

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY
RESOLUTION NO. 2019 - 87**

**A RESOLUTION TO APPROVE AMENDMENT NO. 1
TO LEASE AGREEMENT NO. 2015-0342-PW/PL
BETWEEN SANTA FE COUNTY AND NEW MEXICO LEGAL AID, INC.**

WHEREAS, on May 26, 2015, by Board of County Commissioners (BCC) Resolution No. 2015-78, the BCC approved Agreement No. 2015-0342-PW/PL (Lease Agreement) with New Mexico Legal Aid, Inc.. The Lease Agreement provides for New Mexico Legal Aid's lease of 2,512 square feet of office space and a common area in a building owned by Santa Fe County located at 901 W. Alameda in Santa Fe, NM; and

WHEREAS, BCC Resolution No. 2015-78 approved the Lease Agreement with a four year term and authorized the County Manager to execute the Lease Agreement, submit the Lease Agreement to the State Board of Finance, and do all things necessary to effectuate the Lease Agreement including executing any amendment or modifications to the Lease Agreement as may be requested by the State Board of Finance as a condition of approval; and

WHEREAS, the term of the Lease Agreement expires June 24, 2019, and New Mexico Legal Aid wishes to continue to lease the office space and extend the term of the Lease Agreement to June 24, 2022, and make the appropriate monthly rent adjustment based on the CPI. The County is agreeable to a term extension and rent adjustment; and

WHEREAS, the County submitted Amendment No. 1 to the Lease Agreement to the New Mexico State Board of Finance for approval; and

WHEREAS, on June 18, 2019, the State Board of Finance approved Amendment No. 1 to the Lease Agreement contingent upon receiving a resolution from the BCC approving the terms of Amendment No.1 to the Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. Amendment No. 1 to Lease Agreement No. 2015-0342-PW/PL between Santa Fe County and the New Mexico Legal Aid, Inc. is approved.

2. The Board approves the term extension to June 24, 2022, and the monthly rent adjustment based on the CPI.

PASSED, APPROVED, AND ADOPTED THIS 9th DAY OF July, 2019.

BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By: Anna T. Hamilton
Anna T. Hamilton, Chair
Santa Fe County Board of County Commissioners



ATTESTATION:
Geraldine Salazar
Geraldine Salazar
Santa Fe County Clerk

Date: 7-9-2019

Approved as to form:

R. Bruce Frederick
R. Bruce Frederick
Santa Fe County Attorney

Date: 6/24/19

Finance Division:

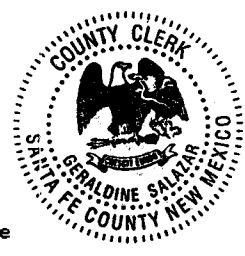
Gary L.J. Girón
Gary L.J. Girón
Finance Director

Date: 062619

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 21

I Hereby Certify That This Instrument Was Filed for
Record On The 10TH Day Of July, 2019 at 11:41:57 AM
And Was Duly Recorded as Instrument # **1890844**
Of The Records Of Santa Fe County



Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy Estrella Martinez County Clerk, Santa Fe, NM

SFC CLERK RECORDED 07/10/2019

SFC CLERK RECORDED 07/10/2019

**AMENDMENT NO. 1
TO LEASE AGREEMENT
BETWEEN SANTA FE COUNTY AND
NEW MEXICO LEGAL AID**

This Amendment No. 1 is made and entered into as of this ____ day of _____, 2019 by and between Santa Fe County (County) and New Mexico Legal Aid, Inc. (Lessee).

RECITALS

WHEREAS, on June 24, 2015, the County and Lessee entered into Lease Agreement No. 2015-0342-PW/PL (Agreement) that provides for the Lessee to lease 2,512 square feet of office space in a County building located at 901 W. Alameda in Santa Fe, NM; and

WHEREAS, according to Paragraph 31 (m) of the Agreement, the Agreement may be amended or modified by an instrument in writing executed by the Parties; and

WHEREAS, Lessee has exercised all its option to extend the term for a maximum of four years. Lessee wishes to continue to lease the office space and by this Amendment the parties agree to amend the Agreement accordingly; and

WHEREAS, by this Amendment No. 1 the Parties agree to amend the Agreement and extend the term to June 24, 2022.

NOW, THEREFORE, THE PARTIES AGREE TO AMEND THE AGREEMENT AS FOLLOWS:

1. Paragraph 3. Option[s] to Extend Term is amended to insert the following as subparagraph "A."

A. Lessee having exercised all its options to extend the term of this Agreement for two years from June 24, 2017 to June 24, 2019, by Amendment No. 1 to this Agreement, the parties agree to amend this Agreement to enable the Lessee to continue to lease the Premises for three additional years until June 24, 2022. By Amendment No. 1 to this Agreement this paragraph is modified by inserting the following as subpart (1):

(1) By Amendment No. 1 to this Agreement, the term is extended to June 24, 2022, and will automatically extend in one-year increments not to exceed June 24, 2026. Either Party will provide 90 days' notice prior to the expiration of the then current term if a Party does not wish to extend the term.
2. Paragraph 6. Rental Consideration subpart a, is modified to insert the following as subpart (i).

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(i) **CPI Adjustments.** By notice from the County to the Lessee dated May 31, 2017, and as provided in paragraphs b and c below, the annual rent to be paid by the Lessee effective July 1, 2017, was \$33,750.00. By notice from the County to the Lessee dated July 24, 2018, and as provided in paragraphs b and c below, the annual rent to be paid by the Lessee effective September 1, 2018, was \$34,583.00. As consideration for lease of the Premises during the term of June 24, 2019 to June 24, 2020, the Lessor's annual rent is \$35,268.48, which includes an estimate of common area maintenance. Monthly rent in the amount of \$2,939.04 shall be paid in advance on or before the first day of each month.

3. All other provisions of the Agreement not specifically amended or modified by this Amendment No. 1 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the last date of signature below.

LESSOR - SANTA FE COUNTY



Katherine Miller
Santa Fe County Manager

6.19.19

Date

Approved as to form:

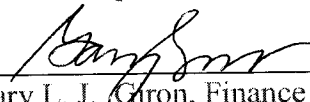


R. Bruce Frederick
Santa Fe County Attorney

6/18/19

Date

Finance Department

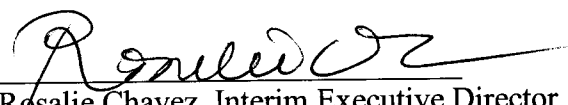


Gary L. J. Giron, Finance Director

6/18/19

Date

LESSEE -NEW MEXICO LEGAL AID, INC.



Rosalie Chavez, Interim Executive Director
New Mexico State Board of Finance

6/20/2019

Date

Director

Date

LEASE AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this 24th day of June, 2015 ("Execution Date") by and between **Santa Fe County**, a political subdivision of the State of New Mexico hereinafter referred to as "**County**", and **New Mexico Legal Aid, Inc.**, a New Mexico Corporation, hereinafter referred to as the "**Lessee**". County and Lessee are referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS:

A. **WHEREAS**, the County owns a building ("Building") in a shopping center commonly known as New Solana Center, and an office space (Suite B) within the Building (hereinafter the "Premises"), located at 901 W. Alameda, Santa Fe, New Mexico; and

B. **WHEREAS**, Lessee is willing and able to operate and maintain office space in the Premises in an efficient and competent manner for the purpose of offering legal aid services to the citizens of Santa Fe County and residents of the State of New Mexico.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

1. **Premises:** The Premises consist of approximately two thousand five hundred and twelve (2,512) square feet depicted on the drawings attached hereto as Exhibits "A1" and "A2". The Lessee agrees to lease the Premises from the County on the terms and conditions stated in this Agreement. Lessee has inspected the Premises and knows the extent and condition thereof and accepts same in its present condition, subject to and including all defects, latent and/or patent.

2. **Initial Term:** The initial term of this Agreement shall commence on the Execution Date and terminate two (2) years thereafter (the "Term"). This Lease Agreement shall not be effective until approved by the New Mexico State Board of Finance.

3. **Option[s] to Extend Term:** Provided Lessee is not in default of any of the terms, covenants, or conditions of this Agreement, Lessee shall have two (2) options to extend the Term of this Agreement, each for a one (1) year period. Lessee may exercise the option by giving the County written notice of Lessee's desire to extend, not less than ninety (90) days prior to expiration of the Term, as may be amended, of this Agreement. The County, at its sole discretion, may accept or reject the request to extend.

4. **Right to Terminate:** Either Party may terminate this Agreement by providing a 90-day prior written notice to the other Party.

5. **Hold Over:** If Lessee holds over after the expiration or termination of the Term, as may be amended, with the express or implied consent of the County, such holding over shall be a tenancy only from month to month and shall be governed by the terms, covenants, and conditions contained in this Agreement. Any hold over by Lessee shall not be permitted to exceed a period of six months. At County's option, Lessee shall pay during such holding over such rental consideration as

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County may determine appropriate, based on the then-prevailing fair market rental value of the Premises. Such rental value shall be determined by an appraisal.

6. **Rental Consideration:**

a. **Initial Term** - As consideration for lease of the Premises during the Term, Lessee shall pay to County thirteen dollars (\$13.00) per square foot for an annual amount of thirty-two thousand six hundred fifty-six dollars (\$32,656.00) which shall include an estimate of common area maintenance. Rental shall be paid monthly, in advance, on or before the first day of each month.

b. **Increase in Rent** - All terms, covenants and conditions of this Agreement, excepting the amount of rent to be paid, shall remain in full force and effect during any extension of the Term. The amount of rent to be paid during the first year of each exercised option term shall be the then-prevailing fair market rental value of the Premises, as determined by County, and in no event shall the amount of annual rent be less than the amount of annual rent paid during the previous year. Thereafter, the rent during each exercised option term shall be adjusted in accordance with **Sections c and d** below.

c. **CPI Calculation** - Rent may be increased annually by the County, effective on the first anniversary date of the Execution Date and on each subsequent anniversary date throughout the Term. The procedure for adjusting rent shall be as follows: The Consumer Price Index - All Urban Consumers - U. S. Cities hereinafter ("**Index**") as published by the United States Department of Labor's Bureau of Labor Statistics ("**Bureau**"), will be the basis for rent adjustments. The month that occurs two months prior to the date that this Agreement commences shall be used as the "**Base Month Index**" for the entire Term. County shall review the Index annually and compare it with the Base Month Index. If there has been an increase in the Index, the rent for the succeeding year shall be increased by an amount equal to the then-current rent multiplied by the percentage of the increase over the Base Month Index. Any increase in rent shall be rounded to the nearest whole dollar. In no event shall rent be adjusted downward to an amount less than the previous year's rent. Should the Bureau discontinue the publication of the Index, or publish the Index less frequently, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

d. **Penalty for Late Rent Payment** - If rent payable to County as a condition of this Agreement is not paid in full when due, a penalty of 10% of the amount due and unpaid shall be added to the amount due, and the total sum of the then-due rental plus penalty shall become immediately due and payable to County. A further penalty of 10% of the amount due and unpaid, including previously assessed penalties, shall be added for each additional month that said amount remains unpaid. The assessment and collection of the 10% penalty is in addition to any other rights of the County if Lessee does not faithfully perform the terms, covenants, and conditions of this Agreement.

7. **Security Deposit** - Lessee has provided a deposit of one thousand dollars (\$1,000.00) and Lessor acknowledges receipt of the deposit. The security deposit shall be held by County during the Term and any extension thereof. Lessee shall not use the security deposit toward payment of rent. County may withhold from the security deposit such amounts as necessary to cure any defaults, including without limitation, rent, damages, cleaning, and removal of Lessee's property upon termination of this Agreement.

8. **Purpose:** This Agreement is made for the purpose of providing the Lessee with office space.

a. Lessee shall not use or permit the Premises to be used for any other purpose without the prior written consent of the County, which may be granted or withheld at the County's sole discretion.

b. **No Nuisance** - Lessee shall not do or permit any act or thing to be done upon the Premises that will obstruct or interfere with the rights of County or any others, or injure or create a nuisance. Lessee shall not cause, maintain, or permit any nuisance or waste on or about the Premises, or allow the Premises to be used for any unlawful purpose. Within seventy-two (72) hours of receiving written notice from County that a nuisance exists, Lessee shall abate or otherwise cause the nuisance to be abated. If Lessee has not taken corrective action within seventy-two (72) hours, then County may enter and abate the nuisance at the sole cost of Lessee without any liability whatsoever to County. Lessee shall not allow any offensive matter, refuse or substance constituting an unnecessary, unreasonable or unlawful fire hazard, or material detrimental to the public health, to remain on the Premises or within a distance of fifty (50) feet thereof, and shall prevent any accumulation thereof from occurring.

9. **Construction or Alterations:** Lessee shall not permit any construction, alteration or addition to the Premises without the prior written consent of the County, which may be granted or withheld at the County's sole discretion and which will not be unreasonably withheld. All approved construction shall be done at Lessee's sole cost and shall comply with the terms and conditions of all federal, state and local rules, regulations, codes, laws and applicable County Ordinances pertaining to County property. Lessee's contractor(s) shall also submit to County a Certificate of Insurance as evidence of General Liability and Workers' Compensation Insurance Coverage. Such coverage limits shall be subject to approval by the County.

10. **Repair and Maintenance:**

a. **Lessee** - During the Term of this Agreement, and any extension thereof, Lessee shall, at its sole cost, repair and maintain the Premises and its furniture, fixtures and equipment ("FF&E") in a clean, sanitary and safe condition and in compliance with the terms, covenants and conditions of this Agreement and all laws and applicable ordinances. Lessee shall be responsible for its personal property on the Premises.

b. **Failure by Lessee to Repair and Maintain** - Repair and maintenance shall be to the sole satisfaction of County, and if Lessee fails to fulfill any duty imposed under this **Section (Repair and Maintenance)** within a reasonable period of time, County may, but is not required to, perform those duties at Lessee's sole cost. Lessee shall promptly cooperate with County if County undertakes to perform any such duties. No action by County taken pursuant to this **Section (Failure by Lessee to Repair and Maintain)** shall constitute a waiver of any of Lessee's obligations under this **Section (Repair and Maintenance)**. Lessee's obligations under this **Section (Repair and Maintenance)** shall survive the expiration or termination of this Agreement.

c. **County (if applicable)** - During the Term of this Agreement, and any extension thereof, County shall, at its sole cost, repair and maintain the roof, Premises exterior, exterior plumbing, HVAC system (including periodic changing of air conditioning filters), elevators and common areas of the Premises in a clean, sanitary and safe condition and in compliance with the terms, covenants and conditions of this Agreement and all Applicable Laws. Common areas shall be defined as hallways, the elevator, stairways and common bathrooms.

d. **Damage and Vandalism** - To the extent that Lessee's employees, agents, volunteers, authorized agents and invitees cause damage to the Premises and/or grounds, Lessee shall be responsible for such damage subject to **Section b** above (**Failure by Lessee to Repair and Maintain**).

11. **Janitorial**: Lessee shall be responsible for janitorial services for the Premises.

12. **Utilities and Services; Modification of Utilities**: Lessee shall pay, during the Term of this Agreement or any holding over of the Term, for all utilities used by Lessee in connection with its activities or operations on the Premises. The term "utilities" for the purposes of this Agreement shall include, without limitation, gas, electricity, water, sewer, telephone service, and trash and refuse disposal services. Lessee shall not modify any utilities on the Premises without the prior written consent of the County, which may be granted or withheld at the County's sole discretion. Utilities under common meters shall be allocated as follows:

a. **Water** - Lessee shall be responsible for the pro-rata share of plumbing fixtures as compared to the total number of plumbing fixtures on any particular meter serving the Premises.

b. **Electric** - Lessee shall be responsible for the pro-rata share of the area of the Premises as compared to the total area being served by any particular meter.

13. **Taxes and Assessments**: Lessee shall pay all taxes, fees, charges, and assessments levied by any governmental agency upon any interest acquired by Lessee under this Agreement. Lessee is aware that certain possessory interest may be created by entering into this Agreement and that such interests will be subject to the payment of property taxes levied on such interest.

14. **Lessee's Furniture, Fixtures and Equipment**:

a. **In General** - Lessee may install its own FF&E in the Premises, at its sole cost. In addition to Lessee's obligations under the section entitled "**Surrender of Premises**", at the expiration or termination of this Agreement, Lessee shall remove its FF&E, and repair any damage to the Premises as a result of removal, at its sole cost.

b. **Abandonment of FF&E** - Any FF&E belonging to Lessee and left on the Premises longer than thirty (30) days after County gives Lessee written notice to remove such property from the Premises may be treated by the County as abandoned. The County may, at Lessee's sole cost, repair any damage to the Premises as a result of removal of FF&E deemed abandoned by Lessee. The costs charged to Lessee may include, without limitation, consideration for the additional time Lessee's FF&E remain on the Premises beyond the termination date and prevents the County's full utilization and re-let of the Premises.

15. **Signs**: Lessee, at its sole cost, shall have the right to affix and install on the Premises, reasonable signs to identify the Premises, and such signs shall comply with all laws and County Ordinances, and shall be approved by the County prior to installation. Any damage to the Premises occasioned by the installation and maintenance of any such signs, and the cost of removal or obliteration thereof upon the expiration or termination of this Agreement, shall be paid by Lessee.

16. **Damage and Destruction**: If the Premises shall be damaged or destroyed by fire or casualty, not the fault of Lessee or any person in or about the Premises with the express or implied consent of the Lessee, the damaged Premises shall be repaired by Lessee at its sole cost, with the use of available insurance proceeds required under the section 22.c "**Fire and Casualty**", or Lessee may, at its

option, terminate this Agreement and assign the available insurance proceeds to County. In the event that Lessee elects to repair the damaged Premises, this Agreement shall continue in full force and effect except that certain obligations of Lessee may be subject to Force Majeure as provided in the section entitled "**Force Majeure**".

17. **Condemnation:** If all or any part of the Premises shall be taken as a result of the exercise of the power of eminent domain, this Agreement shall terminate as to the part so taken as of the date of taking, and, in the case of a partial taking, either Party shall have the right to terminate this Agreement as to the balance of the Premises by notice to the other Party within thirty (30) days after such date. However, a condition to the exercise by Lessee of such right to terminate shall be that the portion of the Premises taken shall be of such extent and nature, in Lessee's reasonable judgment, as substantially to handicap, impede or impair Lessee's use of the balance of the Premises. In the event of any taking, the proceeds shall belong to County.

18. **Right of Inspection:** County shall have the right to enter upon the Premises at all reasonable times to inspect the Premises and Lessee's operations thereon. County reserves all rights in and with respect to the Premises, not inconsistent with Lessee's use of the Premises as provided in the section 8 "**Purpose**", including without limitation the right of County to enter upon the Premises for the purpose of installing, using, maintaining, renewing, and replacing such underground oil, gas, water, sewer, and other pipelines, and such underground or aboveground telephone, telegraph, and electric power conduits or lines as County may deem desirable in connection with the development or use of the Premises. .

19. **Hazardous Materials:** Hazardous materials, as used in the Agreement, shall be defined as stated in **Exhibit "B," attached hereto.**

a. **No Hazardous Materials** - Lessee shall not permit any Hazardous Materials to be stored or brought onto the Premises without the prior written consent of the County, which may be granted or withheld in the County's sole discretion. If Lessee spills any Hazardous Materials anywhere on the Premises, Lessee shall cleanup said spill, at its sole cost, and to the sole satisfaction of County.

b. **Clean Up of Hazardous Materials** - If any governmental authority or court, which has jurisdiction, demands that a cleanup plan be prepared and/or that a cleanup be undertaken because of any deposit, spill, discharge, or other release of any Hazardous Materials at, on, or from the Premises at any time during Lessee's occupancy of the Premises, or which arises at any time as a result of any uses or occupancy of the Premises by Lessee, then Lessee shall, at its sole cost, prepare and submit the required plans and all related bonds and other financial assurances and carry out all such cleanup plans in a timely manner.

c. **Failure by Lessee to Clean Up** - Lessee shall promptly provide all information regarding the use, generation, storage, transportation, or disposal of Hazardous Materials that is requested by County. If Lessee fails to fulfill any duty imposed under the section entitled "**Survival of Indemnification Obligations**" within a reasonable period of time, County may, but is not required to, perform those duties at Lessee's sole cost. Lessee shall promptly cooperate with County if County undertakes to perform any such duties. No action by County taken pursuant to the section entitled "**Failure by Lessee to Clean Up**" shall constitute a waiver of Lessee's obligations under the section entitled "**Hazardous Materials**". Lessee obligations under the section entitled ("**Indemnification**") shall survive the expiration or termination of this Agreement.

d. **Receipt of Notice of Violation** - If Lessee becomes aware of or receives notice or other communications concerning any actual, alleged, suspected, or threatened violation of any Environmental Requirements, or liability of Lessee in connection with the Premises or past or present activities of any person thereon, then Lessee shall deliver to County within ten (10) days of receipt of such notice or communication by Lessee, a written description of said violation, liability, correcting information, or actual or threatened event or condition, together with copies of any documents evidencing same. Receipt of such notice shall not create any obligation on the part of County to defend or otherwise respond to any such notification.

20. **Indemnification:**

a. **In General** - Lessee shall indemnify and defend the County, its governing board, elected and appointed officials, employees, agents, and authorized representatives ("**Indemnified Parties**"), against any and all actions, lawsuits, proceedings, losses, costs, expenses, claims, fines, liabilities, fees (including, but not limited to, reasonable attorneys' fees, costs of County staff time, investigation, expert and consultant fees and costs), and damages, including liability for personal injuries or death or property damage, regardless of where located, including property of County, and workers' compensation claims or suits arising from or connected with Lessee's use and occupation of the Premises by any person or entity ("**Claims**"), arising out of or in any way connected with the acts or omissions of Lessee, its employees, agents, independent contractors, or invitees ("**Lessee Acts**"), unless the Claim is due to the sole default, act or failure to act, negligence, or willful misconduct of County or the Indemnified Parties.

b. **Environmental** - In addition, Lessee shall indemnify and defend the County and the Indemnified Parties against any and all Claims arising out of or in any way connected with any deposit, spill, discharge, or other release of any Hazardous Materials at any time during Lessee's occupancy of the Premises, or which arises at any time as a result of any uses at, on, or from the Premises or the occupancy of the Premises by Lessee, or as a result of Lessee's failure to provide any or all information, make any or all of its submissions, and take any or all steps required by any governmental authority or court which has jurisdiction or by any Environmental Requirements. "**Environmental Requirements**" and "**Hazardous Materials**," as used in this Agreement shall have the meaning provided in **Exhibit "B."**

c. **Survival of Indemnification Obligations** - Lessee's obligations under this **Section (Indemnification)** shall survive the expiration or termination of this Agreement.

21. **Release and Waiver:** Lessee releases the County from all Claims, and waives all Claims against County, that it may have as of the Execution Date, or may have in the future, relating to this Agreement and any acts or omissions of County or the Indemnified Parties, unless the Claim is due to the sole default, act or failure to act, negligence, or willful misconduct of County or the Indemnified Parties.

22. **Lessee's Insurance Coverage:** In order to protect County and the Indemnified Parties against Claims resulting from Lessee acts or use and occupation of the Premises, Lessee shall secure and maintain insurance as described below. Lessee shall not occupy the Premises pursuant to this lease Agreement until Lessee has obtained all insurance required under **Section c. (Fire and Casualty Insurance)** and the required certificates of insurance, and all required endorsements have been filed with the County's authorized insurance representative. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of these insurance requirements. The required documents must be signed by the authorized representative of

the insurance company shown on the certificate. Upon request by County, Lessee shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter and company to the coverage, limits, and termination provisions shown thereon. Lessee shall promptly deliver a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term of this Agreement or as otherwise specified herein. Such certificates and endorsements shall be delivered to the County's authorized insurance representative prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Lessee shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Lessee or County as an additional insured.

a. **Workers' Compensation and Employer's Liability Insurance Requirements.**

1) **Workers' Compensation Insurance - Lessee Employees.** If Lessee has employees who may perform any services pursuant to this Agreement, Lessee shall submit written proof that Lessee is insured against liability for workers' compensation.

2) **Employer's Liability Insurance.** Lessee shall also maintain employer's liability insurance with limits of \$1,000,000 for bodily injury or disease.

b. **Liability Insurance Requirements.**

1) **In General.** Lessee shall maintain in full force and effect, at all times during the Term of this Agreement, the following insurance:

(a) **Commercial General Liability Insurance,** including without limitation Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the County), Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Lessee's use and occupation of the Premises under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least \$1,000,000 each occurrence and \$2,000,000 aggregate.

(b) **Automobile Liability Insurance,** against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired, and non-owned vehicles used by Lessee with coverage equal to the policy limits, which shall not be less than \$1,000,000 each occurrence and \$2,000,000 aggregate.

(c) **Professional Liability (Errors and Omissions) Insurance,** for liability arising out of, or in connection with, the performance of Lessee's services with coverage equal to the policy limits, which shall not be less than \$1,000,000 each occurrence and \$2,000,000 aggregate.

(d) **Personal Property Insurance (Renter's Insurance),** coverage in the amount of the replacement value of Lessee's personal property.

2) **Additional Insureds.** The Commercial General Liability and Automobile liability Insurance required in **Section 22.b (Liability Insurance Requirements)** shall include an endorsement naming the County and the Indemnified Parties as additional insureds for liability arising out of this Agreement and any operations related thereto.

3) **Self-Insurance.** Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to County and must be approved by the County Risk Manager, which may be granted or withheld at the County Risk Manager's sole discretion.

4) **Claims-Made.** If any of the insurance coverages required under this Agreement is written on a claims-made basis, Lessee, at Lessee's option, shall either (i) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the Execution Date; (ii) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

c. **Fire and Casualty Insurance** - Lessee shall, at its sole cost, maintain on the Premises a policy of standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, to the extent of at least 100% of full replacement value. The insurance policy shall be issued in the names of Lessee with the County named as additional insured. The insurance policy shall provide that any proceeds shall be made payable to Lessee, and Lessee shall apply and use such proceeds as required by **Section (Damage and Destruction)**. Such insurance shall satisfy the requirements of **Section (Cancellation of Insurance)**, and shall be issued by a company or companies satisfying the requirements of **Section (Insurance Company Rating)**. On or before the Execution Date, Lessee shall deliver to County certificates of insurance indicating that Lessee has complied with the provisions of this **Section (Fire and Casualty Insurance)**.

d. **Cancellation of Insurance** - The above-stated insurance coverages required to be maintained by Lessee shall be maintained until the completion of all of Lessee's obligations under this Agreement and throughout Lessee's occupation and possession of the Premises. Each insurance policy supplied by Lessee must be endorsed to provide that the coverage shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after ten (10) days written notice in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Lessee shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

e. **Insurance Company Rating** - All insurance shall be issued by a company or companies admitted to do business in New Mexico and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved in writing by the County Risk Manager, which may be granted or withheld at the County Risk Manager's sole discretion.

f. **Lessee Self-Insured** - If Lessee is, or becomes during the Term of this Agreement, self-insured or a member of a self-insurance pool, Lessee shall provide coverage equivalent to the insurance coverages and endorsements required above. County will not accept such coverage unless the County Risk Manager determines, in his/her sole discretion and by written acceptance, that the coverage proposed to be provided by Lessee is equivalent to the above-required coverages.

g. **Primary Insurance** - All insurance afforded by Lessee pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by County. An endorsement shall be provided on all policies, except

professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against County.

h. No Limitations by Policy Limits - Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Lessee for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage, or to preclude County from taking such other actions as are available to it under any other provision of this Agreement or otherwise under Applicable Laws.

i. Failure to Maintain Insurance - Failure by Lessee to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Lessee. County, at its sole option, may terminate this Agreement and obtain damages from Lessee resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Lessee, County shall deduct from sums due to Lessee any premiums and associated costs advanced or paid by County for such insurance. If the balance of monies obligated to Lessee pursuant to this Agreement is insufficient to reimburse County for the premiums and any associated costs, Lessee shall reimburse County for the premiums and pay for all costs associated with the purchase of said insurance within ten (10) days of demand by County. Any failure by County to take this alternative action shall not relieve Lessee of its obligation to obtain and maintain the insurance coverages required by this Agreement.

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23. Liens and Encumbrances: Lessee shall keep the Premises free from any liens and encumbrances arising out of any work performed, material furnished, or obligations incurred by Lessee, or from any other cause. If a lien or encumbrances is recorded against the Premises, and Lessee fails to remove the lien or encumbrance or post a bond to remove same within fifteen (15) days after its filing, County shall give a fifteen (15) day notice to Lessee, requiring Lessee to remove or bond around the lien or encumbrance within the fifteen (15) day period. If Lessee fails to do so within the fifteen (15) day period, County, at its sole discretion after expiration of the 15-day period, may obtain a bond, with all costs of the bond to be reimbursed by Lessee to County.

24. Breach by Lessee: In the event of a breach by Lessee of any term, covenant, or condition, Lessee shall have thirty (30) days after written notice has been given to Lessee by County to cure, except for breach of the nuisance provisions in the section entitled "**No Nuisance**", which allows seventy two (72) hours to cure. If Lessee fails to cure within the stated time periods, County may exercise its remedies under the section entitled "**Remedies of County**".

a. Remedies of County - In the event of a breach by Lessee, then County shall have the right to terminate Lessee's right to possession of the Premises, by giving written notice of termination to Lessee, and thereby terminating this Agreement

b. Remedies Not Exclusive - No right or remedy herein conferred upon or reserved to County is intended to be exclusive of any other right or remedy herein or by law, provided that each shall be cumulative and in addition to every other right or remedy given herein or now, or hereafter existing at law or in equity or by statute.

c. County Right to Cure - In addition to County's remedies upon Lessee's breach, upon ten (10) days prior written notice to Lessee by County, County may cure any breach by Lessee and, if necessary, may enter upon the Premises for such purpose. In such event, the cost of cure, plus interest at the maximum legal rate from the date due until paid, shall become immediately due and payable by Lessee.

25. **No Waiver of Breach:** The waiver by County of any term, covenant, or condition contained in this Agreement must be in writing and shall not be deemed to be a waiver of any subsequent breach of the Term, covenant or condition contained in this Agreement, and no custom or practice that may arise between the Parties during the course of this Agreement shall be construed to waive or lessen the right of County to the performance by Lessee in strict accordance with the terms of this Agreement.

26. **Force Majeure:**

a. **Definition** - Neither Party shall be held responsible or be deemed to be in default under this Agreement for any delay in performance or failure to perform any of its obligations, if such delay or failure is the result of causes beyond the control and without negligence of the Party. Such causes include, without limitation, acts of nature, strikes, lockouts, riots, insurrections, civil disturbances or uprisings, sabotage, embargoes, blockages, acts of war or terrorism, acts or failure to act by any governmental or regulatory body (whether civil or military, domestic or foreign), governmental regulations superimposed after the fact, communication line failures, power failures, fires, explosions, floods, accidents, epidemics, earthquakes, , or other natural or man-made disasters ("**Force Majeure**"). Lack of funds shall not be a Force Majeure event.

b. **Consequences** - The Party affected by a Force Majeure event, upon giving prompt notice to the other Party, shall be excused from performance to the extent of such prevention, restriction, or interference, on a day-to-day basis until the Force Majeure event is removed, and the other Party shall likewise be excused from performance of its obligation which relate to the performance so prevented, restricted, or interfered with. The affected Party shall use its best efforts to avoid or remove the causes of nonperformance and to minimize the consequences thereof, and both Parties shall resume performance when the Force Majeure event is removed.

27. **Quiet Possession:** Lessee, in keeping and performing the terms, covenants and conditions herein contained on the part of Lessee to be kept and performed, shall at all times during the Term of this Agreement peaceably and quietly have, hold, and enjoy the Premises.

28. **Assignment and Subletting:**

a. **No Assignment or Subletting** - Lessee shall not sublease, assign, transfer, or otherwise convey this Agreement, or any of its rights and interests hereunder, including its leasehold rights and interests granted by this Agreement, without the prior written consent of the County.

b. **Failure to Obtain Consent** - If Lessee shall sublease, assign, transfer, mortgage, or otherwise convey this Agreement, or its rights and interests hereunder, or attempt to do so in violation of the foregoing provision, then in addition to any and all other rights and remedies available to it, County may, at its option by written notice to Lessee, either declare such sublease, assignment, transfer, mortgage, or other conveyance void or terminate this Agreement and all rights and interests of Lessee and all other persons hereunder.

c. **No Waiver or Limitation on Consent** - Any consent to a specific sublease, assignment, transfer or conveyance shall not be deemed or construed as the County's consent to any other or subsequent sublease, assignment, transfer or conveyance. This clause shall not

be construed to limit any right or remedy which County may become entitled to as a matter of law or become entitled to by reason of Lessee's actions or failures to act.

d. **Lessee in Compliance** - As a condition of County's consent to any assignment or sublease of this Agreement by Lessee, Lessee must be in compliance with all terms, covenants, and conditions of this Agreement, including without limitation the payment of all monies due to County.

29. **Surrender of Premises**: On the last day of the Term, or extension thereof, or earlier sooner termination of this Agreement, Lessee shall peaceably and quietly leave, surrender, and yield up to County the Premises in as good a condition and state of repair as it existed on the Execution Date, wear and tear excepted. By the expiration or termination date, Lessee shall have paid all utility bills and contacted the appropriate utility companies to have the utility services properly discontinued or transferred. Lessee shall immediately notify the County if Lessee surrenders the Premises and disconnects or transfers utilities before the last day of the Term or extension thereof.

30. **Notices**: All notices herein provided to be given, or which may be given, by either Party to the other shall be deemed to have been fully given when made in writing and deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, and addressed as follows:

To Lessee: New Mexico Legal Aid
PO Box 25486
Albuquerque, NM 87125-5486

To County: Santa Fe County
County Manager
102 Grant Avenue
Santa Fe, NM 87504

To County: Santa Fe County
Public Works Department
P.O. Box 276
Santa Fe, NM 87504

The address to which the notices shall be mailed to either Party may be changed by written notice given by such Party to the other, but nothing shall preclude the giving of any such notice by personal service.

31. **Miscellaneous Provisions**:

a. **Negation of Partnership** - County shall not become or be deemed a partner or joint venturer with Lessee or associate in any relationship with Lessee. Lessee shall not for any purpose be considered an agent, officer, or employee of County.

b. **Conflict of Interest** - All Parties agree that they are unaware of any financial or economic interest of any public officer or employee of the County relating to this Agreement. It is further understood and agreed that if such a financial interest does exist as of the Execution Date, County may immediately terminate this Agreement by giving written notice to Lessee.

c. Nondiscrimination -

1) Lessee, in the use of the Premises and in the activities or operations conducted by Lessee under this Agreement, shall not discriminate or permit discrimination against any person or class of persons by reason of race, color, creed, religion, ancestry, sex, or national origin in any manner prohibited by federal, state, or local laws or policies. Lessee shall not discriminate nor allow discrimination, either directly or indirectly, in hiring or employing persons to work at the Premises.

2) Lessee shall include the language in **subsection (1) above** in any agreement by which Lessee assigns or transfers any interest in the Premises or this Agreement, or grants a right or privilege to any person, firm, or corporation to use the Premises or to render services to the public on the Premises.

d. Incorporation of Prior Agreements - This Agreement contains all agreements of the Parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective.

e. Remedies not Exclusive - The use by either Party of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive such Party of, or limit the application of, any other remedy provided by law, at equity, or otherwise.

f. Severability - If any part, term, portion, or provision of this Agreement is decided finally to be in conflict with any law of the United States or the State of New Mexico, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the Parties intended to enter into in the first instance.

g. Governing Law; Venue - The Parties agree that the provisions of this Agreement shall be construed pursuant to the laws of the State of New Mexico. If either Lessee or County initiates an action to enforce the terms of this Agreement or declare rights hereunder, including actions on any bonds and/or surety agreements, the venue thereof shall be the state courts of the First Judicial District, Santa Fe County, State of New Mexico, it being understood that this Agreement is entered into, and will be performed, within Santa Fe County.

h. Appropriations and Authorizations - This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the Lessor to the Lessee. Such termination shall be without penalty to the County (Lessor), and the Lessor shall have no duty to reimburse the Lessee for expenditures made in the performance of this Agreement. The Lessor is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County (Lessor). The Lessor's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Lessee in any way or forum, including a lawsuit.

i. Compliance with Laws - Lessee shall, at its sole cost, promptly comply with all Applicable Laws, including Environmental Requirements, which may in any way apply to the use, operation, repair, maintenance, occupation of, or operations or construction on, the Premises.

j. Successors - Subject to Section 28 . "**Assignment and Subletting**", all terms, covenants, and conditions of this Agreement shall extend to, be binding upon, and inure to the

benefit of the heirs, executors, administrators, successors, and assigns of the respective Parties.

k. **No Third Party Beneficiaries** - This Agreement is made for the sole benefit of the Parties and their respective heirs, executors, administrators, successors, and assigns, and no other persons shall have any right of action hereon.

l. **Covenants and Conditions** - Each provision of this Agreement performable by Lessee shall be deemed both a covenant and a condition.

m. **Modification** - This Agreement may be modified or amended only by a written amendment signed by both Parties.

n. **Authorization** - Each individual executing this Agreement on behalf of either Party represents and warrants that he/she is duly authorized to execute and deliver this Agreement on behalf of that Party, and that this Agreement is binding upon both Parties in accordance with its terms.

o. **Recitals** - Each of the recitals is incorporated in this Agreement by reference as if fully set forth in this Agreement at length, is deemed to be the agreement and a reflection of the intent of the Parties, and is relied upon by the Parties in agreeing to the provisions of this Agreement and in interpreting its provisions.

p. **Captions** - Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement.

q. **Exhibits** - All exhibits attached to this Agreement are incorporated into this Agreement by reference.

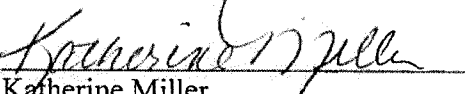
r. **Time of Essence** - Time is hereby expressly declared to be of the essence of this Agreement and of each and every provision thereof, and each such provision is hereby made and declared to be a material, necessary, and essential part of this Agreement.

a. **State Board of Finance Approval**. This Lease shall not be effective until approved by the New Mexico State Board of Finance. Any amendments to this Lease shall also be approved by the State Board of Finance.

SFC CLERK RECORDED 07/10/2019

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Execution Date.

LESSOR - SANTA FE COUNTY


Katherine Miller
Santa Fe County Manager

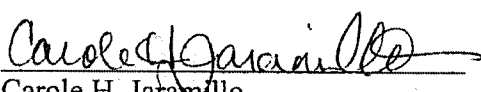
6-19-15
Date

APPROVED AS TO FORM


Gregory S. Shaffer
Santa Fe County Attorney

6-18-15
Date

FINANCE DEPARTMENT


Carole H. Jaramillo
Santa Fe County Finance Director

6/18/15
Date

LESSEE - NEW MEXICO LEGAL AID, INC.

 6-17-2015
(Signature) Date
ED MARKS, EXECUTIVE DIRECTOR
(Print Name)

New Mexico State Board of Finance

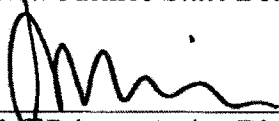
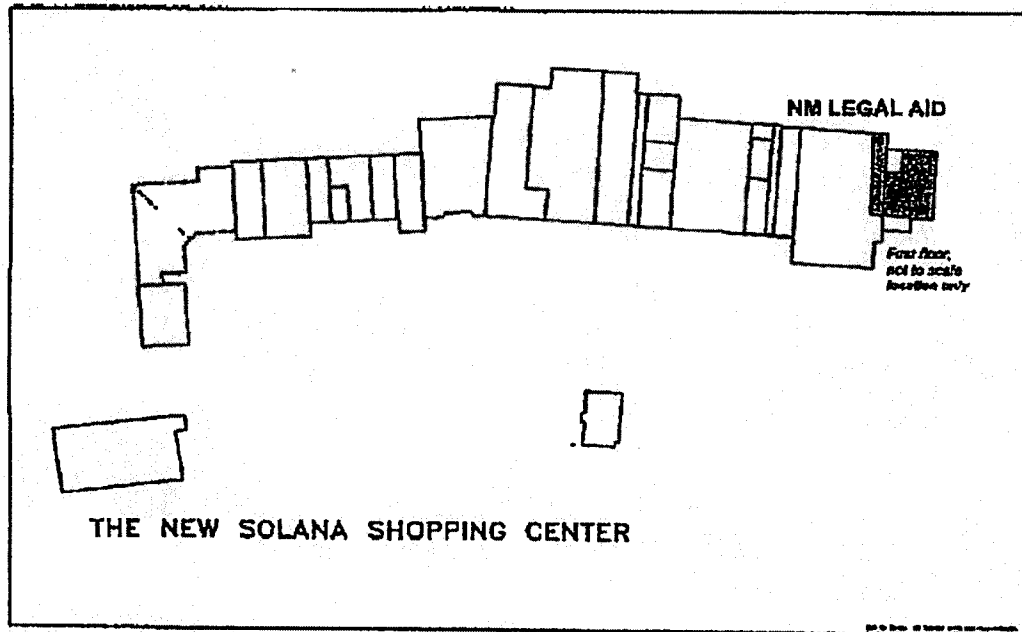
 6-24-15
Jeff Primm, Acting Director Date
State Board of Finance

EXHIBIT "A1" – Premises

**901-949 W. Alameda
Santa Fe, NM 87501**

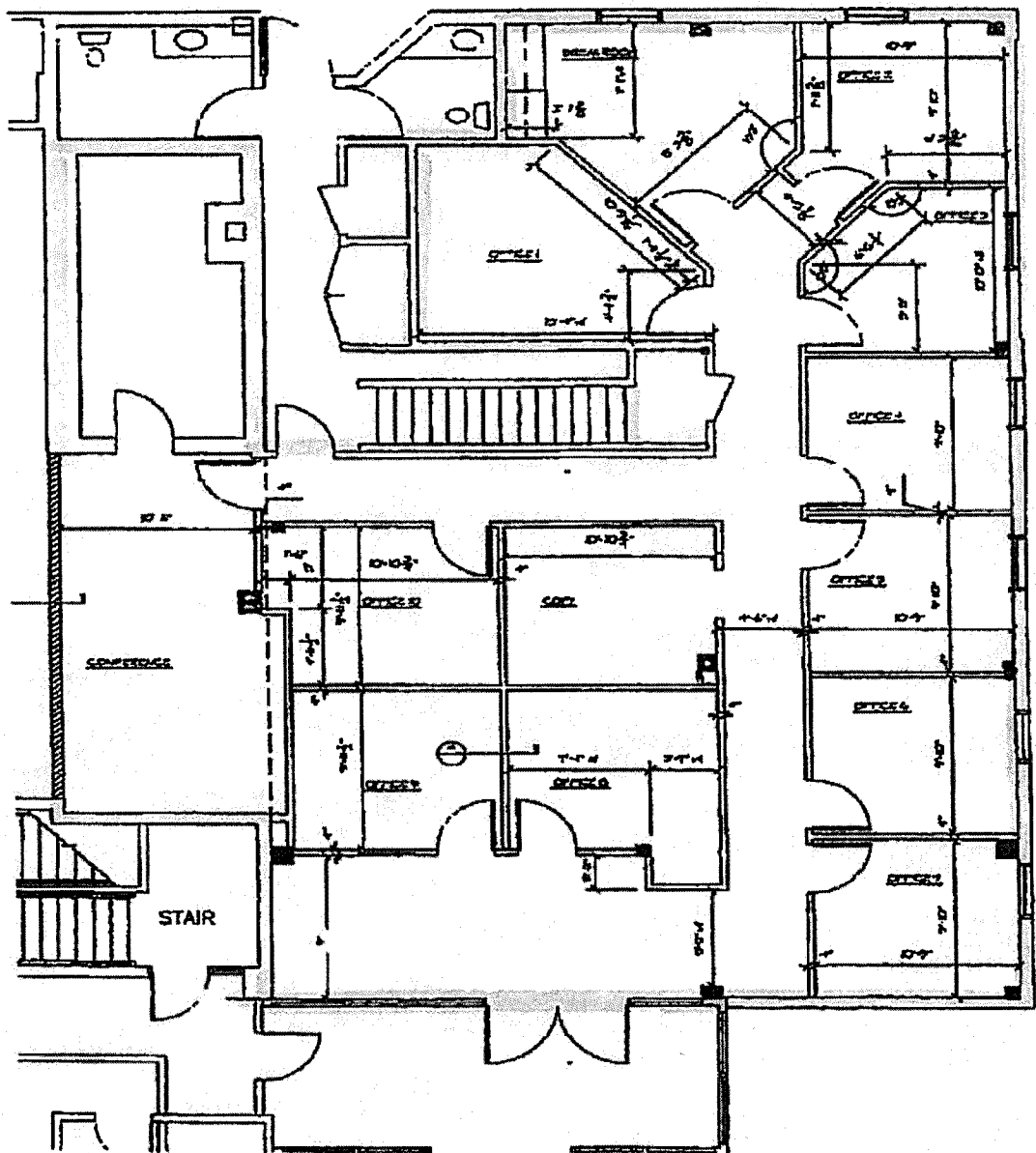


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**NEW SOLANA CENTER
New Mexico Legal Aid/Revised, 2.5.0**

EXHIBIT "A2" – Premises

Description of Premises
901 W. Alameda, Suite 20B



NEW SOLANA CENTER LEASE
New Mexico Legal Aid/Revised, R.S.D

EXHIBIT "B" – Environmental Terms

Definition of Environmental Terms

For the purpose of this Agreement, the following terms and words shall have the meaning given below:

1. **Environmental Requirements.** All applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, and similar items of any governmental agency, department, commission, board, bureau, or instrumentality of the United States of America, State of New Mexico, or its political or municipal subdivisions including Santa Fe County, and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human life or the environment.

2. **Hazardous Materials.** All flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous waste, toxic substances or related materials, petroleum products, and any substances declared to be hazardous or toxic under any present or future Environmental Requirements or which requires investigation or remediation under any present or future federal, state, or local law, statute, regulation, environmental requirement, order, or rule.

SFC CLERK RECORDED 07/10/2019