

GAR96RAT

TYPE OF RECORD: ACTIVE NON PERMANENT

CATEGORY OF RECORD: CONTRACT

NAME OF AGENCY OR CONTRACTOR: LEE H. GARRETT

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: 2335  
RATTLESNAKE COURT LOT 21A BLOCK 25 THE RIDGES FILING NO. 5  
REIMBURSEMENT AGREEMENT FOR SEWER EXTENSION

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1996

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

**RATTLESNAKE COURT  
REIMBURSEMENT AGREEMENT**

This agreement is made and entered into this 23<sup>rd</sup> day of January, 1996, by and between the City of Grand Junction, a Colorado home rule municipality ("City"), and Lee Garrett, hereinafter referred to as "Developer".

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1743340 0855AM 01/23/96  
MONIKA TODD CLK&REC MESA COUNTY CO

**RECITALS:**

The City is the co-owner and manager of the Persigo Wastewater Treatment Facility and in such capacity controls the use of and access to the sewer facilities located within the 201 Study Area boundary as reflected by the map on file with the City Utilities Director. Developer represents that he is the owner of property as shown on Exhibit 1 "Garrett Property", attached hereto and incorporated herein by this reference, street address of 2335 Rattlesnake Court (Lot 21 A, Blk 25 The Ridges Filing Number 5 Sec 20 1S 1W), hereafter referred to as the "Property". Developer is required to provide sewage waste disposal through the City-managed sewer system. Developer desires to recoup some of the material costs, identified in Exhibit 3 "Material Costs", incurred in construction of a sewer line extension, along with appurtenant facilities, such as manholes, hereafter referred to as the "System", from persons who will receive a future benefit from existence of the improvements paid for and installed by the Developer. Future users are defined as those persons who develop within the area shown on the attached Exhibit 2 "Future Users" which, by this reference, is hereby incorporated herein. Future users are generally regarded as the owners of the property at 2335 1/2 Rattlesnake Court (Lot 20 A, Blk 25 The Ridges Filing Number 5 Sec 20 1S 1W) and 2336 1/2 Rattlesnake Court (Lot 19 A, Blk 25 The Ridges Filing Number 5 Sec 20 1S 1W). The area to be served is within the geographic boundary of the sewer service area and the City has sufficient capacity to provide the sewerage disposal and treatment for the properties.

The City has determined that installation of the sewer improvements, which will serve the Developer's lot and future users is the most appropriate use of resources. The City recognizes and agrees that future users will benefit from this Developer's construction. The Developer recognizes and agrees that he will receive a benefit and enters this agreement on the following terms and conditions:

1. The above Recitals are intended to form a basis to construe the several provisions hereof in the event that there is an ambiguity or the intent of the parties is otherwise unclear.
2. Developer agrees to pay for the material costs for the construction of the System as detailed in Exhibit 3 "Material Costs".
3. The City agrees to construct the sewer to City of Grand Junction standards and absorb all labor expenses related to the design, construction and inspection of the System. The Developer shall hold harmless and indemnify the City, its officers, agents, and employees from any and all claims, demands, liabilities or causes of action arising out of this agreement and the construction of the System. The Developer promises to indemnify and hold the City, its officers, agents and employees harmless for costs, expenses and all reasonable attorneys' fees incurred by the City, or the value thereof, including experts, fees and costs in defending or prosecuting any action arising out of or under this agreement or the work performed thereunder. The Developer shall indemnify and hold harmless the City, its employees, officers and agents, from claims by the Developer, any purchaser of the Developer, any assignee of the developer, and any third party, whether or not any such claim or cause of action is frivolous.
4. The Developer agrees that the construction of the System, and the acceptance in the future by the City of said System, does not waive or limit the payment by the Developer, or any purchaser of the Developer or any other owner, now or hereafter, of any costs, fees or charges such as plant investment fees, inspection fees, monthly sewer service charges, or any other charges or fees which the City is now, or may be in the future, entitled to charge the Developer or any user or person.

5. After the City completes construction of said improvements, the Developer shall be entitled to be reimbursed by those persons specially benefitted by the System for the reasonable and necessary costs incurred by the Developer for actual material costs, as agreed to by the City, as follows:

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- a. Reimbursable costs shall be defined as the costs of materials used in the construction of the System hereinafter referred to as "costs" or "the costs". These costs shall not exceed \$3,500.00. In the event that the costs do exceed this amount the City will absorb the additional cost of materials.
- b. For a period of ten years following the completion of the System, as evidenced by writing from the City, or until the Developer is reimbursed for the costs including principal plus applicable interest, whichever first occurs, the City agrees that it will not authorize any other person to use the system unless each future user first pays, in addition to all other applicable charges and fees, a sum calculated as follows:

$$\frac{RC}{3} + \left( \frac{RC}{3} \times i \right) + B$$

where:

RC = actual reimbursable costs incurred by Developer and approved by the City Utility Engineer. RC is not to exceed \$3,500.

i = 0.67 per month simple interest (interest rate per month may change as determined by City Finance Director) times the number of complete months (up to a maximum of 120 months) following the date of substantial completion.

B =  $(RC/3) \times 10\%$  (this represents the amount to be paid to the City for administration of this agreement and will be paid by each future user to the City).

x = multiply.

3 = Number of lots that may be served by the sewer extension as determined by the City Utility Engineer.

Once the reimbursable costs have been approved by the City, the fee resulting from use of the above formula will be calculated and paid by each future user. The Lot known as and located at 2335 Rattlesnake Ct, Grand Junction, is not subject to the terms of this "Reimbursement Agreement".

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6. Developer may assign his rights pursuant to this agreement, but only so long as notice of such assignment, with the address of the assignee, is made by certified mail return receipt requested to the City, addressed to the City Utility Engineer. If the City makes any collections pursuant to this agreement, the City shall be obligated only to make payment to the Developer, or his properly designated assignee, at the last known address of the Developer or assignee; the City has no duty and shall not be obligated to locate a proper payee or assignee who has not been properly disclosed to the City. In the event that any claim is made or cause of action is filed by any person alleging that this agreement is unconstitutional, unenforceable, or otherwise contrary to law, or that the interest payable to the Developer hereunder from such future user is excessive or is not enforceable at law or in equity, the Developer agrees that he shall be bound by any settlement of such claim or cause of action, whether or not Developer or his assign(s) is a party to such action. The Developer and any assignee thereof in consideration of this agreement freely, voluntarily and knowingly waives and releases the City, its officers, agents and employees, from any claims, demands or causes of action that the Developer or any assignee may have due to the failure of the City to abide by or enforce this agreement.
  
7. In the event that the City fails to collect the fee from any future user, the Developer has the right to sue such future user and the City agrees to cooperate, without expense to the City, in such collection efforts of the Developer.

8. In the event that the Developer is in default with regard to any obligation of the Developer as it relates to this agreement and the several rights and duties of the parties reasonably related hereto, the City shall have the right to set off any reimbursements that may be due hereunder to satisfy in whole or in part any such default, in addition to any other remedy which the City may have. **BOOK 2201 PAGE 811**
9. In the event that the Developer has received reimbursement directly from any owner or developer of any property which may be subject to the fees in accordance with the terms of this agreement, the Developer shall immediately upon receipt thereof, notify the City Utility Engineer in writing of the amount collected, the name and address of the person from whom collection was made and the property to which the collection is applicable.
10. This agreement shall bind the signatories and their respective heirs, successors and assigns. The provisions contained herein constitute the entire agreement, any and all representations made by any officer, agent or employee of the City, unless included herein, are null and void and of no effect.
11. Upon request from the Developer, which request shall not occur more than once every twelve months, the City shall provide an accounting during the term of this agreement. Said accounting shall contain a listing of each fee collected during the preceding twelve months, the name and address of the remitter of said fee, the property address for which the fee was paid, a current balance of the RC and total interest credited to the Developer's account. The City may also include and reasonably rely thereon, on any and all information received from the developer about payments made, received or credited in accordance with Paragraph 9. The City shall pay all fees collected within the preceding twelve months at the time of each accounting, less amounts paid to the City for costs of administration. Upon non-performance by the City pursuant to this Agreement, the Developer shall give notice of default specifying the action giving cause to said default. The City shall have 30 days from its receipt of said notice to correct the

alleged default. Upon the correction of said default within the 30 days period the agreement shall be restored and all terms and conditions will be in full force and effect.

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12. Disputes arising under or related to this agreement or the work which is the subject of this agreement shall be resolved by mediation. If mediation is unsuccessful, the parties expressly reserve the right to arbitrate or file a cause of action pursuant to the Colorado Rules of Civil Procedure. A final determination from said mediation shall be a precondition to other action being taken.
  
13. The City shall faithfully perform the work required under this agreement in accordance with standards of care, skill, training and diligence provided by contractors who perform work of a similar nature to the work described in this agreement. The City does not warrant the construction nor warrant against direct or consequential damages resulting therefrom.

CITY OF GRAND JUNCTION

BY: *D. Robert Cohen*  
City Manager

Date: 1-22-96

Attest: *Stephanie Nye*  
City Clerk

Date: 1-22-96

DEVELOPER

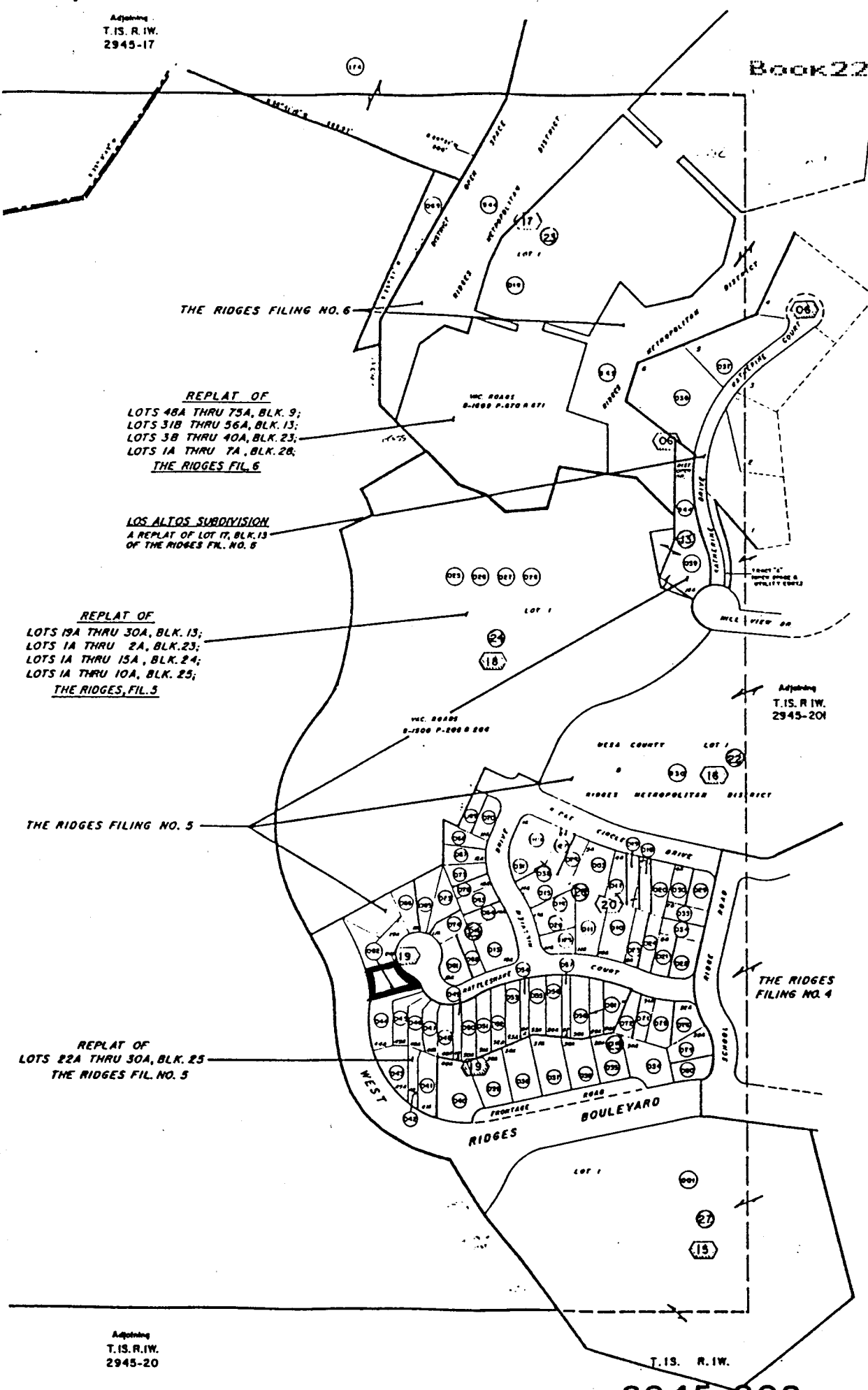
BY: *C. H. Gamell*

Date: 1-19-96

Address: 2397 Mariposa Dr.  
Grand Junction, CO  
81503

Attest: *Cheresa J. Martiny*  
File: H:\BILLC\REIMLOTS.RAT

Date: 1-19-96

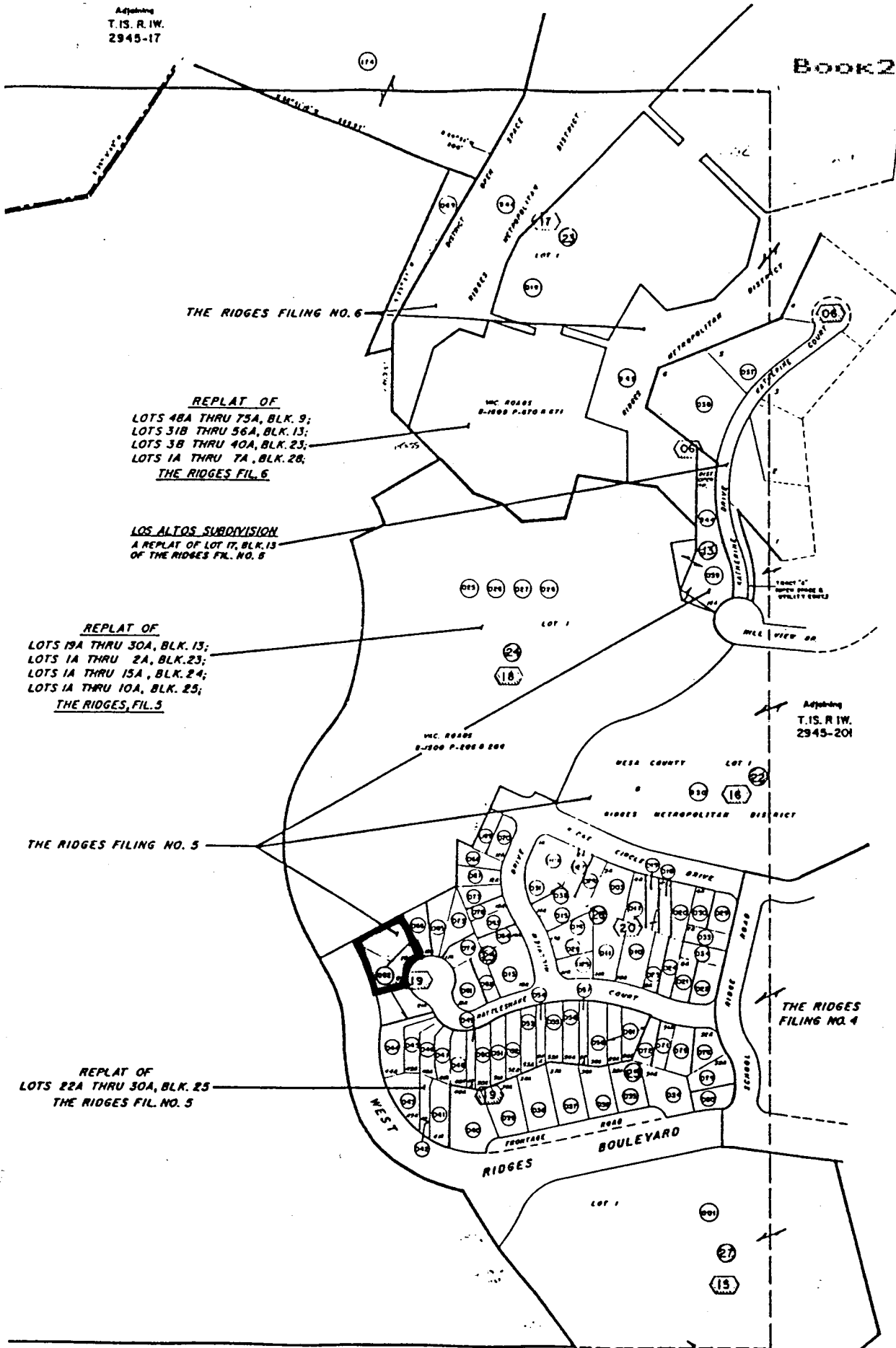


RECORDER NOTE: POOR QUALITY DOCUMENT  
PROVIDED FOR REPRODUCTION

Rattlesnake Ct Payback  
Garrett Property (1 lot)  
EXHIBIT 1

2945-202





REPLAT OF  
 LOTS 48A THRU 75A, BLK. 9;  
 LOTS 31B THRU 56A, BLK. 13;  
 LOTS 3B THRU 40A, BLK. 23;  
 LOTS 1A THRU 7A, BLK. 28;  
THE RIDGES FIL. 6

LOS ALTOS SUBDIVISION  
 A REPLAT OF LOT 17, BLK. 13  
 OF THE RIDGES FIL. NO. 8

REPLAT OF  
 LOTS 19A THRU 30A, BLK. 13;  
 LOTS 1A THRU 2A, BLK. 23;  
 LOTS 1A THRU 15A, BLK. 24;  
 LOTS 1A THRU 10A, BLK. 25;  
THE RIDGES, FIL. 5

THE RIDGES FILING NO. 5

REPLAT OF  
 LOTS 22A THRU 30A, BLK. 25  
THE RIDGES FIL. NO. 5

RECORDER NOTE: POOR QUALITY DOCUMENT  
 PROVIDED FOR REPRODUCTION

Project: Rattlesnake Court Extension  
 Subject: Engineer's Estimate for material costs

Desc	Qty	Cost	Extnd
8" SDR35 PVC Pipe	169.0 LF	\$2.94 /LF	\$496.86
8"x4" Wye	3.0 EA	\$15.00 /EA	\$45.00
4" SDR35 PVC Pipe	104.0 LF	\$0.80 /LF	\$83.20
2" SCH40 PVC Irr	200.0 LF	\$0.83 /LF	\$166.00
2" Tees	3.0 EA	\$2.04 /EA	\$6.12
Manhole 7' Deep	2.0 EA	\$570.00 /EA	\$1,140.00
Bedding Rock	35.0 TN	\$7.00 /TN	\$245.00
Asphalt Repl.	15.0 TN	\$22.50 /TN	\$337.50
Stores Overhead	29.0%		\$730.71
Subtotal			\$3,250.39
Contingency	7.5%		\$243.78
Total			\$3,494.17
Rounded Total			\$3,500.00

Rattlesnake Ct Payback  
 Material Costs  
 EXHIBIT 3