

**LEASE AGREEMENT  
FOR BOKUM BUILDING BETWEEN  
SANTA FE COUNTY AND  
BOKUM/BURRO ALLEY, LLC**

This Lease Agreement is made and entered into this 10<sup>th</sup> day of December, 2013 by and between **Bokum Burro Alley, LLC**, a New Mexico limited liability company, located at 142 West Palace Avenue, Suite 300, Santa Fe New Mexico, hereinafter referred to as the "Lessor" and **Santa Fe County**, hereinafter referred to as the "Lessee."

In consideration of the covenants and agreements of the Lessee as set forth in the Lease, the Lessor does hereby lease, let and demise unto the Lessee, under the conditions specified below, the premises located at 142 West Palace Avenue, Santa Fe, New Mexico, and commonly referred to as the "Bokum Building" (the "Premises").

**1. Conditions of the Lease.**

- a. This Lease pertains to 14,549 square feet of office space that is designated on the attached floor plans as follows: 1<sup>st</sup> floor level attached hereto as Exhibit A-1 (with the exception of the space marked on Exhibit A-1), entire second floor level attached hereto as Exhibit A-2 and entire third floor level attached hereto as Exhibit A-3.
- b. Lessee shall also have use of common areas, including all restrooms, hallways, and stairs.
- c. Lessee shall have exclusive use of 32 parking spaces, including 18 parking spaces at Sandoval Parking Garage, and 14 parking spaces at the private parking lot on Chappelle Street.
- d. Lessor shall provide janitorial services for the Premises, inclusive of the common areas as defined in 6 (c).
- e. Lessee shall be responsible for all security and telephone, internet and other communications utilities.
- f. Lessor shall be responsible for the payment of all electric, gas, refuse, water and sewer charges.
- g. Lessor shall pay real property taxes to include any special and general assessments, on the tax parcel containing the Premises and against any alterations, additions and improvements thereon.

- 2. Compensation; Monthly Rent.** The Lessee agrees to pay the Lessor annual rent in the amount of \$15.5247 per square foot for 14,549 square feet of office space. In addition to the lease of space, the lessee agrees to pay the Lessor for janitorial services as specified in

Paragraph 6 (c) in the amount of \$2,500.00 per month. The Lessee will pay monthly installments of \$18,822.41 for the lease of the Premises and \$2,500.00 for janitorial services for a total of \$21,322.41 per month due and payable on the first day of each month.

3. **Insurance.** Lessee shall secure liability insurance for its activities on the Premises. Lessor shall provide fire and extended coverage insurance on the Premises and all alterations, additions and improvements thereto.
4. **Term of Lease.** The Lessor agrees to lease the Premises to the Lessee, under the conditions specified in Section 1 of this Lease Agreement, for a period of 2 years commencing on March 1, 2014 and continuing until February 28, 2016. Lessee shall have the option of extending the lease for 2 additional 1-year terms which extensions shall be effective upon Lessee mailing Lessor written notice of its election to extend the lease for an additional twelve months, on or before December 31, 2015 and December 31, 2016, respectively. If the first extension option is exercised this Lease term will be extended through February 28, 2017. If the second extension option is exercised this Lease will be extended through February 28, 2018.
5. **Appropriations and Authorizations.** This Lease is contingent upon sufficient appropriations and authorizations being made for performance of the Lease by the Board of County Commissioners of Lessee 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 Lease shall terminate upon written notice by Lessee shall have no duty to reimburse Lessor for expenditures made in performance of this Lease. Lessee is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and provided for expenditure by Lessee. The Lessee'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 Lessor in any way or form, including a lawsuit.
6. **Condition of Premises, Maintenance and Repairs**

(a) Lessee acknowledges that it is the current occupant of a portion of the Premises, has inspected the Premises prior to execution of this Lease, finds the Premises in good order and repair, and accepts the Premises in its current "as is" condition.

(b) Except for damage occasioned by Lessee or its employees, contractors, guests and invitees, Lessor shall keep and maintain the Premises in good order, condition and repair, including every part and appurtenance thereof, including without limitation, the exterior and interior of all doors, door checks, windows, glass, walls, ceilings, floors, store front, fixtures, plumbing and sewage facilities within or connected with the Premises including the free flow up to the main sewer line, heating and cooling systems, electrical systems and sprinkler systems.

(c) Lessor shall provide janitorial and maintenance services for the Premises as follows:

1. Clean all floors of the facility (1st, 2nd and 3rd floors) nightly including weekends and holidays.
2. Vacuum and clean the floors nightly, weekends and holidays.
3. Clean and mop all restrooms.
4. Dispose of all trash.
5. Clean all interior windows.
6. Dust offices.
7. Clean and mop the elevator.
8. Clean interior and exterior glass doors to the facility.
9. Sweep sidewalks outside surrounding the facility.
10. Ensure that the facility is secured and locked.
11. Clean air ducts as needed.
12. In the winter months, sweep and remove snow from the sidewalks surrounding the facility.
13. In the winter months, remove snow and apply salt to all sidewalks in the surrounding the facility.
14. Maintain and ensure that the parking spaces provided for in Article 1.c of this Lease Agreement are available for Lessee's use, including keeping all mechanical access controls in working condition, clearing the parking spaces of debris and weeds, and snow removal during the winter months.

## **7. Alterations, Additions and Improvements**

(a) Lessee shall not make any alterations, additions or improvements to the Premises without the written consent of Lessor, which consent shall not be unreasonably withheld, and then only upon the terms and conditions as may be reasonably imposed by Lessor along with any grant of approval.

(b) Lessee agrees that all alterations, additions and improvements desired by Lessee shall be made at the expense of Lessee. Lessee shall not permit any mechanic's or material men's liens to be filed against or attach to the Premises as a result of any work done by Lessee in the Premises. If any lien is filed against or attaches to the Premises, Lessee shall immediately notify Lessor in writing and Lessee shall cause such lien to be removed within 60 days of notice thereof, or, if Lessee, in good faith, desires to contest such lien, Lessee shall be privileged to do so, and shall, in the event of judgment or foreclosure on such lien, cause the same to be discharged and removed prior to the execution of such judgment.

(c) Lessee agrees that any approved construction will be performed in a neat and workmanlike manner and in compliance with plans and specifications previously submitted to and approved by Lessor. Lessee shall be responsible at its sole cost and expense for the removal of rubbish, refuse and dirt, and any damage, caused by Lessee's activities under this paragraph.

**8. Ownership of Improvements.** Lessee agrees that any and all alterations, additions and improvements except for signs, shelving and moveable furniture, fixtures and equipment shall merge with and become a permanent part of the Premises and any and all interest of Lessee shall vest in Lessor. At the termination of this Lease, Lessee shall be responsible for removing any signs, shelving and moveable furniture and equipment owned by Lessee from the Premises and Lessee shall repair any damage caused by the removal of same. Additionally, Lessor may, at its option, require Lessee to remove any additions, repair and alterations in order to restore the Premises to the condition existing at the time Lessee took possession, with all costs of removal to be borne by Lessee.

**9. Signs.** Subject to applicable governmental ordinances, rules and regulations, Lessee may, at Lessee's expense erect and maintain a sign or signs to carry out the purpose for which Lessee is leasing the Premises, provided that the location, type and design of all exterior signs shall be first approved in writing by Lessor. Within 10 days of the expiration of this Lease, or any renewal or extension thereof, Lessee shall remove such sign or signs and shall repair any damages to the Premises caused thereby at Lessee's expense.

**10. Inspection.** With at least 24)hours prior notice by telephone, the Lessor or its officers, agents and representatives shall have the right to enter any and all parts of the Premises during normal business hours (8 a.m. to 5:00 p.m.) or, in an emergency, at hour to inspect the Premises or clean or make repairs or alterations to the Premises as the Lessor may deem necessary.

**11. Use of Premises.** Lessee agrees that the Premises shall be occupied and used solely for County business purposes. Lessee shall further occupy the Premises, conduct its business and control its subtenants, agents, employees, invites and visitors in such a manner as is lawful, and will not create any nuisance.

**12. Compliance with Laws, Rules and Regulations.** Lessee agrees that during the Term, Lessee shall comply with all present and future federal, state and local laws, regulations, rules and ordinances affecting the Premises.

**13. Condemnation.**

(a) If during the Term all or substantially all of the Premises are permanently taken by condemnation or eminent domain or purchase in lieu thereof, and the taking would prevent or materially interfere with the use of the Premises for the purpose for which they are then being used, either party may terminate this Lease effective as of the day of physical possession by the condemning authority and rent shall be abated for the unexpired portion of this Lease.

(b) If only a portion of the Premises are taken and the Lease is not terminated pursuant to subparagraph (a) above, Lessor, in its sole and exclusive discretion and at its sole risk and expense, may restore and reconstruct the Premises so that it may be occupied and is in conformity with any applicable building codes, and the rent shall be adjusted so that

Lessee shall, for the remainder of the Term, pay that portion of the rent that the Premises remaining after the taking bears to the whole of the Premises before the taking.

(c) Lessee shall not have any right to any award or payment, or portion thereof, made to Lessor in connection with any condemnation, taking or purchase in lieu thereof.

**14. Destruction of or Damage to Property.** Lessee agrees that if at any time during the Term, or any extension or renewal thereof, the Premises shall be totally or partially destroyed due to any cause whatsoever, upon Lessee's written notice to Lessor of such destruction, Lessor shall have the option to rebuild or repair the Premises to such state of condition and repair as existed immediately prior to such destruction or damage, provided that rebuilding or repair shall be completed within 180 days of Lessor's obtaining appropriate permits to commence repairs or construction. In such case, rental herein shall be abated or adjusted until the Premises have been rebuilt or repaired. If, within 30 days following receipt of Lessee's written notice of destruction or damage, Lessor elects not to rebuild or repair the Premises, Lessor shall so notify Lessee in writing, and thereupon this Lease shall terminate and become null and void. Lessor shall have no duty or obligation to rebuild or repair any furniture, fixtures, equipment or other personal property belonging to Lessee or used in Lessee's business. Notwithstanding the foregoing, if Lessor is unable, or will be unable, to complete repairs or construction as required herein, Lessee may terminate this Lease with written notice to Lessor and all further obligations shall cease as of the date of Lessor's receipt of such notice.

**15. Assignment or Sublease.** This Lease shall not be an asset of Lessee and Lessee shall have no right to assign this Lease or sublet the Premises without Lessor's prior written consent. Consent to assignment or subletting shall be granted only if (i) Lessee is not in default of the Lease, (ii) the entire Premises are to be used for the same purpose or purposes as stated herein; and (iii) upon payment to Lessor of a negotiated amount of any increased rent, premium, key fee or purchase price paid specifically for this Lease and received by Lessee from any assignee.

**16. Quiet Enjoyment.** Lessor has full right to execute and to perform this Lease and to grant the estate demised, and the Lessee, upon payment of the required rents and performing the terms, conditions, covenants and agreements contained in this Lease, shall peaceably and quietly have, hold and enjoy the Premises during the full Term provided that Lessor shall not be responsible for the acts or omissions of any other Lessee or third party which may interfere with Lessee's use and enjoyment of the Premises. Lessee shall observe the rights of Lessor's other Lessees to the quiet enjoyment of their leaseholds and shall not permit acts or omissions of any person or persons under Lessee's control which may interfere with such other Lessee's quiet enjoyment of their leaseholds.

**17. Default by Lessee.** Lessee's failure to make any payment due herein for a period of 10 days after written notice thereof by Lessor to Lessee, or Lessee's failure to comply with any term or condition of this Lease for a period of 30 days after written notice thereof by Lessor to Lessee, shall be a default under this Lease, which default shall be subject to the remedies provided herein and such other remedies as may be available by law.

**18. Remedies for Lessee's Default.**

(a) If Lessee shall default under the terms of this Lease, Lessor may, at Lessor's option, at any time subsequent to such default and prior to curing of such default, declare the Lease terminated by delivering written notice of termination to Lessee and may immediately re-enter and occupy the Premises.

(b) Upon receipt of notice of termination, Lessee agrees to deliver the Premises to Lessor peaceably. Lessor may take such steps and use such force as necessary and appropriate to re-enter and occupy the Premises to include but not limited to changing all entry locks and refusing Lessee entry upon the Premises. Lessor may re-let the Premises, or any portion thereof, and may determine and collect rent.

(c) Nothing herein shall limit or prejudice the right of Lessor to prove and obtain as damages by reason of termination for default or breach of this Lease, an amount equal to the maximum amount allowed by statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater than, equal to, or less than, the amount of the difference referred to above, and whether such amount be immediately and otherwise due and payable.

(d) Lessor's remedies as stated in this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Lessor may be lawfully entitled in the event of any default or breach, or threatened default or breach, of the agreements, terms and conditions herein.

**19. Waiver of Default or Remedy**

(a) Failure of Lessor to declare an event of default immediately upon its occurrence, or Lessor's delay in taking any action in connection with an event of default, shall not constitute a waiver of the default, but Lessor shall have the right to declare the default at any time and take such action as is lawful or authorized under this Lease. Pursuit of any one or more the remedies set forth herein above shall not preclude pursuit of any one or more the other remedies provide elsewhere in this Lease or provided by law, nor shall pursuit of any remedy provided constitute forfeiture or waiver of any rent or damages accruing to Lessor by reason of the violation of any of the terms, provisions or covenants of this Lease.

(b) Failure by Lessor to enforce one or more of the remedies provided upon an event of default shall not be deemed or construed to constitute a waiver of the default or of any other violation or breach of any of the terms, provisions and covenants contained in this Lease.

(c) Acceptance of keys to the Premises or entry upon or into the Premises by Lessor or its agents or employees shall not be deemed an acceptance of surrender of the Premises unless Lessor shall so state and consent in writing.

(d) The receipt of rent by Lessor, with knowledge of any breach of this Lease by Lessee

(c) Except as otherwise required or permitted herein, any notice or document required to be delivered by this Lease shall be deemed to be delivered (whether or not actually received) either three (3) business days after deposit in the United States mail, Certified Mail - Return Receipt Requested, postage prepaid and addressed to the parties at the respective addresses set out in the preceding subparagraphs or as of the date and time hand delivered at the respective addresses set out in the preceding subparagraphs. Evidence of personal delivery shall be proven by the sworn and notarized affidavit of the deliverer and evidence of mailing shall be proven by postal receipt.

**25. Bankruptcy or Insolvency.** Lessee agrees that should Lessee make an assignment for the benefit of creditors or should Lessee be adjudged bankrupt, either by voluntary or involuntary proceedings, or if otherwise a receiver or trustee should be appointed by any court of competent jurisdiction for Lessee because of any insolvency, or if any execution, attachment, replevin, or other court order should be issued against Lessee or any of Lessee's property, whereby the Premises shall be taken or occupied or attempted to be taken or occupied by someone other than Lessee, the occurrence of such event shall be deemed a breach of this Lease and, in such event, Lessor shall have the option to terminate this Lease and to re-enter the Premises and take possession thereof. In no event shall this Lease be deemed an asset of Lessee after the assignment for the benefit of creditors, the adjudication in bankruptcy, the appointment of a receiver or trustee, or the issuance of writs of execution, attachment or replevin or other court order against Lessee or Lessee's property whereby the Premises shall be taken or occupied or attempted to be taken or occupied by someone other than Lessee.

**26. Miscellaneous.**

(a) This Lease constitutes the entire agreement between Lessor and Lessee respecting the lease of the Premises and supersedes and replaces any and all prior and contemporaneous written and oral agreements, promises, representations, or conditions with respect thereto.

(b) The Lease shall be construed and enforced in accordance with the laws of the State of New Mexico.

(c) This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their heirs, successors, assigns and personal representatives and should Lessor's interest in the Premises cease to exist for any reason during the Term excepting a mortgage foreclosure, then notwithstanding the happening of such event, this Lease nevertheless shall remain unimpaired and in full force and effect and Lessee and Lessee's subleases agree to attorn to the then new owner of the Premises.

(d) This Lease may be modified only by a writing duly executed by the parties.

(e) If any provision of this Lease, or application thereof shall be declared invalid or unenforceable by any court of competent jurisdiction, the remainder of this Lease, and any application of its other provisions, shall continue in full force and effect.

or of any default on the part of Lessee in observance or performance of any of the terms, covenants or conditions of this Lease, shall not be deemed to be a waiver of any provision of this Lease. No receipt of monies by Lessor from Lessee after the termination or cancellation hereof shall reinstate, continue or extend the term hereof, or affect any notice heretofore given to Lessee, or operate as a waiver of the right of Lessor to enforce the payment of fixed or additional rent or other charges then due or thereafter falling due, or operate as a waiver of the right of Lessor to recover possession of the Premises by any means.

**20. Holding Over.** In the event of holding over by Lessee after the expiration or termination of this Lease, the hold over shall be as a tenancy at will and all of the terms and provisions of this Lease shall be applicable during that period, except that Lessee shall pay Lessor as rental for the period of such hold over an amount equal to one and one-quarter (1.25) times the amount of the monthly rent payable for the Term. Lessee agrees to immediately vacate and deliver the Premises to Lessor after expiration of the Term upon Lessee's receipt of notice from Lessor to vacate. No holding over by Lessee, whether with or without consent of Lessor, shall operate to extend this Lease except as otherwise expressly provided herein.

**21. Rights of First Mortgagee.** Lessee and all of Lessee's subleases or assigns accept this Lease subject and subordinate to the terms and provisions of any recorded real estate contract, mortgage or deed of trust lien presently existing or hereafter created upon the Premises.

**22. Estoppel Certificates.** Lessee agrees to furnish promptly, from time to time, upon request of Lessor or Lessor's mortgagee, statements certifying, if applicable and correct, that Lessee and Lessee's subleases are in possession of the Premises; the Premises are acceptable; the lease and any subleases are in full force and effect; the Lease and any subleases are unmodified; Lessee and any subleases claim no present charge, lien, or claim of offset against rent; the rent is paid for the current month, but is not prepaid for more than one month and will not be prepaid for more than one month in advance; there is no existing default by reason of some act or omission by Lessee, any sublease or Lessor; and, such other matters as may be reasonably required by Lessor or Lessor's mortgagees.

**23. Attachments.** The following documents are attached to and form a part of this Lease:

1. Exhibit A-1, Exhibit A-2 and Exhibit A-3 - Floor Plans Showing Premises

**24. Notice**

(a) All notices required of Lessee to Lessor, and rent and other payments required to be made by Lessee, shall be delivered by mail to Lessor at P.O. Box 2452, Santa Fe, New Mexico, 87504-2452, or at any other address which Lessor may specify from time to time by written notice.

(b) All notices required of Lessor to Lessee, and all payments required to be made by Lessor to Lessee shall be payable to Lessee at 102 Grant Ave., Santa Fe, New Mexico 87501, or at any other address which Lessee may specify from time to time by written notice.

(f) The titles and paragraph headings used in this Lease are solely for the convenience of the parties and shall not be used to explain, modify, simplify, construe or aid in the interpretation of the provisions of this Lease.

**27. Warranty of Authority.** The persons signing hereunder as Lessee, or on behalf of Lessee, warrant that they are authorized to enter into this Lease on behalf of Lessee.

**IN WITNESS WHEREOF**, the parties have executed this Lease as of the date first set forth above.

**LESSEE SANTA FE COUNTY:**

Kathleen S. Holian  
Kathleen S. Holian, Chair  
Santa Fe Board of County Commissioners

12/10/13  
Date

**ATTEST:**

Geraldine Salazar  
Geraldine Salazar  
Santa Fe County Clerk

12/10/2013  
Date

**APPROVED AS TO FORM:**

Stephen C. Ross  
Stephen C. Ross  
Santa Fe County Attorney

11-20-13  
Date

**FINANCE DEPARTMENT:**

Teresa C. Martinez  
Teresa C. Martinez  
Finance Director

11/26/2013  
Date

**LESSOR BOKUM/BURRO ALLEY, LLC:**

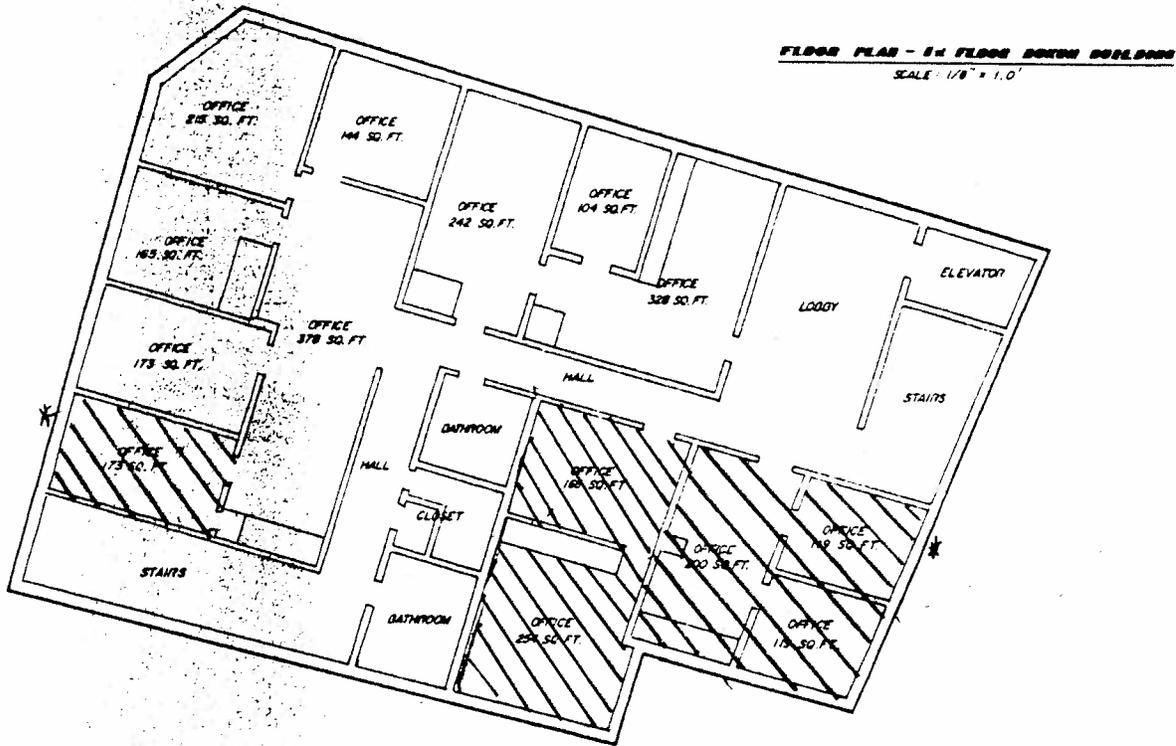
Richard A. Montoya  
Richard A. Montoya  
Its: President

Dec 4, 2013  
Date



EXHIBIT

A-1



\* Excluded Area

BOKUM BUILDING  
142 W. Palace Avenue, City of Santa Fe,  
Santa Fe County, New Mexico









