



City of Santa Fe, New Mexico

Memorandum



DATE: December 6, 2023

TO: John Blair, City Manager

FROM: Terry Lease, Asset Development Manager, Office of Economic Development TL

VIA: Johanna Nelson, Director, Office of Economic Development JN

Re: Approval of Lease Agreement Between the City of Santa Fe and Joel Allan Miller

ITEM AND ISSUE:

The City of Santa Fe ("City") is fee owner of that certain tract of land commonly known as the Santa Fe Police Department Impound Lot, ("Impound Lot"), located at 2680 Camino Entrada, Santa Fe, New Mexico. In an effort to recruit and retain police officers, the City provides various affordable housing opportunities for officers. The attached lease, if approved, will lease a small portion of the Impound Lot for the purpose of allowing Lessee to establish a personal residence.

BACKGROUND AND SUMMARY:

City properties are often the subject of crime and vandalism and the presence of police officers on City properties promotes a safe environment, deters crime, and assists in curbing vandalism. Because off-duty police officers often charge up to \$95 per hour to work as security guards, and because the police officer in this lease will be home and visible for at least eight hours per month, with a value of approximately \$760, the City is offering highly discounted rent for this lease. The initial Monthly rent is \$45.00, for a total of \$540.00 for the first year. This lease is for land only and the existing residence was purchased by Santa Fe Police Officer Miller from Detective De Paz who is moving to Ashbaugh Park.

ACTION REQUESTED: The Office of Economic Development respectfully requests your review and approval of Lease Agreement Between the City of Santa Fe and Joel Allan Miller.

ATTACHMENTS:

Lease Agreement
Summary of Contracts

**LEASE AGREEMENT BETWEEN
THE CITY OF SANTA FE AND JOEL ALLAN MILLER**

This LEASE AGREEMENT (“Lease Agreement”) is made and entered into as of the date of the last signature (“Effective Date”), by and between the CITY OF SANTA FE, a municipal corporation (“City” or “Lessor”) and Joel Allan Miller, a single man, (“Lessee”), collectively the “Parties”.

WHEREAS, the City is fee owner of that certain tract of land known as 2680 Camino Entrada, Sana Fe, New Mexico; and

WHEREAS, in an effort to recruit and retain police officers the City may provide various affordable housing opportunities for officers; and

WHEREAS, for police officers to be eligible for City’s affordable housing opportunities officers must be sworn police officers, off of probation and below the rank of Lieutenant, with certain exceptions; and

WHEREAS, City properties are often the subject of crime and vandalism and the presence of police officers on City properties promote a safe environment, deters crime, and assists in curbing vandalism; and

WHEREAS, the City desires to lease a portion of 2680 Camino Entrada for the purpose of allowing Lessee to establish a personal residence.

WITNESSETH:

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

1. PREMISES

Lessor allows Lessee to use, occupy, and develop, subject to the terms and conditions of this Lease Agreement, a certain 4,817 square foot parcel of land located on 2680 Camino Entrada (UPC 1049095166294), Santa Fe, New Mexico, (the “Premises”), as shown on **Exhibit A** of this Lease Agreement.

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.

2. LEASE TERM

- a. Initial Term. The initial term of this Lease Agreement shall commence at 12:00 a.m. on the Effective Date. The term of this Lease Agreement shall consist of an "Initial Term" of six (6) years with two (2) "Option Terms" of three (3) years each.
- b. Option Term. Lessee's exercise of any Option Term is contingent upon compliance with this Lease Agreement and with proper written notice by Lessee to Lessor at least ninety (90) days prior to the expiration of the Initial Term and shall be at Lessor's sole discretion. All terms, covenants and conditions of this Lease Agreement, excepting the amount of rent to be paid, shall remain in full force and effect during any extension of the term.
- c. Hold Over. In the event Lessee remains in possession of the Premises after the expiration of the Term of this Lease Agreement, 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 Rent due shall be payable monthly and shall be the last month's rent paid. All other terms and conditions of the Lease Agreement shall be otherwise applicable. The Hold Over Term shall be no longer than one year.

3. RENT

- a. Base Rent. Because off-duty police officers often charge up to \$95 per hour to work as security guards, and because the police officer in this lease will be home and visible for at least eight hours per month, with a value of approximately \$760, the City is offering highly discounted rent for this lease. Lessee shall pay **Monthly rent** based on the rent schedule below, which is due on the Effective Date and thereafter due in full on the first day of each month during the Term without notice or demand and without deduction or offset for any cause whatsoever. The initial Monthly rent is \$45.00. Lessee shall make payments to; City of Santa Fe, Treasury Division, 200 Lincoln Ave., Room 114, Santa Fe, NM, 87504.
- b. Optional Terms Rent. The amount of rent to be paid during each exercised Option Term shall be based on the rent schedule below.
- c. Penalty for Late Rent Payment. If money payable to Lessor as a condition of this Lease Agreement is not paid in full when due, a penalty of 10% of the amount due and unpaid shall be added to the amount due, and the total sum of the then-due rental payment plus penalty shall become immediately due and payable to Lessor. A further penalty of 10% of the amount due and unpaid, including previously assessed penalties, shall be added for each additional month that said amount remains unpaid. The assessment and collection of the 10% penalty is in addition to any other rights of Lessor, if Lessee does not faithfully perform the terms, covenants and conditions of this Lease Agreement.
- d. Increase in Rent. Rent amount shall be according to the rent schedule below.
- e. Rent Schedule. In consideration of this Lease Agreement, City and Lessee agree to the following Rent Schedule:

Option Years	Year	Term Dates		Total Annual Rent	Escalation	Monthly Rent
	1	12/1/2023	11/30/2024	\$540.00		\$45.00
	2	12/1/2024	11/30/2025	\$550.80	2.00%	\$45.90

	3	12/1/2025	11/30/2026	\$561.82	2.00%	\$46.82
	4	12/1/2026	11/30/2027	\$573.05	2.00%	\$47.75
	5	12/1/2027	11/30/2028	\$584.51	2.00%	\$48.71
	6	12/1/2028	11/30/2029	\$596.20	2.00%	\$49.68
*	7	12/1/2029	11/30/2030	\$608.13	2.00%	\$50.68
*	8	12/1/2030	11/30/2031	\$620.29	2.00%	\$51.69
*	9	12/1/2031	11/30/2032	\$632.70	2.00%	\$52.72
*	10	12/1/2032	11/30/2033	\$645.35	2.00%	\$53.78
*	11	12/1/2033	11/30/2034	\$658.26	2.00%	\$54.85
*	12	12/1/2034	11/30/2035	\$671.42	2.00%	\$55.95
*Option Years						

4. USE OF PREMISES

Conditions of Use. Lessee shall use the Premises solely for the specific purpose of placing a Lessee-owned manufactured or mobile home and shall conform to the following conditions:

- i. The home shall blend into the surrounding properties.
 - ii. The home shall be skirted on all sides.
 - iii. Lessee shall at all times be a sworn police officer employed by the City, off of probation, be in good standing and below the rank of Lieutenant, with some exceptions as provided for in Exhibit B.
 - iv. Lessee shall be compliant with the City of Santa Fe Police Department Policy 102.1 (Officers Living on City Owned Land) attached as Exhibit B to the Lease Agreement.
 - v. Occupancy is limited to Lessee's immediate family, which includes a spouse or significant other and any related children.
 - vi. All relocation and moving costs to, within, or from the Premises, for any reason or purpose, will be the sole responsibility and cost of Lessee.
 - vii. Lessee shall not keep animals of any kind on the Premises without prior written consent of the City. If animals are approved by the City they shall be confined to a designated area within the Premises and not be permitted to run free.
 - viii. Lessee shall immediately report to the City any incidents of crime, vandalism, or damage.
 - ix. Lessee's presence on the Premises is to be a visible presence to deter crime. Should any incident require Lessee to take enforcement action, discretion will be used, and the action taken will be in compliance with the Santa Fe Police Department Directives.
 - x. If Lessee ceases to be employed as a City of Santa Fe police officer, for any reason, this Lease Agreement may be terminated in accordance with Section 13 (TERMINATION) herein.
- a. Improvement of the Premises. Lessee may, with the prior written consent of Lessor and at no cost to Lessor, make improvements to the Premises which are required to comply with the City of Santa Fe Land Use Code, which includes the Historic District Development Rules, and other applicable local, state and federal regulations. Lessee shall, upon Lessor's request, remove all such improvements made to the Premises at the termination of this Lease Agreement.

- b. Compliance with Laws. Lessee's use of the Premises shall at all times be in compliance with the City of Santa Fe Municipal Code and other applicable local, state, and federal regulations including but not limited to compliance with the City of Santa Fe Integrated Pest Management Policy (§ 10-7 SFCC 1987) (the Pest Management Policy).

5. REPAIRS & MAINTENANCE

- a. During the term of this Lease and any extension or renewal thereof, Lessee shall not cause or permit any waste, damage, or injury to the Premises or to any improvements made to the Premises.
- b. During the term of this Lease and any extension or renewal thereof, Lessee shall, at its sole expense, keep and maintain the Premises in good and clean condition at all times and shall be responsible for the costs of any and all required repairs, replacements, and capital improvements that arise during the Term of this Lease Agreement.
- c. Repairs and replacements required to be made by the Lessee shall be made promptly as and when necessary and shall be at least equal in quality of materials and workmanship to that originally existing in the Premises.
- d. During the term of this Lease and any extension or renewal thereof, Lessee shall maintain the landscaping and plants within the Premises.
- e. Lessee shall at all times during the term of this Lease and any extension or renewal thereof, and in a timely manner, provide a safe Premises by eliminating conditions caused by, including and not limited to, snow, ice, debris, mold, and standing water.
- f. Lessor reserves the right to inspect the Premises at any time during the Term of this Lease Agreement to verify Lessee's compliance with this Section 5. In the event Lessee fails to maintain the Premises at a standard acceptable to the Lessor, as determined in Lessor's sole discretion, Lessor may terminate this Lease Agreement in accordance with Section 13 (TERMINATION) herein.
- g. Repair and maintenance shall be to the sole satisfaction of Lessor, and if Lessee fails to fulfill any duty imposed under this Section 5 within a reasonable period of time, City may, but is not required to, perform those duties at Lessee's sole cost. Lessee shall promptly cooperate with Lessor if Lessor undertakes to perform such duties. No action by Lessor taken pursuant to this Section 5 shall constitute a waiver of Lessee's obligations. Lessee's obligations under this Section 5 shall survive the expiration or termination of this Lease Agreement.

6. UTILITIES & SERVICES

Lessee, at Lessee's sole cost and expense, agrees to provide the following:

- a. All gas, electricity, water, sanitary sewer service, and refuse disposal services; and
- b. Janitorial supplies and services; and
- c. Pest control services; and
- d. Snow removal services.

7. TAXES

Lessee shall pay all taxes levied and assessed, if any, upon any personal property, fixtures and improvements belonging to Lessee and located upon the demised Premises, and all leasehold and possessory interest taxes levied or assessed by any proper taxing authority.

8. SUBLEASE, ASSIGNMENT OR TRANSFER

Lessee shall not sublet, assign, or otherwise transfer this Lease Agreement without the prior written consent of Lessor, which Lessor may withhold for any or no reason. Any such actions taken by Lessee without Lessor's consent shall result in the immediate termination of this Lease Agreement.

9. INSURANCE

Lessee shall at all times maintain and provide adequate insurance coverage which includes, without limitation, each of the following:

- a. Property Insurance. Lessee shall carry and maintain in full force and effect during the term of this Lease Agreement all risks or special form property insurance for Lessee's personal property and as may be available for all improvements to the Premises in an amount sufficient to restore and replace existing contents, structures and improvements if lost or damaged. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.
- b. General Liability Insurance which shall be written on an occurrence basis covering claims against bodily injury and property damage, including contractual liability, in an amount not less than \$1,000,000 per occurrence. The City of Santa Fe, its officials, directors, employees, agents, and volunteers shall be included as Additional Insureds.
- c. Certificates of Insurance. Prior to the Effective Date of this Lease Agreement, and thereafter at any time during the Term of this Lease Agreement that Lessor requests, Lessee shall provide Lessor with certificates of insurance for each policy evidencing that the coverage required hereunder is current. Such policy shall provide that the coverage evidenced thereby shall not be terminated or modified for any reason without thirty (30) days prior written notice to the Lessor. 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.
- d. Primary and Noncontributory. Lessee's insurance shall be primary with respect to all claims, suits, liabilities, costs and expenses arising out of Lessee's use, occupancy, activities, and/or operations performed on the Premises, and any insurance or self-insurance maintained by the City shall not be required to contribute with it.

10. INDEMNIFICATION

Lessee shall indemnify, hold harmless, and defend 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 damages occurring on the Premises and Lessee's use of the Premises hereunder, including use of the Premises by Lessee's employees, agents, representatives, contractors, agents, guests, invitees or permitted assigns.

Lessee shall cause any and all agreements that Lessee enters into with any of the above parties to contain language indemnifying Lessor as provided in this Section.

11. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by Lessor in connection with the Lease Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision of this License modifies or waives any provision of the New Mexico Tort Claims Act.

12. EASEMENTS

Lessor reserves the exclusive right to grant access, utility, or other easements on or through the Premises. Lessor shall notify Lessee in writing prior to Lessor's grant of any easement through the Premises.

13. TERMINATION

- a. Lessor may terminate this Lease Agreement, with or without cause, by providing written notice to Lessee at least ninety (90) days prior to the termination date.
- b. Lessee may terminate this Lease Agreement with written notice to Lessor at least thirty (30) days prior to the termination date.
- c. At the termination of this Lease Agreement Lessee shall surrender the Premises in the condition in which they were at the inception of this Lease Agreement, excepting:
 - i. Deterioration caused through reasonable use and ordinary wear and tear;
 - ii. Alterations, improvements or conditions made with Lessor's written approval.

14. NOTICE

Any required notice will be deemed delivered, given and received (i) when personally hand 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:

To Lessor: City of Santa Fe
 Attn. City Manager
 P.O. Box 909
 Santa Fe, NM 87504

To Lessee: Joel Allan Miller
 2680 Camino Entrada
 Santa Fe, NM 87507

With a copy to: City of Santa Fe
 Attn. Asset Development Manager
 P.O. Box 909
 Santa Fe, New Mexico 87504

15. NO WAIVER

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

16. SEVERABILITY

In the event that one or more of the provisions contained in this Lease Agreement 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.

17. ENTIRE AGREEMENT

The foregoing constitutes the entire Lease Agreement between the Parties, 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 lease agreements and understandings between the Parties related to the Premises, if any, are merged herein. This Lease Agreement shall not be modified or amended except by a written document signed by the Parties.

18. 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.

19. LITIGATION EXPENSE

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

20. HEADINGS

The section headings contained in this Lease Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Lease Agreement.

21. APPLICABLE LAW; VENUE

In any action, suit or legal dispute arising from this Lease Agreement, Lessee agrees that the laws of the State of New Mexico shall govern. The Parties agree that any action or suit arising from this Lease Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

22. AMENDMENT

This Lease Agreement shall not be altered, changed or modified except by an amendment in writing executed by the Parties hereto.

23. SECURITY DEPOSIT

Lessee shall deposit with City, upon execution hereof, the Security Deposit of one month's rent as security for Lessee's faithful performance of its obligations under this Lease Agreement. If Lessee fails to pay Rent, or otherwise defaults under this Lease Agreement, City may use, apply or retain all

or any portion of said Security Deposit for the payment of any amount due City or to reimburse or compensate City for any liability, expense, loss, or damage which City may suffer or incur by reason thereof. If City uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with City sufficient to restore said Security Deposit to the full amount required by this Lease Agreement. If the Base Rent increases during the term of this Lease Agreement, Lessee shall, upon written request from City, deposit additional monies with City so that the total amount of the Security Deposit shall always bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. City shall not be required to keep the Security Deposit separate from its general accounts. Within 30 days after the expiration or termination of this Lease Agreement, if City elects to apply the Security Deposit only to unpaid Rent, and otherwise within 60 days after the Premises have been vacated, City shall return that portion of the Security Deposit not used or applied by City. No part of the Security Deposit shall be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease Agreement.

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of this 22nd
day of January, 2024.

LESSOR: CITY OF SANTA FE

LESSEE:

John Blair
John Blair (Jan 22, 2024 11:28 EST)
JOHN BLAIR, CITY MANAGER

Joel Allan Miller
Joel Allan Miller (Nov 10, 2023 03:05 MST)
JOEL ALLAN MILLER

DATE: Jan 22, 2024

DATE: Nov 10, 2023

ATTEST:

Geralyn Cardenas
Geralyn Cardenas (Jan 22, 2024 10:00 MST)
GERALYN CARDENAS, INTERIM CITY CLERK
XIV

APPROVED AS TO FORM FOR LEGAL SUFFICIENCY:

Patricia Feghali
Patricia Feghali (Nov 9, 2023 17:03 GMT+1)
PATRICIA FEGHALI, ASSISTANT CITY ATTORNEY

APPROVED AS TO FINANCE:

Emily K. Oster
Emily K. Oster (Jan 20, 2024 09:14 MST)
EMILY K. OSTER, FINANCE DIRECTOR
Business Unit/Line Item 2122800.460350

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

Exhibit A (Premises)



Exhibit B (Police Department Policy)

102.1

TITLE: OFFICERS LIVING ON CITY OWNED PROPERTY

CODIFIED: 102.1
EFFECTIVE: 09/04/16
RESCINDS/AMENDS: NEW POLICY
PAGES: 2

PURPOSE

To provide housing options for police officers and sergeants.

POLICY

It is the policy of the City of Santa Fe to allow Police Officers the opportunity to utilize designated affordable housing areas on City owned-property and to see that the use of these areas is successful in not only providing housing for officers but for promoting a safe environment, deterring crime and assisting in curbing vandalism in these areas.

PROCEDURE

102.1.01 Participation in this program is at the sole discretion of the City Manager.

ELIGIBILITY

102.1.02 Participant(s) eligible for this program must be sworn police officers off probation and below the rank of Lieutenant.

102.1.03 The Chief's Office shall select the participant based off a lottery selection process. Participants shall submit a memo of interest to the Chief's Office only when a vacant property becomes available.

102.1.04 Participant(s) must have a signed lease on record with the City of Santa Fe and at all times during the duration of the lease the participant must be a resident of the premises, and employed with the City of Santa Fe. In addition, participant(s) must

adhere to all provisions of the City of Santa Fe Lease Agreement.

102.1.05 Should a participant promote to the rank of Lieutenant or above, the participant shall be permitted to remain on the premises for the term of their existing lease. Upon expiration of the lease participant will be required to vacate the premises.

102.1.06 Sworn officers living on city owned property prior to the effective date of this policy will be exempt from the rank restrictions set forth herein and will continue to reside at their current locations until the expiration of their lease.

USE OF PREMISES & PROPERTY

102.1.07 Use of the city's property shall at all times be in compliance with the Lease Agreement, the provisions of which may vary based on the specific location, circumstances, and characteristics of the lease premises and the needs of the city as determined by the City Manager.

RENT

102.1.08 The amount of rent amount will be determined by the City of Santa Fe in accordance with state law and may vary based on the specific location of the lease premises and the specific provisions of the Lease Agreement.

INCIDENTS/ENFORCEMENT ACTION

102.1.16 Participant(s) shall report to the city any incidents of damage, or vandalism on the premises as soon as possible, but in no event shall any incident be reported more than twenty-four (24) hours after the time the incident occurs or is discovered.

102.1.17 The purpose of this program is to be a visible presence to deter crime. Should any incident require the officer to take enforcement action, discretion will be used and the action taken will be in compliance with the Santa Fe Police Department Directives.

A) Any law enforcement action taken on the part of the participant shall require an immediate notification to the Regional

102.1

Emergency Communication Center (RECC)
and the on duty commander.

Drafted (amb) 06/15



APPROVED: _____

Chief of Police

DATE: _____

9/6/16



City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # _____

Contractor: **Joel Allan Miller**

Description: **Lease Agreement between City of Santa Fe and Joel Allan Miller**

Contract ☐ Agreement ☐ Lease / Rent ☒ Amendment ☐

Term Start Date: **Last Date of Signing** Term End Date: **6 years**

☐ Approved by Council Date: _____

Contract / Lease: Lease Agreement

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount \$ _____

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 City of Santa Fe ("City") is fee owner of that certain tract of land commonly known as the Santa Fe Police Department Impound Lot, ("Impound Lot"), located at 2680 Camino Entrada, Santa Fe, New Mexico. In an effort to recruit and retain police officers, the City provides various affordable housing opportunities for officers. The lease, if approved, will lease a small portion of the Impound Lot for the purpose of allowing Lessee to establish a personal residence.

3. **Procurement History: Leases are exempt from procurement**

Purchasing Officer Review: _____ Date: _____

Comment & Exceptions: _____

4. **Funding Source:** _____ **Org / Object:** **2122800/460350**

Andy Hopkins
Andy Hopkins (Dec 6 2023 17:01 MST)

Dec 6, 2023

Budget Officer Approval: _____ Date: _____

Comment & Exceptions: _____

Staff Contact who completed this form: **Terry Lease** TL Phone # **(505) 629-2206**

Email: **tlease@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

Signature: 

Email: tjlease@santafenm.gov

Signature: 

Email: jcnelson@santafenm.gov