



ORDINANCE NO.2021-002

AN ORDINANCE FOR THE LEASE OF LAND BY THE CITY OF ANTHONY, NEW MEXICO TO THE COMMUNITY ACTION AGENCY OF SOUTHERN NEW MEXICO.

WHEREAS, the City of Anthony, New Mexico ("City") and the Community Action Agency of Southern New Mexico ("CAASNM") are interested in entering into an agreement for the lease of municipal property;

WHEREAS, the municipal property that would be leased to CAASNM is described in the *Public Facility Rental Agreement*, attached hereto as Exhibit A;

WHEREAS, NMSA 1978, Section 3-54-1 allows municipalities to lease municipal real property having an appraised value of \$25,000 or more so long as an appraisal by a qualified appraiser is submitted in writing to the governing body;

WHEREAS, the Governing Body has received a written appraisal by The Powers Group (Linda M. Powers, MAI, CCMI) indicating that the property to be leased has a monthly lease value of \$600 to \$635;

WHEREAS, the proposed lease will benefit the City by generating money from otherwise unused real property;

WHEREAS, CAASNM has fully reviewed and agreed to the terms in the *Public Facility Rental Agreement* (Ex. A);

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF ANTHONY, NEW MEXICO:

Section 1. PURPOSE.

The purpose of this Ordinance is to lease municipal property to CAASNM, which will generate income for the City of Anthony, New Mexico.

Section 2. AUTHORITY.

This ordinance is adopted pursuant to NMSA 1978, Section 3-54-1.

Section 3. EFFECTIVE DATE.

This ordinance shall be in full force and effect forty-five days after its adoption, approval, and publication as provided by law, unless a referendum election is held pursuant to Section 6 herein.

Section 4. ADOPTION OF AGREEMENT FOR THE LEASE OF REAL PROPERTY

- a. The Governing Body hereby approves and adopts the *Public Facility Rental Agreement*.



- b. The Mayor is hereby authorized, empowered and directed to execute the *Public Facility Rental Agreement* on behalf of the City.
- c. The City Manager is hereby authorized, empowered and directed to take all action necessary to implement the terms of the *Public Facility Rental Agreement* on behalf of the City.

Section 5. PUBLICATION.

This Ordinance has been published prior to its adoption pursuant to NMSA 1978 Section 3-1-2(J) and Section 3-17-3, and shall be published at least once within one week following adoption pursuant to NMSA 1978 Section 3-1-2.

Section 6. REFERENDUM

This Ordinance may be challenged by referendum as set forth in NMSA 1978 Section 3-54-1(E-I).

PASSED, APPROVED AND ADOPTED THIS 7th DAY OF JULY 2021.


Diana M. Trujillo, Mayor



{SEAL}

ATTEST:



Esther Motongo, City Clerk

ROLL CALL VOTE:

Mayor Pro Tem, Fernie Herrera

☒ YES ☐ NO



~~Trustee Gloria Gameros~~

~~YES~~ ~~NO~~

~~ABSENT~~

Trustee Elva Flores

☒ YES ☐ NO



Trustee Javier Silva

☒ YES ☐ NO





**PUBLIC FACILITY RENTAL AGREEMENT
FOR THE CITY OF ANTHONY, NEW MEXICO**

The City of Anthony, New Mexico (“the Lessor”), and Community Action Agency of Southern New Mexico (“the Lessee”) enter into this Public Facility Rental Agreement (“Agreement”) for the period described herein and agree to the following terms:

1. **PREMISES.** Pursuant to the terms set forth herein and for the consideration found in Section 4, the Lessor hereby leases the property located at 625 Acosta Road, Anthony, New Mexico 88021 (“the Premises”), which is owned by the Lessor in fee simple and located within the corporate limits of the City of Anthony, New Mexico.
2. **USE.** The Premises shall be used to provision of the Thriving Kids Home Visiting program which provides critical life skills partnering for families of children ages 0-3 living in the rural area of Gadsden, New Mexico.
3. **TERM.** The term of this Agreement shall be for a period of 1 (1) year beginning on September 20, 2021 and terminating on August 31, 2022.
 - a. **Renewal:** This Agreement may be renewed for a second term of 1 (1) year at the expiration of the initial term by the Lessee giving 30 days advanced written notice to the Lessor.
 - b. **Holding Over.** Lessee’s holding over or continued use or occupancy of the Premises beyond the term of this Agreement shall be construed as a month-to-month tenancy and the monthly rent shall remain the same as the last date of the expired term and is subject to the same terms and conditions as set forth in this Agreement.
 - c. **Termination.** This Agreement may be terminated at the election of either party upon thirty (30) days’ written notice. To be effective for a given month, the terminating party must submit notice on or before second day of the previous month.
4. **RENTAL RATE.** In consideration of this Agreement, the Lessee shall pay monthly rent of \$600.00.



- a. **Monthly Payment.** Payment of each month's rent shall be due upon the first business day of the month. Payment shall be delivered to the Lessor's address as provided in Section 25 herein, or to such other person or at such other place or in such other manner as Lessor may designate in writing.
 - b. **Late Charges.** Lessee agrees to pay a late charge of 5 percent (5%) for each payment due under this Agreement that is more than three (3) days delinquent.
 - c. **Rental Increases.** Lessor agrees to annual rent increases based on the Consumer Price Index (CPI).
5. **UTILITIES.** Lessee shall be solely responsible for obtaining and paying for all utilities on the Premises, including electric, water, sewer, gas and waste.
6. **JANITORIAL.** Lessee shall be solely responsible for the cleaning of the property.
7. **LIMITATIONS ON USE.** The Lessee shall not permit alcohol or any other hazardous substance to be brought upon the Premises. There shall be no smoking on the Premises. The Premises shall not be used for any gambling or indecent, obscene or immoral purposes.
8. **COMPLIANCE WITH LAW.** The Lessee agrees to abide by federal, state and local law in its use of Premises.
9. **ADULT SUPERVISION.** No person under the age of 18 years old shall be allowed on the Premises without adult supervision. Adult supervision shall be the sole responsibility of the Lessee.
10. **CONDITION OF PREMISES.**
 - a. **Lessor Obligations.** The Lessor agrees to maintain the roof, foundation, plumbing, HVAC and structural soundness of the Premises in good repair, reasonable wear and tear excepted, but shall not be responsible for repairing damage caused by the negligence or willful misconduct of Lessee, its agents or employees.
 - b. **Lessee Obligations.** The Lessee agrees to maintain and preserve the Premises in good repair and will deliver the Premises back to Lessor at the



close of this Agreement in the same or better condition than it found it at the commencement of this Agreement, normal wear and tear and damage by unavoidable casualty excepted. The Lessee shall be responsible for any cleaning or repairs necessitated by its use of the Premises except as otherwise provided herein. If there is a defect in need of repair for which the Lessor is responsible, the Lessee shall immediately inform the Lessor and the Lessor shall have a reasonable opportunity to cure the defect. The Lessee shall compensate the Lessor for the cost to the Lessor of repairing damage by the Lessee, its agents, employees beyond normal wear and tear.

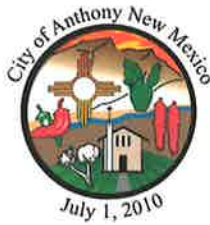
11. **ACCESS TO PREMISES:** The Lessor shall provide the Lessee access to and possession of the Premises for the duration of this Agreement. Any keys provided to the Lessor shall be returned at the termination of this Agreement. If the keys are not returned, the Lessee shall bear the costs of changing the locks to the Premises.

- a. At the termination of this Agreement, the Lessor may re-enter the premises and take possession thereof, remove all persons there from with or without process of law, and detain for any rent, damages, or other sums that may be due hereunder any property belonging to Lessee and located on the Premises. Upon termination of the Agreement, Lessee shall quit and surrender peaceably the Premises to Lessor and all Lessee's right in and to the Premises shall be deemed forfeited.

12. **LEAVE TO ENTER AND OBSERVE.** The Lessee shall permit the Lessor, its agents or employees to enter upon the Premises during its use by the Lessee in order to observe the Lessee's use thereof and to ensure compliance with the terms of this Agreement upon reasonable notice from the Lessor.

13. **ASSIGNMENT PROHIBITED.** The Lessee shall have no right to sublet the Premises or to assign any of its rights or privileges obtained through this Agreement.

14. **HOLD HARMLESS AND INDEMNIFY.** The Lessee agrees to and shall indemnify, defend, and hold the Lessor, its agents, employees, representatives, and successors harmless from any and all claims, demands, suits, judgments, and/or award of any damages that may be asserted by any person(s) by reason of any loss, death, or injury to the person(s)



or their property while on the Premises.

15. **INSURANCE.** Lessee, during the course of this Agreement, shall maintain a commercial general liability insurance policy providing coverage against bodily injury and property damage to a combined single limit of \$1,000,000 per occurrence and \$2,000,000 general aggregate, which shall include a provision for contractual liability coverage insuring Lessee for performance of its indemnity obligations as set forth in this Agreement. Further, the policy shall name the Lessor as an additional insured. The policy shall provide that Lessor will receive thirty (30) days' prior written notice of any cancellation, non-renewal, reduction in coverage, or other material change in coverage.

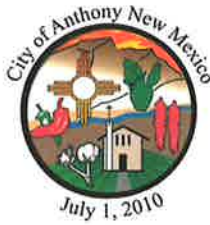
16. **WAIVER OF CLAIMS.** Lessee hereby waives all claims against Lessor, its agents and employees, for loss, theft, or damage to property on the Premises and for injuries to persons in or upon the Premises. Lessor shall not be liable to Lessee for any damage by or from any act of negligence of the Lessee or other occupants of the Premises. All of property of Lessee, its agents and employees or other occupants is there at the risk of the Lessee, its agents, employees or other occupants and Lessor shall not be responsible for its damage, theft or misappropriation.

17. **LIENS.** The Lessee shall not allow any liens or other encumbrances to attach to the Premises.

18. **IMPROVEMENTS.** The Lessee shall not undertake or otherwise make any contract or agreement for the construction, alteration, or repair of the Premises without the written authorization of the Lessor.

19. **DEFAULT.** All the obligations and representations set forth herein are material to this Agreement. In the event the Lessee does not comply with any requirement of this Agreement when obligated, or fails within ten (10) business days after written notice to cure such noncompliance, or if the Lessee abandons the Premises, or if the Lessee declares bankruptcy, the Lessor shall have the right to (a) declare the Agreement terminated; (b) enter the Premises pursuant to Section 11 herein; (c) recover all present and future damages, costs, and other relief to which the Lessor is entitled; (d) pursue breach of contract remedies; and/or (e) pursue any other available remedies at law or in equity.

a. **Attorney's Fees.** It is understood and agreed that if it becomes necessary



for the Lessor to employ an attorney to enforce the provisions of this Agreement or to file suit to protect its interests hereunder, the Lessor shall be entitled to recover reasonable attorney fees and costs if it prevails.

20. **AUTHORITY.** Each undersigned represents and warrants he or she is duly authorized to execute and deliver the Agreement on behalf the entity he or she represents.

21. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the Parties hereto concerning the subject matter contained herein and supersedes any prior agreement between the Parties.

22. **INTEGRATION.** The Parties represent and warrant there have been no representations or promises made by any Party on which they relied in connection with this Agreement, other than what is set forth herein in writing.

23. **SEVERABILITY.** If any provision of this Agreement is found to be unenforceable by any Court of appropriate jurisdiction, the remainder of the Agreement shall remain enforceable.

24. **MODIFICATION OF THIS AGREEMENT.** This Agreement shall not be modified or altered except by written instrument duly executed by each Party to this Agreement.

25. **CHOICE OF LAW AND VENUE.** This Agreement shall be construed in accordance with the laws of the State of New Mexico and venue of any action brought hereunder shall be in Dona Ana County, New Mexico in any court of competent jurisdiction.

26. **NOTICES.** Whenever in this Agreement it shall be required or permitted that notice or demand be given or served by either Party to this Agreement, such notice or demand shall be given or served and shall not be deemed to have been given or served unless in writing and delivered personally or forwarded by certified mail, postage prepaid, addressed as follows:

To the City: THE CITY OF ANTHONY, NEW MEXICO
 Attn: City Manager
 820 HWY 478
 Anthony, New Mexico 88021



To the Lessee: Community Action Agency of Southern New Mexico
Attn: CEO
816 Anthony Dr.
Anthony, New Mexico 88021

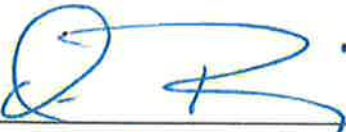
Addresses may be changed from time to time by either Party by serving notice as provided above.

25. **SUCCESSORS, ETC.** This Agreement shall inure to and be binding upon the Parties, their heirs, devisees, personal representatives, grantees, successors, and assigns as permitted herein.

26. **COUNTERPARTS.** This Agreement may be executed in counterparts. Facsimile and electronic signatures shall be accepted as originals.

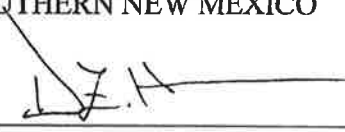
OWNER:

THE CITY OF ANTHONY NEW MEXICO

By 
Its City Manager

LESSEE:

COMMUNITY ACTION AGENCY OF
SOUTHERN NEW MEXICO

By 
Its CEO





To the Lessee: Community Action Agency of Southern New Mexico
Attn: CEO
816 Anthony Dr.
Anthony, New Mexico 88021

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THE CITY OF ANTHONY NEW MEXICO

By

Its


City Manager

LESSEE:

COMMUNITY ACTION AGENCY OF
SOUTHERN NEW MEXICO

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