

**SANTA FE COUNTY
LEASE AGREEMENT WITH RAFAEL RODRIGUEZ**

THIS LEASE AGREEMENT is made and entered into this 8th day of October, 2009, by and between the **County of Santa Fe**, hereinafter referred to as the "County" or "Lessor" and **Rafael Rodriguez**, hereinafter referred to as the "Lessee."

RECITALS

WHEREAS, the County owns property at 14 Calle Del Prado, Santa Fe, New Mexico (the "Property"); and

WHEREAS, the County desires to have a resident at the Property to provide certain caretaking functions, described herein, and is willing to allow Lessee to locate a mobile or manufactured home at the Property and to reside therein in exchange for Lessee performing certain caretaking duties at the Property; and

WHEREAS, the Lessee is willing to perform the required caretaking duties under the terms of this Lease.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the County and Lessee agree as follows:

1. **Lease of Premises**

The County agrees to allow Lessee to park one manufactured or mobile home ("Home") on a portion of the Property designated by the County ("Premises") in accordance with the conditions set forth in this Agreement.

2. **Use of the Premises and Property**

- A. Lessee's residential occupancy of the Home and Premises is limited to Lessee and Lessee's family, which includes Lessee's spouse or significant other, and any related children.
- B. Lessee may not keep animals of any kind in the Home or at the Premises without the written consent of the County.
- C. The Premises shall be used by the Lessee solely for residential, single family use by placement of the Home on the Premises. Lessee acknowledges and agrees that the County reserves the right to use the non-Premises portion of the

Property in any lawful manner, including for, but not limited to, such public uses as the County, in its sole discretion, deems appropriate.

D. The Lessee agrees to pay residential utilities resulting from Lessee's occupation of the Home on the Premises.

3. **Lease Term**

This Lease shall, upon due execution by all parties, become effective _____, 2009, and shall terminate **October 31, 2013**, unless earlier terminated pursuant to Section 7, TERMINATION, of this lease.

4. **Obligations of Lessee**

In consideration for the County allowing Lessee the residential use of the Premises for the Home, the Lessee agrees to perform the following obligations:

- A. The costs of installation of the Home shall be solely the responsibility of the Lessee. The Home shall be installed only on the location designated by the County, *i.e.* the Premises, in a manner that meets or exceeds all applicable federal, state and local codes. Within five days of the installation of the Home, the Lessee shall furnish the County proof, acceptable to the County, that the utility hookups and foundation work for the Home comply with all applicable codes.
- B. Within five days of installation of the Home, Lessee shall furnish the County written notification of the Vehicle Identification Number and the name and address of any entity having a secured interest in the Home.
- C. Lessee shall not make alterations, attach fixtures, erect additions, structures or signs on the Premises or Property without prior written approval from the County including any alterations or additions necessary for the installation of the Home. All improvements and alterations shall be completed to the satisfaction of the County and shall, at the termination of this Lease, become the property of the County; provided, however, that the County may, in its sole discretion, require the Lessee, at Lessee's sole expense, to remove any such improvements or alterations and return the Premises to the condition it was in at the time it was leased to Lessee.
- D. Lessee shall maintain homeowners insurance in the amount of \$1,050,000 for personal liability and \$1,050,000 for property damage coverage and shall name

Santa Fe County as an additional insured and shall prohibit the insurance company from terminating the policy without first providing the County with written notice of the termination ten days in advance of said termination at the address set forth in Section 11, "Notice." Prior to occupying the Home on the Premises, Lessee shall provide a copy of said insurance policy to the County.

- E. Lessee shall keep the Premises and Property including any established trails, paths and roadways, free of debris, weeds, trash and other litter.
- F. Lessee shall neither cause nor permit any hazardous material to be brought upon, kept or used in the Home, Premises or Property. As used herein, "hazardous material" means a substance the release of which would necessitate an environmental response action under any federal, state, county or municipal law, whether now in effect or enacted in the future.
- G. Lessee shall not create or allow a nuisance to exist at the Home or on the Premises or Property.
- H. Lessee shall make detailed periodic inspections of the Property, including all structures, grounds and equipment. Lessee shall file a monthly inspection report with the County setting forth the Property's condition.
- I. Lessee shall report any incidents of damage or vandalism involving the Premises or the Property to the County as soon as possible, but in no event shall any incident be reported more than 24 hours after the time the incident is discovered. Lessee shall not act as a security guard, law enforcement officer or in any other manner that may endanger the safety of Lessee.
- J. Neither the Lessee nor any member of Lessee's family shall acquire an ownership interest in the Premises or Property by reason of the Lessee's or Lessee's family's use of the Premises or Property.
- K. Lessee shall be liable for and shall reimburse the County for any damage to the Premises or Property beyond normal wear and tear.
- L. Lessee acknowledges and agrees that, in the event Lessee fails to perform any of its obligations hereunder, the County shall have the right, but not the duty, to perform such obligations, in which event Lessee shall be responsible for reimbursing the County for the cost of performing Lessee's obligations. The County has the right to enter the Premises at reasonable hours (or in an emergency, at any hour) to inspect, clean or repair the Premises as the County deems necessary.

- M. Lessee agrees to pay all other costs that are not covered under this Lease that result from Lessee's use of the Premises.

5. **Obligations of the County**

In consideration for the Lessee's agreement to lease the Premises from the County, the County agrees to the following:

- A. The County reserves the right, upon reasonable notice, at the County's expense, carry out management activities on the Property and construct such improvements on the Property as the County, in its discretion, deems advisable.
- B. Except in an emergency, the County agrees to notify Lessee at least seven days in advance of any work on the Property involving construction vehicles and to use reasonable efforts to minimize activities that might conflict with or harm the Lessee's use of the Premises.
- C. The County shall have the right to make periodic inspections of the Property and will provide the Lessee with written reports of any such inspections. If necessary, the reports will identify any issues that need to be addressed by the Lessee to comply with this Agreement.
- D. The County shall provide Lessee with access to the Premises over a route or routes of County's choosing. The County may change the routes that Lessee may use to access the Premises at any time, for any reason, by giving Lessee written notice of such change.

6. **Rent**

In lieu of monetary rent, the Lessee agrees to fulfill its responsibilities under Section 4, "Obligations of Lessee".

7. **Termination**

A. **Termination for Cause**

Either party may terminate this Lease based upon any material breach of this Lease by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective 30 days from the breaching party's receipt of the notice of termination. Lessee must vacate the Home within 30 days of receipt of the notice of breach; in such instance, the Lessee must remove the Home from the Premise

within 60 days of receipt of the notice of breach. If Lessee fails to timely remove the Home, the County will have the Home removed and such costs of removal and storage of the Home will be the responsibility of the Lessee.

B. Termination for Convenience of the County

The County may, in its sole discretion, terminate this Agreement at any time for any reason by giving Lessee advance written notice of termination. The notice shall specify the effective date of termination, which shall not be less than 60 days from Lessee's receipt of the notice. Within 60 days from Lessee's receipt of the notice of termination, Lessee must remove the Home from the Premises. If Lessee fails to timely remove the Home, the County will have the Home removed and such costs of removal and storage of the Home will be the responsibility of the Lessee.

C. Termination for Convenience of the Lessee

The Lessee may terminate this Agreement at any time for any reason by giving the County advance written notice of termination. The notice shall specify the effective date of termination, which shall be not be less than 30 days from the County's receipt of the notice. Within 30 days from Lessee's delivery of the notice of termination to the County, Lessee must remove the Home from the Premises. If Lessee fails to timely remove the Home, the County will have the Home removed and such costs of removal and storage of the Home will be the responsibility of the Lessee.

D. County's Liability for Termination of Lease

In no event shall the County be liable to Lessee for any damages allegedly suffered by Lessee as a result of the County's termination of this Lease. If Lessee fails to remove the Home at the termination of this Lease, the County will have the Home removed and such costs of removal and storage of the Home will be the responsibility of the Lessee.

8. Surrender Upon Termination

At the expiration of the term of this Lease or upon termination pursuant to Section 7 of the Lease, Lessee must remove the Home from the Premises and surrender the Premises to the County in as good a condition as it was at the beginning of the term, reasonable use and wear excepted. If Lessee fails to remove the Home at the termination of this Lease, the County will have the Home removed and such costs of removal and storage of the Home will be the responsibility of the Lessee.

9. **Exculpatory Clause; Indemnity**

The County shall not be liable for, and the Lessee agrees to indemnify and hold the County and its Elected Officials, agents, and employees harmless against any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of Lessee's lease of the Premises, including, but not limited to, any and all claims for injury or damage to persons or property occurring during the term of this Lease either (i) within the Premises or (ii) outside the Premises if due to the Lessee's acts or failures to act or due to the acts of any animals kept at the Premises by the Lessee in violation of the terms of this Lease.

The County shall have the right to approve any counsel retained by Lessee to defend any demand, suit, or cause of action in which the County is named, such approval shall not be unreasonably withheld. Lessee agrees (i) that the County shall have the right to control and participate in the defense of any such demand, suit or cause of action concerning matters that relate to the County; and (ii) that such suit will not be settled without the County's consent, such consent shall not be unreasonably withheld. If, in the County's judgment, a conflict exists between the interest of the County and Lessee in such demand, suit or cause of action, the County may retain its own counsel, whose fees shall be paid by Lessee.

Lessee's obligations under this section shall not be limited by the provisions of any insurance policy Lessee is required to maintain under this Lease.

10. **New Mexico Tort Claims Act**

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

11. **Notice**

Any and all notices provided for hereunder shall be in writing and shall be deemed delivered, given and received when (i) personally delivered, or (ii) five (5) days after the same are deposited in the United States mail, postage prepaid, addressed to the applicable party at the address indicated below for such party, or at such other address as may be designated by either party in a written notice to the other party:

To the County: Santa Fe County
 P.O. Box 276, 201 Grant Ave.

Santa Fe, NM 87504-0276

To the Lessee: Rafael Rodriguez
 14 Calle del Prado
 Santa Fe, NM 87508

12. **Captions**

Any captions to or headings of the paragraphs of this Lease are solely for the convenience of the parties, are not a part of this Lease and shall not be used for the interpretation or determination of validity of this Lease or any provisions hereof.

13. **Severability**

In case any one or more of the provisions contained in this Lease or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

14. **Applicable Law**

This Lease shall be construed, enforced and interpreted in accordance with and governed by the laws of the State of New Mexico. Lessor and Lessee agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be Federal and State district courts of New Mexico, located in Santa Fe County.

15. **Assignment**

The Lessee shall not have the right to transfer and assign, in whole or in part, its rights and obligations under the Lease and in the Premises. The Lessee shall not assign this Lease or sublet all or any part of the Premises. Any attempted transfer, assignment, or subletting by Lessee shall be null and void.

16. **No Waiver**

No waiver of a breach of any of the covenants contained in this Lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

17. **Amendment**

This Lease shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto.

18. **Force Majeure**

The County shall have no liability to the Lessee, nor shall Lessee have any claim for constructive eviction, because of the County's failure to perform any of its obligations in the Lease if the failure is due to reasons beyond the County's reasonable control, including without limitation, strikes or other labor difficulties, war, riot, civil insurrection, accidents, acts of God and governmental preemption in connection with a national emergency.

19. **Entire Lease**

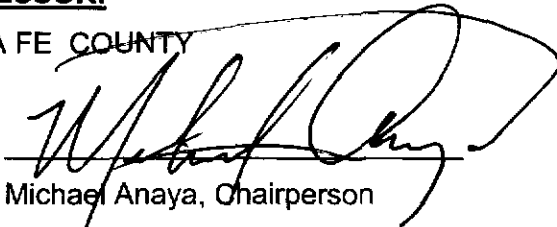
The foregoing constitutes the entire agreement between the County and the Lessee, represents their entire understanding and defines all of their respective rights, title and interest as well as all of their duties, responsibilities and obligations. Any and all prior agreements and understandings between the parties are merged herein.

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

THE LESSOR:

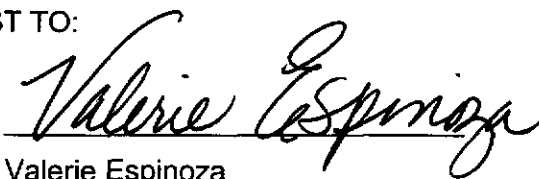
SANTA FE COUNTY

By:

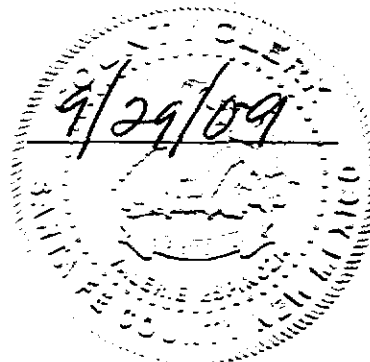

Michael Anaya, Chairperson
Santa Fe Board of County Commissioners

ATTEST TO:

By:


Valerie Espinoza
Santa Fe County Clerk

Date:

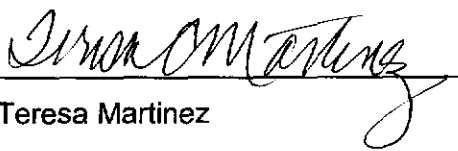


APPROVED AS TO FORM:

By: 
Stephen C. Ross
County Attorney

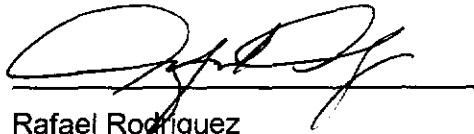
Date: 14 September 2009

FINANCE DEPARTMENT APPROVAL:

By: 
Teresa Martinez
Santa Fe County Finance Director

Date: 9/17/09

THE LESSEE:

By: 
Rafael Rodriguez

Date: 10-8-09