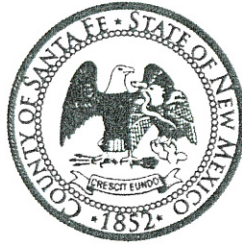


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

To: Santa Fe County Board of County Commissioners

Through: Katherine Miller, County Manager *KM 2-20-17*
Patricia Boies, Health Services Division Director, Community Services Department

From: Kyra Ochoa, Program Manager, Health Care Assistance Program

Date: February 14, 2017

Re: Approval of County Health Care Assistance Claims in the Amount of \$67,405.31
(Community Services Department/Kyra Ochoa)

ISSUE:

Approval of County Health Care Assistance claims in the amount of \$67,405.31.

BACKGROUND:

The BCC has approved funding for the County Health Care Assistance Program, to fund community-based providers. The Health Care Assistance Program has processed claims this month in the amount of \$67,405.31, as indicated on the Amount Paid to Vendors document.

RECOMMENDATION:

We recommend the approval of County Health Care Assistance claims in the amount of \$67,405.31.

Amount Paid to Vendors
Indigent Healthcare Solutions
Batch Dates 02/28/17-02/28/17

Vendor #	Name	# Invoices	Payable
23835	Casa Milagro	10	3,000.00
14962	City Of Santa Fe Fire Department	1	526.24
234	Hoy Recovery Program	2	300.00
16165	Interfaith-leap Inc.	1	2,875.00
4597	Santa Fe Mountain Center	3	6,250.00
1742	Santa Fe Public Schools- Adelante Program	9	4,090.86
142	Santa Fe Recovery Center	6	45,990.00
16159	Southwest Care Center	22	4,373.21
Grand Total:		54	67,405.31

Santa Fe County Health Care Assistance Fund Community-Based Providers
Fiscal Year 2017

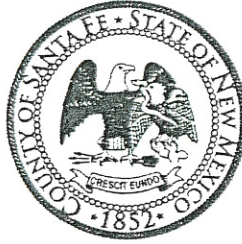
28 February, 2017

Provider Name	FY 17 Allocated Funding	Claims Approved Through January 31, 2017	Claims Presented February 28, 2017	Remaining Balance	% Remaining
Primary Care					
La Familia Medical Center	440,000.00	438,051.60		1,948.40	0%
SW Care/Women's Health Services	24,000.00	11,935.44	4,373.21	7,691.35	32%
El Centro of Northern of NM	1,400.00	420.00		980.00	70%
Pecos Valley Medical Center	17,000.00			17,000.00	100%
Presbyterian Healthcare Services	1,000.00	630.80		369.20	37%
Total Primary Care	483,400.00	451,037.84	4,373.21	27,988.95	6%
Substance Abuse					
Santa Fe Recovery Center	265,000.00	195,820.00	45,990.00	23,190.00	9%
Interfaith Leap/Sangre de Cristo House	25,000.00	22,125.00	2,875.00	-	0%
Christus St. Vincent-HUGS	50,000.00	29,167.78		20,832.22	42%
Hoy Recovery Center	500.00	150.00	300.00	50.00	10%
Total Substance Abuse	340,500.00	247,262.78	49,165.00	44,072.22	13%
Mental Health					
Casa Milagro	25,000.00	14,100.00	3,000.00	7,900.00	32%
Santa Fe Mountain Center	75,000.00	18,749.99	6,250.00	50,000.01	67%
Santa Fe Schools Adelante	20,000.00		4,090.86	15,909.14	80%
Total Mental Health	120,000.00	32,849.99	13,340.86	73,809.15	62%
Ambulance					
City of Santa Fe Ambulance Services-MIHO	25,000.00	25,000.00		-	0%
City of Santa Fe Ambulance Services (transport)	1,100.00	560.56	526.24	573.76	52%
Total Ambulance	26,100.00	25,560.56	526.24	573.76	2%
Total Health Care Assistance					
	970,000.00	756,711.17	67,405.31	146,444.08	15%
Cremations (Under Separate Cover)					
	30,000.00	18,000.00	4,200.00	7,800.00	26%
Grand Total	1,000,000.00	774,711.17	71,605.31	153,683.52	15%

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3




Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

DATE: *February 13, 2017*

TO: *Board of County Commissioners*

VIA: *Katherine Miller, County Manager* 

FROM: *Michael K. Kelley, Public Works Department Director*

ITEM AND ISSUE: *BCC Meeting February 28, 2017*

Approval Of Amendment No. 1 To Lease No. 708 5000149116 with the U.S. Department of the Interior, Bureau of Indian Affairs, And The Pueblo of Nambe For Land Located At 302 NM 503 (Public Works/Terry Lease)

SUMMARY:

In 1991 Santa Fe County entered into a 25 year lease agreement, Lease No. 708 5000149116 ("Lease"), with the U.S. Department of the Interior, Bureau of Indian Affairs, and the Pueblo of Nambe ("Pueblo"), for 1.504 acres of land ("Land") on Tribal Land of the Pueblo. The County built and operates a fire substation that provides fire protection services to County residents in the area. An amendment to the Lease ("Lease Amendment") has been prepared that will allow the operation of the substation to continue for another 25 years.

BACKGROUND:

The County initiated the process of renewing the Lease in June 2015, and the termination date was August 18, 2016. Paragraph 30 of the Lease provides the County with an option to renew for one additional term of 25 years and on June 29, 2016 the Nambe Pueblo Tribal Council approved the renewal (Pueblo Resolution NP2016-28). The rent remains unchanged at \$1.00 for the entire 25 year renewal term. As a condition of the renewal term the County has agreed to; (i) upgrade the fencing around the perimeter of the Land, (ii) to track the amount of water used and (iii) to provide quarterly updates of water usage and service calls to Pueblo member properties. On January 31, 2017 the County received the final Lease Amendment that is approved by the Bureau of Indian Affairs and the Pueblo, both of which will sign after the County's acceptance of the Lease Amendment. It should be noted that, according to counsel for the Pueblo, the agreement number on the Lease of 5500189116 is incorrect, and the correct agreement number is 708 5000149116.

ACTION REQUESTED:

Approval and execution of Amendment No. 1 to Lease No. 708 5000149116.

PUEBLO OF NAMBÉ
BIA LEASE NO. 708 5000149116
AMENDMENT No. 1
SANTA FE COUNTY FIRE SUBSTATION

THIS LEASE AGREEMENT is made and entered into on the ____ day of _____, 2017, by and between the Pueblo of Nambé, hereinafter referred to as "LESSOR," whose address is 15A NP 102 West Santa Fe, NM 87506, and Santa Fe County Board of Commissioners, 102 Grant Ave Santa Fe, NM 87501-2061, hereinafter referred to as "LESSEE".

1. LAND DESCRIPTION

A. For and in consideration of the rents, covenants, and agreements hereinafter provided, the Lessor hereby lets and leases unto the Lessee land and premises described as follows, to wit: See Exhibit "A" attached hereto and by reference made a part hereof, containing 1.504 acres, more or less, to be used only for the following purposes: Operation and maintenance of a fire substation, including but not limited to providing fire protection services to the Lessor and its members, without charge, and to Lessee's service area.

B. Lessee hereby acknowledges that the title and right to possession of said lands is and has at all times during Lessee's occupancy and/or use thereof been vested in the United States of America, hereinafter referred to as United States, now held in restricted status for the Pueblo of Nambé hereinafter called "the Pueblo."

2. TERM OF LEASE

The term of this agreement shall be for 25 years commencing on the date of approval by the Secretary of the Interior (hereinafter "Secretary") or his designee. The Parties shall enter into negotiations for a new lease upon the expiration of this Lease. The Lessee and Lessor agree to conduct good faith negotiations regarding the entering into of a new Lease prior to the expiration of this Lease.

3. RENT

Lessee, in consideration of the covenants contained, herein agrees to pay rent in the total amount of one dollar (\$1.00) for the full duration of this Twenty-Five (25) year Lease renewal.

4. PLACE OF PAYMENT

Rental shall be paid by Lessee to Lessor without demand by personal delivery at the address first stated above.

5. LESSEE IS JOINTLY AND SEVERALLY LIABLE

Each Lessee agrees that they shall be jointly and severally liable for rent and for performance of each and every term, condition and covenant herein contained. Each Lessee agrees that notice or demand provided to any one of them individually shall constitute and be deemed demand upon and notice to all Lessees as of the date of mailing, posting or personal delivery.

6. USE OF PREMISES

A. The Leased premises shall be used solely for the use and occupancy by the Lessee named herein and more specifically to operate, maintain a fire substation and to provide fire protection services to the Lessor and its members and to Lessee's service area.

B. Lessee shall not use the Leased premises in any manner which may vitiate the insurance or increase the rate of insurance on the Leased premises. Any other use of the Leased area by the Lessee or any other person or persons without the express written authorization of the Lessor shall be cause of immediate termination of this Lease, without recourse or right of appeal on the part of the Lessee.

7. RIGHT OF ENTRY FOR INSPECTION AND MAINTENANCE OF PREMISES

A. Lessor and the Secretary reserves the right to enter the Leased premises at reasonable times to inspect them, to perform required maintenance and repairs, or to make additions or alterations that do not materially interfere with Lessee's enjoyment of the Leased premises. This provision shall not imply any duty on the part of the Lessor to make any such repairs or inspections.

B. All parts of buildings and improvements shall be kept in a clean, sanitary, neat, and attractive condition and shall present a pleasant appearance.

C. Lessee shall maintain, and repair all fences, driveways and other improvements which may be required at any time by law or Tribal ordinances to be constructed, maintained, and repaired upon or adjoining, or in connection with or for the use of said premises, or any part thereof. Lessee shall make any and all additions to or alterations in the buildings and structures erected on said premises which may be required by law and shall otherwise observe and comply with any and all public laws, ordinances, and regulations for the time being applicable to said premises. Lessee shall, at its sole expense, repair and replace all damage caused by Lessee or its agents, employees, invitees or licenses.

D. During the term of this Lease, Lessee shall, at its own expense, maintain in full force a policy or policies of commercial general liabilities and environmental liabilities, including property damage, that will insure Lessor and the United States, and its officers, employees and agents, against liability from injury to persons and property occurring in or about the Leased Premises. Lessor shall name Lessee and the United States as additional insureds on said policy or policies.

8. CONDITION OF PREMISES

Lessee, for and in consideration of this Lease and the current condition of said premises, hereby accepts said premises as is, and that no representation or warranty as to the condition of said premises has been made by Lessor, and, at the expiration of the term of this lease, Lessee will yield up peaceably said premises to Lessor in good order and condition (reasonable use and wear excepted).

9. IMPROVEMENTS, PLANS AND DESIGNS, OWNERSHIP

A. Ownership. All approved buildings or other improvements constructed on the premises shall be the leasehold property of the Lessee during the term of the lease. At the expiration or termination of this lease said improvements shall immediately vest in Lessor in an "as is" condition, and shall remain on said premises, and shall not be removed. The Lessor, may at its option, require the Lessee to remove all or any part of the improvements, and leave the premises in a clean and orderly condition, all at Lessee's expense, within sixty (60) days after the termination of this lease. The Lessor shall designate in writing to the Lessee within sixty (60) days prior to termination or expiration of this lease whether the improvements shall be removed.

B. Improvements. No new improvements; or removal, demolition, alteration, addition, or remodeling of existing improvement (collectively referred to as a "Project"), involving an expenditure in excess of twenty-five thousand dollars (\$25,000), shall take place without prior written approval of the Lessor, whose approval shall not be unreasonably withheld. Lessee shall obtain such approval by providing Lessor with its general requirements or plans for a Project. Such submission may be made by e-mail, USPS or hand delivered to Lessor. In the event that Lessor fails to approve or disapprove a Project within a 10-day period after submission, the Project shall be deemed approved.

10. COMMUNITY SERVICES

The Lessor shall not be responsible for providing any services to the Leased premises including, but not limited to, police protection, fire protection, street maintenance, etc. Lessor shall not be liable for any claim or liability arising from failure to provide these services or for providing inadequate services.

11. PARKING, GARBAGE, AND NUISANCES

A. All vehicles to be parked, kept and maintained by Lessee or Lessee's guests shall be parked or kept on the Leased premises only in those areas that are specifically designated for that purpose. Any vehicle not parked or kept properly in the designated areas shall be subject to impoundment, and Lessee shall be solely responsible for all attendant charges and fees. In no event, shall vehicles be kept on the Leased premises which are disabled or unsightly.

B. Disposal of garbage, rubbish or other waste materials on the Pueblo at places which have not been designated by the Lessee for that purpose is prohibited. Garbage shall be kept in animal and insect proof containers and screened from public view. Garbage shall be disposed of at the sole cost to the Lessee. Lessee shall not burn any trash or garbage at any time in or about the Leased premises.

C. Lessee covenants and agrees not to perform any acts or carry on any practices which may be a nuisance or disturbance of the peace.

12. FACILITIES AND UTILITIES

Lessee shall, at his own expense, install/procure a mobile water gauge for the recording of amounts of Pueblo water used in providing fire protection services. All services and utilities shall be paid for by Lessee and must be contracted or arranged directly between Lessee and the appropriate utility companies. Hookups for all utilities and services, including electricity, gas, water and sewer, as applicable, are the responsibility of Lessee, and all associated costs, including labor and materials, are the responsibility of Lessee.

13. LIENS, TAXES, AND ASSESSMENTS

A. Lessee shall not permit to be enforced against the leased premises or any part thereof, any liens arising from any work performed, materials furnished, or obligations incurred by Lessee, but Lessee shall discharge all such liens before any action is brought to enforce same.

B. Lessee shall pay before delinquent, all taxes, assessments, licenses, fees and other like charges levied during the term of this lease upon or against the leased land and all interests therein and property thereon for which either the Lessee or Lessor may become liable. Upon written application, the Lessee shall furnish the Lessor and the Secretary written evidence duly certified that any all taxes required to be paid by Lessee have been paid, satisfied, or otherwise discharged. Lessee shall have the right to contest any claim, asserted tax, or assessment against the property by posting bond to prevent enforcement of any lien resulting therefrom. Lessor shall execute and file any

appropriate documents with reference to real estate tax exemption of the land when requested by Lessee.

C. Lessor shall have the option to pay any lien or charge payable by Lessee under this Lease, or settle any action therefor if the Lessee, after written notice from the Lessor, fails to pay or to post bond against enforcement. All costs and other expenses incurred by the Lessor in so doing shall be paid to Lessor by Lessee upon demand, with interest at the rate of eighteen percent (18%) per annum from the date of payment until repaid. Default in such repayment shall constitute a breach of the covenants of this Lease.

14. FIRE AND DAMAGE INSURANCE

Lessee or sublessees shall and at all times during the term of this lease, carry fire insurance with extended coverage endorsements, and vandalism insurance, jointly in the names of Lessee and Lessor, covering the insurable value of all insurable permanent improvements on the leased premises, as their interests may appear. Said policy or policies or copies thereof shall be sent to the Lessor and the Secretary by the Lessee within thirty (30) days upon approval of this Lease. Lessee is solely responsible for payment of all premiums and other charges payable in respect to such insurance, and shall provide Lessor and the Secretary the receipt for such premiums or other charges paid, or satisfactory evidence thereof. In the event of damage to any improvements on the leased premises, the Lessee shall reconstruct the improvement(s) in compliance with applicable laws and building regulations and in accordance with the plans of the original building, unless otherwise approved by the Lessor and the Secretary. Reconstruction shall commence within sixty (60) days after receipt of insurance proceeds for said loss. Insurance proceeds shall be deposited in escrow with a financial institution approved by the Secretary and the Lessor. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvement(s), and funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates.

In the event of damage in excess of seventy-five percent (75%) of the total value of all improvement(s) on the leased premises during the last five (5) years of the Lessee's occupancy under this lease, the Lessee shall have the option whether or not to reconstruct said improvement(s). Should Lessee elect not to reconstruct, the leased premises shall be cleared at Lessee's expense. In that event, all insurance proceeds shall be paid to the Lessor.

15. PUBLIC LIABILITY INSURANCE

Upon approval of this lease and all times during the term of this lease, Lessee shall carry a public liability insurance policy for personal injury and property damage in the amounts of \$1,000,000 per occurrence and \$2,000,000 aggregate. Said policy to be written jointly to protect Lessor and Lessee. Evidence of such coverage shall be furnished to the Lessor and

the Secretary. Lessee shall notify the Lessor without delay of any occurrence which might precipitate the filing of a claim against the insured.

16. BONDING

A bond is not required under this lease in accordance with 25 C.F.R. §162.434(f)(1). This lease is for the purpose of providing fire protection services to the public. Alternatively, the Lessor waives the requirement for a performance bond pursuant to 25 C.F.R. §162.434(g).

17. ASSIGNMENT/SUBLETTING (prior written consent of Lessor required)

Subject to the conditions contained in this paragraph, Lessee shall not convey, assign, mortgage, or sublet the whole or any part of the Leased premises, nor Lease the use of the whole or any part of the Leased premises by any licensee, without the Secretary's approval and the written consent of the Lessor. This prohibition shall be construed to include a prohibition against any assignment or subletting by operation of law, assignment for the benefit of creditors, voluntary or involuntary bankruptcy or reorganization, or otherwise, without the prior written approval of the Secretary and consent of Lessor. Any such attempted assignment or subletting shall be null and void. In the event of a sublease, Lessee shall remain liable and responsible for the performance of all the terms, covenants and conditions of this Lease. The filing of voluntary or involuntary bankruptcy by Lessee shall constitute an automatic default entitling Lessor to invoke the default remedies set forth herein.

18. UNLAWFUL CONDUCT

Lessee agrees that it will not conduct any unlawful conduct nor create any nuisance, illegal activity, or negligent use or waste of the leased premises.

19. RELINQUISHMENT OF SUPERVISION BY THE SECRETARY OF THE INTERIOR

Nothing contained in this Lease shall operate to delay or prevent a termination of federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of this Lease; however, such termination shall not serve to abrogate this Lease. The owners of the land and the Lessee and his surety or sureties shall be notified of any such change in the status of the land. While the Leased premises are in trust or restricted status, all of the Lessee's obligations under this Lease, and the obligations of their sureties, are to the United States as well as to the Lessor.

20. SURRENDER OF PREMISES BY LESSEE

A. At the expiration or termination of this agreement for any reason, Lessee shall peaceably and without legal process yield up immediate possession of the Leased premises to Lessor in good condition usual wear and tear and Acts of God excepted. Should Lessee fail to do so, whether by lapse of time or in any other manner, Lessee shall pay as liquidated damages from the time which possession is withheld \$400 (Four Hundred Dollars) per day; or an amount equal to double the rental rate stipulated to in this agreement. These remedies shall not operate to deny Lessor any other remedy provided Lessor either in this agreement or by law for regaining the possession of the Premises from Lessee.

B. If Lessee fails to remove such property as required under this agreement, such property becomes the property of Lessor. Lessor may keep and use or dispose of the property in its sole discretion without any liability on the part of Lessor and may charge the cost of any such removal, storage or disposition to Lessee.

C. Lessee shall surrender the Leased premises in good condition, reasonable wear and tear excepted. Lessee will insure that the Leased premises shall be in an orderly and clean condition, free of rubbish or other debris. Lessee shall restore the Leased premises to the condition in which the premises were received by Lessee.

21. DELIVERY OF POSSESSION BY LESSOR

This agreement shall not be rendered void or voidable by the inability of Lessor to deliver possession of the Leased premises to Lessee at the beginning of the Lease term, nor shall any inability to deliver possession of the Leased premises render Lessor liable to Lessee for any damages or losses suffered by Lessee as a result.

22. SEVERABILITY

Waiver of one breach of a term, condition, or covenant of this agreement by Lessor shall be limited to the particular instance and shall not be deemed to waive past or future breaches of the same or other terms, conditions or covenants.

23. TERMINATION

A. Any party may cancel this agreement at any time, without cause, by three hundred and sixty (360) days prior written notice to the other party.

B. Lessor may terminate this agreement immediately in the event of default as provided within Sections 18 and 19.

C. The right to terminate this Lease in an event of breach shall not be construed as a waiver of the Lessee of any rights to secure compliance with the terms of this Lease.

24. HOLDOVER

Holding over by the Lessee after the termination of this Lease shall not constitute a renewal or extension hereof or give the Lessee any rights hereunder or in or to the Leased premises.

25. EVENT OF DEFAULT

The occurrence of any of the following shall constitute an event of default under this Lease.

A. Failure of Lessee to pay rent when due or any other consideration herein required to be paid by Lessee, and the continuance of such failure for five (5) days after written notice from the Lessor;

B. Abandonment or misuse of the Leased premises by Lessee; or

C. Lessee's failure to perform any other covenant or condition of this agreement within fifteen (15) days after written notice and demand.

26. REMEDIES OF LESSOR FOR DEFAULT BY LESSEE

A. Upon the occurrence of an event of default, Lessor shall have the right, then or at any time thereafter, and while such event of default shall continue and, in addition to and not in lieu of any other remedies, relief or rights available to Lessor at law or equity or contained in this agreement, to do any of the following:

1) Lessor may cure the default and charge Lessee for the costs of such cure, which charge shall be due and payable as rental under this Lease immediately upon written notice to Lessee; or

2) Lessor may terminate this agreement and any tenancy created and re-enter the Leased premises, or any part thereof and repossess and enjoy the Leased premises as before this agreement, without prejudice to any remedies which might be otherwise used or the recovery of damages resulting from Lessee's default under this agreement. The right to terminate is exercisable by a written notice to Lessee, which written notice may be part of a notice of default previously delivered to Lessee, and as such, may be conditioned upon Lessee's failure to cure the default and the event of default. The termination may be made effective as of the event of default, or thereafter and, if not otherwise specified, will be deemed to be effective immediately. Upon such termination and forfeiture, Lessor shall be entitled to and may take immediate possession of the Leased premises, any other notice or demand being hereby waived. Lessee further agrees that Lessor may

expel, remove and haul Lessee's personal property from the Leased premises, using such force as may be reasonably necessary to do so and without being liable for the damages therefore in connection therewith. Lessor's termination of this agreement does not, however, release Lessee from liability for rentals then overdue or remaining under the Lease but shall operate to accelerate the entire balance of the term rental, which shall become immediately due and payable by Lessee along with all overdue rentals and charges.

B. Nothing contained in this Lease shall be construed as in any manner abridging, limiting, or depriving the United States or the Pueblo of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which they would otherwise have, including but not limited to, the remedies available within 25 CFR §162.619-623, and Tribal law, as amended from time to time.

27. RESERVATION LAWS AND ORDINANCES AND CONSENT TO JURISDICTION

Lessee, guests of Lessee, Lessee's employees and agents, and sub-Lessees and their employees and agents hereby agree to abide by all laws, regulations and ordinances of the Pueblo of Nambé, now or hereafter in force and effect. Lessee, its employees and agents and sub-Lessees and their employees and agents hereby consent to the jurisdiction of the Pueblo of Nambé and the Tribal Court of said Tribe.

Such jurisdiction shall include, but not be limited to, jurisdiction to levy fines and enter judgments for compensatory and punitive damages and injunctive relief, in connection with activities conducted by Lessee, sub-Lessees and agents on Pueblo lands or which have a proximate (legal) effect on persons or property on said Pueblo lands.

28. NON-LIABILITY OF LESSOR

Neither the Lessor nor the United States Government, nor its officers, agents, and employees shall be liable for any loss, damage, injury or death of any kind whatsoever to the person or property of the Lessee or of any other person whomsoever caused by the use of the Leased premises or by any defect in any structure erected thereon or arising from any accident, fire or from any other casualty on said premises or from any other cause whatsoever and Lessee as a material part of consideration for this agreement hereby waives on Lessor's behalf all claims against Lessor and/or the United States Government.

29. ANTIQUITIES

In accordance with the Laws of the Antiquity Act of 1906, as amended, it is understood and agreed by the parties hereto that any areas within the exterior boundaries of the leased

premises containing graves, ruins, or other antiquities, shall be undisturbed and plainly marked by Lessee and reported immediately to the Lessor and the Secretary for appropriate disposition and action.

This shall likewise apply to any discoveries made in excavation made during any additions or remodeling of the improvement(s) on the leased premises. Said area designated as antiquities shall be automatically withdrawn from the leased premises and the minimum rental attributable to the land, shall be abated in the ratio that the lands withdrawn bears to the total acreage in the leased premises.

30. LEASE BINDING

This Lease and the covenants, conditions, and restrictions hereof shall extend to and be binding upon the successors, heirs, assigns, executors, and administrators of the parties hereto.

31. NOTICE

All notices and demands shall be sent to the parties hereto at the addresses herein recited or to such address as the parties may hereafter designate in writing. Notice and demands shall be sent by registered mail, return receipt requested. Service of any notice or demand shall be deemed complete ten (10) days after mailing or the date actually received, whichever occurs first. Copies of all notices and demands shall be sent to the Secretary in care of the office of the Bureau of Indian Affairs, Northern Pueblos Agency.

32. NO WAIVER OF IMMUNITY

Nothing in this agreement shall be construed to affect or be deemed a waiver of immunity by the Pueblo of Nambé.

IN WITNESS WHEREOF, the parties executed this Lease Agreement on the Pueblo of Nambé the day and year first above written.

Lessor:
Pueblo of Nambé

By: _____
Phillip A. Perez, Governor
Pueblo of Nambé

Approved:

By: _____
Superintendent
Northern Pueblos Agency

Date: _____

Lessee:

Santa Fe County

By: _____
Henry P. Roybal, Chair

Date: _____

ATTEST:

Geraldine Salazar, Santa Fe County Clerk

Date: _____

APPROVED AS TO FORM:



Gregory S. Shaffer, Santa Fe County Attorney

Date: 2/8/2017

APPROVED:



Don M. Moya, Santa Fe County Finance Director

Date: 2/14/17

PUEBLO OF NAMBÉ
BIA LEASE NO. 708 5000149116
AMENDMENT No. 1
SANTA FE COUNTY FIRE SUBSTATION

THIS LEASE AGREEMENT is made and entered into on the ____ day of _____, 2017, by and between the Pueblo of Nambé, hereinafter referred to as "LESSOR," whose address is 15A NP 102 West Santa Fe, NM 87506, and Santa Fe County Board of Commissioners, 102 Grant Ave Santa Fe, NM 87501-2061, hereinafter referred to as "LESSEE".

1. LAND DESCRIPTION

A. For and in consideration of the rents, covenants, and agreements hereinafter provided, the Lessor hereby lets and leases unto the Lessee land and premises described as follows, to wit: See Exhibit "A" attached hereto and by reference made a part hereof, containing 1.504 acres, more or less, to be used only for the following purposes: Operation and maintenance of a fire substation, including but not limited to providing fire protection services to the Lessor and its members, without charge, and to Lessee's service area.

B. Lessee hereby acknowledges that the title and right to possession of said lands is and has at all times during Lessee's occupancy and/or use thereof been vested in the United States of America, hereinafter referred to as United States, now held in restricted status for the Pueblo of Nambé hereinafter called "the Pueblo."

2. TERM OF LEASE

The term of this agreement shall be for 25 years commencing on the date of approval by the Secretary of the Interior (hereinafter "Secretary") or his designee. The Parties shall enter into negotiations for a new lease upon the expiration of this Lease. The Lessee and Lessor agree to conduct good faith negotiations regarding the entering into of a new Lease prior to the expiration of this Lease.

3. RENT

Lessee, in consideration of the covenants contained, herein agrees to pay rent in the total amount of one dollar (\$1.00) for the full duration of this Twenty-Five (25) year Lease renewal.

4. PLACE OF PAYMENT

Rental shall be paid by Lessee to Lessor without demand by personal delivery at the address first stated above.

5. LESSEE IS JOINTLY AND SEVERALLY LIABLE

Each Lessee agrees that they shall be jointly and severally liable for rent and for performance of each and every term, condition and covenant herein contained. Each Lessee agrees that notice or demand provided to any one of them individually shall constitute and be deemed demand upon and notice to all Lessees as of the date of mailing, posting or personal delivery.

6. USE OF PREMISES

- A. The Leased premises shall be used solely for the use and occupancy by the Lessee named herein and more specifically to operate, maintain a fire substation and to provide fire protection services to the Lessor and its members and to Lessee's service area.
- B. Lessee shall not use the Leased premises in any manner which may vitiate the insurance or increase the rate of insurance on the Leased premises. Any other use of the Leased area by the Lessee or any other person or persons without the express written authorization of the Lessor shall be cause of immediate termination of this Lease, without recourse or right of appeal on the part of the Lessee.

7. RIGHT OF ENTRY FOR INSPECTION AND MAINTENANCE OF PREMISES

- A. Lessor and the Secretary reserves the right to enter the Leased premises at reasonable times to inspect them, to perform required maintenance and repairs, or to make additions or alterations that do not materially interfere with Lessee's enjoyment of the Leased premises. This provision shall not imply any duty on the part of the Lessor to make any such repairs or inspections.
- B. All parts of buildings and improvements shall be kept in a clean, sanitary, neat, and attractive condition and shall present a pleasant appearance.
- C. Lessee shall maintain, and repair all fences, driveways and other improvements which may be required at any time by law or Tribal ordinances to be constructed, maintained, and repaired upon or adjoining, or in connection with or for the use of said premises, or any part thereof. Lessee shall make any and all additions to or alterations in the buildings and structures erected on said premises which may be required by law and shall otherwise observe and comply with any and all public laws, ordinances, and regulations for the time being applicable to said premises. Lessee shall, at its sole expense, repair and replace all damage caused by Lessee or its agents, employees, invitees or licenses.

D. During the term of this Lease, Lessee shall, at its own expense, maintain in full force a policy or policies of commercial general liabilities and environmental liabilities, including property damage, that will insure Lessor and the United States, and its officers, employees and agents, against liability from injury to persons and property occurring in or about the Leased Premises. Lessor shall name Lessee and the United States as additional insureds on said policy or policies.

8. CONDITION OF PREMISES

Lessee, for and in consideration of this Lease and the current condition of said premises, hereby accepts said premises as is, and that no representation or warranty as to the condition of said premises has been made by Lessor, and, at the expiration of the term of this lease, Lessee will yield up peaceably said premises to Lessor in good order and condition (reasonable use and wear excepted).

9. IMPROVEMENTS, PLANS AND DESIGNS, OWNERSHIP

A. Ownership. All approved buildings or other improvements constructed on the premises shall be the leasehold property of the Lessee during the term of the lease. At the expiration or termination of this lease said improvements shall immediately vest in Lessor in an "as is" condition, and shall remain on said premises, and shall not be removed. The Lessor, may at its option, require the Lessee to remove all or any part of the improvements, and leave the premises in a clean and orderly condition, all at Lessee's expense, within sixty (60) days after the termination of this lease. The Lessor shall designate in writing to the Lessee within sixty (60) days prior to termination or expiration of this lease whether the improvements shall be removed.

B. Improvements. No new improvements; or removal, demolition, alteration, addition, or remodeling of existing improvement (collectively referred to as a "Project"), involving an expenditure in excess of twenty-five thousand dollars (\$25,000), shall take place without prior written approval of the Lessor, whose approval shall not be unreasonably withheld. Lessee shall obtain such approval by providing Lessor with its general requirements or plans for a Project. Such submission may be made by e-mail, USPS or hand delivered to Lessor. In the event that Lessor fails to approve or disapprove a Project within a 10-day period after submission, the Project shall be deemed approved.

10. COMMUNITY SERVICES

The Lessor shall not be responsible for providing any services to the Leased premises including, but not limited to, police protection, fire protection, street maintenance, etc. Lessor shall not be liable for any claim or liability arising from failure to provide these services or for providing inadequate services.

11. PARKING, GARBAGE, AND NUISANCES

A. All vehicles to be parked, kept and maintained by Lessee or Lessee's guests shall be parked or kept on the Leased premises only in those areas that are specifically designated for that purpose. Any vehicle not parked or kept properly in the designated areas shall be subject to impoundment, and Lessee shall be solely responsible for all attendant charges and fees. In no event, shall vehicles be kept on the Leased premises which are disabled or unsightly.

B. Disposal of garbage, rubbish or other waste materials on the Pueblo at places which have not been designated by the Lessee for that purpose is prohibited. Garbage shall be kept in animal and insect proof containers and screened from public view. Garbage shall be disposed of at the sole cost to the Lessee. Lessee shall not burn any trash or garbage at any time in or about the Leased premises.

C. Lessee covenants and agrees not to perform any acts or carry on any practices which may be a nuisance or disturbance of the peace.

12. FACILITIES AND UTILITIES

Lessee shall, at his own expense, install/procure a mobile water gauge for the recording of amounts of Pueblo water used in providing fire protection services. All services and utilities shall be paid for by Lessee and must be contracted or arranged directly between Lessee and the appropriate utility companies. Hookups for all utilities and services, including electricity, gas, water and sewer, as applicable, are the responsibility of Lessee, and all associated costs, including labor and materials, are the responsibility of Lessee.

13. LIENS, TAXES, AND ASSESSMENTS

A. Lessee shall not permit to be enforced against the leased premises or any part thereof, any liens arising from any work performed, materials furnished, or obligations incurred by Lessee, but Lessee shall discharge all such liens before any action is brought to enforce same.

B. Lessee shall pay before delinquent, all taxes, assessments, licenses, fees and other like charges levied during the term of this lease upon or against the leased land and all interests therein and property thereon for which either the Lessee or Lessor may become liable. Upon written application, the Lessee shall furnish the Lessor and the Secretary written evidence duly certified that any all taxes required to be paid by Lessee have been paid, satisfied, or otherwise discharged. Lessee shall have the right to contest any claim, asserted tax, or assessment against the property by posting bond to prevent enforcement of any lien resulting therefrom. Lessor shall execute and file any

appropriate documents with reference to real estate tax exemption of the land when requested by Lessee.

C. Lessor shall have the option to pay any lien or charge payable by Lessee under this Lease, or settle any action therefor if the Lessee, after written notice from the Lessor, fails to pay or to post bond against enforcement. All costs and other expenses incurred by the Lessor in so doing shall be paid to Lessor by Lessee upon demand, with interest at the rate of eighteen percent (18%) per annum from the date of payment until repaid. Default in such repayment shall constitute a breach of the covenants of this Lease.

14. FIRE AND DAMAGE INSURANCE

Lessee or sublessees shall and at all times during the term of this lease, carry fire insurance with extended coverage endorsements, and vandalism insurance, jointly in the names of Lessee and Lessor, covering the insurable value of all insurable permanent improvements on the leased premises, as their interests may appear. Said policy or policies or copies thereof shall be sent to the Lessor and the Secretary by the Lessee within thirty (30) days upon approval of this Lease. Lessee is solely responsible for payment of all premiums and other charges payable in respect to such insurance, and shall provide Lessor and the Secretary the receipt for such premiums or other charges paid, or satisfactory evidence thereof. In the event of damage to any improvements on the leased premises, the Lessee shall reconstruct the improvement(s) in compliance with applicable laws and building regulations and in accordance with the plans of the original building, unless otherwise approved by the Lessor and the Secretary. Reconstruction shall commence within sixty (60) days after receipt of insurance proceeds for said loss. Insurance proceeds shall be deposited in escrow with a financial institution approved by the Secretary and the Lessor. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvement(s), and funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates.

In the event of damage in excess of seventy-five percent (75%) of the total value of all improvement(s) on the leased premises during the last five (5) years of the Lessee's occupancy under this lease, the Lessee shall have the option whether or not to reconstruct said improvement(s). Should Lessee elect not to reconstruct, the leased premises shall be cleared at Lessee's expense. In that event, all insurance proceeds shall be paid to the Lessor.

15. PUBLIC LIABILITY INSURANCE

Upon approval of this lease and all times during the term of this lease, Lessee shall carry a public liability insurance policy for personal injury and property damage in the amounts of \$1,000,000 per occurrence and \$2,000,000 aggregate. Said policy to be written jointly to protect Lessor and Lessee. Evidence of such coverage shall be furnished to the Lessor and

the Secretary. Lessee shall notify the Lessor without delay of any occurrence which might precipitate the filing of a claim against the insured.

16. BONDING

A bond is not required under this lease in accordance with 25 C.F.R. §162.434(f)(1). This lease is for the purpose of providing fire protection services to the public. Alternatively, the Lessor waives the requirement for a performance bond pursuant to 25 C.F.R. §162.434(g).

17. ASSIGNMENT/SUBLETTING (prior written consent of Lessor required)

Subject to the conditions contained in this paragraph, Lessee shall not convey, assign, mortgage, or sublet the whole or any part of the Leased premises, nor Lease the use of the whole or any part of the Leased premises by any licensee, without the Secretary's approval and the written consent of the Lessor. This prohibition shall be construed to include a prohibition against any assignment or subletting by operation of law, assignment for the benefit of creditors, voluntary or involuntary bankruptcy or reorganization, or otherwise, without the prior written approval of the Secretary and consent of Lessor. Any such attempted assignment or subletting shall be null and void. In the event of a sublease, Lessee shall remain liable and responsible for the performance of all the terms, covenants and conditions of this Lease. The filing of voluntary or involuntary bankruptcy by Lessee shall constitute an automatic default entitling Lessor to invoke the default remedies set forth herein.

18. UNLAWFUL CONDUCT

Lessee agrees that it will not conduct any unlawful conduct nor create any nuisance, illegal activity, or negligent use or waste of the leased premises.

19. RELINQUISHMENT OF SUPERVISION BY THE SECRETARY OF THE INTERIOR

Nothing contained in this Lease shall operate to delay or prevent a termination of federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of this Lease; however, such termination shall not serve to abrogate this Lease. The owners of the land and the Lessee and his surety or sureties shall be notified of any such change in the status of the land. While the Leased premises are in trust or restricted status, all of the Lessee's obligations under this Lease, and the obligations of their sureties, are to the United States as well as to the Lessor.

20. SURRENDER OF PREMISES BY LESSEE

A. At the expiration or termination of this agreement for any reason, Lessee shall peaceably and without legal process yield up immediate possession of the Leased premises to Lessor in good condition usual wear and tear and Acts of God excepted. Should Lessee fail to do so, whether by lapse of time or in any other manner, Lessee shall pay as liquidated damages from the time which possession is withheld \$400 (Four Hundred Dollars) per day; or an amount equal to double the rental rate stipulated to in this agreement. These remedies shall not operate to deny Lessor any other remedy provided Lessor either in this agreement or by law for regaining the possession of the Premises from Lessee.

B. If Lessee fails to remove such property as required under this agreement, such property becomes the property of Lessor. Lessor may keep and use or dispose of the property in its sole discretion without any liability on the part of Lessor and may charge the cost of any such removal, storage or disposition to Lessee.

C. Lessee shall surrender the Leased premises in good condition, reasonable wear and tear excepted. Lessee will insure that the Leased premises shall be in an orderly and clean condition, free of rubbish or other debris. Lessee shall restore the Leased premises to the condition in which the premises were received by Lessee.

21. DELIVERY OF POSSESSION BY LESSOR

This agreement shall not be rendered void or voidable by the inability of Lessor to deliver possession of the Leased premises to Lessee at the beginning of the Lease term, nor shall any inability to deliver possession of the Leased premises render Lessor liable to Lessee for any damages or losses suffered by Lessee as a result.

22. SEVERABILITY

Waiver of one breach of a term, condition, or covenant of this agreement by Lessor shall be limited to the particular instance and shall not be deemed to waive past or future breaches of the same or other terms, conditions or covenants.

23. TERMINATION

A. Any party may cancel this agreement at any time, without cause, by three hundred and sixty (360) days prior written notice to the other party.

B. Lessor may terminate this agreement immediately in the event of default as provided within Sections 18 and 19.

C. The right to terminate this Lease in an event of breach shall not be construed as a waiver of the Lessee of any rights to secure compliance with the terms of this Lease.

24. HOLDOVER

Holding over by the Lessee after the termination of this Lease shall not constitute a renewal or extension hereof or give the Lessee any rights hereunder or in or to the Leased premises.

25. EVENT OF DEFAULT

The occurrence of any of the following shall constitute an event of default under this Lease.

- A. Failure of Lessee to pay rent when due or any other consideration herein required to be paid by Lessee, and the continuance of such failure for five (5) days after written notice from the Lessor;
- B. Abandonment or misuse of the Leased premises by Lessee; or
- C. Lessee's failure to perform any other covenant or condition of this agreement within fifteen (15) days after written notice and demand.

26. REMEDIES OF LESSOR FOR DEFAULT BY LESSEE

A. Upon the occurrence of an event of default, Lessor shall have the right, then or at any time thereafter, and while such event of default shall continue and, in addition to and not in lieu of any other remedies, relief or rights available to Lessor at law or equity or contained in this agreement, to do any of the following:

- 1) Lessor may cure the default and charge Lessee for the costs of such cure, which charge shall be due and payable as rental under this Lease immediately upon written notice to Lessee; or
- 2) Lessor may terminate this agreement and any tenancy created and re-enter the Leased premises, or any part thereof and repossess and enjoy the Leased premises as before this agreement, without prejudice to any remedies which might be otherwise used or the recovery of damages resulting from Lessee's default under this agreement. The right to terminate is exercisable by a written notice to Lessee, which written notice may be part of a notice of default previously delivered to Lessee, and as such, may be conditioned upon Lessee's failure to cure the default and the event of default. The termination may be made effective as of the event of default, or thereafter and, if not otherwise specified, will be deemed to be effective immediately. Upon such termination and forfeiture, Lessor shall be entitled to and may take immediate possession of the Leased premises, any other notice or demand being hereby waived. Lessee further agrees that Lessor may

expel, remove and haul Lessee's personal property from the Leased premises, using such force as may be reasonably necessary to do so and without being liable for the damages therefore in connection therewith. Lessor's termination of this agreement does not, however, release Lessee from liability for rentals then overdue or remaining under the Lease but shall operate to accelerate the entire balance of the term rental, which shall become immediately due and payable by Lessee along with all overdue rentals and charges.

B. Nothing contained in this Lease shall be construed as in any manner abridging, limiting, or depriving the United States or the Pueblo of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which they would otherwise have, including but not limited to, the remedies available within 25 CFR §162.619-623, and Tribal law, as amended from time to time.

27. RESERVATION LAWS AND ORDINANCES AND CONSENT TO JURISDICTION

Lessee, guests of Lessee, Lessee's employees and agents, and sub-Lessees and their employees and agents hereby agree to abide by all laws, regulations and ordinances of the Pueblo of Nambé, now or hereafter in force and effect. Lessee, its employees and agents and sub-Lessees and their employees and agents hereby consent to the jurisdiction of the Pueblo of Nambé and the Tribal Court of said Tribe.

Such jurisdiction shall include, but not be limited to, jurisdiction to levy fines and enter judgments for compensatory and punitive damages and injunctive relief, in connection with activities conducted by Lessee, sub-Lessees and agents on Pueblo lands or which have a proximate (legal) effect on persons or property on said Pueblo lands.

28. NON-LIABILITY OF LESSOR

Neither the Lessor nor the United States Government, nor its officers, agents, and employees shall be liable for any loss, damage, injury or death of any kind whatsoever to the person or property of the Lessee or of any other person whomsoever caused by the use of the Leased premises or by any defect in any structure erected thereon or arising from any accident, fire or from any other casualty on said premises or from any other cause whatsoever and Lessee as a material part of consideration for this agreement hereby waives on Lessor's behalf all claims against Lessor and/or the United States Government.

29. ANTIQUITIES

In accordance with the Laws of the Antiquity Act of 1906, as amended, it is understood and agreed by the parties hereto that any areas within the exterior boundaries of the leased

premises containing graves, ruins, or other antiquities, shall be undisturbed and plainly marked by Lessee and reported immediately to the Lessor and the Secretary for appropriate disposition and action.

This shall likewise apply to any discoveries made in excavation made during any additions or remodeling of the improvement(s) on the leased premises. Said area designated as antiquities shall be automatically withdrawn from the leased premises and the minimum rental attributable to the land, shall be abated in the ratio that the lands withdrawn bears to the total acreage in the leased premises.

30. LEASE BINDING

This Lease and the covenants, conditions, and restrictions hereof shall extend to and be binding upon the successors, heirs, assigns, executors, and administrators of the parties hereto.

31. NOTICE

All notices and demands shall be sent to the parties hereto at the addresses herein recited or to such address as the parties may hereafter designate in writing. Notice and demands shall be sent by registered mail, return receipt requested. Service of any notice or demand shall be deemed complete ten (10) days after mailing or the date actually received, whichever occurs first. Copies of all notices and demands shall be sent to the Secretary in care of the office of the Bureau of Indian Affairs, Northern Pueblos Agency.

32. NO WAIVER OF IMMUNITY

Nothing in this agreement shall be construed to affect or be deemed a waiver of immunity by the Pueblo of Nambé.

IN WITNESS WHEREOF, the parties executed this Lease Agreement on the Pueblo of Nambé the day and year first above written.

Lessor:
Pueblo of Nambé

By: _____
Phillip A. Perez, Governor
Pueblo of Nambé

Approved:

By: _____
Superintendent
Northern Pueblos Agency

Date: _____

Lessee:

Santa Fe County

By: _____
Henry P. Roybal, Chair

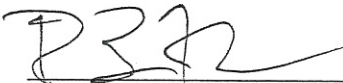
Date: _____

ATTEST:

Geraldine Salazar, Santa Fe County Clerk

Date: _____

APPROVED AS TO FORM:



Gregory S. Shaffer, Santa Fe County Attorney

Date: 2/8/2017

APPROVED:



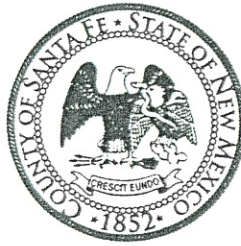
Don M. Moya, Santa Fe County Finance Director

Date: 2/14/17

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

DATE: *February 13, 2017*

TO: *Board of County Commissioners*

FROM: *Michael Kelley, Public Works Department Director*

VIA: *Katherine Miller, County Manager*

ITEM AND ISSUE: *BCC Meeting February 28, 2017*

Approval of Business Lease from the New Mexico State Land Office for 320 Acres of State Trust Land Adjacent to the Thornton Ranch Open Space (Public Works / Colleen Baker)

SUMMARY:

The purpose of the Business Lease from the New Mexico State Land Office for 320 acres of State Trust Lands adjacent to Santa Fe County's Thornton Ranch Open Space is to allow the County to continue to manage these lands as part of the open space.

BACKGROUND:

In 2000 Santa Fe County purchased 780 acres from Mr. Gene Thornton that included Petroglyph Hill under the Open Space and Trails Program. Under the purchase agreement, Mr. Thornton transferred the leasehold interest in 320 acres of adjacent State Trust Land to the County. The County has maintained the agricultural lease on the State Trust Land since acquiring the property and manages the lease as part of the Thornton Ranch Open Space.

Staff has been consulting with the SLO over the last several months concerning the development of the Master Plan for the Thornton Ranch Open Space. The SLO property is a significant inholding between the southern boundary of the County open space and the BNSF Railroad. The property is integral to the management of the cultural resources associated with Petroglyph Hill and development of recreational trails within the open space. Santa Fe County previously held an agricultural lease to the property with an annual lease payment of \$230.05. The State Land Office has determined that an agricultural lease is not the appropriate type of lease for open space and advised the County to submit an Application for a Business Lease for the 320 acres in order to construct the proposed trail network through the property and allow public access.

The Board of County Commissioners approved the Application for a Business Lease at the December 8, 2015 regular meeting. Staff submitted the application on January 6, 2016. The County received the Business Lease from the State Land Office on January 18, 2017. The Business Lease is for a 25 year term. The first year annual rental is \$10,000. The first year annual rental was

included in the FY17 General Fund Budget. The annual rental goes up 3% each year thereafter. At the December 8, 2015 meeting the Board expressed concern about the cost of a long-term lease for the land and asked staff to explore the possibility of purchasing the land from the State Land Office. Staff is currently investigating the options.

ACTION REQUESTED:

Approval of Business Lease with the New Mexico State Land Office for 320 acres of State Trust Land adjacent to Thornton Ranch Open Space.



**Aubrey Dunn, Commissioner of Public Lands
State of New Mexico**

BUSINESS LEASE

Lease No. BL-2351

THIS LEASE, dated January 9, 2017 is made and entered into by and between the Commissioner of Public Lands, hereinafter referred to as "Lessor", and Santa Fe County, whose address is 107 Grant Avenue, Santa Fe, NM 87501, hereinafter referred to as "Lessee".

Lessor and Lessee agree and covenant as follows:

1. **LEASE.** For and in consideration of and subject to the terms, conditions, covenants and reservations contained herein, Lessor leases to Lessee the following described tract of land, hereinafter referred to as the "leased premises":

A tract of land containing 320 acres, more or less, and allocated by forties as follows: N2NE4, NE4NW4, S2N2, NW4SW4, Section 32, Township14N, Range 09E, in Santa Fe County, New Mexico (320 acres).

The rights granted herein are subject to all valid existing rights in the leased premises.

2. **WATER RIGHTS.** No water rights shall be used, placed or developed on the leased premises without the express, written consent of Lessor. All water appropriated shall be pursuant to state law and regulations. Any water rights used, placed or developed on the Lease Premises are herein and hereby deemed to belong to the Lessor, and all such rights shall be developed in the name of the Lessor.

3. **RESERVATIONS.** Lessor reserves the right to execute leases for the exploration, development and production of geothermal resources, oil and gas, sand, gravel, coal, shale, clay, rock, building stone or materials, potassium, sodium, phosphorus, salt or any other minerals or deposits of whatsoever kind located in, under or upon the leased premises and all rights of access, ingress and egress through or across the leased premises that are necessary or convenient to such exploration, development or production. Lessor further reserves the right to grant rights-of-way and easements over, upon, or across the leased premises for public highways, railroads, tramways, telephone, telegraph and power lines, irrigation works, sewer lines, drainage ditches, mining, logging, and for other purposes.

4. **TERM.** The term of this lease shall begin on the date of this lease and end at midnight on **January 8, 2041** unless terminated or canceled earlier as herein provided. Nothing contained herein shall limit the right of Lessor to sell or exchange the leased premises during the lease term.

5. **RENT.** Lessee shall pay to Lessor as rent for the leased premises and for the rights and privileges granted hereunder annual base rental as designated in **Exhibit "A" attached hereto**, due and payable in advance on or before the **9th day of January** each year during the term of this lease. Time is of the essence in the performance of this agreement. Interest on delinquent rent payments shall accrue from the date the payment becomes due at the rate of one percent a month or any fraction of a month. Lessee shall also pay a late processing fee of **\$50.00** for any delinquent payment of rent, in accordance with the Lessor's schedule of fees.

6. **PERMITTED USE.** Lessee shall use the leased premises for the sole and exclusive purpose of: **Open space for recreational trails.** No other uses shall be permitted.

7. **IMPROVEMENTS.** Lessee may place the following improvements on the leased premises:

No Improvements were identified

No other improvements shall be placed on the leased premises without the prior amendment of this lease pursuant to Paragraph 20 hereof to permit such improvement placement. Lessee shall maintain and protect from waste and trespass all improvements placed on the leased premises. In the event improvements other than those authorized herein are placed on the leased premises, Lessor may either declare title to such improvements in Lessor without payment of compensation to Lessee or Lessor may order the removal of such improvements and the restoration of the leased premises to their condition existing prior to the placement of said improvements at Lessee's expense. The foregoing rights of Lessor shall be cumulative to Lessor's right to cancel this lease as herein provided.

8. **LIEN.** To secure the payment of any rent amount that becomes due, and to satisfy all reasonable costs incurred by Lessor in recovering said rent amount, Lessor shall have a first and prior lien on any and all improvements, fixtures and equipment placed on the leased premises.

9. **IMPROVEMENT REMOVAL AND RECLAMATION.** Before relinquishment or termination of this lease without re-lease to Lessee, or upon Lessor's cancellation of this lease as provided herein, Lessee shall remove all improvements placed on the leased premises and shall restore the leased premises to their condition existing prior to the placement of said improvements; provided, however, if any rent amount is due and unpaid at the time of lease cancellation or termination, Lessee shall remove improvements and restore the leased premises as herein provided only at such

time, in such manner and under such conditions as Lessor may in writing demand. Lessee hereby waives, and shall not assert, any right to compensation for improvements on the leased premises under Section 19-7-14, NMSA 1978. This paragraph shall survive termination of this lease.

10. **RELINQUISHMENT.** Lessee, if not in default under this lease, may at any time apply to relinquish the lease to Lessor and be relieved of further obligations under the lease, provided, however, such relinquishment shall not be valid or effective until approved in writing by Lessor. Lessee must file an application to relinquish the Lease at least 30 days prior to the date on which the Lessee requests the relinquishment to go into effect. Lessor may condition relinquishment on any terms he deems reasonable. Relinquishment shall be made on a form prescribed by Lessor and shall be accompanied by the required relinquishment fee as set forth in Lessor's schedule of fees. Upon relinquishment Lessee shall not be entitled to the refund of any rent previously paid.

11. **ASSIGNMENT.** Lessee shall not assign this lease, any part thereof, or assign any improvements located on the leased premises without the prior amendment of this lease pursuant to Paragraph 20 hereof to permit such assignment. Any lease assignment without lease amendment shall be null and void. Lessor may condition such lease amendment upon an increase in the rent amount and the modification or addition of other lease provisions.

12. **SUBLEASE.** Lessee shall not sublease the rights granted hereunder, any part thereof, any portion of the leased premises or any improvements located on the leased premises without the prior amendment of this lease pursuant to Paragraph 20 hereof to permit such sublease. Any sublease without lease amendment shall be null and void. Lessor may condition such lease amendment upon an increase in the rent amount and the modification or addition of other lease provisions.

13. **COLLATERAL ASSIGNMENT.** Lessee shall obtain approval of Lessor in accordance with State Land Office Rule 19.2.9.15 NMAC before making any collateral assignment or mortgage of its interest in this Lease or its improvements, and any such collateral assignment or mortgage shall be subject to the conditions, limitations and requirements set forth in the State Land Office rules. Lessor's approval of a collateral assignment or mortgage shall not release Lessee from any of its obligations under this Lease, except as agreed to in writing by Lessor. If Lessor gives Lessee a notice of default, Lessor shall simultaneously provide a copy of the notice to an approved collateral assignee or mortgagee, which shall have the right to cure the default within the time provided, subject to the requirements of State Land Office rules. An approved collateral assignee or mortgagee may succeed to the rights and duties of Lessee, and it may assign the lease in accordance with Paragraph 11, above, and State Land Office rules governing assignments.

14. **DEFAULT AND CANCELLATION.** Upon Lessee's violation of any of the terms, conditions or covenants contained herein, including the failure to pay the rent when due, Lessor may cancel this lease after providing Lessee thirty (30) days notice of

the default by registered mail. The mailing of such notice as herein provided shall constitute notice of Lessor's intention to cancel the lease and no proof of receipt of such notice shall be necessary in order for Lessor to enter lease cancellation thirty days after the mailing of the notice if Lessee has not cured the default to Lessor's satisfaction within said thirty day period. Lessee agrees that if a court of competent jurisdiction determines that Lessee has breached any of the terms, conditions or covenants of this lease, Lessee shall pay the costs incurred by Lessor in litigating the default, including reasonable attorney fees. In the event of a breach of the terms of this Lease by the Lessee, the Lessor also shall have all remedies available at law or equity.

15. **WAIVER.** No employee or agent of Lessor has the power, right or authority to orally waive any of the terms, conditions, or covenants hereof and no waiver by Lessor of any of the terms, conditions or covenants hereof shall be effective unless in writing and executed by Lessor. Lessor's waiver of Lessee's breach or default of any of the terms, conditions or covenants hereof shall not constitute or be construed as a waiver of any other or subsequent breach or default by Lessee. The failure of Lessor to enforce at any time any of the terms, conditions or covenants hereof or to exercise any option herein provided, or to require at any time performance by Lessee of any of the terms, conditions, or covenants hereof shall not constitute or be construed to be a waiver of such terms, conditions, or covenants, nor shall it affect the validity of this lease or any part thereof, or Lessor's right to thereafter enforce each and every such term, condition and covenant.

16. **COMPLIANCE WITH LAWS.** Lessee shall fully comply with all federal and state laws, regulations, rules, ordinances and requirements, applicable to the leased premises or to Lessee's operations thereon, including but not limited to all applicable laws governing water; endangered or threatened species; hazardous materials; environmental protection; land use; health and safety; cultural, historic or archeological / paleontological properties; waste; trespass; and all New Mexico State Land Office Rules and Regulations, including those that may be hereafter promulgated. Lessee's obligations under this paragraph include but are not limited to compliance with NMSA 1978 Section 19-6-5, requiring a lessee of State Trust Land to protect the leased premises from waste or trespass. Lessee's compliance with all laws, regulations and policy shall be at its own expense.

17. **WAIVER, RELEASE AND PROTECTION OF THE LEASED PREMISES.** Lessee is leasing the leased premises based on Lessee's own inspection and investigation of and judgment regarding the leased premises. Lessor makes no warranties or representations of any kind or nature with regard to the leased premises or with regard to this transaction.

If accidental discharge, release, spill, or fire or any other event having environmental consequence occurs, Lessee agrees to provide notice to Lessor at the same time and in the same manner as Lessee is required to provide to the federal, state or local agency having responsibility for enforcing compliance with environmental laws, regulations and policy. Lessee agrees that, upon request by Lessor, Lessor shall have

access to all reports, documents, test data and all other materials provided by Lessee to or received by Lessee from a governmental agency having responsibility for enforcing compliance with environmental or other laws.

18. INDEMNIFICATION; INSURANCE.

The parties shall not be jointly liable. Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred by either party in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, §41-4-1, et seq., NMSA 1978, as amended.

19. SCOPE OF AGREEMENT. This lease incorporates all the agreements, covenants and understandings between Lessor and Lessee concerning the subject matter hereof and all such agreements, covenants and understandings are merged into this written lease. No prior agreement or understanding between Lessor and Lessee shall be valid or enforceable unless expressly embodied in this lease.

20. AMENDMENT. This lease shall not be altered, changed or amended except by an instrument executed by both Lessor and Lessee.

21. APPLICABLE LAW. This lease shall be governed by the laws of the State of New Mexico.

22. EXHAUSTION OF ADMINISTRATIVE REMEDIES. In the event that Lessee is aggrieved by a decision of Lessor to cancel this Lease, Lessee shall within thirty (30) days after the date of such decision file an administrative contest pursuant to NMSA 1978, § 19-7-64 and State Land Office Rule 15 (19.2.15 NMAC). Lessee shall initiate no court action regarding this Lease except to appeal a final decision of the Commissioner of Public Lands rendered pursuant to such a contest proceeding, and as provided by NMSA 1978, § 19-7-64.

23. SUCCESSORS IN INTEREST; THIRD PARTIES. All terms, conditions and covenants of this lease and all amendments thereto shall extend to and bind the heirs, successors and assigns of Lessee and Lessor. There are no third party beneficiaries of this Lease.

24. RE-LEASE. At the expiration of the term of this lease, Lessee may re-lease the leased premises provided Lessor has determined to offer the leased premises for the same uses as permitted herein, Lessee is not in default under this lease, Lessee agrees to the terms offered by Lessor, and Lessee has bettered any offer to lease the leased premises made by a third party.

25. HOLDING OVER. If Lessee enters upon the leased premises after the termination or cancellation of this lease for any purpose, or leaves any equipment, buildings, materials, property or debris on the leased premises after the termination or cancellation of this lease, the rent due Lessor for such entry or presence shall be \$111.38

for each day or any part of a day. Nothing contained herein shall be construed as the grant to Lessee of the right to enter the leased premises for any purpose after the termination or cancellation of this lease without the prior written consent of Lessor.

26. LEASE ENTERED INTO UNDER STATE LAND OFFICE RULE 9.

This Lease is entered into pursuant to New Mexico State Land Office Rule 9, "Business Leasing" (19.2.9 NMAC), and the provisions of that rule control the interpretation and application of the terms of this Lease, except that in the event of a conflict between a provision of this Lease and a provision of Rule 9, the Lease provision controls.

Executed in duplicate.

LESSEE:

SANTA FE COUNTY

By: _____

Name: Henry P. Roybal

Title: Chair, Board of County Commissioners
of Santa Fe County

LESSOR:

NEW MEXICO COMMISSIONER OF
PUBLIC LANDS

By: _____

AUBREY DUNN

ATTESTATION

Geraldine Salazar
Santa Fe County Clerk

Date

Approved as to form
Santa Fe County Attorney
By: [Signature]
Date: 2-7-14

Reviewed and Approved
for SIGNATURE
Don Moya [Signature] Date 2/7/17
SFC Finance

ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY

State of _____
County of _____

This instrument was acknowledged before on _____ (date) by
_____ (name).

(seal)

(Signature of notarial officer)

My commission expires: _____

ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY

State of _____
County of _____

This instrument was acknowledged before on _____ (date) by
_____ (name) as _____ (title) of
_____ (name of party on behalf of whom instrument is
executed).

(seal)

(Signature of notarial officer)

My commission expires: _____

EXHIBIT "A"

Rent Schedule for the Term of Base Lease

**BL-2351
Santa Fe County**

BASE LEASE TERM: January 9, 2017 – January 8, 2041

All rent is due and payable in advance on or before the 9th day of January

1 st year	1-9-2017 – 1-8-2018	\$10,000.00
2 nd year	1-9-2018 – 1-8-2019	\$10,300.00
3 rd year	1-9-2019 – 1-8-2020	\$10,609.00
4 th year	1-9-2020 – 1-8-2021	\$10,927.00
5 th year	1-9-2021 – 1-8-2022	\$11,255.00
6 th year	1-9-2022 – 1-8-2023	\$11,593.00
7 th year	1-9-2023 – 1-8-2024	\$11,941.00
8 th year	1-9-2024 – 1-8-2025	\$12,299.00
9 th year	1-9-2025 – 1-8-2026	\$12,668.00
10 th year	1-9-2026 – 1-8-2027	\$13,048.00
11 th year	1-9-2027 – 1-8-2028	\$13,439.00
12 th year	1-9-2028 – 1-8-2029	\$13,842.00
13 th year	1-9-2029 – 1-8-2030	\$14,258.00
14 th year	1-9-2030 – 1-8-2031	\$14,685.00
15 th year	1-9-2031 – 1-8-2032	\$15,126.00
16 th year	1-9-2032 – 1-8-2033	\$15,580.00
17 th year	1-9-2033 – 1-8-2034	\$16,047.00
18 th year	1-9-2034 – 1-8-2035	\$16,528.00
19 th year	1-9-2035 – 1-8-2036	\$17,024.00
20 th year	1-9-2036 – 1-8-2037	\$17,535.00
21 st year	1-9-2037 – 1-8-2038	\$18,061.00
22 nd year	1-9-2038 – 1-8-2039	\$18,603.00
23 rd year	1-9-2039 – 1-8-2040	\$19,161.00
24 th year	1-9-2040 – 1-8-2041	\$19,736.00
25 th year	1-9-2041 – 1-8-2042	\$20,328.00

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

December 8, 2015

Robert A. Anaya, Chair - District 3
Miguel Chavez, Vice Chair - District 2
Henry Roybal - District 1
Kathy Holian - District 4
Liz Stefanics - District 5

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

December 8, 2015

I. A. This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:14 p.m. by Chair Robert A. Anaya in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

B. Roll Call

Roll was called by County Clerk Geraldine Salazar and indicated the presence of a quorum as follows:

Members Present:

Commissioner Robert A. Anaya, Chair
Commissioner Miguel Chavez
Commissioner Kathy Holian
Commissioner Henry Roybal
Commissioner Liz Stefanics

Members Excused:

None

- I. C. Pledge of Allegiance
D. State Pledge
E. Moment of Reflection

The Pledge of Allegiance was led by Gabriella Trujillo, the State Pledge by Jeanette Duran and the Moment of Reflection by Deborah Leyba-Dominguez of the Public Works Department.

There was a moment of silence to remember the victims and their families in Colorado Springs and San Bernardino.

- F. Approval of Agenda
1. Amendments
2. Tabled or Withdrawn Items

KATHERINE MILLER (County Manager): Mr. Chair, we have a few items that have been amended into the agenda since last Tuesday when the agenda was

SFC CLERK RECORDED 01/14/2016

waiver from Section 1 of Ordinance No. 2012-5 to purchase fourteen police interceptors in the sum of \$337,932, utilizing the State of New Mexico purchasing agreement and authorizing the County Manager to sign and execute the purchase order. So really again, just to highlight, this is I think an accomplishment again for public safety and to be able to replace these vehicles in a timely fashion so that they will also have the tools to do the job that they need to do and do it safely and effectively and so I just again wanted to highlight, and having said that, Mr. Chair, I would move for approval on this request.

CHAIR ANAYA: There's a motion to approve on the – do you want to go ahead and just move the whole Consent, Commissioner?

COMMISSIONER CHAVEZ: Sure. I'll make a motion that would include the entire Consent Agenda.

COMMISSIONER HOLIAN: I'll second.

COMMISSIONER STEFANICS: Second.

CHAIR ANAYA: There's a motion and a second, Commissioner Stefanics, second from Commissioner Holian as well. Is there any further comments or discussion on the Consent? Seeing none.

The motion passed by unanimous [5-0] voice vote.

[Clerk Salazar provided the numbers for the resolutions and ordinances throughout the meeting.]

III. ACTION ITEMS

B. Miscellaneous

1. **Approval of Application for Business Lease to the New Mexico State Land Office for 320 Acres of State Trust Land Adjacent to the Thornton Ranch Open Space**

COLLEEN BAKER (Projects Division): Mr. Chair, Commissioners, the item before you is an application to the State Land Office for 320 acres for a business lease on 320 acres of state trust land adjacent to the Thornton Ranch open space. The County has maintained a grazing lease on this property since we acquired the property in 2001. However, as we've been moving through the master plan for the Thornton Ranch open space the State Land Office has determined that the grazing lease does not allow public access. And so to move forward with incorporating this 320 acres as part of the management of the open space they've advised us to apply for a business lease.

This 320 acres is situated just north of the Burlington Northern railway and it's surrounded by open space and Bureau of Land Management land, and it affords more opportunities to be able to move trails through the open space, so it is integral to the management of the property, being able to provide public access for that property. This is just the application, so once we've submitted the application the State Land Office will conduct an appraisal of the property, tell us what the value is for the lease. Then they will prepare a lease document and we will bring that back before you for approval of the lease

itself. So with that I'll stand for any questions.

COMMISSIONER CHAVEZ: Questions of staff? Commissioner Stefanics.

COMMISSIONER STEFANICS: Okay. Thank you, Mr. Chair. Colleen, thanks for your work on this but let's talk about how this relates to the use of Petroglyph Hill.

MS. BAKER: So Chairman, Commissioners, the overall property that we own is approximately 1,900 acres and part of what we need to do is manage the cultural resources so that they're protected and that we're addressing tribal concerns. So what this does is allow us to move the trails that get used without guidance away from Petroglyph Hill to allay some of those concerns that the tribal representatives have. So it supports us in protecting that resource.

As far as tours to Petroglyph Hill, it's not directly related, but it does help us move the unmanaged access or the open access away from the resource so it's more protected.

COMMISSIONER STEFANICS: So Mr. Chair and Colleen, you're estimating that the annual rental is \$10,000.

MS. BAKER: That's the estimate that the State Land Office gave me for budgeting purposes without having conducted the appraisal, so right now that's a placeholder, I'm hoping a fairly conservative estimate.

COMMISSIONER STEFANICS: So is this land available for sale from the State Land Office?

MS. BAKER: That's a very involved question. The State Land Office can sell land. In the past their policy has been not to unless they could realize more than the value of the land, because their mission is to earn revenue for the schools they prefer to maintain their resource holdings. There are possibilities that we could look at a trade if we were to purchase property that the State Land Office could realize revenues off of in a more efficient way they might consider a trade. So in the long term we're certainly looking at those strategies, either to be able to purchase it to be able to get out of an operating expense like this, or to work with BLM even on a trade with State Land Office. So there are some long-term strategies but in the immediate term --

COMMISSIONER STEFANICS: But Mr. Chair, I don't have a problem with the application. What I might have a problem with is a long-term, forever high payment for a piece of land that we could potentially trade or own. So I would want us to keep that in mind as we go forward. Thank you very much. But I would move for approval of the application.

COMMISSIONER HOLIAN: And I'll second that.

COMMISSIONER CHAVEZ: There's a motion and a second. Any discussion? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Actually, my questions and comments were very similar to what Commissioner Stefanics brought up and I really would like to investigate if there is a way that we could obtain ownership of that land and have it in perpetuity because I do worry about having a long-term lease on

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land that we have put improvements on. Thank you, Mr. Chair.

COMMISSIONER CHAVEZ: And I would support that concept as well and I want to deviate just a bit because I know that we have some sensitive features in the area that connect to our pueblo history and our past, and former Governor Dorame is here in attendance this afternoon and Governor, would you like to come forward at this time and speak on this issue? I want to give you the opportunity.

CHARLES DORAME: Thank you, Mr. Chair and members of the Commission. I wasn't here prepared to make any statements but because of my vast knowledge of the area and the number of years that I've been a resident of our community, I must say that the concern there is the protection of the petroglyphs. It's very important to preserve history and in the past we've had too much vandalism and theft in these areas once they've been identified. I would like to see more resources to protect the area and not leave it open to where there's no guidance or any other form of resource available to the people that actually go out there and see it so they learn about the history and what it means to the majority of the people here in the county. Thank you.

COMMISSIONER CHAVEZ: Thank you, Governor, and maybe Colleen can speak to that a little bit as we move forward with our management plan and oversight of this, and especially if the intent is to purchase the property and have it under ownership of the County then I think it's even more critical that we have some policy and safeguards in place for special areas like this. Have you put any thought into that?

MS. BAKER: Mr. Chair, Commissioners, we are actively engaged right now in a tribal consultation process and we hope to be able to start bringing forward an option for tribal review. That's really what we've been hearing back from the tribes is to propose something and let us review it and tell you ways to refine that so that it's protecting the resource better. So we are working very diligently right now to recognize how significant this is to many of the tribes in the area, respect that resource and also fulfill our mandate to the public to provide access. It's a tricky balance but we are working through and the tribal representative has been very helpful, very engaged in working us through this process and helped to honor that as we come forward.

COMMISSIONER CHAVEZ: Okay. So maybe just to highlight that and I guess just keep the line of communication as strong as possible and I think that hopefully will lead us in the right direction. Thank you. So there's a motion and a second, Mr. Chair, on this item, this approval for a business lease for the State Land Office. There's a motion and a second. Did you have any comments? Okay. So there's a motion and a second.

The motion passed by unanimous [5-0] voice vote.

- III. B. 2. Amendment No. 2 to a Memorandum of Understanding
Between the New Mexico Department of Transportation and
Santa Fe County for the Northeast Connector from Saint
Francis Drive to Richards Avenue**

