

DISCLOSURE STATEMENT

APACHE MESA SUBDIVISION

PLEASE READ THIS DISCLOSURE STATEMENT

BEFORE YOU

SIGN ANY DOCUMENTS OR AGREE TO ANYTHING

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Date: _____

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This disclosure statement is intended to provide you with enough information to permit you to make an informed decision on the purchase or lease of property described in this statement. You should read carefully all of the information contained in this statement before you decide to buy or lease the described property. You should be aware of the fact that various state agencies have issued opinions on both the subdivision proposal and what is said in this disclosure statement about the proposal. These opinions, whether favorable or unfavorable, are contained in this disclosure statement and should also be read carefully.

The Board of Sandoval County Commissioners has examined this disclosure statement to determine whether the subdivider can satisfy what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. Further, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

The Board of Sandoval County Commissioners recommends that you inspect the property before buying, leasing, or otherwise acquiring it.

You or your spouse must make a personal, on-the-lot inspection of the lot you wish to purchase prior to signing a contract or agreement to purchase. Upon inspection of the property, you have three days from the date of inspection to rescind the transaction and receive all of your money back from the subdivider. You must give the subdivider notice of your intent to rescind within three days of your inspection of the property.

If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the six (6) month period, you have three (3) days to rescind the transaction and receive all your money back from the subdivider written notice must be given, of your intent to rescind within three (3) days after the date of your inspection of the property.

County regulations require that any deed, real estate contract, lease or other instrument conveying an interest in a parcel in the subdivision be recorded with the County Clerk.

Building permits, wastewater permits or other use permits must be issued by state or county officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease or otherwise acquire an interest in the land. You should also determine whether such permits are requirements for construction of additional improvements before you occupy the property.

1. NAME OF SUBDIVISION AND DESCRIPTION OF DEVELOPMENT
 - A. NAME OF SUBDIVISION
Apache Mesa Subdivision (the "Subdivision")
 - B. DESCRIPTION OF SUBDIVISION DEVELOPMENT
A 35 lot subdivision of single family home sites of approximately one acre and larger.
2. NAME AND ADDRESS OF SUBDIVIDER
Apache Mesa, LLC ("Subdivider")
5850 Eubank Boulevard NE, Suite B-21, Albuquerque, New Mexico, 87111
(505) 235-0754
3. NAME AND ADDRESS OF PERSON IN CHARGE OF SALES OR LEASES IN NEW MEXICO
Joe L. Kruzich, Managing Partner for Apache Mesa, LLC
P.O. Box 14798, Albuquerque, New Mexico, 87191
(505) 235-0754
4. SIZE OF SUBDIVISION ANTICIPATED
35 Lots on 45 Acres of land.
5. SIZE OF LARGEST PARCEL OFFERED FOR SALE OR LEASE WITHIN THE SUBDIVISION
2.4 Acres
6. SIZE OF SMALLEST PARCEL OFFERED FOR SALE OR LEASE WITHIN THE SUBDIVISION
0.97 Acre
7. PROPOSED RANGE OF SELLING OR LEASING PRICES
(\$ TO \$ FOR THE PURCHASE OF A LOT)
8. FINANCING TERMS
Apache Mesa LLC is only selling the lots, the buyer must obtain his or her own finance provider.
9. NAME AND ADDRESS OF HOLDER OF LEGAL TITLE
Apache Mesa LLC
5850 Eubank Boulevard NE
Suite B-21
Albuquerque, NM 87111

10. NAME AND ADDRESS OF PERSON HAVING EQUITABLE TITLE

Same as Item 9.

11. CONDITION OF TITLE

To be determined at the time of sale.

12. STATEMENT OF ALL RESTRICTIONS OF RECORD SUBJECTING THE SUBDIVIDED LAND TO ANY UNUSUAL CONDITIONS AFFECTING ITS USE OR OCCUPANCY

A. PLAT RESTRICTIONS

The use or occupancy of the land is affected by the restrictions in plats and amendments or re-plats of the Subdivision that establish, among other things: public utility, slope, and drainage and access control easements, as applicable, over the Subdivision and each lot.

B. RESTRICTIONS IMPOSED BY COMPREHENSIVE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (CC&RS)

A Declaration of Protective Covenants, Conditions and Restrictions ("CC&R's") will be recorded for the Subdivision. As set forth in the CC&R's, the only land use permissible is residential use. A copy of the CC&R's is attached as Exhibit J. The CC&R's may be amended as provided therein.

The CC&R's cover the following matters regarding the Subdivision:

Land Use, including such matters as business activities, home occupations, renting and leasing, lot splitting and consolidation and structure height.

Structures, including such matters as permitted structures, house size and use, prohibited structures, construction and architectural styles, colors, exteriors, etc, setbacks, building envelopes, conditions for occupancy of houses, reflective materials, air conditioners and fire protection.

Architectural Control Committee, including such matters as Committee composition, submittal requirements, filing fees and expenses, approval standards, architectural guidelines, liability, variances and compliance with other projects.

Common Scheme Restrictions and Requirements, including such matters as native growth preservation, water conservation measures, landscaping and water use, height of landscaping, fences and walls, driveways, restricted access, building material storage, refuse, nuisance, garages and parking of vehicles, sheds, stored items, storage tanks, utilities, exterior lights, billboards and signs, antennas, wind generators, and towers, animals, home occupation, solar and mechanical devices, drainage, hunting and firearms, mining and drilling, motor vehicles and off-road vehicles, activities which would increase insurance rates, access to adjoining properties, inconsistent uses, final subdivision plat and waiver of provisions.

Duties and Responsibilities of Owners, including responsibilities as to such matters as repairs, parking and vehicles, landscape maintenance, and rights of action.

The CC&Rs also include general provisions, dispute resolution procedures and limitations on litigation, and details regarding all of the matters mentioned above. Each purchaser is encouraged to read the CC&Rs before signing documents or agreeing to anything.

By way of example and not limitation, the CC&Rs include the following matters:

The owner is restricted to one single-family residential dwelling per lot. Mobile homes and modular dwellings are not allowed. No business or commercial activity frequented by and open to the general public (and in any event no business or commercial activity which takes place out of doors) shall be conducted within the Subdivision. Home occupations of the lot owner are permissible if conducted in the home or studio and in compliance with any rules and regulations governing home occupations adopted by the Architectural Control Committee established under the CC&Rs.

Notwithstanding the foregoing, Subdivider or its successor has reserved the right to erect and maintain structures, improvements or signs necessary and convenient to the development, sale, operation or other disposition of the property within the subdivision, such as maintain a small sales office, provided it meets with zoning requirements.

No lot owner shall seek re-zoning of any lot and no lot within the Subdivision shall be further subdivided. Two or more lots within the Subdivision may be consolidated into one lot

Even if (Subdivider) obtains re-zoning, the only land use permissible is for a single-family dwelling per lot.

Building setbacks are as set forth in the CC&Rs.

There shall be no development, improvements or structures, temporary or permanent, in any drainage easement or in the hundred-year flood plain. No agricultural use is permitted. Livestock, including without limitation cattle, horses, sheep, hogs, goats, or chickens, is not permitted.

The CCR's also provides that a lot owner must submit a detailed development plan together with a non-refundable \$ 500 plan review fee to the Architectural Control Committee that must be approved in writing prior to construction. The Committee may require the Lot Owner to pay additional filing fees equal to the Committee's costs and expenses exceeding \$500.00 incurred in having the materials so submitted and files examined by a person or firm designated by the Committee.

The CCR's require that the subdivision and lot owners comply with certain regulations of Sandoval County and the New Mexico State Engineer regarding water conservation and landscaping. These currently include limitations on water use of .50 acre feet per year per household.

C. GOVERNMENTAL RESTRICTIONS

This section 12 entitled "Statement of All Restrictions of Record Subjecting the Subdivided Land to Any Unusual Conditions Affecting its Use or Occupancy" does not address the effect of federal, state, or local statutes or regulations on use or occupancy, but only deed or plat restrictions. Subdivider does, however, note that the New Mexico Environment Department limits the number of occupants and size of buildings on each lot, depending on the lot size, because the lots will be served by a septic system rather than a sewage system. The New Mexico Environment Department's current restrictions are

further addressed in this disclosure statement in section 22 entitled "Liquid Waste Disposal". These current restrictions can be changed at any time by the New Mexico Environment Department with no prior notice. Please check current restrictions at the time of purchase or construction.

D. REVIEW OF DOCUMENTS BY PURCHASER

Each lot purchaser should review the final plat for the Subdivision, the survey of the owner's lot, the title binder and policy for the lot, the CC&Rs and any amendments to the CCR's, any rules or regulations, all matters of public record, for specification of the restrictions and conditions affecting the use or occupancy of the purchaser's lot.

13. **ESCROW AGENT**

Land America - Albuquerque Title is currently the escrow agent. The escrow agent's address is 8300 Carmel Avenue NE, #202; Albuquerque, NM 87122. Subdivider has no financial ties with the escrow agent.

Subdivider reserves the right to change escrow agents to another escrow agent, with which Subdivider has no financial ties, without purchaser's consent or approval, but with thirty (30) days advance written notice to purchaser.

14. **UTILITIES**

A. ELECTRICITY

Subdivider will provide electric service to the lot line. The entity providing electrical service will be the Public Service Company of New Mexico. A purchaser should check with utility prior to purchase of lot for information regarding connection costs. Each purchaser should make arrangements with his or her general contractor and the utility regarding installation of the electric lines into the lot to the dwelling.

B. GAS

Subdivider will contract with the Public Service Company of New Mexico to provide gas service to the lot line. Each purchaser should check with utility company prior to purchase of lot with regard to current connection costs. Each purchaser should make arrangements with his or her general contractor and the utility regarding installation of the gas lines into the lot to the dwelling.

C. WATER

Subdivider proposes to provide water to the lots within the subdivision by means of shared wells under well share agreements between two or three lot owners. Lots will share wells according to the final plat as approved by the State of New Mexico Engineer and Sandoval County. Drilling will be the responsibility of the first owner of the shared well to initiate construction. The pro rata cost of drilling will be reimbursed upon initiation of construction by the well share partner(s) or if the Lot is sold. Each purchaser should make arrangements with his or her general contractor and the utility regarding installation of the water lines into the lot to the dwelling.

D. TELEPHONE

The entity providing telephone service is Qwest Communications. Subject to future changes, Subdivider will make telephone lines available to the lot line. Subject to future rate changes, there is

a charge on the initial telephone bill for telephone hook-up assessed by Qwest Communications. Subdivider will only contract with Qwest Communications for up to three telephone lines per lot. If a purchaser desires more than three lines, then the purchaser must contact Qwest Communications for availability and will have to pay additional amounts for installation of the additional lines. A purchaser should make arrangements with his or her general contractor and the utility regarding installation of the telephone lines into the lot to the dwelling.

E. SOLID AND LIQUID WASTE (TRASH/SEPTIC)

Subdivider is not providing liquid waste (septic) disposal or solid waste (trash) disposal service. There are private companies that are willing and able to provide solid waste (trash) removal. See letter attached - Exhibit A. There are also companies that specialize in the design and construction of liquid waste systems commonly known as septic tanks. All expenses of design and construction of liquid waste systems will be borne by the lot owner.

F. EXTRAORDINARY CONDITIONS

Terrain characteristics that may make it difficult to extend utility lines could affect the lot owner's expense of obtaining utility connections. Subdivider cannot currently ascertain the difficulty of extending lines to each house because it varies with the house site and the terrain characteristics. A purchaser should refer to the current tariffs and rate schedules filed with the New Mexico Public Regulatory Commission, or call the utilities directly for more information concerning the costs associated with the extension of utility lines. Subdivider has no control over whether such public utility companies will remain viable in the future.

15. **UTILITY INSTALLATION AND LOCATION**

Telephone, gas, cable TV, and electric service will be provided to each lot at the lot line prior to the closing of the sale of that lot. Purchaser is responsible for extending utility service from purchaser's lot line to the house. All on-site utilities serving the Subdivision must be located underground.

16. **WATER AVAILABILITY**

A. MAXIMUM ANNUAL WATER REQUIREMENT

The maximum annual water usage per household will be limited to .50 acre feet per household per year or 163,000 gallons. This equates to an average usage of 13,397 gallons per 30-day month.

B. WATER SOURCES

The source of the water supply is from the Santa Fe Group Aquifer and between 300 and 700 feet deep. The water bearing strata is mainly coarse and very coarse sand. Reference: Technical Report 21; Availability of ground water in the Albuquerque area, Bernalillo and Sandoval Counties, New Mexico, 1967, and Peggy Johnson's Bureau of Mines Report, 2000.

C. MEANS OF WATER DELIVERY

The water will be delivered by means of shared wells. Lots will share wells according to the final plat as approved by the State of New Mexico Engineer and Sandoval County. Drilling will be the responsibility of the first owner to initiate construction. The pro rata cost of drilling will be reimbursed upon initiation of construction by the well partner(s) or if a well partner's Lot is sold (after the initial conveyance by the Subdivider). Wells shall be shared pursuant to agreements drawn by the

Declarant. Each well will be metered, the meter must be installed in an exterior location. A permanent and perpetual easement is granted to the State Engineer to monitor well water usage. Maximum water rights granted to each Lot (including outdoor use) is 0.5 acre-feet of water (163,000 gallons) annually.

D. LIMITATIONS ON WATER USE / WATER CONSERVATION

Water consumption for each lot shall be limited to 163,000 gallons per year per single-family residential unit, as such term is defined in the comprehensive declaration of covenants, conditions and restrictions. All wells will be metered. The only water uses permitted are:

- for domestic uses normally associated with a residence;
- for home occupations if conducted in compliance with the CC&Rs; or
- fire protection.

The CCR's Water conservation measures and landscape and water use standards (Sections 5.2 and 5.3) require, among other things, the use of low water plumbing fixtures and appliances and limitations on landscaping to monitor water consumption. A meter will be placed on each lot to ensure compliance.

The CCR's discourage and limit exterior landscaping fountains, ponds and waterfalls, and encourage the use of xeriscape garden, drip irrigation, water harvesting from rooftops into courtyards and underground cisterns to be used for irrigation purposes (see state regulations regarding cisterns). The CCR's also limit areas of planting to areas adjacent to the house. Hot tubs and spas are allowed but should have covers to minimize loss by evaporation. Swimming pools are not permitted.

17. **LIFE EXPECTANCY OF WATER SUPPLY**

As indicated in the Water Availability Assessment for Apache Mesa prepared by John Shoemaker & Associates, Subdivider anticipates that if the lot owners limit their use as will be required by the CCR's, the life expectancy of the water supply is in excess of 100 years.

Ground water pumping by other local and regional users, aquifer recharge, weather, natural and manmade contaminants and other conditions, all of which are beyond the control of (subdivider) can affect and deplete the water supply prior to one hundred (100) years. (Subdivider) has no control over these variables.

18. **SURFACE WATER**

This subdivision is not benefitted with surface water rights.

19. **NEW MEXICO STATE ENGINEER'S OPINION ON WATER AVAILABILITY**

See Exhibit B.

20. **WATER QUALITY**

A sample of water from a test well within the Subdivision was tested for quality, the results are attached. See Exhibit C. Subdivider has no knowledge of any water quality characteristics of water beneath the Subdivision that would make the water unsuitable for domestic use under current statutory and regulatory law. However, sediment does intermittently appear in the water, a common characteristics

in New Mexico. Different wells drilled in the same geographical area can have varied characteristics, as a result of subsurface conditions. Subdivider cannot offer any assurances regarding the well characteristics which may be encountered by a lot owner drilling a well in the Subdivision.

21. NEW MEXICO ENVIRONMENT DEPARTMENT OPINION WATER QUALITY

See Exhibit D.

22. LIQUID WASTE DISPOSAL

Individual septic tank with leach field will be the responsibility of the individual lot owner. Soil characteristics at the site are variable. Soil limitations for the installation of septic tank systems range from slight to severe due to soil depth and slope. (See section 27D). Each lot will require a site specific soils assessment and liquid waste system design in order to provide a functioning system permissible under the Environment Improvement Boards' liquid waste disposal regulations. Due to existing soil conditions, alternate treatment systems, which could be more expensive and difficult to install, might be required on some lots. The individual septic systems must conform to the applicable requirements and regulations of the New Mexico Environment Department (NMED). The NMED limits the maximum amount of daily sewage flow, based on the total design flow of the septic system that can be disposed of on each lot depending on the lot size. All of the lots are sufficiently large to meet the NMED minimum .75 acre size requirement. Due to the nature of the subdivision and the developers' intent in leaving the lots with natural topography and vegetation intact, drainage fields should be designed parallel to the topographic contours. The current restrictions with respect to number of bedrooms on a particular lot are as follows:

No. of Bedrooms Allowed	Total Design Flow (gallons per day)	Minimum Lot Size Required (acres)
2 BR	Less than 375	0.75
3 BR	375	0.75
4 BR	450	0.90
5 BR	600	1.20

Lots with acreage over 0.90 can have up to four bedrooms. Purchaser should review the current New Mexico Environment Department Regulations and Guidelines for specifics regarding the aforementioned restrictions.

Note: No other liquid waste disposal system may be used in a subdivision other than the system approved for used in the subdivision by the Board of County Commissioners.

23. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON LIQUID WASTE DISPOSAL

See Exhibit D.

24. SOLID WASTE DISPOSAL

Each lot owner will be responsible for placing solid waste in approved containers and contracting with an independent trash removal service or taking the waste to the Sandoval County land fill site. See letter from Waste Management, concerning their willingness to collect solid waste attached as Exhibit A.

25.

NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON SOLID WASTE DISPOSAL

According to the New Mexico Environment Department, the solid waste disposal proposals made in this disclosure statement conform with the county's regulations on solid waste disposal. The New Mexico Environment Department's comments are attached hereto as Exhibit D.

26

TERRAIN MANAGEMENT

A. SOIL TYPES, LOCATION AND SUITABILITY

The site is located in the western foothills of the Sandia Mountains, sloping from the south and east at approximately 4-6 %. The soils underlying the site are erratic and vary in depth and lateral concentrations. The soils generally consist of loose to very dense, slightly silty to silty or clayey sand with varying amounts of gravel and cobble. The average percolation rate for the site is 8.4 inches in one hour.

B. SOIL AND TOPOGRAPHIC LIMITATIONS AND PURCHASER'S DUTY TO CONSULT INDEPENDENTLY WITH GEOTECHNICAL ENGINEER

Subdivider will construct and install ditches and drainage conduits along public roads. Subdivider will address any soil and / or topographic issues regarding the public roads. It constructs and minimize disturbance concerning such roadway construction, by replanting around such construction with appropriate native plant or seed species, diverting runoff from roadways with barriers or ditches, and minimizing the length and steepness of newly created slopes caused by roadway construction by benching, terracing or construction of diversion structures, where applicable.

However, the Subdivider's responsibility is limited to drainage structures and public roads installed by the Subdivider. With respect to construction on a particular lot, the soils description set forth in this section 26 is a general description of the soils present in the subdivision, and the suitability of the soils and the construction needs based on the soils present in the subdivision and the suitability of the soils and the construction needs based on the soils will vary depending on the specific lot.

Whether the soil, or a certain site on the lot, is suitable for the design or size of the house that the purchaser ultimately builds depends on the footing and foundation design and plans used for construction on the lot. The Subdivider makes no warranty or representation that the soil characteristics, and all locations on the lot, are suitable for all house designs, sizes, or plans or liquid waste disposal systems. Neither does the Subdivider make any warranty or representation regarding any specific house design, size or plan. The suitability of the soils and the construction needs based on the soils will vary depending on the specific lot, location of the house or disposal system, and house design or size. The lot owner bears any and all risk resulting from not consulting geo-technical and civil engineers and purchaser's licensed contractor regarding the siting and construction needs for buildings, roads, and installation of septic systems on the lot. From time to time, the Subdivider may cause a site pad to be created on a lot to show potential purchasers possible building configurations on the lot. Such a site pad is merely illustrative, does not constitute site preparations, and neither Subdivider nor its agents or contractors are responsible for such site pad in any way, and the owner of a lot with such a site pad shall bear any and all risk associated with the soil on said lot from not consulting a geo-technical engineer regarding the site pad.

C. LOT OWNER / MITIGATION OF POST DEVELOPMENT DRAINAGE

Lot owners are required to construct on-site detention areas to intercept and contain all runoff from developed impermeable surfaces, or, where soils and slope permits, alternatively, use water harvesting swales to harvest run-off water to apply beneficial water to vegetation or gardens. If used instead of on-site detention, swales should be included into the initial design concept for site development and terrain management. Purchaser should consult a registered civil engineer regarding the size and location of detention areas and water harvesting swales as well as consult the pamphlet "Rainwater Harvesting, Supply from the Sky" from the City of Albuquerque.

Lot owners will be responsible for implementing measures necessary to overcome any soil and / or topographic limitations associated with construction of building pad, vehicular entrance, access drive, and septic tank absorption fields for their lots.

As indicated above, the "Terrain Management" plan and soils map illustrate the general description of the soils present in the Subdivision, and the suitability of the soils for the construction needs. The soils will vary depending on the individual lot, and in some instances a particular lot may have multiple soil types. A purchaser should consult geo-technical and civil engineers and purchaser's licensed contractor regarding the siting and construction needs for building on roads and for installation of septic systems with respect to purchaser's lot.

D. FLOOD PLAIN

Portions of lots 1, 2, 3, 4, 31, 32, 33, and 34 are located in flood hazard zone A (A special flood hazard area inundated by the 100-year flood; no base flood elevations have been determined) designated on Federal Emergency Management Agency (FEMA) flood insurance rate maps (FIRM) 35043C0925C (effective July 16, 1996).

E. FLOOD ZONE A

There will be no home construction, development, improvements or structures, temporary or permanent, in Flood Zone A unless FEMA approves a map revision allowing such construction to take place or until such time that Sandoval County approves a flood plain development permit that meets with the Federal Flood Insurance Program and the County Flood Damage Prevention Ordinance."

F. EXCESSIVE SLOPE

Portions of each lot have areas with slopes of 12.5% or greater, development of each lot will necessitate grading to allow for leach fields to be constructed in areas with a slope less than 12.5% on each of these lots. The leach field should be designed and constructed parallel to the contour lines of the lot.

Additionally, the following lots have a portion of the lot with slopes of 25% or greater: (Lots 1, 2, 3, 15, 24, 25, 26, 27, 28, 29, 30 and 31). No construction is permitted in areas on these lots with slopes of 25% or greater. In areas with less than 25% slopes, consideration must be given to the slope of these lots when designing the required detailed development plan. Although the land planning process has anticipated the need for usable land on each lot for the purposes of house and septic siting, the developer makes no warranty or representation that all locations on the lot are suitable for all house designs or sizes or plans. As stated in section 26(B) in this disclosure statement, the lot owner bears any and all risks resulting from not consulting geo-technical and civil engineers and purchaser's

licensed contractor regarding the siting and construction needs for buildings, roads, and installation of septic systems on the lot.

G. SURFACE DRAINAGE

Each lot owner must provide on-site detention areas for interception and containment of all runoff from post development impermeable surfaces. Sediment laden runoff must be trapped in detention areas to allow soil particles to settle out before flows are released to the arroyos.

H. SUBSURFACE DRAINAGE, STORM DRAINAGE SYSTEMS, AND PURCHASER'S DUTIES REGARDING EROSION CONTROL

Individual storm drainage systems shall consist of drainage culverts under driveways, where necessary, and storm water detention areas on each lot.

See **Section G. Surface Drainage**, above.

- An effort shall be made to minimize disturbance of native vegetation, during individual lot development. The length and steepness of newly created slopes shall be minimized by benching, terracing, or construction of diversion or detention structures on lots.
- Areas of disturbance shall be re-vegetated with appropriate native plant species or seeding.
- Entrances to individual lots shall be slightly elevated to prevent entry of off-site runoff from roadways.
- Sketches of typical configurations for drain ditches, siting basins, down drains, and detention ponds accompany these guidelines.
- Drainage ditches, siting basins, and down drains shall be designed to intercept and convey runoff from "post development" impermeable surfaces to an on-site detention area. Several small detention areas may be constructed in lieu of one larger detention area.
- Detention areas will be required on site.
- Detention areas shall have a minimum offset of 10 feet from any foundation footing. Detention areas shall have a minimum offset of 25 feet from any on-site liquid waste disposal system.
- Detention areas slopes shall be stabilized with native grasses. Drainage ditches, siting basins, down drains, detention areas, and emergency spillways shall be inspected at least annually, prior to the rainy season. All areas of soil erosion shall be repaired, sediment and debris shall be removed from the detention areas. Any spillway blockages shall be removed.

27. The Subdivider will be responsible for installing the subdivision roadways of Apache Mesa Road, Whispering Winds Trail, Evening Star and Morning Star Courts, common access roads, and maintenance roads. This will include the installations of the culverts under the roadways. Lot owners shall be required to construct and maintain individual detention areas on their lots.
- CORONADO SOIL & WATER CONSERVATION DISTRICT'S OPINION ON TERRAIN MANAGEMENT**

See Exhibit E.

28. **SUBDIVISION ACCESS**

The Town of Bernalillo is located approximately (3 miles) from the subdivision. Access from the Town of Bernalillo to the subdivision is by means of State Road 165. The paved road surface will allow access to the subdivision by conventional vehicle. The property is generally accessible in all season

and under all weather conditions. During severe winter storms, four-wheel drive vehicles may be desirable.

29.

MAINTENANCE

A. ROADS AND DRAINAGE FACILITIES

Subdivider intends to dedicate roads and drainage facilities associated with roads to Sandoval County.

B. OFF-LOT MAINTENANCE FOR PRIVATE ACCESS AND PUBLIC UTILITY EASEMENTS

Lot owners who are subject to maintenance obligations for private access and public utility easements shown on the subdivision plat should refer to the CC&R's for such obligations. Generally, lots owners through whose lots the easement runs have joint responsibility for the full length of the private access and utility easement. Private access easements are not to be considered as part of the public roadway nor should the lot owners expect or assume that Sandoval County has any maintenance responsibility for these private access easements.

C. ON-LOT MAINTENANCE

Individual lot owners are required to provide lot drainage plans for their lot at the time a building permit is requested. The Architectural Control Committee, prior to submittal to the county, will review and approve or disapprove such drainage plans for the building permit. The plan shall include measures to control and mitigate the runoff within the subdivision caused by any proposed structure or improvement so as not to exceed historical flow through the subdivision. Based on the lot, the driveway, the soil, and improvements or structures proposed, the Architectural Control Committee and the lot owner can agree on the use of the following: (1) Holding ponds, (2) Walled courtyard areas to retain runoff, (3) use of dry wells, and/ or (4) such other methods as may be necessary to control and mitigate the effect of potential increased runoff within each lot. The owner of the lot or lots on which the improvements lie will maintain these improvements.

Each lot owner shall, at the time of requesting a building permit from the county, present to the county's representative a lot drainage plan that has been reviewed and approved by the Architectural Control Committee. Failure to submit an approved drainage plan to the county may be grounds for denial of a building permit.

The sole function allowed to the county's representative is confirmation (A) of the existence of a lot drainage plan and (B) that the Architectural Control Committee has reviewed the plan and indicated its approval of the lot drainage plan. The county will not make any independent determination as to the adequacy of a lot drainage plan and shall not be held to have any obligation to make a determination as to the adequacy of a lot drainage plan.

Neither the failure of an owner to present a lot drainage plan nor the failure of the county or its representative(s) to request and / or confirm existence of an approved lot drainage plan shall be a basis for liability by the county to any person who alleges any injury or damage therefrom.

As a part of the county building permit process, the lot owner shall sign a hold harmless indemnification agreement provided herein as Exhibit F. Neither Subdivider, Sandoval County, nor the Architectural Control Committee or any member thereof, shall be liable to any owner, or any other person,

associations, or entity, for any damage, loss or prejudice suffered or claimed on account of the approval or disapproval of any development plan.

The lot owner must also abide by the CC&Rs regarding maintenance and construction.

The lot owner is responsible for on-lot construction and maintenance and for all utility line extensions inside the lot. If the lot owner is hiring a general contractor, the purchaser should insure that the general contractor is including the extension of utilities in his or her bid.

The lot owner must install and maintain culverts where private driveways cross the bar ditches. Each lot owner is required to agree to the creation of an easement to maintain a cut or fill side slope on a lot along any publicly dedicated right of way to ensure the proper maintenance and drainage of roads in the subdivision. Each owner must agree to provide easements for drainage and water flow as contours of the land and arrangement of improvements require. Each owner must also agree not to disturb or displace any trees or other vegetation within the drainage easements.

30. **STATE HIGHWAY DEPARTMENT'S OPINION ON ACCESS**

See Exhibit G.

31. **CONSTRUCTION GUARANTEES**

Subdivider intends to complete all public improvements, **commencing upon final approval of the plat by Sandoval County**. It is anticipated that construction guarantees for subsequent phases will be required by Sandoval County and paid for by Subdivider.

32. **ADVERSE CONDITIONS**

A. UTILITY EASEMENTS

All lots are subject to underground public utility easements as set forth in the final plat of the subdivision.

B. RISKS OF BUYING LAND

The future value of land is uncertain and dependent upon many factors. Do not expect all land to increase in value.

Any subdivision will have an impact on the surrounding environment. Whether or not the impact is adverse and the degree of impact will depend on the location, size, planning and extent of development. Subdivisions which adversely affect the environment may cause governmental agencies to impose restrictions on the use of the land. Changes in plant and animal life, air and water quality and noise levels may affect your use and enjoyment of your lot and your ability to sell it. In the purchase of real estate, many technical requirements must be met to assure that you receive proper title. Since this purchase involves a major expenditure of money, it is recommended that you seek professional advice before you obligate yourself.

33. **RECREATIONAL FACILITIES**

There are no recreational facilities proposed to be constructed in the subdivision in the future.

34. **FIRE PROTECTION**

Property owners are required to install residential sprinkler systems for fire protection.

The Placitas Volunteer Fire Brigade will provide fire protection. The fire station is located in Placitas approximately 3 miles from the subdivision by means of NM Hwy 165. Bernalillo Fire Department is approximately four miles. Exhibit I-Letter from County Fire Marshall.

35. **POLICE PROTECTION**

The Sandoval County Sheriff's Department will provide police protection.

36. **PUBLIC SCHOOLS**

Apache Mesa Subdivision is located in the Bernalillo Public School District. Students would attend elementary school in Placitas, then Bernalillo Middle School, and Bernalillo High School. The Bernalillo schools are located within the Town of Bernalillo approximately 3 miles from the subdivision. Placitas Elementary school is in the Village of Placitas, and is approximately 6 miles from the subdivision. Exhibit H.

37. **HOSPITALS**

The nearest hospital facility is Northeast Heights Medical Center in Albuquerque at 4701 Montgomery Boulevard NE, approximately 20 miles from the subdivision by means of NM 165 to I-25 south to the Montgomery exit heading east to the facility. Northeast Heights Medical Center is part of the Lovelace Sandia Health System and contains 105 beds.

38. **SHOPPING FACILITIES**

The nearest shopping facilities are located in Placitas on Highway 165 and Tierra Madre Road. There is a small grocery store, restaurant, bank, beauty salon and video store.

39. **PUBLIC TRANSPORTATION**

Bus, plane, or other means of public transportation does not serve the subdivision on a regular basis.

40. **COMPLETION DAYS**

After approval from all necessary agencies, construction of infrastructure will commence.

41. **CIBOLA NATIONAL FOREST**

The National Forest is adjacent to this subdivision, various lots have a common property line with the National Forest. It must be noted that this subdivision will not grant access or encroachment on to the National Forest Property nor will the setback requirements be modified by the ACC for the subdivision. The Sandia District Ranger in Tijeras must be contacted with regard to any activities which involve the National Forest property and boundary.

LIST OF EXHIBITS

- A. Letter from Waste Management Removal Re: Solid Waste (April 2004)
- B. New Mexico State Engineer's Opinion on Water Availability
- C. Water Quality Test - "Water Availability Assessment for Apache Mesa ..." John Shoemaker & Associates, Inc. (January 2004)
- D. NM State Environment Department Opinion of Water Quality / Liquid Waste / Solid Waste
- E. Coronado Soil & Water Conservation District Opinion on Terrain Management
- F. County Indemnity Agreement (to be obtained w/ Sandoval Co. Review)
- G. NMDOT Opinion on Access - Letter from District 3 Office (January 2004)
- H. Letter from Bernalillo Public Schools
- I. Letter from Sandoval County Fire Marshall
- J. Declaration of Protective Covenants, Conditions and Restrictions

Approved:

Sandoval County
Board of County Commissioners

Mary Humphrey, Chairman

Date

Sally G. Padilla, Clerk

Date