

## LEASE AGREEMENT

This Lease agreement ("Lease") is made and entered into this day of March 15, 2019, between Santa Fe County, a political subdivision of the State of New Mexico, hereinafter the "County", and Robert Girmendonk, hereinafter the "Lessee".

**WHEREAS**, the County owns real property at 14 Calle Del Prado, Santa Fe, New Mexico, hereinafter the "Property"; and

**WHEREAS**, the County desires to have a full-time lessee reside on the Property to provide a variety of caretaking and real property maintenance services for the Property and premises described herein; and

**WHEREAS**, the County is willing to permit the Lessee to lease the Property or a portion of the Property (the "Premises") on which to locate a mobile home and to occupy and reside on the Premises in exchange for the Lessee's provision of caretaking duties and services that benefit the County and the Property; and

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the County and Lessee agree as follows:

1. Premises within the Property.

The Premises consist of 0.459+/- acres within the Property depicted on Exhibit "A." The Lessee agrees to lease the Premises from the County on the terms and conditions stated in this Lease. Lessee has inspected the Premises and knows the extent and condition thereof and accepts same in its present condition, subject to and including all defects, latent and/or patent.

2. Term.

This Lease shall become effective on the date of last signature by the parties hereto (the Effective Date). The term of this Lease shall be one year from the Effective Date, unless earlier terminated pursuant to Section 7 (Termination).

3. Rental Consideration.

As consideration for the Lessee's lease of the Premises for the term of this Lease, Lessee shall pay the County \$251.00 per month, due by the 5th day of each month. The monthly rent shall be paid in cash, or by the performance of in kind services and the property caretaking services described in Section 5 (Lessee's Obligations and Duties).

4. Occupancy of the Premises; Utilities; Modifications.

A. Lessee will park and maintain one manufactured or mobile home on the

Premises subject to the conditions set forth in this Lease.

B. Lessee's residential occupancy of the Premises is limited to Lessee and Lessee's immediate family, which includes Lessee's spouse or significant other, and any related children. Lessee may not keep animals of any kind in the home or on the Premises without the prior written consent of the County. The Premises shall be used by the Lessee solely for residential, single family use by placement of a mobile or manufactured home on the Premises. Lessee acknowledges and agrees that the County reserves the right to use the areas of the Property which are not within the Premises in any lawful manner and for such uses as the County, in its sole discretion, deems appropriate. The Lessee agrees to pay all residential utilities associated with Lessee's mobile home.

C. The cost of locating the mobile home on the Premises shall be the sole responsibility of the Lessee. The mobile home shall be installed only on the location designated by the County and in a manner that meets or exceeds all applicable federal, state and local codes. Within five days of the installation of the home, the Lessee shall furnish proof acceptable to the County that the utility hookups and foundation work for the home complies with all applicable code requirements.

D. Lessee shall maintain and pay for all utilities used in connection with the Lessee's activities on the Premises. The term "utilities," for the purposes of this Lease, shall include, without limitation, gas, electricity, water, well, sewer, septic, telephone service, trash and refuse disposal services. This includes, but is not limited to, pumping of the septic tank. Lessee shall not modify any utilities on the Premises without the prior written consent of the County.

E. Within five days of location and installation of the home, Lessee shall furnish the County with written notification of the Vehicle Identification Number (VIN) of Lessee's mobile home and the name and address of any entity having a security interest in the home.

F. Lessee shall not make alterations, attach fixtures, erect additions, structures or signs on the Premises without the prior written approval of the County, including any alterations or additions necessary for the installation of the home. All improvements and alterations shall be completed to the satisfaction of the County and shall, at the termination of this Lease, become the property of the County; provided, however, that the County may, in its sole discretion, require the Lessee, at the Lessee's sole expense, to remove any such improvements or alterations and return the Premises to the condition the Premises were in at the time the Lessee entered into this Lease or the most recent date of the County's written approval of any alternations or additions to the Premises, whichever is later.

G. Lessee shall maintain mobile or manufactured homeowner's insurance to include personal liability and property damage coverage throughout the term of this Lease. Prior to occupying the Premises Lessee shall provide a copy of said insurance policy to the County. Any termination or lapse of Lessee's homeowner's insurance shall constitute a breach of this Lease. Lessee agrees to pay all other costs that are not covered under this Lease that result from Lessee's location and installation of the home and occupation and use of the Premises.

5. Lessee's Obligations and Duties.

A. No Liens or Encumbrances. Lessee shall keep the Premises free from all liens and encumbrances arising out of any work performed, material furnished, or obligations incurred by Lessee, or from any cause. If a lien or encumbrance is recorded against the Premises, and Lessee fails to remove the lien or encumbrance or post a bond to remove same within 15 days after its filing, the County shall give a 15 day notice to Lessee requiring Lessee to remove or bond around the lien or encumbrance within the 15 day period. If Lessee fails to do so within the 15 day period, the County may obtain a bond, with all costs of the bond to be reimbursed by Lessee.

B. Maintenance of the Premises. The County and Lessee agree that throughout the term of this Lease, Lessee shall, at Lessee's sole cost, repair and maintain the Premises in a clean, sanitary and safe condition and in compliance with the terms, covenants and conditions of this Lease and all applicable federal, state and local laws, rules and regulations, including applicable Santa Fe County Ordinances and the Uniform Owner-Resident Relations Act, § 47-8-20(C), NMSA 1978. Lessee shall maintain all fencing on the Premises in good working order and repair, and maintain the Premises in a safe, sanitary, and clean condition. Lessee shall remove or trim and properly dispose of noxious weeds on the Premises and remove and properly dispose of any rubbish or trash that may collect on the Premises.

C. Failure of Lessee to Perform Duties. Repair and maintenance shall be completed to the satisfaction of the County, and if Lessee fails to fulfill any duty imposed under this Lease within a reasonable period of time, the County may, but is not required to, perform those duties at Lessee's sole cost. Lessee shall promptly cooperate with the County if the County undertakes to perform any such duties. No action by the County taken pursuant to this Lease shall constitute a waiver of any of Lessee's obligations under this Lease.

D. Independent Contractor. This Lease is not one of general agency by the Lessee for the County, but rather is one with Lessee engaged independently in the business of caretaking the Property and Premises as an independent contractor. Nothing in this Lease constitutes or may be considered to create a partnership, joint venture, employer-employee, or other relationship.

E. Assessments; Taxes. Lessee shall pay any required taxes, fees, charges and assessments levied by any governmental agency upon any interest or value acquired by Lessee by virtue of this Lease. Lessee is aware that certain possessory interest may be created by this Lease and that such interests may subject Lessee to the payment of taxes levied on such interest.

F. Lessee's Services.

- 1) Lessee shall make periodic inspections of the Premises, including, if any, all structures, grounds and equipment.
- 2) Lessee shall submit a monthly inspection report to the County describing the condition of the Premises and the Property. The monthly inspection reports shall be received by the County no later than the 10th of each month. The inspection report shall be substantially in the form of Exhibit

"B", which is subject to amendment from time to time.

- 3) Lessee shall report to the County any incidents of damage or vandalism on or involving the Premises and/or Property as soon as possible, but in no event shall any incident be reported more than 24 hours after the time the incident occurs or is discovered. Lessee shall not act as a security guard, law enforcement officer or in any other manner that may endanger the safety of the Lessee.
- 4) Neither the Lessee nor any member of Lessee's family shall acquire an ownership interest in the Premises or the Property by reason of the Lessee's or Lessee's family's occupancy on the Premises.
- 5) Lessee shall be liable for and shall reimburse the County for any damage to the Premises, normal wear and tear excepted.
- 6) Lessee acknowledges and agrees that in the event Lessee fails to perform any of Lessee's services or duties hereunder, the County shall have the right, but not the obligation, to perform such services or duties, in which event Lessee shall be responsible for reimbursing the County for the cost of performing Lessee's services or duties. The County has the right to enter the Premises at reasonable hours (or in an emergency, at any hour) to inspect, clean or repair the Premises as the County deems necessary.
- 7) Lessee shall neither cause nor permit any hazardous material to be bought upon, kept or used in the home or Premises. As used herein, "hazardous materials" means a substance the release of which could necessitate an environmental response action under any federal, state, or municipal law or County ordinance, whether now in effect or enacted in the future;
- 8) Lessee shall not create or allow a nuisance to exist at the home or on the Premises or Property.

G) Lessee accepts Property "as is." Lessee has inspected the Property and the Premises and knows the extent and condition thereof. Lessee accepts the Property and Premises in its present conditions subject to and including all defects, latent or patent.

6. Obligations of the County.

A. The County reserves the right, upon reasonable notice, at the County's expense, to carry out property management activities on the Premises and Property which the County in its discretion deems advisable.

B. Notice of Construction. Except in an emergency, the County agrees to notify Lessee at least seven days in advance of any work on the Premises involving construction vehicles and to use reasonable efforts to minimize activities that might conflict with or interfere with the Lessee's use of the Premises.

C. Inspection. The County shall make periodic inspections of the Premises and will provide the Lessee with written reports of any such inspections. If necessary, the reports will identify any issues that need to be addressed by the Lessee in order to be in compliance with the terms and requirements of this Lease.

D. Access Route. The County shall provide Lessee with access to the Premises

over a route or routes of the County's choosing. The County may change the routes that Lessee may use to access the Premises at any time, for any reason, by giving Lessee written notice of such change.

7. Termination; Breach by Lessee; Action for Possession by the County.

A. Termination Due to Sale, Assignment, Bankruptcy or Non-Appropriations.

This Lease shall terminate if the County's interest in the Property terminates due to sale, assignment, bankruptcy, or lack of appropriations or authority. In such event County shall be relieved of liability under this Lease and all obligations under the Uniform Owner-Resident Relations Act, NMSA 1978, § 47-8-1 et seq.

B. Breach by Lessee. Except as provided in § 47-8-20 (E), NMSA 1978, of the Uniform Owner-Relations Act, the County may commence action for termination and possession pursuant to §§ 47-8-33 or 47-8-40, NMSA 1978, of the Uniform Owner-Resident Relations Act, if Lessee: (a) is in material noncompliance with Lessee's property caretaking duties and obligations stated in Section 5; if Lessee is otherwise in material noncompliance with this Lease; or if Lessee fails to cure a noncompliance after notice of such noncompliance.

1. Possession by County. If Lessee remains in possession of the Premises upon termination of this Lease without the County's consent, County may commence an action pursuant to § 47-8-37, NMSA 1978, of the Uniform Owner-Resident Relations Act.
2. Termination by Lessee. The Lessee may terminate this Lease at any time for any reason by giving the County 30 days advance written notice of termination. The notice shall specify the effective date of termination, which shall be not less than 30 days from the County's receipt of the notice.
3. Disposition of Lessee's Personal Property and Mobile Home. Upon termination of this Lease, Lessee shall have 120 days from the date of termination to remove Lessee's mobile home and Lessee's personal property from the Premises. If Lessee fails to timely remove Lessee's mobile home and personal property, County will have the mobile home and personal property removed, and have the Premises restored to as good a condition and state of repair as it was on the Effective Date, reasonable use and wear excepted. Costs of removal and storage of the mobile home and personal property will be the responsibility of the Lessee. If this Lease terminates by abandonment by the Lessee, County will commence disposition of Lessee's personal property including the mobile home as permitted by § 47-8-34.1, NMSA 1978, of the Uniform Owner-Resident Relations Act.

8. Surrender Upon Termination.

At the expiration of the term of this Lease or upon termination pursuant to Section 7 (Termination), Lessee shall peaceably and quietly leave and surrender the Premises to the County in as good a condition and state of repair as it was on the Effective Date,

reasonable use and wear excepted.

9. Exculpatory Clause: Indemnity.

A. The County shall not be liable for, and the Lessee agrees to indemnify and hold the County and its elected officials, agents, and employees harmless against any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including, but not limited to, court costs and attorney's fees) resulting from or directly or indirectly arising out of Lessee's use or occupancy of the Premises, including, but not limited to, any and all claims for injury or damage to persons or property occurring during the term of this Lease either (i) within the Premises or (ii) outside the Premises if due to the Lessee's acts or failures to act or due to the acts of any animals kept on the Premises by the Lessee in violation of the terms of this Lease.

B. The County shall have the right to approve any counsel retained by Lessee to defend any demand, suit, or cause of action in which the County is named; such approval shall not be unreasonably withheld. Lessee agrees (i) 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 (ii) that such suit will not be settled without the County's consent, such consent shall not be unreasonably withheld. If, in the County's judgment, a conflict exists between the interest of the County and Lessee in such demand, suit or cause of action, the County may retain its own counsel, whose fees shall be paid by Lessee. Lessee's obligations under this Section shall not be limited by the provisions of any insurance policy Lessee is required to maintain under this Lease.

10. New Mexico Tort Claims Act.

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

11. Notice.

Any and all notices provided for hereunder shall be in writing and shall be deemed delivered, given and received when (i) personally delivered, or (ii) three days after the same are deposited in the United States mail, postage prepaid, 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. Pursuant to § 47-8-19, NMSA 1978, the party identified below (County Manager) is authorized to manage the Premises and is authorized to act on behalf of Santa Fe County for the purposes of service of process and receiving and receipting for notices and demands under this Lease.

To the County: Santa Fe County  
Attn: Santa Fe County Manager  
102 Grant Avenue

P.O. Box 276  
Santa Fe, NM 87504-0276

With a copy to: Santa Fe County  
Attn: Real Property Specialist  
Public Works Division  
P.O. Box 276  
Santa Fe, NM 87504-0276

To the Lessee: Robert Girmendonk  
14 Calle Del Prado  
Santa Fe, NM 87508

12. Captions.

Any captions to or headings of the paragraphs of this Lease are solely for the convenience of the parties and shall not be used for the interpretation or determination of validity of this Lease any provision hereof.

13. Severability.

In case anyone or more of the provisions contained in this Lease or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

14. Applicable Law.

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

15. No Assignment or Sublet; Abandonment.

A. Lessee shall not sublet, transfer or assign, in whole or in part, any rights, duties or obligations under this Lease or in the Premises. The Lessee shall not assign this Lease or sublet all or any part of the Premises or Property. Any attempted transfer, assignment, or subletting by Lessee shall be null and void.

B. Upon the execution of this Lease, the Lessee shall provide the name and address of the Lessee's place of employment, a family member or emergency contact, and a "contact person" as that term is defined at § 47-8-34.2, NMSA 1978.

C. Lessee shall provide 15 day's written notice to the County of Lessee's absence from the Lessee's home for more than a week or seven consecutive days. If Lessee fails to notify the County as provided herein, County may consider the home and Premises

abandoned and pursue any remedy available under the Uniform Owner-Resident Relations Act, § 47-81, et seq., NMSA 1978.

16. No Waiver.

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

17. Amendment.

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

18. Force Majeure.

The County shall have no liability to the Lessee, nor shall the Lessee have any claim for constructive eviction, because of the County's failure to perform any its obligations under this Lease if the failure is due to reasons beyond the County's reasonable control, including without limitation, hazardous weather, strikes or other labor difficulties, war, riot, civil insurrection, accidents, acts of God and government preemption in connection with a national emergency.

19. Entire Agreement.

This Lease constitutes the entire agreement between the County and the Lessee, represents their entire understanding and defines all of their respective rights, title and interest as well as all of their duties, responsibilities and obligations. Any and all prior agreements and understandings between the parties are merged herein.

**IN WITNESS WHEREOF**, the parties have executed this Lease as of the date of last signature by the parties.

**LESSOR - SANTA FE COUNTY**

  
Katherine Miller  
Santa Fe County Manager

3-1-19

Date

Approved as to form:

  
R. Bruce Frederick  
Santa Fe County Attorney

2-25-19

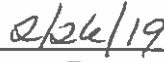
Date



Finance Department




Erika D. Thomas  
Interim Finance Director



Date

**LESSEE**

  
Robert Girmendonk



Date

Addendum

Name and address of Lessee's place of employment: \_\_\_\_\_

\_\_\_\_\_

Name, address and telephone number of Lessee's family member or emergency contact:

\_\_\_\_\_

Name, address and telephone number of Lessee's "contact person:" \_\_\_\_\_

\_\_\_\_\_

The Uniform Owner-Resident Relations Act, § 47-8-34.2 NMSA 1978, defines "contact person" as the person designated by the resident in writing as the person to contact and release property to in the event of the resident's death.

Exhibit A



**Exhibit B****LESSEE'S MONTHLY INSPECTION FORM**

Name of Lessee: Robert Girmendonk

Phone #. \_\_\_\_\_

Property location: 14 Calle Del Prado, Santa Fe, NM

Date of inspection \_\_\_\_\_

**PROPERTY INSPECTION:**

Buildings and/or structures (if applicable):

|  | <i>(circle one)</i> |      |      |
|--|---------------------|------|------|
|  | Good                | Fair | Poor |
| 1. Overall Condition of Buildings/structures.                    |                     |      | N/A  |
| 2. Are buildings free from vandalism and/or tagging?             | Yes                 | No   | N/A  |
| 3. Are all windows and doors free from cracks and breaks?        | Yes                 | No   | N/A  |
| 4. Do trash containers need to be emptied?                       | Yes                 | No   | N/A  |
| 5. Do light fixtures, bulbs and/or ballasts need to be replaced? | Yes                 | No   | N/A  |
| 6. Are gates and/or doors locked after hours?                    | Yes                 | No   | N/A  |
| 7. Are there any trip and fall hazards present?                  | Yes                 | No   | N/A  |

Condition of grounds:

|  | <i>(circle one)</i> |      |      |
|--|---------------------|------|------|
|  | Good                | Fair | Poor |
| 1. Overall condition of grounds.                                 |                     |      |      |
| 2. Are the grounds free of vandalism?                            | Yes                 | No   |      |
| 3. Are the grounds free of weeds and/or litter                   | Yes                 | No   |      |
| 4. Do trash containers need to be emptied?                       | Yes                 | No   |      |
| 5. Do fences and/or gates need to be repaired or replaced? Yes   | No                  |      |      |
| 6. Do light fixtures, bulbs and/or ballasts need to be replaced? | Yes                 | No   |      |
| 7. Are there any trip and fall hazards present?                  | Yes                 | No   |      |
| 8. Are there any drainage and/or erosion issues?                 | Yes                 | No   |      |
| 9. Is the equipment on the playground in working condition?      | Yes                 | No   | N/A  |
| 10. Is the well in working condition?                            | Yes                 | No   | N/A  |
| 11. Is the septic in working condition?                          | Yes                 | No   | N/A  |

Comments and/or descriptions of any issues noted above:

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**Rent consideration worksheet (see Section 3 of Lease)**

\$251.00

### Repairs and maintenance of the Premises

Description of work activity or payments to third parties for maintenance services

[illegible]

Total Offset \$ \_\_\_\_\_

\*Surplus or \*\*shortfall (monthly rental consideration minus Total Offset) \$ \_\_\_\_\_

Lessee rate of \$13.00/hour was derived by averaging several labor rates.

\*Surplus amounts may not be carried over to subsequent months.

**\*\*A shortfall shall be paid to the County in the form of a check.**

Lessee shall provide a copy of the paid receipt for payments to third parties for maintenance services.

All services are subject to review and verification by the County.

Signature of Lessee: \_\_\_\_\_ Date \_\_\_\_\_

