

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (this “**Agreement**”), dated effective as of April 23rd, 2024 (“**Effective Date**”) is entered into by and between **County of Santa Fe, Assessor's Office** (collectively and jointly and severally “**Recipient**”) and **SAN RAFAEL RANCH, LLC, a New Mexico limited liability company** (“**Owner**”) having an address at 150 Washington Ave., Suite 207, Santa Fe, New Mexico 87501. Owner and Recipient are sometimes hereinafter referred to individually as a “**Party**” and collectively as the “**Parties**”.

WHEREAS, the Owner owns real property located in Santa Fe County, New Mexico, identified by Account No. 960002643 with a physical address of 49 Zorro Ranch Rd, Stanley, NM, 87056 and commonly referred to as San Rafael Ranch (“**Subject Property**”); and

WHEREAS, Owner has filed a Complaint for Refund of Taxes Paid for the 2023 tax year in Case No. D-101-CV-2023-02925 (“**Complaint**”), naming Recipient Santa Fe County Assessor as the Defendant in such Complaint; and

WHEREAS, the Subject Property due to a prior owner of it has a notorious history due to the actions of a prior owner; and

WHEREAS, because of the Property's notorious past history, Owner is concerned that images could be marketed and sold to third parties or otherwise used for general novelty and collection and Owner therefore desires to keep images of the Property confidential to the extent permitted by law; and

WHEREAS, Recipient has agreed to maintain the confidentiality of all images taken of the Property to the extent allowed by law.

NOW THEREFORE, in consideration of the premises, the Parties hereby agree as follows:

1. Confidential Information. “**Confidential Information**” will mean those portions of the valuation records that are identified in NMSA (1978), § 7-38-19(E) as not being public records, including, but not limited to, photographs or other depictions of the interiors of the buildings. Exterior photographs of the buildings are not included within these exclusions and are considered non-confidential public records subject to the same protections and requirements provided by law for all records of Recipient’s office. Recipient shall limit the number of persons visiting and inspecting the Subject Property on its behalf to not more than There will be six (6) persons.

Only one representative of Recipient is authorized to take images of the Property and all images shall be limited to exterior images. Copies of those images shall be identified by Bates stamping or other appropriate numbering and shared with Owner.

2. Non-disclosure. All confidential information shall be secured from disclosure by Recipient to unauthorized persons as provided for in NMSA (1978), § 7-38-4. Recipient agrees to disclose non-confidential information that qualifies as a public record only as needed in the defense of the

Complaint or any other action initiated by Owner, or as may be needed or required in the performance of the lawful duties and responsibilities of Recipient, or to such persons as required by law.

3. Disclosure of Confidential Information.

(a) Confidential Information may be disclosed by Recipient to those persons and for those reasons identified in NMSA (1978), § 7-38-4(A).

(b) Owner acknowledges that the confidential information that may be obtained by Recipient is relevant to Owner's Claim for Refund of Taxes Paid, Case No. D-101-CV-2023-02925 and therefore agrees to use of the Confidential Information in that case, subject to any protective order that the Court might impose. In the event that Recipient is ordered, required or otherwise compelled by any lawful authority to disclose Confidential Information, then, to the extent legally permitted and practicable: (i) Recipient will provide prompt written notice of such requirement(s) to Owner so that Owner is given adequate opportunity to contest or to object to such order or to seek an appropriate protective order; and (ii) Recipient will use reasonable efforts to contest such disclosure requirement(s), at the Owner's expense, until an appropriate protective order may be sought by Owner and/or a waiver of compliance with the provisions of this Agreement is granted by Owner. If, in the absence of a protective order or the receipt of a waiver hereunder, Recipient is nonetheless legally required to disclose any Confidential Information received pursuant to this Agreement, then, in such event, Recipient may disclose the portion of the information that is legally required to be disclosed without liability hereunder. Recipient acknowledges that Confidential Information as defined herein and as provided for in NMSA (1978), § 7-38-19(E) is not a public record and therefore not subject to disclosure under the provisions of the New Mexico Inspection of Public Records Act, NMSA (1978), §§ 14-2-1 *et seq.* ("IPRA"). To the extent of any dispute as to the applicability of that Act, Recipient agrees to timely notify Owner of any IPRA request and to allow for a judicial determination prior to releasing any such information.

4. Location of Confidential Information. Recipient will keep a record of the location of all Confidential Information according to the standard policies and procedures of Recipient. Upon written request of Owner and subject to and in compliance with any legally mandated retention schedules or other legal requirements, Recipient will promptly communicate and deliver to Owner all Confidential Information and any other information received by Recipient from Owner.

5. Intellectual Property. Neither Party to this Agreement acquires any intellectual property rights or other rights in or to any Confidential Information disclosed under this Agreement.

6. Notices. All notices required to be given hereunder will be sent by email or by certified mail, return receipt requested with prepaid postage, or by overnight express to the address set forth in the preamble, or to such other person or address as such Party may have specified in a notice duly given as provided herein. Such notice will be deemed to have been given as of the date of delivery or attempted delivery.

7. Public Announcements. Neither Party will make any public announcement, post or tag on social media, issue any press release, take any photos or videos or make any statement to any third party with respect to Property and Ranch Operations or the disclosure of any Confidential Information by the other

Party, except as agreed to by the Parties in writing or as such announcement is required by applicable law.

8. Termination. Either Party to this Agreement may terminate this Agreement upon five (5) days written notice to the other Party; provided, however, notwithstanding the termination of this Agreement, its confidentiality provisions will survive for a period of three (3) years from the date of termination or as otherwise provided by law. Upon termination, Recipient shall return all Confidential Information to Owner according to the provisions of section 4 herein.

9. Breach. It is understood by the parties that an uncapped contingent liability of a public body is not valid in this state, and it is agreed that Recipient shall have no liability for damages for any breach of this Agreement. However, Recipient is subject to the confidentiality provisions of NMSA (1978), § 7-38-4, and Owner may enforce the confidentiality provisions of this Agreement by injunction, specific performance or other equitable remedy in a court of competent jurisdiction.

10. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of New Mexico, without regard to principles of conflicts of law.

11. Entire Agreement. This Agreement contains the full and complete understanding of the Parties with respect to the subject matter hereof, and supersedes all prior representations and understandings, whether oral or written.

12. Counterparts and Emailed Signatures. This Agreement may be executed in counterparts, and in the absence of an original signature, emailed signatures in pdf format or DocuSign shall be valid as original signatures.

13. Assignment. Recipient shall not assign this Agreement, or any interest therein, in whole or in part without the prior written consent of Owner. In the event that Owner transfers, conveys or otherwise assigns a controlling interest in the Subject Property to any other person, such person shall endorse in writing its consent to be bound by the terms of this Agreement absent which this Agreement shall immediately become null and void with no further responsibility or liability of either party hereto.

14. Amendments. This Agreement may not be altered or amended except by a writing signed by both Parties.

15. Severability. In the event that a tribunal of competent jurisdiction finds that a provision of this Agreement is unenforceable, the provision will be enforced to the extent allowable by law, and the remaining provisions of this Agreement will remain in effect.

16. Waiver. No waiver of any provision of this Agreement will be valid unless in writing and signed by the Party against whom such waiver is to be enforced. A waiver or consent given by a Party on any occasion is effective only in that instance and will not be construed as a bar to, or waiver of, any right on any other occasion.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

OWNER:

[NAME OF OWNER]

By: _____

Charles V. Henry

Name: **SAN RAFAEL RANCH, LLC**

Title: Authorized Representative for San Rafael Ranch, LLC

RECIPIENT:

By: 

Individuals:

Norman Aragon

Steve Serna

Tom Rael

Blake Sieters

Susannah LeCure

Phillip Vigil