CIBOLA COUNTY
BOARD OF COMMISSIONERS

Robert Armijo
Chairman

Daniel Torrez
1st Vice Chairman

Jack Moleres
2nd Vice Chairman

Robert Windhorst
Commissioner

Martha Garcia
Commissioner

Regular Meeting
October 11th, 2018
5:00 p.m.
Cibola County Commission Chambers
700 E. Roosevelt Ave., Suite 50

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Prayer**
5. **Approval of Agenda**

6. **New Business – Action May Be Taken**
   a. Consideration for Approval to change dates/times of Commission Meetings in Nov. and Dec. to another date/time.
   b. Consideration for Approval for Commission to Authorize County Manager to Waive from the Current Personnel Policy, the Need for Non- Elected Employees Who Run for Political Office to Have to Take Vacation or Leave Without Pay for 20 Working Days Prior to Election Day.
   c. Consideration of Northwest New Mexico Council of Governments Membership Agreement for Fiscal Year 2019
   d. Consideration for Approval of Requisition for Professional Services-Appraisal of McBride Road

7. **Executive Session**
   Pursuant to Section 10-15-1 (H) (2) & (7) the following matter may be discussed in closed session:
   - Motion and roll call vote to go into executive session and that, pursuant to New Mexico State Statute Section 10-15-1, only the following matters will be discussed in closed session:

Real Property
a.) Disposition of Detention Center-Located on 114 McBride Road, Grants, NM 87020

Personnel

a.) Dee Worthen

Threatened/Pending Litigation

a.) Lobo Canyon Associates, LLC vs. Rael D-1333-CV-2018-00009
b.) New West Investments, Limited Partnership vs. Rael D-1333-CV-2018-00005
c.) Grants, Limited Partnership vs. Rael D-1333-CV-2018-00007

8. **New Business – Action May Be Take**
   a.) Consideration for Approval of Disposition of Detention Center-Located on 114 McBride Road, Grants, NM 87020
   b.) Consideration for Approval of Reduction in Force (R.I.F.)-Dee Worthen-Detention Maintenance Staff
   c.) Consideration for Approval of Settlement Agreement for Lobo Canyon Associates, LLC vs. Rael D-1333-CV-2018-00009
   d.) Consideration for Approval of Settlement Agreement for New West Investments, Limited Partnership vs. Rael D-1333-CV-2018-00005
   e.) Consideration for Approval of Settlement Agreement for Grants, Limited Partnership vs. Rael D-1333-CV-2018-00007.

9. **Announcements**

The next Regular Commission Meeting will be held on Thursday October 25th, 2018 at 5:00p.m. in the Cibola County Commission Chambers.

10. **Adjournment**

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting please contact the Cibola County Administration Building, 700 East Roosevelt Ave., Suite 50, Grants, NM 87020, phone (505) 287-9431 at least one (1) week prior to the meeting or as soon as possible. Public document including the agenda and minutes, can be provided in various accessible formats. Please contact the Cibola County Administration if a summary or other type of accessible format is needed.

NEW ITEMS

6 a.

Consideration of Change in Commission Meetings Date and Time for Nov. and Dec. Meetings

CIBOLA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION № 17-47

WHEREAS, the Cibola County Board of Commissioners met upon notice of meeting duly published at the Cibola County Administration Building, 700 East Roosevelt Suite 50, Grants, NM 87020, on December 28, 2017 at 5:00 p.m. as required by law; and,

WHEREAS, the Cibola County Board of Commissioners is the duly elected governing body ofCibola County with the Authority for establishing a holiday schedule for County employees; and

WHEREAS, the Cibola County Board of Commissioners is further advised that these holidays either include traditionally observed holidays or are special Cibola County holidays previously designated by the Commission to benefit the County's employees;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Cibola County Commission that it adopts the following Holiday Schedule for 2018 calendar year.

Monday, January 15, 2018 - Martin Luther King Jr Day
Monday, February 19, 2018 - Presidents Day
Friday, March 30, 2018 – Easter Holiday
Monday, May 28, 2018 - Memorial Day
Wednesday, July 4, 2018 - Independence Day
Monday, September 3, 2018 - Labor Day
Monday, October 8, 2018 - Columbus Day
Monday, November 12, 2018 - Veterans Day
Thursday, November 22, 2018 -Thanksgiving Day
Friday, November 23, 2018 -Thanksgiving Holiday
Monday, December 24, 2018 – Christmas Eve Holiday
Tuesday, December 25, 2018 - Christmas Holiday
Monday, December 31, 2018 - New Year's Eve Holiday
Tuesday, January 1, 2019 - New Year's Holiday

201702771 Page 1of2B: 025 P: 06737 12/29/2017 10:35 AM
Michelle E. Dominguez, Cibola County, NM Clerk and Recorder

APPROVED, ADOPTED, AND PASSED on this 28th day of December, 2017.

Jack Moleres, Chairman

ABSENT

Robert Armijo, 1st Vice-Chair

Robert Windhorst, 2nd Vice-Chair

ABSENT

Daniel J. Torrez, Member

Martha Garcia, Member

Attest:

Michelle E. Dominguez, Cibola County Clerk

CIBOLA COUNTY COUNTY CLERK SEAL STATE OF NEW MEXICO

201702771 Page 2of28: 025 P: 06738 12/29/2017 10:35 AM
Michelle E. Dominguez, Cibola County, NM Clerk and Recorder

November

2018

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12 VETERAN'S DAY HOLIDAY	13	14	15	16	17
18	19	20	21	22 THANKSGIVING HOLIDAY COMMISSION MEETING	23 THANKSGIVING HOLIDAY	24
25	26	27	28	29	30	

December

2018

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24 CHRISTMAS HOLIDAY	25 CHRISTMAS HOLIDAY	26	27 COMMISSION MEETING	28	29
30	31 NEW YEAR'S EVE HOLIDAY	January 1 NEW YEAR'S DAY HOLIDAY				

NEW ITEMS

6 b.

Non- Elected Officials 20 Days Leave Requirement on 2006 Personnel Policy

E. County employees shall be trained as needed to assure high quality performance and on-the-job safety.

F. The County Commission and County Management shall retain employees based on their performance and will correct inadequate performance and terminate employees whose inadequate performance cannot be corrected, or where the interests of the County Commission and the community otherwise require.

G. County employees shall receive fair treatment in all aspects of personnel administration without regard to race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, medical condition or political affiliation.

H. The County Commission and County Management shall protect employees against coercion for political purposes. Conversely, County employees shall be prohibited from using their official authority for the purpose of interfering with or affecting the results of an election or a nomination for office.

208. **Interpretations and Matters Not Covered**: These Policies relate to matters of County government personnel administration and may not cover every department's procedures, standard practices, standing orders, and/or other technical matters.

A. County Management may issue such administrative policies, procedures, guidelines and work rules as are necessary to implement, and are not in conflict with, the provisions of these Policies.

B. State and Federal laws, statutes, rules, and regulations shall apply as applicable to County policy as a whole and to the requirements of the County's respective offices and departments.

209. **Changes, Modifications and Revisions of These Policies**:

A. **Changes**: These Policies are issued by authority of the Board of County Commissioners and may be amended by ordinance. Suggestions for amendments to or changes in these Policies may be submitted in writing to County Management.

B. **Temporary Modifications**: Upon the recommendation of the County Manager, and only under unusual circumstances, the Board of County Commissioners may temporarily modify, suspend or waive any of these Policies as it deems necessary or appropriate.

C. **Revisions**:

1. Proposed revisions of these Policies shall be circulated by County Management to all Department Directors, and notices posted in areas accessible to County employees, at least fourteen (14) calendar days in advance of consideration for final approval by the Board of County Commissioners. Such notice shall provide opportunity for comment and shall include the date, time, and place of the meeting at which the Board intends final consideration.

2. Revisions to these Policies shall become effective upon approval by the County Commission.

210. **Distribution of Personnel Policies**: Copies of these Policies, all addendums as listed in Chapter 4, Subsection 410, and all amendments thereto shall be issued to all employees, including new employees upon hire. Department Heads shall maintain a copy in their respective departments.

403. **Political Activity:** The rules for engagement in political activity by County employees follow the provisions in Federal code pursuant to the *Hatch Act* (5 U.S.C. 1501-1508). The Hatch Act restricts the political activity of executive branch employees of the federal government, District of Columbia government, and some state and local employees who work in connection with federally funded programs.

A. **Allowability—Off Time**. All employees, on their own time, may engage in political activities.

B. **Prohibition**. All employees are prohibited from:

1. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office or for any other political purpose;

2. Directly coercing, attempting to coerce, commanding, or advising an employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purpose;

3. Threatening to deny promotion to any employee who does not vote for certain candidates, requiring employees to contribute a percentage of their pay to a political fund, influencing subordinate employees to buy tickets to political fund raising events, advising employees to take part in political activity and matters of a similar nature;

4. Engaging in political activity while on duty;

5. Functioning as an officer of a political organization while on duty;

6. Service or prospective service as an elected official deemed by County Management to be in conflict with the employee's duties and responsibilities with the County; and/or

7. Serving as both a County employee and as a holder of or candidate for public office in a manner that violates the provisions of the Hatch Act, which applies to County employees whose principal employment is in connection with an activity that is financed in whole or in part by loans or grants made by an agency of the United States government.

C. **Candidate for County Office**. Except as provided in State Statute with respect to elective department head positions, any non-elected employee who chooses to run for political office within Cibola County government shall resign, take vacation, or leave without pay for the twenty (20) working days immediately preceding the primary election day, and if successful, for the twenty (20) working days immediately preceding the general election day.

D. **Elective Office—Determination of Conflict**. If County Management determines that an employee's service in elective office conflicts with the employee's duties and responsibilities to the County, the employee shall resign his or her employment upon winning the election.

NEW ITEMS

11 c.

NWNM Council Of Government Membership Agreement for Fiscal Year 2019

NORTHWEST NEW MEXICO COUNCIL OF GOVERNMENTS

MEMBERSHIP AGREEMENT
with
CIBOLA COUNTY
Fiscal Year 2019

This Agreement is entered into by and between Northwest New Mexico Council of Governments (hereinafter "COG") and County of Cibola (hereinafter "MEMBER"), pursuant to the following conditions and terms:

1. COG agrees to provide for the following:
   a. Performance of professional work in service to the MEMBER, including specific assignments as requested and mutually concurred by the MEMBER and COG throughout the course of this Agreement, drawn from the COG's Menu of Services; such service to include assignment of a professional planner to direct Member Services, in alignment with the Member Dues & Services policy adopted by the COG Board of Directors.
   b. Continued leadership and performance in local and regional development activities, as supported by local, state, federal and philanthropic grants and contracts.
   c. Competent management and stewardship of the COG's resources and responsibilities, on behalf of its Members.
2. MEMBER agrees to provide for the following:
   a. To remain a voting member on the COG's Board of Directors, to consist of up to two (2) representatives to the Board and up to two (2) alternates, and to participate in the COG's governance, policy development and administrative oversight.
   b. To pay annual dues into the treasury of the COG in the amount of **$20,000** per annum, such payment to be rendered in quarterly increments for the annual period July 1, 2018 through June 30, 2019.
3. It is mutually understood and agreed that:
   a. A portion of the Membership dues shall be committed to the support of the COG organization as a whole and to its general operating and overhead expenses, including matching funds as required for certain state and federal grants;
   b. A portion of the dues shall be available for direct communications with and services to the MEMBER, including specific assignments as requested and mutually concurred by the MEMBER and the COG; and
   c. For significant tasks and assignments requiring staffing above and beyond the levels specified herein, the COG may negotiate for and/or assist in securing additional funds to supplement this agreement.

NORTHWEST NEW MEXICO COUNCIL OF GOVERNMENTS

_____ Date: _____
Billy W. Moore, Interim Board Chair

ATTEST: _____
Jeff Kiely, Executive Director

COUNTY OF CIBOLA

_____ Date: _____
Robert Armijo, Chairman

ATTEST: _____
Michelle Dominquez, County Clerk

NEW ITEMS

11 d.

Requisition for Professional Services-Appraisal of McBride Road Complex

REQUISITION ORDER

DATE :	DEPARTMENT:	QUOTE OBTAINED BY:
August 24, 2018		

	QUOTE #1	QUOTE #2	QUOTE #3
VENDOR NAME:	Collier's		
CONTACT NAME:	Conner Marshall		
PHONE:	505-880-7053		
FAX:			

NO.	DESCRIPTION	UNIT COST	EXTENSION	UNIT COST	EXTENSION	UNIT COST	EXTENSION
1	APPRAISAL FOR 114 MCBRIDE COMPLEX	15000.00	15,000.00		-		-
	DETENTION CENTER,MAGISTRATE COURT, SHERIFF		-		-		-
			-		-		-
			-		-		-
			-		-		-
			-		-		-
			-		-		-
			-		-		-
			-		-		-
			-		-		-
			-		-		-
	082418 11AM		-		-		-
	CONNER SAID IN HIS E-MAIL THAT AND IN THE		-		-		-
	CONTRACT THAT WE WILL HAVE TO PAY		-		-		-
	50% UP FRONT....WILL HAVE TO LET HIM KNOW		-		-		-
	THAT WE CAN NOT DO THIS. WILL ONLY BE ABLE		-		-		-
	TO EXECUTE AGREEMENT IF THEY REMOVE THIS		-		-		-
	VERIBAGE.		-		-		-
			-		-		-
			-		-		-
			-		-		-
			-		-		-
			-		-		-
			-		-		-
			-		-		-
	SUBTOTAL FOR SELECTED ITEMS		15,000.00		-		-
	TOTAL LABOR/ SERVICE COSTS		1,181.25		-		-
	TOTAL GROSS RECEIPTS TAX		-		-		-
	TOTAL SHIPPING/ FREIGHT COSTS		-		-		-
	GRAND TOTAL		16,181.25		-		-

VENDOR		REASON SELECTED	
		CONTRACT/BID/RFP #	
ADDRESS		ESTIMATED DELIVERY	
		PURCHASE ORDER #	

PURCHASING AGENT ENDORSEMENT	CERTIFICATION		FUND NAME & LINE ITEM #	AMOUNT
	With my signature, I hereby certify that all goods/services requested are necessary to properly conduct the operations of this department, and that all procurement has been conducted according to purchasing policies approved by the Cibola County Board of Commissioners.	If all three signatures are not obtained the purchase cannot move forward		
		DEPARTMENT HEAD SIGNATURE	DESIGNEE SIGNATURE	FINANCE SIGNATURE

PLEASE REMEMBER ANY REQUISITIONS OVER $500.00 NOW REQUIRE 3 HARD QUOTES. ANY REQUISTION $10,000.00 OR MORE WILL NEED TO GO ON THE AGENDA FOR COMMISSION APPROVAL. IF USING STATE CONTRACT PLEASE LIST CONTRACT # ABOVE AS WELL AS THE FIRST 4 PAGES OF THE STATE CONTRACT, OTHERWISE IT WILL BE SENT BACK

jhoracek@co.cibola.nm.us

From: Marshall, Conner <Conner.Marshall@colliers.com>
Sent: Friday, August 24, 2018 12:04 PM
To: jhoracek@co.cibola.nm.us
Cc: Kate Flethcer
Subject: RE: 114 McBride Road Complex- Square Footage Provided
Attachments: PSA - Cibola County Detention Center.pdf

Hi Judy,

Please review the attached and let me know if you have any questions.

Please note that it is now our policy to collect 50% of the appraisal fee prior to commencement of work. I hope that will not pose a problem.

To clarify, we will not commence work until the commission has approved and the retainer has been received.

Thank you again for the opportunity to be of service.

We look forward to completing this assignment for you.

Conner Marshall, MAI
Senior Valuation Services Director | New Mexico
Valuation & Advisory Services
Direct +1 505 880 7053 | Mobile +1 505 980 9454
Main +1 505 883 7676 | Fax +1 505 923 3853
conner.marshall@colliers.com | Click to Download V-Card

Colliers International
5051 Journal Center Blvd. NE | Suite 200
Albuquerque, NM 87109 | United States
www.colliers.com

Learn more about our *Southwest Region*.

From: jhoracek@co.cibola.nm.us [mailto:jhoracek@co.cibola.nm.us]
Sent: Friday, August 24, 2018 9:50 AM
To: Marshall, Conner <Conner.Marshall@colliers.com>
Cc: Kate Flethcer <kate.fletcher@co.cibola.nm.us>
Subject: RE: 114 McBride Road Complex- Square Footage Provided

Could you please provide a letter of Engagement? I will have to submit the requisition for the letter of engagement at the next commission meeting on Sept. 27th, so it will not be signed until the commission has approved but I would like the letter of engagement so that I put the item on the agenda. Thanks so much!

PROFESSIONAL SERVICE AGREEMENT

COLLIERS INTERNATIONAL
VALUATION & ADVISORY SERVICES

5051 Journal Center Blvd. NE | Suite 200
Albuquerque, NM 87109

WEB www.colliers.com/valuationadvisory

August 24, 2018

Conner Marshall, MAI
Senior Valuation Services Director | New Mexico
Valuation & Advisory Services
Direct +1 505 880 7053 | Mobile +1 505 980 9454
Main +1 505 883 7676 | Fax +1 505 923 3853
conner.marshall@colliers.com

Judy Horacek
Projects Coordinator
Cibola County
700 E. Roosevelt Avenue, Suite 50
Grants, NM 87020
505-285-2557
jhoracek@co.cibola.nm.us

RE: Appraisal of Former Cibola County Detention Center

Dear Ms. Horacek,

Thank you for considering Colliers International Valuation & Advisory Services, LLC for the assignment identified in the below stated Professional Service Agreement. Please sign one copy of the agreement and return it to me, thereby indicating your authorization for us to proceed with this assignment and your acceptance of the attached Terms and Conditions.

PROFESSIONAL SERVICE AGREEMENT

("Agreement")

Project	Former Cibola County Detention Center ("Property")
Location	114 McBride Road, Grants, NM 87020
Project Description	A former detention center containing 26,472 SF. The project does not include the adjacent Sheriff's Office or Magistrate Court.
Parties	Colliers International Valuation & Advisory Services, LLC ("CIVAS") and Cibola County (herein at times referred to as "Client")
Intended User	The appraisal will be prepared for Cibola County. No other users are intended. **It should be noted that if this engagement is directly with the owner of the Property, the Appraisal will not be accepted by federally insured lenders due to FIRREA Compliance, limiting the use of this report. Should this potentially impact your source of lenders, we recommend engagement be directed by a Federally Insured Lender.**
Intended Use	The report to be performed under this Agreement ("Appraisal") is intended only to determine As-Is Market Value for internal asset-management decision-making purposes. The report is not intended for any other use.
Purpose	As-Is Market Value
Type of Appraisal	CIVAS will produce an Appraisal Report in which the appraiser's analysis and conclusions will be fully described within this document.
Rights Appraised	Fee Simple
Date of Value	Date of inspection

Colliers International Valuation & Advisory Services, and certain of its subsidiaries, is an independently owned and operated business and a member firm of Colliers International Property Consultants, an affiliation of independent companies with over 500+ offices throughout more than 63 countries worldwide.

Scope of Work	CIVAS and/or its designated affiliate will provide the Appraisal in accordance with USPAP, and the Code of Ethics and Certifications Standards of the Appraisal Institute and State Licensing Laws. CIVAS will research relevant market data and perform analysis to the extent necessary to produce credible appraisal results. Based on our discussions with the Client, the Client has requested the following valuation scenarios: As Is. CIVAS anticipates developing all applicable approaches to value. **Please note if it's a requirement per the client's underwriting guidelines to analyze and report all approaches to value, this will be performed although some approaches may be limited in application.** The scope of work will be included in the Appraisal. A copy of the Assumptions and Limiting Conditions, which appear in the Appraisal, is available upon request.
Delivery	Four weeks from the date of engagement and receipt of retainer
Professional Fee	$15,000
Expenses	Fees include all associated expenses
No. of Reports	One (1) Electronic Final Appraisal. No printed copies will be delivered to the client
Retainer	A retainer of 50% of the fee is due prior to commencement of the assignment. The remaining balance of 50% is due and payable upon notification of completion of the appraisal.
Payment Terms	Final payment is due and payable within five (5) business days upon delivery of the electronic copy of the Final Appraisal. If a Draft Appraisal is requested, the fee is considered earned upon delivery of our Draft Appraisal. Wire Instructions: JP Morgan Chase Bank, NA Chicago, IL 70-23322/719 Account Name: Colliers International Valuation & Advisory Services, LLC Account No# 899559074 ABA #: 021000021 ACH Payment Transit Routing Number: 071000013 Swift Code of International Wires ONLY: CHASUS333 **Please include the job invoice number or address in memo payment information
Acceptance Date	These specifications are subject to modification if this Agreement is not accepted within three (3) business days from the date of this letter.

Terms and Conditions

The attached Terms and Conditions and Specific Property Data Request are deemed a part of this Agreement as though set forth in full herein. The following is a list of information we will need to begin our analysis. Please forward with the Agreement or as soon as possible.

- Line item construction costs/budget from when the building was constructed
- Title Report
- Engineering studies, soil tests or environmental assessments
- Existing Building or Improvement Plans
- Details on any Sale, Contract, or listing of the property in the past 3 years
- Property Condition Report
- Capital improvements history (3 years) & budget
- Three year & YTD Income & Expenses
- Name and telephone number of property contact for physical inspection and additional information needed during the appraisal process
- Property Contact _____

In addition to the items requested above, please forward any additional materials you would consider relevant in the analysis of the subject property.

Reliance Language

The Appraisal is for the sole use of the Client; however, Client may provide only complete, final copies of the Appraisal report in its entirety (but not component parts) to third parties who shall review such reports in connection with the stated Intended Use. CIVAS is not required to explain or testify as to appraisal results other than to respond to the Client for routine and customary questions. Please note that our consent to allow the Appraisal prepared by CIVAS or portions of such Appraisal, to become part of or be referenced in any public offering, the granting of such consent will be at our sole and absolute discretion and, if given, will be on condition that CIVAS will be provided with an Indemnification Agreement and/or Non-Reliance letter, in a form and content satisfactory to CIVAS, by a party satisfactory to CIVAS. CIVAS hereby expressly grants to client the right to copy the Appraisal and distribute it to employees of client and to your accountants/auditors in its entirety (but not component parts) without the need to provide CIVAS with an Indemnification Agreement and/or Non-Reliance letter.

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The Appraisal requires CIVAS to submit a Summation of the Appraisal Findings in the form of a Letter of Transmittal along with the Summary of Salient Facts and Special/Limiting Conditions applicable to the Appraisal. This will be completed in conjunction with the Appraisal at the above stated fee.

If you have questions regarding the enclosed, please feel free to contact me. CIVAS appreciates this opportunity to be of service to you on this assignment and looks forward to serving you. If you have additional questions, please contact us.

I, **Judy Horacek**, agree to the above stated terms and authorize Colliers International Valuation & Advisory Services, LLC to prepare the above referenced appraisal.

_____ Date: _____

Judy Horacek
Projects Coordinator
Cibola County

Respectfully,

Colliers International Valuation & Advisory Services, LLC

Conner Marshall, MAI
Senior Valuation Services Director | New Mexico
Valuation & Advisory Services
Direct +1 505 880 7053 | Mobile +1 505 980 9454
Main +1 505 883 7676 | Fax +1 505 923 3853
conner.marshall@colliers.com

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TERMS AND CONDITIONS

"T&C"

1) The Appraisal will be subject to Colliers International Valuation & Advisory Services, LLC's ("CIVAS") Assumptions and Limiting Conditions that are incorporated into each appraisal, and any Extraordinary Assumptions and Hypothetical Conditions that may be incorporated into each appraisal.

2) Any capitalized, non-defined words shall have the same meaning as defined in the Agreement to which these T&Cs are attached.

3) Client is defined as the party signing the Agreement and shall be responsible for payment of the fees stipulated in the Agreement. Payment of the fee for the Appraisal is not contingent on the appraised value(s) or the outcome of the report(s). Additional fees will be charged on an hourly basis for any work that may exceed the scope of this proposal, including performing additional valuation scenarios, additional research, and conference calls, meetings, deposition preparation, deposition, trial testimony or travel that may exceed the time allotted by CIVAS for an assignment of this nature. If CIVAS is requested to cease working on the Appraisal for any reason prior to the completion of the appraisal(s), CIVAS will be entitled to bill the Client for the time spent to date at CIVAS' hourly rates for the personnel involved. The Client will be billed a minimum $500 or at a rate of $250 per hour for associate time, $400 per hour for valuation services director, $500 per hour for managing director, and $600 per hour for executive managing director. If the Client delays completion of the assignment beyond ninety (90) days, the fee may be renegotiated. This may result in the total fee exceeding the original agreed fee agreed upon cost.

4) Client agrees to pay all fees and expenses, including attorney's fees, incurred by CIVAS in connection with the collection or attempted collection of the fees and expenses. In the event Client fails to make payments when due and payable, the amount due shall bear interest at 1.5% per month or the maximum rate permitted in the state in which the CIVAS office executing the Agreement is located, whichever is lesser.

5) The fee is due upon delivery of the final report or within thirty (30) days of your receipt of the draft report, whichever is sooner. If a draft is requested, the fee is considered earned upon delivery of our draft report.

6) In the event that either party commences any legal action relating to the provisions of the Agreement, including collection, the prevailing party shall be entitled to its actual attorneys' fees and costs. The Agreement shall be governed by and construed in accordance with the laws of the state where the CIVAS office executing the Agreement is located. The venue of any action arising out of the Agreement shall be the county where the CIVAS office executing the Agreement is located. Client will have up to thirty (30) days from receipt of the Draft Appraisal to review and communicate its review to CIVAS. CIVAS reserves the right to bill Client for additional appraisal efforts that may arise from the Client not responding within with this time period.

7) CIVAS does not make any representation or warranty, express or implied, as to the accuracy or completeness of the information or the state of affairs of the Property furnished to CIVAS by Client.

8) CIVAS shall have no responsibility for legal matters, questions of survey or title, soil or subsoil conditions, engineering, or other similar technical matters. The Appraisal will not constitute a survey of the Property analyzed.

9) Client shall provide CIVAS with such materials with respect to the Appraisal as requested by CIVAS and which are in the possession or under the control of Client. Client shall provide CIVAS with sufficient access to the Property to be analyzed and hereby grants permission for entry, unless discussed in advance to the contrary.

10) The data gathered in the course of the Appraisal (except data furnished by Client) and the Appraisal prepared pursuant to the Agreement are, and will remain, the property of CIVAS. With respect to data provided by Client, such data shall be confidential, and CIVAS shall not disclose any information identified as confidential furnished to CIVAS. Notwithstanding the foregoing, CIVAS is authorized by Client to disclose all or any portion of the Appraisal and the related data to appropriate representatives of the Appraisal Institute if such disclosure is required to enable CIVAS to comply with the Bylaws and Regulations of such Institute as now or hereafter in effect.

11) Unless specifically noted, CIVAS does not assume any duty to analyze or examine the Property or adjacent property for the possible presence of toxic and/or hazardous substances or materials (including but not exclusive to asbestos, PCB transformers, or other toxic, hazardous, or contaminated substances and/or underground storage tanks (hazardous material), or the cost of encapsulation or removal thereof) and accepts no liability regarding the issue. If such materials exist, CIVAS defers to the expertise of professionals specifically trained in analyzing the cost to remediate, which will not be a part of the appraisal fee proposal. The Appraisal will contain a comprehensive disclaimer to this effect.

12) CIVAS understands that there is no major or significant deferred maintenance in the Property which would require the expertise of a professional cost estimator or contractor. If such repairs are needed, the estimates are to be prepared by others, and are not a part of the fee contemplated in the Agreement.

13) Client acknowledges that CIVAS is being retained hereunder as an independent contractor to perform the services described herein and nothing in the Agreement shall be deemed to create any other relationship between Client and CIVAS. The Agreement shall be deemed concluded and the services hereunder completed upon delivery to Client of the Appraisal discussed herein.

14) Client agrees that its only remedy for losses or damages relating to the Agreement shall be limited to the amount of the appraisal fee paid by the Client and in no circumstances shall CIVAS be liable for any losses or damages in excess of this amount. Should the Client, or any other entitled party, make a claim against CIVAS, its directors, officers, employees and other affiliates and shareholders, relating to this engagement or the appraisal(s), the maximum damages recoverable from CIVAS, its directors, officers, employees and other affiliates and shareholders, shall be the amount of funds actually collected by CIVAS under the Agreement, and no claim shall be made for any consequential or punitive damages.

15) If CIVAS or any of its employees receives a subpoena or other judicial notification to produce documents or provide testimony involving the Appraisal in connection with a lawsuit or related proceeding, CIVAS will notify the Client of receipt of the subpoena or notification. However, if CIVAS is not part of the lawsuit or proceedings, Client agrees to compensate CIVAS for the professional

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time required and to reimburse CIVAS for the expenses incurred in responding to any such subpoena or judicial notification, including any attorneys' fees, as they are incurred. CIVAS is to be compensated at the prevailing hourly rates of the personnel responding to the subpoena or command for testimony.

16) If expert witness testimony is required in connection with the Appraisal, the following hourly rates will apply. The Client will be billed at the rate of $250 per hour for associate time, $400 per hour for valuation services director, $500 per hour for managing director, and $750 per hour for executive managing director. The hourly billings pertain to court preparation, waiting and travel time, document review and preparation (excludes appraisal report) and all meetings related to court testimony.

17) Client shall indemnify and hold CIVAS, its parent, subsidiaries, affiliates, its officers, directors, employees and agents ("CIVAS Indemnities"), fully harmless against all losses, damages, claims, and expenses of any kind whatsoever (including costs and reasonable attorneys' fees), sustained or incurred by a third party as a result of the negligence or intentional acts or omissions of Client (including any failure to perform any duty imposed by law), any misrepresentation, distortion or if Client fails to provide complete and accurate information to CIVAS, for which recovery is sought against the CIVAS Indemnities by that third party; however, such obligation to defend and indemnify shall not apply to the extent caused by the negligent act or willful misconduct of CIVAS. Client shall indemnify and hold CIVAS Indemnities harmless from any claims, expenses, judgments or other items or costs arising as a result of the Client's failure or the failure of any of the Client's agents to provide a complete copy of the Appraisal to any third party. LIMITATION OF LIABILITY. EXCEPT FOR THE INDEMNIFICATION PROVISION ABOVE, ANYTHING IN THE AGREEMENT TO THE CONTRARY NOTWITHSTANDING, UNDER NO CIRCUMSTANCES WHATSOEVER SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, OR INCIDENTAL DAMAGES OF ANY KIND WHATSOEVER.

18) The Appraisal and the name Colliers International Valuation & Advisory Services may not be used in any marketing or investment material or offering memoranda without CIVAS' prior written consent. CIVAS, its employees and appraisers have no liability to any recipients of any prepared material, and disclaim all liability to any party other than the Client.

19) Unless CIVAS consents in writing, the Appraisal cannot be used by any party or for any purpose other than the Client for the purposes specified in the Agreement. Should the Client provide a copy of this Appraisal to any person or entity not authorized by CIVAS in writing, Client hereby agrees to hold CIVAS, its directors, officers, employees and other affiliates and shareholders, harmless from all damages, expenses, claims and costs, including any attorney's fees. The Client acknowledges that any opinions and conclusions expressed by the professionals of CIVAS pursuant to the Agreement are made as employees and not as individuals. CIVAS' responsibility is limited to the Client, and the use of the Appraisal or related product by third parties shall be solely at the risk of the Client and/or third parties.

20) The use of this appraisal shall be used only for the purpose as set forth in the Intended Use section of the Agreement. In the event that the client wishes to use this report or portions of this report for any other purpose such as, to become part of or be referenced in, any offering or other material intended for the review of others, or to be submitted to others, will be at the Client's sole and absolute discretion and, if given, will be on condition that CIVAS will be provided with an Indemnification Agreement and/or Non-Reliance letter, in a form and content satisfactory to CIVAS and the Client, by a party satisfactory to CIVAS and the Client. CIVAS does consent to Client submission of the complete Appraisal to rating agencies, loan participants or your accountants/auditors without the need to provide us with an Indemnification Agreement and/or Non-Reliance letter.

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