

CITY OF RATON, NEW MEXICO

ORDINANCE NO. 1013

AN ORDINANCE (THIS "ORDINANCE") APPROVING AND ADOPTING A LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF RATON AND RAMEL FAMILY FARMS, LLC. TO PLAN, DESIGN, AND CONSTRUCT COMMERCIAL GREENHOUSE STRUCTURE(S); AND LEASE PAYMENTS AND TENANT IMPROVEMENTS TO THE CITY'S ARMEX FACILITY FOR A LOCAL ECONOMIC DEVELOPMENT PROJECT.

WHEREAS, pursuant to the Raton Economic Development Plan Ordinance §153.30 *et seq.*, Raton, New Mexico Code Of Ordinances, and in accordance with the Local Economic Development Act ("LEDA"), section 15-10-1, *et seq.*, NMSA 1978, as amended, City of Raton is authorized to approve an economic development project and to enter into a project participation agreement for a qualifying project; and

WHEREAS, the City of Raton issued Request for Proposals No. 2021-0301 for commercial/ business occupancy of a new construct-to-suit building facility to be constructed by the City of Raton for economic development and community service purposes, and received one proposal from Ramel Family Farms, LLC on March 16, 2021; and

WHEREAS, City of Raton RFP 2021-0301 anticipates utilization of funding described under the terms and conditions of intergovernmental Agreement 20-E2519 - State of New Mexico Capital Appropriation, for project development intended to result in positive local economic development and job creation within City of Raton; and

WHEREAS, Ramel Family Farms, LLC, ("Qualifying Entity") has submitted a proposal to develop steel frame commercial greenhouses for the production of fruit, vegetables, and greens in a manner that is environmentally sustainable and allows for year-round crop production, and the rehabilitation of the existing Armex building and surrounding grounds located at street address 420 East Fourth Avenue, Raton, New Mexico 87740 (the "Armex Facility") to serve as an incubator for emerging agricultural and food products and services; and

WHEREAS, the State of New Mexico and its local governments are empowered to offer discretionary incentives to companies that support economic development projects that foster, promote, and enhance local economic development efforts, and

qualifying entities that include, a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two (2) or more of the following:

An industry for the manufacturing, processing, or assembling of any agricultural or manufacturing products; and

WHEREAS, the Raton City Commission has considered the Ramel Family Farms, LLC proposal (the "Proposal") and determines that the project as proposed (the "Project") meets the stated goal to assist expanding or relocating businesses that are Qualified Entities that will stimulate economic development and produce public benefits pursuant to LEDA, and determines that the City of Raton will enter into an Economic Development Project Participation Agreement with Ramel Family Farms, LLC for the purpose of implementation of the Project as described and the Raton Economic Development Plan; and

WHEREAS, the Raton City Commission makes the following findings:

1. Qualifying Entity is Ramel Family Farms, LLC, a limited liability company formed by Travis Harris, Hassan Khalatbari and Kayvan Khalatbari whose purpose is to develop and operate a modern agricultural cooperative in the City of Raton's underutilized Armex Facility and constructing commercial greenhouse operations as more particularly described in the Proposal.
2. Ramel Family Farms, LLC is a Qualifying Entity as defined under Section 5-10-3 (J) (1) (2) NMSA 1978, as amended.
3. The City of Raton shall enter into a Project Participation Agreement (the "PPA") with Ramel Family Farms, LLC, and the PPA shall clearly state specific measurable objectives and requirements for performance by the parties, including but not limited to definition of substantive contribution, security provisions, job creation, economic base expansion, and capital investment goals for the Project as well as the claw back/penalty provisions.
4. The City of Raton shall act as Owner, Fiscal Agent, Administrator and Construction Manager for project development components funded by Capital Appropriation Agreement 20-E2519.
5. The PPA is attached hereto as Exhibit "A" and made an integral part of this Ordinance and complies in all respects with LEDA and any substantial similar form of the documents needed of the project are hereby adopted and approved and said PPA contains the required provisions of LEDA Ordinance and Statute.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF RATON:

Section 1: Title. The title of this Ordinance is the Ramel Family Farms Local Economic Development Ordinance.

Section 2: The Project. The Raton City Commission hereby authorizes designation of funding appropriated under the terms of Capital Appropriation Agreement 20-E2519 in an amount not to exceed \$700,000 to the Project costs determined as appropriate by the New Mexico Department of Finance and Administration for facility planning, design, construction and renovation related to the Armex Facility. Raton City Commission hereby authorizes an incentive lease payment schedule and improvements related to the occupation and usage of existing facilities and property and new facilities by Ramel Family Farms, LLC and approved cooperative partners for terms and metrics identified in Exhibit "A".

Section 3: Project Revenue Fund. In the event that revenue from the Project is provided by or to the City of Raton, a project revenue fund will be established and all revenue related to the Project shall be deposited into such project revenue fund and any such revenue shall be expended only for qualifying economic development projects. This fund may be shared with other economic development projects to be utilized for further City of Raton development efforts.

Section 4: Project Participation Agreement. The Raton City Commission incorporates the terms and conditions identified in Exhibit "A" - Project Participation Agreement and hereby made an integral part hereof.

Section 5: Severability. If any section, subsection, paragraph, sentence, clause, phrase or part hereof is declared unconstitutional or invalid, the validation of the remaining portions shall not be affected, since it is the express intent of the City Commission of the City of Raton to pass each section, subsection, paragraph, sentence, clause, phrase or provisions, and every part thereof separately and independently of every other part.

Section 6: Effective Date and Repeal. This Ordinance shall become effective five (5) days after it has been published, authenticated by the signature of the presiding officer of the governing body and certified by the municipal clerk as provided in Section 3-17-5, NMSA 1978.

PASSED, APPROVED AND ADOPTED THIS 19th DAY OF MAY, 2021.

CITY OF RATON, NEW MEXICO



James Neil Segotta, Jr., Mayor

ATTEST:



Michael Anne Antonucci, City Clerk/Treasurer

EXHIBIT A

PROJECT PARTICIPATION AGREEMENT

This Project Participation Agreement (Agreement) entered into on May 19, 2021 by and between the City of Raton, a New Mexico Municipal Corporation (the City), and Ramel Family Farms LLC, a Colorado limited liability company, (and approved cooperative partners) (the Project Party).

Recitals:

City of Raton is authorized to approve an economic development project and to enter into a project participation agreement for a qualifying project pursuant to the Raton Economic Development Plan Ordinance §153.30 *et seq.*, Raton, New Mexico Code of Ordinances, and in accordance with the Local Economic Development Act (LEDA), section 15-10-1, *et seq.*, NMSA 1978, as amended.

On March 16, 2021, the Project Party submitted a proposal for an economic development project in response to City of Raton Request for Proposals No. 2021-0301 (the "RFP") to develop steel frame commercial greenhouses for the production of fruit, vegetables, and greens in a manner that is environmentally sustainable and allows for year-round crop production, and the rehabilitation of the existing Armex building and property located at 420 East Fourth Street in Raton, New Mexico (the "Armex Facility") to serve as an incubator for emerging agricultural and food products and services, as more particularly described in the Response (collectively, the "Project").

The CITY finds that the PROJECT PARTY is a Qualifying Entity as defined under Section 5-10-3 (J) (1) (2) NMSA 1978, as amended, and the proposal meets the requirements of the RFP and applicable LEDA ordinance and statute.

Terms:

- A. **Public Participation Requirements:** The parties to this agreement acknowledge that public support of the construction of proposed greenhouse facilities and other publicly-funded facility or property improvements or waiver of facility lease fees or a portion of a facility lease fees for any period of this Agreement by the City is intended to foster, promote, and enhance local economic development efforts while protecting against the unauthorized use of public resources. New construction, renovations and lease fee waiver terms require a resultant public economic benefit realized in the community. As such, the Project Party agrees to occupy and utilize the facility for operation of an industry for the manufacturing, processing or assembling of agricultural or manufactured products; or appurtenant and related uses generally understood as the core business of

the Project Party during a ten-year term, and to participate with the City in evaluation of community economic development metrics resulting from operation of the facility.

The parties shall agree to an ascending scale of lease fees paid by the Project Party from Year Six through Year Ten as described in Section C herein and in the Lease Agreement. The Project Party affirms its agreement to job creation goals stated in Section G below. Furthermore, the parties to this Agreement acknowledge that lease fees 100% lease fees shall be implemented in Year Ten of operation and the lease fees in subsequent lease agreement renewal terms shall not increase more than 1.5% year after year.

- B. **Funding, Ownership and Considerations:** The City has allocated and secured funds designated for planning, design and construction of new greenhouse facilities and appurtenances to be placed on City-owned property at the Armex Facility, and shall remain the sole owner of the land, building and permanent appurtenant facilities associated with the development.

The maximum obligation of the City payable under this Agreement shall be \$700,000 (the "Public Funds"), in consideration of cost reimbursement from New Mexico Department of Finance and Administration under the provisions of Capital Appropriation Agreement 20-E2519. In the event that State funds are unavailable, this Agreement shall automatically be voided and become of no force and effect.

The City agrees that necessary measures regarding security shall be provided and design shall meet the functional requirements necessary for the intended operations. The City shall proceed with design and construction activities in a timely manner.

- C. **Lease Agreement:** The City and the Project Party shall enter into a lease agreement (the "Lease Agreement") in good faith to develop the Project. The Lease Agreement shall establish a base lease term of ten years from the completion of construction of facilities and commencement of agricultural or manufactured products production with ascending lease rates over the period meeting economic development incentive representations by the City. Lease rates paid by the Project Party shall be generally calculated as a percentage as follows:

Year One	–	0 Percent of \$27,380.00
Year Two	–	0 Percent of \$27,790.70
Year Three	–	0 Percent of \$28,207.56
Year Four	–	0 Percent of \$28,630.67
Year Five	–	0 Percent of \$29,060.13
Year Six	–	25 Percent of \$29,496.03
Year Seven	–	35 Percent of \$29,938.47
Year Eight	–	50 Percent of \$30,387.55
Year Nine	–	75 Percent of \$30,846.36
Year Ten	–	100 Percent of \$31,309.06

The Lease Agreement shall describe the obligations and responsibilities of the parties. The Project Party shall pay all applicable operational expenses associated with the enterprise; including but not limited to utilities, equipment, materials, supplies, personnel, licensing, certification, training, and administrative, professional or technical related expenses.

The Parties to this Agreement acknowledge that existing Armex facilities are provided by the City in an "As Is" condition and with all faults and without warranty.

The City and the Project Party may participate in a collaborative effort to seek third-party funding as available to make improvements to the building and facilities during the term of this Agreement for the purpose of enhancing the Project's viability.

- D. **Substantive Contributions of the PROJECT PARTY:** The Project Party will develop and operate a modern agricultural production, processing and distribution operations at new and existing facilities, as more particularly described in the Project, located at Armex Facility. The Project Party will undertake and complete substantial renovations and improvement to the existing Armex Facility as of the date hereof at their own expense to create a functional and productive agricultural operation meeting economic development objectives, as more particularly described in the Project. In addition, the Project Party shall provide equipment, furnishings and appurtenances necessary for functional operations.
- E. **Enterprise Commitment:** The Project Party agrees to utilize and occupy new and existing facilities during this Agreement term primarily for the operation of commercial enterprises that are engaged in business activity on a continuous basis and as allowed by applicable Federal and State regulation and oversight.
- F. **Security Provided to City:** The following security provisions (collectively, "Clawback Provisions") of this Section are intended to be the exclusive remedies with respect to any breach of this Agreement caused by the occurrence of any of the events described in this Section.
- i. **Facility Closure:** Except as otherwise provided in this Agreement, in the event that the Project Party ceases operation of the Project at the Armex Facility within five years of the commencement of the Project, the Project Party shall recompense the City (the "Facility Closure Fee") any lease amounts that may otherwise be incurred during the five year agreement period (as provided above), unless the facilities are utilized for other purposes that meet stated Public Participation Requirements in an equivalent fashion. Lease amounts due to the City in the event of premature closure may be reduced by the equivalent value of permanent improvements completed by the Project Party during the term, if improvements are considered tangible value-added permanent property improvements. Permanent property improvements proposed by the Project Party shall be

approved in writing by the City prior to implementation.

- ii. **Performance Penalty:** If the Project Party does not achieve the Job Target set forth in Section G of this Agreement on or before three years after that date the Project commences, the Project Party shall make a penalty payment to the City (the "Performance Penalty") in a prorated amount up to \$10,000 for each job the Project Party falls below the Job Target.
- iii. If the Project Party has been required to pay the Facility Closure Fee, the Project Party will not be required to pay any Performance Penalty during the term of this Agreement.

G. **Job Creation Target by the PROJECT PARTY.** The Project Party, its affiliates, subtenants, contractors, and any other party related to the Project shall create and sustain not less than fifteen (15) new jobs within five (5) years of Project commencement, for a minimum period of three years, and an additional ten (10) new jobs within ten (10) years of Project commencement, for a minimum period of three years. The substantive contribution is in addition to the aforementioned private infrastructure investment. Upon satisfaction of the job creation and retention requirement set forth in this Section, the Clawback Provision will cease to be applicable. Notwithstanding anything to the contrary contained in this Agreement, the new jobs requirement herein shall include, without limitation, employees or independent contractors in any field.

H. **Termination.** This Agreement may be terminated by the City upon written notice delivered to the Project Party at least 90 days prior to the intended termination in the event that the Project Party ceases to operate the Project in accordance with the terms of this agreement.

The Project Party may terminate the Agreement by written notice delivered to the City. If termination by Project Party occurs within the initial five year agreement period, then Project Party shall pay to the City any lease amounts, prorated to the date of such termination, that may otherwise be incurred during the initial five year agreement period for an amount as provided above, if termination occurs within the initial five year agreement period; provided, however, that such lease amounts shall be reduced by all costs and expenses related to the permanent improvements installed and maintained by the Project Party during the term of the Lease Agreement or this Agreement and such improvements that are considered tangible value-added permanent property improvements as determined by the Project Party.

Aside from lease amount reduction described herein in the case of termination, permanent improvements to facilities, building or property provided by the Project Party shall become the property of the City, with no reimbursement to the Project Party from the City.

- I. **Force Majeure**. Neither party hereto shall be liable to the other for any failure to perform hereunder, if such failure is caused by or results directly or indirectly from any cause beyond the reasonable control of the affected party, including an act of God, fire, flood, storm, strike, riot, pandemic or civil disturbance, war, earthquake, lighting, or other such cause as is commonly and reasonably deemed to be an act beyond the reasonable control of such party.
- J. **Public Benefit Reporting**: The City shall review the project timeline, progress and job creation annually until the ten-year anniversary of operations commencement. Job creation reporting will be supported by appropriate reports and documentation from the Project Party demonstrating compliance with public benefit requirements described in this Agreement at each review cycle annually.
- K. **Ratification**: The City and the Project Party hereby ratify all actions consistent with this Agreement that they or their respective agents may have taken in furtherance of the Project.
- L. **Miscellaneous**: This agreement is binding upon, and inures to the benefit of, the parties and their respective successors and assigns. This Agreement may be amended or modified, and the performance by any party of its obligations hereunder may be waived, only in a written instrument duly executed by the parties. This Agreement may be executed in any number of counterparts, each of which is an original and all of which taken together constitute one instrument. This Agreement is governed by and is to be construed in accordance with the laws of the State of New Mexico, without giving effect to its choice-of-law principles.

The City may, in good faith, object to or request additional information regarding Public Benefit provision by the Project Party by delivering written notice to the Project Party. If the City delivers a timely written notice, the City and the Project Party will work in good faith to resolve the issues raised in the written notice. If the City and the Project Party have not resolved such issues 90 calendar days after the delivery of the written notice, either party may submit the objection to mediation as described in Section M of this Agreement.

For the purposes of determining compliance with performance provisions of this agreement, the Project Party will provide to the City such data and information on its workforce that is reasonably necessary for the City or its independent contractor to determine whether the Project Party has met its Job Target obligations under this Agreement. The Project Party will provide the City with semi-annual copies of the Project Party's workforce reports no later than May 1 and October 1 of each year commencing on the date of the opening of the Project to conduct operations ending ten years after the Effective Date of this Agreement or earlier termination of this Agreement (the "Workforce Reports").

Notwithstanding anything to the contrary contained in this Agreement, in no event will the Project Party be required to pay more than the total amount of all Public Funds expended by the City for development of the Project in the aggregate.

The Project Party shall comply with all applicable Federal, State, and local laws in performing its obligations under this Agreement.

M. **Dispute Resolution.** The parties will work in good faith to resolve any disputes that arise hereunder, and will submit to mediation with a neutral mediator prior to filing any litigation in relation to this Agreement.

N. **Notice.** All notices or other written communications that are required or permitted to be given pursuant to this Agreement must be in writing and delivered personally, by a recognized courier service, by a recognized overnight delivery service, by facsimile, by electronic mail, or by registered or certified mail, postage prepaid, to the parties at the addresses shown below. If a notice is hand delivered or sent by overnight delivery service, it will be deemed received upon actual delivery. If any written notice is sent by facsimile or electronic mail, it will be deemed received upon printed or written confirmation of the transmission. A party may change its notice address by written notice to the other party to this Agreement. The initial notice addresses for the parties are as follows:

If to the City:
Scott Berry – City Manager
City of Raton
Post Office Box 910
Raton, New Mexico 87740

If to Ramel Family Farms LLC:
Kayvan Khalatbari - Manager
Ramel Family Farms LLC
1003 San Juan Street
Trinidad, Colorado 81082

O. **Independent Contractor** The relationship of the Project Party to the City shall be that of an independent contractor. No principal-agent or employer-employee relationship between the Parties is created by this Agreement.

By entering into this Agreement with the City, the Project Party acknowledges that no officer, agent, or employee of the Project Party will be for any purpose an employee of the City and no officer, agent or employee of the Project Party is entitled to any privileges of a City employee or officer under any provision of the statutes of the State of New Mexico and orders of the City.

P. **Indemnification:** To the fullest extent permitted by law, the Project Party agrees to release, defend, indemnify and save harmless the City and its officers, agents and employees, from and against any and all loss of or damage to property, injuries to or death of any person or persons and/or all claims, damages, suits, costs, expenses, liability, actions or proceedings of any kind or nature whatsoever, including, without limitation, Worker's Compensation claims or unemployment claims of or by anyone whomever, in any way resulting from or arising out of the Project Party's negligent acts, operations, errors and/or

omissions under or in connection with this Agreement and the parties for whom either entity is legally responsible; provided, however, that the Project Party need not release, defend, indemnify or save harmless the City or its officers, agents and employees, from damages or injuries resulting from the negligence of the City, its officers, agents or employees. It is understood that this indemnity and hold harmless provision is not limited by the insurance required under the provisions hereof.

- Q. **Insurance**: Each Party to this Agreement shall be individually responsible for the sufficiency of its own insurance program, including General Liability Insurance.

- R. **Representation of Authority of Signatory**: The signatory for the Project Party represents and warrants that he is duly authorized and has legal capacity to execute and deliver this Agreement and that performance of the Project Party's obligations hereunder have been duly authorized and that the Agreement is valid and binding on such party and enforceable in accordance with its terms.

[signature page follows]

APPROVAL BY PARTIES:

During its meeting on May 19, **2021**, the Raton City Commission approved this agreement.

During its meeting on May 19, **2021**, the Officers of **Ramel Family Farms, LLC** approved this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Project Participation Agreement.

City:

CITY OF RATON

Signature: 
Name: James Neil Segotta, Jr.
Its: Mayor

Date: 5-19-21

Project Party:

RAMEL FAMILY FARMS, LLC, a Colorado limited liability company

Signature: 
Name: Kayvan Khalatbari
Its: Manager

Date: 5/21/21

EXHIBIT B

PREMISES LEASE AGREEMENT

This Premises Lease Agreement (Agreement) entered into on May 19, 2021 by and between the City of Raton, a New Mexico Municipal Corporation (the City), and Ramel Family Farms LLC, a Colorado limited liability company, (and approved cooperative partners) (collectively "Lessee").

RECITALS:

1. City of Raton owns certain land, existing building and related improvements located at 420 East Fourth Street in Raton, New Mexico as shown on the attached Drawing 1, dated December 3, 2002, attached hereto as Exhibit "C" and incorporated herein by this reference including approximately 8.00 acres and building consisting of approximately 49,000 square feet of warehouse area and approximately 5760 square feet of office area and certain other improvements, collectively referred to herein as the "Armex property".
2. Concurrent with this Agreement, the City and Lessee are entering into that certain Project Participation Agreement dated effective May 19, 2021 (the "PPA") and incorporated herein as Exhibit A. Capitalized terms not specifically defined in this Agreement shall have the meanings given under the PPA, unless the context clearly requires otherwise.
 - A. In connection with certain economic development objectives, Lessee desires to lease the Armex Property from the City, and the City desires to lease the Armex Property to Lessee.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties contained in the PPA, and in this Agreement, and for other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. **PREMISES:**
 - a. **Property Leased.** In consideration of the terms and conditions in this lease, the City leases the Armex Property owned by the City of Raton to Lessee for the "Term" (as defined below), and pursuant to the terms and conditions set forth herein the Armex property and Armex building as delineated on the plan attached and incorporated herein as Exhibit "C", attached hereto and made a part hereof ("Premises").
 - b. **City Access.** Lessee grants to the City, its employees, agents and contractors, a nonexclusive right for use of the common facilities located at the Armex Property, including, without limitation, the streets, alleys, public access corridors, drainageways, easements, rights-of-way, and utility lines located on

of the Armex Property along with pipes, ducts, conduits, wires and appurtenant meters and equipment serving the Armex Property.

- c. Priority of PPA. This Agreement is executed pursuant to the provisions of the PPA, and does not amend, replace or supersede the PPA, in whole or in part. The provisions of the PPA are incorporated in this Agreement by this reference as if fully set forth at this place, and the rights and interests granted to Lessee hereunder shall at all times be subject to the provisions of the PPA. In the event of any conflict or inconsistency between the provisions of the PPA and the provisions of this Agreement, the provisions of the PPA shall govern and control.
2. **CITY USAGE:** The City shall maintain occupation of the west half of the Armex warehouse (divided by existing partition wall) until such time that the Lessee's enterprise development justifies the need for the additional building space, and the area is necessary for additional business expansion.
3. **TERM AND RENEWAL:** The term of this Agreement shall be a period of 5 years, commencing June 1, 2021 and expires at midnight on May 31, 2026 (the "First Lease Term"). Lessee may renew the Agreement for 1 additional 5 year period (the "Renewal Lease Term"). In order to enter into the Renewal Lease Term, Lessee will be in full compliance with the terms of this Agreement and the PPA. Notice of Lessee's intent to renew shall be given in writing to the City not less than 90 days prior to the end of the original term. Upon completion of the renewal, the parties may negotiate terms for any additional renewal of this Agreement.
4. **HOLDING OVER.** Lessee's holding over or continued use or occupancy shall be construed as a month to month tenancy to be charged at fair market value with a 10% month-to-month premium charged to the Lessee.
5. **LEASE RATES:** In consideration of the requirements, metrics in the PPA, ascending scale economic development incentive lease rates under this Agreement shall apply through the First Lease Term and Renewal Lease Term, and shall be paid by the Lessee to the City and shall be generally calculated as a percentage as follows:

Year One	–	0 Percent of \$27,380.00
Year Two	–	0 Percent of \$27,790.70
Year Three	–	0 Percent of \$28,207.56
Year Four	–	0 Percent of \$28,630.67
Year Five	–	0 Percent of \$29,060.13
Year Six	–	25 Percent of \$29,496.03
Year Seven	–	35 Percent of \$29,938.47
Year Eight	–	50 Percent of \$30,387.55
Year Nine	–	75 Percent of \$30,846.36
Year Ten	–	100 Percent of \$31,309.06

6. **OPTION TO PURCHASE:** The City agrees to an option for Ramel Family Farms LLC to purchase the Armex property (or a portion thereof) under economic development incentive terms. The purchase option shall become effective five (5) years after commencement of the Lessee's commercial enterprise establishment, under terms as follows:
 - a. Transfer of title to the property shall be executed in full compliance with terms and conditions of the Raton Economic Development Plan Ordinance §153.30 et seq., Raton, New Mexico Code of Ordinances, and in accordance with the Local Economic Development Act (LEDA), section 15-10-1, et seq., NMSA 1978, as amended. Transfer of title to the property constructed or improved or otherwise paid for by funds originating from Capital Appropriation Agreement 20-E2519 shall be executed in full compliance with terms and conditions of Capital Appropriation Agreement 20-E2519.
 - b. Lessee shall have option to purchase designated structures and land at established fair market value initially at completion of year ten (10) of the term minus the demonstrable value of direct positive impact in the local Raton economy, including but not limited to, local tax base expansion and non-owner employee wages and salaries paid by Lessee or cooperative partners as a result of commercial activity resulting from facility operation, following a term of ten years of continuous operation of Lessee's enterprise at the Armex property as represented and without exception to terms of the Project Participation Agreement and in full compliance with job creation targets established in Project Participation Agreement.
 - c. Transfer of title to the property shall be executed through a special warranty deed and shall exclude established rights-of-way, easements, drainageways, and utility lines and public works installations.
7. **USE OF LEASED PROPERTY.** Lessee shall be limited to the space described in this lease. Lessee will not occupy or use the Armex Property or permit any portion of the property, that from which is under Lessee's control, any portion of the Armex Property to be occupied or used for any purpose which is unlawful in part, or in whole. As to the use of the property by any persons or lawful constituted entity, In addition, the Lessee, its agents, employees, volunteers and invitees will make all reasonable efforts to conduct its activities and actions in such a manner as not to create any nuisance, interference or annoyance to the City, area residents or public. Some of the activities are, and not limited to:
 - a. Usage of premises is proposed for operation of an industry for the manufacturing, processing or assembling of agricultural or manufactured products; or appurtenant and related uses generally understood as the core business of the Lessee;
 - b. Additional or related usages of the Armex Property as agreed between the Lessee and the City in writing by way of amending this Agreement.

8. **CONDITION OF LEASED PROPERTY.** The Lessee warrants that the Armex Property is being delivered in an "as-is" condition understanding that renovations, modifications, and improvements are required to maintain the serviceable condition of the Armex Property. Except as provided herein or the PPA, Lessee agrees to undertake and complete renovations, modifications, and improvements necessary for Lessee's operation requirements, at Lessee's expense, unless otherwise agreed to by the City.
9. **ALTERATIONS.** Except as provided herein or the PPA, Lessee shall obtain the City's written approval before making any alterations or improvements of a permanent nature to the Armex Property, such approval from the City shall not be unreasonably withheld, conditioned or delayed.
10. **OWNERSHIP OF IMPROVEMENTS.** All alterations and improvements made to or placed in the property by Lessee are and shall remain with the property except as the parties mutually agree otherwise in writing. Any alterations and improvements that can be removed without undue damage to the property are to be removed by Lessee prior to termination of this lease or any renewal thereof or within a reasonable time after termination. Alterations and improvements of a permanent nature which cannot be removed without undue damage to the property shall become City's property except as the parties mutually agree otherwise in writing.
11. **CONDITION OF PROPERTY UPON SURRENDER** Except as otherwise provided in the PPA, at the termination of this Agreement, Lessee shall surrender the Armex Property in the condition in which it was at the inception of this Agreement, excepting:
 - a. Deterioration caused through reasonable use and ordinary wear and tear;
 - b. Alterations, improvements or conditions made with City's written approval; and
 - c. Any change, damage or destruction not resulting from Lessee's act.
12. **UTILITIES.** Lessee will pay all utilities; water, sewer, refuse disposal, gas, electric, and communications at the leasehold property, inclusive of separate hook-ups, metering or other expenses or costs incurred by lawful use or construction of buildings on the property.
13. **RIGHT OF ENTRY.** The City and its agents have a right to enter upon the Armex Property to inspect, assess the need for repairs, for regulatory or insurance purposes, or for other reasonable purposes, upon at least twenty-four (24) hours' written notice and consent from Lessee, which shall not be unreasonably withheld. In an emergency, such as fire, or other danger to human safety or property the City or its agents may enter the Armex Property without securing Lessee's prior permission but will notify Lessee of such entry as soon thereafter as practicable.
14. **DUTY TO MAINTAIN THE PROPERTY.** City has the duty to reveal to Lessee all structural defects of which he knows or reasonably should know.

Lessee has the duty to notify City of damage other than normal wear and tear. The Lessee understands that the condition of the property is as-is and that Lessee will be responsible for general maintenance and upkeep. In regard to renovations and improvements of a significant nature, responsibilities of the parties described in the preceding sections shall apply.

15. **RIGHT TO ASSIGN OR SUBLEASE.** Lessee has the right to sublease, pledge, or in any manner encumber or obligate the leasehold or any interest therein with the City's prior signed and written consent thereto. The City of Raton shall, in any case, retain privity of contract with the original Lessee, or assignee or sublessee.
16. **DUTY TO INSURE.** During the term of this lease and any extension thereof, Lessee shall provide coverage for liability of Lessee or its agents, employees, contractors, invitees or visitors, and for its personal property and Lessee 's improvements and betterments, as required by applicable law.
 - a. During the term of this Agreement and any extension thereof, Lessee shall maintain in full force and effect, a policy or policies of insurance providing:

Comprehensive general liability coverage of not less than \$1,000,000 limit per occurrence, including coverage for property damage, bodily injury and wrongful death. Such insurance policy or policies shall name the City, its instrumentalities and public employees as additional insured, and;
 - b. City release and discharges Lessee from any and all claims, damages and causes of action arising out of any damage to or destruction of the Armex Property where such damage or destruction was not caused by the act of Lessee or any of its agents, employees, contractors, invitees or visitors.
 - c. Lessee shall provide certificates of coverage or proof of self-insurance evidencing compliance with this section which shall be attached to this Agreement at the time of execution. The City will be notified within 10 days of cancellation or expiration of any required coverage.
17. **RIGHT TO TERMINATE UPON BREACH OF CONDITION OR LEASE.** Either party may terminate this Agreement upon the other party's substantial breach of any term or condition contained in this lease, provided that the breaching party shall be given ninety (90) days from the receipt of written notice of a substantial breach to cure the breach or to determine the breach cannot be cured within 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, this Agreement shall terminate without further notice at the end of the cure period. Except as provided in the PPA, upon termination of this Agreement, the Lessee shall surrender the Armex Property to the City and shall be obligated to pay rent only to the date of surrender. Except as provided in the PPA, Lessee shall be entitled to a prorated refund of any advanced rental payments made by Lessee.

18. AMENDMENTS TO BE IN WRITING. This Agreement shall not be altered or amended except by written amendment executed by the parties.

19. QUIET USE AND ENJOYMENT. The City covenants and warrants that, so long as the City has not terminated Lessee's right of possession as expressly permitted by this Agreement upon the occurrence of a breach (as defined above) in accordance with the terms of this Agreement, Lessee shall peaceably and quietly have, hold and enjoy the sole possession of the Armex Property and other rights granted hereunder in accordance with the terms and conditions of this Agreement. The City will fully protect Lessee in the full, complete and absolute possession of the Armex Property, free from the adverse claims of any persons, firms or other entities whatsoever subject, in all cases, to the terms and conditions of this Agreement. The City agrees not to file or cause any zoning change or other change to any entitlement to be made that would affect the Armex Property without the prior written approval of Lessee.

20. ADDRESS FOR NOTICES, PAYMENT OF RENT, etc.

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

City: Scott Berry
City Manager
City of Raton
PO Box 910
Raton, New Mexico 87740
Telephone No: (575) 445-9551
Facsimile: (575) 445-3398
E-Mail: sberry@cityofraton.com

Lessee: Kayvan Khalatbari
Manager
Ramel Family Farms LLC
1003 San Juan Street
Trinidad, Colorado 81082
E-mail: kkhalatbari@gmail.com

APPROVAL BY PARTIES:

During its meeting on May 19, **2021**, the Raton City Commission approved this Agreement.

During its meeting on May 19, **2021**, the Manager of **Ramel Family Farms, LLC** approved this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

For the CITY OF RATON

Signature: 
James Neil Segotta, Jr.
Mayor - City of Raton

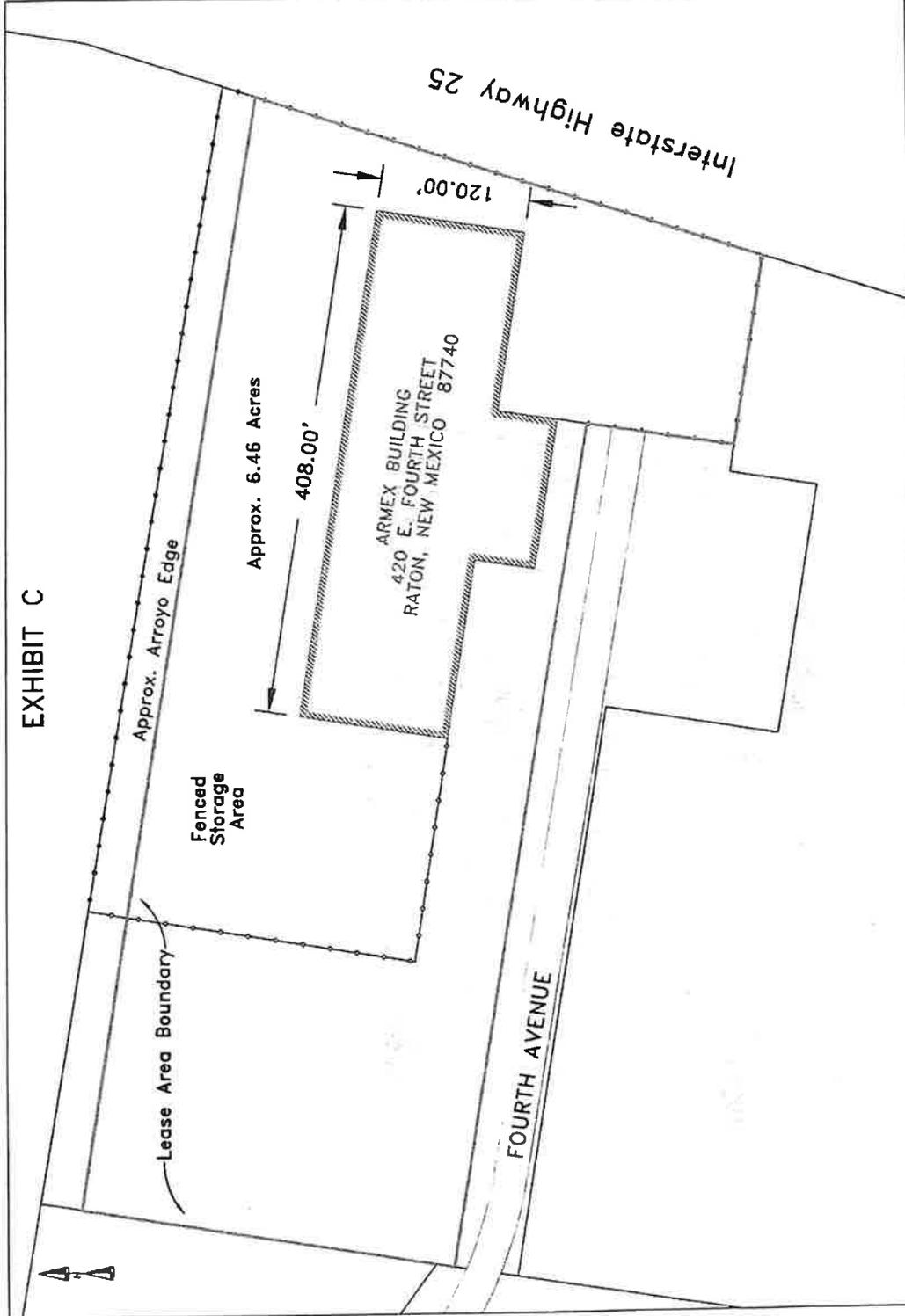
Date: 5-19-21

For RAMEL FAMILY FARMS, LLC

Signature: 
Kayvan Khalatbari
Manager – Ramel Family Farms LLC

Date: 5/21/21

EXHIBIT C



No.	Description
1	Lease Area 4/12/2021



KSBE

Prepared By:
K. S. Berry Engineering
505.445.1832
808 South Second Street
Raton, New Mexico 87740

Site Plan
City of Raton - Armex Building
Raton, New Mexico

Drawing 1
Scale: 1 inch = 100 feet
December 3, 2002