

AGREEMENT

THIS AGREEMENT is made this 16th <sup>October</sup> day of August, 1995, by and between the TOWN OF SILVER CITY ("Town") a municipal corporation, whose address is P. O. Box 1188, Silver City, New Mexico 88062, and DOS GRIEGOS, CORP. ("Dos Griegos"), whose address is 4601 Shadow Mountain Road, Silver City, New Mexico 88061.

R E C I T A L S

WHEREAS, Dos Griegos is the owner of certain property located outside the city limits, the description of which is attached hereto as Exhibit 1 and is hereinafter referred to as the "property"; and

WHEREAS, Dos Griegos wishes to subdivide the property and have water, for domestic purposes only, available to future owners of the lots in the Dos Griegos Subdivision ("Subdivision") as per the terms of this Agreement; and

WHEREAS, the Town, at this point, is able to furnish such water as per the terms of this Agreement;

WHEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND CONDITIONS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. Town agrees:

1.1. Upon approval of all requirements of Dos Griegos as set forth herein, to furnish water not to exceed 80 acre feet per year to not more than 226 users consisting of the following:

1.1.1. approximately 213 individual households in the Subdivision;

1.1.2. approximately 7 commercial users in the

STATE ENGINEER OFFICE  
SANTA FE, NEW MEXICO  
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subdivision; and

1.1.3. 6 users to be determined by Dos Griegos of which three shall be in the name of Clint and Dee Johnson as per Easement Agreement between Johnsons and Dos Griegos/Town, which easement is hereby acknowledged by Town and copy of which is attached hereto, as Exhibit 2. Once Dos Griegos determines the other three users, it will notify the Town and a written agreement regarding the availability of the tap as per the terms of this Agreement shall be prepared and signed by the parties.

1.2. Once the Line or a portion of the Line as per the phasing requirements of the Subdivision as approved by the Town and County, has been accepted into the Town's system, application may be made for delivery of water to users provided the terms of paragraph 2 herein are met.

2. Users' Agree:

2.1. that each individual user shall make a water application as required by Town ordinance and policy, shall sign the Acknowledgement and Acceptance of Terms substantially in the forms attached hereto as Exhibits 3.1 for property located in the Subdivision and Exhibit 3.2 for property located outside the Subdivision, and shall pay all costs, including, but not limited to water acquisition fee, meter, can, deposit and monthly fee as billed by the Town, all of which costs and fees may be amended from time to time by the Town Council.

3. Dos Griegos agrees:

3.1. to submit to the Town plans and specifications

("Plans") for the construction of a waterline ("Line") in the subdivision which Plans shall be sealed by a Registered Professional Engineer and shall meet the requirements of Town ordinance and policy, including installation of fire hydrants of the number and type as required by the Town Fire Chief. The Town Engineer shall review the Plans and if requirements of Town ordinance and policy are met, such Plans shall be approved and a copy will be attached hereto as Exhibit 4;

3.2. after approval of the Plans by the Town Engineer, to construct the Line as per the Plans. No construction will be started until the Plans are approved by the Town Engineer;

3.3. to pay all costs related to the construction of the Line, including, but not limited to, engineering, legal fees, cost of obtaining easements, if necessary, surveys, inspection, pressure testing and disinfection;

3.4. to provide a one-half time inspector at his expense to certify that the work is completed in compliance with the Plans;

3.5. to have the Line disinfected and pressure checked to federal, state and Town specifications and requirements;

3.6. to obtain at Dos Griegos's expense, any and all easements necessary for the installation of the Line, which easements shall, upon acceptance of the Line by the Town of Silver City, be dedicated to the Town;

3.7. to grant to the Town a maintenance and construction easement and right-of-way allowing the Town to maintain, repair, enlarge and extend the Line. The permanent easement shall be at

least 10 feet total in width, five feet on either side of the Line, and the maintenance, repair and construction portion of the easement shall be at least 30 feet in width, 15 feet on either side of the Line. The language of the easement shall be approved by the Town before acceptance of the Line;

3.8. to dedicate to the Town the entire Line upon completion of the Line and approval as provided herein; and

3.9. to meet the following minimum time periods for installation of the Line:

3.9.1. completion of Line to serve one-third of all lots in the Subdivision by five years from date final subdivision approval by Town and County is granted;

3.9.2. completion of Line to serve second third of all lots in the Subdivision by ten years from date final subdivision approval by Town and County is granted; and

3.9.3. completion of the entire Line by fifteen years from date final subdivision approval by the Town is granted.

4. If is further agreed by both parties:

4.1. This Agreement shall be in effect unless terminated as provided herein.

4.1.1. If Dos Griegos, its successors or assigns, breach this Agreement in any way, the Town, at its sole option, may terminate this Agreement.

4.1.2. If Dos Griegos does not obtain subdivision approval for the Subdivision by the County and the Town

or if any of the completion deadlines set forth in paragraph 3.9 are not met, this Agreement shall terminate automatically by its own terms unless an extension is granted by the Town. The Town is not required to grant any extension.

4.2. , (Terms reference pro rata reimbursement were deleted per Council action on 8/7/95 and will be incorporated into a separate contract); and

4.3. The Town will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the households in the Subdivision with the quantities of water as limited herein.

4.3.1. Temporary or partial failures to deliver water shall be remedied with all possible dispatch.

4.3.2. In the event of extended shortages of water, for any reason, the supply of water to the households in the Subdivision shall be reduced or diminished at a ratio of two to one by the reduction or diminishment or supply to Town's consumers unless there is a severe shortage in which the Town Council may terminate this Agreement and cease supply of water to the households that have begun to receive water. For example, if the water supply to in-town consumers is reduced by 25%, the obligation to provide water pursuant to this contact shall be reduced by 50%. If the shortage is severe, the Agreement may be terminated.

4.4. This Agreement shall not be modified except as agreed to in writing by both parties.

4.5. This Agreement shall not be assigned without written permission of the Town, which permission may be withheld for any reason.

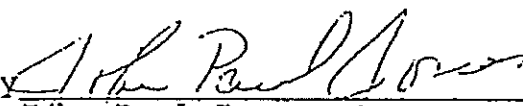
4.6. It is understood that the Town is not obligated to provide fire protection to any of the households in the Subdivision.


4.7. Each individual user under this Agreement shall sign an acknowledgment and acceptance of the terms of this Agreement substantially in the forms attached hereto as Exhibit 3.1 and 3.2 as per the terms of paragraph 2 herein.

4.8. The terms of this Agreement shall apply to and inure to the benefit of and bind the heirs, successors, executors, administrators and assigns of all the parties hereto.

IN WITNESS WHEREOF, the parties hereto, have caused this Agreement to be duly executed in counterparts, each of which shall constitute an original.

EXECUTED the day and year first above written.

TOWN OF SILVER CITY  
By   
John Paul Jones  
Mayor  
(As approved by the Town Council  
at its regular meeting of 8/7/95)

DOS GRIEGOS CORP.  
By   
Dean F. Carris,  
Vice President

(SEAL)

BOOK# 2 53 --

3008

ATTEST:

408

  
Town Clerk

(Town/Agreements/DosGriegos.agr)  
Draft - 8/4/95)

ASSIGNMENT

R E C I T A L S

WHEREAS, on October 16, 1995, the Town of Silver City (Town) and DOS GRIEGOS, CORP. (Dos Griegos) entered into an Agreement and Addendum both dated October 16, 1995 ("Agreement") with regard to the provision of water to lots in the Dos Griegos Subdivision ("Subdivision"); and

WHEREAS, Dos Griegos has requested that the agreement be assigned to DOS GRIEGOS LIMITED PARTNERSHIP ("Partnership"), a limited partnership that consists of Dos Griegos Corp. and two of the officers of Dos Griegos Corp.: James Carris and Dean Carris; and

WHEREAS, the Town has no objection to the assignment of the rights under the contract to the Partnership.

NOW WHEREFORE, the Town, Dos Griegos and the Partnership agree as follows:

1. All of the right, title and interest in and to the Agreement and Addendum be and is hereby assigned to DOS GRIEGOS LIMITED PARTNERSHIP, a limited partnership that consists of Dos Griegos Corp., James Carris and Dean Carris.

2. The partnership agrees to assume all obligations contained in the Agreement and Addendum and to be bound by all of the terms contained therein.

3. The Partnership shall be responsible for completing all documentation necessary such that any requirements of the Town or

county subdivision ordinance rules and/or regulations are complied with as a result of this assignment.

4. This Assignment shall inure to the benefit of and be binding upon the heirs, successors and assigns of the parties hereto.

DATED: JUNE 14, 1996

TOWN OF SILVER CITY

By John Paul Jones  
John Paul Jones, Mayor

DOS GRIEGOS, CORP.

By [Signature]  
Dean F. Carris,  
Vice-President

DOS GRIEGOS LIMITED PARTNERSHIP  
whose limited partners are:

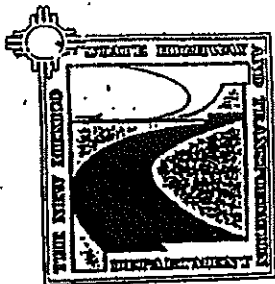
Dos Griegos, Corp.

By [Signature]  
Dean F. Carris, Vice Pres.

James Carris  
James Carris, Limited Partner

[Signature]  
Dean Carris, Limited Partner

{BH Disk: Town\Dosgrieg.asn}



BOOK# 253 --  
NEW MEXICO STATE HIGHWAY  
AND TRANSPORTATION DEPARTMENT  
AN EQUAL OPPORTUNITY EMPLOYER

3011  
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January 8, 1996

GARY E. JOHNSON  
GOVERNOR

COMMISSION

Holm Bursum, III  
Chairman, Socorro

Edward T. Bagay  
Vice-Chairman, Gallup

Peter T. Mocho, Sr.  
Secretary, Albuquerque

Joe M. Anaya  
Member, Stanley

Albert N. Sanchez  
Member, Santa Rosa

Sidney G. Strebeck  
Member, Clovis

DEPARTMENT

Secretary  
Pete K. Bahn

General Office  
P.O. Box 1149  
Santa Fe, N.M.  
87504-1149  
505-827-5100

District One Office  
P.O. Box 231  
Deming, N.M.  
88031-0231  
505-546-2603

District Two Office  
P.O. Box 1457  
Roswell, N.M.  
88202-1457  
505-624-3300

District Three Office  
P.O. Box 91750  
Albuquerque, N.M.  
87199-1750  
505-841-2700

District Four Office  
P.O. Box 30  
Las Vegas, N.M.  
87701-0030  
505-454-3600

District Five Office  
P.O. Box 4127  
Coronado Station  
Santa Fe, N.M.  
87502-4127  
505-827-9500

District Six Office  
P.O. Box 2159  
Milan, N.M.  
87021  
505-285-6623

Dolores R. Dominguez  
Ordinance Officer  
Office of the Grant County Commissioners  
P. O. Box 898  
Silver City, NM 88062

Dear Ms. Dominguez:

Re: Proposed Dos Griegos Subdivision Preliminary Plat Review

The materials submitted as per your 10/10/95 letter were reviewed and the following comments are provided.

It appears that the proposed access does not impact the state highways. However, increase in traffic may effect local roads in the area. It is recommended that a traffic impact study be requested by the County to include proposed upgrades to local roads if required.

If you have any other questions, please do not hesitate to contact me at (505) 546-2603, extension 154.

Sincerely,

Rhonda F. Martinez  
District Engineer

by:

Harold A. Love  
Acting District Traffic Engineer

HAL:rb

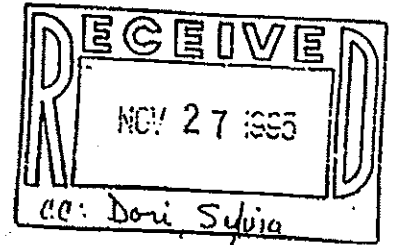
P.S. All items relative to the subdivision are hereby returned to Grant County.



Chino Mines Company, Hurley, New Mexico 88043 • (505) 537-3381

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DATE: November 22, 1995  
FROM: Robert Quintanar  
TO: Dolores Dominguez, Ordinance Office  
RE: Dos Griegos Subdivision- Variances



As you know, this summer the Board of Grant County Commissioners approved several variance requests related to roads for the Dos Griegos Subdivision.

In particular, the approved variances were for shorter curve radii, from 130° to 90°, and for road surfacing widths from 32 feet to 24 and 20 feet. The variances were requested by Dos Griegos primarily due to the topography of the site proposed for development which prohibited their meeting of the Local Road Standards contained in the Grant County Subdivision Regulations.

All roads except Cottonwood Road were considered local roads since they did not connect to roads outside of the proposed subdivision. Cottonwood Road was also considered a local road due to the small number of lots that would be accessed.

It is noteworthy that Dos Griegos agreed to a higher standard of road surfacing, two inches of PMBP over four inches of base course, and also agreed to widen the portion of N. Swan St. from the current end of County Road Maintenance to it's intersection with Rachael Road.

I hope this information is sufficient for you records. Would you please send a copy of this memo to Ms. Sylvia Provencio or Ms. Jody Ozment at the County Road Department for inclusion in the N. Swan Road file.

Please call me at 537-4228 if you need additional information.

Robert Quintanar  
Environmental Engineer

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7/24/96



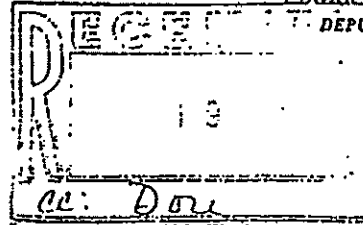
GARY E. JOHNSON  
GOVERNOR

State of New Mexico  
**ENVIRONMENT DEPARTMENT**  
District III Office  
1001 N. Solano Drive  
Las Cruces, New Mexico 88001  
(505) 524-6300 • FAX (505) 526-3891

MARK E. WEIDLER  
SECRETARY

EDGART. THORNTON, III  
DEPUTY SECRETARY

February 16, 1996



Ms. Dolores R. Dominguez  
Ordinance Officer  
Office of the Grant County Commissioners  
PO Box 898  
Silver City, NM 88062

Dear Ms. Dominguez:

Your letter of February 13, 1996, to Mr. Rocky Vendrelly regarding the waiver request submitted by Dos Griegos Corporation has been forwarded to me for response. The variance requested is to allow the use of individual liquid waste disposal systems for the Dos Griegos Subdivision instead of the community wastewater treatment and disposal system required by the County's Subdivision Regulations.

Because of the limiting soil conditions within the subdivision alternative liquid waste systems are being proposed. The treatment consists of a septic tank, an artificial wetland for further treatment of the wastewater, and chlorination for removal of pathogens. Disposal of the effluent will be by land application. If Grant County approves the variance request, the Environment Department will issue permits for these on-site systems.

Because we have not seen the developer's justification for installing individual systems instead of providing a community wastewater treatment system, we cannot provide an opinion on whether or not the variance should be granted.

Sincerely,

Gabriel Garcia, P.E.  
District Engineer

xc: David Rees