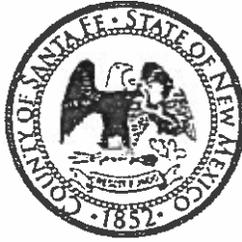


**Henry P. Roybal**  
*Commissioner, District 1*

**Miguel Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

**CASE NO. S 12-5452  
CIELO COLORADO ESTATES FINAL PLAT AND DEVELOPMENT PLAN  
FOR PHASE 1  
CIELO COLORADO LLC, APPLICANT  
JAMES W. SIEBERT, AGENT**

**ORDER**

**THIS MATTER** came before the Board of County Commissioners (BCC) for hearing on December 9, 2014, on the Application of Cielo Colorado LLC, (Applicant) and James W. Siebert (Agent) for Final Plat and Development Plan Approval for Phase 1 of the Cielo Colorado Estates Residential Subdivision on Tract 15A-2 of the Eldorado at Santa Fe Subdivision consisting of 246.30 acres, together with a request for approval to vacate and relocate 2 portions of the Camino Acote fifty (50) foot ingress/egress and utility easement that is located within proposed Lot 1, vacate the portion of Camino Acote which runs through Lots 10, 16, 17, 18 and 19, and vacate the old ingress/egress and utility easement that runs through proposed Lot 1, which is no longer in use. The BCC, having reviewed the Application, supplemental materials and staff reports, and having conducted a public hearing, finds that the Application is well-taken and should be granted subject to certain conditions, and makes the following findings of fact and conclusions of law:

1. On June 13, 1995, the BCC granted a Master Plan for Cielo Colorado consisting of 91 lots on 344.58 acres of which 25 of the 91 lots being platted as Phase 1 and recorded in the office of the County Clerk as Instrument No. 909-938.

2. In 2000, the BCC approved a Master Plan Amendment to Cielo Colorado eliminating 4 lots totaling 12.5 acres.

3. In 2002, the Cielo Colorado Master Plan was vacated to allow platting of larger lots at the east end of Tract 15 A-2, which included the remainder of property that had not been platted.

4. On September 10, 2013, the BCC approved a Master Plan of a portion of the property previously subject to the Cielo Colorado Master Plan, to create a 24-lot residential subdivision on 246.30 acres, which was to be developed in four phases.

5. On April 8, 2014, the BCC approved a Preliminary Plat and Development Plan for the 24-lots on 246.30 acres within Tract 15 A-2 of the Eldorado at Santa Fe Subdivision in conformance with the approved Master Plan. The Application also included a variance of Ordinance No. 2008-10 (Flood Damage Prevention and Stormwater Management) to allow access through a 100 year floodplain without an all-weather crossing.

6. The Applicant, through the current Application, seeks Final Plat and Development Plan approval for Phase 1 consisting of six lots (Lots 11-16) of the Cielo Colorado Estates 24-lot residential subdivision on Tract 15 A-2 of the Eldorado Subdivision consisting of 246.30 acres under Article V, Section 5.4 of the Land development Code. The Applicant also seeks approval to vacate and relocate 2 portions of the Camino Acote 50 foot ingress/egress and utility easement that is located within proposed Lot 1, to vacate the portion of Camino Acote that runs through Lots 10, 16, 17, 18 and 19 and to vacate the old ingress/egress and utility easement that runs

through proposed Lot 1, which is no longer in use, under Article V, Sections 7.1 through 7.4 of the Land Development Code.

7. Staff recommended approval of the application subject to the following conditions:

- a. The Final Plat and Development Plan must be recorded with the County Clerk's office;
- b. The Applicant shall submit a financial guarantee, in sufficient amount to assure completion of all required improvements prior to Final Plat recordation as per Article V, Section 9.9 of the Land Development Code.
- c. The Affordable Housing Agreement must be reviewed and approved by the BCC prior to Plat Recordation of Phase 1.

8. The property is located on the east side of U.S. 285, off Camino Acote, within Sections 20, 21, and 22, Township 15 North, Range 10 East.

9. In support of the Application, the Applicant's Agent submitted a letter of request, a development plan report including proof of legal lot of record and proof of ownership, a development plan set of drawings, and survey plat. The Applicant authorized James W. Siebert and Associates to act on behalf of Cielo Colorado, LLC in making application for the Cielo Colorado Estates residential subdivision on Tract 15A-2 of the Eldorado at Santa Fe Subdivision consisting of 246.30 acres, as evidenced by a copy of that written authorization contained in the record.

10. The project lies within the Basin Fringe Hydrologic Zone. The minimum lot size in the Basin Fringe is 50 acres per dwelling. The density can be reduced to 12.5 acres per dwelling unit with .25 acre foot per year per dwelling water restriction. Lot size can be further

reduced to 2.5 acres per dwelling unit if water availability is proven to support increased density. The development complies with the density requirements of the Code in that there is no more than one home per 2.5 acres. The 2.5 acre minimum density is allowed because the property will use water from the Eldorado Area Water and Sanitation District.

11. The Applicant provided an archaeological report which was submitted to the State Historic Preservation Division (SHPO) for review. SHPO confirmed that there were no concerns pertaining to archaeological sites implicated by this development.

12. An Affordable Housing Agreement was completed by Applicant and conforms to the Affordable Housing requirements set forth in the Code and must be approved by the BCC prior to plat recordation.

13. Multiple fire stations are in the vicinity of this development, including a fire sub-station which is approximately 1,000 feet from the entrance to the proposed development. The Eldorado Area Water and Sanitation District (EAWSD) commits to provide water service to the proposed development. EAWSD is ready, willing and able to provide water service to the entire Project or phases of the project.

14. Each lot will have a conventional on-site septic system as approved by the New Mexico Environment Department.

15. Lot owners will contract with a licensed solid waste hauler or haul their solid waste to a transfer station, as indicated on the disclosure statement which shall be utilized by the developer when selling lots.

16. The project conforms to terrain management requirements regarding slope disturbance and the submissions indicated existing topography, natural drainage and contained a

proposed grading and drainage plan. There will be two detention ponds, one in Phase I and a second in Phase II of the development.

17. 14.21 acres have been set aside for open space for the benefit of the owners of lots within the subdivision and that open space will be owned by the Cielo Colorado Estates Homeowners Association.

18. The subdivision will be completed in four phases over eight years, with the first phasing to begin in 2014 and the final phase to be completed in the year 2022.

19. Based on the foregoing findings, the Application is in compliance with Article V, Section 5.4.1 (Final Plat Procedures-Introduction and Description) of the Land Development Code which states: "Final plats shall be submitted for Type-I, Type-II, Type-III, except Type-III subdivisions that are subject to review under summary procedure as set forth in Subsection 5.5, and Type-IV subdivisions. Following approval or conditional approval of a preliminary plat, and before the expiration of the plat, the subdivider may prepare a final plat in substantial conformity with the approved or conditionally approved preliminary plat. Final plats for subdivisions proposed to be phased shall be submitted as indicated on the phasing schedule submitted with the master plan."

20. Article V, Section 5.7.1 (Vacation of Plats-Cause) states; "any final plat filed in the Office of the County Clerk may be vacated or a portion of the final plat may be vacated if:

a. The owners of the land proposed to be vacated sign an acknowledgement statement, declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board; or

b. The Board finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County."

21. Article V, Section 5.7.2 (Action) states: “Action shall be taken at a public meeting. In approving the vacation of all or part of a Final Plat, the Board shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a Final Plat, the Board may require that roads dedicated to the County in the Final Plat continue to be dedicated to the County.”

22. Article V, Section 5.7.3 (Filing) states; “The approved statement declaring the vacation of a portion or all of a Final Plat shall be filed in the Office of the County Clerk.”

23. Article V, Section 5.7.4 (Utilities) states: “The rights of any utility existing before the total or partial vacation of any Final Plat are not affected by the vacation of a Final Plat.”

24. A portion of Camino Acote was built slightly outside the easement so the Applicant is relocating that portion that is not consistent with the easement. The portion that is being vacated was when the original Master Plan for the property consisted of 91 lots and the easement was created to loop the road back to Camino Acote. The Applicant states; We’re proposing to eliminate the portion because of the substantial reduction of the number of lots”, which now is 24 lots. Finally, the original ingress/egress and utility easement that runs through proposed Lot 1, is no longer in use.

25. The Application submitted together with the plat which will be recorded suffice to meet the Code requirement of an acknowledgement statement, declaring the final plat or a portion of the final plat to be vacated, and by virtue of this Order, the statement is approved by the BCC.

26. Based on the reduced number of lots, and the absence of reliance on the easement by property owners outside of the subdivision, the vacation will not adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated.

27. Under the circumstances and given the evidence and testimony submitted during the public hearing, the Application should be approved subject to the conditions proposed by staff.

**WHEREFORE, THE BCC HEREBY APPROVES** subject to the conditions set forth in paragraph 7 above, the Application for Final Plat and Development Plan Approval for Phase 1 (Lots 11-16) of the Cielo Colorado Estates residential subdivision on Tract 15A-2 of the Eldorado at Santa Fe Subdivision consisting of 246.30 acres and the vacation and relocation of 2 portions of the Camino Acote 50 foot ingress/egress and utility easement that is located within proposed Lot 1, the vacation of the portion of Camino Acote which runs through Lots 10, 16, 17, 18 and 19 and the vacation of the old ingress/egress and utility easement which runs through proposed Lot 1 which is no longer in use. The motion to approve passed by a 4-0 vote, with Commissioners Anaya, Chavez, Holian and Stefanics all voting in favor of the motion. Commissioner Mayfield was not present.

**IT IS SO ORDERED:**

This Order was approved by the Board of County Commissioners on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

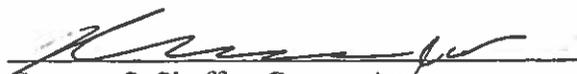
**BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

By: \_\_\_\_\_  
Robert A. Anaya, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, County Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Gregory S. Shaffer, County Attorney





Henry P. Roybal  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

**DATE:** February 12, 2015

**TO:** Board of County Commissioners

**FROM:** John Lovato, Development Review Specialist Sr. *JL*

**VIA:** Katherine Miller, County Manager *KM*  
Penny Ellis-Green, Land Use Administrator *PEG*  
Vicki Lucero, Building and Development Services Manager *VL*  
Wayne Dalton, Building and Development Services Supervisor *WD*

**RE:** Amended Final Order CDRC CASE # V14-5270 Madeleine Wells Variance

**ISSUE:**

On December 9, 2014, this matter came before the Board of County Commissioners (BCC), by Applicant Madeleine Wells, who requested a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 6.195 acres. The Application for the variance was approved unanimously by a 4-0 vote.

On January 27, 2015, the Final Order for this request was approved by the BCC and on January 28, 2015, was recorded and filed by the Santa Fe County Clerk's Office.

Since that time, it has been brought to staff's attention that there was a typographical error on the Final Order on page 2, paragraph 8. a., where it states "Water use shall be restricted to .250 acre feet per year per lot." This has been changed to state "Water use shall be restricted to .250 acre feet per year per home." There was also a typographical error on page 4, last paragraph where it states "**WHEREFORE** the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwellings on 6.195 acres located at 30 Sibley Road, Santa Fe County subject to the conditions in paragraph 6." This has been changed to state "**WHEREFORE** the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwellings on 6.195 acres located at 30 Sibley Road, Santa Fe County subject to the conditions in paragraph 8."

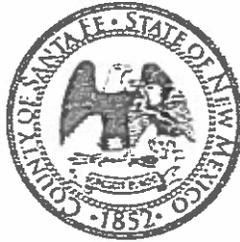
**EXHIBITS:**

1. Amended Order
2. January 28, 2015 Recorded Final Order
3. December 9, 2014 BCC Meeting Minutes

**Henry P. Roybal**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

**CASE NO. V 14-5270**

**VARIANCE**

**MADELEINE WELLS, APPLICANT**

**AMENDED ORDER**

**THIS MATTER** came before the Board of County Commissioners (BCC) of Santa Fe County (County) for hearing on December 9, 2014, on the Application of Madeleine Wells and Mary O'Brien (Applicants) for a variance of Article III, § 10 (Lot Size Requirements) of Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code (the Code) to allow two dwelling units on 6.195 acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted subject to staff conditions, and makes the following findings of fact and conclusions of law:

1. The Applicants request approval of a variance of Article III, § 10 (Lot Size Requirements) of the Code to allow two dwelling units on 6.195 acres.
2. The subject property was created in 1995 by way of Land Division and is a recognized legal lot of record. The Property is located in Santa Fe County at 30 Sibley Road, within



Section 17, Township 16 North, Range 10 East ("Property"), within the vicinity of Canoncito.

3. The Applicants purchased the property in 1993, at a time when two structures existed and were habitable dwelling units. Since the purchase, one of the dwelling units has become inhabitable and the Applicants request a variance to place a second dwelling unit on 6.195 acres.
4. There is currently a 1,425 square foot occupied home on the lot.
5. The Code specifies a minimum lot size under Article III, § 10 of 20 acres with 0.25 acre foot water restrictions per dwelling unit.
6. As required by Article II, Section 2.4 of the Code, the Applicant posted a public notice board on the property for twenty one days beginning on the 25<sup>th</sup> of September, 2014, advertised the hearing in the Santa Fe New Mexican, and sent out certified letters to adjoining property owners.
7. At the public hearing before the BCC on August 12, 2014, staff recommended denial of the requested variance.
8. Staff recommended imposition of the following conditions of approval if the Application was granted:
  - a. Water use shall be restricted to .250 acre feet per year per home. A water meter shall be installed for each home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office;

- b. The Applicants must obtain a development permit from the Building and Development Services Department for the additional dwelling;
  - c. The Applicants shall provide an updated liquid waste permit for both homes from the New Mexico Environment Department with the Development Permit Application;
  - d. The Placement of additional dwelling units or division of the land is prohibited on the property;
  - e. The Applicants shall comply with all Fire Prevention Division requirements at time of plat approval;
  - f. The Applicants shall remove the abandon structure on the property prior to Development Permit issuance.
9. Article II, Section 3.1 of the Code states that, “Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the [BCC] and the [BCC] may vary, modify or waive the requirements of the Code upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety.” Section 3.1 concludes that, “In no event shall a variance...be recommended by [the] Development Review Committee nor granted by the [BCC] if by doing so the purpose of the Code would be nullified.”

10. Article II, Section 3.2 states, "In no case shall any variation or modification be more than a minimum easing of the requirements."
11. The Applicants stated that they have an extraordinary hardship because of unusual topography or other non-self-inflicted condition, and asserted that compliance with the Code would result in an arbitrary and unreasonable taking of property or exact a hardship and claimed that a variance from the Code would not result in conditions injurious to health or safety.
12. The Applicants stated there have always been two dwellings on the property. Further, the Applicants asserted that the nature of the proposed dwelling would not be injurious to health and safety in part because it has all-weather access as opposed to the existing abandon dwelling unit which was located and accessed through a FEMA Designated Special Flood Hazard Area. The Applicants purchased the property with two dwelling units on the property and would like to replace the abandon structure with a new dwelling unit.
13. At public hearing there was no opposition of the Application.
14. Evidence was provided by the Applicants that compliance with the Code provisions will exact a hardship.
15. The variance is a minimal easing of Code requirements as two structure have existed on the property since the purchase of the property in 1993.
16. Granting this variance request will not nullify the purpose of the Code, and would not result in conditions injurious to health or safety.

**WHEREFORE** the BCC hereby approves the request for a variance of Article III, § 10 (Lot Size Requirements) of the Code to allow two dwellings on 6.195 located at 30 Sibley Road, Santa Fe County subject to the conditions in paragraph 8. The motion to approve the variance passed by a 4-0 vote, a unanimous decision.

**IT IS SO ORDERED**

This Order was approved by the Board of County Commissioners of Santa Fe County on this \_\_\_\_ day of \_\_\_\_\_, 2015.

**By:** \_\_\_\_\_  
Robert A. Anaya, Chair

**Attest:**  
\_\_\_\_\_  
Geraldine Salazar, County Clerk

**Approved as to form:**

  
\_\_\_\_\_  
Gregory S. Shaffer, County Attorney

**Henry P. Roybal**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

**CASE NO. V 14-5270**

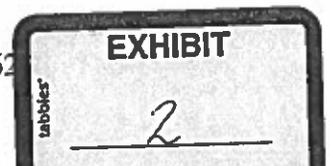
**VARIANCE**

**MADELEINE WELLS, APPLICANT**

**ORDER**

**THIS MATTER** came before the Board of County Commissioners (BCC) of Santa Fe County (County) for hearing on December 9, 2014, on the Application of Madeleine Wells and Mary O'Brien (the Applicants) for a variance of Article III, § 10 (Lot Size Requirements) of Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code (the Code) to allow two dwelling units on 6.195 acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted subject to staff conditions, and makes the following findings of fact and conclusions of law:

1. The Applicants request approval of a variance of Article III, § 10 (Lot Size Requirements) of the Code to allow two dwelling units on 6.195 acres.
2. The subject property was created in 1995 by way of Land Division and is a recognized legal lot of record. The Property is located in Santa Fe County at 30 Sibley Road, within Section 17, Township 16 North, Range 10 East ("Property"), within the vicinity of Canoncito.



3. The Applicants purchased the property in 1993, at a time when two structures existed and were habitable dwelling units. Since the purchase, one of the dwelling units has become inhabitable and the Applicants request a variance to place a second dwelling unit on 6.195 acres.
4. There is currently a 1,425 square foot occupied home on the lot.
5. The Code specifies a minimum lot size under Article III, § 10 of 20 acres with 0.25 acre foot water restrictions per dwelling unit.
6. As required by Article II, Section 2.4 of the Code, the Applicant posted a public notice board on the property for twenty one days beginning on the 25<sup>th</sup> of September, 2014, advertised the hearing in the Santa Fe New Mexican, and sent out certified letters to adjoining property owners.
7. At the public hearing before the BCC on August 12, 2014, staff recommended denial of the requested variance.
8. Staff recommended imposition of the following conditions of approval if the Application was granted:
  - a. Water use shall be restricted to .250 acre feet per year per lot. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office;
  - b. The Applicants must obtain a development permit from the Building and Development Services Department for the additional dwelling;

- c. The Applicants shall provide an updated liquid waste permit for both homes from the New Mexico Environment Department with the Development Permit Application;
- d. The Placement of additional dwelling units or division of the land is prohibited on the property;
- e. The Applicants shall comply with all Fire Prevention Division requirements at time of plat approval;
- f. The Applicants shall remove the abandon structure on the property prior to Development Permit issuance.

9. Article II, Section 3.1 of the Code states that, "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the [BCC] and the [BCC] may vary, modify or waive the requirements of the Code upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety." Section 3.1 concludes that, "In no event shall a variance...be recommended by [the] Development Review Committee nor granted by the [BCC] if by doing so the purpose of the Code would be nullified."

10. Article II, Section 3.2 states, "In no case shall any variation or modification be more than a minimum easing of the requirements."

11. The Applicants stated that they have an extraordinary hardship because of unusual topography or other non-self-inflicted condition, and asserted that compliance with the Code would result in an arbitrary and unreasonable taking of property or exact a hardship and claimed that a variance from the Code would not result in conditions injurious to health or safety.
12. The Applicants stated there have always been two dwellings on the property. Further, the Applicants asserted that the nature of the proposed dwelling would not be injurious to health and safety in part because it has all-weather access as opposed to the existing abandon dwelling unit which was located and accessed through a FEMA Designated Special Flood Hazard Area. The Applicants purchased the property with two dwelling units on the property and would like to replace the abandon structure with a new dwelling unit.
13. At public hearing there was no opposition of the Application.
14. Evidence was provided by the Applicants that compliance with the Code provisions will exact a hardship.
15. The variance is a minimal easing of Code requirements as two structure have existed on the property since the purchase of the property in 1993.
16. Granting this variance request will not nullify the purpose of the Code, and would not result in conditions injurious to health or safety.

**WHEREFORE** the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwellings on 6.195 located at 30 Sibley Road, Santa Fe County subject to the conditions in paragraph 6. The motion to approve the variance passed by a 4-0 vote, a unanimous decision.

**IT IS SO ORDERED**

This Order was approved by the Board of County Commissioners of Santa Fe County on

this 27<sup>th</sup> day of January, 2015.

By: [Signature]  
Robert A. Anaya, Chair

Attest: [Signature]  
Geraldine Salazar, County Clerk  
1-27-2015

Approved as to form:

[Signature]  
Gregory S. Shaffer, County Attorney



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

BCC ORDER  
PAGES: 5

I Hereby Certify That This Instrument Was Filed for  
Record On The 28TH Day Of January, 2015 at 11:38:58 AM  
And Was Duly Recorded as Instrument # 1756036  
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office  
Geraldine Salazar  
Deputy [Signature] County Clerk, Santa Fe, NM

Santa Fe County  
Board of County Commissioners  
Regular Meeting of December 9, 2014  
Page 42

COMMISSIONER CHAVEZ: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: I'm going to make a motion to approve the request for a variance with staff recommendations.

COMMISSIONER STEFANICS: I'll second.

COMMISSIONER ANAYA: There's a motion and a second to approve with staff recommendations to approve the variance. Any further discussion or questions? Commissioner Chavez.

COMMISSIONER CHAVEZ: Yeah, I guess this would be to staff. On the sewer system, the City of Santa Fe sewer system, the applicants have received a letter of commitment; does that give them the go ahead?

MR. MARTINEZ: Mr. Chair, Commissioner Chavez, that's correct.

COMMISSIONER CHAVEZ: Okay, that's all I have. Motion and a second with no further discussion.

The motion carried by unanimous [4-0] voice vote.

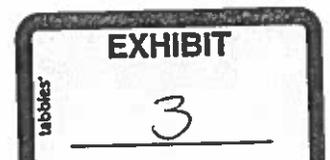
- VII. A. 8. **CDRC CASE # V 14-5270 Madeline Wells and Mary O'Brien Variance. Madeline Wells and Mary O'Brien, Applicants, Request a Variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 6.195 Acres. The Property is Located at 30 Sibley Road, within the Vicinity of Cañoncito, Within Section 13, Township 15 North, Range 10 East (Commission District 4)**

JOHN LOVATO (Case Manager): Thank you, Mr. Chair, Commissioners. Madeline Wells and Mary O'Brien, Applicants, Request a Variance of Article III, § 10, Lot Size requirements, of the Land Development Code to allow two dwelling units on 6.195 acres.

The subject lot was created in 1993, by way of a Land Division, approved by the Land Use Administrator, and is recognized as a Legal Lot of Record. In 1995, by warranty deed, Maria O'Brien transferred to Madeline Wells an undivided half interest in the subject property. There is currently a residence, an abandoned structure, and two storage sheds located on the property. The abandon structure is non-habitable, and the current habitable residence is 1,425 square feet.

The Applicants request a variance of the Land Development Code to allow two dwelling units on 6.195 acres. The Applicants state, when they initially purchased the property in 1993, both structures existed. Since the purchase of the property, the structure across the creek has been abandoned and is no longer accessible due to lack of all-weather access and the structure is non-habitable. The proposed structure will not be located across the river and will have all-weather access. The Applicants state they purchased the property together with the intention of constructing a second dwelling so they both have homes they could reside in. Their request is to replace the abandon second dwelling with a habitable dwelling. There are several properties with similar lot sizes and

SFC CLERK RECORDED 01/15/2015



Santa Fe County  
Board of County Commissioners  
Regular Meeting of December 9, 2014  
Page 43

multiple dwellings and accessory structures in the immediate area.

On October 14, 2014, the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend approval of the Applicants request by a 3-1 vote.

Staff recommendation: Denial of a variance of Article III, §10, Lot Size Requirements, of the Land Development Code. If the decision of the BCC was to grant approval of the variance, staff recommends imposition of the following conditions. Mr. Chair, may I enter those into the record?

COMMISSIONER ANAYA: Yes, you may.

Conditions:

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office at the time of Development Permit (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling. (As per Article II, § 2).
3. The Applicant shall provide an updated liquid waste permit for both homes from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv)).
4. The placement of additional dwelling units or Division of land is prohibited on the property. (As per Article III, § 10).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).
6. The Applicant shall remove the abandon structure on the property prior to Development Permit issuance. (As per Ordinance No. 2009-11).

COMMISSIONER ANAYA: Are there questions of staff? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. So would the existing dwelling, the abandoned structure be allowed , even though it is non- habitable, would it stay standing?

MR. LOVATO: Mr. Chair, Commissioner Stefanics, that's probably a question you should ask of the applicant. It is recommended that it be removed or otherwise converted into a studio.

COMMISSIONER STEFANICS: Mr. Chair, the reason I asked the question is that I know it takes time and money to remove something but then there would be three. So it's part of your staff condition; right?

MR. LOVATO: Mr. Chair, Commissioner Stefanics, that is correct.

COMMISSIONER STEFANICS: And the applicant is in agreement with all of the staff conditions?

MR. LOVATO: Mr. Chair, Commissioner Stefanics, I leave that up to her.

COMMISSIONER STEFANICS: I'm sorry?

SFC CLERK RECORDED 01/15/2015

Santa Fe County  
Board of County Commissioners  
Regular Meeting of December 9, 2014  
Page 44

MR. LOVATO: She hasn't come forward stating she wasn't against them but I would defer that question to her.

COMMISSIONER ANAYA: Any other questions of staff?

Commissioner Chavez.

COMMISSIONER CHAVEZ: I had that same concern and so I think that one condition does speak to that but I think you're right, Commissioner Stefanics, that abandoned building could be remodeled or repurposed into a – it could serve a purpose so I think we do need to have that discussion. But that question would go to the applicant.

COMMISSIONER ANAYA: So I have a question of my colleagues, I guess. If there's a structure – so what we're talking about is habitable space, another dwelling, but there are other structures that are storage units or studios so I guess I should ask the question, Are you suggesting that we clarify what types of space it could be if it wasn't – I mean, we obviously don't want it to be another habitable dwelling but it could be a storage building or a studio within the code. Correct, couldn't it? I guess I would look to staff.

MS. LUCERO: Mr. Chair, it could be converted into a garage or a storage facility of some sort.

COMMISSIONER ANAYA: So does the conditions say it has to be removed or it can be used as a dwelling I guess is what I'm hearing, just for clarity.

MS. LUCERO: Mr. Chair, the condition in the staff report is that they remove the abandoned structure on the property and it's my understanding that the structure is non-habitable and I don't even know whether it is structurally stable.

COMMISSIONER ANAYA: I got you, understood.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: In the notes under the summary it also says that that particular structure lacks all-weather access as well.

COMMISSIONER ANAYA: Okay, thank you. Other questions of staff? Is the applicant present? If the applicant would please come forward and be sworn in, thank you.

[Duly sworn. Madeline Wells testified as follows:]

MADELINE WELLS: My name is Madeline Wells. I'm one of the two applicants primarily taking care of the application process. If I may clarify about the existing structures on the property. There's – we started out with two habitable structures, both small houses. The one that you're speaking of his the main house, the habitable structure, has been enlarged with proper permitting. That's habitable. It's accessible to the road. The structure in question that you're recommending that it be removed, that one does not have all-weather access. We had, my co-owner and I, had contemplated having it razed because the roof is actually caving in and because of the lack of all-weather access it's really not repairable. So my visualization of the process is that when weather permits we would actually have a backhoe come and knock it down.

COMMISSIONER ANAYA: Thank you, Ms. Wells. Are you okay with all of the other conditions that were set forth?

MS. WELLS: Yes.

COMMISSIONER ANAYA: For clarification of the record.

SFC CLERK RECORDED 01/15/2015

Santa Fe County  
Board of County Commissioners  
Regular Meeting of December 9, 2014  
Page 45

MS. WELLS: Yes.

COMMISSIONER ANAYA: Do you have anything else you would like to add?

MS. WELLS: I just wanted to clarify the fact that we are – that when I bought a share of the property from Mary O'Brian who at the time was sole owner there were the two habitable structures there and we had intended to occupy them separately. Because of erosion in the creek the one, you know, like lost its all-weather access so basically we're wanting to replace that one by something that would be with a size ratio that would be allowed in that area should the new zoning be implemented.

Thank you very much, Mr. Chair and members of the Commission.

COMMISSIONER ANAYA: Thank you, Ms. Wells. Any questions of the applicant? This is a public hearing, is there anybody here who would like to speak either in favor or against? This is a public hearing. Seeing none, what's the pleasure of the Board?

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I will note that historically there have been two dwellings on that lot for quite awhile and what is requested is consistent with the neighboring lots so I would like to move approval of CDRC Case V 14-5270. Madeline Wells and Mary O'Brien variance with staff conditions.

COMMISSIONER STEFANICS: Second.

COMMISSIONER CHAVEZ: Second.

COMMISSIONER ANAYA: There's a motion and two seconds for approval of the variance with staff conditions. Any further discussion?

The motion carried by unanimous [4-0] voice vote.

MS. WELLS: Thank you, Mr. Chair and members of the Commission.

- VII. A. 9. **CDRC CASE # S 12-5452 Cielo Colorado Estates Final Plat and Development Plan For Phase L Cielo Colorado LLC, Applicant, James W. Siebert, Agent, Request Final Plat and Development Plan Approval for Phase 1 (Lots 11-16) Consisting of Six Lots of the Cielo Colorado Estates 24-Lot Residential Subdivision on Tract 15A-2 of the Eldorado at Santa Fe Subdivision Consisting of 246.30 Acres More or Less. The Applicant Also Requests Approval to Vacate and Relocate two Portions of the Camino Acote 50-Foot Ingress/Egress and Utility Easement That is Located Within Proposed Lot 1, Vacate the Portion of Camino Acote that Runs Through Lots 10, 16, 17, 18 And 19 and Vacate the Old Ingress/Egress and Utility Easement That Runs Through Proposed Lot 1, Which is no Longer in Use. The Property is Located on the East Side of US 285, off Camino Acote, Within Sections 20, 21 and 22, Township 15 North, Range 10 East (Commission District 4)**

SFC CLERK RECORDED 01/15/2015





Robert A. Garcia  
Sheriff  
986-2455

[ragarcia@santafecountynm.gov](mailto:ragarcia@santafecountynm.gov)



Ron E. Madrid  
Undersheriff  
986-2455

[rmadrid@santafecountynm.gov](mailto:rmadrid@santafecountynm.gov)

35 Camino Justicia – Santa Fe, New Mexico 87508

## MEMORANDUM

To: Board of County Commissioners

Fr: Undersheriff Ron Madrid

A handwritten signature in black ink, appearing to read 'Ron Madrid', is written over the 'Fr:' line.

Date: February 6, 2015

Re: Resolution 2015 - \_\_\_\_\_ A Resolution Requesting a Budget Increase to the Law Enforcement Operations Fund (246) to Budget One (1) Grant Awarded Through the United States Marshals Services for fugitive apprehension in the Amount of \$5,000.  
(Finance / Teresa Martinez)

---

### Issue:

The Santa Fe County Sheriff's Office has been awarded funding from the United States Marshals service for overtime in the amount of \$5,000 and we would like to increase our budget to fund this program. The United States Marshals Office will reimburse us for each month's activity with a claim reimbursement form.

### Background:

The primary mission of the task force is to investigate and arrest, as part of joint law enforcement operations, persons who have active state and federal warrants for their arrest. The intent of the joint effort is to investigate and apprehend local, state and federal fugitives, thereby improving public safety and reducing violent crime. Funding from this program is focused on operations in support of fugitive apprehension.

### Action Requested:

The Sheriff's Office requests approval to increase the Law Enforcement Operation Fund (246) in the amount of \$5,000 to include overtime of deputies to participate in the above grant.



# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

### A RESOLUTION REQUESTING AUTHORIZATION TO MAKE THE BUDGET ADJUSTMENT DETAILED ON THIS FORM

Whereas, the Board of County Commissioners meeting in regular session on February 24, 2015, did request the following budget adjustment:

Department / Division: Sheriff's Office Fund Name: Law Enforcement Operation Fund (LEOF)

Budget Adjustment Type: Increase Budget Fiscal Year: 2015 (July 1, 2014 - June 30, 2015)

#### BUDGETED REVENUES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
246	1232	381	0300	Joint Law Enforcement Operations (JLEO)	\$5,000.00	
<b>TOTAL (if SUBTOTAL, check here )</b>					<b>\$5,000.00</b>	

#### BUDGETED EXPENDITURES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	CATEGORY / LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
246	1232	424	1025	Salary & Wages / Overtime Employee Benefits / FICA Medicare	\$4,927.50	
246	1232	424	2002		\$72.50	
<b>TOTAL (if SUBTOTAL, check here )</b>					<b>\$5,000.00</b>	

Requesting Department Approval: \_\_\_\_\_ Title: Under Sheriff Date: \_\_\_\_\_

Finance Department Approval: Steve Corring Date: April Entered by: \_\_\_\_\_ Date: \_\_\_\_\_

County Manager Approval: \_\_\_\_\_ Date: \_\_\_\_\_ Updated by: \_\_\_\_\_ Date: \_\_\_\_\_

# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

*ATTACH ADDITIONAL SHEETS IF NECESSARY.*

**DEPARTMENT CONTACT:**

Name: Undersheriff Ron Madrid Dept/Div: Sheriff's Office/LEOF

Phone No.: (505) 986-2457

**DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):**

- 1) Please summarize the request and its purpose.
  - The United States Marshals has granted the Santa Fe Sheriff's Office a grant in the amount of \$5,000 to use for overtime reimbursement in support of the Joint Law Enforcement Operations (JLEO) program. The primary mission of the task force is to investigate and arrest, as part of the joint law enforcement operations, persons who have active state and federal warrants for their arrest. The intent of the joint effort is to investigate and apprehend local, state and federal fugitives, thereby improving public safety and reducing violent crime.

**a) Employee Actions**

Line Item	Action (Add/Delete Position, Reclass, Overtime)	Position Type (permanent, term)	Position Title
10.25	Overtime	Full-Time / Permanent	Deputy / Patrol

**b) Professional Services (50-xx) and Capital Category (80-xx) detail:**

Line Item	Detail (what specific things, contracts, or services are being added or deleted)	Amount

- 2) Is the budget action for RECURRING expense  or for NON-RECURRING (one-time only) expense \_\_\_\_\_

SANTA FE COUNTY

RESOLUTION 2015 - \_\_\_\_\_

DEPARTMENT CONTACT:

Name: Undersheriff Ron Madrid Dept/Div: Sheriff's Office/L.EOP Phone No.: (505) 986-2457

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 3) Does this request impact a revenue source? If so, please identify (i.e. General Fund, state funds, federal funds, etc.), and address the following:
  - a) If this is a state special appropriation, YES \_\_\_\_\_ NO X  
If YES, cite statute and attach a copy.
  - b) Does this include state or federal funds? YES X NO \_\_\_\_\_  
If YES, please cite and attach a copy of statute, if a special appropriation, or include grant name, number, award date and amount, and attach a copy of award letter and proposed budget.

Joint Law Enforcement Operations (JLEO) Program

Project #(s): JLEOTFS4 (Fund#AF-B-OP)  
 Award Amt: \$5,000.00  
 Award Period(s): October 1, 2014 through September 30, 2015

- c) Is this request a result of Commission action? YES \_\_\_\_\_ NO X  
If YES, please cite and attach a copy of supporting documentation (i.e. Minutes, Resolution, Ordinance, etc.).
- d) Please identify other funding sources used to match this request. N/A

SANTA FE COUNTY

RESOLUTION 2015 - \_\_\_\_\_

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County that the Local Government Division of the Department of Finance and Administration is hereby requested to grant authority to adjust budgets as detailed above.

Approved, Adopted, and Passed This \_\_\_\_\_ Day of \_\_\_\_\_, 2015.

Santa Fe Board of County Commissioners

\_\_\_\_\_  
Robert Anaya, Chairperson

ATTEST:

\_\_\_\_\_  
Geraldine Salazar, County Clerk

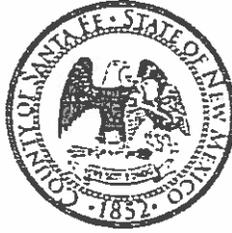




Henry P. Roybal  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## Memorandum

**To:** Santa Fe Board of County Commissioners

**From:** Donna Morris, Fire Department

**Thru:** David Sperling, Fire Chief *DS*  
Pablo Sedillo, Public Safety Director *PS*  
Katherine Miller, County Manager *KM*

**Date:** February 9, 2015

**Re:** Resolution 2015 - A Resolution Requesting a Budget Increase to the Fire Operations Fund (244) to Budget a 2014 State Homeland Security Grant Award / \$59,000. (Public Safety/Fire)

---

### BACKGROUND:

The Santa Fe County Fire Department is requesting BCC approval to budget a new 2014 Homeland Security grant award in the amount of \$59,000. This grant has been awarded to purchase equipment such as MCI and Tactical Medical Kits, Stretchers, Litters, Blankets Burn Kits and Rescue Taskforce Vests. This equipment purchase has been approved by Homeland Security and will be utilized for Mass Casualty Incident Preparedness for Hostile Events.

### SUMMARY:

Please approve this request for a budget increase to the Fire Operations Fund (244) in the amount of \$59,000.



# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

### A RESOLUTION REQUESTING AUTHORIZATION TO MAKE THE BUDGET ADJUSTMENT DETAILED ON THIS FORM

Whereas, the Board of County Commissioners meeting in regular session on February 24, 2015, did request the following budget adjustment:

Department / Division: PS/Fire Department/Emergency Management Fund Name: Fire Operations Fund (244)

Budget Adjustment Type: Budget Increase Fiscal Year: 2015 (July 1, 2014 - June 30, 2015)

**BUDGETED REVENUES: (use continuation sheet, if necessary)**

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
244	0882	372	00-00	Federal Grants/2014 Homeland Security Grant	59,000	
<b>TOTAL (if SUBTOTAL, check here )</b>					<b>59,000</b>	

**BUDGETED EXPENDITURES: (use continuation sheet, if necessary)**

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	CATEGORY / LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
244	0882	422	60-05	Supplies/Non Capital Med & Lab	8,350	
244	0882	422	80-17	Capital Purchases/Medical Equipment	15,700	
244	0882	422	80-99	Capital Purchases/Inventory Exempt	34,950	
<b>TOTAL (if SUBTOTAL, check here )</b>					<b>59,000</b>	

Requesting Department Approval: [Signature] Title: Chief Date: 2.10.15

Finance Department Approval: [Signature] Date: 2/10/15 Entered by: \_\_\_\_\_ Date: \_\_\_\_\_

County Manager Approval: \_\_\_\_\_ Date: \_\_\_\_\_ Updated by: \_\_\_\_\_ Date: \_\_\_\_\_

# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

**ATTACH ADDITIONAL SHEETS IF NECESSARY.**

DEPARTMENT CONTACT: Name: Donna Morris Dept/Div: Fire Department/Administration Phone No.: 992-3082

**DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):**

- 1) Please summarize the request and its purpose.

Requesting BCC approval for a budget increase to the Fire Operations Fund (244) to budget a newly awarded grant number EMW-2014-SS-00030-S01 CFDA No. 97.067 to purchase previously approved equipment for Mass Casualty Incident Preparedness for Hostile Events.

**a) Employee Actions**

Line Item	Action (Add/Delete Position, Reclass, Overtime)	Position Type (permanent, term)	Position Title

**b) Professional Services (50-xx) and Capital Category (80-xx) detail:**

Line Item	Detail (what specific things, contracts, or services are being added or deleted)	Amount
80-17	MCI Medical Kits	15,700
80-99	Rescue Task Force Vests, Tactical Medical Kits	34,950

- 2) Is the budget action for RECURRING expense \_\_\_\_\_ or for NON-RECURRING (one-time only) expense  X

SANTA FE COUNTY

RESOLUTION 2015 - \_\_\_\_\_

ATTACH ADDITIONAL SHEETS IF NECESSARY.

DEPARTMENT CONTACT:

Name: Donna Morris Dept/Div: Fire Department Administration Phone No.: 992-3082

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 3) Does this request impact a revenue source? If so, please identify (i.e. General Fund, state funds, federal funds, etc.), and address the following:
  - a) If this is a state special appropriation, YES NO NO X  
If YES, cite statute and attach a copy.
  - b) Does this include state or federal funds? YES X NO NO  
If YES, please cite and attach a copy of statute, if a special appropriation, or include grant name, number, award date and amount, and attach a copy of a award letter and proposed budget.
  - c) Is this request a result of Commission action? YES NO NO X  
If YES, please cite and attach a copy of supporting documentation (i.e. Minutes, Resolution, Ordinance, etc.).
  - d) Please identify other funding sources used to match this request.

Not Applicable.

2014 State Homeland Security Grant Program. 2014 Federal Grant No. EMW-2014-SS-00030-S01 C/FDA No. 97.067 Grant/Amendment I attached.

SANTA FE COUNTY  
RESOLUTION 2015 - \_\_\_\_\_

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County that the Local Government Division of the Department of Finance and Administration is hereby requested to grant authority to adjust budgets as detailed above.

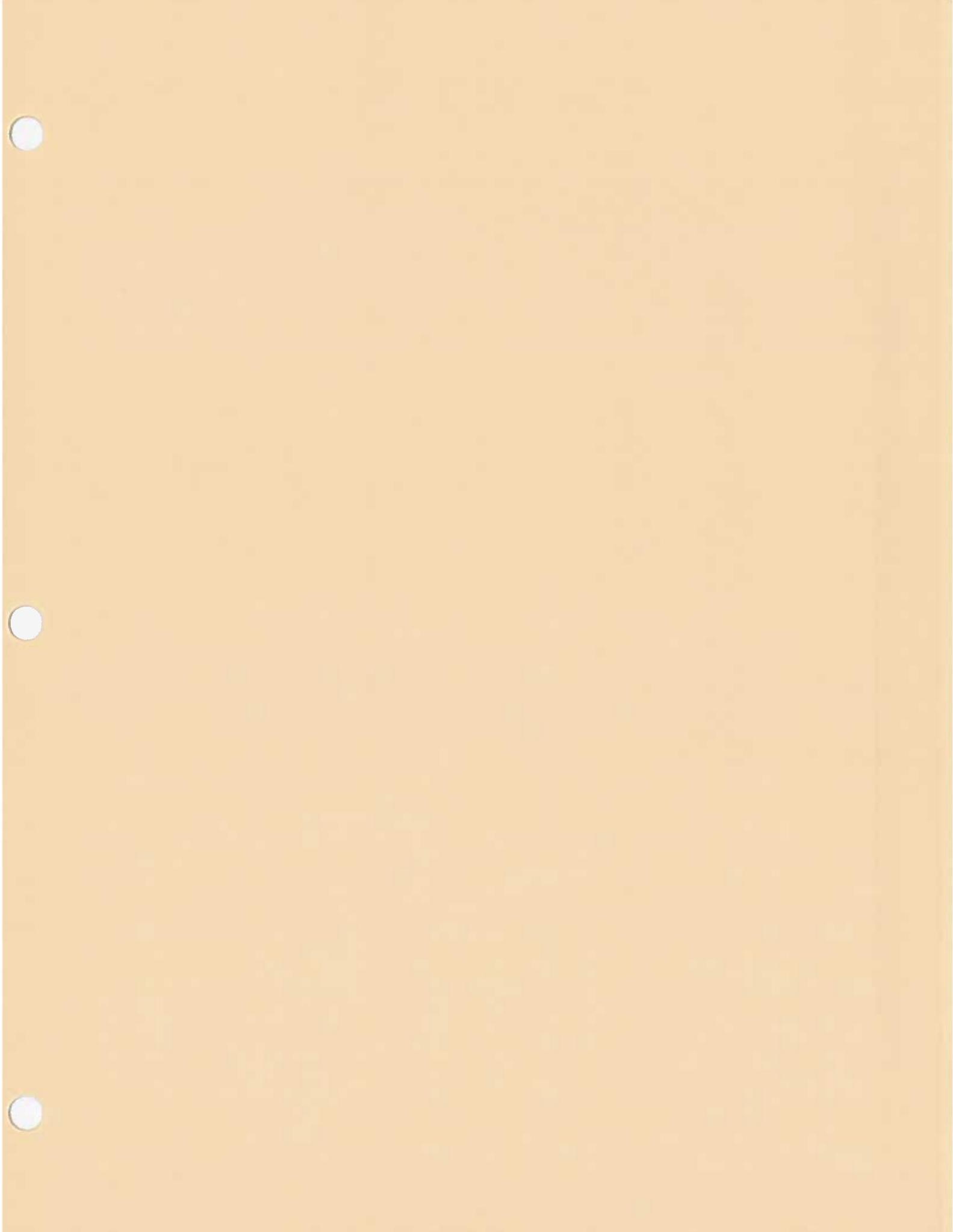
Approved, Adopted, and Passed This 24th Day of February, 2015.

Santa Fe Board of County Commissioners

\_\_\_\_\_  
Robert A. Anaya, Chair

ATTEST:

\_\_\_\_\_  
Geraldine Salazar, County Clerk

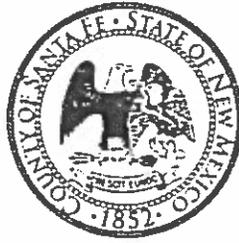




Henry P. Roybal  
Commissioner, District 1

Miguel Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

**DATE:** February 4, 2014

**TO:** Santa Fe County Board of County Commissioners

**FROM:** Teresa Martinez, Finance Director 

**VIA:** Rachel O'Connor, Director Community Services Department  
Lupe Sanchez, Coordinator DWI Program

**ITEM AND ISSUE:** BCC Meeting February 24, 2015

**Resolution 2015 - \_\_\_\_\_ A Resolution Requesting a Budget Decrease to the Alcohol Programs Fund (241) / Community DWI Program to Budget the Precise Amount Awarded to the DWI Program. / -\$5,000 (Finance/Teresa Martinez)**

---

### SUMMARY:

The purpose of this resolution is to request approval authorizing to make a budget adjustment to the Community DWI Grant by decreasing the original budget amount by \$5,000.00 for a total accurate budget of \$27,743.00. This is due to the fact that the estimated amount of revenue realized was lower than originally projected.

### BACKGROUND:

Community DWI (CDWI) funds are generated from a \$75.00 fee imposed on convicted drunk drivers. CDWI funding provides services and/or items to the community to reduce DWI crashes and fatalities and work with local law enforcement agencies to conduct high visibility DWI enforcement activities to increase public safety. These funds are spent on overtime for checkpoints/saturation patrols and equipment for law enforcement officers. The fully executed agreement was completed on December 2, 2014 in which the amount of the award was then recognized.

### ACTION REQUESTED:

Staff recommends the approval of this resolution.



# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

### A RESOLUTION REQUESTING AUTHORIZATION TO MAKE THE BUDGET ADJUSTMENT DETAILED ON THIS FORM

Whereas, the Board of County Commissioners meeting in regular session on \_\_\_\_\_, did request the following budget adjustment:

Department / Division: Community Services Fund Name: Alcohol Programs Fund (241)

Budget Adjustment Type: Decrease in Budget Fiscal Year: 2015 (July 1, 2014 - June 30, 2015)

**BUDGETED REVENUES: (use continuation sheet, if necessary)**

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
241	0405	371	04-00			\$5,000
<b>TOTAL (if SUBTOTAL, check here)</b>						\$5,000

**BUDGETED EXPENDITURES: (use continuation sheet, if necessary)**

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	CATEGORY / LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
241	0405	464	50-03			\$5,000
<b>TOTAL (if SUBTOTAL, check here)</b>						\$5,000

Requesting Department Approval: *Richard Olano* Title: Department Director Date: 2/7/15

Finance Department Approval: *Kevin Christy* Date: None Entered by: \_\_\_\_\_ Date: \_\_\_\_\_

County Manager Approval: \_\_\_\_\_ Date: \_\_\_\_\_ Updated by: \_\_\_\_\_ Date: \_\_\_\_\_

# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

ATTACH ADDITIONAL SHEETS IF NECESSARY.

DEPARTMENT CONTACT: Name: Joyce Varela Dept/Div: Community Services Phone No.: 992-9843

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 1) Please summarize the request and its purpose.

A decrease in budget is necessary in this account to arrive at the actual amount that was awarded from the CDWI Funding to the DWI Program. Originally, the amount was budgeted as an estimate of what was going to be received and now has to be revised accordingly, see copy of the grant agreement attached.

a) Employee Actions

Line Item	Action (Add/Delete Position, Reclass, Overtime)	Position Type (permanent, term)	Position Title

b) Professional Services (50-xx) and Capital Category (80-xx) detail:

Line Item	Detail (what specific things, contracts, or services are being added or deleted)	Amount
50-03	A decrease in funding for the Law Enforcement agencies to utilized for DWI related efforts.	-5,000

- 2) Is the budget action for RECURRING expense \_\_\_\_\_ or for NON-RECURRING (one-time only) expense X

SANTA FE COUNTY

RESOLUTION 2015 - \_\_\_\_\_

ATTACH ADDITIONAL SHEETS IF NECESSARY.

DEPARTMENT CONTACT:

Name: Joyce Yarcia Dept/Div: Community Services Phone No.: 992-9843

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 3) Does this request impact a revenue source? If so, please identify (i.e. General Fund, state funds, federal funds, etc.), and address the following:
  - a) If this is a state special appropriation, YES \_\_\_\_\_ NO X  
If YES, cite statute and attach a copy.
  - b) Does this include state or federal funds? YES X NO \_\_\_\_\_  
If YES, please cite and attach a copy of statute, if a special appropriation, or include grant name, number, award date and amount, and attach a copy of a award letter and proposed budget.
  - c) Is this request is a result of Commission action? YES \_\_\_\_\_ NO X  
If YES, please cite and attach a copy of supporting documentation (i.e. Minutes, Resolution, Ordinance, etc.).
  - d) Please identify other funding sources used to match this request.

Grant Name: Community DWI Funding  
Grant Amount: \$27,743.00

Grant Number: 15-CD-05-091  
Date Awarded: December 2, 2014

**SANTA FE COUNTY**  
**RESOLUTION 2015 - \_\_\_\_\_**

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Santa Fe County that the Local Government Division of the Department of Finance and Administration is hereby requested to grant authority to adjust budgets as detailed above.

Approved, Adopted, and Passed This \_\_\_\_\_ Day of \_\_\_\_\_, 2015.

Santa Fe Board of County Commissioners

Robert A. Anaya, Chairperson

**ATTEST:**

Geraldine Salazar, County Clerk





Henry P. Roybal  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

To: Santa Fe County Board of County Commissioners

From: Rachel O'Connor, Community Services Department Director

Via: Katherine Miller, County Manager

Date: February 9, 2015

Re: **RESOLUTION 2015-** A Resolution Requesting A Budget Increase to the EMS Health Care Fund (232) For A New Mexico Department Of Health Grant For Health Action Planning and Programming / \$5,000 (Community Services Department/Rachel O'Connor)

---

### ISSUE

The Public Health Division of the New Mexico Department of Health (DOH) offered county health councils the option of receiving \$5,000 in furtherance of health action planning and programming. On behalf of the Health Policy and Planning Commission (HPPC), the Community Services Department would like to accept this funding. The \$5,000 budget increase requires BCC approval.

### BACKGROUND

The Community Services Department and HPPC completed *Santa Fe County Health Action Plan FY 2015-2017*, which sets forth health priorities and was adopted by the BCC. The Public Health Division of DOH has agreed to provide \$5,000 in furtherance of these efforts.

### RECOMMENDATION

The Community Services Department recommends approval of the \$5,000 budget increase for the Community Services Department as offered by the Public Health Division of DOH in furtherance of health action planning and programming.



# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

### A RESOLUTION REQUESTING AUTHORIZATION TO MAKE THE BUDGET ADJUSTMENT DETAILED ON THIS FORM

Whereas, the Board of County Commissioners meeting in regular session on February 24, 2015, did request the following budget adjustment:

Department / Division: Community Services Department Fund Name: EMS Health Care Fund 232

Budget Adjustment Type: Budget Increase Fiscal Year: 2015 (July 1, 2014 - June 30, 2015)

**BUDGETED REVENUES: (use continuation sheet, if necessary)**

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
232	0421	371	0500	State Grants/DOII	\$5,000	
TOTAL (if SUBTOTAL, check here )					\$5,000	

**BUDGETED EXPENDITURES: (use continuation sheet, if necessary)**

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	CATEGORY / LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
232	0421	461	50-03	Contractual/professional services	\$5,000	
TOTAL (if SUBTOTAL, check here )					\$5,000	

Requesting Department Approval: Rachel O'Connor Title: Director, Community Services Department Date: 2/10/15

Finance Department Approval: [Signature] Date: 2/10/15 Entered by: \_\_\_\_\_ Date: \_\_\_\_\_

County Manager Approval: \_\_\_\_\_ Date: \_\_\_\_\_ Updated by: \_\_\_\_\_ Date: \_\_\_\_\_

# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

*ATTACH ADDITIONAL SHEETS IF NECESSARY:*

DEPARTMENT CONTACT: Name: Patricia Boies Dept/Div: Community Services Department Phone No.: 995-9538

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (if applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 1) Please summarize the request and its purpose. The Public Health Division of the New Mexico Department of health is providing \$5,000 to Santa Fe County Community Services Department (CSD) to assist with the County's health council, the Santa Fe County Health Policy and Planning Commission. (See attached confirmation letter from Barbara Howe, Deputy Director.). These funds will support priorities for the health action plan.

a) Employee Actions

Line Item	Action (Add/Delete Position, Reclass, Overtime)	Position Type (permanent, term)	Position Title
N/A			

b) Professional Services (50-xx) and Capital Category (80-xx) detail:

Line Item	Detail (what specific things, contracts, or services are being added or deleted)	Amount
50-03	Contractual/professional services	\$5,000

- 2) Is the budget action for RECURRING expense \_\_\_\_\_ or for NON-RECURRING (one-time only) expense  X

# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

*ATTACH ADDITIONAL SHEETS IF NECESSARY.*

DEPARTMENT CONTACT: Name: Patricia Boies Dept/Div: Community Services Department Phone No.: 995-9538

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 3) Does this request impact a revenue source? If so, please identify (i.e. General Fund, state funds, federal funds, etc.), and address the following:
  - a) If this is a state special appropriation, YES \_\_\_\_\_ NO X  
If YES, cite statute and attach a copy.
  - b) Does this include state or federal funds? YES X NO \_\_\_\_\_  
If YES, please cite and attach a copy of statute, if a special appropriation, or include grant name, number, award date and amount, and attach a copy of a award letter and proposed budget.
  - c) Is this request is a result of Commission action? YES \_\_\_\_\_ NO X  
If YES, please cite and attach a copy of supporting documentation (i.e. Minutes, Resolution, Ordinance, etc.).
  - d) Please identify other funding sources used to match this request. N/A

SANTA FE COUNTY

RESOLUTION 2015 - \_\_\_\_\_

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County that the Local Government Division of the Department of Finance and Administration is hereby requested to grant authority to adjust budgets as detailed above.

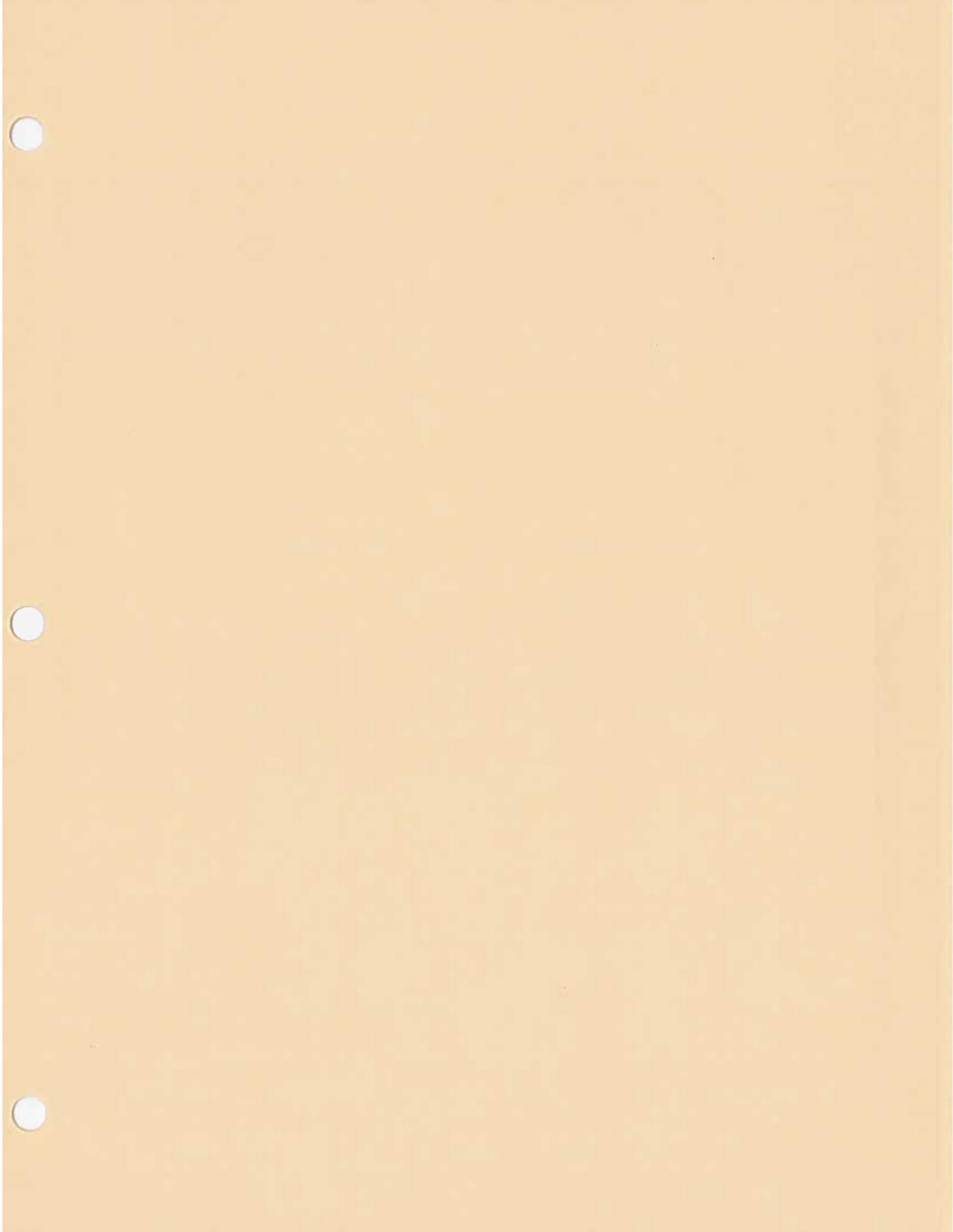
Approved, Adopted, and Passed This 24th Day of February, 2015.

Santa Fe Board of County Commissioners

\_\_\_\_\_  
Robert A. Anaya, Chairperson

ATTEST:

\_\_\_\_\_  
Geraldine Salazar, County Clerk





Henry P. Roybal  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

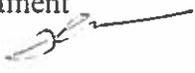
Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## Memorandum

**To:** Santa Fe County Board of County Commissioners

**From:** Teresa Martinez  
Santa Fe County Finance Department

**Through:** Katherine Miller *Kem*   
Santa Fe County Manager

**Date:** February 5, 2015

**Subject:** Resolution 2015 – \_\_\_\_ A Resolution Requesting a Budget Increase to the State Special Appropriations Fund (318) to Budget a Grant Awarded Through the State of New Mexico For the Vista Grande Library / \$18,440 (Finance/Teresa Martinez)

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### Issue:

The Community Services Department is submitting a Budget Adjustment Request (BAR) to budget General Obligation Bonds in the amount of \$18,440.00 to Vista Grande Library.

### Background:

The Vista Grande Library located in El Dorado was awarded a grant through the State of New Mexico, Department of Cultural Affairs, State Library Division to acquire library books, equipment, and library resources in the amount of \$18,439.90. Santa Fe County is designated as the fiscal agent for the funds.

### Staff Recommendations

The Community Services Department recommends that the Budget Adjustment Request be approved.



# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

### A RESOLUTION REQUESTING AUTHORIZATION TO MAKE THE BUDGET ADJUSTMENT DETAILED ON THIS FORM

Whereas, the Board of County Commissioners meeting in regular session on February 24, 2015, did request the following budget adjustment:

Department / Division: CSD/Community Operations Fund Name: State Special Appropriations Fund (318)

Budget Adjustment Type: Budget Increase Fiscal Year: 2015 (July 1, 2014 - June 30, 2015)

BUDGETED REVENUES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
318	0739	371	9000	State/Other	\$18,440	
<b>TOTAL (if SUBTOTAL, check here )</b>					<b>\$18,440</b>	

BUDGETED EXPENDITURES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	CATEGORY / LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
318	0739	481	6007	Operational Supplies	1,050	
318	0739	481	6090	Other Supplies	2,385	
318	0739	481	8003	Equipment & Machinery	500	
318	0739	481	8004	Furniture & Fixtures	3,745	
318	0739	481	8015	Capital Purchases/ Computers & Peripherals	10,760	
<b>TOTAL (if SUBTOTAL, check here )</b>					<b>\$18,440</b>	

Requesting Department Approval: *Mark DeCarm* Title: CSD/Director Date: 2/3/2015

Finance Department Approval: *Stewart Anderson* Date: 2/3/15 Entered by: \_\_\_\_\_ Date: \_\_\_\_\_

County Manager Approval: \_\_\_\_\_ Date: \_\_\_\_\_ Updated by: \_\_\_\_\_ Date: \_\_\_\_\_

# SANTA FE COUNTY

## RESOLUTION 2015 - \_\_\_\_\_

ATTACH ADDITIONAL SHEETS IF NECESSARY:

DEPARTMENT CONTACT: Name: Anna Bransford Dept/Div: CSD/Community Operations Phone No.: 505-992-9838

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 1) Please summarize the request and its purpose.  
The Vista Grande Library was awarded a grant through State of New Mexico. Department of Cultural Affairs, State Library Division to acquire library books, equipment and library resources in the amount of \$18,439.90. Santa Fe County is designated as the fiscal agent for the funds.

a) Employee Actions

Line Item	Action (Add/Delete Position, Reclass, Overtime)	Position Type (permanent, term)	Position Title

b) Professional Services (50-xx) and Capital Category (80-xx) detail:

Line Item	Detail (what specific things, contracts, or services are being added or deleted)	Amount
6007	Operational Supplies for Vista Grande Library, such as bar codes, books, etc.	1,050
6090	Other Supplies for Vista Grande Library, Such as signage	2385
8003	Equipment & Machinery for Vista Grande Library, such as security cameras	500
8004	Furniture & Fixtures For Vista Grande Library, such as additional shelving	3745
8015	Computer & Peripherals for Vista Grande Library, such as printer purchases, and wiring	10,760

- 2) Is the budget action for RECURRING expense \_\_\_\_\_ or for NON-RECURRING (one-time only) expense  X \_\_\_\_\_

SANTA FE COUNTY

RESOLUTION 2015 - \_\_\_\_\_

ATTACH ADDITIONAL SHEETS IF NECESSARY.

DEPARTMENT CONTACT:

Name: Anna Bransford Dept/Div: CSD/Community Operations Phone No.: 505-992-9838

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 3) Does this request impact a revenue source? If so, please identify (i.e. General Fund, state funds, federal funds, etc.), and address the following:
  - a) If this is a state special appropriation, YES  NO  IF YES, cite statute and attach a copy.

“Laws of New Mexico 2012, Chapter 54, Section 10, Paragraph B(1)(b), three million dollars (\$3,000,000.00), for equipment and supplemental library resource acquisitions, including print, non-print and electronic resources, and for planning, designing and constructing capital improvements to include library facilities for public libraries statewide. The Grantee’s total reimbursements shall not exceed, Eighteen Thousand Four Hundred Thirty Nine Dollars and Ninety Cents (\$18,439.90) (The “Adjusted Appropriation Amount”).

- b) Does this include state or federal funds? YES  NO  If YES, please cite and attach a copy of statute, if a special appropriation, or include grant name, number, award date and amount, and attach a copy of a award letter and proposed budget.

Name: Vista Grande Library  
Project No.: GOB13-12-1233  
Date: February 19, 2014  
Amount: \$18,439.90

- c) Is this request is a result of Commission action? YES  NO  If YES, please cite and attach a copy of supporting documentation (i.e. Minutes, Resolution, Ordinance, etc.).

- d) Please identify other funding sources used to match this request.  
N/A

**SANTA FE COUNTY**  
**RESOLUTION 2015 - \_\_\_\_\_**

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Santa Fe County that the Local Government Division of the Department of Finance and Administration is hereby requested to grant authority to adjust budgets as detailed above.

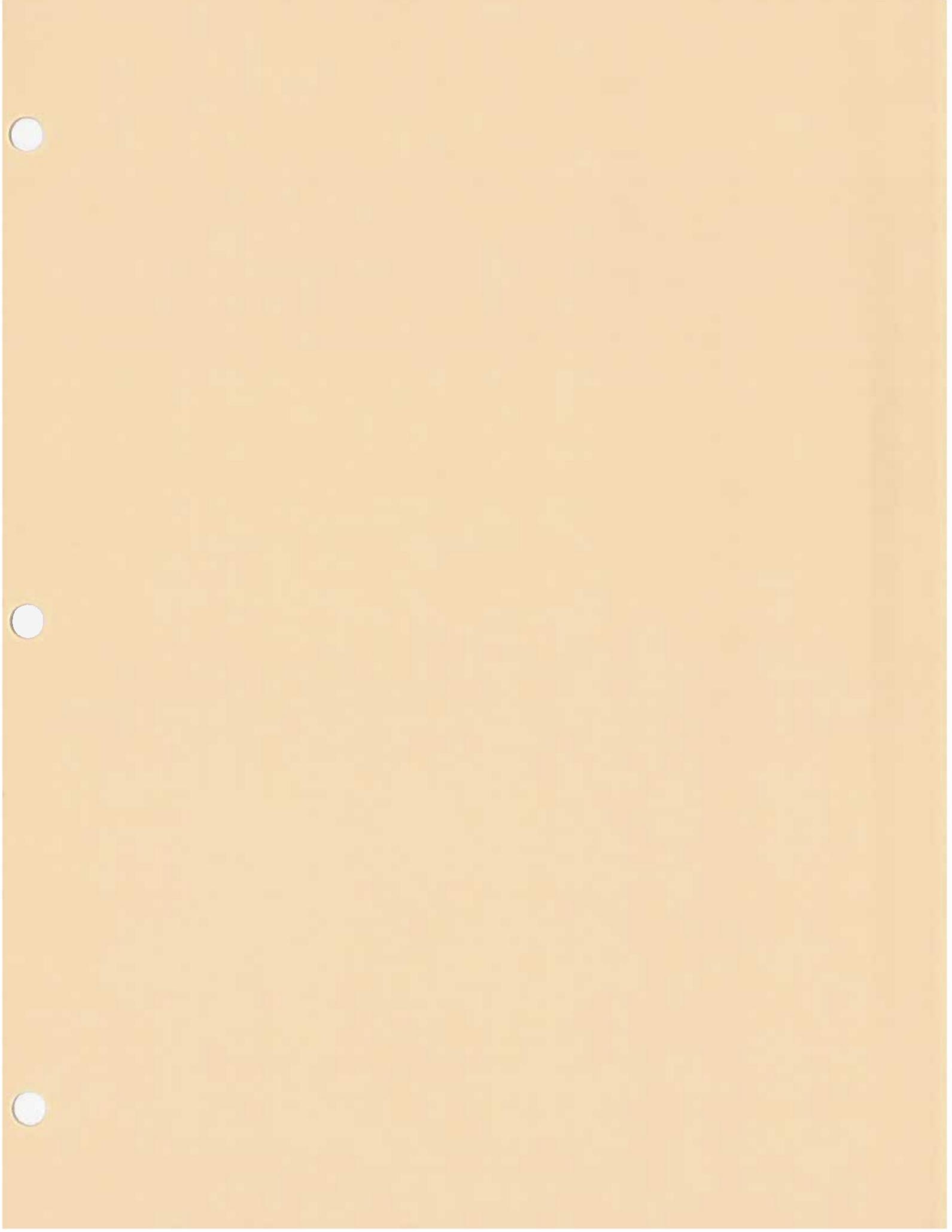
Approved, Adopted, and Passed This \_\_\_\_\_ Day of \_\_\_\_\_, 2015.

Santa Fe Board of County Commissioners

\_\_\_\_\_  
Robert A. Anaya, Chairperson

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, County Clerk

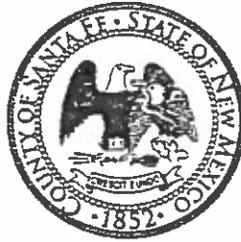




Henry P. Roybal  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

**Memorandum**

**To:** Santa Fe County Board of County Commissioners

**Through:** Katherine Miller, County Manager *KM*  
Rachel O'Connor, Director, Community Services Department

**From:** Lupe Sanchez, Coordinator DWI Program

**Date:** January 26, 2015

**Subject:** **RESOLUTION AUTHORIZING THE COUNTY TO SUBMIT APPLICATIONS TO THE NM DEPARTMENT OF FINANCE AND ADMINISTRATION TO REQUEST DWI GRANT FUNDS AND DELEGATING TO THE COUNTY MANAGER THE AUTHORITY TO EXECUTE AND SUBMIT SUCH APPLICATIONS AND EXECUTE ALL REQUIRED DOCUMENTS AND AGREEMENTS .**

---

This resolution authorizes Santa Fe County to submit two applications requesting grant funds pursuant to the Local DWI Grant Program Act, NMSA 1978, § 11-6A-1, et seq. The resolution also delegates to the County Manager the authority to sign and submit the applications to the Department of Finance and Administration, Local Government Division, as well as execute all other documents and agreements required as part of the application process. The applications request grant funding pursuant to the Local DWI Detoxification Grant Program and the Local DWI Grant and Distribution Program.

**Background:**

Local DWI funds provide the bulk of the funding for the Santa Fe County DWI Program. These funds are generated from excise tax on the sale of alcohol, collected by the New Mexico Department of Taxation and Revenue, and administered by the Department of Finance and Administration (DFA). Each year, Santa Fe County will be required to submit applications to DFA and indicate how the funds will be utilized. These applications are for FY 2016, with projected dollar amounts of \$300,000.00 for the Local DWI Detoxification Grant Program and \$1,355,712.31 for the Local DWI Grant and Distribution Program.

County staff developed the applications and incorporated suggestions regarding the expenditure of funding from staff and the DWI Planning Council. Funding priorities were also guided by the DWI Strategic Plan developed in 2014. This Resolution was endorsed by the DWI Planning Council.

**Staff Recommendation:**

The Santa Fe County DWI Planning Council recommends the approval of this resolution. Staff supports this recommendation.

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# **SANTA FE COUNTY**

## **Resolution No. 2015 -**

### **A RESOLUTION AUTHORIZING THE COUNTY TO SUBMIT APPLICATIONS FOR DWI GRANT FUNDING AND DELEGATING TO THE COUNTY MANAGER THE AUTHORITY TO EXECUTE AND SUBMIT THE DWI GRANT APPLICATIONS INCLUDING ALL REQUIRED DOCUMENTATION AND AGREEMENTS**

**WHEREAS**, the New Mexico Legislature enacted the Local DWI Grant Program Act (the "Act"), NMSA 1978, § 11-6A-1, et seq. to address the problems related to driving while intoxicated and alcohol use and abuse in the state; and

**WHEREAS**, under the Act a program has been established to make grant and distribution funding available to counties and municipalities for new, innovative or model programs, services or activities to prevent or reduce the incidence of domestic abuse related to DWI, DWI, alcoholism and alcohol abuse; and

**WHEREAS**, the Santa Fe County DWI Planning Council supports submission of applications seeking grant and distribution funding; and

**WHEREAS**, Santa Fe County annually submits applications, along with participating agencies, to the Department of Finance and Administration ("DFA") for funding under the Local DWI Grant and Distribution Program; and

**WHEREAS**, for programs and services in FY 2016 the County DWI Program wishes to submit two (2) applications for grant funding: (1) A request for \$300,000.00 for detoxification services provided with the assistance of a participating entity; and (2) a request for \$1,355,712.31 for the Santa Fe County DWI program to provide adolescent prevention services; increase law enforcement efforts to provide screening and compliance monitoring for DWI offenders; and to increase public awareness of DWI prevention in Santa Fe County; and

**WHEREAS**, the application process requires the Board of County Commissioners of Santa Fe County ("BCC") to adopt this resolution authorizing the County's submission of the applications for DWI grant funding; and

**WHEREAS**, and completion of the County's application for DWI grant funding is facilitated by the BCC's delegation to the County Manager of the authority to execute and submit the applications and all documents and agreements required by DFA as part of the application process; and

**WHEREAS**, applications are required to be accompanied by a Statement of Assurances; a DOH Assurances and Cooperative Agreement; and a Memorandum of Understanding between the County and DFA governing the County's expenditure of the grant funding in Fiscal Year 2016 for the DWI prevention and detoxification programs (copies of which are attached hereto).

**NOW THEREFORE, BE IT RESOLVED THAT:**

1. Santa Fe County shall submit two applications for grant funding under § 11-6A-6 of the Local DWI Grant Program Act.
2. The County Manager is hereby delegated the authority to execute and submit two (2) applications for funding: (1) A request for \$300,000.00 for detoxification services provided with the assistance of a participating entity; and (2) a request for \$1,355,712.31 for the Santa Fe County DWI program to provide adolescent prevention services; increase law enforcement efforts to provide screening and compliance monitoring for DWI offenders; and to increase public awareness of DWI prevention in Santa Fe County.
3. The County Manager is hereby delegated the authority to execute all required documentation and agreements including the Local DWI Grant and Distribution Program Statement of Assurances, DOH Assurances and Cooperative Agreement, and the Memorandum of Understanding between the County and the Department of Finance and Administration governing expenditure of funds for FY 2016.

APPROVED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2015.

SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS

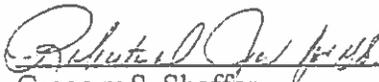
\_\_\_\_\_  
Robert A. Anaya, Chair

ATTESTATION:

\_\_\_\_\_  
Geraldine Salazar  
Santa Fe County Clerk

\_\_\_\_\_  
Date

Approved as to form:

  
\_\_\_\_\_  
Gregory S. Shaffer  
County Attorney

**STATEMENT OF ASSURANCES**  
**Local DWI Grant and Distribution Program**  
**Project Year 15: July 1, 2015 – June 30, 2016**

The applicant hereby assures and certifies compliance with the following statutes, rules, regulations, and guidelines associated with the acceptance and use of funds under the New Mexico Local DWI Grant and Distribution Program:

1. Compliance with the provisions of the New Mexico Local DWI Grant Program Act, Sections 11-6A-1 through 11-6A-6 NMSA 1978 as amended, the regulations, and the approved LDWI Guidelines.
2. The applicant has the responsibility and legal authority to receive and expend funds as described in the grant and distribution project description, as well as to finance the grantee share (if any) of costs of the project, including all project overruns.
3. Compliance with the State Procurement Code, with the exception of Home Ruled Governments, and submission of all related procurement documents to the Local Government Division for administrative review and approval, prior to execution, including, but not limited to: requests for professional services (RFPs); advertisements; minutes of pertinent meetings; contract selection and award criteria. All project-related services, activities or programs done through a service provider must be implemented through a professional services contract. Any project-related contract, subcontract, or agreement and related amendments, providing services to the grant or distribution program, must be submitted for administrative review by the Division prior to execution.
4. Adherence to all financial, accounting, and reporting requirements of the Department of Finance and Administration. Distribution programs will include with each quarterly narrative progress report the Grant Fund Agreement Exhibit F, The Local DWI Distribution Program Financial Status Report. Grant programs will include with each quarterly narrative progress report the Local DWI Program Request for Payment/Financial Status Report, Exhibit D. The said reports shall contain narrative and/or bulleted highlights of accomplishments and/or problems and delays encountered to date, a detailed budget breakdown of expenditures to date, a summary of any fees collected and/or expended, the Managerial Data Set, Planning Council meeting agendas and minutes, and such other information following the objectives of the county's evaluation as may be of assistance to the Division in its evaluation.
5. Compliance with the requirement to not budget, nor expend, any of the grant amount awarded or the amount distributed for **indirect administrative costs** incurred during the grant or distribution fiscal period. Requests for payment or financial status reports shall document all direct program administrative expenditures and in-kind/match administrative expenditures.

6. Compliance with the requirement to not budget, nor expend, greater than **ten percent** of the grant amount awarded or the amount distributed for **capital outlay** incurred during the grant or distribution fiscal period. Requests for payment or financial status reports shall specify all capital outlay expenditures. **The ten percent cap for capital outlay does not exist with detoxification funding grants.**
  7. Compliance with all required reports, including but not limited to: the first quarter narrative and fiscal reports due on the last working day of October; the second quarter narrative and fiscal reports due on the last working day of January; and the third quarter narrative and fiscal reports due on the last working day of April; the fourth and the final quarter narrative and fiscal reports for the fiscal year due the 15<sup>th</sup> of July; required screening, treatment, and compliance monitoring protocols; required evaluation plans; required fiscal reports; required screening and tracking managerial data reports; and required annual reports.
  8. Compliance with the current Local DWI Grant Program Screening Guidelines. To avoid any conflict of interest, or appearance of conflict of interest, screeners should not be affiliated with any contracted treatment agency. Clients will be given options for treatment and will not be *mandated* to treatment with the same agency that does the screening.
  9. If applicable to the applicant, compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Department of Health and Human Services regulation entitled "Standards for Privacy of Individually Identifiable Health Information", 45 CFR Parts 160 and 164, applicable to entities covered by HIPAA; (the HIPAA Regulations).
  10. Any distribution program under run amount for the fiscal year must be returned to the Local DWI Grant Fund by September 30 of the following fiscal year. Failure to remit an under run to the Local DWI Grant Fund will cause suspension of grant reimbursements and/or future distributions until the remittance is made.
  11. Grant program under runs revert to the Local DWI Grant Fund.
  12. Compliance with all applicable conditions and requirements prescribed by the Division in relation to receipt/accountability of state General Funds.
  13. The grant applicant will follow the scope of work for the grant program, as negotiated with the Local Government Division, and in accordance with the local planning council's approved plan. The applicant will submit any proposed modifications/amendments to the scope of work to the Division for its approval, prior to execution.
  14. The distribution program applicant will follow the local planning council's application as approved by DWI Grant Council in the application review process. The applicant
-

will submit any proposed modifications/amendments to this proposal to the Division for its written approval, prior to execution of changes to programs.

15. Compliance with conflict of interest prohibitions whereby no member, officer, or employee of the grant or the distribution program, or its designee or agents, no voting member of the local planning council or of the governing body of the locality in which the program is situated, and no other public official of such locality who exercises any functions or responsibilities with respect to the program during his/her tenure (or for one year thereafter) shall have any interest, direct or indirect, in any contract or subcontract for work to be performed in the program. The grant and/or the distribution program shall incorporate, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purposes of these stated provisions.
16. Compliance with the maintenance of records as will fully disclose the amount and disposition of the total funds from all sources budgeted for the grant or distribution agreement period, the purpose of undertaking for which such funds were used and the amount and nature of all contributions from other sources, and such other records as the Division shall prescribe. Such records shall be preserved for a period of not less than six (6) years following completion of all the conditions of the grant agreement and the distribution program administrative guidelines.
17. The applicant will provide access to authorized State officials and representatives of all books, accounts, records, reports, files, and other papers, things, or property pertaining to the project in order to make audits, examinations, excerpts and transcripts.
18. The applicant will provide DFA's auditor and evaluator timely access to all program records and information. Additionally, the applicant will assure that records of subcontractors working for the applicant are retained and made available to DFA's auditor and evaluator.

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County Commission Chairperson (or Municipal Mayor)

(Please Type)

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Signature

---

Date



## DOH ASSURANCES AND COOPERATIVE AGREEMENT

The \_\_\_\_\_ County/City DWI Program referred to as the "Program" and the New Mexico Department of Health (DOH), Epidemiology and Response Division hereby receives the following assurances and enters into the following cooperative agreement, to carry out the requirements of the evaluation MOU between DOH and DFA:

The DOH:

1. Acknowledges that it is in full compliance with the provisions concerning research activities in Section 2.52 of Federal confidentiality regulations, 42 CFR Part 2, including:
  - a. That a research protocol is maintained in accordance with the security requirements of § 2.16 of 42 CFR Part 2; and
  - b. That client identifying information will not be re-disclosed except back to the Program from which the information was obtained; and no individual client will be identified in any report resulting from any epidemiologic research; and
  - c. That the Epidemiology and Response Division has provided a satisfactory written statement that a group of three or more individuals who are independent of the research project has reviewed the protocol and determined that:
    - (i) The rights and welfare of clients will be adequately protected; and
    - (ii) The risks in disclosing client identifying information are outweighed by the potential benefits of the research.
2. Acknowledges that in receiving, storing, processing, or otherwise dealing with any information from the Program about the clients in the Program, the Epidemiology and Response Division is fully bound by the provisions of the Federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2; and
3. Undertakes to resist in judicial proceedings any effort to obtain access to information pertaining to patients otherwise than as expressly provided for in the Federal confidentiality regulations, 42 CFR Part 2.

The Program:

1. Agrees to allow the Epidemiology and Response Division access to client records from the web based client screening and tracking system for those clients provided services through the Local Government Division DWI Grant

Program, for the purpose of conducting outcome monitoring research activities.

This agreement will become effective on July 1, 2015.

This agreement will expire on June 30, 2016.

---

Michael Landen, MD, MPH,  
State Epidemiologist and  
Director Epidemiology and Response Division  
New Mexico Department of Health  
Harold Runnels Building  
1190 St. Francis Drive  
Santa Fe, NM 87502

---

County Manager or other  
authorized official

## MEMORANDUM OF UNDERSTANDING

The County/City of \_\_\_\_\_ DWI Program (hereinafter referred to as the "Program") and the New Mexico Department of Finance and Administration/Local Government Division/Driving While Intoxicated Program (hereinafter referred to as "Agency") hereby exchange the following assurances and enter into the following Memorandum of Understanding (MOU):

The Agency assures:

1. That Agency is in full compliance with the provisions concerning research activities in Section 2.52 of the Federal Confidentiality of Alcohol & Drug Abuse Patient Records regulations, 42 CFR Part 2, including Section 2.16.
2. That client identifying information will not be re-disclosed except back to the Program from which the information was obtained, or according to the terms of this MOU.
3. That in receiving, storing, processing, or otherwise dealing with any information from the Program about the clients in the Program, the Agency acknowledges it is bound by the provisions of the Federal Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR Part 2.
4. That the Agency shall undertake to resist any effort to obtain access to information pertaining to patients otherwise than as expressly provided for in the Federal Confidentiality of Alcohol & Drug Abuse Patient Records regulations, 42 CFR Part 2.
5. That the Agency is not a "covered entity" as defined by the Department of Health and Human Services Regulations entitled "Standards for Privacy of Individually Identifiable Health Information", 45 CFR Parts 160 and 164, implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA); (the HIPAA Regulations).
6. That the Agency shall never possess treatment or maintain any "individually identifiable health information" or transmit "protected health information" as defined by the HIPAA Regulations and in the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act).

The Program agrees to:

1. Upon request, provide the Agency or other parties authorized with client records for those clients provided services through the Local Government

Division DWI Grant Program, for the purpose of conducting outcome monitoring research activities, and evaluation of LDWI Program interventions.

2. If applicable, comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) and the Department of Health and Human Services Regulation entitled "Standards for Privacy of Individually Identifiable Health Information", 45 CFR Parts 160 and 164, applicable to entities covered by HIPAA; (the HIPAA Regulations).
3. Report or transmit data to the Agency that deletes and contains no "individually identifiable health information" or "protected health information" as defined by the HIPAA Regulations and the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act).

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Rick Lopez, Director  
Department of Finance & Administration  
Local Government Division  
DWI Program  
Bataan Memorial Building, Suite 203  
Santa Fe, New Mexico 87501

\_\_\_\_\_  
County Commissioner  
  
\_\_\_\_\_  
Date





**Henry P. Roybal**  
Commissioner, District 1

**Miguel Chavez**  
Commissioner, District 2

**Robert A. Anaya**  
Commissioner, District 3



**Kathy Holian**  
Commissioner, District 4

**Liz Stefanics**  
Commissioner, District 5

**Katherine Miller**  
County Manager

## **MEMORANDUM**

**DATE:** *February 11, 2015*

**TO:** *Board of County Commissioners*

**FROM:** *Adam Leigland, Public Works Department Director* *2/11/15*

**VIA:** *Katherine Miller, County Manager* *[Signature]*

**ITEM AND ISSUE:** *BCC Meeting February 24, 2015*

**Resolution 2015 - \_\_\_\_\_ A Resolution Authorizing the County to Enter Into Grant Agreement 14-1699 to Plan, Design and Construct Improvements to the Water System in Chupadero in Santa Fe County in the Amount of \$100,000 and Authorizing the County Manager to Sign the Agreement and Designating Person(s) Who Are Authorized to Sign and Request Reimbursement Requests and Act as a Point of Contact for the Grant Agreement. (Public Works/Adam Leigland)**

### **SUMMARY:**

The purpose of this resolution is to get authorization to enter into Grant Agreement 14-1699 to plan, design, and construct improvements to the water system in Chupadero in Santa Fe County, to authorize the County Manager to sign the agreement and designating person(s) who are authorized to sign and request reimbursement and act as a point of contact for the Grant Agreement.

### **BACKGROUND:**

Santa Fe County received \$100,000 in the 2014 Legislative Session to plan, design, and construct improvements to the water system in Chupadero in Santa Fe County. Santa Fe County is in the process of receiving the ownership and operation of the Chupadero Mutual Domestic Water Consumers Association. The Utilities Division of the Public Works Department is in the process of designing repairs and upgrades to the existing distribution piping, water meters, storage tank and water supply to ensure the systems can be properly operated and maintained.

**ACTION REQUESTED:**

Public Works is requesting approval of a resolution authorizing the County to enter into Grant Agreement 14-1699 in the amount of \$100,000, authorizing the County Manager to sign the agreement, and establishing persons for contact and reimbursement purposes.

SANTA FE COUNTY

RESOLUTION NO. 2015-\_\_\_\_\_

**A RESOLUTION AUTHORIZING THE COUNTY TO ENTER INTO GRANT AGREEMENT 14-1699-STB FOR IMPROVEMENTS THE CHUPADERO WATER SYSTEM IN THE AMOUNT OF \$100,000; AUTHORIZING THE COUNTY MANAGER TO SIGN GRANT AGREEMENT 14-1699-STB; DESIGNATING PERSONS WHO ARE AUTHORIZED TO SIGN AND REQUEST REIMBURSEMENT REQUESTS AND ACT AS A POINTS-OF-CONTACT FOR GRANT AGREEMENT 14-1699-STB**

WHEREAS, the Board of County Commissioners (“BCC”) desire to enter into a Grant Agreement 14-1699-STB with the State of New Mexico Environment Department; and

WHEREAS, the Agreement is identified as Special Appropriation Project 14-1699-STB Grant Agreement; and

WHEREAS, the purpose of the Grant Agreement is to make improvements to the Chupadero Water System.

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Santa Fe County hereby authorizes:

1. Katherine Miller, Santa Fe County Manager, to enter into and execute Grant Agreement 14-1699-STB on behalf of Santa Fe County for this project.
2. Erik H. Aaboe, Project Development Director and Carole H. Jaramillo, Budget Administrator, or his/her successors are the Official Representatives who are authorized to sign and request reimbursement requests and act as a single points of contact concerning all matters related to Grant Agreement 14-1699-STB.

APPROVED, ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

SANTA FE BOARD OF COUNTY COMMISSIONERS

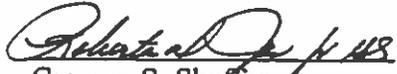
\_\_\_\_\_  
Robert A. Anaya, Chair

ATTESTATION:

\_\_\_\_\_  
Geraldine Salazar  
County Clerk

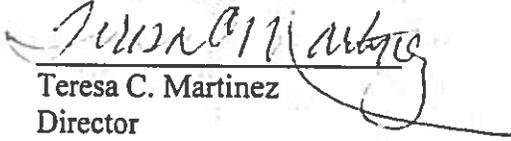
\_\_\_\_\_  
Date

Approved as to form

  
Gregory S. Shaffer  
County Attorney

2-5-15  
Date

Finance Department

  
Teresa C. Martinez  
Director

2/11/15  
Date

STATE OF NEW MEXICO  
DEPARTMENT OF ENVIRONMENT  
FUND 89200 CAPITAL APPROPRIATION PROJECT  
14-1699-STB

THIS AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Department of Environment, Harold Runnels Building, Room S-2072, 1190 St. Francis Drive, Santa Fe, New Mexico, 87505, hereinafter called the "Department" or abbreviation such as "NMED", and Santa Fe 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, 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, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

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:

14-1699 (\$100,000) APPROPRIATION REVERSION DATE: **June 30, 2018**  
Laws of 2014, Chapter 66, Section 16, Paragraph 107, one hundred thousand dollars (\$100,000), to plan, design and construct improvements to the water system in Chupadero in Santa Fe county.

The Grantee's total reimbursements shall not exceed the appropriation amount one hundred thousand dollars (\$100,000) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")<sup>1</sup>, if applicable, zero (\$0), which equals one hundred thousand dollars (\$100,000) (the "Adjusted Appropriation Amount").

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

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." Attachments A and B set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachments A and B impose more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachments A and B 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 Reimburse<sup>2</sup> Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement ;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:

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

- 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 4.
- 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: <u>Santa Fe County</u>	Grantee: <u>Santa Fe County</u>
Name: <u>Eric Aaboe</u>	Name: <u>Agnes Leyba-Cruz</u>
Title: <u>Project Development Director</u>	Title: <u>Projects Specialist</u>
Address: <u>PO Box 276, SF, NM 87504</u>	Address: <u>901 W Alameda Suite 200</u> <u>Santa Fe, NM 87505</u>
Email: <u>eaaboe@santafe.nm.gov</u>	Email: <u>alopez2@santafe.nm.gov</u>
Telephone: <u>(505) 986-6209</u>	Telephone: <u>(505) 995-6516</u>
FAX: <u>(505) 992-9869</u>	FAX: <u>(505) 992-9869</u>

Department: NMED  
Name: Andrea Telmo  
Title: Project Manager, Construction Programs Bureau  
Address: Harold Runnels Bldg. Room S-2072. PO Box 5469  
Santa Fe, NM 87502  
Email: andrea.telmo@state.nm.us  
Telephone: (505) 222-9512  
FAX: (505) 827-2837

The Grantee's designee shall have authority from Grantee to request disbursements. 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, 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 2. 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 2. 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 lieu of 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 information currently required to be reported into the database is set forth in Exhibit 1. 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 3. 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 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**

Attachments A and B are incorporated by reference and made part of the Agreement. This Agreement constitutes the entire and exclusive agreement between the Grantee and Department 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 Santa Fe County may immediately terminate this Agreement by giving Contractor written notice of such termination. The Santa Fe 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 Santa Fe County or the NMED or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Santa Fe 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 NMED Grant Agreement. Should the NMED early terminate the grant agreement, the Santa Fe County may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Santa Fe County’s 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.

**ARTICLE 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 CLAUSES

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

**NEW MEXICO ENVIRONMENT DEPARTMENT**

\_\_\_\_\_  
By:

Its: Cabinet Secretary or Deputy Cabinet Secretary

\_\_\_\_\_  
Date

**ATTACHMENT B – NMENV TECHNICAL REQUIREMENTS  
TO  
STATE OF NEW MEXICO  
CAPITAL APPROPRIATION FUND AGREEMENT**

**ARTICLE 1 REVIEW**

Upon execution of the agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit a detailed project description to NMED Construction Programs Bureau prior to committing to expenditures from these funds. The detailed description will be provided on the Attachment A form. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee prior to this agreement, that are related to the project, for review and, if appropriate, approval.
- B. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit documentation regarding the hiring process to be used and the Request for Proposals (RFP), if applicable, to NMED for review and approval prior to selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If, for any one circumstance, engineering fees will exceed \$60,000, excluding gross receipt taxes, the Grantee is also required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB: phone (505) 888-6161 and e-mail ptab@acecnm.org.)
- C. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit a draft of any engineering agreement and/or other professional services contract, or a letter certifying that the Grantee's staff will be used for design, to NMED for review and approval prior to executing the agreement/contract or using Grantee's staff. The required engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on the website at [www.nmenv.state.nm.us/cpb/cpbttop.html](http://www.nmenv.state.nm.us/cpb/cpbttop.html).
- D. A preliminary engineering report (PER) or study by a registered New Mexico Professional Engineer may be required. If a PER or study is to be prepared, the Grantee and their consultant shall meet with NMED before starting any work for a "scoping" meeting to fully discuss the scope and extent of the PER. The consultant shall present their preliminary outline for the PER, including the alternatives to be considered. The Grantee must submit the final PER and/or study to NMED for review and approval before preparation of plans and specifications. The purpose of the PER and/or study is to analyze and choose the most technically feasible and cost effective solution for the project. The PER must follow USDA RUS Bulletin 1780-2.
- E. Grantee agrees not to start the preparation of plans and specifications until NMED approval of the PER, study, or waiver of the report requirement has been received.

- F. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, specifications, and any addenda for this project (prepared by a registered New Mexico Professional Engineer) to NMED for review and approval before the project is advertised for construction bids.
- G. The Grantee must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. A site certificate certifying that all necessary easements and/or property upon or through which the project is being constructed have been obtained must be submitted prior to the advertisement for bid of the project. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor. The Grantee must submit the recommendation of award, certified bid tabulation, a copy of bid bond for the selected contractor and evidence of full project financing to NMED for review and approval prior to awarding the contract. Grantee shall not award the contract until NMED has concurred in writing with the award. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in Section 13-4-11 NMSA 1978), will be used for awarding construction contracts. Contracts will be awarded to the responsive, responsible bidder who submits the lowest acceptable bid, or as provided for by State Law.
- H. Following NMED approval of the proposed award, the Grantee will submit the notice of the award and the minutes of the meeting in which the award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed to NMED for review. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- I. The selected contractor will submit a construction schedule to the Grantee and NMED if requested at the pre-construction conference with a copy to NMED. The Grantee will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. The decision by NMED will be rendered promptly in writing to the Grantee. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written confirmation to the Grantee.
- J. The Grantee will provide a full-time construction inspector during construction of the project. The Grantee will be required to submit the inspector's résumé to NMED for review and approval. All daily inspection reports shall be made available to the NMED Project Manager upon request.
- K. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans, but will be a general NMED review as described in Article 2 below.
- L. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.

- M. If the grant funds are to be used for construction of wastewater collection lines or water distribution lines, the Grantee will assure NMED that the existing population will connect to the collection system or distribution system within reasonable time after project completion. This will be accomplished by adoption and annual review of an ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law.

## ARTICLE 2 NMED OVERSIGHT

NMED inspection, review and approval are only for purposes of compliance with applicable state grant requirements, procedures, statutes and regulations. NMED approval will not be interpreted as any warranty or guarantee of any kind. Approval of plans and design of the project means only that plans are complete and in compliance with applicable state grant requirements, procedures and regulations. NMED will bring to the Grantee's attention, any obvious defects in the project's design, materials or workmanship, but all such defects and their correction will be the responsibility of the Grantee and its contractors and consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and consultants will remain responsible for the completion and success of the project. Approval does not relieve the owner or engineer of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

## ARTICLE 3 CLOSEOUT

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and NMED.
- B. If the grant funds are to be used for preparation of a PER, a study, or plans and specifications, final payment will be made after approval by NMED of the PER, study, or plans and specifications. Payments do not constitute approval of any of these documents.
- C. If the grant funds are to be used for purchase of equipment, final payment will be made after approval by NMED of receipt of equipment title and appraisal reports for used equipment.
- D. If the grant funds are to be used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
- i. Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals;
  - ii. A final reimbursement request including the final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee;
  - iii. A certificate of substantial completion including punch list items;

- iv. A letter certifying project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED for final review and approval;
- v. Certification letter by the Grantee that the Labor Standards Contract Provisions have been met;
- vi. Record drawings prepared by the Grantee's project engineer or a letter from the owner certifying receipt and acceptance of the record drawings;
- vii. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Grantee or its property might in any way be responsible, have been paid or otherwise satisfied;
- viii. A written consent of the surety, if any, to final payment; and
- ix. Grantee's ledger sheets including all payments made by the Grantee may be requested with the final reimbursement request and before the final reimbursement request can be processed by NMED.

With the exception of easements (See Article 1.G above), when real property is acquired by the Grantee, either through purchase or donation as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED prior to the acquisition of any real property. After real property acquisition, the Grantee will make available to NMED all documents of title pertaining to the acquired property and all easements or rights-of-way necessary for the completion of work under this grant agreement.

STATE OF NEW MEXICO  
 CAPITAL GRANT PROJECT  
 DATABASE PERIODIC REPORT  
 EXHIBIT 1

The Capital Projects Monitoring Systems (CPMS) can be found at: <http://cpms.dfa.state.nm.us>. Below are screenshots from the website on required fields for Local Entities. Please contact your program manager for Login and Password information.

Local Data	
ICIP Project #	
ICIP Priority	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

	Date Completed, Expected Completion Date or N/A	Amount Funded to Date	Future Funding Amounts	Funding Sources	Contractor Name	Contract Amount	Comments
Grant Agreement Issued							
Water Rights Easement & ROW							
Acquisition							
Archaeological Studies							
Environmental Studies							
Planning							
Design							
Construction							
Furnish/Equipment							
Total							

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
PAPER PERIODIC/FINAL REPORT  
EXHIBIT 2**

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

NEW MEXICO ENVIRONMENT DEPARTMENT  
 CONSTRUCTION PROGRAMS BUREAU  
**DISBURSEMENT REQUEST**  
 SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY \_\_\_\_\_

B. PROJECT NUMBER \_\_\_\_\_

C. DISBURSEMENT REQUEST NUMBER \_\_\_\_\_

D. GRANT AMOUNT \_\_\_\_\_

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Administrative Expenses	XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX	\$ -
Engineer Fees							\$ -	\$ -
Other Professional							\$ -	\$ -
Service Fees							\$ -	\$ -
Inspection Fees							\$ -	\$ -
Property Acquisition							\$ -	\$ -
Construction Cost							\$ -	\$ -
Planning Cost							\$ -	\$ -
Equipment							\$ -	\$ -
Other Costs (specify)							\$ -	\$ -
Contingencies							\$ -	\$ -
<b>TOTAL</b>		\$ -		\$ -		\$ -		\$ -

**Certification:** Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; 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.

Signature of Authorized Official: \_\_\_\_\_  
 X  
 Typed or Printed Name: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Date: \_\_\_\_\_

SWORN TO AND SUBSCRIBED before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 Notary Public \_\_\_\_\_  
 My Commission expires \_\_\_\_\_

NMED Project Managers will complete this form based on executed contracts provided by Grantee

STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT

Exhibit 4

INITIAL Notice of Obligation to Reimburse Grantee # 1

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

TO: Grantee: \_\_\_\_\_  
Grantee Official Representative: \_\_\_\_\_

FROM: Department Representative: \_\_\_\_\_, NMED/CPB Project Manager

SUBJECT: Notice of Obligation to Reimburse<sup>1</sup> Grantee  
Project Number: \_\_\_\_\_

As the designated representative of the Department for Grant Agreement number \_\_\_\_\_ 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:

Vendor or Contractor: \_\_\_\_\_  
Third Party Obligation Amount: \_\_\_\_\_  
Termination Date: \_\_\_\_\_

Vendor or Contractor: \_\_\_\_\_  
Third Party Obligation Amount: \_\_\_\_\_  
Termination Date: \_\_\_\_\_

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:	_____ \$0.00
The Total Amount of all Previously Issued Notices of Obligation:	_____ N/A
The Total Amount of all Notices of Obligation to Date:	_____ N/A

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: \_\_\_\_\_

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

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

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

<sup>1</sup> "Reimburse" as used throughout this Notice of Obligation to Reimburse 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 the Grant Agreement and are a valid liability of the Grantee.

<input type="checkbox"/>	Amendment
No.	_____
Date	_____

**ATTACHMENT A**  
**NEW MEXICO ENVIRONMENT DEPARTMENT**  
**CONSTRUCTION PROGRAMS BUREAU**  
**PROJECT DESCRIPTION**

**NAME OF GRANTEE:** Santa Fe County

**PROJECT NO:** 14-1699-STB

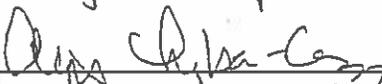
**The GRANTEE agrees to accomplish the project as described below:**

The Santa Fe County Utilities (SFCU) Division of the Public Works Department is in the process of receiving the ownership and operation of the Chupadero Mutual Domestic Water Consumers Association. Initially, SFCU intends to design and construct repairs/upgrades to the existing distribution piping, water meters, storage tank and water supply and to secure easements to ensure that the systems can be properly operated and maintained. In a subsequent phase, SFCU will identify, design and construct the long-term system improvements necessary to ensure the system can achieve/maintain regulatory compliance and deliver a safe, reliable and adequate supply. Santa Fe County anticipates a two phased approach for the design and implementation of the needed system improvements.

x  1-16-15 x   
**Official Representative** **NMED Project Manager Approval**

Construction Programs Bureau Signature Page

Project Name:	Santa Fe County
Project Number:	SAP 14-1699-STB
<b>Official Representative:</b>	
Name	ERIK AARBOE
Title	PROJECT DEVELOPMENT DIRECTOR
Signature	
Address	PO BOX 276 SANTA FE, NM 87504
E-mail	eaarboe@santafecountynm.gov
Phone	505-986-6209

<b>Alternate - Official Representative:</b>	
Name	Agnes Leyba - Cruz
Title	Projects Specialist
Signature	
Address	901 W Alameda Suite 20C Santa Fe, NM 87505
E-mail	alopez@santafecountynm.gov
Phone	(505) 995-6516

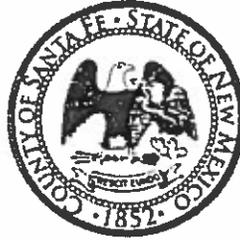




Henry P. Roybal  
Commissioner, District 1

Miguel Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

DATE: *February 11, 2015*

TO: *Board of County Commissioners*

FROM: *Adam Leigland, Public Works Department Director* <sup>AL</sup> <sub>2/11/15</sub>

VIA: *Katherine Miller, County Manager* <sup>KM</sup>

ITEM AND ISSUE: *BCC Meeting February 24, 2015*

**Resolution 2015 - \_\_\_\_ A Resolution Authorizing the County to Enter Into Grant Agreement 14-1702 to Plan, Design and Construct Improvements, Including Replacement of the Lift Station Facility, For the Vista Aurora Sewer System in Santa Fe County in the Amount of \$70,000 and Authorizing the County Manager to Sign the Agreement and Designating Person(s) Who Are Authorized to Sign and Request Reimbursement Requests and Act as a Point of Contact for the Grant Agreement. (Public Works/Adam Leigland)**

### SUMMARY:

The purpose of this resolution is to get authorization to enter into Grant Agreement 14-1702 to plan, design, and construct improvements, including replacement of the lift station facility, for the Vista Aurora Sewer System in Santa Fe County, to authorize the County Manager to sign the agreement and designating person(s) who are authorized to sign and request reimbursement and act as a point of contact for the Grant Agreement.

### BACKGROUND:

Santa Fe County received \$70,000 in the 2014 Legislative Session to plan, design, and construct improvements, including replacement of the lift station facility, for the Vista Aurora Sewer System in Santa Fe County. The Vista Aurora Subdivision consists of approximately 80 homes in the Historic Village of Agua Fria near the intersection of Rufina Street and Lopez Lane. Approximately 1/3 of the subdivision is provided sewer service by gravity sewer and the remainder is served by a small grinder pump lift station that was installed as a temporary means of providing sewer service until additional gravity lines were constructed. As the lift station has aged, failures have increased. The Utilities Division of the Public Works Department will use the grant to design a gravity sewer connection to the City's system at an alternate location that eliminates the need for the lift station or design a more permanent lift station if the former option proves not to be feasible.

**ACTION REQUESTED:**

Public Works is requesting approval of a resolution authorizing the County to enter into Grant Agreement 14-1702 in the amount of \$70,000, authorizing the County Manager to sign the agreement, and establishing person(s) for contact and reimbursement purposes.

SANTA FE COUNTY

RESOLUTION NO. 2015-\_\_\_\_\_

**A RESOLUTION AUTHORIZING THE COUNTY TO ENTER INTO GRANT AGREEMENT 14-1702-STB FOR IMPROVEMENTS TO VISTA AURORA SEWER SYSTEM IN THE AMOUNT OF \$70,000; AUTHORIZING THE COUNTY MANAGER TO SIGN GRANT AGREEMENT 14-1702-STB; DESIGNATING PERSONS WHO ARE AUTHORIZED TO SIGN AND REQUEST REIMBURSEMENT REQUESTS AND ACT AS A POINTS-OF-CONTACT FOR GRANT AGREEMENT 14-1702-STB**

WHEREAS, the Board of County Commissioners (“BCC”) desire to enter into a Grant Agreement 14-1702-STB with the State of New Mexico Environment Department; and

WHEREAS, the Agreement is identified as Special Appropriation Project 14-1702-STB Grant Agreement; and

WHEREAS, the purpose of the Grant Agreement is to plan, design, and construct improvements, including replacement of the lift station facility, for the Vista Aurora sewer system in Santa Fe in Santa Fe County.

**NOW THEREFORE BE IT RESOLVED** that the Board of County Commissioners of Santa Fe County hereby authorizes:

1. Katherine Miller, Santa Fe County Manager, to enter into and execute Grant Agreement 14-1702-STB on behalf of Santa Fe County for this project.
2. Erik H. Aaboe, Project Development Director and Carole H. Jaramillo, Budget Administrator, or his/her successors are the Official Representatives who are authorized to sign and request reimbursement requests and act as a single points of contact concerning all matters related to Grant Agreement 14-1702-STB.

**APPROVED, ADOPTED AND PASSED** this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

**SANTA FE BOARD OF COUNTY COMMISSIONERS**

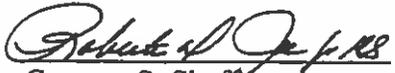
\_\_\_\_\_  
Robert A. Anaya, Chair

**ATTESTATION:**

\_\_\_\_\_  
Geraldine Salazar  
County Clerk

\_\_\_\_\_  
Date

Approved as to form

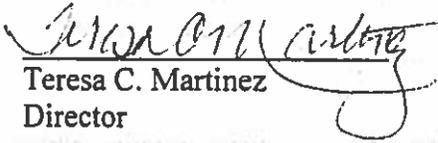


Gregory S. Shaffer  
County Attorney

2-5-15

Date

Finance Department



Teresa C. Martinez  
Director

2/11/15

Date

**STATE OF NEW MEXICO  
DEPARTMENT OF ENVIRONMENT  
FUND 89200 CAPITAL APPROPRIATION PROJECT  
14-1702-STB**

THIS AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Department of Environment, Harold Runnels Building, Room S-2072, 1190 St. Francis Drive, Santa Fe, New Mexico, 87505, hereinafter called the "Department" or abbreviation such as "NMED", and Santa Fe 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, 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, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

**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:

**14-1702 (\$70,000) APPROPRIATION REVERSION DATE: June 30, 2018**  
Laws of 2014, Chapter 66, Section 16, Paragraph 111, seventy thousand dollars (\$70,000), to plan, design and construct improvements, including replacement of the lift station facility, for the Vista Aurora sewer system in Santa Fe in Santa Fe county.

The Grantee's total reimbursements shall not exceed the appropriation amount seventy thousand dollars (\$70,000) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")<sup>1</sup>, if applicable, zero (\$0), which equals seventy thousand dollars (\$70,000) (the "Adjusted Appropriation Amount").

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

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." Attachments A and B set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachments A and B impose more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachments A and B 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 Reimburse<sup>2</sup> Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement ;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:

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

- 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 4.
- 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: _____	Grantee: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
Email: _____	Email: _____
Telephone: _____	Telephone: _____
FAX: _____	FAX: _____

Department: NMED  
Name: Andrea Telmo  
Title: Project Manager, Construction Programs Bureau  
Address: Harold Runnels Bldg, Room S-2072, PO Box 5469  
Santa Fe, NM 87502  
Email: andrea.telmo@state.nm.us  
Telephone: (505) 222-9512  
FAX: (505) 827-2837

The Grantee's designee shall have authority from Grantee to request disbursements. 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, 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 2. 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 2. 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 lieu of 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 information currently required to be reported into the database is set forth in Exhibit 1. 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 3. 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 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**

Attachments A and B are incorporated by reference and made part of the Agreement. This Agreement constitutes the entire and exclusive agreement between the Grantee and Department 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 Santa Fe County may immediately terminate this Agreement by giving Contractor written notice of such termination. The Santa Fe 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 Santa Fe County or the NMED or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Santa Fe 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 NMED Grant Agreement. Should the NMED early terminate the grant agreement, the Santa Fe County may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Santa Fe County’s 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.

**ARTICLE 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 CLAUSES**

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

**NEW MEXICO ENVIRONMENT DEPARTMENT**

\_\_\_\_\_  
By:

Its: Cabinet Secretary or Deputy Cabinet Secretary

\_\_\_\_\_  
Date

**ATTACHMENT B – NMENV TECHNICAL REQUIREMENTS  
TO  
STATE OF NEW MEXICO  
CAPITAL APPROPRIATION FUND AGREEMENT**

**ARTICLE 1 REVIEW**

Upon execution of the agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit a detailed project description to NMED Construction Programs Bureau prior to committing to expenditures from these funds. The detailed description will be provided on the Attachment A form. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee prior to this agreement, that are related to the project, for review and, if appropriate, approval.
- B. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit documentation regarding the hiring process to be used and the Request for Proposals (RFP), if applicable, to NMED for review and approval prior to selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If, for any one circumstance, engineering fees will exceed \$60,000, excluding gross receipt taxes, the Grantee is also required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB: phone (505) 888-6161 and e-mail ptab@acecnm.org.)
- C. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit a draft of any engineering agreement and/or other professional services contract, or a letter certifying that the Grantee's staff will be used for design, to NMED for review and approval prior to executing the agreement/contract or using Grantee's staff. The required engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on the website at [www.nmenv.state.nm.us/cpb/cpbtop.html](http://www.nmenv.state.nm.us/cpb/cpbtop.html).
- D. A preliminary engineering report (PER) or study by a registered New Mexico Professional Engineer may be required. If a PER or study is to be prepared, the Grantee and their consultant shall meet with NMED before starting any work for a "scoping" meeting to fully discuss the scope and extent of the PER. The consultant shall present their preliminary outline for the PER, including the alternatives to be considered. The Grantee must submit the final PER and/or study to NMED for review and approval before preparation of plans and specifications. The purpose of the PER and/or study is to analyze and choose the most technically feasible and cost effective solution for the project. The PER must follow USDA RUS Bulletin 1780-2.
- E. Grantee agrees not to start the preparation of plans and specifications until NMED approval of the PER, study, or waiver of the report requirement has been received.

- F. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, specifications, and any addenda for this project (prepared by a registered New Mexico Professional Engineer) to NMED for review and approval before the project is advertised for construction bids.
- G. The Grantee must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. A site certificate certifying that all necessary easements and/or property upon or through which the project is being constructed have been obtained must be submitted prior to the advertisement for bid of the project. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor. The Grantee must submit the recommendation of award, certified bid tabulation, a copy of bid bond for the selected contractor and evidence of full project financing to NMED for review and approval prior to awarding the contract. Grantee shall not award the contract until NMED has concurred in writing with the award. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in Section 13-4-11 NMSA 1978), will be used for awarding construction contracts. Contracts will be awarded to the responsive, responsible bidder who submits the lowest acceptable bid, or as provided for by State Law.
- H. Following NMED approval of the proposed award, the Grantee will submit the notice of the award and the minutes of the meeting in which the award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed to NMED for review. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- I. The selected contractor will submit a construction schedule to the Grantee and NMED if requested at the pre-construction conference with a copy to NMED. The Grantee will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. The decision by NMED will be rendered promptly in writing to the Grantee. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written confirmation to the Grantee.
- J. The Grantee will provide a full-time construction inspector during construction of the project. The Grantee will be required to submit the inspector's résumé to NMED for review and approval. All daily inspection reports shall be made available to the NMED Project Manager upon request.
- K. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans, but will be a general NMED review as described in Article 2 below.
- L. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.

- M. If the grant funds are to be used for construction of wastewater collection lines or water distribution lines, the Grantee will assure NMED that the existing population will connect to the collection system or distribution system within reasonable time after project completion. This will be accomplished by adoption and annual review of an ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law.

## **ARTICLE 2 NMED OVERSIGHT**

NMED inspection, review and approval are only for purposes of compliance with applicable state grant requirements, procedures, statutes and regulations. NMED approval will not be interpreted as any warranty or guarantee of any kind. Approval of plans and design of the project means only that plans are complete and in compliance with applicable state grant requirements, procedures and regulations. NMED will bring to the Grantee's attention, any obvious defects in the project's design, materials or workmanship, but all such defects and their correction will be the responsibility of the Grantee and its contractors and consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and consultants will remain responsible for the completion and success of the project. Approval does not relieve the owner or engineer of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

## **ARTICLE 3 CLOSEOUT**

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and NMED.
- B. If the grant funds are to be used for preparation of a PER, a study, or plans and specifications, final payment will be made after approval by NMED of the PER, study, or plans and specifications. Payments do not constitute approval of any of these documents.
- C. If the grant funds are to be used for purchase of equipment, final payment will be made after approval by NMED of receipt of equipment title and appraisal reports for used equipment.
- D. If the grant funds are to be used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
- i. Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals;
  - ii. A final reimbursement request including the final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee;
  - iii. A certificate of substantial completion including punch list items;

- iv. A letter certifying project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED for final review and approval;
- v. Certification letter by the Grantee that the Labor Standards Contract Provisions have been met;
- vi. Record drawings prepared by the Grantee's project engineer or a letter from the owner certifying receipt and acceptance of the record drawings;
- vii. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Grantee or its property might in any way be responsible, have been paid or otherwise satisfied;
- viii. A written consent of the surety, if any, to final payment; and
- ix. Grantee's ledger sheets including all payments made by the Grantee may be requested with the final reimbursement request and before the final reimbursement request can be processed by NMED.

With the exception of easements (See Article 1.G above), when real property is acquired by the Grantee, either through purchase or donation as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED prior to the acquisition of any real property. After real property acquisition, the Grantee will make available to NMED all documents of title pertaining to the acquired property and all easements or rights-of-way necessary for the completion of work under this grant agreement.

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
DATABASE PERIODIC REPORT  
EXHIBIT 1**

The Capital Projects Monitoring Systems (CPMS) can be found at: <http://cpms.dfa.state.nm.us>. Below are screenshots from the website on required fields for Local Entities. Please contact your program manager for Login and Password information.

Local Data	
ICIP Project #	
ICIP Priority	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

	Date Completed, Expected Completion Date or N/A	Amount Funded to Date	Future Funding Amounts	Funding Sources	Contractor Name	Contract Amount	Comments
Grant Agreement Issued							
Water Rights Easement & ROW							
Acquisition							
Archaeological Studies							
Environmental Studies							
Planning							
Design							
Construction							
Furnish/Equipment							
Total							

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
PAPER PERIODIC/FINAL REPORT  
EXHIBIT 2**

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

NEW MEXICO ENVIRONMENT DEPARTMENT  
 CONSTRUCTION PROGRAMS BUREAU  
**DISBURSEMENT REQUEST**  
 SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY \_\_\_\_\_

B. PROJECT NUMBER \_\_\_\_\_

C. DISBURSEMENT REQUEST NUMBER \_\_\_\_\_

D. GRANT AMOUNT \_\_\_\_\_

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Administrative Expenses	XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX	\$ -
Engineer Fees							\$ -	\$ -
Other Professional							\$ -	\$ -
Service Fees							\$ -	\$ -
Inspection Fees							\$ -	\$ -
Property Acquisition							\$ -	\$ -
Construction Cost							\$ -	\$ -
Planning Cost							\$ -	\$ -
Equipment							\$ -	\$ -
Other Costs (specify)							\$ -	\$ -
Contingencies							\$ -	\$ -
<b>TOTAL</b>		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

**Certification:** Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; 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.

Signature of Authorized Official:  X	Typed or Printed Name:	Phone:	Date:
--	------------------------	--------	-------

SWORN TO AND SUBSCRIBED before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 Notary Public \_\_\_\_\_ My Commission expires \_\_\_\_\_

NMED Project Managers will complete this form based on executed contracts provided by Grantee

STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT

Exhibit 4

INITIAL Notice of Obligation to Reimburse Grantee # 1

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

TO: Grantee: \_\_\_\_\_  
Grantee Official Representative: \_\_\_\_\_

FROM: Department Representative: \_\_\_\_\_, NMED/CPB Project Manager

SUBJECT: Notice of Obligation to Reimburse<sup>1</sup> Grantee  
Project Number: \_\_\_\_\_

As the designated representative of the Department for Grant Agreement number \_\_\_\_\_ 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:

Vendor or Contractor: \_\_\_\_\_  
Third Party Obligation Amount: \_\_\_\_\_  
Termination Date: \_\_\_\_\_

Vendor or Contractor: \_\_\_\_\_  
Third Party Obligation Amount: \_\_\_\_\_  
Termination Date: \_\_\_\_\_

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: \_\_\_\_\_ \$0.00  
The Total Amount of all Previously Issued Notices of Obligation: \_\_\_\_\_ N/A  
The Total Amount of all Notices of Obligation to Date: \_\_\_\_\_ N/A

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

<sup>1</sup> "Reimburse" as used throughout this Notice of Obligation to Reimburse 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 the Grant Agreement and are a valid liability of the Grantee.

Amendment
No. _____
Date _____

**ATTACHMENT A**  
**NEW MEXICO ENVIRONMENT DEPARTMENT**  
**CONSTRUCTION PROGRAMS BUREAU**

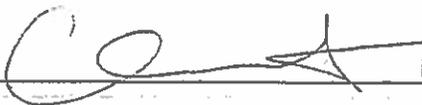
**PROJECT DESCRIPTION**

**NAME OF GRANTEE:** Santa Fe County

**PROJECT NO:** 14-1702-STB

**The GRANTEE agrees to accomplish the project as described below:**

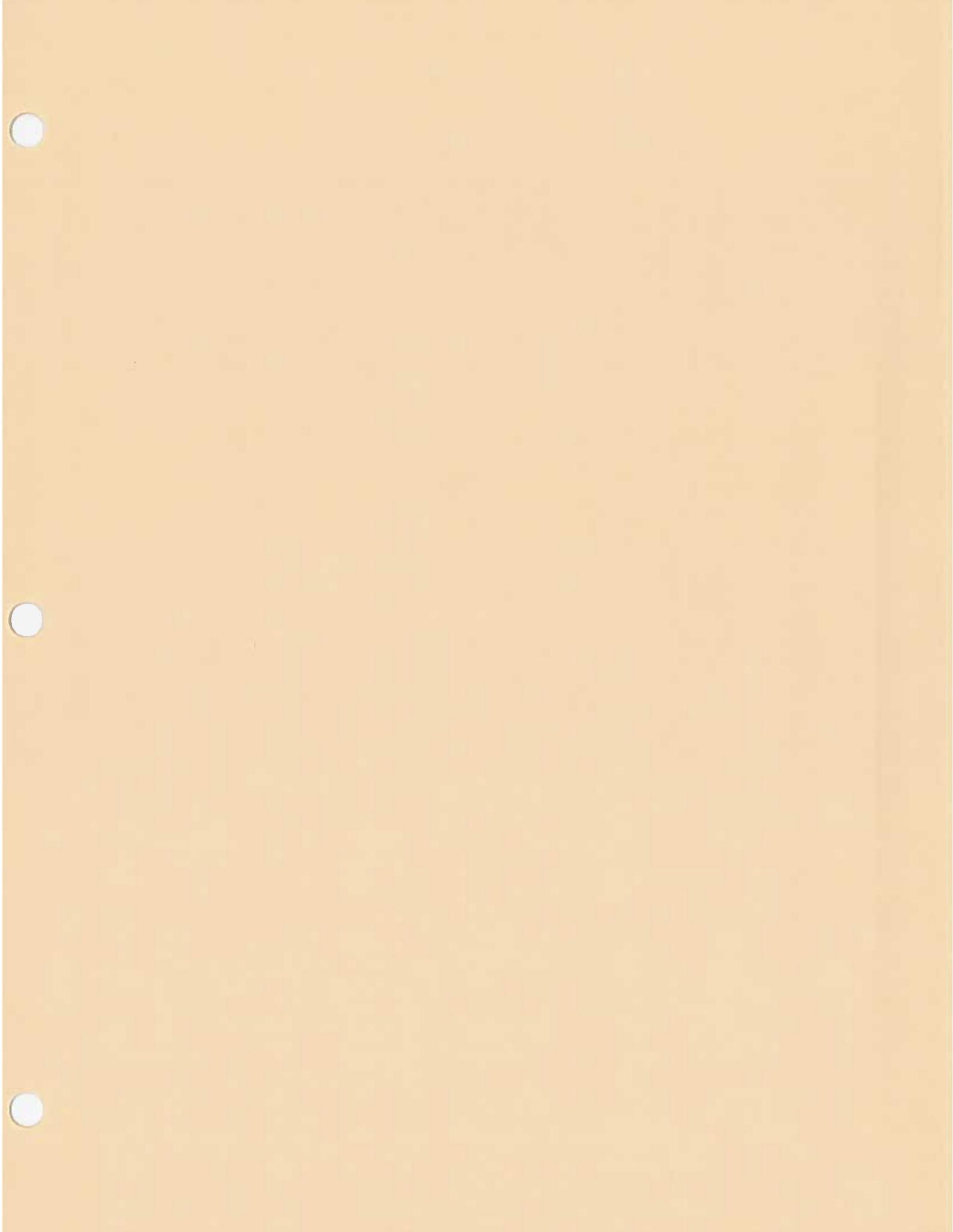
The Vista Aurora Subdivision consists of approximately 80 homes in the Historic Village of Agua Fria near the intersection of Rufina Street and Lopez Lane. Approximately 1/3 of the subdivision is provided sewer service by gravity sewer and remainder is served by a small grinder pump liftstation that was installed as a temporary means of providing sewer service until additional gravity lines were constructed. Both systems discharge into the City of Santa Fe's Rufina Street interceptor sewer. The liftstation has suffered multiple failures over its lifetime, leading to unauthorized discharges of sewage onto the ground and into a nearby stormwater catchment. As the liftstation has aged, failures have increased. The Santa Fe County Utilities (SFCU) Division of the Public Works Department is seeking to design and construct a gravity sewer connection to the City's system at an alternate location that eliminates the need for the liftstation. If a gravity sewer is not feasible due to limitations in grade, SFCU will seek to design and construct a more permanent and robust liftstation to serve this portion of the Vista Aurora Subdivision.

X  1-16-15 X  
\_\_\_\_\_  
Official Representative NMED Project Manager Approval

Construction Programs Bureau Signature Page

Project Name:	Santa Fe County
Project Number:	SAP 14-1702-STB
<b>Official Representative:</b>	
Name	ERIK AABOE
Title	PROJECT DEVELOPMENT DIRECTOR
Signature	
Address	PO BOX 276 SANTA FE, NM 87504
E-mail	eaaboe@santafecountynm.gov
Phone	505.986.6209

<b>Alternate - Official Representative:</b>	
Name	Agnes Huysa-Cruz
Title	Projects Specialist
Signature	
Address	901 W Alameda Suite 20C Santa Fe, NM 87505
E-mail	alopez@santafecountynm.gov
Phone	(505) 995-6516

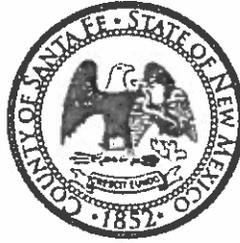




Henry P. Roybal  
Commissioner, District 1

Miguel Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

DATE: *February 11, 2015*

TO: *Board of County Commissioners*

FROM: *Adam Leigland, Public Works Department Director* *M 2/11/15*

VIA: *Katherine Miller, County Manager* *KM*

ITEM AND ISSUE: *BCC Meeting February 24, 2015*

**Resolution 2015 - \_\_\_\_\_ A Resolution Authorizing the County to Enter Into Grant Agreement 14-1697 to Plan and Design a Utilities Corridor for the Agua Fria Area in the Amount of \$80,000 and Authorizing the County Manager to Sign the Agreement and Designating Person(s) Who Are Authorized to Sign and Request Reimbursement Requests and Act as a Point of Contact for the Grant Agreement. (Public Works/Adam Leigland)**

### SUMMARY:

The purpose of this resolution is to get authorization to enter into Grant Agreement 14-1697 to plan and design a utilities corridor for the Agua Fria Area, to authorize the County Manager to sign the agreement and designating person(s) who are authorized to sign and request reimbursement and act as a point of contact for the Grant Agreement.

### BACKGROUND:

Santa Fe County received \$80,000 in the 2014 Legislative Session to plan and design a utilities corridor in the Agua Fria Area in Santa Fe County. The expansion of water and sewer service in the Historic Village of Agua Fria will ensure a safe, reliable and adequate supply of drinking water, expand fire protection and prevent septic tank contamination of ground water resources. The plan will increase the number of residents served by public water and wastewater utilities.

### ACTION REQUESTED:

Public Works is requesting approval of a resolution authorizing the County to enter into Grant Agreement 14-1697 in the amount of \$80,000, authorizing the County Manager to sign the agreement, and establishing persons for contact and reimbursement purposes.



**SANTA FE COUNTY**

RESOLUTION NO. 2015-\_\_\_\_\_

**A RESOLUTION AUTHORIZING THE COUNTY TO ENTER INTO GRANT AGREEMENT 14-1697-STB TO PLAN AND DESIGN A UTILITIES CORRIDOR FOR THE AGUA FRIA AREA IN THE AMOUNT OF \$80,000; AUTHORIZING THE COUNTY MANAGER TO SIGN GRANT AGREEMENT 14-1697-STB; DESIGNATING PERSONS WHO ARE AUTHORIZED TO SIGN AND REQUEST REIMBURSEMENT REQUESTS AND ACT AS A POINTS-OF-CONTACT FOR GRANT AGREEMENT 14-1697-STB**

WHEREAS, the Board of County Commissioners (“BCC”) desire to enter into a Grant Agreement 14-1697-STB with the State of New Mexico Environment Department; and

WHEREAS, the Agreement is identified as Special Appropriation Project 14-1697-STB Grant Agreement; and

WHEREAS, the purpose of the Grant Agreement is to plan and design a utilities corridor for the Agua Fria area of Santa Fe in Santa Fe County.

**NOW THEREFORE BE IT RESOLVED** that the Board of County Commissioners of Santa Fe County hereby authorizes:

1. Katherine Miller, Santa Fe County Manager, to enter into and execute Grant Agreement 14-1697-STB on behalf of Santa Fe County for this project.
2. Erik H. Aaboe, Project Development Director, and Carole H. Jaramillo, Budget Administrator, or his/her successors are the Official Representatives who are authorized to sign and request reimbursement requests and act as a single points of contact concerning all matters related to Grant Agreement 14-1697-STB.

**APPROVED, ADOPTED AND PASSED** this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

**SANTA FE BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Robert A. Anaya, Chair

**ATTESTATION:**

\_\_\_\_\_  
Geraldine Salazar  
County Clerk

\_\_\_\_\_  
Date

Approved as to form

*Gregory S. Shaffer*  
Gregory S. Shaffer  
County Attorney

2-5-15  
Date

Finance Department

*Teresa C. Martinez*  
Teresa C. Martinez  
Director

2/11/15  
Date

**STATE OF NEW MEXICO  
DEPARTMENT OF ENVIRONMENT  
FUND 89200 CAPITAL APPROPRIATION PROJECT  
14-1697-STB**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Department of Environment, Harold Runnels Building, Room S-2072, 1190 St. Francis Drive, Santa Fe, New Mexico, 87505, hereinafter called the "Department" or abbreviation such as "NMED", and Santa Fe 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, 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**, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

**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:

**14-1697 (\$80,000) APPROPRIATION REVERSION DATE: June 30, 2018**  
Laws of 2014, Chapter 66, Section 16, Paragraph 105, eighty thousand dollars (\$80,000), to plan and design a utilities corridor for the Agua Fria area of Santa Fe county.

The Grantee's total reimbursements shall not exceed the appropriation amount eighty thousand dollars (\$80,000) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")<sup>1</sup>, if applicable, zero (\$0), which equals eighty thousand dollars (\$80,000) (the "Adjusted Appropriation Amount").

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

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." Attachments A and B set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachments A and B impose more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachments A and B 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 Reimburse<sup>2</sup> Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement ;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:

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

- 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 4.
- 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: _____	Grantee: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
Email: _____	Email: _____
Telephone: _____	Telephone: _____
FAX: _____	FAX: _____

Department: NMED  
Name: Andrea Telmo  
Title: Project Manager, Construction Programs Bureau  
Address: Harold Runnels Bldg. Room S-2072, PO Box 5469  
Santa Fe, NM 87502  
Email: andrea.telmo@state.nm.us  
Telephone: (505) 222-9512  
FAX: (505) 827-2837

The Grantee's designee shall have authority from Grantee to request disbursements. 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, 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 2. 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 2. 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 lieu of 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 information currently required to be reported into the database is set forth in Exhibit 1. 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 3. 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 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**

Attachments A and B are incorporated by reference and made part of the Agreement. This Agreement constitutes the entire and exclusive agreement between the Grantee and Department 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 Santa Fe County may immediately terminate this Agreement by giving Contractor written notice of such termination. The Santa Fe 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 Santa Fe County or the NMED or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Santa Fe 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 NMED Grant Agreement. Should the NMED early terminate the grant agreement, the Santa Fe County may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Santa Fe County's 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.

**ARTICLE 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 CLAUSES**

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

**NEW MEXICO ENVIRONMENT DEPARTMENT**

\_\_\_\_\_  
By:

Its: Cabinet Secretary or Deputy Cabinet Secretary

\_\_\_\_\_  
Date

**ATTACHMENT B – NMENV TECHNICAL REQUIREMENTS  
TO  
STATE OF NEW MEXICO  
CAPITAL APPROPRIATION FUND AGREEMENT**

**ARTICLE 1 REVIEW**

Upon execution of the agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit a detailed project description to NMED Construction Programs Bureau prior to committing to expenditures from these funds. The detailed description will be provided on the Attachment A form. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee prior to this agreement, that are related to the project, for review and, if appropriate, approval.
- B. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit documentation regarding the hiring process to be used and the Request for Proposals (RFP), if applicable, to NMED for review and approval prior to selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If, for any one circumstance, engineering fees will exceed \$60,000, excluding gross receipt taxes, the Grantee is also required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB: phone (505) 888-6161 and e-mail [ptab@acecnm.org](mailto:ptab@acecnm.org).)
- C. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit a draft of any engineering agreement and/or other professional services contract, or a letter certifying that the Grantee's staff will be used for design, to NMED for review and approval prior to executing the agreement/contract or using Grantee's staff. The required engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on the website at [www.nmenv.state.nm.us/cpb/cpbtop.html](http://www.nmenv.state.nm.us/cpb/cpbtop.html).
- D. A preliminary engineering report (PER) or study by a registered New Mexico Professional Engineer may be required. If a PER or study is to be prepared, the Grantee and their consultant shall meet with NMED before starting any work for a "scoping" meeting to fully discuss the scope and extent of the PER. The consultant shall present their preliminary outline for the PER, including the alternatives to be considered. The Grantee must submit the final PER and/or study to NMED for review and approval before preparation of plans and specifications. The purpose of the PER and/or study is to analyze and choose the most technically feasible and cost effective solution for the project. The PER must follow USDA RUS Bulletin 1780-2.
- E. Grantee agrees not to start the preparation of plans and specifications until NMED approval of the PER, study, or waiver of the report requirement has been received.

- F. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, specifications, and any addenda for this project (prepared by a registered New Mexico Professional Engineer) to NMED for review and approval before the project is advertised for construction bids.
- G. The Grantee must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. A site certificate certifying that all necessary easements and/or property upon or through which the project is being constructed have been obtained must be submitted prior to the advertisement for bid of the project. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor. The Grantee must submit the recommendation of award, certified bid tabulation, a copy of bid bond for the selected contractor and evidence of full project financing to NMED for review and approval prior to awarding the contract. Grantee shall not award the contract until NMED has concurred in writing with the award. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in Section 13-4-11 NMSA 1978), will be used for awarding construction contracts. Contracts will be awarded to the responsive, responsible bidder who submits the lowest acceptable bid, or as provided for by State Law.
- H. Following NMED approval of the proposed award, the Grantee will submit the notice of the award and the minutes of the meeting in which the award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed to NMED for review. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- I. The selected contractor will submit a construction schedule to the Grantee and NMED if requested at the pre-construction conference with a copy to NMED. The Grantee will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. The decision by NMED will be rendered promptly in writing to the Grantee. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written confirmation to the Grantee.
- J. The Grantee will provide a full-time construction inspector during construction of the project. The Grantee will be required to submit the inspector's résumé to NMED for review and approval. All daily inspection reports shall be made available to the NMED Project Manager upon request.
- K. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans, but will be a general NMED review as described in Article 2 below.
- L. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.

- M. If the grant funds are to be used for construction of wastewater collection lines or water distribution lines, the Grantee will assure NMED that the existing population will connect to the collection system or distribution system within reasonable time after project completion. This will be accomplished by adoption and annual review of an ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law.

## ARTICLE 2 NMED OVERSIGHT

NMED inspection, review and approval are only for purposes of compliance with applicable state grant requirements, procedures, statutes and regulations. NMED approval will not be interpreted as any warranty or guarantee of any kind. Approval of plans and design of the project means only that plans are complete and in compliance with applicable state grant requirements, procedures and regulations. NMED will bring to the Grantee's attention, any obvious defects in the project's design, materials or workmanship, but all such defects and their correction will be the responsibility of the Grantee and its contractors and consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and consultants will remain responsible for the completion and success of the project. Approval does not relieve the owner or engineer of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

## ARTICLE 3 CLOSEOUT

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and NMED.
- B. If the grant funds are to be used for preparation of a PER, a study, or plans and specifications, final payment will be made after approval by NMED of the PER, study, or plans and specifications. Payments do not constitute approval of any of these documents.
- C. If the grant funds are to be used for purchase of equipment, final payment will be made after approval by NMED of receipt of equipment title and appraisal reports for used equipment.
- D. If the grant funds are to be used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
- i. Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals;
  - ii. A final reimbursement request including the final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee;
  - iii. A certificate of substantial completion including punch list items;

- iv. A letter certifying project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED for final review and approval;
- v. Certification letter by the Grantee that the Labor Standards Contract Provisions have been met;
- vi. Record drawings prepared by the Grantee's project engineer or a letter from the owner certifying receipt and acceptance of the record drawings;
- vii. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Grantee or its property might in any way be responsible, have been paid or otherwise satisfied;
- viii. A written consent of the surety, if any, to final payment; and
- ix. Grantee's ledger sheets including all payments made by the Grantee may be requested with the final reimbursement request and before the final reimbursement request can be processed by NMED.

With the exception of easements (See Article 1.G above), when real property is acquired by the Grantee, either through purchase or donation as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED prior to the acquisition of any real property. After real property acquisition, the Grantee will make available to NMED all documents of title pertaining to the acquired property and all easements or rights-of-way necessary for the completion of work under this grant agreement.

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
DATABASE PERIODIC REPORT  
EXHIBIT 1**

The Capital Projects Monitoring Systems (CPMS) can be found at: <http://cpms.dfa.state.nm.us>. Below are screenshots from the website on required fields for Local Entities. Please contact your program manager for Login and Password information.

Local Data	
ICIP Project #	
ICIP Priority	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

	Date Completed, Expected Completion Date or N/A	Amount Funded to Date	Future Funding Amounts	Funding Sources	Contractor Name	Contract Amount	Comments
Grant Agreement Issued							
Water Rights Easement & ROW							
Acquisition							
Archaeological Studies							
Environmental Studies							
Planning							
Design							
Construction							
Furnish/Equipment							
Total							

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
PAPER PERIODIC/FINAL REPORT  
EXHIBIT 2**

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

NEW MEXICO ENVIRONMENT DEPARTMENT  
 CONSTRUCTION PROGRAMS BUREAU  
**DISBURSEMENT REQUEST**  
 SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY \_\_\_\_\_

C. DISBURSEMENT REQUEST NUMBER \_\_\_\_\_

B. PROJECT NUMBER \_\_\_\_\_

D. GRANT AMOUNT \_\_\_\_\_

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Administrative Expenses	XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX	\$ -
Engineer Fees							\$ -	\$ -
Other Professional							\$ -	\$ -
Service Fees							\$ -	\$ -
Inspection Fees							\$ -	\$ -
Property Acquisition							\$ -	\$ -
Construction Cost							\$ -	\$ -
Planning Cost							\$ -	\$ -
Equipment							\$ -	\$ -
Other Costs (specify)							\$ -	\$ -
Contingencies							\$ -	\$ -
<b>TOTAL</b>		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

**Certification:** Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; 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.

Signature of Authorized Official: X	Typed or Printed Name:	Phone:	Date:
--	------------------------	--------	-------

SWORN TO AND SUBSCRIBED before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 Notary Public \_\_\_\_\_ My Commission expires \_\_\_\_\_

NMED Project Managers will complete this form based on executed contracts provided by Grantee

STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT

Exhibit 4

INITIAL Notice of Obligation to Reimburse Grantee # 1

DATE: \_\_\_\_\_  
TO: Grantee: \_\_\_\_\_  
Grantee Official Representative: \_\_\_\_\_  
FROM: Department Representative: \_\_\_\_\_, NMED/CPB Project Manager  
SUBJECT: Notice of Obligation to Reimburse<sup>1</sup> Grantee  
Project Number: \_\_\_\_\_

As the designated representative of the Department for Grant Agreement number \_\_\_\_\_ 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:

Vendor or Contractor: \_\_\_\_\_  
Third Party Obligation Amount: \_\_\_\_\_  
Termination Date: \_\_\_\_\_

Vendor or Contractor: \_\_\_\_\_  
Third Party Obligation Amount: \_\_\_\_\_  
Termination Date: \_\_\_\_\_

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: \_\_\_\_\_ \$0.00  
The Total Amount of all Previously Issued Notices of Obligation: N/A  
The Total Amount of all Notices of Obligation to Date: N/A

Note: Contract amounts may exceed the total grant amount, but the monies paid by the grant will not exceed the grant amount.

Department Rep. Approver: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

<sup>1</sup> "Reimburse" as used throughout this Notice of Obligation to Reimburse 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 the Grant Agreement and are a valid liability of the Grantee

<input type="checkbox"/>	Amendment
No.	_____
Date	_____

ATTACHMENT A

NEW MEXICO ENVIRONMENT DEPARTMENT  
CONSTRUCTION PROGRAMS BUREAU

PROJECT DESCRIPTION

NAME OF GRANTEE: Santa Fe County

PROJECT NO: 14-1697-STB

The GRANTEE agrees to accomplish the project as described below:

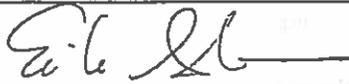
Expansion of water and sewer service in the Historic Village of Agua Fria will ensure a safe, reliable and adequate supply of drinking water, expand fire protection and prevent septic tank contamination of ground water resources. The Santa Fe County Utilities (SFCU) Division of the Public Works Department is seeking to plan, design and construct water and sewer line extensions within the Historic Village to increase the number of residents served by public water and wastewater utilities.

x  1-16-15 x

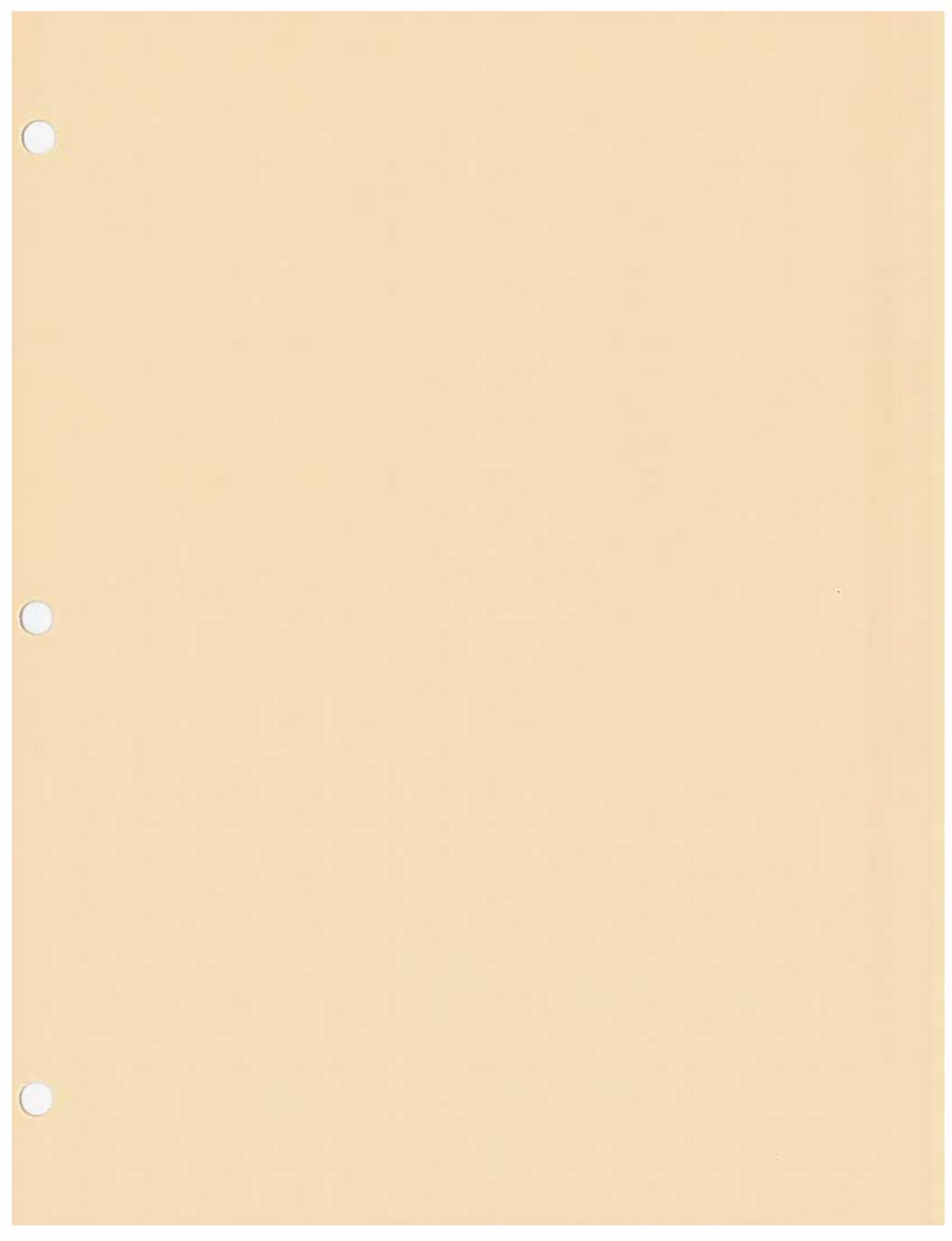
Official Representative

NMED Project Manager Approval

Construction Programs Bureau Signature Page

Project Name:	Santa Fe County
Project Number:	SAP 14-1697-STB
<b>Official Representative:</b>	
Name	ERIK AARBOE
Title	PROJECT DEVELOPMENT DIRECTOR
Signature	
Address	PO BOX 276, SANTA FE, NM 87504
E-mail	eaarboe@santa-fe-county.nm.gov
Phone	505-986-6209

<b>Alternate - Official Representative:</b>	
Name	Agnes Leyba-Cruz
Title	Projects Specialist
Signature	
Address	901 W Alameda Suite 20, C, Santa Fe, 87501
E-mail	alopez@santa-fe-county.nm.gov
Phone	(505) 995-6516





**THE BOARD OF COUNTY COMMISSIONERS  
SANTA FE COUNTY**

**RESOLUTION NO. 2015-**

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**A RESOLUTION AMENDING RESOLUTION 2010-104 TO CLARIFY THE PROCESS  
FOR APPOINTMENT OF BOARD MEMBERS**

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**WHEREAS**, on June 26, 2010, the Board of Santa Fe County Commissioners (BCC) adopted Resolution 2010-104, A RESOLUTION CREATING SANTA FE COUNTY HOUSING AUTHORITY BOARD; and

**WHEREAS**, the BCC created the Santa Fe County Housing Authority (Authority) pursuant to the New Mexico Municipal Housing Act, §3-45-1 et seq., NMSA (the Act);

**WHEREAS**, the Act requires the BCC to appoint all members of the Authority; and

**WHEREAS**, paragraphs 5 through 7 of Resolution 2010-104 lack clarity regarding appointment of Resident and Community Members to the Santa Fe County Housing Authority Board (the Authority); and

**WHEREAS**, paragraphs 5 through 7 of Resolution 2010-104 should be clarified to ensure compliance with the Act.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY that Resolution 2010-104 is amended as follows:**

**Section One.** Paragraphs 5, 6, and 7 of Resolution 2010-104 are deleted entirely and replaced with the following paragraphs:

5. The BCC shall initially appoint the Community Member of the Board and he or she shall serve until January of the next even numbered year. The BCC shall initially appoint the Resident Member and he or she shall serve until January of the next odd numbered year. Thereafter, the BCC shall appoint Community Members and Resident Members for two year terms and each may only be reappointed for a total of three consecutive terms (i.e., for a total term of office of not to exceed eight (8) years).
6. If the Resident Member vacates his or her office for any reason, a notice shall be delivered to each resident living in public housing advising them of the vacancy and informing residents that are interested in serving in the position to submit a letter of interest to the Executive Director. The letters of interest received will be presented to the BCC for consideration.



7. If a Community Member vacancy occurs, a public notice will be posted in a local newspaper qualifying for the posting of legal notices. All interested parties shall submit a letter of interest to the Executive Director. The letters of interest received will be presented to the BCC for consideration.

**Section Two.** All provisions of Resolution 2010-104 not herein amended shall remain in full force and effect.

**PASSED, APPROVED, and ENACTED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2015 by the Board of County Commissioners of Santa Fe County.

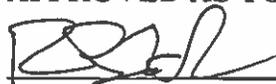
**THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY**

\_\_\_\_\_  
Robert A. Anaya, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, County Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Gregory S. Shaffer, County Attorney



