

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2012-14

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4  
5 AN ORDINANCE

6 APPROVING A LEASE BETWEEN THE CITY OF SANTA FE AND PASEO PARKERS  
7 LLC, FOR APPROXIMATELY 4,965 SQUARE FEET OF CITY OWNED LAND,  
8 LOCATED WITHIN THE 700 BLOCK OF PASEO DE PERALTA, KNOWN AS LOT 33,  
9 IN BLOCK 43 OF THE N.L. KINGS OFFICIAL MAP, FILED FOR RECORD IN PLAT  
10 BOOK 1, PAGE 79, RECORDS OF SANTA FE COUNTY, NM, FOR A PARKING AREA  
11 AND LANDSCAPING PURPOSES.

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13 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

14 Section 1. The City of Santa Fe hereby approves a certain lease, attached hereto as  
15 Exhibit "A", dated April 30, 2012, entered into between the City of Santa Fe and  
16 Paseo Parkers LLC, for approximately 4,965 square feet of land, located within the 700 block of  
17 Paseo de Peralta and is known as Lot 33, in Block 43 of the N.L. Kings Official Map, filed for  
18 record in Plat Book 1, page 79, records of Santa Fe County, NM (the "Lease Agreement"). The  
19 Lease Agreement expires on April 29, 2017. The City of Santa Fe may grant Paseo  
20 Parkers LLC up to two options to extend the term of the Lease Agreement as more fully  
21 described under the Lease Agreement.

22 Section 2. This Ordinance shall be effective forty-five days after the date of  
23 adoption, unless a referendum is held pursuant to Section 3-54-1(D) NMSA 1978.

24 Section 3. This Ordinance shall be published as required by Section 3-17-3 NMSA  
25 1978 and such publication shall contain the following information:

1           A.       **Property to be Leased.** The City of Santa Fe shall lease to Paseo Parkers LLC,  
2 4,965 square feet more or less of land located within the 700 block of Paseo de Peralta and is  
3 known as Lot 33, in Block 43 of the N.L. Kings Official Map, and is more fully described under  
4 the Lease Agreement.

5           B.       **Market Value of the Leasehold Premises.** Because of the restrictions on the  
6 use of the leasehold premises, the discounted market value of the leasehold premises is one  
7 hundred nineteen thousand, one hundred twelve dollars and twenty cents (\$119,112.20).

8           C.       **Payment Terms of the Lease.** The rental payment for the leasehold premises  
9 shall be in an annual amount of eight thousand seven hundred eighty-two dollars (\$8,782.00) as  
10 base rent, due each year for five years, for forty-three thousand, nine hundred ten dollars  
11 (\$43,910.00).

12           D.       **Lessee.** The Lessee is Paseo Parkers LLC, 708 Paseo de Peralta, Santa Fe, New  
13 Mexico 87501.

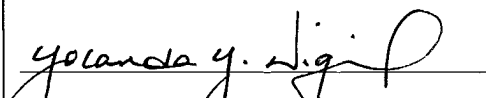
14           E.       **Purpose of the Lease.** The purpose of the lease is for the Lessee to use and  
15 occupy the premises for a parking area for appurtenant adjoining commercial properties and for  
16 landscaping purposes, as more fully described under the Lease Agreement.

17           PASSED, APPROVED and ADOPTED this 14<sup>th</sup> day of March, 2012.

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20           DAVID COSS, MAYOR

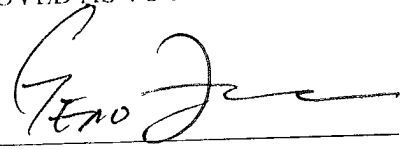
21           ATTEST:

22  
23   
24           YOLANDA Y. VIGIL, CITY CLERK

1 APPROVED AS TO FORM:

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A handwritten signature in cursive script, appearing to read "Geno Zamora", is written over a horizontal line.

4 GENO ZAMORA, CITY ATTORNEY

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25 *M-Melissa/bills 2012/2012-14 Paseo Parkers*

FILED FOR RECORDING 05/23/2012

**LEASE AGREEMENT  
BETWEEN THE CITY OF SANTA FE  
AND  
PASEO PARKERS, LLC.**

This LEASE AGREEMENT is made and entered into this 30<sup>th</sup> day of April, 2012, by and between the City of Santa Fe, a Municipal Corporation, ("Lessor") and Paseo Parkers LLC, ("Lessee"), whose address is 708 Paseo de Peralta, Santa Fe, NM 87501.

WITNESSETH:

In consideration of the Lessee's promises herein, Lessor hereby gives the Lessee a Lease Agreement, revocable and terminable as hereinafter provided, to enter on and make use of the property of the Lessor as follows:

1. PREMISES

Subject to the terms and conditions of this Lease Agreement, the Lessor allows the Lessee to use and occupy, subject to all of the terms and conditions hereinafter stated, that parcel of City real property known as Lot 33, in Block 43 of the N.L. Kings Official Map filed for record in Plat Book 1, page 79, records of Santa Fe County, New Mexico. The leased property ("Premises") consists of approximately 4965 square feet as more fully described and shown on Exhibit "A" attached hereto and made a part hereof. Lessee accepts the Premises in its present state and agrees that it is in good condition, without any representation or warranty by Lessor as to the condition of the Premises or as to the use, which may be made thereof.

2. USE OF PREMISES

Lessor agrees to allow the use by Lessee of the Premises for the purpose of

parking area appurtenant to adjoining commercial properties. No further use of the Premises area shall be allowed except those actions necessary for use and maintenance of the area, and also subject to the following conditions:

- A. No other commercial use of the Premises including, but not limited to, the sale or display of merchandise or installation of additional advertising signage shall be permitted;
- B. Adequate lighting, acceptable to the Land Use Department, to be provided at the Lessee's expense within the Premises.

3. LEASE TERM

The term of this Lease shall commence on April 30, 2012 and shall run for five (5) years from said date unless sooner terminated as provided herein. Lessee and the Lessor may mutually agree to grant the Lessee up to two options to extend the term of this Lease, each Option being for a five (5) year extension provided Lessee is not in default under any provisions of this lease at the time of exercising its Options. Lessee shall exercise its Options hereunder by providing Lessor with written notice of its request to extend the term of this Lease at least sixty (60) days prior to the end of the applicable term of this Lease. In the event Lessee shall remain in possession of the Premises after the expiration of the initial or subsequent term(s) of this Lease, such possession may, at the sole option of Lessor, be continued as a month-to-month tenancy. During any such month-to-month tenancy, the rental fee shall be prorated and payable on a monthly basis in advance of the first day of each month, and the terms and conditions of the Lease shall be otherwise applicable.

4. RENT

Rent shall be paid as follows:

A. Base Rent. Lessee shall pay eight thousand seven hundred eighty-two dollars (\$8782.00) as base rent, due each year for five years ending on April 29, 2017, without notice or demand and without deduction or offset for any cause whatsoever. Lessee shall make all payments of rent each year before anniversary date to the Lessor's cashier office, Room 114, 200 Lincoln Ave., Santa Fe, NM.

B. Increases in Base Rent. Commencing the second year and every subsequent year of the term of this Lease Agreement, or any renewal thereof the annual rent shall be adjusted by multiplying the previous year's annual rent by the sum of one and the change over the most recent 12 months in the Consumer Price Index ("CPI") seasonally adjusted U.S. City Average for All Urban Consumers published monthly in the "Monthly Labor Review" of the Bureau of Labor Statistics of the United States Department of Labor (hereinafter, the "CPI-U").

C. In no event shall there be a decline in the rent from year to year as a result of the adjustment provided for in Paragraph B hereof.

5. CANCELLATION BY LESSOR

Upon Lessee's failure to comply with a provision of this Lease, Lessor may cancel this Lease subject to the notice and cure provisions provided in this Section 6. Prior to cancellation, Lessor shall hand deliver or mail notice to Lessee via certified or registered mail specifying (1) the breach; (2) the action required to cure the breach; (3) a date, not less than fifteen (15) days from the date the notice is mailed to Lessee, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice will result in termination of the Lease.

6. NON-ASSIGNMENT SUBLEASE

Lessee shall not assign, sublease or otherwise transfer this Lease Agreement, without the written consent of the Lessor, which consent may not unreasonably be withheld, and any such actions taken by Lessee shall result in the immediate termination of this Lease Agreement.

7. LIABILITY INSURANCE

Lessee shall carry and maintain in full force and effect during the term of this Agreement, public liability insurance covering bodily injury and property damage, in a form and with an insurance company acceptable to Lessor, with limits of coverage not less than as stated in the New Mexico Torts Claims Act for each person injured and for each accident resulting in damage to property, against all claims and lawsuits arising from the Lessee's use of the Premises. Lessee shall cause the City of Santa Fe to be named as additional insured on such policy of insurance. Prior to this Lease Agreement taking effect and thereafter throughout the term of this Lease, Lessee shall provide Lessor with certificates of insurance evidencing that the coverage required hereunder is current. Such policy shall provide that the coverage evidenced thereby shall not be terminated or modified without 30 days prior written notice to the Lessor for any reason. A certificate or policy which states that failure to give such notice imposes no obligation on the part of the insurer shall be unacceptable to Lessor, and Lessee shall be responsible for removing such language from such certificate or policy.

8. INDEMNIFICATION

The Lessee shall indemnify, hold harmless and defend the Lessor from all losses, damages, claims or judgments, including payment of all attorney's fees and costs, on account of any suit, judgment, execution, claim, action or demand whatsoever arising

from Lessee's use of the premises hereunder, as well as that of any of Lessee's employees, agents, representatives, guests or invitees.

9. REPAIR AND MAINTENANCE

Lessee shall not cause or permit any waste, damage or injury to the Premises. Lessee shall, at its sole expense, keep and maintain the Premises in good condition, reasonable wear and tear excepted, and shall be responsible for payment of all necessary expenses of repairs and replacements that arise during Lessee's use of the Premises. In the event of partial or complete destruction of improvements on the Premises, Lessee may cause the improvements to be reconstructed subject to issuance of necessary City Permits.

10. ALTERATIONS AND IMPROVEMENTS

Lessee shall make no alteration, addition or improvements to the Premises for the uses described in Article 2 herein without the prior written consent of the Lessor. Any alterations, additions or improvements made by Lessee after such consent shall have been given, and any fixtures installed as part thereof, shall become the property of the Lessor upon termination of this Lease Agreement, unless Lessee elects to remove them and restore the Premises to the condition existing prior to the installation of such fixtures, provided, however, that the Lessor shall have the right to require Lessee to remove such fixtures at Lessee's sole expense, upon termination of this Lease Agreement.

11. EASEMENTS

Lessor reserves the exclusive right to grant access, utility or other easements on or through the Premises.



12. NOTICE

Any required notice will be deemed delivered, given and received (i) when personally delivered, or (ii) five days after the same are deposited in the United States mail, postage prepaid, registered, 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:

<p>Lessor:  City Manager  City of Santa Fe  PO Box 909, 200 Lincoln Ave.  Santa Fe, NM 87504-0909</p>	<p>Lessee:  Paseo Parkers LLC  Managing Member  708 Paseo de Peralta  Santa Fe, NM 87501</p>
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13. NO WAIVER

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

14. SEVERABILITY

In the event that 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.

15. ENTIRE AGREEMENT

The foregoing constitutes the entire agreement between Lessor and Lessee, represents their entire understanding and defines all of their respective rights, title and interests as well as all of their duties, responsibilities and obligations. Any and all prior agreements and understandings between the parties are merged herein. This Lease shall not be modified or amended except by a written document signed by the parties.

16. BINDING EFFECT

This Lease Agreement shall be binding upon and insure to the benefit of the parties hereto and their respective successors and permitted assigns.

17. LITIGATION EXPENSE

In the event of litigation between the parties, the Lessee shall pay any necessary costs, including reasonable attorney's fees, expenses and other costs of collection or otherwise, which the Lessor shall incur in enforcing this Lease or in recovering any and all damages caused to the Premises by Lessee, or Lessee's agents, employees or permitted assigns.

18. RECORDING

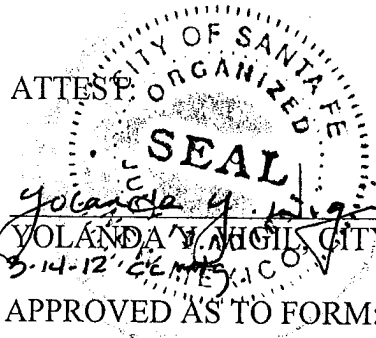
This Lease Agreement shall be recorded in its entirety. Lessee shall bear all costs for recording of the Lease Agreement and any other associated costs.


IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of this

30<sup>th</sup> day of April, 2012.


LESSOR:  
CITY OF SANTA FE

  
\_\_\_\_\_  
DAVID COSS, MAYOR

ATTEST:  
  
Yolanda Y. Vigil  
YOLANDA Y. VIGIL, CITY CLERK  
3-14-12  
APPROVED AS TO FORM:

  
\_\_\_\_\_  
GENO ZAMORA, CITY ATTORNEY  
11/17/11 7

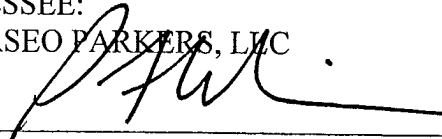
APPROVED:

  
 DR. MELVILLE L. MORGAN,  
 FINANCE DIRECTOR

5/22/12

21117.460150  
BUSINESS UNIT/LINE ITEM

LESSEE:  
PASEO PARKERS, LLC



PETER WIRTH, MANAGER

ACKNOWLEDGMENT

STATE OF NEW MEXICO)

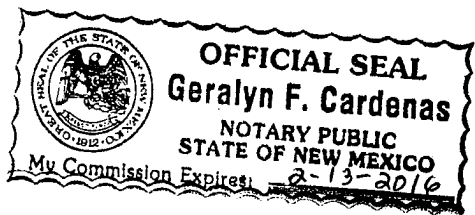
) ss.

COUNTY OF SANTA FE )

The foregoing instrument was acknowledged before me this 7th day of May, 2012, by Peter Wirth, managing member of Paseo Parkers, LLC.

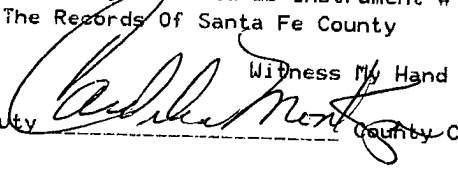
  
 Notary Public

My Commission Expires: February 13, 2014  
(Seal)

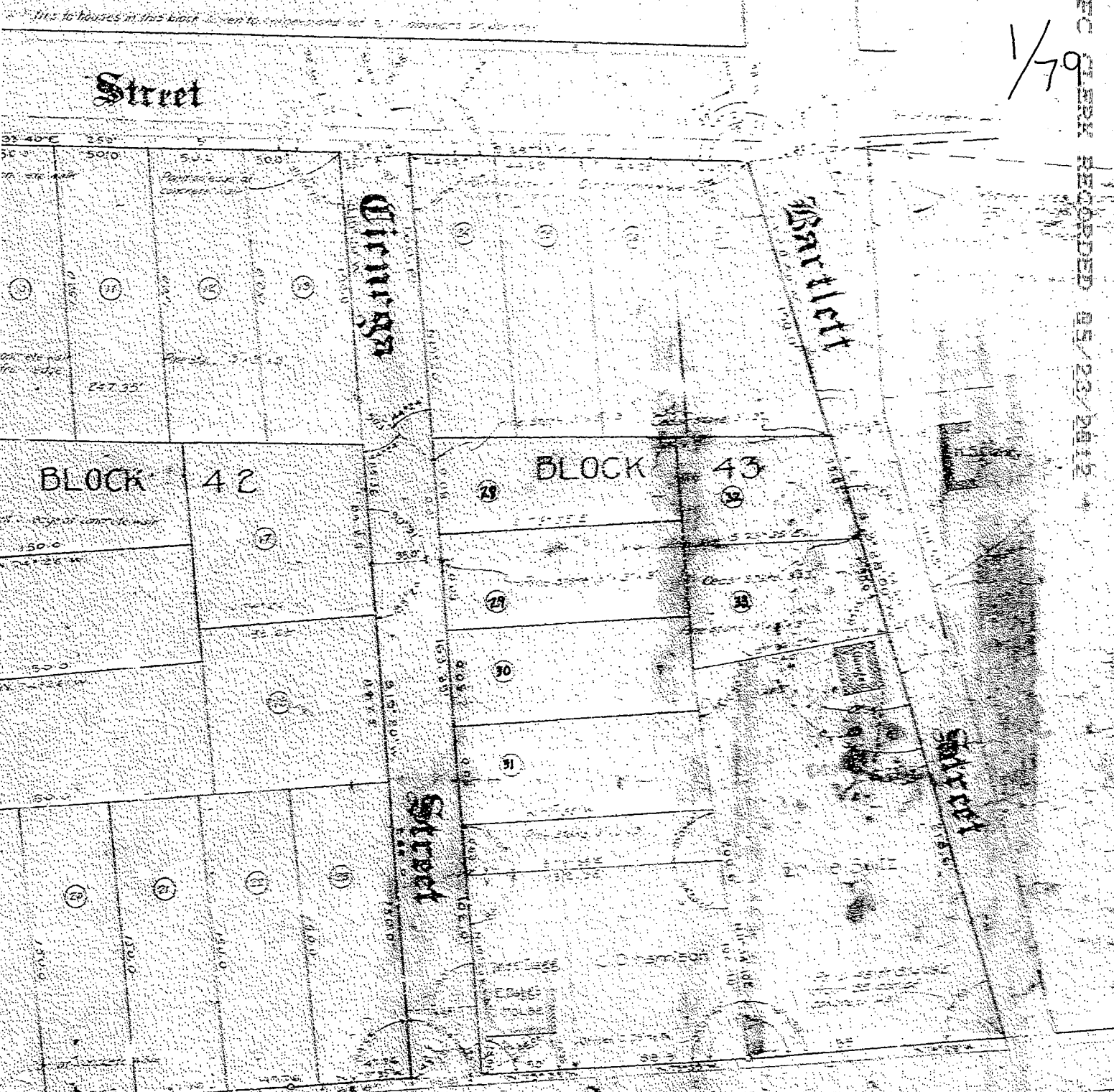


COUNTY OF SANTA FE ) LEASE AGREEMENT  
STATE OF NEW MEXICO ) ss PAGES: 9

I Hereby Certify That This Instrument Was Filed for Record On The 23RD Day Of May, 2012 at 08:49:54 AM And Was Duly Recorded as Instrument # 1670143 Of The Records Of Santa Fe County

Deputy  Witness My Hand And Seal Of Office Valerie Espinoza County Clerk, Santa Fe, NM

1/70



### ENGINEER'S CERTIFICATE

I, the undersigned, a duly licensed and registered Professional Engineer in the State of California, do hereby certify that the plat of Block 42 and Block 43, as shown on the attached map, was prepared by me or under my direct supervision and that the same is a true and correct copy of the original as shown on the original map and that the same is a true and correct copy of the original as shown on the original map and that the same is a true and correct copy of the original as shown on the original map.

*Frank A. ...*  
 FRANK A. ...  
 ENGINEER

Exhibit A

THIS PLAT OF LAND IS A PART OF THE LAND OF THE STATE OF CALIFORNIA, AND THE SAME IS BEING OFFERED FOR SALE BY THE SANTA FE REALTY COMPANY, INC., AS AGENT FOR THE STATE OF CALIFORNIA, AND THE STATE OF CALIFORNIA HAS AUTHORIZED THE SANTA FE REALTY COMPANY, INC., TO OFFER FOR SALE THE SAME.

SANTA FE REALTY COMPANY, INC.