

**SANTA FE COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**RESOLUTION NO. 2024 - 159**

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**A RESOLUTION TO LEASE LAND TO NUEVA ACEQUIA 9, LLLP FOR AN  
AFFORDABLE MULTIFAMILY RENTAL HOUSING DEVELOPMENT**

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**WHEREAS**, Santa Fe County has determined that a shortage of affordable housing exists in the community as evidenced in the Santa Fe County Affordable Housing Action Plan; and

**WHEREAS**, Santa Fe County is a political subdivision established and empowered by the State of New Mexico to provide affordable housing opportunities; and

**WHEREAS**, Santa Fe County seeks to co-develop and own a 53-unit 9% Low Income Housing Tax Credit (LIHTC) affordable housing project that will serve low-income seniors; and

**WHEREAS**, the Santa Fe County Board of County Commissioners has authorized the formation of Nueva Acequia 9, LLLP as an ownership entity in order to apply for Low-Income Housing Tax Credits and gap financing from the New Mexico Mortgage Finance Authority (MFA) by and January 22, 2024; and

**WHEREAS**, Nueva Acequia 9, LLLP needs a site for a 53-unit 9% LIHTC affordable housing project, as well as political support and infrastructure support to develop this project in Santa Fe; and

**WHEREAS**, Santa Fe County is enabled under New Mexico Affordable Housing Act, NMSA 1978, Section 6-27-1, *et seq.*, to provide public resources to housing developments serving low to moderate income households, and has analyzed this project and deemed that this project qualifies for a land leases with a nominal payment to assist with the overall financing of these projects and to make the project more competitive for LIHTC financing; and

**WHEREAS**, Santa Fe County owns approximately 6.59 acres of vacant land adjacent to the Housing Authority of Santa Fe County's Camino de Jacobo development as more specifically described in the attached legal description (the "Site") and will execute a short-term, nominal value Land Lease for a portion of the Site for the 9% LIHTC project (approximately 1.663 acres of the Site) in order to meet the "site control" requirements of the Housing New Mexico's Qualified Allocation Plan (QAP)."; and

**WHEREAS**, the Site's current zoning does not preclude multi-family development; and

**WHEREAS**, this Resolution will serve as evidence of site control to meet the threshold requirements established by the Housing New Mexico's 2025 Qualified Allocation Plans and in other gap funding requirements; and

**WHEREAS**, once Low-Income Housing Tax Credits are awarded, the Board of County Commissioners will consider terms for a long-term lease of the Site to Nueva Acequia 9, LLLP; and

**WHEREAS**, the lease of the Site shall only occur in the event that the project receives a LIHTC award by the MFA.

**NOW, THEREFORE, BE IT RESOLVED** that the Santa Fe County Board of County Commissioners hereby approves the Land Lease to Nueva Acequia 9, LLLP in the form presented, attached hereto as Exhibit A, and authorizes the County Manager and/or the Chair of the Board of County Commissioners to execute the Land Lease and make any changes to the Land Lease as may be deemed necessary by the County Attorney in order to file the LIHTC applications with MFA by January 21, 2025.

**PASSED, APPROVED, AND ADOPTED ON THIS 26<sup>th</sup> DAY OF NOVEMBER, 2024.**

**SANTA FE COUNTY  
BOARD OF COUNTY COMMISSIONERS**

By: Hank Hughes  
Hank Hughes, Chair



**ATTEST:**  
Katharine E. Clark  
Katharine E. Clark  
Santa Fe County Clerk

Date: 11/26/24

**Approved as to form:**

Jeff Young  
Jeff Young  
Santa Fe County Attorney

COUNTY OF SANTA FE            )  
STATE OF NEW MEXICO        ) ss

BCC RESOLUTIONS  
PAGES: 13

I Hereby Certify That This Instrument Was Filed for  
Record On The 26TH Day Of November, 2024 at 04:00:37 PM  
And Was Duly Recorded as Instrument # 2047672  
Of The Records Of Santa Fe County



Witness My Hand And Seal Of Office  
Katharine E. Clark  
Deputy [Signature] County Clerk, Santa Fe, NM

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**LAND LEASE**

This Land Lease (this "Lease") is made and entered into effective the 26<sup>th</sup> day of November, 2024 (the "Effective Date") by and between **SANTA FE COUNTY**, a political subdivision of the State of New Mexico (the "Lessor"), and **NUEVA ACEQUIA 9, LLLP**, (the "Lessee").

IN CONSIDERATION HEREOF, it is agreed as follows:

1. **DEFINITIONS.** In addition to terms elsewhere defined in this Lease, for purposes hereof the following terms shall have the meaning as herein below defined:

1.1. **DELIVERY DATE:** The Effective Date of this Agreement.

1.2. **GOVERNMENTAL AUTHORITIES:** The City of Santa Fe, the County of Santa Fe, the State of New Mexico, and any and all other governmental or quasi-governmental agencies having jurisdiction over the Premises.

1.3 **PREMISES:** As defined in Section 2.

2. **DEMISE OF PREMISES.**

2.1 Lessor, for and in consideration of the covenants and agreements herein contained to be kept and performed by Lessee, and upon the terms and conditions herein contained, hereby lets, leases and demises to Lessee the land situated in the City of Santa Fe, County of Santa Fe, State of New Mexico, as more particularly described on the attached **Exhibit A** (the "Premises").

2.2 Lessee accepts the demise of the Premises and acknowledges that the rents paid to Lessor for the use of the Premises shall be absolutely triple net, with Lessee paying all costs and expenses of property taxes, insurance and maintenance related to the Premises during the term of this Lease.

2.3 Lessee accepts the Premises "as is." The Lessor makes no warranties or representations of any kind, express or implied, concerning the Premises, including without limitation any condition of the Premises or the Lessor's title. The Lessor specifically disclaims any warranty of merchantability, marketability, or fitness or suitability for a particular purpose. Lessee acknowledges that it is not relying upon any representation, statement or other assertion with respect to the Premises, but is relying solely upon its examination thereof.

3. **TERM OF LEASE.** The term of this Lease shall commence as of the Delivery Date and shall end on the day that is one (1) year following the end of the "extended use" period for the Project (as hereinafter defined), as that term is defined in Section 42 of the Internal Revenue Code, (the "Term"), unless sooner terminated or extended as provided herein.

4. RENT. Commencing on the Delivery Date and continuing on each anniversary of the Delivery Date thereafter during the Term, Lessee shall pay to Lessor an annual rental for the Premises the sum of One Dollar (\$1.00). It is the intention of the Lessor and the Lessee that the rent herein specified shall generally be net to the Lessor. Accordingly, all costs, expenses and obligations of every kind relating to the Premises (except as may otherwise specifically be provided for in this Lease) which may arise or become due during the Term shall be paid by the Lessee, and the Lessor shall be indemnified by the Lessee against such cost, expenses and obligations. It is the further intention of the parties that the Lessor shall receive the rents and all other sums payable by the Lessee under this Lease free of all expenses, charges, damages and deductions of any nature whatsoever, and the Lessee covenants and agrees to pay all sums which, except for this Lease, would have been chargeable against the Premises or payable by the Lessor.

5. LESSOR'S REPRESENTATIONS. To induce Lessee to enter into this Lease, Lessor hereby represents and warrants to Lessee that:

5.1 Lessor is the owner of the fee simple title to the Premises. Lessor has full power and authority to enter into this Lease and such entering into this Lease shall not violate any agreement or covenant of Lessor's to any third party.

5.2 To the best of Lessor's knowledge and belief, there are no taxes or general or special assessments assessed against the Premises, and Lessor has not received any notice or is aware of any other tax or assessment scheduled or planned that may affect the Premises.

5.3 To the best of Lessor's knowledge and belief, the Premises complies with applicable zoning and environmental laws, regulations, and concerns. Also, to the best of Lessor's knowledge, there are no zoning, use or other ordinances, covenants or restrictions affecting the Premises and there are no conditions existing on the Premises that would result in any violations of environmental laws, regulations and concerns.

5.4 There is no action, suit, litigation, or proceeding pending or, to the best of Lessor's knowledge, threatened against Lessor and/or the Premises that could: (i) prevent or impair the Lessor's entry into this Lease or the performance of its obligations hereunder, or (ii) prevent or impair the Lessee's ability to develop, or construct on the Premises.

6. USE OF PREMISES. The Premises shall be used for the construction and ownership of a low-income housing tax credit project (the "Project").

7. REQUIREMENTS OF GOVERNMENTAL AUTHORITY. Lessee shall, during the term of this Lease, comply with all applicable governmental laws and regulations with respect to the Premises, provided that Lessee may in its own name, with Lessor's approval not to be unreasonably withheld or delayed, contest the validity of any such law or regulation, at Lessee's cost, so long as during the pendency of said contest Lessee shall take all actions necessary to

protect Lessor's fee interest in the Premises, including without limitation, complying with any such law or regulation if it is necessary to protect Lessor's fee interest Lessor shall, to the extent required by law in order for Lessee to prosecute any such action, execute any documents Lessee deems appropriate or necessary to aid Lessee in any such action. Lessee shall pay all expenses associated with any such action and Lessee shall indemnify and hold Lessor harmless from any liability arising in connection with any such action.

8. LESSOR COOPERATION. Lessor, at no cost to Lessor, shall in all ways cooperate with Lessee in Lessee's pursuit of the zoning and all other approvals, permits and licenses as may be required for the construction of the Improvements.

9. LIENS. Lessee shall post the Premises prior to any construction activity and, at the Lessee's expense, cause to be promptly discharged any mechanic's or other lien filed against the Premises by reason of any act or omission of Lessee, provided that this Section shall not be applicable to the lien of any mortgage or deed of trust. It is understood and agreed that Lessee shall have the right to contest, at its expense, any lien filed against the Premises; provided, however, Lessee shall take all actions necessary to protect Lessor's fee interest in the Premises during the pendency of any such proceeding, and provided, further, however, that Lessee shall take such protective action prior to the date of any trial on the merits of such lien claim or the entry of any order of foreclosure of all or any portion of the Premises, whichever first occurs.

10. UTILITY EASEMENTS AND ROADS.

10.1 With the approval of Lessor not to be unreasonably withheld, conditioned or delayed, Lessee may grant reasonable easements to utility providers and/or Governmental Authorities as may be required to service the improvements with utilities and/or roadways on the Premises and Lessor agrees to execute any documents necessary to evidence the same.

10.2 Lessee agrees to locate all roads and entrances to the Premises upon land so that the road is contiguous to the Premises. Lessee agrees to replat the site so as to remove all spite strip, gaps and gores which could or would isolate the Premises from access to roads.

11. OWNERSHIP OF ANY IMPROVEMENTS.

11.1 Lessee may at its own cost construct any buildings or other improvements on the Premises, (the "Improvements"), provided that they be in accordance with zoning and the approved site development plan and in accordance with all applicable building regulations, codes and any requirements approved by any Governmental Authority. Lessee may make any changes or alterations to the Premises or the improvements thereon. Until the expiration or sooner termination of this Lease, title to any improvements shall remain in Lessee. Unless otherwise agreed by Lessor and Lessee, upon the expiration or sooner termination of this Lease, Lessee shall surrender the Premises to Lessor in good condition, normal wear and tear excepted.

11.2 Lessor hereby agrees that any improvements made or caused to be made by Lessee on the Premises shall be and remain the property of Lessee (or Lessee's sublessees, as the case may be) during the term hereof, and any extension or renewal thereof. All such improvements shall remain on the Premises and shall not be removed by Lessee at the termination of this Lease and shall become the property of Lessor.

12. ASSIGNMENT AND SUBLETTING. With the prior written consent of the Lessor, Lessee shall have the right to transfer or assign this Lease in whole or in part or any interest in this Lease or to sublet the Premises or any portion thereof or any improvements thereon; provided that, except as hereafter expressly provided, no such transfer, assignment or subletting shall relieve Lessee of its liability for full performance of all of the terms, agreements, covenants and conditions of this Lease and no such transfer, assignment or subletting shall have the effect of terminating or modifying any covenants or restrictions encumbering the Property. Notwithstanding the foregoing, in the event Lessee shall assign its entire interest in and to the Lease and such assignee is approved by Lessor and such assignee shall expressly accept and assume and agree to perform all of the terms and covenants of this Lease, Lessee shall thereafter be forever released and discharged from this Lease.

13. UTILITY AND OTHER CHARGES. As of the Delivery Date, Lessee hereby agrees to pay promptly or cause to be paid by Lessee's sublessees all utility and other charges of whatsoever kind and nature, including charges for electrical, gas, garbage, sewage, telephone, and other services, which may be incurred in connection with Lessee's use of the Premises, and to indemnify and save harmless Lessor therefrom.

14. TAXES AND OTHER ASSESSMENTS.

14.1 After the execution of this Lease, Lessee agrees to pay or cause to be paid, all taxes and special and general assessments of whatsoever kind and nature, extraordinary as well as ordinary, which may be levied upon the Premises and upon personal property located upon the Premises, at the time when the same shall become due and payable. With respect to currently existing taxes and assessments, Lessee shall pay those portions of same that accrue after the Delivery Date and Lessor shall pay those portions that have accrued up to and including the day before the Delivery Date. If necessary, such installments shall be prorated as of the Delivery Date to determine Lessor's obligation and Lessor shall pay such obligation when due as determined by the bill(s) issued by the relevant Governmental Authority.

14.2 Lessee may, at its own expense and in its own name, take any lawful action deferring payment of any amount due under this Section for the Premises, or contest any tax or other charge for which Lessee is responsible hereunder. Subject to Lessor's duty to uphold its warranties and representations set forth within the Lease, Lessee shall take all actions necessary to protect Lessor's fee interest in the Premises, and only the Premises, during the pendency of any such tax contest proceeding, including without limitation paying any amounts allegedly due under protest if that is necessary to protect Lessor's fee interest; provided, however, that Lessee shall not be required to undertake any action to protect Lessor's fee interest in the Premises to the

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extent that it arises from a tax contest involving periods prior to the Delivery Date. Lessor will execute any documents relating to any such action provided that Lessee shall bond the action so as to indemnify and hold Lessor harmless from any liability therefore and that all expenses of any such action shall be borne by Lessee. Lessor shall be solely responsible for all costs in connection with Lessor's tax contest on any of Lessor's other property.

14.3 Any refunds or rebates of amounts paid by Lessee hereunder shall belong to Lessee, and Lessor, to the extent required by law in order for Lessee to obtain such refunds or rebates, shall aid Lessee in obtaining any such refund or rebate, provided that the cost of obtaining the same shall be paid by Lessee. Lessee shall indemnify and hold Lessor harmless from any costs associated with obtaining the same.

14.4 Nothing in this Lease shall be construed to require Lessee to pay any inheritance, estate, transfer, successions, gift, income, excise, franchise or profit taxes that are or may be imposed upon Lessor, her successors or assigns.

15. INDEMNITY AND INSURANCE. Lessee agrees to indemnify the Lessor and the Lessor's governing body, elected and appointed officials, employees, and agents, in both their official and individual capacities, from any and all liability, claim, cause of action, loss, damage, or expense arising out of or relating to the Lessee's use of the Premises during the term of this Lease. In the event that any action, suit or proceeding is brought against Lessee in in connection with the Lessee's use of the Premises, Lessee shall immediately notify the Lessor. Lessee shall maintain commercial general liability insurance, including without limitation contractual liability insurance (specifically concerning the indemnity provisions of this Lease with the County), Personal Injury (including bodily injury and death), and Property Damage for liability arising out of or relating to equipment, personal property and Lessee's use of the Premises. The insurance policy must not contain any exclusion or limitation for independent contractors working on the behalf of the named insureds. The policy or policies must be issued in the name of Lessee and name Santa Fe County as additional insured. All insurance policies required under this Lease must be maintained by Lessee throughout Lessee's use of the Premises and until termination of this Lease. Each insurance policy supplied by Lessee must be endorsed to provide that the coverage will not be suspended, voided, cancelled, or reduced in coverage or in limits except after ten days' written notice in the case of nonpayment of premiums, or 30 days' written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Lessee must immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy. All insurance policies required under this Lease must be primary to and not contributing to all insurance or self-insurance maintained by the Lessor. An endorsement must be provided on all policies which must waive any right of recovery (waiver of subrogation) against the Lessor. Failure of Lessee to maintain all such insurance in effect at all times required by this Lease will constitute breach of this Lease.

16. MORTGAGES. It is acknowledged that Lessor shall have the right from time to time and without restriction to sell, mortgage or otherwise encumber its fee interest in the Premises,

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subject in each instance to this Lease. Any such mortgage or other encumbrance shall be, and shall expressly provide, that it is subject to and subordinate to this Lease and all rights hereunder this Lease may be amended, modified or supplemented from time to time. Upon the recordation of such a mortgage or encumbrance, Lessor shall notify Lessee of same, including the address of the holder of such mortgage or encumbrance (“Lessor’s Mortgagee”), together with a copy of such recorded mortgage.

17. CONDEMNATION. If the whole of the Premises shall be taken or condemned by any competent authority for any public use or purpose under any statute or by right of eminent domain, or by a private purchase by a Governmental Authority in lieu thereof under threat of such eminent domain proceedings, then in either of such events, this Lease shall expire on the date when the Premises shall be so taken and the rent shall be prorated as of that date. Nothing contained herein shall prevent Lessor and Lessee from prosecuting claims in any condemnation proceedings for the value of their respective interests. In the event that part of the Premises shall be taken or condemned and the part so taken shall include any portion of the ground that materially impairs or interferes with required parking, zoning, or Lessee’s use of the Premises, then, and in any such event, Lessee may elect to terminate this Lease as of the date possession shall be taken by such Governmental Authority. Such notice of election to terminate shall be given in writing to Lessor within ninety (90) days after official notice to Lessee of the portion to be taken.

18. DESTRUCTION. Lessee agrees that if during the term of this Lease, or any extension or renewal thereof, Lessee’s improvements constructed on the Premises shall be totally or partially destroyed by fire, flood, earthquake, or other calamity, then Lessee shall, subject to any provisions in Lessee’s mortgages of its leasehold estate, use any and all insurance proceeds received as a result of such destruction, to rebuild or repair the building or buildings, and any alterations, additions, or improvements on the Premises, in as good condition as they were immediately prior to such calamity and that such rebuilding or repair shall be commenced within a period of one hundred eighty (180) days after such destruction or damage.

19. DEFAULT AND REMEDIES.

19.1 If any one or more of the following events shall have occurred and shall not have been remedied as herein provided: (i) Lessee’s failure to pay any installment of rent and the continuance of the same for a period of thirty (30) days after notice and demand therefor in writing have been made to Lessee, (ii) Lessee’s failure to comply with any other agreement herein contained and the continuance of such failure for a period of sixty (60) days after receipt by Lessee from Lessor of notice in writing specifying the nature of such failure, then Lessee shall be in default and Lessor may give to Lessee a notice of its election to exercise its remedies under Section 20.2 hereof.

19.2 In the event of Lessee’s default, Lessor may reenter and repossess the Premises, either by force, summary proceedings, surrender, or otherwise, and dispossess and remove



therefrom Lessee or other occupants thereof and their effects without any liability therefor or may elect to pursue its available remedies at law or in equity.

20. REMEDIES ARE CUMULATIVE. The specified remedies to which the Lessor or Lessee may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which the Lessor or Lessee may be lawfully entitled in case of any breach or threatened breach by Lessor or Lessee of any of the agreements and covenants herein contained.

21. WAIVERS. Lessee and Lessor agree that the delay or omission in the enforcement of any of the agreements and covenants herein contained, or in the exercise of any of the rights hereunder, shall not affect the duty of either party to thereafter faithfully fulfill and perform all of the agreements and covenants herein contained, and that the failure, neglect, or omission of one party to declare the other party in default under this Lease of any one or more breaches of any agreements and covenants hereof, shall not be deemed a consent by the non-breaching party of such breach and shall not impede, impair, estop, bar or prevent the non-breaching party (except to the extent that the breaching party has cured, or has commenced the curing of such default) from thereafter declaring the breaching party in default under this Lease, either for such violation, or for prior or subsequent violations of any covenant or agreement hereof.

22. NOTICE.

Any and all notices required or permitted to be given hereunder shall be considered to have been given if in writing and delivered to the respective party designated below upon the date of such personal delivery, or upon a date three (3) days following the mailing of any such notice by certified or registered mail, return receipt requested, or upon a date one (1) day following the delivery of any such notice with a commercially acceptable, reputable overnight courier, addressed to the respective party at the respective address set forth below, or at such other address as either party may furnish the other for this purpose by written notification delivered or mailed to the other as herein provided:

NOTICES TO LESSOR:

Santa Fe County  
52 Camino de Jacobo  
Santa Fe, New Mexico 87507

Santa Fe County Attorney's Office  
102 Grant Avenue  
Santa Fe, New Mexico 87501

NOTICES TO LESSEE:

Nuevo Acequia 4, LLLP

52 Camino de Jacobo  
Santa Fe, New Mexico 87507

23. MEMORANDUM FOR RECORDING. At the request of either party, a memorandum of lease suitable for recordation and stating the main provisions of the Lease and the parties' rights thereunder, but excluding financial information, shall be executed by the parties.

24. DECLARATION OF EASEMENTS, COVENANTS AND OPERATIONS. Subject to approval of Lessor as set forth below, Lessee shall have the right to prepare and execute a declaration, or enter into an agreement, as the case may be, and record same against the Premises, which agreement or declaration shall establish easements for access, parking and utilities that benefit Lessee. Prior to recording any such agreement or declaration Lessee shall provide Lessor a copy of such agreement or declaration for Lessor's approval, and Lessor shall have the right to disapprove same.

25. MISCELLANEOUS.

25.1 Either party shall certify in writing to any person specified in such request, as to the existence, amendment, validity of this Lease, the existence of any default or counterclaim hereunder and any other matter reasonably requested, any such certificate shall be to the best knowledge of the certifying party and may be relied upon by any party to whom it is addressed.

25.2 This Lease will be governed by the laws of the State of New Mexico. If a conflict arises between the parties concerning this Lease, the First Judicial District Court, Santa Fe County, shall be the exclusive venue to resolve the dispute.

25.3 The invalidity of any portion of this Lease shall not affect any other portion hereof. If this Lease is deemed invalid, Lessee will not be entitled to a refund of any rent paid under this Lease.

25.4 Each individual executing this Lease on behalf of a party represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf and that such party has authorized the action hereunder.

25.5 Each party represents that it is duly organized and existing in its state of organization. Each party shall, within thirty (30) days after request, deliver to the other party satisfactory evidence of such authority and/or organization.

25.6 As used herein, the singular shall include the plural and the masculine gender shall include the feminine and neuter genders unless the context shall require otherwise, Section headings are for convenience and shall not be used to construe this Lease. This Lease may be executed in multiple counterparts each of which shall be an original. The terms "Lessor" and "Lessee" as used herein shall mean only the owner at the time of Lessor's or Lessee's interest herein (or any part thereof) and upon the sale or assignment of the interest of either party hereto,

their successors in interest shall be deemed to be Lessor or Lessee, as the case may be; provided however, unless Lessor has consented to a release as detailed in Section 12 above, this Section shall not release Lessee from any liability after Lessee sells or assigns its interest hereunder (or any part thereof), it being the intent of the parties that Lessee remain fully liable for any successor or assigns' acts or omissions.

25.7 This Agreement contains the entire Agreement among the parties hereto, supersedes all prior agreements and may be modified only in writing signed by Lessor and Lessee and with the prior written consent of the Limited Partner.

25.8 Unless otherwise expressly provided herein, the provisions of this Lease shall bind and inure to the benefit of Lessor and Lessee and their respective successors.

25.9 Lessor and Lessee agree that there me no real estate brokerage agreements with respect to the leasing or future sale of the Premises by Lessor to Lessee.

25.10 The parties do not intend this Lease to confer any benefit on any person or entity that is not a party to this Lease. Only the Lessor and the Lessee may enforce this Lease.

25.11 As a political subdivision of the State of New Mexico, any liability on the part of the Lessor is limited by state law, including without limitation, the Batemen Act, NMSA 1978, Section 6-6-11, and the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1.

25.12 The County's duties and obligation under this Lease are contingent upon sufficient appropriations and authorizations being made for performance of this agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement will terminate upon written notice by the County to the Lessee. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse or compensate the Lessee for expenditures made in the performance of this Lease after the date of termination due to nonappropriations or lack of authority. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Lessee or in any way or forum, including a lawsuit.

25.13 The provisions of this Lease which relate to periods subsequent to the expiration of the term will survive expiration.

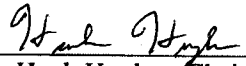
25.14 Time is of the essence with respect to this Lease.

25.15 All exhibits hereto are incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

**LESSOR:**

SANTA FE COUNTY

By:   
Hank Hughes, Chair,  
Board of Santa Fe County Commissioners of Santa Fe County

**LESSEE:**

NUEVA ACEQUIA 9, LLLP

By: NUEVA ACEQUIA 9 TWG, LLC, its General Partner

By: TWG, its Manager

By:   
TWG

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**EXHIBIT A**  
**Premises**

**Proposed Lot B Legal Description**

A certain tract of land lying and being situate within Sections 5 & 6, T.16 N., R.9 E., N.M.P.M., city and county of Santa Fe, New Mexico.

Beginning at the southeast corner of said tract from whence a U.S.G.L.O.S. brass cap stamped "PC 5950 T-1, PC 435 T-1, T16N, R9E, S5, 1914" bears North 49°13'21" East, a distance of 49.96'.

Thence from said point of beginning South 48°52'49" West, a distance of 31.56';

Thence North 11°06'35" West, a distance of 587.14';

Thence South 77°27'46" West, a distance of 279.16';

Thence North 12°29'57" West, a distance of 108.76';

Thence North 12°29'38" West, a distance of 75.54';

Thence North 77°36'37" East, a distance of 310.47';

Thence South 11°08'42" East, a distance of 755.58' to the Point of Beginning.

Containing 1.663 acres, more or less.

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