

**AGREEMENT WITH LA GUARDIA SELF STORAGE
FOR THE RENTAL OF SELF STORAGE UNITS**

THIS AGREEMENT is made and entered into on this 14~~th~~ day of November, 2014, by and between **SANTA FE COUNTY** (hereinafter referred to as the "County"), a New Mexico political subdivision, and **LA GUARDIA SELF STORAGE** located at 1439 Ave De Las America, Santa Fe, NM 87507, a business that leases self-storage units, (hereinafter referred to as the "Contractor").

WHEREAS, the Santa Fe County Clerk's Office desires to rent three (3) storage units for the storage of documents for the Clerk's Administrative office, Probate Office and the Clerk's Recording Division; and

WHEREAS, pursuant to NMSA 1978, Section 13-1-125 (Small Purchase), this Agreement is considered a small purchase; and

WHEREAS, the County requires the services of a self storage facility and the Contractor is qualified and capable of providing such needed services; and

WHEREAS, both parties desire to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties hereto mutually agree as follows.

1. SCOPE OF WORK

The Contractor shall:

A. Rent to Santa Fe County three (3) climate controlled self-storage units which shall be 10 x 15 feet in size; the first unit for the Clerk's Administrative Office, the second unit for the Probate Office, and the third unit for the Clerks Recording Division.

B. Provide, relative to the above mentioned storage units, a personalized entry code access, alarm systems on each unit door, outside video surveillance of the property, and a gated and fenced facility with 12 hour daily access, seven days per week. Contractor shall also provide 24 hour access.

2. COMPENSATION AND INVOICING; LATE FEE

A. Contractor shall invoice the County and the County shall pay the Contractor no later than November 13, 2014 the first rental payment for three (3) storage units an amount of **Three Hundred Thirty Four Dollars and Fifty Six Cents (\$334.56)**, which includes NM grt and a one-time \$30.00 administrative fee. This initial rental payment shall be for the rental period of November 13, 2014 to November 30, 2014.

B. Contractor shall invoice the County on November 13, 2014 for the next monthly payment of **Five Hundred Seven Dollars and No Cents (\$507.00)**, inclusive of NM grt, which

shall be for the rental period of December 1, 2014 to December 31, 2014. Thereafter, Contractor shall regularly invoice the County no later than the 12th day of each month, for the rent for the next month an amount of **Five Hundred Seven Dollars and No Cents (\$507.00)**, inclusive of NM grt, for the three (3) storage units.

C. The total amount payable to the Contractor for the initial rental period of November 13, 2014 to June 30, 2015 shall not exceed **Three Thousand Eight Hundred Eighty Three Dollars and Fifty Six Cents (\$3,883.56)**, inclusive of NM grt.

D. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payment.

E. Late Fee. A \$48.00 late fee may be charged by the Contractor if following the County's receipt of the invoice described in B. above, the County fails to remit an undisputed rental payment to the Contractor by the 1st day of the month in which payment is due.

3. **EFFECTIVE DATE OF AGREEMENT AND RENTAL PERIOD**

This Agreement shall become effective upon the date of last signature by the parties. For purposes of the payment of rent for three (3) storage units, the rental period shall commence November 13, 2014 and terminate June 30, 2015, unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations). Upon the expiration of the initial rental period, the County has the option to extend the term of this Agreement on the same terms and conditions as stated herein (unless otherwise agreed to by the parties), in one (1) year increments not to exceed a total contract term of four (4) years from the effective date of this initial Agreement. The County shall indicate its intent to extend the term of this Agreement by providing thirty (30) days written notice to the Contractor.

4. **ADDITIONAL SERVICES**

A. The parties agree that all tasks set forth in Paragraph 1, Scope of Work, of this Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 2, Compensation and Invoicing; Late Fee, of this Agreement, and for no other cost, amount, fee, or expense.

B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in written amendments to this Agreement.

5. **TERMINATION**

A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to

cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.

B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

6. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, 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 the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. 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 the Contractor in any way or forum, including a lawsuit.

7. INDEPENDENT CONTRACTOR

The Contractor and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.

8. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

9. SUBCONTRACTING

The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted

subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

10. PERSONNEL

A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.

B. The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

11. RELEASE

Upon its receipt of all payments due under this Agreement, the Contractor releases the County, its elected officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

12. CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

13. CONFLICT OF INTEREST

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

14. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 1, "SCOPE OF WORK", of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

15. ENTIRE AGREEMENT; INTEGRATION

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior or contemporaneous

agreement, covenant or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

16. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

17. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

A. The Contractor agrees to abide by all federal, state, and local laws, ordinances, and rules and regulations pertaining to equal employment opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.

B. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

18. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

A. In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations, including Santa Fe County Ordinance 2014-1 (Establishing a Living Wage.)

B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be state district court of New Mexico, located in Santa Fe County.

19. RECORDS AND INSPECTIONS

A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under this Agreement; (ii) allow the County 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).

B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process,

the Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow the County 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 GAAP.

20. INDEMNIFICATION

A. The Contractor shall defend, indemnify, and hold harmless the County and its elected officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.

B. The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.

C. The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

21. SEVERABILITY

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

22. NOTICES

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Santa Fe County
Office of the County Attorney
102 Grant Avenue
Santa Fe, New Mexico 87501

To the Contractor: La Guardia Self Storage
1439 Ave De Las America
Santa Fe, New Mexico 87507

23. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

A. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.

B. This Agreement and Contractor's obligations hereunder do not conflict with Contractor's corporate agreement or any statement filed with the Public Regulation Commission on Contractor's behalf. Contractor is a sole proprietor under the laws of the State of New Mexico.

24. FACSIMILE SIGNATURES

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

25. LIMITATION OF LIABILITY

The County's liability to the Contractor for any breach of this Agreement by the County shall be limited to direct damages and shall not exceed the maximum amount of potential compensation specified in Section 2, Compensation and Invoicing; Late Fee, of this Agreement. In no event shall the County be liable to the Contractor for special or consequential damages, even if the County was advised of the possibility of such damages prior to entering into this Agreement.

26. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

27. INSURANCE

A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.

B. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.

C. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.

28. PERMITS, FEES, AND LICENSES

Contractor shall procure all permits and licenses, pay all charges, fees, and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

29. NEW MEXICO TORT CLAIMS ACT

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

30. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

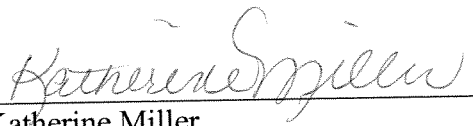
The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

31. SURVIVAL

The provisions of following paragraphs shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

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

SANTA FE COUNTY:


Katherine Miller
Santa Fe County Manager

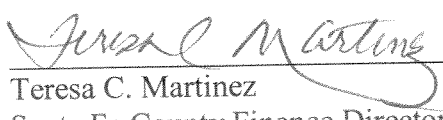
11-14-14
Date

APPROVED AS TO FORM:


Gregory S. Shaffer
Santa Fe County Attorney

11-3-14
Date

FINANCE DEPARTMENT:


Teresa C. Martinez
Santa Fe County Finance Director

11/5/2014
Date

CONTRACTOR:

Shelly Mowatt for La Guardia Self Storage 11-11-14
Signature Date

Shelly Mowatt for La Guardia SELF STORAGE
Printed Name

Its: _____

FEDERAL IDENTIFICATION:

91-1669024