

****AMENDED****

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

September 18, 2014 –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

DWI PRESENTATION-Charlotte Andrade, Community Development Director

AGENDA ITEMS

A. PUBLIC HEARINGS

1. Case Z 2014-5-Petition for a Special Use Permit
2. Case Z 2014-6-Petition to Rezone Property

B. AGREEMENTS AND RESOLUTIONS

3. A. Agreement A-14-035-between Chaves County and DFA Local Government Division
B. Agreement A-14-036-between Chaves County and DFA Local Government Division
4. Agreement A-14-037 between Chaves County and NM Department of Transportation
5. Resolution R-14-042-Ordering the Chaves County Assessor to Impose the 2014 Certified Tax Rates
6. Resolution R-14-043-Opposing Recreational Use of Marijuana
7. Resolution R-14-044-Requiring State and County Prior Approval for Designation of Wilderness Areas and National Monuments
8. Resolution R-14-045-Implementing a Veteran's Initiative for the Purpose of Increasing Opportunities for Veterans to Obtain County Employment
9. Resolution R-14-046-Approval of Deletion of Property
10. Resolution R-14-047-Approval of Budget Increase for Various Funds
11. Resolution R-14-048-Adopting Update of the Chaves County All Hazards Mitigation Plan

12. Resolution R-14-049 Supporting Air Service Between Roswell and Phoenix

13. Resolution R-14-050 Budget Increase to FY 14/15 Final Budget for Fire Department EMS Funding

C. ITB'S AND RFP'S

14. ITB-14-3 – Bituminous Surface Treatment Aggregate

D. OTHER BUSINESS

15. DFA Approval of Fiscal Year 2014/2015 Final Budget

16. Permission to Publish Amendment to Ordinance Number 7

17. Resolution R-14-041-Chaves County's Request to Amend the Current Endangered Species Act

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**

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 9, 2014

CASE NUMBER:	Z 2014-5		
ACTION REQUESTED:	Petition for the Issuance of a Special Use Permit		
PURPOSE:	To continue the use of an existing, unpermitted Wireless Telecommunications Facility (Cell Tower). The Facility was constructed in 2011. The petitioner acquired the Facility from Plateau Communications in 2012, and is now proposing upgrades to meet changes in technology.		
PETITIONER:	Susana Ribera, representing American Tower Corporation		
PROPERTY LOCATION:	7805 North Main Street, Roswell, New Mexico		
COMPLIANCE WITH COMPREHENSIVE PLAN:	Yes	COMPLIANCE WITH CHAVES COUNTY ZONING ORDINANCE:	Upon Approval of Special Use Permit
STAFF RECOMMENDATION:	Approval, subject to 7 Conditions of Approval		
PLANNING COMMISSION ACTION	Unanimous Approval [3-0], subject to 7 Conditions of Approval contained in the Staff Report		
CONDITIONS OF APPROVAL:	<ol style="list-style-type: none"> 1. A fully-dimensioned site plan and elevations of all structures and facilities proposed for the site be reviewed and approved by the Planning and Zoning Department; 2. A Building Permit and necessary inspections by the Building Official shall be required for all proposed improvements and upgrades. Current and future development of the site shall be in substantial conformance with the information supplied with the Special Use Permit petition; 3. Future updates to the tower shall be designed to accommodate co-location of at least two other wireless communications antenna arrays; 4. Legal descriptions for all easements and the lease area shall be prepared and recorded with the Chaves County Clerk; 5. Any lighting which may be needed for security or other purposes be shielded from surrounding uses and be developed in accordance with the New Mexico Night Skies Act; 6. The Special Use Permit be granted for a period of thirty (30) years, and will expire on September 8, 2044, unless Condition No. 7 applies; and 		

	<p>7. 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.</p>
EXHIBITS:	<p>Staff Report, September 9, 2014</p> <p>Attachments a. through f.</p> <p>Draft Minutes of Planning and Zoning Commission Meeting</p>

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

APPLICATION NO: Z 2014-05 DATE OF HEARING: September 9, 2014

NAME OF APPLICANT: Susana Ribero/American Tower/SpectraSite Communications

REASON FOR HEARING: Special Use Permit Request, to continue the use of an existing
 Wireless Communications Antenna Facility (Cell Tower)

1. REQUEST:

Issuance of a Special Use Permit to continue the operation of a Wireless Telecommunications Antenna Facility (Cellular Tower), a related equipment shelter, and utility access to the Lease Area. The site is known as the Marley NM site.

2. LOCATION OF PROPERTY:

7805 North Main Street (US 285, east side) Roswell, New Mexico. The subject site is located on elevated terrain, which is located approximately 25 miles north of downtown Roswell.

The wireless telecommunications facility is physically located in a portion of Section 36, Township 6 South, Range 23 East. The facility currently exists on the site, and is located at Latitude 33° 45' 02.4" and Longitude 104° 34' 22.3". The subject property is owned by the State of New Mexico and contains over 5 square miles of land.

3. COMMISSION DISTRICT:

The subject property is located in Commission District Number 3. This District is represented by Commissioner Kyle Wooton.

4. NATURE OF SURROUNDING LAND USE AND ZONING:

In accordance with *Article VI*, this parcel and all adjacent properties are zoned Agricultural, Area I. Surrounding properties are all zoned for Agricultural uses.

Land uses in the vicinity of this request consist of rolling plains traversed by arroyos. There are scattered rural ranches and agricultural uses on both sides of US 285. The existing facility is located atop a small ridge that is the highest vertical point for several miles in all directions.

5. EXISTING SITE ACCESS:

Access to the site will be via an existing privately owned easement which has direct access to US Highway 285.

6. **LAND USE HISTORY:**

The wireless telecommunications facility currently exists on the site. It was apparently erected in 2011 without a Special Use Permit. A Special Use Permit is a requirement of Article XIV, the Wireless Telecommunications Facilities Ordinance. The petitioner is proposing upgrades to the facility to meet new advances in wireless communications technology. Although the addition of antenna to existing structures where the height of the facility is not being increased does not require additional permitting, Staff requested that the facility come into compliance with the Wireless Telecommunications ordinance by obtaining a Special Use Permit.

7. **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 ($\frac{2}{3}$) 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 location of the wireless communication facility meets all required road setback requirements and required setbacks from section line and half section line roads (See Finding in Section 5 on page 6).

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: The existing facility is located along a major traffic corridor, US 285. 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.*

Finding: Staff finds that there are no issues it is aware of that have arisen in the life span of the existing wireless facility that create or have created any conflict with any of the above criteria.

Section 4. Colocation

All new or modified wireless telecommunications facilities should develop their plans to allow reasonable requests by the County to use space on the tower and compound for public service radio facilities such as police, fire, emergency, homeland security, etc., at a reasonable charge.

The County should have access to their equipment on a 24/7 basis for maintenance and operating purposes. Condition of Approval Number 3 addresses the Collocation requirement.

Section 5. Height, Lot Size, and Setbacks

Towers are exempt from height requirements. Therefore, adherence to this specific requirement is not applicable. The lease area measures 50' by 50' and contains 2,500 ft² of area. The tower is setback 156.27' from the US 285 right-of-way line.

Staff finds that the height, lot size and setback requirements are met.

Section 6. Appearance and Visibility

The existing tower was erected at a height of 190'. The lease area is situated near the summit of a ridge running east-west, which is traversed by US 285. Although there are significant visual impacts to traffic driving on US 285, this area of Chaves County is very sparsely populated. Additionally, there is another wireless telecommunications facility located approximately 1,200' to the southwest of this facility, and a third wireless telecommunications facility with a 306' 8" guyed tower, located at 7916 North Main Street, which is approximately 1½ miles north of the subject property [Case No. Z 2007-05].

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

Staff finds that the appearance and visibility of the wireless telecommunications facility is not detrimental or distracting to adjacent land uses in the vicinity.

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 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 of Approval 7 addresses this requirement.

Section 10. State and Federal Regulations

The applicant acknowledges this requirement.

Section 11. Exemptions

No exemptions are applicable to this application.

8. STAFF ANALYSIS AND FINDINGS:

Special Use Permits:

Finding: The land use requires issuance of a Special Use Permit upon a duly noticed public hearing. There has not been a Special Use Permit issued for this individual wireless telecommunications facility.

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 are typically several hundred acres to several thousand acres in size. Most of the developed parcels that contain single family residences associated with family farming land uses are located some distance from the subject property (more than 2 miles distant to the closest residential dwelling unit). 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.

No comments were received from the Federal Aviation Administration (FAA). Since the overall height of the tower is less than 200', and the facility currently exists, a detailed study prepared by the FAA is not required.

No comments were received from the Federal Communications Commission (FCC). Since the overall height of the tower is less than 200', a detailed study prepared by the FCC is not required.

Permits:

Staff has not identified the need for the applicant to secure additional permits for this project, an existing wireless telecommunications facility, other than a Building Permit for proposed upgrades.

9. **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. A fully-dimensioned site plan and elevations of all structures and facilities proposed for the site be reviewed and approved by the Planning and Zoning Department (already received);
2. A Building Permit and necessary inspections by the Building Official shall be required for all proposed improvements and upgrades. Current and future development of the site shall be in substantial conformance with the information supplied with the Special Use Permit petition;
3. Future updates to the tower shall be designed to accommodate co-location of at least two other wireless communications antenna arrays;
4. Legal descriptions for all easements and the lease area shall be prepared and recorded with the Chaves County Clerk;
5. Any lighting which may be needed for security or other purposes be shielded from surrounding uses and be developed in accordance with the New Mexico Night Skies Act;
6. The Special Use Permit be granted for a period of thirty (30) years, and will expire on September 8, 2044, unless Condition No. 7 applies; and
7. 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.

10. **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 18, 2014** regular meeting of the Board of Chaves County Commissioners. This public hearing will begin at 9:00AM Mountain Daylight Time.

11. ATTACHMENTS:

- a. Petition for Case Review, Chaves County Planning & Zoning Department
- b. Vicinity Map
- c. Assessor's Aerial Map
- d. Site Development Plan
- e. Profile Elevation of the Wireless Telecommunications Facility (cellular tower)
- f. Photo of wireless telecommunications facility



CHAVES COUNTY APPLICATION CHAVES COUNTY ZONING ORDINANCE

Case Number: 2 2014-5 Date Received: 07-30-14 Fee: \$150.00

Type of Request: Rezoning Special Use Variance Change of Use

Name of Property Owner: State of New Mexico Phone Number: 505-827-5760

Mailing Address: P.O. Box 1148, Santa Fe, NM, 87504

Name of Applicant: SpectraSite Communications, LLC ("American Tower")

Mailing Address: 10 Presidential Way, Woburn, MA 01801 Home Phone Number: _____

_____ Business Phone Number: 781-926-4500

Applicant Status: Owner Agent Tenant Other _____

Case Address, Legal Description, and Parcel Number: 7805 N Main Street, Roswell, NM 88201

Legal Description: Section 36, Township 06 S, Range 23 E

Parcel Number: 4-133-036-314-265-00000

Present Land Use: Existing Telecommunication Facility

Intended Use: Telecommunication Facility

Present Zoning: Agriculture Requested Zoning: _____

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

2014 JUN 29 10 34

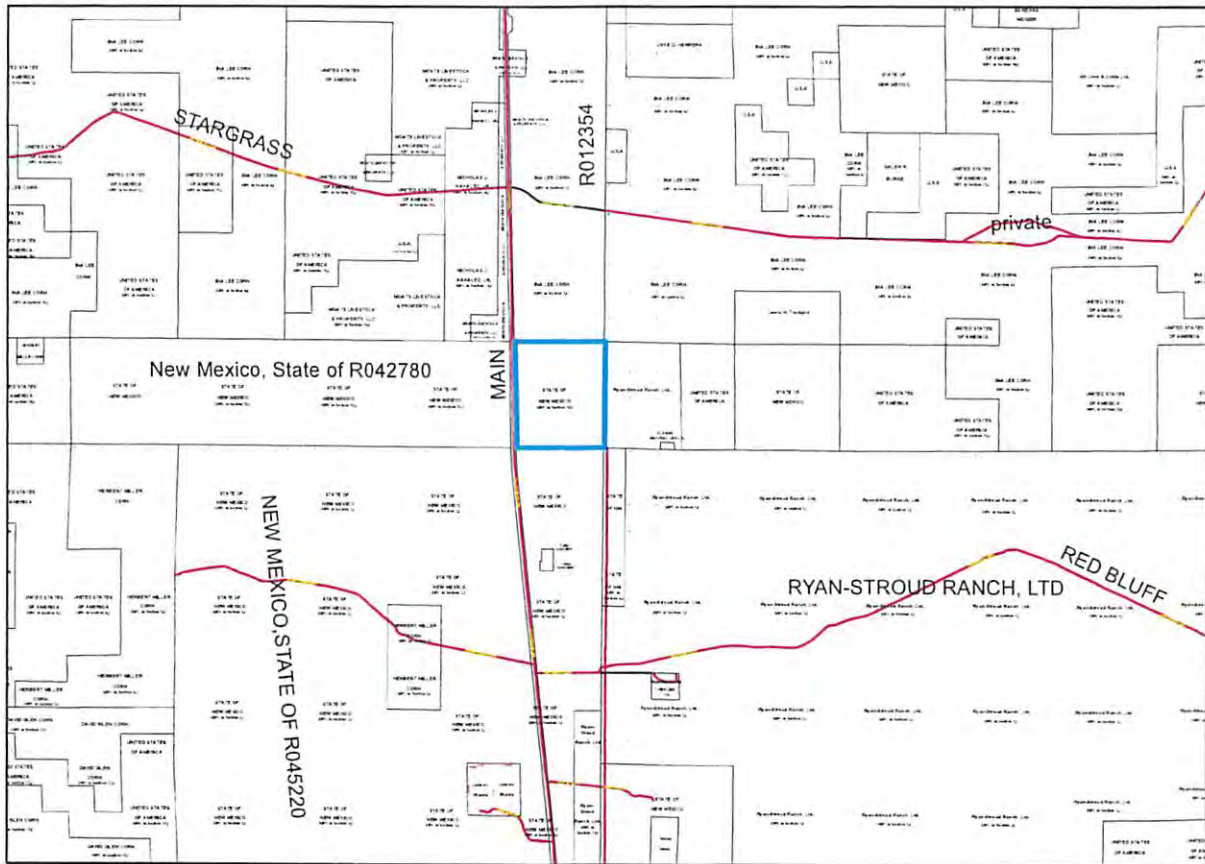
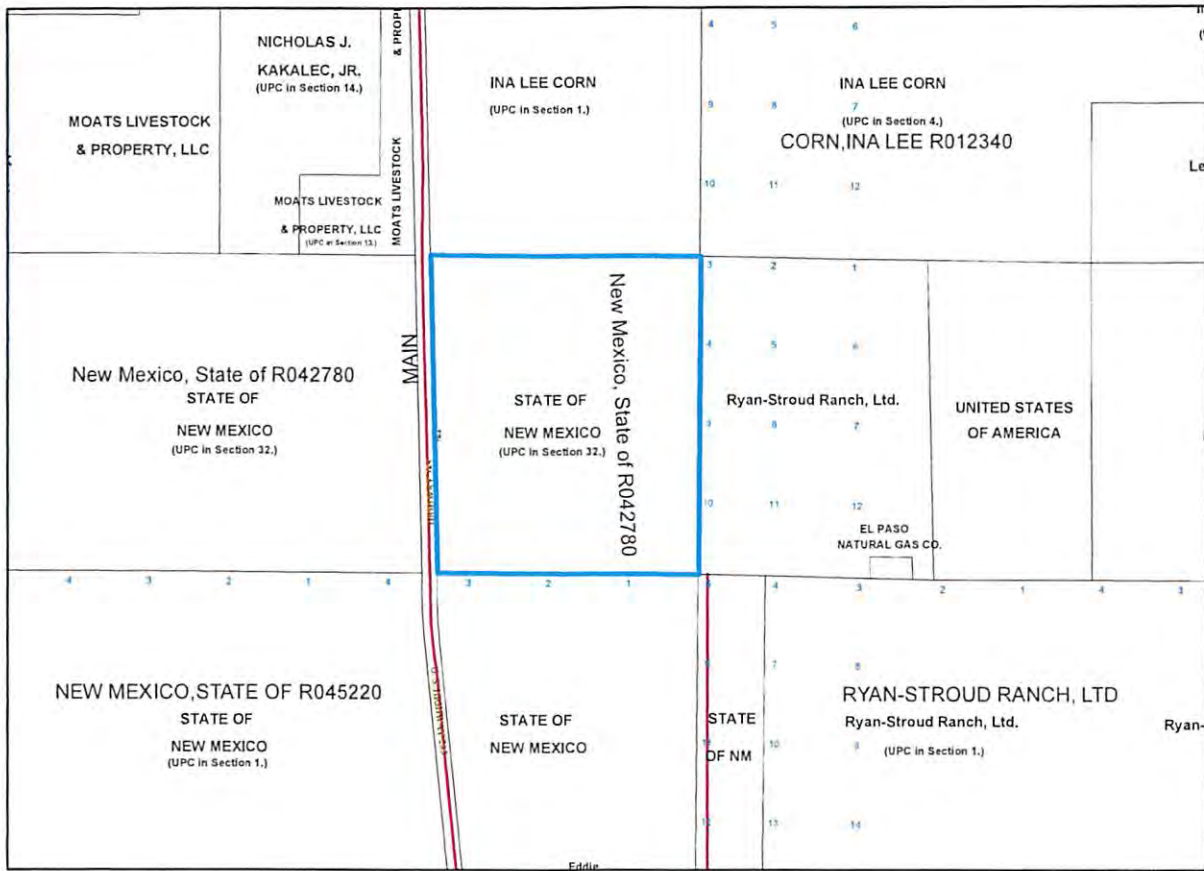
I ACKNOWLEDGE THAT I HAVE BEEN INFORMED OF THE DATES, TIMES, AND LOCATIONS OF THE PUBLIC MEETINGS WHICH I OR MY AGENT MUST ATTEND IN ORDER TO FULFILL THE REQUIREMENTS OF THIS APPLICATION.

[Signature] 2/19/14
 Owner's Signature Date
N/A State Land Office



a.

VICINITY MAP

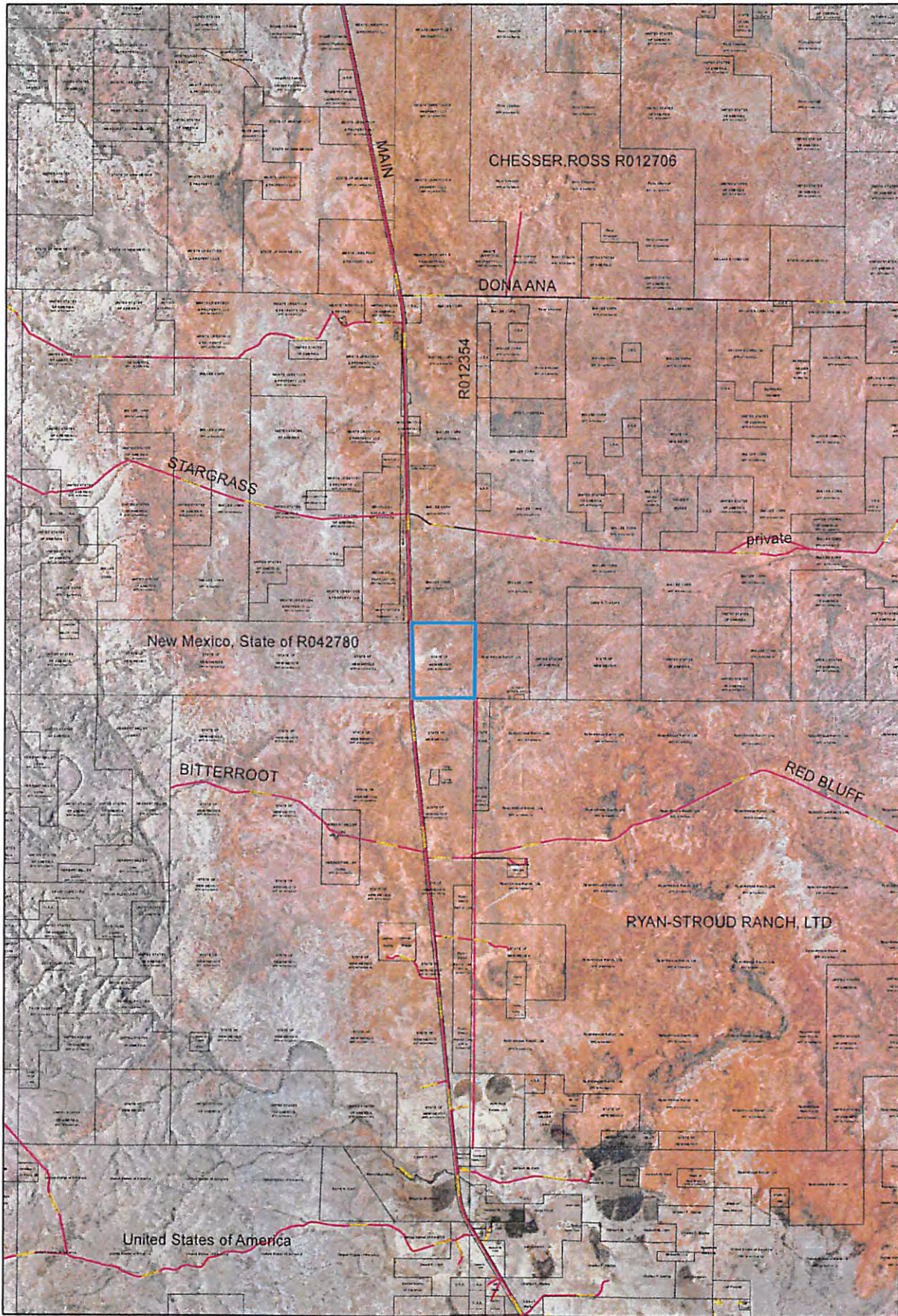


CASE Z 2014-5



b.

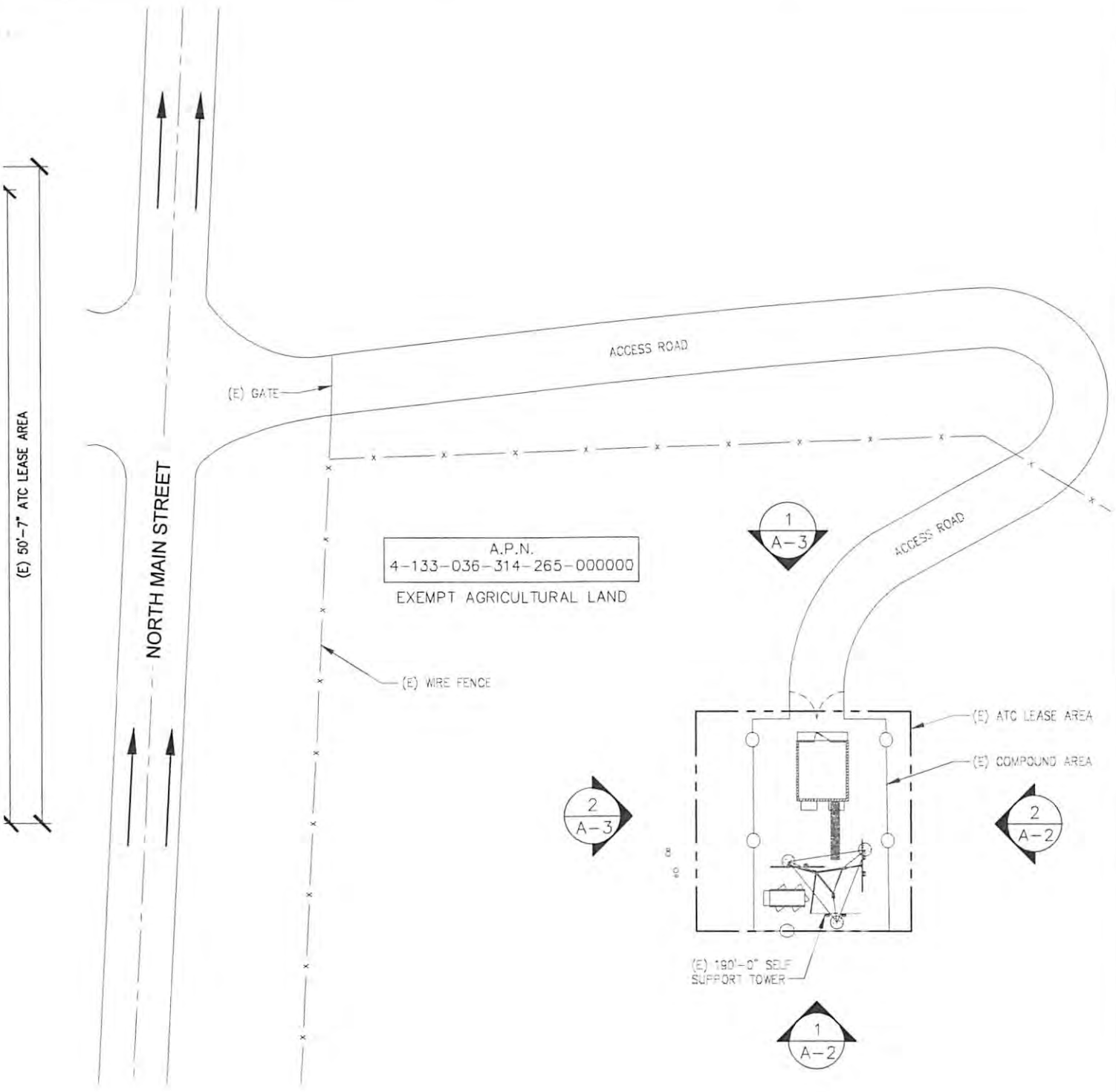
AERIAL MAP



CASE Z 2014-5

C.



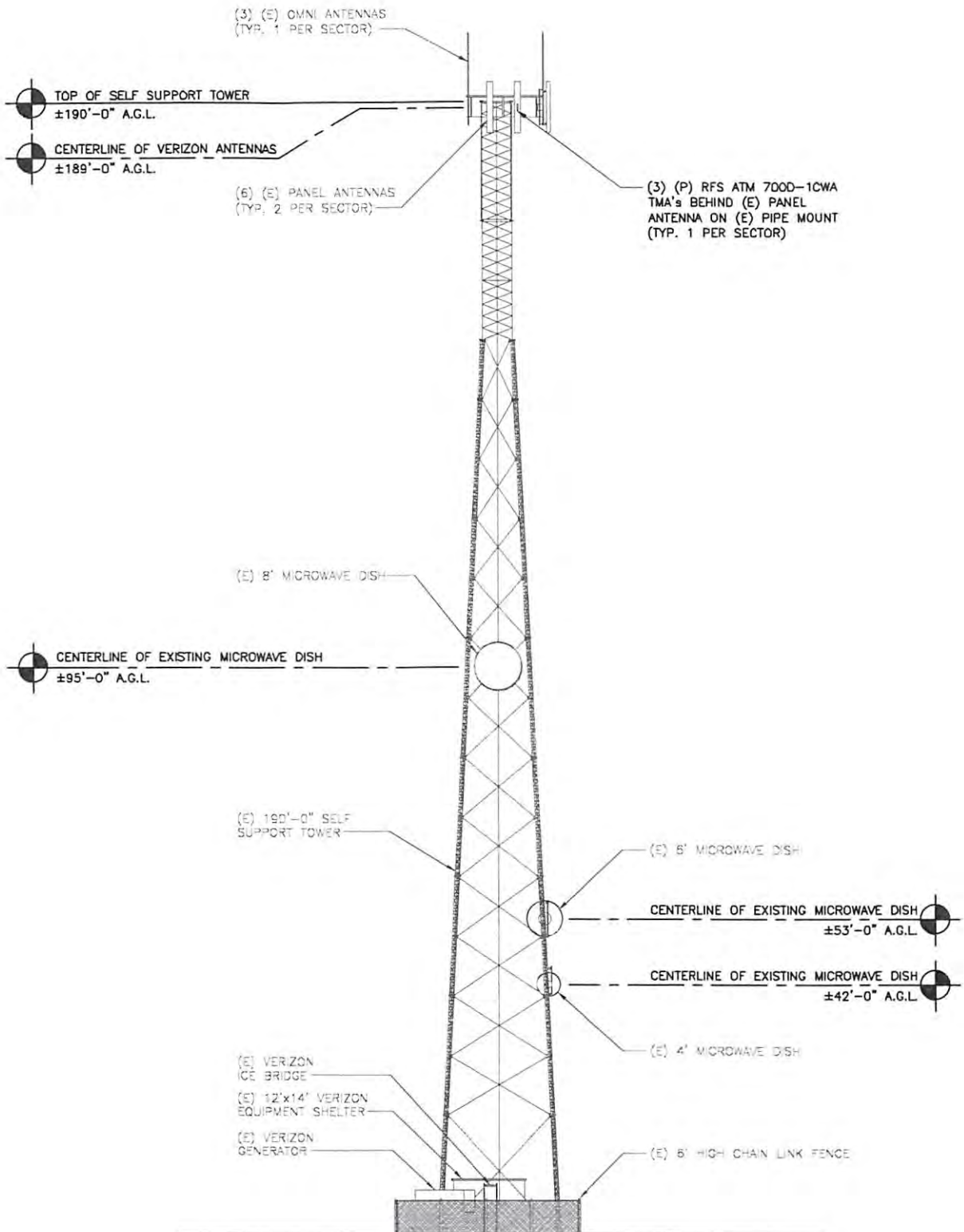


- E ——— POWER LINE
- F ——— FIBER LINE
- x -x -x — WIRE FENCE
- ——— COMPOUND FENCE
- - - - - LEASE AREA
- - - - - RIGHT-OF-WAY CENTERLINE

2 OVERALL SITE PLAN
SCALE: 1/32"=1'-0"



d.




1 SOUTH TOWER ELEVATION
SCALE: 1" = 25'-0"

e.



f.

Chaves County Planning & Zoning Commission	Chaves County	
Hearing Date: September 9, 2014	<i>Meeting Minutes</i>	Created By: Julia A. Torres

Members Present:

Dale Rogers
Cherri M. Snyder
Jerry Wagner

Members Absent:

Andy Morley
Robbie White

Staff Present:

Anders Sheridan
Julia A. Torres

Public: Susana Ribeiro and Corrie Rivera

The Regular Meeting of the Chaves County Planning & Zoning Commission was held in the Commission Chambers at the Chaves County Administrative Center on September 9, 2014, beginning at 6:00PM.

I. Minutes

The minutes of the May 13, 2014 meeting were approved as submitted by a unanimous vote.

II. New Business

Item #1: Case # Z 2014-5

Petition for a Special Use Permit to permit a Wireless Telecommunications Facility on vacant property described as being in Section 36, T6S, R23E, parcel #4-133-036-314-265-000000, located at 7805 North Main Street.

PRESENTATION

Mr. Sheridan stated that this was a Special Use Permit request to permit the continued use of an existing wireless communications antenna facility (cell tower), located is 7805 North Main St., Roswell. The subject site is located on elevated terrain, which is approximately 25 miles north of downtown Roswell. **Mr. Sheridan** noted that the Zoning Ordinance and County Code Requirements including requirements of the Special Use Permits are listed on pages 2-6 of the Staff Report. The cell tower was originally erected in 2011 without obtaining a Special Use Permit. The applicant is planning technology upgrades to the existing cell tower, which by ordinance do not require a Special Use Permit. However, the Planning and Zoning Department requested that a Special Use Permit application be submitted so that this facility could come into compliance with the Wireless Telecommunications

Facilities Ordinance. He stated that the cell tower application meets the goals and objectives of the Chaves County Comprehensive Plan. It also meets specified zoning ordinance requirements for setbacks and all other requirements specified in the Wireless Telecommunications Facilities Ordinance. Staff finds that the land use requires issuance of a Special Use Permit upon a duly noticed public hearing. The subject property is not located within a FEMA floodplain. No inquiries or citizen complaints have been received by the Department. No comments were received from the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC).

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

1. A fully-dimensioned site plan and elevations of all structures and facilities proposed for the site be reviewed and approved by the Planning and Zoning Department (already received);
2. A building permit and necessary inspections by the Building Official shall be required for all proposed improvements and upgrades. Current and future development of the site shall be in substantial conformance with the information supplied with the Special Use Permit petition;
3. Futures updates to the tower shall be designed to accommodate co-location of at least two other wireless communications antenna arrays;
4. Legal descriptions for all easement and the lease area shall be prepared and recorded with the Chaves County Clerk;
5. Any lighting which may be needed for security or other purposed be shielded from surrounding uses and be developed in accordance with the New Mexico Night Skies Act;
6. The Special Use Permit be granted for a period of thirty (30) years, and will expires on September 8, 2044, unless Condition No. 7 applies, and;
7. 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.

Mr. Sheridan concluded his presentation by announcing that the recommendation of the Planning and Zoning Commission will be presented for public review and action at the **September 18, 2014** regular meeting of the Board of Chaves County Commissioners. This public hearing will begin at 9:00AM Mountain Daylight Time. He made himself available for questions from the Commissioners.

There were no questions from the Commissioners.

Chair Rogers asked if anyone was present to speak for or against the petition.

Susana Ribeiro introduced herself as being the applicant, representing American Tower. She stated that American Tower acquired the facility in 2012 from Plateau Wireless Communications. The tower was constructed without a Special Use Permit, therefore, American Tower has submitted this Special Use Permit application in order to come into compliance with the Wireless Telecommunications Facilities ordinance. She stated that American Tower is in agreement with, and will comply with the seven Conditions of Approval.

No one else spoke either in favor of or in opposition to the petition.

Commissioner Wagner made a motion to approve Case Z 2014-5, including Staff Findings and Conditions of Approval. Commissioner Snyder seconded the motion. The motion carried by a 3-0 vote.

Item #2: Case # Z 2014-6

Petition to rezone property located in Tract 4 of the Henington Summary Plat No. 2, being in the NE4 of Section 29, T12S, R25E, parcel # 4-140-072-393-064-000000, located at 8 E. Orchard Park Road.

PRESENTATION

Mr. Sheridan stated that this was a petition to rezone a property from Agricultural District to Industrial District. He outlined the past land use and permitting activity, stating that a Special Use Permit was issued to erect a wireless telecommunications facility on April 19, 2012 on the southern portion of the subject property. A building permit was issued to construct a storage building on January 31, 2011, but that permit has since expired. The petitioner applied for a new building permit on August 14, 2014 to finish the storage building. This permit is currently on hold, awaiting the disposition of this petition.

Mr. Sheridan continued, stating that several goals contained within the Chaves County Comprehensive Plan support the rezoning petition. He identified the Agricultural Zone Area Regulations and the Industrial Zone Area Regulations are outlined within the Staff Report for Commission review.

In reviewing the petition, staff finds that the property is zoned AG- Agricultural District. It is currently developed with one storage structure and a wireless telecommunications facility. The petitioner seeks to rezone the subject property to Industrial to permit the operation of a truck repair facility. The petitioner also seeks to employ a property caretaker/night security guard once the proposed land use is constructed. The property caretaker will reside in a manufactured home that will be placed on the subject property in the future.

The site plan submitted does not illustrate a number of items, notably the driveway access, the number or location of parking spaces, ADA parking spaces, or required loading space. Therefore, a Condition of Approval shall require the submittal of a fully-dimensioned site plan that illustrates these items.

RECOMMENDATION

Staff recommends approval of the rezoning petition for property located at 8 E. Orchard Park Rod, from AG, Agricultural District to I-1, Industrial District, subject to the following Conditions of Approval:

1. All requirements of the Chaves County Zoning Ordinance be adhered to during the construction of all structures and related improvements of the subject property;
2. A fully-dimensioned site plan meeting the requirements of the Chaves County Zoning Ordinance shall be submitted illustrating all land uses and improvements contemplated for the subject property prior to commencing any further construction and improvement activities;
3. All permits required by Chaves County and all other agencies be obtained by the petitioner prior to commencing construction and improvement activities;
4. The proposed land use development shall comply will all provisions of the International Building Code, 2009 Edition;
5. Any on-site lighting which may be needed for security or other purposes be shielded from surrounding uses and be developed in accordance with the New Mexico Night Skies Act; and
6. A Manufactured Home Placement Permit shall be obtained from the Planning and Zoning Department prior to placing the manufactured home for the caretaker on the subject property.

Mr. Sheridan concluded his presentation by announcing that the recommendation of the Planning and Zoning Commission will be presented for public review and action at the **September 18, 2014** regular meeting of the

Board of Chaves County Commissioners. This public hearing will begin at 9:00 AM Mountain Daylight Time. He made himself available for questions from the Commissioners.

There were no questions from the Commissioners.

Chair Rogers asked if anyone was present to speak in favor or against the petition.

Corrie Rivera introduced herself as the applicant in addition to her husband, Mario Rivera. They have a manure spreading business and this rezoning will allow them to expand their business.

No one else spoke either in favor of or in opposition to the petition.

Commissioner Snyder made a motion to approve Case Z 2014-6 including the Conditions of Approval and Staff Findings. Commissioner Wagner seconded the motion. Motion carried by a 3-0 vote.

III. Other Business

Mr. Sheridan updated the P&Z Commission members on the status of the Sexually Oriented Business (SOB) brought before them some months ago. Mr. Sheridan met with Stanton Riggs, the Chaves County Manager, and County Commissioners Greg Nibert and Robert Corn, to address some of their expressed concerns with the proposed Ordinance. In response to these concerns, he drafted some new language to the Ordinance. He hopes to present the Final Draft to the County Commissioners at their October 15th, 2014 meeting. He added that a similar SOB Ordinance was presented to and approved by the ETZ Commission. That Ordinance is pending presentation for review and approval by the ETZ Authority before it becomes effective.

There being no other business listed on the agenda or to come before the Commission, the meeting adjourned at 6:12PM.

Approved this _____ day of _____, 2014.

Chairman

Attest

Note: The minutes of this meeting are on file in the Chaves County Planning and Zoning office for review, upon request.



Planning and Zoning Commission

Summary of Commission Action

Hearing Date: September 9, 2014

CASE NUMBER:	Z 2014-6		
ACTION REQUESTED:	Petition for Rezoning from Agricultural District to Industrial District		
PURPOSE:	To accommodate future development of industrially-related land uses.		
PETITIONER:	Mario and Corrie Rivera		
PROPERTY LOCATION:	8 East Orchard Park Road, Dexter, New Mexico		
COMPLIANCE WITH COMPREHENSIVE PLAN:	Yes	COMPLIANCE WITH CHAVES COUNTY ZONING ORDINANCE:	Yes, Via Conditions of Approval
STAFF RECOMMENDATION:	Approval, subject to 6 Conditions of Approval		
PLANNING COMMISSION ACTION	Unanimous Approval [3-0], subject to 6 Conditions of Approval contained in the Staff Report		
CONDITIONS OF APPROVAL:	<ol style="list-style-type: none"> 1. All requirements of the Chaves County Zoning Ordinance be adhered to during the construction of all structures and related improvements of the subject property; 2. A fully-dimensioned site plan meeting the requirements of the Chaves County Zoning Ordinance shall be submitted illustrating all land uses and improvements contemplated for the subject property prior to commencing any further construction and improvement activities; 3. All permits required by Chaves County and all other agencies be obtained by the petitioner prior to commencing construction and improvement activities; 4. The proposed land use development shall comply with all provisions of the International Building Code, 2009 Edition; and 5. Any on-site lighting which may be needed for security or other purposes be shielded from surrounding uses and be developed in accordance with the New Mexico Night Skies Act; and 6. A Manufactured Home Placement Permit shall be obtained from the Planning and Zoning Department prior to placing the manufactured home for the caretaker on the subject property 		

EXHIBITS:	Staff Report, September 9, 2014 Attachments a. through d. Draft Minutes of Planning and Zoning Commission Meeting
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CHAVES COUNTY APPLICATION CHAVES COUNTY ZONING ORDINANCE

Case Number: Z 2014-6 Date Received: Aug 11, 2014 Fee: \$150.00

Type of Request: Rezoning Special Use Variance Change of Use

Name of Property Owner: MARIO RIVERA Phone Number: 575-317-6935

Mailing Address: 8 E. ORCHARD PARK RD DEXTER NM 88230

Name of Applicant: SAME AS ABOVE

Mailing Address: ~~SAME AS ABOVE~~ Home Phone Number: 347-0447

45 W. ORCHARD PARK RD. DEXTER NM Business Phone Number: _____

Applicant Status: Owner Agent Tenant Other _____

Case Address, Legal Description, and Parcel Number: 8 E. ORCHARD PARK RD,
DEXTER NM 88230; TRACT 4 OF HENINGTON SUMMARY PLAT No 2,
SECTION 29, T 12 R, R 25E Book 615 Pg 1378 WDST

Present Land Use: STORAGE BUILDING (UNDER CONSTRUCTION); WIRELESS
TELECOMMUNICATIONS FACILITY (CASE No. Z 2012-07)

Intended Use: TRUCK REPAIR

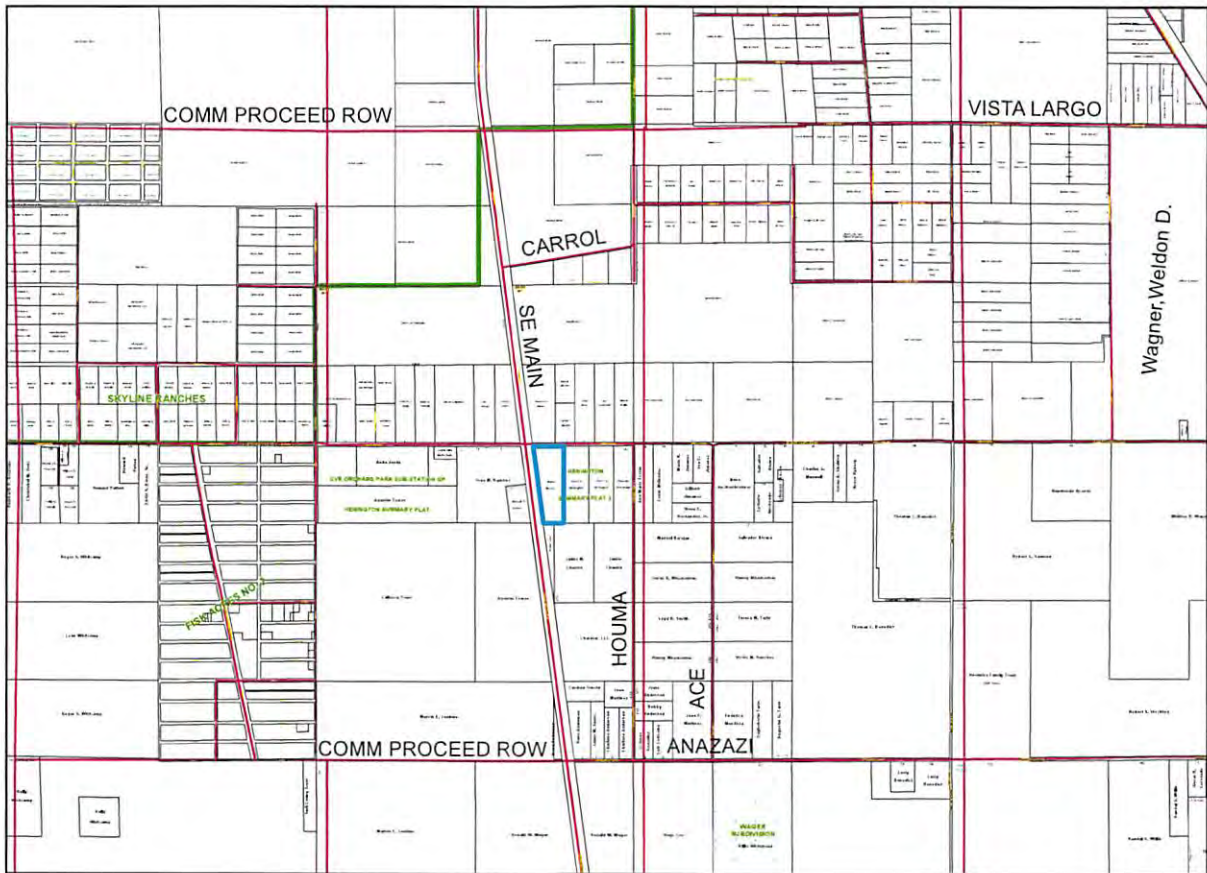
Present Zoning: AG, AGRICULTURAL Requested Zoning: I-1 INDUSTRIAL

Applicant's Reason for Requested Change: (Use back if more space is needed) WORK ON REPAIRING
TRUCKS AND COMMERCIAL VEHICLES; OUTSIDE STORAGE OF EQUIPMENT
CARETAKER TO RESIDE IN EXISTING MANUFACTURED HOME

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.

Mario Rivera _____ AUGUST 11, 2014
Owner's Signature Date

VICINITY MAP

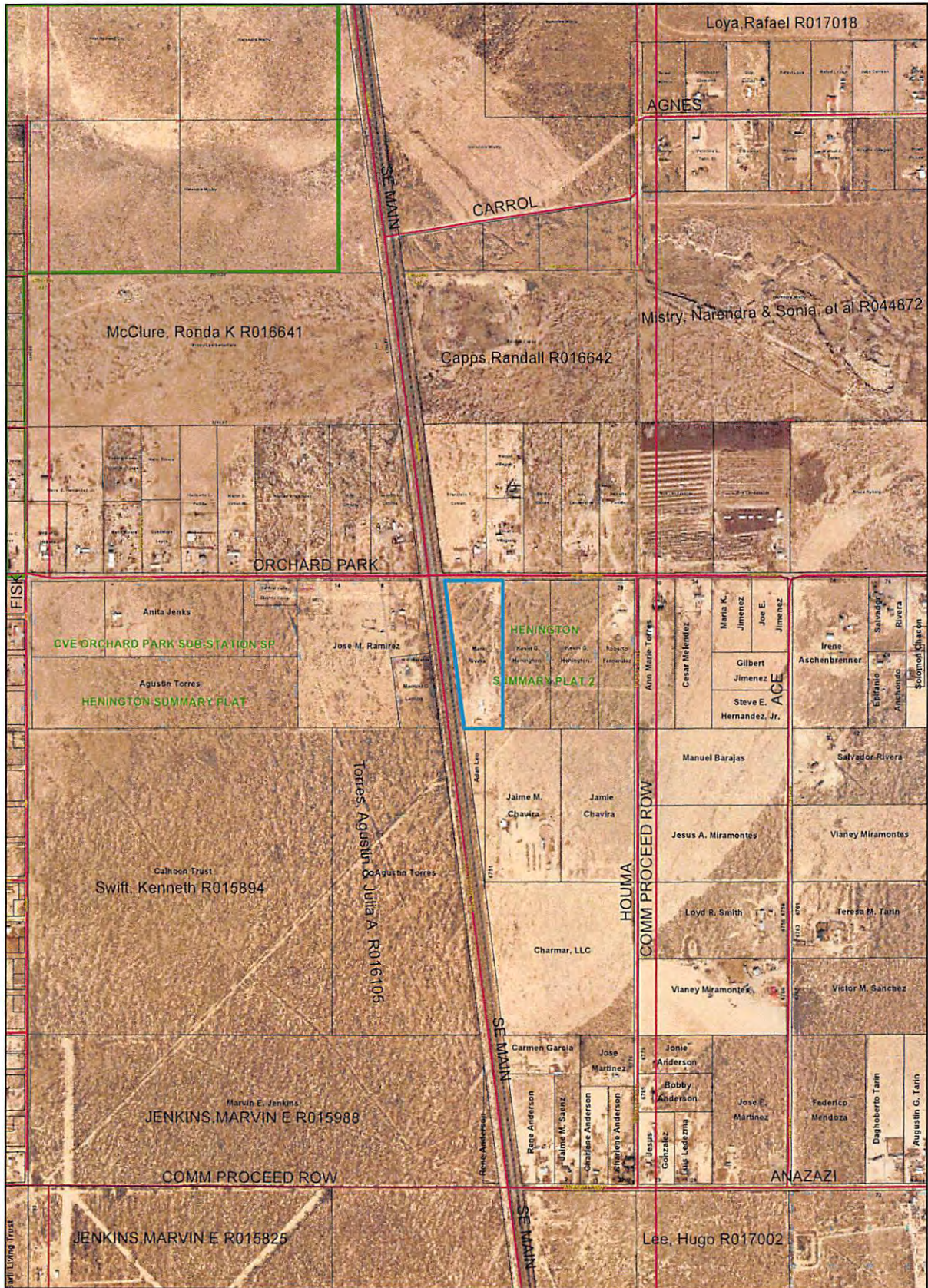


CASE Z 2014-6



b.

AERIAL MAP

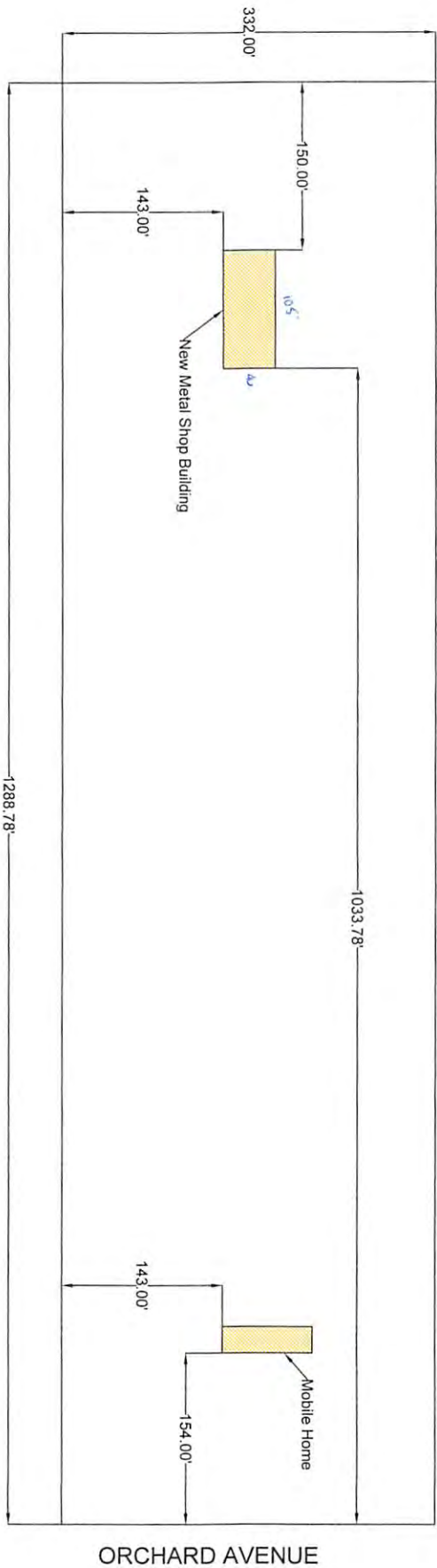


CASE Z 2014-6

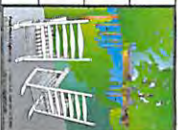


C.


Location Plan
NTS



Metal Shop Building - Rivera	
Orchard Street	
Location Plan	
By: Robert C Perry	Date: April 4, 2014
Rev # 0	By: _____ Date: _____



d.

Chaves County Planning & Zoning Commission	Chaves County	
Hearing Date: September 9, 2014	<i>Meeting Minutes</i>	Created By: Julia A. Torres

Members Present:

Dale Rogers
Cherri M. Snyder
Jerry Wagner

Members Absent:

Andy Morley
Robbie White

Staff Present:

Anders Sheridan
Julia A. Torres

Public: Susana Ribeiro and Corrie Rivera

The Regular Meeting of the Chaves County Planning & Zoning Commission was held in the Commission Chambers at the Chaves County Administrative Center on September 9, 2014, beginning at 6:00PM.

I. Minutes

The minutes of the May 13, 2014 meeting were approved as submitted by a unanimous vote.

II. New Business

Item #1: Case # Z 2014-5

Petition for a Special Use Permit to permit a Wireless Telecommunications Facility on vacant property described as being in Section 36, T6S, R23E, parcel #4-133-036-314-265-000000, located at 7805 North Main Street.

PRESENTATION

Mr. Sheridan stated that this was a Special Use Permit request to permit the continued use of an existing wireless communications antenna facility (cell tower), located is 7805 North Main St., Roswell. The subject site is located on elevated terrain, which is approximately 25 miles north of downtown Roswell. **Mr. Sheridan** noted that the Zoning Ordinance and County Code Requirements including requirements of the Special Use Permits are listed on pages 2-6 of the Staff Report. The cell tower was originally erected in 2011 without obtaining a Special Use Permit. The applicant is planning technology upgrades to the existing cell tower, which by ordinance do not require a Special Use Permit. However, the Planning and Zoning Department requested that a Special Use Permit application be submitted so that this facility could come into compliance with the Wireless Telecommunications

Facilities Ordinance. He stated that the cell tower application meets the goals and objectives of the Chaves County Comprehensive Plan. It also meets specified zoning ordinance requirements for setbacks and all other requirements specified in the Wireless Telecommunications Facilities Ordinance. Staff finds that the land use requires issuance of a Special Use Permit upon a duly noticed public hearing. The subject property is not located within a FEMA floodplain. No inquiries or citizen complaints have been received by the Department. No comments were received from the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC).

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

1. A fully-dimensioned site plan and elevations of all structures and facilities proposed for the site be reviewed and approved by the Planning and Zoning Department (already received);
2. A building permit and necessary inspections by the Building Official shall be required for all proposed improvements and upgrades. Current and future development of the site shall be in substantial conformance with the information supplied with the Special Use Permit petition;
3. Futures updates to the tower shall be designed to accommodate co-location of at least two other wireless communications antenna arrays;
4. Legal descriptions for all easement and the lease area shall be prepared and recorded with the Chaves County Clerk;
5. Any lighting which may be needed for security or other purposed be shielded from surrounding uses and be developed in accordance with the New Mexico Night Skies Act;
6. The Special Use Permit be granted for a period of thirty (30) years, and will expires on September 8, 2044, unless Condition No. 7 applies, and;
7. 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.

Mr. Sheridan concluded his presentation by announcing that the recommendation of the Planning and Zoning Commission will be presented for public review and action at the **September 18, 2014** regular meeting of the Board of Chaves County Commissioners. This public hearing will begin at 9:00AM Mountain Daylight Time. He made himself available for questions from the Commissioners.

There were no questions from the Commissioners.

Chair Rogers asked if anyone was present to speak for or against the petition.

Susana Ribeiro introduced herself as being the applicant, representing American Tower. She stated that American Tower acquired the facility in 2012 from Plateau Wireless Communications. The tower was constructed without a Special Use Permit, therefore, American Tower has submitted this Special Use Permit application in order to come into compliance with the Wireless Telecommunications Facilities ordinance. She stated that American Tower is in agreement with, and will comply with the seven Conditions of Approval.

No one else spoke either in favor of or in opposition to the petition.

Commissioner Wagner made a motion to approve Case Z 2014-5, including Staff Findings and Conditions of Approval. Commissioner Snyder seconded the motion. The motion carried by a 3-0 vote.

Item #2: Case # Z 2014-6

Petition to rezone property located in Tract 4 of the Henington Summary Plat No. 2, being in the NE4 of Section 29, T12S, R25E, parcel # 4-140-072-393-064-000000, located at 8 E. Orchard Park Road.

PRESENTATION

Mr. Sheridan stated that this was a petition to rezone a property from Agricultural District to Industrial District. He outlined the past land use and permitting activity, stating that a Special Use Permit was issued to erect a wireless telecommunications facility on April 19, 2012 on the southern portion of the subject property. A building permit was issued to construct a storage building on January 31, 2011, but that permit has since expired. The petitioner applied for a new building permit on August 14, 2014 to finish the storage building. This permit is currently on hold, awaiting the disposition of this petition.

Mr. Sheridan continued, stating that several goals contained within the Chaves County Comprehensive Plan support the rezoning petition. He identified the Agricultural Zone Area Regulations and the Industrial Zone Area Regulations are outlined within the Staff Report for Commission review.

In reviewing the petition, staff finds that the property is zoned AG- Agricultural District. It is currently developed with one storage structure and a wireless telecommunications facility. The petitioner seeks to rezone the subject property to Industrial to permit the operation of a truck repair facility. The petitioner also seeks to employ a property caretaker/night security guard once the proposed land use is constructed. The property caretaker will reside in a manufactured home that will be placed on the subject property in the future.

The site plan submitted does not illustrate a number of items, notably the driveway access, the number or location of parking spaces, ADA parking spaces, or required loading space. Therefore, a Condition of Approval shall require the submittal of a fully-dimensioned site plan that illustrates these items.

RECOMMENDATION

Staff recommends approval of the rezoning petition for property located at 8 E. Orchard Park Rod, from AG, Agricultural District to I-1, Industrial District, subject to the following Conditions of Approval:

1. All requirements of the Chaves County Zoning Ordinance be adhered to during the construction of all structures and related improvements of the subject property;
2. A fully-dimensioned site plan meeting the requirements of the Chaves County Zoning Ordinance shall be submitted illustrating all land uses and improvements contemplated for the subject property prior to commencing any further construction and improvement activities;
3. All permits required by Chaves County and all other agencies be obtained by the petitioner prior to commencing construction and improvement activities;
4. The proposed land use development shall comply will all provisions of the International Building Code, 2009 Edition;
5. Any on-site lighting which may be needed for security or other purposes be shielded from surrounding uses and be developed in accordance with the New Mexico Night Skies Act; and
6. A Manufactured Home Placement Permit shall be obtained from the Planning and Zoning Department prior to placing the manufactured home for the caretaker on the subject property.

Mr. Sheridan concluded his presentation by announcing that the recommendation of the Planning and Zoning Commission will be presented for public review and action at the **September 18, 2014** regular meeting of the

Board of Chaves County Commissioners. This public hearing will begin at 9:00 AM Mountain Daylight Time. He made himself available for questions from the Commissioners.

There were no questions from the Commissioners.

Chair Rogers asked if anyone was present to speak in favor or against the petition.

Corrie Rivera introduced herself as the applicant in addition to her husband, Mario Rivera. They have a manure spreading business and this rezoning will allow them to expand their business.

No one else spoke either in favor of or in opposition to the petition.

Commissioner Snyder made a motion to approve Case Z 2014-6 including the Conditions of Approval and Staff Findings. Commissioner Wagner seconded the motion. Motion carried by a 3-0 vote.

III. Other Business

Mr. Sheridan updated the P&Z Commission members on the status of the Sexually Oriented Business (SOB) brought before them some months ago. Mr. Sheridan met with Stanton Riggs, the Chaves County Manager, and County Commissioners Greg Nibert and Robert Corn, to address some of their expressed concerns with the proposed Ordinance. In response to these concerns, he drafted some new language to the Ordinance. He hopes to present the Final Draft to the County Commissioners at their October 15th, 2014 meeting. He added that a similar SOB Ordinance was presented to and approved by the ETZ Commission. That Ordinance is pending presentation for review and approval by the ETZ Authority before it becomes effective.

There being no other business listed on the agenda or to come before the Commission, the meeting adjourned at 6:12PM.

Approved this _____ day of _____, 2014.

Chairman

Attest

Note: The minutes of this meeting are on file in the Chaves County Planning and Zoning office for review, upon request.

AGENDA ITEM: 3

A. Agreement A-14-035 between Chaves County and DFA/Local Government Division

B. Agreement A-14-036 between Chaves County and DFA/Local Government Division

MEETING DATE: 09/18/14

STAFF SUMMARY

Action Requested by: Charlotte Andrade, Community Development Division

Action Requested: Approval of Agreements: A-14-035 / A-14-036

Item Summary:

Chaves County has received two (2) Capital Appropriation Projects approved by the Legislature under the Laws of 2014 from the Department of Finance and Administration / Local Government Division.

The projects reflect the following:

A. Agreement A-14-035

“Seventy five thousand (\$75,000) dollars to purchase and equip incident command units for the Midway Volunteer Fire Department in Chaves County.” (SAP #14-L-1890)

B. Agreement A-14-036

“One hundred and twenty thousand (\$120,000) to purchase, install and equip rescue tools for the East Grand Plains Volunteer Fire Department in Chaves County.” (SAP #14-L-1889)

The term of each agreement will be June 30, 2016.

Staff recommends approval.

SUPPORT DOCUMENTS: Agreement A-14-035
Agreement A-14-036

Summary by: Charlotte Andrade

Title: Community Development Director

AGREEMENT A-14-035

**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 2014, Chapter 66, 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:

14-L-1890

\$ 75,000.00 APPROPRIATION REVERSION DATE: June 30, 2016
Laws of 2014, Chapter 66, Section 22/ 78, Seventy Five Thousand Dollars and No Cents \$ 75,000.00 to purchase and equip incident command units for the Midway volunteer fire department in Chaves county.

The Grantee's total reimbursements shall not exceed the appropriation amount Seventy Five Thousand Dollars and No Cents \$ 75,000.00 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, No Dollars and No Cents (\$0.00), which equals Seventy Five Thousand Dollars and No Cents (\$75,000.00) (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 Reimburse² 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
- (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

¹ 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.

² "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.

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: Ms. Maxx Hendren
Title: Project Manager
Address: Bataan Memorial Bldg, Rm 202, Santa Fe, New Mexico, 87501
Email: MaxxP.Hendren@state.nm.us
Telephone: 505-827-4797
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, 2016 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, whichever 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, whichever 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.

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: Wayne Sowell
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**

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____
 B. Address: _____
Complete Mailing, including Suite, if applicable

City State Zip
 C. Phone No: _____
 D. Grant No: _____
 E. Project Title: _____
 F. Grant Expiration Date: _____

II. Payment Computation

A. Grant Amount: _____
 B. AIPP Amount (If Applicable) _____
 C. Funds Requested to Date: _____
 D. Amount Requested this Payment: _____
 E. Grant Balance: _____ \$0.00
 F. GF GOB STB (attach wire if 1st draw)
 G. Payment Request No. _____

III. Fiscal Year Expenditure Period Ending: _____
 (check one) (Jan-Jun) Fiscal Year
 (Jul-Dec)

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.

**Grantee Fiscal Officer
or Fiscal Agent (if applicable)**

Grantee Representative

 Printed Name
 Date: _____

 Printed Name
 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 _____
 My Commission expires _____

Notary Public _____
 My Commission expires _____

(Department Use Only)

Vendor Code: _____
 Loc No.: _____

Fund No.: _____

Division Fiscal Officer	Date
I certify that the Grantee financial and vendor file information agree with the above submitted information	

Division Project Manager	Date
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-1661 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: _____

AGREEMENT A-14-036

**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 2014, Chapter 66, 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:

14-L-1889

\$120,000.00 APPROPRIATION REVERSION DATE: June 30, 2016

Laws of 2014, Chapter 66, Section 22/ 77, One Hundred Twenty Thousand Dollars and No Cents \$120,000.00 to purchase, install and equip rescue tools for the East Grand Plains volunteer fire department in Chaves county.

The Grantee's total reimbursements shall not exceed the appropriation amount One Hundred Twenty Thousand Dollars and No Cents \$120,000.00 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, No Dollars and No Cents (\$0.00), which equals One Hundred Twenty Thousand Dollars and No Cents (\$120,000.00) (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 Reimburse² 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
- (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

¹ 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.

² "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.

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: Ms. Maxx Hendren
Title: Project Manager
Address: Bataan Memorial Bldg, Rm 202, Santa Fe, New Mexico, 87501
Email: MaxxP.Hendren@state.nm.us
Telephone: 505-827-4797
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, 2016 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.

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: Wayne Sowell
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**

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____
 B. Address: _____
Complete Mailing, including Suite, if applicable

City State Zip
 C. Phone No: _____
 D. Grant No: _____
 E. Project Title: _____
 F. Grant Expiration Date: _____

II. Payment Computation

A. Grant Amount: _____
 B. AIPP Amount (If Applicable) _____
 C. Funds Requested to Date: _____
 D. Amount Requested this Payment: _____
 E. Grant Balance: _____ \$0.00
 F. GF GOB STB (attach wire if 1st draw)
 G. Payment Request No. _____

III. Fiscal Year Expenditure Period Ending: _____
 (check one) (Jan-Jun) Fiscal Year
 (Jul-Dec)

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.

**Grantee Fiscal Officer
or Fiscal Agent (if applicable)**

Grantee Representative

 Printed Name
 Date: _____

 Printed Name
 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 _____
 My Commission expires _____

Notary Public _____
 My Commission expires _____

(Department Use Only)

Vendor Code: _____
 Loc No.: _____

Fund No.: _____

Division Fiscal Officer	Date
I certify that the Grantee financial and vendor file information agree with the above submitted information	

Division Project Manager	Date
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-1661 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

Agreement A-14-037 between Chaves
County and NM Department of
Transportation

MEETING DATE: 09/18/14

STAFF SUMMARY

Action Requested by: Charlotte Andrade, Community Development Division

Action Requested: Approval of Agreement A-14-037

Item Summary:

Chaves County received a Capital Appropriation Project approved by the Legislature under the Laws of 2014 from the Department of Transportation.

The project reflects the following:

Agreement A-14-037

“Two hundred thousand (\$200,000) dollars to plan, design, construct and repair Hobson Road in Roswell in Chaves County.” *(DFA Appropriation ID 14-2047 / NMDOT Control Number C2142047)*

The term of the agreement will be June 30, 2016.

Staff recommends approval.

SUPPORT DOCUMENTS: Agreement A-14-037

Summary by: Charlotte Andrade

Title: Community Development Director

AGREEMENT A-14-037

Contract Number: _____
Vendor Number: 0000054378
Control Number: C2142047

**STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION
FUND 89200 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2014, by and between the Department of Transportation, P.O. Box 1149, Room 126, Santa Fe, New Mexico 87504-1149, hereinafter called the "Department" and Chaves County, 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 2014, HB55, Chapter 66, 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 the NMSA 1978, Section 67-3-28, as amended, and State Highway Commission Policy No. 44, the Department has the authority to enter into this Grant Agreement.

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:

DFA Appropriation ID 14-2047 NMDOT Control Number C2142047 \$200,000
APPROPRIATION REVERSION DATE: 6/30/2018
Laws of 2014 HB55, Chapter 66, Section 25, Sub Section 18, Two Hundred Thousand Dollars and No Cents (\$200,000) to plan, design, construct and repair Hobson road in Roswell in Chaves county.

The Grantee's total reimbursements shall not exceed the appropriation amount Two Hundred Thousand Dollars and No Cents \$200,000 (the "Appropriation Amount")

minus the allocation for Art in Public Places (“AIPP amount”)¹, if applicable, , \$0.00, which equals Two Hundred Thousand Dollars and No Cents \$200,000 (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.” “Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. 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 Reimburse² 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
- (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

¹ 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.

² “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.

- (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: Chaves County

Name: Sonny Chancey

Title: Public Service Director

Address: #1 St. Mary's Place, Roswell, New Mexico 88203

Email: s.chancey@co.chaves.nm.us

Telephone: 575-624-6600

Department: Department of Transportation District 2 Office

Name: Celeste Rogers

Title: Local Government Road Fund Coordinator

Address: P.O. Box 1457, Roswell, NM 88202

Email: Celeste.Rogers@state.nm.us

Telephone: 575-637-7234

FAX: 575-637-7217

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 6/30/2018 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 Chaves County may immediately terminate this Agreement by giving Contractor written notice of such termination. The Chaves County’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 Chaves County or the Department of Transportation or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Chaves County or the Department.”

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 Transportation Grant Agreement. Should the Department of Transportation early terminate the grant agreement, the Chaves County may early terminate this contract by

providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Chaves County 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.

GRANTEE

Signature of Official with Authority to Bind Grantee

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

DEPARTMENT OF TRANSPORTATION

Cabinet Secretary or Designee

Date

REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL

Cynthia M. Christ
By: Cynthia Christ

Its: Assistant General Counsel

9-9-14

Date

**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**

I. Grantee Information

(Make sure information is complete & accurate)

- A. Grantee: _____
 B. Address: _____
Complete Mailing, including Suite, if applicable

City State Zip
 C. Phone No: _____
 D. Grant No: _____
 E. Project Title: _____
 F. Grant Expiration Date: _____

II. Payment Computation

- A. Grant Amount: _____
 B. AIPP Amount (If Applicable) _____
 C. Funds Requested to Date: _____
 D. Amount Requested this Payment: _____
 E. Grant Balance: _____ **\$0.00**
 F. GF GOB STB (attach wire if 1st draw)
 G. Payment Request No. _____

III. Fiscal Year Expenditure Period Ending:
(check one)

- (Jan-Jun) Fiscal
 (Jul-Dec) 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.

Grantee Fiscal Officer

Grantee Representative

 Printed Name
 Date: _____

 Printed Name
 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 _____
 My Commission expires _____

Notary Public _____
 My Commission expires _____

(Department Use Only)

Vendor Code: _____
 Loc No.: _____

Fund No.: _____

Division Fiscal Officer	Date
I certify that the Grantee financial and vendor file information agree with the above submitted information.	

Division Project Manager	Date
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 C2142047 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: _____

ATTACHMENT A

CAPITAL OUTLAY PROJECT SCOPE AND TERMINI FORM

Appropriation ID: _____ **Control Number:** _____

Specific Roadway Project Information

Route #(s)/Road #(s)/Road Name(s)	Begin Termini (Mile Post if applicable)	End Termini (Mile Post if applicable)

Estimated Cost in each area that this appropriation will be utilized for

Planning	Design	Construction	Other (specify)

Provide a Detailed Project Scope In Space Below

Include items such as pavement rehab or construction/reconstruction, shoulder widening, intersections, bridge replacement or rehab, bike paths/lanes, sidewalks or other type of pedestrian facilities, structural improvements, drainage improvements, lighting or signal improvements, signing, striping, right of way acquisition, & all other pertinent information.

Tribal/Local Government Agency Name: _____

(Signature)* (Printed Name) (Date)

(Title) (Telephone Number)

*Must be signed by authorized officer who has knowledge of the representations contained in this Form.

When complete fax or e-mail form to:	Sean Sandoval New Mexico Department of Transportation (NMDOT) Phone: 505-476-3784 Fax: 505-827-5640 Sean.sandoval@state.nm.us
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Tribal/Local Government Agencies must complete each section. Failure to do so may cause delays in the review of your project for the funding agreement process.

ATTACHMENT A

The Chaves County shall agree to comply with the following Provisions:

1. Assume the lead role for the Project.
2. Be responsible for all applicable design, environmental and archaeological clearances, and right-of-way acquisition, in accordance with current local, state, federal laws, Uniform Relocation Act, and current design practices and specifications.
3. Be responsible for project development, project construction, construction management, and testing.
4. Utilize the Project Control Number in all correspondence and submittals to the Department.
5. Adopt a written resolution of support for the Project, including as applicable an assumption of ownership, liability, and maintenance responsibility for the scope, or related amenities and required funding to support the Project.
6. Complete the Project using current American Public Works Association (APWA) specifications, implemented Grantee's design standards and specifications, or Department specifications.
7. Use Rental Rate Blue Book rates, if not provided in the Department established equipment rates, in the implementation of this Project. Any equipment rates not found in the Department established rates shall be reimbursed at the Blue Book rates.

The Chaves County shall agree to comply with the following Lighting and Signal Provisions as applicable:

1. After subject signal system(s) has/have been constructed, make provisions for and provide, at its own expense, all electrical energy, routine maintenance such as lamp replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the signal head and poles.
2. In the event that accidental damage or equipment failure should occur, provide for equipment shut down/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the Controller (and cabinet) or the loop detection system, promptly notify the Traffic Technical Support Bureau of the Department.
3. In the event that the traffic signal should be rendered completely inoperable as a result of accidental damage, secure the intersection with stop signs at all approach legs until such time as the traffic signal is made operable.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals and telephone service to the signal system and intersection lighting.
5. At its own expense, maintain the signal controller and control equipment (the "Controller") including and maintenance of the machine vision vehicle detection system with cameras and emergency vehicle pre-empt system and repair or replace the Controller in the event the Controller and/or cabinet is damaged or there is an equipment failure.

ATTACHMENT A

6. After the installation of the roadway lighting system, if any, provide any and all utilities, maintenance, and such other items as may be necessary of continued satisfactory operation of said subject lighting system.
7. Make all timing adjustments to the Signal Control equipment and review the Signal System(s) for efficient and satisfactory operation.
8. Obtain approval from the Department for all signal equipment prior to installation.
9. Require the construction contractor to name the Department and the Grantee as an additional insured in the construction contractor's general liability policy.
10. Enter into a Signalization and Lighting Agreement with the Department's Traffic Technical Support Bureau as required.
- 1.

FEDERAL HIGHWAY ADMINISTRATION
FISCAL MANAGEMENT INFORMATION SYSTEM

PROJECT FUND HISTORY REPORT

State: NEW MEXICO

Project #: 7701(051) - 0

Program Code: H230

Report Date	Expenditures	102 Expenditures	Federal Funds	Unexpended Balance	St/Local Funds	Private Funds	Nonmonetary Donations	Total Cost	Advanced Construction
Current	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
08/2014	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
07/2014	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
06/2014	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
05/2014	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
04/2014	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
03/2014	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
02/2014	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
01/2014	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
12/2013	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
11/2013	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
10/2013	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
09/2013	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
09/2012	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
09/2011	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
09/2010	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
09/2009	\$80,000.00	\$0.00	\$125,000.00	\$45,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
09/2008	\$63,898.11	\$0.00	\$125,000.00	\$61,101.89	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
09/2007	\$63,898.11	\$0.00	\$125,000.00	\$61,101.89	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
09/2006	\$40,957.13	\$0.00	\$125,000.00	\$84,042.87	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
09/2005			\$125,000.00	\$125,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00
09/2004			\$125,000.00	\$125,000.00	\$21,301.50	\$0.00	\$0.00	\$146,301.00	\$0.00

AGENDA ITEM: 5

Resolution R-14-042 Ordering the Chaves County Assessor to Impose the 2014 Certified Tax Rates

MEETING DATE: September 18, 2014

STAFF SUMMARY REPORT

ACTION REQUESTED BY: Department of Finance and Administration

ACTION REQUESTED: Approve Resolution

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.

SUPPORT DOCUMENTS: Certificate of Tax Rates
Resolution R-14-042

SUMMARY BY: Stanton L. Riggs

TITLE: County Manager

CHAVES COUNTY
TAX YEAR 2014
NET TAXABLE VALUE:

	\$1,174,056,125				OIL & GAS		Hagerman				OIL & GAS		Dexter
MUNICIPALITY:	Roswell	Roswell			Production	Equipment	Hagerman	Hagerman			Production	Equipment	Dexter
TAXABLE VALUE:	438,435,554	228,234,801	117,856,930	154,014,480	26,925,894	5,258,472	4,177,236	2,161,534	6,473,753	17,965,128	2,273,796	461,162	7,233,166
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
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	6.526	10.350	6.526	10.350	10.350	10.350	6.526	10.350	6.526	10.350	10.350	10.350	6.526
County Debt Service													
Total County	6.526	10.350	6.526	10.350	10.350	10.350	6.526	10.350	6.526	10.350	10.350	10.350	6.526
Municipal Operational	6.858	7.650	0.000	0.000	0.000	0.000	1.782	2.225	0.000	0.000	0.000	0.000	1.177
Municipal Debt Service	0.540	0.540											
Total Municipal	7.398	8.190	0.000	0.000	0.000	0.000	1.782	2.225	0.000	0.000	0.000	0.000	1.177
School District Operational	0.271	0.500	0.271	0.500	0.500	0.500	0.317	0.500	0.317	0.500	0.500	0.500	0.211
School District Debt Service	5.635	5.635	5.635	5.635	5.635	5.635	5.134	5.134	5.134	5.134	5.134	5.134	8.678
School Dist. Cap. Improvement	1.973	2.000	1.973	2.000	2.000	2.000	1.945	2.000	1.945	2.000	2.000	2.000	1.914
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
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	1.418
Total School District	7.879	8.135	7.879	8.135	8.135	8.135	7.396	7.634	7.396	7.634	7.634	7.634	12.221
Total State, County, Municipal, & School District	23.163	28.035	15.765	19.845	19.845	19.845	17.064	21.569	15.282	19.344	19.344	19.344	21.284
Other:													
ENMU Roswell (1)	0.884	1.000	0.884	1.000	1.000	1.000	0.884	1.000	0.884	1.000	1.000	1.000	0.884
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
N.M. Junior College Operating (6)			1.000	1.000					1.000	1.000			
Chaves SWConservancy District													
Total Other	1.919	2.035	2.919	3.035	2.035	2.035	1.919	2.035	2.919	3.035	2.035	2.035	1.919
GRAND TOTAL	25.082	30.070	18.684	22.880	21.880	21.880	18.983	23.604	18.201	22.379	21.379	21.379	23.203

Where Applicable:	Upper Hondo SWCD	Penasco SWCD	Hagerman/DexterSWCD	Pecos Valley Art Cons.	Cottonwood Walnut	Chaves Flood	Pecos Valley Surface:
Cattle Indemnity 10.000	Res: 0.5	Res: 0.500	1.000	4.000	3.000	1.500	4.000
Sheep/Goats/Swine/Alpaca 10.000	Non Res: 0.5	Non Res: 0.500					
Dairy Cattle 5.000	Central Valley SWCD						
Bison/Camelids/Ratite 10.000	Res: 1	Border SWCD					
Horses/Asses/Mules 10.000	Non Res: 1	Non Res: 0.000					

- (1) To ENMU Roswell Campus
- (2) To Artesia Board of Education
- (3) To Elida Board of Education
- (4) To Tatum Board of Education
- (5) To NM Junior Col. Bus. Office
- (6) To NM Junior Col. Bus. Office

CHAVES COUNTY
TAX YEAR 2014
NET TAXABLE VALUE:

	\$1,174,056,125		OIL & GAS			Lake Arthur			OIL & GAS					
MUNICIPALITY:	Dexter			Production	Equipment	Lake Arthur	Lake Arthur				Production	Equipment		
TAXABLE VALUE:	2,685,463	15,770,512	38,983,123	10,886,868	2,192,245	1,361,554	525,607	1,693,807	12,668,911	51,327,868	10,260,124	2,010,334	7,173,498	
CATEGORY:	8 In NR	8 Out R	8 Out NR	8 OUT	8 OUT	20 In R	20 In NR	20 Out R	20 Out NR	20 OUT	20 OUT	14 R	14 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
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	1.360
County Operational	10.350	6.526	10.350	10.350	10.350	6.526	10.350	6.526	10.350	10.350	10.350	6.526	10.350	
County Debt Service														
Total County	10.350	6.526	10.350	10.350	10.350	6.526	10.350	6.526	10.350	10.350	10.350	6.526	10.350	
Municipal Operational	2.216	0.000	0.000	0.000	0.000	2.070	2.121	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Municipal Debt Service														
Total Municipal	2.216	0.000	0.000	0.000	0.000	2.070	2.121	0.000	0.000	0.000	0.000	0.000	0.000	0.000
School District Operational	0.500	0.211	0.500	0.500	0.500	0.349	0.500	0.349	0.500	0.500	0.500	0.403 (3)	0.491 (3)	
School District Debt Service	8.678	8.678	8.678	8.678	8.678	6.152	6.152	6.152	6.152	6.152	6.152	0.000 (3)	0.000 (3)	
School Dist. Cap. Improvement	2.000	1.914	2.000	2.000	2.000	1.968	2.000	1.968	2.000	2.000	2.000	1.925 (3)	1.966 (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	0.000	5.000 (3)	5.000 (3)	
School District Ed. Tech. Debt Svc	1.418	1.418	1.418	1.418	1.418	1.104	1.104	1.104	1.104	1.104	1.104	0.000 (3)	0.000 (3)	
Total School District	12.596	12.221	12.596	12.596	12.596	9.573	9.756	9.573	9.756	9.756	9.756	7.328	7.457	
Total State, County, Municipal, & School District	26.522	20.107	24.306	24.306	24.306	19.529	23.587	17.459	21.466	21.466	21.466	15.214	19.167	
Other:														
ENMU Roswell (1)	1.000	0.884	1.000	1.000	1.000	0.884	1.000	0.884	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	1.035			
N.M. Junior College Operating (6)														
Chaves SWConservancy District		1.000	1.000											
Total Other	2.035	2.919	3.035	2.035	2.035	1.919	2.035	1.919	2.035	2.035	2.035	0.000	0.000	
GRAND TOTAL	28.557	23.026	27.341	26.341	26.341	21.448	25.622	19.378	23.501	23.501	23.501	15.214	19.167	

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 2014
NET TAXABLE VALUE:

	\$1,174,056,125	OIL & GAS				OIL & GAS			
MUNICIPALITY:	Production	Equipment				Production	Equipment		
TAXABLE VALUE:	0	0	488,503	4,005,347	277,245	52,615	35,645	184,950	
CATEGORY:	14 OUT	14 OUT	27/28 R	27/28 NR	28 OUT	28 OUT	1L R	1L NR	
State Debt Service	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
County Operational	10.350	10.350	6.526	10.350	10.350	10.350	6.526	10.350	
County Debt Service									
Total County	10.350	10.350	6.526	10.350	10.350	10.350	6.526	10.350	
Municipal Operational	0.000	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	0.000
School District Operational	0.500 (3)	0.500 (3)	0.427 (4)	0.484 (4)	0.500 (4)	0.500 (4)	0.247 (5)	0.500 (5)	
School District Debt Service	0.000 (3)	0.000 (3)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (4)	3.239 (5)	3.239 (5)	
School Dist. Cap. Improvement	2.000 (3)	2.000 (3)	1.968 (4)	1.934 (4)	2.000 (4)	2.000 (4)	1.945 (5)	2.000 (5)	
H.B. 33 School Building	5.000 (3)	5.000 (3)	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 (3)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (4)	0.000 (5)	0.000 (5)	
Total School District	7.500	7.500	2.395	2.418	2.500	2.500	5.431	5.739	
Total State, County, Municipal, & School District	19.210	19.210	10.281	14.128	14.210	14.210	13.317	17.449	
Other:									
ENMU Roswell (1)									
ENMU Roswell Debt Service(2)									
N.M. Junior College Operating (6)							3.729	5.000	
Chaves SWConservancy District									
Total Other	0.000	0.000	0.000	0.000	0.000	0.000	3.729	5.000	
GRAND TOTAL	19.210	19.210	10.281	14.128	14.210	14.210	17.046	22.449	

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

RESOLUTION R-14-042
ORDERING THE CHAVES COUNTY ASSESSOR TO
IMPOSE THE 2014 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 2014 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 2014 attached hereto as Exhibit #1.

NOW THEREFORE BE IT RESOLVED by the Chaves County Board of Commissioners that 2014 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 18th day of September, 2014.

CHAVES COUNTY BOARD OF COMMISSIONERS

James W. Duffey, Chairman

Kyle D. "Smiley" Wooton, Vice Chairman

Kim Chesser, Member

Robert B. Corn, Member

ATTEST:

Greg Nibert, Member

Dave Kunko
County Clerk

AGENDA ITEM: 6

Resolution R-14-043 Opposing Recreational Use of Marijuana

MEETING DATE: September 18, 2014

STAFF SUMMARY REPORT

ACTION REQUESTED BY: Commissioner Wooton

ACTION REQUESTED: Approve Resolution

ITEM SUMMARY:

This Resolution states the County Commission's opposition to the legalization of marijuana for recreational use in New Mexico.

Staff recommends approval.

SUPPORT DOCUMENTS:

SUMMARY BY: Stanton L. Riggs

TITLE: County Manager

RESOLUTION R-14-043
OPPOSING RECREATIONAL USE OF MARIJUANA

WHEREAS, several counties and municipalities in New Mexico are currently considering decriminalizing recreational use of marijuana and it appears efforts are underway to request the state legislature to enact legislation to legalize its use; and

WHEREAS, the Chaves County Commission has been approached by concerned citizens to take a stand opposing decriminalization and/or legalization of marijuana for recreational purposes; and

WHEREAS, the Commission finds that recreational use of marijuana (i) detracts from activities conducive to having a productive and thriving community focused on traditional family values; (ii) is adverse to the well-being of our Citizens; (iii) creates problems for law enforcement; and (iv) is adverse to promoting and maintaining a safe and healthy community; and

WHEREAS, the Commission desires to make a clear statement that Chaves County does not support decriminalization and/or legalization of marijuana for recreational purposes.

NOW, THEREFORE, BE IT RESOLVED by the Chaves County Board of Commissioners that the Commission opposes the decriminalization of the recreational use of marijuana and requests our State legislators to oppose any efforts to legalize marijuana for recreational use within the State of New Mexico.

PASSED, APPROVED, AND ADOPTED this 18th day of September, 2014.

CHAVES COUNTY BOARD OF COMMISSIONERS

James W. Duffey, Chairman

Kyle D. Smiley Wooton, Vice-Chairman

Kim Chesser, Member

Greg Nibert, Member

ATTEST:

Dave Kunko
County Clerk

Robert B. Corn, Member

AGENDA ITEM: 7

Resolution R-14-044 Requiring State and County Prior Approval for Designation of Wilderness Areas and National Monuments

MEETING DATE: September 18, 2014

STAFF SUMMARY REPORT

ACTION REQUESTED BY: Stanton L. Riggs, County Manager

ACTION REQUESTED: Approve Resolution

ITEM SUMMARY:

This Resolution states the County Commission's desire to have the United States Congress change the rules and laws that allow Wilderness Areas and National Monuments to be designated without State and County approval.

Staff recommends approval.

SUPPORT DOCUMENTS: Resolution R-14-044

SUMMARY BY: Stanton L. Riggs

TITLE: County Manager

RESOLUTION R-14-044
REQUIRING STATE AND COUNTY PRIOR APPROVAL FOR
DESIGNATION OF WILDERNESS AREAS AND NATIONAL MONUMENTS

WHEREAS, Chaves County is requesting that the United States Congress adopt laws requiring the United States Government to obtain concurrence from state and county governments prior to designating any future areas as wilderness or as national monuments within a state's recognized boundaries; and

WHEREAS, current and future designations of Wilderness Areas and National Monuments have the potential to adversely affect a wide range of industrial and recreational activities; and

WHEREAS, such designations have restricted, limited or eliminated access to both renewable and non-renewable resources such as timber, oil, gas and coal, thus affecting our national security causing dependence on foreign nations for our transportation and food needs; and

WHEREAS, Chaves County believes that federal agencies are misleading the general public regarding how unseen, and in many cases, unavailable Executive Orders and Directives will the determination and management of the designated lands; and

WHEREAS, Chaves County maintains grave concerns regarding the full impact of the designations on both State and local economies.

NOW, THEREFORE, BE IT RESOLVED by the Chaves County Board of Commissioners that the United States Congress is hereby requested to make all necessary rule and law changes to require that all Wilderness Area and National Monument designations be approved by any State and County that will, in any part, be within its boundaries.

PASSED, APPROVED, AND ADOPTED this 18th day of September, 2014.

CHAVES COUNTY BOARD OF COMMISSIONERS

James W. Duffey, Chairman

Kyle D. Smiley Wooton, Vice-Chairman

Kim Chesser, Member

ATTEST:

Greg Nibert, Member

Dave Kunko
County Clerk

Robert B. Corn, Member

AGENDA ITEM: 8

Resolution R-14-045 Implementing a Veteran's Initiative for the Purpose of Increasing Opportunities for Veterans to Obtain County Employment

MEETING DATE: September 18, 2014

STAFF SUMMARY REPORT

ACTION REQUESTED BY: Stanton L. Riggs, County Manager

ACTION REQUESTED: Approve Resolution

ITEM SUMMARY:

This Resolution sets forth the intent of the County to implement a Veteran's Hiring Initiative Policy. The policy would identify veterans that meet or exceed the minimum qualifications for an advertised position and extend an invitation for an interview.

Staff recommends approval.

SUPPORT DOCUMENTS: Resolution R-14-045

SUMMARY BY: Stanton L. Riggs

TITLE: County Manager

RESOLUTION R-14-045
IMPLEMENTING A VETERANS' INITIATIVE POLICY
FOR THE PURPOSE OF INCREASING OPPORTUNITIES
FOR VETERANS TO OBTAIN COUNTY EMPLOYMENT

WHEREAS, Chaves County recognizes veterans who have served and sacrificed for our Country with honor, courage and dignity; and

WHEREAS, such high performance veterans could add significant value to the County because they are highly skilled individuals who have benefitted from training and development during their military service, possess a wide variety of skills and experiences, as well as the motivation for public service that will help fulfill County staffing needs; and

WHEREAS, Chaves County desires to enhance the recruitment of veterans and promote employment opportunities for veterans within Chaves County that are consistent with veterans' preferences prescribed by law; and

WHEREAS, Chaves County desires to honor our veterans by establishing and implementing a Veteran's Hiring Initiative Policy.

NOW, THEREFORE, BE IT RESOLVED by the Chaves County Board of Commissioners that County Administration is directed to implement the following Veteran's Hiring Initiative Policy in order to provide opportunities for veterans who meet or exceed the minimum qualifications for County employment to obtain County employment:

1. The Human Resources Director shall institute a Veterans' Certification Form which shall be included on every recruitment announcement. The Veterans' Certification Form will identify and certify veterans who are applying for vacancies within the County.
2. Upon review of a veteran's application, the Human Resources Director shall verify that the veteran applicant has an honorable discharge from the military or verify that the applicant is a member of the National Guard or Reserve who has successfully completed basic training.
3. When a veteran applicant meets or exceeds the minimum qualifications on a recruitment announcement and initials on application that he/she is capable of performing the essential functions of the position, the applicant shall be identified by the Human Resources Director on the list of eligible applicants for the department/office seeking to fill a position that the applicant is a "veteran".
4. The department/office seeking to fill a position shall interview the identified veterans.

BE IT FURTHER RESOLVED that by adopting this Resolution, Chaves County does not guarantee that a veteran shall be hired for the position applied for, only that the veteran will be given an interview.

PASSED, APPROVED, AND ADOPTED this 18th day of September, 2014.

CHAVES COUNTY BOARD OF COMMISSIONERS

James W. Duffey, Chairman

Kyle D. Smiley Wooton, Vice-Chairman

Kim Chesser, Member

Greg Nibert, Member

Robert B. Corn, Member

ATTEST:

Dave Kunko
County Clerk

RESOLUTION R-14-046

DELETION OF PROPERTY AND PROPOSED DISPOSITION

At a regular meeting of the Board of Chaves County Commissioners held on September 18, 2014, the following was among the proceedings:

WHEREAS, the property on the attached list is being returned to the Secretary State of New Mexico; and,

WHEREAS, the Board of Chaves County Commissioners deems it necessary to dispose of items pursuant to provisions of the Procurement Code and other applicable State Statutes; and,

NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD OF COUNTY COMMISSIONERS, CHAVES COUNTY, STATE OF NEW MEXICO, hereby approves the deletion of property from the County Inventory.

BE IT FURTHER RESOLVED, the State Auditor and DFA Local Government Division will be notified 30 days prior to the disposition of property listed in Exhibit 'A' attached.

Done at Roswell, New Mexico, this 18th Day of September.

**BOARD OF CHAVES COUNTY
COMMISSIONERS**

James Duffey, Chairman

Kyle D. "Smiley" Wooton, Vice-Chairman

Robert Corn, Member

Kim Chesser, Member

Greg Nibert, Member

ATTEST:

Dave Kunko
County Clerk

EXHIBIT 'A'

Description	Reason for Disposition	County Tag #
PC With Unity Election Data Manager	Budget Replacement	9533
Voting Cart Transport	Budget Replacement	10749
Voting Cart Transport	Budget Replacement	10750
Voting Cart Transport	Budget Replacement	10751
Voting Cart Transport	Budget Replacement	10752
Voting Cart Transport	Budget Replacement	10753
Voting Cart Transport	Budget Replacement	10754
Voting Cart Transport	Budget Replacement	10755
Voting Cart Transport	Budget Replacement	10756
Voting Cart Transport	Budget Replacement	10757
Voting Cart Transport	Budget Replacement	10758
Voting Cart Transport	Budget Replacement	10759
Voting Cart Transport	Budget Replacement	10760
Voting Cart Transport	Budget Replacement	10761
Voting Cart Transport	Budget Replacement	10762
Voting Cart Transport	Budget Replacement	10763
Voting Cart Transport	Budget Replacement	10764
Voting Cart Transport	Budget Replacement	10765
Voting Cart Transport	Budget Replacement	10766
Voting Cart Transport	Budget Replacement	10767
Voting Cart Transport	Budget Replacement	10768
Voting Cart Transport	Budget Replacement	10769
Voting Cart Transport	Budget Replacement	10770
Voting Cart Transport	Budget Replacement	10771
Voting Cart Transport	Budget Replacement	10772
Voting Cart Transport	Budget Replacement	10773
Voting Cart Transport	Budget Replacement	10774
Voting Cart Transport	Budget Replacement	10775
Voting Cart Transport	Budget Replacement	10776
Voting Cart Transport	Budget Replacement	10777
Voting Cart Transport	Budget Replacement	10778
Voting Cart Transport	Budget Replacement	10779
Voting Cart Transport	Budget Replacement	10780
Voting Cart Transport	Budget Replacement	10781
Voting Cart Transport	Budget Replacement	10782
Voting Cart Transport	Budget Replacement	10783
Voting Cart Transport	Budget Replacement	10784
Voting Cart Transport	Budget Replacement	10785
Voting Cart Transport	Budget Replacement	10786
Voting Cart Transport	Budget Replacement	10787
Voting Cart Transport	Budget Replacement	10788

EXHIBIT 'A'

Description	Reason for Disposition	County Tag #
Voting Cart Transport	Budget Replacement	10789
Voting Cart Transport	Budget Replacement	10790
Voting Cart Transport	Budget Replacement	10791
Voting Cart Transport	Budget Replacement	10792
Voting Cart Transport	Budget Replacement	10793

AGENDA ITEM: 10

Resolution R-14-047

MEETING DATE: September 18, 2014

Approval of Budget Increase For
Various Funds

STAFF SUMMARY REPORT

ACTION REQUESTED BY: Joe Sedillo , Chief Financial Officer

ACTION REQUESTED:
Approval of Resolution R-14-047

ITEM SUMMARY:

We are requesting approval for the following budget adjustments:

FUND 430 Law Enforcement- LEPF Carry-Over

FUND 605 Economic Development- EDC Adjustment

FUND 631 & 425 Other Grants & Fire - Transfer adjustment

SUPPORT DOCUMENTS:

Resolution R-14-047

SUMMARY BY: Anabel Barraza

TITLE: Senior Accountant

RESOLUTION R-14-047

**BUDGET ADJUSTMENTS FOR
VARIOUS DEPARTMENTS**

WHEREAS, at a regular meeting of the Board of Chaves County Commissioners held on September 18, 2014, the following was among the proceedings:

WHEREAS, the budget must be increased for fiscal year 2014-2015 expenditures and transfers; and,

WHEREAS, there are sufficient funds available for the budget adjustments; and,

WHEREAS, budget adjustments are necessary to ensure positive budget balances; and,

WHEREAS, the Board of Chaves County Commissioners deems it necessary to adjust the FY 14-15 Final Budget as designated in Exhibit A, attached.

NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD OF COUNTY COMMISSIONERS, CHAVES COUNTY, STATE OF NEW MEXICO, hereby approves the line item changes and requests approval from DFA Local Government Division for budget adjustments.

Done at Roswell, New Mexico, this 18th day of September 2014.

**BOARD OF CHAVES COUNTY
COMMISSIONERS**

James W. Duffey, Chairman

Kyle D. "Smiley" Wooton, Vice-Chairman

Robert Corn, Member

Kim Chesser, Member

Greg Nibert, Member

ATTEST:

Dave Kunko
County Clerk

EXHIBIT 'A'

DFA	Description	ACCOUNT	AMOUNT
211	Employee Training	430-7-753-224-000	\$1,000.00
211	Travel/Training	430-7-753-225-000	\$1,500.00
211	Supplies/Tools	430-7-753-230-000	\$3,688.88
211	Non-Expendable Supplies	430-7-753-231-000	\$4,216.04
101	Economic Development	605-6-672-428-000	\$10,000.00
218	Other Grants Perm Transfer	631-4-408-781-000	\$100,000.00
222	Fire & Ambulance Perm Transfer	425-4-408-781-000	< \$100,000.00 >

AGENDA ITEM: ___11_____

Resolution R-14-048-Adopting Update of
the Chaves County All Hazards Mitigation
Plan

MEETING DATE: September 18, 2014

STAFF SUMMARY REPORT

ACTION REQUESTED BY: Sonny Chancey, Public Services Director

ACTION REQUESTED: Approval of Resolution R-14-048

ITEM SUMMARY: In April 2012 Chaves County received a grant from FEMA through the New Mexico Department of Homeland Security and Emergency Management to update the Chaves County Hazard Mitigation Plan so the County and participating jurisdictions would be eligible for grant funding that might be available for projects designed to mitigate natural hazard events. The process began in August 2012 with a Request for Proposal for mitigation planning consultant services and through the competitive bid process a consultant was awarded the contract. A public kick-off meeting was held in May 2013 and an initial planning team was organized comprised of representatives from each participating jurisdiction. Five planning events were held throughout the planning process, including a public hearing held on March 11, 2014. Planning events also included conference phone calls with municipal and agency officials who could not attend scheduled meetings. The final plan was submitted for review by the NMDHSEM in March 2014. They completed their review and submitted the plan to FEMA with an endorsement letter for approval in May 2014.

We recently received a letter from FEMA stating that the Chaves County Plan is approvable pending adoption by the participating jurisdiction. Resubmittal of the final Plan, which must include copies of the adoption resolutions from each jurisdiction, must be received no later than 90 days from the letter dated August 19, 2014. The final Plan and requests for community adoption by resolution are being sent to each of the participating jurisdictions. A copy of the final Plan is available for review by any interested parties.

Staff request approval of Resolution R-14-08.

SUPPORT DOCUMENTS: Resolution R-14-048

SUMMARY BY: Karen Sanders

TITLE: Roswell/Chaves County Emergency Manager

RESOLUTION R-14-048

A RESOLUTION UPDATING THE “ALL HAZARDS MITIGATION PLAN” FOR CHAVES COUNTY, NEW MEXICO, PURSUANT TO THE DISASTER MINIMIZATION ACT OF 2000 FOR THE PURPOSE OF CONTINUING ELIGIBILITY TO RECEIVE FEDERAL ASSISTANCE FROM THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT (HAZARDS MITIGATION GRANT PROGRAM, PRE-DISASTER MITIGATION PROGRAM, AND FLOOD MITIGATION ASSISTANCE PROGRAM)

WHEREAS, the Chaves County All Hazards Mitigation Plan Community Planning Team, compromised of members representing Chaves County, the City of Roswell, the Town of Dexter, the Town of Hagerman, and the Town of Lake Arthur and various other Federal, State, and private agencies, has prepared an All Hazards Mitigation Plan identifying the natural hazards faced by the county and participating communities; and

WHEREAS, pursuant to the Federal Emergency Management Agency (FEMA), effective November 1, 2004, a mitigation plan needs to be approved by FEMA and the State of New Mexico for any community that wishes to obtain funding from the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Hazards Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program) to reduce potential damages; and

WHEREAS, the All Hazards Mitigation Plan has identified a comprehensive range of mitigation actions that address the following hazards: floods, high winds, drought, winter storms, thunderstorms, hail, tornadoes, wildfire, subsidence, extreme heat, dam failure, and expansive clay soils.

NOW, THEREFORE BE IT RESOLVED that the Board of Chaves County Commissioners hereby adopt the update of the Chaves County All Hazards Mitigation Plan.

PASSED, APPROVED, ADOPTED, AND SIGNED this 18th day of September, 2014.

BOARD OF CHAVES COUNTY COMMISSIONERS

James W. Duffey, Chairman

Kyle D. “Smiley” Wooton, Vice-Chairman

ATTEST:

Greg Nibert, Member

Dave Kunko
County Clerk

Robert Corn, Member

Kim Chesser, Member

AGENDA ITEM: 12

Resolution R-14-049 Supporting Air Service Between
Roswell and Phoenix

MEETING DATE: September 18, 2014

STAFF SUMMARY REPORT

ACTION REQUESTED BY: Stanton L. Riggs, County Manager

ACTION REQUESTED: Approve Resolution

ITEM SUMMARY:

This Resolution states the County's desire to assist the City of Roswell and the Roswell Chaves County Economic Development Corporation, as well as other local governments, in securing air service between Roswell and Phoenix.

Staff recommends approval.

SUPPORT DOCUMENTS: Resolution R-14-049

SUMMARY BY: Stanton L. Riggs

TITLE: County Manager

RESOLUTION R-14-049
SUPPORTING AIR SERVICE BETWEEN ROSWELL AND PHOENIX

WHEREAS, the City of Roswell and the Roswell Chaves County Economic Development Corporation, in coordination with other local governments, is interested in securing air service between Roswell International Air Center (RIAC) and Phoenix Sky Harbor International Airport (PHX) for the residents of Southeastern New Mexico; and

WHEREAS, the County believes that this commercial air service will greatly increase economic development in the region and provide the citizens of Southeastern New Mexico with greater transportation opportunities; and

WHEREAS, the City of Artesia, City of Carlsbad, Eddy County, Village of Ruidoso, as well as the City of Roswell are all pledging, or expected to pledge funds to this project; and

WHEREAS, the County has determined it is in the interest of County residents to commit funds in an effort to guarantee air service for Southeastern New Mexico.

NOW THEREFORE BE IT RESOLVED by the Chaves County Board of Commissioners that Chaves County shall support air service between Roswell, NM (RIAC) and Phoenix, AZ (PHX) and commit funds to this initiative.

DONE this 18th day of September, 2014.

CHAVES COUNTY BOARD OF COMMISSIONERS

James W. Duffey, Chairman

Kyle D. "Smiley" Wooton, Vice Chairman

Kim Chesser, Member

ATTEST:

Robert B. Corn, Member

Dave Kunko
County Clerk

Greg Nibert, Member

AGENDA ITEM: _____ 13 _____

Resolution R-14-050 Budget Increase to
FY 14/15 Final Budget for Fire Department
EMS Funding

MEETING DATE: 09/18/14

STAFF SUMMARY REPORT

Action Requested by: Charlotte Andrade, Community Development

Action Requested: Approval of Resolution R-14-050

Item Summary:

Resolution R-14-050 reflects budget adjustments to FY 14/15 for the East Grand Plains, Midway, Sierra and Berrendo Volunteer Fire Departments EMS grant funding. The changes reflect actual revenues awarded with their respective expenditure lines.

Staff recommends approval.

SUPPORT DOCUMENTS: Resolution R-14-050

Summary by: Charlotte Andrade

Title: Community Development Director

**RESOLUTION R-14-050
BUDGET INCREASE TO FY 14-15 FINAL BUDGET
FOR SPECIAL GRANTS & CONTRACTS**

WHEREAS, at a regularly scheduled meeting of the Board of Chaves County Commissioners held on September 18, 2014, the following was among the proceedings:

WHEREAS, Chaves County received funding from the New Mexico Department of Health/EMS Bureau under the EMS Fund Act for FY15 on behalf of the Berrendo, East Grand Plains, Midway and Sierra Volunteer Fire Departments.

WHEREAS, the Board of Chaves County Commissioners deems it necessary to adjust the FY 14-15 Final Budget as designated in Exhibit A, attached.

NOW, THEREFORE, BE IT RESOLVED, that the Finance Department will submit the appropriate budgets to DFA – Local Government Division for review and approval.

BE IT FURTHER RESOLVED, that after approval from DFA – Local Government Division, that these budget adjustments be done.

Done at Roswell, County of Chaves, New Mexico this 18th day of September 2014.

BOARD OF CHAVES COUNTY COMMISSIONERS:

James W. Duffey, Chairman

Kyle D. “Smiley” Wooton, Vice-Chairman

ATTEST:

Kim Chesser, Member

Dave Kunko
County Clerk

Robert Corn, Member

Greg Nibert, Member

Resolution R-14-050
Fire Department EMS Funds
Page 2

EXHIBIT 'A'

DFA REVENUES:

209	East Grand Plains Fire Fund E.M.S. Grant 408-4-402-658-000	Decrease	\$ 221.00
209	Midway Fire Fund E.M.S. Grant 410-4-402-658-000	Decrease	\$ 3,587.00
209	Berrendo Fire Fund E.M.S. Grant 411-4-402-658-000	Increase	\$ 5,459.00
209	Sierra Fire Fund E.M.S. Grant 412-4-402-658-000	Decrease	\$ 623.00

DFA EXPENDITURES:

209	408 – East Grand Plains Fire Fund EMS Grant Travel Expenses 408-8-828-220-000	Increase	\$ 700.00
209	408 – East Grand Plains Fire Fund EMS Grant Expendable Supplies 408-8-828-230-000	Increase	\$ 1,375.00
209	408 – East Grand Plains Fire Fund EMS Grant Non-Expendable Supplies 408-8-828-231-000	Increase	\$ 1,220.00

Resolution R-14-050
Fire Department EMS Funds
Page 3

209	408 – East Grand Plains Fire Fund EMS Grant Dues & Other Fees 408-8-828-253-000	Increase	\$ 250.00
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209	410 – Midway Fire Fund EMS Grant Employee Training 410-8-828-224-000	Increase	\$ 1,500.00
209	410 – Midway Fire Fund EMS Grant Per Diem 410-8-828-225-000	Increase	\$ 300.00
209	410 – Midway Fire Fund EMS Grant Expendable Supplies 410-8-828-230-000	Increase	\$ 3,054.00
209	410 – Midway Fire Fund EMS Grant Non-Expendable Supplies 410-8-828-231-000	Increase	\$ 2,000.00
209	410 – Midway Fire Fund EMS Grant Dues & Other Fees 410-8-828-253-000	Increase	\$ 605.00
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209	411 - Berrendo Fire Fund EMS Grant Employee Training 411-8-828-224-000	Increase	\$ 1,854.00
209	411 - Berrendo Fire Fund EMS Grant Per Diem 411-8-828-225-000	Increase	\$ 1,000.00

Resolution R-14-050
Fire Department EMS Funds
Page 4

209	411 - Berrendo Fire Fund EMS Grant Expendable Supplies 411-8-828-230-000	Increase	\$ 1,000.00
209	411 - Berrendo Fire Fund EMS Grant Non-Expendable Supplies 411-8-828-231-000	Increase	\$ 1,000.00
209	411 - Berrendo Fire Fund EMS Grant Dues & Other Fees 411-8-828-253-000	Increase	\$ 605.00
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209	412 – Sierra Fire Fund EMS Grant Travel 412-8-828-220-000	Increase	\$ 1,000.00
209	412 – Sierra Fire Fund EMS Grant Employee Training 412-8-828-224-000	Increase	\$ 1,500.00
209	412 – Sierra Fire Fund EMS Grant Per Diem 412-8-828-225-000	Increase	\$ 2,000.00
209	412 – Sierra Fire Fund EMS Grant Expendable Supplies 412-8-828-230-000	Increase	\$ 2,373.00
209	412 – Sierra Fire Fund EMS Grant Non Expendable Supplies 412-8-828-231-000	Increase	\$ 2,373.00

Resolution R-14-050
Fire Department EMS Funds
Page 5

209	412 – Sierra Fire Fund EMS Grant Dues & Other Fees 412-8-828-253-000	Increase	\$	630.00
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Item # 14

ITB-14-3 – Bituminous Surface Treatment
Aggregate

Meeting Date: 9-18-14

STAFF SUMMARY

REQUESTED BY: Tammy Brisco West, Purchasing Director

ACTION REQUIRED: Award ITB-14-3

SUMMARY:

The following bid was received under ITB-14-3 for bituminous surface treatment aggregate (chip seal material):

Bidder	Amounts	
Constructors Inc.	1. 5/8" maximum gradation aggregate	\$13.50/ton
	2. 1/2" maximum gradation aggregate	\$14.50/ton
	3. 3/4" maximum gradation aggregate	\$11.95/ton
	3. Hauling from Contractor's Plant	\$0.35/mile

Staff finds the bid responsive to specifications and recommends award to Constructors Inc. Award will constitute a price agreement that will be effective for one year with the option to renew for up to three additional one year terms by mutual agreement of both parties.

SUPPORT DOCUMENTS: Bid Summary

Submitted by: Tammy Brisco West
Title: Purchasing Director

BID SUMMARY

BID #: ITB-14-3

COMMODITY: Bituminous Surface treatment Aggregate

USER DEPARTMENT(S): Road Department

SPECIFICATIONS BY: Tammy Brisco West, Purchasing Director

ADVERTISED: August 27, 2014 in the Roswell Daily Record and online through the NM E-Procurement System and Public Purchase

ADDENDA ISSUED: None

OPEN DATE: September 10, 2014

SPECIFIC DESCRIPTION: This is a routine formal invitation to bid for bituminous surface treatment aggregate materials (rock chips) for the Road Department's paving projects. If awarded, the bid will constitute a one year price agreement for the purchase of materials, with the option to renew for up to three additional one year terms. Special conditions include that the successful bidder shall have a crushing and screening plant within a 30 mile radius of Roswell, New Mexico.

AGENDA ITEM: 15 DFA Approval of FY 14-15

MEETING DATE: September 18, 2014 Final Budget

STAFF SUMMARY REPORT

ACTION REQUESTED BY: Joe Sedillo, Chief Financial Officer

ACTION REQUESTED:

DFA Approval of the Final Budget for the minutes - no motion required

ITEM SUMMARY:

The attached letter from DFA - Local Government Division was received indicating its official approval of our final budget for FY 2014-2015

No other action is required.

In accordance with Section 6-6-2 (E) NMSA 1978, the Local Government Division (LGD) has reviewed and certified the final budget for fiscal year 2014-2015

Budgets approved by the Division are required to be made a part of the minutes of our governing body according to Section 6-6-5 NMSA 1978.

SUPPORT DOCUMENTS:

Letter from DFA - Local Government Division

SUMMARY BY: Anabel Barraza

TITLE: Senior Accountant

SUSANA MARTINEZ
GOVERNOR

THOMAS E. CLIFFORD, PH.D.
CABINET SECRETARY



WAYNE SOWELL
DIRECTOR

JESSICA LUCERO
ASSISTANT DIRECTOR

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION
Bataan Memorial Building ♦ Suite 201 ♦ Santa Fe, NM 87501
PHONE (505) 827-8051 ♦ FAX (505) 827-4948

August 20, 2014

The Honorable James F. Duffey
Chairman
County of Chaves
PO Box 1597
Roswell, NM 88202-1597

Dear Chairman Duffey:

The final budget of your local government entity for Fiscal Year 2014-15, as approved by your governing body, has been examined and reviewed. We find it has been developed in accordance with applicable statutes and budgeting guidelines. Sufficient resources appear to be available to cover budgeted expenditures, **however the governing body is cautioned that the General Fund cash balance is being depleted and at this rate cannot be sustained in future fiscal years. Careful monitoring and planning is recommended to avoid financial problems in future years.**

In accordance with Section 6-6-2-(E) NMSA 1978, the Local Government Division (Division) certifies your final FY 201-15 budget. *The Budget Certification Rule*, 2.2.3 NMAC, requires that your most recent audit that should have been submitted to the Office of the State Auditor as of this time is for FY 2012-2013. Our information indicates that you are in compliance with this requirement.

Budgets approved by the Division are required to be made a part of the minutes of your governing body according to Section 6-6-5 NMSA 1978. In addition, Section 6-6-6 NMSA 1978 provides that the approved budget will be binding on local officials and governing authorities. Any official or governing authority approving claims or paying warrants in excess of the approved budget or available funds will be liable for such claims and warrants allowed.

Furthermore, state statute requires all revenue sources be expended only for public purposes, and if applicable, in accordance with the Procurement Code, Chapter 13, Article 1, NMSA 1978. Use of public revenue is further governed by Article 9, Section 14 of the Constitution of the State of New Mexico, commonly referred to as the Anti-donation clause.

Finally, please be advised that approval by the Division is required by Section 6-6-2 (G) (H) NMSA 1978, of all transfers between funds and all budget increases.

If you have any questions, please call me at (505) 827-8060.

Sincerely,

A handwritten signature in black ink, appearing to read "Elise M. Mignardot". The signature is written in a cursive style with a large initial "E".

Elise M. Mignardot
Budget and Finance Analyst

COUNTY:
Chaves County

DATE 08/20/2014

Local Government Division
Budget Request Recapitulation

Fiscal Year 2014-2015

ROUNDED TO NEAREST DOLLAR

Elmer M. Magallon

FUND TITLE	DEPARTMENT NUMBER	BEGINNING CASH BALANCE @ JULY 1	INVESTMENTS	BUDGETED REVENUES	BUDGETED TRANSFERS	BUDGETED EXPENDITURES	ESTIMATED ENDING CASH BALANCE	LOCAL RESERVE REQUIREMENTS UNAVAILABLE FOR BUDGETING	ADJUSTED ENDING CASH BALANCE
GENERAL FUND - Operating (GF)	101	\$10,904,793	\$2,500,000	15,868,633	(6,510,000)	15,733,087	\$7,030,338	3,933,272	\$3,097,066
CORRECTION	201	\$387,046	\$0	150,000	0	129,696	\$407,350		\$407,350
ENVIRONMENTAL GRT	202	\$102,351	\$0	246,000	0	261,600	\$86,751		\$86,751
COUNTY PROPERTY VALUATION	203	\$584,194	\$0	240,000	0	350,853	\$473,341		\$473,341
COUNTY ROAD	204	\$658,331	\$0	1,836,000	4,060,000	6,030,393	\$523,938	502,533	\$21,406
EMS	206	\$0	\$0	0	0	0	\$0		\$0
ENHANCED 911	207	\$0	\$0	0	0	0	\$0		\$0
FARM & RANGE IMPROVEMENT	208	\$15,640	\$0	46,000	0	44,750	\$16,890		\$16,890
FIRE PROTECTION FUND	209	\$1,538,513	\$0	1,080,537	0	1,507,585	\$1,111,465		\$1,111,465
LEPF	211	\$10,405	\$0	43,400	0	42,200 3,205	0 -11,695		\$11,605
LODGERS' TAX	214	\$0	\$0	0	0	0	\$0		\$0
RECREATION	217	\$3,161	\$0	0	0	0	\$3,161		\$3,161
INTERGOVERNMENTAL GRANTS	218	\$126,510	\$0	1,256,804	0	1,256,804	\$126,510		\$126,510
SENIOR CITIZEN	219	\$0	\$0	0	0	0	\$0		\$0
COUNTY INDIGENT FUND	220	\$1,587,381	\$0	3,309,805	0	4,070,982	\$826,204		\$826,204
COUNTY HOSPITAL FUND	221	\$0	\$0	0	0	0	\$0		\$0
COUNTY FIRE PROTECTION	222	\$2,733,814	\$0	480,000	0	522,586	\$2,691,228		\$2,691,228
DWI PROGRAM	223	\$184,356	\$0	562,921	0	510,961	\$236,316		\$236,316
CLERK RECORDING AND FILING	225	\$140,782	\$0	65,000	0	95,500	\$110,282		\$110,282
JAIL - DETENTION FUND	226	\$1,491,882	\$0	1,686,500	6,710,000	9,332,178	\$556,204		\$556,204
OTHER	299	\$2,047,265	\$0	1,047,160	0	1,420,386	\$1,674,039		\$1,674,039
CAPITAL PROJECT FUNDS	300	\$278,084	\$0	0	825,000	780,500	\$322,584		\$322,584
G. O. BONDS	401	\$0	\$0	0	0	0	\$0		\$0
REVENUE BONDS	402	\$5,930,249	\$0	2,446,805	(5,085,000)	1,199,336	\$2,092,718		\$2,092,718
DEBT SERVICE OTHER	403	\$0	\$0	0	0	0	\$0		\$0
ENTERPRISE FUNDS	500								
Water Fund		\$0	\$0	0	0	0	\$0		\$0
Solid Waste		\$0	\$0	0	0	0	\$0		\$0
Waste Water		\$0	\$0	0	0	0	\$0		\$0
Airport		\$0	\$0	0	0	0	\$0		\$0
Ambulance		\$0	\$0	0	0	0	\$0		\$0
Cemetery		\$0	\$0	0	0	0	\$0		\$0
Housing		\$0	\$0	0	0	0	\$0		\$0
Parking		\$0	\$0	0	0	0	\$0		\$0
Other Enterprise (enter fund name)		\$0	\$0	0	0	0	\$0		\$0
Other Enterprise (enter fund name)		\$0	\$0	0	0	0	\$0		\$0
Other Enterprise (enter fund name)		\$0	\$0	0	0	0	\$0		\$0
Other Enterprise (enter fund name)		\$0	\$0	0	0	0	\$0		\$0
INTERNAL SERVICE FUNDS	600	\$171,456	\$0	75,000	0	64,720	\$181,736		\$181,736
TRUST AND AGENCY FUNDS	700	\$575,448	\$50,000,000	0	0	0	\$50,575,448		\$50,575,448
GRAND TOTAL - ALL FUNDS		\$29,471,660	\$52,500,000	\$30,440,565	\$0	\$43,354,147	\$69,058,707	\$4,435,805	\$64,622,303

Department of Finance & Administration / Local Government Division
Law Enforcement Protection Fund Carryover Request Form
 (this form must accompany the final budget submission)

Entity Name: Chaves County Sheriff's Office
 Contact Name: Susan Goldstrom
 Contact Title: Sheriff's Administrator
 Contact Phone Number: 575-624-6557
 Contact E-mail Address: sgoldstrom@co.chaves.nm.us

I hereby certify that the information presented on this form is true and correct to the best of my knowledge:

[Signature] _____ 7/30/2014
 Signature Date

We hereby request approval from the Department of Finance & Administration / Local Government Division (DFA/LGD) to carryover the following balance from the Law Enforcement Protection Fund (LEPF) distribution:

Current Fiscal Year:	<u>FY2013/2014</u>
Total Distribution for Current FY:	<u>\$42,200.00</u>
Balance on June 30th:*	<u>\$10,404.92</u> ✓

If the carryover is approved, we will be expending the balance in the succeeding fiscal year for the following allowable uses:

Succeeding Fiscal Year: FY2014/2015
(This is the fiscal year that balance will be carried over to)

Allowable Uses (pursuant to LEPF Rule, 2.110.3 NMAC):

The remaining funds will be used for training registrations for law enforcement personnel.

*The June 30th balance should only be from the LEPF distribution and not include any other revenue sources. If the June 30th balance is greater than the total distribution amount for the current fiscal year, then the entity has a balance left over from a prior fiscal year's carryover. Balances can only be carried over for one subsequent year. Therefore, the balance calculated below that is from a prior fiscal year's carryover must be reverted to the State of New Mexico:

Calculated Reversion Amount

Balance on June 30th:	\$10,404.92
LESS Total Distribution for Current FY:	<u>\$42,200.00</u>
Reversion Due to State:	None

Reversion Instructions

A check made payable to the "State of New Mexico, Department of Finance & Administration" for the Reversion Due to State amount above should be mailed to the following address:

*Brenda L. Suazo-Giles, Budget & Finance Analyst
 DFA / Local Government Division
 Bataan Memorial Building, Suite 201
 Santa Fe, NM 87501*

If you have questions on this form, please call (505) 827-4127.

Pursuant to the LEPF Rule, 2.110.3.10C, New Mexico Administrative Code, "The distributions from the fund are to be used, not accumulated. Fund balances may be carried over to a succeeding fiscal year only with prior written approval from the local government division."

FOR DFA/LGD USE ONLY: Approved: Yes No Approved Carryover Amount: \$ 10,404.92

LOCAL GOVERNMENT DIVISION

DATE 8/7/14

[Signature]
 ADMINISTRATION

AGENDA ITEM: ___16___

Permission to Publish Amendment to
Ordinance Number 7, Chaves County
Zoning Ordinance

MEETING DATE: September 18, 2014

STAFF SUMMARY REPORT

ACTION REQUESTED BY: Anders Sheridan, Planning and Zoning Director

ACTION REQUESTED: Permission to Publish

ITEM SUMMARY:

An ordinance amending portions of the Chaves County New Mexico Zoning Ordinance number 7 by adding a new article to be titled Article xx, that regulates the location, permitting, licensing and operation of sexually-oriented businesses/adult entertainment enterprises; adding definitions to Article 2 describing and defining such land uses; providing for the licensing, administration and enforcement of such land uses, and providing for the control and inspection of such land uses; identifying performance standards and requirements such land uses shall adhere to when locating within Chaves County, and providing for the protection of the health, safety and welfare of all citizens of Chaves County.

Staff recommends approval.

SUPPORT DOCUMENTS:

SUMMARY BY: Anders Sheridan

TITLE: Planning and Zoning Director

AGENDA ITEM: 17

Resolution R-14-041 Chaves County's
Request to Amend the Current Endangered Species
Act

MEETING DATE: September 18, 2014

STAFF SUMMARY REPORT

ACTION REQUESTED BY: County Manager

ACTION REQUESTED: Approve Resolution

ITEM SUMMARY:

This Resolution states Chaves County's desire for the current Endangered Species Act to be amended by Congress to protect private property rights, provide compensation, and require the science used be non-biased.

Staff recommends approval of Resolution R-14-041.

SUPPORT DOCUMENTS: Resolution R-14-041

SUMMARY BY: Stanton L. Riggs

TITLE: County Manager

RESOLUTION R-14-041
CHAVES COUNTY'S REQUEST TO AMEND THE
CURRENT ENDANGERED SPECIES ACT

WHEREAS, the Endangered Species Act (ESA) was adopted in 1973 with the stated purpose “to protect species and the eco-systems upon which they depend”; and

WHEREAS, through the years, the Federal Courts have liberally interpreted the ESA, which in turn, has caused a loss of billions of dollars to States and Local Governments; and

WHEREAS, U.S. citizens have been jailed, required to pay enormous fines, and have lost private property as a direct result of the enforcement of the ESA; and

WHEREAS, environmental groups have made millions of dollars suing the Federal Government using taxpayer dollars; and

WHEREAS, the ESA has failed to protect and restore viable populations of endangered species as intended by the law.

NOW, THEREFORE, BE IT RESOLVED by the Chaves County Board of Commissioners that the ESA should be amended by the United States Congress; and

BE IT FURTHER RESOLVED that the following list of changes be included when Congress amends the ESA:

1. Revise “taking” definition to protect private property rights in conformance with the United States Constitution.
2. Provide full compensation to individuals for current and long term takings. Require mandatory costs-benefit analysis for all adverse socio-economic and cultural impacts on the affected human population.
3. Require the science used to make any determination be reviewed by scientific peers not affiliated or associated with the Federal Government.
4. Mandate that a listing of endangered be reviewed every seven years to determine if a listing is still warranted.
5. Require all parties pay their own attorney’s fees involving any legal action associated with the ESA.
6. Mandate that only pure species be considered for endangered status.
7. Transfer critical habitat designations and recovery planning to the States.

This Resolution was approved and adopted this 18th day of September, 2014.

CHAVES COUNTY BOARD OF COMMISSIONERS

James W. Duffey, Chairman

Kyle D. Smiley Wooton, Vice-Chairman

Kim Chesser, Member

Greg Nibert, Member

Robert B. Corn, Member

ATTEST:

Dave Kunko
County Clerk