

**CHAVES COUNTY BOARD OF COMMISSIONERS**  
**REGULAR BUSINESS MEETING AGENDA**

**September 19, 2013 –9:00 a.m.**

**Chaves County Administrative Center – Joseph R. Skeen Building**  
**Commission Chambers - #1 St. Mary's Place**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**DETERMINATION OF QUORUM**

**APPROVAL OF MINUTES**

**AGENDA ITEMS**

**A. PUBLIC HEARINGS**

1. Case Z 2013-4-Petition for the Issuance of a New Special Use Permit
2. Case Z-2013-5-Petition for the Renewal of a Special Use Permit

**B. AGREEMENTS AND RESOLUTIONS**

3. A. Agreement A-13-022-between Chaves County and NM  
DFA/Local Government Division
- B. Agreement A-13-023-between Chaves County and NM  
DFA/Local Government Division
4. Resolution R-13-040-Ordering the Chaves County Assessor to Impose the  
2013 Certified Tax Rates
5. Resolution R-13-041-Demolition of a Hazardous Structure
6. Resolution R-13-042-Demolition of a Hazardous Structure and Removal of  
Debris from a Structure Destroyed by Fire
7. Resolution R-13-045-Transporting Alternatives Program Application for  
Walking Trail/Water Retention Pond
8. Resolution R-13-046-Demolition of a Hazardous Structure and Removal of  
Debris from a Structure not being Properly Maintained
9. Resolution R-13-047-Amending the Chaves County Purchasing Policy
10. Resolution R-13-048-Carry-over of the Law Enforcement-LEPF and JAG  
Amounts to Fiscal Year 2013-2014
11. Resolution R-13-049-Chaves County 2015-2019 Infrastructure Capital  
Improvements Plan (ICIP)

12. Resolution R-13-050-Declaring the Intent of Chaves County to Issue Pollution Control Revenue Bonds on Behalf of AGPower FP1, LLC in the Amount of \$20,000,000

13. Resolution R-13-051-Approving Changes to Position Specifications

**C. OTHER BUSINESS**

14. DFA Approval of Fiscal Year 2013-2014 Final Budget

**APPROVAL OF CHECKS**

**APPROVAL OF REPORTS**

**UNSCHEDULED COMMUNICATIONS LIMITED TO FIVE MINUTES PER VISITOR  
NO FORMAL ACTION TAKEN BY COMMISSION**

- **COUNTY MANAGERS' COMMUNICATIONS**
- **COMMISSIONER'S COMMUNICATIONS**
- **SIGNATURE OF DOCUMENTS**
- **ADJOURNMENT**

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If you are an individual with a disability who is in need of a reader, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing of a meeting, please contact the County Commissioner's office at 575-624-6600. This should be done at least one week prior to the meeting. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the County Commissioner's office if a summary or other type of accessible format is needed.



## Planning and Zoning Commission

Summary of Commission Action

Hearing Date: September 10, 2013

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<b>CASE NUMBER:</b>	Z 2013-4
<b>ACTION REQUESTED:</b>	Petition for the Issuance of a new Special Use Permit
<b>PURPOSE:</b>	To place a second residence on a parcel to be used as a residence for a family member requiring medical care.
<b>PETITIONER:</b>	Olga Barraza, represented by Manuel Barraza
<b>PROPERTY LOCATION:</b>	452 Petree Road, Hagerman, New Mexico
<b>STAFF RECOMMENDATION:</b>	Denial
<b>PLANNING COMMISSION ACTION</b>	<p>On July 9, 2013, the Planning Commission tabled the petition, pending action by the Fambrough Mutual Domestic Water Consumer's Association Board of Director's to supply water to the proposed second residence.</p> <p>On September 10, 2013, the Planning Commission voted unanimously [3-0] to deny the petition.</p>
<b>EXHIBITS:</b>	<p>Case Summary, September 10, 2013</p> <p>Staff Report Addendum, September 10, 2013</p> <p>Letter from Fambrough MDWCA, July 12, 2013</p> <p>Staff Report, July 9, 2013</p> <p>Attachments a. through h.</p>

**OLD BUSINESS AGENDA ITEM # 1**

**CASE # Z 2013-4**

**PLANNING AND ZONING COMMISSION  
AGENDA SUMMARY**

**DATE OF HEARING: September 10, 2013**

**ACTION REQUESTED:** A Special Use Permit to place a second home on a parcel to be used as a residence for an individual requiring medical care.

This Case was tabled at the July 9 Planning and Zoning Commission meeting.

**REQUESTED BY:** Olga Barraza

**ITEM SUMMARY:** The petition is governed by Articles XVIII and XIX of the Chaves County Zoning Ordinance.

**SUPPORT DOCUMENTS ATTACHED:** P&Z Report dated July 9, 2013 with attachments, Letter from Fambrough Mutual Domestic Water Consumers Association dated July 12, 2013.

**INFORMATION APPLICABLE TO ZONING & SUBDIVISION ACTION**

**LOCATION OF PROPERTY:** 452 Petrie Road, Hagerman, New Mexico

**PROTEST SUMMARY:** None received as of August 30, 2013

**RECOMMENDATION:** Denial. The second residence is not able to be served by water.

**SUMMARY BY:** Anders M. Sheridan, P & Z Director

**CHAVES COUNTY  
PLANNING AND ZONING COMMISSION  
PLANNING AND ZONING REPORT**

**APPLICATION NO:**     Z 2013-4          **DATE OF HEARING:**     September 10, 2013    

**NAME OF APPLICANT:**     Olga Barraza    

**PROPOSED USE OF PROPERTY:**     Special Use Permit to place a Manufactured Home      
    on a parcel for use as a second residence    

**ADDENDUM**

**1. UPDATED HISTORY:**

This petition was brought before the Planning and Zoning Commission on July 9, 2013 for review, consideration and action. At that meeting, the Planning and Zoning Commission heard from Ms. Deborah Huckabee, the Office Manager for the Fambrough Mutual Domestic Water Consumer’s Association (FMDWCA). Ms. Huckabee informed the Planning and Zoning Commission that the FMDWCA was not able to serve a future second residence that would be placed on the subject property with water, due to a moratorium on adding new water users, coupled with the *“past less-than-honest history with the couple regarding their previous special use permit.”* Ms. Huckabee also described a “waiting list” of 23 families who have filed permits to receive water, and estimated that it would likely take more than 2 years for all of the families on the current waiting list to receive water meters/service from the FMDWCA.

Ms. Huckabee also informed the Planning and Zoning Commission that the FMDWCA Board of Directors were conducting a regular meeting on July 11, 2013, which was two days after the Planning and Zoning Commission meeting, to discuss the request from the petitioner for water service.

In response to this information, the Planning and Zoning Commission voted to table this petition.

Planning staff has received a letter from the FMDWCA outlining the action taken by the Board of Directors at their July 11, 2013 meeting. At this meeting, the Board Membership voted not to allow another water hook-up within the territory they serve.

**2. RECOMMENDATION:**

Based on the unavailability of water to serve a second residence, the Planning Department has no alternative but to recommend that this petition for a Special Use Permit be denied.

3. **ATTACHMENTS:**

- a. Staff report presented to the Planning and Zoning Commission, dated July 9, 2013
- b. Letter from Deborah Huckabee of the Fambrough Mutual Domestic Water Consumer's Association to Anders Sheridan, dated July 12, 2013

**FAMBROUGH**  
**MUTUAL DOMESTIC WATER CONSUMER'S ASSOCIATION**  
**P O BOX 458**  
**HAGERMAN, NEW MEXICO 88232**  
**(575)752-0419**



July 12, 2013

Attn: Anders M. Sheridan, Director  
Chaves County Planning & Zoning  
P O Box 1817  
Roswell, NM 88202-1817

RE: Case Z 2013-4 (452 Petree St., Hagerman, NM – Manuel and Olga Barraza)

Dear Mr. Sheridan,

At their Regular Meeting last night, the Board of Directors of Fambrough MDWCA thoroughly discussed the request from Mr. & Mrs. Barraza regarding a second dwelling on their 7.5 Acres. They took into consideration our verbal report of information presented at the Public Hearing on the 9<sup>th</sup> and the fact that the Planning and Zoning Commissioners had tabled the request.

Citing our present moratorium on adding new water users; our current long list of families waiting for water and the past less-than-honest history with the couple regarding their previous special use permit, the Board voted not to allow another water hook-up.

Thank you and the Planning and Zoning Commission for taking our Denial of Water Use into consideration when making your final recommendation to the Chaves County Commissioners.

Sincerely,

A handwritten signature in cursive script that reads 'Deborah Huckabee'.

Deborah Huckabee  
Fambrough Office Manager

cc: Mr. & Mrs. Barraza

**Board of Directors**  
**Raymon Juarez, President**  
**Chet Armstrong, Vice President**  
**Letha Jo (Dink) Denning, Secretary/Treasurer**  
**Warren Miles, Director**  
**Alton Munson, Director**

**CHAVES COUNTY  
PLANNING AND ZONING COMMISSION  
PLANNING AND ZONING REPORT**

**APPLICATION NO:**     Z 2013-4          **DATE OF HEARING:**     July 9, 2013    

**NAME OF APPLICANT:**     Olga Barraza    

**PROPOSED USE OF PROPERTY:**     Special Use Permit to place a Manufactured Home      
    on a parcel for use as a second residence    

**1. REQUEST:**

To place a manufactured home on a parcel of land for use as a second residence. The residence will be occupied by a family member who is under medical care (the petitioner).

**2. LOCATION OF PROPERTY:**

452 Petree Road, Hagerman, New Mexico. The subject property is located near the SW corner of Petree Road and Donna Road. It is located approximately 1½ miles west of Spokane Road (State Route 2), and 2⅔ miles SW of central Hagerman.

**3. NATURE OF SURROUNDING LAND USE AND ZONING:**

In accordance with *Article VI*, this parcel and all adjacent properties are zoned Agricultural, Area II. All parcels created after the effective date of the Zoning Ordinance (August 29, 1981) shall maintain a minimum of five (5) acres.

Several parcels in the vicinity of this request contain single family residential land uses intermixed with limited agricultural land uses. Approximately half of the parcels located within a mile radius of the subject property are vacant.

**4. EXISTING PUBLIC ACCESS:**

The existing primary access is from Donna Avenue. Access is also available from Petree Street.

**5. LAND USE HISTORY:**

A Special Use Permit was granted on August 25, 1999 to Olga Barraza to permit a second residence on the subject property [Case No. Z 1999-08]. The Permit was granted, subject to two Conditions of Approval:

1. That all NMED regulations regarding the septic tanks be complied with; and
2. That all NMED and State Engineer regulations regarding water supply be complied with.



On March 14, 2005, the Fambrough MDWCA terminated water service to the second residence, citing zoning violations: renting the residence to a non-family member. The then Chaves County Planning Director (Grant Pinkerton) sent a letter to Olga Barraza stating that the individual for whom the second residence was requested for (mother) was no longer living in the second residence, and that it was being rented, thereby constituting a zoning violation. There is no further information contained within the Planning and Zoning Department files documenting any additional action the County may have taken. However, the second residence, a manufactured home, was subsequently removed from the subject property.

## 6. ZONING ORDINANCE AND COUNTY CODE REQUIREMENTS:

Special Use Permits may be granted by the Planning Commission in districts from which the uses are otherwise prohibited by the *Chaves County Zoning ordinance*, in accordance with the provisions contained in *Article XVIII*. The Ordinance permits the Planning Commission and the Board of Chaves County Commissioners to impose appropriate conditions and safeguards, which may include a specified period of time for the Special Use Permit to protect the general plan to conserve and protect the property values in the neighborhood.

*Section 2, Supplemental Regulations, 11.* states, “*Before issuance of any special permit for any of the above buildings or uses, the Board of Chaves County Commissioners shall refer the proposed application to the Planning and Zoning Commission, which commission shall be given sixty (60) days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood traffic conditions, public utility facilities, and other matters pertaining to the general welfare. No action shall be taken upon the application for the proposed building or use above referred to until and unless the report to the Chaves County Planning and Zoning Commission has been filed. Provided, however, that if no report is received from the Chaves County Planning and Zoning Commission within sixty (60) days, it shall be assumed that approval of the application has been given by said Commission.*”

*Section 2, Supplemental Regulations, 12.* states, “*Any aggrieved persons or any officer, department, board, or bureau of the Zoning Authority affected by the decision of approval, disapproval, or any conditions required of the Ordinance Enforcement Officer may appeal to the Zoning Authority. The appeal procedure will be in accordance with Article 1, Section 5.H.9.*”

*Article I, General Statements, Section 5, Zoning Ordinance – Mode of Determination, Establishment, Official Zoning Map, Enforcement, Amendment, Supplementation, Repeal or Appeal, H. Amendment, Supplementation or Repeal 9. Appeals to Zoning Authority – Grounds – Stay of proceedings.* states, in part,

- b. “*Any aggrieved persons or any officer, department, board, or bureau of the zoning authority affected by a decision of an administrative officer, commission, or committee in the enforcement of Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation, or ordinance, resolution, rule or regulation adopted pursuant to these sections may appeal to the zoning authority. An appeal shall stay all proceedings in furtherance of the action appealed unless the Ordinance Enforcement Officer, commission, or committee from whom the appeal is taken, certifies that by reason of facts stated in the certificate, a stay would cause imminent peril of life or property. Upon certification, the proceedings shall not be stayed except by order of*

*district court after notice to the official, commission, or committee from whom the appeal is taken and due cause shown.*”

- c. *“When an appeal alleges that there is error in any order, requirement, decision, or determination by an administrative official, commission, or committee in the enforcement of Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation, or any ordinance, resolution, rule, or regulation adopted pursuant to these sections, the Board of Chaves County Commissioners by a two-thirds (2/3) vote of all its members may:*
1. *authorize, in appropriate cases and subject to appropriate conditions and safeguard, special conditions to the terms of the zoning ordinance or resolution;*
    - (a) *which are not contrary to the public interest;*
    - (b) *where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship; and*
    - (c) *so that the spirit of the zoning ordinance is observed and substantial justice done; or*
  2. *In conformity with Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation;*
    - (a) *reverse any order, requirement, decision, or determination of an administrative official, commission, or committee;*
    - (b) *decide in favor of the appellant; or*
    - (c) *make any change in any order, requirement, decision, or determination of an administrative official, commission or committee.”*

## **7. STAFF ANALYSIS AND FINDINGS:**

### ***Special Use Permits:***

There is no guidance provided, nor is there any procedures outlined within the Chaves County Zoning Ordinance that permits or outlines the permitting process for requests to place a second residence (or a manufactured home) on a parcel of land which is occupied by an existing residence. The Ordinance is specific regarding permitting only one residence per lot of record. However, it is in the spirit and intent of the Zoning Ordinance to permit *“Accessory living quarters for only one (1) family, ...and may not be for rent, for lease, or for sale separated from the principal use, or for use involving the conduct of a business.”*

**Finding:** Although there is no language in the Chaves County Zoning Ordinance that specifically permits the placement of more than one residence on a lot of record, it is a Policy of the Planning and Zoning Commission to permit the placement of a second residence on a lot of record to be occupied by a family member who is in need of medical care and/or constant supervision, for a limited period of time.

### ***Floodplain:***

**Finding:** The subject property is not located within a FEMA floodplain.

***Setbacks:***

According to the site plan submitted in support of the petition, the second residence will observe a setback of approximately 40' from the front property line (along Donna Avenue), and a setback of 30' from the side (south) property line. There are no minimum setback requirements for properties zoned Agricultural in Area II. It will be sited over 400' to the southeast of the existing residence. A 10' minimum setback distance is required between structures.

Findings: All required yard setbacks and building separation requirements will be met.

***Compatibility with Surrounding Land Uses:***

Finding: Lot sizes in the immediate area range in size from 2½ to 45 acres in size. Approximately one-third of the parcels are vacant. Most developed parcels contain manufactured home residences. Staff finds that the proposed use is similar in nature to those in the immediate vicinity and therefore will likely not have a detrimental impact on the character of the immediate neighborhood, traffic conditions or public utility facilities.

***Permits:***

Several additional steps shall occur, and a number of permits issued by other agencies shall be obtained by the petitioners prior to placing the second manufactured residence on the subject property. At a minimum, they include:

1. Electrical. The second residence will require electrical service. The electric service provider is Central Valley Energy. The electrical service to the second residence will require an inspection to be conducted by CDI. In accordance with the Zoning Ordinance, there shall not be a separate meter for the electrical service to the second residence.
2. Water. New water service shall be provided to the second residence. The petitioner shall contact the Fambrough Mutual Domestic Water Consumers Association, located at 219 South Oxford Street, in Hagerman, to ascertain their requirements for the provision of water service to the second residence, and to obtain proper permits.

Finding: Staff received a telephone call from the Fambrough Mutual Domestic Water Consumer's Association (FMDWCA) on June 26, 2013. The Office Manager stated that the Executive Board is not likely in favor of granting a permit for water service to this property, citing the issues they outlined in their letter of March 14, 2005. Staff received a follow-up letter via facsimile on Friday June 28, 2013. The letter states that 3 of the 5 Board Members were unwilling to furnish water to serve the second residence. The other two Board Members stated that the FMDWCA could not furnish water to serve the second residence at this time, but would consider putting the petitioners at the bottom of the waiting list. The letter further clarifies that the FMDWCA's system was at full capacity and was unable to provide service, and further noting that there were 23 families waiting for water. The minutes of the FMDWCA Board Meeting conducted on April 13, 2013 states in part, "*Board briefly discussed request and history of account and informally agreed that no further variance would be allowed.*" This issue has been scheduled for formal action at the FMDWCA Board meeting, scheduled for Thursday July 11, 2013.

Staff finds that the petitioner shall obtain water service, the proper permits and a meter from the Fambrough Mutual Domestic Water Consumers Association prior to placing the second residence on the subject property.

3. **Septic Tank:** A new septic tank and associated drainfield shall serve the second residence. The petitioner shall contact the New Mexico Environmental Department, located at 1914 West Second Avenue, in Roswell, to ascertain their requirements for the design, minimum capacity and installation of the second septic system on the subject property, and to obtain proper permits.

Finding: Since there has been a second residence occupying the subject property in the past, and since this proposal seeks to place a manufactured home in approximately the same site as the previous manufactured home occupied, there may already be a septic system in place.

Staff finds that the petitioner shall contact the New Mexico Environmental Department to ascertain the availability of, and suitability of any existing septic system to adequate service the second residence.

4. **Manufactured Home Placement Permit.** Prior to placing the manufactured home on the subject property, the petitioner shall secure a Manufactured Home Placement Permit from the Chaves County Planning and Zoning Department, located at #1 St. Mary's Place, Suite 170, in Roswell.

Finding: All other agency permits shall be obtained and proof of utility service shall be provided to the Planning and Zoning Department prior to the petitioner receiving the Manufactured Home Placement Permit or placing the manufactured home on the subject property.

## 8. **RECOMMENDATION:**

Staff finds that there is sufficient medical evidence to permit the placement of a second residence on the subject property, a manufactured home, to provide independent living for a family member that needs constant medical care, without causing or creating negative impacts to the character of the neighborhood, traffic conditions, or to the general welfare.

However, Staff finds that the unavailability of water service for the second residence is an issue that needs to be resolved before a recommendation of approval can be rendered. Staff therefore recommends that the Special Use Permit application be **continued** or **tabled** until such time that the water service issue can be resolved to the County's satisfaction.

Should the Planning Commission make sufficient findings to recommend approval of the Special Use Permit, then Staff requests the granting of a Special Use Permit for Case No. Z 2013-04 be subject to the following five (5) Conditions of Approval:

1. The Special Use Permit be approved for a period of time not to exceed eighteen (18) months, and shall expire on January 18, 2015, or until such time that the special medical care is no longer required, whichever is sooner. If needed, the Special Use Permit may be extended for another period of time upon the filing of a petition prior to the expiration of this Special Use Permit;

2. The second residence shall be removed from the property within 90 days of the time that the family member receiving medical care is no longer in need of medical care. At no time shall the second residence be rented, leased or sold to or occupied by a non-family member, or separated from the principal use of the subject property, or used to conduct a business;
3. All requirements of the Chaves County Zoning Ordinance shall be adhered to. Failure to observe the requirements of the Zoning Ordinance shall be grounds for immediate revocation of the Special Use Permit and removal of the second residence from the subject property;
4. All permits required by Chaves County and all other agencies be obtained by the petitioner prior to placement of the Manufactured Home (second residence), including but not limited to, permits from the Fambrough Mutual Domestic Water Consumer's Association, the NM State Engineer and NM Environment Department; and
5. The manufactured home shall be inspected by Chaves County and a Certificate of Occupancy be obtained prior to being occupied.

**9. BOARD OF CHAVES COUNTY COMMISSIONERS PUBLIC HEARING**

The recommendation of the Planning and Zoning Commission will be presented for public review and action at the **July 18, 2013** regular meeting of the Board of Chaves County Commissioners. This public hearing will begin at 9:00AM Mountain Daylight Time.

**10. ATTACHMENTS:**

- a. Petition for Case Review, Chaves County Planning & Zoning Department
- b. Vicinity Map
- c. Assessor's Aerial Map
- d. Applicant's Site Plan
- e. Letter from Chibuzo Ukaegbu, MD, MPH, La Casa Family Health Center, dated April 22, 2013
- f. Letter from Grant Pinkerton to Olga Barraza, dated February 15, 2005 (from Case No. Z 1999-08)
- g. Letter from Fambrough Mutual Domestic Water Consumer's Association to Olga Barraza, dated March 14, 2013 (from Case No. Z 1999-08)
- h. Letter from Fambrough Mutual Domestic Water Consumer's Association to Anders M. Sheridan, dated June 28, 2013



# CHAVES COUNTY APPLICATION CHAVES COUNTY ZONING ORDINANCE

Case Number: Z 2013-4 Date Received: 6-5-13 Fee: \$ 150.00

Type of Request:  Rezoning  Special Use  Variance  Change of Use

Name of Property Owner: Olga Barraza Phone Number: 840-9577

Mailing Address: 452 Petree Rd. Hagerman N.M. 88232

Name of Applicant: Olga Barraza

Mailing Address: Same as above Home Phone Number: 840-9577

Henry Barraza (son) Business Phone Number: \_\_\_\_\_

Applicant Status:  Owner  Agent  Tenant  Other \_\_\_\_\_

Case Address, Legal Description, and Parcel Number: 452 Petree Rd. Hagerman  
APN# 4-146-083-251-305, Olga L. Barraza  
S 20 T14S R26E.

Present Land Use: Residential

Intended Use: Residential

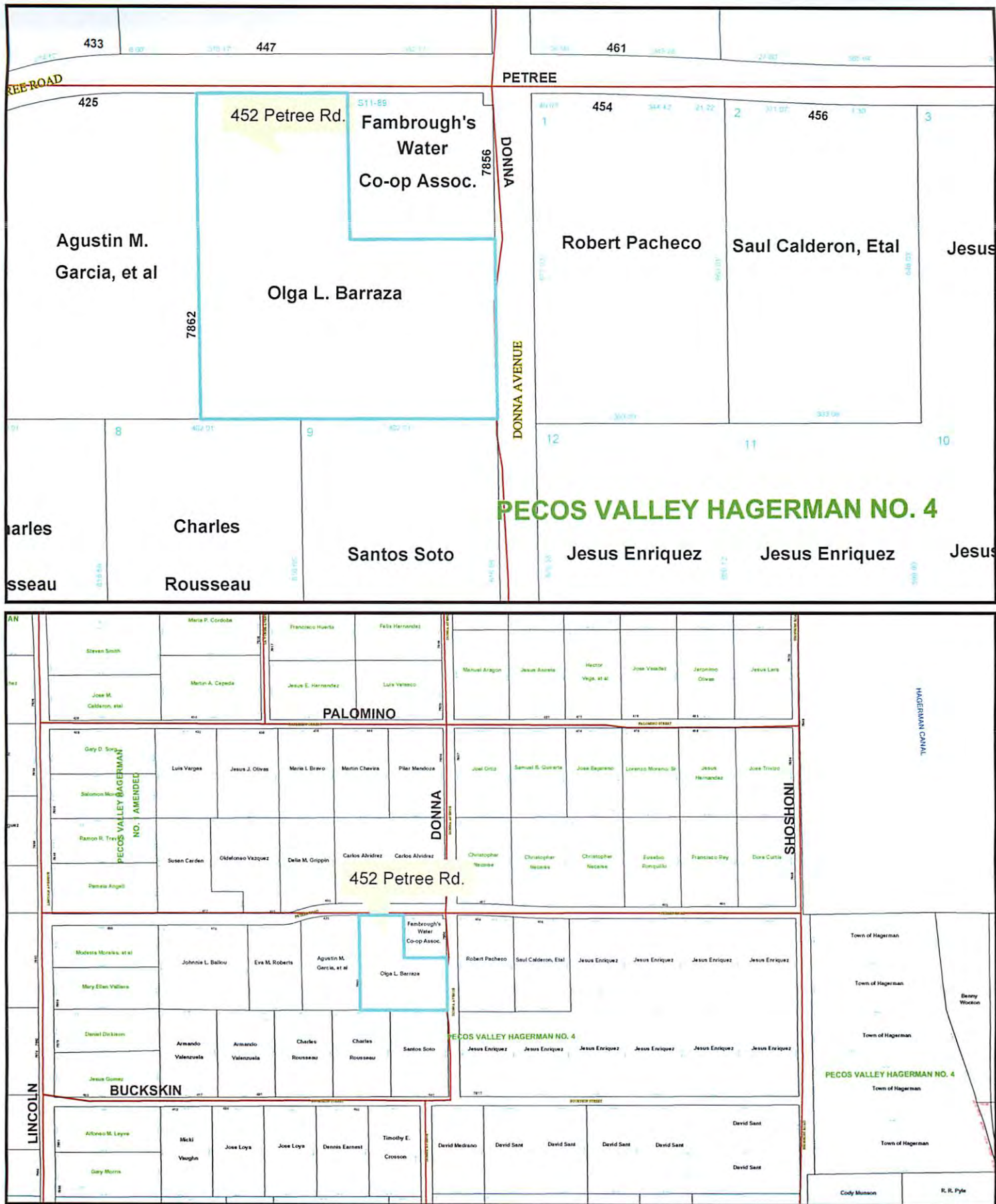
Present Zoning: R-S Requested Zoning: same

Applicant's Reason for Requested Change: (Use back if more space is needed) \_\_\_\_\_

I ACKNOWLEDGE THAT I HAVE BEEN INFORMED OF THE DATES, TIMES, AND LOCATIONS OF THE PUBLIC MEETINGS WHICH I OR MY AGENT MUST ATTEND IN ORDER TO FULFILL THE REQUIREMENTS OF THIS APPLICATION.

Olga Barraza  
 Owner's Signature \_\_\_\_\_ Date 6-5-13

# Vicinity Map



Z 2013-4



# Assessor's Aerial Map



Z 2013-4



C.



SITE PLAN

(5)

BACK = 617P

617P

661P

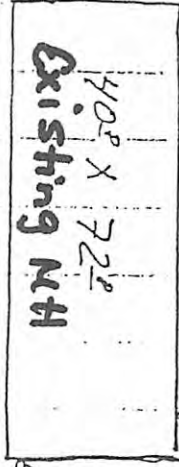
310°

#452 PETREE

(N)

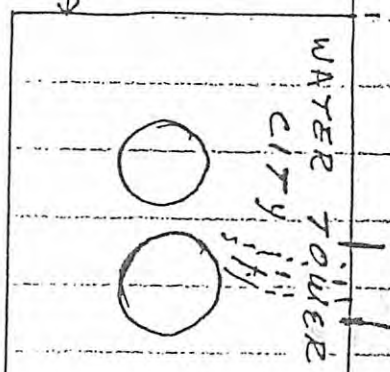
R.D.

307°

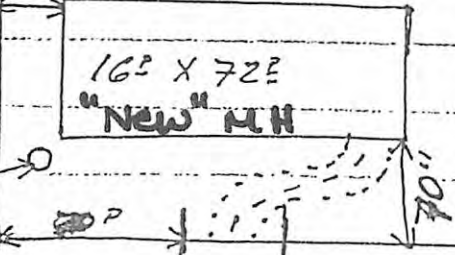
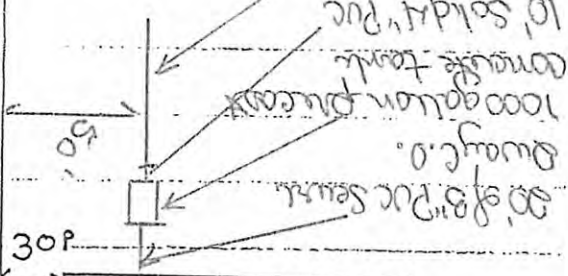


144' FRONTE

450'



note: Planning not to sell  
 14' deep trench @ 1/2 width 14'  
 long, 3' of rock under pipe  
 10' solid PVC  
 concrete tank  
 1000 gallon capacity  
 away c.o.  
 30' of 8" PVC sewer



DONNA AVE.

295'

366'

(W) (E)

north

7/18  
Gross

Z 99-8



To Whom it May Concern

**PORTALES**

1515 W Fir  
PO Box 843  
Portales, NM 88130  
(575) 356-6695  
(575) 356-5948 Fax  
DENTAL (575) 356-5517

**CLOVIS**

1521 W 13th St  
Clovis, NM 88101  
(575) 769-0888  
(575) 763-9154  
DENTAL (575) 769-5021

School Wellness Center  
13th & Maple  
Parkview Elementary  
Clovis, NM 88130  
(575) 762-0360 Phone/Fax

**ROSWELL**

1511 S Grand Ave  
Roswell, NM 88203  
(575) 623-3255  
(575) 625-9901 Fax

**LOS NINOS PEDIATRIC GROUP**

1511 S Grand Ave  
Roswell, NM 88201  
(575) 623-3255

**HONDO**

April 22, 2013

**Re: Olga Barraza (Patient No. 1747.0)**

The above named named 52 year old (DOB: 01/15/1961) woman is a patient of mine suffering from depression with anxiety resulting from the sudden death of her son in a motor vehicle crash 4 years ago. She gets recurrent episodes of anxiety attacks and depression that affects her occupational functioning, causing her to feel miserable that affects her work and resulting in absenteeism.

She is being treated with antidepressant and anxiolytic medications and is also being referred to the counseling associates for further evaluation and expert management.

Thank you for your cooperation.

Sincerely yours,

Chibuzo Ukaegbu, MD MPH

e.

**PLANNING AND ZONING**

P.O. Box 1817  
Roswell, NM 88202-1817  
Phone 505-624-6606  
Fax 505-624-6563



**COMMISSIONERS**

Michael A. Trujillo · District 1  
Harold Hobson · District 2  
Alice Eppers · District 3  
Richard C. Taylor · District 4  
Sue Gutierrez · District 5

**P&Z Director**  
Grant Pinkerton, CZO, CFM

**County Manager**  
Stanton L. Riggs

February 15, 2005

Olga Barraza  
452 Petree St.  
Hagerman, NM 88232


Ref: Special Use Permit, Case # Z 1999-8 for a second residence at 452 Petree St.

Dear Ms. Barraza:

This letter is to remind you that on August 25, 1999 a Special Use Permit for a second residence was issued due to a mothers health problems. It has come to our attention that your mother no longer lives in this mobile home and it is being rented. This is in violation of our zoning code.

Please contact our office within 10 days of this letter to discuss corrective action.

Sincerely,

  
Grant Pinkerton, Director  
Planning and Zoning

f.



**FAMBROUGH MDWCA  
219 S OXFORD ST  
HAGERMAN, NM 88232  
805-752-0419  
March 14, 2005**

**COPY**

**Ms Olga Barraza  
452 Petree Road  
Hagerman, NM**

**Re: Accounts #146 and 179**

**Dear Ms. Barraza:**

**The matter of your two accounts with us, #146 situated at 7862 Donna Road and #179 situated at 452 Petree Road, was discussed at our monthly Board of Directors meeting as I told you it would be. Since the conditions for your zoning exception is no longer valid and since you have been renting that property to non-family members for at least two years, the Board decided that your membership at 7862 Donna Road would be terminated. Your meter #146 will be turned off and locked on April 14<sup>th</sup>, 2005.**

**Since your property is situated on 7.18 acres, and since the reason for your zoning exception has not existed for at least two years, the Board felt it would be unfair to allow you to have a double dwelling on your property when no one else has that same privilege. Since no other property on the water system has less than 5 acres per meter, it is unfair that you should have two meters and two septic tanks, especially since you live so close to the source of our water and we are trying to limit septic tank use there.**

**Within the next couple of months, we will be starting construction on our new storage tank; and we will be rehabilitating our old well, upgrading our pumping system, and generally enlarging our storage system which is immediately adjacent to your property. That's why it is even more crucial that this matter be settled as quickly as possible.**

**Since we realize that this gives your renters little time to find another property, we invite you to come to our next Board meeting on April 7<sup>th</sup>, 2005, at the Fambrough office, at 7:00PM to discuss the matter with the Board of Directors. If you can provide them with a legitimate reason for giving you an extension, they will agree to listen to your request. I cannot**

**Board of Directors:  
Raymon Juarez, President  
Paul Bloechl, V-President**

**Dink Denning  
Warren Miles**

9.  
2 PAGES

**COPY**

**make you any promises regarding the extension of time. That decision will be made at the discretion of the board members.**

**We, also, want to expedite the transfer of meter #179 into your name. This should have been done when the other meter was added. Since the deed to the property is in your name, the membership should also be in your name. If you can get the transfer form signed by Mr. Puentes soon, we can make that correction to the Patree Road membership immediately.**

**As I told you this morning, our intention is not to be deliberately unkind to you. We do, however, need to protect the overall wellbeing of our water system. Should you wish to discuss this matter in more detail, our office hours are still from 1:00PM till 5:00PM Monday through Friday. I will be happy to assist you in any way that I can.**

**Sincerely,**

**Judith V Kelly  
Office Manager**

**Board of Directors:  
Raymon Juarez, President  
Paul Bloechl, V.President**

**Dink Denning  
Warren MBea**

**FAMBROUGH  
MUTUAL DOMESTIC WATER CONSUMER'S ASSOCIATION  
P O BOX 458  
HAGERMAN, NEW MEXICO 88232  
(575)752-0419**

June 28, 2013

**VIA Facsimile (624-6563) and USPS First Class Mail**

Attn: Anders M. Sheridan, Director  
Chaves County Planning & Zoning  
P O Box 1817  
Roswell, NM 88202-1817

RE: Case Z 2013-4 (452 Petree St., Hagerman, NM – Manuel and Olga Barraza)

Dear Mr. Sheridan,

I am enclosing a copy of my note to the five members of Fambrough MDWCA Board of Directors that I mailed on June 26, 2013 after our office received your certified letter regarding the above referenced Case. A copy of your letter was attached to my note.

Your older file (Z 99-8) contains some back-up materials regarding these property owners and our issues around their earlier special use permit.

I have spoken with each of the five Board Members today by phone and the consensus (3 members) is that Fambrough **will not** furnish water to them for a second home on the less than 10 acres. The other two Board Members said we **could not** furnish water to them at this time, but they would consider putting them at the bottom of our waiting list. (Our system is at capacity and we are working from a list that was started in November – 2011 that currently has 23 families waiting for water.) Our next meeting is July 11, 2013 (2 days after this public hearing) and this issue will be on the Agenda and will be formally voted on at that time.

We will have representatives at your meeting on the 9<sup>th</sup>.

If you have any questions, please call our office.

Thank you,

  
Deborah Huckabee  
Fambrough Office Manager

Enclosure

**Board of Directors**  
Raymon Juarez, President  
Chet Armstrong, Vice President  
Letha Jo (Dink) Denning, Secretary/Treasurer  
Warren Miles, Director  
Alton Munson, Director

*h. 2 pages*

Fambrough Mutual Domestic Water Consumers Association --Minutes of Regular Meeting --April 11, 2013

**VII. Late Items – Board will hear these items, but take no action until matter can be placed on agenda.....**

1. Manuel and Olga Barraza, 7862 Donna Road, asked about possibility of re-connecting their second meter on Petree which had served the back portion of their property when Mrs. Barraza's ill parent lived there. They had special/temporary approval from Chaves County allowing two dwellings on an area less than 10 acres. (County rule is one dwelling per 5 acre parcel.) The special permit was because Mrs. Barraza's parent was ill and had to live close to them. According to Mr. & Mrs. Barraza after the death of her parent, the extra membership was cancelled and the meter removed. One of their sons was killed some time ago in an auto accident and the remaining son has bought a mobile home and wants to place it on their property. Mr. & Mrs. Barraza are working with David Flores regarding approval & permits needed from Chaves County. The Board directed Deborah to research the history of these accounts and report to the Board at the May meeting.

Fambrough Mutual Domestic Water Consumers Association --Minutes of Regular Meeting --May 16, 2013

**ATTENDANCE**

**Board Members Present:** Raymon Juarez, President; Chet Armstrong, Vice President; Dink Denning, Secretary-Treasurer; Warren Miles, Director and Alton Munson, Director

**Board Members Absent:** None

**Other Members Present:** Dominic Batista

**Non-Members Present:** Leslie & Sylvia Davis (Linney Transfer); Gordon (Tuffy) Sanders, Maintenance; Becky Gurrola & Deborah Huckabee, Office Staff

**I. Call Meeting to Order.** The meeting was called to order by Ray Juarez, President at 7:01PM. Quorum was present.

**II. Approval of Agenda.** Dink Denning moved that the Agenda be approved, Chet Armstrong seconded, Motion Carried

**III. Approval of Minutes of Last Meeting- April 11, 2013 -** Chet Armstrong moved minutes be approved, Dink Denning seconded, Motion Carried.

**IV. Old Business. Not Present at Meeting – Office Report** Manuel & Olga Barraza – 2<sup>nd</sup> Meter Reinstatement?? / Office has heard nothing further from them. Our records show they had a 1999 exception allowing 2 dwellings/meters on only 7 acres of land due to ill parent living on part of property. – After death of that parent, they then rented the property to non-family for a number of years without our knowledge – Moved to revoke and disconnect in March 2005 – property was rented at that time to people with children in school so Board agreed to move final date to May 17, 2005. Board briefly discussed request and history of account and informally agreed that no further variance would be allowed.

(1) I am enclosing these portions of the minutes from our April 11 and May 16, 2013 Meetings as they apply to the enclosed letter we received yesterday (June 25<sup>th</sup>) by Certified Mail from Chaves County Planning and Zoning. As you can see, the hearing on their special use permit is scheduled for July 9<sup>th</sup> – 2 days before our next meeting. I spoke with Mr. Sheridan and explained their past history with us and told him we had had the above discussion in May. He said water availability would certainly be a major consideration in whether or not to grant the permit and asked that we submit a letter to that effect by the 1<sup>st</sup> of July in order to meet the 8 day deadline to be included in the written report.

May I please hear from each of you as soon as possible concerning the inclusion of the above “informal decision” of the Board in a letter to Planning and Zoning.



## Planning and Zoning Commission

Summary of Commission Action

Hearing Date: September 10, 2013

<b>CASE NUMBER:</b>	Z 2013-5
<b>ACTION REQUESTED:</b>	Petition for the Renewal of a Special Use Permit
<b>PURPOSE:</b>	To renew an existing Special Use Permit for a wireless telecommunications facility (cellular tower).
<b>PETITIONER:</b>	Ken Letcher, White Mountain Communications, Inc.
<b>PROPERTY LOCATION:</b>	1 Lookout Drive, Roswell, New Mexico
<b>STAFF RECOMMENDATION:</b>	Approval, subject to 4 Conditions of Approval
<b>PLANNING COMMISSION ACTION</b>	Unanimous Approval [3-0], subject to 4 Conditions of Approval
<b>CONDITIONS OF APPROVAL:</b>	<ol style="list-style-type: none"> <li>1. Any lighting which may be needed for security or other purposes be shielded from surrounding uses and be FAA compliant, and be night sky sensitive, whenever possible;</li> <li>2. All necessary permits and inspections be obtained prior to operation of the facility;</li> <li>3. The Special Use Permit be granted for a period of thirty (30) years, and will expire on September 19, 2043, unless Condition No. 4 applies; and</li> <li>4. If the facility remains inoperative for a period of 12 consecutive months, it shall be removed by the owner or petitioner, unless a non-use permit for a prescribed period is granted by Chaves County.</li> </ol>
<b>EXHIBITS:</b>	<p>Case Summary, September 10, 2013</p> <p>Staff Report, September 10, 2013</p> <p>Attachments a. through d.</p>



**NEW BUSINESS AGENDA ITEM # 1**

**CASE # Z 2013-05**

**PLANNING AND ZONING COMMISSION  
AGENDA SUMMARY**

**DATE OF HEARING: September 10, 2013**

**ACTION REQUESTED:** A Special Use Permit to renew an existing Special Use Permit for a wireless telecommunications facility (Cellular telephone tower).

**REQUESTED BY:** Kenneth E. Letcher/White Mountain Communications, Inc.

**ITEM SUMMARY:** The petition is governed by Articles XIV and XVIII of the Chaves County Zoning Ordinance.

**SUPPORT DOCUMENTS ATTACHED:** P&Z Report, Petition for Review (Application), Vicinity Map, Assessor's Aerial Map, Zoning Certificate for Case No. Z-1998-04.

**INFORMATION APPLICABLE TO ZONING & SUBDIVISION ACTION**

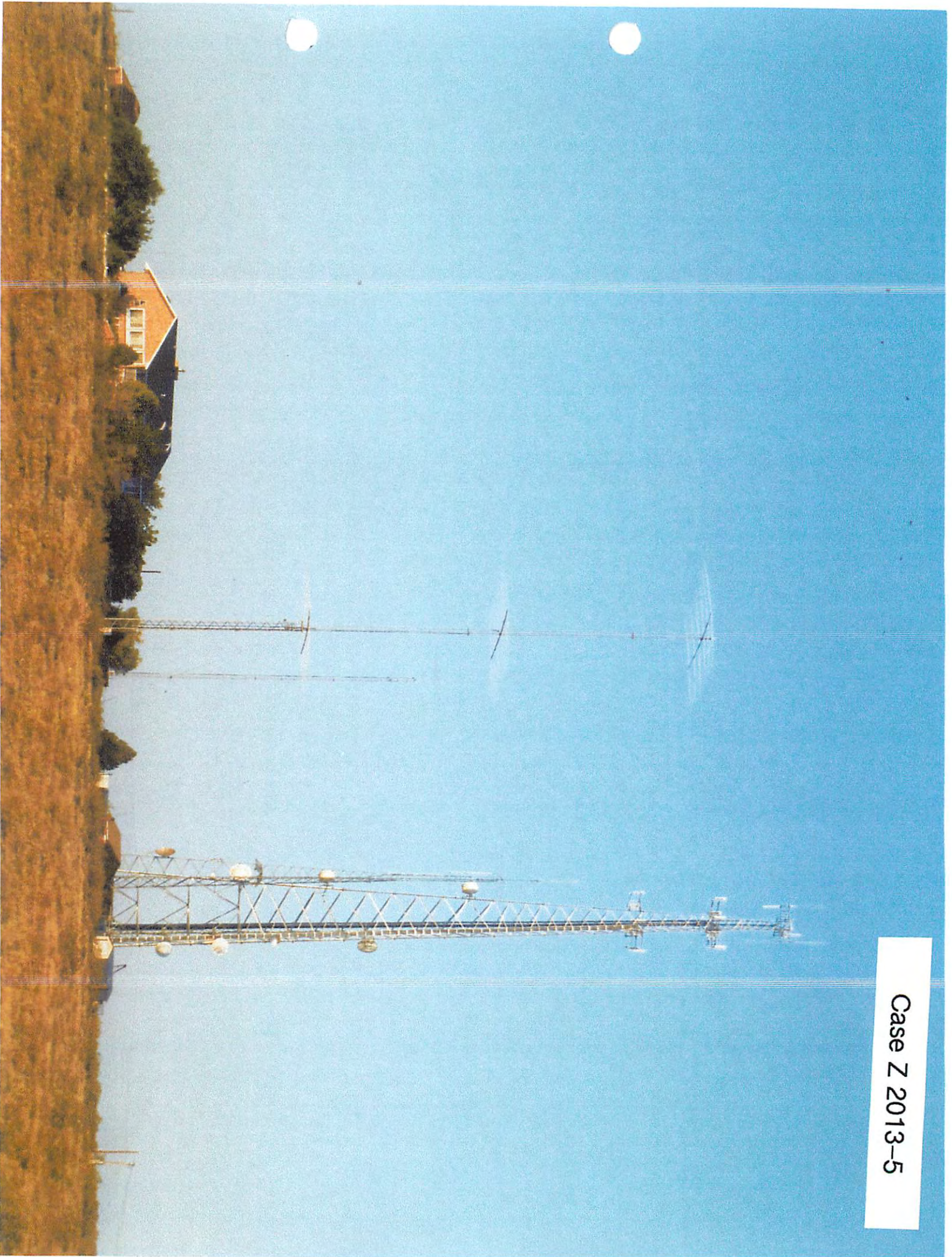
**LOCATION OF PROPERTY:** 1 Lookout Drive, Roswell, New Mexico

**PROTEST SUMMARY:** No inquiries or protests have been received as of August 30, 2013.

**RECOMMENDATION:** Approval subject to 4 Conditions of Approval

**SUMMARY BY:** Anders M. Sheridan, P & Z Director

Case Z 2013-5



**CHAVES COUNTY  
PLANNING COMMISSION  
PLANNING AND ZONING REPORT**

**APPLICATION NO:**     Z 2013-05          **DATE OF HEARING:**     September 10, 2013    

**NAME OF APPLICANT:**     Kenneth E. Letcher/White Mountain Communications, Inc.    

**REASON FOR HEARING:**     Special Use Permit Request, Renewal of a Special Use Permit      
    for a Wireless Communications Antenna Facility (Cell Tower)    

**1. REQUEST:**

To renew a previously issued Special Use Permit to continue the operation of a Wireless Telecommunications Antenna Facility (Cellular Tower).

**2. LOCATION OF PROPERTY:**

1 Lookout Drive, Roswell, New Mexico. The subject property is located approximately 1,500 feet (0.3 mile) south of US Highway 70/380 (West Second Street), 2.53 miles west of the Roswell Relief Route, on Sixmile Hill.

The legal description of the subject property is: (Tower Easement within Lot 73), Section 4, Township 11 South, Range 23 East; recorded in Book 201, Page 444. This "lease site" contains 4,219 ft<sup>2</sup> of land area.

**3. NATURE OF SURROUNDING LAND USE AND ZONING:**

In accordance with *Article VI*, this parcel and all adjacent properties are zoned Agricultural, Area II. All parcels created after the effective date of the Zoning Ordinance (August 29, 1981) shall maintain a minimum of five (5) acres.

The subject (parent) property contains 4.80± acres of land and was parceled prior to 1981.

Land uses in the vicinity of this request (a one-mile radius) include scattered large lot single family residential development (principally well to the northeast of the subject property), intermixed with limited agricultural land uses. Three parcels fronting onto West Second Street contain Industrial land uses and/or billboards. The vast majority of parcels located within a one-mile radius of the subject property are vacant.

**4. EXISTING SITE ACCESS:**

The existing primary access is from Lookout Drive. Lookout Drive directly accesses West Second Street. It changes name from Lookout Drive to Desert Hills Road to Sila Road between the subject site and its intersection with West Second Street.

5. **LAND USE HISTORY:**

A Special Use Permit was granted on July 22, 1998 to the applicant (Kenneth Letcher) to permit a telecommunications antenna on the subject property [Case No. Z 1998-04]. The Special Use Permit was granted, subject to two Conditions of Approval:

1. That the tower comply with all FCC and FAA rules and regulations; and
2. That if lighting is required, strobe lights will only be used in the daytime.

In addition, the Special Use Permit was issued “for a transmitter antenna for a period of 15 years.” The 15-year time period expired in July 2013.

In addition to this wireless antenna structure, a second antenna structure exists that was permitted in 1990. This antenna structure is located 1830± feet to the northeast of this site. It is currently owned by Vanguard Wireless, LLC, headquartered in Alexandria, Virginia.

The issuance of this Special Use Permit predates the adoption of Article XIV, the Wireless Telecommunications Facilities Ordinance.

6. **ZONING ORDINANCE AND COUNTY CODE REQUIREMENTS:**

Special Use Permits may be granted by the Planning Commission in districts from which the uses are otherwise prohibited by the *Chaves County Zoning Ordinance*, in accordance with the provisions contained in *Article XVIII*. The Ordinance permits the Planning Commission and the Board of Chaves County Commissioners to impose appropriate conditions and safeguards, which may include a specified period of time for the Special Use Permit to protect the general plan to conserve and protect the property values in the neighborhood.

*Section 2, Supplemental Regulations, 11.* states, “Before issuance of any special permit for any of the above buildings or uses, the Board of Chaves County Commissioners shall refer the proposed application to the Planning and Zoning Commission, which commission shall be given sixty (60) days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood traffic conditions, public utility facilities, and other matters pertaining to the general welfare. No action shall be taken upon the application for the proposed building or use above referred to until and unless the report to the Chaves County Planning and Zoning Commission has been filed. Provided, however, that if no report is received from the Chaves County Planning and Zoning Commission within sixty (60) days, it shall be assumed that approval of the application has been given by said Commission.”

*Section 2, Supplemental Regulations, 12.* states, “Any aggrieved persons or any officer, department, board, or bureau of the Zoning Authority affected by the decision of approval, disapproval, or any conditions required of the Ordinance Enforcement Officer may appeal to the Zoning Authority. The appeal procedure will be in accordance with Article 1, Section 5.H.9.”

*Article I, General Statements, Section 5, Zoning Ordinance – Mode of Determination, Establishment, Official Zoning Map, Enforcement, Amendment, Supplementation, Repeal or*

**Appeal, H. Amendment, Supplementation or Repeal 9. Appeals to Zoning Authority – Grounds – Stay of proceedings.** states, in part,

- b. *“Any aggrieved persons or any officer, department, board, or bureau of the zoning authority affected by a decision of an administrative officer, commission, or committee in the enforcement of Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation, or ordinance, resolution, rule or regulation adopted pursuant to these sections may appeal to the zoning authority. An appeal shall stay all proceedings in furtherance of the action appealed unless the Ordinance Enforcement Officer, commission, or committee from whom the appeal is taken, certifies that by reason of facts stated in the certificate, a stay would cause imminent peril of life or property. Upon certification, the proceedings shall not be stayed except by order of district court after notice to the official, commission, or committee from whom the appeal is taken and due cause shown.”*
- c. *“When an appeal alleges that there is error in any order, requirement, decision, or determination by an administrative official, commission, or committee in the enforcement of Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation, or any ordinance, resolution, rule, or regulation adopted pursuant to these sections, the Board of Chaves County Commissioners by a two-thirds (2/3) vote of all its members may:*
  - 1. *authorize, in appropriate cases and subject to appropriate conditions and safeguard, special conditions to the terms of the zoning ordinance or resolution;*
    - (a) *which are not contrary to the public interest;*
    - (b) *where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship; and*
    - (c) *so that the spirit of the zoning ordinance is observed and substantial justice done; or*
  - 2. *In conformity with Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation;*
    - (a) *reverse any order, requirement, decision, or determination of an administrative official, commission, or committee;*
    - (b) *decide in favor of the appellant; or*
    - (c) *make any change in any order, requirement, decision, or determination of an administrative official, commission or committee.”*

**Article I, Section 3, C.: Conformance to Comprehensive Plan, (2):** *“Reasonable consideration shall be given, among other things, to the character of the zoning areas and districts and their peculiar suitability for particular uses, and to conserving the value of buildings and land, and encouraging the most appropriate use of land throughout the jurisdiction.”*

**Finding:** The existing wireless telecommunications facility and related support structures currently meet this requirement.

**Article III, Section 2 Supplemental Regulations; A. Road Setback Requirements – All Zones, (1):** *“The construction or placement of permanent structures is prohibited nearer than fifty (50)*

*feet from the section line, on section line roads; forty (40) feet from the half-section line roads; thirty (30) feet from the center line on other roads, even if the existing county road has a narrower right-of-way, and was acquired by deed, dedication, prescription, condemnation, declaration, or other means.”*

**Finding:** The existing wireless telecommunications facility meets all required road setback requirements and required setbacks from section line and half section line roads.

**Article XIV, Wireless Telecommunications Facilities, Section 2, Application:** *“All new and modified wireless telecommunications facilities must apply for a Special Use Permit pursuant to Section 2.5 of this Ordinance and be scheduled for public hearing and approved by the Commission. Special Use Permits for wireless telecommunications facilities will be 30 year permits unless special conditions arise during the application and approval process. In addition to the information already required by this Ordinance, applications must include:*

*A. Documentation that demonstrates the need for the wireless telecommunications facility to provide service within the County including propagation studies of the proposed site and all surrounding and existing sites.*

**Finding:** Staff finds that, since the wireless facility currently exists, this requirement is not applicable.

*B. Description of the proposed tower and antennas and all related fixtures, structures, and appurtenances, including height above pre-existing grade, materials, colors and lighting.*

**Finding:** Staff finds that, since the wireless facility currently exists, this requirement is not applicable.

*C. The design of the tower and antennas showing the calculations of the tower’s capacity to accommodate multiple users. Applications for new wireless telecommunications facilities shall examine the feasibility of designing a proposed tower to accommodate at least 2 additional antenna arrays equal to those proposed by the applicant. This requirement may be waived if the applicant can demonstrate, in writing, that future shared usage of the tower is not technologically feasible, is commercially impracticable, or creates an unnecessary hardship or practical difficulty.*

**Finding:** Staff finds that, since the wireless facility currently exists, this requirement is not applicable.

*D. Site plan of the site showing the location of the tower, equipment structures, driveways, fences, etc.*

**Finding:** Staff finds that, since the wireless facility currently exists, this requirement is not applicable.

*E. A written statement from the owner of the proposed tower that he/she and his/her successors in interest will negotiate in good faith for the shared use of the proposed tower.*

**Finding:** Staff finds that, since the wireless facility currently exists, this requirement is not applicable.

**Section 3. Location. A. Wireless telecommunications facilities shall locate in accordance with the following priorities:**

1. *On existing towers or other structures without increasing the height of the tower or structure.*
2. *Along major traffic corridors*
3. *In Agricultural areas*
4. *In Residential areas*

**Finding:** Staff finds that, since the wireless facility currently exists, this requirement is not applicable.

**B.** *The applicant shall submit a written report demonstrating the applicant's review of sites in the vicinity of the proposed location demonstrating the technological reason for the site selection, and a detailed, written explanation why sites of higher priority were not selected.*

**Finding:** Staff finds that, since the wireless facility currently exists, this requirement is not applicable.

**C.** *An applicant may not by-pass sites of higher priority by stating the proposed site is the only site leased or selected. If co-location is not an option, the applicant must explain why co-location is commercially, or otherwise, impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.*

**Finding:** Staff finds that, since the wireless facility currently exists, this requirement is not applicable.

**D.** *The Commission may approve any site located within an area in the above list of priorities, provided that the Findings indicate that the proposed site is in the best interest of the health, safety and welfare of the residents of Chaves County and will not have a detrimental effect on the nature and character of the community and neighborhood.*

**Finding:** Staff finds that, since the wireless facility currently exists, this requirement is not applicable.

**E.** *The Commission may disapprove the action requested for any of the following reasons:*

1. *A conflict with safety and safety-related codes and requirements.*
2. *A conflict with the historic nature or character of a neighborhood or historic district.*
3. *The use or construction of a facility is contrary to an already stated purpose of a specific zoning or land use designation.*
4. *A conflict with the provisions of the Chaves County Zoning Ordinance or any other County ordinances.*

**Findings:** Staff finds that there are no issues that have arisen in the 15-year life span of the wireless facility that create or have created any conflict with any of the above criteria.

#### **Section 4. Colocation**

**Finding:** Due to the petition requesting a renewal of a previously issued Special Use Permit, Staff finds that, since the wireless facility currently exists, this requirement is not applicable.

#### **Section 5. Height, Lot Size, and Setbacks**

Towers are exempt from height requirements. The facility currently exists. Therefore, adherence to these specific requirements is not applicable.

#### **Section 6. Appearance and Visibility**

The existing tower was erected at a height of 282'. Although situated on top of a ridge, visual impacts to traffic driving on US 70/380 are significantly reduced by the distance it is setback from the roadway (1,830').

The only artificial lighting that staff is aware of is that which is required by the Federal Communications Commission and the Federal Aviation Administration.

#### **Section 7. Security**

The existing facility has been designed to meet industry standards and appears to be in compliance with all federal and local safety requirements. The applicant's residence is adjacent to the subject property, on the same parent parcel, to the east of the subject site. The wireless antenna "lease site" is surrounded by a chain link fence and is secured.

Staff finds that the site incorporates adequate security measures.

#### **Section 8. Signs**

No new signs are proposed.

Staff finds that the petition meets this requirement.

#### **Section 9. Abandonment**

Condition 4 addresses this requirement.

#### **Section 10. State and Federal Regulations**

The applicant acknowledges this requirement.

#### **Section 11. Exemptions**

No exemptions are applicable to this application.



**7. STAFF ANALYSIS AND FINDINGS:**

***Special Use Permits:***

Finding: The land use requires issuance of a Special Use Permit upon a duly noticed public hearing. The initial Special Use Permit was issued on July 22, 1998, and was valid for a 15-year period. This Permit has expired. This petition seeks renewal of the Special Use Permit.

***Floodplain:***

Finding: The subject property is not located within a FEMA floodplain.

***Setbacks:***

Findings: All required yard setbacks and building separation requirements are currently met.

***Compatibility with Surrounding Land Uses:***

Finding: Lot sizes in the immediate area range in size from 2½ to several hundred acres in size. Staff estimates that more than 80% of the parcels located within one mile of the subject site are vacant. Most of the developed parcels contain single family residences and industrial land uses. Most of the developed parcels are located some distance from the subject property (more than 2,000 feet distant). Staff finds that the existing facility has not had a detrimental impact on the character of the immediate neighborhood, traffic conditions or public utility facilities, and will likely not have an impact in the future.

No inquiries or citizen complaints have been received in response to the notice of public hearing on this petition.

***Permits:***

Staff has not identified the need for the applicant to secure additional permits for this project, an existing wireless telecommunications facility.

**8. RECOMMENDATION:**

Staff finds that communication towers are an essential component of life for health and safety purposes, as well as their ability to provide day to day convenience for Chaves County residents. Cell towers also provide an economic benefit to the County. Staff further finds that the use has not been injurious to the public health, safety, morals and general welfare of the community, and likely will not be so in the foreseeable future. The use or value of the area adjacent to the property does not appear to be affected substantially in an adverse manner by incorporating the land use. Staff further finds that the site is suitable for the proposed land use and the surrounding properties seem compatible with the proposed land use.

Staff believes that approving a Special Use Permit for the land use on the subject property is appropriate, subject to certain conditions of approval that are designed to mitigate potential negative impacts on surrounding land uses.

Therefore, staff recommends approval of the Special Use Permit petition, subject to the following Conditions of Approval:

1. Any lighting which may be needed for security or other purposes be shielded from surrounding uses and be FAA compliant, and be night sky sensitive, whenever possible;
2. All necessary permits and inspections be obtained prior to operation of the facility;
3. The Special Use Permit be granted for a period of thirty (30) years, and will expire on September 19, 2043, unless Condition No. 4 applies; and
4. If the facility remains inoperative for a period of 12 consecutive months, it shall be removed by the owner or petitioner, unless a non-use permit for a prescribed period is granted by Chaves County.

9. **BOARD OF CHAVES COUNTY COMMISSIONERS PUBLIC HEARING:**

The recommendation of the Planning and Zoning Commission will be presented for public review and action at the **September 19, 2013** regular meeting of the Board of Chaves County Commissioners. This public hearing will begin at 9:00AM Mountain Daylight Time.

10. **ATTACHMENTS:**

- a. Petition for Case Review, Chaves County Planning & Zoning Department
- b. Vicinity Map
- c. Assessor's Aerial Map
- d. Zoning Certificate issued for Special Use Permit Case No. Z 98-4



# CHAVES COUNTY APPLICATION CHAVES COUNTY ZONING ORDINANCE

Case Number: Z 2013-05 Date Received: AUG 12, 2013 Fee: \$100.00

Type of Request:     Rezoning     Special Use     Variance     Change of Use

Name of Property Owner: KENNETH LETCHER Phone Number: 575-623-7592

Mailing Address: PO BOX 1942    ROSWELL NM 88202

Name of Applicant: - SAME -

Mailing Address: - SAME - Home Phone Number: \_\_\_\_\_

1 LOOKOUT DRIVE Business Phone Number: \_\_\_\_\_

Applicant Status:     Owner     Agent     Tenant     Other \_\_\_\_\_

Case Address, Legal Description, and Parcel Number: Z 98-4 ; Lot 73  
SECTION 4, T 11 S, R 23 E

Present Land Use: COMMUNICATIONS BUILDINGS AND TOWERS

Intended Use: NO CHANGES PROPOSED

Present Zoning: A6 Requested Zoning: A6

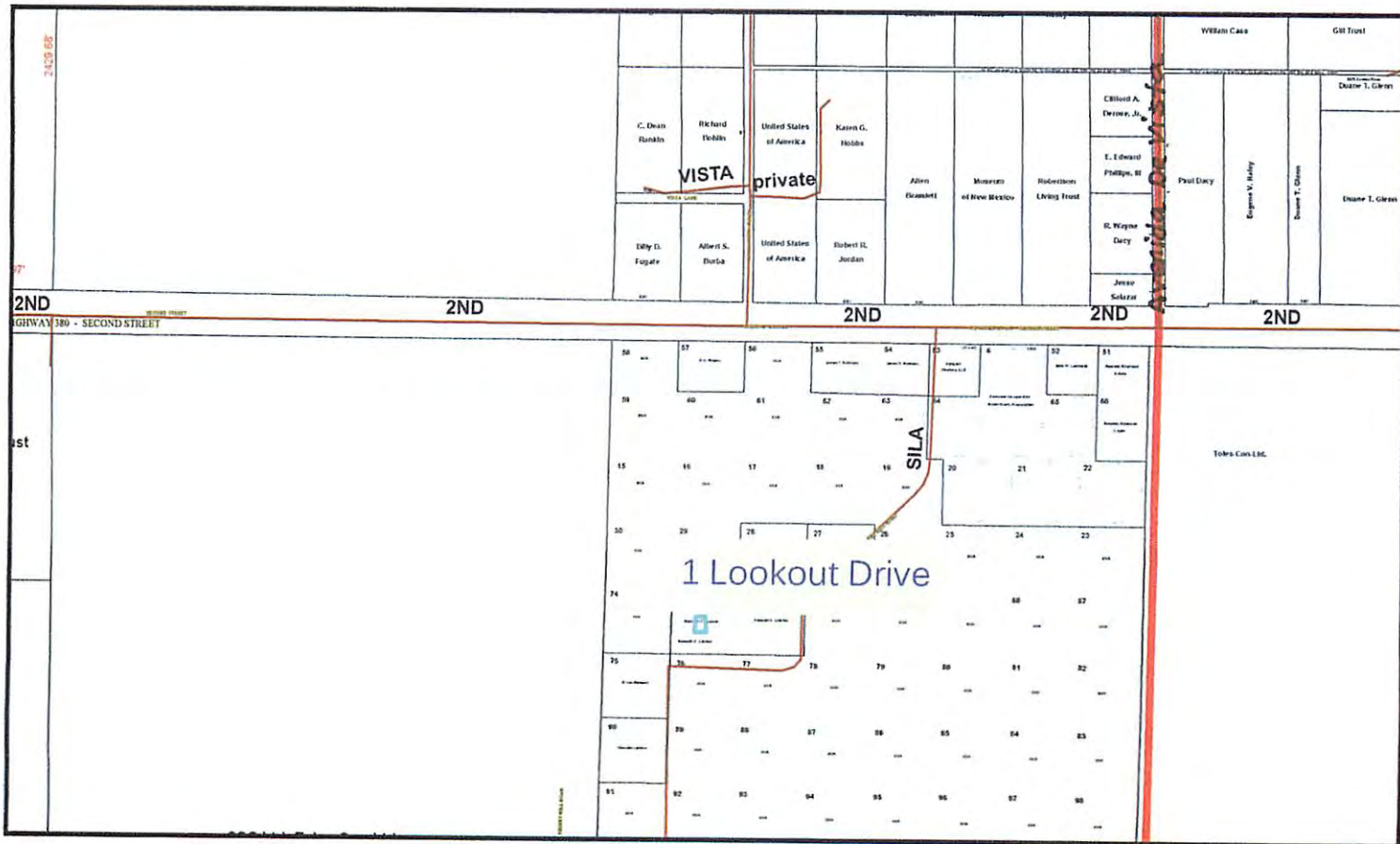
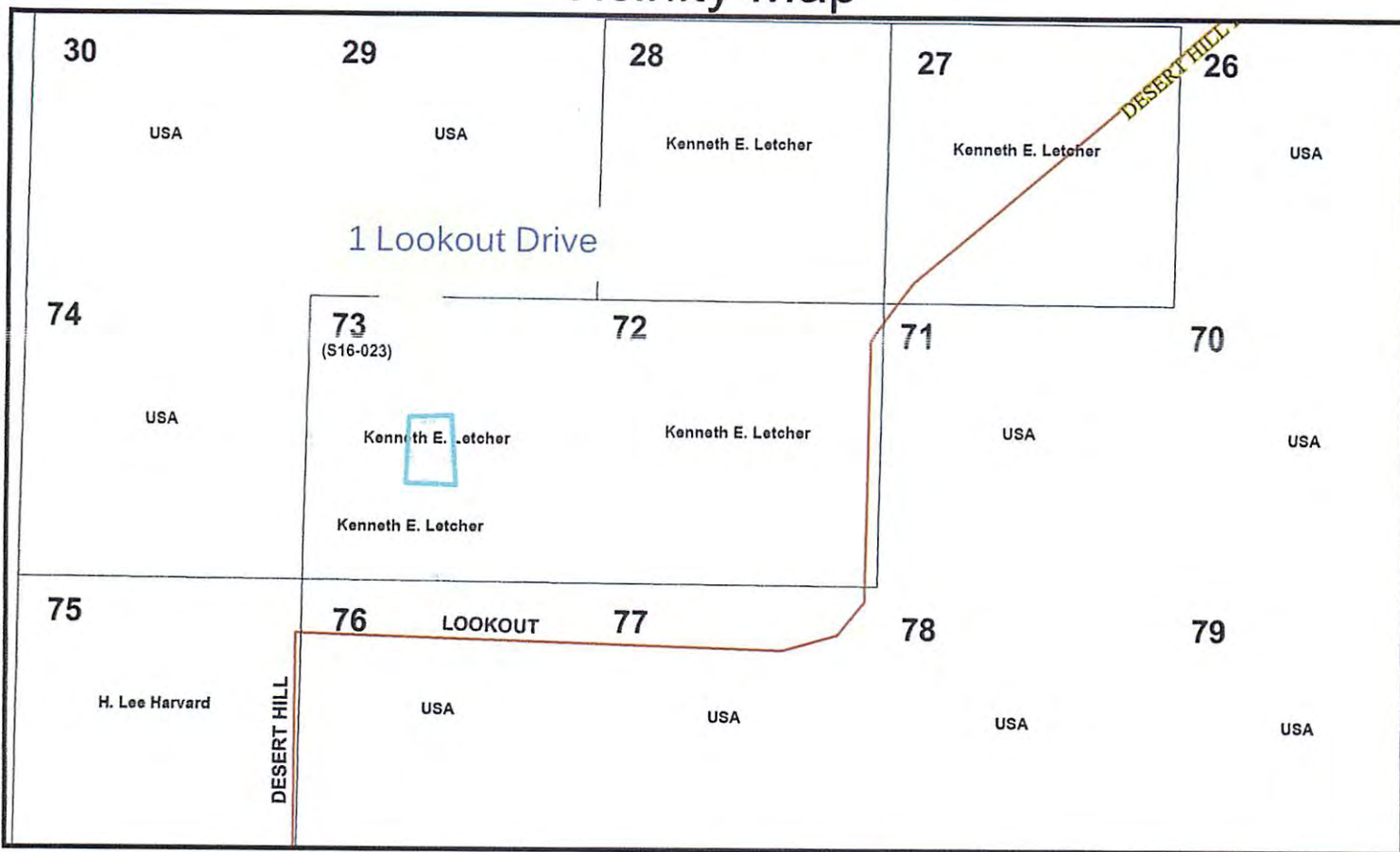
Applicant's Reason for Requested Change: (Use back if more space is needed) RENEW  
SPECIAL USE PERMIT FOR WIRELESS COMMUNICATIONS  
FACILITY

I ACKNOWLEDGE THAT I HAVE BEEN INFORMED OF THE DATES, TIMES, AND LOCATIONS OF THE PUBLIC MEETINGS WHICH I OR MY AGENT MUST ATTEND IN ORDER TO FULFILL THE REQUIREMENTS OF THIS APPLICATION.

Kenneth Letcher  
Owner's Signature

Aug 12-2013  
Date

# Vicinity Map



Z 2013-5



b.

# Assessor's Aerial Map



Z 2013-5



C.

# CERTIFICATE OF ZONING

DATE: July 22, 1998

CASE NO: Z 98-24

THIS CERTIFICATE IS ISSUED TO: Kenneth Letcher

ADDRESS: 1 Lookout Drive

PROPERTY DESCRIPTION: Lot 73, Section 4, T11S, R23E

SPECIFIC USE: Special Use Permit for a transmitter antenna for a period of 15 years

ADDITIONAL RESTRICTIONS AND CONDITIONS: 1. That the tower comply with all FCC and FAA rules and regulations; 2. That if lighting is required, strobe lights will only be used in the daytime.

(Approved changes of zoning are to comply with all applicable Articles of the Chaves County Zoning Ordinance)

APPROVED BY:

William C. Anderson  
CHAVES COUNTY COMMISSION CHAIRMAN

Shirley A. [Signature]  
LEGAL COUNSEL

**AGENDA ITEM:** 3

A. Agreement A-13-022 between Chaves County and NM DFA/Local Government Division

B. Agreement A-13-023 between Chaves County and NM DFA/Local Government Division

**MEETING DATE:** 09/19/13

### **STAFF SUMMARY**

---

**Action Requested by:** Charlotte Andrade, Community Development Division

**Action Requested:** Approval of Agreement A-13-022 & Agreement A-13-023

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**Item Summary:**

Chaves County has received two Capital Appropriation Projects approved by the Legislature under the Laws of 2013 from the NM DFA/Local Government Division.

The projects reflect the following:

**13-L-1664**

“One hundred thousand dollars to purchase, install and equip a cylinder recharging station, including cylinders and valves for the East Grant Plains Volunteer Fire Department in Chaves County.”

**13-L-1665**

“One hundred and fifty thousand dollars to design, construct, purchase and equip a tanker truck and related equipment for the Midway Volunteer Fire Department in Chaves County.”

The term of each agreement will be June 30, 2017.

Staff recommends approval.

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**SUPPORT DOCUMENTS:** Agreements A-13-022 & A-13-023

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Summary by: Charlotte Andrade

Title: Community Development Director

**STATE OF NEW MEXICO  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
FUND 892 CAPITAL APPROPRIATION PROJECT**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the “Department” or abbreviation such as “DFA/LGD”, and County of Chaves, hereinafter called the “Grantee”. This Agreement shall be effective as of the date it is executed by the Department.

**RECITALS**

**WHEREAS**, in the Laws of 2013, Chapter 226, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

**WHEREAS**, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

**WHEREAS**, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

**ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE**

A. The project that is the subject of this Agreement is described as follows:



**13-L-1664**

**\$100,000.00 APPROPRIATION REVERSION DATE: June 30, 2017**

**Laws of 2013, Chapter 226, Section 31, Para. 62, One Hundred Thousand Dollars and No Cents (\$100,000.00), to purchase, install and equip a cylinder recharging station, including cylinders and valves, for the east Grand Plains volunteer fire department in County of Chaves.**

The Grantee's total reimbursements shall not exceed the appropriation amount One Hundred Thousand Dollars and No Cents (\$100,000.00) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")<sup>1</sup>, if applicable, No Dollars and No Cents (\$0.00), which equals One Hundred Thousand Dollars and No Cents (\$100,000.00) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I (A) is referred to collectively throughout the remainder of this Agreement as the "Project Description. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

## **ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE**

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse<sup>2</sup> Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and

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<sup>1</sup> The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

<sup>2</sup> "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement ;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
  - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
  - b. if no oversight entity is required to approve of the transaction, the Department must approve of the transaction as complying with law.Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and
- (vi) The Grantee's submittal of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement as follows:
  - a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.
  - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such expenditures.
  - c. The Department may, in its absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 3.
  - d. The date the Department sends, by mail or email, the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the

particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party begin work.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

**ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES**

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee: County of Chaves  
Name: Charlotte Andrade  
Title: Grant Administrator  
Address: P.O. Box 1597, Roswell, New Mexico 88202  
Email: ccgrants@co.chaves.nm.us  
Telephone: 575.624.6620  
FAX: 575.624.6576

Department: DFA/Local Government Division  
Name: Mr. Joseph A Lopez  
Title: Project Manager  
Address: Bataan Memorial Bldg, Rm 202, Santa Fe, New Mexico, 87501  
Email: JosephA.Lopez@state.nm.us  
Telephone: 505-827-4963  
FAX: 505-827-4948

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by facsimile, email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the

writing. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

#### **ARTICLE IV. REVERSION DATE, TERM, EARLY TERMINATION**

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the “Reversion Date.” Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on June 30, 2017 the Reversion Date unless Terminated Before Reversion Date (“Early Termination”) pursuant to Article V herein.

B. The Project’s funds must be “expended” on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to “encumber” the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are “expended” and an “expenditure” has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* “expended” and an “expenditure” has *not* occurred as of the date they are “encumbered” by the Grantee pursuant to a contract or purchase order with a third party.

#### **ARTICLE V. EARLY TERMINATION**

##### **A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement**

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days’ advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (A).

##### **B. Early Termination Before Reversion Date Due to Non-appropriation**

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term “non-appropriate”

or “non-appropriation” includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, as of the effective date of the law making the non-appropriation. The Department’s decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (B).

**C. Limitation on Department’s Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination**

In the event of Early Termination of this Agreement by either party, the Department’s sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

**ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS**

A. The Department may choose, in its absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department’s sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

**D. Corrective Action Plan in the Event of Suspension**

In the event that the Department chooses, in its absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and

be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

## **ARTICLE VII. AMENDMENT**

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

## **ARTICLE VIII. REPORTS**

### **A. Paper Periodic Reports**

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 1. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

### **B. Paper Final Report**

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 1. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

### **C. Paperless Reporting**

In addition to the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department and the Department of Finance and Administration may require directly into a database maintained by the Department of Finance and Administration. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report

on a paperless basis. The Paperless Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

**D. Requests for Additional Information/Project Inspection**

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may (i) request such additional information regarding the Project as it deems necessary and (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this Article VIII.

**ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES**

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 2. Payment requests are subject to the following procedures:

- (i) The Grantee must submit one original and one copy of each Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing.

**B. Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Twenty (20) days from the end of the calendar quarter in which the expenditure was incurred or liability of the Grantee was incurred as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor, if total unreimbursed expenditures or liabilities at calendar quarter end exceed \$25,000; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

**ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS;  
REPRESENTATIONS AND WARRANTIES**

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the Procurement Code (or local procurement ordinance, where applicable).
  - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, if applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any



account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B. NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

- (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the so-called "Anti-Donation Clause."
- (iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance, written approval.
- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which it is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding Conflict of Interest and Governmental Conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local

jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

- (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

#### **ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS**

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department of Finance and Administration and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

#### **ARTICLE XII. IMPROPERLY REIMBURSED FUNDS**

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of

law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

### **ARTICLE XIII. LIABILITY**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

### **ARTICLE XIV. SCOPE OF AGREEMENT**

This Agreement constitutes the entire and exclusive agreement between the Grantee and DFA concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

### **ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

The Grantee acknowledges and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the County of Chaves may immediately terminate this Agreement by giving Contractor written notice of such termination. The County of Chaves’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the County of Chaves or the Department of Finance and Administration, Local Government Division (DFA/LGD) or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the County of Chaves or DFA/LGD.”

### **ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

Grantee acknowledges and agrees that Grantee shall include the following or a termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a Department of Finance and Administration, Local Government Division (DFA/LGD) Grant Agreement. Should the DFA/LGD early terminate the grant agreement, the County of Chaves may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the County of Chaves only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

#### **XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.**

- A. Throughout the term of this Agreement, Grantee shall:
1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
  2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
  3. timely submit all required financial reports to its budgetary oversight agency (if any); and
  4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

#### **ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES**

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, which is

administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole responsibility to determine through BOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (iii) the BOF may in the future impose further or different conditions upon the Project; (iv) all BOF conditions are effective without amendment of this Agreement; (v) all applicable BOF conditions must be satisfied before the BOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current BOF conditions being satisfied.

B. Grantee acknowledges and agrees that this Agreement is subject to the BOF's Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified.

[THIS SPACE LEFT BLANK INTENTIONALLY]

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date of execution by the Department.

**County of Chaves**

\_\_\_\_\_  
Signature of Official with Authority to Bind Grantee

By: \_\_\_\_\_  
(Type or Print Name)

Its: \_\_\_\_\_  
(Type or Print Title)

\_\_\_\_\_  
Date

STATE OF NEW MEXICO )  
                                                  )ss  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
                                                  by \_\_\_\_\_

seal                 \_\_\_\_\_  
                          Notary Public  
                          My Commission Expires: \_\_\_\_\_

**DEPARTMENT OF FINANCE AND ADMINISTRATION  
LOCAL GOVERNMENT DIVISION**

\_\_\_\_\_  
By: Ryan Gleason  
Its: Director

\_\_\_\_\_  
Date

STATE OF NEW MEXICO )  
                                                  )ss  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
                                                  by \_\_\_\_\_

seal                 \_\_\_\_\_  
                          Notary Public  
                          My Commission Expires: \_\_\_\_\_

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
PAPER PERIODIC/FINAL REPORT  
EXHIBIT 1**

**PERIODIC REPORT**       **FINAL REPORT**

**Grantee:** \_\_\_\_\_

**Project Number:** \_\_\_\_\_      **Reporting Period:** \_\_\_\_\_

1. Please provide a detailed status of project referenced above.

***A. Third Party Obligations***

Purchase Order or Contract # \_\_\_\_\_

Name of Contractor or Vendor: \_\_\_\_\_

Amount of Third Party Obligation: \_\_\_\_\_

Date Executed: \_\_\_\_\_

Termination Date: \_\_\_\_\_

***B. Project Phase***

Bonds Sold  Plan/Design  Bid Documents  Construction   
(provide anticipated date of commencement and completion for each phase)

2. Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_

Total Amount of all Notices of Obligation to Reimburse: \_\_\_\_\_

Total Grant Amount Expended by Grantee to Date: \_\_\_\_\_

Grant Balance as of this Date: \_\_\_\_\_

Amount of Other Unexpended Funding Sources: \_\_\_\_\_

**PERIODIC REPORT**

I hereby certify that the aforementioned Capital Grant Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.

**FINAL REPORT**

I hereby certify that the aforementioned Capital Grant Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/regulatory requirements.

\_\_\_\_\_  
Grantee Representative/Title

\_\_\_\_\_  
Date

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
Request for Payment Form  
Exhibit 2**

<b>I. Grantee Information</b> (Make sure information is complete & accurate)	<b>II. Payment Computation</b>			
A. Grantee: _____	A. Grant Amount: _____			
B. Address: _____ <small>Complete Mailing, including Suite, if applicable</small>	B. AIPP Amount (If Applicable) _____			
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;"><small>City</small></td> <td style="width: 33%; border: none;"><small>State</small></td> <td style="width: 33%; border: none;"><small>Zip</small></td> </tr> </table>	<small>City</small>	<small>State</small>	<small>Zip</small>	C. Funds Requested to Date: _____
<small>City</small>	<small>State</small>	<small>Zip</small>		
C. Phone No: _____	D. Amount Requested this Payment: _____			
D. Grant No: _____	E. Grant Balance: <span style="float: right;">\$0.00</span>			
E. Project Title: _____	F. <input type="checkbox"/> GF <input type="checkbox"/> GOB <input type="checkbox"/> STB (attach wire if 1st draw)			
F. Grant Expiration Date: _____	G. Payment Request No. _____			

<b>III. Fiscal Year Expenditure Period Ending:</b>	(Jan-Jun) <input type="checkbox"/>	Fiscal
(check one)	(Jul-Dec) <input type="checkbox"/>	Year

**IV. Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

<b>Grantee Fiscal Officer</b>	<b>Grantee Representative</b>
Printed Name _____	Printed Name _____
Date: _____	Date: _____
SWORN TO AND SUBSCRIBED before me on this _____ day of _____, 20____	SWORN TO AND SUBSCRIBED before me on this _____ day of _____, 20____
Notary Public _____	Notary Public _____
My Commission expires _____	My Commission expires _____

**(Department Use Only)**

Vendor Code: _____	Fund No.: _____				
Loc No.: _____					
<table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">Division Fiscal Officer</td> <td style="width: 30%;">Date</td> </tr> </table>	Division Fiscal Officer	Date	<table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">Division Project Manager</td> <td style="width: 30%;">Date</td> </tr> </table>	Division Project Manager	Date
Division Fiscal Officer	Date				
Division Project Manager	Date				
I certify that the Grantee financial and vendor file information agree with the above submitted information	I certify that the Grantee records and related appropriation laws agree with the above submitted information.				



**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
NOTICE OF OBLIGATION TO REIMBURSE GRANTEE  
EXHIBIT 3**

**DATE:** \_\_\_\_\_

**TO: Grantee Representative:** \_\_\_\_\_

**FROM: Department Representative:** \_\_\_\_\_

**SUBJECT: Notice of Obligation to Reimburse Grantee**

**Project Number:** \_\_\_\_\_

As the designated representative of the Department for Grant Agreement number 13-L-1664 entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Third Party Obligation (includes purchase orders and contract) #: \_\_\_\_\_

Vendor or Contractor: \_\_\_\_\_

Third Party Obligation Amount: \_\_\_\_\_

Termination Date: \_\_\_\_\_

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_

The Amount of this Notice of Obligation to Reimburse: \_\_\_\_\_

The Total Amount of all Previously Issued Notices of Obligation: \_\_\_\_\_

The Total Amount of all Notices of Obligation to Reimburse as of this Date:

\_\_\_\_\_

Department Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**STATE OF NEW MEXICO  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
FUND 892 CAPITAL APPROPRIATION PROJECT**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the “Department” or abbreviation such as “DFA/LGD”, and County of Chaves, hereinafter called the “Grantee”. This Agreement shall be effective as of the date it is executed by the Department.

**RECITALS**

**WHEREAS**, in the Laws of 2013, Chapter 226, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

**WHEREAS**, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

**WHEREAS**, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

**ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE**

A. The project that is the subject of this Agreement is described as follows:

**13-L-1665**

**\$150,000.00 APPROPRIATION REVERSION DATE: June 30, 2017**

**Laws of 2013, Chapter 226, Section 31, Para. 63, One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00), to design, construct, purchase and equip a tanker truck and related equipment for the Midway volunteer fire department in County of Chaves.**

The Grantee's total reimbursements shall not exceed the appropriation amount One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")<sup>1</sup>, if applicable, No Dollars and No Cents (\$0.00), which equals One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I (A) is referred to collectively throughout the remainder of this Agreement as the "Project Description. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

**ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE**

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse<sup>2</sup> Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and

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<sup>1</sup> The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

<sup>2</sup> "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement ;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
  - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
  - b. if no oversight entity is required to approve of the transaction, the Department must approve of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and
- (vi) The Grantee's submittal of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement as follows:
  - a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.
  - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such expenditures.
  - c. The Department may, in its absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 3.
  - d. The date the Department sends, by mail or email, the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the

particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party begin work.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

**ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES**

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee: County of Chaves  
Name: Charlotte Andrade  
Title: Grant Administrator  
Address: P.O. Box 1597, Roswell, New Mexico 88202  
Email: ccgrants@co.chaves.nm.us  
Telephone: 575.624.6620  
FAX: 575.624.6576

Department: DFA/Local Government Division  
Name: Mr. Joseph A Lopez  
Title: Project Manager  
Address: Bataan Memorial Bldg, Rm 202, Santa Fe, New Mexico, 87501  
Email: JosephA.Lopez@state.nm.us  
Telephone: 505-827-4963  
FAX: 505-827-4948

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by facsimile, email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the

writing. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

#### **ARTICLE IV. REVERSION DATE, TERM, EARLY TERMINATION**

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the “Reversion Date.” Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on June 30, 2017 the Reversion Date unless Terminated Before Reversion Date (“Early Termination”) pursuant to Article V herein.

B. The Project’s funds must be “expended” on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to “encumber” the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are “expended” and an “expenditure” has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* “expended” and an “expenditure” has *not* occurred as of the date they are “encumbered” by the Grantee pursuant to a contract or purchase order with a third party.

#### **ARTICLE V. EARLY TERMINATION**

##### **A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement**

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days’ advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (A).

##### **B. Early Termination Before Reversion Date Due to Non-appropriation**

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term “non-appropriate”

or “non-appropriation” includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, as of the effective date of the law making the non-appropriation. The Department’s decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (B).

**C. Limitation on Department’s Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination**

In the event of Early Termination of this Agreement by either party, the Department’s sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

**ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS**

A. The Department may choose, in its absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department’s sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

**D. Corrective Action Plan in the Event of Suspension**

In the event that the Department chooses, in its absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and

be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

## **ARTICLE VII. AMENDMENT**

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

## **ARTICLE VIII. REPORTS**

### **A. Paper Periodic Reports**

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 1. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

### **B. Paper Final Report**

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 1. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

### **C. Paperless Reporting**

In addition to the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department and the Department of Finance and Administration may require directly into a database maintained by the Department of Finance and Administration. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report



on a paperless basis. The Paperless Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

**D. Requests for Additional Information/Project Inspection**

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may (i) request such additional information regarding the Project as it deems necessary and (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this Article VIII.

**ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES**

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 2. Payment requests are subject to the following procedures:

- (i) The Grantee must submit one original and one copy of each Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing.

**B. Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Twenty (20) days from the end of the calendar quarter in which the expenditure was incurred or liability of the Grantee was incurred as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor, if total unreimbursed expenditures or liabilities at calendar quarter end exceed \$25,000; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

**ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS;  
REPRESENTATIONS AND WARRANTIES**

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the Procurement Code (or local procurement ordinance, where applicable).
  - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, if applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any

account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B. NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

- (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the so-called "Anti-Donation Clause."
- (iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance, written approval.
- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which it is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding Conflict of Interest and Governmental Conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local

jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

- (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

#### **ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS**

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department of Finance and Administration and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

#### **ARTICLE XII. IMPROPERLY REIMBURSED FUNDS**

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of

law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

### **ARTICLE XIII. LIABILITY**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

### **ARTICLE XIV. SCOPE OF AGREEMENT**

This Agreement constitutes the entire and exclusive agreement between the Grantee and DFA concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

### **ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

The Grantee acknowledges and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the County of Chaves may immediately terminate this Agreement by giving Contractor written notice of such termination. The County of Chaves’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the County of Chaves or the Department of Finance and Administration, Local Government Division (DFA/LGD) or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the County of Chaves or DFA/LGD.”

### **ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

Grantee acknowledges and agrees that Grantee shall include the following or a termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a Department of Finance and Administration, Local Government Division (DFA/LGD) Grant Agreement. Should the DFA/LGD early terminate the grant agreement, the County of Chaves may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the County of Chaves only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

#### **XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.**

- A. Throughout the term of this Agreement, Grantee shall:
1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
  2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
  3. timely submit all required financial reports to its budgetary oversight agency (if any); and
  4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

#### **ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES**

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, which is

administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole responsibility to determine through BOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (iii) the BOF may in the future impose further or different conditions upon the Project; (iv) all BOF conditions are effective without amendment of this Agreement; (v) all applicable BOF conditions must be satisfied before the BOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current BOF conditions being satisfied.

B. Grantee acknowledges and agrees that this Agreement is subject to the BOF's Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified.

[THIS SPACE LEFT BLANK INTENTIONALLY]

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date of execution by the Department.  
**County of Chaves**

\_\_\_\_\_  
 Signature of Official with Authority to Bind Grantee

By: \_\_\_\_\_  
 (Type or Print Name)

Its: \_\_\_\_\_  
 (Type or Print Title)

\_\_\_\_\_  
 Date

STATE OF NEW MEXICO )  
 )ss  
 COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
 by \_\_\_\_\_

seal \_\_\_\_\_  
 Notary Public  
 My Commission Expires: \_\_\_\_\_

**DEPARTMENT OF FINANCE AND ADMINISTRATION  
 LOCAL GOVERNMENT DIVISION**

\_\_\_\_\_  
 By: Ryan Gleason  
 Its: Director

\_\_\_\_\_  
 Date

STATE OF NEW MEXICO )  
 )ss  
 COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
 by \_\_\_\_\_

seal \_\_\_\_\_  
 Notary Public  
 My Commission Expires: \_\_\_\_\_



**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
PAPER PERIODIC/FINAL REPORT  
EXHIBIT 1**

**PERIODIC REPORT**       **FINAL REPORT**

**Grantee:** \_\_\_\_\_

**Project Number:** \_\_\_\_\_      **Reporting Period:** \_\_\_\_\_

1. Please provide a detailed status of project referenced above.

***A. Third Party Obligations***

Purchase Order or Contract # \_\_\_\_\_

Name of Contractor or Vendor: \_\_\_\_\_

Amount of Third Party Obligation: \_\_\_\_\_

Date Executed: \_\_\_\_\_

Termination Date: \_\_\_\_\_

***B. Project Phase***

Bonds Sold  Plan/Design  Bid Documents  Construction   
(provide anticipated date of commencement and completion for each phase)

2. Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_

Total Amount of all Notices of Obligation to Reimburse: \_\_\_\_\_

Total Grant Amount Expended by Grantee to Date: \_\_\_\_\_

Grant Balance as of this Date: \_\_\_\_\_

Amount of Other Unexpended Funding Sources: \_\_\_\_\_

**PERIODIC REPORT**

I hereby certify that the aforementioned Capital Grant Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.

**FINAL REPORT**

I hereby certify that the aforementioned Capital Grant Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/regulatory requirements.

\_\_\_\_\_  
Grantee Representative/Title

\_\_\_\_\_  
Date

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
Request for Payment Form  
Exhibit 2**

<b>I. Grantee Information</b> (Make sure information is complete & accurate)	<b>II. Payment Computation</b>			
A. Grantee: _____	A. Grant Amount: _____			
B. Address: _____ <small>Complete Mailing, including Suite, if applicable</small>	B. AIPP Amount (If Applicable) _____			
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;"><small>City</small></td> <td style="width: 33%; border: none;"><small>State</small></td> <td style="width: 33%; border: none;"><small>Zip</small></td> </tr> </table>	<small>City</small>	<small>State</small>	<small>Zip</small>	C. Funds Requested to Date: _____
<small>City</small>	<small>State</small>	<small>Zip</small>		
C. Phone No: _____	D. Amount Requested this Payment: _____			
D. Grant No: _____	E. Grant Balance: <span style="float: right;">\$0.00</span>			
E. Project Title: _____	F. <input type="checkbox"/> GF <input type="checkbox"/> GOB <input type="checkbox"/> STB (attach wire if 1st draw)			
F. Grant Expiration Date: _____	G. Payment Request No. _____			

<b>III. Fiscal Year Expenditure Period Ending:</b>	(Jan-Jun) <input type="checkbox"/>	Fiscal
(check one)	(Jul-Dec) <input type="checkbox"/>	Year

**IV. Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

<b>Grantee Fiscal Officer</b>	<b>Grantee Representative</b>
Printed Name _____	Printed Name _____
Date: _____	Date: _____
SWORN TO AND SUBSCRIBED before me on this _____ day of _____, 20____	SWORN TO AND SUBSCRIBED before me on this _____ day of _____, 20____
Notary Public _____	Notary Public _____
My Commission expires _____	My Commission expires _____

**(Department Use Only)**

Vendor Code: _____	Fund No.: _____				
Loc No.: _____					
<table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">Division Fiscal Officer</td> <td style="width: 30%;">Date</td> </tr> </table> <p style="font-size: small; margin-top: 5px;">I certify that the Grantee financial and vendor file information agree with the above submitted information</p>	Division Fiscal Officer	Date	<table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">Division Project Manager</td> <td style="width: 30%;">Date</td> </tr> </table> <p style="font-size: small; margin-top: 5px;">I certify that the Grantee records and related appropriation laws agree with the above submitted information.</p>	Division Project Manager	Date
Division Fiscal Officer	Date				
Division Project Manager	Date				

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
NOTICE OF OBLIGATION TO REIMBURSE GRANTEE  
EXHIBIT 3**

**DATE:** \_\_\_\_\_

**TO: Grantee Representative:** \_\_\_\_\_

**FROM: Department Representative:** \_\_\_\_\_

**SUBJECT: Notice of Obligation to Reimburse Grantee**

**Project Number:** \_\_\_\_\_

As the designated representative of the Department for Grant Agreement number 13-L-1665 entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Third Party Obligation (includes purchase orders and contract) #: \_\_\_\_\_

Vendor or Contractor: \_\_\_\_\_

Third Party Obligation Amount: \_\_\_\_\_

Termination Date: \_\_\_\_\_

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_

The Amount of this Notice of Obligation to Reimburse: \_\_\_\_\_

The Total Amount of all Previously Issued Notices of Obligation: \_\_\_\_\_

The Total Amount of all Notices of Obligation to Reimburse as of this Date:

\_\_\_\_\_

Department Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**AGENDA ITEM:** 4

Resolution R-13-040 Ordering the Chaves County Assessor to Impose the 2013 Certified Tax Rates

**MEETING DATE:** September 19, 2013

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**STAFF SUMMARY REPORT**

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**ACTION REQUESTED BY:** Department of Finance and Administration

**ACTION REQUESTED:** Approve Resolution

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**ITEM SUMMARY:**

The County Commission receives a Certificate of Tax Rates from DFA each year in September. The Commission is required by statute to issue a written order imposing the tax at the rate set on the net taxable value of the property. A Resolution ordering the County Assessor to impose the rates must be approved each year. It is important to point out that these tax rates are set by the Secretary of DFA and not the County.

Staff recommends approval.

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**SUPPORT DOCUMENTS:** Certificate of Tax Rates  
Resolution R-13-040

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**SUMMARY BY:** Stanton L. Riggs

**TITLE:** County Manager

**RESOLUTION R-13-040**  
**ORDERING THE CHAVES COUNTY ASSESSOR TO**  
**IMPOSE THE 2013 CERTIFIED TAX RATES**

WHEREAS, the Secretary of the Department of Finance and Administration (DFA) in accordance with the Property Tax Code (Article 35-38, Chapter 7, NMSA 1978) sets the 2013 property tax rates for the governmental units in Chaves County, and

WHEREAS, Section 7-38-34, NMSA 1978 requires the Board of Commissioners to issue a written order imposing the tax rate set by the Secretary of DFA, and

WHEREAS, the Secretary of DFA has provided the County with the Certificate of Tax Rates for 2013 attached hereto as Exhibit #1.

NOW THEREFORE BE IT RESOLVED by the Chaves County Board of Commissioners that 2013 property taxes imposed at the rate certified by the New Mexico Department of Finance and Administration are hereby ordered to be imposed by the Chaves County Assessor.

DONE this 19<sup>th</sup> day of September, 2013.

CHAVES COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Greg Nibert, Chairman

\_\_\_\_\_  
James W. Duffey, Vice Chairman

\_\_\_\_\_  
Kim Chesser, Member

\_\_\_\_\_  
Robert B. Corn, Member

ATTEST:

\_\_\_\_\_  
Kyle D. "Smiley" Wooton, Member

\_\_\_\_\_  
Dave Kunko  
County Clerk



State of New Mexico  
Department of Finance & Administration  
180 Bataan Memorial Building  
Santa Fe, New Mexico 87501  
Phone: (505) 827-4985  
Fax: (505) 827-4984

Susana Martinez  
GOVERNOR

Thomas E. Clifford, Ph.D.  
Cabinet Secretary

September 3, 2013

The Honorable Greg Nibert  
Chairman  
Chaves County Commission  
#1 St. Mary's Place  
Roswell, NM 88203

**RE: Order Setting Property Tax Rates - 2013 Tax Year**

Dear Chairman Nibert:

Pursuant to Sections 7-37-7(A) and 7-38-33(A) NMSA 1978, I issue this order setting as the 2013 property tax rates for your county the rates set forth in the attached certificate.

Section 7-38-34 NMSA 1978 requires the Board of County Commissioners (Board) to issue and deliver to the County Assessor its own order imposing these rates within five days of its receipt of this letter. (As a courtesy, I note that, because this statutory time period is less than eleven days, "a Saturday, Sunday or legal holiday is excluded from the computation". Section 12-2A-7(E) NMSA 1978.) Before the Board issues its order, the county (as well as the other entities with rates included in the attached certificate) is responsible for ensuring that the rates are correct, in accordance with 3.6.5.11(D) NMAC. To further those efforts, please share the attached certificate with all entities that have rates included in the certificate before the Board issues its order. In addition, please note that the "percentage change I" used in Section 7-37-7.1(A) NMSA 1978's yield control calculations this year was 1.98%.

Any questions concerning the rates should be immediately brought to the attention of the Local Government Division's John Gallegos at (505) 827-8065 or Jessica Lucero at (505) 827-8051.

Sincerely,

Thomas E. Clifford, Ph.D.  
Secretary of Finance & Administration

cc: Property Tax Division, Taxation & Revenue Department  
County Assessor – Certified Mail  
County Treasurer – Regular Mail

received  
9/5/13  
VC

Attachment

CHAVES COUNTY  
TAX YEAR 2013  
NET TAXABLE VALUE:

	\$1,145,602,834				OIL & GAS		Hagerman	Hagerman			OIL & GAS		Dexter	Dexter
MUNICIPALITY:	Roswell	Roswell			Production	Equipment					Production	Equipment		
TAXABLE VALUE:	426,181,839	219,453,344	111,660,513	147,911,253	26,675,491	5,278,402	3,921,569	2,136,777	6,049,673	16,674,338	1,302,108	267,189	6,924,265	2,307,480
CATEGORY:	1 In R	1 In NR	1 Out R	1 Out NR	1 OUT	1 OUT	6 In R	6 In NR	6 Out R	6 Out NR	6 OUT	6 OUT	8 In R	8 In NR
State Debt Service	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360
<b>Total State</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>	<b>1.360</b>
County Operational	6.621	10.350	6.621	10.350	10.350	10.350	6.621	10.350	6.621	10.350	10.350	10.350	6.621	10.350
County Debt Service														
<b>Total County</b>	<b>6.621</b>	<b>10.350</b>	<b>6.621</b>	<b>10.350</b>	<b>10.350</b>	<b>10.350</b>	<b>6.621</b>	<b>10.350</b>	<b>6.621</b>	<b>10.350</b>	<b>10.350</b>	<b>10.350</b>	<b>6.621</b>	<b>10.350</b>
Municipal Operational	6.928	7.650	0.000	0.000	0.000	0.000	1.835	2.203	0.000	0.000	0.000	0.000	1.201	2.181
Municipal Debt Service	1.222	1.222												
<b>Total Municipal</b>	<b>8.150</b>	<b>8.872</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>1.835</b>	<b>2.203</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>1.201</b>	<b>2.181</b>
School District Operational	0.274	0.500	0.274	0.500	0.500	0.500	0.326	0.500	0.326	0.500	0.500	0.500	0.218	0.500
School District Debt Service	5.680	5.680	5.680	5.680	5.680	5.680	5.091	5.091	5.091	5.091	5.091	5.091	9.314	9.314
School Dist. Cap. Improvement	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	1.974	2.000
H.B. 33 School Building	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
School District Ed. Tech. Debt Svc	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.742	0.742
<b>Total School District</b>	<b>7.954</b>	<b>8.180</b>	<b>7.954</b>	<b>8.180</b>	<b>8.180</b>	<b>8.180</b>	<b>7.417</b>	<b>7.591</b>	<b>7.417</b>	<b>7.591</b>	<b>7.591</b>	<b>7.591</b>	<b>12.248</b>	<b>12.556</b>
<b>Total State, County, Municipal, &amp; School District</b>	<b>24.085</b>	<b>28.762</b>	<b>15.935</b>	<b>19.890</b>	<b>19.890</b>	<b>19.890</b>	<b>17.233</b>	<b>21.504</b>	<b>15.398</b>	<b>19.301</b>	<b>19.301</b>	<b>19.301</b>	<b>21.430</b>	<b>26.447</b>
Other:														
ENMU Roswell (1)	0.897	1.000	0.897	1.000	1.000	1.000	0.897	1.000	0.897	1.000	1.000	1.000	0.897	1.000
ENMU Roswell Debt Service(2)	1.035	1.035	1.035	1.035	1.035	1.035	1.035	1.035	1.035	1.035	1.035	1.035	1.035	1.035
N.M. Junior College Operating (6)														
Chaves SWConservancy District			1.000	1.000					1.000	1.000				
<b>Total Other</b>	<b>1.932</b>	<b>2.035</b>	<b>2.932</b>	<b>3.035</b>	<b>2.035</b>	<b>2.035</b>	<b>1.932</b>	<b>2.035</b>	<b>2.932</b>	<b>3.035</b>	<b>2.035</b>	<b>2.035</b>	<b>1.932</b>	<b>2.035</b>
<b>GRAND TOTAL</b>	<b>26.017</b>	<b>30.797</b>	<b>18.867</b>	<b>22.925</b>	<b>21.925</b>	<b>21.925</b>	<b>19.165</b>	<b>23.539</b>	<b>18.330</b>	<b>22.336</b>	<b>21.336</b>	<b>21.336</b>	<b>23.362</b>	<b>28.482</b>
<b>Where Applicable:</b>		Upper Hondo SWCD	Penasco SWCD		Hagerman/DexterSWCD									
Cattle Indemnity 10.000		Res: 0.5	Res: 1.000		Pecos Valley Art Cons.		1.000		(1) To ENMU Roswell Campus					
Sheep/Goats/Swine/Alpaca 10.000		Non Res: 0.5	Non Res: 1.000		Cottonwood Walnut		2.992		(3) To Artesia Board of Education					
Dairy Cattle 5.000		Central Valley SWCD			Chaves Flood		1.500		(4) To Elida Board of Education					
Bison/Camelids/Ratite 10.000		Res: 0.5	Border SWCD		Pecos Valley Surface:		1.991		(5) To Tatum Board of Education					
Horses/Asses/Mules 10.000		Non Res: 0.5	Non Res: 0.000						(6) To NM Junior Col. Bus. Office					

CHAVES COUNTY  
TAX YEAR 2013  
NET TAXABLE VALUE:

	\$1,145,602,834		OIL & GAS Production 8,455,027 8 OUT	Equipment 1,727,983 8 OUT	Lake Arthur 1,302,872 20 In R	Lake Arthur 503,073 20 In NR	1,647,341 20 Out R	12,420,628 20 Out NR	OIL & GAS Production 64,827,575 20 OUT	Equipment 12,239,870 20 OUT	1,920,856 14 R	6,025,518 14 NR	OIL & GAS Production 0 14 OUT
MUNICIPALITY: TAXABLE VALUE: CATEGORY:	14,883,497 8 Out R	37,921,141 8 Out NR	8,455,027 8 OUT	1,727,983 8 OUT	1,302,872 20 In R	503,073 20 In NR	1,647,341 20 Out R	12,420,628 20 Out NR	64,827,575 20 OUT	12,239,870 20 OUT	1,920,856 14 R	6,025,518 14 NR	0 14 OUT
State Debt Service	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360
Total State	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360
County Operational County Debt Service	6.621	10.350	10.350	10.350	6.621	10.350	6.621	10.350	10.350	10.350	6.621	10.350	10.350
Total County	6.621	10.350	10.350	10.350	6.621	10.350	6.621	10.350	10.350	10.350	6.621	10.350	10.350
Municipal Operational Municipal Debt Service	0.000	0.000	0.000	0.000	2.097	2.119	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Total Municipal	0.000	0.000	0.000	0.000	2.097	2.119	0.000	0.000	0.000	0.000	0.000	0.000	0.000
School District Operational	0.218	0.500	0.500	0.500	0.354	0.499	0.354	0.499	0.500	0.500	0.414 (3)	0.493 (3)	0.500 (3)
School District Debt Service	9.314	9.314	9.314	9.314	5.595	5.595	5.595	5.595	5.595	5.595	0.000 (3)	0.000 (3)	0.000 (3)
School Dist. Cap. Improvement	1.974	2.000	2.000	2.000	1.996	1.996	1.996	1.996	2.000	2.000	1.976 (3)	1.971 (3)	2.000 (3)
H.B. 33 School Building	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	5.000 (3)	5.000 (3)	5.000 (3)
School District Ed. Tech. Debt Svc	0.742	0.742	0.742	0.742	0.677	0.677	0.677	0.677	0.677	0.677	0.000 (3)	0.000 (3)	0.000 (3)
Total School District	12.248	12.556	12.556	12.556	8.622	8.767	8.622	8.767	8.772	8.772	7.390	7.464	7.500
Total State, County, Municipal, & School District	20.229	24.266	24.266	24.266	18.700	22.596	16.603	20.477	20.482	20.482	15.371	19.174	19.210
Other:													
ENMU Roswell (1)	0.897	1.000	1.000	1.000	0.897	1.000	0.897	1.000	1.000	1.000			
ENMU Roswell Debt Service(2)	1.035	1.035	1.035	1.035	1.035	1.035	1.035	1.035	1.035	1.035			
N.M. Junior College Operating (6)													
Chaves SWConservancy District	1.000	1.000											
Total Other	2.932	3.035	2.035	2.035	1.932	2.035	1.932	2.035	2.035	2.035	0.000	0.000	0.000
GRAND TOTAL	23.161	27.301	26.301	26.301	20.632	24.631	18.535	22.512	22.517	22.517	15.371	19.174	19.210

Where Applicable:

Cattle Indemnity	10.000
Sheep/Goats/Swine/Alpaca	10.000
Dairy Cattle	5.000
Bison/Camelids/Ratite	10.000
Horses/Asses/Mules	10.000



CHAVES COUNTY  
TAX YEAR 2013  
NET TAXABLE VALUE:

	\$1,145,602,834				OIL & GAS Production 418,508	Equipment 80,738		
MUNICIPALITY: Equipment	0	459,085	3,763,858		28 OUT	28 OUT	34,549	226,474
TAXABLE VALUE: CATEGORY: 14 OUT		27/28 R	27/28 NR				1L R	1L NR
State Debt Service	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360
Total State	1.360	1.360	1.360	1.360	1.360	1.360	1.360	1.360
County Operational	10.350	6.621	10.350	10.350	10.350	10.350	6.621	10.350
County Debt Service								
Total County	10.350	6.621	10.350	10.350	10.350	10.350	6.621	10.350
Municipal Operational	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Municipal Debt Service								
Total Municipal	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
School District Operational	0.500 (3)	0.434 (4)	0.491 (4)	0.500 (4)	0.500 (4)	0.500 (4)	0.254 (5)	0.500 (5)
School District Debt Service	0.000 (3)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (4)	3.270 (5)	3.270 (5)
School Dist. Cap. Improvement	2.000 (3)	2.000 (4)	1.965 (4)	2.000 (4)	2.000 (4)	2.000 (4)	2.000 (5)	2.000 (5)
H.B. 33 School Building	5.000 (3)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (5)	0.000 (5)
School District Ed. Tech. Debt Svc	0.000 (3)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (5)	0.000 (5)
Total School District	7.500	2.434	2.456	2.500	2.500	2.500	5.524	5.770
Total State, County, Municipal, & School District	19.210	10.415	14.166	14.210	14.210	14.210	13.505	17.480
Other:								
ENMU Roswell (1)								
ENMU Roswell Debt Service(2)								
N.M. Junior College Operating (6)							3.862	5.000
Chaves SWConservancy District								
Total Other	0.000	0.000	0.000	0.000	0.000	0.000	3.862	5.000
GRAND TOTAL	19.210	10.415	14.166	14.210	14.210	14.210	17.367	22.480

Where Applicable:

Cattle Indemnity	10.000
Sheep/Goats/Swine/Alpaca	10.000
Dairy Cattle	5.000
Bison/Camelids/Ratite	10.000
Horses/Asses/Mules	10.000

AGENDA ITEM: \_\_\_\_\_

Resolution R-13-041: Demolition of a Hazardous Structure

MEETING DATE: September 19, 2013

### STAFF SUMMARY REPORT

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**ACTION REQUESTED BY:** Planning and Zoning Director

**ACTION REQUESTED:** Approve Resolution

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#### ITEM SUMMARY:

In early August 2013 it was brought to the attention of the Planning and Zoning Department that a residence located at 107 Offut Street was inhabited by squatters who were, among other things, stealing electricity from Xcel Energy. The Chaves County Code Enforcement Officer and the Chaves County Building Inspector subsequently inspected the property and made a determination that the structure was uninhabitable and, in its present condition, represented a significant hazard to the neighborhood and community [Attachment A]. The Planning Department attempted to contact the property owners, DeWayne and Geneva Clements, to apprise them of the situation. A letter was mailed to the Clements' on August 16, 2013 [Attachment B]. It was returned as undeliverable to the Planning Department on August 30, 2013 [Attachment C].

Planning Department staff has visited the site numerous times, beginning on August 12, 2013. The property was photographed on both August 12 [Attachment D] and August 16, 2013 [Attachment E]. The subject property was posted with a *Notice of Dangerous Building or Debris* notice on September 4, 2013 [Attachment F]. A copy of this notice was mailed to the property owners on September 4, 2013. In both the letter and the property posting, the Planning Department provided the property owners with ten (10) days to make contact with the Department, to discuss the situation and to agree on developing an action plan to resolve the situation.

The ten (10) day time period expired on September 14, 2013. The Planning Department has received no response from the property owners.

On August 16, 2013, in response to an inquiry from the Chaves County Building Inspector, the Chaves County Sheriff's Office contacted the Planning Department and provided copies of incident reports for this address. According to the incident reports, deputies have been called to the subject property on numerous occasions. Incidents described in the incident reports describe the presence of narcotics on the subject property and individuals possessing weapons. The report provided by Sheriff Coon to the Planning Department further describes the condition of the subject property [Attachment G].

New Mexico State Statute 3-18-5 et. seq. provides the governing body the right to remove, or have removed, any building or structure that is ruined, damaged and dilapidated, and that is considered a menace to the public comfort, health, peace or safety. This Statute outlines the procedures the County shall follow when taking action to abate a structure that has been deemed to be a hazard to the health, safety and welfare to the community.

The Resolution, if passed, authorizes the County to enter into a contract with a contractor specializing in the demolition, removal and clean-up of hazardous structures and associated debris, and to assess the cost of the work to the property owner.

Given the history of police activities occurring at this residence, coupled with the general condition of the residence, staff is hesitant to delay taking immediate action to remove this dangerous and hazardous structure.

Staff recommends approval of the resolution.

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**SUPPORT DOCUMENTS:** Resolution R-13-041

**ATTACHMENTS:**

- A. Notes from Jonathan Stephens, Chaves County Building Inspector, dated August 12, 2013
- B. Letter from David Gonzales to Dewayne and Geneva Clements, dated August 15, 2013
- C. Letter (envelope) sent to DeWayne and Juanita Clements, postmarked 08/16/13, returned as undeliverable on 8/30/13; and letter (envelope) of second letter sent to DeWayne and Juanita Clements, postmarked 09/04/13, returned as undeliverable on 9/10/13
- D. Photographs of subject property, taken August 12, 2013
- E. Photographs of subject property, taken August 16, 2013
- F. Notice of Dangerous Building or Debris, posted on the subject property on September 4, 2013
- G. Incident Reports, provided to the Planning and Zoning Department by the Sheriff's Office, dated August 16, 2013

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**SUMMARY BY:** Anders Sheridan


**TITLE:** Planning and Zoning Director

Sgt Ouillette,

8/12/13

David Gonzales (Chaves County Code Enforcement Officer) and I (Jonathan Stephens) Chaves County Building Inspector did a site inspection today at 107 Offutt. During our inspection we noticed that there was an air conditioner running. This appeared odd to us ~~as~~ because this was not our first site visit. On our first site visit we noticed the power was disconnected. As we furthered ~~ed~~ our investigation we found that there was power being stolen from X-cel energy. They had what appeared to be "jumper cables" running to the power line. We notified X-cel energy and they shut the power off ~~by~~ disconnecting the ~~o~~ line from the pole. We contacted X-cel investigator Steve Halpain who said there was about \$2,500 dollars worth of theft.

See attached photos

  
Jonathan Stephens  
Building Inspector

a.

**PLANNING AND ZONING**

PO Box 1817  
Roswell, NM 88202-1817  
Phone (575)-624-6606  
Fax (575)-624-6563

**P&Z Director**  
Anders M. Sheridan



Joseph R. Skeen Building

**COMMISSIONERS**

James Duffey • District 1  
Kim Chesser • District 2  
Kyle D. "Smiley" Wooton • District 3  
Robert Corn • District 4  
Greg Nibert • District 5

**County Manager**  
Stanton Riggs

August 15, 2013

Dewayne and Geneva Clements  
5203 Juanito Road  
Roswell, NM 88203

RE: Inquiry Case Number: I2013-19  
Address: 107 Offutt Street, Roswell, NM 88203  
Legal Description: New Lykins Subdivision, Block: 9 Lot: 24

Dear Mr. and Mrs. Clements:

Our office has received numerous complaints concerning the condition of your property located at 107 Offutt Street.

The Chaves County Code Enforcement Officer reviewed the property and discovered that it is in violation of several sections of the *Roswell Chaves County Extraterritorial Zoning Ordinance 80-1*. The property contains excessive amounts of junk and trash. This storage of junk and trash on the premises is considered to be dangerous and unsafe, and may fuel a potential fire. Additionally, the residence was found to be open to the public, and is in such a deplorable condition that it could be construed as a public nuisance. As an example, an inspection discovered that the electric service to the residence was faulty. A short in this wiring could easily have started a fire which would have destroyed the residence.

Please contact Jonathan Stephens, the Chaves County Building Inspector, at the Planning and Zoning Department, located in the Chaves County Administration Building, #1 St. Mary's Place, in Roswell, concerning the actions necessary to correct this issue. Please respond within the next ten (10) business days. If I do not hear from you, I will have no alternative but to turn this case over for legal action. *It is imperative that you contact our office within the next ten (10) business days to discuss this matter with us.*

Our office hours are from 8:00AM to 12:00PM and from 1:00PM to 5:00PM., Monday through Friday (closed during the lunch hour). We may be reached at (575) 624-6606. Please leave a message for Mr. Stephens if he isn't available at the time of your phone call and/or ask for David Gonzales for assistance in addressing this issue. I appreciate your cooperation with addressing this issue.

Sincerely,

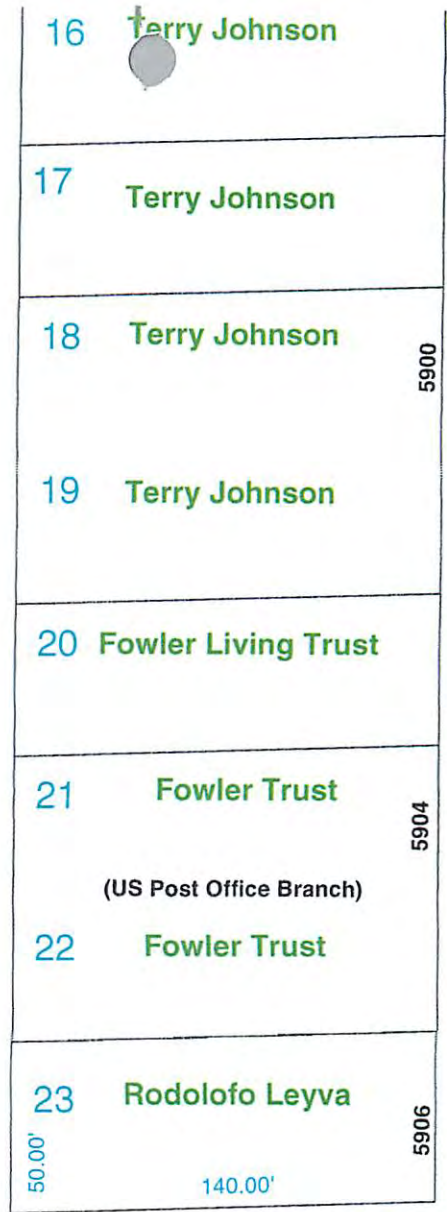
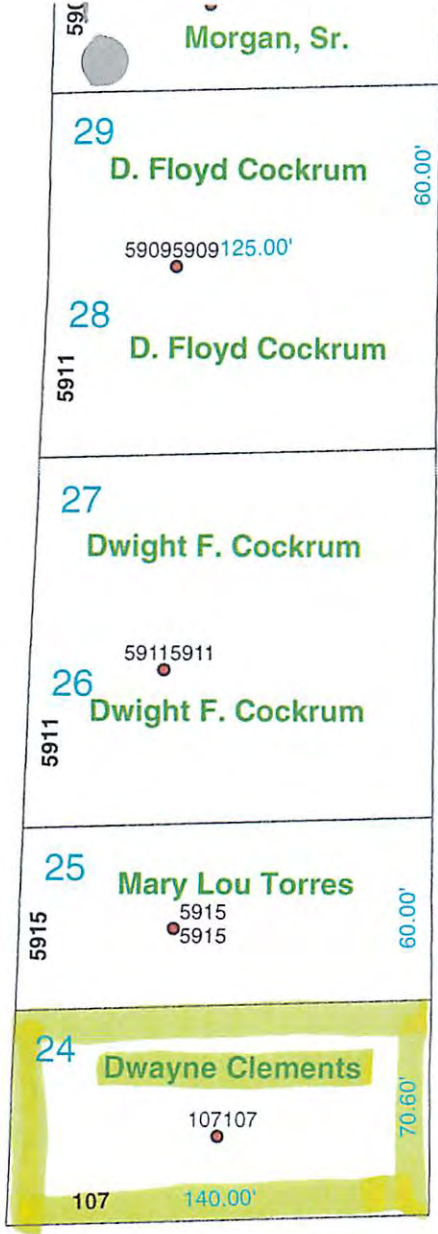
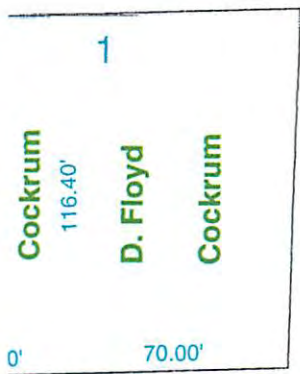
*David Gonzales*  
**David Gonzales**, Code Enforcement Officer, CZO/CFM

c: Jonathan Stephens, Chaves County Building Inspector

#1

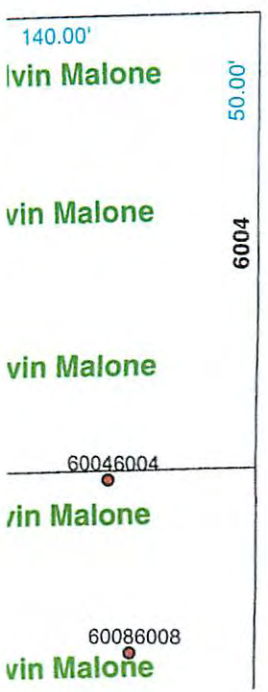
b.

2 pages

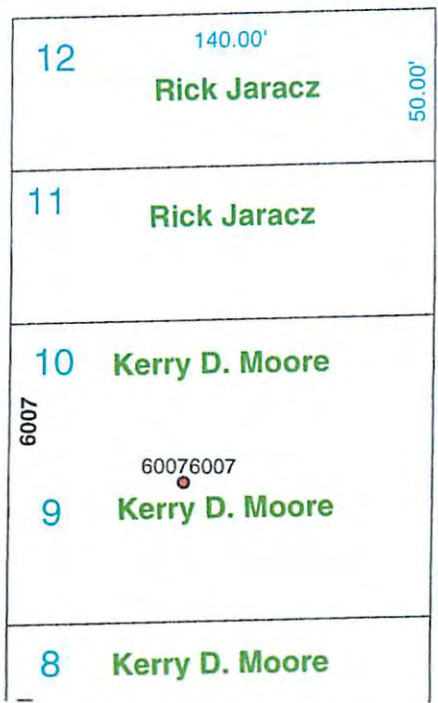


**OFFUTT STREET**

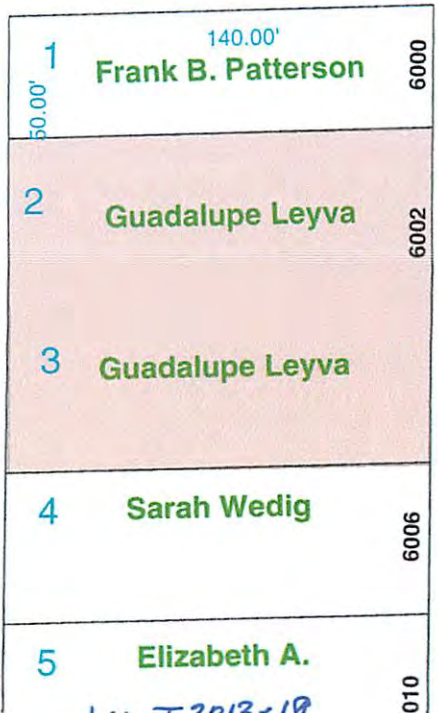
**ON**



**DRIVE**



**8**



**DRIVE**

Chaves County  
Planning & Zoning  
PO Box 1817  
Roswell, NM 88202



"Notice"  
"Dangerous Building"

# 2

Hasler  
09/04/2013  
US POSTAGE  
FIRST-CLASS MAIL  
\$00.46<sup>0</sup>  
ZIP 88203  
011D11618347

DeWayne & Geneva Clements  
5203 Juanito Drive  
Roswell

NIXIE 750 SE 1009 0009/07/13  
RETURN TO SENDER  
ATTEMPTED - NOT KNOWN  
UNABLE TO FORWARD  
BC: 88202181717 \*1782-18394-04-45  
12088202181717

Chaves County  
Planning & Zoning  
PO Box 1817  
Roswell, NM 88202

Return 8/30/2013  
D.G.  
#1

DeWagne & Geneva Clements  
5203 Juanito Road  
Roswell, New Mexico 88203

Hasler  
08/16/2013  
US POSTAGE  
FIRST-CLASS MAIL  
\$00.46<sup>0</sup>  
ZIP 88203  
011D11618347

NIXIE 750 SE 1009 0008/26/13  
RETURN TO SENDER  
ATTEMPTED - NOT KNOWN  
UNABLE TO FORWARD  
BC: 88202181717 \*1782-01221-19-45

882021817





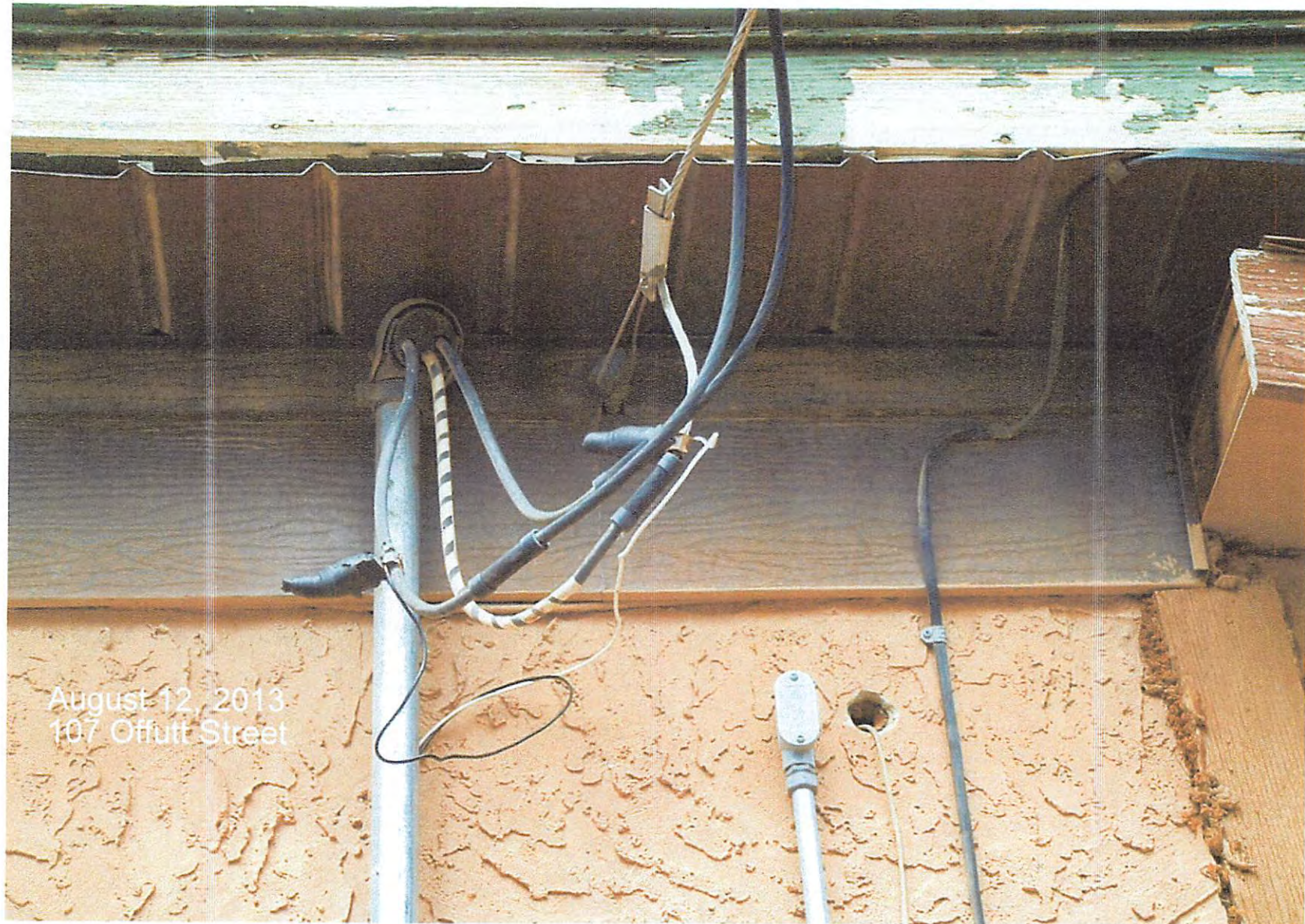
August 12, 2013  
107 Offutt Street

d.  
4 pages.





August 12, 2013  
107 Offutt Street



August 12, 2013  
107 Offutt Street



August 12, 2013  
107 Offutt Street

CHAVES COUNTY  
PLANNING & ENVIRONMENTAL SERVICES DEPARTMENT

8/12/2013  
DATE ISSUED

**IMPORTANT NOTICE**

FILE NO.

THIS IS TO ADVISE YOU THAT THE CHAVES COUNTY ZONING ORDINANCE AND/OR THE CHAVES COUNTY BUILDING CODE ARE IN VIOLATION

AT 107 Offutt Street  
VIOLATION(S) County Ordinance - Fire Hazard (Junk & Trash)  
County Building Codes - Vacant Building that is open to the  
Public - No Windows on Structure, Structure unsafe

Contact Planning & Zoning Office  
624-6606

**IF CONSTRUCTION IS IN PROGRESS, IT MUST STOP**

Please contact the Planning & Environmental Services Department at 624-6606 prior to  
Chaves County Court House, Suite B-4

David Gonzalez 8/12/2013  
INSPECTOR

1st Notice:  
**FINAL NOTICE:**

Planning & Zoning Department  
#1 St. Mary's Place  
Roswell, NM 88203  
Suite 170

David Gonzalez  
Enforcement Officer  
CZO  
Cell: (505) 626-6420  
dgonzales@co.chaves.nm.us

107 Offutt Street  
Date: 8-16-2013  
file No. I-2013-19

107 Offutt Street  
August 15, 2013  
P&Z Director  
Address M. Smith  
County Manager  
Wesley Rugg  
Dear Mr. and Mrs. Conner:  
The office has received numerous complaints concerning the condition of your property located at 107 Offutt Street.  
The Chaves County Code Enforcement Officers through the records and inspection that it is in violation of several sections of the **Russell Chaves County Comprehensive Zoning Ordinance 46-1**. The property contains excessive amounts of dirt and debris. This amount of dirt and trash on the premises is considered to be dangerous and unsightly, and may foul a residential lot. Additionally, the residence was found to be open to the public, and in such a deplorable condition that it could be considered as a public nuisance. As an example, an inspection determined that the electric service to the residence was faulty. A short in this wiring could easily have started a fire which would have destroyed the residence.  
Please contact Jonathan Stephens, the Chaves County Building Inspector, at the Planning and Zoning Department, located at the Chaves County Administration Building, 81 St. Mary's Place, in Roswell, concerning the actions necessary to correct this issue. Please respond within the next ten (10) business days. If I do not hear from you, I will have to arrange for a team to take over for local service. It is imperative that you contact our office within the next ten (10) business days to discuss the matter with us.  
Our office hours are from 8:00AM to 12:00PM and from 1:00PM to 5:00PM, Monday through Friday (closed during the lunch hours). We may be reached at (575) 624-6606. Please leave a message for Mr. Stephens if he isn't available at the time of your phone call and/or call the David Gonzalez office in addressing this issue. I appreciate your cooperation.  
Sincerely,  
David Gonzalez  
David Gonzalez, Code Enforcement Officer C200734  
Planning & Zoning Department  
41 St. Mary's Place  
Roswell, NM 88203  
Phone: (575) 624-6606  
Fax: (575) 624-6606  
David Gonzalez  
Code Enforcement Officer  
C200734  
Phone: (575) 624-6606  
Fax: (575) 624-6606

CHAVES COUNTY  
PLANNING & ENVIRONMENTAL SERVICES  
8/15/2013  
DATE ISSUED  
**IMPORTANT NOTICE**  
THIS IS TO ADVISE YOU THAT THE CHAVES COUNTY BUILDING CODE ARE IN VIOLATION AT 107 Offutt Street  
VIOLATION(S) County Ordinance - 46-1-101  
County Building Code - 46-1-101  
Issue - No windows on structure  
CONTACT PLANNING  
624-6606  
IF CONSTRUCTION IS IN PROGRESS  
Please contact the Planning & Environmental Services Department at  
Chaves County Court House, Suite B-4  
David Gonzalez 8/15/2013  
IN PROGRESS

5 pages  
P

8/16/2013



107 Offutt Street  
Date: 8-16-2013  
file No. I-2013-19

8/14/2013



107 Offutt Street  
Date: 8-16-2013  
file No. 1-2013-19

8/16/2013



107 Offutt Street  
Date: 8-16-2013  
file No. I-2013-19

8/16/2013



8/16/2013



**PLANNING AND ZONING**

PO Box 1817  
Roswell, NM 88202-1817  
Phone (575)-624-6606  
Fax (575)-624-6563

**P&Z Director**  
Anders M. Sheridan



**COMMISSIONERS**

James Duffey • District 1  
Kim Chesser • District 2  
Kyle D. "Smiley" Wooton • District 3  
Robert Corn • District 4  
Greg Nibert • District 5

**County Manager**  
Stanton Riggs

**NOTICE**  
**OF**  
**DANGEROUS BUILDING or DEBRIS**  
Per Section 3-18-5 NMSA, 1978

**POSTING DATE:** *September 4, 2013*  
**PROPERTY OWNER:** *DeWayne & Geneva Clements:*  
**ADDRESS:** *107 Offutt Street Roswell, New Mexico 88203*  
**LEGAL DESCRIPTION:** *New Lykins Subdivision Block: 9 Lot: 24*

**TO WHOM IT MAY CONCERN:**

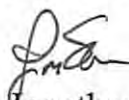
**NOTICE IS HEREBY GIVEN;** that the Chaves County Building Inspector and/or the Chaves County Code Enforcement Office has inspected this building or structures on the 4<sup>th</sup> day of September, 2013, and has found that the premises to be in a **DANGEROUS, DAMAGED AND DILAPIDATED** state and is hereby declared to be a menace to the public comfort, health, peace and safety.


**NOTICE TO REMOVE BY INSPECTOR ONLY**

It shall be unlawful under penalty of the law to remove this notice, unless such condition(s) or defects have been repaired, removed, vacated or demolished, as the case may be.

You have **TEN (10)** days after the receipt of this notice to notify this office as to your intentions. After **TEN (10)** days, condemnation procedures will take place. Chaves County may remove any such unsafe structure(s) and thereafter file a claim of lien against your property for the cost of removal according to the law. You may file a written objection with the Chaves County Planning and Zoning Department requesting a hearing in accordance with the provisions of **SECTION 3-18-5 NMSA, 1978**

**A COPY OF THIS NOTICE WILL BE POSTED ON THE PREMISES. BOARDING UP WINDOWS AND DOORS WILL NOT BE ACCEPTED AS A MEANS OF REPAIR.**

  
Jonathan Stephens,  
Chaves County Building Inspector

  
David Gonzales,  
Chaves County Code Enforcement Officer

f.

**CHAVES COUNTY**  
**SHERIFF'S OFFICE**

**JAMES R. 'ROB' COON, Sheriff**



16 August 2013

To: Chaves County Code Enforcement  
From: Deputy Keith Rightsell  
CC: Sgt. Ouillette  
Reference: 107 Offutt Road

---

**REQUEST**

To Whom It May Concern,

Please find enclosed copies of incident reports and other information as it relates to the residence occupied by DeWayne Clements at 107 Offutt Road. As a brief synopsis of events: Deputies from the Chaves County Sheriff's Department and Officers from the Roswell Police Department have responded to this residence numerous times since 01 January 2013. These incidents have predominately involved gun and narcotics offenses. Numerous people associated with this residence have been arrested due to outstanding warrants. These incidents include:

CASE# 2013-601; Disorderly Conduct

CASE# 2013-816; Disorderly Conduct

CASE# 2013-923; Probable Cause Arrest; Unlawful Use of License

CASE# 2013-1211; Probable Cause Arrest, Narcotics and Felon in Possession

CASE# 2013-1125; Warrant Arrest & Drug Paraphernalia

CASE# 2013-1128; Probable Cause Arrest; Resisting, Evading Arrest

**CHAVES COUNTY**  
**SHERIFF'S OFFICE**

**JAMES R. 'ROB' COON, Sheriff**



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The overall condition of the residence is poor. There are missing walls inside, lack of sheet rock with exposed wiring, nails and insulation. The power has been disconnected from the residence but was "hotwired" using car battery jumper cables as an interface. Refer to attached photographs from the power company.

The conditions of the residence have included no running water which has led to a large amount of urine and feces being held in containers inside the residence. I have also located these same containers being stored outside the residence. The exterior of the residence is such as that all of the windows are broken; the fence has collapsed and is a pedestrian safety hazard.

Thank you for your time and consideration in this matter.

Respectfully submitted,

Keith Rightsell, Deputy (# 437)  
Chaves County Sheriff's Office



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report

<b>EVENT</b>	DATE REPORTED	TIME	CASE NUMBER	OCURRED INCIDENT TYPE
	04/11/2013	21:55	2013-0000601	Disorderly Conduct
	OCURRED FRDM	TIME	LOCATION OF OCCURRENCE	BUSINESS/COMMON NAME
	04/11/2013	21:55	6004 Kincaid Roswell, NM	
AND	TIME	REPORTING OFFICER (NAME AND ID #)	STATUS / DATE	
04/11/2013	21:55	Rightsell, Keith 437	Closed	04/11/2013

<b>OFFENSES</b>	STATUTE/ORDINANCE #	COMMITTATTEMPT	DESCRIPTION OF STATUTE/ORDINANCE	FEL./MISD.
	30-20-1	Completed	DISORDERLY CONDUCT	M

<b>SUBJECT</b>	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)			SUBJECT WISHES TO PRESS CHARGES			
	Arrested	Clements, Dewayne Earl						
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)				PRIMARY PHONE	OTHER PHONE		
	6106 KINCAID DR 6106 ROSWELL, NM 88203				(575)627-3649			
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	5/31/1971	41	White	M	5'10		BRO	BRO
	INJURY TYPE	DRIVER LICENSE NUMBER/STATE			ALIAS (LAST, FIRST MIDDLE)			
		039367041 /NM						
ETHNIC GROUP	BULD		COMPLEXION		APPEARANCE			

<b>SUBJECT</b>	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)			SUBJECT WISHES TO PRESS CHARGES			
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)				PRIMARY PHONE	OTHER PHONE		
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	INJURY TYPE	DRIVER LICENSE NUMBER/STATE			ALIAS (LAST, FIRST MIDDLE)			
ETHNIC GROUP	BULD		COMPLEXION		APPEARANCE			

<b>SUBJECT</b>	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)			SUBJECT WISHES TO PRESS CHARGES			
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)				PRIMARY PHONE	OTHER PHONE		
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	INJURY TYPE	DRIVER LICENSE NUMBER/STATE			ALIAS (LAST, FIRST MIDDLE)			
ETHNIC GROUP	BULD		COMPLEXION		APPEARANCE			

### CASE SYNOPSIS

On April 11th, 2013 Deputies were dispatched to the area of 107 Offut in reference to Dewayne Clements throwing rocks at somebody dog. Mr. Clements arrested for Disorderly Conduct.

### OFFICER DECLARATION

REPORTING OFFICER, I.D. NUMBER	DATE
Rightsell, Keith 437	04/11/2013
REVIEWING SUPERVISOR, I.D. NUMBER	DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report Narrative

**CASE NUMBER**

2013-0000601

On April 11th, 2013 Deputies were dispatched to the area of 107 Offut Rd. in reference to Dewayne Clements allegedly throwing rocks at somebodys dog in the 400 block of Offut Rd.

Prior to my arrival I learned Deputy Doug Hohle made contact with Mr. Clements at his residence at 107 Offut. Shortly thereafter I heard Deputy Hohle clear from the area and advised dispatch Mr. Clements wanted to speak with a Sergeant.

It should be noted this was the 4th CCSO dealing with Mr. Clements in a 4 hour time span in reference to him being disorderly in one fashion or another.

Myself and Deputy Hohle stayed in the Offut/Kincaid area just in case Mr. Clements continued with his disorderly behavior. We circled the block and immediately returned to the area and we could hear Mr. Clements at 6004 Kincaid yelling obscenities at an elderly woman. Mr. Clements was ordered to our location, which was near the front yard to 6004 Kincaid.

We ordered Mr. Clements to stop, turn around and place his hands behind his back. Mr. Clements only stopped walking and did not comply to numerous commands to turn around. Mr. Clements finally turned around and dropped to his knees and then was escorted onto his stomach where I handcuffed Mr. Clements.

After handcuffing Mr. Clements he just layed on the ground and pretended to be asleep or unconscience. Mr. Clements refused to get up to his feet by his own power. I then executed a pain compliance technique to Mr. Clements' wrist and he quickly rose to his feet by his own power. I then escorted him to my marked unit and transported him to CCSO for booking.

Mr. Clements was booked for the listed charge and transported to CCDC without further incident. No other information.

Case status: Cleared by arrest.

**OFFICER DECLARATION**

REPORTING OFFICER, I.D. NUMBER

Rightsell, Keith 437

DATE

04/11/2013

REVIEWING SUPERVISOR, I.D. NUMBER

DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report

EVENT	DATE REPORTED	TIME	CASE NUMBER	OCCURRED INCIDENT TYPE
	5/17/2013	21:02	2013-00000816	Disorderly Conduct
	OCCURRED FROM	TIME	LOCATION OF OCCURRENCE	BUSINESS/COMMON NAME
	5/17/2013	21:02	107 E Offutt ST Roswell, NM 88203	
AND	TIME	REPORTING OFFICER (NAME AND ID #)	STATUS / DATE	
05/17/2013	21:02	Perez, Agustin 426	Closed 05/18/2013	

OFFENSES	STATUTE/ORDINANCE #	COMMITMENT	DESCRIPTION OF STATUTE/ORDINANCE	FEL./MISD.
	30-20-1	Completed	DISORDERLY CONDUCT	MI

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)					SUBJECT WISHES TO PRESS CHARGES
	Arrested	Lyons-Birdsey, Sue A					
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)			PRIMARY PHONE	OTHER PHONE		
	5202 Juanito RD Roswell, NM 88203						
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR
	10/11/1981	31	White	F	5'06		BRO
	EYE COLOR	HZN					
INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)				
	120634992 /NM						
ETHNIC GROUP	BUILD	COMPLEXION		APPEARANCE			
Non-Hispanic							

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)					SUBJECT WISHES TO PRESS CHARGES
	Victim	State of New Mexico,					Yes
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)			PRIMARY PHONE	OTHER PHONE		
	1 St. Mary's PL Roswell, NM 88203			(575)624-6500			
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR
	EYE COLOR						
INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)				
ETHNIC GROUP	BUILD	COMPLEXION		APPEARANCE			

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)					SUBJECT WISHES TO PRESS CHARGES
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)			PRIMARY PHONE	OTHER PHONE		
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR
	EYE COLOR						
INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)				
ETHNIC GROUP	BUILD	COMPLEXION		APPEARANCE			

### CASE SYNOPSIS

On May 17, 2013, at approximately 2102 hours, I (Deputy Agustin P. Perez) was dispatched to 107 E. Offutt to an unknown trouble. Report Was Filed.

### OFFICER DECLARATION

REPORTING OFFICER, I.D. NUMBER	DATE
Perez, Agustin 426	5/17/2013
REVIEWING SUPERVISOR, I.D. NUMBER	DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report Narrative

**CASE NUMBER**

2013-00000816

On May 17, 2013, at approximately 2102 hours, I (Deputy Agustin P. Perez) was dispatched to 107 E. Offutt to an unknown trouble. Upon arrival a young child started yelling at me to hurry up because people were fighting in the house. As I approached the home the front door was open and entered and made contact with Dewayne E. Clements (DOB 5-31-1971) and Sue A. Lyons-Birdsey (DOB 10-11-1981) in the living room. At that point I separated Dewayne and Sue. Sue was advised to go outside and stand by with Deputy Doug Hohle. As Sue was exiting the home she started screaming, "YOU FUCKING ASSHOLE!" to her ex-boyfriend Dewayne. I advised Sue to stop yelling.

Dewayne stated Sue went to his home to argue three different times within 30 minutes from the time of this call. Dewayne stated he told Sue she was not welcome at his home each time she went. Dewayne stated the last time, prior to our arrival, that Sue went to his home and wanted to fight everybody in his home. Dewayne stated when Sue started swinging her fists at everybody in his home that they all got her and put her on the floor to keep her from hitting them. Dewayne stated there was no physical altercation for except when Sue was placed on the floor to keep her from hitting people. I did observe a scratch on Dewayne's left arm. I asked Dewayne about the scratch and he stated he did not know where he got the scratch from.

Contact was also made with the following subjects on scene which were in the home at the time of the incident: Marie Cheyenne (DOB 11-8-1994), Kimberly Lasiter (DOB 2-23-1963), Stephanie Rivers (DOB 6-21-1991), Justin D. Clements (DOB 11-01-1990). All subjects statements corroborated with the statements of Dewayne.

Sue stated she went over to Dewayne's home because he invited her to spend the night along with her four(4) young children (which were also on scene). Sue did admit to going to Dewayne's home in three different occasion in a short period of time. Sue stated she was upset with Dewayne due to seeing him sitting between two girls when she arrived at his home and because he called her a "whore". Sue stated Dewayne threw her on the floor when they began to argue. Sue denied any other kind of physical altercation.

As I went to speak to Sergeant Bill Daleski who was on scene; I saw Sue walk over to the front doorway of the home and heard her yell out, "YOUR JUST A FUCKING ASSHOLE DEWAYNE!!". I noticed unknown residents at the corner of Offutt and Kincaid looking in the direction of the scene when Sue started yelling.

Sue was placed under arrest for disorderly conduct. When placed under arrest Sue started saying Dewayne hit her back and her head. There were no signs of battery on Sue. Sue was transported by Deputy Doug Hohle to the Chaves County Sheriff's Office where she was fingerprinted, photographed, and was given a copy of the criminal complaint. Sue was transported to the Chaves County Detention Center where she was booked into custody, where she was to remain held on a \$1,000 surety bond.

The following are the names of Sue's children which were on scene: Justin Birdsey (DOB 7-2-

**OFFICER DECLARATION**

REPORTING OFFICER, I.D. NUMBER

Perez, Agustin 426

DATE

5/17/2013

REVIEWING SUPERVISOR, I.D. NUMBER

DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report Narrative

**CASE NUMBER**

2013-0000816

2001), Ryan Birdsey (DOB 4-9-2004), David Birdsey (DOB 11-10-2006), and Tristen Birdsey (DOB 3-10-2008). Sue's four(4) children were transported from the scene to 5202 Juanito Road. Upon arrival I made contact with Sue's parents by the name of Donald G. Lyons (DOB 8-11-1952) and Eleanor Pena (DOB 10-5-1947). Donald gave me and Sergeant Bill Daleske consent to look around his home. We determined the home was an adequate place for the children and released them to Donald and Tristen. A referral reference this case was done via telephone to Statewide Central Intake for the Children Youth and Families Department.

Case Status: Cleared By Arrest

**OFFICER DECLARATION**

REPORTING OFFICER, I.D. NUMBER

DATE

REVIEWING SUPERVISOR, I.D. NUMBER

DATE





# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report

EVENT	DATE REPORTED	TIME	CASE NUMBER	OCURRED INCIDENT TYPE
	07/07/2013	18:07	2013-00001125	Burglary
	OCURRED FROM	TIME	LOCATION OF OCCURRENCE	BUSINESS/Common NAME
	07/07/2013	18:07	107 Offut ST Roswell, NM 88203	
AND	TIME	REPORTING OFFICER (NAME AND ID #)	STATUS / DATE	
07/07/2013	18:29	Shannon, Michael 430	Closed 07/07/2013	

OFFENSES	STATUTE/ORDINANCE #	COMMIT/ATTEMPT	DESCRIPTION OF STATUTE/ORDINANCE	FEL/MISD.
	12-0-0	Completed	Municipal Warrant - Not UCR Reportable	M
	12-0-0	Completed	Municipal Warrant - Not UCR Reportable	M
	12-0-0	Completed	Municipal Warrant - Not UCR Reportable	M
12-0-0	Completed	Municipal Warrant - Not UCR Reportable	M	

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)	SUBJECT WISHES TO PRESS CHARGES					
	Arrested	Fresquez, Christopher R						
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)		PRIMARY PHONE	OTHER PHONE				
	1208 N Washington Roswell, NM 88203							
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	08/12/1989	23	White	M	5'11	168	BRO	BRO
INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)					
	505307534 /NM							
ETHNIC GROUP	BUILD	COMPLEXION	APPEARANCE					
Hispanic								

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)	SUBJECT WISHES TO PRESS CHARGES					
	Victim	STATE OF NEW MEXICO,	Yes					
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)		PRIMARY PHONE	OTHER PHONE				
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)					
ETHNIC GROUP	BUILD	COMPLEXION	APPEARANCE					

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)	SUBJECT WISHES TO PRESS CHARGES					
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)		PRIMARY PHONE	OTHER PHONE				
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)					
ETHNIC GROUP	BUILD	COMPLEXION	APPEARANCE					

### CASE SYNOPSIS

On Sunday, July 07, 2013 at approximately 1807 hours, I, Deputy Mike Shannon was on patrol in the area of Offut St. and South Main. Upon further investigation, Christopher Fresquez was arrested.

### OFFICER DECLARATION

REPORTING OFFICER, I.D. NUMBER	DATE
Shannon, Michael 430	07/07/2013
REVIEWING SUPERVISOR, I.D. NUMBER	DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report

EVENT	DATE REPORTED	TIME	CASE NUMBER	OCCURRED INCIDENT TYPE
	07/07/2013	18:07	2013-00001125	Burglary
	OCCURRED FROM	TIME	LOCATION OF OCCURRENCE	BUSINESS/COMMON NAME
	07/07/2013	18:07	107 Offut ST Roswell, NM 88203	
AND	TIME	REPORTING OFFICER (NAME AND ID #)	STATUS / DATE	
07/07/2013	18:29	Shannon, Michael 430	Closed 07/07/2013	

OFFENSES	STATUTE/ORDINANCE #	COMMITMENT ATTEMPT	DESCRIPTION OF STATUTE/ORDINANCE	FEL./MISO
	12-0-0	Completed	Municipal Warrant - Not UCR Reportable	M
	30-31-25.1	Completed	MANUFACTURE/POSSESSION OF DRUG PARAPHERNALIA	M

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)			SUBJECT WISHES TO PRESS CHARGES		
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)				PRIMARY PHONE	OTHER PHONE	
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR
	INJURY TYPE		DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)		
	ETHNIC GROUP		BUILD	COMPLEXION		APPEARANCE	

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)			SUBJECT WISHES TO PRESS CHARGES		
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)				PRIMARY PHONE	OTHER PHONE	
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR
	INJURY TYPE		DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)		
	ETHNIC GROUP		BUILD	COMPLEXION		APPEARANCE	

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)			SUBJECT WISHES TO PRESS CHARGES		
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)				PRIMARY PHONE	OTHER PHONE	
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR
	INJURY TYPE		DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)		
	ETHNIC GROUP		BUILD	COMPLEXION		APPEARANCE	

### CASE SYNOPSIS

### OFFICER DECLARATION

REPORTING OFFICER, I.D. NUMBER	DATE
Shannon, Michael 430	07/07/2013
REVIEWING SUPERVISOR, I.D. NUMBER	DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report Narrative

**CASE NUMBER**

2013-00001125

Upon my arrival, I, observed a 4 door vehicle backed into the backyard of 107 Offut. This vehicle was partially in the roadway. I was able to hear loud banging coming from the backyard of the named address. At that point in time I felt it was necessary to investigate further. I called for a second unit for backup. Prior to Deputy Mason arrival I approached the Wood fenced backyard and posted up at the SE corner. Shortly before Deputy Mason's arrival a male subject appeared from the open gate, at that time I made contact with a subject later identified as Christopher R. Fresquez (08-12-1989). I asked Christopher what he was doing. Christopher appeared very uneasy with my presence. A pat down was conducted for weapons only. I felt his right front pocket and Christopher stated, I have a pipe in my pocket. At that point Christopher was detained. I asked Christopher if I could retrieve the pipe from his pocket and he state, "Yes"! I retrieved from his right hip pocket a marijuana pipe (observed odor of burned marijuana) and from his left hip pocket a glass methamphetamine pipe w a round bulb. This methamphetamine pipe has a burn mark on the bottom, conducive to the use of methamphetamine. I know both items from prior training and experience. I ran Christopher by name and DOB and learned he had 5 outstanding warrant out of Roswell Municipal Court for: FAILURE TO COMPLY WITH COMMUNITY SERVICE, WARRANT #54834; FAILURE TO APPEAR FOR ARRAIGNMENT, WARRANT #54730; FAILURE TO PAY FINES, WARRANT #54866; FAILURE TO PAY FINES, WARRANT #54867; FAILURE TO APPEAR, WARRANT #54810. Christopher was also booked on the POSSESSION OF DRUG PARAPHERNALIA. Christopher was placed under arrest and taken to Chaves County Sheriff's Office for fingerprints and photographs. Once completed Christopher was transported to Chaves County Detention Center where he is currently being held in lieu of the following bond:

- Possession of drug paraphernalia \$1,500.00 SURETY
- Failure to Comply #54834 \$500.00 CASH ONLY
- Failure to Appear #54730 \$1,000.00 SURETY
- Failure to Pay #54866 \$173.00 CASH ONLY
- Failure to Pay #54867 \$302.00 CASH ONLY

**OFFICER DECLARATION**

REPORTING OFFICER, LD. NUMBER	DATE
Shannon, Michael 430	07/07/2013
REVIEWING SUPERVISOR, LD. NUMBER	DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report

<b>EVENT</b>	DATE REPORTED	TIME	CASE NUMBER	OCCURRED INCIDENT TYPE	
	06/05/2013	02:23	2013-00000923	Traffic Stop	
	OCCURRED FROM	TIME	LOCATION OF OCCURRENCE	BUSINESS/COMMON NAME	
	06/05/2013	02:23	107 Offut ST Roswell, NM 88203		
AND	TIME	REPORTING OFFICER (NAME AND ID #)	STATUS / DATE		
	06/05/2013	02:43	Shannon, Michael 430	Active Open 06/05/2013	

<b>OFFENSES</b>	STATUTE/ORDINANCE #	COMMIT/A TTEMPT	DESCRIPTION OF STATUTE/ORDINANCE	FEL /MISD
	66-5-39	Completed	DRIVING WHILE LICENSE SUSPENDED OR REVOKED	M
	66-7-349	Completed	STOP/STAND/PARK OUTSIDE BUSINESS OR RESIDENTIAL DISRICT	M

<b>SUBJECT</b>	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)		SUBJECT WISHES TO PRESS CHARGES				
	Arrested	Franco, Carlos V						
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)			PRIMARY PHONE	OTHER PHONE			
	214 E Hervey Roswell, NM 88203							
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	01/13/1980	33	White	M	5'09	190	BRO	BRO
INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)					
	101563154 /NM							
ETHNIC GROUP	BUILD	COMPLEXION		APPEARANCE				
Hispanic								

<b>SUBJECT</b>	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)		SUBJECT WISHES TO PRESS CHARGES				
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)			PRIMARY PHONE	OTHER PHONE			
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)				
ETHNIC GROUP	BUILD	COMPLEXION		APPEARANCE				

<b>SUBJECT</b>	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)		SUBJECT WISHES TO PRESS CHARGES				
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)			PRIMARY PHONE	OTHER PHONE			
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)				
ETHNIC GROUP	BUILD	COMPLEXION		APPEARANCE				

### CASE SYNOPSIS

On Wednesday, June 05, 2013 at approximately 0223 hours, I, Deputy Mike Shannon conducted a traffic stop at 107 Offut St. resulting in the arrest of Carlos Franco.

<b>OFFICER DECLARATION</b>	
REPORTING OFFICER, I.D. NUMBER	DATE
Shannon, Michael 430	06/05/2013
REVIEWING SUPERVISOR, I.D. NUMBER	DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report Narrative

**CASE NUMBER**

2013-00000923

I was patrolling South Main St. near the new Allsup's, 6000 South main. I was traveling South on Main St. and turned west onto Offut St. At which time I observed a vehicle blacked out, parked in the middle of the roadway at 107 Offut. As I approached, the vehicle was placed in reverse. I was able to see the white halo from the reverse lights. At that time I engaged my emergency equipment and attempted to conduct a traffic stop on the vehicle. The vehicle was driven backwards into the yard of 107 Offut. The vehicle's final resting place was half in the street and half in the front yard of 107 Offut. I exited my patrol unit and observed a male subject to be the sole occupant of the vehicle; exit the driver's side of the vehicle. The vehicle was later identified as a 2010 Silver Dodge 4 door vehicle bearing TX license plate #DG8L214. The male subject, later identified as Carlos V. Franco (01-13-1980) was given verbal commands to approach me because he was attempting to regain entry into the vehicle. After sever commands Carlos complied. I requested Carlos' Driver's License. Carlos stated he did not have a Driver's License. Upon further investigation and a Driver's License inquiry through dispatch, I learned that Carlos was Suspended/Revoked with the Arrest Clause. Carlos was placed under arrest. Prior to placing Carlos in my patrol unit, I conducted a pat down of his persons. In his right pocket I located a set of keys to the vehicle. Attached to the key ring was a silver in color container. Located inside the container was a small, clear bag containing a white in color crystalline substance. The keys and silver container was placed in my trunk, inside a brown paper bag. I learned from Deputy Abernathy that in plain view in the back driver side floor board was a black in color firearm. At which time REMCO was contacted to remove the vehicle from 107 Offut and take it to Chaves County Sheriff's Office for a court ordered search warrant. Contact was unsuccessfully made with the homeowner of 107 Offut (Dwayne Clements, known from prior contact). Carlos stated he did not know who lived or owned the home of 107 Offut and that he stopped by to see his cousin Steven Chavez. Carlos was taken to Chaves County Sheriff's Office for fingerprints and photographs. Once completed, Carlos was transported to Chaves County Detention Center where he is currently being held in lieu of \$1,500.00 SURETY BOND.

**CHARGES: Driving While License Suspended/Revoked with the Arrest Clause  
Stopping, Standing or Parking outside of Business or Residence districts**

Evidence was booked into evidence locker "G" and the Dodge car was placed inside our secured bay, pending the court ordered search warrant.

**CASE IS ACTIVE**

**OFFICER DECLARATION**

REPORTING OFFICER, I.D. NUMBER

Shannon, Michael 430

DATE

06/05/2013

REVIEWING SUPERVISOR, I.D. NUMBER

DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report

<b>EVENT</b>	DATE REPORTED	TIME	CASE NUMBER	OCCURRED INCIDENT TYPE
	07/20/2013	22:45	2013-00001211	Weapon Offense
	OCCURRED FROM	TIME	LOCATION OF OCCURRENCE	BUSINESS/Common NAME
	07/20/2013	22:45	107 OFFUTT ST Roswell, NM 88203	
AND	TIME	REPORTING OFFICER (NAME AND ID #)	STATUS / DATE	
07/20/2013	22:45	Rightsell, Keith 437	Active Open 07/21/2013	

<b>OFFENSES</b>	STATUTE/ORDINANCE #	COMMIT/ATTEMPT	DESCRIPTION OF STATUTE/ORDINANCE	FEL./MISD.
	30-7-16	Completed	POSSESSION OF A FIREARM BY A FELON	F
	30-22-1	Completed	RESISTING, EVADING, OBSTRUCTING AN OFFICER	M
	30-31-23	Completed	POSSESSION - METHAMPHETAMINE	F

<b>SUBJECT</b>	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)		SUBJECT WISHES TO PRESS CHARGES		
	Victim	STATE OF NEW MEXICO,		Yes		
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)			PRIMARY PHONE	OTHER PHONE	
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT
	HAIR COLOR	EYE COLOR				
INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)			
ETHNIC GROUP	BUILD		COMPLEXION	APPEARANCE		

<b>SUBJECT</b>	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)		SUBJECT WISHES TO PRESS CHARGES		
	Suspect	ROMERO, CARLOS				
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)			PRIMARY PHONE	OTHER PHONE	
	1507 W 7TH ST Roswell, NM 88201			(575)317-5409		
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT
	01/21/1975	38	White	M	5'9	280
HAIR COLOR	EYE COLOR					
BLK	BRO					
INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)			
	48647006 /NM					
ETHNIC GROUP	BUILD		COMPLEXION	APPEARANCE		
Hispanic						

<b>SUBJECT</b>	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)		SUBJECT WISHES TO PRESS CHARGES		
	Suspect	Killgo, Heidi Nicole				
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)			PRIMARY PHONE	OTHER PHONE	
	5809 KINCAID DR 5809 ROSWELL, NM 88203			(575)626-0280		
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT
	5/7/1981	32	White	F	5'3	135
HAIR COLOR	EYE COLOR					
BRO	GRN					
INJURY TYPE	DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)			
	119448719 /NM					
ETHNIC GROUP	BUILD		COMPLEXION	APPEARANCE		

### CASE SYNOPSIS


### OFFICER DECLARATION

REPORTING OFFICER, I.D. NUMBER	DATE
Rightsell, Keith 437	07/20/2013
REVIEWING SUPERVISOR, I.D. NUMBER	DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report Subject Supplement

### CASE NUMBER

2013-00001211

SUBJECT

SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE)						SUBJECT WISHES TO PRESS CHARGES	
Suspect		Torres, Jennifer							
ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)							PRIMARY PHONE	OTHER PHONE	
98 E ST 98 ROSWELL, NM 88203							(575)317-9069		
DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR		
9/22/1987	25	White	F	5'1	108	BLK	BRO		
INJURY TYPE		DRIVER LICENSE NUMBER/STATE			ALIAS (LAST, FIRST MIDDLE)				
		504806057 /NM							
ETHNIC GROUP		BUILD		COMPLEXION		APPEARANCE			

SUBJECT

SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE)						SUBJECT WISHES TO PRESS CHARGES	
ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)							PRIMARY PHONE	OTHER PHONE	
DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR		
INJURY TYPE		DRIVER LICENSE NUMBER/STATE			ALIAS (LAST, FIRST MIDDLE)				
ETHNIC GROUP		BUILD		COMPLEXION		APPEARANCE			

SUBJECT

SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE)						SUBJECT WISHES TO PRESS CHARGES	
ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)							PRIMARY PHONE	OTHER PHONE	
DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR		
INJURY TYPE		DRIVER LICENSE NUMBER/STATE			ALIAS (LAST, FIRST MIDDLE)				
ETHNIC GROUP		BUILD		COMPLEXION		APPEARANCE			

SUBJECT

SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE)						SUBJECT WISHES TO PRESS CHARGES	
ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)							PRIMARY PHONE	OTHER PHONE	
DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR		
INJURY TYPE		DRIVER LICENSE NUMBER/STATE			ALIAS (LAST, FIRST MIDDLE)				
ETHNIC GROUP		BUILD		COMPLEXION		APPEARANCE			

SUBJECT

SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE)						SUBJECT WISHES TO PRESS CHARGES	
ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)							PRIMARY PHONE	OTHER PHONE	
DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR		
INJURY TYPE		DRIVER LICENSE NUMBER/STATE			ALIAS (LAST, FIRST MIDDLE)				
ETHNIC GROUP		BUILD		COMPLEXION		APPEARANCE			



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report Narrative

**CASE NUMBER**

2013-00001211

On July 20, 2013 at approximately 2252 hours I was dispatched to a reported domestic dispute occurring at the Allsup's, 6100 block of S. Main Street. Upon my arrival I was met by a male subject that said that the male and female involved in the argument had gone to 107 Offutt (right across the street) and was getting ready to leave in the vehicle in the driveway.

As he was speaking to me I looked to the residence and saw numerous people yelling "Cops, let's go let's go" including at least two females and a male climbing into a car. At that time I could see about a half dozen people beginning to run in different directions. I then notified dispatch of the location and proceeded to attempt a traffic stop on the vehicle leaving the house.

I then activated my emergency lights as the vehicle, a white in color Pontiac 4 door bearing NM 658RZB entered the roadway and proceeded west on Offutt before it turned north on Lea. The vehicle then continued, with me in a marked unit and emergency equipment activated, to Irvine Road where it turned north. The vehicle then turned north again onto Kincaid. Speeds never exceeded 15 MPH and at several different times during this incident the driver looked at me in his side rear mirror. The vehicle came to a slow roll and finally stopped in front of 5809 Kincaid.

I then exited my vehicle and approached the passenger side with my issued duty weapon in my hand. Upon making contact with the occupants of the vehicle I observed the vehicle to be occupied by a small child asleep in the backseat, a male driver (identified as Carlos Romero), a middle female passenger (identified as Jennifer Torres) and a right front passenger (identified as Heidi Killgo).

While speaking with the occupants I observed there to be a silver in color firearm laying on the passenger floorboard of the vehicle under the feet of the two females. The firearm appeared to be a "sawed-off shotgun" that was about the size of a large handgun.

It was at that time that I started having the subjects exit the car through the passenger door.

I started with Ms. Killgo and as she exited I patted her down for additional weapons, placed her in handcuffs and seated her on the ground near my marked patrol unit.

I then followed the same sequence for Jennifer Torres.

I then went to the driver's side, had Mr. Romero exit, patted him down, placed him in handcuffs and seated him in the rear of my marked unit.

I then secured the vehicle and completed a visual inventory of the vehicle. During this inventory I observed a small clear plastic bag with a white crystalline substance in it laying on the passenger side floorboard. I then requested that REMCO respond to the scene and remove the vehicle to the Sheriff's Office for a search warrant to recover the firearm and suspected narcotics.

**OFFICER DECLARATION**

REPORTING OFFICER, I.D. NUMBER

Rightsell, Keith 437

REVIEWING SUPERVISOR, I.D. NUMBER

DATE

07/20/2013

DATE





# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report Narrative

**CASE NUMBER**

2013-00001211

While on scene I advised each of the subjects of their Miranda Rights and asked them if they were willing to speak to me. Each agreed and I spoke to Heidi Killgo first. She stated that she was at 107 Offutt visiting a friend named "Pee-Wee" (AKA Gabriel Lara). She stated that she had no knowledge of the firearm and that she had not been in the car prior to entering it when I had observed her.

I then spoke to Jennifer Torres who stated that Carlos Romero was her cousin and that she was at her grandmothers' residence at 1507 W. 7th Street when Carlos showed up at the house in that vehicle. She stated that when she got into the car she had to move the gun out of her way. She said that Carlos told her to put it under the seat so she did.

She went on to say that she rode to 107 Offutt and was there for a while until several people started fighting. She said that's when Mr. Romero told her to get into the car and they left. She stated that the gun was not hers and provided me a recorded statement to that.

I then spoke to Carlos Romero who immediately denied all knowledge of the firearm. He then invoked his right to remain silent.

I then positively identified each subject and released them from the scene.

On July 21, 2013, I petitioned for and received a Magistrate Court Search Warrant for the above listed vehicle. I photographed the vehicle (overall exterior and interior) and then conducted a thorough search of the vehicle.

I located the silver in color shotgun on the passenger floorboard, where it had moved during the loading/unloading of the vehicle. I also recovered the small bindle of methamphetamine from the passenger side floorboard.

Upon completion of the search warrant I completed a return & inventory and left a copy, along with the search warrant in the vehicle.

Both items recovered from the vehicle were booked into the Chaves County Sheriff's Office evidence lockers.

**OFFICER DECLARATION**

REPORTING OFFICER, I.D. NUMBER	DATE
REVIEWING SUPERVISOR, I.D. NUMBER	DATE



# Quick Property Receipt



Print Date/Time: 07/22/2013 10:49  
Login ID: krightsell

Chaves County Sheriff's Office  
ORI Number: NM0030000

Entry Date/Time	Officer	Case Number	Property Code(s)	Property Type	Description	Facility	Location/Other	Tag Number
07/22/2013 10:41	1651 - Rightsell	2013-00001211	Evidence/Seized	Firearms	recovered via search warrant	Temporary Lockers	Evidence Locker DD	
07/22/2013 10:41	1651 - Rightsell	2013-00001211	Evidence/Seized	Other	20 GA Shotgun	Temporary Lockers	Evidence Locker DD	
07/22/2013 10:41	1651 - Rightsell	2013-00001211	Evidence/Seized	Drug/Narcotics	.5 grams of Methamphetamine	Temporary Lockers	Evidence Locker DD	

Submitted By

7-22-13

Date

Property Officer

Date



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

Tel: 575-624-6500



## Case Report

<b>EVENT</b>	DATE REPORTED	TIME	CASE NUMBER	OCURRED INCIDENT TYPE
	07/08/2013	01:20	2013-00001128	Warrant Service
	OCURRED FROM	TIME	LOCATION OF OCCURRENCE	BUSINESS/COMMON NAME
	07/08/2013	01:20	107 Offut Roswell, NM 88203	
AND	TIME	REPORTING OFFICER (NAME AND ID #)	STATUS / DATE	
07/08/2013	01:40	Shannon, Michael 430	Closed 07/08/2013	

<b>OFFENSES</b>	STATUTE/ORDINANCE #	COMMITTA TEMPT	DESCRIPTION OF STATUTE/ORDINANCE	FEL./MISD.
	30-22-1	Completed	RESISTING, EVADING, OBSTRUCTING AN OFFICER	M
	31-3-9	Completed	FAILURE TO APPEAR (CRIMINAL)	M

<b>SUBJECT</b>	SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE)				SUBJECT WISHES TO PRESS CHARGES	
	Arrested		Clements, Dewayne					
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)						PRIMARY PHONE	OTHER PHONE
	107 Offut Roswell, NM 88203						(575)291-4100	
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	6/31/1971	42	White	M	5'09	210	BRO	BRO
	INJURY TYPE		DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)			
			039367041 /NM					
ETHNIC GROUP		BUILD		COMPLEXION		APPEARANCE		
Non-Hispanic								

<b>SUBJECT</b>	SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE)				SUBJECT WISHES TO PRESS CHARGES	
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)						PRIMARY PHONE	OTHER PHONE
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	INJURY TYPE		DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)			
ETHNIC GROUP		BUILD		COMPLEXION		APPEARANCE		

<b>SUBJECT</b>	SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE)				SUBJECT WISHES TO PRESS CHARGES	
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)						PRIMARY PHONE	OTHER PHONE
	DOB	AGE	RACE	SEX	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	INJURY TYPE		DRIVER LICENSE NUMBER/STATE		ALIAS (LAST, FIRST MIDDLE)			
ETHNIC GROUP		BUILD		COMPLEXION		APPEARANCE		

### CASE SYNOPSIS

On Monday, July 08, 2013 at approximately 0120 hours, I, Deputy Mike Shannon was on foot patrol in the area of Offut and South Main St. Dewayne Clements was subsequently arrested.

### OFFICER DECLARATION

REPORTING OFFICER, I.D. NUMBER	DATE
Shannon, Michael 430	07/08/2013
REVIEWING SUPERVISOR, I.D. NUMBER	DATE



# Chaves County Sheriff's Office

1 SAINT MARY'S PLACE ROSWELL, NM 88203

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## Case Report Narrative

**CASE NUMBER**

2013-00001128

As I approached 107 Offut, backed by Deputy James Mason, I observed a strong odor of Marijuana emitting from the residence through an open window. The odor of Marijuana is known to myself through training and experience. I also had prior knowledge that a subject identified as Dewayne Clements (05-31-1971) had outstanding warrants out of Roswell, Chaves County, Magistrate Court for: FAILURE TO APPEAR, WARRANT #m-7-MR-2013-00252. I also heard subjects running around the house. At which point all entrances/exits were secured by Deputies and RPD Officers alike. I entered through an open gate to the backyard, while approaching the back door, Dewayne Clements emerged out of the same door I was approaching. Dewayne was given multiple commands to stop and keep his hands up, Dewayne complied. At which time I was notified by Deputy Mason that he observed a gun through the window in an unknown location of the home to me. At that point in time Dewayne turned and ran back through the door he exited, slamming it shut. Due to Dewayne's actions and the information obtained about a weapon, I followed Dewayne into the home, kicking open the closed door. I located Dewayne in the living room of the home. Dewayne was ordered to the ground at gun point, which he complied. Dewayne was then placed under arrest without further incident. Dewayne was then taken to Chaves County Sheriff's Office for fingerprints and photographs. Once completed, Dewayne was transported to Chaves County Detention Center where he is currently being held in lieu of the following BONDS:

RESISTING, EVADING OR OBSTRUCTING AND OFFICER: \$1,500.00 SURETY  
 FAILURE TO APPEAR: \$273.00 CASH

**OFFICER DECLARATION**

REPORTING OFFICER, I.D. NUMBER	DATE
Shannon, Michael 430	07/08/2013
REVIEWING SUPERVISOR, I.D. NUMBER	DATE