

**MEMORANDUM OF AGREEMENT
BETWEEN
SANTA FE COUNTY
AND
THE SANTA FE CHAMBER OF COMMERCE
OPPORTUNITIES FUND, INC.**

This Memorandum of Agreement ("MOA") is made and entered into by and between **Santa Fe County**, a political subdivision of the state of New Mexico, and the **Santa Fe Chamber of Commerce Opportunities Fund, Inc.**, a 501(c)(3) educational organization created by the Santa Fe Chamber of Commerce. The date of this Agreement shall be the date when it is executed by the City and the County, whichever occurs last.

WHEREAS, the purpose of the Santa Fe Chamber of Commerce Opportunities Fund, Inc. is to support educational programs, activities and economic business opportunities in the community; and

WHEREAS, the Chamber of Commerce Opportunities Fund conducts a competition known as the "BizMIX 2015 Business Plan Competition," a business plan competition wherein entrepreneurs compete with one another for a winning business plan. The competition takes place over several months in which finalist entrepreneurs assisted by mentors compete for money, prizes and the opportunity to implement their business plans; and

WHEREAS, the BizMIX 2015 Business Plan Competition is supported by private and governmental sponsors who sponsor the Competition by providing funding at different levels of support; and

WHEREAS, this expenditure of funds by the County is exempt from the Procurement Code according to Section 13-1-98 (V) NMSA 1978, as a purchase of advertising including radio, print and electronic, and other promotional media used by the Santa Fe Chamber of Commerce Opportunities Fund, Inc. to promote the BizMIX 2015 Business Plan Competition and its various levels of sponsorship; and

WHEREAS, Santa Fe County wishes to be a sponsor of the BizMIX 2015 Business Plan Competition at "The Developer" level of sponsorship for \$2,500.00 in exchange for the Competition's provision of advertising and recognition of the County's sponsorship and support of the economy and business entrepreneurs in Santa Fe County.

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

1. Purpose

The purpose of this MOA is to describe the duties of the parties with respect to the County's sponsorship of the BizMIX 2015 Business Plan Competition.

2. Scope of Agreement and Duties of the Parties

A. The County shall:

- i. Be a sponsor of the BizMIX 2015 Business Plan Competition at The Developer level by providing a sum of \$2,500.00 to the BizMIX 2015 Business Plan Competition conducted by the Santa Fe Chamber of Commerce Opportunities Fund, Inc.
- ii. For the County's Developer level of sponsorship the County will receive advertising and promotion in all print advertising of the BizMIX 2015 Business Plan Competition, radio ads, credit in an extensive public relations campaign before, during and after the competition, promotion in the Santa Fe Chamber of Commerce ENews announcements, credit in MIX Facebook announcements, promotion and recognition in Chamber events and MIX events, and other promotion and recognition events held in connection with the BizMIX 2015 Business Plan Competition.

B. The Santa Fe Chamber of Commerce Opportunities Fund shall:

- i. Conduct the BizMIX 2015 Business Plan Competition and provide the advertisement, promotion and participation of Santa Fe County as a sponsor as described above.

3. Term

This MOA shall expire on November 30, 2015, unless earlier terminated pursuant to Paragraph 4 or 5 below.

4. Termination

This MOA may be terminated by either of the Parties hereto upon written notice delivered to the other party at least 30 days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

5. Appropriations and Authorizations

This MOA is contingent upon sufficient appropriations and authorizations being made for performance of this MOA 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 MOA shall terminate upon written notice by the County to the Santa Fe Chamber of Commerce Business Opportunities, Inc. Such termination shall be without penalty to the County, and the County shall have no duty to

reimburse the Chamber of Commerce Business Opportunities, Inc. for expenditures made in the performance of this MOA. 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 MOA shall be final and not subject to challenge by the Chamber of Commerce Business Opportunities, Inc. in any way or forum, including a lawsuit.

6. Liability

Neither Party shall be liable for any claim, action demand, suit or judgment arising from the other Party's performance under this MOA or the performance of the other Party's agents, officers, employees, representatives and subcontractors. Both Parties shall only be liable for any claim, action, demand, suit or judgment arising from its own performance under this MOA or the performance of its own agents, officers, employees, representatives and subcontractors.

7. Status of County and the Santa Fe Chamber of Commerce Opportunities Fund, Inc.

The County and the Santa Fe Chamber of Commerce Opportunities Fund, Inc. are separate legal entities. The Chamber of Commerce Opportunities Fund, Inc. and its employees and agents are not employees or agents of the County. No powers of the County, expressed or implied, shall be granted to the Chamber of Commerce Opportunities Fund, Inc. on behalf of the County.

8. New Mexico Tort Claims Act

By entering into this MOA, the County is not be responsible for any liability incurred as a result of the other Party's acts or omissions in connection with this MOA. Any liability incurred in connection with this MOA by the County is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et. seq. as amended. This paragraph is intended only to define the liabilities between the Parties and it is not intended to modify, in any way, the County's liability as governed by common law or the New Mexico Tort Claims Act. The County and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

9. Third Party Beneficiaries

By entering into this MOA the Parties do not intend to create any right, title or interest in or for the benefit of any person other than the County and the Chamber of Commerce Opportunities Fund, Inc. No person or entity shall claim any right, title or interest under this MOA or seek to enforce this MOA as a third party beneficiary of this MOA.

10. Amendment

This MOA shall not be altered, changed or amended except by amendment in writing executed by the Parties hereto.

11. Notices

Any notices required to be given under this MOA shall be in writing and served by personal delivery or by mail, postage prepaid, to the Parties at the following addresses:

To the Chamber of Commerce Opportunities Fund, Inc.:

Simon Brackley
President and CEO
Santa Fe Chamber of Commerce
1644 St. Michael's Drive
Santa Fe, New Mexico 87505

To Santa Fe County:

Santa Fe County
Attn: Santa Fe County Manager
102 Grant Avenue
Santa Fe, New Mexico 87504

12. Confidentiality

Any confidential information provided to the Chamber of Commerce Opportunities Fund, Inc. as part of the performance of this MOA shall be kept confidential and shall not be made available to any individual or organization by the Chamber of Commerce Opportunities Fund, Inc. without the prior written approval of the County.

13. Conflict of Interest

Both Parties warrant that they presently have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this MOA.

14. Assignment; Subcontracting

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

15. Release

Both Parties release each other, their officers and employees, from all liabilities, claims, and obligations whatsoever arising from or under this MOA. The Parties agree not to purport to bind each other to any obligation not assumed herein by the other Party unless the Party has express written authority to do so, and then only within the strict limits of that authority.

16. Records and Audit

Both Parties will maintain records related to this MOA for three years from the expiration or termination of this Agreement. These records shall be subject to inspection and audit by the County and State Auditor.

17. Applicable Law


This MOA shall be governed by the laws of the State of New Mexico.

18. Survival

The provisions of following paragraphs shall survive termination of this MOA; LIABILITY, NEW MEXICO TORT CLAIMS ACT, THIRD PARTY BENEFICIARIES, CONFIDENTIALITY, RELEASE; RECORDS AND AUDIT, AND APPLICABLE LAW.

IN WITNESS WHEREOF, the parties set their hands.

SANTA FE COUNTY


Katherine Miller, Manager

Date 9.16.15

Approved as to form:


Gregory S. Shaffer, County Attorney

Date 9/16/15

Finance Department:

 0730: CJ
Carole H. Jaramillo, Director

Date 9.16.2015

SANTA FE CHAMBER OF COMMERCE OPPORTUNITIES FUND, INC.

(signature and title)

Date _____