



Colfax County

Board of Commissioners

P.O. Box 1498 • Raton, New Mexico 87740
Ph. (575) 445-3661 • Fax. (575) 445-2902
www.co.colfax.am.us



RESOLUTION 2024-08

A RESOLUTION OF FEES FOR WIRELESS TELECOMMUNICATION FACILITIES

WHEREAS, The Colfax County Board of County Commissioners has adopted the Wireless Telecommunications Facilities Ordinance (Ordinance 2023-02) which directs that a resolution be adopted setting the application and permitting fees, and allows that resolution to be changed from time to time; and

WHEREAS The Colfax County Board of County Commissioners County desires to exercise its authority to establish wireless telecommunication application and permitting fees; and

WHEREAS The Colfax County Board of County Commissioners County considers specific reasons to set a separate and distinctive fee schedules for this Resolution due to unique and complex nature of the Ordinance which requires more time and effort including seeking expert's advice in this area and intends to exercise its authority to establish wireless telecommunication application and permitting fees which affects fees stated in this Resolution; and

NOW, THEREFORE, BE IT RESOLVED that application fees are:

Non-Refundable (payable at the outset of the application process to Colfax County)

TRADITIONAL TOWERS:

Colocation, Modification or Eligible Facility:	\$ 9,000	
New Tower:	\$ 17,500	
Tower Registration Update:	\$ 1,500	
Approved Application Update*:	\$ 1,500	
SMALL WIRELESS FACILITIES: (SWF) Per FC18-133, NM HB-38		
New SWF/ System (New or Replacement Poles)	1-25 \$750/each/site or node	
SWF /DAS (New or Replacement Poles)	1-25 \$750/each/site or node	
SWF; Colocation or Modification	1-5 \$100; 6-2 \$20/each/site	or node
SWF; Approved Application Update*	1-5 \$100; 6-2 \$20/each/site	or node
SWF Rights-of-Way Fees** (Annual)	\$250/site/node on an	annual basis

* Approved Application Updates – Are defined as those applications that have received final approval (permit issued), and the applicants decide it is necessary to modify the application before construction and final inspection. If construction or final inspection is completed or started, the applicant must submit a new application.

****Rights-of-Way Fees apply to all sites located within Colfax County's rights-of-way regardless of the owner of the structures used. The Wireless Facilities Permit shall include applicable Rights-of-way authorization/s. Annual payments will be due on the 1st of January each year, and permits are authorized as long as the applicant adheres to the defined ordinance requirements for all permitted facilities.**

SAVINGS CLAUSE.

Should any portion of this Resolution be declared unenforceable after a final, non-appealable decision of a court of competent jurisdiction, the remaining provisions of this Ordinance shall, to the extent feasible, remain in full force and effect.

PASSED, ADOPTED AND APPROVED this 23rd day of January 2024.

BOARD OF COMMISSIONERS COLFAX COUNTY, NEW MEXICO

Si Trujillo, Chairman

Mary Lou Kern, Vice Chairman

Bret Wier, Commissioner

Monte Gore, County Manager

ATTEST:

By: _____
Rayetta M. Trujillo, Clerk of the Board



Colfax County
Board of Commissioners



P.O. Box 1498 • Raton, New Mexico 87740
Ph. (575) 445-9661 • Fax. (575) 445-2902
www.co.colfax.nm.us

County Commissioners

Si Trujillo
Chairman
Raton, NM 87740
(505) 617-6893

Mary Lou Kern
Vice Chairman
Raton, NM 87740
505-617-6895

Bret E. Wier
Member
P.O. Box 664
Angel Fire, NM 87710
(505) 652-0039

Monte K. Gore
Colfax County Manager
230 North 3rd Street
Raton, NM 87740
(575) 445-9661

Elected Officials

Lydia M. Garcia
County Treasurer
(575) 445-3171

Kristi E. Graham
County Assessor
(575) 445-2314

Royal Quint
Probate Judge
(575) 445-9565

RESOLUTION #2024-09

CERTIFYING COUNTY ROAD MILEAGE

The 2024 Annual Certified County Maintained Mileage for Colfax County is 567.8.

Approved in open meeting this 23rd day of January 2024.

COLFAX COUNTY BOARD OF COMMISSIONER

SI TRUJILLO, CHAIRMAN

MARY LOU KERN, VICE CHAIRMAN

BRET WIER, MEMBER

ATTEST:

RAYETTA TRUJILLO, CLERK OF THE BOARD

Colfax County



LODGERS TAX APPLICATION

APPLICATION FOR REQUESTING FUNDING FOR ADVERTISING, PUBLICIZING, AND PROMOTING TOURIST-RELATED FACILITIES, ATTRACTIONS, AND TOURIST-RELATED EVENTS

1. Narrative:

(Provide a complete description of how the tourist-related facility, attraction, or event and how the requested funding amount will bring people into the County.)

The Center for Community Innovation is proposing to launch and manage an outdoor recreation/tourism brand called The Wild Divide (formerly Peaks to Plains) which would help advertise the Colfax County and Northeast region of New Mexico's state and national parks, including local attractions and businesses.

2. List the objective for your tourist-related facility, attraction, or event.

The Wild Divide brand will be rolled out in several phases. The CCI is requesting funding for the first phase, which is to begin working on the visual identity of Peaks to Plains with Leighton Moon, whom will be rendering design services. Afterward the visual identity (logo, branding and style guide) brand is complete, CCI will request Lodgers Tax funds annually to be the administrators of Peaks to Plains, and create a scope of work for The Wild Divide to launch a website, social media, and other advertising avenues including merchandise, print and electronic advertising, etc

Now that Phase 1 is complete, CCI is requesting funds begin Phase 2, which is to create and launch a website along with social media pages for The Wild Divide brand.

For further phases, CCI will draw up an annual scope of work and plans to work with the County Lodgers Tax Board to design and manage any tourist-related promotional materials that are sent to the board from other businesses, advertising firms, billboard companies, magazines, etc.

3. Describe how the tourist-related facility, attraction, or event promotes Colfax County as a destination which results in overnight stays that include other revenue generating activities in the community.

With an online presence, Peaks to Plains has the potential to reach between 50,000 to 1 million tourists online every year. With these types of numbers, we can easily direct them to purchase hotels, buy tourism packages with different entities, buy event tickets, and plan their vacations in the area.

CCI runs Explore Raton, which has had a direct impact on promoting summer signature events and booking hotel rooms directly from our website

4. Describe how the tourist-related facility, attraction, or event enhances future promotion of the County as a destination.

The project will help act as a public relations liaison to better promote Colfax County as a premier outdoor destination. Currently, there is not a regional or collective guide to promote Colfax County's attractions. By CCI taking over the brands administration, we hope to create a partnership across the region to strategize well-rounded marketing plan in the same way other communities and regions like the Enchanted Circle or Route 66 have built to persuade travelers to their area.

5. List any partners who will provide funding for your tourist-related facility, attraction, or event.

Partner Name	Partner Contribution
	\$
	\$
	\$
	\$

6. Provide a detail cost breakdown for the cost of the tourist-related facility, attraction, or event.

(Attach a copy of budget, pro-forma, or other financial information)

Patricia Duran (Executive Director)

Printed Name



Signature

Pre-Facility, Attraction, or Event Form 1

Organization Information

CONTACT AND FACILITY, ATTRACTION, OR EVENT INFORMATION
(Turned in with the application 45 days prior to event)

Contact Information

Organization Name (As listed on W9)	The Center for Community Innovation dba Northeast New Mexico Education Foundation
Facility, Attraction, or Event Name	The Wild Divide (Phase 2) Website & Social Media Launch
Event Date(s)	
Facility, Attraction, or Event Organizer Name & Title within Organization	The Center for Community Innovation dba Northeast New Mexico Education Foundation
Phone Number of Organizer	(575) 245-9000 Office (575) 383-4520 Cell
Email of Organizer	patricia@centerci.org
Facility, Attraction, or Event Location(s)	130 Park Avenue, Raton NM 87740

Expected Results

Number of participants at your facility, attraction, or event (excluding volunteers and staff)	N/A
Number of volunteers/staffs at your facility, attraction, or event	2-3 - CCI Executive Director and Board President, plus potential new hire.

Specify OTHER revenue sources expected to be contracted

Name of Business/Organization	Amount Awarded	Date Funding Awarded

Colfax County



LODGERS TAX TOURIST-RELATED FACILITIES, ATTRACTIONS, AND TOURIST-RELATED EVENTS APPLICATION SUMMARY

ELGIBILITY

- Only tourist-related facilities, attractions, and tourist-related events occurring in the unincorporated portion of the County are eligible for County Lodger Tax funds and as per Colfax County Ordinance NO. 2019-02 (Amended) Section 5 (A).

SUBMISSION REQUIREMENTS

- Any questions about the Application should be addressed to the County Manager by phone at (575) 445-9661 or the Lodger's Tax Clerk.
- All Lodgers Tax requests must be in the format as shown in this application. Failure to complete the application in its entirety will automatically disqualify the request.
- The original Application must be submitted to the County Manger's Office, P.O. Box 1498, Raton, New Mexico 87740.
- Application will be reviewed at the Regular Meeting of the Lodgers Tax Advisory Committee. Application must be present at the meeting for their application to be considered at the meeting and the Lodger's Tax Funding Guide must be signed and dated by all Applicants.

For Lodger's Tax Advisory Board Use Only

PRIORITY #	#
AMOUNT TO BE RECOMMENDED TO COUNTY COMMISSION	\$

Title/Position

The **WILD DIVIDE**

NEW MEXICO · COLORADO

Brand Identity Standards & Style Guide

Version 1.0 – November 2022



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LOGO LOCKUPS: QUICK REFERENCE —



The Wild Divide NMCO



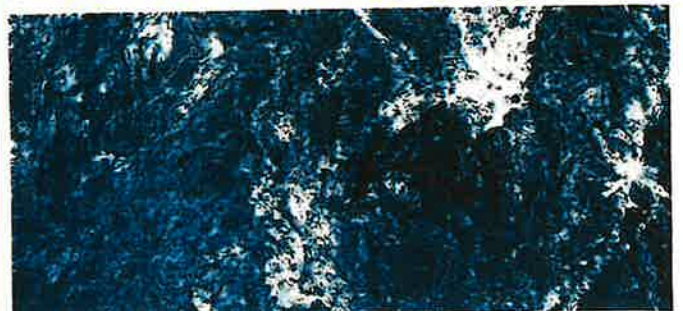
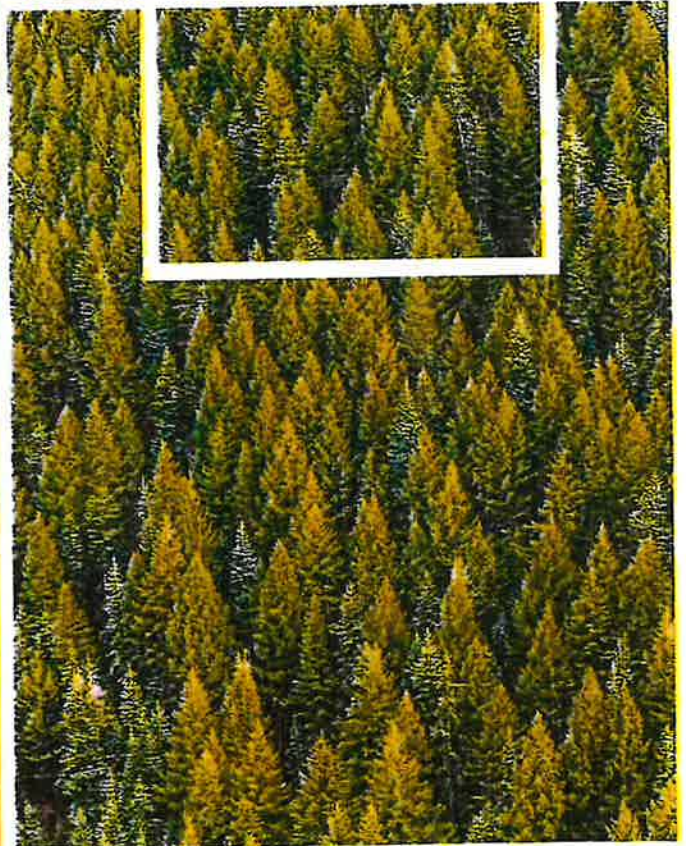
The Wild Divide



Logomark



Logomark Knockout





This Identity Style Guide

This brand identity standards guide has been developed to help you use the Wild Divide logo and assets when creating and producing materials for your own communications, initiatives and events. The Wild Divide brand is intended for long-term use. In order to protect its identity, and to achieve recognition and acceptance of the brand and its identity, it must be used consistently and correctly every time its seen. Remember the three C's when working with the brand: be **consistent**, be **comprehensive**, and be **cohesive**. This is a living document and will be periodically updated as the visual identity evolves — be sure to review all portions of this guide. However, please keep in mind that some standards may be altered or supplemented in future versions of this guide

Logo Guidelines

The Wild Divide logo is a very valuable asset and the keystone element when it comes to the overall brand.

There are a variety of provided logos, with and without "New Mexico · Colorado", in full color, various brand colors, as well as black and white versions for grayscale and high contrast applications.

The following guidelines are basic do's and don'ts when using the logo and how to best optimize its impact with supporting photography, patterns, and backgrounds.

Logo & Logomark Guidelines



Generally, the logo & logomark should only be seen in specified brand colors.



Do not use any drop shadows, glows, or any effects on the logo or logomark.



Do not rotate the logo or logomark.



Do not outline or add a stroke to any portion of the logo or logomark.



Do not create, add text to, resize, edit, or reposition logo elements. Do not lockup the logomark with The Wild Divide logo.



Do not stretch the logo. It always should be resized proportionally.

In a lot of commonly used software, holding Shift while resizing will retain the logo's proportion.

Logo & Logomark Guidelines



Do not use the logo on busy patterns or busy photo backgrounds



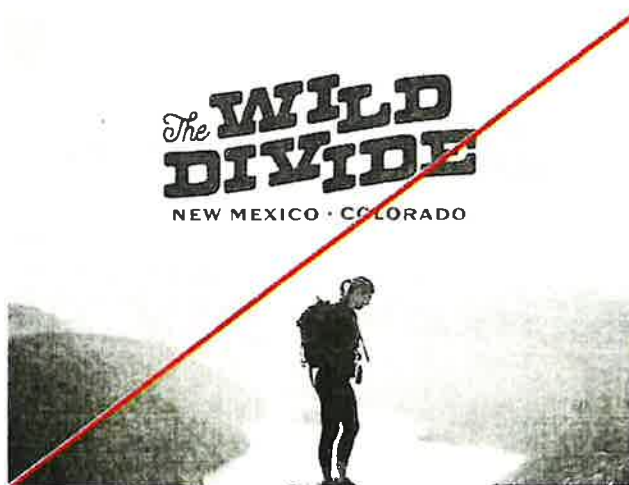
Do not use the logo on busy patterns or busy photo backgrounds



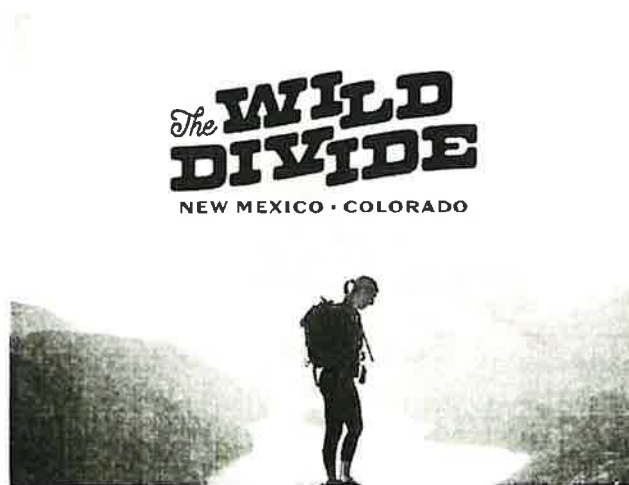
Don't use the logo on flat backgrounds in a color that achieves low contrast



DO use the logo on flat backgrounds in a color that achieves high contrast



In grayscale productions, use only the provided black (or white) one-color logo



In grayscale productions, use only the provided black (or white) one-color logo, whichever achieves the most contrast

Logo & Logomark Guidelines



DO use solid colored boxes for the logo to combat busy photography, backgrounds and patterns.



DO use busy photography or patterns at a lower opacity (15% and lower) and place the logo on top. (example shown at 15% opacity)



Do not use the logo with white background/box on photography or colored backgrounds

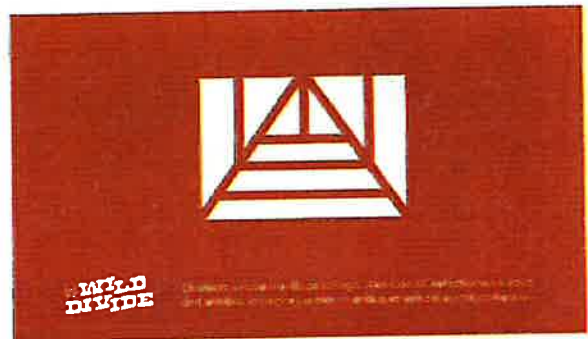


The Wild Divide flag (see Logomark Graphic Usage right)

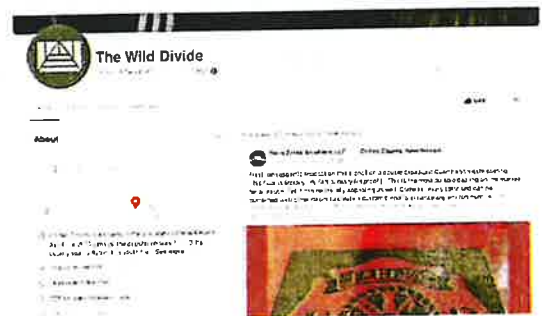
Logo Guidelines: Logomark Graphic Usage

The brand logomark should only be used when the name or full logo for Wild Divide is being displayed elsewhere on the same collateral. For example, on a social media profile photo, the logomark may be used because the title of the profile (The Wild Divide) is displayed elsewhere on the page.

Simply put, both the logomark on its own should be used thoughtfully and very selectively. More information and guidelines on how to use the logo paired with the logomark can be found on page 7.



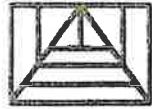
The Wild Divide logomark (in most cases) should only be used when the full Wild Divide logo is also being displayed on same collateral. **Exception Note:** The Wild Divide flag can use the logomark without the logo (see below left)



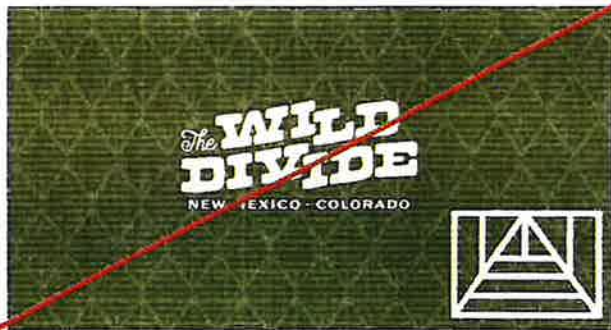
The Wild Divide logomark can be used by itself as social media profile images (Facebook, Instagram, Twitter, TikTok, etc.) since "The Wild Divide" accompanies the symbol on these platforms

However, simply typing out "The Wild Divide" with the logomark on other applications (i.e. ads, swag, digital & print marketing) is prohibited use.

Pairing the Logo & Logomark



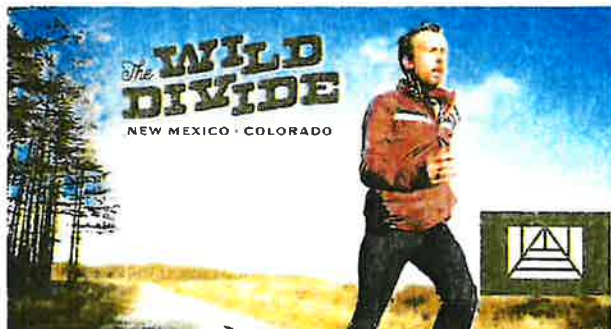
The Wild Divide visual brand is unique in that the logo and logomark are not designed to be locked up together. To aid with recognition and consistent use, pairing the logo and the logomark should adhere to the following guidelines when being used together:



SIZE/SCALE: The logo & logomark should never be seen on the same collateral at the same size. The primary element should be at least 50% larger than the secondary element.



POSITIONING: The logo & logomark should never be seen on the same **horizontal** plane. However, the pair can be used on the same vertical plane.



DO

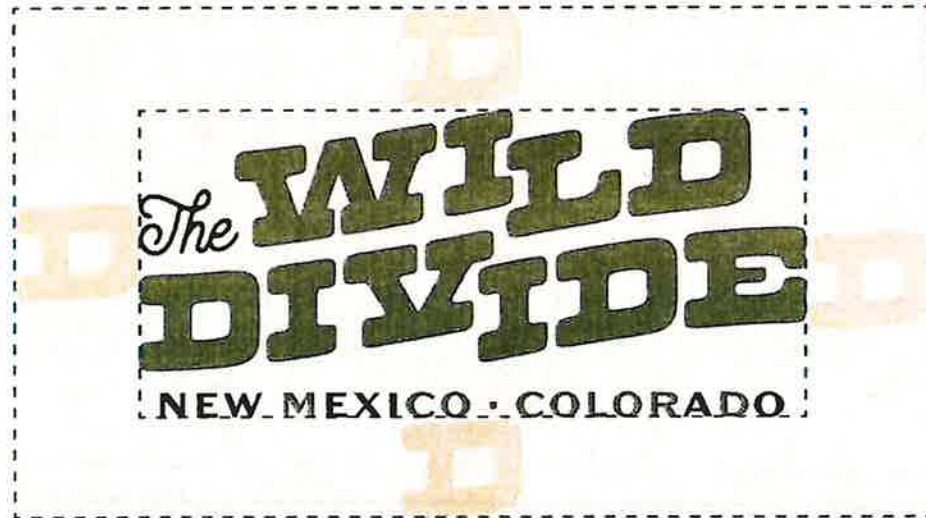
- Feel free to use the logotype and logomark on the same page
- Ensure that the logomark is **AT LEAST 50%** larger or at least 50% smaller than the logotype
- Keep the logomark and the logotype visually separated.
- Keep the logomark and the logotype on different visual planes (for example, the logotype may be centered and near the top of the page while the logo mark is at least 50% and placed at the bottom corner of the page.
- In specific instances, the logomark and logotype may share the same vertical plane (one below the other) as long as there is either a very large size difference **OR** they are separated by a large amount of space (for example, the logomark may be centered on the page near the top and the logotype may also be centered, but near the bottom of the page.

DON'T

- Place the logotype and logomark near each other (except when the size difference is greatly exaggerated or the logomark is being utilized as a background pattern.
- Allow equal sizing of the logomark and logotype on the same page. One should always be **AT LEAST 50%** larger or smaller than the other.
- Place the logotype and logomark on the same horizontal plane.



Logo Spacing Guidelines



In order to maintain clear legibility of the logo, it must be surrounded with an acceptable amount of clearspace. This isolates the logo from competing major elements such as text, other logos, or background patterns that may detract attention and lessen the overall impact. Using the logo in a consistent manner across all applications helps to both establish and reinforce immediate recognition of the Wild Divide brand.

The clearspace should generally at least be equivalent to the width and height of the D in "Divide", regardless of the size at which the logo is displayed (in print or digital). Not all logo applications are created equally, but use your best judgment with this guide in mind. This clearspace suggestion does not have to be exact but should be considered when placing the logo with additional major elements.

Color Palette

WHICH CODE DO I USE?

Print: CMYK, PMS (Pantone)
Web: RGB, Hex (#Code)

Salsa

CMYK: 12, 92, 93, 3
RGB: 208, 58, 46
HEX: #d03a2e
PMS: 7626C
PMS: 1797U

Topsoil

CMYK: 64, 51, 63, 33
RGB: 82, 88, 78
HEX: #52584e
PMS: 418C
PMS: Black 3U

Amber

CMYK: 24, 83, 100, 16
RGB: 169, 69, 36
HEX: #a94524
PMS: 1675C
PMS: 174U

Prussian Blue

CMYK: 93, 59, 53, 39
RGB: 9, 69, 79
HEX: #09454f
PMS: 316C
PMS: 3165U

Vapor

CMYK: 7, 5, 16, 0
RGB: 236, 234, 215
HEX: #eceed7
PMS: 7527C
PMS: 5803U



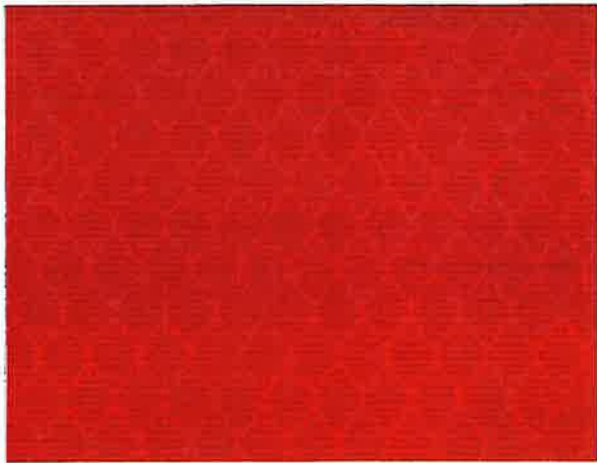
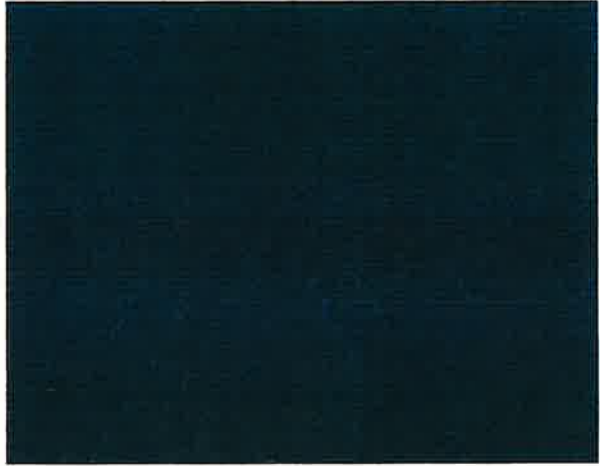
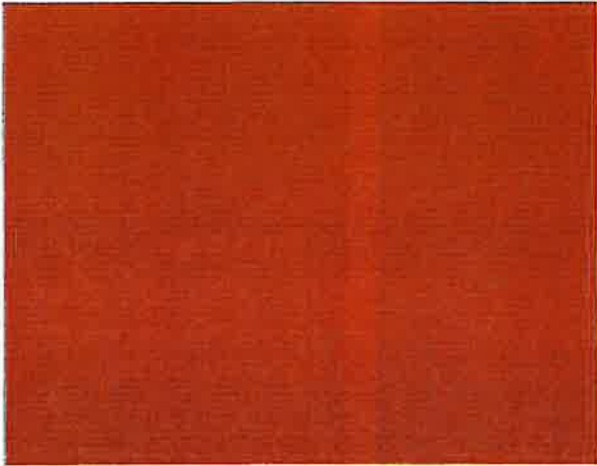
Pantone (PMS) provides a universal language of color that ensures what you see is what you get. If a vendor offers Pantone colors, fear not! Tell your vendor which Pantone color(s) you prefer.

Pantone Coated (C): coated paper, glossy
Pantone Uncoated (U): no surface coating, maximum ink absorption

Brand Patterns

Using the subtle brand background patterns can add visual interest and texture to the brand.

Patterns may be used as a background, to add texture, or to add emphasis. Patterns should not appear over images. If placing the logo and/or logomark, use the one-color version that achieves the most contrast (or the desired visual effect).



Logo File Types

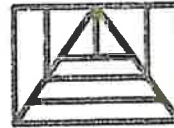
STEP 1: DETERMINE WHICH LOGO YOU WANT TO USE



The Wild Divide NMCO



The Wild Divide



Logomark



Logomark Knockout

STEP 2: DETERMINE WHERE YOU ARE USING THE LOGO?



Digital



Websites, Email, Social Media, Mobile Apps, Blogs, PowerPoint Presentations



Print



Swag, Signage, Ads, Flyers, Posters, Booklets, Billboards, Marketing Materials, Vehicle Graphics

STEP 3: SELECT YOUR FILE TYPE:

Digital File Types:



white background
smaller file size
most common file format



transparent background
higher quality text



website development
scalable / web-vector
SEO friendly
Canva + Powerpoint friendly

Print File Types:



vector
Adobe Illustrator file
***may not be able to open on all systems.**



vector
cross-platform compatible
***may not be able to open on all systems.**



vector
cross-platform compatible
common file format

Brand Fonts:

Montagu Slab SemiBold

use for: headlines only
weights: SemiBold only
free download: Google Fonts

Gantari

use for: subheadlines, body copy, captions
weights: all
free download: Google Fonts

Palatino

use for: professional/legal documents
weights: all
Included on most Windows & Mac systems

Typography Sample

Note: The following are typography samples demonstrate how to use the brand typography system only it is not guiding layout, content, or brand voice/messaging



New Mexico & Colorado Counties Team Up to Launch The Wild Divide

Gantari Bold 13pt Subheadline

Montagu Slab SemiBold 19pt Headline

The New Initiative

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh euismod tincidunt ut laoreet dolore magna aliquam erat volutpat. Ut wisi enim ad minim veniam, quis nostrud exercitation ullamcorper suscipit lobortis nisl ut

Gantari Regular 13pt Body Copy

The Goals

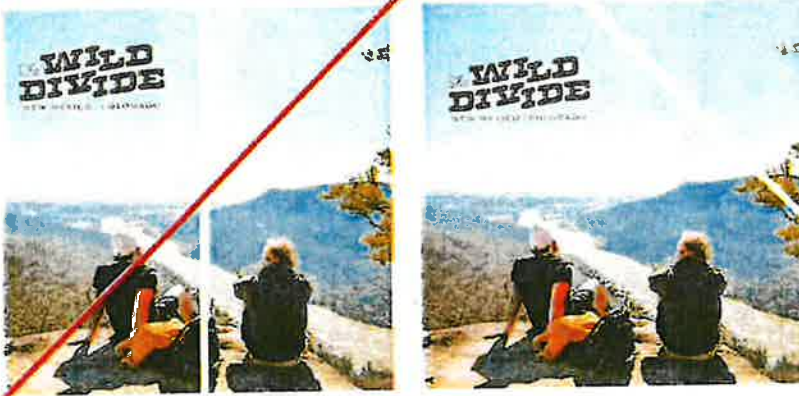
Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh euismod tincidunt ut laoreet dolore magna aliquam erat volutpat. Ut wisi enim ad minim veniam, quis nostrud exercitation ullamcorper suscipit lobortis nisl u

Photography Divider Guidelines

The Wild Divide visual brand uses photography divisions to symbolize the diversity of the region both geographically and recreationally. Using these dividers are not required when working with photography but are encouraged to be used to further demonstrate the story of the brand in a consistent way. There are 5 different division methods that should adhere to the following guidelines:



Dividers should not intersect with people (photography subjects)



Dividers should not be placed to equally divide the photo subjects.



The rectangle divider should be used with another divider to tie together two opposing/contrasting images, textures, etc.

Photography Divider Methods:



horizontal



vertical



45 degree diagonal



45 degree diagona



rectangle

Use this one for tying together the opposing images



lm.

For any further questions regarding logo and brand usage for The Wild Divide, feel free to contact the Leighton Moon team at hello@leighton-moon.com.

Colfax County



LODGERS TAX APPLICATION

APPLICATION FOR REQUESTING FUNDING FOR ADVERTISING, PUBLICIZING, AND PROMOTING TOURIST-RELATED FACILITIES, ATTRACTION, AND TOURIST-RELATED EVENTS

1. Narrative:

(Provide a complete description of how the tourist-related facility, attraction, or event and how the requested funding amount will bring people into the County.)

RADIO IS A MASS MEDIUM AND CAN BE USED TO ATTRACT CONSUMERS OF ALL AGES AND IS OFTEN THE LAST ADVERTISING MESSAGE HEARD BEFORE A CONSUMER MAKES A BUYING DECISION BECAUSE OF HUGE LISTENING IN A CAR.

LMNOC BROADCASTING HAS THE LARGEST REACH OVER COLFAX AND SURROUNDING COUNTIES TO BRING IN MANY IN COUNTY AND OUT OF COUNTY VISITORS

2. List the objective for your tourist-related facility, attraction, or event.

THE GOAL IS TO ATTEMPT TO ATTRACT NEW VISITORS THAT WOULD NOT OTHERWISE VISIT THE COLFAX COUNTY REGION FOR ANY REASON.

3. Describe how the tourist-related facility, attraction, or event promotes Colfax County as a destination which results in overnight stays that include other revenue generating activities in the community.

BY BROADCASTING ON THE LMNOC STATIONS WE WOULD BE INFORMING OUR LISTENERS ABOUT THE MANY OPPORTUNITIES THAT EXIST FOR FOOD, ENTERTAINMENT, LODGING IN COLFAX COUNTY BUSINESSES.

4. Describe how the tourist-related facility, attraction, or event enhances future promotion of the County as a destination.

LMNOC BROADCASTING WOULD USE RADIO COMMERCIALS, ON AIR LIVE RADIO INTERVIEWS CREATING A CALL TO ACTION. CAUSING OUR LISTENERS TO TRAVEL OR VISIT COLFAX COUNTY AND SPEND REVENUE.

5. List any partners who will provide funding for your tourist-related facility, attraction, or event.

Partner Name	Partner Contribution
	\$
	\$
	\$
	\$

6. Provide a detail cost breakdown for the cost of the tourist-related facility, attraction, or event.

(Attach a copy of budget, pro-forma, or other financial information)

Printed Name

Signature

Pre-Facility, Attraction, or Event Form 1

Organization Information

CONTACT AND FACILITY, ATTRACTION, OR EVENT INFORMATION

(Turned in with the application 45 days prior to event)

Contact Information

Organization Name (As listed on W9)	
Facility, Attraction, or Event Name	
Event Date(s)	
Facility, Attraction, or Event Organizer Name & Title within Organization	
Phone Number of Organizer	
Email of Organizer	
Facility, Attraction, or Event Location(s)	

Expected Results

Number of participants at your facility, attraction, or event (excluding volunteers and staff)	
Number of volunteers/staffs at your facility, attraction, or event	

Specify OTHER revenue sources expected to be contracted

Name of Business/Organization	Amount Awarded	Date Funding Awarded

Pre-Facility, Attraction, or Event Form 2

BUDGET REPORT

ADVERTISING/MARKETING/PROMOTIONAL PLAN AND BUDGET
(Turned in with the application 45 days prior to event)

Fill out the chart with your advertising plan and the estimated cost for these ads. We recommend you contact the agencies in advance to get advertising quotes to assist with your budget.

Advertising/Promotion Company/Provider	Type of Ad/Promotion	Date of Ad Publication or Item Purchased	Cost
Example: KRTN Radio Station	Satellite Internet/Radio Advertisement	April 15-22, 2021	\$45.00
Example: The World Journal Newspaper	Newspaper Advertisement Promotion	April 10-24	\$60.00
LMNOC BROADCASTING	RADIO MASS MKTG	JAN-DEC 2024	\$3 PER :30
Total Projected Cost of Marketing:			\$1000.00 per mo \$12,000 per yr

Post-Facility, Attraction, or Event Form 1

EVALUATION FORM 1 of 2

LODGERS' TAX SUMMARY REPORT
 (Turn in no later than 45 days after event)

Contact Information

Organization Name (As listed on W9)	LMNOC BROADCASTING LLC
Facility, Attraction, or Event Name	RADIO ADVERTISING CAMPAIGN
Attraction or Event Date(s)	JAN-DEC 2024
Facility, Attraction, or Event Organizer Name & Title within Organization	ANY
Phone Number of Organizer	575 - 758 - 4491
Email of Organizer	mike@lmnocbroadcasting.com
Facility, Attraction, or Event Location(s)	COLFAX COUNTY

Results

Number of participants at your facility, attraction, or event (excluding volunteers and staff)	UNLIMITED
Number of volunteers/staffs at your facility, attraction, or event	GROUP ACTIVITY

Specify OTHER revenue sources contracted

Name of Business/Organization	Amount Awarded	Date Funding Awarded

Post-Facility, Attraction, or Event Form 2

EVALUATION FORM 2 of 2

LODGERS' TAX SUMMARY REPORT
(Turn in no later than 45 days after event)

1. How did you calculate your facility, attraction, or event's attendance?

BASED ON THE MESSAGE THAT IS SENT OUT OVER THE AIRWAYS

2. Describe your advertising/marketing/promotional plan and how you used the funds to achieve it?

RADIO GETS RESULTS

RADIOS EASE OF USE, QUICK TO ADDRESS MARKETING CHANGES AND

ABILITY TO ADDRESS A MARKETING NEED THAT NEEDS TO BE FULFILLED

IS THE KEY TO SUCCESS. WE CAN GET A CAMPAIGN ON THE AIR QUICKLY

AND SOLVE TRAFFIC CONCERNS AND MAKE AN OTHERWISE WEAK EVENT

INTO A BIG DEAL AND A WIN FOR SMALL BUSINESSES

3. Describe the facility, attraction, or event's impact on businesses and residents located in Colfax County:

LMNOC BROADCAST SIGNAL ENCOMPASS A VERY LARGE AREA OVER ALL OF

NORTHERN NEW MEXICO AND SOUTHERN COLORADO. WE ARE UNIQUELY ABLE

TO REACH A VERY LARGE AREA AND LET CONSUMERS KNOW ABOUT OPPTYS

THAT THEY WOULD NOT HAVE BEEN ABLE TO HEAR ABOUT. WE CAN DRIVE TRAFFIC

INTO COLFAX QUNTY

Signature of person completing evaluation:



Date: 12-5-23

Failure to submit an evaluation form and post-event expense report may result in denial of future requested funding.

New Mexico/El Paso
 1600 Airtech Court SE
 Albuquerque, NM 87106
 Phone: 505-255-4460
 Fax: 505-266-4419



CONTRACT # 4355660

Date: 10/26/2023
 New/Renewal: RENEWAL
 Account Executive: Pamela Martinez
 Phone: 505-255-4460

CONTRACTED DIRECTLY BY ADVERTISER	
Customer #	795687-0
Name	COLFAX COUNTY
Address	PO BOX 1498 230 NORTH 3RD ST
City/State/Zip	RATON, NM 87740
Contact	Tina Colangelo
Email Address	tcolangelo@co.colfax.nm.us
Phone #	(575) 445-9661
Fax #	
P.O./ Reference #	
Advertiser/Product	COLFAX COUNTY
Campaign	

Space										
# of Panels: 2								Billing Cycle: Every 4 weeks		
Panel # TAB ID	Market	Location	Illum	Media Type	Size	Misc	Service Dates	# Service Periods	Invest Per Period	Cost
3361 139774	296-RATON, NM	I-25 421.80 E/L .80 NMP421 MP 421.80	No	Junior Bulletin	10' 0" x 24' 0"		03/25/24-03/23/25	13	\$330.75	\$4,299.75
3561 139813	296-RATON, NM	I-25 W/L .66 S MP 454 MP 453.34	No	Junior Bulletin	10' 0" x 24' 0"		03/25/24-03/23/25	13	\$330.75	\$4,299.75
Total Space Costs:									\$8,599.50	

Special Considerations: 5% Renewal increase applied. Lamar requires 5 business days to post, weather permitting.

Advertiser authorizes and instructs The Lamar Companies (Lamar) to display in good and workmanlike manner, and to maintain for the terms set forth above, outdoor advertising displays described above or on the attached list. In consideration thereof, Advertiser agrees to pay Lamar all contracted amounts within thirty (30) days after the date of billing. Advertiser acknowledges and agrees to be bound by the terms and conditions on all pages of this contract.

The Agency representing this Advertiser in the contract executes this contract as an agent for a disclosed principal, but hereby expressly agrees to be liable jointly and severally and in solidio with Advertiser for the full and faithful performance of Advertiser's obligations hereunder. Agency waives notice of default and consents to all extensions of payment.

The undersigned representative or agent of Advertiser hereby warrants to Lamar that he/she is the Media Buyer (Officer/Title) of the Advertiser and is authorized to execute this contract on behalf of the Advertiser.

Customer:	<u>COLFAX COUNTY</u>
Signature:	<u>(signature above)</u>
Name:	<u>(print name above)</u>
Date:	<u>(date above)</u>

THE LAMAR COMPANIES

This contract is NOT BINDING UNTIL ACCEPTED by a Lamar General Manager.

Pamela Martinez

ACCOUNT EXECUTIVE: Pamela Martinez

GENERAL MANAGER

DATE

STANDARD CONDITIONS

1. Late Artwork: The Advertiser must provide or approve art work, materials and installation instructions ten (10) days prior to the initial Service Date. In the case of default in furnishing or approval of art work by Advertiser, billing will occur on the initial Service Date.



New Mexico/EI Paso
1600 Airtech Court SE
Albuquerque, NM 87106
Phone: 505-255-4460
Fax: 505-266-4419



Date: 10/26/2023
New/Renewal: RENEWAL
Account Executive: Pamela Martinez
Phone: 505-255-4460

2. Copyright/Trademark: Advertiser warrants that all approved designs do not infringe upon any trademark or copyright, state or federal. Advertiser agrees to defend, indemnify and hold Lamar free and harmless from any and all loss, liability, claims and demands, including attorney's fees arising out of the character contents or subject matter of any copy displayed or produced pursuant to this contract.
3. Payment Terms: Lamar will, from time to time at intervals following commencement of service, bill Advertiser at the address on the face hereof. Advertiser will pay Lamar within thirty (30) days after the date of invoice. If Advertiser fails to pay any invoice when it is due, in addition to amounts payable thereunder, Advertiser will promptly reimburse collection costs, including reasonable attorney's fees plus a monthly service charge at the rate of 1.5% of the outstanding balance of the invoice to the extent permitted by applicable law. Delinquent payment will be considered a breach of this contract. Payments will be applied as designated by the Advertiser; non designated payments will be applied to the oldest invoices outstanding.
4. Service Interruptions: If Lamar is prevented from posting or maintaining any of the spaces by causes beyond its control of whatever nature, including but not limited to acts of God, strikes, work stoppages or picketing, or in the event of damage or destruction of any of the spaces, or in the event Lamar is unable to deliver any portion of the service required in this contract, including buses in repair, or maintenance, this contract shall not terminate. Credit shall be allowed to Advertiser at the standard rates of Lamar for such space or service for the period that such space or service shall not be furnished or shall be discontinued or suspended. In the case of illumination, should there be more than a 50% loss of illumination, a 20% pro-rata credit based on four week billing will be given. If this contract requires illumination, it will be provided from dusk until 11:00p.m. Lamar may discharge this credit, at its option, by furnishing advertising service on substitute space, to be reasonably approved by Advertiser, or by extending the term of the advertising service on the same space for a period beyond the expiration date. The substituted or extended service shall be of a value equal to the amount of such credit.
5. Entire Agreement: This contract, all pages, constitutes the entire agreement between Lamar and Advertiser. Lamar shall not be bound by any stipulations, conditions, or agreements not set forth in this contract. Waiver by Lamar of any breach of any provision shall not constitute a waiver of any other breach of that provision or any other provision.
6. Copy Acceptance: Lamar reserves the right to determine if copy and design are in good taste and within the moral standards of the individual communities in which it is to be displayed. Lamar reserves the right to reject or remove any copy either before or after installation, including immediate termination of this contract.
7. Termination: All contracts are non-cancellable by Advertiser without the written consent of Lamar. Breach of any provisions contained in this contract may result in cancellation of this contract by Lamar.
8. Materials/Storage: Production materials will be held at customer's written request. Storage fees may apply.
9. Installation Lead Time: A leeway of five (5) working days from the initial Service Date is required to complete the installation of all non-digital displays.
10. Customer Provided Production: The Advertiser is responsible for producing and shipping copy production. Advertiser is responsible for all space costs involved in the event production does not reach Lamar by the established Service Dates. These materials must be produced in compliance with Lamar production specifications and must come with a 60 day warranty against fading and tearing.
11. Bulletin Enhancements: Cutouts/extensions, where allowed, are limited in size to 5 feet above, and 2 feet to the sides and 1 foot below normal display area. The basic fabrication charge is for a maximum 12 months.
12. Assignment: Advertiser shall not sublet, resell, transfer, donate or assign any advertising space without the prior written consent of Lamar.





PROOF OF PERFORMANCE

PANEL: 3361 | TAB#: 139774 | INSTALL DATE: 6/22/2023

CONTRACT: 4109544	NAT'L CONTRACT
CUSTOMER: COLFAX COUNTY	REPORT DATE: 6/28/2023
ADVERTISER: COLFAX COUNTY	

Location: I-25 421.80 E/L .80 NMP421 MP 421.80

Media: Junior Bulletin | Copy Size: 10' X 24' | Daily Impressions: 22605

Lamar Office: 295 - New Mexico, El Paso | Market: RATON

Material Received





PROOF OF PERFORMANCE

PANEL: 3561 | TAB#: 139813 | INSTALL DATE: 6/22/2023

CONTRACT: 4000814

CUSTOMER: COLFAX COUNTY

ADVERTISER: COLFAX COUNTY

NAT'L CONTRACT

REPORT DATE: 6/23/2023

Location: I-25 / I-66 S MP 151 MP 453 34

Media: Jun 01 Bulletin | Copy Size: 10' X 24' | Wkly Impressions: 27300

Local Office: 296 - New Mexico, El Paso | Market: RATON

Material Reviewed





PROOF OF PERFORMANCE

PANEL: 3361 | TAB#: 139774 | INSTALL DATE: 12/6/2023

CONTRACT: 4000814	NAT'L CONTRACT
CUSTOMER: COLFAX COUNTY	REPORT DATE: 12/12/2023
ADVERTISER: COLFAX COUNTY	

Location: I-25 421.80 E/L 80 NMP421 MP 421.80

Media: Junior Bulletin | Copy Size: 10' X 24' | Wkly Impressions: 22605

Lamar Office: 296 - New Mexico/El Paso | Market: RATON

Material Received:





PROOF OF PERFORMANCE

PANEL: 3561 | TAB#: 139813 | INSTALL DATE: 12/6/2023

CONTRACT: 4000814

CUSTOMER: COLFAX COUNTY

ADVERTISER: COLFAX COUNTY

NAT'L CONTRACT

REPORT DATE: 12/12/2023

Location: I-25 W/L .66 S MP 454 MP 453 34

Media: Junior Bulletin | Copy Size: 10' X 24' | Weekly Impressions: 27300

Lamar Office: 296 - New Mexico/El Paso | Market: RATON

Material Received:





ELGIBILITY

- Only tourist-related facilities, attractions, and tourist-related events occurring in the unincorporated portion of the County are eligible for County Lodger Tax funds and as per Colfax County Ordinance NO. 2019-02 (Amended) Section 5 (A).

SUBMISSION REQUIREMENTS

- Any questions about the Application should be addressed to the County Manager by phone at (575) 445-9661 or the Lodger's Tax Clerk.

LODGERS TAX TOURIST-RELATED FACILITIES, ATTRACTIONS, AND TOURIST-RELATED EVENTS APPLICATION SUMMARY

- All Lodgers Tax requests must be in the format as shown in this application. Failure to complete the application in its entirety will automatically disqualify the request.
- The original Application must be submitted to the County Manger's Office, P.O. Box 1498, Raton, New Mexico 87740.
- Application will be reviewed at the Regular Meeting of the Lodgers Tax Advisory Committee. Application must be present at the meeting for their application to be considered at the meeting and the Lodger's Tax Funding Guide must be signed and dated by all Applicants.

For Lodger's Tax Advisory Board Use Only

PRIORITY #	#
AMOUNT TO BE RECOMMENDED TO COUNTY COMMISSION	\$

Title/Position

Office/Dept Category 5 Line# Page # 1 [Delete/Void](#)

Hold

Bank 01 Ck-Number 113645 Mo/Day Year 1220 2023

Vendors Vendor 2566 LAMAR ADVERTISING INC.

[Vendor Address](#) Mail to

[Get PO/Invoice](#)

Total 1,080.00

General Ledger # ()	Unit Cost	Qty	Description	Ext. Cost
214-0398-01-470-47080	1080.00	1.00	WINTER BILLBOARDS	1080.00
PRINTING/PUBLISHING	POH- 62255	INVR 115448829	REQ# 8395	

(All underline text are clickable)

1080.00 x 5% = 54.00

54.00

\$ 1134.00

Check Maintenance

Update Prompt () Return Cancel

LODGERSTA 12/21/23 10:34:28

Office/Dept Category 5 Line# Page # 1 Delete/Void
 Hold

Bank 01 Ck-Number 112383 Mo/Day Year 0608 2023
Vendors Vendor 2566 LAMAR ADVERTISING INC.
Vendor Address M:110
Get PO/Invoice

Total 1,080.00

General Ledger # ()	Unit Cost	Qty	Description	Ext. Cost
214-0396-01-470-47080	1080.00	1.00	SUMMER BILLBOARDS	1080.00
PRINTING/PUBLISHING	61582	INVM	114814576 REQ# 7698	

(All underline text are clickable)

$1080.00 \times 5\% \text{ increase} = \$ 54.00$
 54.00

 \$ 1134.00



COLFAX COUNTY

Job Description

JOB TITLE	Human Resources Director/Payroll Administrator
Pay Status	NON-EXEMPT
Reports to	County Manager
Salary	\$59,267.12

POSITION SUMMARY: Under general direction of the County Manger, responsible for all payroll processing. Prepares semi- weekly payroll conformance with all applicable Federal and State reporting and completes payments to all employee deductions entities, including reporting to external agencies regarding wages and taxes withheld from employees. Assist County Manager with all aspects of Human Resources of the County. This position is responsible for employee relations, records maintenance function, departmental development, staff training and development, benefits, compensation, and organizational development. Responsibilities also include workers compensation claims, incident reports, organizing employee training courses, and risk management. Obligated to enforce and understand all County Personnel Policy and Procedures. This role also includes stepping in as "acting County Manager", in the absence of the County Manager, and assisting the County Manager with day-to-day County business.

MAJOR DUTIES AND RESPONSIBILITIES:

1. Collect, review, reconcile and post time sheets for all county employees.
2. Ensure that all documents received for semi-monthly payroll are processed within the required deadlines.
3. Maintain and update payroll records for each employee.
4. Ensure that the pay rates and pay codes are correct.
5. Reconcile all invoices for each payroll; prepare and mail all payments.
6. Process applicable federal & state reports.
7. Prepare and process all semi-monthly, monthly, quarterly, and annual reports for payroll.
8. Prepare and distribute w-2 statements and reports; 1095's.
9. Coordinates with Human Resources department to maintain and facilitate payroll accuracy.
10. Strong knowledge of labor and employment laws.
11. Assist with all County departments interviews and hiring of applicants.
12. Supports management by providing human resources advice, counsel, and decisions.
13. Develops human resources operations financial strategies by estimating, forecasting, and anticipating requirements.
14. Develops organization strategies by identifying and researching human resources issues.
15. Enforce all ordinances, rules, regulations, and policies enacted by the County Commission.
16. Implements all County policies.
17. Makes recommendations to the commission on all matters concerning the welfare of the County.

KNOWLEDGE, SKILLS, AND ABILITIES REQUIRED:

1. ABILITY TO UNDERSTAND AND COMPLY WITH FEDERAL AND STATE LAWS AND REGULATIONS RELATING TO PAYROLL AND OTHER RULES, REGULATIONS, AND POLICIES APPLICABLE IN THE PROCESSING OR COMPLETION OF PAYROLL POLICIES.
2. SKILLED IN COMPUTER USE, INCLUDING PREPARATION OF SPREADSHEETS.
3. ABILITY TO MAINTAIN AND ANALYZE ACCOUNTS PREPARES ACCOUNTING STATEMENTS, REPORTS, AND OTHER RECORDS AS NEEDED.
4. ABILITY TO COMMUNICATE EFFECTIVELY WITH OTHERS.
5. ABILITY TO UTILIZE WRITTEN MANUALS, GUIDES, REGULATIONS, AND OTHER GUIDELINES IN MEETING ACCOUNTING OBJECTIVES.
6. ABILITY TO OPERATE STANDARD OFFICE EQUIPMENT INCLUDING COMPUTER, WORD PROCESSOR, COPIER, FAX MACHINE, AND MULTI-LINE PHONE SYSTEM.
7. KNOWLEDGE OF ALL ASPECTS OF GENERALIST HUMAN RESOURCES RESPONSIBILITIES, SERVICES, AND APPLICATIONS.
8. KNOWLEDGE OF FEDERAL AND STATE EMPLOYMENT LAWS ASSOCIATED WITH AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITIES.
9. ABILITY TO MAINTAIN CONFIDENTIALITY OF PERSONNEL, FINANCIAL, AND OTHER INFORMATION.
10. ABILITY TO USE GOOD JUDGEMENT IN DETERMINING WORK ASSIGNMENTS.
11. ABILITY TO DETERMINE APPROPRIATE COURSE OF ACTION IN MORE COMPLEX SITUATIONS.
12. ABILITY TO WORK INDEPENDENTLY, EXERCISE CREATIVITY, BE ATTENTIVE TO DETAIL, AND MAINTAIN A POSITIVE ATTITUDE.
13. ABILITY TO MANAGE MULTIPLE AND SIMULTANEOUS RESPONSIBILITIES AND TO PRIORITIZE SCHEDULING OF WORK.
14. ABILITY TO COMPLETE WORK ASSIGNMENTS ACCURATELY AND IN A TIMELY MANNER.
15. ABILITY TO HANDLE DIFFICULT SITUATIONS INVOLVING CUSTOMERS, STAFF, OR OTHERS IN A PROFESSIONAL MANNER.
16. ABILITY TO UTILIZE WRITTEN MANUALS, GUIDES, REGULATIONS, AND OTHER GUIDELINES IN MEETING OBJECTIVES.

WORKING CONDITIONS:

1. ESSENTIAL JOB DUTIES ARE PERFORMED IN OFFICE SETTING INDOORS IN A CLIMATE-CONTROLLED ENVIRONMENT.
2. PRIMARY WORK SURFACE IS EVEN, DRY, CARPETED OR TILED FLOOR.
3. WORK ALONE PRIMARILY, WITH OR WITHOUT DIRECTIONS. WORKS WITH A GROUP AT TIMES AND WITH A SELECT TEAM AT TIME.

EQUIPMENT, TOOLS, AND MATERIALS:

1. EQUIPMENT TYPICALLY USED IN THE PERFORMANCE OF OFFICE DUTIES INCLUDES TELEPHONE, COMPUTER KEYBOARD, COMPUTER PRINTER, PHOTOCOPY MACHINE, FAX MACHINE, AND CALCULATOR.
2. MATERIALS AND PRODUCTS HANDLED WHILE PERFORMING ESSENTIAL DUTIES INCLUDE FILES, FORMS, REPORTS, VARIOUS OTHER PAPERWORK, AND A WIDE VARIETY OF BASIC OFFICE SUPPLIES.



COLFAX COUNTY

Job Description

JOB TITLE	Accounts Payable/Chief Procurement Officer
Pay Status	NON-EXEMPT
Reports to	County Manager
Salary	\$49,000

POSITION SUMMARY:

UNDER SUPERVISION OF THE COUNTY MANAGERS, IS RESPONSIBLE FOR THE OVERSIGHT AND COORDINATION OF PURCHASING AND PROCUREMENT FOR COLFAX COUNTY. PROVIDING INVOICE PROCESSING FOR ALL DEPARTMENTS NECESSARY TO PURCHASE UNDER THE STATE PROCUREMENT CODE. RESEARCH VENDOR STATEMENTS AND ASSIST VENDORS AS NEEDED. CHIEF PROCUREMENT OFFICER: ISSUANCE OF BIDS AND PROPOSALS. APPROVE PROCUREMENTS. MAKE DETERMINATIONS, REGARDING EXEMPTIONS, BID SPECIFICATIONS/SCOPE OF WORK. OVERSEE ALL PROCUREMENT PROCESS FOR ALL PURCHASE ORDERS.

MAJOR DUTIES AND RESPONSIBILITIES

1. PROCESS OF ALL COUNTY INVOICES IN A TIMELY MANNER. RESEARCH BILLING STATEMENT INCONSISTENCIES. ASSIST ALL VENDORS AS NEEDED, PREPARE MONTHLY EXPENDITURE REPORTS, CREATE NON-TAXABLE TRANSACTIONS CERTIFICATES AS NEEDED. PREPARE MONTHLY BUDGETS REPORTS
2. CPO: OVERSEE PROCUREMENT, MAKE DETERMINATIONS AS TO BIDS, PROPOSALS, SOLE-SOURCE. ADVERTISE BIDS, PROPOSALS, SOLE-SOURCE. DETERMINE WHEN AND WHERE TO OPEN BIDS/PROPOSALS. MAINTAIN ALL COUNTY WIDE CONTRACTS. OVERSEE PROCUREMENT PROCESS FOR ALL PURCHASE AND SCOPE OF WORK
3. PROVIDE GENERAL GUIDANCE TO DEPARTMENT MANAGERS OF DESIGNATED FUNCTIONS FOR POLICIES GOVERNING THE SCOPE AND DIRECTION OF SERVICES PROVIDED UNDER THE NM STATE PURCHASING DIVISION.
4. ASSIST IN THE DEVELOPMENT AND IMPLEMENTATION OF PROCUREMENT POLICY FOR ALL COLFAX COUNTY DEPARTMENTS.
5. MAINTAIN RECORDS PERTAINING TO DAILY TRANSACTIONS FOR ACCOUNTS PAYABLE, WRITTEN MONTHLY REPORT AND DAILY LOG OF ACCOUNTS PAYABLE.
6. ISSUES AND PREPARES PURCHASE ORDER NUMBERS TO ALL DEPARTMENTS AS NECESSARY FOR PURCHASES. SORT ALL REQUISITION IN NUMERICAL ORDER FOR PREPARATION TO INPUT INTO SYSTEM, MAKING SURE ALL SUPPORTIVE DOCUMENTATION IS PRESENT WITH REQUISITIONS (QUOTES, SOLE SOURCE, LETTER, ETC.) VERIFY ALL VENDORS UPDATED (ADDRESS, PHONE NUMBERS, FEDERAL ID, NM CRS#, CONTACTS). PREPARE AND MATCH INVOICES TO THE CORRECT PURCHASE ORDER. CHECK ALL AMOUNTS, BUDGET LINE ITEMS AND SIGNATURE BY DEPARTMENT HEAD. PREPARE REPORTS AS NEEDED.
7. ATTEND MEETINGS AS A REPRESENTATIVE OF THE DEPARTMENT WHEN NECESSARY.
8. DAILY DATA ENTRY OF ACCOUNTS PAYABLE.
9. WORK WITH FINANCE TO BUILD AND MAINTAIN ASSET LISTING.
10. DIRECT MAINTAINS OF DEPARTMENT FILES.
11. ASSIST ALL COUNTY MANGER WITH VARIOUS PROJECTS NEEDED, SUCH AS BUDGET AND AUDIT INFORMATION.
12. ASSIST ALL COUNTY DEPARTMENTS WITH PURCHASES (COMPUTERS, LAPTOPS, MISCELLANEOUS EQUIPMENT ON THE STATE PURCHASING WEB SITE.)
13. PERFORMS MONTHLY REPORTS FOR COMMISSIONER'S, COUNTY MANAGER, AND DEPARTMENT HEADS.
14. PERFORM ADDITIONAL DUTIES AS ASSIGNED.

MINIMUM QUALIFICATIONS

1. ASSOCIATE DEGREE PLUS 3 YEARS OFFICE/CLERICAL EXPERIENCE OR A COMBINATION OF POST-SECONDARY EDUCATION AND/OR EXPERIENCE IN A BUSINESS ADMINISTRATION TOTALING FIVE (5) YEARS.
2. BACKGROUND IN ACCOUNTING OR FINANCIAL PROCEDURES IS PREFERRED.
3. DEMONSTRATED KNOWLEDGE OF GENERALLY ACCEPTED GOVERNMENTAL ACCOUNTING PRINCIPLES, TECHNIQUES AND METHODOLOGIES- BASIC APPLICATIONS OF COMPUTERIZED FINANCIAL ACCOUNTING.
4. SKILLED IN COMPUTER USE, INCLUDING PREPARATION OF SPREADSHEETS.
5. ABILITY TO MAINTAIN AND ANALYZE ACCOUNTS, PREPARES ACCOUNTING STATEMENTS, REPORTS, AND OTHER RECORDS AS NEEDED.
6. ABILITY TO COMMUNICATE EFFECTIVELY WITH OTHERS.
7. ABILITY TO UTILIZE WRITTEN MANUALS, GUIDES, REGULATIONS, AND OTHER GUIDELINES IN MEETING ACCOUNTING OBJECTIVES.
8. ABILITY TO UNDERSTAND AND COMPLY WITH NEW MEXICO STATE PROCUREMENT CODE, AND OTHER RULES, REGULATIONS, AND POLICIES APPLICABLE IN THE PROCESSING OR COMPLETION OF PROCUREMENT FUNCTIONS.
9. ABILITY TO OPERATE STANDARD OFFICE EQUIPMENT INCLUDING COMPUTER, WORD PROCESSOR, COPIER, FAX MACHINE, AND MULTI-LINE PHONE SYSTEM.

WORKING CONDITIONS

1. ESSENTIAL JOB DUTIES ARE PERFORMED IN AN OFFICE SETTING INDOORS IN A CLIMATE-CONTROLLED ENVIRONMENT.
2. PRIMARY WORK SURFACE IS EVEN, DRY, CARPETED OR TILED FLOOR.
3. WORKS ALONE PRIMARILY, WITH OR WITHOUT DIRECTIONS. WORKS WITH A GROUP AT TIMES AND WITH A SELECT TEAM AT TIME.

EQUIPMENT, TOOLS, AND MATERIALS

1. EQUIPMENT TYPICALLY USED IN THE PERFORMANCE OF OFFICE DUTIES INCLUDES TELEPHONE, COMPUTER KEYBOARD, COMPUTER PRINTER, PHOTOCOPY MACHINE, FAX MACHINE, AND CALCULATOR.
2. MATERIALS AND PRODUCTS HANDLED IN THE COURSE OF PERFORMING ESSENTIAL DUTIES INCLUDE FILES, FORMS, REPORTS, VARIOUS OTHER PAPERWORK, AND A WIDE VARIETY OF BASIC OFFICE SUPPLIES.

Jonathan Arthur, Michael and, I went over these prices.

Angel Fire, Eagle Nest, and Ute Park. 2x per week pick up is 205.00\$ per month

Raton 2x per week pick up is 200.00\$

Remainder of county at 1x per week pick up is 190.00\$ per month

216 dumpsters

1812 regular pay customers

19 private pay customers

Angel fire area 75 dumpster

Raton 54 dumpsters

The rest of the county 87 dumpsters

$75 \times 205 = 14,555$

$54 \times 200 = 10,800$

$87 \times 190 = 16,340$

41,695 per month

X 12

500,340 yearly rate

÷ 1812

276.125 yearly bill

We rounded up so regular pay prices will increase from \$210 to \$277 per year.

Commercial prices will go from \$70 to \$94 per month per dumpster.

Jonathan had said it will be a 33% increase per month

Trash Collection & Services

Setting Up a New Service

Raton will provide you with a garbage collection when you set up your service and we handle all fees.

- [Contact Raton Water Works](#)
- [Garbage Schedule](#)

Landfill

If you are not satisfied with the dumpster service, take it to the [landfill](#) located east of the city. View landfill opening hours and policies.

Residential Service

- Residential services cost \$25.00 per month.
- If the dumpster is full, please take your trash to the nearest dumpster by your home.
- Any refuse that is too large to fit in a dumpster must be taken directly to the city's landfill.

Beware of bears! Please keep lids closed at all times. You can learn more about [living with bears online](#).

Commercial Service

Dumpster and pick-up services cost \$72 per month. Dumpsters are 3 cubic yard containers.

Recycling

Various organizations in Raton offer [recycling services](#).

Help Keep Raton Clean

People frequently ask whether Raton works with non-profit groups to clean up trash. The answer is yes, and the programs we work with are:

- [Community Cleanup](#)
- [Raton Pride "Keep It Clean"](#)



(Attachment 1)

Village of Angel Fire Resolution #2021-30

<u>Pick-Ups Per Week (1st Dumpster)</u>	<u>Fee Per Month Each</u>	<u>Additional Dumpster</u>
1	\$103.44	N/A
2	\$183.61	N/A
3	\$263.80	\$143.53
4	\$329.48	\$175.88
5	\$406.30	\$214.27
6	\$483.09	\$252.70

NOTE: The businesses set up the number of times they require pick-up per week at the time they establish their account. The Village of Angel Fire has an ordinance that prohibits the overloading of dumpsters (4-3-5). If the driver observes a dumpster overloaded and it is not a scheduled pick-up day, there will be an additional pick-up charge of \$65.00 per dumpster. A business requiring an extra pick-up may call and request the pick-ups at an additional charge of \$50.00 per dumpster. It is recommended that commercial customers lock their respective dumpsters to prevent unauthorized dumping. Locks are not provided by the Village.

Lessor On-Premise Dumpster Options:

1. I/We require _____ (1-6) dumpsters to be located on Physical address stated above.
2. I/We require that the dumpster(s) be emptied _____ (1-6) times per week

Signature: _____ Date: _____

COLFAX COUNTY, NEW MEXICO
PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into by and between the COUNTY OF COLFAX, hereinafter referred to as the "County " and Arthur Rolloff Inc., hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the approval of Colfax County Commission.

IT IS AGREED BETWEEN THE PARTIES:

Scope of work

The contractor will provide following dumpsters in the location provided in the following:

Dumpster counts and locations.

Black Lake

Osha Road (12) dumpsters and (1) roll-off

Angel Fire

Camino Grande (1) dumpster

Angel Fire Airport (1) dumpster

Upper Taos Pines (3) dumpsters

Lower Taos Pines (5) dumpsters

B-4 Onate Rd (4) dumpsters

Vietnam Memorial Road (8) dumpsters

Valverde Trailer Park (2) dumpsters

Angel Nest Apartments off Hwy 64 (3) dumpsters

Wheeler View Road (1) dumpster

Eagle Nest

Squash Blossom (2) dumpsters

B-6 (4) dumpsters

B-8 (5) dumpsters

B-9 (6) dumpsters (3) dumpsters HWY 64 side

Comanche Creek (2) dumpsters

Elizabethtown (2) dumpsters

Sunset Road (1) dumpster

Ute Park

Fire Department (10) dumpsters (1) roll-off (other roll-off belongs to HOA)

Miami

Miami Lane (4) dumpsters (1) roll-off

Miami South (9) dumpsters (1) roll-off

Colmer
Red River Ranch Road (2) dumpsters

French Tract
Fire Station / Broken arrow Road (7) dumpsters
Spear Road (3) dumpsters
Arapaho Trail Road (3) dumpsters

Farley/Springer /Trinchera
Remuda (2) dumpsters
School House Road (2) dumpsters
Wild Horse Road (2) dumpsters
HWY 468 (1) dumpster
Coppock (1) dumpster

Raton

Horse Mesa (Yankee) (3) dumpsters
Cherokee Hills (9) dumpsters
Turner Rd (4) dumpsters
Meadow Lark (8) dumpsters

A-23 Upper Caviness (8) dumpsters
Lower Caviness (3) dumpsters
A-21 Hill (3) dumpsters
A-68 Linwood (3) dumpsters
E Maxwell & Madison (1) dumpster

Stevens/Barlett Mesa (2) dumpsters
Dwyer (1) dumpster
Top of Francis Ave (1) dumpster
Market St (2) dumpsters
York Canyon Subdivision (Gold, Lead, & Stone) (3) dumpsters
Rodeo Grounds/Event Center (3) dumpsters

Hot Spot Roads for illegal dumping
Gardener Road
Potato Mountain Road
Old Dump Road

C-44 Roadrunner (1) dumpster
Jaritas Ranch (1) dumpsters
Craft Road (2) dumpsters
Dorsey & Windmill (1) dumpster
Dorsey & Eds (1) dumpster
C-40 Hackmore (3) dumpsters

Farley (3) dumpsters (1) roll-off
193 and A-41 (3) dumpsters

193 and A-7 Chico RD (2) dumpsters
A-7 Dorsey Mansion (2) dumpsters
A-7 Roundtree RD (1) dumpster
A-7 Circle Dot (2) dumpsters
A-33 Trinchera (3) dumpsters

Maxwell

C-24 Elm Tree Road (3) dumpsters
C-24 Elm Tree Road (1) dumpster
C-24 Elm Tree Road (1) dumpster
Whitley Stage Road (1) dumpster

Alamosa Rd (2) dumpsters
A-1 (2) dumpsters
Laguna Madre (2) dumpsters
Arms Ranch Rd (1) dumpster and (1) roll off
A-3 Two Mile Rd (1) dumpsters
A-4 Highline (3) dumpsters
A-4 Highline (1) dumpster
A-2 & A-4 (2) dumpsters

Laguna Madre & A-1 (4) dumpsters

Off 1-25

Tinaja Exit (1) dumpster
Blosser Rd (2) dumpsters

The locations will be determined by Colfax County and the Contractor.

Dumpsters will be emptied at least once a week in the above areas. The dumpsters in the subdivisions east of Raton will be emptied twice a week and three times a week in December.

The dumpsters shall be emptied by means of a compactor truck that meets New Mexico Environment Department Regulations. The compacted solid waste shall be hauled to a landfill site approved by the New Mexico Environmental Department, unless the parties specifically agree in writing to delivery to a land fill approved by the environmental department of another state.

The contractor will replace, repair and otherwise maintain all dumpsters at no additional cost to the County. Contractor shall include a plan to prevent bears and other animals from entering dumpsters and scattering trash. This plan should consist of providing animal proof bins or

containers, pictures of the animal proof bins or containers should be provided for approval by the County. Contractor will increase the frequency of the collection schedule, if necessary to avoid refuse or trash problems created by animals in problem areas.

The County shall make all determinations concerning the adequacy and sufficiency of service rendered by Contractor. The Contractor shall comply with all Federal, State and local rules, regulations and laws. Contractor will be responsible for removing trash within a 30ft radius of all dumpsters on pickup day.

The County shall make all determinations concerning the adequacy and sufficiency of service rendered by Contractor. The Contractor shall comply with all Federal, State and local rules, regulations and laws.

2. Compensation.

A. Colfax County shall pay to the Contractor \$50 per 3-yard dumpster for once-a-week pickups. County will pay \$90.00 per month for twice a week pickup. County shall pay \$350.00 per dump plus tonnage fee for 30-yard roll-offs all fees exclude New Mexico gross receipts tax.

B. Payment is subject to availability of funds pursuant to the Colfax County Commission Approval set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by Colfax County Commission. All invoices MUST BE received by Colfax County no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor shall submit a detailed statement accounting for all services performed. If Colfax County finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services and outlining steps the Contractor may take to provide remedial action. Upon certification by Colfax County that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, Colfax County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY COLFAX COUNTY COMMISSION. This Agreement shall terminate one year from the date of execution of this contract unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Colfax County Commission Approval) (the initial term). This contract may be renewed by the Colfax County upon written agreement of all parties for four (4) successive one-year periods including the initial term, under the terms of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration.

4. Termination.

A. Termination.

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least sixty (60) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, Colfax County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if Colfax County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party: provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by Colfax County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of public funds or due to the Appropriations paragraph herein.

THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B. Termination Management.

Immediately upon receipt by either Colfax County or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of Colfax County; 2) comply with all directives issued by Colfax County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as Colfax County shall direct for the protection, preservation, retention or transfer of all property titled to Colfax County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of Colfax County upon termination and shall be submitted to Colfax County as soon as practicable.

5. Colfax County Commission Approval.

The Contract is presented to the Colfax County Commission for approval. The approval is based on the availability of funds from the approved budget for that specific fiscal year.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for Colfax County and are not employees of Colfax County. The Contractor and its agents and employees shall not accrue leave retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of Colfax County because of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes including without limitation, self-employment, and business income

tax. The Contractor agrees not to purport to bind Colfax County unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of Colfax County.

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of Colfax County.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of Colfax County, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Conflict of interest; Governmental Conduct Act.

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

- 1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Colfax County employee while such employee was or is employed by Colfax County and participating directly or indirectly in Colfax County's contracting process.
- 2) this Agreement complies with Section 10-16-7(A) NMSA 1978 because (i) the Contractor is not a public officer or employee of Colfax County; (ii) the Contractor is not a member of the family of a public officer or employee of Colfax County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(A) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;
- 3) in accordance with Section 10-16-8(A) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within

the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in Colfax County's making this Agreement;

4) this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

5) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement, or any procurement related to this Agreement; and

6) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of Colfax County.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 10 are material representations of fact upon which Colfax County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to Colfax County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 10 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 10 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to Colfax County and notwithstanding anything in the Agreement to the contrary, Colfax County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 10.

11. Amendment.

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If Colfax County proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

12. Merger.

This Agreement 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 this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

13. Penalties for violation of law.

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

14. Equal Opportunity Compliance.

The Contractor agrees 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 of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

15. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement. without giving effect to its choice of law provisions. Venue shall be proper only in a district court located in Colfax County, New Mexico. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

16. Insurance and Workers Compensation.

The Contractor shall obtain and maintain general liability insurance for itself and its employees in an amount no less than One Million Dollars (\$1,000,000) throughout the term of this Agreement. Such insurance shall provide that the County be named as additional insured and that the County be notified in writing no less than 45 days in advance in the event of cancellation. The County requires a copy of a certificate of insurance or other evidence, satisfactory to the County, of the Contractor's obtaining and maintaining such insurance as is required hereunder as a condition prior to performing the tasks under this Agreement. Without affecting any other rights or remedies, Contractor hereby release and relieve the County, and waive their entire right to recover damages against the County, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Contractor agrees to have their insurance carriers waive any right to subrogation that such companies may have against the County, as the case may be, so long as the insurance is not invalidated thereby.

The Contractor shall secure, maintain and provide verification of all necessary Worker's Compensation insurance as may be required by law to provide coverage for the Contractor's employees hereunder, and the parties acknowledge that the Worker's compensation states do not

create a right of subrogation and Contractor expressly waives such subrogation right against the County subject to the New Mexico laws including Seaboard Fire & Marine Ins. Co. v. Kurth, 1980-NMCA-112, 96 N.M. 631.

17. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of five (5) years from the date of final payment under this Agreement. The records shall be subject to inspection by Colfax County, the Department of Finance and Administration, the State Auditor and provide copies to Colfax County when requested to do so. Colfax County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of Colfax County to recover excessive or illegal payments.

18. Indemnification.

The Contractor shall defend, indemnify and hold harmless Colfax County from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of Colfax County.

19. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

20. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

21. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To: Colfax County
County Manager's Office
230 North 3rd St.,
3rd Floor PO Box 1498
Raton, NM 87740

To the Contractor:
Arthur Roll-Off
PO Box 609
138 W Troy Ave
Raton, New Mexico 87740.

22. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Colfax County Commission.

For the County of Colfax

Signature: _____
Si Trujillo
Chairman - Colfax County Commission

Date:

For Arthur Roll-Off

By: _____

Date:

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

ID Number:

January 2024
INDIGENT REPORT

CASE#	PREVIOUSLY APPROVED	APPROVAL DATE	MEDICAL FACILITY	CLAIM	MEDICAID RATE MCMC	OTHER	PREVIOUS CLAIMS		YTD APPROVALS			Approved Claims	
							MCMC (\$15,000 limit/year)	OTHER (\$7,500 limit/year)	MCMC (\$15,000 limit/year)	OTHER (\$7,500 limit/year)			Hospital Services
				TOTALS								\$0.00	

CASE#	VMDC	SUBMITTED FOR INITIAL APPROVAL	MEDICAL FACILITY	CLAIM	MEDICAID RATE	OTHER	APPLICANT INCARCERATED	INCOME LIMIT	GUIDELINES SATISFIED	REASON FOR DENIAL	
2024-01		12/6/2023	MCMC	1,492.00			YES	N/A	Yes		
2024-02		12/6/2023	MCMC	2,294.00			YES	N/A	Yes		
TOTALS					3,786.00						

CASE#	SHERIFF DETAINEE	SUBMITTED FOR INITIAL APPROVAL	MEDICAL FACILITY	CLAIM	MEDICAID RATE	OTHER	APPLICANT INCOME	INCOME LIMIT	GUIDELINES SATISFIED	REASON FOR DENIAL	
2024-03		12/21/2023	MCMC	2,300.00			DETAINEE	N/A	Yes		
TOTALS					2,300.00						

CASE#	NEW APPLICANTS	SUBMITTED FOR INITIAL APPROVAL	MEDICAL FACILITY	CLAIM	MEDICAID RATE	OTHER	APPLICANT INCOME	INCOME LIMIT	GUIDELINES SATISFIED	REASON FOR DENIAL	
TOTALS											

CASE#	DENIED CLAIMS	SUBMITTED FOR INITIAL APPROVAL	MEDICAL FACILITY	CLAIM	MEDICAID RATE	OTHER	APPLICANT INCOME	INCOME LIMIT	GUIDELINES SATISFIED	REASON FOR DENIAL		DENIED CLAIMS	
												MCMC	THAT WAS REQUESTED
TOTALS													

CASE#	CREMATION	INITIAL APPROVAL	FACILITY	CLAIM	RATE	OTHER	INCOME	LIMIT	SATISFIED	DENIAL		CREMATION
TOTALS											\$0.00	TOTALS



New Mexico
Department of Finance
and Administration

407 Galisteo St,
Santa Fe, NM 87501
(505) 827- 4985

Michelle Lujan Grisham, Governor
Wayne Propst, Cabinet Secretary

Local Government Division
Wesley Billingsley, Division Director

November 27, 2023

To: Monte Gore
Colfax County

From: Wesley Billingsley, Director
DFA Local Government Division

Re: HB2 – 2023 Regional Recreation Centers/Quality of Life Grant Award

Congratulations! On behalf of the DFA Local Government Division (DFA/LGD), it is our pleasure to inform you that Colfax County has been awarded \$940,000.00 for the 2023 Regional Recreation Centers/Quality of Life Grant.

The HB2 – 2023 Regional Recreation Centers/Quality of Life Grant is funded with Federal funds, therefore will require specific reporting of which will be included with your grant agreement. Grant agreements will be issued within the next few days and some additional information may be requested to execute the grant agreement. Please note the term of these grant agreements are July 1, 2023, to June 30, 2024. Please be aware grantees cannot expend or incur costs against the grant agreement with DFA/LGD prior to July 1, 2023.

We look forward to working with you on this exciting project. If you have any questions, please contact Donna Stewart CDB Project Manager on the CDB Team at DonnaJ.Stewart@dfa.nm.gov; 505-231-2993.

Respectfully,

DocuSigned by:

D891C24BB85B4F9
Wesley Billingsley, Director
Local Government Division

xc: Carmen Morin, Community Development Bureau (CDB), Bureau Chief
Donna Stewart CDB Project Manager

STATE OF NEW MEXICO SUBRECIPIENT AGREEMENT
FOR
THE REGIONAL RECREATION CENTERS QUALITY OF LIFE PROGRAM

COVER PAGE

State Agency Department of Finance and Administration	Agreement Number <u>23-ZH5053-12</u>		
Subrecipient Name Colfax County Subrecipient Unique Entity Identifier (UEI) Y5WKZ534GE41	Subaward Period of Performance Start Date <i>July 1, 2023</i> End Date <i>June 30, 2024</i>		
Subaward Amount \$ 940,000.00 (This amount reflects the amount of federal funds obligated by this action and the current financial obligation)	Subaward Budget Period Start Date <i>July 1, 2023</i> End Date <i>June 30, 2024</i>		
Subaward Project Description (Purpose) Grant of Coronavirus State and Local Fiscal Recovery Funds to plan, design, furnish, equip, and construct improvements for the event center in Colfax County.			
Exhibits The following are Exhibit and Attachments are included within this Agreement: <ol style="list-style-type: none"> 1. Exhibit A, Federal Award Information 2. Exhibit B, Scope of Work and Budget 3. Exhibit C, Federal Provisions 4. Exhibit D, Assurances of Compliance with Civil Rights Requirements 5. Exhibit E, Davis-Bacon Act Requirements (If Applicable) 6. Exhibit F, Eligible and Restricted Uses of CSFRF Funds 7. Exhibit G, CSFRF Quarterly Reports 			
Contact Information <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <u>Pass-Through Entity (State):</u> Agency Name: Local Government Division of Department of Finance and Administration Representative: Donna Stewart Address: 407 Galisteo Street Address: Room 202 City, State Zip: Santa Fe, NM 87501 Email: DonnaJ.Stewart@dfa.nm.gov </td> <td style="width: 50%; vertical-align: top;"> <u>Subrecipient:</u> Name: Colfax County Representative: Monte Gore Title: County Manager Address: PO Box 1498 Raton NM, 87740 Email: mgore@co.colfax.nm.us </td> </tr> </table>		<u>Pass-Through Entity (State):</u> Agency Name: Local Government Division of Department of Finance and Administration Representative: Donna Stewart Address: 407 Galisteo Street Address: Room 202 City, State Zip: Santa Fe, NM 87501 Email: DonnaJ.Stewart@dfa.nm.gov	<u>Subrecipient:</u> Name: Colfax County Representative: Monte Gore Title: County Manager Address: PO Box 1498 Raton NM, 87740 Email: mgore@co.colfax.nm.us
<u>Pass-Through Entity (State):</u> Agency Name: Local Government Division of Department of Finance and Administration Representative: Donna Stewart Address: 407 Galisteo Street Address: Room 202 City, State Zip: Santa Fe, NM 87501 Email: DonnaJ.Stewart@dfa.nm.gov	<u>Subrecipient:</u> Name: Colfax County Representative: Monte Gore Title: County Manager Address: PO Box 1498 Raton NM, 87740 Email: mgore@co.colfax.nm.us		

FEDERAL AWARD IDENTIFICATION

In accordance with the Code of Federal Regulations (C.F.R.), 2 C.F.R. Part 200.332 requires that the following information be provided to any Subrecipient of a federal award:

Federal Awarding Office	United States Department of the Treasury
Grant Program	Coronavirus Local Fiscal Recovery Fund
Assistance Listing Number	21.027
Federal Award Date	June 9, 2021
Award End Date	October 31, 2026
Indirect Cost Rate	
Research and Development Award?	No
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount in Federal Award (this is not the amount in the grant agreement)	\$1,751,542,935.00

**SUBRECIPIENT AGREEMENT BETWEEN
THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION
AND
Colfax County**

THIS SUBRECIPIENT AGREEMENT is hereby made and entered into this 20th day of November 2023, by and between the New Mexico Department of Finance and Administration (“DFA”) (hereinafter referred to as “**STATE**”), and Colfax County (hereinafter referred to as “**SUBRECIPIENT**”).

WHEREAS, the U.S. Department of Treasury (hereinafter referred to as “Treasury” or “GRANTOR”) has made federal funds available to the STATE under the Coronavirus State and Local Fiscal Recovery Fund (“CSLFRF”) Program (Assistance Listing Number (“ALN”) 21.027);

WHEREAS, Recipients under the CSLFRF Program are the eligible entities identified in sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021 that receive a CSLFRF award. Subrecipients under the CSLFRF Program are entities that receive a subaward from a recipient to carry out the purposes (program or project) of the CSLFRF award on behalf of the recipient;

WHEREAS, Recipients are accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the CSLFRF statute, CSLFRF Award Terms and Conditions, Treasury’s Interim Final Rule, and reporting requirements, as applicable; and,

WHEREAS, this Agreement addresses the flow of funds from the Treasury above to the STATE who will then provide the same referenced subaward funds to the SUBRECIPIENT, as legally allowed by the relevant law and regulations, for any approved scope of work as further discussed in Section 1 of this agreement;

NOW THEREFORE, the STATE and the SUBRECIPIENT do mutually agree to the following terms and conditions of this agreement:

1. Definitions

- a. “**Agreement Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- b. “**Agreement**” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- c. “**Award**” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- d. “**Breach of Agreement**” means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner.

The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against State, or the appointment of a receiver or similar officer for State or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.

- e. **“Budget”** means the budget for the Work described in Exhibit B.
- f. **“Business Day”** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the legal public holidays.
- g. **“Effective Date”** means the date on which this Agreement is approved and signed by the New Mexico agency, as shown on the Signature for this Agreement.
- h. **“Exhibits”** means the exhibits and attachments included with this Agreement as shown on the Cover Page for this Agreement.
- i. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement Agreement, under the Federal Acquisition Regulations or by a formula or block grant, by a Federal Awarding Agency to the Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to an Agreement or payments to an individual that is a beneficiary of a Federal program.
- j. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. The US Department of the Treasury is the Federal Awarding Agency for the Federal Award, which is the subject of this Agreement.
- k. **“Goods”** means any movable material acquired, produced, or delivered by State as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by the State in connection with the Services.
- l. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- m. **“STATE”** means the State agency shown on the Signature and Cover Page of this Agreement, for the purposes of this Federal Award.
- n. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system

hardware, firmware, or software characteristics without the State's knowledge, instruction, or consent.

- o. **"Initial Term"** means the time period defined in the agreement.
- p. **"IPRA"** means the Inspection of Public Records Act, a New Mexico state law that provides the public and media access to public information. The law requires open access to almost all public records in state and local government, with few exceptions
- q. **"Matching Funds"** means the funds provided the State as a match required to receive the Grant Funds.
- r. **"Party"** means the State or STATE, and **"Parties"** means both the State and Subrecipient.
- s. **"PCI"** means payment card information including any data related to credit card holders' names, credit card numbers, or other credit card information as may be protected by state or federal law.
- t. **"PHI"** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(i)** that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and **(ii)** that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- u. **"PII"** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.
- v. **"Services"** means the services to be performed by Subrecipient as set forth in this Agreement and shall include any services to be rendered by Subrecipient in connection with the Goods.
- w. **"State Confidential Information"** means any and all State Records not subject to disclosure under IPRA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under IPRA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Subrecipient which (i) is subject to disclosure pursuant to IPRA; (ii) is already known to Subrecipient without restrictions at the time of its disclosure to Subrecipient; (iii) is or subsequently

becomes publicly available without breach of any obligation owed by Subrecipient to the State; (iv) is disclosed to Subrecipient, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

- x. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- y. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under IPRA.
- z. **“Subcontractor”** means third parties, if any, engaged by Subrecipients to aid in performance of the Work.
- aa. **“Tax Information”** means federal and State of New Mexico tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.
- bb. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- cc. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.
- dd. **“Work”** means the Goods delivered and Services performed pursuant to this Agreement.
- ee. Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

2. Scope of Work

The GRANTOR has provided funds, through its CSLFRF Program, to the STATE who is then providing this same funding to the SUBRECIPIENT in accordance with this Agreement. Information related to the federal award is attached as **“Exhibit A.”** The SUBRECIPIENT shall perform the services and necessary tasks required in order to accomplish the objectives of the GRANTOR’S Program which have been agreed to by the STATE, as outlined in **“Exhibit B.”**

SUBRECIPIENT’S full and timely performance of Exhibit B-Scope of Work shall include strict compliance with all applicable federal, state or local laws, regulations and administrative policies as they relate to the SUBRECIPIENT’S specific approved project including but not limited to the references above as well as the following:

- (a) SUBRECIPIENT will comply with 31 C.F.R. Part 35 Subpart A – Coronavirus State and Local Fiscal Recovery Funds.
- (b) SUBRECIPIENT will comply with 2 C.F.R. Part 200 - Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards as well as any specific federal departmental grant requirement in other sections of the C.F.R.
- (c) SUBRECIPIENT will adhere to both the Federal Procurement Laws contained in 2 C.F.R. Part 200.318 to 200.326 as well as the State Procurement Laws for Political Subdivisions contained in the New Mexico Procurement Code.
- (d) SUBRECIPIENT will adhere to the requirements of the GRANTOR’S CSLFRF Program.
- (e) SUBRECIPIENT will adhere to the Scope of Work and Budget in Exhibit B.
- (f) SUBRECIPIENT will comply with Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 where applicable.
- (g) SUBRECIPIENT will incorporate, where applicable, the contractual provision requirements outlined in 2 C.F.R. Part 200.326 which is further discussed in Section 7 of this agreement.
- (h) SUBRECIPIENT will comply, when applicable, with any applicable National Policy Requirements for federal grants which is further discussed in Section 7 of this agreement.
- (i) SUBRECIPIENT will not pay any contractor who is listed by the federal government as debarred and/or suspended which is further discussed in Section 7 of this agreement. SUBRECIPIENT agrees to alert the STATE immediately if a contractor working for the SUBRECIPIENT becomes debarred or suspended.
- (j) SUBRECIPIENT acknowledges and agrees that the STATE is a “recipient” of CSLFRF funds as such term is used in the CSLFRF regulations, and SUBRECIPIENT shall provide, upon the reasonable request of the STATE, financial and performance reports sufficient to demonstrate SUBRECIPIENT’S compliance with CSLFRF and as otherwise necessary for STATE to satisfy the subrecipient monitoring and management requirements of 2 C.F.R. Part 200.331 to 200.333.

Pursuant to information submitted to the STATE for inclusion in the GRANTOR’S CSLFRF Program, the SUBRECIPIENT shall perform the following tasks:

Properly procure and complete the project substantially as described in Exhibit B, Scope of Work and Budget. Any and all expenses associated with the project are the sole responsibility of the SUBRECIPIENT. The ownership of any property furnished hereunder will be the property of the SUBRECIPIENT. The SUBRECIPIENT shall have the sole responsibility to maintain possession of the said property, maintain the property, repair the property when needed and maintain any applicable insurance amounts. Any future costs related to these requirements remain the sole responsibility of the SUBRECIPIENT.

In compliance with the above, the SUBRECIPIENT agrees to notify the STATE and federal GRANTOR, in writing, and request the preferred method of disposition for any property or equipment purchased with federal funds if said property or equipment is no longer of use to the SUBRECIPIENT. In addition, if an annual inventory is requested by the STATE then the SUBRECIPIENT will provide prompt access to all inventory records.

3. **Term of Agreement**

The term of this agreement shall become effective upon execution by DFA for the period of July 1, 2023 through June 30, 2024. All funds must be obligated by the SUBRECIPIENT by June 1, 2024, and all funds must be expended by June 30, 2024, and reimbursement requested by the SUBRECIPIENT to the STATE by July 15, 2024.

4. **Payment Terms of Grant Funding**

- a. The maximum budget for the scope of work identified in Section 1 above:

\$940,000.00 (Nine Hundred Forty Thousand Dollars and Zero Cents)

- b. Taxes. Subaward, budget amount includes applicable New Mexico tax, including but not limited to the New Mexico Gross Receipts and Compensating Tax at N.M.S.A. (1978) § 7-9-1 *et seq.* (“NMGRT”). The SUBRECIPIENT is subject to and shall be liable for payment of all applicable New Mexico taxes, at the prevailing rate, for all work performed

under Exhibit B—Scope of Work. The SUBRECIPIENT is solely responsible for the payment of all applicable New Mexico taxes.

c. Payment Procedures

- (1) The STATE shall pay the SUBRECIPIENT in the amounts and in accordance with the schedule and other conditions set forth in Exhibit B. SUBRECIPIENT segregate, on each invoice, the applicable New Mexico tax.
- (2) SUBRECIPIENT shall initiate payment requests by invoice to the STATE, in a form and manner approved by the STATE.
- (3) The STATE shall pay each invoice within forty-five (45) days following the STATE's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by the SUBRECIPIENT and previously accepted by the STATE during the term that the invoice covers. If the STATE determines that the amount of any invoice is not correct, then SUBRECIPIENT shall make all changes necessary to correct that invoice.
- (4) The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under this Agreement.

Advancement of funds, under this Agreement, is contingent upon the SUBRECIPIENT complying with all of the requirements for allowable uses for funds under the CSLFRF Program and providing sufficient documentation to the STATE as reasonably determined by the STATE. The SUBRECIPIENT is responsible for payment to its vendors unless otherwise specifically approved by the STATE.

d. Financial Documentation

The SUBRECIPIENT will provide copies of all related financial documentation to the STATE with the first quarterly report, supplying sufficient documentation to meet the reporting requirements of the CSLFRF Program. Any questioned costs which may occur at any point in this process (including the five (5) year period after grant closeout by the federal GRANTOR) will be the sole responsibility of the SUBRECIPIENT with respect to any activity covered by this agreement.

If this agreement extends beyond the current fiscal year and notwithstanding anything to the contrary and when applicable, both parties acknowledge and agree that pursuant to the applicable state law, this agreement is subject to an annual appropriation dependency requirement to the effect that the renewal of this agreement is contingent upon the appropriation of funds by either party to fulfill any future payment requirements of this agreement. If either party fails to appropriate sufficient monies to provide for any future payment requirements under this agreement, this agreement shall terminate on the last day of the last fiscal year for which funds were appropriated.

5. Reporting, Monitoring, and Review

a. Requirements

The SUBRECIPIENT is required to participate in monitoring and review activities necessary to assess the work performed under the Subaward and determine whether the Subrecipient has timely achieved the Scope of Work stated in Exhibit B to this Subaward. The ongoing monitoring of the SUBRECIPIENT will reflect its assessed risk and include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation.

b. Risk Assessment

The risk assessment may include factors such as prior experience in managing Federal funds, previous audits, personnel, and policies or procedures for award execution and oversight.

c. Monitoring

Monitoring and review activities will be detailed in a Monitoring Plan based on the STATE'S risk assessment of the SUBRECIPIENT and will be provided to the SUBRECIPIENT. The Monitoring Plan may include, but not be limited to, the SUBRECIPIENT'S technical progress compared to the intended milestones and deliverables; the SUBRECIPIENT'S actual expenditures compared to the approved budget, review of SUBRECIPIENT'S reimbursement requests including detailed backup documentation, or other subject matter specified by the STATE.

d. Performance and Final Status

SUBRECIPIENT shall submit all financial, performance and other reports to the STATE no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the STATE, containing an evaluation and review of SUBRECIPIENT's performance and the final status of SUBRECIPIENT's obligations hereunder.

e. Violations Reporting

SUBRECIPIENT shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The STATE or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 C.F.R. Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

f. Inspection

SUBRECIPIENT shall permit the STATE, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe SUBRECIPIENT Records during the Record Retention Period. SUBRECIPIENT shall make SUBRECIPIENT Records available during normal business hours at

SUBRECIPIENT's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the STATE, unless the STATE determines that a shorter period of notice, or no notice, is necessary to protect the interests of the STATE.

g. Final Audit Report

SUBRECIPIENT shall promptly submit to the STATE a copy of any final audit report of an audit performed on SUBRECIPIENT's records that relates to or affects this Agreement or the Work, whether the audit is conducted by SUBRECIPIENT or a third party. Additionally, if SUBRECIPIENT is required to perform a single audit under 2 C.F.R. Part 200.501, *et seq.*, then SUBRECIPIENT shall submit a copy of the results of that audit to the STATE within the same timelines as the submission to the federal government.

6. Amendments and Assignments

If there is a need to review and/or revise this agreement, the requesting party shall submit a written amendment to the other party, with the understanding that no amendment to this agreement shall be valid unless it is agreed and signed by both parties. This agreement shall not be assignable by either party without written consent of the other, except for assignment resulting from merger, consolidation, or reorganization of the assigning party.

7. Records, Audits, and Other Grant Compliance Issues

It is understood that this agreement may be utilized as part of the American Rescue Plan Act (Coronavirus State and Local Fiscal Relief Fund – ALN 21.027) and therefore both parties agree to maintain accounts and records, including personnel, property, and financial records, adequately to identify and account for all costs pertaining to this agreement and to ensure full compliance with the requirements of the above program. The SUBRECIPIENT will comply with all applicable federal law, regulations, executive orders, grant policies, procedures, and directives. Even though federal funding may be available, the Federal Government is not a party to this agreement and is not subject to any obligations or liabilities to the STATE, SUBRECIPIENT, or any other party pertaining to any matter resulting from the agreement.

a. Work Product Information

- (1) The SUBRECIPIENT may receive from the STATE work product information that the STATE utilizes. The SUBRECIPIENT assumes sole responsibility for verification of the accuracy of all information and for legal compliance with all rules and instructions required herein. The SUBRECIPIENT further acknowledges that the STATE makes and assumes no representations or warranties with regard to the work product information. Work product information may include, but is not limited to, procurement policies, procurement forms, contractor insurance requirements, various standard contracts, specific grant program forms or other relevant documents.
- (2) With respect to the SUBRECIPIENT'S use of any work product transmitted by or

originally created by the STATE, the SUBRECIPIENT acknowledges it is the SUBRECIPIENT'S decision to act accordingly. The SUBRECIPIENT has the option to either adopt such product as the SUBRECIPIENT'S own or the SUBRECIPIENT may utilize the following other options available to the SUBRECIPIENT:

- i. Modify the STATE'S work product appropriate to the SUBRECIPIENT'S own needs;
 - ii. Create and adopt the SUBRECIPIENT'S own work product separate from the STATE'S work products; or,
 - iii. Adopt a work product created by other State or Federal agencies when applicable to the SUBRECIPIENT'S needs.
- (3) If the SUBRECIPIENT utilizes any of the STATE'S work products in any way then the SUBRECIPIENT acknowledges that the STATE makes no representations or warranties with regard to the same.

b. Audit

For audit purposes, all records will be made available by both parties to any authorized representative of either party and said records will be maintained and retained for five (5) years after closeout of the grant program. If any confidential information is obtained during the course of this agreement, both parties agree not to release that information without the approval of the other party unless instructed otherwise by court order, grantor, auditor, public information request or as required by law.

c. Records

The STATE and SUBRECIPIENT agree that all records shall be made available to either party at no additional charge for such information. The SUBRECIPIENT also agrees to provide the STATE, the Government Accountability Office (GAO), the Treasury's Office of Inspector General (OIG), Pandemic Relief Accountability Committee (PRAC), or any of their authorized representatives access to any books, documents, papers, and records of the SUBRECIPIENT which are directly pertinent to this agreement for the purposes of making audits, examinations, excerpts, and transcriptions. The SUBRECIPIENT agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed at no additional charge.

In compliance with grantor and national policy requirements, including the above referenced federal grant requirements, both parties agree to adhere to the following regulations, where applicable:

(a) Federally Required Contractual Provisions:

- (1) **Administrative, Contractual or Legal Remedies** are required in all contracts in excess of the simplified acquisition threshold amount that are funded with federal funds and are addressed in various sections of this Agreement;
- (2) **Termination Provision** requires all contracts in excess of \$10,000 to contain a provision for termination of the contract for cause or convenience and this provision is addressed in Section 8 of this Agreement;
- (3) For all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3, **Equal Employment Opportunity**, including Executive Order 11246 which was further amended by Executive Order 11375, which requires equal opportunity for all persons, without regard to race, color, religion, sex or national origin, employed or seeking employment with government contractors or with contractors performing under federally assisted construction contracts (See Exhibit C);
- (4) For all applicable contracts in excess of \$100,000 that involve the employment of mechanics or laborers, **Contract Work Hours and Safety Standards Act** which prohibits certain unsanitary, hazardous or dangerous working conditions and requires that wages of every mechanic and laborer to be on the basis of a standard work week of forty hours with any work in excess of forty hours per week to be compensated at a rate of not less than one and one-half times the basic rate of pay (See Exhibit C);
- (5) For all contracts that meet the definition of “funding agreement” under 37 C.F.R. Part 401.2(a) and involve a contract with a small business firm or nonprofit organization regarding the assignment or performance of experimental, developmental or research work must comply with the **Rights to Inventions Made Under a Contract or Agreement** contained in 37 C.F.R. Part 401 (See Exhibit C);
- (6) All contracts, subcontracts and sub-grants in excess of \$150,000 must contain a provision which requires compliance with all applicable standards, orders or regulations issued pursuant to the **Clean Air Act** and the **Federal Water Pollution Control Act** (See Exhibit C);
- (7) **Debarment and Suspension (Executive Orders 12549 and 12689 and 2 C.F.R. Part 180)** which prohibit the contracting with any party listed on the “System for Award Management” (SAM), formerly identified as the “Excluded Parties List System” (EPLS.gov), which identifies all parties that have active exclusions (i.e., suspensions, debarments) imposed by a federal agency (See Exhibit C);
- (8) **Byrd Anti-Lobbying Prohibition (31 U.S.C. 1352)** prohibits the use of federal funds to pay any person or organization for influencing or attempting to influence anyone with any federal contract, grant or other award covered by 31 U.S.C. 1352 and also requires that Contractors that apply or bid for an award exceeding \$100,000 where federal funds are used must file the required certification stating that the parties will not and have not used federal funds to pay any person or organization for influencing or attempting to

influence anyone with any federal contract, grant, or other award covered by 31 U.S.C. 1352 (*See Exhibit C*);

- (9) For all construction contracts in excess of \$2,000 and required by federal grant regulations, the **Davis Bacon Act** which requires payments of wages for laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor and said wage payments will be made at least weekly (*See Exhibit E*);
- (10) **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment** wherein 2 C.F.R. Part 200.216 prohibits use of federal grant or loan funds to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (11) **Domestic Preferences for Procurements** for when federal funds are utilized, and where appropriate and to the extent consistent with other laws and regulations, 2 C.F.R. Part 200.322 allows a federal award to provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products); and,
- (12) **Procurement of Recovered Materials** as required by 2 C.F.R. Part 200.323 which requires procurements in excess of \$10,000 to contain the highest percentage of recovered materials practicable while consistent with maintaining a satisfactory level of competition.

(b) National Policy Requirements:

- (1) **Civil Rights Act of 1964**, including Title VI, which states that no person shall on the grounds of race, color or national origin shall be excluded from participation in, be refused the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance;
- (2) **Age Discrimination Act of 1975** which prohibits discrimination based on age in programs or activities receiving federal financial assistance;
- (3) **Americans with Disabilities Act of 1990**, with respect to building construction or alteration, prohibits discrimination based on a disability defined as a physical or mental impairment that substantially limits a major life activity;
- (4) **Section 504 of the Rehabilitation Act of 1973**, if specifically required by the federal agency, which prohibits the exclusion of an otherwise qualified individual because of a

disability in programs receiving federal financial assistance including program accessibility, accessible new construction and alterations, reasonable accommodations and effective communication with hearing and visually disabled (this requirement may vary with each federal agency);

- (5) For all construction or repair contracts, **Copeland “Anti-Kickback” Act** which requires all contracts and sub-grants for construction or repair to contain a provision that prohibits a contractor or sub-contractor from inducing, by any means, any person employed in the construction, completion or repairs of public work to give up any part of the compensation to which he is otherwise entitled;
- (6) **Energy Policy and Conservation Act** which require the contractors to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan;
- (7) **Reporting Provision** requires that all contracts should include a requirement that the SUBRECIPIENT assist the STATE, when applicable, with any awarding agency requirements and regulations pertaining to reporting;
- (8) **Record Retention Provision** requires that any contract executed must include a provision that all required records will be maintained by the contractor/firm for a minimum period of three years after the STATE formally closes out each federal program (STATE and SUBRECIPIENT grant managers should verify the three-year record retention period with each respective grant agency to ensure that a longer period is not required);
- (9) **2013 National Defense Authorization Act (41 United States Code (U.S.C.) 4712, Pilot Program for Enhancement of Recipient and Subrecipient Employee Whistleblower Protection)** subjects any subawards and contracts over the federal simplified acquisition threshold to the provisions of the above act regarding rights and remedies for employee whistleblower protections;
- (10) **National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973** which require recipients of federal grants that are acquiring, constructing or repairing property in a special flood hazard area, and with an estimated cost in excess of \$10,000, to purchase flood insurance;
- (11) **Wild and Scenic Rivers Act of 1968** which protects components or potential components of the national wild and scenic rivers system;
- (12) **Resource Conservation and Recovery Act** which requires proper handling and disposal of solid waste;

- (13) **Toxic Substance Control Act** which places restrictions on chemicals that pose unreasonable risks, such as surfaces that could be covered with lead-based paint;
- (14) **Federal Agency Seal(s), Logos, Crests, or Reproductions of Flags or Likeness of Federal Agency Officials** are prohibited from being utilized without specific federal agency pre-approval;
- (15) **False Claims Act and 32 U.S.C. Chapter 38 (Administrative Remedies)** which prohibits the submission of false or fraudulent claims for payment to the federal government identifying administrative remedies for false claims and statements made which the CONTRACTOR herein acknowledges; and,
- (16) **Section 603 Title VI of the Social Security Act** which establishes the Coronavirus State and Local Fiscal Recovery Fund and identifies eligible and ineligible uses for the Fund monies (See Exhibit E).

In compliance with Section 7(a)(7) above, the SUBRECIPIENT agrees to verify that all contractors or subcontractors employed are not parties listed as active exclusions (i.e., suspensions, debarments) on the “System for Award Management” (SAM) for parties debarred, suspended or otherwise excluded from contracting on any projects involving federal funds. SUBRECIPIENT agrees to require the contractor to provide immediate notice, but in no case later than three (3) business days, after being notified that the contractor, or any subcontractor, has been added to the SAM or otherwise been debarred from contracting on any projects involving federal funds.

In no event shall the SUBRECIPIENT allow any contractor to utilize a subcontractor at any time during the duration of this agreement who has been debarred from contracting on any projects involving federal funds. If the contractor is prohibited in any way from contracting on any projects involving federal funds at any time during the duration of this agreement, then both the SUBRECIPIENT and STATE must be notified. STATE may, at its sole discretion, immediately implement the termination provisions discussed in Section 12 below if the SUBRECIPIENT decides to continue with the project using a “debarred” or “active exclusion” contractor or subcontractor.

8. **Liability and Indemnity**

a. **Liability**

This Agreement is intended for the benefit of the STATE and the SUBRECIPIENT and does not confer any rights upon any other third parties. All rights by and between the STATE and the SUBRECIPIENT are limited to the actions outlined in the applicable local, state and federal laws, regulations and policies.

b. **Indemnity**

The SUBRECIPIENT will indemnify, defend, and hold harmless the STATE, including the

STATE'S employees and agents, from and against any and all claims or liabilities arising from the fault of the SUBRECIPIENT, its employees or agents in carrying out the SUB RECIPIENT'S duties and obligations under the terms of this agreement. The STATE will indemnify, defend, and hold harmless the SUBRECIPIENT, including the SUBRECIPIENT'S employees and agents, from and against any and all claims or liabilities arising from the fault of the STATE, its employees or agents in carrying out the STATE'S duties and obligations under the terms of this agreement. Notwithstanding the forgoing, in no event shall SUBRECIPIENT be liable for, and shall not indemnify, defend or hold harmless STATE for, any loss or liability resulting from the gross negligence or willful misconduct of STATE. This section will survive the termination of this agreement. In the event that either party takes any action to enforce this mutual indemnity provision, the prevailing party shall be entitled to recover reasonable attorney's fees and costs arising as a result thereof.

9. Insurance

SUBRECIPIENT shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the STATE.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all SUBRECIPIENT or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any one fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Cyber/Network Security and Privacy Liability

Liability insurance covering civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation, or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- v. \$1,000,000 each occurrence; and
- vi. \$2,000,000 general aggregate.

E. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- vii. \$1,000,000 each occurrence; and
- viii. \$1,000,000 general aggregate.

F. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- ix. \$1,000,000 each occurrence; and
- x. \$1,000,000 general aggregate.

B. Additional Insured

The STATE shall be named as additional insured on all commercial general liability policies (leases and construction Agreements require additional insured coverage for completed operations) required of SUBRECIPIENT and Subcontractors. This means the certificate of insurance shall explicitly state: “The State of New Mexico is an additional insured.”

C. Primacy of Coverage

Coverage required of SUBRECIPIENT and each Subcontractor shall be primary and noncontributory over any insurance or self-insurance program carried by SUBRECIPIENT or the STATE.

D. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to SUBRECIPIENT.

E. Subrogation Waiver

All commercial insurance policies secured or maintained by SUBRECIPIENT or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against SUBRECIPIENT or the STATE, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

F. Certificates

For each commercial insurance plan provided by SUBRECIPIENT under this Agreement, SUBRECIPIENT shall provide to the STATE certificates evidencing SUBRECIPIENT's insurance coverage required in this Agreement within seven (7) Business Days following the Effective Date. SUBRECIPIENT shall provide to the STATE certificates evidencing Subcontractor insurance coverage required under this Agreement within seven Business Days following the Effective Date, except that, if SUBRECIPIENT's Subcontractor is not in effect as of the Effective Date, SUBRECIPIENT shall provide to the STATE certificates showing Subcontractor insurance coverage required under this Agreement within seven Business Days following SUBRECIPIENT's execution of the Subcontractor. No later than fifteen (15) days before the expiration date of SUBRECIPIENT's or any Subcontractor's coverage, SUBRECIPIENT shall deliver to the STATE certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the STATE, SUBRECIPIENT shall, within seven (7) Business Days following the request by the STATE, supply to the STATE evidence satisfactory to the STATE of compliance with the provisions of this section.

10. Breach

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of Breach of Agreement to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §11 for that Party. Notwithstanding any provision of this Agreement to the contrary, the STATE, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the STATE.

11. Remedies

a. STATE's Remedies

If SUBRECIPIENT is in breach under any provision of this Agreement and fails to cure such breach, the STATE, following the notice and cure period set forth in §10, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The STATE may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of SUBRECIPIENT's uncured breach, the STATE may terminate this entire Agreement or any part of this Agreement. Additionally, if SUBRECIPIENT fails to comply with any terms of the Federal Award, then the STATE may, in its discretion or at the direction of a Federal Awarding Agency, terminate this entire Agreement or any part of this Agreement. SUBRECIPIENT shall continue performance of this Agreement to the extent not terminated, if any.

1. Obligations and Rights

To the extent specified in any termination notice, SUBRECIPIENT shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and Subcontractors with third parties. However, SUBRECIPIENT shall complete and deliver to the STATE all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the STATE, SUBRECIPIENT shall assign to the STATE all of SUBRECIPIENT's rights, title, and interest in and to such terminated orders or Subcontractors. Upon termination, SUBRECIPIENT shall take timely, reasonable and necessary action to protect and preserve property in the possession of SUBRECIPIENT but in which the STATE has an interest. At the STATE's request, SUBRECIPIENT shall return materials owned by the STATE in SUBRECIPIENT's possession at the time of any termination. SUBRECIPIENT shall deliver all completed Work Product and all Work Product that was in the process of completion to the STATE at the STATE's request.

2. Payments

Notwithstanding anything to the contrary, the STATE shall only pay SUBRECIPIENT for accepted Work received as of the date of termination. If, after termination by the STATE, the STATE agrees that SUBRECIPIENT was not in breach or that SUBRECIPIENT's action or inaction was excusable.

3. Damages and Withholding

Notwithstanding any other remedial action by the STATE, SUBRECIPIENT shall remain liable to the STATE for any damages sustained by the STATE in connection with any breach by SUBRECIPIENT, and the STATE may withhold payment to SUBRECIPIENT for the purpose of mitigating the STATE's damages until such time as the exact amount of damages due to the STATE from SUBRECIPIENT is determined. The STATE may withhold any amount that may be due SUBRECIPIENT as the STATE deems necessary to protect the STATE against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the STATE in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The STATE, in its discretion, may exercise one or more of the following additional remedies:

1. Suspend Performance

Suspend SUBRECIPIENT's performance with respect to all or any portion of the Work pending corrective action as specified by the STATE without entitling SUBRECIPIENT to an adjustment in price or cost or an adjustment in the performance schedule. SUBRECIPIENT shall promptly cease performing Work and incurring costs in accordance with the STATE's directive, and the STATE shall not be liable for costs incurred by SUBRECIPIENT after the suspension of performance.

2. Withhold Payment

Withhold payment to SUBRECIPIENT until SUBRECIPIENT corrects its Work.

3. Deny Payment

Deny payment for Work not performed, or that due to SUBRECIPIENT's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

4. Removal

Demand immediate removal of any of SUBRECIPIENT's employees, agents, or Subcontractors from the Work whom the STATE deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the STATE to be contrary to the public interest or the STATE's best interest.

5. Intellectual Property

If any Work infringes, or if the STATE in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, SUBRECIPIENT shall, as approved by the STATE (i) secure that right to use such Work for the STATE and SUBRECIPIENT; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the STATE.

b. SUBRECIPIENT's Remedies

If the STATE is in breach of any provision of this Agreement and does not cure such breach, SUBRECIPIENT, following the notice and cure period in §10 and the dispute resolution process in §12, shall have all remedies available at law and equity.

12. Termination of Agreement and Dispute Resolution

While both parties agree to negotiate all contractual disputes in good faith, the STATE reserves the right to terminate this Agreement at any time upon written notice of termination or if the SUBRECIPIENT has failed to comply with the terms of this Agreement, the grant itself or any applicable law and regulation. All questioned costs are the sole responsibility of the SUBRECIPIENT.

If the parties are unable to independently and satisfactorily resolve any disagreement, then both parties agree that any contractual disagreement will be resolved under the jurisdiction of the State of New Mexico. In the event that court action is necessary then the parties agree that whoever prevails in the litigation is entitled to reasonable attorney's fees and costs as fixed by the Court.

13. Conflicts of Interest

a. Actual Conflicts of Interest

SUBRECIPIENT shall not engage in any business or activities, or maintain any relationships, that conflict in any way with the full performance of the obligations of SUBRECIPIENT under this Agreement. Such a conflict of interest would arise when a SUBRECIPIENT or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the STATE, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

b. Apparent Conflicts of Interest

SUBRECIPIENT acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the STATE's interests. Absent the STATE's prior written approval, SUBRECIPIENT shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of SUBRECIPIENT's obligations under this Agreement.

c. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if SUBRECIPIENT is uncertain whether a conflict or the appearance of a conflict has arisen, SUBRECIPIENT shall submit to the STATE a disclosure statement setting forth the relevant details for the STATE's consideration. Failure to promptly submit a disclosure statement or to follow the STATE's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

14. Notices and Representatives

Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered:

- a. by hand with receipt required;
- b. by certified or registered mail to such Party's principal representative at the address set forth below; or
- c. as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement.

If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative, by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

15. Rights in Work Product and Other Information

- a. Work Product
 - i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, SUBRECIPIENT hereby assigns to the STATE, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that SUBRECIPIENT cannot make any of the assignments required by this section, SUBRECIPIENT hereby grants to the STATE a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The STATE may assign and license its rights under this license.

ii. Patents

In addition, SUBRECIPIENT grants to the STATE (and to recipients of Work Product distributed by or on behalf of the STATE) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by SUBRECIPIENT that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the STATE.

iii. Assignments and Assistance

Whether or not SUBRECIPIENT is under Agreement with the STATE at the time, SUBRECIPIENT shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the STATE, to enable the STATE to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. SUBRECIPIENT assigns to the STATE and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

b. Exclusive Property of the STATE

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing STATE Records, STATE software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the STATE (collectively, "STATE Materials"). SUBRECIPIENT shall not use, willingly allow, cause or permit Work Product or STATE Materials to be used for any purpose other than the performance of SUBRECIPIENT's obligations in this Agreement without the prior written consent of the STATE. Upon termination of this Agreement for any reason, SUBRECIPIENT shall provide all Work Product and STATE Materials to the STATE in a form and manner as directed by the STATE.

c. Exclusive Property of SUBRECIPIENT

SUBRECIPIENT retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to SUBRECIPIENT including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by SUBRECIPIENT under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "SUBRECIPIENT Property"). SUBRECIPIENT Property shall be licensed to the STATE as set forth in this Agreement or a STATE approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the STATE from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. General Provisions

a. Assignment

SUBRECIPIENT's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the STATE. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of SUBRECIPIENT's rights and obligations approved by the STATE shall be subject to the provisions of this Agreement.

b. Subcontractors

SUBRECIPIENT shall not enter into any subgrant or Subcontract in connection with its obligations under this Agreement without the prior, written approval of the STATE. SUBRECIPIENT shall submit to the STATE a copy of each such subgrant or Subcontract upon request by the STATE. All subgrants and Subcontracts entered into by SUBRECIPIENT in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of New Mexico, and shall be subject to all provisions of this Agreement. If the entity with whom SUBRECIPIENT enters into a Subcontract or subgrant would also be considered a SUBRECIPIENT, then the Subcontract or subgrant entered into by SUBRECIPIENT shall also contain provisions permitting both SUBRECIPIENT and the STATE to perform all monitoring of that Subcontract in accordance with the Uniform Guidance.

c. Binding Effect

Except as otherwise provided, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

d. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

e. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

f. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

g. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

h. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the STATE Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

i. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable New Mexico law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the STATE.

j. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Agreement to a statute, regulation, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

k. External Terms and Conditions

Notwithstanding anything to the contrary herein, the STATE shall not be subject to any provision included in any terms, conditions, or agreements appearing on SUBRECIPIENT's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

l. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

m. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

n. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in this Agreement, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

o. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

p. Standard and Manner of Performance

SUBRECIPIENT shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in SUBRECIPIENT's industry, trade, or profession.

q. Licenses, Permits, and Other Authorizations

SUBRECIPIENT shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

r. Compliance with State and Federal Law, Regulations, and Executive Orders

SUBRECIPIENT shall comply with all State and Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Grant.

17. Severability, Entire Agreement and Captions

This Agreement shall be governed by and construed in accordance with the laws of the State New Mexico. If any provision of this Agreement is held invalid, void, or unenforceable under any law or regulation or by a court of competent jurisdiction, such provision will be deemed amended in a

manner which renders it valid, or if it cannot be so amended, it will be deemed to be deleted. Such amendment or deletion will not affect the validity of any other provision of this Agreement. This Agreement, any CSLRF Grant Program documentation, any attached documents, and any referenced documents represent the entire agreement between the STATE and the SUBRECIPIENT and supersede all prior negotiations, representations or agreements, either written or oral. In the event of a conflict between this Agreement and other documents, the terms of this Agreement shall control.

Each paragraph of this Agreement has been supplied with a caption to serve only as a guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation.

IN WITNESS WHEREOF, the STATE and the SUBRECIPIENT do hereby execute this Agreement as of the date of signature by the STATE below.

THIS GRANT AGREEMENT has been approved by:

Colfax County:

Monte Gore, County Manager

Date

**NEW MEXICO DEPARTMENT OF DEPARTMENT OF FINANCE AND
ADMINISTRATION:**

**Wesley Billingsley, Local Government Division
Director**

Date

EXHIBIT A

FEDERAL AWARD INFORMATION

In accordance with the Code of Federal Regulations (CFR), 2 CFR Section 200.332 requires that the following information be provided to any Subrecipient of a federal award:

Federal Award Identification: Coronavirus State and Local Fiscal Recovery Funds

Subrecipient Name: **Colfax County**

Subrecipient Unique Identification (ID) Number: **Y5WKZ534GE41**

Federal Award Identification Number: Coronavirus State and Local Fiscal Recovery Funds

Subaward Period of Performance (Start and End Date): July 1, 2023 through June 30, 2024

Amount of Federal Funds Obligated to Subrecipient: **\$940,000.00**

Federal Award Project Description (in accordance with Federal Funding Accountability and Transparency Act (FFATA): Coronavirus State and Local Fiscal Recovery Funds

Name of Federal Awarding Agency: U.S. Department of the Treasury

Name of Pass-Through Entity and Contact Information:

Department of Finance and Administration

407 Galisteo Street
Santa Fe, NM 87501
(505) 827-4985

Assistance Listing Number (ALN): 21.027

EXHIBIT B

SCOPE OF WORK AND BUDGET

SUBRECIPIENT will use CSLFRF funds to provide full performance of all tasks listed below. CSLFRF funds will be requested monthly according to the Request for Payment procedures specified in this Agreement. All funds shall be obligated and expended by SUBRECIPIENT in accordance with this Agreement. The period of performance to execute work and/or incur costs against the \$940,000.00 subaward funding for this project is July 1, 2023 – June 30, 2024, unless extended by the New Mexico legislature. Monthly reports shall be provided to the STATE showing costs incurred to the \$940,000.00 subaward funding.

To plan, design, furnish, equip, and construct improvements for the event center in Colfax County.

I. Significant Changes to Scope of Work

The SUB RECIPIENT is required to notify and seek written approval of the STATE in advance of any proposed material changes to the scope of work under this Subaward (i.e., significant changes to the statement of project objectives or the schedule of technical milestones and deliverables). Such changes may require the STATE to re-evaluate the eligibility of the work under this Subaward.

EXHIBIT C

FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of New Mexico is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the CSFRF statute, CSFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of New Mexico agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Entity" means:
 - 2.1.2.1. a Non-Federal Entity;
 - 2.1.2.2. a foreign public entity;
 - 2.1.2.3. a foreign organization;
 - 2.1.2.4. a non-profit organization;
 - 2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);
 - 2.1.2.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
 - 2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).
 - 2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.

- 2.1.4. “Expenditure Category (EC)” means the category of eligible uses as defined by the US Department of Treasury in “Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds” report available at www.treasury.gov.
- 2.1.5. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.6. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.7. “Grantee” means the state identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.8. “Non-Federal Entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.9. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
 - 2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.9.2. Is not organized primarily for profit; and
 - 2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.12. “Prime Recipient” means the New Mexico State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.13. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.

- 2.1.15. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.15.1. Salary and bonus;
 - 2.1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 2.1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.16. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.17. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.18. “Unique Entity ID Number” means the twelve-character alphanumeric ID assigned to an entity by SAM.gov to uniquely identify a business entity. Information on UEIs can be found at: sam.gov/content/duns-uei

3. COMPLIANCE.

- 3.1. Subrecipient shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of New Mexico, at its discretion, may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, State programs or services must not include terms or conditions that undermine efforts to stop COVID-19 or discourage compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY IDENTIFIER (UEI) REQUIREMENTS.

- 4.1. SAM. Subrecipient shall maintain the currency of its information in SAM until the Subrecipient submits the final financial report required under the Award or receives final payment, whichever is later. Subrecipient shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. UEI. Subrecipient shall provide its UEI number to its State, and shall update Subrecipient's information in SAM at least annually after the initial registration, and more frequently if required by changes in Subrecipient's information.

5. TOTAL COMPENSATION.

- 5.1. Subrecipient shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Subrecipient received:
 - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

6.1. Subrecipient shall report data elements to SAM and to the State as required in this Exhibit. No direct payment shall be made to Subrecipient for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Subrecipient's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above CSFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by the State as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. Subrecipient shall report as set forth below.
- 8.1.1. Subrecipient shall use the CSFRF Subrecipient Quarterly Report Workbook as referenced in Exhibit F to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the CSFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC 1 – Public Health

All Public Health Projects

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

COVID-19 Small Business Economic Assistance (1.8)

- a) Number of small businesses served

COVID-19 Assistance to Non-Profits (1.9)

- a) Number of non-profits served

COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)

- a) Sector of employer
- b) Purpose of funds

EC 2 – Negative Economic Impacts

All Negative Economic Impacts Projects

- a) Description of project structure and objectives
- b) Description of project’s response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan (*not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36*)
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

Household Assistance (2.1-2.8)

- a) Number of households served
- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)

Healthy Childhood Environments (2.11-2.13)

- a) Number of children served by childcare and early learning (*Federal guidance may change this requirement in July 2022*)
- b) Number of families served by home visiting (*Federal guidance may change this requirement in July 2022*)

Education Assistance (2.14, 2.24-2.27)

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs *(Federal guidance may change this requirement in July 2022)*

Housing Support (2.15, 2.16, 2.18)

- a) Number of people or households receiving eviction prevention services *(Federal guidance may change this requirement in July 2022)*
- b) Number of affordable housing units preserved or developed *(Federal guidance may change this requirement in July 2022)*

Small Business Economic Assistance (2.29-2.33)

- a) Number of small businesses served

Assistance to Non-Profits (2.34)

- a) Number of non-profits served

Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity

Payroll for Public Health and Safety Employees (EC 3.1)

- a) Number of government FTEs responding to COVID-19

Rehiring Public Sector Staff (EC 3.2)

- a) Number of FTEs rehired by governments

EC 4 – Premium Pay

All Premium Pay Projects

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county’s average annual wage
- e) Number of workers to be served with premium pay in K-12 schools

EC 5 – Infrastructure Projects

All Infrastructure Projects

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
 - i. Prevailing wage certification or detailed project employment and local impact report
 - ii. Project labor agreement certification or project workforce continuity plan
 - iii. Prioritization of local hires
 - iv. Community benefit agreement description, if applicable

Water and sewer projects (EC 5.1-5.18)

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

Broadband projects (EC 5.19-5.21)

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
 - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
 - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
 - i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload

- ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.
- iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

All Expenditure Categories

- a) Program income earned and expended to cover eligible project costs

- 8.1.2. A Subrecipient shall report the following data elements to the State no later than five (5) days after the end of the month following the month in which the Subaward was made.
- 8.1.2.1. Subrecipient UEI Number;
 - 8.1.2.2. Subrecipient UEI Number if more than one electronic funds transfer (EFT) account;
 - 8.1.2.3. Subrecipient parent's organization UEI Number;
 - 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
 - 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its State, the following data elements:
- 8.1.3.1. Subrecipient's UEI Number as registered in SAM.
 - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
 - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. This requirement is applicable to all projects in Expenditure Categories 1 and 2.
 - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. See section 8.1.1 for relevant Expenditure Categories.
 - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
 - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent

applicable, individual workers, other than those where the eligible worker receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.

8.1.3.7. For infrastructure projects (EC 5) or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and location (for broadband, geospatial location data).

8.1.3.7.1. For projects over \$10 million:

8.1.3.7.1.1. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and subcontractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.

8.1.3.7.1.2. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient

must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.

8.1.3.7.1.3. Whether the project prioritizes local hires.

8.1.3.7.1.4. Whether the project has a Community Benefit Agreement, with a description of any such agreement.

8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and the applicable State agency. The State of New Mexico may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit G – CSFRF Reporting Modification Form.

9. PROCUREMENT STANDARDS.

9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.

9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.

- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.

11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.

11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

12.1. In addition to other provisions required by the Federal Awarding Agency or the State, Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.

12.1.1. [Applicable to federally assisted construction Agreements.] **Equal Employment Opportunity**. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of “federally assisted construction Agreement” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.

12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] **Davis-Bacon Act**. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). See Exhibit E.

12.1.3. **Rights to Inventions Made Under a grant or agreement**. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.

- 12.1.4. **Clean Air Act** (42 U.S.C. 7401-7671q.) and the **Federal Water Pollution Control Act** (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. **Debarment and Suspension** (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. **Byrd Anti-Lobbying Amendment** (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. **Never Agreement with the enemy** (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Agreement with the enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 12.1.8. **Prohibition on certain telecommunications and video surveillance services or equipment** (2 CFR 200.216). The State is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. **Title VI of the Civil Rights Act.** The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

- 13.1. Subrecipient Certification. Subrecipient shall sign a “State of New Mexico Agreement with Recipient of Federal Recovery Funds” Certification Form in Exhibit E and submit to State Agency with signed grant agreement.
- 13.2. Unless prohibited by Federal statutes or regulations, the State may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Subrecipient with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

EVENT OF DEFAULT AND TERMINATION.

- 14.3. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of New Mexico may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of New Mexico under the Grant, at law or in equity.
- 14.4. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
 - 14.4.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;

- 14.4.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
- 14.4.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 14.4.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
- 14.4.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 19641965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR section 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Clean Air Act and the Federal Water Pollution Control Act. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 74017671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

EXHIBIT D

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of New Mexico has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State’s separate agreement with Treasury, apply to your organization. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the Legislature and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization’s obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Organization Name: Colfax County

Subrecipient Organization Representative: Monte Gore

Title: County Manager

Signature _____

Date: _____

**Agreement with Subrecipient of Federal Recovery Funds
Terms And Conditions**

1. Use of Funds.
 - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
 - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. Period of Performance. The period of performance for this subaward is shown on page one of this Agreement. Subrecipient may use funds to cover eligible costs incurred, as set forth in Treasury's implementing regulations, during this period of performance.

3. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and State Agency. The State will provide notice of such additional reporting requirements via Exhibit G – Reporting Modification Form.

4. Maintenance of and Access to Records
 - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.

 - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and State agency.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Subrecipient.
8. Conflicts of Interest. The State of New Mexico understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Agency or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Agency shall disclose such conflict to Treasury.
9. Compliance with Applicable Law and Regulations.
 - a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
 - b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19.

- v. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

Remedial Actions. In the event of Subrecipient’s noncompliance with section 602 of

10. the Act, other applicable laws, Treasury’s implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: “This project is being supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of New Mexico by the U.S. Department of the Treasury.”
14. Debts Owed the Federal Government.
 - a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
 - b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
15. Disclaimer.
 - a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons

resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.

- b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for Agreement or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

21. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and

Contractors to adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.

3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.
4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42

U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and

implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.

9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of discrimination, please so state.
10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXHIBIT E

DAVIS-BACON ACT REQUIREMENTS (IF APPLICABLE)

Overview

Section 1606 of the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009) (the "Recovery Act"), requires grant award recipients, subrecipients, contractors, and subcontractors to comply with the wage requirements of the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*) and related acts, stating:

Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

Scope of the Davis-Bacon Act The Davis-Bacon Act prevailing wage requirements apply to laborers and mechanics employed under contracts or subcontracts in excess of \$2,000 for construction, alteration, or repair activities (including but not limited to painting and decorating) that are funded, in whole or in part, under BTOP grant awards. In general:

- Laborers and mechanics – Are workers whose duties are manual or physical in nature, including apprentices, trainees and helpers, but do not include workers whose duties are primarily managerial, administrative, executive, or clerical. See 29 C.F.R. section 5.2(m).
- The \$2,000 threshold – Pertains to the amount of the prime construction contract, not to the amount of individual subcontracts. Accordingly, if the prime construction contract exceeds \$2,000, all construction work on the project (including subcontracts) is covered by the Davis-Bacon Act. See 29 C.F.R. section 5.5(a)(6).
- Construction, alteration, or repair activities – Are those occurring at the “site of the work” that involve the alteration, remodeling, or installation of items fabricated off-site; painting and decorating; manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work; and, in certain cases, transportation between the site of the work and other points. See 29 C.F.R. section 5.2(j).
- Site of the work – Is the physical place or places where the building or work called for in the contract will remain, and any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project, and includes job headquarters, tool yards, batch plants, borrow pits, etc., if they are dedicated exclusively, or nearly so, to performance of the contract or project, and are adjacent or virtually adjacent to the site of the work. The site of the work does not include permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continued operation are determined wholly without regard to a particular Federal or Federally assisted contract or project. See 29 C.F.R. section 5.2(l).
- Application to Governmental Agencies - Governmental agencies, such as states or their political subdivisions, are not subject to the Davis Bacon Act requirements when construction work is being performed by their own employees on a “force account” basis. See 29 C.F.R. section 5.2(h).

Davis-Bacon Act prevailing wage requirements are likely to apply to construction and related activities undertaken in connection with Infrastructure Round 1 and Comprehensive Community Infrastructure (CCI) Round 2 projects. In many cases, Davis-Bacon Act prevailing wage requirements will also apply to activities under BTOP grants for Sustainable Broadband Adoption (SBA) and Public Computer Centers (PCC), when construction and related activities (including minor renovation of facilities) can be segregated from the other work contemplated by the grant. See 29 C.F.R. section 4.116; F.A.R. section 22.402(b).

Davis-Bacon Act Requirements

Required contract provisions (appearing at 29 C.F.R. section 5.5) and the applicable wage determination(s) for the activities contemplated by a construction project must be included in any contract or subcontract to which the Davis-Bacon Act applies providing, among other items, that:

- Laborers and mechanics must be paid the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) at least once a week;
- No paycheck deductions or rebates are permitted, except as permitted under Department of Labor (DOL) regulations (29 C.F.R. sections 3.5-3.6);
- Wage and fringe benefit rates must be no less than those contained in DOL wage determination for the labor classification for the work actually performed.

The recipient is responsible for ensuring that the required contract provisions appear in all contracts and subcontracts entered into by recipients, subrecipients, contractors, and subcontractors for construction, alteration and repair activities covered by the Davis-Bacon Act and related acts. Applicable wage determinations included in the contract must be verified by the recipient within 10 days of the contract date.

In cases where state wage rates (determined under state statutes often called “Mini-Davis-Bacon Acts”) are higher than the Federal wage rates, the state wage rates take precedence and should be included in contracts in lieu of the lower, Federal wage rates. In cases of construction projects on tribal lands, the recipient should contact its assigned Federal Program Officer (FPO) for guidance on the interplay among the Davis-Bacon Act, state Mini-Davis-Bacon acts, and the Tribal Employment Rights Ordinance (TERO).

Contracts for amounts over \$100,000 that are covered by the Davis-Bacon Act must include additional standard clauses (also appearing in 29 C.F.R. section 5.5) providing, among other things, that overtime for laborers and mechanics must be paid at a rate 1.5 times the basic rate of pay for time worked in excess of 40 hours per week.

In addition, the DOL Davis-Bacon poster (WH-1321) must be prominently posted at the site of the work. Refer to: (www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf 1321).

Davis-Bacon Wage Rate Determinations

DOL conducts statewide surveys seeking payment data on wage and fringe benefit rates from construction contractors and other interested parties, such as labor unions. Wage determinations are issued by locality, typically on a county-by-county basis. Davis-Bacon Act wage determinations are published on DOL’s Wage Determinations OnLine (WDOL) website accessible at: www.wdol.gov. The Davis-Bacon Act prevailing wages are determined by DOL based on wages paid to various classes of laborers and mechanics employed on specific types of construction projects in an area.

If DOL has not published a wage determination for work that is needed to complete a BTOP construction project, the recipient may seek a Conformance. The recipient must submit a Conformance request using Standard Form (SF) 1444. Please go to www.wdol.gov/library.aspx to obtain a copy of the form and instructions.

To complete the form, the recipient must describe the work to be done (identified with a classification that is used in the subject area in the construction industry) and propose a wage rate that bears a reasonable relationship to existing wage determinations. Typically, the rate must not be less than the wage determination for an unskilled laborer and, for a skilled craft, must be at least equal to the lowest wage determination for any other skilled craft.

Infrastructure and CCI recipients should submit the completed SF-1444 through Grants Online as an “Other Action Request.” The SF1444 will be routed to the National Oceanic and Atmospheric Administration (NOAA) Grants Officer and transmitted to the DOL Wage and Hour Division for review and approval. The Wage and Hour Division has committed to act on Conformance requests within 30 days.

SBA and PCC recipients should submit completed SF-1444 Conformance requests through the Post-Award Monitoring (PAM) System. To do so, the recipient should create a report package of the type “POR: PAM Other Request.” After filling out and attaching the Request Template, recipient should attach the completed SF-1444 form using the “Add File” button. The SF-1444 will be routed to the National Institute of Standards and Technology (NIST) Grants Officer and transmitted to the DOL Wage and Hour Division for review and approval. The Wage and Hour Division has committed to act on Conformance requests within 30 days.

Recordkeeping and Monitoring Obligations

Recipients, subrecipients, contractors, and subcontractors must prepare weekly certified payroll documentation using Form WH347 (available at: www.dol.gov/whd/forms/wh347.pdf), properly completed for laborers and mechanics performing activities covered by the Davis-Bacon Act requirements of the Recovery Act. Subrecipients, contractors, and subcontractors must submit this information to the BTOP grant award recipient on a weekly basis within seven days of the regular payment date of the subrecipient’s, contractor’s or subcontractor’s payroll period.

A recipient must review the weekly certified payroll documentation it receives from its subrecipients, contractors and subcontractors on an ongoing basis. See 29 C.F.R. sections 3.3-3.4. If a subrecipient receives the original payroll documents, the subrecipient should review these documents and forward the original documents to the recipient on a weekly basis within the time period described above.

The recipient must maintain in its files the original Davis-Bacon Act payroll records it prepares for itself, as well as those prepared by subrecipients, contractors, and subcontractors. The recipient is not required to submit any of the payroll documents to the BTOP Grants Office unless the assigned Grants Officer makes a request for such records. The payroll records must be maintained so as to be easily accessed by BTOP Grants Officers and by other duly authorized officials. The

recipient must retain these records as provided in the Department of Commerce (DOC) Uniform Administrative Requirements for Grants and Cooperative Agreements, 15 C.F.R. section 14.53 or 24.42, as applicable, generally for the later of three years after closeout of the award, or until any litigation, claim, or audit is resolved.

Enforcement and Penalties

Violation of the requirements of Section 1606 of the Recovery Act and the Davis-Bacon Act and related acts is a serious offense. Compliance is subject to audit during OMB Circular A-133 audits (including program-specific audits) of BTOP grant recipients and subrecipients, as well as audits and investigations by the DOC Office of Inspector General, the Government Accountability Office (GAO), the DOL Wage and Hour Division, and other duly authorized officials. A violation of the Davis-Bacon Act wage requirements may lead NTIA to impose appropriate enforcement action in connection with a BTOP grant award, up to and including suspension or termination of the award. In addition, contracting parties are subject to payment of back wages, and suspension or debarment from future contracts for a period of up to three years. Monetary damages may also apply. Falsification of certified payroll records or the required kickback of wages may subject a violator to civil or criminal prosecution, the penalty for which may include fines and/or imprisonment.

EXHIBIT F

ELIGIBLE AND RESTRICTED USES OF CSLFRF FUNDS

As described in the CSLFRF statute and summarized above, there are four enumerated eligible uses of CSLFRF award funds. As a recipient of an award under the CSLFRF program, your organization is responsible for complying with requirements for the use of funds. In addition to determining a given project's eligibility, recipients are also responsible for determining subrecipient's or beneficiaries' eligibility and must monitor use of CSLFRF award funds.

To help recipients build a greater understanding of eligible uses, Treasury's Interim Final Rule establishes a framework for determining whether a specific project would be eligible under the CSLFRF program, including some helpful definitions. For example, Treasury's Interim Final Rule establishes:

- A framework for determining whether a project “responds to” a “negative economic impact” caused by the COVID-19 public health emergency;
- Definitions of “eligible employers”, “essential work,” “eligible workers”, and “premium pay” for cases where premium pay is an eligible use;
- A definition of “general revenue” and a formula for calculating revenue lost due to the COVID-19 public health emergency;
- A framework for eligible water and sewer infrastructure projects that aligns eligible uses with projects that are eligible under the Environmental Protection Agency's Drinking Water and Clean Water State Revolving Funds; and,
- A framework for eligible broadband projects designed to provide service to unserved or underserved households, or businesses at speeds sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth.

Treasury's Interim Final Rule also provides more information on four important restrictions on use of CSLFRF award funds: recipients may not deposit CSLFRF funds into a pension fund; recipients that are States or territories may not use CSLFRF funds to offset a reduction in net tax revenue caused by the recipient's change in law, regulation, or administrative interpretation; and, recipients may not use CSLFRF funds as non-Federal match where prohibited. In addition, the Interim Final Rule clarifies certain uses of CSLFRF funds outside the scope of eligible uses, including that recipients generally may not use CSLFRF funds directly to service debt, satisfy a judgment or settlement, or contribute to a “rainy day” fund. Recipients should refer to Treasury's Interim Final Rule for more information on these restrictions.

EXHIBIT G

CSFRF SUBRECIPIENT QUARTERLY REPORT

1. CSFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK

- 1.1 The CSFRF Subrecipient Quarterly Report Workbook must be submitted to the STATE within ten (10) calendar days following each quarter ended September, December, March and June.



Colfax County

Board of Commissioners



P.O. Box 1498 ● Raton, New Mexico 87740
 Ph. (575) 445-9661 ● Fax. (575) 445-2902
 www.co.colfax.nm.us

RESOLUTION 2024-05 Budget Adjustments-Variou Funds

County Commissioners

Si Trujillo
 Chairman
 Raton, NM 87740
 (505) 617-6893

Mary Lou Kern
 Vice Chairman
 Raton, NM 87740
 505-617-6895

Bret E. Wier
 Member
 P.O. Box 664
 Angel Fire, NM 87710
 (505) 652-0039

Monte K. Gore
 Colfax County Manager
 230 North 3rd Street
 Raton, NM 87740
 (575) 445-9661

Elected Officials

Lydia M. Garcia
 County Treasurer
 (575) 445-3171

Kristi E. Graham
 County Assessor
 (575) 445-2314

Royal Quint
 Probate Judge
 (575) 445-9565

WHEREAS, the Commission Fund (101-0101), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
101-0101-45020	Attorney Fees	\$100,000.00

WHEREAS, the Manager’s Office (101-0102), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
101-0102-42050	Group Health Insurance	\$46,938.34
101-0102-45060	IT Service/Supplies	\$50,000.00
101-0102-47006	Fees & Penalties	\$19,890.00
101-0102-47080	Printing/Publishing	\$20,000.00

WHEREAS, the Clerk’s Office (101-0104), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
101-0104-42050	Group Health Insurance	\$6,898.88

WHEREAS, the Assessor’s Office (101-0106), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
101-0106-42050	Group Health Insurance	\$10,589.79

WHEREAS, the Treasurer's Office (101-0107), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
101-0107-42050	Group Health Insurance	\$5,606.00

WHEREAS, the Sheriff's Office (101-0108), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
101-0108-42050	Group Health Insurance	\$9,500.80
101-0108-41050	Over-Time	\$35,000.00
101-0108-48070	Capital Outlay-Vehicles	\$109,000.00

WHEREAS, the Detention Center (101-0109), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
101-0109-42050	Group Health Insurance	\$47,910.96

WHEREAS, the Probate (101-0115), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
101-0115-42050	Group Health Insurance	\$1,374.16

WHEREAS, funds have and need to be increased in 101-0000 (101-0000); and

WHEREAS, a revenue increase under such circumstances is necessary and lawful, the following revenue increase should be made as follows:

<u>Increase Revenue</u>		
101-0000-36060	Refunds/Reimbursement	\$627,000.00

WHEREAS, the Emergency Management Fund (101-0118), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
101-0118-45030	Professional Services	\$627,000.00

WHEREAS, the Property Valuation Fund (203-0485), has sufficient funds;
and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
203-0485-42050	Group Health Insurance	\$2,754.21

WHEREAS, the Road Fund (204-0402), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
204-0402-42050	Group Health Insurance	\$20,782.48

WHEREAS, funds have and need to be increased in Miami Fire Protection Fund (209-0406); and

WHEREAS, a revenue increase under such circumstances is necessary and lawful, the following revenue increase should be made as follows:

<u>Increase Revenue</u>		
209-0406-37900	Grants	\$300,000.00

WHEREAS, the Miami Fire Protection Fund (209-0406), has sufficient funds;
and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
209-0406-48020	Capital Outlay-Equip & Machinery	\$300,000.00

WHEREAS, funds have and need to be increased in Farley Fire Protection Fund (209-0407); and

WHEREAS, a revenue increase under such circumstances is necessary and lawful, the following revenue increase should be made as follows:

<u>Increase Revenue</u>		
209-0407-37900	Grants	\$300,000.00

WHEREAS, the Farley Fire Protection Fund (209-0407), has sufficient funds;
and

WHEREAS, an increase in expenditures under such circumstances is necessary
and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
209-0407-48020	Capital Outlay-Equip & Machinery	\$300,000.00

WHEREAS, funds have and need to be increased in Philmont Fire Protection
Fund (209-0409); and

WHEREAS, a revenue increase under such circumstances is necessary and
lawful, the following revenue increase should be made as follows:

<u>Increase Revenue</u>		
209-0409-37900	Grants	\$84,472.96

WHEREAS, the Philmont Fire Protection Fund (209-0409), has sufficient
funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary
and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
209-0409-48020	Capital Outlay-Equip & Machinery	\$84,472.96

WHEREAS, funds have and need to be increased in Vermejo Park Fire
Protection Fund (209-0424); and

WHEREAS, a revenue increase under such circumstances is necessary and
lawful, the following revenue increase should be made as follows:

<u>Increase Revenue</u>		
209-0424-37900	Grants	\$300,000.00

WHEREAS, the Vermejo Park Fire Protection Fund (209-0424), has sufficient
funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary
and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
209-0424-48020	Capital Outlay-Equip & Machinery	\$300,000.00

WHEREAS, the YES Program (218-0412), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
218-0412-42050	Group Health Insurance	\$5,819.00

WHEREAS, the YES Program (218-0413), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
218-0413-42050	Group Health Insurance	\$2,020.00

WHEREAS, the DWI Program (223-0625), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
223-0625-42050	Group Health Insurance	\$1,680.56

WHEREAS, the Capital Improvement Fund (301-0551), has sufficient funds;
and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
301-0551-48010	Capital Outlay-Bldg & Structure	\$81,000.00

WHEREAS, funds have and need to be increased in Angel Fire Airport Improvement Fund (301-0603); and

WHEREAS, a revenue increase under such circumstances is necessary and lawful, the following revenue increase should be made as follows:

<u>Increase Revenue</u>		
301-0603-36060	Reimbursement/Refund	\$147,130.00
301-0603-36060	Reimbursement/Refund	\$1,215,000.00

WHEREAS, the Angel Fire Improvement Fund (301-0603), has sufficient funds; and

WHEREAS, an increase in expenditures under such circumstances is necessary and lawful, the following increase should be made as follows:

<u>Increase Expense</u>		
301-0603-48088	Capital Outlay-Airport	\$147,130.00
301-0603-48088	Capital Outlay-Airport	\$1,215,000.00

WHEREAS, the Environmental GRT (202-0417), has sufficient funds; and

WHEREAS, funds have and need to be transferred to the Solid Waste Fund (501-0602); and

WHEREAS, a budget transfer under such circumstances is necessary and lawful, the following transfer and increase should be made as follows:

Transfer from	202-0417	\$75,000.00
Transfer to	501-0602	\$75,000.00

THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Colfax County, New Mexico, hereby, approves, authorizes and directs that the Colfax County budget for fiscal year 2023-2024 be amended accordingly.

Done in open meeting this 23rd day of January, 2024

COLFAX COUNTY BOARD OF COMMISSIONERS

Si Trujillo, Chairman

Mary Lou Kern, Vice-Chairman

Bret Wier, Member

ATTEST:

Rayetta M. Trujillo, Clerk of the Board



Colfax County

Board of Commissioners

P.O. Box 1498 • Raton, New Mexico 87740
Ph. (575) 445-3661 • Fax. (575) 445-2902
www.co.colfax.nm.us



Resolution #2024-06

Fee Schedule for Colfax County

WHEREAS the Colfax County Board of Commissioners desire to establish the fee schedule for County charges; and

THEREFORE, the Colfax County Board of Commissioner sets the following fee schedule:

Colfax County Fee Schedule

(1) Copy	\$1.00/page
(2) Fax (local)	\$1.00
(3) Fax (long distance)	\$2.00
(4) Returned Check	\$35.00

Colfax County Property Rental Fees

(1) Colfax County Event Center up to 200 people	\$300/daily
(2) Colfax County Event Center over 200 people	\$400/daily
(3) Colfax County Event Center up to 100 people-6 hr. day use	\$150/daily
(4) Raton Airfield	\$200/daily
(5) Raton Airport Hanger	\$300/daily
(6) Colfax County Airport @ Angel Fire Airfield	\$300/daily
(7) Colfax County Airport @ Angel Fire Hanger	\$400/daily

***** All agreements will require proof of insurance and a cleaning/damage deposit of \$250.00*****

Colfax County Subdivision Fees

(1) Copy of Regulations	\$17.50
(2) Copy of Resolutions	\$1.00/page
(3) Summary Review Subdivision Application	\$200
(4) Subdivision Application Fee	\$600/\$20/lot
Claim of Exemption	\$300
Vacation of Plats-No conveyances	\$400
Vacation of Plats-With 1 or more conveyances	\$500/\$20/lot
Variance	\$500

Colfax County Assessor Fees

(1) Recording fees first 10 entries/additional 10 entries	\$300
(20 Specific area GIS Report	\$150
(3) Maps- 18x24 prints	\$7.00 Copy \$10.50
(4) Maps- 24x36 prints	\$10.00/Copy \$18.00
(5) Maps- 48x36 prints	\$20.00 copy \$50.00

Colfax County Clerk Fees

(1) Recording fees first 10 entries	\$25.00
additional 10 entries	\$25.00
(2) Death Certificate	\$25.00
(3) Marriage License	\$25.00
(4) Regular copy of Marriage License	\$2.00
(5) Certified copy of Marriage License	\$5.00
(6) Plats 11x1	\$1.00
(7) Plats 18x24	\$7.00
(8) plats larger than 18x24	\$10.00
(9) Burned CD	\$15 +.05 image

Colfax County Manager's Office

(1) Encroachment Permit	\$100/\$500 Bond
(2) IPRA Request	\$1.00/page
(3) IPRA Request	\$25.00/CD
(4) Solid Waste/Residential	\$210/year
(5) Solid Waste/Commercial	\$70/month
(6) Assignment of E-911 Address	\$25.00
(7) E-911 Address Verification	\$10.00
(8) County GIS Report	\$300.00
(9) Specific Area GIS Report	\$150.00
(10) Wind Permit Review	\$500.00
(11) Wind Permit	\$3,000.00

Colfax County Sherriff's Office

(1) Document Service	\$42.00
(2) Sheriff Security (4 hr. minimum)	\$50/deputy/hr.

Colfax County Airport @ Angel Fire

(1) Ramp Fees-Single/Sm Twin	\$10/day \$60/wk. \$120/mo.
(2) Ramp Fees-Medium Twin	\$15/day \$90/wk. \$180/mo.
(3) Ramp Fees-Large Twin	\$20/day \$120/wk. \$240/mo.
(4) Ramp Fee-Small Jet	\$50/day \$300/wk. \$600/mo.
(5) Ramp Fee-Medium Jet	\$75/day \$400/wk. \$1200/mo.
(6) Ramp Fee-Large Jet	\$100/day \$500/wk. \$1500/mo.
(7) Helicopters	\$50/day \$300/wk. \$600/mo.
(8) Hanger Fee-Single Engine	\$50/daily \$150/wk. \$350/mo.
(9) Hanger Fee-Small Twin	\$75/daily \$225/wk. \$700/mo.
(10) Hanger Fee-Medium Twin	\$125/daily \$375/wk.\$1100/mo.
(11) Hanger Fee-Large Twin	\$150/daily \$450/wk.\$1250/mo.
(12) Hanger Fee-Small Jet	\$300/daily \$1200/wk\$3500/mo.
(13) Helicopter	\$200/daily \$1000/wk. \$3500/mo.
(14) Landing Fess/Charter	\$125.00
(15) After Hours Fees	\$100/hour
(16) GPU	\$7,500
(17) Parking Fees-Inside Auto	\$130/mo. \$1300/annual
(18) Parking Fees-Outside Auto	\$50/mo. \$500/annual
(19) Parking Fees-Combo single/twin	\$500/annual & tie down
(20) Parking Fees- Combo medium twin	\$500/annual & tie down
(21) Parking Fees-Combo twin & turbo	\$750/annual & tie down
(22) Parking Fees-Combo small jet	\$1500/annual & tie down
(23) Credit Card Fee	3% of all charges

Approved in open meeting this 23rd day of January 2024.

COLFAX COUNTY BOARD OF COMMISSIONERS

CHAIRMAN, Si Trujillo

VICE-CHAIR Mary Lou Kern

MEMBER, Bret Wier

ATTEST:

Rayetta M. Trujillo, CLERK OF THE BOARD

**COLFAX COUNTY, NEW MEXICO
ORDINANCE NO. 2024-01**

**AN ORDINANCE REGULATING THE SITING AND PERMITTING OF
WIRELESS TELECOMMUNICATION FACILITIES**

WHEREAS Colfax County has determined that the regulation of the siting of wireless telecommunications facilities is necessary to protect the health, safety and welfare of the citizens of Colfax County; and

WHEREAS Colfax County desires to minimize the negative impact Wireless Telecommunications Facilities may have on the citizens and real property use in Colfax County by promoting the use of existing Wireless Telecommunications Facilities and by ensuring new Wireless Telecommunications Facilities are compatible with the existing character and environment of the location of the Facility; and

WHEREAS Colfax County wishes to provide an efficient, stream-lined and fair process for the review and approval of potential Wireless Telecommunications Facilities; and

WHEREAS, pursuant to NMSA 1978 §§ 3-21-1 through 26 and §§ 4-37-1 through 13, and the Telecommunications Act of 1996, §704, 47 U.S.C. §332(c)(7), § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012 and recognizing the enactment of the New Mexico Wireless Consumer Advanced Infrastructure Act NMSA 1978 §§63-9—1 through 19, the Board of County Commissioners of Colfax County is empowered to enact regulations regarding the location, placement, construction, appearance, design, and modification of Wireless Telecommunications Antennae, Towers and other Wireless Telecommunications Facilities on lands and properties within the County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLFAX COUNTY, AS THE GOVERNING BODY OF COLFAX COUNTY, NEW MEXICO, THAT THE CONTENTS OF THIS ORDINANCE No. 2024-01 BE IMPLEMENTED REGULATING THE SITING AND PERMITTING OF WIRELESS TELECOMMUNICATION FACILITIES:

Section 1. POLICY AND PROCEDURES

I. PURPOSE AND INTENT:

A. The purpose and intent of this Ordinance are to protect the health, safety, and welfare of the citizens of Colfax County by minimizing the negative impact of Wireless Telecommunications Facilities, by establishing a fair and efficient process for review and approval of applications per Federal, State, and Local Regulations, by encouraging the use of existing facilities, by promoting the improved appearance and functionality of any new facilities and ensuring that all new facilities are constructed using current technologies that are designed to conceal the site and to accommodate future growth.

II. DEFINITIONS:

A. Abandonment – cessation of use of a wireless support structure for wireless

telecommunications activity for at least the minimum period specified by this Ordinance.

B. Administrative Approval – approval that the Administrator or designee is authorized to give.

C. Administrator – the County Administrator/Manager, or his/her designee.

D. Applicant – a wireless provider, infrastructure owner, or their agent, who is an Applicant for a Wireless Telecommunications permit.

E. Antenna – communications equipment that transmits, receives or transmits and receives electromagnetic radio signals used in the provisions of wireless telecommunications services.

F. Carrier on Wheels (COW) – a portable, self-contained wireless telecommunications facility that can be moved to a location and set up to provide wireless services on a temporary or emergency base.

G. Colocation – placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of supporting wireless facilities' attachment in compliance with all applicable codes and standards.

H. Concealed Wireless Facility – any wireless facility that is blended as an architectural feature of any existing structure or any new wireless support structure designed to camouflage or hide the presence of antennas or towers so that the purpose of the Facility or wireless support structure is not readily apparent to casual observation.

I. Eligible Facility request – a request for modification or colocation of an existing wireless tower that involves new transmission equipment or replacement of transmission equipment but does not include a substantial change of the existing structure.

J. Existing structure – a wireless support structure erected before the application for an eligible facility request, colocation, or modification under this Ordinance capable of supporting wireless facilities' attachment. The term includes but is not limited to electrical transmission towers, buildings, and water towers. The term shall not include any utility pole.

K. Public Right-of-Way – an area of land owned or controlled by the County for the purposes of constructing, operating, and maintaining public facilities such as streets, alleys, sidewalks, bike paths, and landscaping for the needs of transportation, utilities, and other public infrastructure easements.

L. Rigorous Structural Analysis – May assume the structure is properly constructed and maintained; used to determine the final acceptance of proposed changes; must determine the overall stability and adequacy of the structural members, foundations, and connection details; foundation analysis must be site-specific; assumptions about details that

are not visible or cannot be discerned without extensive field testing is acceptable.

M. Set-back – the area in which a wireless support structure may be expected to fall in the event of a structural failure as defined by the Ordinance.

N. Small Wireless Facilities/Systems – One of several specialized systems that comprises mini-macro cells, Distributed Antenna Systems (DAS), or Wi-Fi Hot Spots specifically for outdoor coverage. Individual small cell sites typically cover a small radius (<2000'). However, they are used in conjunction with the "typical" cell sites or a group of other small cell sites, a system, to cover a broad area of dense usage requirements.

O. Substantial Change - Substantial Change for Eligible Facilities Request means a modification that substantially changes the physical dimensions of an Eligible Support Structure if, after the modification, the structure meets any of the following criteria:

1. For Towers, other than Alternative Tower Structures in the Right-of-Way or other towers in the Right-of-Way, it increases the height of the Tower by more than 10 percent or by the height of one additional Antenna array, with separation from the nearest existing Antenna not to exceed 20 feet, whichever is greater. For other Eligible Support Structures, it increases the height of the structure by more than 10 percent, or more than 10 feet, whichever is greater;
2. For Towers, other than Towers in the Right-of-Way, it involves adding an appurtenance to the body of the Tower that would protrude from the Tower more than 20 feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the side of the structure by more than six feet;
3. For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or for Towers in the Right-of-Way and base stations, it involves installation of any new equipment cabinets on the ground, if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure;
4. For any Eligible Support Structure, it entails any excavation or deployment outside the current Site;
5. For any Eligible Support Structure, it would defeat the concealment elements of the Eligible Support Structure. For the purposes of this subsection (K), a change which undermines the concealment elements of an Eligible Support Structure will be considered to defeat the

concealment elements, or;

6. For any Eligible Support Structure, it does not comply with conditions associated with the siting approval of the construction or modification of the Eligible Support Structure equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (1), (2), and (3) of this Definition. For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the Tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

P. Tower – a structure, guided or freestanding, that supports one or more antenna.

Q. Wireless Facility or wireless telecommunication facilities – the set of equipment and network components exclusive of the underlying wireless support structure, including but not limited to antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless telecommunications services.

III. APPLICABILITY:

A. This Ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in III B Exemptions

B. Exemptions:

- Fire, police, department of transportation, or other public service facilities owned and operated by Colfax County, local, state, or federal government.
- Any facilities expressly exempt from the jurisdiction's citing, building, and permitting authority.
- Over-the-Air reception devices, including the reception antennas for direct broadcast satellites (DBS), multi-channel, multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS), and other customer-end antennas that receive and transmit fixed wireless signals and are primarily used for reception.
- Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, and other similar non-commercial telecommunications.
- FCC-licensed amateur radio facilities require Administrative Approval and are exempt from all ordinance requirements except reasonable screening, set-back, placement, construction, tower height, and health and safety standards per New

Mexico state law.

- Facilities that exclusively provide unlicensed spread spectrum technologies (such as IEEE 802.11a/b/g/n/ac/ax {Wi-Fi and Bluetooth}) where the Facility does not require a new tower.

All Wireless Facilities existing on the date of passage of the ordinance shall be allowed to continue their usage as they are presently approved. Routine maintenance shall be permitted on such existing Towers.

IV. PERMIT APPLICATION PROCESS AND OTHER REQUIREMENTS:

A. All Applicants for Special Use Permits and Conditional Special Use Permits shall comply with the requirements outlined in this Article.

B. The Board of County Commissioners of Colfax County designates the Colfax County Manager as the Administrator to whom applications for Special Use Permits and Conditional Special Use Permits must be made. The Administrator is authorized to review, analyze, evaluate, and make decisions with respect to granting, not granting, or revoking Permits.

C. The Applicant shall complete the following steps to assist the Administrator in expediting the completion of the process:

- Optional Pre-Application Conference: At the Administrator's discretion, applicants seeking a Telecommunications Permit will obtain and review this Ordinance and meet with the Administrator, either electronically or in person, before submitting an application. Typically called for on more complex applications (new towers, 5G, etc.), the meeting intends to review the ordinance requirements, processes, and method of submission with the Applicant. The pre-application session may include the following:

a) A discussion of potential best locations for the Telecommunications Facility, taking into consideration Colfax County's defined priorities that meet the Applicant's requirements for service. The application process may require an explanation for a selected location not using the highest priority available to the Applicant. Colfax County's priorities (listed from highest to lowest) are:

- (1) On existing Towers or structures without increasing their height.
- (2) On existing Tower or structures with an increase in their height.
- (3) On Colfax County-owned properties.
- (4) On properties characterized predominantly by Industrial use.
- (5) On properties characterized predominantly by Commercial use.
- (6) On properties characterized predominantly by Agricultural use.

(7) On properties characterized predominantly by Residential use.

b) A discussion of issues to help expedite the review and permitting process;

c) A site visit to potential best location sites, if deemed necessary by the Administrator;

d) A determination of the type of application to be made;

e) A discussion of the defined information required to support the proposed location;

f) A discussion of the specific application requirements that are needed for review and consideration by the Administrator. Requirements for the Application may vary based on the specific location, type of facility selected, and the potential impact to Colfax County and its citizens, and;

g) Any applicant desiring relief, waiver, or exemption from any Ordinance requirement may request such at the pre-application meeting. The burden of proving the need for the request lies solely with the Applicant. No request shall be approved unless the Applicant provides convincing evidence that the request will have no significant effect on the health, safety, and welfare of Colfax County or its residents.

- Application Process: The Applicant shall complete the on-line application processes as defined by the Administrator at the outset of the process.

a) **All applications shall contain** a demonstration that the Telecommunications facility will be sited to be the least visually intrusive, as reasonably possible.

b) In addition to demonstrating that the proposed modification, colocation, eligible facility, or new tower or telecommunications facility blends into the character and environment of the proposed location, **all applications shall contain** the following information and shall be submitted through the on-line system designated by Colfax County:

(1) Registration of an Agent, including the name, address, and telephone numbers of the designated Agent and his/her company;

(2) Authorization of the Agent as an official and representative of the Applicant; then pending approval;

(3) Complete a project description which shall include a general description of the Applicant's project and its proposed physical location;

(4) Contact information including the name, address, and telephone number of the person or entity who will be responsible for the Applicant's construction and management of the project;

(5) Contact information for the support structure project

manager for the proposed location and contact information for any manager of the real property for the proposed site (e.g., building manager, tower owner);

(6) Define the type of project (colocation, modification, new tower, etc.), and the specific physical site address and description of the project.

(7) Completing a Tower/Wireless Facility Registration or, if a Tower/Wireless Facility Registration already exists for the proposed location, completing a Tower/Wireless Facility Registration Update, if needed. The Tower/Wireless Facility Registration shall include;

(a) Name, address, and telephone contact number for the tower owner;

(b) Name, address, and telephone contact number for the real property owner, if different than tower owner;

(c) Current number and identification of co-locators on the tower/facility;

(d) Site name, number, and physical address;

(e) Documentation and specifics regarding the agreement terms (other than financial) demonstrating Applicant's right, title, or interest in the real property where the facility is to be sited, including the name, address, and phone number of the property owner;

(f) Description of the tower/facility, including but not limited to height, set back, type of structure, and the number of existing co-locators;

(g) Verifiable copy of the current tower inspection report using ANSI/TIA-222-G (or newer), including the expiration date, the company performing inspection, and ANSI standard used;

(h) Contact information including name, address, and telephone number for the person or entity performing the most recent or current tower inspection;

(i) A copy of the Soils Study Report including but not limited to the date completed, person or entity name performing the Soils Study, project number, identification of the Professional Engineer providing certification of the study with New Mexico registration or license number of the Professional Engineer, and;

(j) Any other information deemed necessary or required by Colfax County.

c) Applications for a modification, colocation, or eligible Facility to an existing structure, without an increase of height or size, shall include:

(1) All items listed in Section b. above which do not exist or are no longer current or expired (inspection, lease, etc.).

(2) Project name for the existing colocation site or project;

- (3) Names, addresses, and phone numbers of person or entity preparing the application;
- (4) A copy of the FCC license for the carrier and a signed statement from the owner or operator of the Facility attesting that the Facility complies with current FCC regulations;
- (5) Certified Site Plans using ANSI/TIA-222-G (or newer), including the Professional Engineer's name and New Mexico registration/license number, physical description of the current configuration of the site, physical description of the proposed design of the site, contacts, set-backs, grounding plans, security, parking, turnarounds, description of the components including the sizes of the components to determine that the proposal is the least visibly intrusive design;
- (6) Certified Structural Analysis using ANSI/TIA-222-G (or newer), including identification of the Professional Engineer's name and registration/license number providing the Analysis, a copy of all calculations, reference documents and results, percent loading, that include all components, structures, and foundations per Rigorous Standards. Loading may not exceed 100%.
- (7) Performance Bond including amounts as set by Colfax County, to remain in place as long as the site remains active and in place and until the tower or facilities are removed as required by the Ordinance;
- (8) Copy of the Certificate of Insurance demonstrating the requirements of the Ordinance;
- (9) Identification of the general contractor(s) with proof of current New Mexico State licensure, and; Not sure Colfax has mechanism that issues or recognizes licensure of contractors
- (10) Projected start and completion dates of construction.

d) Applications to install a new tower or telecommunications facility will include the following:

- (1) All information listed in Sections b. and c. above;
- (2) The number, type, and design of the tower(s) and antenna(s) proposed;
- (3) All reports, data, calculation, and design criteria which demonstrate the tower's capability to accommodate multiple users;
- (4) Demonstration of the Applicant's meaningful efforts to secure shared use of existing tower(s) or other structures within the defined parameter of one (1) mile including but not limited to copies of written requests and responses for shared use;
- (5) The new wireless Facility justification includes capacity information, the gap in coverage information, or other information demonstrating rationale for the application;
- (6) The Applicant will obtain a list of property owners and nearby home owner associations, to include their addresses, within fifteen hundred (1500') of the proposed site's property lines. This list of owners and addresses must be submitted early in the application

process so specific notice of any needed or required hearing can be given to them at least 7 days prior to any needed or required hearing.

(7) Public Hearing and Notification Requirements:

(a) In order that the County may notify nearby landowners, prior to the approval of any Application for a Telecommunications Permit for a New Tower, a public hearing shall be held by the County, notice of which shall be published in accordance with the New Mexico Open Meetings Act, and the annual Colfax County Notice of Meetings Resolution, which sets the notice and type of publication for meetings, prior to the scheduled date of the public hearing.

(b) The County shall schedule the public hearing referred to in Subsection (a) of this section once it finds the Application is complete. The County, at any stage prior to issuing a Telecommunications Permit, may require such additional information as it deems necessary.

(c) All Public Hearings pursuant to this Ordinance are to be held before the Board of County Commissioners of Colfax County unless specifically exempted by this Ordinance; and, for any appeal purposes, the decision of the Board of County Commissioners of Colfax County is the final decision of the County.

e) **Applications to Install Small Wireless Facilities/Systems will include the following:** (Note: A special meeting with the agents/engineers/representatives of the Applicant may be needed to ensure that systems documentation requirements are fully understood.) Colfax County's defined Small Wireless Facilities design requirements are made available to applicants by the Administrator in the Small Wireless Facility Design Guidelines Resolution.

(1) All information listed in Sections b. c. & d. above;

(2) The entire system and any associated groups of Small Wireless facilities, within limits defined by the on-line application, may be included in a single application process.

(3) Each component of the system must be represented in the on-line Application Process.

(4) Each system's unique components must be shown and include all the relevant data to complete the process. However, all like (virtually identical) nodes may be demonstrated once but must consist of all the physical locations for each node.

- Review of Application: The Administrator or the county's agent shall review the application within thirty (30) days of submission to determine if the application is complete and meets the Ordinance requirements. Colfax County and the Applicant can, by a mutual written agreement, extend the period in which the review for completeness is conducted.

a) Incomplete applications will not be accepted for further review and

processing;

b) Applications submitted without the payment of costs and fees as required by Colfax County are incomplete and shall not be accepted for further review and processing;

c) **IF THE APPLICATION IS NOT COMPLETE:**

Colfax County shall notify the Applicant in writing or via email of the provisions of the code, Ordinance, application process, or publicly stated procedures that were not completed and inform the Applicant that the application may be resubmitted.

d) **IF A RESUBMITTED APPLICATION IS NOT COMPLETE:**

Within ten (10) days of the resubmission of the application, Colfax County shall notify the Applicant in writing or via email of whether the resubmission is complete and that the application may be resubmitted, and inform the Applicant of the code, Ordinance, application process or publicly stated procedures which remain incomplete.

e) **IF THE APPLICATION IS COMPLETE** and based on the review of the application, the Administrator shall, within the periods allowed under federal, state, and local law:

(1) Approve, approve with conditions or deny a Special Use or Conditional Special Use Permit;

(2) Issue a written decision within ten (10) days of deciding on the application, which is supported by evidence contained in the on-line information and records submitted by the Applicant;

(3) Place the burden of proof for the granting of the Permit upon the Applicant;

(4) Refer the application to the Board of County Commissioners of Colfax County for review and consideration; once a variance or waiver is obtained or granted, the Administrator may request the Applicant update the application if the Administrator deems it necessary to complete the application process.

- **Public Hearing and Appeal of Administrator's Decision:** The decision of the Administrator can be appealed by the Applicant or by Colfax County by submitting written notification to the Administrator. The Notice of Appeal's content shall contain the Applicant's name and a description of the Wireless Telecommunications Facilities. The Applicant must submit the Notice of Appeal within 30 calendar days after the decision.

a) The hearing or appeal will be heard and considered at the next available meeting of the Board of Commissioners

b) For any application or appeal which is to be presented to the Board of County Commissioners of Colfax County, the County

Administrator must have all documentation prior to the time of the meeting to ensure that all proper notices can be sent out in a timely matter.

- **Construction of the Proposed Facility:** If an application is approved or approved with conditions, a Special Use or Conditional Special Use Permit will

be issued to the Applicant:

- a) The Applicant must comply with all requirements of the Special Use or Conditional Special Use Permit;
 - b) The Applicant will be required to meet and satisfy all building inspection processes generally needed for a construction project;
 - c) The Special Use or Conditional Special Use Permit shall not be assigned, transferred, or conveyed without written notification to and approval from Colfax County within six (6) months;
 - d) The Special Use or Conditional Special Use Permit may be revoked, canceled, or terminated for violation of the Permit's conditions and provisions or for a material breach of this Ordinance as permitted by local Ordinance, state, and federal law;
 - e) Colfax County will provide the permit holder written notice of an intent to revoke, cancel or terminate the Permit with identification of the violation(s) and give the holder of the Special Use or Conditional Special Use Permit with an opportunity for a hearing before the Board of County Commissioners of Colfax County before revocation, cancellation or termination.
- Completion of Construction: When the Applicant completes the project's construction, the Applicant shall notify the Administrator of the need for a final inspection. Colfax County or the Agent for Colfax County will verify that the site is constructed in accordance with the application, meets all the requirements of the Ordinance, and that the applicant has paid all monies due to Colfax County. If all requirements of this Ordinance and the Special Use or Conditional Special Use Permit have been met, Colfax County will issue a Certificate of Compliance to the Applicant that allows operational use of the site.

V. GENERAL REQUIREMENTS OF WIRELESS TELECOMMUNICATIONS FACILITIES:

A. **Lighting:** Telecommunications facilities shall not be lighted or marked unless required by law. If lighting is needed, Applicant shall provide a detailed plan for sufficient lighting as inoffensive as permissible under State and Federal regulations. The Applicant shall also comply with any local or State "Night Skies" requirements.

B. **Materials:** Towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained for the Tower's life.

C. **Set-back Requirements:** Stand-alone Wireless Telecommunications Facilities shall be no closer to any property line than the total height of the completed unit, plus ten percent (10%). The structure should not be capable of falling onto an adjacent property or building should the Facility collapse for any reason. The height is measured from the pre-existing grade to the highest point of the structure.

D. **Security of Wireless Telecommunications Facilities:** All Wireless

Telecommunications Facilities and Antennas shall be located, fenced, or otherwise secured in a manner that prevents unauthorized access.

E. Signage: Telecommunications Facilities shall contain a sign to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size shall also be installed to contain the site identification number and emergency phone number(s). The sign shall be on the fence, equipment shelter, or cabinet and be visible from an access point outside the secured site area. On tower sites, an FCC registration sign shall also be present. The signs shall not be lighted unless required by law, rule, or regulation. No other signage, including advertising, shall be permitted.

F. Update of Signage: The Applicant or future owner of the site shall update the site identification number and emergency phone numbers of the Wireless Telecommunications Facility as displayed on the required sign within one month of any sale, assignment, or transfer.

G. Temporary Communications on Wheels (COW): In the event of an emergency or natural disaster which renders other forms of communication nonviable, thus necessitating a COW, Colfax County and the Telecommunications provider shall agree to special terms and conditions as needed by Colfax County and the Telecommunications provider:

- If a COW becomes inoperable due to force majeure or Acts of God, it must be removed from the site within 30 days of becoming unusable.
- Regarding a special event where a COW is used, it must be removed from the site within 48 hours of the conclusion of the event

VI. APPLICATION FEES and OTHER REQUIREMENTS:

A. At the time a person applies for a Special Use or Conditional Special Use Permit for a new Tower or requires an increase in height to an existing Tower or for collocating on an existing Tower or other suitable structure, where no increase will occur in the height of the Tower or other appropriate structure, such Applicant shall pay a non-refundable application fee to Colfax County.

B. In addition to the application fee, Colfax County may retain the services of an expert agent in connection with the processing and/or review of the application and the permitting and final inspection of site. The Applicant shall be responsible for reimbursing Colfax County for all costs and amounts incurred by Colfax County for such expert agents.

C. The Applicant shall pay for the projected agent costs to Colfax County, or its agent, at the time of the application.

D. An application is incomplete until the Application Fee is paid, and the Applicant has paid the costs for the expert agents.

E. The county's agent shall provide Colfax County with an invoice for the costs of the services. The amount invoiced by the county's agent will be assessed to the Applicant as

the Application Processing and Review Fee.

F. The Application Fees and Costs are defined by the Notice of Fees Resolution associated with this Ordinance; adopted, amended or replaced from time to time as the County Commission determines.

G. The Applicant, Colfax County, and the county's agent will comply with all state and local requirements concerning payment of the county agent's fees.

H. The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at their cost and expense, be jointly required to execute and file with Colfax County a bond, or other form of security acceptable to Colfax County in at least the following amounts:

- Colocation or modification of an existing tower: \$25,000
- Small wireless facility: \$15,000
- New tower or other structure: \$75,000

Such sureties are deemed sufficient by Colfax County to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Telecommunications Permit or Conditional Use Permit issued according to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Telecommunications Permit, and any Conditional Use Permit has been fulfilled, and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed before the issuance of the original Special Use or Conditional Special Use Permit.

I. A holder of a Special Use or Conditional Special Use Permit shall secure and at all times maintain public liability insurance for personal injuries, death, and property damage and umbrella insurance coverage for the duration of the Permit in amounts as set forth below:

- Commercial General Liability covering personal injuries, death, and property damage: \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate;
- Automobile Coverage: \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate;
- Workers Compensation and Disability: Amount required by New Mexico state law;
- Commercial General liability insurance policy shall specifically include Colfax County and its officers, employees, agents, and agents as additional named insureds;
- Insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a "Best's" rating of at least A;
- Insurance policies shall contain an endorsement obligating the insurance company to furnish Colfax County with at least thirty (30) days prior written notice of the cancellation of the insurance;
- Renewal or replacement policies or certificates shall be delivered to Colfax County at least fifteen (15) days before the expiration of the insurance that such

- policies are to renew or replace;
- The Permit Holder shall provide Colfax County a copy of the policies/certificates before construction and upon written request by Colfax County.

VII. REMOVAL OF TOWER/ANTENNA/REVOCACTION/DEFAULT:

A. Cessation of Operations/Abandonment/Disrepair: Colfax County may require the removal of a Telecommunications Facility(ies) when: such item(s) with a permit have been abandoned or operations of Telecommunications Facility has ceased for a period exceeding ninety (90) consecutive days or a total of one hundred eighty (180) calendar days. All items and equipment subject to the Telecommunications Permit shall be removed within ninety (90) days of abandonment or the cessation of operations. If equipment or items subject to the Telecommunications Permit, fall into such disrepair that a health or safety hazard is created as determined according to a review by a State licensed engineer and such item are not repaired within sixty (60) days, or longer as necessary upon the permit holder demonstrating that despite good faith efforts, such disrepair could not be responsibly cured within the provided time, Colfax County may require the removal of the item of the Telecommunications Facility.

B. Modification, location, or construction without Permit: If any equipment or item has been located, constructed, or modified without a permit, or in a manner inconsistent with the approved permit requirements, and the Facilities have been located, constructed, or modified without first obtaining, or in a way not authorized by the required Permit or any other necessary authorization, Colfax County may require the removal of the item, equipment or the Telecommunications Facility.

C. Lack of Insurance: If a Permit holder has failed to comply with the liability insurance requirements required by Colfax County, Colfax County may require the removal of the item, equipment or the Telecommunications Facility.

D. Notification of Violation: If Telecommunications Facilities are repaired, rebuilt, placed, moved, relocated, modified, or maintained in a way not in compliance with this Ordinance or the Telecommunication Permit or the Conditional Use Permit, Colfax County shall notify the Permit holder in writing of such violation. If the makes such a determination that removal of an item, equipment or Telecommunications Facility is required, then Colfax County shall notify the Permit holder within forty-eight (48) hours that said items are to be removed. Colfax County may approve an interim temporary use agreement/permit, such as to enable the removal and/or sale of the item.

E. Failure to Cure: After receiving notice of a violation, the permit holder shall have ninety (90) calendar days to cure or remove the violation. Colfax County shall extend such cure period as necessary upon the Permit holder demonstrating that despite good faith efforts, such default cannot be reasonably cured.

F. Failure to Cure (Removal of an item, equipment, or Telecommunications Facility is not required): For all violations other than a violation which requires removal of an item, equipment, or Telecommunications Facility, a Permit holder has thirty (30) days to cure such violation(s) after notice has been mailed or delivered to the Permit holder's address of record. Colfax County may extend the cure period upon demonstration that the Permit

holder has made good faith efforts to cure and that despite its good faith efforts, such default cannot be reasonably cured within the provided time.

G. Failure to Cure (Removal of the item, equipment, or (Telecommunications Facility is required): If the permit holder cannot cure the violation that involves removal of an item, equipment, or Telecommunications Facility within the cure period, the permit holder shall dismantle and remove such item, and any associated structures, from the site and restore the site to as close to its original condition as possible, reasonable wear and tear excepted, within ninety (90) days of the expiration of the cure period.

H. Removal by Colfax County: If the item, equipment or Telecommunications Facility is not removed or substantial progress has not been made to remove it within ninety (90) days of the permit holder receiving notice, then Colfax County may order officials or representatives of Colfax County to remove the item at the sole expense of the owner or Permit holder.

I. Sale upon Abandonment: If Colfax County removes or causes to be removed the item, and the owner does not claim and remove it from the site to a lawful location within one hundred twenty (120) days, then Colfax County may take steps to declare the item abandoned, and sell it and its components.

J. Temporary Use Permit/Agreement: Notwithstanding anything in this Section to the contrary, Colfax County may approve an interim use permit/agreement for the item for no more than ninety (90) days, during which time a suitable plan for removal, conversion or re-location of the affected item shall be developed by the holder of the Permit, subject to the approval of Colfax County, and an agreement to such plan shall be executed by the holder of the Permit and Colfax County. In the case that such a plan is not developed, approved, and completed within the ninety (90) day time period, Colfax County may take possession of and dispose of the affected item in the manner provided in this Section.

K. Emergency Removal: If Colfax County determines the item is hazardous, creates an emergency situation, or adversely affects public safety, Colfax County may remove or cause to be removed the item after three (3) days written notice to the Permit holder or the holder of the Certificate of Compliance.

L. Failure to Cure: A Permit holder still in violation after the expiration of the cure period may be considered in default, subject to fines as outlined in this Ordinance, and the Permit is subject to revocation.

M. Fines: A Permit holder who violates this Ordinance may be fined up to \$500 for each violation, and each day that a violation exists shall be deemed to be a separate violation.

Section 2. SAVINGS CLAUSE

If any section, paragraph, clause, or provision of this Ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause, or provision shall not affect any other part of this Ordinance.

Section 3. CODIFICATION OF AMENDMENTS

The codifier of the County is hereby authorized to make such numerical, grammatical, and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Code.

PASSED, ADOPTED AND APPROVED this 23rd day of January 2024.

BOARD OF COMMISSIONERS COLFAX COUNTY, NEW MEXICO

Chairman, Si Trujillo

Vice Chairman, Mary Lou Kern

Commissioner

ATTEST:

By: _____
Rayetta M. Trujillo, County Clerk

Monte Gore, County Manager



Colfax County

Board of Commissioners

P.O. Box 1498 • Raton, New Mexico 87740
Ph. (575) 445-3661 • Fax. (575) 445-2902
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RESOLUTION 2024-07

RESOLUTION FOR SMALL WIRELESS FACILITY DESIGN GUIDELINES

WHEREAS, The Colfax County Board of County Commissioners has adopted the Wireless Telecommunications Facilities Ordinance (Ordinance 2024-01) which directs that a resolution be adopted providing Small Wireless Facilities Design Guidelines, and allows that resolution to be changed from time to time; and,

WHEREAS The Colfax County Board of County Commissioners desires to exercise its authority to establish Small Wireless Facility Design Guidelines; and

NOW, THEREFORE, BE IT RESOLVED:

Background

On September 27, 2018, the FCC released a Declaratory Ruling and Third Report and Order (hereinafter "Small Cell Order" or "FCC Order") that significantly limits local authority over small wireless infrastructure deployment and fees for use of the rights-of-way ("ROW"). The FCC Order took effect on January 14, 2019. However, the requirements regarding aesthetics did not take effect until April 15, 2019. Under the FCC Order, aesthetic or "design standards" must be: (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance. The FCC Order also defines the size limitations for small wireless facilities (allowing antennas of up to 3 cubic feet each, with additional equipment not to exceed 28 cubic feet) and specifies that such facilities may not result in human exposure to radiofrequency radiation in excess of applicable standards in the FCC's rules (federal law preempts local regulation of RF emissions the 9th Circuit Court of Appeals, in *City of Portland v. FCC*, No. 18-72689 (9th Cir. 2020). Invalidated the Small Cell Order's specific requirements for design standards. However, to manage the deployment of small wireless facilities more efficiently (commonly referred to as "small cells") in the ROW, it is recommended that municipalities adopt some form of written design standards.

Small Wireless Facilities Design Standard

The Wireless Facilities Ordinance and these "SWF Design Standards" are intended to be paired together.

There is no single design standard that will work for every situation. As such, the design standard is intended as a roadmap to assist the County and wireless carriers deploying small wireless facilities to use optimal designs that preserve the nature and character of the community being served.

Additional Considerations

Design standards only apply to small wireless facilities. A utility-neutral standard covering all utilities and communications providers provides one set of “rules” for the design of the public rights-of-way.

Definitions: These definitions are applicable to all applications filed and qualifying as a Small Wireless Facility.

“**Antenna**” means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded. The term includes an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services.

“**Antenna Equipment**” means the same as defined 47 C.F.R. § 1.6002(c), as may be amended or superseded, which defines the term to mean equipment, switches, wiring, cabling, powersources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and when collocated on a structure, is mounted or installed at the same time as such antenna.

“**Antenna Facility**” means the same as defined in 47 C.F.R. § 1.6002(d), as may be amended or superseded, which defines the term to mean an antenna and associated antenna equipment.

“**Applicable codes**” means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or state or local amendments to those codes that are of general application and consistent with state and federal law.

“**Applicant**” means any person who submits an application as, or on behalf of, a wireless provider.

“**Application**” means requests submitted by an applicant (1) for permission to collocate small wireless facilities; or (2) to approve the installation, modification, or replacement of a structure on which to collocate a small wireless facility in the rights-of-way, where required.

“**Colocate**” means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended or superseded, which defines that term to mean (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. “Collocation” has a corresponding meaning.

“**Day**” means calendar day. For purposes of the FCC shot clock, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day.

“**Historic District**” means a group of buildings, properties, or sites that are either: (1) listed in the National Register of Historic Places or formally determined eligible for listing

by the Keeper of the National Register in accordance with Section VI.D.1a.i-v of the Nationwide Programmatic Agreement codified or (2) a locally designated historic districts effective at the date of this or in a locally designated historic district existing when an application is submitted.

“**Person**” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the Jurisdiction.

“**Pole**” means a type of structure in the rights-of-way that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower, building or electric transmission structures.

“**Rights-of-Way**” or “**ROW**” means examples: “Right-of-way,” “rights-of-way,” “public right-of-way,” or “ROW” means and includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland, or other Jurisdiction property not generally open to the public for travel.

“**Small wireless facility**” means a facility that meets each of the following conditions per 47 .F.R § 1.6002(*l*), as may be amended or superseded:

1. The proposed facilities meet one of the following height parameters:
 - a) are mounted on structures 50 feet or less in height including their antennas as defined in 47 C.F.R. Section 1.1320(d), or
 - b) are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - c) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
2. Each antenna or antenna enclosure shall not exceed three cubic feet in volume.
3. The total volume of installed equipment external to the pole (including, but not limited to cabinets, vaults, boxes) shall not exceed twenty-eight (28) cubic feet. This maximum applies to all equipment installed at the time of original application and includes any equipment to be installed at a future date. Antennas and antenna enclosures are excluded. If equipment exceeds this maximum, the installation will be redefined as a Macro site installation and all the associated standards and rates for Macro installations will be applied.
4. The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in the FCC’s Rules and Regulations [47 C.F.R. section 1.1307(b)].

“**Structure**” means the same as provided in 47 C.F.R. § 1.6002(m), as may be superseded or amended, which defines the term as a pole, tower, base station, or structure, whether or

not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).

A. General Requirements.

1. Ground-mounted equipment in the right-of-way is discouraged, unless the applicant can demonstrate that pole-mounted equipment is not technically feasible, or the electric utility requires placement of equipment on the ground (such as an electric meter). If ground-mounted equipment is necessary, then the applicant shall conceal the equipment in a cabinet, in street furniture or with landscaping.
2. Replacement poles, new poles and all antenna equipment shall comply with the Americans with Disabilities Act ("ADA"), city construction and sidewalk clearance standards and Colfax County, New Mexico and federal laws and regulations to provide a clear and safe passage within, through and across the right-of-way. Further, the location of any replacement pole, new pole, and/or antenna equipment must comply with applicable traffic requirements, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect public health, safety, or welfare.
3. Replacement poles shall be located as near as feasible to the existing pole. The abandoned pole must be removed within 90 days.
4. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.
5. No advertising, branding or other signage is allowed unless approved by the Colfax County Administrator as a concealment technique or as follows:
 - a) Safety signage as required by applicable laws, regulations, and standards; and,
 - b) Identifying information and 24-hour emergency telephone numbers (such as the telephone number for the carrier's network operations center) on wireless equipment in an area that is visible.
6. The total volume of multiple antennas on one structure shall not exceed fifteen (15) cubic feet, unless additional antenna volume is requested and approved pursuant to Section I.
7. Antennas and antenna equipment shall not be illuminated except as required by municipal, federal, or state authority, provided this shall not preclude deployment on a new or replacement streetlight.
8. Small wireless facilities may not displace any existing street tree or landscape features unless:
 - a) such displaced street tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the Jurisdiction, and
 - b) the applicant submits and adheres to a landscape maintenance plan or agrees to pay an appropriate in-lieu fee for the maintenance costs.

B. Small Wireless Facilities Attached to Wooden Poles and Non-Wooden Poles with Overhead Lines. Small wireless facilities located on wooden utility poles and non-wooden utility poles with overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I:

1. Proposed antenna and related equipment shall meet:

- a) The Jurisdiction's design standards for small wireless facilities
 - b) The pole owner's requirements; and
 - c) National Electric Safety Code ("NESC") and National Electric Code("NEC") standards.
2. The pole at the proposed location may be replaced with a taller pole or extended for the purpose of accommodating a small wireless facility; provided that the replacement or extended pole, together with any small wireless facility, does not exceed 40 feet in height or 10 percent taller than the tallest pole in a 1000ft radius, whichever is shorter. The replacement or extended pole height may be increased if required by the pole owner, and such height increase is the minimum necessary to provide sufficient separation and/or clearance from electrical and wireline facilities. Such replacement poles must either match the approximate color and materials of the replaced pole or shall be the standard new pole used by the pole owner in the Jurisdiction.
 3. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached, or adjacent poles located within the contiguous right-of-way. Near matches may be permitted by the Jurisdiction when options are limited by technical feasibility considerations, such as when high-frequency antennas cannot be placed within an opaque shroud but could be wrapped with a tinted film.
 4. Antennas that are mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.
 5. No antenna shall extend horizontally more than 20 inches past the outermost mounting point (where the mounting hardware connects to the antenna), unless additional antenna space is requested and approved pursuant to Section I.
 6. Antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves, and conduit, which is mounted on poles shall be mounted as close to the pole as technically feasible and as permitted by the pole owner.
 7. Antenna equipment for small wireless facilities must be attached to the pole, unless otherwise required by the pole owner or permitted to be ground-mounted [pursuant to subsection (B)(1) above]. The equipment must be placed in an enclosure reasonably related in size to the intended purpose of the facility.
 8. All cables and wiring shall be covered by conduits and cabinets to the extent that it is technically feasible, if allowed by the pole owner. The number of conduits shall be minimized to the extent technically feasible.

C. Small Wireless Facilities Attached to Non-Wooden Light Poles and Non-Wooden Utility Poles without Overhead Utility Lines. Small wireless facilities attached to existing or replacement non-wooden light poles and non-wooden utility poles without overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section I:

1. **External Equipment.** The antennas and associated equipment enclosures must be

camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible and must be reasonably related in size to the intended purpose of the facility and reasonable expansion for future frequencies and/or technologies, not to exceed the volumetric requirements described in Section A. If the equipment enclosure(s) is mounted on the exterior of the pole, the applicant is encouraged to place the equipment enclosure(s) behind any decorations, banners or signs that may be on the pole. Conduit and fiber must be fully concealed within the pole.

2. **Concealed Equipment.** All equipment (excluding disconnect switches), conduit and fiber must be fully concealed within the pole. The antennas must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible.
3. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.
4. The height of any replacement pole may not extend more than 10 feet above the height of the existing pole unless such further height increase is required in writing by the pole owner.

D. New Poles. Small wireless facilities may be attached to new poles that are not replacement poles under sections C or D, installed by the wireless provider, subject to the following criteria:

1. Antennas, antenna equipment and associated equipment enclosures (excluding disconnect switches), conduit and fiber shall be fully concealed within the structure. If such concealment is not technically feasible or is incompatible with the pole design.
2. then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the structure or mounted as close to the pole as feasible and must be reasonably related in size to the intended purpose of the facility, not to exceed the volumetric requirements in Section (A)(3).
3. To the extent technically feasible, all new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section I.
4. New poles shall be no more than forty (40) feet in height unless additional height is requested and approved pursuant to Section I.
5. The Jurisdiction prefers that wireless providers install small wireless facilities on existing or replacement poles instead of installing new poles, unless the wireless provide document that installation on an existing or replacement pole is not technically feasible or otherwise not possible (due to a lack of owner authorization, safety considerations, or other reasons acceptable to the Colfax County Administrator).

E. Undergrounding Requirements.

This Section was intentionally left blank.

F. Historic District Requirements.

If applicable, small wireless facilities or poles to support collocation of small wireless facilities located in Historic Districts shall be designed to have a similar appearance, including material and design elements, if technically feasible, of other poles in the rights-of-way within 500 feet of the proposed installation. Any such design or concealment measures may not be considered part of the small wireless facility for purpose of the size restrictions in the definition of small wireless facility.

G. Strand Mounted Equipment. Strand mounted small wireless facilities are permitted, subject to the following criteria:

1. Each strand mounted antenna shall not exceed 3 cubic feet in volume, unless a deviation is requested and approved pursuant to Section I.
2. Only 2 strand mounted antennas are permitted between any two existing poles. Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.
3. No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.
4. Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original strand) to meet the technological needs of the facility.

H. Deviation from Design Standards.

1. An applicant may obtain a deviation from these design standards if compliance with the standard: (a) is not technically feasible; (b) impedes the effective operation of the small wireless facility; (c) impairs a desired network performance objective; (d) conflicts with pole owner requirements; or (e) otherwise materially inhibits or limits the provision of wireless service.
2. When requests for deviation are sought under subsections (I)(1)(a)-(e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the Colfax County Administrator must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.
3. The Colfax County Manager or his designee may also allow for a deviation from these standards when it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.
4. The small wireless facility design approved under this Section I must meet the conditions of 47 C.F.R. Sec. 1.6002(l).
5. The Colfax County Manager (or designee) will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design.

I. An on-line application process enables applicants to submit up to twenty-five (25) small wireless facility locations, sites, or nodes in one (1) application if qualifying

criterion is followed during the application process. The qualifying requirements for multiple sites (up to 25) is for all the locations, sites or nodes must have a common design, rights-of-way Agreements, pole attachments Agreements, or other agreements that authorize the carrier to use (rent, lease, or purchase) the rights to place their equipment/poles within/on specific lands or rights-of-way. The only variable allowed will be the specific locations for each of the sites or nodes. Each applicant is required at the outset to attest to the fact that the application will adhere to the specific requirements.

PASSED, ADOPTED AND APPROVED this 23rd day of January 2024.

BOARD OF COMMISSIONERS COLFAX COUNTY, NEW MEXICO

Chairman, Si Trujillo

Vice Chairman, Mary Lou Kern

Commissioner, Bret Wier

Monte Gore, County Manager

ATTEST:

By: _____
Rayetta M. Trujillo, County Clerk