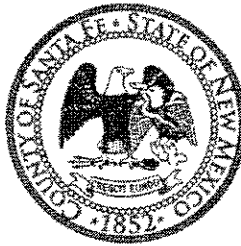


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

DATE: *August 24, 2018*

TO: *Santa Fe County Board of County Commissioners*

FROM: *Michael K. Kelley, Public Works Department Director MK 8/27/18*

VIA: *Katherine Miller, Santa Fe County Manager*

ITEM AND ISSUE: *BCC Meeting September 11, 2018. Resolution 2018-____, a Resolution to Authorize the County Manager to Sign and Submit Grant Applications to the New Mexico Environment Department for Funding to Replace Four Trucks Under the Volkswagen Mitigation Trust Funding Program and to Accept Resultant Awards (Public Works / Claudia Borchert)*

BACKGROUND:

On September 25, 2016, the Partial Consent Decree in the lawsuit entitled *Volkswagen "Clean Diesel" Marketing, Sales Practices, and Product Liability Litigation* was finalized. The lawsuit addressed Volkswagen's admission of purposely and over a sustained period of time, employing prohibited emissions defeat devices on their diesel passenger vehicles that resulted in excess emissions of nitrogen oxides (NOx).

Under the Consent Decree, the state of New Mexico is eligible to receive approximately \$18,000,000 to implement projects that reduce emissions of NOx from vehicles. Eligible mitigation projects include projects that reduce NOx emissions in freight trucks; school, shuttle, or transit buses; ferries and tugs; Class 4-7 local trucks; forklifts; electric or hydrogen vehicle charging stations; and airport ground support equipment.

DISCUSSION:

The New Mexico Environment Department (NMED) is accepting project applications for the New Mexico Volkswagen Environmental Mitigation Trust Program (2018 Funding Cycle) until September 14, 2018. It is important to note that applications for light-duty electric vehicle supply equipment are not being accepted in the 2018 Funding Cycle. An application for light-duty electric vehicle supply equipment is under development and will be available for the 2019 Funding Cycle.

Santa Fe County is an eligible applicant under the program and the Sustainability Division is preparing grant applications to replace four Class 8 Large Trucks that are used to haul solid waste and recycling materials for disposal or processing and used in road construction and maintenance. Replacement of these trucks is estimated to cost up to \$800,000. The four Class 8 Trucks are older and emit significantly greater NOx and particulate matter than new trucks. If awarded, the County would be eligible to receive 100% of the costs quoted in the applications. BCC's approval to submit the applications for the replacement sum is required based on projected replacement cost. This authorizes the County Manager to submit applications and sign any grant awards that may result.

ACTION REQUESTED:

Please approve the subject Resolution.

Attachment:

Resolution 2018- _____, a Resolution to Authorize the County Manager to Sign and Submit Grant Applications to the New Mexico Environment Department for Funding to Replace Four Trucks Under the Volkswagen Mitigation Trust Funding Program and to Accept Resultant Awards.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY
RESOLUTION NO. 2018 - _____**

**A RESOLUTION TO AUTHORIZE THE COUNTY
MANAGER TO SIGN AND SUBMIT GRANT
APPLICATIONS TO THE NEW MEXICO ENVIRONMENT
DEPARTMENT FOR FUNDING TO REPLACE FOUR
TRUCKS UNDER THE VOLKSWAGEN MITIGATION
TRUST FUNDING PROGRAM AND TO ACCEPT
RESULTANT AWARDS**

WHEREAS, on September 25, 2016 the Partial Consent Decree in the lawsuit entitled *Volkswagen "Clean Diesel" Marketing, Sales Practices, and Product Liability Litigation* was finalized; and

WHEREAS, the lawsuit addressed Volkswagen's admission of purposely, and over a sustained period of time, employing prohibited emissions defeat devices on their diesel passenger vehicles that resulted in excess emissions of nitrogen oxides (NOx); and

WHEREAS, under the Consent Decree, the state of New Mexico will receive approximately \$18,000,000 to implement projects that reduce emissions of NOx from eligible vehicles; and

WHEREAS, Santa Fe County (County) is an eligible applicant under the program and the County owns and operates multiple, eligible Class 8 Large Trucks that are used to haul solid waste and recycling, and construct and maintain roads; and

WHEREAS, the County has identified four Class 8 Large Trucks with a combined, estimated, present-day replacement cost of up to \$800,000.00 that may qualify for replacement using funds from the Volkswagen Mitigation Trust Funding Program; and

WHEREAS, replacement of these Class 8 Large Trucks would reduce emissions of NOx and further the County's sustainability goals.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. The County supports the application to the Volkswagen Mitigation Trust Funding Program to obtain funds for the replacement of four Class 8 Large Trucks with

new replacements that have lower, per-mile emissions of NOx and other air contaminants.

2. The County Manager is hereby authorized and directed to prepare, execute and submit applications on behalf of the Board of County Commissioners of Santa Fe County to the New Mexico Volkswagen Environmental Mitigation Trust Program - 2018 Funding Cycle.

3. Furthermore, the County Manager is hereby authorized to accept and sign any award(s) of grant funds that may result from the applications.

PASSED, APPROVED, AND ADOPTED THIS 11th DAY OF SEPTEMBER, 2018.

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

By: _____
Anna Hansen, Chair
Santa Fe County Board of County Commissioners

ATTESTATION:

Geraldine Salazar, Santa Fe County Clerk

Date: _____

Approved as to form:



R. Bruce Frederick, Santa Fe County Attorney

Date: 8-24-18

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY
RESOLUTION NO. 2018 - _____**

**A RESOLUTION DISCLAIMING JURISDICTION
OVER OR INTENT TO ENFORCE COUNTY-REQUIRED COVENANTS
AND RESTRICTIONS THAT ENCUMBER REAL PROPERTY
SUBSEQUENTLY ANNEXED INTO AN INCORPORATED
MUNICIPALITY**

WHEREAS, pursuant to past and current Santa Fe County land use regulations, including those adopted under now repealed Santa Fe County (County) Ordinance 1996-10 (Land Development Code) and the County's current Sustainable Land Development Code (SLDC), Ordinance No. 2016-9, real property owners (Declarants) have been required by the County to execute and record declarations of covenants and restrictions (County-Required Covenants) as a condition of approval of certain applications for development; and

WHEREAS, the Land Development Code in particular required the execution and recordation of water conservation covenants and restrictions for certain developments; and

WHEREAS, the City of Santa Fe has over time annexed various areas within the unincorporated County, including the areas described in the Settlement Agreement and Mutual Release of Claims, executed on or around May 19, 2008, and the Annexation Phasing Agreement between the City of Santa Fe and Santa Fe County, executed on or around January 27, 2009; and

WHEREAS, the areas annexed by the City of Santa Fe include certain parcels that were encumbered by County-Required Covenants prior to annexation; and

WHEREAS, other incorporated municipalities, including the Town of Edgewood and the City of Espanola, have and could in the future annex areas within the County into their incorporated limits; and

WHEREAS, pursuant to NMSA 1978, Section 4-37-2, county ordinances, including ordinances regulating land use, are generally not effective "within the limits of any incorporated municipality"; and

WHEREAS, in order to avoid confusion regarding the County's jurisdiction or intent, the Board of County Commissioners (Board) desires to formally disclaim jurisdiction over or intent to enforce County-Required Covenants as to real property that is located within an area subsequently annexed into an incorporated municipality.

including but not limited to the City of Santa Fe, the City of Espanola, and the Town of Edgewood; and

WHEREAS, the Board does not intend by this Resolution to affect the rights or authority of any Declarant or their successors in interest; and

WHEREAS, the Board does not intend by this Resolution to affect the rights or authority of any incorporated municipality.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. The Board acknowledges that County ordinances, including land uses ordinances, are generally not effective within the limits of any incorporated municipality.

2. The Board hereby disclaims any intent to enforce or jurisdiction over County-Required Covenants that encumbered real property now located within an area subsequently annexed into the incorporated limits of a municipality, including the City of Santa Fe, the City of Espanol, and the Town of Edgewood.

3. This Resolution does not affect the rights or authority of any Declarant or their successors in interest.

4. This Resolution does not affect the rights or authority of any municipality.

PASSED, APPROVED, AND ADOPTED THIS ____ DAY OF _____, 2018.

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

By: _____
Anna Hansen, Chair

ATTEST:

Geraldine Salazar
Santa Fe County Clerk

Date: _____

Approved as to form:



R. Bruce Frederick
Santa Fe County Attorney

