

**ACCESS AND INSPECTION AGREEMENT
BETWEEN JAMES T. LARSON
AND SANTA FE COUNTY**

This Access and Inspection Agreement entered into on this 15th day of November 2013, by and between **Santa Fe County**, a political subdivision of the State of New Mexico ("County") and **James T. Larson** whose address is 33A Bisbee Court, Santa Fe, New Mexico 87508.

RECITALS

WHEREAS, James T. Larson, a single man (hereinafter "Larson") owns Lot D-4 as shown and delineated on "Summary Review Subdivision for Flying Fence Partners, LLC, creating Lots D-1, D-2, D-3, D-4 & D-5 from Tract D, within Section 11, T 14 N, R 8 E, N.M.P.M. as projected into the San Marcos Pueblo Grant, Santa Fe County, New Mexico," dated January 30, 2003, prepared by Phillip B. Weigel, P.S. No. 9758, and recorded in Plat Book 555, page 025 as Document Number 1320,204, in the records of Santa Fe County, New Mexico ("Property");

WHEREAS, the parties intend to pursue a purchase agreement once the feasibility of placing a County senior and community center in the subdivision is determined and the terms and conditions of a purchase are finalized and mutually agreed upon;

WHEREAS, in contemplation of the County's purchase and as part of its due diligence the County may procure the services of an appraiser, surveyor and a preliminary design study to address any concerns of the County;

WHEREAS, in contemplation of the County's purchase and as part of its due diligence the County may procure the services of a surveyor and a preliminary design study to address any concerns of the Flying Fence Homeowners Association relative to any restrictive covenants concerning the Property;

WHEREAS, both parties wish to enter into this Agreement to provide for the County's procurement of appraisal, surveying, and preliminary design services related to the proposed senior and community center and related facilities and formalize the agreement between the parties regarding the completion of a purchase of the Property.

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Scope of Duties of the Parties

1. Larson shall:

- a) Continue discussions with the County to sell the Property to the County. Such Property and related facilities are as shown on the survey attached hereto as Exhibit "A".

b) Pursue final terms and conditions of a purchase with the County for the County's purchase of the Property.

c) Authorize an appraiser, surveyor and preliminary design services provider procured by the County to enter upon the Property and do all activities necessary to assess the Property.

2. The County shall:

a) Procure the services of an appraiser, surveyor and preliminary design services to begin the assessment of the Property.

b) Pursue required approvals from the Flying Fence Homeowners Association.

c) Continue discussions with Larson to purchase the Property from Larson.

d) Pursue final terms and conditions of a purchase agreement with Larson to purchase the Property.

3. TERM

The term of this Agreement shall be on the date of execution by the parties (the Effective Date) and shall terminate one (1) year later, unless terminated earlier pursuant to Section 4.

4. TERMINATION

Each party shall have the right to terminate this Agreement upon written notice, in the event of the other party's material breach hereof which is not cured within ten (10) days after notice specifying such breach.

5. ASSIGNMENT

Neither party shall assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the other party.

6. NO THIRD-PARTY BENEFICIARIES

Larson and the County are the only parties to this Agreement. Nothing in this Agreement provides any benefit or right, directly or indirectly, to third parties. This Agreement was not intended to and does not create any rights in any persons or party not a party to this Agreement.

7. LIABILITY

Each party shall be liable for its own actions in accordance with this Agreement. Neither party shall be responsible for liability incurred as a result of the other party's negligence, acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, § 41-4-1, *et seq.*, NMSA 1978, as amended.

8. NO WAIVER OF IMMUNITIES, DEFENSES OR PROTECTIONS

Nothing in this Agreement waives or alters any immunities, defenses or protections provided to the County, and its respective employees, agents, board members, commissioners or officers under state law.

9. DISPUTE RESOLUTION

Disputes on any matter relating to this Agreement shall be discussed and resolved by authorized representatives of each party who have the authority to bind the party that they represent. The parties shall use their best efforts to amicably and promptly resolve the dispute. If the parties are unable to resolve the dispute within a reasonable time period as determined by the representatives, the parties may pursue any other legal means for resolving disputes which may arise from or under this Agreement.

10. AMENDMENT

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

11. INTEGRATION CLAUSE

This Agreement incorporates all the covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants and understandings have been merged into this Agreement. No prior covenants or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

12. APPLICABLE LAW; VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. Larson and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be the State District Court of New Mexico, First Judicial District, located in Santa Fe County.

13. APPROPRIATIONS AND AUTHORIZATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Santa Fe County Board of County Commissioners and, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon

written notice by the County to Larson. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse Larson for expenditures made in the performance of this Agreement incurred after written notice to Larson is provided by the County pursuant to this paragraph. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by Larson.

14. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

15. EQUAL OPPORTUNITY COMPLIANCE

Each party agrees to abide by all federal and state laws, rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, each party assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any activity performed under this Agreement. If a party is found not to be in compliance with these requirements during the life of this Agreement, that party agrees to take appropriate steps to correct these deficiencies.

16. INVALID TERM OR CONDITION

If any term or condition of this Agreement shall be held void, invalid or unenforceable, such provision shall be severed from the remainder of the Agreement and the remainder of this Agreement shall not be affected and shall be valid and enforceable.

17. NOTICES

Any notice required by this Agreement shall be given in writing to the parties designated below. Notice shall be effective when delivered personally to any party, or three business days after deposited, postage fully prepaid, registered or certified, in an official receptacle of the U.S. Postal Service.

For James T. Larson:

33A Bisbee Court
Santa Fe, New Mexico 87508
(602) 538-0014

For County:

Katherine Miller, Manager
Santa Fe County
102 Grant Avenue
Santa Fe, NM 87504

18. COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS

Larson and the County shall assure compliance with all applicable state and federal statutes and regulations in the performance of this Agreement.

19. RECORDS, AUDITS, INSPECTIONS AND RECORDS

To the extent their books and records relate to their performance of this Agreement, each party agrees to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the effective date of this Agreement; (ii) permit each the other party or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").

20. FORCE MAJEURE

Neither the County nor Larson shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

21. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing signed by the parties to this Agreement.

IN WITNESS WHEREOF, the parties set their hands.

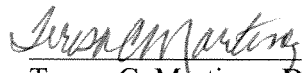
SANTA FE COUNTY:

JAMES T. LARSON

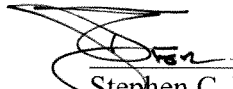
By Katherine Miller Date: 11-15-13
Katherine Miller, Santa Fe County Manager

James T. Larson Date: 10/4/13

Finance Department

 Date: 11/14/13
Teresa C. Martinez, Director

APPROVED AS TO FORM:

 Date: 11/12/13
Stephen C. Ross
Santa Fe County Attorney