



To: Santa Fe County Board of County Commissioners
From: Bernadette Salazar, Human Resources Director 
Date: December 1, 2011
Re: Request Approval of Amendment No.1 to the Collective Bargaining Agreement
Between Santa Fe County and the American Federation of State, County and Municipal
Employees New Mexico Council 18, Local #1782

BACKGROUND AND SUMMARY

The current Collective Bargaining Agreement between the County of Santa Fe and AFSCME allowed for Article 29, Classification and Pay Plan, Section 2, Wages to be re-opened. The Santa Fe County Management Team and the AFSCME Union Local 1782 have been negotiating this section of the article beginning October 2011. The parties recognize the financial situation of the County and worked diligently to come to a mutual agreement in the best interest of the County and our employees. The parties have mutually agreed upon Article 29, Classification and Pay Plan, Section 2, Wages and it has been ratified by the membership of the Union.

ACTION REQUESTED

We request approval of amendment no. 1 to the Collective Bargaining Agreement between Santa Fe County and the American Federation of State, County and Municipal Employees New Mexico Council 18, Local #1782.

Thank you for your consideration.

Attachment:

- 1) *Current language of the Collective Bargaining Agreement, Article 29, Classification and Pay Plan, Section 2. Wages.*
- 2) *Amendment No.1 to the Collective Bargaining Agreement Between Santa Fe County and American Federation of State, County, and Municipal Employees New Mexico Council 18, Local #1782.*

ARTICLE 29. CLASSIFICATION AND PAY PLAN

Section 1. Purpose

- A. The Human Resources Classification and Compensation Pay Plan is intended to be employee-based as well as provide for equitable employee compensation and career growth. The plan shall also establish competitive salaries to allow the County to recruit and retain qualified employees. The expressed objectives for the Classification and Pay Plan for the County of Santa Fe are:
1. To assign appropriate range assignments based internal equity;
 2. To establish entry pay rates that respond to the need to be competitive; and
 3. To establish the minimum and maximum compensation values for each job
- B. The Classification and Pay Plan shall define pay ranges that allow consistent salary growth for each job classification. The pay ranges are hereby incorporated as set forth in full in the Santa Fe Classification and Compensation Plan.

Section 2. Wages

Beginning in January 2011, the County and the Union will come back to the negotiating table on a semi-annual basis to discuss the budget of Santa Fe County for the purposes of negotiating possible cost of living adjustments.

Section 3. Salary Survey

- A. In order to verify the adequacy of the County pay levels with respect to general employment and economic conditions, the Employer shall participate in, not less than once every two years, a salary survey among comparable regional governmental entities per comparable data obtained in this survey shall include salary ranges (minimum and maximum pay rates) for all bargaining unit classifications within the Classification and Pay Plan.
- B. The employer shall forward a copy of the salary survey to the Union and at the Union's request the parties shall meet to discuss the results of the survey.

Section 4. Right to Job Description

The employer shall provide a written job description to the employee immediately upon hire and upon an employee's request. The Human Resources Department shall provide the Union with a copy of each job description and update when necessary.

Section 5. Temporary Upgrades

- A. Employees shall not be required to perform duties of higher classification as a regular assignment. However, when a bargaining unit employee is assigned to temporarily work in a higher classification, the Employer shall select a bargaining unit employee based on current performance and class seniority.

**AMENDMENT NO. 1
TO
COLLECTIVE BARGAINING AGREEMENT
BETWEEN SANTA FE COUNTY AND
AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL EMPLOYEES
NEW MEXICO COUNCIL 18, LOCAL #1782**

THIS AMENDMENT is made and entered into as of this ____ day of _____, 2011, by and between **Santa Fe County**, a political subdivision of the State of New Mexico (hereinafter referred to as "the County") and the American Federation of State, County and Municipal Employees New Mexico Council 18, Local #1782 (hereinafter referred to as "AFSCME").

WHEREAS, the County and AFSCME entered into the Collective Bargaining Agreement on June 28, 2011;

WHEREAS, Article 29, Classification and Pay Plan, Section 2. Wages, of the Collective Bargaining Agreement states that the County and the Union may negotiate cost of living adjustments;

WHEREAS, the County and AFSCME Union Local #1782 have been negotiating Section 2 since October 2011 and have come to mutual agreement;

WHEREAS, Article 22. Complete Agreement, Section 1. General, of the Collective Bargaining Agreement allows the parties to amend the Agreement to provide for additional negotiations upon mutual agreement of the parties.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Article 29, Section 2. Wages, is deleted in its entirety and replaced with the following:

Section 2. Wages

Upon ratification and approval by the Board of County Commissioners, Union employees shall receive a \$300.00 temporary salary adjustment as a retention incentive. The temporary pay increase shall be paid over two pay periods. The temporary pay increase will be in two pay periods in January 2012. The next wage re-opener will begin on February 13, 2012. Union employees shall also receive one additional (1) personal holiday to be used January 1, 2012-December 31, 2012.

2. All other provisions of the Collective Bargaining Agreement not specifically deleted, replaced and amended as stated in this Amendment No.1 remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SANTA FE COUNTY

Virginia Vigil, Chair
Santa Fe Board of County Commissioners

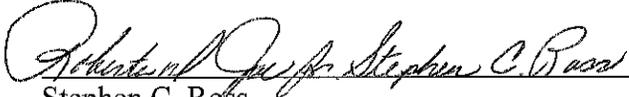
Date

ATTEST:

Valerie Espinoza, Santa Fe County Clerk

Date

APPROVED AS TO FORM:



Stephen C. Ross
Santa Fe County Attorney



Date

AFSCME – NM Council 18, Local #1782

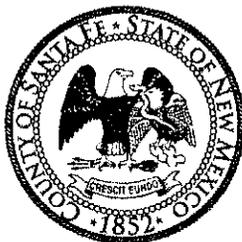
David Lucero
AFSCME Local 1782 President

Date

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathleen Holian
Commissioner, District 4

Elizabeth Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: December 13, 2011

To: Santa Fe County Board of County Commissioners

From: Colleen Baker, Open Space and Trails Program Manager, PW 

CC: Mark Hogan, Director, Projects and Facilities Division 

Re: Request Approval of a Purchase Agreement with the Edwin and Francesca Lemus to Purchase Approximately 0.483 Acres on the Santa Fe River for the Purpose of Creating a Public Greenway and Trail. (Public Works Department)

Background:

Since 1998 Santa Fe County Open Space and Trails Program has been working to acquire the land along the Santa Fe River to achieve the long term goal of creating a public greenway and trail system along the river. Edwin and Francesca Lemus own approximately 0.483 acres along the river at Vereda San Antonio. The property is within the Traditional Village of Agua Fria and is a critical link in connecting the greenway and trail between the County's property at Siler Rd. and San Isidro Park.

The property was appraised by Olcott Appraisal, Inc. in June 2011 at \$40,000. Edwin and Francesca Lemus are willing to sell the property to the County. Funding for the acquisition of this property will come from the general Obligation bond for the Santa Fe River Greenway Project.

Action Requested:

Staff recommends approval of a purchase agreement with Edwin and Francesca Lemus to purchase approximately 0.483 acres on the Santa Fe River for the purpose of creating a public greenway and trail, and to further the County's long term efforts to restore the Santa Fe River.

**AGREEMENT FOR PURCHASE AND SALE
AND ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE AND ESCROW INSTRUCTIONS (the "Agreement"), dated this ___ day of _____, 2011, is made and entered into by and between, Edwin A. Lemus and Francesca Forese-Lemus, whose address is 1994 Vereda San Antonio, Santa Fe, NM, (hereinafter the "Seller") and the Board of County Commissioners ("BCC") of Santa Fe County, New Mexico, a political subdivision of the State of New Mexico (collectively and hereinafter the "Buyer").

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions hereinafter set forth, Buyer and Seller now and shall agree as follows:

1. **DEFINITIONS.** As used in this Agreement and any exhibits annexed hereto, unless the context otherwise requires or is otherwise herein expressly provided, the following terms shall have the following meanings.

1.1. Cash: Cash shall mean legal tender of the United States, or a cashier's check or wire transfer of current funds into a bank account designated by Seller.

1.2. Closing Date: Unless otherwise extended by written agreement of the parties, the Closing Date shall be no more than thirty (30) days following the completion of the Inspection Period and provided all other conditions precedent set forth in this Agreement have been fulfilled by Seller.

1.3. Day. The term "day" as used herein means a calendar day and the term "business day" means any day other than a Saturday, Sunday or legal holiday under the laws of the State of New Mexico.

1.4. Deed. A Warranty Deed with the Property description.

1.5. Effective Date: The date that this Agreement is signed by the last of Seller or Buyer.

1.6. Escrow Agent: Southwestern Title and Escrow, 236 Montezuma Avenue, Santa Fe, 87501.

1.7. Hazardous Materials: Hazardous Materials are defined in Paragraph 6.1.7.

1.8. Inspection Period: The period commencing on the Effective Date and terminating on the sixtieth (60th) day after the Effective Date, during which time Buyer may conduct the Review described in Section 4, below, subject to Buyer's right to extend the Inspection Period by thirty (30) days as provided herein.

1.9. Materials: All documents and reports concerning the Property shall to be provided by Seller to Buyer as provided in Paragraph 4.1.

1.10 Property: Tract A-2, is described as all that portion of land being situate within a portion of Tract A, as recorded in plat book 294 , page 15, and lying within section 32, T. 17N., R.9E., N.M.P.M. Santa Fe County, New Mexico; and Tract A-2 being more particularly described as follows: Beginning at the Northeast corner of Tract A-2, common with and being the Northeast corner of Tract A, which bears S18°01'33" E 564.58 feet from a #5 rebar, said Northeast corner also bears N73°20'49" E, 0.55' from a #4 rebar used as a witness corner; thence from the Northeast corner of herein described tract, S 18° 01'33"E, 253.67 feet; thence S73°10'06"W, 85.46 feet; thence N16°49'57"W, 253.87 feet, to the Northwest corner which is referenced by a #4 rebar with cap L.S.5300, which bears N16°49'57"W 1.11 feet; thence N73°20'49"E, 80.18 feet; more or less to the point of beginning, containing 0.482 acres more or less, as set forth in the Survey Plat that shall be recorded in accordance with the terms of this Agreement, with all of Seller's right, title and interest in and to all easements, tenements, hereditaments, privileges and appurtenances in any way belonging to such land, including, without limitation, any land to the midpoint of the bed of any road, street, highway, alley, or right-of-way in front of, abutting or adjoining such land, any and all infrastructure, structures and other improvements located upon or affixed thereto. The legal description of the Property is attached hereto as Exhibit "A".

1.11 Purchase Price: The amount set forth in Section 2.2 of this Agreement.

1.12 Review: Buyer's inspection of the Property including the review of studies, investigations, reports, lot configuration and all other evaluative investigations or studies deemed advisable by Buyer and to be conducted by Buyer during the Inspection Period.

1.13: Seller: Seller's Address

Mr. Edwin Lemus and Mrs. Francesca Forse-Lemus
1994 Vereda San Antonio
Santa Fe, New Mexico 87501

1.14: Buyer: The Board of County Commissioners of Santa Fe County

Notice shall be sent to the following individuals.

Colleen Baker,
Open Space and Trails Program Manager
P.O. Box 276
Santa Fe, NM 87504

And

Stephen Ross, County Attorney
102 Grant Ave.
P. O. Box 276
Santa Fe, NM 87504-0276

1.15: Title Policy: An Owner's Policy of Title Insurance with endorsements and exceptions acceptable to Buyer.

2. PURCHASE AND SALE OF THE PROPERTY.

2.1 Purchase and Sale. Seller agrees to sell, convey, assign, transfer and deliver to Buyer free and clear of all claims, encumbrances, leases, debts, liabilities, obligations and the like, and Buyer agrees to purchase from Seller the Property, for the price and upon all the terms and conditions set forth in this Agreement.

2.2 Purchase Price. The Purchase Price is forty thousand dollars (\$40,000), less any proration or closing costs.

3. TITLE AND SURVEY.

3.1. Procedure for Approval of Title. Within ten (10) business days after the Effective Date of this Agreement, Seller shall deliver to Buyer a commitment for an Owner's Title Insurance Policy showing title to the Property in Seller and proposing to insure the Buyer in the amount of the Purchase Price and issued by the Escrow Agent along with legible copies of all underlying documents referred to therein. The commitment and all matters affecting title to, or use of, the Property shall be subject to Buyer's approval or disapproval in writing on or before the conclusion of the Inspection Period, as follows: If Buyer shall fail to approve the commitment, any exceptions, the survey (as hereinafter defined) and any of the other title matters with respect to the Property by written notice given to Seller on or before the conclusion of the Inspection Period, the condition of title to the Property shall be deemed disapproved by Buyer. If, before the conclusion of the Inspection Period, Buyer shall disapprove by written notice any particular matter affecting title to the Property or the condition of the property, Seller may, at Seller's discretion, agree to use its best efforts to eliminate promptly (but in no event later than ten (10) days after such notice) such disapproved matter. If Seller does not agree to eliminate such disapproved matter by written notice thereof to Buyer within ten (10) days, Buyer shall have the right to waive its prior disapproval, in which event such previously disapproved matter shall be deemed approved. If Buyer shall fail to waive its prior disapproval before the conclusion of the Inspection Period or the date ten (10) days after the Buyer's notice of disapproval if after the conclusion of the Inspection Period, then (a) such disapproval shall remain in effect; (b) this Agreement and the escrow shall thereupon be terminated; (c) the Escrow Agent shall immediately return all documents to the parties; and (d) the parties shall be relieved of any further obligation to each other with respect to this Agreement and the Property. Both parties agree to execute promptly those documents reasonably requested by Escrow Agent to evidence termination of this Agreement.

3.2. Buyer's Title Policy. Buyer's title to the Property shall be evidenced by an Owner's Policy of Title Insurance, paid for by Seller and reasonably acceptable to Buyer and such other endorsements as are available in New Mexico and as Buyer reasonably requires, for the purchase of the Property insuring Buyer, as owner of fee title to the Property free and clear of

all liens, encumbrances, leases, debts, liabilities, obligations and the like, subject only to any matters approved or waived by Buyer.

3.3. Survey. A survey of the Property shall be completed by the County and sufficient to cause the Title Company to remove Survey Title Exceptions from the title policy at the time of closing, as agreed by the Parties.

4. INSPECTION AND REVIEW.

4.1. Review. Immediately upon the Effective Date, Seller shall make available to Buyer all documents ("the Materials"), presently available to Seller or within their control concerning the Property, including without limitation:

- (a) any leases, easements, reservations, conditions, covenants, restrictions, rights-of-way and other documents, whether recorded or unrecorded and surveys;
- (b) any engineering and architectural plans currently available to Seller, and any other improvement plans, whether or not such plans have been filed with, approved by or signed by any governmental agency or entity with jurisdiction over them, including those relating to installments of public utility facilities and services;
- (c) reports, including soils and hazardous waste reports, any Phase I environmental survey on the property, studies, maps, permits, architectural drawings, engineering studies, and deposits;
- (d) Maintenance records for the period of time during which Seller owned the property, as well as any records of prior maintenance; and
- (e) any other documents prepared for or obtained by Seller in connection with the Property.

Buyer has commenced and may continue, at its cost and expense, its own investigation of the Property and the suitability of the Property for Buyer's purposes ("the Review"). Such investigation may include, without limitation a review of "the Materials," a study of the feasibility of Buyer's development or improvement of the Property, and other matters affecting use of the Property, including, without limitation, soil and geological conditions, the presence of toxic or hazardous materials, a Phase I environmental survey, the presence of sewer and utility connections, improvement costs, and any other investigations Buyer may deem necessary or appropriate under the circumstances, in Buyer's sole and absolute discretion. Buyer, in its sole discretion, may terminate the contract during the inspection and all documents belonging to Buyer and in Seller's possession shall be returned to Buyer. If this Agreement is terminated without any material breach of this Agreement by Seller, Buyer shall return the Materials to the Seller.

4.2. License to Enter. Seller hereby grants to Buyer, its employees and agents, a non-exclusive license to enter onto the Property during the pendency of this Agreement to conduct, at Buyer's expense, the Review during the Inspection Period. Buyer shall not interfere with any tenant's uses of the Property, if applicable, and will enter any leased premises only with the Seller and any tenant's permission.

4.3. Approval of Review. This purchase shall be subject to Buyer's approval or disapproval, in Buyer's sole and absolute discretion, until 5:00 p.m. (MST) on the date of the termination of the Inspection Period. Buyer shall provide written notice of disapproval to Seller and Escrow Agent on or before the termination of the Inspection Period. In the event Buyer provides written notice of disapproval to Seller and Escrow Agent, then: (a) the Materials shall be returned to Seller; (b) this Agreement shall be deemed terminated and the escrow canceled; and (c) the parties shall be relieved of any further obligations to each other with respect to the purchase and sale of the Property. Buyer's failure to provide written notice of disapproval shall be deemed an approval of the Review. Both parties shall execute promptly those documents reasonably requested by Escrow Agent or the other party to evidence termination of this Agreement.

4.4. Inspection Period, Extension. The Inspection Period shall begin on the date this Agreement is executed and shall extend sixty (60) days. The Inspection Period may be extended by Buyer upon written notice to Seller at any time prior to the conclusion of the sixty (60) day period for an additional thirty (30) days, in Buyer's sole and absolute discretion, to continue the Review.

5. CONDITIONS TO PERFORMANCE OF AGREEMENT; REMEDIES

5.1. Conditions to Buyer's Obligations. Buyer's obligation to purchase the Property is conditioned upon satisfaction (or waiver in writing by Buyer) of each of the following conditions, even if the failure of any condition occurs after the Inspection Period:

5.1.1. All representations and warranties made by Seller in this Agreement shall be complete and accurate at and as of the Closing Date;

5.1.2. Buyer shall have approved the purchase on or before the termination of the Inspection Period (or the extension thereof);

5.1.3. Seller's delivery of a Deed for the Property and such other documents as are sufficient to convey title to the Property to Buyer. The Deed shall be in a form that is acceptable to Buyer prior to closing;

5.1.4. The Escrow Agent has irrevocably committed in writing to issue the Title Policy in form and content required under the commitment approved by Buyer;

5.1.5. The conditions set forth in Paragraph 6.1 below shall have been satisfied;

5.1.6. Seller shall have delivered possession of the Property by Deed, at the time of closing, in a form and description acceptable to Buyer;

5.1.7. Seller shall have removed all personal property, trash, debris and materials from the Property to the satisfaction of the Buyer prior to the Closing Date.

5.1.8. The survey of the lot split of the larger Tract A referenced in Section 1.10 of this Agreement and set forth in the BCC Order of Case No. v 11-5210, approving the lot split of Tract A into Tract A-1 and A-2, shall be filed and recorded prior to the recording of the Deed of the Property. In addition, a plat note shall state that no further division of Tract A-2 shall be permitted and Tract A-2 shall be designated as open space as is consistent with BCC Order of Case No. V 11-5210.

5.1.9. At the time of closing Seller shall obtain a release of mortgage for the Property in order to convey clear title that is free of all liens or encumbrances to Buyer.

5.2. Conditions to Seller's Obligations. Seller's obligation to sell the Property to Buyer is conditioned upon satisfaction (or waiver in writing by Seller) of each of the following conditions:

5.2.1. All representations and warranties made by Buyer in this Agreement shall be complete and accurate at and as of the Closing Date;

5.2.2. Buyer's delivery of the Purchase Price for the Property and all other funds and documents required of Buyer to comply with its obligations hereunder; and

5.2.3. The conditions set forth in Paragraph 6.2 below.

5.3. Material Breach – Remedies.

5.3.1. Seller's Breach. In the event Seller commits any material breach of this Agreement and fails to cure such material breach within ten (10) days following Buyer's written notice to Seller describing such breach and what cure is deemed necessary, then Buyer, at its option, upon ten (10) days written notice to Seller and Escrow Agent, may elect to: (a) terminate this Agreement in which case Seller shall be obligated to reimburse Buyer for its reasonable and necessary out-of-pocket costs and expenses incurred pursuant to this Agreement, or (b) waive such material breach and proceed to close; provided, however, that if Seller refuses (or is unable due to Seller's deliberate act or omission) to sign and deliver the Deed or to sign and deliver any other document which Seller is required to sign and deliver, then Buyer, in addition to its option to terminate this Agreement or to waive Seller's breach as provided above, shall also have the option to seek specific performance (if the remedy of specific performance is available) of Seller's agreement to sign and deliver the Deed and other documents required to be signed and delivered by Seller at closing; or (c) pursue an action for damages.

If Buyer elects to terminate this Agreement, (a) the escrow shall be cancelled; and (b) all documents shall be returned to the parties which deposited them in Escrow.

5.3.2. Buyer's Breach. In the event Buyer commits any other material breach of this Agreement, and in each case fails to cure such material breach within ten (10) days following Seller's written notice to Buyer describing such breach and what cure is deemed necessary, then Seller, at its option and as its sole remedy, upon ten (10) days written notice to Buyer and Escrow Agent, may elect either to terminate this Agreement or to waive the material breach and proceed to closing. If Seller elects to terminate this Agreement:

- (a) the escrow shall be canceled;
- (b) the Buyer shall return the Materials to the Seller; and
- (c) all other documents shall be returned to the parties who prepared or deposited them.

6. REPRESENTATIONS, WARRANTIES AND MUTUAL COVENANTS.

6.1. Representations and Warranties of Seller.

Seller hereby represents and warrants to Buyer that the following statements are true and correct as of the date hereof and shall be as of the Closing Date, and the truth and accuracy of such statements shall constitute a condition to all of Buyer's obligations under this Agreement:

6.1.1. Seller has full right, power and authority to enter into this Agreement for the sale of the Property and all documents contemplated hereby or delivered or to be delivered in connection herewith and to perform its obligations hereunder;

6.1.2. The sale of the Property has been authorized by all necessary action on the part of Seller, and the persons who have executed and delivered this Agreement and all other instruments required under this Agreement on behalf of Seller have been duly authorized to execute the same on behalf of Seller;

6.1.3. Seller is not in breach or violation of, and the execution, delivery and performance of this Agreement will not result in a breach or violation of, any of the provisions of Seller's operating agreement, as amended to the date of this Agreement, or other governing documents or any agreement to which it is a party or otherwise bound, or constitute a violation of any law, rule, regulation or any court order or decree applicable to Seller or result in acceleration of any lien or encumbrance upon the Property or any part thereof, except for such rights of acceleration that may arise under a mortgage upon a conveyance of the Property;

6.1.4. This Agreement for the sale of the Property is the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except in each case as such enforceability may be limited by general principles of equity, bankruptcy, insolvency, moratorium and similar laws relating to creditors' rights generally;

6.1.5. There is no action, claim, litigation, proceeding or governmental investigation pending against Seller or the Property or, to Seller's best knowledge, threatened, against Seller which might directly or indirectly, have a material adverse effect upon the use, title, operation or development of the Property;

6.1.6. Seller has received no written notice or, to Seller's best knowledge, oral notice of any proposed or contemplated condemnation of the Property, or any part thereof, and Seller has received no written notice or, to Seller's best knowledge, oral notice of the intent or desire of any governmental or public or private authority or public utility to appropriate or use the Property, or any part thereof;

6.1.7. Neither Seller nor, to Seller's best knowledge, any other person has used, generated, manufactured, stored or disposed of, on or under the Property or any part thereof, or in the immediate vicinity thereof, or transferred to or from the Property or any part thereof, any "Hazardous Materials." For purposes of this Agreement, "Hazardous Materials" are defined as any radioactive materials, hazardous waste, toxic substances, petroleum products or by-products, or any other materials or substances which under federal, state or local statute, law, ordinance, governmental regulation or rule would require Buyer's removal, remediation or clean up, including, without limitation, substances defined as "extremely hazardous substances," "hazardous substances," "hazardous materials," "hazardous waste," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, *et seq.*; the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§11001-11050; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, *et seq.*; the Resources Conservation and Recover Act, 42 U.S.C. §6901, *et seq.*; and in the regulations adopted and publications promulgated pursuant to said laws; together with any substance, product, waste or other material of any kind or nature whatsoever which may give rise to liability under any federal, state or local law, ordinance, rule or regulation relating thereto, or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability, or under any reported decision of any federal or state court.

6.1.8. There are no leases, oral or written, or claims to occupy the Property.

6.1.9 Seller shall deliver a Deed to the Property sufficient to convey good marketable title to the Property in fee simple, free and clear of any and all liens and encumbrances.

6.2. Representations and Warranties by Buyer. Buyer hereby represents and warrants to Seller that the following statements are true and correct as of the date hereof and shall be as of the Closing Date, and the truth and accuracy of all such statements shall constitute a condition to all of Seller's obligations under this Agreement:

6.2.1. Buyer is a political subdivision of the State of New Mexico and its Board of County Commissioners has authorized its entry into this Agreement and all documents contemplated hereby or delivered or to be delivered in connection herewith, and to perform its obligations hereunder;

6.2.2. Buyer has full right, power and authority to enter into this Agreement and all documents contemplated hereby or delivered or to be delivered in connection herewith, and to perform its obligations hereunder; and

6.2.3. The execution and delivery of this Agreement and consummation of the sale contemplated hereby will not conflict with any agreement to which Buyer is bound, or result in any breach or violation of any law, rule, regulation or any court order or decree applicable to Buyer.

6.3. Mutual Covenants. Following the mutual execution of this Agreement:

6.3.1. Seller and Buyer shall deliver to each other and Escrow Agent any documents reasonably requested by Escrow Agent evidencing that each has the authority to enter into this Agreement and to consummate the transactions contemplated hereby.

6.3.2. Seller shall:

6.3.2.1. Maintain the Property and all portions thereof in its current condition, and condition after inspection by Buyer under the terms of this Agreement.

6.3.2.2. Enter into no new leases, contracts, agreements, encumbrances, or instruments or make any material modifications to any existing leases, contracts, agreements, encumbrances or instruments which, in either case may: (a) encumber, affect the ownership, use or development of the Property, or (b) by its terms would not be fully performed before the Closing Date, without the prior written consent of Buyer: and

6.3.2.3. Not use, generate, manufacture, store or dispose of, on or under the Property or any part thereof, or transfer to or from the Property or any part thereof, any Hazardous Materials.

6.4. Survival of Representations and Warranties. The representations and warranties of the Seller set forth in Paragraph 6.1 and the representations and warranties of the Buyer set forth in Paragraph 6.2 shall survive the Closing Date for the full period of the applicable statute of limitations.

7. ESCROW.

7.1. Agreement Constitutes Escrow Instructions. This Agreement shall constitute escrow instructions with respect to the Property and a copy hereof shall be deposited with the Escrow Agent for that purpose as provided in Paragraph 7.2 below.

7.2. Escrow Agent. The escrow for the purchase and sale of the Property hereunder shall be opened by depositing an executed copy or executed counterparts of this Agreement with the Escrow Agent, and shall occur not later than five (5) business days following the execution of this Agreement by both parties. This Agreement shall be considered as the escrow instructions between the parties, with such further instructions as Escrow Agent requires in order

to clarify the duties and responsibilities of Escrow Agent. In the event of a conflict between the provisions of this Agreement and the provisions of such general conditions, the provisions of this Agreement shall control.

7.3. Closing Date. The Closing Date shall be within forty-five (45) days following the Inspection Period providing all conditions precedent have been satisfied and unless the parties otherwise mutually agree.

7.4. Costs of Escrow.

7.4.1. Seller shall pay:

- (a) one-half (1/2) of the escrow fees,
- (b) one-half (1/2) the cost of all recording fees,
- (c) any costs associated with a release of mortgage on the Property that may exist at the time of closing,
- (d) the cost of a standard owner's title policy, and
- (e) the cost of any other obligations of Seller hereunder, including all property taxes due and owing at the time of closing and as otherwise set forth below.

7.4.2. Buyer shall pay:

- (a) one-half (1/2) of the escrow fees,
- (b) one-half (1/2) the cost of all recording fees, and
- (c) additional title insurance premium for deletion of standard exceptions 1-4 and 6-7, and
- (d) the cost of any other obligations of Buyer hereunder including the survey.

7.5 Prorations. Seller shall pay the real property transfer tax and special additional mortgage recording tax. The following, as applicable, will be prorated and adjusted between Seller and Buyer as of the date of closing, excluding any delinquent items, interest and penalties: current taxes computed on a fiscal year basis.

7.6 Release of funds. No funds from the sale of this Property shall be released to Seller until all terms of this Agreement have been met and the lot split recorded.

8. INDEMNIFICATION.

8.1. Brokers: Indemnification. Seller shall be solely responsible for satisfying every kind of fee, commission, compensation and remuneration, whether related or unrelated to brokerage, to any party claiming by, through or under Seller, as may apply. Seller shall indemnify, defend and hold harmless Buyer from any party claiming by, through or under Seller relating to the purchase and sale of the Property.

8.2. Other Indemnity. Seller hereby agrees to indemnify, defend and hold Buyer harmless from any obligation, cost, expense, liability and/or claim by third parties which Buyer may suffer arising out of Seller's acts or omissions before the Closing Date regarding the Property or any part thereof.

9. INCORPORATION OF EXHIBITS.

All exhibits attached hereto and referred to herein are incorporated in this Agreement as though fully set forth herein.

10. NOTICES.

All notices, requests, demands and other communications given, or required to be given, hereunder shall be in writing and shall be given as follows: (a) By personal delivery with a receipted copy of such delivery; (b) by certified or registered United States mail, return receipt requested, postage prepaid; or (c) by facsimile transmission with an original mailed by first class mail, postage prepaid, to the following addresses:

If to Seller:

Mr. Edwin Alberto Lemus and Mrs. Francesca Forese-Lemus
1994 Vereda San Antonio
Santa Fe, New Mexico 87501

If to Buyer:

Colleen Baker,
Open Space and Trails Program Manager
P.O. Box 276
Santa Fe, NM 87504

And

Board of County Commissioners
Attn: Stephen Ross, County Attorney
102 Grant Ave.
P. O. Box 276
Santa Fe, NM 87504-0276
Telephone: 505-986-6279

Facsimile: 505-986-6362

Any such notice sent by registered or certified mail, return receipt requested, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon delivery to the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice may not be sent by facsimile. Any party may change its address for purposes of this paragraph by giving notice to the other party and to Escrow Holder as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

11. ASSIGNMENT.

This Agreement shall be binding upon the parties hereto and their respective heirs, successors or representatives; provided, however, that this Agreement may not be assigned by either party without the prior express written consent of the other party.

12. ENTIRE AGREEMENT.

This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose.

13. WAIVER.

Failure of either party at any time or times to require performance of any of the provisions of this Agreement shall in no way affect its right to enforce the same, and a waiver by either party of any breach of any of the provisions of this Agreement shall not be construed to be a waiver by such party of any prior or succeeding breach of such provision or a waiver by such party of any breach of any other provision.

14. HEADINGS AND CONSTRUCTION.

The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement. This Agreement has been negotiated at arm's length and between persons (or their representatives) sophisticated and knowledgeable in the matters dealt with herein. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities contained herein against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose of the parties and this document.

15. COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. This Agreement shall be binding upon the parties only when a copy or a counterpart has been signed by each party and delivered to each other party. Signatures, copies and counterparts may be transmitted by mail, facsimile or overnight courier service and when so transmitted are as effective as if a manually-signed, original document had been delivered.

16. APPLICABLE LAW, JURISDICTION AND VENUE.

This Agreement shall, in all respects, be governed by and construed according to the laws of the State of New Mexico applicable to agreements executed and to be wholly performed therein.

17. FURTHER DOCUMENTS.

Each of the parties hereto shall, on and after the Closing Date, execute and deliver any and all additional papers, documents, instructions, assignments and other instruments, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder and to carry out the intent of the parties hereto.

18. SEVERABILITY.

Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, ordinance or regulation contrary to which the parties have no legal right to contract, the latter shall prevail but the provision hereof which is affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law and all other provisions hereof shall remain in full force and effect.

19. NO OBLIGATION TO THIRD PARTIES; NO FIDUCIARY RELATIONSHIP OR DUTIES.

The negotiation, execution, delivery and performance of this Agreement shall not be deemed to confer any rights upon, directly, indirectly or by way of subrogation, to obligate either of the parties hereto to any person or entity other than each other, or to create any agency, partnership, joint venture, trustee or other fiduciary relationship or fiduciary duties between Buyer and Seller.

20. CONSTRUCTION.

For all purposes of interpretation or construction of this Agreement, the singular shall include the plural, the plural shall include the singular, and the neuter shall include the masculine and feminine. As used in this Agreement, the term "and/or" means one or the other or both, or any one or all, or any combination of the things or persons in connection with which the words are used; the term "person" includes individuals, partnerships, limited liability companies, corporations and other entities of any kind or nature; the terms "herein," "hereof" and "hereunder" refer to this Agreement in its entirety and are not limited to any specific provisions; and the term "including" means including, without any implied limitation.

21. DATES OF PERFORMANCE.

If under this Agreement the date upon which an event is scheduled to occur or the last date on which a party's performance of any obligation is required falls on a nonbusiness day, then such date shall be deemed to be the immediately following business day.

22. TIME OF ESSENCE.

Time is of the essence hereof and of all the terms, provisions, covenants and conditions hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth herein.

BUYER:

BOARD OF COUNTY COMMISSIONERS

Date: _____

Virginia Vigil, Chairperson

ATTEST:

Date: _____

Valerie Espinoza, County Clerk

APPROVED AS TO FORM:


Stephen Ross, County Attorney

FINANCE DEPARTMENT APPROVAL:

Teresa Martinez
Santa Fe County Finance Director

SELLERS:

By: _____

By: _____

Title: _____

Date: _____

Acknowledgement

This instrument was acknowledged before me this ___ day of _____, 2011,

by _____ of _____ County, New Mexico

My Commission Expires:

DESCRIPTION OF TRACT A-2

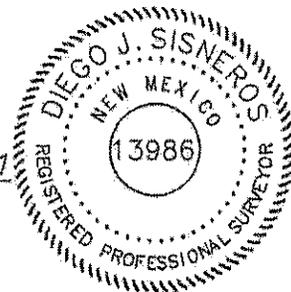
ALL THAT PORTION OF TRACT A, RECORDED IN PLAT BOOK 294,
PAGE 15, LYING WITHIN SECTION 32, T.17N., R.9E., N.M.P.M.
SANTA FE COUNTY, NEW MEXICO

WHICH PORTION MAY BE MORE PARTICULARLY DESCRIBED
AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF TRACT
A-2, COMMON WITH AND BEING THE NORTHEAST CORNER OF
TRACT A, WHICH BEARS $S18^{\circ}01'33''E$ 564.58 FEET FROM A #5
REBAR, SAID NORTHEAST CORNER ALSO BEARS $N73^{\circ}20'49''E$,
0.55' FROM A #4 REBAR USED AS A WITNESS CORNER;

THENCE FROM THE NORTHEAST CORNER OF HEREIN
DESCRIBED TRACT, $S18^{\circ}01'33''E$, 253.67 FEET;
THENCE $S73^{\circ}10'06''W$, 85.46 FEET;
THENCE $N16^{\circ}49'57''W$, 253.87 FEET, TO THE NORTHWEST
CORNER WHICH IS REFERENCED BY A #4 REBAR WITH
CAP L.S.5300, WHICH BEARS $N16^{\circ}49'57''W$ 1.11 FEET;
THENCE $N73^{\circ}20'49''E$, 80.18 FEET;

MORE OR LESS TO THE POINT OF BEGINNING, CONTAINING
0.482 ACRES, MORE OR LESS.

Diego J. Sisneros 7/18/2011
DIEGO J. SISNEROS, NMPLS 13986

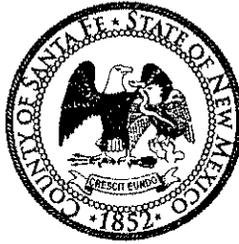


"Exhibit A"

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathleen Holian
Commissioner, District 4

Elizabeth Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: December 13, 2011

To: Santa Fe County Board of County Commissioners

From: Colleen Baker, Open Space and Trails Program Manager, PW *CB*

CC: Mark Hogan, Director, Projects and Facilities Division *MA*

Re: Request Approval of a Resolution Authorizing the County Manager to Execute Closing Documents with Edwin and Francesca Lemus for the Purchase of Real Property. (Public Works Department)

Background:

A purchase agreement between Santa Fe County and Edwin and Francesca Lemus to purchase approximately 0.483 acres along the Santa Fe River is on the Agenda together with this resolution for consideration by the Board of County Commissioners. The resolution will allow for the timely execution of the closing documents to complete the purchase of this property.

Action Requested:

Staff recommends approval of a Resolution Authorizing the County Manager to Execute Closing Documents with Edwin and Francesca Lemus for the Purchase of Real Property.

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

RESOLUTION NO. 2011-

A RESOLUTION AUTHORIZING THE COUNTY MANAGER TO EXECUTE
CLOSING DOCUMENTS FOR THE PURCHASE OF REAL PROPERTY
FROM EDWIN LEMUS AND FRANCESCA FORESE-LEMUS

WHEREAS, Edwin Lemus and Francesca Forese-Lemus are the owners of real property (hereinafter referred to as the "Property"), located at 1994 Vereda San Antonio in Santa Fe County, New Mexico;

WHEREAS, Edwin and Francesca Lemus have agreed to sell approximately 0.483 acres of property to the Board of County Commissioners ("BCC") of Santa Fe County for the sum of \$40,000;

WHEREAS, acquisition of the property by Santa Fe County provides a critical connection in completing the restoration of the Santa Fe River and the Santa Fe River Trail between the County's property at Siler Road and the County's San Isidro Park;

WHEREAS, the BCC approved a land division in order for the County to acquire the tract of land to complete a critical connection for the Santa Fe River Trail as is reflected in Variance Case No. V 11-5210; and

WHEREAS, the BCC desires to authorize the County Manager to execute any and all documents necessary to effectuate the closing of the transaction of the purchase of the Property.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

The County Manager is authorized to execute all documents necessary to effectuate the closing of the transaction with Edwin Lemus and Francesca Forese-Lemus for the purchase of the Property containing .483 acres.

APPROVED and ADOPTED this ____ DAY OF DECEMBER 2011.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

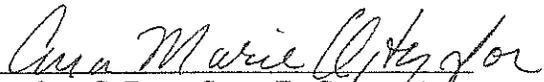
By:

Virginia Vigil, Chair

ATTEST:

Valerie Espinoza, Santa Fe County Clerk

APPROVED AS TO FORM:



Stephen C. Ross, Santa Fe County Attorney

**AGREEMENT FOR PURCHASE AND SALE
AND ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE AND ESCROW INSTRUCTIONS (the "Agreement"), dated this ___ day of _____, 2011, is made and entered into by and between, Edwin A. Lemus and Francesca Forese-Lemus, whose address is 1994 Vereda San Antonio, Santa Fe, NM, (hereinafter the "Seller") and the Board of County Commissioners ("BCC") of Santa Fe County, New Mexico, a political subdivision of the State of New Mexico (collectively and hereinafter the "Buyer").

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions hereinafter set forth, Buyer and Seller now and shall agree as follows:

1. **DEFINITIONS.** As used in this Agreement and any exhibits annexed hereto, unless the context otherwise requires or is otherwise herein expressly provided, the following terms shall have the following meanings.

1.1. Cash: Cash shall mean legal tender of the United States, or a cashier's check or wire transfer of current funds into a bank account designated by Seller.

1.2. Closing Date: Unless otherwise extended by written agreement of the parties, the Closing Date shall be no more than thirty (30) days following the completion of the Inspection Period and provided all other conditions precedent set forth in this Agreement have been fulfilled by Seller.

1.3. Day. The term "day" as used herein means a calendar day and the term "business day" means any day other than a Saturday, Sunday or legal holiday under the laws of the State of New Mexico.

1.4. Deed. A Warranty Deed with the Property description.

1.5. Effective Date: The date that this Agreement is signed by the last of Seller or Buyer.

1.6. Escrow Agent: Southwestern Title and Escrow, 236 Montezuma Avenue, Santa Fe, 87501.

1.7. Hazardous Materials: Hazardous Materials are defined in Paragraph 6.1.7.

1.8. Inspection Period: The period commencing on the Effective Date and terminating on the sixtieth (60th) day after the Effective Date, during which time Buyer may conduct the Review described in Section 4, below, subject to Buyer's right to extend the Inspection Period by thirty (30) days as provided herein.

1.9. Materials: All documents and reports concerning the Property shall to be provided by Seller to Buyer as provided in Paragraph 4.1.

1.10 Property: Tract A-2, is described as all that portion of land being situate within a portion of Tract A, as recorded in plat book 294 , page 15, and lying within section 32, T. 17N., R.9E., N.M.P.M. Santa Fe County, New Mexico; and Tract A-2 being more particularly described as follows: Beginning at the Northeast corner of Tract A-2, common with and being the Northeast corner of Tract A, which bears S18°01'33" E 564.58 feet from a #5 rebar, said Northeast corner also bears N73°20'49" E, 0.55' from a #4 rebar used as a witness corner; thence from the Northeast corner of herein described tract, S 18° 01'33"E, 253.67 feet; thence S73°10'06"W, 85.46 feet; thence N16°49'57"W, 253.87 feet, to the Northwest corner which is referenced by a #4 rebar with cap L.S.5300, which bears N16°49'57"W 1.11 feet; thence N73°20'49"E, 80.18 feet; more or less to the point of beginning, containing 0.482 acres more or less, as set forth in the Survey Plat that shall be recorded in accordance with the terms of this Agreement, with all of Seller's right, title and interest in and to all easements, tenements, hereditaments, privileges and appurtenances in any way belonging to such land, including, without limitation, any land to the midpoint of the bed of any road, street, highway, alley, or right-of-way in front of, abutting or adjoining such land, any and all infrastructure, structures and other improvements located upon or affixed thereto. The legal description of the Property is attached hereto as Exhibit "A".

1.11 Purchase Price: The amount set forth in Section 2.2 of this Agreement.

1.12 Review: Buyer's inspection of the Property including the review of studies, investigations, reports, lot configuration and all other evaluative investigations or studies deemed advisable by Buyer and to be conducted by Buyer during the Inspection Period.

1.13: Seller: Seller's Address

Mr. Edwin Lemus and Mrs. Francesca Forse-Lemus
1994 Vereda San Antonio
Santa Fe, New Mexico 87501

1.14: Buyer: The Board of County Commissioners of Santa Fe County

Notice shall be sent to the following individuals.

Colleen Baker,
Open Space and Trails Program Manager
P.O. Box 276
Santa Fe, NM 87504

And

Stephen Ross, County Attorney
102 Grant Ave.
P. O. Box 276
Santa Fe, NM 87504-0276

1.15: Title Policy: An Owner's Policy of Title Insurance with endorsements and exceptions acceptable to Buyer.

2. PURCHASE AND SALE OF THE PROPERTY.

2.1 Purchase and Sale. Seller agrees to sell, convey, assign, transfer and deliver to Buyer free and clear of all claims, encumbrances, leases, debts, liabilities, obligations and the like, and Buyer agrees to purchase from Seller the Property, for the price and upon all the terms and conditions set forth in this Agreement.

2.2 Purchase Price. The Purchase Price is forty thousand dollars (\$40,000), less any proration or closing costs.

3. TITLE AND SURVEY.

3.1. Procedure for Approval of Title. Within ten (10) business days after the Effective Date of this Agreement, Seller shall deliver to Buyer a commitment for an Owner's Title Insurance Policy showing title to the Property in Seller and proposing to insure the Buyer in the amount of the Purchase Price and issued by the Escrow Agent along with legible copies of all underlying documents referred to therein. The commitment and all matters affecting title to, or use of, the Property shall be subject to Buyer's approval or disapproval in writing on or before the conclusion of the Inspection Period, as follows: If Buyer shall fail to approve the commitment, any exceptions, the survey (as hereinafter defined) and any of the other title matters with respect to the Property by written notice given to Seller on or before the conclusion of the Inspection Period, the condition of title to the Property shall be deemed disapproved by Buyer. If, before the conclusion of the Inspection Period, Buyer shall disapprove by written notice any particular matter affecting title to the Property or the condition of the property, Seller may, at Seller's discretion, agree to use its best efforts to eliminate promptly (but in no event later than ten (10) days after such notice) such disapproved matter. If Seller does not agree to eliminate such disapproved matter by written notice thereof to Buyer within ten (10) days, Buyer shall have the right to waive its prior disapproval, in which event such previously disapproved matter shall be deemed approved. If Buyer shall fail to waive its prior disapproval before the conclusion of the Inspection Period or the date ten (10) days after the Buyer's notice of disapproval if after the conclusion of the Inspection Period, then (a) such disapproval shall remain in effect; (b) this Agreement and the escrow shall thereupon be terminated; (c) the Escrow Agent shall immediately return all documents to the parties; and (d) the parties shall be relieved of any further obligation to each other with respect to this Agreement and the Property. Both parties agree to execute promptly those documents reasonably requested by Escrow Agent to evidence termination of this Agreement.

3.2. Buyer's Title Policy. Buyer's title to the Property shall be evidenced by an Owner's Policy of Title Insurance, paid for by Seller and reasonably acceptable to Buyer and such other endorsements as are available in New Mexico and as Buyer reasonably requires, for the purchase of the Property insuring Buyer, as owner of fee title to the Property free and clear of

all liens, encumbrances, leases, debts, liabilities, obligations and the like, subject only to any matters approved or waived by Buyer.

3.3. Survey. A survey of the Property shall be completed by the County and sufficient to cause the Title Company to remove Survey Title Exceptions from the title policy at the time of closing, as agreed by the Parties.

4. INSPECTION AND REVIEW.

4.1. Review. Immediately upon the Effective Date, Seller shall make available to Buyer all documents ("the Materials"), presently available to Seller or within their control concerning the Property, including without limitation:

- (a) any leases, easements, reservations, conditions, covenants, restrictions, rights-of-way and other documents, whether recorded or unrecorded and surveys;
- (b) any engineering and architectural plans currently available to Seller, and any other improvement plans, whether or not such plans have been filed with, approved by or signed by any governmental agency or entity with jurisdiction over them, including those relating to installments of public utility facilities and services;
- (c) reports, including soils and hazardous waste reports, any Phase I environmental survey on the property, studies, maps, permits, architectural drawings, engineering studies, and deposits;
- (d) Maintenance records for the period of time during which Seller owned the property, as well as any records of prior maintenance; and
- (e) any other documents prepared for or obtained by Seller in connection with the Property.

Buyer has commenced and may continue, at its cost and expense, its own investigation of the Property and the suitability of the Property for Buyer's purposes ("the Review"). Such investigation may include, without limitation a review of "the Materials," a study of the feasibility of Buyer's development or improvement of the Property, and other matters affecting use of the Property, including, without limitation, soil and geological conditions, the presence of toxic or hazardous materials, a Phase I environmental survey, the presence of sewer and utility connections, improvement costs, and any other investigations Buyer may deem necessary or appropriate under the circumstances, in Buyer's sole and absolute discretion. Buyer, in its sole discretion, may terminate the contract during the inspection and all documents belonging to Buyer and in Seller's possession shall be returned to Buyer. If this Agreement is terminated without any material breach of this Agreement by Seller, Buyer shall return the Materials to the Seller.

4.2. License to Enter. Seller hereby grants to Buyer, its employees and agents, a non-exclusive license to enter onto the Property during the pendency of this Agreement to conduct, at Buyer's expense, the Review during the Inspection Period. Buyer shall not interfere with any tenant's uses of the Property, if applicable, and will enter any leased premises only with the Seller and any tenant's permission.

4.3. Approval of Review. This purchase shall be subject to Buyer's approval or disapproval, in Buyer's sole and absolute discretion, until 5:00 p.m. (MST) on the date of the termination of the Inspection Period. Buyer shall provide written notice of disapproval to Seller and Escrow Agent on or before the termination of the Inspection Period. In the event Buyer provides written notice of disapproval to Seller and Escrow Agent, then: (a) the Materials shall be returned to Seller; (b) this Agreement shall be deemed terminated and the escrow canceled; and (c) the parties shall be relieved of any further obligations to each other with respect to the purchase and sale of the Property. Buyer's failure to provide written notice of disapproval shall be deemed an approval of the Review. Both parties shall execute promptly those documents reasonably requested by Escrow Agent or the other party to evidence termination of this Agreement.

4.4. Inspection Period, Extension. The Inspection Period shall begin on the date this Agreement is executed and shall extend sixty (60) days. The Inspection Period may be extended by Buyer upon written notice to Seller at any time prior to the conclusion of the sixty (60) day period for an additional thirty (30) days, in Buyer's sole and absolute discretion, to continue the Review.

5. CONDITIONS TO PERFORMANCE OF AGREEMENT; REMEDIES

5.1. Conditions to Buyer's Obligations. Buyer's obligation to purchase the Property is conditioned upon satisfaction (or waiver in writing by Buyer) of each of the following conditions, even if the failure of any condition occurs after the Inspection Period:

5.1.1. All representations and warranties made by Seller in this Agreement shall be complete and accurate at and as of the Closing Date;

5.1.2. Buyer shall have approved the purchase on or before the termination of the Inspection Period (or the extension thereof);

5.1.3. Seller's delivery of a Deed for the Property and such other documents as are sufficient to convey title to the Property to Buyer. The Deed shall be in a form that is acceptable to Buyer prior to closing;

5.1.4. The Escrow Agent has irrevocably committed in writing to issue the Title Policy in form and content required under the commitment approved by Buyer;

5.1.5. The conditions set forth in Paragraph 6.1 below shall have been satisfied;

5.1.6. Seller shall have delivered possession of the Property by Deed, at the time of closing, in a form and description acceptable to Buyer;

5.1.7. Seller shall have removed all personal property, trash, debris and materials from the Property to the satisfaction of the Buyer prior to the Closing Date.

5.1.8. The survey of the lot split of the larger Tract A referenced in Section 1.10 of this Agreement and set forth in the BCC Order of Case No. v 11-5210, approving the lot split of Tract A into Tract A-1 and A-2, shall be filed and recorded prior to the recording of the Deed of the Property. In addition, a plat note shall state that no further division of Tract A-2 shall be permitted and Tract A-2 shall be designated as open space as is consistent with BCC Order of Case No. V 11-5210.

5.1.9. At the time of closing Seller shall obtain a release of mortgage for the Property in order to convey clear title that is free of all liens or encumbrances to Buyer.

5.2. Conditions to Seller's Obligations. Seller's obligation to sell the Property to Buyer is conditioned upon satisfaction (or waiver in writing by Seller) of each of the following conditions:

5.2.1. All representations and warranties made by Buyer in this Agreement shall be complete and accurate at and as of the Closing Date;

5.2.2. Buyer's delivery of the Purchase Price for the Property and all other funds and documents required of Buyer to comply with its obligations hereunder; and

5.2.3. The conditions set forth in Paragraph 6.2 below.

5.3. Material Breach – Remedies.

5.3.1. Seller's Breach. In the event Seller commits any material breach of this Agreement and fails to cure such material breach within ten (10) days following Buyer's written notice to Seller describing such breach and what cure is deemed necessary, then Buyer, at its option, upon ten (10) days written notice to Seller and Escrow Agent, may elect to: (a) terminate this Agreement in which case Seller shall be obligated to reimburse Buyer for its reasonable and necessary out-of-pocket costs and expenses incurred pursuant to this Agreement, or (b) waive such material breach and proceed to close; provided, however, that if Seller refuses (or is unable due to Seller's deliberate act or omission) to sign and deliver the Deed or to sign and deliver any other document which Seller is required to sign and deliver, then Buyer, in addition to its option to terminate this Agreement or to waive Seller's breach as provided above, shall also have the option to seek specific performance (if the remedy of specific performance is available) of Seller's agreement to sign and deliver the Deed and other documents required to be signed and delivered by Seller at closing; or (c) pursue an action for damages.

If Buyer elects to terminate this Agreement, (a) the escrow shall be cancelled; and (b) all documents shall be returned to the parties which deposited them in Escrow.

5.3.2. Buyer's Breach. In the event Buyer commits any other material breach of this Agreement, and in each case fails to cure such material breach within ten (10) days following Seller's written notice to Buyer describing such breach and what cure is deemed necessary, then Seller, at its option and as its sole remedy, upon ten (10) days written notice to Buyer and Escrow Agent, may elect either to terminate this Agreement or to waive the material breach and proceed to closing. If Seller elects to terminate this Agreement:

- (a) the escrow shall be canceled;
- (b) the Buyer shall return the Materials to the Seller; and
- (c) all other documents shall be returned to the parties who prepared or deposited them.

6. REPRESENTATIONS, WARRANTIES AND MUTUAL COVENANTS.

6.1. Representations and Warranties of Seller.

Seller hereby represents and warrants to Buyer that the following statements are true and correct as of the date hereof and shall be as of the Closing Date, and the truth and accuracy of such statements shall constitute a condition to all of Buyer's obligations under this Agreement:

6.1.1. Seller has full right, power and authority to enter into this Agreement for the sale of the Property and all documents contemplated hereby or delivered or to be delivered in connection herewith and to perform its obligations hereunder;

6.1.2. The sale of the Property has been authorized by all necessary action on the part of Seller, and the persons who have executed and delivered this Agreement and all other instruments required under this Agreement on behalf of Seller have been duly authorized to execute the same on behalf of Seller;

6.1.3. Seller is not in breach or violation of, and the execution, delivery and performance of this Agreement will not result in a breach or violation of, any of the provisions of Seller's operating agreement, as amended to the date of this Agreement, or other governing documents or any agreement to which it is a party or otherwise bound, or constitute a violation of any law, rule, regulation or any court order or decree applicable to Seller or result in acceleration of any lien or encumbrance upon the Property or any part thereof, except for such rights of acceleration that may arise under a mortgage upon a conveyance of the Property;

6.1.4. This Agreement for the sale of the Property is the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except in each case as such enforceability may be limited by general principles of equity, bankruptcy, insolvency, moratorium and similar laws relating to creditors' rights generally;

6.1.5. There is no action, claim, litigation, proceeding or governmental investigation pending against Seller or the Property or, to Seller's best knowledge, threatened, against Seller which might directly or indirectly, have a material adverse effect upon the use, title, operation or development of the Property;

6.1.6. Seller has received no written notice or, to Seller's best knowledge, oral notice of any proposed or contemplated condemnation of the Property, or any part thereof, and Seller has received no written notice or, to Seller's best knowledge, oral notice of the intent or desire of any governmental or public or private authority or public utility to appropriate or use the Property, or any part thereof;

6.1.7. Neither Seller nor, to Seller's best knowledge, any other person has used, generated, manufactured, stored or disposed of, on or under the Property or any part thereof, or in the immediate vicinity thereof, or transferred to or from the Property or any part thereof, any "Hazardous Materials." For purposes of this Agreement, "Hazardous Materials" are defined as any radioactive materials, hazardous waste, toxic substances, petroleum products or by-products, or any other materials or substances which under federal, state or local statute, law, ordinance, governmental regulation or rule would require Buyer's removal, remediation or clean up, including, without limitation, substances defined as "extremely hazardous substances," "hazardous substances," "hazardous materials," "hazardous waste," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, *et seq.*; the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§11001-11050; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, *et seq.*; the Resources Conservation and Recover Act, 42 U.S.C. §6901, *et seq.*; and in the regulations adopted and publications promulgated pursuant to said laws; together with any substance, product, waste or other material of any kind or nature whatsoever which may give rise to liability under any federal, state or local law, ordinance, rule or regulation relating thereto, or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability, or under any reported decision of any federal or state court.

6.1.8. There are no leases, oral or written, or claims to occupy the Property.

6.1.9 Seller shall deliver a Deed to the Property sufficient to convey good marketable title to the Property in fee simple, free and clear of any and all liens and encumbrances.

6.2. Representations and Warranties by Buyer. Buyer hereby represents and warrants to Seller that the following statements are true and correct as of the date hereof and shall be as of the Closing Date, and the truth and accuracy of all such statements shall constitute a condition to all of Seller's obligations under this Agreement:

6.2.1. Buyer is a political subdivision of the State of New Mexico and its Board of County Commissioners has authorized its entry into this Agreement and all documents contemplated hereby or delivered or to be delivered in connection herewith, and to perform its obligations hereunder;

6.2.2. Buyer has full right, power and authority to enter into this Agreement and all documents contemplated hereby or delivered or to be delivered in connection herewith, and to perform its obligations hereunder; and

6.2.3. The execution and delivery of this Agreement and consummation of the sale contemplated hereby will not conflict with any agreement to which Buyer is bound, or result in any breach or violation of any law, rule, regulation or any court order or decree applicable to Buyer.

6.3. Mutual Covenants. Following the mutual execution of this Agreement:

6.3.1. Seller and Buyer shall deliver to each other and Escrow Agent any documents reasonably requested by Escrow Agent evidencing that each has the authority to enter into this Agreement and to consummate the transactions contemplated hereby.

6.3.2. Seller shall:

6.3.2.1. Maintain the Property and all portions thereof in its current condition, and condition after inspection by Buyer under the terms of this Agreement.

6.3.2.2. Enter into no new leases, contracts, agreements, encumbrances, or instruments or make any material modifications to any existing leases, contracts, agreements, encumbrances or instruments which, in either case may: (a) encumber, affect the ownership, use or development of the Property, or (b) by its terms would not be fully performed before the Closing Date, without the prior written consent of Buyer: and

6.3.2.3. Not use, generate, manufacture, store or dispose of, on or under the Property or any part thereof, or transfer to or from the Property or any part thereof, any Hazardous Materials.

6.4. Survival of Representations and Warranties. The representations and warranties of the Seller set forth in Paragraph 6.1 and the representations and warranties of the Buyer set forth in Paragraph 6.2 shall survive the Closing Date for the full period of the applicable statute of limitations.

7. ESCROW.

7.1. Agreement Constitutes Escrow Instructions. This Agreement shall constitute escrow instructions with respect to the Property and a copy hereof shall be deposited with the Escrow Agent for that purpose as provided in Paragraph 7.2 below.

7.2. Escrow Agent. The escrow for the purchase and sale of the Property hereunder shall be opened by depositing an executed copy or executed counterparts of this Agreement with the Escrow Agent, and shall occur not later than five (5) business days following the execution of this Agreement by both parties. This Agreement shall be considered as the escrow instructions between the parties, with such further instructions as Escrow Agent requires in order

to clarify the duties and responsibilities of Escrow Agent. In the event of a conflict between the provisions of this Agreement and the provisions of such general conditions, the provisions of this Agreement shall control.

7.3. Closing Date. The Closing Date shall be within forty-five (45) days following the Inspection Period providing all conditions precedent have been satisfied and unless the parties otherwise mutually agree.

7.4. Costs of Escrow.

7.4.1. Seller shall pay:

- (a) one-half (1/2) of the escrow fees,
- (b) one-half (1/2) the cost of all recording fees,
- (c) any costs associated with a release of mortgage on the Property that may exist at the time of closing,
- (d) the cost of a standard owner's title policy, and
- (e) the cost of any other obligations of Seller hereunder, including all property taxes due and owing at the time of closing and as otherwise set forth below.

7.4.2. Buyer shall pay:

- (a) one-half (1/2) of the escrow fees,
- (b) one-half (1/2) the cost of all recording fees, and
- (c) additional title insurance premium for deletion of standard exceptions 1-4 and 6-7, and
- (d) the cost of any other obligations of Buyer hereunder including the survey.

7.5 Prorations. Seller shall pay the real property transfer tax and special additional mortgage recording tax. The following, as applicable, will be prorated and adjusted between Seller and Buyer as of the date of closing, excluding any delinquent items, interest and penalties: current taxes computed on a fiscal year basis.

7.6 Release of funds. No funds from the sale of this Property shall be released to Seller until all terms of this Agreement have been met and the lot split recorded.

8. INDEMNIFICATION.

8.1. Brokers: Indemnification. Seller shall be solely responsible for satisfying every kind of fee, commission, compensation and remuneration, whether related or unrelated to brokerage, to any party claiming by, through or under Seller, as may apply. Seller shall indemnify, defend and hold harmless Buyer from any party claiming by, through or under Seller relating to the purchase and sale of the Property.

8.2. Other Indemnity. Seller hereby agrees to indemnify, defend and hold Buyer harmless from any obligation, cost, expense, liability and/or claim by third parties which Buyer may suffer arising out of Seller's acts or omissions before the Closing Date regarding the Property or any part thereof.

9. INCORPORATION OF EXHIBITS.

All exhibits attached hereto and referred to herein are incorporated in this Agreement as though fully set forth herein.

10. NOTICES.

All notices, requests, demands and other communications given, or required to be given, hereunder shall be in writing and shall be given as follows: (a) By personal delivery with a receipted copy of such delivery; (b) by certified or registered United States mail, return receipt requested, postage prepaid; or (c) by facsimile transmission with an original mailed by first class mail, postage prepaid, to the following addresses:

If to Seller:

Mr. Edwin Alberto Lemus and Mrs. Francesca Forese-Lemus
1994 Vereda San Antonio
Santa Fe, New Mexico 87501

If to Buyer:

Colleen Baker,
Open Space and Trails Program Manager
P.O. Box 276
Santa Fe, NM 87504

And

Board of County Commissioners
Attn: Stephen Ross, County Attorney
102 Grant Ave.
P. O. Box 276
Santa Fe, NM 87504-0276
Telephone: 505-986-6279

Facsimile: 505-986-6362

Any such notice sent by registered or certified mail, return receipt requested, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon delivery to the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice may not be sent by facsimile. Any party may change its address for purposes of this paragraph by giving notice to the other party and to Escrow Holder as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

11. ASSIGNMENT.

This Agreement shall be binding upon the parties hereto and their respective heirs, successors or representatives; provided, however, that this Agreement may not be assigned by either party without the prior express written consent of the other party.

12. ENTIRE AGREEMENT.

This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose.

13. WAIVER.

Failure of either party at any time or times to require performance of any of the provisions of this Agreement shall in no way affect its right to enforce the same, and a waiver by either party of any breach of any of the provisions of this Agreement shall not be construed to be a waiver by such party of any prior or succeeding breach of such provision or a waiver by such party of any breach of any other provision.

14. HEADINGS AND CONSTRUCTION.

The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement. This Agreement has been negotiated at arm's length and between persons (or their representatives) sophisticated and knowledgeable in the matters dealt with herein. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities contained herein against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose of the parties and this document.

15. COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. This Agreement shall be binding upon the parties only when a copy or a counterpart has been signed by each party and delivered to each other party. Signatures, copies and counterparts may be transmitted by mail, facsimile or overnight courier service and when so transmitted are as effective as if a manually-signed, original document had been delivered.

16. APPLICABLE LAW, JURISDICTION AND VENUE.

This Agreement shall, in all respects, be governed by and construed according to the laws of the State of New Mexico applicable to agreements executed and to be wholly performed therein.

17. FURTHER DOCUMENTS.

Each of the parties hereto shall, on and after the Closing Date, execute and deliver any and all additional papers, documents, instructions, assignments and other instruments, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder and to carry out the intent of the parties hereto.

18. SEVERABILITY.

Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, ordinance or regulation contrary to which the parties have no legal right to contract, the latter shall prevail but the provision hereof which is affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law and all other provisions hereof shall remain in full force and effect.

19. NO OBLIGATION TO THIRD PARTIES; NO FIDUCIARY RELATIONSHIP OR DUTIES.

The negotiation, execution, delivery and performance of this Agreement shall not be deemed to confer any rights upon, directly, indirectly or by way of subrogation, to obligate either of the parties hereto to any person or entity other than each other, or to create any agency, partnership, joint venture, trustee or other fiduciary relationship or fiduciary duties between Buyer and Seller.

20. CONSTRUCTION.

For all purposes of interpretation or construction of this Agreement, the singular shall include the plural, the plural shall include the singular, and the neuter shall include the masculine and feminine. As used in this Agreement, the term "and/or" means one or the other or both, or any one or all, or any combination of the things or persons in connection with which the words are used; the term "person" includes individuals, partnerships, limited liability companies, corporations and other entities of any kind or nature; the terms "herein," "hereof" and "hereunder" refer to this Agreement in its entirety and are not limited to any specific provisions; and the term "including" means including, without any implied limitation.

21. DATES OF PERFORMANCE.

If under this Agreement the date upon which an event is scheduled to occur or the last date on which a party's performance of any obligation is required falls on a nonbusiness day, then such date shall be deemed to be the immediately following business day.

22. TIME OF ESSENCE.

Time is of the essence hereof and of all the terms, provisions, covenants and conditions hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth herein.

BUYER:

BOARD OF COUNTY COMMISSIONERS

Date: _____

Virginia Vigil, Chairperson

ATTEST:

Date: _____

Valerie Espinoza, County Clerk

APPROVED AS TO FORM:


Stephen Ross, County Attorney

FINANCE DEPARTMENT APPROVAL:

Teresa Martinez
Santa Fe County Finance Director

SELLERS:

By: _____

By: _____

Title: _____

Date: _____

Acknowledgement

This instrument was acknowledged before me this ___ day of _____, 2011,

by _____ of _____ County, New Mexico

My Commission Expires:

DESCRIPTION OF TRACT A-2

ALL THAT PORTION OF TRACT A, RECORDED IN PLAT BOOK 294,
PAGE 15, LYING WITHIN SECTION 32, T.17N., R.9E., N.M.P.M.
SANTA FE COUNTY, NEW MEXICO

WHICH PORTION MAY BE MORE PARTICULARLY DESCRIBED
AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF TRACT
A-2, COMMON WITH AND BEING THE NORTHEAST CORNER OF
TRACT A, WHICH BEARS $S18^{\circ}01'33''E$ 564.58 FEET FROM A #5
REBAR, SAID NORTHEAST CORNER ALSO BEARS $N73^{\circ}20'49''E$,
0.55' FROM A #4 REBAR USED AS A WITNESS CORNER;

THENCE FROM THE NORTHEAST CORNER OF HEREIN
DESCRIBED TRACT, $S18^{\circ}01'33''E$, 253.67 FEET;
THENCE $S73^{\circ}10'06''W$, 85.46 FEET;
THENCE $N16^{\circ}49'57''W$, 253.87 FEET, TO THE NORTHWEST
CORNER WHICH IS REFERNCED BY A #4 REBAR WITH
CAP L.S.5300, WHICH BEARS $N16^{\circ}49'57''W$ 1.11 FEET;
THENCE $N73^{\circ}20'49''E$, 80.18 FEET;

MORE OR LESS TO THE POINT OF BEGINNING, CONTAINING
0.482 ACRES, MORE OR LESS.

Diego J. Sisneros 7/18/2011
DIEGO J. SISNEROS, NMPLS 13986



"Exhibit A"

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: December 13, 2011

To: Santa Fe County Board of County Commissioners
Daniel Mayfield, District 1 Kathy Holian, District 4
Virginia Vigil, District 2 Liz Stefanics, District 5
Robert A. Anaya, District 3

From: Mark Hogan, Projects & Facilities Division Director *MH*

Re: Request Approval to Extend a Building Lease Agreement Between Santa Fe County and Burro Alley, LLC For Office Space Located At 142 West Palace Avenue, Santa Fe, New Mexico For An Additional 12 Months In The Amount Of \$222,321. (PW/Projects & Facilities)

Background

Santa Fe County entered into an agreement with Bokum Burro Alley to lease 13,474 square feet of office space located at 142 West Palace Avenue, Santa Fe, NM, in February of 2011. The office space is occupied by the Finance Department, the Procurement Division, the Information Technology Division, and the Teen Court Program. The current monthly lease payment is \$18,526.75 per month. The lease agreement expires on February 28, 2012 and allows for 2 - 1 year extensions.

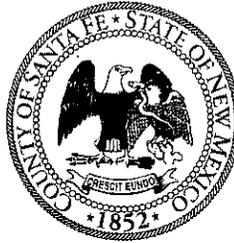
Action Requested:

The Projects and Facilities Division is requesting a 1-year extension of the Bokum Burro Alley, LLC Building Lease Agreement for 13,474 square feet. The new term will be from March 1, 2012 through February 28, 2013. The monthly rent will be \$16.50 per square foot at \$18,526.75 per month for a total annual rent of \$222,321.

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

December 13, 2011

Richard Montoya, President
Bokum Burro Alley, LLC
P.O. Box 2452
Santa Fe, NM 87504

Re: Extension of Property Lease Agreement between Bokum/Burro Alley, LLC and Santa Fe County dated February 11th, 2011

Dear Mr. Montoya:

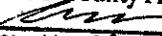
Santa Fe County (the County) entered into a Lease Agreement with Bokum/Burro Alley, LLC on February 11th, 2011 for office space located at 142 West Palace Avenue. Paragraph 4 of the Lease Agreement, titled Term of Lease, establishes a lease term commencing on March 1, 2011 and terminating on February 28, 2012. The provision also grants the County the right to extend the lease term for an additional year from March 1, 2012 through February 28, 2013 by providing written notice of the election to extend the Lease Agreement on or before December 31, 2011. Please accept this letter as the County's written notice that the Lease Agreement is extended for an additional year. The Lease Agreement will terminate at midnight on February 28, 2013 absent the County's exercise of the right to extend the Lease Agreement for an additional year through written notice.

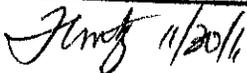
Sincerely,

Santa Fe County Board of County Commissioners

Virginia Vigil, Chair

Approved as to form
Santa Fe County Attorney

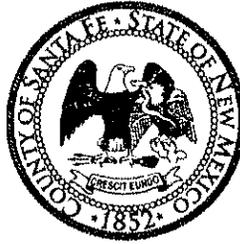
By: 
Date: 11-28-11



Harry B. Montoya
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3



Kathleen Holian
Commissioner, District 4

Elizabeth T. Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: December 13, 2011

To: Santa Fe County Board of County Commissioners

From: Agnes Lopez, Public Works Department/Projects & Facilities Division

CC: Joseph Gutierrez, Director, Community Services Department

Re: REQUEST APPROVAL OF A BUILDING LEASE AGREEMENT BETWEEN THE COUNTY AND PRESBYTERIAN MEDICAL SERVICES FOR A COUNTY OWNED BUILDING, PARKING LOT AND PLAYGROUND LOCATED AT COUNTY RD 98 IN CHIMAYO FOR A HEADSTART PROGRAM IN SANTA FE COUNTY (Public Works Department/Projects & Facilities Division)

Background:

Santa Fe County has property in Chimayo which includes an 1,878 square foot building, adjacent parking lot and playground area at #205A, County Road 98 (Juan Medina Rd). The property has been leased to Presbyterian Medical Services for the past 5 years to provide Head Start services to sick and indigent children in Santa Fe County. Presbyterian wishes to continue leasing the property to provide those services and agrees to pay a rental fee of \$500.00 per month.

Recommendation:

Staff is recommending approval of a one year Lease Agreement between Santa Fe County and Presbyterian Medical Services for a County-owned facility in Chimayo to provide Head Start services to children in Santa Fe County.

**LEASE AGREEMENT
BETWEEN
SANTA FE COUNTY
AND
PRESBYTERIAN MEDICAL SERVICES**

The parties to this agreement (hereinafter "Lease") between Santa Fe County (hereinafter "County"), a political subdivision of the State of New Mexico, as Lessor and Presbyterian Medical Services (hereinafter "PMS"), a New Mexico nonprofit corporation, as Lessee, agree as follows:

1. Recitals.

A. The County owns an approximately 1,878 square foot building, adjacent parking and playground area at #205A, County Road 98 (Juan Median Rd.) (hereinafter the "Property"), which is located on real property described on Exhibit A, attached hereto.

B. The County desires to lease said Property to PMS, which has demonstrated a history of service to sick and indigent persons in Santa Fe County, to provide Head Start services to children in Santa Fe County.

2. Term.

The term of this Lease shall be for one year commencing on January 1, 2012, and terminating on December 31, 2012, subject to earlier termination as provided herein.

3. Rent.

PMS shall pay the County rent of \$500.00 per month, payable on the first day of each month.

4. Use of Property.

A. PMS shall use the Property to provide a Head Start program to sick and indigent children in Santa Fe County. The County is not a participant, or in any way involved in, the operation of PMS or the services provided by PMS.

B. The Property will be used during the months of January through December for approximately eight hours per day.

C. PMS shall not create or allow a nuisance to exist on the Property.

7. Indemnification.

PMS agrees to promptly defend, indemnify and hold harmless the County, its officers, employees, agents and elected officials against liability claims including, without limitation, professional negligence claims, attorneys' fees, damages, losses or expenses arising out of bodily injury to persons, including death, or damage to property caused by, or resulting from acts or omissions arising out of, or relating to, the obligations and conditions of this Lease or out of PMS's use, activities on or occupation of the Property, or for any services provided or a failure to perform service by PMS, its directors, agents or employees. PMS shall not be required to indemnify the County for any negligent or intentional acts or omissions of the County or any of its officials, employees or agents.

8. Repair and Maintenance.

A. The County will maintain the exterior structure, roof, mechanical and electrical systems, HVAC systems, foundation, and plumbing of the building only, subject to the County having sufficient appropriations, which decision may be made in the County's sole discretion. Should the County be unable to provide the described maintenance, PMS shall provide the necessary maintenance at its own cost and expense.

B. Except to the extent of the County is obligated to do so pursuant to the preceding paragraph, PMS shall, at its sole cost and expense, maintain the exterior and interior of the Property and provide day-to-day maintenance thereon.

C. PMS shall, at its sole cost and expense, repair or replace any damages caused by PMS, its employees or invitees to the Property (even though the damage is to a part of the Property that the County is otherwise required to maintain) promptly upon approval for such repairs from the County. All such repairs and replacements shall be at least equal in quality of materials and workmanship to the original work. Approval for repair and replacements shall be obtained from the Director of Operations for the Projects and Facilities Management Department for the County.

9. Alterations and Improvements.

PMS shall not make any alterations, improvements, additions or changes to the Property, other than those required for the day-to-day maintenance of the Property, without the prior written consent of the County.

10. Mechanic's Liens.

PMS agrees that at least five business days prior to any construction work done by PMS or on PMS's behalf by any person, contractor, firm or corporation, that PMS will post and record, or cause to be posted and recorded, as provided by law, a notice of non-responsibility for any work, labor or materials used or expended or to be used or expended on the Property. PMS agrees to remove any mechanic's liens placed on the Property, as a result of work it has procured, within five business days of notice of the lien and indemnify the County for same. Any improvements made by PMS in the nature of fixtures shall become the property of the County at the termination of the Lease.

11. Taxes.

PMS shall pay any and all taxes and levies assessed upon any personal property, fixtures and improvements belonging to PMS and located upon the Property, and all leasehold and possessory interest taxes with respect to the Property levied or assessed by any proper taxing authority.

12. Signs and Personal Property.

PMS may place signs on the Property only with advance approval of the County, provided however that all such signs conform to applicable law. All personal property, *e.g.* signs and improvements of PMS, its employees, agents, customers and invitees, kept on the Property shall be in furtherance of the use of the Property as permitted under this Lease and at the sole risk of PMS; the County shall not be liable for any damage thereto.

13. Non-Discrimination.

PMS, with respect to employment of staff and to those persons using the Property or receiving services from PMS, shall not discriminate unlawfully with respect to race, sex, national origin, age, religion, sexual orientation or any other class protected from discrimination by applicable local, state or federal laws.

14. Hazardous Materials.

A. PMS will neither cause, nor permit, any Hazardous Material, as defined below, to be brought upon, kept or used in or about the Property.

B. In the event of PMS's breach of the provisions of this Paragraph 14, PMS accepts and affirms full liability and responsibility for all costs and expenses related thereto, and indemnifies the County from and against any liability or damages related to:

1. any investigation of the Property for the presence of Hazardous Materials alleged to have been brought, used or disposed of on the Property by PMS; and

2. the Hazardous Material clean-up, removal or restoration of the Property required by a federal, state or local governmental agency.

C. PMS's responsibilities and indemnification under this Lease will survive the expiration or termination of this Lease.

D. As used herein, the term "Hazardous Material" means a substance the release of which on the Property would necessitate an environmental response action under federal, state, county or municipal law, whether now in effect or enacted in the future, and includes without limitation the following: asbestos in any form; formaldehyde; transformers or other equipment that contains fluid containing polychlorinated biphenyls; any petroleum product in non-regulated bulk storage containers; radon; or any other chemical material or substance that is defined or classified as hazardous or toxic in law or the exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority having jurisdiction.

15. Assignment, Subletting and Mortgage.

A. PMS shall not assign this Lease or sublet the whole or any part of the Property.

B. PMS shall not transfer or convey, either voluntarily or involuntarily, this Lease, or any interest in this Lease; this Lease may not be hypothecated or mortgaged by PMS, and any attempted assignment, subletting, hypothecation or mortgaging of this Lease shall be void and shall be of no force or effect and shall confer no rights upon any assignee, sub lessee or mortgage pledgee.

C. In the event PMS becomes bankrupt or insolvent, or should a trustee or receiver be appointed to administer PMS's business or affairs, neither this Lease nor any interest in this Lease shall become an identified asset of PMS's bankruptcy or other estate, trustee or receiver, and in the event of the establishment of such estate or the appointment of any such guardian, trustee, or receiver, this Lease shall immediately terminate.

16. County's Access to Property.

The County shall have free access to the Property at all reasonable times for the purpose of examining the Property, to determine whether PMS is performing under this Lease and to post such reasonable notices as the County may desire to protect the rights of the County. The County's access will be consistent with PMS's operations.

17. Breach.

A. In the event of a breach by either party, the non-breaching party shall notify the breaching party, in writing, of the breach. If the breach is not cured within thirty days, or an extension granted thereto, this Lease shall be terminated by the non-breaching party.

B. In the event of a default and termination, the County shall have the following remedies:

1. The County may declare this Lease terminated and enter upon the Property or any part thereof, and repossess the Property and remove all improvements.

2. In such event, the County shall retain for any rent, damages or other sums that may be due hereunder any property belonging to PMS and located on the Property, and all PMS's rights to such property shall be forfeited.

3. The County may re-enter the Property and may rent same upon such terms as are suitable to the County, all without releasing PMS from liability hereunder.

4. In such event, any monies collected by such leasing shall be applied first to the expense of restoring and placing the Property in a rentable condition and next to the payment of the rent or any sum due the County hereunder. PMS shall remain liable for any deficiency.

18. Termination.

A. This Lease may be terminated upon written agreement by both parties to this Lease.

B. This Lease may be unilaterally terminated, upon written request by PMS upon a showing of financial hardship rendering PMS unable to comply with the agreed upon Lease terms.

C. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

19. Surrender Upon Expiration or Termination.

At the expiration of this Lease or upon termination, PMS shall surrender the Property, including all existing improvements, to the County in as good a condition as it was in at the beginning of the term, reasonable use and wear excepted.

20. Notices.

All notices and other communications required to be given as provided in this Lease will be in writing, and unless otherwise specifically provided in this Lease, will be deemed to have been given if delivered in person, or sent by a nationally recognized overnight courier service, or mailed by certified or registered mail, postage prepaid, and addressed to the County or PMS at the following addresses:

Notice to the County:

Stephen Ross, County Attorney &
Mark A. Hogan, Division Director of Property & Facilities
Santa Fe County Attorney's Office
102 Grant Avenue
Post Office Box 276
Santa Fe, NM 87504-0276

Notice to PMS:

Presbyterian Medical Services
1422 Paseo de Peralta
Santa Fe, New Mexico 87509
Attn: Michelle Quintana, Children's Services Manager &
Attn: Stephen C. Hansen, President and CEO of PMS
505.954.4601, Michelle Quintana
505.9862-5565, Stephen Hansen

21. Waiver.

No waiver or any default as provided in this Lease or delay or omission in exercising any right or power of the County or PMS will be considered a waiver of any other right or power as provided in this Lease. The exercise of or failure to exercise any one of the rights or remedies of the County or PMS as provided in this Lease will not be deemed to be a waiver of any other right or remedy provided in this Lease.

22. Entire Agreement.

This Lease constitutes the entire agreement of the County and PMS relating to the subject matter hereof and supersedes all previous agreements, written or oral, between the County and PMS on such subject.

23. Partial Invalidity.

If any term of this Lease, or the application of the term to any person or circumstance, is to any extent invalid or unenforceable, the remainder of this Lease will not be affected, and each term of the Lease will be valid and be enforced to the fullest extent permitted by law.

24. Sublease – Mortgages.

PMS may not grant a sublease, collateral assignment, deed of trust, mortgage or other security interest in its interest in this Lease, the Property or any improvements to any person or entity.

25. Fixtures.

Except as otherwise provided herein, PMS shall have the right to install such fixtures and equipment as may be necessary for the conduct of its business. Upon termination of this Lease, all fixtures shall remain affixed to the Property and shall become the property of the County, except for PMS's equipment purchased by it that can be removed without damage to the Property.

26. Damage or Destruction of Property.

A. Repairs for all items referred to in the Lease as being the responsibility of the County, arising from either construction design or natural causes, shall be commenced by the County within 30 days of notification by PMS that such repairs are necessary.

B. Repairs are subject to the County having sufficient appropriations. The determination as to whether such appropriations are available is in the County's sole discretion.

C. In the event repair or reconstruction is deemed impractical or unreasonable by the County, this Lease shall terminate with no additional obligation on the part of the County.

27. Sovereign Immunity.

No provision of this Lease modifies or waives the sovereign immunity or limitation of liability enjoyed by the County or its public employees at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1 *et seq.*

28. Miscellaneous.

This Lease is governed by and will be construed according to the laws of the State of New Mexico and binds the successors, transferees and assigns of the parties. This Lease may be amended only in writing signed by both parties.

29. Compliance with Laws.

PMS agree to comply with all laws, ordinances, rules and regulations that may pertain or apply to the Property and the use thereof.

**BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO**

**PRESBYTERIAN MEDICAL
SERVICES**

Virginia Vigil, BCC Chair

Date: _____

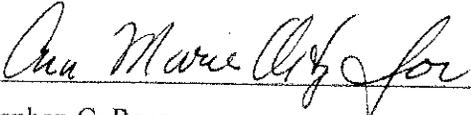
Stephen C. Hansen, President & CEO, PMS

Date: _____

Attest:

Valerie Espinoza
County Clerk

Approved as to form:

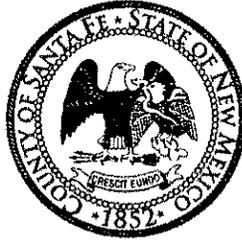


Stephen C. Ross
County Attorney

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Elizabeth Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Memorandum

TO: Santa Fe County Board of County Commissioners

FROM: Tila Rendon-Varela, Procurement Specialist Senior 

VIA: James "Ron" Pacheco, Senior Services Administrative Program Manager 

DATE: November 28, 2011

SUBJECT: Request a waiver from Section 1 of Ordinance No. 2010-8 to purchase Food, Food Packaging, and Cleaning Supplies for the Senior Services Program utilizing the New Mexico State Contract for such items.

ISSUE:

The Santa Fe County Purchasing Division requests a waiver from Section 1 of Ordinance No. 2010-8 to purchase Food, Food Packaging, and Cleaning Supplies for the Senior Services Program.

BACKGROUND:

The Senior Services Program provides congregate and home delivered meals to qualifying seniors at, and from, six (6) Senior Centers countywide. Food costs are a major component of the Santa Fe County Senior Services Program budget. It is in the best interest of county taxpayers to minimize the cost of food and associated items utilized, while delivering a quality product.

As of October 31, 2011, Santa Fe County has served 8,397 congregate and 6,999 home delivered meals since the County took over operation of all six (6) senior centers on July 1, 2011. Santa Fe County has expended \$ 46,943 in that same time period.

It is the opinion of the Senior Services staff that Santa Fe County will not get a better price for food than the State of New Mexico receives. The state purchases far more food than the County will for its' Senior Services Program. Senior Services staff recommends that the County utilize the comprehensive contract for food and associated items that has been negotiated by the State with its' vendor.

Santa Fe County Board of County Commissioners
November 22, 2011
Page #2

RECOMMENDATION:

The Purchasing Division and the Community Services Department request the Board of County Commissioners approve a waiver from Section 1 of Ordinance 2010-8 in order to purchase Food, Food Packaging, and Cleaning Supplies for the Senior Services Program utilizing the New Mexico State Contract for these items. The Santa Fe County Senior Services Program has used the State of New Mexico Contract to purchase food and associated supplies, and the use of this contract has been efficient and economical.

VALERIE ESPINOZA
COUNTY CLERK
(505) 986-6280

E-Mail: vespinoza@co.santa-fe.nm.us
County Courthouse
102 Grant Avenue
Santa Fe, New Mexico 87501
P.O. Box 1985
Santa Fe, New Mexico 87504-1985



Denise Lamb
Chief Deputy Clerk
Bureau of Elections
(505) 992-6755
E-Mail: dlamb@co.santa-fe.nm.us

Victoria L. Trujillo
Chief Deputy Clerk
Santa Fe County Clerk's Office
(505) 995-6535
E-Mail: vltrujillo@co.santa-fe.nm.us

MEMORANDUM

TO: Board of County Commissioners
FR: Valerie Espinoza, County Clerk
DT: November 9, 2011
RE: An Ordinance Amending Ordinance No. 2009-6, to Remove Fees for Data and Documents Provided by the County Clerk, to Comport with NMSA 1978, Section 14-8-14 (2011), which Delegates Authority to Establish Reasonable Fees to the County Clerk; Amending Exhibit A of Ordinance No. 2009-06.

The proposed ordinance amending Ordinance No. 2009-6 complies with a 2011 amendment to a New Mexico statute titled "Searching Records; Reproduction of Records; Fees." The statute, as amended, states that "County clerks: may charge reasonable fees for conducting searches and for reproducing or permitting reproduction of their records as well as for certifying documents; shall not charge fees in excess of one dollar (\$1.00) per page for documents eleven inches by seventeen inches in size or smaller; may require advance payment of fees before making copies of public records; shall not charge a fee for the cost of determining whether any public record is subject to disclosure; and shall provide a receipt, upon request. County clerks shall establish reasonable fees for conducting searches and for reproducing or copying records maintained at the office of the county clerk."

Previously, the County Clerk's fees were incorporated into an Ordinance No. 2009-6, which now conflicts with the statutory authority of the County Clerk to establish reasonable fees.

In order to eliminate this conflict and the potential for confusion between Ordinance No. 2009-6 and the Clerk's fee schedule, and to comply with NMSA 1978, Section 14-8-14 (2011) the Clerk proposes that the Board adopt this ordinance amending Ordinance No. 2009-6.

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

ORDINANCE NO. 2011 - ____

AN ORDINANCE AMENDING ORDINANCE NO. 2009-06 TO REMOVE FEES FOR DATA AND DOCUMENTS PROVIDED BY THE COUNTY CLERK, TO COMPORT WITH NMSA 1978, SECTION 14-8-14 (2011), WHICH DELEGATES AUTHORITY TO ESTABLISH REASONABLE FEES TO THE COUNTY CLERK;
AMENDING EXHIBIT A OF ORDINANCE NO. 2009-06.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE, NEW MEXICO:

Section One. Fees for Printed or Electronic Data. Section 6 of Ordinance No. 2009-06 shall be and hereby is amended with the following language (changes shown):

"Section 6. Fees for Printed or Electronic Copies of Data

"A. Except for records maintained at the office of the county clerk, fees for printed or electronic copies of data that has been inserted into a computer Database or data contained in the County's Geographic Information System are set forth on Exhibit A. All fees are due and payable prior to the receipt of data or information, and are non-refundable. The fees are set forth in Exhibit A may only be modified by amendment to this Ordinance."

"B. In accordance with NMSA 1978, Section 14-8-14 (2011), the County clerk may charge a reasonable fee for conducting searches and for reproducing or permitting reproduction of records as well as for certifying documents. The County Clerk shall not charge a fee in excess of one dollar (\$1.00) per page for documents eleven inches by seventeen inches in size or smaller. The County Clerk may require advance payment of fees before making copies of public records. The County Clerk shall not charge a fee for the cost of determining whether any public record is subject to disclosure, and shall provide a receipt, upon request."

Section Two. Amendment of Exhibit A. Exhibit A of Ordinance No. 2009-06 shall be and hereby is replaced with the amended Exhibit A attached hereto.

PASSED, APPROVED, AND ENACTED this ____ day of _____, 2011.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Virginia Vigil, Chair

ATTEST:

Valerie Espinoza, County Clerk

Approved as to form:



Stephen C. Ross, County Attorney

EXHIBIT A

Databases:	Price:
TR Master Database	\$43.64 if sent electronically \$47.64 if placed on disk
Other County Databases	Price for electronic copy will be calculated by the finance department using the hourly compensation paid to the employee responsible for copying the database for their time in researching and retrieving the electronic records, and shall be calculated in fifteen minute increments, in addition to relevant software and storage costs and the actual cost of materials.

Data held by the County clerk: As specified by the County Clerk.

The cost of each page printed from an electronic database not otherwise set forth below shall be fifty cents (\$0.50).

Internet Access:	Price:
Internet Access to Accessible Fields of the AS400	\$25.00 per month

Standard Hard Copy Maps:	Price:
36" X 48" standard product map	\$26.50
36" X 36" Maps	\$20.00
7' X 3' Maps	\$46.00
Reduced Copies of maps	\$2.25 per square foot
Reduced Copies of maps on photo paper	\$2.50 per square foot
11 X 17 Maps	\$2.00
8.5 X 11 Maps	\$2.00
Orthophoto imagery 36" X 36" on plain paper	\$20.00
Orthophoto imagery 36" X 36" on photo paper	\$22.50
1:100,000 (3' X 4') imagery on plain paper	\$26.50
1:100,000 (3' X 4') imagery on photo paper	\$30.00
Santa Fe County Road Book (28 pages – 24" X 36")	\$370.00
Individual sheet of Road Book	\$13.25

Slope Analysis:	Price:
Hourly Fee	\$33.00
Set-Up Fee	\$25.00

GIS Data:	Price:
Hourly Fee	\$33.00
Setup Fee	\$25.00
CD Rom	\$0.50
DVD Rom	\$4.00

Records held by the County clerk: As specified by the County Clerk.