




# City of Santa Fe, New Mexico


## Memorandum



**DATE:** January 5, 2023

**TO:** Finance Committee  
Economic Development Asset Committee  
Public Works & Utilities  
Quality of Life Committee  
Governing Body

**VIA:** Rich Brown, Director, Community and Economic Development Department 

**FROM:** Terry Lease, Asset Development Manager, Economic Development Department 

**RE:** Amendment 11 to the Amended and Restated Railyard Lease and Management Agreement Between the City of Santa Fe and The Santa Fe Railyard Community Corporation

**EXECUTIVE SUMMARY:**

The City and The Santa Fe Railyard Community Corporation (“Non-profit”) are parties to the Amended and Restated Railyard Lease and Management Agreement (“Lease and Management Agreement”) dated April 30, 2011. This Amendment 11 (“Amendment 11”), if approved, will remove Parcel O (“Depot”) and Parcel B-2 (“Warehouse 21” Land) from the Lease and Management Agreement leased premises in exchange for a reduction of the deferrals owed to the City in the amount of \$946,881.22. The reductions in deferrals will take place over the 2023 to 2027 fiscal years.

**BACKGROUND:**

In 1995 the City acquired fee title to the approximate 50-acre Railyard Property. The Lease and Management Agreement is the mechanism by which the Non-profit implements the Railyard Master Plan in order to lessen the burdens on the City in implementing the plan. The termination date of the Lease and Management Agreement is January 15, 2030 (Amendment 3). The City is responsible for maintaining the roads, rail corridor and open spaces and the Non-profit is responsible for the maintenance and oversight of all other areas, and the tenants within the Railyard. Non-profit is also responsible for managing the leasing of Railyard properties, managing the design and development review process, and overseeing and assuring their tenants comply with all rules and regulations within the Railyard.

The City owns both the Santa Fe Depot and Warehouse 21 buildings and the land they sit on. The Non-profit controls the Depot building and land, and the land only under the Warehouse 21 building, as they are included in the Non-profit’s leased premises.

**Santa Fe Train Depot;** The City is currently leasing the Depot from the Non-profit (Item #11-0391 as amended) with annual rent of approximately \$36,000.00, and there is a \$1.6 million contract in place for a comprehensive rehabilitation project of the Santa Fe Train Depot which is nearing completion. Once complete, the City would like to make further investments into this building to create a police sub-station that would serve the Railyard, Non-profit and downtown communities. If the Depot building and land are not removed from the Non-profit’s leased premises the City would have to enter into a sublease with Non-profit and continue to pay rent.

**Warehouse 21;** The Warehouse 21 property has been vacant for several years and in need of repairs. If the City wishes to lease the Warehouse 21 building, and the land is not removed from the Non-profit leased premises, the City would have to enter into a sublease with the Non-profit for the land and pay rent.

It is a convoluted cumbersome process for the City to lease these City-owned properties to the Non-profit and then lease them back and pay rent for its own buildings and land. This process also requires the Non-profit's approval and oversight of City development.

**ATTACHMENTS:**

A: Amendment 11

B: Lease and Management Agreement

(Copies of Amendments 1 thru 10 will be provided upon request)



**CITY OF SANTA FE AMENDMENT #11 TO  
AMENDED AND RESTATED RAILYARD LEASE AND MANAGEMENT AGREEMENT**

This Amendment No. 11 (the "Amendment") to the City of Santa Fe Amended and Restated Railyard Lease and Management Agreement dated April 30, 2011, as amended, (the "Agreement") between the CITY OF SANTA FE, New Mexico ("City") and SANTA FE RAILYARD COMMUNITY CORPORATION, a New Mexico non-profit corporation ("Non-profit") shall be effective on the date of the last signature.

**WHEREAS**, the City and Non-profit are parties to the Agreement under which the Non-profit undertakes management of the "Leasehold Premises" within the "Santa Fe Railyard;" and

**WHEREAS**, there are ten amendments to the Agreement, as follows: Amendment #1 (dated May 18, 2012) to terminate a portion of a ground sublease with the Railyard Company, LLC and credit the Non-profit for the equivalent amount of rent; Amendment #2 (dated April 30, 2013) to amend Exhibit B to provide for additional deferrals of rent and amend Exhibit C to revise the area of maintenance responsibilities; Amendment #3 (dated May 31, 2013) to provide a mechanism and rate for parking for patrons of the cinema, and to extend the Term of the Agreement to provide adequate time for the Non-profit to repay the payment deferrals granted to the Non-profit; Amendment #4 (dated June 1, 2013) to provide a credit against the rent owed by the Non-profit to the City equal to the rent the City owes the Non-profit pursuant to the sublease for Parcel O (Depot); Amendment #5 (dated September 1, 2015) to clarify that all subleases entered into by the Non-profit shall be assigned to the City when the Agreement terminates; Amendment #6 (dated December 1, 2015) to amend Exhibit B to provide deferrals of Rent due from the Non-profit, to amend Exhibit C to revise the areas of maintenance responsibilities of the City, to remove Parcel W from the Leasehold Premises, and to add Parcels A-3 and A-4 to the Leasehold Premises; Amendment #7 (dated March 31, 2016) to amend Exhibit C to correct a clerical error, to revise the Leasehold Premises to include a portion of Lease Parcel A-2; Amendment #8 (dated April 30, 2020) to remove the building improvements located on Parcel F-1 from the Leasehold Premises, to defer a portion of the Fair Value Compensation due April 30, 2021, and to include the repayment of the deferral in Exhibit B; Amendment #9 (dated May 1, 2020) to defer a portion of the Fair Value Compensation due April 30, 2020, as a result of the COVID-19 pandemic; Amendment #10 (dated April 30, 2021) to defer a portion of the Fair Value Compensation due April 30, 2021, and to include the repayment of the deferral on Exhibit B; and

**WHEREAS**, the parties wish to amend Section 2.01 (Grant of Leased Premises) to remove Parcel B-2 (Warehouse 21 land) and remove Parcel O (Depot), and amend Section 4.01(Compensation) to reduce deferrals accordingly, and add Section 6.16 Conditions for Development for Parcel B-2 and O.

**AMENDMENT:**

Pursuant to Article 8.01 of the Agreement, and for the good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Non-profit agree that the Agreement is amended as follows:

1. Delete in its entirety Section 2.01 (Grant of Leased Premises) of the Agreement, which includes **Exhibit A**, and replace them with the following:

**2.01 Grant of Lease Premises.** The City hereby enters into this Agreement with the Nonprofit for the Leasehold Premises. The Leasehold Premises shall consist of the entirety of the Railyard, other than the following areas:

- a. the connector between the Baca and North Railyard.
- b. approximately eleven point four three (11.43) contiguous acres developed as a public park covered by the Amended and Restated Deed of Conservation Easement between the City and the Santa Fe Conservation Trust (“Conservation Easement”).
- c. Parcel W comprised of 14,129 square feet located at 705 Alarid Street covered by the Conservation Easement.
- d. The Rail Line Corridor as defined in the Conservation Easement.
- e. The area south of the Alarid Street railroad crossing.
- f. The area occupied by the underground parking garage and facilities for ingress to and egress from the garage.
- g. All public streets, alleys (except the alley in the Baca portion of the Railyard, which connects Railfan Road to Flagman Way), and public surface parking areas within the Railyard whether existing or subsequently created.
- h. A portion of Parcel Q totaling 482 square feet.
- i. A portion of Parcel SS in the Baca Street portion of the Railyard totaling 6,066 square feet.
- j. A 10,242 square foot building on Parcel F-1 located at 545 Camino de la Familia.
- k. Parcel B-2 (Warehouse 21, land); and k) Parcel O (Depot).

The area described, in the aggregate, is depicted in **Exhibit A** attached hereto and shall be hereinafter referred to as the "Leasehold Premises." **Exhibit A** is included for graphical information only. If any conflicts appear between **Exhibit A** and the text in this Agreement, the text shall prevail.

2. Add the following to Section 4.01 (Compensation) of the Agreement:

As compensation to the Non-profit for the removal of Parcel B-2 (Warehouse 21, land) and Parcel O (Depot) from the Leased Premises, the City agrees to reduce the deferrals as shown in the attached **Exhibit B** and dated September 30, 2022.

3. Delete in its entirety **Exhibit B** entitled “**Exhibit B - Rent Schedule - April 30, 2021**” and replace it with the attached **Exhibit B** entitled “**Exhibit B – Rent Schedule dated September 30, 2022.**”

In contemplation of the removal of Parcel B-2 and Parcel O, the parties agree to add Section 6.16 to the City’s Covenants and Agreements, as follows:

4. **Section 6.16** Conditions for Development for Parcel B-2 and O.
  - i. The City shall provide the Non-profit with documents related to potential uses and occupancy of Parcel B-2 and Parcel O for the Non-profit’s review. The Non-profit shall advise on the review and selection of respondents to any request for proposals issued by the City. The Non-profit shall generate a “recommended course of action document” that shall be provided to the City.
  - ii. The Parties agree that future uses of Parcel B-2 and Parcel O shall not include the following uses:
    - a.) a Farmers’ Market comprised of vendors that market fresh vegetables, fruits, meats, dairy, nursery products and value-added agricultural products, except for the incidental and de minimus sale of value-added agricultural products; or
    - b.) a movie cinema displaying movies or projected images, except if projection of said movies or images is incidental, occasional, and subservient to the primary use of either parcel.

Except as specifically provided in this Amendment #11, the Agreement shall remain in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment #11 as of the dates set out below,

CITY OF SANTA FE



ALAN WEBBER, MAYOR

ATTEST:



KRISTINE BUSTOS-MIHELICIC, CITY CLERK XIV

GB MTG 2/22/2023

CITY ATTORNEY'S OFFICE:



Marcos Martinez (Jan 24, 2023 07:59 MST)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED AS TO FINANCE:

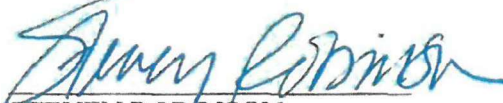


Emily K. Oster (Feb 23, 2023 21:56 MST)

EMILY K. OSTER, FINANCE DIRECTOR

Business Unit/Line Item 2122800.460350 AH

NON-PROFIT: SANTA FE RAILYARD  
COMMUNITY CORPORATION



STEVEN ROBINSON  
BOARD PRESIDENT

STATE OF NEW MEXICO    )  
                                  )§  
COUNTY OF SANTA FE    )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, by Alan Webber, Mayor of City of Santa Fe, a New Mexico municipal corporation, on its behalf.

\_\_\_\_\_  
Notary Public

My commission expires:

STATE OF NEW MEXICO    )  
                                  )§  
COUNTY OF SANTA FE    )

The foregoing instrument was acknowledged before me on 01/20/2023, by Steven Robinson, the Board President of Santa Fe Railyard Community Corporation, a New Mexico non-profit corporation, on its behalf.

Valarie Vigil  
\_\_\_\_\_  
Notary Public

My commission expires: 12/06/2026

STATE OF NEW MEXICO NOTARY PUBLIC VALARIE LYON-VIGIL Commission # 1110050 My Comm. Exp. 12/06/2026
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## AMENDED AND RESTATED RAILYARD LEASE AND MANAGEMENT AGREEMENT

THIS AMENDED AND RESTATED RAILYARD LEASE AND MANAGEMENT AGREEMENT, dated and effective as of April 30, 2011 amends, restates, supersedes and replaces in its entirety that certain Railyard Lease and Management Agreement dated February 27, 2002, as amended, and is made and entered into by and between SANTA FE RAILYARD COMMUNITY CORPORATION, a New Mexico non-profit corporation ("Non-profit"), and the City of Santa Fe ("City").

## RECITALS

WHEREAS, the City has acquired title to certain real property within the municipal boundaries of the City of Santa Fe and more fully described in that certain plat of survey entitled "Catellus Railyard and Baca Street Property", dated December 20, 1995 and recorded in the Santa Fe County Clerk's records as document number 928 -704 at book 323 pages 017-022, (the "Railyard");

WHEREAS, on January 31, 2001, the City Council approved resolution 2001-13 which directed staff to pursue and implement non-profit management of the Railyard, upon completion of the Amended Metropolitan Redevelopment Plan;

WHEREAS, on February 13, 2002, the City Council approved the Amended Metropolitan Redevelopment Plan, which amends the previously approved Metropolitan Redevelopment Plan (the "Amended Metropolitan Redevelopment Plan");

WHEREAS, on January 31, 2001, January 16, 2002 and February 13, 2002 the City Council approved long term land leases and building leases with existing tenants for existing leasehold areas on the Railyard property;

WHEREAS, the City and the Non-profit now wish to enter into an Amended and Restated Lease and Management Agreement (hereinafter called the "Agreement"), consistent with the intent expressed in the Community Plan, Metropolitan Redevelopment Plan and Amended Metropolitan Redevelopment Plan;

WHEREAS, NMSA 3-60A-12 (1995 Repl. Pamp.) provides for the City's lease of property within a redevelopment area for the fair value of the property as determined by the Governing Body;

WHEREAS, in determining the fair value of the property pursuant to NMSA 3-60A-12 (1995 Repl. Pamp.), the law states that the City shall take into account the uses, restrictions and objectives of the Amended Metropolitan Redevelopment Plan;

WHEREAS, the Amended Metropolitan Redevelopment Plan was subsequently replaced and superseded by the Railyard Master Plan and Design Guidelines ("Railyard Master Plan");

WHEREAS, the City and Non-profit wish to ensure the successful redevelopment of the Railyard through joint public and private efforts by agreeing to such terms as will enable the Non-profit and any sub-tenants of the Non-profit to obtain access to credit on the basis of unsubordinated long term lease lending.

WHEREAS, the City has determined that this Agreement shall terminate on June 30, 2027, unless renewed by mutual consent of the Non-profit and the City.

NOW THEREFORE, in consideration of the mutual promises contained herein, the foregoing considerations and the following terms, and other good and valuable consideration the receipt of which is hereby acknowledged, the City and the Non-profit agree as follows:

SP0  
CLERK RECORDED 05/11/2012



**PURPOSES**

- 1.01 Intent** The parties enter into this Agreement in order to create a binding contract for the purpose of establishing an effective implementation mechanism for the Railyard Master Plan in order to lessen the burdens upon the City in implementing the Plan.
- 1.02 Construction** This Agreement is not to be construed in favor of either party but is to be deemed the product of both parties' good faith efforts.
- 1.03 Non-profits Goals** The Non-profit agrees that the implementation of the Railyard Master Plan is its primary motive in entering into this Agreement.
- 1.04 City's Goals** The City agrees that the relationship established by this Agreement is the most effective way to manage the property and achieve its public objectives. The City agrees to give the Non-profit the greatest amount of freedom possible within the restrictions created by this Agreement, any subsequent Leases, the Railyard Master Plan and the leases which have been previously entered into by the City and Railyard tenants and which have been assigned to the Non-profit. The City agrees to refrain from direct involvement in negotiations by and between subtenants seeking an interest in the Leasehold Premises under subleases from the Non-profit.

**PROPERTY GRANTED**

- 2.01 Grant of Lease Premises** The City hereby enters into this Agreement with the Non-profit for the Leasehold Premises. The Leasehold Premises shall consist of the Railyard exclusive of the following areas: the connector between the Baca and North Railyard; approximately ten (10) contiguous acres developed as a public park covered by the Deed of Conservation Easement between the City and the Trust for Public Land; the Rail Line Corridor as such term is defined in the aforementioned Conservation Easement; the area south of the Alarid Street railroad crossing; the area occupied by the underground parking garage and facilities for ingress to and egress from that garage; all dedicated or reserved public streets, alleys, and public surface parking areas within the Railyard whether existing or subsequently created; a portion of Parcel Q totaling 482 square feet; and a portion of Parcel SS in the Baca Street portion of the Railyard totaling 6,066 square feet. The Leasehold Premises shall include the following areas: a.) approximately 82 square feet adjacent to Lease Parcel E that was previously a portion of the Conservation Easement, and b.) the land in the Baca Street portion of the Railyard that was exchanged with the Santa Fe Lodge No. 2, Independent Order of Oddfellows, Inc. This area in the aggregate is depicted in Exhibit A hereto, and shall be hereinafter referred to as the "Leasehold Premises". Exhibit A is included for graphical information only. If any conflicts appear between Exhibit A and the text in this Agreement, the text shall prevail. Nothing herein shall be deemed to limit the addition of property owned by the City to the area covered as Leasehold Premises should such properties be added to the Railyard through the planning process or by way of acquisition by the City and so long as the Non-profit gives its written consent to the addition of the property to the Leasehold Premises and conveys fair value for any additional property.
- 2.02 Leasehold Improvements** Any and all buildings, structures, paths, plants, or other improvements to the Leasehold Premises whether on, under or above the Leasehold Premises, shall be "Leasehold Improvements". Property attached by the Non-profit or a subtenant as trade fixtures and occupant equipment including all fixtures, furniture, equipment and furnishings installed for use in connection with the conduct of the business of an occupant of the Leasehold Improvements shall not be Leasehold Improvements and shall be occupant's equipment ("Occupants Equipment").

**2.03 Rights-of-Way** The parties agree to exclude dedicated and reserved rights-of-way from the Leasehold Premises as defined in section 2.01.

**2.04 Non-Merger** Nothing in this Agreement shall be deemed to terminate or destroy by way of merger any City easements whether presently existing or created in future and whether for the benefit of the City's utilities or any other purpose. This Agreement is also intended to prevent merger of the fee interest in the Railyard and the Leasehold Premises. Regardless of whether an individual should come to acquire a fee interest and a leasehold interest in the property, merger shall not be deemed to have occurred so long as there exists an outstanding mortgage of the leasehold interest.

**2.05 Existing Tenants** It is expressly understood by the City and the Non-profit that this Agreement is given and accepted subject to the leases, rights and privileges of tenants in possession. The existence of such leases, rights and privileges shall not be deemed a violation of the City's covenant of peaceful possession or any other covenant in this Agreement. The City and Non-profit acknowledge that the Non-profit will be responsible for administering and enforcing all existing and future ground and building leases. The Non-profit hereby assumes all liability by reason of such leases and rights of such tenants and is hereby granted and entitled to all the rents, additional rents and other amounts which may now be or become due and payable by said tenants under such leases, and to enforce all rights, remedies and privileges of the City under the terms of such leases, and except as otherwise provided herein, until the expiration or sooner termination for whatever cause, of this Agreement. Nothing herein shall be deemed to create any new right or interest in third parties including existing tenants.

The City assigned twenty three leases to the Non-profit in 2002. Of the original twenty three leases, only the following leases are currently in effect:

1. Gross Kelly Warehouse LLC dated June 27, 2002
2. Milestone, Inc. dated April 18, 2002
3. Santa Fe Clay dated June 21, 2002
4. Twisted Cow Compound Ltd. dated May 3, 2002.
5. Railyard Enterprises, LLC dated May 7, 2002 which was subsequently amended and restated on April 21, 2008.

#### TERM

**3.01 Term** The term of this Agreement shall commence on April 30, 2011 and terminate immediately at 11:59 P.M. Mountain Standard Time on June 30, 2027 unless the term is extended pursuant to this Agreement. Any change in this term other than by default, bankruptcy, or other actions prematurely terminating this Agreement, shall be accomplished only pursuant to section 3.02 below. No holding over, extensions, or renewal shall be permitted nor deemed to have occurred by any action or inaction of the parties other than through the written execution of a renewal or extension by both parties. This term shall be strictly construed as a limitation upon all tenants, sub-tenants, and anyone claiming any interest in the Leasehold Premises.

The expiration of this Agreement shall not affect the validity of any sublease made by the Non-Profit hereunder prior to the expiration or termination of the Agreement.

**3.02 Renewal and Extension** This Agreement may be renewed or extended by written agreement of the parties upon such terms and conditions as may be mutually agreeable. If the Non-profit or the City desires to renew or extend this Agreement, the parties shall attempt to initiate discussions of

the extension or renewal at least two years prior to the expiration of the term.

**3.03 No Option to Purchase** There shall be no option for the Non-profit to purchase the Leasehold Premises. It is expressly understood by the parties that the Leasehold Premises are to be owned by the City in fee in perpetuity.

**3.04 No Preliminary Term** The term provided for in this section three shall be the only term of the Agreement. No preliminary term shall be provided or implied in this Agreement.

**COMPENSATION**

**4.01 Fair Value Compensation** The City has determined and hereby agrees that total lease payments due the City during the term of this Agreement will consist of the following:

**4.01.1** A portion of the City's debt service payment for the acquisition of the Railyard as described below:

Total amount owed by the Non-profit for Railyard acquisition	\$2,720,181
Amount paid by Non-profit through May 1, 2010	<u>\$1,951,006</u>
Remaining balance owed by Non-profit	\$769,175

Non-profit shall pay the remaining balance owed (\$769,175) to the City in two payments per annum on May 1 and November 1 over five fiscal years commencing November 1, 2020 and concluding May 1, 2024 in accordance with Exhibit B hereto; and

**4.01.2** 100% of the City's debt service payment on the City's infrastructure financing, according to a debt service schedule set forth in Exhibit B which shall be subject to adjustment as the result of the City refinancing the infrastructure financing, per Section 6.03 The payments will be due thirty (30) days before each of the City's debt service payments are due.

After the Non-profit has repaid all of its obligations related to the Railyard acquisition debt service and infrastructure financing debt, the Non-profit shall pay to the City 50% of the annual excess revenue collected by the Non-profit. Annual excess revenue is defined as the difference between the annual lease revenue (excluding any donated and grant funds and special assessments earmarked for a particular use) and the annual cost of the Non-profit's performance of its obligations under this Agreement, including but not limited to payments of City debt service on both land and infrastructure, annual administrative and operating cost, any annual contribution to park and public space development management and/or operations, and a reasonable allowance for maintenance and capital improvement reserves.

In order to finance a portion of these costs, the City assigned to the Non-profit all of the existing Railyard ground and building leases which were executed by the City prior to June 28, 2002. The Non-profit has and will continue to retain all revenue from these leases, and will be allowed to retain all revenue from subleases on all lease parcels.

**4.02 Manner of Payment of Compensation** The Non-profit agrees to pay without demand and in advance of its coming due the fair value as established in Section 4.01 for the Leasehold Premises. The payments shall be made in lawful money of the United States which shall be legal tender for the payment of all public and private debts at the time of payment, by electronic fund transfer to an account designated in writing by the City or in the absence of such designation delivered by hand to the accounts receivable division of the City at its offices located at 200 Lincoln Avenue, Santa Fe, New Mexico or at such successor office as the City Manager may designate in writing. If payment is made by check, said payment shall not be deemed to have occurred until such time as the check has been received by the City and has cleared. Non-profit may prepay lease payments at its discretion with no prepayment penalty or fee assessed by the City. If prepayments



are made to the City by the Non-profit, Exhibit B will be amended accordingly to reflect those prepayments.

4.03 Net Lease This Agreement is a net lease with the Rent payable to the City free from all charges, assessments, impositions, expenses or deductions of any kind or nature whatsoever.

**NON-PROFIT'S COVENANTS AND AGREEMENTS**

The Non-profit covenants and agrees to the following:

5.01 Assumption of Responsibility by Non-Profit by entering into this Agreement The Non-profit agrees that, except as expressly otherwise provided herein, the City as lessor is relieved of and the Non-profit shall assume all the obligations, duties, and expenses regarding management and maintenance of the Leasehold Premises. The responsibilities and authorities of the Non-profit shall include entering into long term leases of the Leasehold Premises consistent with the Railyard Master Plan and this Agreement. Notwithstanding the foregoing, the Non-profit shall not be responsible for the maintenance and security of the portion of the Leasehold Premises north of Paseo de Peralta comprising the Conservation Easement.

5.02 Conforming to Plan The Non-profit's use of the Leasehold Premises shall be consistent with the Railyard Master Plan and all existing and future amendments thereto. However, the Non-profit retains the autonomy to set lease rates and enter into leases with all tenants. The inclusion of any tenant by name in the Railyard Master Plan shall require the Non-profit to negotiate with said tenants in good faith. However, nothing herein shall be deemed to require the Non-profit to enter into a lease with any tenant whether or not they are named in the Railyard Master Plan.

5.03 Ownership of Alterations and Improvements This Agreement contemplates extensive alterations and improvements of the Leasehold Premises by the Non-profit and its subtenants. All Leasehold Improvements performed by the Non-profit (except those Improvements owned by the Non-profit's sublease tenants) shall be deemed the property of the City immediately upon the earlier of the City's acceptance of the Improvements or the termination of this Agreement by expiration, default, judgment, bankruptcy, mutual consent or otherwise and the City shall be given immediate possession upon said termination. Any Leasehold Improvements performed by any subtenants shall be owned by such subtenants to the extent provided in any sublease from the Non-profit. Upon termination of this Agreement as provided herein, all Leasehold Improvements shall be deemed forfeited to the City at no additional expense to the City; provided, however, that if any sublease from the Non-profit provides that the Leasehold Improvements are to be owned by said subtenant thereunder, then such Leasehold Improvements shall continue to be owned by the subtenant so long as the sublease shall remain in effect. No additional compensation shall be required or paid by the City to the Non-profit for any Leasehold Improvements which revert to the City and the Non-profit expressly agrees that all such Leasehold Improvements shall remain upon the property after termination of this Agreement. All Leasehold Improvements performed by subtenants which had subleases assigned by the City to the Non-Profit shall be handled in the manner specified in the lease agreements between the City and the individual subtenants.

Except as hereinafter provided, nothing herein shall act as or be deemed to be an agreement by the City to pay, act as surety, guarantee or in any way be responsible for the repayment of debts contracted by the Non-profit or any sublessee or party claiming as a third party beneficiary. The sole remedy of any mortgagee lending money in reliance upon this Agreement or any sublease hereunder shall be the right to foreclose on the leasehold interest only or to accept an assignment thereof in lieu of foreclosure.

5.04 Alterations The Non-profit shall not make any alterations to the Leasehold Premises which impair the safety or the structural integrity of Leasehold Improvements or which violate legal

requirements. The Non-profit shall not make or permit to be made any alterations to the Leasehold Premises which would have the effect of wasting the property or reducing the fair market leasehold value of the improvements. The Non-profit shall be permitted to make any alterations to the Leasehold Premises not forbidden by this section provided that the alterations shall be made in a good and workmanlike manner, in compliance with applicable legal requirements and in compliance with insurance requirements. All alterations to the Leasehold Premises shall be Leasehold Improvements.

**5.05 Insurance** The Non-profit shall at all times maintain and provide adequate insurance coverage which may include each of the following:

A. General liability insurance for the entire Leasehold Premises in an amount at least equal to the New Mexico Tort Claims Act maximum.

B. Workmen's compensation insurance in an amount sufficient to meet statutory requirements.

C. Casualty "extended coverage" and "additional extended coverage" as may be available for all improvements to the Leasehold Premises (except City-owned buildings which shall be insured by the City) in an amount sufficient to restore and replace structures and improvements if lost or damaged by any form of casualty. This insurance may be provided by a subtenant if the improvements are to be made and owned during the term of the sublease by the subtenant. However, the policy must name the trustee appointed by the City and the Non-profit as beneficiary. All property and casualty insurance policies held by the Non-profit shall be payable to the trustee mutually agreed upon by the City and the Non-profit. No insurance proceeds shall be payable to the Nonprofit if the Non-profit is in default on this Agreement. All proceeds shall be applied first to the restoration of any insured property or improvements, next any unexpended amounts shall be applied to the payment of amounts due and owing to the City by the Non-profit. Residual amounts shall be paid to the Non-profit.

D. If this Agreement is terminated by expiration, or default by the Non-profit, and there exist insurance funds which have not been applied to the reconstruction of the insured improvements the City may, at its sole option, elect to retain the insurance proceeds as liquidated damages.

E. If the Non-profit fails to maintain insurance in adequate amounts pursuant to this section the City shall have the right, but not the duty, to purchase such insurance and charge the cost of the same to the Non-profit as additional rent.

F. The Non-profit shall cooperate with the City in connection with the collection of any insurance moneys that may be due in the event of loss and shall execute and deliver to the City such proofs of loss and other instruments that may be required for the purpose of facilitating the recovery of any such insurance moneys, and in the event that the Non-profit shall fail or neglect so to cooperate or to execute, acknowledge and deliver any such instrument to the City, in addition to any other remedies, may, as the agent or attorney in fact of the Non-profit, execute and deliver any proofs of loss or any other instruments as may be desirable to the City for the collection of such insurance moneys, and the Non-profit hereby irrevocably nominates and appoints the City as its legal attorney in fact for such purpose.

The City Manager shall be permitted to negotiate and approve alternative insurance coverages where the listed insurance proves duplicative, impractical or excessive. In addition if the City at any time maintains a policy insuring a risk described above and if the Non-profit may be named as an additional named insured on that policy at minimal expense to the City then that coverage shall be satisfactory insurance for purposes of this Agreement.

**5.06 Implementation** The Non-profit has actively sought, and will continue to seek, to achieve the objectives of the Railyard Master Plan. The Non-profit has completed on-site spine infrastructure

improvements (which were accepted by the City on November 10, 2009) except for the following work which may be completed by the City or the Non-profit at the City's expense:

- a) Alcaldesa Street from Market Street to Camino de la Familia. This obligation has been delegated to the sublessee of Parcels M-1 to M-4 and G.
- b) The street, curb, gutter, sidewalk, trash enclosure adjacent to Parcel G on Camino de la Familia.

**5.07 Annual Report and Record Keeping** The Non-profit shall report annually to the City on its compliance with the terms and conditions of this Agreement and its progress in achieving the Railyard Master Plan objectives. The annual report to the City shall contain copies of the Non-profit's annual audits including a concise summary of the financial condition of the Non-profit's income and expenditures. The Non-profit shall follow the Statement of Financial Accounting Standards (SFAS) no. 117, Financial Statements of non-profit organizations, in the preparation of its report. The Non-profit is responsible for paying for all such audits. It shall also contain a specific itemized list of all improvements made to the Leasehold Premises and all depreciation of assets and improvements upon the Leasehold Premises. In addition to the annual report the Non-profit shall keep its business records in a financially prudent and orderly manner. Said records (except as set forth in Section 9.06 of this Agreement) shall be available for inspection by the City at all reasonable times upon reasonable notice to respond to questions posed by the City regarding the annual audits.

**5.08 Permits Licenses and Approvals** Non-profit and any subtenant may seek any governmental approvals for the use of the Leasehold Premises pursuant to this Agreement.

**5.09 Administration of Subleases** The Non-profit shall administer and enforce the existing ground and building lease agreements which have been assigned by the City to the Non-profit. The Non-profit shall also enter into new subleases, and administer same, on areas within the Leasehold Premises which are leasable, under the Railyard Master Plan. Upon termination of any existing agreements, the Non-profit shall solicit, negotiate, draft and enter into new subleases which are consistent with the Railyard Master Plan. The subleases may have a primary term of no more than fifty (50) years from the date of execution of the sublease, and may, but need not, provide for one or more options to renew or extend for a total of no more than an additional forty (40) years. All subleases containing exculpation clauses (limiting the sublessees' liability to the subleasehold estate) shall provide for adequate performance, completion and surety instruments in the form of a bond, letter of credit or guarantee with the Non-profit as beneficiary in order to ensure that the sublessee (not merely the general contractor working for the sublessee) completes any proposed improvements to the Leasehold Premises. In any event the security provided shall expressly supersede any exculpation clause and shall be imposed such that substantial completion is achieved prior to the termination of said security. No sublease shall be assignable without the Non-profit's prior written consent, which shall not be unreasonably withheld. The Non-profit shall include a provision in all subleases that the subtenant shall attorn to the City as landlord upon termination or expiration of this agreement.

**5.10 Projects** The Non-profit prepared preliminary and final engineering plans and development plan for site development. The City shall be responsible for construction of off-site infrastructure, wherever located, if identified in the Railyard Master Plan. The Non-profit or the City shall complete those projects referenced in Section 5.06.

**5.11 Maintenance** The Non-profit shall continuously maintain or cause to be maintained, the Leasehold Premises, except the area north of Paseo de Peralta comprising the Conservation Easement. Maintenance of and repairs to premises under lease shall be conducted in the manner and under the provisions set forth in the lease agreements. In its annual budgeting, the Non-

profit shall designate a reasonable allowance for maintenance of the Leasehold Premises. Fiscal responsibility for maintenance and security of the Conservation Easement is the responsibility of the City. An exhibit depicting the areas of maintenance responsibilities for the Non-Profit and the City is included herein as Exhibit C hereto.

**5.12 Improvements** The Non-profit performed required environmental remediation of matters identified on the existing Phase II environmental assessment on the Leasehold Premises and built the on-site spine infrastructure with infrastructure connections to all tenant premises and the park area, and the public surface parking. The Nonprofit shall not be responsible for any cost related to the improvement or replacement of railroad equipment and facilities, including but not limited to tracks, roadbeds, and crossings or any other cost related to the present or future operations of Santa Fe Southern, Rail Runner, or any successor railroad in the Railyard.

**5.13 Special Entertainment** The Non-profit shall promote, permit, and program special events and special entertainment in the public space on the Conservation Easement, except the Rail Line Corridor and the portion of the Conservation Easement south of the Alarid Street railroad crossing ("Event/Vendor Space"). The Non-profit shall manage public and private events on the Event/Vendor Space pursuant to all the applicable terms and conditions of this Agreement, Conservation Easement, and Santa Fe Railyard Park, Plaza and Alameda Public Policies and Procedures approved by the City of Santa Fe City Council on May 13, 2009, all as amended from time to time. Whenever the Non-profit believes it is in the best interests of the City to negotiate amendments to the Deed of Conservation Easement, the Non-profit may attempt to negotiate such amendments with the grantee of the Deed of Conservation Easement and may propose such amendments as are acceptable to the grantee to the Governing Body of the City for approval. The Non-profit will also consult with the City Manager or his or her designee from time to time, as may be necessary or appropriate, with respect to the vending and public and private event management of the Event/Vendor Space. Such activities shall be performed in coordination with subtenants, outside vendors and the holder of the Railyard Conservation Easement. The Non-profit shall manage vending and public and private events on the Event/Vendor Space, including granting licenses for the potential users, in a manner that facilitates and encourages development of the Santa Fe Railyard in accordance with the Santa Fe Railyard Master Plan, as it may be amended from time to time.

The Non-profit or the City may terminate the Non-profit's responsibilities and obligations described in this Section 5.13 upon sixty (60) days written notice to the other party.

**5.14 Replacement of City Owned Leasehold Improvements** The Non-profit or its sublessees shall replace any and all Leasehold Improvements damaged or destroyed by fire or other casualty or where replacement is required by law or to ensure continued insurance of the Leasehold Improvements, except for the Leasehold Improvements owned by the City or comprising the infrastructure and those areas excluded from the Leased Premises under Section 2.01 of this Agreement. The replacement shall be made within a reasonable time after the damage occurs and shall be prosecuted diligently. Non-profit or its sublessee's duty to repair, replace and comply with all legal requirements pursuant to this Agreement extends to extraordinary, unforeseen and structural repairs and replacements as well as ordinary, foreseen and nonstructural repairs and replacements. Nothing herein shall be deemed to prevent the City and Non-profit from terminating this Agreement or agreeing to alternative measures, or division of insurance proceeds in lieu of replacement when the replacement of a Leasehold Improvement is not in the best interest of either or both parties.

**5.15 Indemnification** The Non-profit shall defend, indemnify and hold harmless the City, its agents, officers, and employees against all claims, actions, and damages whatsoever relating



to this Lease or any subsequent lease, and from any and all incidents, transactions and occurrences upon the Leasehold Premises or in any way pertaining to the Leasehold Improvements, except for the Leasehold Improvements comprising the infrastructure and those areas excluded from the Leased Premises under Section 2.01 of this Agreement. Said indemnity shall include payment for attorneys' fees and costs and shall expressly require the Non-profit to pay any resulting judgments. This indemnity is given as a surety and protection to the taxpayers who through the City own the land in fee and is not intended to extend to the negligent conduct of the City or to be in violation of NMSA 57-7-1. Therefore, the limitations upon this indemnity shall be the limitations imposed by NMSA 57-7-1 and any successor statute limiting indemnities as a matter of public policy. Nothing herein shall be construed to impose individual or personal liability of any kind on any director, officer, agent or employee of the Non-profit, nor shall anything herein be construed to make any person, not a party to this Agreement, a beneficiary hereof.

- 5.16 Public and City Access** The Non-profit shall allow the City and/or its agents or assigns access to the Railyard for periodic inspections, maintenance of public rights-of-way, maintenance and operation of parking facilities or other City facilities and/or public spaces, accepted by the City for maintenance, and for such other purposes as the City may have, provided that nothing herein shall be deemed a requirement to allow the City to occupy any part of the Railyard leased to the Non-profit, nor to interfere with the Non-profit's quiet enjoyment of the Railyard. Notwithstanding the foregoing it is understood that much of the Leasehold Premises are to be open to the public and nothing herein is deemed to limit public access to the Leasehold Premises.
- 5.17 Intentionally Deleted**
- 5.18 Taxes** This Agreement is not intended to create a taxable interest in real property but rather to provide a mechanism for independent management of the Leasehold Premises.
- 5.19 Discharge of Liens** The Non-profit shall discharge all liens that arise as a result of making repairs, replacements, improvements, alterations, demolition, or as a consequence of any and all legal or insurance requirements. Said liens shall be discharged upon the later of the City's giving notice to discharge lien and the elapsing of sixty days or the termination of this Agreement.
- 5.20 City to Continue Regulatory Role** It is acknowledged by the Non-profit that the City shall continue to oversee the review of projects within the Railyard in its capacity as a land use regulatory body (currently through the Business Capital District Design Review Committee). Therefore, nothing herein shall be deemed a waiver or abrogation of the City and its subsidiary bodies and agencies right to approve or deny any sublessee's proposal based upon regulatory authority as opposed to the authority of a landlord pursuant to this Agreement.
- 5.21 Demolition** Except as expressly provided for in the Railyard Master Plan, the Non-profit agrees not to demolish any structure or improvement upon the Leasehold Premises without first obtaining express written permission from the City Council in its proprietary capacity as landlord and owner of the Leasehold Premises, for the removal or demolition of said improvement.
- 5.22 Audits** The City shall be entitled to cause independent certified public accountants to conduct an audit of the books and records maintained pursuant to this Agreement. The right to conduct an audit includes the right to make tests of the Non-profit's accounting records and such other auditing procedures that are appropriate under the circumstances. The audit may be conducted after reasonable notice and during regular business hours.
- 5.23 Compliance with Open Meetings Law** The Non-profit agrees to be bound by all provisions of the State Open Meetings Law.

- 5.24 Plan Amendments** The Non-profit shall update and make such minor modifications to the Railyard Master Plan as are necessary to address changing conditions or changing public needs. The City Council must approve all amendments to the Railyard Master Plan that are listed in Part III of the Railyard Master Plan as requiring City Council approval.
- 5.25 Studies** The Non-profit shall prepare all studies, inspections and surveys necessary to carry out its responsibilities.
- 5.26 Prohibition on Ownership** The Non-profit agrees that it will refrain from taking any ownership interest in individual projects on the Railyard or immediately adjacent to the Railyard. This prohibition also applies individually to all members of the Board of Directors and staff.
- 5.27 Affordable Housing Accommodation** Upon no less than 14 days written notice from the City to the Non-profit, the Non-profit agrees to delete from the Leased Premises the proportionate share of the residential units, subject to the City's Affordable Housing Ordinance, 2005-30, constructed by the Non-profit's subtenants under the applicable ground leases. The City shall enter into a new and separate ground lease between the City and the subtenants for those units. The Non-profit agrees to this reduction in the Leased Premises under the following conditions:
- a) This reduction shall only be applicable to residential or live/work units that comply with the City's Affordable Housing Ordinance 2005-30.
  - b) City agrees to compensate the Non-profit for the rental income which would have been received by the Non-profit if this portion of the Leased Premises would have remained in the Leasehold Premises.
  - c) The City shall provide a credit against the amounts owed by the Nonprofit pursuant to Sections 4.01 and 6.03 until the Non-profit has fully repaid all amounts owing to the City.
  - d) The Non-profit shall provide a written notice to the City prior to the effective date of the reduction in the Leased Premises. The written notice shall set forth the:
    - 1) Proportionate share and;
    - 2) Term of the underlying sublease; and
    - 3) Initial Rental Income which Non-profit would receive.
  - e) No later than June 30th of each year, the Non-profit shall calculate the annual amount to the City. The City shall credit that amount to the amount owed by the Non-profit to the City.

### CITY'S COVENANTS AND AGREEMENTS

The City hereby covenants and agrees to the following:

- 6.01 No Mortgages, Liens or Encumbrances** The City conveys the Leasehold Premises as defined in section 2.01 free from all other mortgages, liens and encumbrances excepting only such encumbrances as are described in the City's owner's title insurance policy and the indebtedness and use restrictions contained in the bond covenants for its series 2010B Subordinate Lien Gross Receipts Tax Revenue Bonds, and such indebtedness restrictions as may be imposed by law. The City further agrees not to subject its fee title to the Leasehold Premises to any fee mortgages during the term of this lease or any extension thereto.
- 6.02 Reconfiguration of Railyard Property** The City agrees to resolve any property disputes which may arise as to the City's ownership of the fee title to the Railyard. The City agrees to perform promptly lot line adjustments and lot consolidations to bring the existing survey into conformity with the Railyard Master Plan. The parties shall cooperate on any subsequent re-surveys needed to accomplish the objectives of the Railyard Master Plan. The Non-profit shall not be responsible for granting, aligning or realigning any public railroad rights-of-way or utility easements within the Plaza and Alameda, which responsibility shall remain that of the



City. The City shall consult with the Non-profit concerning rights-of-way and easements within the Plaza and Alameda.

**6.03 Financing** The City secured conduit financing in an amount necessary to pay for all on-site infrastructure development, including environmental remediation and including engineering and other agreed upon soft costs. The City secured all funds required for the design and construction of a parking structure, surface parking, and will secure funding for the design and construction of off-site infrastructure improvements, as identified in the Railyard Master Plan.

If the City refinances the aforementioned conduit financing and achieves a lower repayment schedule (debt service) City will reduce the amount owed by the Non-Profit to the City pursuant to Section 4.01 on a dollar-for-dollar basis.

**6.04 Prior Obligations Intentionally Deleted.**

**6.05 Assignment and Delegation between Parties Intentionally Deleted.**

**6.06 Title Insurance** The City agrees to bear all costs regarding title and title insurance for the Railyard.

**6.07 Non-profit's Permission to Mortgage the Improvements and Leasehold** Non-profit shall at all times during the term of this Agreement have the right to mortgage or convey by trust deed or any other instrument adequate for the purpose of securing any actual bona fide debt, this Agreement or the leasehold interest of the Non-profit created by it, together with all its right and interest in the buildings and improvements now on or hereafter to be placed upon the Leasehold Premises and the rents, profits and issue thereof, provided always that any such mortgage, conveyance or encumbrance will at all times be subject to and inferior to the prior right, title and interest of the City in and to the said Leasehold Premises as and for security for the full and faithful performance of the covenants, terms and conditions of this Agreement.

In the event of any breach or default of any of the covenants, terms or conditions of this Agreement by the Non-profit, any holder of a mortgage, deed of trust or such other instrument provided for above ("Subrogees") may, before forfeiture or default, make any and all payments, and do and perform any and all acts which may be necessary to prevent a forfeiture or default under this Agreement and thereby shall become subrogated to so much of Non-profit's rights under this Agreement as may pertain to the affected property. In furtherance of this right the City agrees that any Subrogee who gives notice to the City of its interest in a portion or the whole of the Leasehold Premises pursuant to the notice provisions of Section 9.05 shall be provided with copies of any written notices or demands which the City may serve upon the Non-profit pursuant to this Agreement.

However, the Subrogees shall in no way be liable to the City for the payment of the Rent or for the performance of any other covenants, terms or conditions of or under this Agreement until such time as it shall acquire, by conveyance from the Non-profit, foreclosure or other proceedings provided by law or contract, so much of the right, title and interest of the Non-profit in the Leasehold Premises as is necessary for the Subrogee to take possession of the portion of property securing the Non-profit's obligation. Any Subrogee obtaining possession shall thereafter become liable to the City for the full performance and payment provided for and required under the covenants, terms and conditions of this Agreement, as fully and completely and to the same extent as the Non-profit would have been had the Non-profit retained its rights and interests.

Under no circumstances shall the Subrogee be allowed to assign or transfer its interest in this Agreement.

**6.08 Non-Profit's Right to Sublease and Assign Proceeds** Upon termination of any existing subleases, the Non-profit shall have and is hereby granted by the City the right to sublease any and all of the Leasehold Premises, so long as the sublease would not violate federal, state or local laws, the other provisions of this Agreement, as well as any contract or agreement assumed by the Non-profit from the City.

The Non-profit shall at times during the terms of this Agreement have the right to enter into leases and subleases as a means of or to facilitate the financing of construction of improvements on the Leasehold Premises by third parties, provided always that any such mortgage, conveyance, encumbrance, or lease will at all times be subject to and inferior to the prior right, title, and interest of the City in and to the said Leasehold Premises as and for security for the full and faithful performance of the covenants, term, and conditions of this Agreement.

**6.09 Agreement to Execute Estoppel Certificates** The City agrees to execute true and correct estoppel certificates as may be necessary to confirm the correctness, currentness, validity, force, or effect of this Agreement.

**6.10 Agreement to Name Non-profit as Additional Insured.** The City agrees to name the Non-profit as an additional named insured to the degree it is achievable pursuant to Section 5.05 of this Agreement.

**6.11 Management of Parking and Parking Improvements.** The City, at its expense, has caused to be constructed all improvements for public parking within the Leasehold Premises, including but not limited to any surfacing, barriers, striping, lighting and meters. The City shall be solely responsible for management of parking and enforcement of public parking rules within the Railyard.

**6.12 City Maintenance Obligations.** The City agrees to maintain all portions of the Railyard lying outside of the Leasehold Premises and also to maintain all public parking areas and dedicated or reserved streets and alleys lying within the Leasehold Premises, including all street lights. An exhibit depicting the areas of maintenance responsibilities for the Non-Profit and the City is included herein as Exhibit C hereto.

**6.13 City to Allow Inspection and Copying of Records in Possession.** The City agrees to allow the Non-profit to inspect and copy any and all records, at Nonprofit's expense, pertaining to the Railyard.

**6.14 City to Transfer Certain Cash Proceeds.** The City transferred the cash proceeds from the sale of the Site-Santa Fe building to the Non-profit. Said proceeds were net of all transactional costs incurred upon sale of the property.

**6.15 City to Construct Parking Garage.** The City completed construction of the 400 space underground parking structure in August, 2008. The City acknowledges that the Non-Profit did not design or construct the underground parking structure and has no liability associated with its construction. The City acknowledges that the continued operation of the parking structure by the City is essential to the economic viability of the Railyard Project.

**DEFAULTS AND RECONVEYANCE**

**7.01 Events of Default.** The occurrence of any of the following events shall, at City's option, constitute an "Event of Default":

7.01.1 Failure to pay rent on date when due and the failure continuing for a period of fifteen (15) days after such payment is due;

7.01.2 Failure to perform Non-profit's covenants and obligations hereunder (except default in the payment of rent) where such failure continues for a period of thirty (30) days after written notice

from the City; provided, however, if the nature of default is such that more than thirty (30) days are reasonably required for its cure, Non-profit shall not be deemed to be in default if Non-profit commences the cure within the thirty (30) day period and diligently prosecutes such cure to completion;

7.01.3 The making of any material misrepresentation or omission by Non-profit in any materials delivered by or on behalf of Non-profit to City pursuant to this Agreement;

7.01.4 The transfer or assignment of this Agreement by the Non-profit to a for-profit corporation, venture, enterprise or individual (other than as the result of a bona fide foreclosure of a leasehold mortgage permitted under Section 6.07 or an assignment in lieu of foreclosure);

7.01.5 The performance by the Non-profit of functions other than the administration, development, promotion and maintenance of Leasehold Premises, except when such functions are performed for the City pursuant to an agreement with the City;

7.01.6 The Non-profit is found to have been guilty of fraud, misuse or misappropriation of funds in its possession or has breached its trust or fiduciary duties in any manner.

**7.02 Non-profit's Right to Assign** The Non-profit shall have the right to assign all of its rights and obligations under this Agreement to the City at its sole election upon the occurrence of any of the following events: failure of the parties to agree on terms for repayment of the conduit financing under section 6.03; a change in conditions which adversely and substantially affects the ability of the Non-profit to perform its obligations.

**7.03 Assignment to City** In the event of the occurrence of any Event of Default, or prior to any election by the Non-profit to opt out of this Agreement pursuant to section 7.02 each party shall have the right to give a written notice to the other party and any person known to a party to have a mortgage or similar interest in the Non-profit's leasehold, subject to the limitations set forth in this Agreement that, on the date specified in such notice which shall be at least 60 days following the date of the notice, all of the Non-profit's interest under this Agreement shall be assigned to the City unless on or before such date all arrears of rent and all other sums payable by Non-profit under this Agreement and all costs and expenses incurred by or on behalf of City hereunder shall have been paid by Non-profit and all other Events of Default at the time existing shall have been remedied to the satisfaction of City. If the Non-profit's interest hereunder is transferred and assigned to the City, that interest shall not merge with the City's fee ownership of the land to the extent that and for so long as the Non-profit's interest, and that of any sublessee from the Non-profit, at the time of transfer, was subject to any leasehold mortgage, pledge, assignment of rents and profits, or other security interest, and the City shall assume the Non-profit's position and obligations hereunder. To the extent the Non-profit's interest merges with the City's fee ownership, the City shall recognize all tenants under subleases with the Non-profit as its tenants and those tenants shall attorn to the City as landlord. The remedy provided in this section 7.03 is in lieu of termination but is not intended to preclude any other remedies, including termination of this Agreement and retaking of the Leasehold Premises, available to the City.

**7.03(A) City's Alternate Remedy.** If an Event of Default under this Agreement occurs with respect to one or more of the lease parcels in the Railyard, but not with respect to all of the lease parcels, the City, in lieu of requiring assignment of the Non-profit's interest under Section 7.03, above, or terminating this Agreement with respect to all of the Leasehold Premises, may terminate this Agreement solely with respect to the lease parcel(s) involved. On such termination, the Non-profit shall have no further right, title or interest in the parcels with respect to which termination occurs, the City shall assume all of the Non-profit's rights and obligations under any sublease of

the parcel(s) involved and shall recognize the tenant(s) under such subleases as its tenants and those tenants shall attorn to the City as landlord. No such termination shall deprive the Non-profit or its subtenants of the right to use easement, utilities and other and similar facilities and rights appurtenant to lease parcels adjoining or near the parcel(s) with respect to which termination occurs.

**7.04 Negotiation; Mediation; Arbitration.** In the event that the Non-profit has caused an Event of Default under Sections 7.01.2, 7.01.3, and 7.01.5 of this Agreement, the Non-profit shall have thirty (30) days from the date of receipt of City's written notice to cure the default, provided, however, that such disputes may be resolved by negotiation, mediation or arbitration, pursuant to this Section. The parties shall be required to attempt alternative dispute resolution first by negotiation, then by mediation, then by arbitration, prior to termination. In such a case, the thirty (30) day period shall be suspended pending the outcome of the negotiation, mediation or arbitration. All other events of default shall be resolved only by way of a cure of the event of default.

**7.04.1 Negotiation.** If a dispute arises between Non-profit and City, the parties shall seek a solution through negotiation. Negotiations shall be conducted on behalf of the City by the City Manager or his/her designee within seven (7) days of receipt of written notice.

**7.04.2 Mediation.** If negotiation does not resolve the dispute, the parties shall then attempt to resolve the dispute by use of a mediator. The mediator shall be agreed upon by the parties and the mediator's fees shall be paid one-half by the Non-profit and one-half by the City. Mediation shall be conducted on behalf of the City by the City Manager or his/her designee within seven (7) days of the selection of the mediator.

**7.04.3 Arbitration.** As long as Non-profit is not in Default due to non-payment of any rent due, all disputes not resolved through negotiation or mediation within thirty (30) days of the giving of written notice of Default, shall be resolved by binding arbitration according to the New Mexico Uniform Arbitration Act. If Non-profit is in Default due to non-payment of rent due or goes into non-payment Default during the resolution of the dispute, City may elect to resolve any and all disputes pending at that time by any lawful means, including, without limitation, termination or litigation. Each party may demand arbitration by sending the other party written notice demanding arbitration via first class mail. If Non-profit is in nonpayment Default, City may reject the arbitration demand sent by Non-profit.

**7.04.4** Following each negotiation and mediation, the proposed resolution of any dispute shall be placed upon the next agenda of the City Council for any required final approval. In the event the City Council must but does not approve the proposed resolution, the matter shall be referred on to the next phase of alternative dispute resolution. Any dispute resolved through arbitration shall be a final and binding resolution and shall not require City Council approval.

**7.05 Damage to Leasehold Improvements** If any Leasehold Improvement owned by the City and located on a land lease parcel is damaged and the reasonably estimated cost of repairing or replacing the damage exceeds 25% of the reasonably estimated cost of replacing the Leasehold Improvement, then the City shall have a right to terminate so much of this Agreement as covers the damaged Leasehold Improvement and so much of the Leasehold Premises as are covered by the Leasehold Improvement. Notwithstanding the foregoing, the right of the City to decline to replace the Improvements shall not be applicable if there are also substantial Improvements on the land lease parcel owned by the Non-profit's sublease tenant. Substantial Improvements shall be equal to or greater than 25% of the value of the



City owned Improvements. The City's termination of the portion of this Agreement affecting the land lease parcel shall require the City to assume all of the Non-profit's rights and obligations under any sublease of the parcel(s) involved and to recognize the tenant(s) under such subleases as its tenants and those tenants shall attorn to the City as landlord.

**7.06 Destruction of Leasehold Premises Property** Non-profit agrees that notwithstanding the destruction in part or whole of any property real or personal upon the Leasehold Premises, this Agreement shall remain in full force and effect and without any right to early termination or surrender of possession by Non-profit except as set forth in Section 7.02 above.

**7.07 Termination of Unencumbered Portions of Leasehold Premises** The City shall be entitled to terminate this Agreement as it affects portions of the Leasehold Premises which are not encumbered by a sublease or a leasehold mortgage. Said termination shall be made by giving notice to the Non-profit of the City's intention to terminate the Agreement for said portion of the property and providing the Non-profit ninety (90) days in which to decide whether to terminate the Agreement for the requested portion of the property thereby withdrawing it from application of the terms and conditions of this Agreement or to assign this Agreement in its entirety to the City. To the extent a partial termination adversely affects the Non-profit's revenues from the Railyard and its ability to perform its obligations hereunder, compensation under 4.01 shall be adjusted accordingly. This provision shall only be utilized in order to allow public projects with public financing or maintenance upon the Leasehold Premises, including but not limited to the maintenance of dedicated rights of way or parks and the construction of publicly owned and operated municipal facilities, or in order to carry out any of the powers granted to the City pursuant to the New Mexico Metropolitan Redevelopment Code to permit the City to promote industry and develop trade or other economic activity by inducing profit or nonprofit corporation, federal governmental offices, hospitals and manufacturing, industrial, commercial or business enterprises to locate, expand or remain in the Railyard, to mitigate the threat of unemployment and to secure and maintain a balanced and stable economy in the Railyard or otherwise protect its interest in the development of the Railyard or its property interest in the Railyard.

**7.08 Cumulative.** Each right and remedy of City provided for herein or now or hereafter existing at law, in equity, by statute or otherwise shall be cumulative and shall not preclude the City from exercising any other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity, by statute or otherwise. No payment by Non-profit of a lesser amount than the rent, plus any late payments due, shall be deemed an accord and satisfaction of full payment of rent; and City may accept such payment without prejudice to City's right to recover the balance of such rent or to pursue other remedies.

#### AMENDMENT

**8.01 Amendment** This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto. In the event of an amendment by the parties hereto, any person holding a security interest under this Agreement or a sublease to this Agreement shall be provided with notice of the nature and content of the proposed amendment and an opportunity to be heard on the proposed amendment in advance of the amendment. Amendment shall only be made at a public hearing of the governing body of the City. The parties agree to confer in good faith regarding disputes on interpretation of this Agreement and regarding any matters pertaining to the Railyard which are discovered to be inadequately addressed by this Agreement and to seek administrative resolution of said matters prior to resorting to alternative dispute resolution, litigation, or an amendment by the Governing Body.

### MISCELLANEOUS PROVISIONS

- 9.01 Integration** This Agreement contains the entire Agreement between the parties respecting the matters herein set forth and supersedes all prior agreements, whether in a writing or oral, between the parties respecting such matters. Any amendments or modifications hereto in order to be effective shall be in writing and executed by the parties hereto.
- 9.02 Severability** The terms and conditions of this Agreement are severable and should any part of this Agreement be deemed illegal or in violation of law by a court of competent jurisdiction the remainder shall continue in full force and effect.
- 9.03 Counterparts** This Agreement may be executed in any number of counterparts which together shall constitute the Agreement between the parties.
- 9.04 Facsimiles** Nothing herein shall be deemed to limit the validity or enforceability of the terms of this Agreement in the event that the parties to this Agreement shall execute and sign originals or counterparts by way of facsimile transmissions of the executing person's signature.
- 9.05 Notice** Any notice, demand or document which may be sent by and between the parties to this Agreement and pursuant to this Agreement shall be in writing and shall be deemed received upon the earliest of 1.) its actual receipt, 2.) three days after mailing, first class mail return receipt requested, 3.) confirmation that a facsimile transmission has been received by a return facsimile. Notice shall be provided to the city by sending the notice to: City Manager, City of Santa Fe, 200 Lincoln Avenue, P.O. Box 909, Santa Fe, New Mexico, 87504-0909 with a copy transmitted separately to the City Attorney at the same address. Notice shall be provided to the Non-profit by sending the notice to: Steven Robinson, 322 Read Street, Santa Fe, New Mexico, 87501, with a copies to W. Anthony Sawtell, P.O. Box 788, Santa Fe, New Mexico 87504-0788 and Executive Director, 332 Read Street, Santa Fe NM 87501. Both parties further agree to give reasonable notice to creditors of any default, amendment, renegotiation, mediation, sublease or assignment pursuant to this Agreement if the creditor provides the requested party with written request for notice of such events and provides a current address and the name of an authorized agent in the event service of process is required.
- 9.06 Further Assurances** Each party hereto shall from time to time execute and deliver such further documents or instruments as the other party may reasonably request to effectuate the intent of this Agreement including without limitation documents necessary for compliance with the laws, ordinances, rules and regulations of any applicable governmental authorities. Notwithstanding the foregoing, the Non-Profit shall not be required to provide the City with copies of any land or building lease between the Non-Profit and any sublessee until the date this Agreement expires or is terminated.
- 9.07 Recording** Either party may, at its option, record a copy of this Agreement in the real property records of the county in which the property is located.
- 9.08 Covenants to Run** All covenants, conditions, terms and agreements contained in this Agreement are intended to be and shall be deemed to run with the land.
- 9.09 Heirs, Successors and Assigns** All references to parties to this Agreement, and all covenants, terms, conditions and agreements of this Agreement, shall be deemed and construed to apply to and be binding upon them and their respective heirs, executors, administrators, legal representatives, successors, and assigns except as herein expressly stated to the contrary as if they were in each case fully named and stated. However, nothing in this section shall be deemed to authorize or permit transfers or assignments



which would otherwise be forbidden pursuant to this Agreement.

- 9.10 **Prior Agreements** All prior agreements between the City and the Non-profit, express or implied, written or oral, shall be deemed void and are hereby rescinded and cancelled. All prior negotiations are merged into this Agreement. No party shall be bound by this Agreement until it is executed and delivered by both parties and placed on file with the City Clerk's Office.
- 9.11 **Force Majeure.** If the City or the Non-profit is delayed, hindered, or prevented from performing any act required hereunder by reason of strikes, lockouts, inability to procure materials, failure of power, riots, insurrection, war, or other unforeseeable reasons beyond its control, then performance of the act shall be excused for the period of the delay. In that event, the period for the performance of the act shall be extended for a period equivalent to the period of the delay
- 9.12 **City Approval.** Whenever approval or other action by the City is required under this Agreement and the issue is not committed to the Business Capitol District Development Review Committee or City Council, the approval shall be given or action shall be taken by the City Manager, unless prohibited by law.
- 9.13 **Preservation of City's Tort Claims Act Immunities.** Nothing herein shall constitute a waiver of the immunities provided by the Tort Claims Act or any other immunities provided by law.

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

SEC CLERK RECORDED 05/11/2012

CITY OF SANTA FE:

David Cozz  
DAVID COSS, MAYOR

ATTEST:  
Yolanday Vigil  
YOLANDAY VIGIL, CITY CLERK  
CITY OF SANTA FE  
NEW MEXICO

APPROVED AS TO FORM:

Geno Zamora  
GENO ZAMORA, CITY ATTORNEY

NON PROFIT  
SANTA FE RAILYARD  
COMMUNITY CORPORATION

By: Steven Robinson  
STEVEN ROBINSON  
PRESIDENT

CRS #02-481098003  
City of Santa Fe Business  
Registration # 0397164

APPROVED:

Kathryn Raveling  
KATHRYN RAVELING, DIRECTOR  
FINANCE DEPARTMENT



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss  
AGREEMENT (NC)  
PAGES: 23  
I Hereby Certify That This Instrument Was Filed for  
Record On The 11TH Day Of May, 2012 at 01:38:53 PM  
And Was Duly Recorded as Instrument # 1669127  
Of The Records Of Santa Fe County  
Valerie Espinoza  
Deputy Witness My Hand And Seal Of Office  
Valerie Espinoza  
County Clerk, Santa Fe, NM

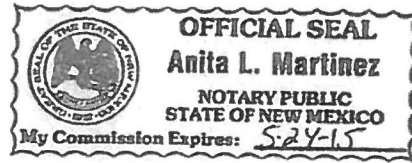
SFC CLERK RECORDED 05/11/2012

STATE OF NEW MEXICO )  
 ) ss:  
COUNTY OF SANTA FE )

The foregoing Amended and Restated Railyard Lease and Management Agreement was acknowledged before me on May 10, 2012, by Steven Robinson, President of Santa Fe Railyard Community Corporation, a New Mexico nonprofit corporation, on its behalf.

Anita L. Martinez  
Notary Public

My commission expires: 5-24-15





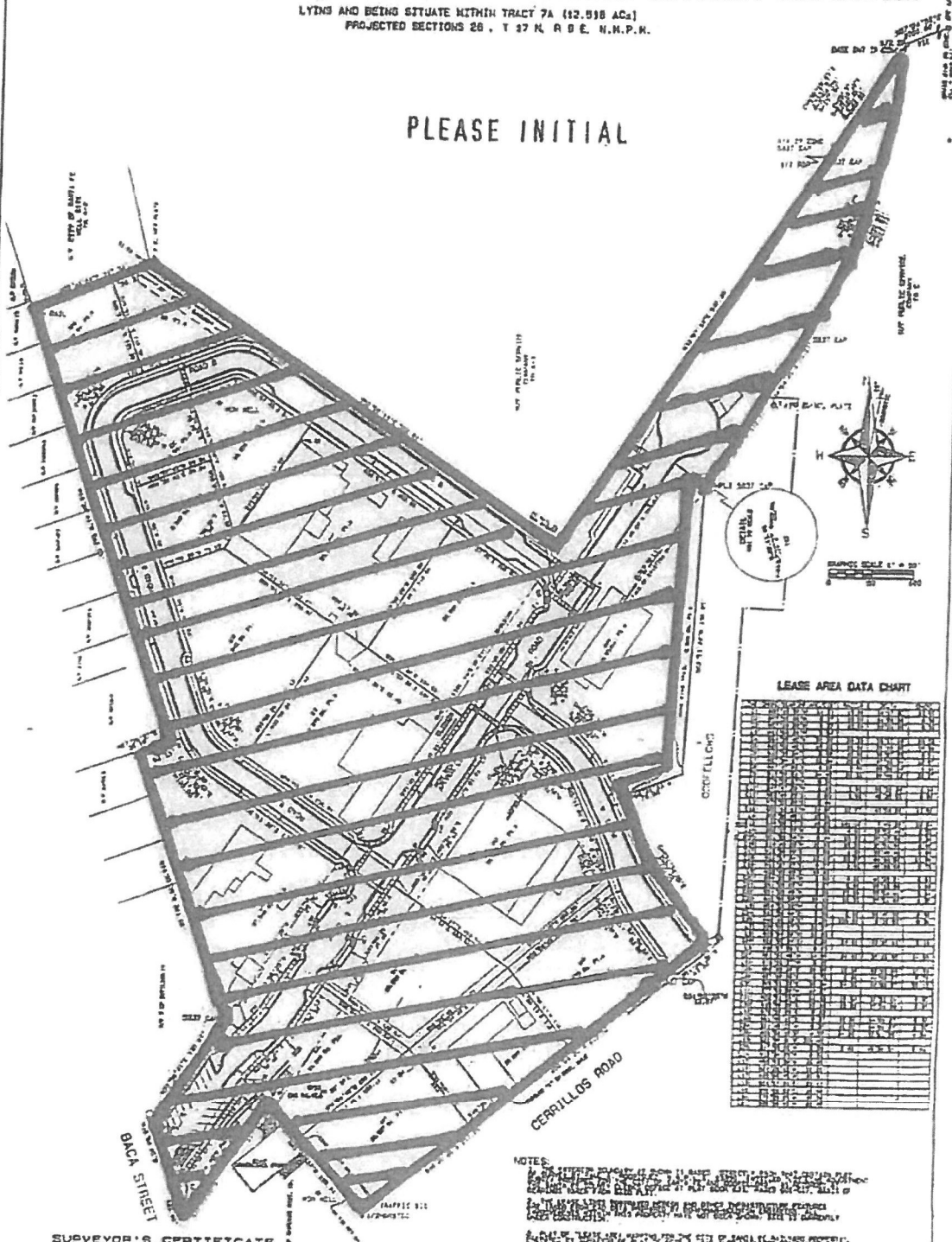




LEASE AREA SURVEY PREPARED FOR  
THE CITY OF SANTA FE AND THE SANTA FE RAILYARD COMMUNITY CORPORATION

LYING AND BEING SITUATE WITHIN TRACT 7A (12,938 ACs)  
PROJECTED SECTIONS 26, T 37 N, R 9 E, N.M.P.M.

PLEASE INITIAL



LEASE AREA DATA CHART

Lot No.	Area (Ac.)	Area (Sq. Ft.)	Remarks
1	0.12	8,370	
2	0.15	10,440	
3	0.18	12,510	
4	0.21	14,580	
5	0.24	16,650	
6	0.27	18,720	
7	0.30	20,790	
8	0.33	22,860	
9	0.36	24,930	
10	0.39	27,000	
11	0.42	29,070	
12	0.45	31,140	
13	0.48	33,210	
14	0.51	35,280	
15	0.54	37,350	
16	0.57	39,420	
17	0.60	41,490	
18	0.63	43,560	
19	0.66	45,630	
20	0.69	47,700	
21	0.72	49,770	
22	0.75	51,840	
23	0.78	53,910	
24	0.81	55,980	
25	0.84	58,050	
26	0.87	60,120	
27	0.90	62,190	
28	0.93	64,260	
29	0.96	66,330	
30	0.99	68,400	
31	1.02	70,470	
32	1.05	72,540	
33	1.08	74,610	
34	1.11	76,680	
35	1.14	78,750	
36	1.17	80,820	
37	1.20	82,890	
38	1.23	84,960	
39	1.26	87,030	
40	1.29	89,100	
41	1.32	91,170	
42	1.35	93,240	
43	1.38	95,310	
44	1.41	97,380	
45	1.44	99,450	
46	1.47	101,520	
47	1.50	103,590	
48	1.53	105,660	
49	1.56	107,730	
50	1.59	109,800	
51	1.62	111,870	
52	1.65	113,940	
53	1.68	116,010	
54	1.71	118,080	
55	1.74	120,150	
56	1.77	122,220	
57	1.80	124,290	
58	1.83	126,360	
59	1.86	128,430	
60	1.89	130,500	
61	1.92	132,570	
62	1.95	134,640	
63	1.98	136,710	
64	2.01	138,780	
65	2.04	140,850	
66	2.07	142,920	
67	2.10	144,990	
68	2.13	147,060	
69	2.16	149,130	
70	2.19	151,200	
71	2.22	153,270	
72	2.25	155,340	
73	2.28	157,410	
74	2.31	159,480	
75	2.34	161,550	
76	2.37	163,620	
77	2.40	165,690	
78	2.43	167,760	
79	2.46	169,830	
80	2.49	171,900	
81	2.52	173,970	
82	2.55	176,040	
83	2.58	178,110	
84	2.61	180,180	
85	2.64	182,250	
86	2.67	184,320	
87	2.70	186,390	
88	2.73	188,460	
89	2.76	190,530	
90	2.79	192,600	
91	2.82	194,670	
92	2.85	196,740	
93	2.88	198,810	
94	2.91	200,880	
95	2.94	202,950	
96	2.97	205,020	
97	3.00	207,090	
98	3.03	209,160	
99	3.06	211,230	
100	3.09	213,300	

SURVEYOR'S CERTIFICATE

NOTES:  
1. THIS SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACTS OF 1908 AND 1917.  
2. THE BOUNDARIES SHOWN ON THIS SURVEY ARE BASED ON THE SURVEY DATA PROVIDED BY THE CITY OF SANTA FE AND THE SANTA FE RAILYARD COMMUNITY CORPORATION.  
3. THE AREA OF THIS SURVEY IS 12,938 ACRES.  
4. THE TOTAL AREA OF THIS SURVEY IS 12,938 ACRES.

FOR THE CITY OF SANTA FE AND THE SANTA FE RAILYARD COMMUNITY CORPORATION



**SOUTHWEST MOUNTAIN SURVEYS**

1114 HICKOX ST., SANTA FE, N.M. 87501  
505-833-6420 FAX 505-833-3413  
EST. 1970

SFC CLERK RECORDED 05/11/2012

### Exhibit B - Rent Schedule

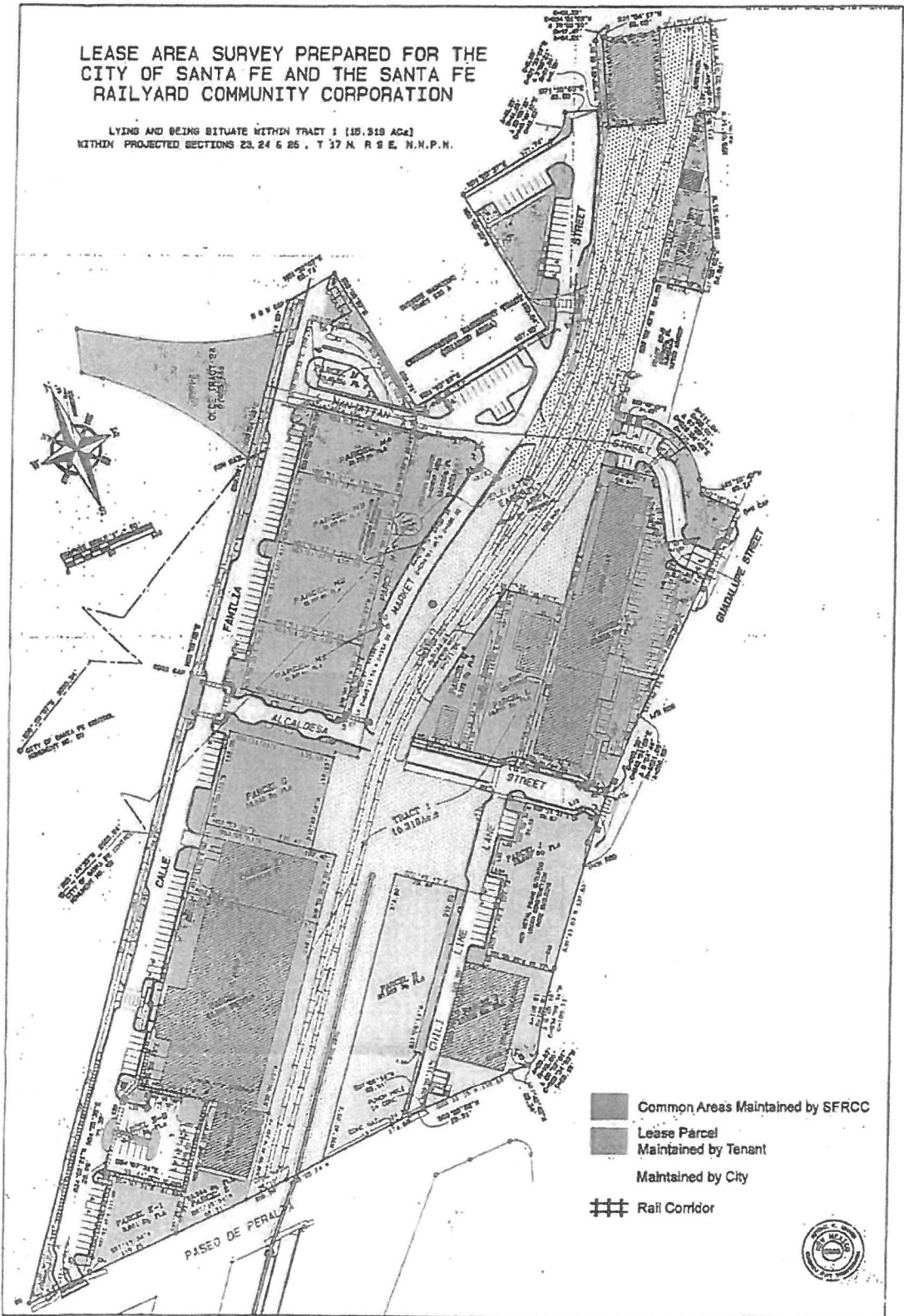
	ACTUALS 2024-08	ACTUALS 2024-09	ACTUALS FY2024-10	ACTUALS FY2024-11	ACTUALS FY2024-12	ACTUALS FY2025-01	ACTUALS FY2025-02	ACTUALS FY2025-03	ACTUALS FY2025-04	ACTUALS FY2025-05	ACTUALS FY2025-06	ACTUALS FY2025-07	ACTUALS FY2025-08	ACTUALS FY2025-09	ACTUALS FY2025-10	ACTUALS FY2025-11	ACTUALS FY2025-12	PROJECTED FY2026-01	PROJECTED FY2026-02	PROJECTED FY2026-03	PROJECTED FY2026-04	PROJECTED FY2026-05	PROJECTED FY2026-06	PROJECTED FY2026-07	PROJECTED FY2026-08	PROJECTED FY2026-09	PROJECTED FY2026-10	PROJECTED FY2026-11	PROJECTED FY2026-12	PROJ FY26-1		
316202411 9/26/24 AM																																
<b>DEBT SERVICE</b>																																
City of Santa Fe Land Debt for acquisition costs - see below for City encumbered debt relief credits received	(453,822)	(469,547)	(483,221)	(493,578)	(502,687)	(512,544)	(522,527)	(532,857)	(543,578)	(554,700)	(566,221)	(578,146)	(590,473)	(603,204)	(616,340)	(629,881)	(643,828)	(658,181)	(673,040)	(688,405)	(704,276)	(720,653)	(737,536)	(754,931)	(772,838)	(791,257)	(810,188)	(829,631)	(849,586)	(870,053)	(891,032)	
NIMFA Loan - Interest Phase (6)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
NIMFA Loan - Interest Phase II (16B)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
\$892,227 from ends May 2025 in concave with City SF Schedule	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Refinance (20106) \$10,480,000 term ends May 2028 and concave with City of SF Schedule	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>SUB-TOTAL</b>	(453,822)	(469,547)	(483,221)	(493,578)	(502,687)	(512,544)	(522,527)	(532,857)	(543,578)	(554,700)	(566,221)	(578,146)	(590,473)	(603,204)	(616,340)	(629,881)	(643,828)	(658,181)	(673,040)	(688,405)	(704,276)	(720,653)	(737,536)	(754,931)	(772,838)	(791,257)	(810,188)	(829,631)	(849,586)	(870,053)	(891,032)	
Nonpass option Contingency																																
Relief Funds credit - Land and NIMFA, per PSA Amendment (3) 2009-10 - \$765,175	30,000	275,000	190,000	85,175	121,000	102,000																										
Re-Payment of PSA Amendment (3) Debt Deferral of \$769,175																																
Debt Deferral and repayment per LHM Agreement between of 2011 - \$2,283,441																																
Repayment of 2011-2015 Debt Deferral - \$2,283,441																																
<b>TOTAL RENT PAYMENTS</b>	(423,822)	(170,547)	(273,221)	(408,403)	(481,687)	(514,544)	(522,527)	(532,857)	(543,578)	(554,700)	(566,221)	(578,146)	(590,473)	(603,204)	(616,340)	(629,881)	(643,828)	(658,181)	(673,040)	(688,405)	(704,276)	(720,653)	(737,536)	(754,931)	(772,838)	(791,257)	(810,188)	(829,631)	(849,586)	(870,053)	(891,032)	





# LEASE AREA SURVEY PREPARED FOR THE CITY OF SANTA FE AND THE SANTA FE RAILYARD COMMUNITY CORPORATION

LYING AND BEING SITUATE WITHIN TRACT 1 (10,319 AC±)  
WITHIN PROJECTED SECTIONS 23, 24 & 25, T 37 N, R 9 E, N.M.P.M.



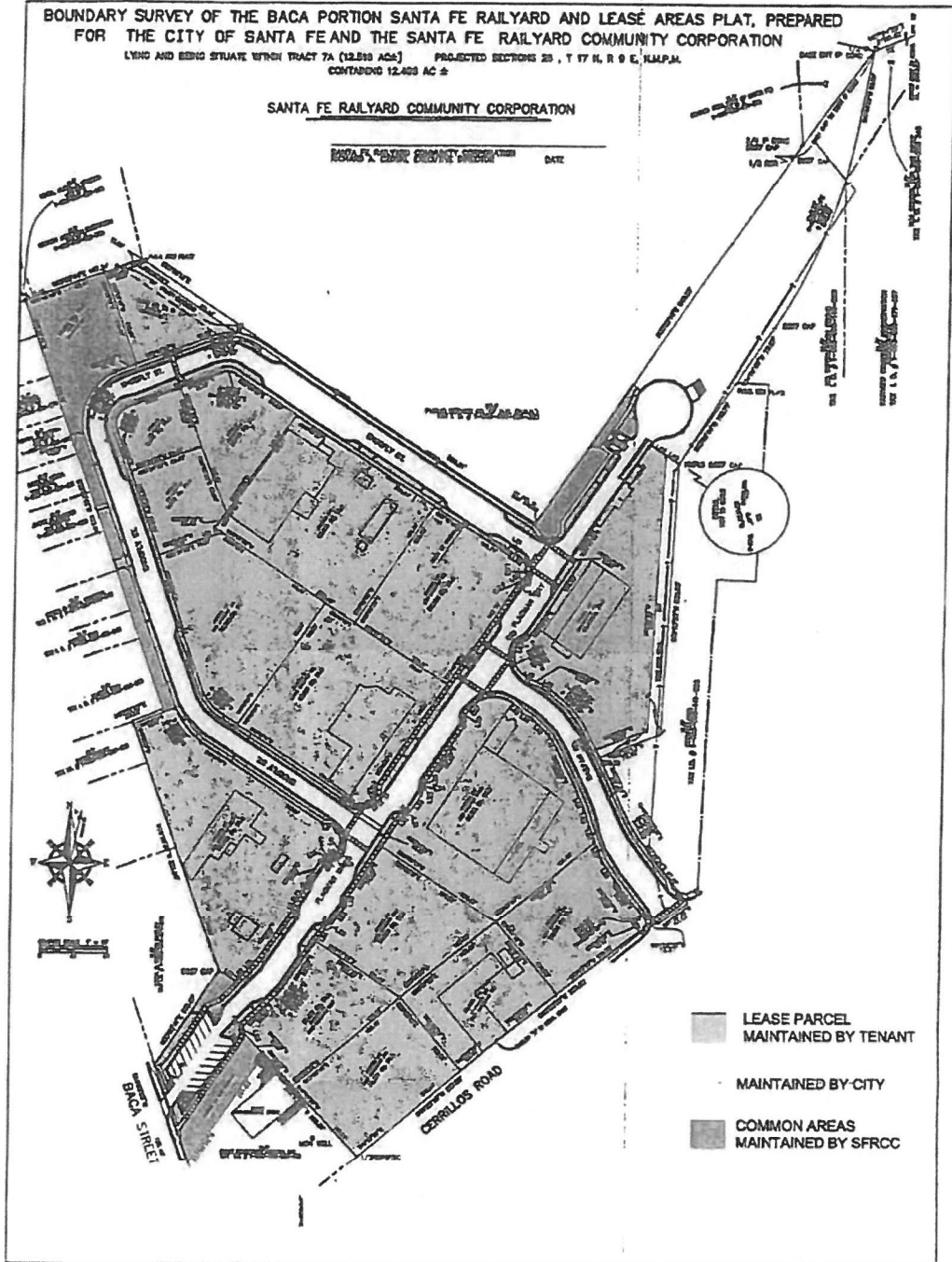
Jurisdiction Areas North of PDI



**BOUNDARY SURVEY OF THE BACA PORTION SANTA FE RAILYARD AND LEASE AREAS PLAT, PREPARED FOR THE CITY OF SANTA FE AND THE SANTA FE RAILYARD COMMUNITY CORPORATION**  
 LYING AND BEING SITUATE WITHIN TRACT 7A (12,893 AC) PROJECTED SECTIONS 29, T 17 N, R 9 E, N.M.P.M.  
 CONTAINING 12,400 AC ±

**SANTA FE RAILYARD COMMUNITY CORPORATION**

SCALE: AS SHOWN BY THE DRAWING DATE: \_\_\_\_\_





# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Santa Fe Railyard Community Corporation

Procurement Title: Amendment 11 to the Amended and Restated Railyard Lease and Management Agr

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other

Exempt  Request For Proposal (RFP)  Invitation To Bid (ITB)  Contract under 60K  Contract over 60K

Department Requesting Asset Development Staff Name Terry Lease

### Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

YES	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Price Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	RFP
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Evaluation Committee Report
<input type="checkbox"/>	<input checked="" type="checkbox"/>	ITB
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Bib Tab
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Quotes (3 valid current quotes)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole Source Request and Determination Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Purchasing Officers approval for exempt procurement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BAR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Executed Contract, Agreement or Amendment
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contracts and Agreements form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Certificate of Insurance
<input checked="" type="checkbox"/>	<input type="checkbox"/>	All documentation presented to Committees
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other:

Terry Lease Asset Development Manager 1/24/2023

Department Rep Printed Name (attesting that all information included) Title Date

 Contracts Supervisor Jan 25, 2023

Purchasing Officer (attesting that all information is reviewed) Title Date

ITT Representative (attesting that all information is reviewed) Title Date

Include all other substantive documents and records of communication that pertain to the procurement and contract.





# City of Santa Fe

## Real Estate Summary of Contracts, Agreements, Amendments & Leases

### Section to be completed by department

1. Munis Contract # \_\_\_\_\_

Contractor: Santa Fe Railyard Community Corporation

Description: Amendment 11 to the Amended and Restated Railyard Lease and Management Agreement Between the City of Santa Fe and The Santa Fe Railyard Community Corporation

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: \_\_\_\_\_ Term End Date: \_\_\_\_\_

Approved by Council Date: \_\_\_\_\_

### Contract / Lease: Lease

Amendment # 11 to the Original Contract / Lease # 11-0306

Increase/(Decrease) Amount \$ -\$949,882.00

Extend Termination Date to: \_\_\_\_\_

Approved by Council Date: \_\_\_\_\_

### Amendment is for:

2. **HISTORY** of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)  
**The Amended and Restated Railyard Lease and Management Agreement was entered into to allow the Santa Fe Railyard Community Corporation to manage the City owned Railyard Property according to the Railyard Master Plan. The agreement has been amended ten times for many different reasons. This Amendment 11, if approved, will remove the W21 land and Depot property from the leased premises.**

### 3. Procurement History: N/A

*[Signature]*

Purchasing Officer Review: \_\_\_\_\_

Jan 25, 2023

Date: \_\_\_\_\_

Comment & Exceptions: Lease only

### 4. Funding Source: \_\_\_\_\_

*Andy Hopkins*

Andy Hopkins | Jan 24, 2023 16:55 MST

Budget Officer Approval: \_\_\_\_\_

Org / Object: 2122800/460350

Jan 24, 2023

Date: \_\_\_\_\_

Comment & Exceptions: \_\_\_\_\_

Staff Contact who completed this form: Terry Lease, Asset Development Phone # 505-629-2206

Email: tjlease@santafenm.gov

### To be recorded by City Clerk:

Clerk # \_\_\_\_\_

Date of Execution: \_\_\_\_\_



**Signature:** *Richard Brown*

**Email:** [rdbrown@santafenm.gov](mailto:rdbrown@santafenm.gov)






# (1) GB ECON DEVELOP SANTA FE RAILYARD Amendment 11

Final Audit Report

2023-01-26

Created:	2023-01-26
By:	Nina Sisneros (nasisneros@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAMWjUJT3wKG24V8qT3m7D_I6TfGIUJvqi

## "(1) GB ECON DEVELOP SANTA FE RAILYARD Amendment 1 1" History

-  Document created by Nina Sisneros (nasisneros@ci.santa-fe.nm.us)  
2023-01-26 - 3:22:06 PM GMT
-  Document emailed to rich brown (rdbrown@santafenm.gov) for signature  
2023-01-26 - 3:24:53 PM GMT
-  Email viewed by rich brown (rdbrown@santafenm.gov)  
2023-01-26 - 3:50:39 PM GMT
-  Document e-signed by rich brown (rdbrown@santafenm.gov)  
Signature Date: 2023-01-26 - 3:51:28 PM GMT - Time Source: server
-  Agreement completed.  
2023-01-26 - 3:51:28 PM GMT











# 23-0054 Railyard Community Corporation AM GB

Final Audit Report

2023-02-28


Created:	2023-02-23
By:	Xavier Vigil (xivigil@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAd9kBRY4o98bwOVBMgSj7pkdJqAiWJ-Do

## "23-0054 Railyard Community Corporation AM GB" History

-  Document created by Xavier Vigil (xivigil@ci.santa-fe.nm.us)  
2023-02-23 - 10:29:44 PM GMT- IP address: 63.232.20.2
-  Document emailed to ekoster@santafenm.gov for signature  
2023-02-23 - 10:40:02 PM GMT
-  Email viewed by ekoster@santafenm.gov  
2023-02-24 - 4:52:24 AM GMT- IP address: 104.47.65.254
-  Signer ekoster@santafenm.gov entered name at signing as Emily K. Oster  
2023-02-24 - 4:56:00 AM GMT- IP address: 73.42.116.51
-  Document e-signed by Emily K. Oster (ekoster@santafenm.gov)  
Signature Date: 2023-02-24 - 4:56:02 AM GMT - Time Source: server- IP address: 73.42.116.51
-  Document emailed to Alan Webber (amwebber@santafenm.gov) for signature  
2023-02-24 - 4:56:07 AM GMT
-  Email viewed by Alan Webber (amwebber@santafenm.gov)  
2023-02-24 - 5:34:48 AM GMT- IP address: 172.226.137.0
-  Document e-signed by Alan Webber (amwebber@santafenm.gov)  
Signature Date: 2023-02-24 - 4:33:22 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Kristine Mihelcic (kmmihelcic@santafenm.gov) for signature  
2023-02-24 - 4:33:27 PM GMT
-  Email viewed by Kristine Mihelcic (kmmihelcic@santafenm.gov)  
2023-02-28 - 5:49:06 PM GMT- IP address: 104.47.64.254

 Document e-signed by Kristine Mihelcic (kmmihelcic@santafenm.gov)

Signature Date: 2023-02-28 - 5:49:14 PM GMT - Time Source: server- IP address: 63.232.20.2

 Agreement completed.

2023-02-28 - 5:49:14 PM GMT



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**Acrobat Sign**