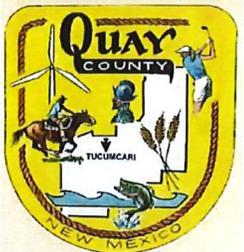




Pages: 77
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 County Clerk, County Clerk, County Clerk



QUAY COUNTY GOVERNMENT
 300 South Third Street
 P.O. Box 1246
 Tucumcari, NM 88401
 Phone: (575) 461-2112
 Fax: (575) 461-6208

AGENDA
REGULAR SESSION
QUAY COUNTY BOARD OF COMMISSIONERS
JULY 8, 2019

9:00 A.M. Call Meeting to Order

- Pledge of Allegiance
- Approval of Minutes-Regular Session June 28, 2019
- Approval/Amendment of Agenda

Public Comment

Ongoing Business

New Business

- I. Connie Loveland, Tucumcari Main Street Executive Director**
 - Request Approval of FY 2019-2020 Tucumcari Main Street Financial Support
 - Request Approval of the 9th Annual Fired Up Sponsorship
 - Correspondence
- II. Andrea Shafer, Quay County DWI Coordinator Administrator**
 - Request Approval of DWI Quarterly Report
- III. Russell Shafer, Quay County Sheriff**
 - Presentation of Sheriff's Report
- IV. Cheryl Simpson, Quay County Finance Director**
 - Request Approval of FY 2018-2019 Resolution No. 45 - Budgetary Increase to Quay County Detention Center (421)
 - Request Approval of FY 2018-2019 Resolution No. 46 - Budgetary Increase to General Fund Transfers (401), Road Department Transfers (402), County Improvements Transfers (649) Road Equipment Fund Transfers (650), and CDBG Fund Transfers (655)
- V. Larry Moore, Quay County Road Superintendent**
 - Request Approval of FY 2019-2020 Resolution No. 1 – LGRF CAP Agreement
 - Request Approval of FY 2019-2020 Resolution No. 2 – Co-op Agreement
 - Request Approval of FY 2019-2020 Resolution No. 3 – School Bus Route Agreement
 - Request Approval of FY 2019-2020 Resolution No. 4 – LGRF CAP Match Waiver
 - Request Approval of FY 2019-2020 Resolution No. 5 – Co-op Match Waiver
 - Request Approval of the Capital Appropriation Agreement
 - Road Update

VI. Richard Primrose, Quay County Manager

- Request Approval of **Professional Services Contract with Clinton D Harden and Associates**
- **Correspondence**

VII. Request Approval of Accounts Payable

VIII. Other Quay County Business That May Arise During the Commission Meeting and/or Comments from the Commissioners

IX. Request for Closed Executive Session

- Pursuant to Section 10-15-1(H) 7. **The New Mexico Open Meetings Act Pertaining to Threatened or Pending Litigation**

X. Franklin McCasland, Quay County Commission Chairman

- Proposed action, if any, from Executive Session

Adjourn

Lunch-Time and Location to be Announced

REGULAR SESSION-BOARD OF QUAY COUNTY COMMISSIONERS

July 8, 2019

9:00 A.M.

BE IT REMEMBERED THE HONORABLE BOARD OF QUAY COUNTY COMMISSIONERS met in regular session the 8th day of July, 2019 at 9:00 a.m. in the Quay County Commission Chambers, Tucumcari, New Mexico, for the purpose of taking care of any business that may come before them.

PRESENT & PRESIDING:

Franklin McCasland, Chairman
Mike Cherry, Member
Sue Dowell, Member
Ellen L. White, County Clerk
Richard Primrose, County Manager

OTHERS PRESENT:

Lucas Bugg, Quay County Fire Marshal
Connie Loveland, Tucumcari Main Street Executive Director
Andrea Shafer, DWI Coordinator
Russell Shafer, Quay County Sheriff
Larry Moore, Quay County Road Superintendent
Janie Hoffman, Quay County Assessor
Daniel Zamora, Quay County Emergency Management Coordinator
Cheryl Simpson, Quay County Manager's Office
Ron Warnick, Quay County Sun

Chairman McCasland called the meeting to order. Janie Hoffman led the Pledge of Allegiance.

A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve the minutes from the June 28, 2019 regular session as presented. MOTION carried with Cherry voting "aye", Dowell voting "aye" and McCasland voting "aye".

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the Agenda as presented. MOTION carried with Cherry voting "aye", Dowell voting "aye" and McCasland voting "aye".

Public Comments: None

NEW BUSINESS:

Connie Loveland, Tucumcari Main Street Executive Director requested approval of financial support to the Main Street 9th Annual Fired-Up Event with a \$5,000 sponsor fee and an annual contribution of \$5,000 to the Main Street annual budget. Richard Primrose noted those two financial contributions are included in the 2019-2020 fiscal year budget, which has already been approved by the Board of Commissioners. A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the continued financial support of the Tucumcari Main Street programs. MOTION carried with Cherry voting "aye", Dowell voting "aye" and McCasland voting "aye".

Andrea Shafer, Quay County DWI Coordinator requested approval of the Fourth Quarter Report for the time period ending June 30, 2019. A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve the Report. MOTION carried with Dowell voting "aye", Cherry voting "aye" and McCasland voting "aye". A copy is attached.

Russell Shafer, Quay County Sheriff, presented the monthly report of the Sheriff's Office. A copy is attached to these minutes.

Cheryl Simpson, Quay County Finance Director, requested approval of the following Financial Resolution:

- FY 2018-2019 Resolution No. 45; Budgetary Increase to Quay County Detention Center (421). A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve Resolution No. 45. MOTION carried with Dowell voting "aye", Cherry voting "aye" and McCasland voting "aye".
- FY 2018-2019 Resolution No. 46; Budgetary Increase to General Fund Transfers (401), Road Department Transfers (402), County Improvements Transfers (649) Road Equipment Fund Transfers (650), and CDBG Fund Transfers (655). A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the Resolution. MOTION carried with Cherry voting "aye", Dowell voting "aye" and McCasland voting "aye".

Copies of Resolutions 45 and 46 are attached to these minutes.

Larry Moore, Quay County Road Superintendent presented the following Resolutions, along with their corresponding Agreements for approval:

- Request Approval of FY 2019-2020 Resolution No. 1 – LGRF CAP Agreement (\$281,167.00)
- Request Approval of FY 2019-2020 Resolution No. 2 – Co-op Agreement (\$168,459.00)
- Request Approval of FY 2019-2020 Resolution No. 3 – School Bus Route Agreement (\$157,398.00)
- Request Approval of FY 2019-2020 Resolution No. 4 – LGRF CAP Match Waiver
- Request Approval of FY 2019-2020 Resolution No. 5 – Co-op Match Waiver

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the above described Resolutions and Agreements. MOTION carried with Dowell voting "aye", Cherry voting "aye" and McCasland voting "aye". Copies of all documents are attached and made a part of these minutes.

Moore requested approval of the Capital Appropriation Agreement for improvements to Quay Road 63 and Quay Road AP in the amount of \$750,000.00. A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the Agreement. MOTION carried with Dowell voting "aye", Cherry voting "aye" and McCasland voting "aye". A copy is attached.

Moore provided the following updates from current projects:

- Millings have been approved for the San Jon project and notification should be received this week.
- Quay Road AD chip seal project will begin on July 15th.
- Crews will begin in the House area working on five miles along Quay Road BH.
- Blade Report was distributed.

Commissioner Dowell stated Marlin Terry had contacted her regarding a portion of Quay Road 60 that goes beyond his house. Primrose stated he has contacted him and Larry Moore will follow up regarding the portion of that road that is maintained as a county road.

Chairman McCasland said an area of Quay Road 61 is rutted out and Quay Road AG is in need of attention with a water drainage problem.

Quay County Manager, Richard Primrose requested approval of the following:

- Professional Services Contract between Quay County and Clinton D. Harden & Associates. Primrose stated this Contract would allow Harden to represent Quay County during the off months of the legislature at meetings of interest to Quay County prior to a legislative session. Primrose stated he believes representation at meetings prior to a session, throughout the year, are critical. Services provided will cost Quay County \$12,000.00 for the year.

Commissioner Dowell stated she had several questions she planned to ask Mr. Harden, however he was not in attendance to address her concerns. Dowell voiced concerns and questions regarding the following items:

1. What other New Mexico Counties does Harden represent?
2. What services has Harden provided that has proved to benefit Quay County?
3. What areas of service does Harden believe are his major strengths and influences?
4. Being a resident of Curry County, where does Harden's loyalty lie with regards to the 6th racing license? Is it with Curry County, who doesn't pay him or with Quay County that does?
5. Harden has made numerous financial contributions to Governor Lujan-Grisham. To what extent does Harden believe he could influence the Governor to the needs of rural New Mexico?

Chairman McCasland stated he does not have any concerns regarding Harden representing Quay County or his loyalty. McCasland stated the Capital Appropriations that were just signed during the Road Report are indicative of those efforts.

A MOTION was made by Mike Cherry, SECONDED by Franklin McCasland to approve the Contract. MOTION carried with Cherry voting "aye", McCasland voting "aye" and Dowell voting "no". A copy of the Contract is attached.

Primrose presented the following correspondence:

- Provided a copy of the Agenda for the Science, Technology and Telecommunications Committee meeting being held at Mesalands Community College on July 8-9, 2019.
- Reported the Eastern Plains Council of Governments will have their Annual Meeting in Santa Rosa on July 31. Those wanting to attend must R.S.V.P.

A MOTION was made by Mike Cherry SECONDED by Sue Dowell to approve the expenditures included in the Accounts Payable Report ending July 3, 2019. MOTION carried with Dowell voting "aye", Cherry voting "aye" and McCasland voting aye".

Other Quay County Business That May Arise during the Commission Meeting and/or comments from the Commissioners:

Commissioner Dowell stated an employee of the Quay County Detention Center requested the Commissioners schedule their annual visit of the facility. Primrose said he would get that scheduled.

Commissioner McCasland requested a ten minute break. Time noted 9:40 a.m.

Return to regular session. 9:50 a.m.

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to go into Executive Session for the following purposes:

- Pursuant to Section 10-15-1(H) 7. The New Mexico Open Meetings Act Pertaining to Threatened or Pending Litigation

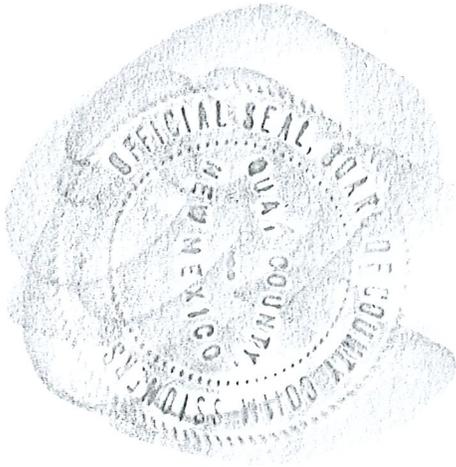
MOTION carried with Dowell voting "aye", Cherry voting "aye" and McCasland voting "aye". Time noted 9:55 a.m.

Return to regular session. Time noted 10:10 a.m.

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell that the above described items were discussed in Executive Session, and no action was taken. MOTION carried with Dowell voting "aye", Cherry voting "aye" and McCasland voting "aye".

There being no further business, a MOTION was made by Sue Dowell SECONDED by Mike Cherry to adjourn. MOTION carried with McCasland voting "aye", Cherry voting "aye" and Dowell voting "aye". Time noted 10:15 a.m.

Respectfully submitted by Ellen White, County Clerk.



BOARD OF QUAY COUNTY COMMISSIONERS

Franklin McCasland
Franklin McCasland

Sue Dowell
Sue Dowell

Mike Cherry
Mike Cherry

ATTEST:

Ellen L. White
Ellen L. White, County Clerk

QUAY COUNTY DWI PROGRAM
STATISTICS

4th Quarter Report

April 2019 thru June 2019

Total Number of Arrests: 9

DWI 1st: 7

DWI 2nd: 0

DWI 3rd: 0

DWI 4th: 1

DWI 5th or Subsequent: 1

Aggravated DWIs: 3

Average BAC: .07

Minimum: .09

Maximum: .20

Blood Draws: 3

Refusals: 2

Average Age: 39

Youngest: 25

Oldest: 63

Sex of Offenders

Male: 6

Female: 3

Accidents: 0

Fatalities: 0

Arrests by Agency:

New Mexico State Police: 5

Tucumcari Police Department: 1

Quay County Sheriff's Department: 2

Logan Police Department: 1

Ute Lake State Park: 0

Monthly Arrests

April: 5

May: 4

June: 0

FROM FINAL COURT DATES:

Number of Cases Completed: 5

Number of Convictions/Pleas: 3

Number of Dismissals: 2

Number of Offenders Placed on DWI Compliance: 3

DWI 1st: 2

DWI 2nd: 1
DWI 3rd: 0
DWI 4th: 0
DWI 5th of Subsequent: 0

Number of Offenders who successfully completed DWI Compliance: 3
Number of Offenders who unsuccessfully completed DWI Compliance: 0
Number of community service hours ordered: 96

Number of DWI Offenders being supervised: 19

Number of Misdemeanor Offenders being supervised: 37

Offenders moved to unsupervised probation: 5

June 30, 2019

Quay County Sheriff's Office monthly report.

Calls for Service

Month Reported	Count
January	90
February	92
March	93
April	94
May	114
June	112
July	
August	
September	
October	
November	
December	

Civil Process

Month Received	Count
January	64
February	70
March	59
April	77
May	42
June	37
July	
August	
September	
October	
November	
December	

Prisoner Transports

Month Reported	Count
January	10
February	11
March	13
April	10
May	12
June	11
July	
August	
September	
October	
November	
December	

Arrest

Month Arrested	Count
January	17
February	21
March	16
April	12
May	21
June	20
July	
August	
September	
October	
November	
December	

Citations

Month Issued	Count
January	9
February	3
March	13
April	11
May	18
June	7
July	
August	
September	
October	
November	
December	

Traffic Stops

Month Occurred	Count
January	38
February	17
March	53
April	65
May	63
June	56
July	
August	
September	
October	
November	
December	

Seven full time Law Enforcement Deputies.	Deputy Q-1	Year 19	UNIT# 9651	Total Mileage 11478
1 Sheriff	Q-2	18	7016	41902
1 Under Sheriff	Q-3	16	7213	53167
5 Deputies	Q-4	15	2323	37903
	Q-5	15	2317	41914
	Q-6	16	0262	83025
	Q-7	10	8905	92088

**QUAY COUNTY
FISCAL YEAR 2018-2019
RESOLUTION No. 45**

Authorization of Budgetary Increase to **Quay County Detention Center (421)**

WHEREAS, at meeting of the Board of Quay County Commissioners on July 8, 2019 the following was among the proceedings;

WHEREAS, the Board of Quay County Commissioners deems it necessary to request this Budgetary Increase;

State Fund 22600 Budgetary Increase	<u>DEBIT</u>	<u>CREDIT</u>
22600-0001-46060 Reimbursements/Refunds		\$ 24,000.00
22600-8002-57010 Care of Prisoners	\$24,000.00	

WHEREAS, the above activity was not contemplated at the time the final budget was adopted and approved **Care of Prisoners costs exceeded budget**

NOW THEREFORE, BE IT RESOLVED that after approval of the Local Government Division of the Department of Finance and Administration, the above Budgetary Increase be made.

DONE at Tucumcari, County of Quay, New Mexico this 8th day of July, 2019.



ATTEST:

Ellen White
Ellen White, County Clerk

Franklin McCasland
Franklin McCasland, Commissioner

Sue Dowell
Sue Dowell, Commissioner

Mike Cherry
Mike Cherry, Commissioner

**QUAY COUNTY
FISCAL YEAR 2018-2019
RESOLUTION No. 46**

Authorization of Budgetary Increase to **General Fund Transfers (401), Road Department Transfers (402), County Improvements Transfers (649) Road Equipment Fund Transfers (650), and CDBG Fund Transfers (655)**

WHEREAS, at meeting of the Board of Quay County Commissioners on July 8, 2019 the following was among the proceedings;

WHEREAS, the Board of Quay County Commissioners deems it necessary to request these Budgetary Increases;

	<u>CREDIT</u>	<u>DEBIT</u>
State Fund 11000 General Fund Budgetary Increase		
11000-0001-61200 Transfer Out to County Improvements		\$200,000.00
11000-0001-61200 Transfer Out to CDBG		\$1,000.00
State Fund 20400 Road Fund Budgetary Increase		
20400-0001-61200 Transfer Out to Road Equipment Fund		\$200,000.00
State Fund 30400 Streets/Road Projects Budgetary Increase		
30400-0001-61100 Transfer In fm Road	\$200,000.00	
State Fund 39900 County Improvements Budgetary Increase		
39900-0001-61100 Transfer In fm General	\$200,000.00	
State Fund 30200 CDBG (HUD) Project Budgetary Increase		
30200-0001-61100 Transfer In fm General	\$1,000.00	

WHEREAS, the above activity was not contemplated at the time the final budget was adopted and approved **End of Year Cash Transfers**

NOW THEREFORE, BE IT RESOLVED that after approval of the Local Government Division of the Department of Finance and Administration, the above Budgetary Increases be made.

DONE at Tucumcari, County of Quay, New Mexico this 8th day of July, 2019.



ATTEST:

Ellen White
Ellen White, County Clerk

Franklin McCasland
Franklin McCasland, Commissioner

Sue Dowell
Sue Dowell, Commissioner

Mike Cherry
Mike Cherry, Commissioner



QUAY COUNTY GOVERNMENT

FISCAL YEAR 2019-2020

RESOLUTION NO. 1

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, **Quay County** and the New Mexico Department of Transportation have entered into a joint and coordinated effort.

WHERE AS, the total cost of the project will be \$ **281,167.00** to be funded in proportional share by the parties hereto as follows:

- New Mexico Department of Transportation's share shall be 75% or \$ **210,875.00**

and

- **Quay County's** proportional matching share shall be 25% or \$ **70,292.00**

TOTAL PROJECT COST IS \$ **281,167.00**.

Quay County shall pay all costs, which exceed the total amount of \$ **281,167.00**

NOW, therefore, be it resolved in official session that **Quay County** determines, resolves, and orders as follows:

That the project for this Cooperative Agreement is adopted and has priority standing.

The agreement terminates on December 31, 2020 and **Quay County** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by **Quay County** to enter into Cooperative Agreement Control Number L400438 Vendor Number 54395 with the New Mexico Department of Transportation for LGRF Project for year 2019-2020 to

SCOPE: Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads

TERMINI: Quay Road AF (Blocks 6000-6175) 1.75 miles

Within the control of **Quay County** in Quay County, New Mexico.

DONE AND RESOLVED this 8th day of July, 2019.


Franklin McCasland, Chairman


Sue Dowell, Member


Mike Cherry, Member



Attest:

Ellen White, Quay County Clerk

Contract No. _____
Vendor No. 54395
Control No. L400438

**LOCAL GOVERNMENT ROAD FUND
COOPERATIVE AGREEMENT**

This Agreement is between the **New Mexico Department of Transportation** (Department) and **Quay County** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2 and the State Transportation Commission Policy No. 44-12, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for **Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads**, as described in Control No. **L400438** and the Public Entity's resolution attached as **Exhibit C** (Project). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

- a. The estimated total cost for the Project is **Two Hundred Eighty One Thousand, One Hundred Sixty Seven Dollars (\$281,167.00)** to be funded in proportional share by the parties as follows:

1. Department's share shall be 75% **\$210,875.00**

**Plan design, construction management, construction, reconstruction,
pavement rehab, drainage improvements and miscellaneous construction to
various county roads**

2. The Public Entity's required proportional matching
Share shall be 25% **\$70,292.00**
For purpose stated above

3. Total Project Cost **\$281,167.00**

- b. The Public Entity shall pay all Project costs, which exceed the total amount of **Two Hundred Eighty One Thousand, One Hundred Sixty Seven Dollars (\$281,167.00)**.
- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay project funds as identified in Section 2, Paragraph a1, to the Public Entity in a single lump sum payment after:

- a. Receipt of a Notice of Award and Notice to Proceed; and,
- b. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a2.
- c. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
- c. Be solely responsible for all local matching funds identified in Section 2. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
- d. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
- e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances
- f. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
 - 1. Utility Certification,
 - 2. Drainage and storm drain design,
 - 3. Geotechnical design,
 - 4. Pavement design,
 - 5. Environmental and archaeological clearances Certification,
 - 6. Right of-way acquisition Certification,
 - 7. Hazardous substance/waste site(s) contamination,
 - 8. Railroad Certification,
 - 9. Intelligent Transportation System (ITS) Certification
- g. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
- h. Obtain all required written agreements or permits, when applicable, from all public and private entities.
- i. Allow the Department to inspect the Project to determine that the Project is being

constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, will result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.

- j. Complete the project within eighteen (18) months of approval of funding by the State Transportation Commission.
- k. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **Project Certification of Design, Construction, and Cost form**, which is attached as Exhibit A.
- l. Within thirty (30) days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in **Project Certification of Design, Construction, and Cost form**.
- m. Failure to provide the **Project Certification of Design, Construction, and Cost form** and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
- n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision can not be used by the Public Entity to meet a required match under any other program.
- e. That the provisions of the Local Government Road Fund Project Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **December 31, 2020**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing thirty (30) days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this agreement.
- c. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4n and 5.

8. Third Party Beneficiary.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.

As between the Department and Public Entity, 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 the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents will be valid or enforceable unless embodied in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit

finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is to be proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be altered, modified, or amended by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: _____
Assistant General Counsel

Date: _____

Quay County

By: Franklin McClelland
Title: Chairman

Date: _____

Attest: Ellen L White
County Clerk

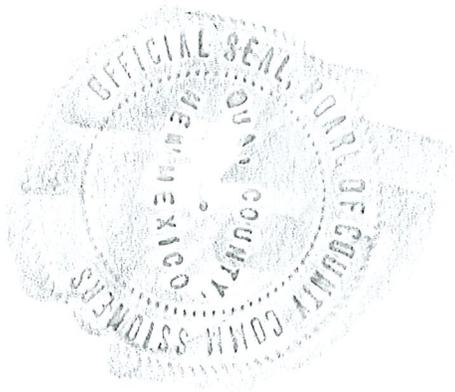


EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

I, the undersigned, in my capacity as _____ of _____
state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement and in the Local Government Road Fund Project Handbook (Current Edition);
2. Construction of the project was performed in accordance with standards and specifications set forth in:

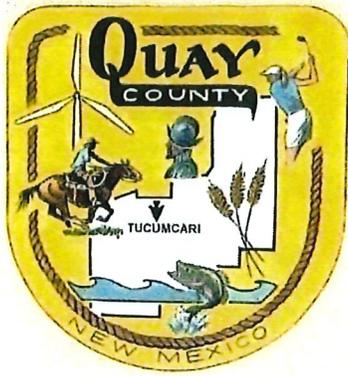
_____ and completed on _____, 20____; and

3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the Public Entity share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

Name Date

Print Name

Title



QUAY COUNTY GOVERNMENT

FISCAL YEAR 2019-2020

RESOLUTION NO. 2

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM
ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, **Quay County** and the New Mexico Department of Transportation have entered into a joint and coordinated effort.

WHEREAS, the total cost of the project will be \$ **138,459.00** to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 75% or \$**103,844.00**

and

b. **Quay County's** proportional matching share shall be 25% or \$ **34,615.00**

TOTAL PROJECT COST IS \$ **138,459.00**

Quay County shall pay all costs, which exceed the total amount of \$ **138,459.00**

NOW, therefore, be it resolved in official session that **Quay County** determines, resolves, and orders as follows:

That the project for this Cooperative Agreement is adopted and has priority standing.

The agreement terminates on December 31, 2020 and **Quay County** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by **Quay County** to enter into Cooperative Agreement Control Number L400431 Vendor Number 54395 with the New Mexico Department of Transportation for LGRF Project for year 2019-2020 to

SCOPE: Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads.

TERMINI: Quay Road AF (Blocks 6000-6175) 1.75 miles

Within the control of Quay County in Quay County, New Mexico.

DONE AND RESOLVED this 8thth day of July, 2019.


Franklin McCasland, Chairman


Sue Dowell, Member


Mike Cherry, Member

Attest:


Ellen White, Quay County Clerk



Contract No. _____
Vendor No. 54395
Control No. L400431

**LOCAL GOVERNMENT ROAD FUND
COOPERATIVE AGREEMENT**

This Agreement is between the **New Mexico Department of Transportation** (Department) and **Quay County** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2 and the State Transportation Commission Policy No. 44-12, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for **Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads**, as described in Control No. **L400431** and the Public Entity's resolution attached as **Exhibit C** (Project). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

- a. The estimated total cost for the Project is **One Hundred thirty Eight Thousand, Four Hundred Fifty Nine Dollars (\$138,459.00)** to be funded in proportional share by the parties as follows:

1. Department's share shall be 75% **\$103,844.00**

**Plan design, construction management, construction, reconstruction,
pavement rehab, drainage improvements and miscellaneous construction to
various county roads**

2. The Public Entity's required proportional matching
Share shall be 25% **\$34,615.00**
For purpose stated above

3. Total Project Cost **\$138,459.00**

- b. The Public Entity shall pay all Project costs, which exceed the total amount of **One Hundred thirty Eight Thousand, Four Hundred Fifty Nine Dollars (\$138,459.00)**.
- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay project funds as identified in Section 2, Paragraph a1, to the Public Entity in a single lump sum payment after:

- a. Receipt of a Notice of Award and Notice to Proceed; and,
- b. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a2.
- c. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
- c. Be solely responsible for all local matching funds identified in Section 2. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
- d. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
- e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances
- f. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
 - 1. Utility Certification,
 - 2. Drainage and storm drain design,
 - 3. Geotechnical design,
 - 4. Pavement design,
 - 5. Environmental and archaeological clearances Certification,
 - 6. Right-of-way acquisition Certification,
 - 7. Hazardous substance/waste site(s) contamination,
 - 8. Railroad Certification,
 - 9. Intelligent Transportation System (ITS) Certification
- g. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
- h. Obtain all required written agreements or permits, when applicable, from all public and private entities.
- i. Allow the Department to inspect the Project to determine that the Project is being

constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, will result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.

- j. Complete the project within eighteen (18) months of approval of funding by the State Transportation Commission.
- k. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **Project Certification of Design, Construction, and Cost form**, which is attached as Exhibit A.
- l. Within thirty (30) days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in **Project Certification of Design, Construction, and Cost** form.
- m. Failure to provide the **Project Certification of Design, Construction, and Cost** form and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
- n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision can not be used by the Public Entity to meet a required match under any other program.
- e. That the provisions of the Local Government Road Fund Project Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **December 31, 2020**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing thirty (30) days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this agreement.
- c. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4n and 5.

8. Third Party Beneficiary.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.

As between the Department and Public Entity, 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 the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents will be valid or enforceable unless embodied in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit

finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is to be proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be altered, modified, or amended by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: _____
Assistant General Counsel

Date: _____

Quay County

By: Franklin McCasland
Title: Chairman

Date: _____

Attest: Ellen L White
County Clerk

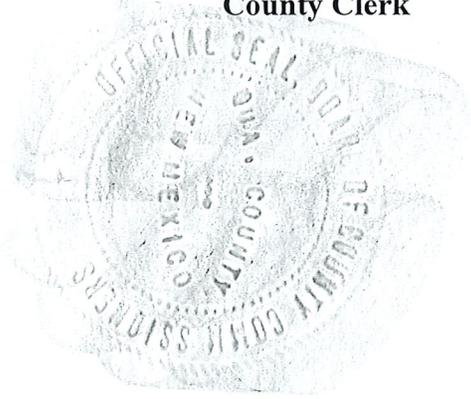


EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

I, the undersigned, in my capacity as _____ of _____
state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement and in the Local Government Road Fund Project Handbook (Current Edition);
2. Construction of the project was performed in accordance with standards and specifications set forth in:

And completed on _____, 20____; and

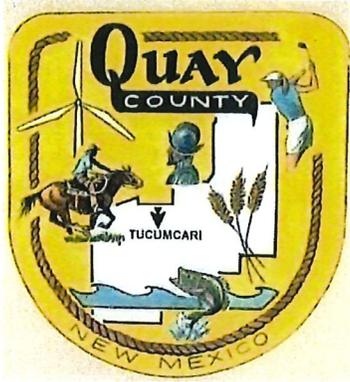
3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the Public Entity share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

Name

Date

Print Name

Title



QUAY COUNTY GOVERNMENT

FISCAL YEAR 2019-2020

RESOLUTION NO. 3

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM
ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, **Quay County** and the New Mexico Department of Transportation have entered into a joint and coordinated effort.

WHEREAS, the total cost of the project will be \$ **157,395.00** to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or \$ **118,046.00**

and

- b. **Quay County's** proportional matching share shall be 25% or \$ **39,349.00**

TOTAL PROJECT COST IS \$ **157,395.00**

Quay County shall pay all costs, which exceed the total amount of \$ **157,395.00**

NOW, therefore, be it resolved in official session that **Quay County** determines, resolves, and orders as follows:

That the project for this Cooperative Agreement is adopted and has priority standing.

The agreement terminates on December 31, 2020 and **Quay County** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by **Quay County** to enter into Cooperative Agreement Control Number L400445 Vendor Number 54395 with the New Mexico Department of Transportation for LGRF Project for year 2019-2020 to

SCOPE: Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads.

**TERMINI: Quay Road O (Blocks 5900-6300) 4 miles;
Quay Road O (Blocks 6400-6600) 2 miles:**

Within the control of **Quay County** in Quay County, New Mexico.

DONE AND RESOLVED this 8th day of July, 2019.


Franklin McCasland, Chairman


Sue Dowell, Member


Mike Cherry, Member



Attest:


Ellen White, Quay County Clerk

Contract No. _____
Vendor No. 54395
Control No. L400445

**LOCAL GOVERNMENT ROAD FUND
COOPERATIVE AGREEMENT**

This Agreement is between the **New Mexico Department of Transportation** (Department) and **Quay County** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2 and the State Transportation Commission Policy No. 44-12, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for **Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads**, as described in Control No. **L400445** and the Public Entity's resolution attached as **Exhibit C** (Project). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

- a. The estimated total cost for the Project is **One Hundred Fifty Seven Thousand, Three Hundred Ninety Five Dollars (\$157,395.00)** to be funded in proportional share by the parties as follows:

1. Department's share shall be 75% **\$118,046.00**

**Plan design, construction management, construction, reconstruction,
pavement rehab, drainage improvements and miscellaneous construction to
various county roads**

2. The Public Entity's required proportional matching
Share shall be 25% **\$39,349.00**
For purpose stated above

3. Total Project Cost **\$157,395.00**

- b. The Public Entity shall pay all Project costs, which exceed the total amount of **One Hundred Fifty Seven Thousand, Three Hundred Ninety Five Dollars (\$157,395.00)**
- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay project funds as identified in Section 2, Paragraph a1, to the Public Entity in a single lump sum payment after:

- a. Receipt of a Notice of Award and Notice to Proceed; and,
- b. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a2.
- c. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
- c. Be solely responsible for all local matching funds identified in Section 2. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
- d. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
- e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances
- f. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
 - 1. Utility Certification,
 - 2. Drainage and storm drain design,
 - 3. Geotechnical design,
 - 4. Pavement design,
 - 5. Environmental and archaeological clearances Certification,
 - 6. Right of-way acquisition Certification,
 - 7. Hazardous substance/waste site(s) contamination,
 - 8. Railroad Certification,
 - 9. Intelligent Transportation System (ITS) Certification
- g. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
- h. Obtain all required written agreements or permits, when applicable, from all public and private entities.
- i. Allow the Department to inspect the Project to determine that the Project is being

constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, will result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.

- j. Complete the project within eighteen (18) months of approval of funding by the State Transportation Commission.
- k. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **Project Certification of Design, Construction, and Cost form**, which is attached as Exhibit A.
- l. Within thirty (30) days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in **Project Certification of Design, Construction, and Cost form**.
- m. Failure to provide the **Project Certification of Design, Construction, and Cost form** and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
- n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision can not be used by the Public Entity to meet a required match under any other program.
- e. That the provisions of the Local Government Road Fund Project Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **December 31, 2020**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing thirty (30) days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this agreement.
- c. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4n and 5.

8. Third Party Beneficiary.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.

As between the Department and Public Entity, 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 the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents will be valid or enforceable unless embodied in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit

finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is be proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be altered, modified, or amended by an instrument in writing executed by the parties.

The remainder of this page in intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: _____
Assistant General Counsel

Date: _____

Quay County

By: Franklin Masland

Date: _____

Title: Chairman

Attest: Ella L White
County Clerk

**EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST**

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

I, the undersigned, in my capacity as _____ of _____
state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement and in the Local Government Road Fund Project Handbook (Current Edition);
2. Construction of the project was performed in accordance with standards and specifications set forth in:

And completed on _____, 20____; and

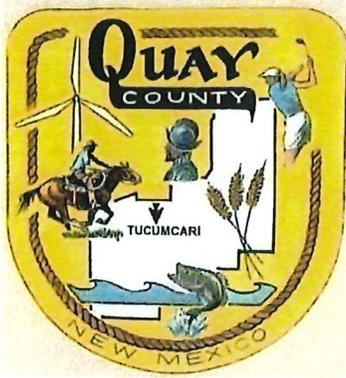
3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the Public Entity share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

Name

Date

Print Name

Title



QUAY COUNTY GOVERNMENT

FISCAL YEAR 2019-2020

RESOLUTION NO. 4

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM AND REQUEST FOR MATCH WAIVER ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, **Quay County** and the New Mexico Department of Transportation enter into a Cooperative Agreement.

WHERE AS, the total cost of the project will be \$ **281,167.00** to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 75% or \$ **210,875.00**

and

b. **Quay County's** proportional matching share shall be 25% or \$ **70,292.00**

TOTAL PROJECT COST IS \$ **281,167.00**

Quay County shall pay all costs, which exceed the total amount of \$ **281,167.00**.

WHEREAS, NMAC 27.3.8 allows Public Entities who are experiencing financial hardship to apply for a Match Waiver of all or part of the above mentioned Public Entity match.

WHEREAS, **Quay County** qualifies for the Match Waver because Quay County has a limited tax base, which limits the funding for meeting the proportional matching share; and, a fund exists in the NMDOT appropriated by the New Mexico State Legislature for Public Entities in need of "hardship" match money.

NOW, therefore, be it resolved in official session that **Quay County** determines, resolves, and orders as follows:

That **Quay County** requests a Match Waiver in the amount of \$ **70,292.00** for LGRF Project for year 2019-2020 to

SCOPE: Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads

TERMINI: Quay Road AF (Blocks 6000-6175) 1.75 miles

Within the control of **Quay County** in Quay County, New Mexico.

DONE AND RESOLVED this 8th day of July 2019.


Franklin McCasland, Chairman

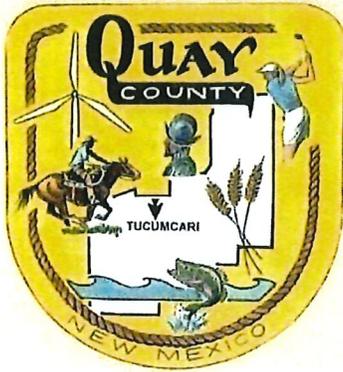

Sue Dowell, Member


Mike Cherry, Member

Attest:


Ellen White, Quay County Clerk





QUAY COUNTY GOVERNMENT

FISCAL YEAR 2019-2020

RESOLUTION NO. 5

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM AND REQUEST FOR MATCH WAIVER ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, **Quay County** and the New Mexico Department of Transportation enter into a Cooperative Agreement.

WHERE AS, the total cost of the project will be \$ **138,459.00** to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 75% or \$ **103,844.00**

and

b. **Quay County's** proportional matching share shall be 25% or \$ **34,615.00**

TOTAL PROJECT COST IS \$ **138,459.00**

Quay County shall pay all costs, which exceed the total amount of \$**138,459.00**.

WHEREAS, NMAC 27.3.8 allows Public Entities who are experiencing financial hardship to apply for a Match Waiver of all or part of the above mentioned Public Entity match.

WHEREAS, **Quay County** qualifies for the Match Waver because Quay County has a limited tax base, which limits the funding for meeting the proportional matching share; and, a fund exists in the NMDOT appropriated by the New Mexico State Legislature for Public Entities in need of "hardship" match money.

NOW, therefore, be it resolved in official session that **Quay County** determines, resolves, and orders as follows:

That **Quay County** requests a Match Waiver in the amount of \$ **34,615.00** for LGRF Project for year 2019-2020 to

SCOPE: Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads.

TERMINI: Quay Road AF (Blocks 6000-6175) 1.75 miles

Within the control of **Quay County** in Quay County, New Mexico.

DONE AND RESOLVED this 8th day of July 2019.

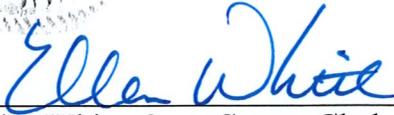

Franklin McCasland, Chairman


Sue Dowell, Member


Mike Cherry, Member



Attest:


Ellen White, Quay County Clerk

Contract Number: _____
Vendor Number: 000054395
Control Number: C4193380

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

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20 __, by and between the Department of Transportation, hereinafter called the “Department” or abbreviation such as “NMDOT”, and Quay 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 2019, Chapter 277, Section 40, Subsection 110, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

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

WHEREAS, pursuant to the NMSA 1978, Section 67-3-28, as amended, and State Highway Commission Policy No. 44, the Department has the authority to enter into this Grant Agreement.

AGREEMENT

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

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

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

DFA Appropriation ID D3380 NMDOT Control Number C4193380 **\$750,000**

APPROPRIATION REVERSION DATE: 6/30/2023

Laws of 2019, Chapter 277, Section 40, Subsection 110, Seven Hundred Fifty Thousand Dollars and No Cents (\$750,000), to plan, design and construct improvements to Quay road 63 and Quay road AP in Quay County .

The Grantee’s total reimbursements shall not exceed Seven Hundred Fifty Thousand Dollars and No Cents \$750,000 (the “Appropriation Amount”) minus the allocation for Art in Public Places (“AIPP amount”)¹, if

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

applicable, Zero Dollars (\$ 0.00), which equals Seven Hundred Fifty Thousand Dollars and No Cents (\$750,000) (the "Adjusted Appropriation Amount").

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

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

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

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse² Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code 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; and
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

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

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with 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 submission 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 shall be governed by the following:

- 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 obligations.
- c. The Department may, in its sole and 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 2.
- d. The date the Department signs 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 to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

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 designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: Quay County
Name: Larry Moore
Title: Road Superintendent
Address: P.O. Box 1246, Tatum, New Mexico 88401
Email: Larry.Moore@QUAYCOUNTY-NM.GOV
Telephone: 575-403-7735

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: Department of Transportation District 4 Office
Name: Heather Sandoval
Title: Assistant District Four Engineer – Engineering
Address: P.O. Box 10, Las Vegas, NM 87710
Email: Heather.Sandoval@state.nm.us
Telephone: 505-454-3663

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 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 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, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **6/30/2023** 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, and 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 in 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, and such termination shall be effective 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 and absolute 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 sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and

- (ii) The Department will suspend the 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 and absolute 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 sole and 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. Database Reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. 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.

Monthly reports shall be due 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 the final request for reimbursement for the Project.

B. 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.

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 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for 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 sole and absolute 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. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

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

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; 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.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX 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 and the Deadlines set forth in Article IX herein. 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 State 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, as 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 "Anti-Donation Clause."
 - (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
 - (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 the Grantee 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 conflicts of interest, 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 their 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 or goods to be received, 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, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

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

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and 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, warrants, 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 Quay County may immediately terminate this Agreement by giving Contractor written notice of such termination. The Quay 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 Quay County or the Department of Transportation or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Quay 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, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

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

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

XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

A. Throughout the term of this Agreement, Grantee shall:

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

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

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

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

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee’s sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department’s failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the

SBOF 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 SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

[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

Franklin McCasland
Signature of Official with Authority to Bind Grantee

Quay County
Entity Name

By: Franklin McCasland
(Type or Print Name)

Its: Chairman
(Type or Print Title)

Date

DEPARTMENT OF TRANSPORTATION

By:

Its: Cabinet Secretary or Designee

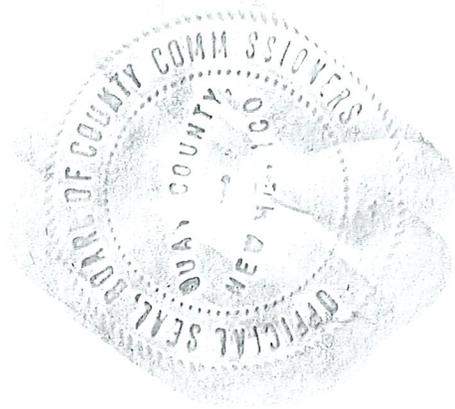
Date

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

Cynthia A. Christ
By: Cynthia Christ

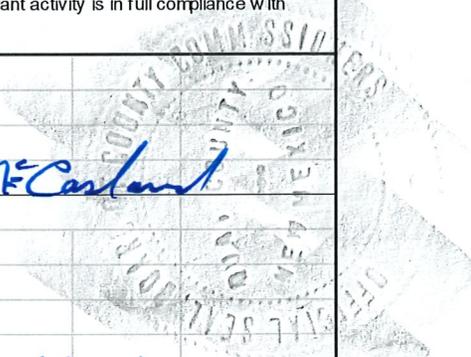
Its: Assistant General Counsel

5-15-19
Date



**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1**

I. Grantee Information				II. Payment Computation			
<small>(Make sure information is complete & accurate)</small>							
A. Grantee:				A. Payment Request No.			
B. Address:				B. Grant Amount:			
<small>(Complete Mailing, including Suite, if applicable)</small>							
				C. AIPP Amount <i>(If Applicable)</i> :			
				D. Funds Requested to Date:			
				E. Amount Requested this Payment:			
				F. Reversion Amount <i>(If Applicable)</i> :			
				G. Grant Balance:			
		<small>City</small>	<small>State</small>	<small>Zip</small>			
C. Phone No:				H. <input type="checkbox"/> GF <input type="checkbox"/> GOB <input type="checkbox"/> STB <i>(attach wire if first draw)</i>			
D. Grant No:				I. <input type="checkbox"/> Final Request for Payment <i>(if Applicable)</i>			
E. Project Title:							
F. Grant Expiration Date:							
III. Fiscal Year :							
<small>(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)</small>							
IV. <input type="checkbox"/> Reporting Certification: I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.							
V. <input type="checkbox"/> Compliance Certification: Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.							
				 Grantee Representative			
Grantee Fiscal Officer or Fiscal Agent <i>(if applicable)</i>				 Printed Name			
Printed Name				Printed Name			
Date:				Date:			
(State Agency Use Only)							
Vendor Code:		Fund No.:		Loc No.:			
I certify that the State Agency financial and vendor file information agree with the above submitted information.							
Division Fiscal Officer				Division Project Manager			
Date				Date			



**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2**

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____]

FROM: Grantee: [_____]

Grantee Official Representative: [_____]

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: [_____]

Grant Termination Date: [_____]

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: [_____]

Vendor or Contractor: [_____]

Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]

Third Party Obligation Amount: [_____]

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 (Minus AIPP if applicable): [_____]

The Amount of this Notice of Obligation: [_____]

The Total Amount of all Previously Issued Notices of Obligation: [_____]

The Total Amount of all Notices of Obligation to Date: [_____]

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: [_____]

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for
indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of
bond proceeds shall not be allowed unless specifically authorized by statute.

Attachment A

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

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

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

1. After subject signal system(s) has/have been constructed, make provisions for and provide, at its own expense, all electrical energy, routine maintenance such as lamp replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the signal head and poles.
2. In the event that accidental damage or equipment failure should occur, provide for equipment shut down/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the Controller (and cabinet) or the loop detection system, promptly notify the Traffic Technical Support Bureau of the Department.
3. In the event that the traffic signal should be rendered completely inoperable as a result of accidental damage, secure the intersection with stop signs at all approach legs until such time as the traffic signal is made operable.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals and telephone service to the signal system and intersection lighting.
5. At its own expense, maintain the signal controller and control equipment (the "Controller") including and maintenance of the machine vision vehicle detection system with cameras and emergency vehicle pre-empt system and repair or replace the Controller in the event the Controller and/or cabinet is damaged or there is an equipment failure.
6. After the installation of the roadway lighting system, if any, provide any and all utilities, maintenance, and such other items as may be necessary of continued satisfactory operation of said subject lighting system.
7. Make all timing adjustments to the Signal Control equipment and review the Signal System(s) for efficient and satisfactory operation.
8. Obtain approval from the Department for all signal equipment prior to installation.
9. Require the construction contractor to name the Department and the Grantee as an additional insured in the construction contractor's general liability policy.
10. Enter into a Signalization and Lighting Agreement with the Department's Traffic Technical Support Bureau as required.

DATE/19	NAME	ROAD	BLADED	BLOCKS	MILES	ADDITIONAL WORK TO ROAD/COMMENTS
6/2/19	LARRY	QUAY ROAD	31	3000-3300	3.00	PULLED DITCHES, REBUILDING ROAD
6/4/19	LOUIS	RT. 66		0100-0530	4.20	
	LOUIS	QUAY ROAD	A	6300-6350	0.50	
	LOUIS	QUAY ROAD	M	5900-5950	0.50	
	LARRY	QUAY ROAD	31	2900-3200	3.00	PULLED DITCHES REBUILT ROAD
	LARRY	QUAY ROAD	AF	3000-3100	1.00	PULLED DITCHES REBUILT ROAD
	DONALD	QUAY ROAD	62	3100-3600	5.00	
	DONALD	QUAY ROAD	AJ	6175-6275	1.00	
	DONALD	QUAY ROAD	AG	6200-6300	1.00	
6/10/19	DONALD	QUAY ROAD	64	2750-2900	2.50	PULLED DITCHES/FIXED RUTS AND HOLES
	DONALD	QUAY ROAD	AC	6300-6400	1.00	PULLED DITCHES/FIXED RUTS AND HOLES
	DONALD	QUAY ROAD	AE	6300-6400	1.00	PULLED DITCHES/FIXED RUTS AND HOLES
	DONALD	QUAY ROAD	65	2800-2900	1.00	PULLED DITCHES/FIXED RUTS AND HOLES
	LARRY	QUAY ROAD	34	2700-2900	2.00	DITCH WORK/REPAIRED ROAD
	KENNEY	QUAY ROAD	K	8500-8800	3.00	
6/11/19	LARRY	QUAY ROAD	31	3300-3500	2.00	
	LARRY	QUAY ROAD	AH	3000-3100	1.00	
	LARRY	QUAY ROAD	AF	3000-3100	1.00	
	LARRY	QUAY ROAD	AE	3000-3100	1.00	
	LARRY	QUAY ROAD	31	3150-3250	1.00	
	DONALD	QUAY ROAD	AG	6300-6500	2.00	PULL DITCHES/BLADE/FIX RUTS
	DONALD	QUAY ROAD	64	3000-3200	2.00	PULL DITCHES/BLADE/FIX RUTS
	DONALD	QUAY ROAD	65	3200-3300	1.00	PULL DITCHES/BLADE/FIX RUTS
	DONALD	QUAY ROAD	AH	6450-6750	3.00	PULL DITCHES/BLADE/FIX RUTS
	KENNEY	QUAY ROAD	K	8400-8500	1.00	
	QUADE	QUAY ROAD	BE	3700-4000	3.00	
	QUADE	QUAY ROAD	40	5400-5500	1.00	
6/12/19	KENNEY	QUAY ROAD	F	8300-8400	1.00	
	KENNEY	QUAY ROAD	K	8270-8400	2.30	
	LARRY	QUAY ROAD	34	3100-3500	4.00	
	LARRY	QUAY ROAD	AG	3100-3400	3.00	
	QUADE	QUAY ROAD	AY	3000-3300	3.00	
	QUADE	QUAY ROAD	AZ	3100-3200	1.00	
6/13/19	LARRY	QUAY ROAD	34	3000-3100	1.00	
	LARRY	QUAY ROAD	AE	3100-3400	3.00	
	LARRY	QUAY ROAD	AF	3300-3400	1.00	
	LARRY	QUAY ROAD	AF	3100-3150	0.50	
	QUADE	QUAY ROAD	AV	3100-3200	1.00	
	QUADE	QUAY ROAD	AZ	2900-3100	2.00	
	QUADE	QUAY ROAD	30	5000-5100	1.00	
	QUADE	QUAY ROAD	29	5000-5100	1.00	
	QUADE	QUAY ROAD	31	5100-5200	1.00	
6/17/19	LARRY	QUAY ROAD	35	3200-3300	1.00	
	LARRY	QUAYROAD		3000-3100	1.00	
	LARRY	QUAY ROAD	AD	3400-3600	2.00	
	LARRY	QUAY ROAD	AG	3100-3200	1.00	
	QUADE	QUAY ROAD	25	5000-5200	2.00	
	QUADE	QUAY ROAD	BC	2400-2700	3.00	

	QUADE	QUAY ROAD 26	5100-5200	1.00	
	DONALD	QUAY ROAD 64	3400-3450	0.50	
	DONALD	QUAY ROAD 62	3000-3100	1.00	
	DONALD	QUAY ROAD 61	2800-3100	3.00	
	DONALD	QUAY ROAD AC	6100-6183	0.83	
6/18/19	DONALD	QUAY ROAD AK	6300-6400	1.00	
	DONALD	QUAY ROAD 63.2	3675-3698	0.20	
	DONALD	QUAY ROAD 63.4	3630-3698	0.76	
	DONALD	QUAY ROAD 63.8	3600-3700	1.00	
	DONALD	QUAY ROAD 63.5	3600-3650	0.50	
	DONALD	QUAY ROAD AL.4	6400-6450	0.45	
	LARRY	QUAY ROAD 38	2600-2900	3.00	
	QUADE	QUAY ROAD BC	2700-2825	1.25	
	QUADE	QUAY ROAD AZ	2600-2700	1.00	
	QUADE	QUAY ROAD 26	5000-5100	1.00	
	QUADE	QUAY ROAD 26	4900-5000	1.00	
	QUADE	QUAY ROAD AX	2400-2600	2.00	
	QUADE	QUAY ROAD 29	4900-5000	1.00	
6/19/19	LARRY	QUAY ROAD 47	1700-1900	2.00	PULLED DITCHES,FILLED POTHOLES
6/20/19	LARRY	QUAY ROAD 47	1600-1700	1.00	PULLED DITCHES,FILLED POTHOLES/BACKSLOPE
	QUADE	QUAY ROAD AZ	3200-3300	1.00	
	QUADE	QUAY ROAD BC	3500-3700	2.00	
6/23/2019	KENNEY	QUAY ROAD 90	0300-0500	2.00	
	KENNEY	QUAY ROAD F.5	9400-9525	2.38	FIXED WASHOUT
6/24/19	DONALD	QUAY ROAD 65.5	2700-2900	2.00	
	DONALD	QUAY ROAD 67	2900-3000	1.00	
	KENNEY	QUAY ROAD F.5	9400-9525	2.38	FIXED WASHOUT
			TOTAL	120.75	



QUAY COUNTY GOVERNMENT
300 South Third Street
P.O. Box 1246
Tucumcari, NM 88401
Phone: (575) 461-2112
Fax: (575) 461-6208

PROFESSIONAL SERVICES CONTRACT

This contract is hereby made and entered into by and between Quay COUNTY (hereinafter "COUNTY") and CLINTON D HARDEN & ASSOCIATES (hereinafter "CDH") on 7/01/2019.

WHEREAS, COUNTY has found it necessary and desirable to retain an individual or firm to provide government relation services as further described below; and

WHEREAS, COUNTY desires to hire CDH to provide said services; and

WHEREAS, CDH desires to provide such services under the terms and conditions of this professional services contract.

THEREFORE, IT IS HEREBY MUTUALLY AGREED UPON by and between the parties that:

1. SCOPE OF WORK: CLINTON D HARDEN & ASSOCIATES shall:
 - A. Represent COUNTY interests from July 1, 2019 to June 30, 2020 including during the Regular Session of the 2020 New Mexico State Legislature, any Special Sessions which may occur and during the Interim Process.
 - B. Design and implement a campaign directed towards key state legislators, administration leadership and staff on the important issues facing QUAY COUNTY including those issues adopted by the New Mexico Counties, when those issues are supported by the COUNTY.
 - C. Design and implement an aggressive funding request campaign to acquire funding appropriations as approved by COUNTY for infrastructure improvements including but not limited to Detention Center, Dispatch, DWI and Roads.
 - D. Represent COUNTY at public hearings, committee meetings and/or meetings with government officials. Present and defend County's proposed projects, scopes of work, budgets and

assist in preparing handout materials, if appropriate, for review by interested parties.

- E. Regularly consult with County Manager concerning any action directed by the COUNTY. Action shall be deemed authorized by the COUNTY pursuant to this contract. The COUNTY may change their designee with a majority vote of the commissioners.

2. TERMS: This contract shall be effective from July 1, 2019 through June 30, 2020 unless otherwise terminated, pursuant to the termination provision herein. This contract shall not be effective until approved and signed by the COUNTY designees. At a mutual desire of the parties, this contract may be extended beyond the termination date.

3. COMPENSATION: COUNTY shall pay CDH as follows for the work performed under this contract:

- A. A total sum of Twelve Thousand dollars (\$12,000.00. plus New Mexico Gross Receipts tax.) The COUNTY will make payments in 12 installments of One Thousand Dollars (\$1,000.00), plus New Mexico gross receipts tax on each installment date.

- B. The first installment shall be due on July 01, 2019, subsequent installments due on the 1st of each month.

- C. CLINTON D HARDEN & ASSOCIATES will also be reimbursed for any necessary expenses which are approved in advance by the COUNTY designees.

- D. In the event that the contract is terminated, the annual fee should be prorated to the date of termination.

4. TERMINATION:

- A. QUAY COUNTY may, with or without cause, terminate this contract. COUNTY shall have the right to terminate this contract due to any action or publicity about CLINTON D HARDEN & ASSOCIATES, where the COUNTY determines, in their sole discretion, that the actions or publicity discredits, embarrasses or puts the County in a bad light. Notice of termination shall be in writing and hand-delivered or mailed (certified mail, return receipt requested) to CDH. If notice is by mail, the notice period will begin to run three (3) calendar days from the date the notice is deposited with the United States Postal Service if notice is hand-delivered, the notice period will begin to run as of the date of delivery to Clint Harden, agent of Clinton D Harden & Associates at their place of business, located at 1348 CR H, Clovis, New Mexico 88101

B. CLINTON D HARDEN & ASSOCIATES may terminate this contract if the COUNTY is in default in the performance of any material term, condition or covenant of this agreement and if County does not cure the default within twenty (20) business days after notice, or, if the default is of such nature that it cannot be cured completely within the twenty (20) business day period. If CLINTON D HARDEN & ASSOCIATES exercises its right of termination under this paragraph, this contract shall terminate sixty (60) days following the date written notice of termination is given, as completely as if it were the date definitely fixed for the expiration of this contract. Notice of termination shall be in writing and hand-delivered or mailed (certified mail, return receipt) to COUNTY (Attention: County Designee).

If notice is by mail, the notice period will begin to run three (3) calendar days from the date the notice is deposited with the United States Postal Service. If notice is hand-delivered, the notice period will begin to run as of the date of delivery to the office of the County Designee.

C. In no event shall termination nullify obligations of either party prior to the effective date of the termination.

5. STATUS: CLINTON D HARDEN & ASSOCIATES is a New Mexico LLC, CDH acknowledges that it is an independent contractor and as such neither it, nor its employees, agents or representatives shall be considered employees or agents of QUAY COUNTY nor shall CDH be eligible to accrue sick leave, retirement benefits, or any other benefits provided County employees. CDH will provide legislative, administrative and executive advocacy on behalf of County.
6. SUBCONTRACTING: CDH shall not subcontract any portion of the services to be performed under this contract, without the prior written approval of COUNTY.
7. ASSIGNMENT: CDH shall not assign or transfer any interest in the contract, or assign any claims for money due, or to become due, under this contract without the prior written approval of COUNTY.
8. UPDATES: CDH agrees that it will provide Bi-Weekly updates during the legislative and/or special session when applicable. CDH will provide written reports on interim activity Quarterly.
9. INDEMNIFICATION: CLINTON D HARDEN & ASSOCIATES agrees to indemnify and hold harmless COUNTY, its elected officials, agents and employees from any and all claims, suits and causes of action which may arise from negligent or reckless performance under this contract unless specifically exempted by New Mexico law. CDH further agrees to indemnify and hold COUNTY harmless from all claims for personal injury or death sustained by CDH, its employees, agents or other representatives while engaged in the performance of this contract.

10. RELEASE: CDH agrees that upon contract termination date and COUNTY adherence to payment plan it releases COUNTY from all liabilities, claims and/or obligations whatsoever arising from, or under this contract.
11. NON-AGENCY: CLINTON D HARDEN & ASSOCIATES agrees not to purport to bind County to any obligation not assumed herein by COUNTY, unless CLINTON D HARDEN & ASSOCIATES has express written approval and then only within the limits of that expressed authority.
12. CONFLICT OF INTEREST: CLINTON D HARDEN & ASSOCIATES warrants that it presently has no interest or conflict of interest and shall not acquire any interest or conflict of interest which would conflict with its performance of services under this contract.
13. NON-DISCRIMINATION: CLINTON D HARDEN & ASSOCIATES agrees that it, its employee(s) and or agent(s) shall comply with all federal, state and local laws regarding equal employment opportunities, fair labor standards, and other non-discrimination and equal opportunity compliance laws, regulations and practices.
14. ENTIRE CONTRACT: This contract represents the entire agreement of the parties and supersedes any and all prior oral or written agreements or understandings between the parties concerning the subject matter of this contract.
15. AMENDMENT: This contract shall not be altered, changed, modified or amended, except by instrument, in writing, executed by both parties.
16. APPLICABLE LAW: This contract shall be governed by the Laws of the State of New Mexico and the ordinances, resolutions, rules and regulations of COUNTY. Venue for any dispute arising from this contract shall be the District Court located in QUAY COUNTY.
17. ATTORNEY'S FEES: Should either party to this contract be obligated to seek enforcement of the terms of this contract through a court of law, the breaching party as determined by any judge or special master shall be responsible for all court costs and reasonable attorney's fees incurred by the non-breaching party as a result of the breach of this agreement.
18. ACKNOWLEDGEMENTS: CLINTON D HARDEN & ASSOCIATES acknowledges that it is aware of the Procurement code, Sections 13-1-28 through 13-1-199, NMSA (1978), as amended, imposes civil and criminal penalties for its violation. CLINTON D HARDEN & ASSOCIATES also agrees to comply with the requirements and guidelines of the New Mexico Lobbyist Registration Act. In addition, CLINTON D HARDEN & ASSOCIATES acknowledges that it is aware that New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kick-backs.

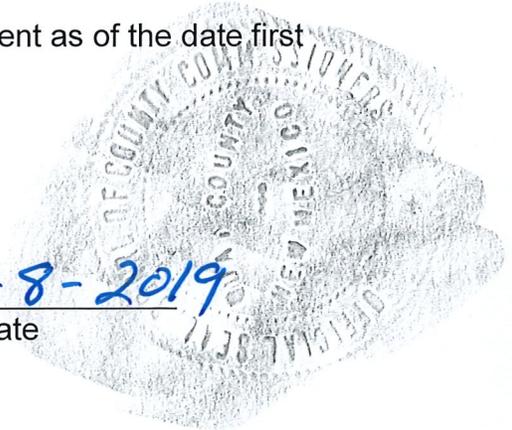
19. WORK PRODUCT: All work and work product produced under this contract shall be and remain the exclusive property of QUAY COUNTY, and CLINTON D HARDEN & ASSOCIATES shall not use, sell, disclose or otherwise make available to anyone (individual, corporation or organization) any work and work product produced under the contract, other than to QUAY COUNTY.

IN WITNESS HEREOF, the parties have executed this agreement as of the date first written above.

QUAY COUNTY

By: Franklin McCasland
Franklin McCasland, Commission Chairman

7-8-2019
Date



CLINTON D HARDEN & ASSOCIATES LLC

By: _____ / _____
CLINTON D HARDEN
LEAD CONSULTANT
Date