ditches, drains, and low water crossings.

13. Seedbed Preparation. All disturbed soils within the lease area will be revegetated. The Lessee will prepare the seedbed in consultation with the NMSLO to maximize potential for success. This may include, but is not limited to, a combination of watering with certified fresh water (<140 ppm chloride), mechanical packing to consolidate loose soils, disking or ripping to loosen compacted soils (up to 18 inch depth with furrow spacing of 2 feet), crimping hay mulch into the soil (2 tons/acre), furrowing or imprint rolling to create microhabitats, scarifying (minimum 4 inch depth), adding soil amendments, contouring and/or importing top soil. Note: Caliche is not top soil and should not be mixed or flipped into the top soil.

14. Revegetation: The Lessee will seed the prepared seedbed with a drill seeder or hydraulic seeder with different sized seed boxes; unless otherwise authorized by the NMSLO, hydro-seeding will be used on 3:1 slopes or greater; all disturbed areas will be seeded with the seed mixture(s) provided or approved by the NMSLO; the seed mixture will be planted in the amounts specified in pounds of pure live seed per acre; the seed will contain no primary or secondary noxious weeds; commercial seed will be either certified or registered seed; the seed drill will be equipped with a depth regulator, and seed will be planted at the depth prescribed by the NMSLO; the seed mixture will be evenly and uniformly planted over the disturbed area; seed mixes should be provided in bags separating seed types into size categories, to ensure that the appropriate seed drill box is used for each species; broadcast seeding will only be allowed when no other option is available; where broadcast seeding, the area should be disked with a tandem, double-disk, one day prior to broadcast seeding and the lbs/acre are to be doubled; seeding will be conducted

no more than two weeks following completion of final seedbed preparation; seeding should take place at the beginning of the growing season prior to the monsoon season unless otherwise directed; seeding will be repeated until a satisfactory stand is established as determined by the NMSLO; evaluation of growth will not be made before completion of at least one full growing season after seeding; seeding will be repeated until a satisfactory stand is established.

15. **Noxious Weeds.** The Lessee will prepare a noxious weed plan in consultation with the NMSLO and noxious weeds will be monitored and treated on an annual basis until controlled.
16. **Access Control.** Unless otherwise authorized by the NMSLO, all reclamation areas will be closed to public access; private access points will be gated, fenced and signed; unauthorized or trespass access points will be permanently closed and signed;
 - a. **Gate and Fencing Specifications:** Unless otherwise directed by the NMSLO, a locked metal gate with 4-inch H-braces and a permanent fence extending at least 100 feet from either side of the gate, or to the next adjacent gate, will be installed to block public access to all closed reclamation sites; fence will be constructed with steel T-posts on 16-foot spacing, with stays every 8 feet and 4 strands of barbed wire; the top wire should be set at 42 inches above the ground surface; in-line braces will be used at intervals not to exceed 660 feet; corners will be braced and set in concrete; fence wire will be attached on the outside of the T-posts with wire ties;
 - b. **Permanent Closure Specifications:** Dirt berms, permanent hard barriers or rock barricades will be installed to block unauthorized access points to reclamation sites; berms and barriers will be at least 3 feet high and will extend the width of the access point; berms will be hard packed; barriers and barricades may be constructed of metal pipe rail, concrete, or rock and may be used in combination with berm work to ensure closure of an access point;
 - c. **Signage:** Signs should be noticeably visible and should clearly state that public access is not authorized.
17. **Monitoring.** The Lessee will monitor the reclamation site annually until relinquished by the NMSLO; prior to relinquishment, the NMSLO may require supplemental clean up, maintenance of erosion control structures, additional reseeding efforts, or noxious weed treatments to ensure success of reclamation; the NMSLO may request detailed annual monitoring reports depending on the severity of the situation.
18. **Reporting.** The NMSLO may require weekly updates during the course of the initial reclamation work; weekly updates will include a brief narrative statement of work completed with photo documentation; upon completion of the initial reclamation work, the Lessee will notify the NMSLO that the site is ready for inspection; annual monitoring reports may be required depending on the severity of the situation.

19. Relinquishment: The NMSLO will inspect the initial reclamation work upon completion and will provide the Lessee with a statement indicating that the initial work has been completed as required and detailing any follow up work that may be necessary prior to relinquishment; notice of relinquishment will be provided upon complete satisfaction of all NMSLO reclamation requirements; business Lessee obligations to remove improvements and to restore trust land shall survive the termination of the lease (NMAC 19.2.9.17(B)).