



**CITY OF HOBBS
REAL ESTATE AND PROPERTY LEASE**

THIS LEASE is made the ____ day of _____, 2023, by and between the City of Hobbs, New Mexico, a municipal corporation located in Lea County, New Mexico (hereinafter referred to as “Lessor”) and the Economic Development Center of Lea County, Inc., a non-profit corporation with a principle place of business of 200 E. Broadway, Suite A201, Hobbs, New Mexico 88240 (hereinafter referred to as “Lessee”).

1. Lease Property.

In consideration of the terms and conditions in this lease, Lessor leases to Lessee, and Lessee leases from Lessor, those premises with appurtenances, situated in Hobbs, County of Lea, New Mexico, described as:

The second floor of the City Hall Annex building located at 200 E. Broadway, Hobbs, New Mexico. 3,650 square feet of the leased space consists of office area covering the entire width of the second floor from the elevator north and the vault area comprises the Lessee’s core leased space. The 270 square foot executive conference room, utility/storage room, restrooms and refreshment area are common access areas for Lessee and the other lessee housed in the 975 square foot suite in the southwest corner of the second floor. The waiting area adjacent to the stairwell and the elevator is public space. In addition, Lessee shall have access to use the kitchen/conference area on the third floor of the City Annex building and the patio area of the main City Hall Building at 200 E. Broadway, Hobbs, New Mexico. The uses of such kitchen/conference area and patio area shall be coordinated with other occupants or users of such areas.

and commonly known as: 200 E. Broadway, Suite A201, Hobbs, NM 88240

The property described above shall hereinafter be referred to as the “Lease Property,” which shall include all improvements, furnishings, fixtures, buildings, parking lots, and access points. The Lease Property shall not include the 975 square foot suite in the southwest corner of the second floor of the City Hall Annex. The acreage of the Lease Property is: N/A. The square footage of all building space of the Lease Property is: 3,650. The Lease Property contains no designated parking lots and shared public parking shall be utilized.

2. Lease Term.

The initial term of this Lease is for: ten (10) years. The initial term of this Lease shall commence on July 1, 2023, and shall end on June 30, 2033. In partial consideration for rent paid under this Lease, Lessor does grant Lessee, its successors and assignees the first option to renew this Lease.

The renewal shall be for a term of five (5) years and shall be subject to the same terms and conditions set forth in this Lease for the initial term, except as may be provided otherwise in this Lease with regard to rent. Lessee must exercise this option by giving Lessor written notice at least six (6) months prior to the expiration of the initial term. Lessee shall be entitled to renew this Lease only if Lessee is not in default under the Lease when the option to renew is delivered to Lessor.

3. No Holding Over.

Lessee shall not hold over or maintain a continued use or occupancy of the Lease Property. At the expiration of the Lease term and any subsequent renewals, or upon termination, Lessee shall surrender the Lease Property in accordance with Paragraph 12 herein.

4. Rent.

In consideration of this Lease, Lessee shall pay rent in the following manner:

Year	Date Beginning	Annual Amount	Quarterly Amount	
1	07/01/2023	\$ 53,381.00	\$ 13,345.25	Initial Term
2	07/01/2024	\$ 53,381.00	\$ 13,345.25	Initial Term
3	07/01/2025	\$ 53,381.00	\$ 13,345.25	Initial Term
4	07/01/2026	\$ 53,381.00	\$ 13,345.25	Initial Term
5	07/01/2027	\$ 53,381.00	\$ 13,345.25	Initial Term
6	07/01/2028	\$ 53,381.00	\$ 13,345.25	Initial Term
7	07/01/2029	\$ 53,381.00	\$ 13,345.25	Initial Term
8	07/01/2030	\$ 53,381.00	\$ 13,345.25	Initial Term
9	07/01/2031	\$ 53,381.00	\$ 13,345.25	Initial Term
10	07/01/2032	\$ 53,381.00	\$ 13,345.25	Initial Term
11-15	07/01/2033	\$ 53,381.00	\$ 13,345.25	Renewal Term

The total rent for the initial term is: \$533,810.00. The Lessee has the sole responsibility for paying rent. Lessee shall not be penalized for prepaying the entire total rent for the initial term at the beginning of the lease term, nor shall Lessee be penalized for prepaying an annual amount for any given year. Lessee, pursuant to Paragraph 6 below, may make repairs to the Lease Property. Completion of repairs shall serve as additional consideration for the favorable terms of this Lease. Lessee shall not receive “offset” of any rent as a result of any repairs.

5. Use of Lease Property.

Lessee shall use the Lease Property for non-profit services to the Hobbs, New Mexico community. More particularly, Lessee shall use the Lease Property for:

Offices wherein the EDC of Lea County shall recruit new, quality businesses to Lea County and assist with the retention and expansion of existing industry.

Lessee agrees that Lessor has conditioned the favorable terms of this Lease on Lessee's continued non-profit services as outlined above. Should Lessee cease utilizing the Lease Property for the purpose above, Lessor reserves the right to seek all appropriate legal action including, but not limited to, action to terminate the Lease. Lessor agrees that the Lease Property is suitable for the purpose above, or has revealed to Lessee any reasons Lessor knows of or reasonably should know of why the premises might not be suitable for such purpose(s).

6. Conditions of Lease Property.

Lessor warrants that the premises are in good and safe conditions, structurally sound and of safe design and that they comply with all applicable building codes, ordinances, rules and regulations, except as noted:

N/A

All noted conditions shall be rectified prior to the inception of this Lease or within sixty (60) days thereafter unless waived in writing by Lessee. In the event that a noted condition is waived, Lessor shall have no liability associated in any way with the presence of noted condition.

Further, Lessee has been given the opportunity to inspect the premises, or has voluntarily waived the opportunity to inspect the premises, and has accepted the premises as in good and safe condition and otherwise fit for use to achieve their stated purpose. Lessee may, with prior written permission of Lessor, make necessary repairs to the Lease Property. However, Lessee will not receive any rent "offset" for any repairs conducted.

7. Accessibility for the Disabled.

Lessee warrants that the premises shall meet standards consistent with the Americans with Disabilities Act (ADA) during all times of business operations, and shall at a minimum meet the same standards within sixty (60) calendar days of the execution of this Lease. The Lessee also warrants that the premises will be maintained at all times in compliance with these standards.

8. Delivery of Possession.

Lessor warrants that the premises will be vacant and will put Lessee in possession on the first day of the initial term or any subsequent term.

9. Damage to Lease Property.

If at the inception of this Lease or at any time thereafter (including any renewal) all or any part of the Leased Premises shall be damaged or destroyed through any cause attributed in any way to Lessee, other than a weather event or act of God, Lessee shall be responsible for all repairs and costs associated with the repair of the same. In making any repairs, Lessee shall first notify Lessor of the damage and provide a timeline for repairs. Lessor shall cooperate with Lessee in allowing all repairs to be made in a timely fashion. Lessee shall as soon as practical, inform

Lessor of any and all damage attributed to a weather event or act of God and Lessor shall be responsible for all repairs and costs associated with the repair of the same.

10. Alterations.

Lessee shall obtain Lessor's written permission before making any alterations or improvements of a permanent nature to any portion of the Lease Property.

11. Ownership of Improvements.

All alterations and improvements made to or placed in the Lease Property by Lessee are and shall remain the Lessee's property except as the parties mutually agree otherwise in writing, but only if such alterations and improvements are temporary in nature and can be removed without undue damage to the Lease Property and are, in fact, removed by Lessee prior to termination of this Lease or any renewal thereof. Alterations and improvements of a permanent nature which cannot be removed without undue damage to the Lease Property shall become Lessor's property except as the parties mutually agree otherwise in writing. For purposes of this section, permanent alterations and improvements include, but are not limited to, any buildings, fences, additions, fixtures, or other structures of any kind. Any improvements present in the Lease Property at the inception of the Lease shall remain on the Lease Property for the duration of the lease term.

12. Condition of Lease Property Upon Surrender.

At the termination of this Lease, Lessee shall surrender the Lease Property in the condition in which they were at the inception of this Lease, excepting: deterioration caused through reasonable use and ordinary wear and tear; and alterations, improvements or conditions made with Lessor's written approval.

13. Payment of Assessments, etc.

Lessee shall pay as they become due all assessments, of any kind, payable in respect to any alterations and improvements on the Lease Property during the term of this Lease. If Lessee defaults in paying any such amounts, Lessor, in its sole discretion, may pay any assessments. Upon doing so, Lessor shall be subrogated to the creditor's rights and may pursue payment of the same, to satisfy any outstanding balances. Lessee shall not pledge, in any manner, the Lease Property or any of the structures or fixtures thereon, as collateral or otherwise allow any liens or mortgages to attach to any portion of the Lease Property whatsoever.

14. Utilities, Janitorial Services and Supplies.

Lessee shall pay the following utilities associated with the Lease Property: telephone services, internet services, and any other utility not expressly provided by the Lessor. Additionally, Lessee shall ensure that all premises and buildings are kept clean and sanitary and shall pay for any services necessary to meet this obligation.

15. Right of Entry.

Lessor or its agent has a right to enter upon the Lease Property to inspect, to make repairs and for other reasonable purposes. Lessor shall provide Lessee at least 48-hours advanced notice prior to entering upon the Lease Property. Lessor shall obtain acknowledgment from Lessee, which shall not unreasonably be withheld, prior to entering upon the Lease Property. In an emergency, such as a fire, Lessor or its agent may enter the premises without securing Lessee's prior permission, but shall give Lessee notice of entry as soon thereafter as practicable.

16. Duty to Maintain Premises.

Lessee has the duty to maintain the exterior of the Lease Property, including but not limited to: windows, grounds, parking lots, sidewalks, doors and lighting in safe condition and in good repair and condition. Lessee has the duty to maintain the interior of the Lease Property, including but not limited to: cooling system, heating system, plumbing, lighting, doors, floorings, wall finishes. Lessee will be responsible for all costs associated with their duty to maintain the premises as set out herein.

17. Right to Assign or Sublease.

Lessee may assign or sublease the Lease Property only upon express written consent by Lessor, which shall not be unreasonably withheld, on the condition that any assignee or sub-lessee utilize the Lease Property for the purpose set forth herein.

18. Duty to Insure and Indemnity.

During the term of this Lease and any extension thereof, Lessee shall provide coverage for liability of Lessee and its employees, agents, officers and assigns, and for its personal property and tenant's improvements and betterments. During the term of this Lease and any extension thereof, Lessee shall maintain in force a policy or policies of insurance providing: comprehensive general liability coverage of not less than \$1,000,000.00 limit per occurrence, including coverage for property damage, bodily injury and wrongful death. Such insurance policy or policies shall name the "City of Hobbs, its branches, agencies, instrumentalities and public employees" as additional insured, and fire lightning and extended coverage, or "all risk" coverage, for at least 80% of the actual cash value of the Lease Property. All policies contemplated herein shall be primary. Lessee shall provide certificates of coverage evidencing compliance with this section which shall be attached to this Lease at the time of execution. Lessee shall notify Lessor within ten (10) calendar days after cancellation or expiration of any required coverage. Lessee shall indemnify and hold harmless the City of Hobbs, its agents, employees, officers, and elected officials against any and all claims in any way associated with Lessee's business or the use of the Lease Property for the same. Lessee shall notify Lessor within ten (10) calendar days of any action at law that may be brought against Lessee in any way associated with their use of the Lease Property.

19. Right to Terminate upon Breach of Condition of Agreement.

Either party may terminate this Lease upon the other party’s substantial breach of any term or condition contained in this Lease, provided that the breaching party shall be given thirty (30) calendar days from the receipt of written notice of a substantial breach to cure the breach or to begin and proceed, with due diligence, to cure a breach that cannot be cured within thirty (30) days. In the event of a substantial breach, the non-breaching party shall give the breaching party written notice that describes the nature of the breach and notifies the breaching party that, unless the breach is cured within the time limits contained herein, the Lease shall terminate without further notice at the end of the cure period. Upon termination of the Lease, the Lessee shall surrender the Lease Property to the Lessor and shall be obligated to pay rent only to the date of surrender.

20. Special Damages.

If through Lessee’s willful breach of any term or condition, Lessor may not lease the Lease Property or otherwise fulfill the business purpose of the property to the benefit of the taxpayers of Hobbs, New Mexico, Lessor may recover, in addition to any other damages, special damages, including the cost of value lost, remediation and mitigation costs and all other reasonably ascertainable costs connected with finding an alternate tenant for the Lease Property.

21. Lease Binding on Heirs and Assigns.

This Lease is binding upon the heirs, executors, administrators, personal representatives, assignees and successors-in-interest of the parties.

22. Amendments to be in Writing.

This Lease shall not be altered or amended except by instrument in writing executed by both the Lessor and Lessee.

23. Address for Notices, Payment of Rent, etc.

Notices required under this Lease and rental payments shall be made at the following address, except as changed by written notice to the opposite party:

To the LESSOR: City of Hobbs
200 E. Broadway
Hobbs, NM 88240
(575) 397-9226
(575) 397-9334 – fax
sbaker@hobbsnm.org

To the LESSEE: EDC of Lea County
200 E. Broadway,
Suite A201
Hobbs, NM 88240
(575) 397-2039
edclc@edclc.org

24. Merger of Prior Agreement.

This Lease incorporates all of the conditions, agreements and understandings between the parties concerning the subject matter of this Lease, and all such conditions, agreements and understandings have been merged into this written 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 written Lease.

25. Certificates and Documents Incorporated.

All certificates and documentation required by the provisions of this Lease shall be attached to the Lease at the time of execution, and are hereby incorporated in this written Lease to the extent they are consistent with its terms and conditions.

26. Environmental Safety.

Lessor warrants that the premises have undergone, if required, an environmental study the results of which show that the premises comply with any and all state environmental regulations. Alternatively, by accepting possession of the leased premises without a complete environmental study, Lessee waives all claims associated with any environmental hazard which threatens the life, health or safety of Lessee's business interests or employees. Lessor shall disclose any and all known or suspected hazards that result from any environmental study to Lessee prior to Lessee taking possession of the Leased Premises. Lessor shall not be held liable, in any cause of action, for hazardous conditions Lessor was not aware of, after due diligence, at the time of transfer of the Leased Premises to Lessee.

27. Notice.

The Procurement Code (NMSA 1978, §§ 13-1-28 through 13-1-199) imposes civil and misdemeanor criminal penalties for its violation. Additionally, the Hobbs Municipal Code Chapter 3 shall be adhered to at all times in negotiating and contracting by the City of Hobbs. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

28. Duty to Comply with NMSA 1978, § 3-54-1.

Pursuant to NMSA 1978, § 3-54-1, a municipality may lease any municipal facility or real property of any value normally leased in the regular operations of such facility or real property, and such lease shall not be subject to referendum. However, a municipality may lease any real property having an appraised value in excess of twenty-five thousand dollars (\$25,000) by public or private lease, subject to referendum provisions. Any lease of municipal facilities or real property in excess of twenty-five thousand dollars (\$25,000) shall be by ordinance of the municipality. As a result, the parties understand that the City of Hobbs City Commission reserves the right to reject this Lease, if the appraised value is in excess of twenty-five thousand dollars (\$25,000), by a majority vote so rejecting. Parties shall have no right to claim "detrimental reliance" or any other contractual theories as a result of a Commission vote

rejecting this Lease, or alternatively, a referendum petition by the voters of Hobbs, New Mexico which is aimed at overturning any Commission vote in favor of this Lease.

29. Miscellaneous.

This Lease shall be interpreted pursuant to the laws of the State of New Mexico. Venue and Jurisdiction shall lie exclusively in the Fifth Judicial District Court, Lea County, New Mexico.

If any provision of this Lease shall be deemed by a court of competent jurisdiction as illegal, unenforceable, or unconstitutional, the remainder of the Lease shall remain valid and enforceable as written.

By entering into this Lease, the City of Hobbs in no way waives or foregoes any protections afforded under the New Mexico Tort Claims Act (NMSA 1978, § 41-4-1, et seq.) or any other theories of law that afford immunity to government agencies and their officers and employees.

[All Necessary Signatures on the Next Page]

IN WITNESS WHEREOF, the parties hereto have executed this contract the day and year first above written.

ATTEST:

THE CITY OF HOBBS, NEW MEXICO

By: _____
SAM D. COBB, Mayor

By: _____
JAN FLETCHER, City Clerk

By: _____
TOBY SPEARS, Finance Director

ATTEST:

EDC OF LEA COUNTY

By: _____
JENNIFER GRASSHAM, Pres. & CEO

By: _____
RUSS DOSS, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

EFREN A. CORTEZ, City Attorney