



*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](http://www.co.colfax.nm.us)



**REGULAR MEETING**  
**JANUARY 9, 2024**  
**AGENDA**

PUBLIC NOTICE IS HEREBY GIVEN that the Colfax County Board of Commissioners will meet in Regular Session on Tuesday, January 9, 2024, at 9:00 A.M., in the Commission Chambers, 3<sup>rd</sup> Floor at the Colfax County Building, Raton, NM for the following:

**This agenda can be viewed at the Colfax County Website at [www.co.colfax.nm.us](http://www.co.colfax.nm.us)**

1. Call to Order
2. Pledge of Allegiance
3. Salute to the New Mexico Flag
4. Elect Chairman and Vice Chairman
5. Approve Agenda
6. Approve Public Hearing Meeting Minutes and Regular Meeting Minutes for December 12, 2023
7. Recognize Visitors
8. Public Comment
9. Discuss/Action – Approve Expenditures
10. Discuss/Action - Approve Expenditures Pursuant to Resolution #2022-49
11. Presentation – Resound Networks, Broadband Buildout Plans for Colfax County, Tamara Rosenberg, and Pam Waggoner
12. Discuss/Action – Resolution #2024-01, Open Meetings Act
13. Discuss/Action – Resolution #2024-02, Adopt State Procurement Code
14. Discuss/Action – Resolution #2024-03, Set Liquor License Fee for 2024
15. Discuss/Action – Resolution #2024-04, Working Hours for Colfax County Employees Calendar Year 2024
16. Discuss/Action – Resolution #2024-05, Budget Adjustment, Various Funds
17. Discuss/Action – Appoint NERTPO Voting Member and Alternate
18. Discuss/Action – Appoint Voting Member and Alternate to the New Mexico Counties Insurance Authority Pool
19. Discuss/Action – Appoint North Central New Mexico Economic Development District (NCNMEDD) Board of Director and Alternate
20. Discuss/Action – Appoint Workers Compensation Voting Member and Alternate
21. Discuss/Action – Appoint North-East Economic Development Organization Inc. Board Member and Alternate
22. Discuss/Action Appoint Enchanted Circle Council of Government (ECCoG) Member
23. Discuss/Action – Request Statement of Receipts and Expenses from Colfax County Treasurer
24. Discuss/Action – Memorandum of Understanding between The Village of Angel Fire and Colfax County
25. Discuss/Action – Memorandum of Understanding between The Village of Cimarron and Colfax County

26. Discuss/Action – Memorandum of Understanding between Eagle Nest Village and Colfax County
27. Discuss/Action – Memorandum of Understanding between City of Raton and Colfax County
28. Discuss/Action – Memorandum of Understanding between Town of Springer and Colfax County
29. Discuss/Action - Memorandum of Agreement Between Colfax County and The Greater Raton Economic Development Cooperation Doing Business as GrowRaton
30. Discuss/Action – Memorandum of Agreement Between Colfax County and Raton Pickleball
31. Discuss/Action – Agreement Between Colfax County and Rocky Road Gravel and Well Drilling Services LLC
32. Discuss/Action – Resolution 2024-06, Fee Schedule for Colfax County
33. Discuss/Action – Introduction of the Amendment to Ordinance 2021-03, An Ordinance Adopting the Legislative Intent, Findings, and Purpose Relating to The Regulation of Cannabis
34. Discuss/Action – Request for Promotional Funding, Renewal of Lamar Contract #4355660, Billboards
35. Discuss/Action – Aviation Grant Agreement, Project No. AXX-24-02, AXX-Angel Fire-Colfax County
36. Closed Session Pursuant to NMSA 1978 10-15-1H (2), Limited Personnel Matters, Colfax County Manager Evaluation
37. Discuss/Action - Open Session Pursuant to NMSA 1978 10-15-1H (2), Limited Personnel Matters, Colfax County Manager Evaluation
38. Manager’s Docket
39. Commissioners’ Docket
40. Adjourn

Done this 2<sup>nd</sup> day of January 2024

*Salute to the New Mexico Flag – “I salute the flag of the State of New Mexico and the Zia Symbol of perfect friendship among united cultures.”*

12. Discuss/Action -Resolution #2023-02, Adopt State Procurement Code

Chairman Wier stated this resolution also needed to be adopted annually as the County is required to follow the State Procurement. Commissioner Kern made a motion to approve Resolution #2023-02, Adopting the State Procurement Code. Commissioner Trujillo seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

13. Discuss/Action -Resolution #2023-03, Set Liquor License Fee for 2023

Chairman Wier stated this resolution is adopted annually and the County currently issues three Licenses and charges \$250.00 per license which is the maximum that can be charged. Commissioner Kern made a motion to approve Resolution #2023-03, Set Liquor License Fee for 2023. Commissioner Trujillo seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

14. Discuss/Action -Appoint NERTPO Voting Member and Alternate

Chairman Wier recommendation that Road Superintendent Glen Stevens be the NERTPO Voting Member and himself as the Alternate. Chairman Wier stated he was the Voting Member but would often ask Robert Thompson questions how he should vote, as he had the experience with the projects. Commissioner Kern made a motion to appoint Road Superintendent Glen Stevens as the NERTPO voting member and Commissioner Kern as the alternate. Commissioner Trujillo seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

15. Discuss/ Action - Appoint Voting Member and Alternate to the New Mexico Counties Insurance Authority Pool

Commissioner Kern made a motion to appoint Commissioner Trujillo as the Voting Member of the NM Counties Insurance Authority Pool. Chairman Wier seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously. Commissioner Kern made a motion to appoint Manager Monte Gore as the Alternate member. Commissioner Trujillo seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

16. Discuss/Action -Appoint North Central New Mexico Economic Development District (NCNMEDD) Board of Director and Alternate

Chairman Wier stated he has set on this committee and feels they have made a lot of progress and would like to remain on the committee. Commissioner Kern made a motion to appoint Chairman Wier as the Board of Director. Commissioner Trujillo seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously. Commissioner Trujillo nominated himself as the alternate. Commissioner Kern seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

17. Discuss/ Action - Appoint Workers Compensation Voting Member and Alternate

Commissioner Trujillo made a motion to appoint himself as the voting member to the Workers Compensation Board. Commissioner Kern seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously. Commissioner Trujillo made a motion to appoint Commissioner Kern as the alternate member. Chairman Wier seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

18. Discuss/ Action -Appoint North-East Economic Development Organization Inc. Board Member and Alternate

Commissioner Kern made a motion to appoint Commissioner Trujillo as the Board Member of the North-East Economic Development Organization Inc. Chairman Wier seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously. Commissioner Kern made a motion to appoint Chairman Wier as the Alternate member. Commissioner Trujillo seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

19. Discuss/Action Appoint Enchanted Circle Council of Government (ECCoG) Member

Chairman Wier stated that this is a council of governments which includes Angel Fire, Eagle Nest, Red River, Questa, Taos, Colfax County, Mora County and Taos County. Chairman Wier stated that there are two members one is the manager by default and the other is an Elected Official. Chairman Wier stated historically it would be himself that would be the member, but the Enchanted Circle's focus is going to be on developing the film industry. Chairman Wier suggested that someone from Raton be on this council since Raton is also developing the film industry in the city. Commissioner Kern made a motion to appoint Commissioner Trujillo to the Enchanted Circle of Government (ECCoG) Member. Chairman Wier seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

20. Discuss/ Action Appoint Raton Extraterritorial Zoning Board Members

Commissioner Trujillo made a motion to appoint Commissioner Kern as the Board Member to Raton Extraterritorial Zoning. Chairman Wier seconded the motion. Commissioner Kern asked for a friendly amendment to Commissioner Trujillo's motion to include himself to also be appointed as Board Member. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

21. Discuss/ Action -Request Statement of Receipts and Expenses from Colfax County Treasurer

Commissioner Kern made a motion to approve the Request Statement of Receipts and Expenses from Colfax County Treasurer. Commissioner Trujillo seconded the motion. Chairman Wier stated that in conjunction with this request he would like to request what the cash holdings are currently outside of investments. Chairman Weir stated he would also like to ask the Treasurer to look at the funds that are invested and mark them with descriptions of usage requirements or earmarks related to those funds. Roy Fernandez asked the Commission to write a letter to the bank to get a report of the Miners Trust Fund that are deposited there. Mr. Fernandez stated that the Commission should have been asking for a report from the bank every year but didn't realize this until he read the Escrow Agreement. Commissioner Kern asked for a friendly amendment to include Chairman Wier's requests. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

22. Discuss/Action -Change Order Form, Fire Stations Fill Stations- Rebid RFB 2022-03, Mack's Drilling

Fire Marshal Nick Cardenas stated that Farley put out bids for fill stations at four different sites but when the cost estimation came back, they could only afford 1 station, so they are wanting to move the fire filling station location from the Abbott fire station to the Farley fire station. Commissioner Trujillo made a motion to approve the Change Order Form, Fire Station Fill Stations- Rebid RFB 2022-03. Commissioner Kern seconded the motion. Chairman Wier asked for a roll call vote, the Clerk polled the Commissioners. Commissioner Kern – aye, Commissioner Trujillo – aye, and Chairman Wier – aye. The motion carried unanimously.

23. Discuss/ Action -Memorandum of Understanding Between Domestic Violence and Vigil Maldonado Detention Center

Warden Slade stated per national PREA standards the agency shall provide a way for inmates to report abuse or harassment to a public or private entity and VMDC is working with Alternative to Violence to be the outside reporting agency. Commissioner Kern made a motion to approve the Memorandum of

A-1330

Updated:07/2023

Aviation

**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

**Aviation Grant Agreement Form**



Date

Dec 20, 2023

Project Location

AXX - ANGEL FIRE- COLFAX COUNTY

Sponsor

COLFAX, COUNTY OF

Address

PO BOX 98

City

RATON

NM

Zip Code

87740

Participation

STATE ONLY

Funding Breakdown

100

Contract No. \_\_\_\_\_

Project No.

AXX-24-02

Vendor No.

0000054380

Expiration Date \_\_\_\_\_

Purchase Order No: \_\_\_\_\_

## AVIATION GRANT AGREEMENT

This Agreement is between the New Mexico Department of Transportation, acting through its Aviation Division (Department), and the Sponsor. This Agreement is effective pursuant to Section 7, below.

**Now Therefore**, pursuant to the New Mexico Aviation Act, NMSA 1978, Section 64-1-11 et seq., and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq., the parties agree as follows:

**1. Purpose.**

The purpose of this Agreement is to provide funding, authorized in Section 64-1-13, NMSA 1978, to the Sponsor to assist in financing an aviation project.

a. Project Description:

FUEL TRUCK CONTAINMENT PAD

- b. Site of Development. The site of development is identified on the property map, attached as Exhibit A.
- c. Funding. Below is the funding for the Project. The State's contribution is the maximum amount that the Department will contribute. Attached as Exhibit B is the engineer's cost estimate.

	State	Sponsor	Other	Total
\$	147,130	\$	\$	\$ 147,130

**2. The Sponsor Shall:**

- a. Pay all costs, perform all labor, and supply all material, except as described in the Engineers Estimate attached as EXHIBIT B.
- b. Provide a representative from its organization who shall serve as the single point of contact for the Department.
- c. Establish and maintain a resolution by which the Sponsor agrees to establish an airport maintenance program and appoint an individual to be responsible for management of the program.
- d. Initiate engineering, survey, and all other design activities, inspect Project construction and, coordinate all meetings.
- e. Be responsible for all design and pre-construction activities.
- f. Initiate and cause to be prepared all necessary documents including plans, specifications, estimates (PS&E), and reports for this Project.
- g. Assure that all design and PS&E are performed under the direct supervision of a Registered New Mexico Professional Engineer.
- h. Design the Project in accordance with State and Federal guidelines and/or advisory circulars, hereby incorporated into this Agreement. Construction projects will be accomplished in accordance with the Federal Aviation Administration's Standards for Specifying Construction of Airports (Advisory Circular 150/5370-10, current edition).

- i. Notify the Department when the plans and specifications are sufficiently complete for review.
- j. Make no changes in design or scope of work without documented approval of the Department.
- k. Advertise for and contract for the construction of the Project in accordance with federal and state laws or local ordinances.
- l. Require the Engineer to prepare a final detailed estimate of the work, indicating the bid items, the quantity in each item, the unit bid price and cost of the items based on low acceptable bid prices. Progress estimates shall be submitted to the Department in acceptable form so that details of quantities allowed on various items of work shall be shown on each progress payment.
- m. The Sponsor shall submit to the Department one complete set of plans and specifications which incorporate all comments and recommendations received during pre-bid activities and which have been fully executed by all involved parties.
- n. The Sponsor shall take all steps, including litigation if necessary, to recover State funds spent in violation of state laws and rules. The Sponsor shall return any recovered state funds to the Department. It shall furnish to the Department, upon request, all documents and records pertaining to the determination of the amount of the state's share of any settlement, litigation, negotiation, or the efforts taken to recover such funds. All settlements or other final dispositions by the Sponsor, in court or otherwise, involving the recovery of such state funds shall be approved in advance by the Department.
- o. The Sponsor shall, upon reasonable notice, allow the Department the right to inspect the Project for the purposes of determining if it is being constructed in a good and workmanlike manner, and if the approved plans and specifications are being complied with satisfactorily. If an inspection discloses a failure to substantially meet such requirements and standards the Department may terminate payment or payments until a mutually satisfactory remedy is reached.

### **3. The Department Shall:**

- a. Assign a contact person for this project.
- b. Provide timely reviews of all submittals of scopes, plans, specifications, investigations or other documents.
- c. The Department shall not provide an extensive check of any plans submitted by the Sponsor. The Department's concurrence of the Project plans does not relieve the Sponsor or its Consultant of their responsibility for errors and omissions.

### **4. Both Parties Agree:**

- a. The allowable costs of this Project shall not include costs determined by the Department to be ineligible for consideration under the Aviation Act.
- b. The expenditure of any State money is subject to approval by the Department.
- c. Funds granted under the Local Governments Road Fund, NMSA 1978 Section 67-3-28.2, shall not be used to administer this Project or used to meet the local match.

### **5. Method of Payment - Reimbursement.**

The Department shall reimburse the Sponsor in accordance with the terms of this agreement. Claims for reimbursement shall be completed on form A-1159, Request for Reimbursement. Each request for reimbursement shall contain proof of payment for valid expenditures for services rendered by a third party or items of tangible property received by the Sponsor for the implementation of the Project. The Department reserves the right to withhold reimbursement on requests that are incorrect and/or incomplete. The Final reimbursement request must be received no later than thirty (30) days after completion of the project or the expiration of this Agreement.

The Sponsor shall not be reimbursed for any costs incurred prior to the full execution of the Agreement, after the expiration of the Agreement or in excess of the maximum dollar amount of the agreement unless the maximum dollar amount is duly amended prior to incurring the service or deliverable. Any unexpended portion of funds subject to this Agreement shall revert to the State Aviation Fund.

### **6. Accountability of Receipts and Disbursements.**

There shall be strict accountability for all receipts and disbursements. The Sponsor shall maintain all records and documents relative to the Project for a minimum of three (3) years after completion of said Project. The Sponsor shall furnish the Department or State Auditor, upon demand, all records which support the terms of this Agreement.

The Agreement becomes effective upon signatures of all parties. The Agreement's effective date is the date opposite of the NMDOT Cabinet Secretary or Designee's signature on the signature page. This agreement shall expire two (2) years from the effective date, unless terminated pursuant to Sections 8 and 17, below.

**8. Termination for Cause.**

The Department has the option to terminate this Agreement if the Sponsor fails to comply with any provision of this Agreement. A written notice of termination shall be given at least thirty (30) days prior to the intended date of termination and shall identify all of the Sponsor's breaches on which the termination is based.

The Department may provide the Sponsor a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the Sponsor has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the Sponsor has not begun and proceeded in good faith to correct the breach, the Department may declare the Sponsor in default and terminate the Agreement. The Department shall retain any and all other remedies available to it under the law.

By such termination neither party may nullify obligations already incurred for performance or failure to perform for the work rendered prior to the date of termination. However, neither party shall have any obligation to perform services or make payment for services rendered after such date of termination.

**9. Disposition of Property.**

- a. Upon termination of this Agreement, the Sponsor shall account for any remaining property, materials or equipment belonging to the Department and dispose of them as directed by the Department.
- b. Any equipment, materials or supplies procured under this Agreement shall be used solely for aviation purposes maintained according to the manufacturers guidelines and stored at the airport.

**10. Representations and Certification.**

The Sponsor, by signing this Agreement, represents and certifies the following:

- a. Legal Authority - The Sponsor has the legal power and authority to: (1) do all things necessary in order to undertake and carry out the Project in conformity with the provisions stated in the New Mexico Aviation Act and Rules and Regulations pursuant thereto; (2) accept, receive and disburse grant funds from the State of New Mexico in aid of the Project; and (3) carry out all provisions stated in this Aviation Grant Agreement.
- b. Defaults - The Sponsor is not in default on any obligation to the State of New Mexico relative to the development, operation or maintenance of any airport or aviation project.
- c. Possible Disabilities - The Sponsor states, by execution of this Agreement, there are no facts or circumstance (including the existence of effective or proposed leases, use agreements, or other legal instruments affecting use of the airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project.
- d. Land - The Sponsor holds the property interest in the areas of land which are to be developed or used as part of or in connection with the Project and is identified in a current Airport Property Map. The Sponsor further certifies that the aforementioned is based on a title examination by a qualified attorney or title company who has determined that the Sponsor holds the stated property interests.

**11. Assurances.**

The Sponsor, by signing this Agreement, covenants and agrees to the following Assurances:

- a. That it will operate the airport for the use and benefit of the public on fair and reasonable terms and without unjust discrimination.
- b. That it will keep the airport open to all types, kinds and classes of aeronautical use without discrimination between such types, kinds, and classes. The Sponsor shall establish fair, equal and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation.



- c. Neither it nor any person or organization occupying space at the airport will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of the facility and, further that any person, firm or corporation rendering service to the public on the airport will do so on a fair, equal and not unjustly discriminatory basis.
- d. Operate and maintain in a safe and serviceable condition the airport and all facilities which are necessary to serve the aeronautical users and will not permit any activity which would interfere with its use for airport purposes.
- e. By acquisition of land interest, acquisition of easements, airspace zoning, or other accepted means, protect the runway approaches and the airspace in the immediate vicinity of the airport from the construction, alteration, erection or growth of any structure which would interfere with the use or operation of the airport.
- f. Comply with the New Mexico Aviation Act and associated provisions, NMSA 1978 Sections 64-1-1 to 64-5-4 and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq.
- g. That it shall not award the contract nor give bidding documents to any contractor who is subject to suspension or debarment by the U.S. Department of Transportation or the Department at the time of the bidding or award of the contract. Violation of this provision shall void this Agreement.

### **12. Third Party Beneficiaries.**

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

### **13. New Mexico Tort Claims Act.**

As between the Department and the Sponsor, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq.* This paragraph is intended only to define the liabilities between the parties and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

### **14. Scope of Agreement.**

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

### **15. Terms of this Agreement.**

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

### **16. Equal Opportunity Compliance.**

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

**17. Appropriations and Authorizations of State and Federal Funds.**

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

**18. Severability.**

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

**19. 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 New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

**20. Principal Contacts and Notices.**

The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices shall be in writing (including notice by facsimile or E-mail) and shall be given to the principal contacts listed below.

Address: New Mexico Department of Transportation - Aviation Division  
3501 Access Rd C.  
Albuquerque, NM 87106  
General Office: (505) 795-1401  
Fax: (505) 244-1790  
E-mail: Aviation.Division@dot.nm.gov

Name	MONTE GORE		
Title	COUNTY MANAGER		
Sponsor	COLFAX, COUNTY OF		
Address	PO BOX 98		
City	RATON	NM	Zip Code 87740
Office Phone	+1 (575) 445-9661	Fax	
E-Mail	mgore@co.colfax.nm.us		

**21. Amendment.**

This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties.

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

**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

DocuSigned by:  
*Ricky Serna*  
5910E8A6255842E...  
By: \_\_\_\_\_  
Cabinet Secretary or Designee

12/26/2023  
Date: \_\_\_\_\_

Recommended by:

DocuSigned by:  
*Pedro Rael*  
C6675C3211D34C0...  
By: \_\_\_\_\_  
Aviation Division Director  
or Designee

12/21/2023  
Date: \_\_\_\_\_

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

DocuSigned by:  
*John Newell*  
John Newell  
Assistant General Counsel  
C750CEC1625D488...  
By: \_\_\_\_\_  
Assistant General Counsel

12/20/2023  
Date: \_\_\_\_\_

**SPONSOR**

Print Name: Si Trujillo

DocuSigned by:  
*Si Trujillo*  
B479E5876C71466...  
By: \_\_\_\_\_

12/20/2023  
Date: \_\_\_\_\_

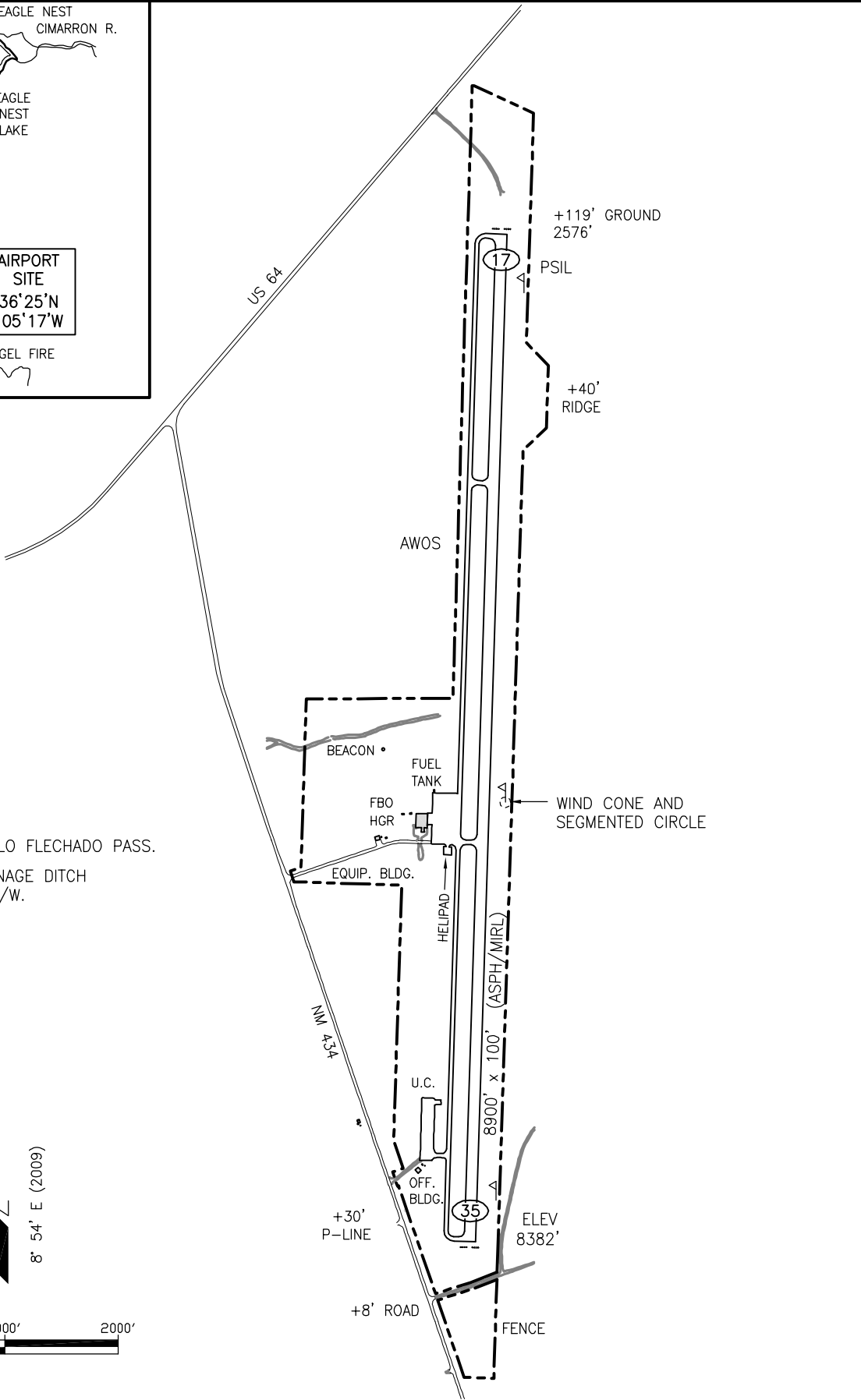
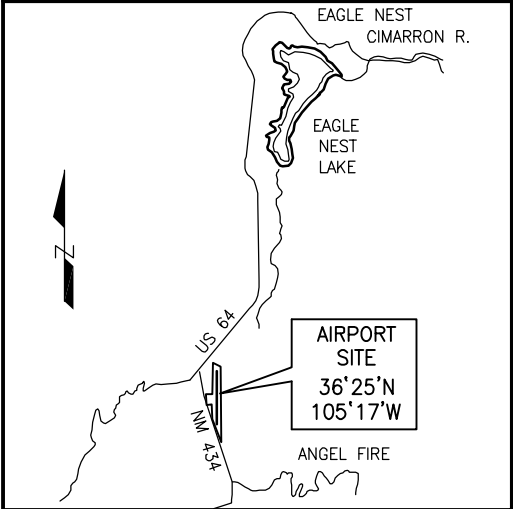
Title: Chairman of Colfax County Commission

# EXHIBIT A

ANGEL FIRE, NM

ANGEL FIRE AIRPORT (AXX)

SITE NO. 14534.A

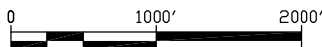


REMARKS:

1. QUAD. - 7.5 MIN. PALO FLECHADO PASS.
2. FULL LENGTH 3' DRAINAGE DITCH BETWEEN T/W AND R/W.

12/14/10

ANGELFIRE\_AXX



## **EXHIBIT B**

**LOCATION:**  
**Angel Fire – Colfax County Airport**

**PROJECT:**  
**Fuel Truck Containment Pad**

<b>LAND ACQUISITION</b>	
<b>CONSTRUCTION</b>	<b>\$147,130</b>
<b>ENGINEERING</b>	
<b>ADMINISTRATIVE (SPECIFY)</b>	
<b>INSPECTION</b>	
<b>TESTING</b>	
<b>EQUIPMENT</b>	<b>\$147,130</b>
<b>OTHER (SPECIFY)</b>	
<b>TOTAL</b>	<b>\$147,130</b>

**REMARKS:**

**Total includes all NMGRT's**

**PROJECT COSTS: \$147,130**

**State Share (100%): \$147,130**

**Certificate Of Completion**

Envelope Id: EDE15EA088E8412098F9D759D11DF0E4	Status: Completed
Subject: Complete with DocuSign: AXX-24-02 - FUEL TRUCK CONTAINMENT PAD.pdf	
Source Envelope:	
Document Pages: 9	Signatures: 4
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Jane Lucero
Time Zone: (UTC-07:00) Mountain Time (US & Canada)	1120 Cerrillos Rd.
	Santa Fe, NM 87505
	jane.lucero@dot.nm.gov
	IP Address: 207.225.48.19

**Record Tracking**

Status: Original	Holder: Jane Lucero	Location: DocuSign
12/20/2023 10:51:29 AM	jane.lucero@dot.nm.gov	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Department of Transportation	Location: DocuSign

**Signer Events**

John P Newell  
 johnp.newell@dot.nm.gov  
 Assistant General Counsel  
 State of New Mexico, Dept of Information  
 Technology  
 Security Level: Email, Account Authentication  
 (None)

**Electronic Record and Signature Disclosure:**  
 Accepted: 3/24/2022 10:26:55 AM  
 ID: 5ffacc7-1a18-413c-837e-7742d33ff5ce

**Signature**

DocuSigned by:  
  
 John Newell  
 Assistant General Counsel  
 C750CEC1625D488...

Signature Adoption: Uploaded Signature Image  
 Using IP Address: 164.64.74.20

**Timestamp**

Sent: 12/20/2023 11:03:12 AM  
 Viewed: 12/20/2023 11:41:42 AM  
 Signed: 12/20/2023 11:41:50 AM

Si Trujillo  
 strujillo@co.cofax.nm.us  
 Chairman of Colfax County Commission  
 Security Level: Email, Account Authentication  
 (None)


DocuSigned by:  
  
 Si Trujillo  
 B479E5876C71466...

Signature Adoption: Pre-selected Style  
 Using IP Address: 98.97.152.95

Sent: 12/20/2023 11:41:52 AM  
 Viewed: 12/20/2023 3:41:01 PM  
 Signed: 12/20/2023 3:41:50 PM

**Electronic Record and Signature Disclosure:**  
 Accepted: 12/20/2023 3:41:01 PM  
 ID: 9f0653a8-0e3c-4307-978f-67d4f45e9709

Pedro Rael  
 Pedro.Rael@dot.nm.gov  
 Division Director  
 New Mexico Department of Transportation  
 Security Level: Email, Account Authentication  
 (None), Login with SSO

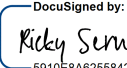
DocuSigned by:  
  
 Pedro Rael  
 C6675C3211D34C0...

Signature Adoption: Pre-selected Style  
 Using IP Address: 164.64.74.26

Sent: 12/20/2023 3:41:51 PM  
 Viewed: 12/21/2023 1:24:58 PM  
 Signed: 12/21/2023 1:28:10 PM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Ricky Serna  
 Ricky.Serna@dot.nm.gov  
 Cabinet Secretary  
 NMDOT  
 Security Level: Email, Account Authentication  
 (None)

DocuSigned by:  
  
 Ricky Serna  
 5910E8A6255842F...

Signature Adoption: Pre-selected Style  
 Using IP Address: 164.64.74.20

Sent: 12/21/2023 1:28:18 PM  
 Viewed: 12/26/2023 8:45:12 AM  
 Signed: 12/26/2023 8:45:14 AM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
<b>Carbon Copy Events</b>	<b>Status</b>	<b>Timestamp</b>
Christina Lucero Christina.Lucero3@dot.nm.gov Purchasing Agent - A New Mexico Department of Transportation Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 12/26/2023 8:45:15 AM
Monte Gore mgore@co.colfax.nm.us Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Accepted: 12/12/2022 10:47:46 AM ID: 3b6a473e-1fc2-45ed-9d1c-accd869650dc	<b>COPIED</b>	Sent: 12/26/2023 8:45:15 AM
Scott Matthews smatthews@co.colfax.nm.us Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 12/26/2023 8:45:16 AM
<b>Witness Events</b>	<b>Signature</b>	<b>Timestamp</b>
<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
Envelope Sent	Hashed/Encrypted	12/20/2023 11:03:12 AM
Certified Delivered	Security Checked	12/26/2023 8:45:12 AM
Signing Complete	Security Checked	12/26/2023 8:45:14 AM
Completed	Security Checked	12/26/2023 8:45:16 AM
<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
<b>Electronic Record and Signature Disclosure</b>		

## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, New Mexico Department of Transportation (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**



Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact New Mexico Department of Transportation:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [daniel.garcia5@state.nm.us](mailto:daniel.garcia5@state.nm.us)

### **To advise New Mexico Department of Transportation of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [daniel.garcia5@state.nm.us](mailto:daniel.garcia5@state.nm.us) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

### **To request paper copies from New Mexico Department of Transportation**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [daniel.garcia5@state.nm.us](mailto:daniel.garcia5@state.nm.us) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with New Mexico Department of Transportation**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to [daniel.garcia5@state.nm.us](mailto:daniel.garcia5@state.nm.us) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify New Mexico Department of Transportation as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by New Mexico Department of Transportation during the course of your relationship with New Mexico Department of Transportation.

**ORDINANCE NO.: 2024-**

**THE AMENDMENT TO ORDINANCE 2021-03 (AN ORDINANCE ADOPTING THE LEGISLATIVE INTENT, FINDINGS, AND PURPOSE RELATING TO THE REGULATION OF CANNABIS)**

**WHEREAS**, the New Mexico Cannabis Regulation Act (“NMCRA”), NMSA §§ 26-2C-1 to 26-2C-42, allows the establishment and operation of certain cannabis dispensaries in County of Colfax according to a prescribed statutory and regulatory process, and

**WHEREAS**, the County of Colfax finds that the NMCRA section 26-2C-12 authorizes the County of Colfax to:

(1) adopt time, place and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses; and

(2) allow for the smoking, vaporizing and ingesting of cannabis products within an indoor or outdoor cannabis consumption area if:

(a) licensed pursuant to the Lynn and Erin Compassionate Use Act, and access to the cannabis consumption area is restricted to persons twenty-one years of age and older; and

(b) the cannabis establishment or integrated cannabis microbusiness is located at a minimum distance from a school or daycare center as determined by the local jurisdiction, but which minimum distance shall not be set at any more than three hundred feet from a school or daycare center that was in existence at the time the establishment or microbusiness was licensed.

However, the NMCRA directs the County shall not:

(1) prevent transportation of cannabis products on public roads by a licensee that transports cannabis products in compliance with the Cannabis Regulation Act;

(2) completely prohibit the operation of a licensee;

(3) prohibit or limit signage attached to or located on licensed premises that identifies the premises as a cannabis establishment;

(4) require a licensed premises or a cannabis consumption area to be any more than three hundred feet from a school or daycare center that was in existence at the time the cannabis establishment or integrated cannabis microbusiness was licensed;

(5) require an existing licensee at a licensed premises to relocate; or

(6) prohibit a person from producing homegrown cannabis as provided for in the Cannabis Regulation Act.

**WHEREAS**, County of Colfax seeks to protect public health, safety, and welfare by enacting reasonable regulations on cannabis establishments in unincorporated areas of the County.

**WHEREAS**, County of Colfax referenced and incorporated the County of Santa Fe's Comprehensive Zoning Plan, and seeks to develop or amend the currently available zoning plan for the County.

**WHEREAS**, this ordinance is subject to change or amendment as the New Mexico Cannabis Regulation Act ("NMCRA")'s rules and regulations are amended and adopted, and it shall comply with NMCRA and its regulations.

**NOW THEREFORE**, the County of Colfax adopts the following ordinance for the regulation of cannabis consistent with the NMCRA and its Comprehensive Zoning Plan available, and this ordinance shall be amended should the County of Colfax amend or adopt its own zoning ordinance or comprehensive zoning plan.

### **Section 1. Purpose**

This Ordinance is adopted to protect the health, safety, and welfare of the community. Except as allowed by NMCRA and its pertinent laws or regulations for personal or private use, the County of Colfax enacts reasonable regulations and requires compliance with the NMCRA and its pertinent laws or regulations.

### **Section 2. Definitions**

The below words and phrases, wherever used in this article, shall be construed as defined in the NMCRA or pertinent laws and regulations with their subsequent amendments.

#### A. "advertisement":

(1) means a statement or a depiction that is intended to induce the purchase of cannabis products and that is displayed in printed material or on a sign or other outdoor display or presented in a radio, television or other media broadcast or in digital media; and

#### (2) does not include:

(a) a sign or outdoor display or other statement permanently affixed to a licensed premises that is intended to induce the sale of a cannabis product produced or sold on the premises;

(b) a label affixed to a cannabis product or the covering, wrapper or container of a cannabis product; or

(c) an editorial or other material printed in a publication when the publication of the editorial or material was not paid for by a licensee and was not intended to promote the sale of cannabis products by a particular brand or company;

#### B. "cannabis":

(1) means all parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

#### (2) does not include:

(a) the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of

the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or

(b) the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product;

C. “cannabis consumption area” means an area where cannabis products may be served and consumed;

D. “cannabis courier” means a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

E. “cannabis establishment” means:

- (1) a cannabis testing laboratory;
- (2) a cannabis manufacturer;
- (3) a cannabis producer;
- (4) a cannabis retailer;
- (5) a cannabis research laboratory;
- (6) a vertically integrated cannabis establishment;
- (7) a cannabis producer microbusiness;
- (8) an integrated cannabis microbusiness; or
- (9) Vertically Integrated Cannabis Establishment (VICE)

F. “cannabis extract”:

(1) means a product obtained by separating resins, tetrahydrocannabinols or other substances from cannabis by extraction methods approved by the division; and

(2) does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product;

G. “cannabis flowers” means only the flowers of a cannabis plant;

H. “cannabis manufacturer” means a person that:

- (1) manufactures cannabis products;
- (2) packages cannabis products;
- (3) has cannabis products tested by a cannabis testing laboratory; or
- (4) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments;

I. “cannabis producer” means a person that:

- (1) cultivates cannabis plants;
- (2) has unprocessed cannabis products tested by a cannabis testing laboratory;
- (3) transports unprocessed cannabis products only to other cannabis establishments; or
- (4) sells cannabis products wholesale;

J. “cannabis producer microbusiness” means a cannabis producer at a single licensed premises that possesses no more than two hundred total mature cannabis plants at any one time;

K. “cannabis product” means a product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients;

L. “cannabis research laboratory” means a facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses;

M. “cannabis retailer” means a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

N. “cannabis server permit” means an authorization that allows a person to directly offer, sell or serve cannabis or cannabis products as part of commercial cannabis activity in a cannabis consumption area;

O. “cannabis server permit education provider” means a person that provides cannabis server education courses and examinations;

P. “cannabis testing laboratory” means a person that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing;

Q. “cannabis training and education program” means a practical or academic curriculum offered by a New Mexico public post-secondary educational institution designed to prepare students for participation in the cannabis industry;

R. “commercial cannabis activity”:

(1) means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and

(2) does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis;

S. “consumer” means a person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale;

T. “contaminant” means pesticides and other foreign material, such as hair, insects or other similar adulterants, in harvested cannabis;

U. “controlling person”:

(1) means a person that controls a financial or voting interest of ten percent or more of, or an officer or board member of, a cannabis establishment; and

(2) does not include a bank or licensed lending institution;

V. “cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis;

W. “department” means the regulation and licensing department;

X. “director” means the director of the division;

Y. “division” means the cannabis control division of the department;

Z. “dry weight basis”, when used in the context of regulation of commercial cannabis activity, means a process by which delta-9-tetrahydrocannabinol concentration is measured relative to the aggregate weight of all parts of the plant genus Cannabis, whether growing or not, including the leaves of the plant, the flowers and buds of the plant, the seeds of the plant, the resin of the plant and the stalks of the plant at the point of harvest by a licensee and with no moisture added to the harvested plant;

AA. “facility” means a building, space or grounds licensed for the production, possession, testing, manufacturing or distribution of cannabis, cannabis extracts or cannabis products;

BB. “financial consideration” means value that is given or received, directly or indirectly, through sales, barter, trade, fees, charges, dues, contributions or donations;

CC. “homegrown” or “homemade” means grown or made for purposes that are not dependent or conditioned upon the provision or receipt of financial consideration;

DD. “household” means a housing unit and includes any place in or around the housing unit at which an occupant of the housing unit produces, manufactures, keeps or stores homegrown cannabis or homemade cannabis products;

EE. “immature cannabis plant” means a cannabis plant that has no observable flowers or buds;

FF. “industry standards” means the prevailing customary standards of business practice in the cannabis industry in jurisdictions within the United States;

GG. “integrated cannabis microbusiness” means a person that is authorized to conduct one or more of the following:

(1) production of cannabis at a single licensed premises; provided that the person shall not possess more than two hundred total mature cannabis plants at any one time;

(2) manufacture of cannabis products at a single licensed premises;

(3) sales and transportation of only cannabis products produced or manufactured by that person;

(4) operation of only one retail establishment; and

(5) couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

HH. “licensed premises” means a location that includes:

(1) all enclosed public and private areas at the location that are used in the business and includes offices, kitchens, restrooms and storerooms;

(2) all areas outside of a building that are specifically included in the license for the production, manufacturing, wholesale sale or retail sale of cannabis products; and

(3) with respect to a location that is specifically licensed for the production of cannabis outside of a building, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases or has a right to occupy;

II. “local jurisdiction” means a municipality, home rule municipality or county;

JJ. “manufacture” means to compound, blend, extract, infuse, package or otherwise prepare a cannabis product;

KK. “medical cannabis” means cannabis products used by a qualified patient or reciprocal participant in accordance with the Lynn and Erin Compassionate Use Act;

LL. “medical cannabis program” means the program created pursuant to the Lynn and Erin Compassionate Use Act;

MM. “medical cannabis registry” means the system by which the department of health approves or denies applications and issues and renews registry identification cards for qualified patients;

NN. “primary caregiver” means a resident of New Mexico who is at least eighteen years of age and who is responsible for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act;

OO. “public place” means a place to which the general public has access and includes hallways, lobbies and other parts of apartment houses and hotels that do not constitute rooms or apartments designed for actual residence; highways; streets; schools; places of amusement; parks; playgrounds; and places used in connection with public passenger transportation;

PP. “qualified patient” means a resident of New Mexico who holds a registry identification card pursuant to the Lynn and Erin Compassionate Use Act;

QQ. “reciprocal participant” means a person who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory or commonwealth of the United States in which the person resides or a person who holds proof of enrollment by a governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program;

RR. “retail establishment” means a location at which cannabis products are sold to qualified patients, primary caregivers and reciprocal participants and directly to consumers;

SS. “superintendent” means the superintendent of regulation and licensing;

TT. “unprocessed” means unaltered from an original, raw or natural state; and

UU. “vertically integrated cannabis establishment” means a person that is authorized to act as any of the following:

- (1) a cannabis courier;
- (2) a cannabis manufacturer;
- (3) a cannabis producer; and
- (4) a cannabis retailer.

### **Section 3. Allowable land use zoning**

The Board has determined that cannabis establishments and cannabis consumption areas should be allowed in those zoning districts where similar uses are allowed, such similarity determined by the Board in an exercise of legislative discretion based upon, among other factors, off-site impacts, compatibility, and the need for services.

- A. **Subject to conditions herein in this Ordinance, in Residential** Zoning areas, Private property consumption, and cultivation of up to 12 mature and 12 immature plants; or consumption or cultivation allowed by NMRCRA and New Mexico laws will be allowed.
- B. Cultivation in agricultural areas will be allowed, but if cultivation is for industrial uses, the following conditions should be met:
  - (1) Cannabis cultivation for industrial uses is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities. For the purposes of this Article, all measurements for Cannabis Cultivation shall be from the licensed premises as defined by NMCRA.
  - (2) All licensed premises as defined by the NMCRA are prohibited within 300 feet of any school, or child day care facility.
  - (3) Except as specified in Subsection (4) below, all activities in this use must be conducted within the fully enclosed portions of a building unless a Conditional Use Approval is obtained to conduct specific activities outside of the fully enclosed portions of a building.
  - (4) An incidental storage area is allowed outside of the fully enclosed portions of a building, but must be screened from view from each neighboring property line in which a permit is required.
  - (5) **An air filtration plan approved by the County Manager which also complies with the Dee Johnson Clean Indoor Air Act.**
  - (6) Customer visits and deliveries are prohibited between 12:00 a.m. and 8:00 a.m. for any Cannabis Cultivation Facility.
- C. Cannabis testing laboratories, Cannabis producers, Cannabis retail, Microbusiness, vertically integrated cannabis establishments, Cannabis training



and education shall be treated as the same as Research and Development Services such as scientific, medical and technology.

- D. Cannabis manufacturers or Cannabis-derived products manufacturers shall be treated the same as Food, Textiles and Related Products, and safe and secure extraction shall be the only manufacturing technique allowed. With regard to Cannabis-derived products manufacturing,
- (1) Cannabis-derived products manufacturing is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities. For the purposes of the article, all measurements for Cannabis-derived Product Manufacturing shall be from the licensed premises as defined by NMCRA.
  - (2) All licensed premises, as defined by NMCRA, are prohibited within 300 feet of any school, or child day care facility.
  - (3) Except as specified in Subsection (4) below, all activities in this use shall be conducted within the fully enclosed portions of a building unless a Conditional Use Approval is obtained to conduct specific activities outside of the fully enclosed portions of a building.
  - (4) An incidental storage area is allowed outside of the fully enclosed portions of a building but shall be screened from view from each property neighboring line.
  - (5) An air filtration plan approved by the County is required **as attached hereto.**
  - (6) Customer visits and deliveries are prohibited between 12:00 a.m. and 8 a.m. for any Cannabis-derived Products facility.
- E. A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants indoors shall be treated the same as Commercial Greenhouse.
- F. A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants outdoors shall be treated the same as Dairy Farms.
- G. A cannabis retailer shall be treated the same as Store or Shop.
- (1) Cannabis retail is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities. For the purposes of this article, all measurements for Cannabis Retail shall be from the licensed premises as defined by NMCRA.
  - (2) This use shall not include a storage or display area outside of fully enclosed portions of a building.
  - (3) A licensed premises, as defined by NMCRA, is prohibited within 300 feet of any school or child day care facility.
  - (4) This use shall be conditional within 600 feet of another Cannabis Retail Establishment. Nothing herein prohibits multiple licenses from operating from a single premise.
  - (5) Customer visits and deliveries are prohibited between 12:00 a.m. and 8:00 a.m.

- H. Cannabis couriers fall within Courier and messenger service facilities.
- I. Vertically integrated cannabis establishments and integrated cannabis microbusiness may only be located in a zoning area in which each of the authorized activities proposed for the licensed premises is an allowed use, whether as a permitted use or pursuant to an approved conditional use permit.
- J. Cannabis consumption areas are subject to the following:
  - a. A cannabis consumption area in which consumption is limited to consumption by qualified patients or reciprocal participants may be located inside any cannabis retailer; provided, however, that smoking of cannabis products in such consumption areas is only allowed if the cannabis consumption area occupies a standalone building and/or room sealed from the rest of the building with separate air filtration system, from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act, NMSA 1978, Chapter 24, Article 16.
  - b. Cannabis consumption areas that allow consumption by consumers shall be treated the same as Bars, taverns and nightclubs. Cannabis consumption areas that are open to consumers are also subject to the following:
    - 1) The smoking of cannabis products is only allowed as defined by the Ordinance and NMCRA;
    - 2) The smoking of cannabis products is only allowed within a licensed cannabis consumption area that occupies a standalone building and/or room sealed from the rest of the building with separate air filtration system, from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to Dee Johnson Clean Indoor Air Act, NMSA 1978, Chapter 24, Article 16; and
    - 3) Access to cannabis consumption areas open to consumers is restricted to persons twenty-one years of age and order.
- K. Allowable Land Use Zoning
  - a. Cannabis cultivation and production for personal use in quantities and as permitted by the NMCRA, and the Lynn and Erin Compassionate Use Act is allowed anywhere in the County subject to the following; Cannabis cultivation and production for personal use must be conducted inside an enclosed and locked dwelling unit or an appropriate structure. (e.g. a controlled-environment agricultural structure).
  - b. No cannabis establishment, cannabis consumption area, or cannabis courier may be located within 300 feet of a school, or day care center or residence, religious assembly or church, library, cultural center, community center, public park, or government facility in existence at the time a license was sought for the cannabis establishment, cannabis consumption area, or cannabis courier. For purpose of this section, all measurement for the purpose of determining the location of a cannabis establishment, cannabis

consumption area, or cannabis courier in relation to schools or daycare centers shall be shortest direct line measurement between the actual limits of the real property of the school or daycare center and the actual limits of the real property of the proposed cannabis establishment, cannabis consumption area, or cannabis courier.

- c. Cannabis producers that cultivate cannabis plants indoors and cannabis manufactures must use industry standard techniques to minimize odorous matter, toxic or noxious matter, such as activated carbon filtration and regular maintenance of HVAC systems.
- d. A cannabis establishment must maintain a minimum separation distance of 300 feet from any residence, library, cultural center, community center, public park, or government facility. The 300 feet separation distance does not apply to a residence on the same lot or parcel as the cannabis establishment. For purpose of this section, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point of the security fence of the cannabis establishment to the nearest improved area of any park or the nearest point of any structure of the residence, religious assembly or church, library, cultural center, community center, or government facility.
- e. The County Manager and/or Director of Planning and Zoning and/or the County Manager's designee, at their discretion, may reasonably control the density of cannabis establishments consistent with the County's custom and practice, precedent and policies consistent with NMCRA and New Mexico laws.

#### **Section 4. Delivery permit restrictions**

The following restrictions shall be placed on cannabis delivery permits: only medical or retail cannabis transporters who qualify under NMCRA definitions and who hold a valid license and a delivery permit issued by the County manager may deliver regulated cannabis to private residences of customers and patients, subject to the provisions the NMCRA and its pertinent regulations and rules.

#### **Section 5. Fees**

- A. Planning and Building Cannabis application/inspection Fee \$581.00
- B. Planning and Building preliminary site plan review Fee \$556.00
- C. Planning and Building records management Fee \$100.00
- D. For Cultivation cottage or nursery Planning and Building/inspection Fee \$838.00
- E. Hazardous Materials Inventory Statement Plan Review Fee \$50
- F. Cannabis Transporter Permit Fee \$225
- G. Hazardous Materials and Flammable Liquids Permits – Use, Storage fee \$100
- H. A cannabis waste plan review Fee \$50 (NMEVD)

- I. Compliance requirement Fee with relevant County Ordinance and the International Fire Code (IFC) 2018 edition, chapter 38. (Fees will be assessed if necessary).

**Section 6. Renewal annual application fee for all cultivation permit types**

- A. Planning and Building cannabis application/inspection Fee \$581.00
- B. Planning and Building records management Fee \$100.00
- C. Planning and Building site inspection (not charged unless required).

**Section 7. Renewal annual application fee for all other permit types**

- A. Planning and Building cannabis application/inspection Fee \$581.00
  - B. Planning and Building records Management Fee \$100.00
  - C. County issued Business License Fee \$35.00
  - D. Cannabis Transporter Permit Fee \$225
  - E. Any other necessary licenses permitted by the NMCRA Fee \$250.00
- Licensee shall ensure that all licensed premises are in compliance with Construction Industries Licensing Act, and comply with the Occupational Health and Safety Act.

**Section 8. Business Registration**

Any person engaged in commercial cannabis activities must comply with the County's Business Registration Ordinance.

**Section 9. Cannabis Establishment Permit**

Subject to Sections 5 through 7 in this ordinance, any person seeking to operate a cannabis establishment in the County shall obtain a cannabis establishment permit under the following conditions:

- A. The permit shall be obtained from the County's Manager or designee.
- B. The application fee cost for the initial permit and the annual renewal fee shall be established by the Colfax County Commissioners. The annual renewal date shall be the anniversary date of when the permit was first obtained.
- C. The County Manager shall require the following information from the applicant:
  - (1) The name, address, and business organization of the applicant and location the applicant intends to transact business, as well as the specific business to be transacted.
  - (2) If the applicant is an individual, the residence address of the applicant as well as the applicant's birthdate and social security number.
  - (3) If the applicant is a partnership, the names, residence addresses, birthdates, and social security numbers of all partners.
  - (4) If the applicant is a Limited Liability Company, the state of organization, address of the resident agent in New Mexico sufficient for service of process, the name of the managing member

together with residence address, birthdate, and the name, residence address, birthdate and social security number of each member of the company.

(5) If the applicant is a corporation, the state of incorporation, the name and address of the registered agent in New Mexico sufficient for service of process, the name, residence, birthdate of each officer or director of the corporation.

(6) Prior to the issuance of a permit, any Limited Liability company or corporation shall provide a certificate of good standing.

(7) The applicant shall provide Federal and State tax identification numbers.

(8) The applicant shall provide proof of compliance with the County's ordinance including the Business Registration Ordinance.

D. Prior to issuance of a permit, the Code enforcement Officer or County Manager shall confirm compliance with distancing requirements as provided in this Ordinance (Location).

E. Prior to issuance of a permit, the cannabis establishment must also pass the County's Building Code inspection.

F. Prior to any issuance or annual renewal of a permit, the cannabis establishment shall be inspected by the County's Fire Marshall. The cannabis establishment shall comply with Chapter 38 (as it may be amended from time to time) of the National Fire Protection Association (NFPA) 1 Fire Code and pertinent County's Fire Protection Ordinance. Cannabis manufacturers, cannabis research laboratories, and cannabis testing laboratories shall receive semiannual inspections. All other cannabis establishments shall receive an annual inspection, at the discretion of the County's Fire Marshall.

G. A temporary permit may be issued for state licensing purposes pending completion of the fire and building inspections upon satisfactory evidence that all other conditions have been met for a permit. A final permit shall be issued upon completion of the fire and building inspections as attached hereto.

H. No permit shall be issued to a mobile, temporary or portable building.

I. No permit shall be issued to a drive-through cannabis establishment.

J. Failure to meet the conditions above will result in non-issuance of a permit.

K. If denial of an application for a new permit or renewal permit is deemed necessary by the County Manager, written notice of the decision shall be provided to the applicant.

L. Any person or entity denied a permit may, within ten (10) days of the receipt of notice of the denial, file an appeal with the Colfax County Commissioners. The Notice of Appeal shall be delivered to the County Manager and a hearing shall be scheduled within thirty (30) days of receipt of the Notice. The appeal shall be de novo and the burden of proof shall be on the applicant to establish entitlement to a permit. The Colfax County Commissioners shall make written

findings of fact and conclusions of law supporting its decision. Any further appeal shall be to the District Court, in accordance with NMSA 1978, Section 39-3-1.1 and Rule 1-074 NMRA.

M. Any person or entity denied a permit may apply to the Colfax County Commissioners for a variance from any portion of this Ordinance caused by unusual conditions not caused by the actions of the Applicant. In granting variances, the Commissioners may require such conditions as will substantially secure the objectives of this Ordinance and not adversely affect the health, safety, and general welfare of the public, if otherwise consistent with the general purpose and intent of this Ordinance and if not injurious or detrimental to the surrounding area. Each request for a variance shall be submitted in writing. Each request shall be considered at the same time as the application for the permit. The Commissioners shall make separate written findings of fact and conclusions of law on each requested variance. The decision and order shall be prepared, signed, and filed within a reasonable time following the public meeting at which the variance is considered.

N. Operation of a cannabis establishment without a permit is a violation of this Ordinance.

#### **Section 10. Liability and Indemnification**

A. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the County.

B. To the maximum extent permitted by law, the permittees under this section shall defend (with counsel acceptable to the county), indemnify and hold harmless the Colfax County, its Commissioners, and its respective officials, County Manager, officers, employees, representatives, agents and volunteers (hereafter collectively called County) from any liability damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, county attorney or staff time, expenses or costs (collectively called "action") against the County to attack, set aside, void or annul, any cannabis-related approvals and actions and comply with the conditions under which such permit is granted, if any. The County may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the County for its reasonable legal costs and attorneys' fees.

C. Within ten (10) calendar days of the service of the pleadings upon the county of any action as specified in Subsection B., above, the permittee shall execute a letter of agreement with the county, acceptable to the County Manager's office, which memorializes the above obligations. These obligations and the letter of agreement shall survive termination, extinguishment, or invalidation of the cannabis-related approval. Failure to timely execute the letter of agreement does not relieve the applicant of any of the obligations contained in this section or any other requirements or performance or operating standards that may be imposed by the County.

D. To the fullest extent permitted by law, the County shall not assume any liability whatsoever, with respect to approving any operational permit pursuant to this ordinance, or the operation of any retailer or retail cannabis establishment approved pursuant to this section.

E. Within ten (10) calendar days from the issuance of any types permit from the County, the permittees shall execute the indemnification agreement attached hereto as a specific pre-condition to obtain the permit from the County. If a permittee refuses to execute the indemnification agreement, it will result in non-issuance of a permit or revocation of the permit issued, and the permittee shall not have any rights to appeal this decision to the Colfax County Commission.

### **Section 11. Cannabis Consumption Prohibited on Public Property**

- A. Public property means any property owned or occupied by the County.
- B. The use, sale, cultivation, manufacture, production, storage or distribution of Cannabis or Cannabis products is prohibited on public property.
- C. No person shall smoke cannabis products in a public place, except in a cannabis consumption area, or on any County public property.
- D. No person shall smoke cannabis products in any place where the smoke is detectable from a public place or on public property

### **Section 12. Existing Medical Cannabis Establishments**

Any medical cannabis establishment existing as of the date of the passage of this Ordinance shall not be required to comply with the location requirements in this Ordinance. However, the owners of such businesses shall, within 90 days of the effective date of this Ordinance, submit an application for a permit.

### **Section 13. Enforcement**

- A. County Code Compliance Officer/County Manager, County Sheriff or its designee or the County's Fire Marshall or designee may issue citations for violation of this Ordinance. With the exception in this Ordinance, which is punishable by State law, any violation of this Ordinance may be enforced in any court of competent jurisdiction.
- B. The maximum penalty per violation shall be \$300. Each day during the time in which a violation occurs shall be deemed a separate violation. Nothing herein shall prevent County from seeking injunctive relief, if appropriate.
- C. Any person found guilty of violating any provision of this ordinance shall be found guilty of a misdemeanor and fined not more than three hundred dollars (\$300.00) or imprisoned for a period of not more than ninety (90) days, or both fine and imprisonment.
- D. Violations of this ordinance in addition to any other violation mandated under other pertinent County Ordinances or Code shall not limit any other allowed penalties. Any abatement procedures which may be taken by the County for any violation of this article shall be considered as a violation of County Ordinance. The Civil judgment or criminal conviction under this Ordinance or CRA shall not relieve such individuals or entities from their responsibility of correcting unlawful conditions, or removing unlawful structures or improvements under this Ordinance, and the County shall retain its authority to order any corrective actions related thereto.

E. The remedies provided in this Ordinance shall be cumulative and in addition to any federal, state, or local remedy, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable laws except as otherwise punishable by State law.

#### **Section 14. Personal Production of Cannabis; Penalties**

Subject to NMSA § 26-2C-27 and its subsequent changes:

A. Unless otherwise provided in the Cannabis Regulation Act, it is unlawful for a person without a license to intentionally produce cannabis products except as provided in this section.

B. A person twenty-one years of age or older who intentionally produces:

(1) more than six and up to twelve mature or immature cannabis plants shall be issued a penalty assessment pursuant to Section 31-19A-1 NMSA 1978 and is subject to a fine of fifty dollars (\$50.00); and

(2) more than twelve mature or immature cannabis plants is guilty of a fourth-degree felony and may be sentenced as provided in Section 31-18-15 NMSA 1978.

C. A person who is eighteen years of age or older but less than twenty-one years of age who intentionally produces:

(1) up to six mature or immature cannabis plants shall be issued a penalty assessment pursuant to Section 31-19A-1 NMSA 1978 and is subject to a fine of fifty dollars (\$50.00);

(2) more than six mature or immature cannabis plants and up to twelve mature or immature cannabis plants is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978; and

(3) more than twelve mature or immature cannabis plants is guilty of a fourth-degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. A person who is less than eighteen years of age who intentionally produces cannabis products is guilty of a civil violation and shall be subject to:

(1) attendance at a four-hour evidence-based drug education and legal rights program at no cost to the minor; or

(2) four hours of community service.

E. Indoor or outdoor cultivation of live cannabis plants is permitted within a single private residence, upon the grounds of a private residence, or inside an accessory structure located on the grounds of a private residence, to the extent such cultivation is authorized by NMSA 1978, § 26-2C-27 and is in strict compliance with the following requirements:

(1) Possessing, planting, cultivating, harvesting, drying, manufacturing cannabis products, or transporting not more than six mature cannabis plants and six immature cannabis plants per



person; provided that despite a household having multiple residents, no more than twelve mature cannabis plants may be present in one household; and provided further that if the person does not exceed the maximum number of cannabis plants, the person may possess the cannabis produced by the cannabis plants notwithstanding any weight limits and shall be stored in such a manner not to be visible from public view.

(2) Cannabis cultivation is permitted within a private residence and shall not be visible from the exterior of that residence. In addition, cannabis cultivation is permitted within a fully enclosed accessory structure within the rear or side yard of a private residence such as a greenhouse, shed, or similar. Cultivation areas must be secured by lock and key or other security devices which prevent unauthorized entry and shall not be visible from a public right-of-way.

(3) Open-air cannabis cultivation is permitted within the rear or side yard of a private residence, provided there is a minimum of a ten-foot setback. Cultivation areas must be secured by lock and key or other security devices which prevent unauthorized entry and shall not be visible from a public right-of-way.

(4) Obtaining or manufacturing cannabis extract using nonvolatile solvents, alcohol or carbon dioxide, or solvents is not permitted.

(5) Cannabis cultivation, including, but not limited to, any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in the Colfax County Ordinance as it currently exists or is amended from time to time.

(6) The dwelling unit shall remain at all times a residence.

(7) With legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. These rooms may not be used for cannabis cultivation where cultivation will prevent their primary use for cooking meals, sleeping, and bathing. Chemicals used for cannabis cultivation shall not be stored inside habitable areas of the residence or within public view from neighboring properties or public right-of-way.

(8) Consumption of cannabis, whether smoking, vaporizing, or ingesting, is permitted within or upon the grounds of a private residence pursuant to the Dee Johnson Clean Indoor Air Act.

(9) Cultivation of cannabis shall not violate any other provisions of the Colfax County Ordinance.

### **Section 15. Emergency Clause and Effective Date**

Because of the urgent need for regulation pursuant to this Ordinance, the Colfax County Commissioners declare that it is necessary for the public peace, health and safety that this Ordinance takes effect immediately after passage when it is recorded in the book kept by the Board for that purpose and authenticated by the signature of the County Clerk. In the event a court of competent jurisdiction finds that the passage of this Ordinance did not constitute an emergency,

then the effective date of this Ordinance shall be 30 days after this Ordinance is recorded with the County Clerk.

**Section 16. Providing for Severability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof

**Section 17. Applicability of other laws.** All cannabis uses are subject to all other applicable sections of the County’s ordinances and its policies.

**Section 18.** Due to the nature of the NMRCA’s continuing development of rules and regulations, the County Manager or his or her designee may implement all necessary and proper measures to comply with the NMCRA and its regulations including but not limited to fee adjustments.

**PASSED, ADOPTED AND APPROVED this \_\_\_ day of \_\_\_, 2024.**

**BOARD OF COMMISSIONERS OF  
COLFAX COUNTY, NEW MEXICO**

By \_\_\_\_\_  
Si Trujillo, Chairman

\_\_\_\_\_  
Mary Lou Kern, Vice Chair

\_\_\_\_\_  
Bret Wier, Member

ATTEST:

\_\_\_\_\_  
County Clerk, Rayetta Trujillo

\_\_\_\_\_  
County Manager, Monte Gore

DRAFT

<https://www.nafahq.org/cannabis-facilities-air-filtration-uv-c-air-disinfection-and-odor-removal/>

Cannabis facilities: air filtration, UV-C air disinfection and odor removal By Keith Jordan, Sanuvox Technologies, Inc.

Cannabis legalization has been a passionate topic over the last few years and is engulfing many countries and states. In the beginning of the legalization movement, many Cannabis growers were only concerned with a few items such as plant nutrients, pH water balance or the type of halogen grow lights recommended. Very little, if any, thought was imparted to indoor air quality. Slowly, over the last 5 years, Cannabis growers are realizing that Indoor air quality provides as much value as any other technique in the growing process. Growers understand there are a large number of contaminants that can damage and wipe out an entire crop, thus learning about proper indoor air quality is quickly gaining prominence.

Cannabis growers operate in three methods - outdoor grow similar to a farm, greenhouse similar to vegetables, and fully enclosed warehouse with Heating, Ventilation, and Air Conditioning system (HVAC). Outdoor growers harvest once a year, greenhouse growers harvest roughly 4 times a year and warehouse growers harvest 6-8 times a year. The top of the line, best quality and quickest harvests occur with a warehouse grower. NAFA members can engage the role of educating the grower on the best and most efficient method of removing particulates, disinfecting molds, fungus, bacteria, and mitigating pungent cannabis odors.

#### Filtration

The warehouse grower has anywhere from 100 to 10,000 plants inside a large room or multiple rooms which are full of dirt pots, 1000 watt growing lamps creating a massive heat load, circular fans on the walls stirring up dust, and high numbers of air changes per hour through the HVAC system. Operating indoors with the above opposing systems can rapidly increase the particulate load to that of dust storm. These opposing forces will continually increase the level of particulates as well as circulate those particulates around the room, through the HVAC system spreading contamination and dust virtually on every surface of the room. The current level of filtration for the majority of warehouse growers consists of a 1" MERV 8 pleated filter. Several reasons for this stem from utilizing 5 ton HVAC systems, choosing the cheapest filters, or a recommendation from an HVAC contractor.

The warehouse grower that has retrofitted a warehouse typically has multiple 5 ton AHU per room. The new facility built from the ground up typically has 15 to 25 ton AHU. Most growers are so concerned with overcoming the heat load of their grow lights and reducing humidification levels, that they are hesitant to increase filtration because of pressure drop. The HVAC contractor sizes the system to provide the grower with anywhere from 10 to 18 air changes per hour and does not educate the grower on the vast array of filtration efficiencies or sizes, thus why 1" MERV 8 pleats are the most common with Cannabis growers currently. This is a perfect situation where NAFA members can be of crucial benefit to growers in educating them that a higher efficiency filter will not necessarily affect the heating/cooling loads when sized properly and can lower life cycle costs of the filter as well as the AHU.

#### Powdery Mildew and Botrytis UV-C air disinfection

The warehouse Cannabis grower is especially susceptible to the infection of Powdery Mildew and Botrytis which infiltrate the facility and continually infect the Cannabis buds causing a stunting of growth, distortion of quality, a reduction of terpenes and degraded product that must be discarded or used for oil extraction.

Commercial UV-C Air disinfection systems are being utilized with success in preventing the outbreak and spread of Powdery Mildew and Botrytis as well as assisting in the grower consistently passing the state mold CFU tests required at each harvest. The UV-C system is sized based on cubic feet per minute (CFM) of the HVAC system, return or supply duct dimensions, cubic feet of the room to be disinfected and the number of air changes achieved on an hourly basis. An effective UV-C system should be designed to achieve an average of 95% hourly disinfection of Powdery Mildew utilizing a recirculation rate of 8 air changes per hour. This ensures that all the air in the room will be processed through the UV-C air disinfection system multiple times.

Currently, the most efficient and economical approach is to utilize the HVAC system as a point of disinfection. As mentioned above, most growers are attaining on average 10-18 air changes per hour. By installing a commercial UV-C Air Disinfection system in the return or supply HVAC ductwork the air can be disinfected at a high level due to the high air exchange rate.

Stand alone or portable UV-C systems can be utilized if they are sized to achieve 8 or more air changes per hour with high intensity UV-C air disinfection lamps. UV-C air disinfection is a complimentary system to filtration necessary to provide a synergistic punch to quickly reduce mold, bacteria and virus contaminants within the warehouse grower.

#### Odor removal

The growing of Cannabis produces a pungent and dense odor. Many think of a skunk when they smell the Cannabis odors. Inside the growing facility, the odor is accepted and anticipated.

However; outside near neighborhoods and offices, many find the odor to be offensive and bothersome. In fact, many cities are issuing regulations regarding odor control and enacting fines when odors are smelled and reported outside of the facility. This poses another costly issue for the warehouse grower when maintaining negative pressure. Depending on the regulations, growers choose between a closed loop/non-exhaust system or a negative pressure system, very few if any have positive pressure set ups. The main reason is to keep CO2 and odors inside the facility. Though, for the grower who actively exhausts indoor air, odor removal is mandatory, cumbersome and difficult.

Currently, can or tube carbon filters are most commonly used for the mitigation of the Cannabis odors. The majority of these filters are purchased through Cannabis growing supply stores (similar to garden stores). Due to the potency of the odor, removal of this odor requires a constant supply of can/tube filters or a commercial carbon filter set up. The commercial set up contains bulk fill carbon housings on the exhaust air which greatly increase the elimination of the cannabis odors being exhausted.

Lastly, it is important to understand these odor regulations are not consistent from state to state nor are always very clear. It is important when working with these facilities that you understand the regulations that have been imposed on this market.

#### Summary

As Cannabis legalization continues to progress throughout the world, it is extremely beneficial to NAFA members to reach out and educate Cannabis growers on proper indoor air quality.

Filtration, UV-C air disinfection, and odor mitigation will always be important topics for the Cannabis grower as they directly impact the growing space. NAFA is positioned as a leader and should enact recommendations and guidelines for indoor air quality within Cannabis industry. Currently, there are no

other organizations with the expertise of NAFA members poised to assist this progressive and expanding industry.

DRAFT

**COLFAX COUNTY CANNABIS PERMIT  
AUTHORIZATION LETTER**

**AUTHORIZATION**

Dear:

The County hereby provides the Permit to you.

Permit Number:

Term of the Permit

Name of the Business:

Address:

Phone Number:

\_\_\_\_\_

Date

\_\_\_\_\_

Authorized Agent from the Colfax County

## Indemnification Agreement

To the fullest extent permitted by law, the County of Colfax (County) shall not assume any liability whatsoever with respect to having issued a commercial cannabis business permit pursuant to Colfax County Cannabis Ordinance approving the operation of any commercial cannabis business or cannabis retail business.

In consideration for the submittal of an application for a commercial cannabis business permit application and/or issuance of a cannabis business permit, and to the furthest extent allowed by law, Applicant does hereby agree to indemnify, hold harmless and defend the County and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by County, Applicant or any other person, and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of the issuance of a cannabis business permit, the process used by the County in making its decision the alleged violation of any federal laws by the cannabis business or any of its officers, employees, or agents.

Applicant's obligations under the preceding sentence shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of County or any of its officers, officials, employees, agents or volunteers.

Applicant must, at the time of permit issuance, maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate from time to time by the County.

Applicant shall conduct all defense at his/her/its sole cost. The fact that insurance is obtained by Applicant shall not be deemed to release or diminish the liability of Applicant, including, without limitation, liability assumed under this Agreement.

The duty to indemnify shall apply to all claims regardless of whether any insurance policies are applicable. The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend exists regardless of any ultimate liability of Applicant. The policy limits do not act as a limitation upon the amount of defense and/or indemnification to be provided by Applicant. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Applicant, its officials, officers, employees, agents, volunteers or invitees.

County shall be reimbursed for all costs and expenses, including but not limited to legal fees and costs and court costs, which the County may be required to pay as a result of any legal challenge related to the county's approval of the applicant's commercial cannabis business permit. The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

This Indemnification and Hold Harmless Agreement shall survive the expiration or termination of the Application and/or Permit.

The undersigned acknowledges that he/she (i) has read and fully understands the content of this Indemnification and Hold Harmless Agreement; (ii) is aware that this is a contract between the County and Applicant; (iii) has had the opportunity to consult with his/her attorney, in his/her discretion; (iv) is



fully aware of the legal consequences of signing this document; and (v) is the Applicant or his/her/its authorized signatory.

\_\_\_\_\_

Applicant Signature

Applicant Signature

DRAFT



# **AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

This Agreement is by and between **Colfax County, New Mexico** (“Owner”) Rocky Road Gravel and Well Drilling Services, LLC (“Contractor”).

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

## **ARTICLE 1—WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Chicorica Creek Low Water Crossing

## **ARTICLE 2—THE PROJECT**

2.01 The Project, of which the Work under the Contract Documents may be the whole or only is a part, is generally described as follows:

Chicorica Creek Low Water Crossing

## **ARTICLE 3—ENGINEER**

3.01 The Engineer is Molzen-Corbin & Associates, Inc. (Engineer), which is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

## **ARTICLE 4—CONTRACT TIMES**

4.01 *Time is of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days*

A. The Work will be substantially complete within **30** days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **seven (7)** days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration

proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. *Substantial Completion*: Contractor shall pay Owner \$500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
  2. *Completion of Remaining Work*: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500.00 for each day that expires after such time until the Work is completed and ready for final payment.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

#### 4.04 *Special Damages*

- A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

### ARTICLE 5—CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

- A. For all Work, at the prices stated in Contractor's Bid.

**One Hundred and Seventy Seven Thousand Two Hundred Dollars (\$177,200.00).**

### ARTICLE 6—PAYMENT PROCEDURES

#### 6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the **15th** day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

- A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest – Not Applicable*

**ARTICLE 7—CONTRACT DOCUMENTS**

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
1. This Agreement.
  2. Bonds:
    - a. Performance Bond (together with Power of Attorney).
    - b. Payment Bond (together with Power of Attorney).
  3. General Conditions.
  4. Supplementary Conditions.
  5. Specifications as listed in the table of contents of the project manual (copy of list attached).
  6. Drawings (not attached but incorporated by reference) consisting of **three (3)** sheets with each sheet bearing the following general title: **Blosser Gap Bridge, November 2023**.
  7. Drawings listed on the attached sheet index.
  8. Addenda (None).
  9. Exhibits to this Agreement (enumerated as follows):
    - a. Payment Bond, Performance Bond, Proofs of Insurance.
    - b. Contractor's Bid.
    - c. Contractor's Qualifications Statement.
    - d. Contractor's Subcontractor List.

- e. Contractor's Equipment Supplier's List.
  - f. Documentation Submitted by Contractor Prior to Notice of Award.
  - g. Addenda: None
10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
- a. Notice to Proceed.
  - b. Work Change Directives.
  - c. Change Orders.
  - d. Field Orders.
  - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

## **ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS**

### **8.01 Contractor's Representations**

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
  - 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  - 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
  - 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the Drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and Drawings.
  - 5. Contractor has carefully studied the reports and Drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and Drawings.
  - 6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical

Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

#### 8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the Bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the Bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid Prices at artificial, non-competitive levels; and
  4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the Bidding process or affect the execution of the Contract.

#### 8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has

furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on \_\_\_\_\_ (which is the Effective Date of the Contract).

Owner:

Colfax County

\_\_\_\_\_  
*(typed or printed name of organization)*

By:

\_\_\_\_\_  
*(individual's signature)*

Date:

\_\_\_\_\_  
*(date signed)*

Name:

\_\_\_\_\_  
*(typed or printed)*

Title:

\_\_\_\_\_  
*(typed or printed)*

Attest:

\_\_\_\_\_  
*(individual's signature)*

Title:

\_\_\_\_\_  
*(typed or printed)*

Address for giving notices:  
\_\_\_\_\_  
\_\_\_\_\_

Designated Representative:

Name:

\_\_\_\_\_  
*(typed or printed)*

Title:

\_\_\_\_\_  
*(typed or printed)*

Address:  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

*(If [Type of Entity] is a corporation, attach evidence of authority to sign. If [Type of Entity] is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)*

Contractor:

Rocky Road Gravel and Well Drilling Services, LLC

\_\_\_\_\_  
*(typed or printed name of organization)*

By:

\_\_\_\_\_  
*(individual's signature)*

Date:

\_\_\_\_\_  
*(date signed)*

Name:

\_\_\_\_\_  
*(typed or printed)*

Title:

\_\_\_\_\_  
*(typed or printed)*

*(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)*

Attest:

\_\_\_\_\_  
*(individual's signature)*

Title:

\_\_\_\_\_  
*(typed or printed)*

Address for giving notices:  
\_\_\_\_\_  
\_\_\_\_\_

Designated Representative:

Name:

\_\_\_\_\_  
*(typed or printed)*

Title:

\_\_\_\_\_  
*(typed or printed)*

Address:  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

License No.: \_\_\_\_\_

*(where applicable)*

State: \_\_\_\_\_



## MEMORANDUM OF AGREEMENT (MOA)

THIS AGREEMENT is entered into between the Colfax County and Raton Pickleball, Collectively the County and Raton Pickleball may be referred to as “the Parties,” and individually each may be referred to as a “Party.”

### 1. Purpose.

- a. The purpose of this agreement is to authorize each entity to provide resources and capabilities to each other for the purpose of benefitting the citizens of Colfax County.

### 2. Term.

This MOA shall commence upon approval from both parties and shall be in effect for one (1) year or until both parties withdraw this MOA. The Agreement may be renewed annually by obtaining written agreement by both parties subject to the County’s sole discretion and review in January each year.

### 3. Premises.

The County agrees to use the portion of the Property located at Colfax County Event Center located at 175 Highway 555, Raton, New Mexico 87740) (“Premises”) to the Raton Pickleball for the purpose of usages specified as follows:

The Premises shall only be used by the Raton Pickleball for pickleball play while the Raton Pickleball continue to promote and teach the citizens of Colfax County pickleball and Raton Pickleball strive to tout all the benefits that come with it. Raton Pickleball will seek new citizens to play (through social media, word of mouth and KRTN) and continue to give them the run down and teach them pickleball by volunteering their time to do so. The relevant dates starting from December 1, 2023 shall be provided to the County Manager.

In consideration of using the Premises, the Raton Pickleball shall provide in-kind services to the County. Raton Pickleball shall provide the attached detailed plan and actual time spent for benefitting citizens as attached Exhibit 1. The proposed plan shall provide at least for fair market value of leasing the Premises to avoid anti-donation issues. This improvement plan shall be subject to the approval from the County Manager and if the Raton Pickleball’s proposal does not meet the fair market value of leasing Premises, this Agreement shall be terminated by the County.

### 4. Raton Pickleball agrees to the following:

- a. Raton Pickleball and its members and guests shall comply with the Colfax County ordinances and New Mexico state laws;
- b. Raton Pickleball may provide advertisement for the following to the public; Days and time of the events; and signs and posts about the event;
- c. Raton Pickleball shall submit the annual event dates for each event prior to the second week of each January if practicable. These designated dates will be

- calendared by the parties. If any event date needs to be changed to another date, then that change must have the approval from the County;
- d. Raton Pickleball shall be responsible for any damages done to the Premises for the period of the events in this Agreement and shall agree to pay costs of repairs or replacement assessed by the County. Any assessment fees by the County shall be paid by Raton Pickleball within five (5) days of the receipt of the County's notice of assessment;
  - e. Raton Pickleball agrees to maintain the Premises in good condition and shall not permit any Hazardous Materials from being transported to or from, or release upon or from Premises, with respect to air, soil, surface water or groundwater as applicable under any pertinent federal, state and the County's environmental statutes, ordinances, rules, notice regulations, standards and permits;
  - f. Raton Pickleball shall be responsible for all trash removal from the Premises after each event and it shall also be responsible for providing necessary staffs to successfully perform each event. No one will be allowed in the Colfax County Event Center Jim Young Arena or Harrelson Pavilion after it has been secured or after stated times of use;
  - g. No illegal drugs will be allowed on the Colfax County Event Center grounds for any reason. All production, sale, distribution, and consumption of alcohol must be in accordance with Colfax County guidelines, State Laws, Federal Laws and all Liquor Licensing/Alcohol Serving Licensure. Alcohol must be dispensed by an establishment licensed to dispense alcoholic beverages within stated restricted area. Security will be required for the sale and distribution of alcohol for any event or for use of the Colfax County Event Center grounds. No other alcohol will be allowed on the premises for any reason;
  - h. However, Colfax County reserves the right to revoke this agreement at any time, for any reason or for no reason;
  - i. Raton Pickleball has reviewed and agrees to comply with and abide by the guidelines set forth in this contract and each person listed as Raton Pickleball members. Raton Pickleball will cause all of its visitors, guests and invitees to review and to comply with and abide by the same guidelines when entering the property. Raton Pickleball Users shall not do or permit anything to be done in or about the Colfax County Event Center grounds which will in any way obstruct or interfere with the rights of neighboring properties;
  - j. Raton Pickleball will supervise underage children and not allow underage children to be in prohibited places as stated in this contract;
  - k. No alterations or improvements may be done to Colfax County Event Center grounds unless approved by the Board of County Commissioners;
  - l. Colfax County will not be liable for any damages to Raton Pickleball personal property or for any accidents incurred on the Colfax County Event Center grounds; and
  - m. Colfax County is implementing Stage 1 fire restrictions for the Colfax County Event Center grounds, to reduce the risk of human-caused wildfire during consistent drought conditions, historically low fuel moisture levels and severe fire weather conditions.

5. Equity in Value of Capabilities and Assets Exchanged.

- a. Both parties will strive to ensure an equitable exchange of similar value over the course of each calendar year. The County and Raton Pickleball will meet every six months to go over.

6. Maintenance.

- a. Both entities are responsible for returning any facilities or materials in the same state in which they were issued.

7. Termination.

- a. This agreement may be terminated by any of the parties by thirty (30) day written notice. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

8. Liability.

No party shall be responsible for liability incurred as a result of the other party's act or omissions in connection with this agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, section 41-4-1 et. seq., NMSA 1978, as amended. Each Party will be responsible for any and all claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from its own actions or omissions or any actions or omissions of its officers, employees, and agents in connection with the subject matter of this MOA or any amendment hereto. Neither party shall be liable for any claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from the action of the other, its officers, employees, or agents. Nothing in this Section or any other provision of this MOA or any Addendum shall be construed as a waiver of the notice requirements, defenses, immunities and limitations County may have under the New Mexico Tort Claims Act (NMSA 1978 §§ 41-4-1 et. seq., as amended), or any other defenses, immunities or limitations of liability available to the County by law. Both parties agree to hold each other harmless from and against loss, damage, injury, and liability arising directly or indirectly from the negligent actions or omissions of the other and each party is responsible for its own actions under this MOA.

9. Merger; Amendment.

This MOA represents the entire agreement between the parties with respect to the matters addressed herein, and all prior agreements, covenants, and agreements between the parties concerning the same have been merged into this written MOA. This MOA shall not be altered, modified, changed, or amended except by a written instrument executed by the parties.

10. Authority.

The individuals signing this MOA represent and warrant that they have the power and authority to bind the representative parties and that no further action, resolution or approval is necessary to enter into a binding contract provided that the MOA shall be contingent upon adoption by the County Commission.

11. Indemnification.

Raton Pickleball shall defend, indemnify and hold harmless the 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 Raton Pickleball, its officers, employees, or its vendors or agents, or if caused by the actions of any client of Raton Pickleball resulting in injury or damage to persons or property during the time when the Raton Pickleball or any officer, agent, its vendors, or 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 Raton Pickleball or any officer, agent, vendors, or employee, under this Agreement is brought against the Raton Pickleball, the Raton Pickleball shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the County.

12. 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.

13. 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.

14. 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: Raton Pickleball

To: Monte K. Gore, Colfax County Manager  
230 North Third Street  
Raton, NM 87740  
Ph 575-445-9661 Office  
Ph 575-643-8000 Cell  
[mgore@co.colfax.nm.us](mailto:mgore@co.colfax.nm.us)

15. Jurisdiction.

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 New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Raton Pickleball acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico (Colfax County) over any and all lawsuits arising under or out of any term of this Agreement.

16. Effective date:

The parties hereby stipulate the effective day shall be December 1, 2023 because this is a pure procedural and remedial measure. See *Winfrey v. Northern Pacific Railway Co.*, 227 U.S. 296, 33 S.Ct. 273, 57 L.Ed. 518; *Strategical Demolition Torpedo Co. v. United States*, 110 F. Supp. 264, 266 (Ct. Cl. 1953)).

IN WITNESS, WHEREOF, the undersigned Raton Pickleball and Colfax County, have caused this Agreement to be executed by their respective officers.

BY: \_\_\_\_\_  
Raton Pickleball \_\_\_\_\_ Date

BY: \_\_\_\_\_  
Colfax County \_\_\_\_\_  
Chairman, Honorable  
Si Trujillo \_\_\_\_\_ Date

## Exhibit 1

Raton Pickleball's in-kind services to the County subject to amendment

**1. Time spent to teach and promote citizens for Raton Pickleball:**

\_\_\_ Persons multiplied by \_\_\_ Hours (minimum wage, **\$12 per hour**, or prevailing wage) equals \_\_\_\_\_ \$

**2. Time spent to advertisement for the events:**

\_\_\_ Persons multiplied by \_\_\_ Hours (minimum wage or prevailing wage) equals \_\_\_\_\_ \$ \_\_\_\_\_

**3. Time spent to clean up the Premises including garbage disposal**

\_\_\_ Persons multiplied by \_\_\_ Hours (minimum wage or prevailing wage) equals \_\_\_\_\_ \$ \_\_\_\_\_

Estimated costs to clean the Premises by purchasing garbage bags and clean-up products for the events \_\_\_\_\_ (Receipts will be provided to the County).

**4. Any additional time spent to comply with the Agreement**

\_\_\_ Persons multiplied by \_\_\_ Hours (minimum wage, \$12 per hour, or prevailing wage) equals \_\_\_\_\_ \$ \_\_\_\_\_

Raton Pickleball shall provide the receipts or confirmation to comply with its detailed in-kind services to the County within 60 days after each event occurs.

**MEMORANDUM OF AGREEMENT  
BETWEEN THE COUNTY OF COLFAX  
AND  
THE GREATER RATON ECONOMIC DEVELOPMENT  
CORPORATION DOING BUSINESS AS GROWRATON**

**I. Parties**

This memorandum of agreement (hereinafter "MOA") constitutes a mutual agreement between the County of Colfax, New Mexico (hereinafter "the County") and the Greater Raton Economic Development Corporation (hereinafter "GrowRaton" or "Service provider").

**II. Purpose**

**A. Intent**

It is the intent and purpose of this MOA to define and clarify the responsibilities of the Parties involved regarding economic development efforts as it relates to the County of Colfax. This MOA supersedes and revokes all previous agreements between the County and GrowRaton.

**B. Term**

The term of this MOA shall commence on ~~July 1, 2023~~ January 9, 2024 and shall terminate on ~~January 8, 2025~~ June 30, 2024.

**III. Agreement of the Parties**

**A. The County hereby agrees to:**

1. Recognize GrowRaton as an economic development organization working in collaboration with the County.
2. Collaborate with GrowRaton whenever possible in seeking out potential business opportunities for location in the County of Colfax.
3. Designate the County Manager (or his designee), in concert with the County Commission, as the sole contact within the County government to work with on all matters related to this MOA.
4. Upon submission of an invoice and with budgetary approval of the County of Colfax Commission, make payment of \$25,000 to GrowRaton to provide economic development services.

**B. GrowRaton hereby agrees to:**

1. Maintain and staff the GrowRaton office to execute the activities proposed by GrowRaton, seek additional funding opportunities as available and facilitate outreach activities.

2. Provide community services generally described as strategic and business planning, business technical assistance, education and training, and business forum and group discussions.
3. Participate in the North Central New Mexico Economic Development District, Inc dba NCNMEDD, the three-County Raton Basin economic development organizations for the Raton Basin and represent the County in other regional, state, and international economic development organizations.
4. Collaborate with the County Manger and all other interested parties, to respond to Potential Relocation Opportunities (PROs) from the NM Partnership which may be suitable for the County of Colfax.
5. Organize and conduct annual entrepreneur workshops generally consisting of six classes over a three-week period.
6. Host an annual business networking event commonly referred to as the After-Hours Business Owners Mixer, representing businesses and public agencies.
7. Maintain and update an available commercial and vacant real property inventory on the GrowRaton website.
8. Produce and distribute the GrowRaton newsletter to the business community and other interested parties.
9. Maintain and update the GrowRaton website, promoting economic development.
10. Conduct recruitment activities through participation at ED trade shows.
11. Continue deploying recruitment videos via multichannel marketing.
12. Maintain EDO certification through the State of New Mexico.
13. Maintain its 501(c)(3) status with the Internal Revenue Service.
14. Designate its President as the sole contact within GrowRaton to work on all matters related to this MOA except as staff personnel is authorized by the GrowRaton Board.
15. Expend all funds under this MOA in a manner directly enhancing and promoting economic development (ED) in the Colfax community. Funds may be applied to costs related to ED operations, including salaries and employment related expenses, business support, office expenses, travel expenses, equipment and required financial reporting expenses.
16. GrowRaton shall maintain complete and accurate financial records of each expenditure of all funds under this MOA, with supporting invoices. GrowRaton shall submit financial reports to the County on the fifteenth day after the close of each quarter beginning with the fourth quarter of GrowRaton's fiscal year. Financial report shall typically consist of a document of revenue and



expenses and general ledger detail of payments issued. GrowRaton agrees to maintain complete accurate financial records of each expenditure and, on request by the County, shall make records available for inspection.

Additionally, GrowRaton shall present an annual summary of activities to the COUNTY COMMISSION by the end of the County's fiscal year, or other times as requested. In addition, GrowRaton shall provide the detailed performance report as attached Exhibit 1 as quarterly basis. The quarterly performance report shall provide at least for fair market value of \$25,000 per year to avoid anti-donation issues. This performance report shall be subject to the approval from the County Manager and if the performance report does not meet the fair market value of money rendered by the County, this Agreement shall be terminated by the County.

17. GrowRaton further agrees to indemnify and hold County and its commissioners, other elected officials, County Manager, employees, agents, attorneys, successors and assigns harmless from any and all claims, suits, causes of action, damages, costs and expenses, including, but not by way of limitation, expenses of litigation, witness fees, court costs and attorney fees, incurred, arising, or in any way resulting from GrowRaton's activities or actions or with respect to his actions or omissions whether such activities, actions or omissions shall be within or outside of the scope of duties. This indemnity shall survive the termination of the contract for any reason.

#### IV. Relation of Parties

GrowRaton represents that it is skilled in the economic development matters addressed in this Agreement and is performing independent functions and responsibilities within its field of expertise. GrowRaton and its personnel are independent contractor (Service providers) and not employees of the County. GrowRaton and its personnel have no authority to bind the County or to control the County's employees and other contractors. None of the benefits provided by the County to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the County to the employees, agents, representatives, or sub-contractors of GrowRaton. GrowRaton will be solely and entirely responsible for its acts and for the acts of GrowRaton's agents, employees, representatives, and sub-consultants during the performance of this Agreement. The County may, during the term of this Agreement, engage other independent contractors to perform the same or similar work. As an independent contractor, GrowRaton is responsible for its own management. The County's administration and enforcement of this agreement shall not be deemed an exercise of managerial control over GrowRaton or its personnel. As an independent contractor, GrowRaton is responsible for payment of all applicable taxes and fees necessary to perform its obligations under this Agreement.

#### V. Limitations

It is mutually agreed and understood between the parties that:

##### A. Modifications.

Modifications to this agreement shall only be made with mutual consent of both parties, in writing, signed and dated prior to any changes becoming effective.

B. Terminations.

Subject to conditions as set forth hereinunder, this Agreement may be terminated by either party for convenience upon thirty (30) days written notice to the other party, or for cause if either party fails substantially to perform through no fault of the other and does not commence correction within five (5) days of written notice and diligently completes the correction thereafter. Upon such termination, the County will be entitled to reports showing the status of all services GrowRaton is providing to the County as of the effective date of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the GrowRaton when it became unable to perform the services contracted for, as determined by Colfax County or if, during the term of this Agreement, GrowRaton 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 GrowRaton's DEFAULT/BREACH OF THIS AGREEMENT.

Immediately upon receipt by either Colfax County or GrowRaton of notice of termination of this Agreement, GrowRaton 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.

C. Assignment.

This MOA shall not be assignable except at written consent of the parties hereto, and if so assigned, shall extend to and be binding upon the successors and assigns of the parties hereto.

D. Records and Financial Audit.

GrowRaton shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during GrowRaton's term and effect and retain them for a period of seven (7) years from the date of final payment under this MOA. The records shall be subject to inspection by Colfax County, the Department of Finance and Administration and the State Auditor.

E. Subcontracting.

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

F. Conflict of Interest; Governmental Conduct Act.

The GrowRaton 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.

The GrowRaton 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.

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.

G. Equal Opportunity Compliance.

The GrowRaton agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the GrowRaton 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.

H. 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 in the state district court located within Colfax County. Prior to any action for recovery of any disputes and or termination of the Agreement, both Parties shall engage in a meeting to address the matters in good faith. However, if the parties cannot resolve issues in their meeting, any dispute arising out of these provisions of this Agreement shall be mediated between the parties within thirty (30) days of the giving of the notice of the dispute, in Colfax County, New Mexico with a mediator mutually agreeable to the parties, or, in the absence of such agreement, a mediator appointed by a judge of the District Court of Colfax County.

I. Insurance.

The GrowRaton 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 received the certificate of insurance from the GrowRaton which has been included in this Agreement as Exhibit 2. The County requires a copy of a certificate of insurance or other evidence, satisfactory to the County, of the GrowRaton'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, GrowRaton 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 GrowRaton 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.

If applicable, the GrowRaton shall secure, maintain and provide verification of all necessary Worker's Compensation insurance as may be required by law to provide coverage for the GrowRaton's employees hereunder, and the parties acknowledge that the Worker's compensation states do not create a right of subrogation and GrowRaton 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.

J. 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.

K. 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.

L. 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:

Monte K. Gore, Colfax County Manager  
FBI NA 246  
230 North Third Street  
Raton, NM 87740  
Ph 575-445-9661 Office  
Ph 575-643-8000 Cell  
[mgore@co.colfax.nm.us](mailto:mgore@co.colfax.nm.us)

Brandy C. Dietz, President  
Greater Raton economic Development Corporation  
PO Box 1753, Raton, NM 87740  
[president@growraton.org](mailto:president@growraton.org)

Field Code Changed

~~M. Effective date.~~

~~The parties hereby stipulate the effective day shall be July 1, 2023, because this is a pure procedural and remedial measure. See Winfree v. Northern Pacific Railway Co., 227 U.S. 296, 33 S.Ct. 273, 57 L.Ed. 518; Strategical Demolition Torpedo Co. v. United States, 110 F. Supp. 264, 266 (Ct. Cl. 1953)).~~

Formatted: Polish

VI. Approvals by Parties

- a. During its meeting on \_\_\_\_\_, 202~~4~~<sup>3</sup> the Board of Directors of the Greater Raton Economic Development Corporation approved this agreement.
- b. During its meeting on \_\_\_\_\_, 202~~4~~<sup>3</sup> the County of Colfax Commission approved this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Agreement.

**For the County of Colfax**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Si Trujillo  
Chairman - Colfax County Commission

**For the Greater Raton Economic Development Corporation**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Brandy C. Dietz, President  
Greater Raton economic Development Corporation

## Exhibit 1

The GrowRaton's Quarterly Performance Report to the County subject to amendment

### A. Time spent for required scope of work stated in Paragraph III of this MOA.

1. Maintain and staff the GrowRaton office to execute the activities proposed by GrowRaton, seek additional funding opportunities as available and facilitate outreach activities.
2. Provide community services generally described as strategic and business planning, business technical assistance, education and training, and business forum and group discussions.
3. Participate in the North Central New Mexico Economic Development District, Inc dba NCNMEDD, the three-County Raton Basin economic development organizations for the Raton Basin and represent the County in other regional, state, and international economic development organizations.
4. Collaborate with the County Manger and all other interested parties, to respond to Potential Relocation Opportunities (PROs) from the NM Partnership which may be suitable for the County of Colfax.
5. Organize and conduct annual entrepreneur workshops generally consisting of six classes over a three-week period.
6. Host an annual business networking event commonly referred to as the After-Hours Business Owners Mixer, representing businesses and public agencies.
7. Maintain and update an available commercial and vacant real property inventory on the GrowRaton website.
8. Produce and distribute the GrowRaton newsletter to the business community and other interested parties.
9. Maintain and update the GrowRaton website, promoting economic development.
10. Conduct recruitment activities through participation at ED trade shows.
11. Continue deploying recruitment videos via multichannel marketing.
12. Maintain EDO certification through the State of New Mexico.
13. Maintain its 501(c)(3) status with the Internal Revenue Service

\_\_\_ Persons multiplied by \_\_\_ Hours (minimum wage, **\$12 per hour**, or prevailing wage)  
equals \_\_\_\_\_ \$

**In Kind Services**

Please also describe specific public benefits conferred by the above scope of the work such as how many citizens were participated in or will be benefitted.

**B. Costs to obtain insurance or any out-of-pocket expenses to cover for the works described in this Agreement.**

\$ \_\_\_\_\_ (Proof of insurance and receipts shall be provided to the County)  
\$ \_\_\_\_\_ (itemized receipts corresponding to the scope of the work described in the MOA)

**C. Any additional time spent to comply with the Agreement.**

\_\_\_ Persons multiplied by \_\_\_ Hours (minimum wage, \$12 per hour, or prevailing wage)  
equals \_\_\_\_\_ \$ \_\_\_\_\_

\$ \_\_\_\_\_ Itemized expenses and receipts related to the scope of the work described in the MOA


**D. In Kind Services**

Please also describe specific public benefits conferred by the above scope of the work such as how many citizens were participated in or will be benefitted.

GrowRaton shall provide the receipts or confirmation to comply with its detailed in-kind services to the County.

Exhibit 2

INSURANCE:



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY):  
11/08/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

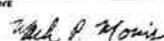
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. IF SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsements(s).

<b>PRODUCER</b> Park Avenue Insurance P.O. Box 459 Raton, NM 87740	<b>CONTACT NAME</b> Mark P Morris <b>PHONE</b> (875) 842-2766 <b>FAX</b> (875) 842-3871 <b>EMAIL ADDRESS</b> mark@parkave.com <b>WEBSITE</b> www.parkave.com	
<b>INSURED</b> Grow Raton PO Box 1753 Raton, NM 87740	<b>INSURER A</b> Liberty Mutual - American Fire and Casualty <b>INSURER B</b> NM Mutual Indemnity Casualty <b>INSURER C</b> <b>INSURER D</b> <b>INSURER E</b>	<b>RELATIONSHIP AND ENDORSEMENTS</b> NONE

**COVERAGES**      **CERTIFICATE NUMBER:** C231100024      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE	TYPE OF INSURANCE	ISS. DTD	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)	LIMITS	
A	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUP		BZA58841C69	12/08/2023	12/08/2024	<input type="checkbox"/> BODILY INJURY \$ 1,000,000 <input type="checkbox"/> PROPERTY DAMAGE \$ 1,000,000 <input type="checkbox"/> MEDICAL EXPENSE \$ 15,000	
						<input type="checkbox"/> PERSONAL & AD. LIABILITY \$ <input type="checkbox"/> GENERAL AGGREGATE \$ 2,000,000 <input type="checkbox"/> PRODUCTS, COMMOD. \$ 2,000,000	
	<input type="checkbox"/> AUTO/BIKE LIABILITY <input type="checkbox"/> AUTO/BIKE LIABILITY <input type="checkbox"/> AUTO/BIKE LIABILITY <input type="checkbox"/> AUTO/BIKE LIABILITY <input type="checkbox"/> AUTO/BIKE LIABILITY						
							<input type="checkbox"/> COMMERCIAL AUTO LIABILITY <input type="checkbox"/> AUTO/BIKE LIABILITY <input type="checkbox"/> AUTO/BIKE LIABILITY <input type="checkbox"/> AUTO/BIKE LIABILITY <input type="checkbox"/> AUTO/BIKE LIABILITY
	<input type="checkbox"/> UMBRELLA LIAB. <input type="checkbox"/> EXCESS LIAB.						
							<input type="checkbox"/> EACH OCCURRENCE \$ <input type="checkbox"/> AGGREGATE \$
	B	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS LIABILITY <input type="checkbox"/> ANY OCCURRENCE/RETROACTIVE <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> EMPLOYER/EMPLOYEE		D1C1095101	02/08/2023	02/08/2024	<input type="checkbox"/> BODILY INJURY \$ 100,000 <input type="checkbox"/> PROPERTY DAMAGE \$ 100,000 <input type="checkbox"/> MEDICAL EXPENSE \$ 500,000
							<input type="checkbox"/> BODILY INJURY \$ <input type="checkbox"/> PROPERTY DAMAGE \$ <input type="checkbox"/> MEDICAL EXPENSE \$
							<input type="checkbox"/> BODILY INJURY \$ <input type="checkbox"/> PROPERTY DAMAGE \$ <input type="checkbox"/> MEDICAL EXPENSE \$
	DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks, if applicable, may be attached if more space is required)						

<b>CERTIFICATE HOLDER</b> Colfax County PO Box 9 Raton, NM 87740	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
---	---

**THE MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF COLFAX  
AND  
CITY OF SPRINGER**

**THIS AGREEMENT** is entered into by and between City of Springer, hereinafter referred to as "Municipality" and **Colfax County**, hereinafter referred to as the "County" and collectively referred to as "the Parties".

**WHEREAS** The County entered into that certain contract with the Board of Trustees of the Miners' Hospital to affect the Consolidation of the Miners' Hospital and Northern Colfax County Hospital on August 20, 1986 ("Consolidation Contract"). Pursuant to the Consolidation Contract, a certain escrow agreement was entered into between the Board of Trustees of the Miners' Hospital of New Mexico, Colfax County and International State Bank (the "Escrow Bank") on December, 1, 1986. (the "Escrow Agreement"); and

**WHEREAS** Paragraph 4 (B) of the Escrow Agreement provides for the establishment of the Colfax County Permanent Health Care Fund ("Permanent Fund"); and

**WHEREAS**, Pursuant to paragraph 4 (B) of the Escrow Agreement, the County may use subsequent earnings from the Permanent Fund for any lawful healthcare purpose as determined by the County; and

**WHEREAS** the County has determined that disbursement of \$40,000 in subsequent earning from the Permanent Fund to the shall constitute a lawful healthcare purpose; and

**WHEREAS** Municipality agrees to use the Fund for a lawful healthcare purpose per Consolidated Contract; and

**NOW THEREFORE**, in consideration of the promises and mutual obligations herein, the parties hereto mutually agree as follows:

**1. Funding**

The County pledges and agrees to provide the Municipality in the form of check in an amount not to exceed Forty Thousand Dollars (\$40,000.00) ("Funds"). The Funds will be paid in U.S. Dollars as provided for in the Funding Payout Schedule below.

**2. Use of Funding**

The Funding is to be used only for the health care purposes and in accordance with the specific allocations identified in this MOU. The Municipality must obtain prior written consent of the County for goods or services outside the Scope of Work incorporated here as Exhibit A.



Municipality's failure to comply with this provision constitutes a breach of this MOU and precludes County's obligation to pay any invoices for such goods or services from the Funding.

### **3. Term.**

(a) The Funding term will begin as of the Effective Date at which time this agreement become effective as of signature by both parties.

(b) This MOU may be terminated at any time prior to its Expiration Date as follows:

(i) By either the County or the Municipality without cause by giving the other party sixty (60) days prior written notice; or

(ii) Immediately by a non-breaching party following a material breach of this MOU by the breaching party and upon the expiration of a ten (10) day "cure" period following notice of breach by the non-breaching party to the breaching party;

(c) If the MOU is terminated by either party for any reason, the County will have no further obligation to make any payments to the Municipality, except for work already completed but not yet paid for prior to termination; provided, that (i) such work is within the Scope of Work or (ii) if such work is beyond the Scope of Work, the prior written consent of the County was previously been obtained.

### **4. Municipality**

(a) The Municipality shall administer all aspects of this MOU including, without limitation, payment of any invoices, managing and overseeing the performance of Municipality under the MOU, and monitoring the Municipality adherence to its duties, obligations and responsibilities thereunder, including appropriate insurance.

(b) The Municipality shall bear payments for their staffs designated for this MOU including their salary, mileages and other related expenses. This agreement does not create an agent relationship between the County and Municipality.

### **5. Conditions of Disbursement of the Fund.**

(a) Disbursements of Funds shall be subject to the fulfillment of the following conditions:

(i) Receipt by the Fund of a countersigned copy of this MOU, which includes Scope of Work and the County's Budget.

(ii) Timely receipt of all reports as detailed in the Exhibit B ("Reporting").

(ii) Satisfactory performance of this MOU in accordance with the Scope of Work.

**6. Funding Payout Schedule:**

- (i) 80% of funds (\$32,000) will be paid upon execution of MOU.
- (ii) Final 20% (\$8,000) of funds will be paid upon the satisfactory submission of final deliverables as defined in the Scope of Work.

**6. Payment of Funds**

Pursuant to the Funding Payout Schedule, the County will deliver a check for each scheduled payment to the Municipality at the address provided below.

**7. Covenants.**

During the term of this MOU, the Municipality shall adhere to the terms and conditions established herein and those outlined in the Scope of Work in Exhibit A. Failure to adhere to any of these conditions constitutes a default and may require that the Municipality return part or all of the Funds to the County and the preclusion of any obligation on the part of the County to pay subsequent invoices submitted after such default. In such a case, the County will determine in its sole and absolute discretion the percentage of Funds Municipality to be returned. Cessation or reclamation of Funds by the County may also result in the Municipality's elimination from consideration from future use of Funds in any other form. In the event that the County terminates this MOU as provided herein, the Municipality shall return the Funds to the County within sixty (60) days from termination.

During the MOU term and beyond as applicable, the Municipality under this MOU agrees to:

- (a) Coordinate the overall implementation of the Scope of Work.
- (b) Utilize Funds only for health care purposes.
  - (i) These Funds are made only for the purposes of implementing the Scope of Work pursuant to this MOU. Any funds not expended or committed for these purposes within the MOU will be returned to the County.
  - (ii) The Municipality will provide immediate written notification to the County if significant changes or events occur during the term of the MOU which could potentially impact the progress or outcome of the Fund, including, without limitation, changes in the Municipality's personnel or lead staff member(s) responsible for implementing the Scope of Work, loss of additional funding or other extenuating circumstances which could affect the Municipality's performance. The County, in its sole and absolute discretion, will determine if requests for budget modifications are warranted.
- (c) Cooperate in the monitoring, evaluation, and reporting of work, as detailed in the Scope of Work and as set forth in Exhibit B.

(d) Adhere to the County financial compliance requirements including but not limited to the following:

(i) The Municipality will maintain financial records to clearly account for the Funds from the County and proper expenditures in furtherance of the Scope of Work. The Municipality shall retain and maintain adequate records to substantiate such expenditures according to generally accepted accounting practices. The Municipality shall retain original substantiating documents related to the specific Fund expenditures and make these records available to the County upon written request.

(ii) The County reserves the right to audit the Municipality's financial and other records to ensure the proper utilization of its Funds. During and for at least three (3) years following the end of the MOU term, the Municipality must maintain records showing, separately from other accounts kept in its books and records, the receipt and expenditure of the County Funds.

(e) Under no circumstances shall the Municipality or any other organization receiving the Funds use these funds directly or indirectly for the following purposes or activities:

(i) Make a payment to an individual for travel, study or other similar purpose;

(ii) Promote or engage in violence, terrorism, bigotry, or the unlawful destruction of property, nor will it make payments to any entity that engages in these activities.

(iii) Any other purposes outside what is stated in the MOU without express written permission from the County.

## **8. Confidentiality.**

All reports, information or data furnished to or to be prepared or assembled under this MOU or any related Contract are to be held confidential, unless otherwise herein provided or subject to disclosure by law.

## **9. Non-Assignability.**

The Municipality shall not assign, transfer, subcontract, convey or otherwise dispose of this MOU or of its rights, obligations, responsibilities or duties hereunder, either in whole or in part, without the prior written consent of the County.

## **10. Compliance with Laws.**

The Municipality shall comply with, and shall ensure that any entities or individual by the Municipality in connection with the MOU comply with, all local, state and federal laws (including common laws), County ordinances, codes, rules and regulations and Municipality's obligations and performance under this MOU.

## **11. Compliance with Anti-Discrimination Rules.**

In its use of funds provided by the County, the Municipality shall fully comply with all applicable federal, state, county (and any other governmental), anti-discrimination laws, executive orders, rules and regulations.

## **12. Entire MOU.**

This MOU contains the entire understanding between the parties hereto with respect to the subject matter of this MOU and replaces and supersedes all prior agreements and understandings of the parties. This MOU may be amended or modified only by a writing executed by the parties hereto.

## **13. Binding MOU.**

Notwithstanding any other provision of this MOU, the parties agree that this MOU constitutes a legal, valid and binding agreement of each party, and is enforceable against each party in accordance with its terms.

## **14. Amendment.**

The County shall consider, but is not obligated to agree to, requests by the Municipality to amend the terms of this MOU. Amendments to this MOU shall be made only after (i) the County has received written request from the Municipality stating the nature of the amendment request, and (ii) the County has executed a written agreement describing the terms of the amendment.

## **15. Counterparts.**

This MOU may be executed in any number of counterparts, including by facsimile or other electronic means of communication, each of which shall be deemed an original of this MOU and all of which together shall constitute one and the same instrument.

## **16. Liability**

a. No party shall be responsible for liability incurred as a result of the other party's act or omissions in connection with this agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, section 41-4-1 ET. Seq., NMSA 1978, as amended. Each Party will be responsible for any and all claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from its own actions or omissions or any actions or omissions of its officers, employees, and agents in connection with the subject matter of this MOU or any amendment hereto. Neither party shall be liable for any claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from the action of the other, its officers, employees, or agents. Nothing in any other provision of this MOU or any Addendum shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the County may have under the New Mexico Tort Claims Act

(NMSA 1978 §§ 41-4-1 et seq., as amended), or any other defenses, immunities or limitations of liability available to the County by law. Both parties agree to hold each other harmless from and against loss, damage, injury, and liability arising directly or indirectly from the negligent actions or omissions of the other and each party is responsible for its own actions under this MOU.

#### **17. Colfax County Commission Approval**

This MOU is presented to the Colfax County Commission for approval. The approval and performance by Colfax County is based on the availability of funds from the approved budget for that specific fiscal year.

#### **18. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, the Agent acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico (venue as Colfax County) over any and all lawsuits arising under or out of any term of this Agreement.

#### **19. Indemnification.**

The Municipality 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 Municipality, its officers, employees, or agents, or if caused by the actions of any client of the Municipality resulting in injury or damage to persons or property during the time when the Municipality 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 Municipality or any officer, agent, employee, under this Agreement is brought against the Municipality, the Municipality shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of Colfax County.

#### **20. No Third-Party Beneficiary**

This MOU is not intended to nor shall be construed to create an agency relationship between the County and Municipality. Additionally, this MOU is not intended to nor shall it be construed to give rise to any right or interest in the Funds for any third-party and shall not inure to the benefit of any third-party.

#### **21. 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.

**22. 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.

**23. 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 Municipality:  
Mayor  
606 Colbert Ave,  
Springer, NM 87747

**24. Authority**

If the Municipality is other than a natural person, the individual(s) signing this Agreement on behalf of Municipality represents and warrants that he or she has the power and authority to bind Municipality, 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.

[SIGNATURE PAGE FOLLOWS]

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

Chairman

Colfax County Commission

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

Boe Lopez, Mayor

Board of Trustees of the City of Springer

## Exhibit A

### Scope of Work

The County will provide the Municipality with \$40,000 to help it achieve the following deliverables:

1. Senior Government Staff Member Leads: the Municipality must designate senior staff members to serve as project leads and be engaged throughout the Fund.
2. Designate one or two senior staff members to serve as project leads and the main liaison(s) between the County and the Municipality.
3. Ensure that the designated staff members are working with the County in furtherance of the planning efforts, including participating in all planning meetings, engaging other local government staff members as needed and updating senior Administration officials about spending and progress.
4. Leads will be required to attend a series of workshops throughout the engagement to support strategy and blueprint development; join a monthly progress report calls with the County Manager; spearhead decision-making processes with relevant stakeholders;
5. Scope of the Funds: the Funds shall be used for the approved purpose of dealing with the first respondent's work such as training, life-saving equipment, new technology to aid in disaster planning, recovery operations.



## **Exhibit B**

### **Reporting**

The Municipality's reporting requirements are as follows:

- Mid-Term Report: Municipality will provide a report on progress made to date, including an overview of activities. The report will be due 90 days after the effective date of the MOU to the County.
  
- Final Report: The final accounting of how the Funds were spent on or before within 60 days after spending the final disbursement to the County.

**THE MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF COLFAX  
AND  
\_\_\_\_\_THE CITY OF RATON\_\_\_\_\_**

**THIS AGREEMENT** is entered into by and between the City of Raton, hereinafter referred to as "Municipality" and **Colfax County**, hereinafter referred to as the "County" and collectively referred to as "the Parties".

**WHEREAS** The County entered into that certain contract with the Board of Trustees of the Miners' Hospital to affect the Consolidation of the Miners' Hospital and Northern Colfax County Hospital on August 20, 1986 ("Consolidation Contract"). Pursuant to the Consolidation Contract, a certain escrow agreement was entered into between the Board of Trustees of the Miners' Hospital of New Mexico, Colfax County and International State Bank (the "Escrow Bank") on December, 1, 1986. (the "Escrow Agreement"); and

**WHEREAS** Paragraph 4 (B) of the Escrow Agreement provides for the establishment of the Colfax County Permanent Health Care Fund ("Permanent Fund"); and

**WHEREAS**, Pursuant to paragraph 4 (B) of the Escrow Agreement, the County may use subsequent earnings from the Permanent Fund for any lawful healthcare purpose as determined by the County; and

**WHEREAS** the County has determined that disbursement of \$40,000 in subsequent earning from the Permanent Fund to the shall constitute a lawful healthcare purpose; and

**WHEREAS** Municipality agrees to use the Fund for a lawful healthcare purpose per Consolidated Contract; and

**NOW THEREFORE**, in consideration of the promises and mutual obligations herein, the parties hereto mutually agree as follows:

**1. Funding**

The County pledges and agrees to provide the Municipality in the form of check in an amount not to exceed Forty Thousand Dollars (\$40,000.00) ("Funds"). The Funds will be paid in U.S. Dollars as provided for in the Funding Payout Schedule below.

**2. Use of Funding**

The Funding is to be used only for the health care purposes and in accordance with the specific allocations identified in this MOU. The Municipality must obtain prior written consent of the County for goods or services outside the Scope of Work incorporated here as Exhibit A.

Municipality's failure to comply with this provision constitutes a breach of this MOU and precludes County's obligation to pay any invoices for such goods or services from the Funding.

### **3. Term.**

(a) The Funding term will begin as of the Effective Date at which time this agreement become effective as of signature by both parties.

(b) This MOU may be terminated at any time prior to its Expiration Date as follows:

(i) By either the County or the Municipality without cause by giving the other party sixty (60) days prior written notice; or

(ii) Immediately by a non-breaching party following a material breach of this MOU by the breaching party and upon the expiration of a ten (10) day "cure" period following notice of breach by the non-breaching party to the breaching party;

(c) If the MOU is terminated by either party for any reason, the County will have no further obligation to make any payments to the Municipality, except for work already completed but not yet paid for prior to termination; provided, that (i) such work is within the Scope of Work or (ii) if such work is beyond the Scope of Work, the prior written consent of the County was previously been obtained.

### **4. Municipality**

(a) The Municipality shall administer all aspects of this MOU including, without limitation, payment of any invoices, managing and overseeing the performance of Municipality under the MOU, and monitoring the Municipality adherence to its duties, obligations and responsibilities thereunder, including appropriate insurance.

(b) The Municipality shall bear payments for their staffs designated for this MOU including their salary, mileages and other related expenses. This agreement does not create an agent relationship between the County and Municipality.

### **5. Conditions of Disbursement of the Fund.**

(a) Disbursements of Funds shall be subject to the fulfillment of the following conditions:

(i) Receipt by the Fund of a countersigned copy of this MOU, which includes Scope of Work and the County's Budget.

(ii) Timely receipt of all reports as detailed in the Exhibit B ("Reporting").

(ii) Satisfactory performance of this MOU in accordance with the Scope of Work.

## **6. Funding Payout Schedule:**

- (i) 80% of funds (\$32,000) will be paid upon execution of MOU.
- (ii) Final 20% (\$8,000) of funds will be paid upon the satisfactory submission of final deliverables as defined in the Scope of Work.

## **6. Payment of Funds**

Pursuant to the Funding Payout Schedule, the County will deliver a check for each scheduled payment to the Municipality at the address provided below.

## **7. Covenants.**

During the term of this MOU, the Municipality shall adhere to the terms and conditions established herein and those outlined in the Scope of Work in Exhibit A. Failure to adhere to any of these conditions constitutes a default and may require that the Municipality return part or all of the Funds to the County and the preclusion of any obligation on the part of the County to pay subsequent invoices submitted after such default. In such a case, the County will determine in its sole and absolute discretion the percentage of Funds Municipality to be returned. Cessation or reclamation of Funds by the County may also result in the Municipality's elimination from consideration from future use of Funds in any other form. In the event that the County terminates this MOU as provided herein, the Municipality shall return the Funds to the County within sixty (60) days from termination.

During the MOU term and beyond as applicable, the Municipality under this MOU agrees to:

- (a) Coordinate the overall implementation of the Scope of Work.
- (b) Utilize Funds only for health care purposes.
  - (i) These Funds are made only for the purposes of implementing the Scope of Work pursuant to this MOU. Any funds not expended or committed for these purposes within the MOU will be returned to the County.
  - (ii) The Municipality will provide immediate written notification to the County if significant changes or events occur during the term of the MOU which could potentially impact the progress or outcome of the Fund, including, without limitation, changes in the Municipality's personnel or lead staff member(s) responsible for implementing the Scope of Work, loss of additional funding or other extenuating circumstances which could affect the Municipality's performance. The County, in its sole and absolute discretion, will determine if requests for budget modifications are warranted.
- (c) Cooperate in the monitoring, evaluation, and reporting of work, as detailed in the Scope of Work and as set forth in Exhibit B.

(d) Adhere to the County financial compliance requirements including but not limited to the following:

(i) The Municipality will maintain financial records to clearly account for the Funds from the County and proper expenditures in furtherance of the Scope of Work. The Municipality shall retain and maintain adequate records to substantiate such expenditures according to generally accepted accounting practices. The Municipality shall retain original substantiating documents related to the specific Fund expenditures and make these records available to the County upon written request.

(ii) The County reserves the right to audit the Municipality's financial and other records to ensure the proper utilization of its Funds. During and for at least three (3) years following the end of the MOU term, the Municipality must maintain records showing, separately from other accounts kept in its books and records, the receipt and expenditure of the County Funds.

(e) Under no circumstances shall the Municipality or any other organization receiving the Funds use these funds directly or indirectly for the following purposes or activities:

(i) Make a payment to an individual for travel, study or other similar purpose;

(ii) Promote or engage in violence, terrorism, bigotry, or the unlawful destruction of property, nor will it make payments to any entity that engages in these activities.

(iii) Any other purposes outside what is stated in the MOU without express written permission from the County.

## **8. Confidentiality.**

All reports, information or data furnished to or to be prepared or assembled under this MOU or any related Contract are to be held confidential, unless otherwise herein provided or subject to disclosure by law.

## **9. Non-Assignability.**

The Municipality shall not assign, transfer, subcontract, convey or otherwise dispose of this MOU or of its rights, obligations, responsibilities or duties hereunder, either in whole or in part, without the prior written consent of the County.

## **10. Compliance with Laws.**

The Municipality shall comply with, and shall ensure that any entities or individual by the Municipality in connection with the MOU comply with, all local, state and federal laws (including common laws), County ordinances, codes, rules and regulations and Municipality's obligations and performance under this MOU.

## **11. Compliance with Anti-Discrimination Rules.**

In its use of funds provided by the County, the Municipality shall fully comply with all applicable federal, state, county (and any other governmental), anti-discrimination laws, executive orders, rules and regulations.

## **12. Entire MOU.**

This MOU contains the entire understanding between the parties hereto with respect to the subject matter of this MOU and replaces and supersedes all prior agreements and understandings of the parties. This MOU may be amended or modified only by a writing executed by the parties hereto.

## **13. Binding MOU.**

Notwithstanding any other provision of this MOU, the parties agree that this MOU constitutes a legal, valid and binding agreement of each party, and is enforceable against each party in accordance with its terms.

## **14. Amendment.**

The County shall consider, but is not obligated to agree to, requests by the Municipality to amend the terms of this MOU. Amendments to this MOU shall be made only after (i) the County has received written request from the Municipality stating the nature of the amendment request, and (ii) the County has executed a written agreement describing the terms of the amendment.

## **15. Counterparts.**

This MOU may be executed in any number of counterparts, including by facsimile or other electronic means of communication, each of which shall be deemed an original of this MOU and all of which together shall constitute one and the same instrument.

## **16. Liability**

a. No party shall be responsible for liability incurred as a result of the other party's act or omissions in connection with this agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, section 41-4-1 ET. Seq., NMSA 1978, as amended. Each Party will be responsible for any and all claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from its own actions or omissions or any actions or omissions of its officers, employees, and agents in connection with the subject matter of this MOU or any amendment hereto. Neither party shall be liable for any claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from the action of the other, its officers, employees, or agents. Nothing in any other provision of this MOU or any Addendum shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the County may have under the New Mexico Tort Claims Act

(NMSA 1978 §§ 41-4-1 et seq., as amended), or any other defenses, immunities or limitations of liability available to the County by law. Both parties agree to hold each other harmless from and against loss, damage, injury, and liability arising directly or indirectly from the negligent actions or omissions of the other and each party is responsible for its own actions under this MOU.

#### **17. Colfax County Commission Approval**

This MOU is presented to the Colfax County Commission for approval. The approval and performance by Colfax County is based on the availability of funds from the approved budget for that specific fiscal year.

#### **18. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, the Agent acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico (venue as Colfax County) over any and all lawsuits arising under or out of any term of this Agreement.

#### **19. Indemnification.**

The Municipality 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 Municipality, its officers, employees, or agents, or if caused by the actions of any client of the Municipality resulting in injury or damage to persons or property during the time when the Municipality 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 Municipality or any officer, agent, employee, under this Agreement is brought against the Municipality, the Municipality shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of Colfax County.

#### **20. No Third-Party Beneficiary**

This MOU is not intended to nor shall be construed to create an agency relationship between the County and Municipality. Additionally, this MOU is not intended to nor shall it be construed to give rise to any right or interest in the Funds for any third-party and shall not inure to the benefit of any third-party.

#### **21. 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.

## **22. 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.

## **23. 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 Municipality:

City Manager  
224 Savage Avenue  
P.O. Box 910  
Raton, NM 87740

## **24. Authority**

If the Municipality is other than a natural person, the individual(s) signing this Agreement on behalf of Municipality represents and warrants that he or she has the power and authority to bind Municipality, 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.

[SIGNATURE PAGE FOLLOWS]



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

Chairman

Colfax County Commission

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

James Neil Segotta, Jr. Mayor

City of Raton Commission

## **Exhibit A**

### **Scope of Work**

The County will provide the Municipality with \$40,000 to help it achieve the following deliverables:

1. Senior Government Staff Member Leads: the Municipality must designate senior staff members to serve as project leads and be engaged throughout the Fund.
2. Designate one or two senior staff members to serve as project leads and the main liaison(s) between the County and the Municipality.
3. Ensure that the designated staff members are working with the County in furtherance of the planning efforts, including participating in all planning meetings, engaging other local government staff members as needed and updating senior Administration officials about spending and progress.
4. Leads will be required to attend a series of workshops throughout the engagement to support strategy and blueprint development; join a monthly progress report calls with the County Manager; spearhead decision-making processes with relevant stakeholders;
5. Scope of the Funds: the Funds shall be used for the approved purpose of dealing with the first respondent's work such as training, life-saving equipment, new technology to aid in disaster planning, recovery operations.

## **Exhibit B**

### **Reporting**

The Municipality's reporting requirements are as follows:

- Mid-Term Report:** Municipality will provide a report on progress made to date, including an overview of activities. The report will be due 90 days after the effective date of the MOU to the County.
  
- Final Report:** The final accounting of how the Funds were spent on or before within 60 days after spending the final disbursement to the County.

**THE MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF COLFAX  
AND  
EAGLE NEST VILLAGE**

**THIS AGREEMENT** is entered into by and between Eagle Nest Village, hereinafter referred to as "Municipality" and **Colfax County**, hereinafter referred to as the "County" and collectively referred to as "the Parties".

**WHEREAS** The County entered into that certain contract with the Board of Trustees of the Miners' Hospital to affect the Consolidation of the Miners' Hospital and Northern Colfax County Hospital on August 20, 1986 ("Consolidation Contract"). Pursuant to the Consolidation Contract, a certain escrow agreement was entered into between the Board of Trustees of the Miners' Hospital of New Mexico, Colfax County and International State Bank (the "Escrow Bank") on December, 1, 1986. (the "Escrow Agreement"); and

**WHEREAS** Paragraph 4 (B) of the Escrow Agreement provides for the establishment of the Colfax County Permanent Health Care Fund ("Permanent Fund"); and

**WHEREAS**, Pursuant to paragraph 4 (B) of the Escrow Agreement, the County may use subsequent earnings from the Permanent Fund for any lawful healthcare purpose as determined by the County; and

**WHEREAS** the County has determined that disbursement of \$40,000 in subsequent earning from the Permanent Fund to the shall constitute a lawful healthcare purpose; and

**WHEREAS** Municipality agrees to use the Fund for a lawful healthcare purpose per Consolidated Contract; and

**NOW THEREFORE**, in consideration of the promises and mutual obligations herein, the parties hereto mutually agree as follows:

**1. Funding**

The County pledges and agrees to provide the Municipality in the form of check in an amount not to exceed Forty Thousand Dollars (\$40,000.00) ("Funds"). The Funds will be paid in U.S. Dollars as provided for in the Funding Payout Schedule below.

**2. Use of Funding**

The Funding is to be used only for the health care purposes and in accordance with the specific allocations identified in this MOU. The Municipality must obtain prior written consent of the County for goods or services outside the Scope of Work incorporated here as Exhibit A.

Municipality's failure to comply with this provision constitutes a breach of this MOU and precludes County's obligation to pay any invoices for such goods or services from the Funding.

### **3. Term.**

(a) The Funding term will begin as of the Effective Date at which time this agreement become effective as of signature by both parties.

(b) This MOU may be terminated at any time prior to its Expiration Date as follows:

(i) By either the County or the Municipality without cause by giving the other party sixty (60) days prior written notice; or

(ii) Immediately by a non-breaching party following a material breach of this MOU by the breaching party and upon the expiration of a ten (10) day "cure" period following notice of breach by the non-breaching party to the breaching party;

(c) If the MOU is terminated by either party for any reason, the County will have no further obligation to make any payments to the Municipality, except for work already completed but not yet paid for prior to termination; provided, that (i) such work is within the Scope of Work or (ii) if such work is beyond the Scope of Work, the prior written consent of the County was previously been obtained.

### **4. Municipality**

(a) The Municipality shall administer all aspects of this MOU including, without limitation, payment of any invoices, managing and overseeing the performance of Municipality under the MOU, and monitoring the Municipality adherence to its duties, obligations and responsibilities thereunder, including appropriate insurance.

(b) The Municipality shall bear payments for their staffs designated for this MOU including their salary, mileages and other related expenses. This agreement does not create an agent relationship between the County and Municipality.

### **5. Conditions of Disbursement of the Fund.**

(a) Disbursements of Funds shall be subject to the fulfillment of the following conditions:

(i) Receipt by the Fund of a countersigned copy of this MOU, which includes Scope of Work and the County's Budget.

(ii) Timely receipt of all reports as detailed in the Exhibit B ("Reporting").

(ii) Satisfactory performance of this MOU in accordance with the Scope of Work.

## **6. Funding Payout Schedule:**

- (i) 80% of funds (\$32,000) will be paid upon execution of MOU.
- (ii) Final 20% (\$8,000) of funds will be paid upon the satisfactory submission of final deliverables as defined in the Scope of Work.

## **6. Payment of Funds**

Pursuant to the Funding Payout Schedule, the County will deliver a check for each scheduled payment to the Municipality at the address provided below.

## **7. Covenants.**

During the term of this MOU, the Municipality shall adhere to the terms and conditions established herein and those outlined in the Scope of Work in Exhibit A. Failure to adhere to any of these conditions constitutes a default and may require that the Municipality return part or all of the Funds to the County and the preclusion of any obligation on the part of the County to pay subsequent invoices submitted after such default. In such a case, the County will determine in its sole and absolute discretion the percentage of Funds Municipality to be returned. Cessation or reclamation of Funds by the County may also result in the Municipality's elimination from consideration from future use of Funds in any other form. In the event that the County terminates this MOU as provided herein, the Municipality shall return the Funds to the County within sixty (60) days from termination.

During the MOU term and beyond as applicable, the Municipality under this MOU agrees to:

- (a) Coordinate the overall implementation of the Scope of Work.
- (b) Utilize Funds only for health care purposes.
  - (i) These Funds are made only for the purposes of implementing the Scope of Work pursuant to this MOU. Any funds not expended or committed for these purposes within the MOU will be returned to the County.
  - (ii) The Municipality will provide immediate written notification to the County if significant changes or events occur during the term of the MOU which could potentially impact the progress or outcome of the Fund, including, without limitation, changes in the Municipality's personnel or lead staff member(s) responsible for implementing the Scope of Work, loss of additional funding or other extenuating circumstances which could affect the Municipality's performance. The County, in its sole and absolute discretion, will determine if requests for budget modifications are warranted.
- (c) Cooperate in the monitoring, evaluation, and reporting of work, as detailed in the Scope of Work and as set forth in Exhibit B.

(d) Adhere to the County financial compliance requirements including but not limited to the following:

(i) The Municipality will maintain financial records to clearly account for the Funds from the County and proper expenditures in furtherance of the Scope of Work. The Municipality shall retain and maintain adequate records to substantiate such expenditures according to generally accepted accounting practices. The Municipality shall retain original substantiating documents related to the specific Fund expenditures and make these records available to the County upon written request.

(ii) The County reserves the right to audit the Municipality's financial and other records to ensure the proper utilization of its Funds. During and for at least three (3) years following the end of the MOU term, the Municipality must maintain records showing, separately from other accounts kept in its books and records, the receipt and expenditure of the County Funds.

(e) Under no circumstances shall the Municipality or any other organization receiving the Funds use these funds directly or indirectly for the following purposes or activities:

(i) Make a payment to an individual for travel, study or other similar purpose;

(ii) Promote or engage in violence, terrorism, bigotry, or the unlawful destruction of property, nor will it make payments to any entity that engages in these activities.

(iii) Any other purposes outside what is stated in the MOU without express written permission from the County.

### **8. Confidentiality.**

All reports, information or data furnished to or to be prepared or assembled under this MOU or any related Contract are to be held confidential, unless otherwise herein provided or subject to disclosure by law.

### **9. Non-Assignability.**

The Municipality shall not assign, transfer, subcontract, convey or otherwise dispose of this MOU or of its rights, obligations, responsibilities or duties hereunder, either in whole or in part, without the prior written consent of the County.

### **10. Compliance with Laws.**

The Municipality shall comply with, and shall ensure that any entities or individual by the Municipality in connection with the MOU comply with, all local, state and federal laws (including common laws), County ordinances, codes, rules and regulations and Municipality's obligations and performance under this MOU.

## **11. Compliance with Anti-Discrimination Rules.**

In its use of funds provided by the County, the Municipality shall fully comply with all applicable federal, state, county (and any other governmental), anti-discrimination laws, executive orders, rules and regulations.

## **12. Entire MOU.**

This MOU contains the entire understanding between the parties hereto with respect to the subject matter of this MOU and replaces and supersedes all prior agreements and understandings of the parties. This MOU may be amended or modified only by a writing executed by the parties hereto.

## **13. Binding MOU.**

Notwithstanding any other provision of this MOU, the parties agree that this MOU constitutes a legal, valid and binding agreement of each party, and is enforceable against each party in accordance with its terms.

## **14. Amendment.**

The County shall consider, but is not obligated to agree to, requests by the Municipality to amend the terms of this MOU. Amendments to this MOU shall be made only after (i) the County has received written request from the Municipality stating the nature of the amendment request, and (ii) the County has executed a written agreement describing the terms of the amendment.

## **15. Counterparts.**

This MOU may be executed in any number of counterparts, including by facsimile or other electronic means of communication, each of which shall be deemed an original of this MOU and all of which together shall constitute one and the same instrument.

## **16. Liability**

a. No party shall be responsible for liability incurred as a result of the other party's act or omissions in connection with this agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, section 41-4-1 ET. Seq., NMSA 1978, as amended. Each Party will be responsible for any and all claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from its own actions or omissions or any actions or omissions of its officers, employees, and agents in connection with the subject matter of this MOU or any amendment hereto. Neither party shall be liable for any claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from the action of the other, its officers, employees, or agents. Nothing in any other provision of this MOU or any Addendum shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the County may have under the New Mexico Tort Claims Act



(NMSA 1978 §§ 41-4-1 et seq., as amended), or any other defenses, immunities or limitations of liability available to the County by law. Both parties agree to hold each other harmless from and against loss, damage, injury, and liability arising directly or indirectly from the negligent actions or omissions of the other and each party is responsible for its own actions under this MOU.

#### **17. Colfax County Commission Approval**

This MOU is presented to the Colfax County Commission for approval. The approval and performance by Colfax County is based on the availability of funds from the approved budget for that specific fiscal year.

#### **18. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, the Agent acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico (venue as Colfax County) over any and all lawsuits arising under or out of any term of this Agreement.

#### **19. Indemnification.**

The Municipality 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 Municipality, its officers, employees, or agents, or if caused by the actions of any client of the Municipality resulting in injury or damage to persons or property during the time when the Municipality 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 Municipality or any officer, agent, employee, under this Agreement is brought against the Municipality, the Municipality shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of Colfax County.

#### **20. No Third-Party Beneficiary**

This MOU is not intended to nor shall be construed to create an agency relationship between the County and Municipality. Additionally, this MOU is not intended to nor shall it be construed to give rise to any right or interest in the Funds for any third-party and shall not inure to the benefit of any third-party.

#### **21. 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.

## **22. 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.

## **23. 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 Municipality:  
Village Clerk  
PO Box 168  
151 Willow Creek Drive  
Eagle Nest, NM 87718

## **24. Authority**

If the Municipality is other than a natural person, the individual(s) signing this Agreement on behalf of Municipality represents and warrants that he or she has the power and authority to bind Municipality, 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.

[SIGNATURE PAGE FOLLOWS]

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

Chairman

Colfax County Commission

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

Jeff Carr, Mayor

Eagle Nest Village Council

## **Exhibit A**

### **Scope of Work**

The County will provide the Municipality with \$40,000 to help it achieve the following deliverables:

1. Senior Government Staff Member Leads: the Municipality must designate senior staff members to serve as project leads and be engaged throughout the Fund.
2. Designate one or two senior staff members to serve as project leads and the main liaison(s) between the County and the Municipality.
3. Ensure that the designated staff members are working with the County in furtherance of the planning efforts, including participating in all planning meetings, engaging other local government staff members as needed and updating senior Administration officials about spending and progress.
4. Leads will be required to attend a series of workshops throughout the engagement to support strategy and blueprint development; join a monthly progress report calls with the County Manager; spearhead decision-making processes with relevant stakeholders;
5. Scope of the Funds: the Funds shall be used for the approved purpose of dealing with the first respondent's work such as training, life-saving equipment, new technology to aid in disaster planning, recovery operations.

## **Exhibit B**

### **Reporting**

The Municipality's reporting requirements are as follows:

- Mid-Term Report: Municipality will provide a report on progress made to date, including an overview of activities. The report will be due 90 days after the effective date of the MOU to the County.
  
- Final Report: The final accounting of how the Funds were spent on or before within 60 days after spending the final disbursement to the County.

**THE MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF COLFAX  
AND  
VILLAGE OF CIMARRON**

**THIS AGREEMENT** is entered into by and between Village of Cimarron, hereinafter referred to as "Municipality" and **Colfax County**, hereinafter referred to as the "County" and collectively referred to as "the Parties".

**WHEREAS** The County entered into that certain contract with the Board of Trustees of the Miners' Hospital to affect the Consolidation of the Miners' Hospital and Northern Colfax County Hospital on August 20, 1986 ("Consolidation Contract"). Pursuant to the Consolidation Contract, a certain escrow agreement was entered into between the Board of Trustees of the Miners' Hospital of New Mexico, Colfax County and International State Bank (the "Escrow Bank") on December, 1, 1986. (the "Escrow Agreement"); and

**WHEREAS** Paragraph 4 (B) of the Escrow Agreement provides for the establishment of the Colfax County Permanent Health Care Fund ("Permanent Fund"); and

**WHEREAS**, Pursuant to paragraph 4 (B) of the Escrow Agreement, the County may use subsequent earnings from the Permanent Fund for any lawful healthcare purpose as determined by the County; and

**WHEREAS** the County has determined that disbursement of \$40,000 in subsequent earning from the Permanent Fund to the shall constitute a lawful healthcare purpose; and

**WHEREAS** Municipality agrees to use the Fund for a lawful healthcare purpose per Consolidated Contract; and

**NOW THEREFORE**, in consideration of the promises and mutual obligations herein, the parties hereto mutually agree as follows:

**1. Funding**

The County pledges and agrees to provide the Municipality in the form of check in an amount not to exceed Forty Thousand Dollars (\$40,000.00) ("Funds"). The Funds will be paid in U.S. Dollars as provided for in the Funding Payout Schedule below.

**2. Use of Funding**

The Funding is to be used only for the health care purposes and in accordance with the specific allocations identified in this MOU. The Municipality must obtain prior written consent of the County for goods or services outside the Scope of Work incorporated here as Exhibit A.

Municipality's failure to comply with this provision constitutes a breach of this MOU and precludes County's obligation to pay any invoices for such goods or services from the Funding.

**3. Term.**

(a) The Funding term will begin as of the Effective Date at which time this agreement become effective as of signature by both parties.

(b) This MOU may be terminated at any time prior to its Expiration Date as follows:

(i) By either the County or the Municipality without cause by giving the other party sixty (60) days prior written notice; or

(ii) Immediately by a non-breaching party following a material breach of this MOU by the breaching party and upon the expiration of a ten (10) day "cure" period following notice of breach by the non-breaching party to the breaching party;

(c) If the MOU is terminated by either party for any reason, the County will have no further obligation to make any payments to the Municipality, except for work already completed but not yet paid for prior to termination; provided, that (i) such work is within the Scope of Work or (ii) if such work is beyond the Scope of Work, the prior written consent of the County was previously been obtained.

**4. Municipality**

(a) The Municipality shall administer all aspects of this MOU including, without limitation, payment of any invoices, managing and overseeing the performance of Municipality under the MOU, and monitoring the Municipality adherence to its duties, obligations and responsibilities thereunder, including appropriate insurance.

(b) The Municipality shall bear payments for their staffs designated for this MOU including their salary, mileages and other related expenses. This agreement does not create an agent relationship between the County and Municipality.

**5. Conditions of Disbursement of the Fund.**

(a) Disbursements of Funds shall be subject to the fulfillment of the following conditions:

(i) Receipt by the Fund of a countersigned copy of this MOU, which includes Scope of Work and the County's Budget.

(ii) Timely receipt of all reports as detailed in the Exhibit B ("Reporting").

(ii) Satisfactory performance of this MOU in accordance with the Scope of Work.

**6. Funding Payout Schedule:**

- (i) 80% of funds (\$32,000) will be paid upon execution of MOU.
- (ii) Final 20% (\$8,000) of funds will be paid upon the satisfactory submission of final deliverables as defined in the Scope of Work.

**6. Payment of Funds**

Pursuant to the Funding Payout Schedule, the County will deliver a check for each scheduled payment to the Municipality at the address provided below.

**7. Covenants.**

During the term of this MOU, the Municipality shall adhere to the terms and conditions established herein and those outlined in the Scope of Work in Exhibit A. Failure to adhere to any of these conditions constitutes a default and may require that the Municipality return part or all of the Funds to the County and the preclusion of any obligation on the part of the County to pay subsequent invoices submitted after such default. In such a case, the County will determine in its sole and absolute discretion the percentage of Funds Municipality to be returned. Cessation or reclamation of Funds by the County may also result in the Municipality's elimination from consideration from future use of Funds in any other form. In the event that the County terminates this MOU as provided herein, the Municipality shall return the Funds to the County within sixty (60) days from termination.

During the MOU term and beyond as applicable, the Municipality under this MOU agrees to:

- (a) Coordinate the overall implementation of the Scope of Work.
- (b) Utilize Funds only for health care purposes.
  - (i) These Funds are made only for the purposes of implementing the Scope of Work pursuant to this MOU. Any funds not expended or committed for these purposes within the MOU will be returned to the County.
  - (ii) The Municipality will provide immediate written notification to the County if significant changes or events occur during the term of the MOU which could potentially impact the progress or outcome of the Fund, including, without limitation, changes in the Municipality's personnel or lead staff member(s) responsible for implementing the Scope of Work, loss of additional funding or other extenuating circumstances which could affect the Municipality's performance. The County, in its sole and absolute discretion, will determine if requests for budget modifications are warranted.
- (c) Cooperate in the monitoring, evaluation, and reporting of work, as detailed in the Scope of Work and as set forth in Exhibit B.



(d) Adhere to the County financial compliance requirements including but not limited to the following:

(i) The Municipality will maintain financial records to clearly account for the Funds from the County and proper expenditures in furtherance of the Scope of Work. The Municipality shall retain and maintain adequate records to substantiate such expenditures according to generally accepted accounting practices. The Municipality shall retain original substantiating documents related to the specific Fund expenditures and make these records available to the County upon written request.

(ii) The County reserves the right to audit the Municipality's financial and other records to ensure the proper utilization of its Funds. During and for at least three (3) years following the end of the MOU term, the Municipality must maintain records showing, separately from other accounts kept in its books and records, the receipt and expenditure of the County Funds.

(e) Under no circumstances shall the Municipality or any other organization receiving the Funds use these funds directly or indirectly for the following purposes or activities:

(i) Make a payment to an individual for travel, study or other similar purpose;

(ii) Promote or engage in violence, terrorism, bigotry, or the unlawful destruction of property, nor will it make payments to any entity that engages in these activities.

(iii) Any other purposes outside what is stated in the MOU without express written permission from the County.

**8. Confidentiality.**

All reports, information or data furnished to or to be prepared or assembled under this MOU or any related Contract are to be held confidential, unless otherwise herein provided or subject to disclosure by law.

**9. Non-Assignability.**

The Municipality shall not assign, transfer, subcontract, convey or otherwise dispose of this MOU or of its rights, obligations, responsibilities or duties hereunder, either in whole or in part, without the prior written consent of the County.

**10. Compliance with Laws.**

The Municipality shall comply with, and shall ensure that any entities or individual by the Municipality in connection with the MOU comply with, all local, state and federal laws (including common laws), County ordinances, codes, rules and regulations and Municipality's obligations and performance under this MOU.

**11. Compliance with Anti-Discrimination Rules.**

In its use of funds provided by the County, the Municipality shall fully comply with all applicable federal, state, county (and any other governmental), anti-discrimination laws, executive orders, rules and regulations.

**12. Entire MOU.**

This MOU contains the entire understanding between the parties hereto with respect to the subject matter of this MOU and replaces and supersedes all prior agreements and understandings of the parties. This MOU may be amended or modified only by a writing executed by the parties hereto.

**13. Binding MOU.**

Notwithstanding any other provision of this MOU, the parties agree that this MOU constitutes a legal, valid and binding agreement of each party, and is enforceable against each party in accordance with its terms.

**14. Amendment.**

The County shall consider, but is not obligated to agree to, requests by the Municipality to amend the terms of this MOU. Amendments to this MOU shall be made only after (i) the County has received written request from the Municipality stating the nature of the amendment request, and (ii) the County has executed a written agreement describing the terms of the amendment.

**15. Counterparts.**

This MOU may be executed in any number of counterparts, including by facsimile or other electronic means of communication, each of which shall be deemed an original of this MOU and all of which together shall constitute one and the same instrument.

**16. Liability**

a. No party shall be responsible for liability incurred as a result of the other party's act or omissions in connection with this agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, section 41-4-1 ET. Seq., NMSA 1978, as amended. Each Party will be responsible for any and all claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from its own actions or omissions or any actions or omissions of its officers, employees, and agents in connection with the subject matter of this MOU or any amendment hereto. Neither party shall be liable for any claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from the action of the other, its officers, employees, or agents. Nothing in any other provision of this MOU or any Addendum shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the County may have under the New Mexico Tort Claims Act

(NMSA 1978 §§ 41-4-1 et seq., as amended), or any other defenses, immunities or limitations of liability available to the County by law. Both parties agree to hold each other harmless from and against loss, damage, injury, and liability arising directly or indirectly from the negligent actions or omissions of the other and each party is responsible for its own actions under this MOU.

#### **17. Colfax County Commission Approval**

This MOU is presented to the Colfax County Commission for approval. The approval and performance by Colfax County is based on the availability of funds from the approved budget for that specific fiscal year.

#### **18. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, the Agent acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico (venue as Colfax County) over any and all lawsuits arising under or out of any term of this Agreement.

#### **19. Indemnification.**

The Municipality 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 Municipality, its officers, employees, or agents, or if caused by the actions of any client of the Municipality resulting in injury or damage to persons or property during the time when the Municipality 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 Municipality or any officer, agent, employee, under this Agreement is brought against the Municipality, the Municipality shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of Colfax County.

#### **20. No Third-Party Beneficiary**

This MOU is not intended to nor shall be construed to create an agency relationship between the County and Municipality. Additionally, this MOU is not intended to nor shall it be construed to give rise to any right or interest in the Funds for any third-party and shall not inure to the benefit of any third-party.

#### **21. 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.

**22. 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.

**23. 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 Municipality:

Mayor  
356 E 9th Street/PO BOX 654  
Cimarron, New Mexico 87714

**24. Authority**

If the Municipality is other than a natural person, the individual(s) signing this Agreement on behalf of Municipality represents and warrants that he or she has the power and authority to bind Municipality, 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.

[SIGNATURE PAGE FOLLOWS]

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

Chairman

Colfax County Commission

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

Matthew Gonzales, Mayor

VILLAGE OF CIMARRON Council

## Exhibit A

### Scope of Work

The County will provide the Municipality with \$40,000 to help it achieve the following deliverables:

1. Senior Government Staff Member Leads: the Municipality must designate senior staff members to serve as project leads and be engaged throughout the Fund.
2. Designate one or two senior staff members to serve as project leads and the main liaison(s) between the County and the Municipality.
3. Ensure that the designated staff members are working with the County in furtherance of the planning efforts, including participating in all planning meetings, engaging other local government staff members as needed and updating senior Administration officials about spending and progress.
4. Leads will be required to attend a series of workshops throughout the engagement to support strategy and blueprint development; join a monthly progress report calls with the County Manager; spearhead decision-making processes with relevant stakeholders;
5. Scope of the Funds: the Funds shall be used for the approved purpose of dealing with the first respondent's work such as training, life-saving equipment, new technology to aid in disaster planning, recovery operations.

## **Exhibit B**

### **Reporting**

The Municipality's reporting requirements are as follows:

- Mid-Term Report: Municipality will provide a report on progress made to date, including an overview of activities. The report will be due 90 days after the effective date of the MOU to the County.
  
- Final Report: The final accounting of how the Funds were spent on or before within 60 days after spending the final disbursement to the County.

**THE MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF COLFAX  
AND  
VILLAGE OF ANGEL FIRE**

**THIS AGREEMENT** is entered into by and between Village of Angel Fire, hereinafter referred to as "Municipality" and **Colfax County**, hereinafter referred to as the "County" and collectively referred to as "the Parties".

**WHEREAS** The County entered into that certain contract with the Board of Trustees of the Miners' Hospital to affect the Consolidation of the Miners' Hospital and Northern Colfax County Hospital on August 20, 1986 ("Consolidation Contract"). Pursuant to the Consolidation Contract, a certain escrow agreement was entered into between the Board of Trustees of the Miners' Hospital of New Mexico, Colfax County and International State Bank (the "Escrow Bank") on December, 1, 1986. (the "Escrow Agreement"); and

**WHEREAS** Paragraph 4 (B) of the Escrow Agreement provides for the establishment of the Colfax County Permanent Health Care Fund ("Permanent Fund"); and

**WHEREAS**, Pursuant to paragraph 4 (B) of the Escrow Agreement, the County may use subsequent earnings from the Permanent Fund for any lawful healthcare purpose as determined by the County; and

**WHEREAS** the County has determined that disbursement of \$40,000 in subsequent earning from the Permanent Fund to the shall constitute a lawful healthcare purpose; and

**WHEREAS** Municipality agrees to use the Fund for a lawful healthcare purpose per Consolidated Contract; and

**NOW THEREFORE**, in consideration of the promises and mutual obligations herein, the parties hereto mutually agree as follows:

**1. Funding**

The County pledges and agrees to provide the Municipality in the form of check in an amount not to exceed Forty Thousand Dollars (\$40,000.00) ("Funds"). The Funds will be paid in U.S. Dollars as provided for in the Funding Payout Schedule below.

**2. Use of Funding**

The Funding is to be used only for the health care purposes and in accordance with the specific allocations identified in this MOU. The Municipality must obtain prior written consent of the County for goods or services outside the Scope of Work incorporated here as Exhibit A.



Municipality's failure to comply with this provision constitutes a breach of this MOU and precludes County's obligation to pay any invoices for such goods or services from the Funding.

### **3. Term.**

(a) The Funding term will begin as of the Effective Date at which time this agreement become effective as of signature by both parties.

(b) This MOU may be terminated at any time prior to its Expiration Date as follows:

(i) By either the County or the Municipality without cause by giving the other party sixty (60) days prior written notice; or

(ii) Immediately by a non-breaching party following a material breach of this MOU by the breaching party and upon the expiration of a ten (10) day "cure" period following notice of breach by the non-breaching party to the breaching party;

(c) If the MOU is terminated by either party for any reason, the County will have no further obligation to make any payments to the Municipality, except for work already completed but not yet paid for prior to termination; provided, that (i) such work is within the Scope of Work or (ii) if such work is beyond the Scope of Work, the prior written consent of the County was previously been obtained.

### **4. Municipality**

(a) The Municipality shall administer all aspects of this MOU including, without limitation, payment of any invoices, managing and overseeing the performance of Municipality under the MOU, and monitoring the Municipality adherence to its duties, obligations and responsibilities thereunder, including appropriate insurance.

(b) The Municipality shall bear payments for their staffs designated for this MOU including their salary, mileages and other related expenses. This agreement does not create an agent relationship between the County and Municipality.

### **5. Conditions of Disbursement of the Fund.**

(a) Disbursements of Funds shall be subject to the fulfillment of the following conditions:

(i) Receipt by the Fund of a countersigned copy of this MOU, which includes Scope of Work and the County's Budget.

(ii) Timely receipt of all reports as detailed in the Exhibit B ("Reporting").

(ii) Satisfactory performance of this MOU in accordance with the Scope of Work.

## **6. Funding Payout Schedule:**

- (i) 80% of funds (\$32,000) will be paid upon execution of MOU.
- (ii) Final 20% (\$8,000) of funds will be paid upon the satisfactory submission of final deliverables as defined in the Scope of Work.

## **6. Payment of Funds**

Pursuant to the Funding Payout Schedule, the County will deliver a check for each scheduled payment to the Municipality at the address provided below.

## **7. Covenants.**

During the term of this MOU, the Municipality shall adhere to the terms and conditions established herein and those outlined in the Scope of Work in Exhibit A. Failure to adhere to any of these conditions constitutes a default and may require that the Municipality return part or all of the Funds to the County and the preclusion of any obligation on the part of the County to pay subsequent invoices submitted after such default. In such a case, the County will determine in its sole and absolute discretion the percentage of Funds Municipality to be returned. Cessation or reclamation of Funds by the County may also result in the Municipality's elimination from consideration from future use of Funds in any other form. In the event that the County terminates this MOU as provided herein, the Municipality shall return the Funds to the County within sixty (60) days from termination.

During the MOU term and beyond as applicable, the Municipality under this MOU agrees to:

- (a) Coordinate the overall implementation of the Scope of Work.
- (b) Utilize Funds only for health care purposes.
  - (i) These Funds are made only for the purposes of implementing the Scope of Work pursuant to this MOU. Any funds not expended or committed for these purposes within the MOU will be returned to the County.
  - (ii) The Municipality will provide immediate written notification to the County if significant changes or events occur during the term of the MOU which could potentially impact the progress or outcome of the Fund, including, without limitation, changes in the Municipality's personnel or lead staff member(s) responsible for implementing the Scope of Work, loss of additional funding or other extenuating circumstances which could affect the Municipality's performance. The County, in its sole and absolute discretion, will determine if requests for budget modifications are warranted.
- (c) Cooperate in the monitoring, evaluation, and reporting of work, as detailed in the Scope of Work and as set forth in Exhibit B.

(d) Adhere to the County financial compliance requirements including but not limited to the following:

(i) The Municipality will maintain financial records to clearly account for the Funds from the County and proper expenditures in furtherance of the Scope of Work. The Municipality shall retain and maintain adequate records to substantiate such expenditures according to generally accepted accounting practices. The Municipality shall retain original substantiating documents related to the specific Fund expenditures and make these records available to the County upon written request.

(ii) The County reserves the right to audit the Municipality's financial and other records to ensure the proper utilization of its Funds. During and for at least three (3) years following the end of the MOU term, the Municipality must maintain records showing, separately from other accounts kept in its books and records, the receipt and expenditure of the County Funds.

(e) Under no circumstances shall the Municipality or any other organization receiving the Funds use these funds directly or indirectly for the following purposes or activities:

(i) Make a payment to an individual for travel, study or other similar purpose;

(ii) Promote or engage in violence, terrorism, bigotry, or the unlawful destruction of property, nor will it make payments to any entity that engages in these activities.

(iii) Any other purposes outside what is stated in the MOU without express written permission from the County.

## **8. Confidentiality.**

All reports, information or data furnished to or to be prepared or assembled under this MOU or any related Contract are to be held confidential, unless otherwise herein provided or subject to disclosure by law.

## **9. Non-Assignability.**

The Municipality shall not assign, transfer, subcontract, convey or otherwise dispose of this MOU or of its rights, obligations, responsibilities or duties hereunder, either in whole or in part, without the prior written consent of the County.

## **10. Compliance with Laws.**

The Municipality shall comply with, and shall ensure that any entities or individual by the Municipality in connection with the MOU comply with, all local, state and federal laws (including common laws), County ordinances, codes, rules and regulations and Municipality's obligations and performance under this MOU.

## **11. Compliance with Anti-Discrimination Rules.**

In its use of funds provided by the County, the Municipality shall fully comply with all applicable federal, state, county (and any other governmental), anti-discrimination laws, executive orders, rules and regulations.

## **12. Entire MOU.**

This MOU contains the entire understanding between the parties hereto with respect to the subject matter of this MOU and replaces and supersedes all prior agreements and understandings of the parties. This MOU may be amended or modified only by a writing executed by the parties hereto.

## **13. Binding MOU.**

Notwithstanding any other provision of this MOU, the parties agree that this MOU constitutes a legal, valid and binding agreement of each party, and is enforceable against each party in accordance with its terms.

## **14. Amendment.**

The County shall consider, but is not obligated to agree to, requests by the Municipality to amend the terms of this MOU. Amendments to this MOU shall be made only after (i) the County has received written request from the Municipality stating the nature of the amendment request, and (ii) the County has executed a written agreement describing the terms of the amendment.

## **15. Counterparts.**

This MOU may be executed in any number of counterparts, including by facsimile or other electronic means of communication, each of which shall be deemed an original of this MOU and all of which together shall constitute one and the same instrument.

## **16. Liability**

a. No party shall be responsible for liability incurred as a result of the other party's act or omissions in connection with this agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, section 41-4-1 ET. Seq., NMSA 1978, as amended. Each Party will be responsible for any and all claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from its own actions or omissions or any actions or omissions of its officers, employees, and agents in connection with the subject matter of this MOU or any amendment hereto. Neither party shall be liable for any claims, damages, liability and court awards, including costs, expenses and attorney fees incurred, arising from the action of the other, its officers, employees, or agents. Nothing in any other provision of this MOU or any Addendum shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the County may have under the New Mexico Tort Claims Act

(NMSA 1978 §§ 41-4-1 et seq., as amended), or any other defenses, immunities or limitations of liability available to the County by law. Both parties agree to hold each other harmless from and against loss, damage, injury, and liability arising directly or indirectly from the negligent actions or omissions of the other and each party is responsible for its own actions under this MOU.

#### **17. Colfax County Commission Approval**

This MOU is presented to the Colfax County Commission for approval. The approval and performance by Colfax County is based on the availability of funds from the approved budget for that specific fiscal year.

#### **18. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, the Agent acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico (venue as Colfax County) over any and all lawsuits arising under or out of any term of this Agreement.

#### **19. Indemnification.**

The Municipality 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 Municipality, its officers, employees, or agents, or if caused by the actions of any client of the Municipality resulting in injury or damage to persons or property during the time when the Municipality 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 Municipality or any officer, agent, employee, under this Agreement is brought against the Municipality, the Municipality shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of Colfax County.

#### **20. No Third-Party Beneficiary**

This MOU is not intended to nor shall be construed to create an agency relationship between the County and Municipality. Additionally, this MOU is not intended to nor shall it be construed to give rise to any right or interest in the Funds for any third-party and shall not inure to the benefit of any third-party.

#### **21. 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.

## **22. 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.

## **23. 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 Municipality:

Mayor  
P.O. Box 610  
Angel Fire, New Mexico 87710

## **24. Authority**

If the Municipality is other than a natural person, the individual(s) signing this Agreement on behalf of Municipality represents and warrants that he or she has the power and authority to bind Municipality, 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.

[SIGNATURE PAGE FOLLOWS]

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

Chairman

Colfax County Commission

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

Jo Mixon, Mayor

Village of Angel Fire Council

## **Exhibit A**

### **Scope of Work**

The County will provide the Municipality with \$40,000 to help it achieve the following deliverables:

1. Senior Government Staff Member Leads: the Municipality must designate senior staff members to serve as project leads and be engaged throughout the Fund.
2. Designate one or two senior staff members to serve as project leads and the main liaison(s) between the County and the Municipality.
3. Ensure that the designated staff members are working with the County in furtherance of the planning efforts, including participating in all planning meetings, engaging other local government staff members as needed and updating senior Administration officials about spending and progress.
4. Leads will be required to attend a series of workshops throughout the engagement to support strategy and blueprint development; join a monthly progress report calls with the County Manager; spearhead decision-making processes with relevant stakeholders;
5. Scope of the Funds: the Funds shall be used for the approved purpose of dealing with the first respondent's work such as training, life-saving equipment, new technology to aid in disaster planning, recovery operations.



## **Exhibit B**

### **Reporting**

The Municipality's reporting requirements are as follows:

- Mid-Term Report: Municipality will provide a report on progress made to date, including an overview of activities. The report will be due 90 days after the effective date of the MOU to the County.
  
- Final Report: The final accounting of how the Funds were spent on or before within 60 days after spending the final disbursement to the County.



*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](http://www.co.colfax.nm.us)



January 9, 2024

Lydia Garcia, Treasurer  
Colfax County  
P.O. Box 98  
Raton, NM 87740

**Re: Request for Statement of Receipts and Expenses for Year Ending December 31, 2023**

Dear Treasurer Garcia:

Pursuant to Section 4-38-27, NMSA 1978, the Colfax County Board of Commissioners is hereby requesting a Statement of Receipts and Expenditures for the year ending December 31, 2023. Please set forth the amount received from taxes, licenses, and all other sources. Also, please set forth the amount expended and the particular objects for which in each case every sum of money has been expended.

Sincerely,

Chairman  
Colfax County Board of Commissioners



*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](http://www.co.colfax.nm.us)

**RESOLUTION #2024-04**

**Working Hours for Colfax County Employees Calendar Year 2024**

**WHEREAS** The Colfax County Board of Commissioners desire to establish the working hours for the County employees; and

**THEREFORE**, the Colfax County Board of Commissioners sets the following work hours:

- Regular Elected Official Offices            7:00am to 5:30pm (Half Hour Lunch, Monday Thursday)
  
- Managers Office                                7:00am to 5:30pm (Half Hour Lunch, Monday – Thursday)
  
- Road Department                              6:00 am to 4:30 pm (Half Hour Lunch, Monday- Thursday)
  
- Sheriff Department                          7:00am to 4:00pm (Office Hours Monday Friday)  
7:00 am to 4:00 pm  
1:00 pm to 11:00 pm  
10:00 am to 8:00 pm
  
- Modified Maintenance                      6:00 am to 6:00 pm
  
- Detention Center Hours                    7:00 am to 5:00 pm (Office Hours Monday-Friday)  
Shifts    6:00 am to 6:00 pm  
    6:00 pm to 6:00 am
  
- Administration Hours  
Staff    7:00 am to 5:30pm (Half Hour Lunch, Monday – Thursday)

Department heads or supervisors may establish alternate working hours for part-time county employees.

APPROVED IN OPEN MEETING THIS 9<sup>TH</sup> OF JANUARY 2024.

Working Hours for Colfax County Employees Calendar Year 2024

**COLFAX COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
VICE-CHAIRMAN

\_\_\_\_\_  
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](http://www.co.colfax.nm.us)



**RESOLUTION 2024-03**

**A RESOLUTION ESTABLISHING A LICENSE TAX PERTAINING TO LIQUOR LICENSE**

**WHEREAS**, pursuant to Section 7-24-2, NMSA 1978 of the Liquor Control Act, the Board of Colfax County, New Mexico is empowered by resolution duly appointed, to impose an annual, non-prohibitive license tax upon the privileges of persons holding state licenses under the provisions of the Liquor Control Act to operate within the county, outside of the municipalities; and

**WHEREAS**, amount of the tax, shall not be prohibitive; and

**THEREFORE, BE IT RESOLVED**, that the Board of County Commissioners of Colfax County, New Mexico, hereby imposes an annual liquor license tax in the amount of \$250.00 payable on or before the first day of July of each year which tax shall be collected by the Colfax County Clerk.

APPROVED IN OPEN MEETING THIS 9<sup>TH</sup> DAY OF JANUARY 2024.

**COLFAX COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
VICE-CHAIRMAN

\_\_\_\_\_  
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](http://www.co.colfax.nm.us)



**RESOLUTION 2024-02**  
**PROCUREMENT CODE**

**WHEREAS**, the Procurement Code NMSA 13-1-21 to 13-1-199 is to provide for fair and equitable treatment of all persons involved in public procurement, to maximize the purchasing value of public funds and to provide safeguards for maintaining a procuring system of quality and integrity; and

**WHEREAS**, the Board of Colfax County Commissioners wish to make it a matter of record that it adheres to the Procurement Code NMSA 13-1-21 to 13-1-199; and

**THEREFORE, BE IT RESOLVED**, that the Board of County Commissioners of Colfax County, New Mexico, hereby adopts the Procurement Code NMSA 13-1-21 to 13-1-199 in its entirety and the Colfax County Purchase Policy and Procedures Manual adopted July 13, 2020.

APPROVED IN OPEN MEETING THIS 9<sup>TH</sup> DAY OF JANUARY 2024.

**COLFAX COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
VICE-CHAIRMAN

\_\_\_\_\_  
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](http://www.co.colfax.nm.us)



**RESOLUTION 2024-01**

**OPEN MEETINGS ACT**

**A SPECIAL RESOLUTION TO CONCLUDE AND DETERMINE IN WHAT MANNER REASONABLE NOTICE SHALL BE GIVEN TO THE PUBLIC RELATIVE TO THE FORMULATION OF PUBLIC POLICY, DISCUSSION OF PUBLIC POLICY, DISCUSSION OF PUBLIC BUSINESS OR WHEN FORMAL ACTION IS TAKEN BY THE GOVERNING BODY OF THE COUNTY OF COLFAX, NEW MEXICO, OR ANY OF ITS AGENCIES, AUTHORITIES, COMMISSIONS, COMMITTEES, OR OTHER POLICY-MAKING BODIES AND REPEALING COLFAX COUNTY RESOLUTION 2023-01.**

**WHEREAS** NMSA Section 10-15-1, et seq., the Open Meetings Act, provides in relevant part that “The formation of public policy or the conduct of business by vote shall not be conducted in a closed meeting.” Such act further provides, “all meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policy, making body of any county held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority or the delegated authority of such board, commission or other policy-making body, are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the provisions of the Open Meetings Act;” and

**WHEREAS** the Open Meetings Act further provides in material part that “any meetings at which the discussion or adoption of any proposed resolution, rule, regulation, or formal action occurs, and at which a majority or quorum of the body is in attendance and any closed meetings, shall be held only after reasonable notice to the public; and

**WHEREAS**, the governing body of the County of Colfax, by virtue of this Resolution, is hereby complying with the annual requirements of the Open Meetings Act and further, the governing body is hereby determining what notice for its public meetings is reasonable, as contemplated by the provisions of the Open Meetings Act.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE COUNTY OF COLFAX, NEW MEXICO that:**

SECTION 1. Notice, including an agenda, of any and all regular meetings shall be published in a newspaper of general circulation in the County at least 72 hours in advance of any meeting of a quorum of the members of the governing body held for the purpose of taking any action within the

authority of such body. The agenda for the regular meeting shall be available at the office of the Colfax County Manager, whose office is located in the Colfax County Building, 230 North 3<sup>rd</sup> St., Raton, New Mexico 72 hours in advance of the meeting, and the Colfax County Manager shall make the agenda available by publication in a newspaper and radio station of general circulation within the County and on the Colfax County Website.

SECTION 2. Two regular meetings shall be held on the second and fourth Monday of each month, to begin at the hour of 9:00 A.M., in the County Commission Chambers of the Colfax County Building, 230 North 3<sup>rd</sup> St., in Raton, New Mexico, unless the Board of Commissioners shall determine another date, time, or place for such regular meeting and shall give notice of such determination.

SECTION 3. Notice of any special meetings of a quorum of the members of the governing body of Colfax County held for the purpose of formulating public policy, discussing public business, or for the purpose of taking any action within the authority of the body, may be given in any of the following ways:

- a) Whenever possible, notice of special meetings shall be given in like manner as notice of regular meetings; however, when it is not possible to give notice of a special meeting in accordance with Section 1 above, notice of a special meeting shall be given to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have provided the County a written request for such notice, and shall be posted on the Colfax County Website at least three (3) days in advance of any special meeting of the governing body of Colfax County. A certificate or affidavit concerning the manner in which notice has been given for a special meeting shall be filed in the county manager's office.

SECTION 4. Special meetings shall be held at the same place as contemplated by Section 2 of this resolution, unless otherwise advertised and further, the date, time and place shall appear on the agenda made available to the public and news media, in the office of the Colfax County Manager, County of Colfax, New Mexico.

SECTION 5. The County Commission hereby requires that the Airport Advisory Board, Lodgers Tax Advisory Board, Subdivision Review Committee, Viewers appointed to consider County Road vacations, wherein a quorum of its members shall hold a meeting for the purpose of formulating public policy, discussing public business, or taking action within such body shall follow notice requirements as provided by this Resolution and the Open Meetings Act. Ad hoc or other committees appointed by the Commission to make recommendations to the Commission but acting solely in an advisory capacity and without authority to make decisions on behalf of the commission shall not be required to comply with the requirements of the Open Meetings Act.

SECTION 6. Notwithstanding any provision contained herein, the Chairman of the County Commission of Colfax County may call, with whatever notice is possible under the circumstances, a meeting of the governing body of the County to consider any unforeseen matter that if not addressed immediately will result in injury or damage to persons or property or substantial financial loss to Colfax County. Within ten days of taking action on an emergency matter, Colfax



County shall report any action taken at an emergency meeting to the Office of the Attorney General of the State of New Mexico, unless a state or national emergency has been declared.

SECTION 7. Notwithstanding any provision contained herein, the County Commission or any governing body of any board, commission, authority, or other policy-making body of the County may call and conduct closed meetings for the purpose of discussing or acting upon:

- issuance, suspension, renewal, or revocation of license. (See Section 10-15-1-(H) (1) NMSA 1978)
- discussion of hiring, promotion, demotion, dismissal, assignment, or resignation of or the investigation or consideration of complaints or charges against any individual public employee. (See Section 10-15-1 (H) (2), NMSA 1978)
- meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the governing body and a bargaining unit representing County employees. (See Section 10-15-1 (H) (5).
- deliberations of the County Commission in connection with an adjudicatory proceeding. (See Section 10-15-1 (H) (3), NMSA 1978)
- that portion of meetings at which a decision is made or discussed concerning purchases in an amount exceeding two thousand five hundred dollars (\$2,500) that can be made only from one source and that portion of meetings at which competitive sealed proposals solicited pursuant to the Procurement Code; are discussed during the contract negotiation process provided, however, actual approval of the purchase shall be made in an open meeting. (See Section 10-15-1 (H) (6), NMSA 1978)
- meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the County is or may become a participant. (See Section 10-15-1 (H) (7), NMSA 1978)
- discussion of the purchase, acquisition or disposal of real property or water rights by the County. (See Section 10-15-1 (H) (8), NMSA 1978)

The requirements that meetings be open, and that minutes be kept by the governing body, board, commission, or other policy-making body shall not apply to closed meetings conducted under Section 7 above. In any meeting closed pursuant to the exclusions contained in Section 7 above or Subsection H 10-15-1, NMSA 1978, such closure shall:

1. if made in an open meeting, be approved by majority roll call vote of quorum of the policy-making body and the authority for such closure shall be stated in motion calling for the vote on the closed meeting and the vote shall be taken in open meeting and the vote of individual members shall be recorded in the minutes; and
2. if called for when the policy-making body is not in open meeting, such closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting is given to the members and to the general public.

SECTION 9. Notwithstanding any provision contained herein, the Chairperson of the County Commission may establish such additional notice as he or she may deem necessary and advisable.

SECTION 10. Minutes of meetings of the Board of County Commissioners of Colfax County, New Mexico shall be prepared and approved in accordance with the provisions of NMSA 1978 Section 10-15-1G (1997); that is to say that draft minutes of such meetings shall be prepared within ten working days after each meeting, that such minutes shall be approved, amended, or disapproved at the next meeting of the Board of County Commissioners of Colfax County, New Mexico where a quorum is present, if such meeting is held ten or more working days after each prior meeting.

SECTION 11. The tapes of the meeting shall be kept and made available to the Board of County Commissioners of Colfax County, New Mexico until the minutes of such meeting shall be approved by the Board.

SECTION 12. Subsequent to the approval of the minutes of any meeting of the Board of County Commissioners of Colfax County, New Mexico, the minutes or amended minutes of such meeting shall be the official record of such meeting of the Board of County Commissioners of Colfax County, New Mexico, and thereafter, the tapes of such meeting shall not be kept or retained by the Board of County Commissioners of Colfax County, New Mexico or the Office of the Clerk of Colfax County, New Mexico.

SECTION 13. At the conclusion of any closed meeting when the County Commission reconvenes in open meeting or at the next open meeting of the Board of County Commissioners of Colfax County, New Mexico where a quorum is present following a closed meeting separately scheduled, the Board of County Commissioners of Colfax County, New Mexico shall direct by motion that the minutes reflect no decisions were made and that the matters discussed in the closed meeting were limited to those specified in the motion to close such meeting or the notice of the separate closed meeting, and the vote of each individual Commissioner upon such motion shall be recorded in the minutes.

SECTION 14. Any member of the governing body of Colfax County may participate in a meeting of such governing body in a meeting of such by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting.

SECTION 15. The prior open meeting RESOLUTION 2023 -01, adopted and amended on January 10, 2023, is hereby repealed.

APPROVED IN OPEN MEETING THIS 9<sup>th</sup> DAY OF JANUARY 2024.

RESOLUTION 2024-01 OPEN MEETINGS ACT

**COLFAX COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
VICE-CHAIRMAN

\_\_\_\_\_  
MEMBER

ATTEST:

\_\_\_\_\_  
Rayetta M. Trujillo, CLERK OF THE BOARD

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:	COLFAX COUNTY
Signature:	(signature above)
Name:	(print name above)
Date:	(date above)

<b>THE LAMAR COMPANIES</b>	This contract is NOT BINDING UNTIL ACCEPTED by a Lamar General Manager.
<i>Pamela Martinez</i>	_____
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/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

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

<b>CONTRACT:</b> 4000814	<b>NAT'L CONTRACT</b>
<b>CUSTOMER:</b> COLFAX COUNTY	<b>REPORT DATE:</b> 6/23/2023
<b>ADVERTISER:</b> 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: 6/22/2023

<b>CONTRACT:</b> 4000814 <b>CUSTOMER:</b> COLFAX COUNTY <b>ADVERTISER:</b> COLFAX COUNTY	<b>NAT'L CONTRACT</b> <b>REPORT DATE:</b> 6/23/2023
--	--

Location: I-25 W/L .66 S MP 45+ MP 453.34

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

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

Material Received:





# PROOF OF PERFORMANCE

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

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

<b>CONTRACT:</b> 4000814 <b>CUSTOMER:</b> COLFAX COUNTY <b>ADVERTISER:</b> COLFAX COUNTY	<b>NAT'L CONTRACT</b> <b>REPORT DATE:</b> 12/12/2023
--	---

Location: I-25 W/L .66 S MP 454 MP 453.34

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

<b>PRIORITY #</b>	<b>#</b>
<b>AMOUNT TO BE RECOMMENDED TO COUNTY COMMISSION</b>	<b>\$</b>

**Title/Position**

---

### Check Maintenance



Update Prompt () Return Cancel

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

Mo/Day Year  
Bank 01 Ck-Number 113645 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
214-0396-01-470-47080	1080.00	1.00	WINTER BILLBOARDS	1080.00
PRINTING/PUBLISHING	PO#- 62255	INVR	115448929 REQ# 8395	

(All underline text are clickable)

$1080.00 \times 5\% = 54.00$   
54.00  
**\$1134.00**

Check Maintenance



Update Prompt () Return Cancel

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

Mo/Day Year  
Bank 01 Ck-Number 112363 0608 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
214-0396-01-470-47080	1080.00	1.00	SUMMER BILLBOARDS	1080.00
PRINTING/PUBLISHING	PO#- 61582	INV# 114814570	REQ# 7699	

(All underline text are clickable)

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

---

 $\$ 1134.00$

**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/REVOCATION/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 \_\_\_\_ day of \_\_\_\_\_, 2024.

BOARD OF COMMISSIONERS  
COLFAX COUNTY, NEW MEXICO

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice Chairman

\_\_\_\_\_  
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  
[www.co.colfax.nm.us](http://www.co.colfax.nm.us)



## **Notice Public Hearing**

PUBLIC NOTICE IS HEREBY GIVEN that the Colfax County Commissioners will be Discussing Colfax County Ordinance # 2024-01, An Ordinance Regulating the Siting and Permitting of Wireless Telecommunication Facilities. In the 3<sup>rd</sup> Floor Commission Chambers, of the Colfax County Building on Tuesday, January 9, 2024, at 8:45 am.

A copy of the proposed ordinance is available for inspection on the County website @ [www.co.colfax.nm.us](http://www.co.colfax.nm.us) or at the Office of the County Manager, Colfax County Building, 230 North 3<sup>rd</sup>, Raton NM during regular business hours.

Done this 2<sup>nd</sup> day of January 2024