


**CITY OF ALBUQUERQUE**  
**Albuquerque, New Mexico**  
**Office of the Mayor**

Mayor Timothy M. Keller

**INTER-OFFICE MEMORANDUM**

March 17, 2022

**TO:** Isaac Benton, City Council President

**FROM:** Timothy M. Keller, Mayor 

**SUBJECT:** Lease Agreement between the Albuquerque Hispano Chamber of Commerce, and the City of Albuquerque


The City of Albuquerque’s Economic Development Department wishes to lease office space from the Albuquerque Hispano Chamber of Commerce located at 1309 4<sup>th</sup> Street SW for Minority Business Development Agency (“MBDA”) New Mexico Business Center. The Center will serve mid-sized companies, defined as those with \$1 million or more in annual gross revenue, and aspiring mid-size companies with \$500,000 or more in revenue that are pursuing growth and will serve all MBDA-eligible minority business enterprises (MBE’s). The Center will focus client recruitment and contract opportunity identification on priority high growth sectors for the state such as biosciences, aerospace and drone technology, energy, defense, construction, healthcare, optics and photonics, cybersecurity, advanced manufacturing, and film and television.

The proposed Lease Agreement is for a twenty-four (24) month period and two additional one (1) year period options to renew. The proposed monthly rent is \$1,083.33 for a total of \$26,000 for twenty-four (24) months.

This Lease Agreement is forwarded to City Council for approval.


**Title/Subject of Legislation:** Lease Agreement between the Albuquerque Hispano Chamber of Commerce, and the City of Albuquerque

Approved:

 4/12/22  
Sarifa Nair Date  
Chief Administrative Officer

Recommended:

DS  
ml

 4/12/22  
Charles Ashley III Date  
Director, Economic Development Department

## Cover Analysis

### **1. What is it?**

Lease Agreement between the Albuquerque Hispano Chambers of Commerce and the City of Albuquerque's Economic Development Department.

### **2. What will this piece of legislation do?**

Enter into a new lease with the Albuquerque Hispano Chambers of Commerce and the City of Albuquerque's Economic Development Department.

### **3. Why is this project needed?**

The Center will serve mid-sized companies, and aspiring mid-size companies that are pursuing growth and will serve all MBDA-eligible minority business enterprises (MBE's). The Center will focus client recruitment and contract opportunity identification on priority high growth sectors for the state such as biosciences, aerospace and drone technology, energy, defense, construction, healthcare, optics and photonics, cybersecurity, advanced manufacturing, and film and television.

### **4. How much will it cost and what is the funding source?**

Economic Development will pay a total of \$26,0000 for the twenty-four (24) month lease. The funding source is New Mexico MBDA Business Center.

### **5. Is there a revenue source associated with this contract? If so, what level of income is projected?**

There is no revenue generated with this lease.

### **6. What will happen if the project is not approved?**

Loss of resources and services for mid-size companies and minority business.

### **7. Is this service already provided by another entity?**

No.

**LEASE AGREEMENT**  
**BETWEEN**  
**ALBUQUERQUE HISPANO CHAMBER OF COMMERCE**  
**AND**  
**CITY OF ALBUQUERQUE**

This LEASE AGREEMENT (“**Lease**”) made and entered into between the Albuquerque Hispano Chamber of Commerce (“**AHCC**” or “**Landlord**”), and the City of Albuquerque, a New Mexico municipal corporation (“**City**” or “**Tenant**”). Tenant and Landlord may each be referred to herein individually as a “**Party**” and collectively as the “**Parties.**”

**I. RECITALS**

WHEREAS, the Landlord owns that certain real estate located at 1309 4<sup>th</sup> Street SW, in Albuquerque, Bernalillo County, New Mexico (the “**Property**”) on which is situated a building with multiple offices (the “**Building**”) as shown on Exhibit A, attached hereto and made a part hereof; and

WHEREAS, Landlord is willing to Lease to Tenant, and provided that Tenant receives the federal grant and the necessary appropriation therefor as anticipated, Tenant is able and wishes to lease that portion of the Building designated as the Premises (defined below) from Landlord, to be used by the City’s Economic Development Department as a Minority Business Development Agency (“**MBDA**”) Business Center; and

WHEREAS, the Landlord and Tenant desire to enter into a lease agreement.

NOW, THEREFORE, the Landlord for and in consideration of the covenants and agreements herein contained to be kept and performed by Tenant, upon the terms and conditions herein contained, does let, lease and demise as set out below, Tenant hereby leases the Premises from Landlord, and the Parties mutually agree to the following:

**II. BASIC LEASE PROVISIONS.**

**A. THE PREMISES.**

The “**Premises**” shall mean the approximately one thousand (1,000) square feet of furnished office space comprised of the two (2) office spaces located on the first floor of the Building and designated as “114” and “115” and shall also include the lobby area on the first floor, access to common areas to include conference rooms, a training classroom, a computer lab, any/all available breakrooms in the Building, as well as open parking in the lot located on Barelas Road SW just north of the Property.

**B. BASE TERM; RENEWAL TERM.**

1. The “**Base Term**” shall be for twenty-four (24) months beginning on the Rent Commencement Date and ending on the Expiration Date (both defined below).

1. Provided that this Lease shall be in full force and effect and that Tenant shall not be in Default (as defined below) under any of the terms or conditions hereof beyond the applicable cure periods set forth herein, either at the time of exercising the Option to Extend or at the start of the Renewal Term, and provided that Tenant’s use of Premises is in accordance with the terms of this Lease, Tenant shall have the option to extend this Lease up two (2) times (“**Option to Extend**”), with such Option to Extend providing for an additional one (1) year term (the “**Renewal Term**”).

2. In order to exercise such Option to Extend, Tenant shall be required to provide written notice of Tenant’s intention to exercise its Option to Extend to Landlord no less than ninety (90) days prior to the expiration of the Base Term.

3. In the event that the Base Term of this Lease is extended pursuant to the provisions hereof, all of the terms and provisions of this Lease shall extend to and be applicable during the Renewal Term, except and to the extent as may be specifically set forth in this Section G to the contrary.

**C. EFFECTIVE DATE AND OTHER KEY DATES.**

This Lease will not be binding upon the Parties until it is approved by the Albuquerque City Council and signed by the City of Albuquerque Chief Administrative Officer or his/her authorized designee (hereinafter the “**Effective Date**”). In addition, the following critical dates shall apply to this Lease:

1. The “**Lease Commencement Date**” shall be the Effective Date
2. The “**Rent Commencement Date**” shall be September 1, 2022
3. The “**Expiration Date**” shall be August 31, 2024.

**D. BASE RENT.**

Tenant shall pay to Landlord, in advance, on the first day of each calendar month, beginning on the Rent Commencement Date, “**Base Rent**” (or “**Rent**”) in the amount of ONE THOUSAND EIGHTY THREE AND 33/100 DOLLARS (\$1,083.33) without deduction or offset, except as specifically provided in this Lease. Base Rent payable with respect to a period consisting of less than a full calendar month shall be prorated.

**E. LANDLORD’S OBLIGATIONS.**

Landlord shall provide the following hereunder:

1. Utilities including gas, electric, two direct lines of phone service dedicated to MBDA and access to high speed wireless internet, water, sewer, trash collection, and janitorial services (“**Required Services**”).
2. All general maintenance and repair including general maintenance and repair to the roof, heating and cooling systems, plumbing systems, electrical systems, elevator system, communication systems, parking lot, interior of the building, and exterior of the building as more specifically set forth in Section II (N) (“**Repair and Maintenance**”).
3. Payment of all general property taxes but excluding all special and general assessments of any kind levied upon the Premises.
4. Any/all replacements, improvements and/or installations of all or some portion of the roof, HVAC heating and cooling systems, plumbing systems, electrical systems, elevator system (if applicable), communication systems, and exterior surfaces of the building as more specifically set forth in Section II (N).

**F. USE OF PREMISES.**

1. Tenant shall continuously (except for short term closures due to fire, casualty, condemnation, weather, permitted or approved Tenant remodeling not exceeding sixty (60) days, or other causes beyond Tenant’s control for any length of time, including but not limited to pandemic, quarantine, public health emergency, or governmental order (“**Permitted Closures**”) use the leased Premises, subject to the terms, conditions, and limitations set forth in this Lease.
2. Tenant shall operate and maintain the Premises in a safe, sanitary and operable condition.
3. Tenant shall properly handle and dispose of all Hazardous Substances pursuant to Environmental Laws (as each is defined herein). Tenant shall take all appropriate measures necessary to prevent the release on or from the Premises of any Hazardous Substances. Neither Party shall create or bring on the Premises any Hazardous Substances or permit any third party to do so in violation of Environmental Laws. Should Tenant become aware of the existence of any Hazardous Substance on the Premises, Tenant shall immediately notify Landlord of such Hazardous Substance.
4. Tenant shall not use, occupy or permit the Premises to be used or occupied for any unlawful purposes or for purposes not specified in this Lease.
5. Tenant shall not use, occupy or permit the Premises or any part of the Premises to be used or occupied, or do or permit anything to be done in or on the Premises in any manner which would:

- a. Cause or be likely to cause structural damage to the Premises or any part thereof, or adversely affect the mechanical, electrical, plumbing or other base building systems.
- b. Cause, permit, or suffer any waste or damage, disfigurement or injury to the Premises or the fixtures or equipment thereof, other than due to normal wear and tear.
- c. Cause the cancellation of any insurance policies related to the Premises. Tenant shall reimburse Landlord for any increases in insurance premiums payable by Landlord as a result of Tenant's use of the Premises or the nature of Tenant's business. All property kept, stored or maintained by Tenant within the Premises shall be there at Tenant's sole risk, and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leakage or bursting of water pipes, steam pipes, or other pipes, by theft or from any other cause, no part of said loss or damage is to be charged to or borne by Landlord, unless due to the negligence or willful misconduct of Landlord, its employees, agents or contractors.
- d. Constitute waste or a public or private nuisance; or
- e. Place or install any signs, racks, stands, trade fixtures, pedestal signs, or other displays of products or services, advertisement, notice, lettering, or decoration on any part of the outside of the Premises or on the outside of the Building, the grounds of the Premises, the right-of-way or adjacent properties, without the express prior written approval of the Landlord, which approval will not be unreasonably withheld or delayed. Tenant, at its expense, may install its standard signs and logos so long as they are in compliance with applicable signage codes. All signs shall be kept in good condition and in proper operating order at all times.

**G. HOLDING OVER.**

1. With Consent. In the event Tenant remains in possession of the Premises after the expiration of this Lease with Landlord's written consent, but without the execution of a new Lease, it shall be deemed to be occupying said Premises as a tenant from month-to-month at a rental equal to the rent for the previous annual period plus an additional one percent (1%) paid in monthly installments with the annual rent prorated monthly for the period of the hold over plus any additional charges called for under the terms of this Lease, and shall otherwise be subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a month-to-month tenancy. Should the month-to-month hold over tenancy continue for more

than a 12-month period, the Rent will increase one percent (1%) for any subsequent 12-month period(s) under this paragraph. A holdover month-to-month tenancy may be terminated by either Party upon at least a sixty (60) day, prior, written notice.

2. Acceptance of Premises. Tenant acknowledges that it has examined the Premises and that it has determined by its own independent evaluation that the Premises are suitable and useable for the purposes, uses and activities intended by Tenant as provided in this Lease. Tenant acknowledges that the Landlord has made no representations, warranties or guarantees, express or implied, that the Premises will be suitable or useable for the purposes or uses which Tenant intends to make of the Premises.

#### **H. QUIET ENJOYMENT.**

Subject to Tenant paying the Rent provided for herein and performing all the covenants and conditions of this Lease on its part to be performed, Tenant shall and may peaceably and quietly have, hold, and enjoy the Premises during the term hereof. Tenant acknowledges that the exercise by Landlord of any of the rights conferred on Landlord under this Lease, and Landlord's exercise of a right of entry upon the Premises conferred by this Lease shall not be deemed to be a constructive or actual eviction of Tenant and shall not be considered to be a breach of Landlord's covenant of quiet enjoyment. Landlord hereby warrants and represents that Landlord has full right and sufficient title to lease the Premises for the term and upon the terms and conditions set forth herein.

#### **I. COMPLIANCE WITH LAW.**

1. Tenant shall at all times during the term of this Lease at its own expense, comply with all federal, state, county, municipal and other governmental statutes, ordinances, laws, rules and regulations, now or hereafter enacted or amended, affecting the Premises, or occasioned by or affecting the use thereof by Tenant, including, but not limited to, the Americans With Disabilities Act.

2. Tenant shall have the right to contest by appropriate legal proceedings, without cost or expense to Landlord, the validity of any law, ordinance, order, rule, regulation or requirement affecting Tenant's use and/or occupancy of the Premises. If compliance by Tenant may be legally held in abeyance during the contest without subjecting Landlord or Tenant to any liability whatsoever for failure to so comply, Tenant may postpone compliance until the conclusion of the proceedings.

3. Tenant shall procure, at its sole expense, any permits and licenses required for the transaction of business in the Premises and otherwise comply with all applicable laws, ordinances and governmental regulations. Tenant shall immediately notify



Landlord in the event any permit, license, or approval necessary for the operation of Tenant's business from the Premises is revoked or suspended. If such revocation or suspension is not corrected within twenty (20) days after notice to Landlord (or such longer period as is reasonable so long as Tenant initiates such correction within the twenty (20) day period and thereafter diligently and continuously works towards correcting the revocation or suspension), then it shall be an automatic event of Default under this Lease.

**J. UTILITIES.**

Tenant shall not install any equipment or fixtures, or use the same, in any manner that exceeds the safe and lawful capacity of any utility equipment or lines serving the Premises. Landlord shall not be liable in damages or otherwise for any failure, variation, shortage or interruption of any utilities or services, and Tenant shall not be entitled to terminate this Lease or abate any portion of the Rent as a result of such failure, variation, shortage or interruption.

**K. INDEMNIFICATION; LIABILITY.**

1. Landlord shall not in any event be liable for any acts or omissions of Tenant or its agents, servants, employees or independent contractors or for any condition resulting from the operations or activities of Tenant, its agents, servants, employees or independent contractors either as to Tenant or to any other person, including any and all claims, losses, damages, and expenses relating to any of the foregoing.
2. Landlord agrees to pay for all damage to third parties from personal injury or property damage that occurs in the Premises caused by the intentional misuse or neglect by Landlord or Landlord's employees, agents, and invitees. Further, Landlord agrees to indemnify, defend, and hold harmless Tenant and its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties because of any injury or damage received or sustained by any person, persons or property arising out of or resulting from the actions, omissions or misconduct of Landlord or its agents in the performance of obligations and the terms and conditions of this Lease.
3. Tenant agrees to pay for all damage to third parties from personal injury or property damage that occurs in the Premises to the extent caused by the intentional misuse or neglect by Tenant or Tenant's employees, agents, and invitees, provided, however, that any liability incurred in connection with this Lease by Tenant is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1 et seq., NMSA 1978, as amended

**L. INSURANCE.**

1. Tenant represents that it is adequately self-insured, and that Tenant's municipal self-insurance program includes the following types of coverage in appropriate amounts:

- a. Special Form property insurance covering the contents owned by Tenant in the Premises.
- b. Comprehensive General Liability Insurance.
- c. Workmen's Compensation Insurance.
- d. Automobile Liability Insurance.

2. Evidence of Coverage. Tenant shall deliver to Landlord a letter evidencing self-insurance, if required and requested by Landlord at the time of or following execution of the Lease.

**M. REPAIRS AND MAINTENANCE; TENANT'S NEGLIGENCE; SUBSTANTIAL DAMAGE.**

Landlord shall keep the roof, the foundation, structural elements of the Building and Premises (including molding, locks and hardware, painting or other treatment of interior walls), pipes and conduits of the Building and Premises in good condition and repair in accordance with standards then prevailing for comparable properties of like age and character or such higher standard as Tenant may determine, except that Landlord shall not be required to make any repairs occasioned by the act or negligence of Tenant, its agents, employees, subtenants, licensees and concessionaires, which repairs shall be made by Tenant. In the event that the Premises should become in need of major repairs and/or replacements for major components that impact the Building as a whole, including but not limited structural repairs to the Building, repairs to the exterior of the Building including but not limited to the roof, or repairs to the HVAC or major building systems, said repairs and/or replacements shall be the responsibility of the Landlord. Tenant shall give immediate written notice thereof to Landlord and Landlord shall take prompt and appropriate steps to initiate such repairs following delivery of such written notice, except in exigent circumstances, in which case Landlord shall take such steps immediately and without delay. An exigent circumstance is when, without the necessary major repair or replacement, the Premises are unusable by Tenant and/or when the lack of the necessary repair or replacement places Tenant's property in substantial danger of being ruined. If the major repair or replacement causes an exigent circumstance and Landlord fails or is unable to make any such repairs in a timely manner, and Tenant is able to make repairs more quickly, then upon notice to Landlord, Tenant may make the repairs or replacement and Landlord shall reimburse Tenant for said repairs or replacement. Landlord shall have no

liability for any damages or injury arising out of any condition or occurrence causing a need for such repairs unless the damage results from the Landlord's negligence, delay or willful misconduct. Landlord shall not be liable or responsible for breakdowns or temporary interruptions in access or utilities nor for interference with Tenant's business or Tenant's access to the Premises during the course of repairs or remedial work, unless and to the extent resulting from the negligence or willful misconduct of the Landlord.

**N. AMERICAN WITH DISABILITIES ACT.**

Tenant agrees to meet all applicable requirements of the American with Disabilities Act of 1990, as amended, and all applicable rules and regulations, as amended, (the "ADA"), that are imposed directly on Tenant as a public entity or that would be imposed on the Landlord.

**O. RIGHT TO ENTER WITHOUT NOTICE.**

The Landlord, its agents and other representatives, shall have the right to enter into and upon the Premises or any part thereof at reasonable times for the purpose of inspecting the Premises, making repairs, showing the Premises to prospective lenders, purchasers of the Premises or prospective tenants upon a thirty (30) day notice to Tenant. In the event of an emergency as determined by the Landlord, the Landlord, its agents and other representatives, may enter at any time, without notice and without the presence of Tenant provided that Landlord gives Tenant notice of such entry and the exigent circumstances as soon as reasonably possible. Tenant will permit Landlord at any time within six (6) months prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit potential tenants to inspect the Premises, provided Tenant is given reasonable notice of such inspections and such inspections do not unreasonably interfere with the operations of Tenants business activities.

**P. TERMINATION AND SURRENDER OF PREMISES.**

1. Notwithstanding any provision in this Lease to the contrary and without limitation, the Landlord or the Tenant may terminate this Lease at any time without cause by giving the other Party ninety (90) day's written notice. If either Party terminates the Lease pursuant to this Section, rent shall abate at the end of the ninety ( 90) day notice period.

2. At the expiration of the Base Term of this Lease, or Renewal Term if the Lease is extended as permitted pursuant to its terms, or upon its earlier termination as provided hereunder, Tenant shall surrender the Premises to the Landlord in as good condition as Premises was in at the beginning of the Term, reasonable use, wear and tear excepted, clean and free of debris. Tenant shall remove Tenant's personal property from the Premises. Any and all improvements made to the Premises during the term hereof shall, unless Landlord requests their removal, belong to the Landlord

without compensation, allowance, or credit to Tenant, except movable trade fixtures, furnishings, and equipment of the Tenant, which can be removed without defacing the Premises, including the underlying and related property. Tenant shall repair any damage to the Premises occasioned by the installation or removal of Tenant's trade fixtures, furnishings, and equipment. Any of Tenant's personal property left by Tenant on or about the Premises at the expiration or termination of this Lease shall, at the option of the Landlord, become the property of the Landlord and the Landlord shall be entitled to use, sell, or otherwise dispose of such personal property.

**Q. DEFAULT AND REMEDIES.**

1. Default. The occurrence of any one or more of the following events shall constitute a Default (a "**Default**") by Tenant:

a. Failure to make payment when due where such failure shall continue without cure for a period of thirty (30) consecutive calendar days after written notice thereof from Landlord to Tenant.

b. The abandonment of the Premises by Tenant for a period of thirty (30) consecutive calendar days.

c. The failure by Tenant to observe or perform any of the material, express covenants or provisions of this Lease, where such failure shall continue for a period of thirty (30) consecutive calendar days after written notice thereof from the Landlord to Tenant, provided that if the nature of Tenant's Default is such that more than thirty (30) consecutive calendar days are reasonably required for its cure, then Tenant shall not be deemed to be in Default if Tenant commences to cure within the thirty (30)-day period, and thereafter diligently and continuously prosecutes such cure to completion.

d. Tenant assigns this Lease or subleases all or any portion of the Premises without Landlord's prior written consent.

e. Tenant **(i)** files, or consents by answer or otherwise to the filing against it, of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction; **(ii)** makes an assignment for the benefit of its creditors; **(iii)** consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property; or **(iv)** takes action for the purpose of any of the foregoing.

f. A court or governmental authority of competent jurisdiction, without consent by Tenant, enters an order appointing a custodian, receiver, trustee or

other officer with similar powers with respect to Tenant or with respect to any substantial portion of its property, or enters an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or insolvency law of any jurisdiction, or enters an order decreeing the dissolution, winding up or liquidation of Tenant, or if any such petition is filed against Tenant and such petition is not dismissed within **180 days**.

2. Landlord's Remedies. In the event of Default by Tenant, as defined above, the Landlord, in addition to any other remedies set forth in this Lease, may, without further notice or demand, terminate this Lease, in which event this Lease and the leasehold estate hereby created shall automatically terminate upon the effective date specified by Landlord in such notice with the same force and effect and to the same extent as if the specified termination effective date was the date originally fixed in this Lease for the expiration of the Lease term. Landlord shall thereupon be entitled to take possession of the Premises, and Tenant shall immediately surrender the Premises to the Landlord and agrees to pay the Landlord, on demand, the following damages:

- a. any unpaid Rent and other amounts due at the time of termination plus interest thereon at the maximum lawful rate per annum from the due date until paid;
- b. the net present value of the balance of the Rent for the remainder of the Base Term or Renewal Term, as may be applicable, less the net present value of the fair market value rental of the Premises for said period taking into consideration a reasonable lease-up period and reasonable expenses incurred by Landlord in re-letting the Premises (spread evenly throughout the term of the new lease), provided, however that this sum shall not be less than zero as in no event shall Landlord be obligated to pay Tenant if the difference is a negative number. Both future payments computed in accordance with this provision shall be discounted to present value in accordance with accepted financial practices using a discount rate of 1% per annum; and
- c. any other amount arising out of Tenant's failure to perform its obligations under the Lease, or which in the ordinary course of events would be likely to result therefrom, including brokerage commissions and the cost of recovering the Premises which costs shall not include the costs of demolition or remodeling the Premises for a new tenant.

**R. HAZARDOUS SUBSTANCES.**

1. Definitions: For the purposes of this Lease, the following terms have the following meanings:

a. **“Environmental Law”** means any Federal, state or local law, statute, ordinance or regulation, rules or guidelines, now or hereafter in effect, pertaining to or governing Hazardous Substances or which relate to the protection of human health, safety, or that of the environment, including, without limitation, **CERCLA** (Comprehensive Environmental Response, Compensation and Liability Act of 1980), **RCRA** (Resources Conservation and Recovery Act of 1976) and **SARA** (Superfund Amendments and Reauthorization Act of 1986).

b. **“Hazardous Substance”** means any substance, material, waste, pollutant, or oil, which is, or becomes designated, classified or regulated as being “toxic”, “hazardous”, “radioactive”, “dangerous” or a “pollutant”, or any similar term, which is or becomes similarly designated, classified or regulated, under any Environmental Law, including asbestos, petroleum and petroleum products.

2. Tenant’s Responsibilities: At its own expense, Tenant will procure, maintain in effect, and comply with all conditions of any and all permits, licenses and other governmental and regulatory approvals required for Tenant’s use of the Premises. Tenant will not cause or permit any Hazardous Substance to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees without the prior written consent of Landlord, except this paragraph 2 does not pertain to any hazards that may have been on the Premises prior to the Effective Date of this Lease. Tenant will cause any and all Hazardous Substances brought upon the Premises by Tenant to be removed from the Premises and transported solely by duly licensed haulers to duly licensed facilities for final disposal of such materials and wastes. Tenant will, in all respects, handle, treat, deal with and manage any and all Hazardous Substances in, on, under or about the Premises in total conformity with all applicable Environmental Laws and prudent industry practices regarding management of such Hazardous Substances. Upon expiration or earlier termination of the term of the Lease, Tenant will cause all Hazardous Substances placed on, under or about the Premises by Tenant or at Tenant’s direction to be removed and transported for use, storage or disposal in accordance and compliance with all applicable Environmental Laws. Tenant will not take any remedial action in response to the presence of any Hazardous Substances in or about the Premises, nor enter into any settlement agreement, consent decree or other compromise in respect to any claims relating to any Hazardous Substances in any way connected with the Premises without first notifying Landlord of Tenant’s intention to do so and affording Landlord ample

opportunity to appear, intervene or otherwise appropriately assert and protect Landlord's interests with respect thereto.

3. Landlord's Representation: Landlord represents and warrants that, to the best of its knowledge, the Premises does not contain nor have the Premises ever contained Hazardous Substances, nor have the Premises ever been investigated or held in violation of any Environmental Law.

4. Environmental Audit. At any time and from time to time, Landlord may retain an environmental consultant or engineer to conduct an environmental audit or environmental assessment of the Premises and Tenant's compliance with applicable laws, rules and regulations. Tenant shall extend its full cooperation with such audit or investigation. If Tenant is found not to be substantially in compliance with applicable law, then Tenant shall pay all reasonable costs associated with such audit or assessment to Landlord upon demand; otherwise all costs shall be borne by Landlord. In addition, Tenant, at Landlord's request from time to time, shall complete such questionnaires and provide such information with respect to Tenant's activities and operations on the Premises as Landlord shall reasonably require.

5. If the Premises become contaminated in any manner for which Tenant is legally liable or otherwise become affected by any release or discharge of a Hazardous Substance, Tenant shall immediately notify Landlord of the release or discharge of the Hazardous Substance.

**S. FIRE OR OTHER CASUALTY LOSS TO PERSONAL PROPERTY.**

The Landlord shall not be liable for any damage or loss of the Tenant's personal property on the Premises from any cause, including, but not limited to, bursting or leaking of water pipes, leaking roof, fire, theft and negligence of co-Tenants. Tenant shall be solely responsible for obtaining and paying for insurance covering Tenant's personal property in the Premises, operations losses and liability insurance. Tenant shall not be insured for such losses by the Landlord and shall not be entitled to make loss claims under the insurance coverage of the Landlord.

**T. ASSIGNMENT AND SUBLETTING.**

Neither Party shall assign this Lease or any of its rights and responsibilities hereunder (the "Assigning Party") in whole or in part regarding the Building or the Premises at any time for any reason without the other Party's (the "Non-Assigning Party") prior written approval, which approval shall not be unreasonably withheld. In the event of an assignment, or in the case of the Tenant, a sublease, contemporaneously with the granting of consent by the Non - Assigning Party, the Assigning Party shall cause the assignee or sublessee to expressly assume

in writing and agree to perform all of the covenants, duties and obligations of the Assigning Party as set forth in this Lease and such assignee or sublessee shall be jointly and severally liable therefor along with the Assigning Party unless otherwise released therefrom in writing by the Non-Assigning Party.

**U. TAXES AND ASSESSMENTS.**

Landlord shall promptly pay to Bernalillo County the property taxes, including any additional assessments or exactions assessed or assessable, relating to the Property, Building, and Premises. Landlord will pay any and all additional exactions assessed or assessable. Landlord shall not allow any of said Bernalillo County property taxes to become delinquent and Landlord will not allow any additional assessment to become delinquent. Tenant shall pay all license and permit fees applicable to the Tenant's operation, and acquire and keep current all licenses, whether municipal, state, or federal, required as a result of the Tenant's operation on the Premises, and shall not allow any of said fees to become delinquent.

**V. CONDEMNATION.**

1. If during the Term any part of the Premises is taken or purchased by right of eminent domain or in lieu of condemnation, and if in the reasonable opinion of Landlord or Tenant substantial alteration or reconstruction of the portion of the Premises is necessary or desirable as a result thereof, or the amount of parking available to the portion of the Premises is materially and adversely affected, Landlord and/or Tenant shall have the right to terminate this Lease by giving the other Party at least sixty (60) days' written notice of such termination.

2. Landlord shall be entitled to receive and retain the entire condemnation award or consideration for the affected lands and improvements, and Tenant shall not have, or advance, any claims against Landlord for (i) the value of Landlord's property or its leasehold estate, (ii) the costs of removal or relocation, (iii) the unexpired term of this lease, and (iv) business interruption expense or any other damages arising out of the taking or purchase. Nothing herein shall give Landlord any interest in, or preclude Tenant from seeking and recovering on its own account from the condemning authority any separate condemnation award of compensation attributable to the taking or purchase of Tenant's chattels or trade fixtures or attributable to Tenant's relocation expenses provided that any such separate claim by Tenant shall not reduce or adversely affect the amount of Landlord's condemnation award. If any such separate award made or compensation paid to Tenant specifically includes a condemnation award or amount for Landlord, Tenant shall promptly account therefor to Landlord.



**W. DISCRIMINATION PROHIBITED.**

In the operation and use of the Premises, the Tenant shall not on the grounds of race, color, religion, sexual orientation, sexual preference, national origin or ancestry, or age, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Title 49 CFR Parts 21 and 23, the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, and the New Mexico Human Rights Act. Without limiting the generality of the foregoing, the Tenant shall not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual orientation, sexual preference, national origin or ancestry, age, or physical or mental handicap. Such action will include, but not be limited to: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and disciplinary actions and grievances. The Tenant agrees to post in conspicuous places available to employees, and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

**X. LEASE EXEMPT FROM BATEMAN ACT; APPROPRIATIONS.**

By virtue of the provisions of NMSA 1978, §6-6-12 (1999), this Lease is exempt from the Bateman Act, including, without limitation as set out in NMSA 1978, §6-6-12 (1968), and it does not constitute the creation of debt. Nonetheless, as a result of Tenant's requirements and demands, if in any fiscal year of the City of Albuquerque during the term of this Lease, sufficient appropriations and authorizations are not made by the City Council to fund this Lease, this Lease may be terminated by the Tenant at the end of the Tenant's then current fiscal year, upon sixty (60) days written notice given by the Tenant to the Landlord. Such event shall not constitute an event of Default under this Lease. Upon termination of this Lease as provided in this Section II(X), the Landlord and the Tenant shall have no further rights, obligations or liabilities as between the Landlord and Tenant as provided in this Lease and all payments obligations and liabilities of the Tenant and of its interest in this Lease will cease upon the date of termination, except as otherwise provided in this Lease, including, without limitation, as to liabilities expressly stated to survive termination of the Lease.

**Y. MISCELLANEOUS**

1. Waiver of Default. No failure by the Landlord or Tenant to insist upon the strict performance of any term, condition, or covenant of this Lease or to exercise any right or remedy available on the breach thereof, and no acceptance of full or partial Rent during the continuance of any breach will constitute a waiver of any breach or of any term, condition, or covenant. No obligation of this Lease that Tenant or Landlord is required to perform and no breach thereof, will be waived, altered, or modified, except by written instrument executed by the Landlord and Tenant.

2. Time is of The Essence. Time is of the essence in the performance of this Lease.
3. Exhibits. All certificates, documents, exhibits, attachments, riders, and addenda, if any, referred to in this Lease, including but not limited to the exhibits attached to this Lease, are hereby incorporated into this Lease by reference and are made a part hereof as though set forth in full in this Lease to the extent they are consistent with the terms and conditions of this Lease.
4. No Partnership or Agency. Nothing contained in this Lease is intended or shall be construed in any respect to create or establish any relationship other than that of Landlord and Tenant, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Tenant the general representative or agent of Landlord or Landlord the general representative or agent of Tenant for any purpose whatsoever.
5. Force Majeure. In the event Landlord or Tenant is delayed, hindered or prevented from performing any act or thing required hereunder by reason of strikes, lockouts, labor troubles, casualties, failure or lack of utilities, governmental laws or regulations, riots, insurrection, war, acts of God, public health emergencies, pandemic, quarantine, governmental orders, or other causes beyond the reasonable control of Landlord or Tenant, neither Party shall be liable for the delay, and the period for the performance by either Party shall be extended for a period equivalent to the period of such delay. The foregoing shall be inapplicable to the payment of Rent by Tenant and to the delivery of the Premises by Landlord. In the event that such *Force Majeure* period of delay shall extend for a period of six (6) months or more, either Party shall have the right, in their discretion, to terminate this Lease by providing the other Party with written notice thereof, in which case the Parties shall proceed as though the Lease has expired upon its own terms as of the date of termination specified by the terminating Party.
6. Contract Review. Landlord and Tenant acknowledge that they have thoroughly read this Lease including all exhibits thereto and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein. Landlord and Tenant further acknowledge that this Lease is the result of negotiations between them and that this Lease shall not be construed against either Party hereto by reason of that Party's preparation of all or part of this Lease.
7. Notices. Any notice from one Party to the other must be in writing and shall be deemed duly given three (3) days after deposit in the United States Mail if mailed by registered or certified mail, return receipt requested, or upon receipt or refusal to accept if personally delivered or deposited with a national overnight deliver courier

who obtains written confirmation of delivery, addressed to the other Party at the address set below, or such other address as either Party may designate in writing. The Parties shall be responsible for notifying each other of any change of address. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent.

Notice to Landlord:

Hispano Chamber of Commerce

Attn: Connie L. Lee

1309 4<sup>th</sup> St. SW

Albuquerque, NM 87102

Notice to the Tenant:

City of Albuquerque

One Civic Plaza, 11th Floor

Attn: Chief Administrative Officer

P.O. Box 1293

Albuquerque, New Mexico 87103

With a copy to:

Real Property Division Manager

City of Albuquerque

P.O. Box 1293

Albuquerque, New Mexico 87103

If and when included within the term "Tenant" and "Landlord" as used in this instrument there are more than one person, firm or corporation, all shall jointly arrange amongst themselves and specify some individual at some specific address for the receipt of notices and payments. All parties included with terms "Landlord" and "Tenant" respectively, shall be bound by notices and payments given in accordance with the provisions of this Subsection Y to the same effects as if each had received such notice or payment.

8. Estoppel Certificates. Tenant and Landlord shall at any time within ten (10) days after written request from either Party execute, acknowledge and deliver to the other Party a statement in writing: (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the Rent and any other charges are paid in advance, if any; (b) confirming the commencement and expiration dates of the term; (c) confirming the amount of the security deposit held by Landlord, if any; (d) acknowledging that there are not, to the

certifying Party's knowledge, any uncured Defaults on the part of the other Party hereunder, or specifying such Defaults if any are claimed; and (e) confirming such other matters as the requesting Party may reasonably request. A prospective purchaser or encumbrancer of the Premises may conclusively rely upon any such statement. If the responding Party fails to respond within the required period, the responding Party shall conclusively be deemed to have certified, confirmed and acknowledged all matters requested by the requesting Party. If Landlord desires to finance or refinance the Premises, Tenant hereby agrees to deliver to any lender designated by Landlord such financial statements of Tenant as may be reasonably required by such lender. All such financial statements shall be used only for the purposes herein set forth.

9. Binding Effect. Once this Lease is made, the covenants, terms and conditions of this Lease will be binding upon and inure to the benefit of the Parties, and each of their respective their successors, assigns, subtenants and sublessees.

10. Entire Agreement. This Lease, including the attached **Exhibit A**, constitutes the full and final agreement of the Parties and incorporates all of the conditions, agreements, and understandings between the Parties concerning the subject matter of this Lease, and all such conditions, understandings and agreements have been merged into this written Lease. All prior negotiations and agreements are merged into this Lease. No prior condition, agreement, or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this Lease.

11. Modification. No subsequent agreement may modify this Lease unless it is in writing and signed by the Parties or their authorized agents. This Lease represents the entire contract between the Parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the Parties hereto.

12. Further Actions. At any time and from time to time, each Party agrees, without further consideration, to take such actions and to execute and deliver such documents as may be reasonably necessary to effectuate the purposes of this Lease.

13. Severability. In the event any covenant, condition or provision herein is held to be void, voidable, invalid, illegal, or unenforceable by any court of competent jurisdiction, such covenant, condition or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable, or, if it cannot be so amended, without materially altering the intention of the Parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Lease shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the Landlord or Tenant in its

respective rights and obligations contained in the valid covenants, conditions or provisions of this Lease.

14. Authorization: If Landlord executes this Lease as a corporation or partnership, then Landlord and the person(s) executing this Lease on behalf of Landlord, represent and warrant that such entity is duly qualified to do business in the State of New Mexico and that the individuals executing this Lease on Landlord's behalf are duly authorized to execute and deliver this Lease on Landlord's behalf. Landlord represents and warrants that it is the fee simple owner of the Premises, and that it has all requisite authority and approval to enter into this Lease.

15. Joint And Several Liability: In the event that more than one person or entity executes the Lease as Landlord, all such persons and entities shall be jointly and severally liable for all of Landlord's obligations hereunder.

16. Headings And Captions. Captions of sections and paragraphs are for convenience, not limitation, and are not to be construed as modifying text.

**Z. ATTORNEYS' FEES.**

If either Party to this Lease institutes any action or proceeding in court to enforce any provision hereof, for damage by reason of an alleged breach of any provision of this Lease, for a declaration of such Party's rights or obligations hereunder, or for any other judicial remedy, each Party shall be responsible for its own attorneys' fees (including the reasonable fees and disbursements and charges of internal legal counsel) and litigation expenses, including, but not limited to expert witness fees, and service of process fees.

**AA. APPLICABLE LAW AND PARTIES BOUND.**

This Lease shall be construed under the laws of the State of New Mexico. The Parties agree that venue for the assertion and pursuit to completion of any suit, action, or proceeding arising out of this Agreement shall be in Bernalillo County, New Mexico. The Parties irrevocably admit themselves to, and consent to, the jurisdiction of said court. In any litigation between Landlord and Tenant, the matter shall be decided by a judge sitting without a jury, and accordingly each Party hereby waives its right to a jury trial. The Parties further acknowledge that they have fully and fairly bargained for the terms of this Subsection AA. The provisions of this Subsection BB shall survive the expiration or earlier termination of this Lease.

**BB. FINAL DATES.**

If the final date of any deadline falls upon a Saturday, Sunday, or holiday recognized by the U.S. Postal Service, then in such event the time of such deadline shall be extended to the next day that is not a Saturday, Sunday, or holiday recognized by the U. S. Postal Service. Whenever the word "days" is used herein, it shall be considered to mean "calendar days" and not "business days"

unless an express statement to the contrary is made or the term “business days” is used. The term “business day” means any day except a Saturday, Sunday or other day on which the City of Albuquerque is authorized to be closed to the public for business.

**CC. MULTIPLE COUNTERPARTS.**

The Lease may be signed in multiple counterparts or with detachable signature pages, but in either, or both, circumstances shall constitute one instrument, binding upon all parties thereto as if all parties signed the same document.

**DD. ELECTRONIC SIGNATURES.**

Authenticated electronic signatures are legally acceptable pursuant to Section 14-16-7 NMSA 1978. The Parties agree that this Lease may be electronically signed and that the electronic signatures appearing on the Lease are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

**IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SIGNED THIS AGREEMENT AS OF THE DATE** indicated by each signature, and the Lease is effective after approval by the City Council and then only upon the signature of the City’s Chief Administrative Officer or his/her authorized designee.

[SIGNATURE PAGES IMMEDIATELY FOLLOWING]

CITY OF ALBUQUERQUE  
A New Mexico Municipal Corporation

Approved by the City Council  
Date and EC#

\_\_\_\_\_  
Sarita Nair, Chief Administrative Officer

Date: \_\_\_\_\_  
EC# \_\_\_\_\_

Date: \_\_\_\_\_

RECOMMENDED BY:

\_\_\_\_\_  
Charles Ashley III, Director  
Economic Development Department

Date: \_\_\_\_\_

LANDLORD: ALBUQUERQUE HISPANO CHAMBERS  
OF COMMERCE (“AHCC”)

By: \_\_\_\_\_  
Connie L. Lee, Chief Financial Officer

Date: \_\_\_\_\_