

CIBOLA COUNTY BOARD OF COMMISSIONERS

T. Walter Jaramillo
Chairman

Robert Armijo
1st Vice Chairman

Jack Moleres
2nd Vice Chairman

Patrick Simpson
Commissioner

Lloyd F. Felipe
Commissioner

**Regular Meeting
Wednesday, May 25, 2016
5:00 p.m.
Cibola County Convention Room**

1. Call to Order

2. Roll Call

3. Pledge of Allegiance

4. Prayer

5. Approval of Agenda

6. Approval of Minutes:

- a. April 27, 2016 Regular Commission Meeting
- b. May 5, 2016 Special Meeting
- c. May 11, 2016 Workshop
- d. May 18, 2016 Workshop

7. Presentations

- a. Cibola General Hospital CEO Report
- b. Employee of the Month

8. Reports

- a. Monthly Sheriff's Department Activity Report
- b. Monthly Detention Report
 - a) PREA
- c. Monthly Road Department Report
- d. County Complex Remodel Expense Report

9. Public Comment

The Public has the opportunity to provide comment at this time regarding any agenda item only. Your Comments will be limited to three minutes unless the Board of County Commissioners requests more information. The time limit is given in an effort to allow public input but also to move the agenda forward in a prompt yet efficient manner.

10. Unfinished Business

- a. Consideration of Pueblo of Acoma request for funding of Bus Routes

11. Action Items

- a. Consideration of Chamber of Commerce request for funding of Fireworks Display
- b. Consideration of Road Name Change from Garcia Blvd to Bajar Quemazon Road
- c. Consideration to proceed with Voluntary Insurance through NMAC
- d. Consideration of Resolution 16-26 Road Cut Permit Policy
- e. Consideration of Resolution 16-27 Grave Excavation Policy

- f. Consideration of Resolution 16-28 Social Media Policy
- g. Consideration of Contract:
 - a) Grant Agreement: Children, Youth and Families Department #17-19786
 - b) Future Foundations
 - c) Grants Mainstreet Project
 - d) Huitt Zollars
 - e) Extension Office
 - f) Economic Development
 - g) Chamber of Commerce
 - h) Cibola County Historical Society
 - i) Rodeo Association
 - j) Double Six Gallery
 - k) Road Runner
 - l) Recycle Cibola
- h. Consideration of Preliminary Budget
- i. Direction to Publish Off Highway Vehicle Ordinance
- j. Direction to Publish Personnel Policy Ordinance
- k. Direction to Publish Prohibiting Illegal Tire Dumpsites, The Importation Of Scrap Tires Into Cibola County And Providing For The Abatement Of Illegal Tire Dumpsites Ordinance

12. Manager's Report

13. Comments

- a. Staff
- b. Commissioners

14. Executive Closed Session

- a. Pursuant to Section 10-15-1 (H) (2) (5) (6) & (8) the following matter may be discussed in closed session:
 - a) limited personnel matters: County Managers Contract;
 - b) purchase of real property: Land East of La Mesa Mall
- Motion and roll call vote to go into Executive Session for the state reasons
- Board meets in closed session
- Motion and vote to go back into regular session
- Summary of items discussed in closed session
- Motion and roll call vote that matters discussed in closed session were limited to those specified in Motion.

For closure and that no final action was taken, pursuant to the authority in § 10-15-1 NMSA 1978.

15. Action Items

- a. Consideration of County Managers Contract
- b. Consideration of Purchase of Land East of La Mesa Mall

16. Announcements

The next Regular Commission Meeting will be held on Wednesday, June 22, 2016 at 5:00 p.m. immediately following the Board of Finance Meeting in the County Convention Room.

17. Adjournment

Cibola County Commission
Acting as Board of Finance
Wednesday, April 27, 2016

The Cibola County Commission held a Board of Finance Meeting on Wednesday April 27, 2016 at 5:00 pm in the Cibola County Convention Room

I) Commission Convenes

A. CALL TO ORDER

Chairman T. Walter Jaramillo called the meeting to Order at 5:02 pm.

B. ROLL CALL

Chairman T. Walter Jaramillo does roll call- 5-5 Commissioners in attendance.

Note: Chairman T. Walter Jaramillo said meeting will be done slightly different will go into Board of Commissioner Meeting due to Item # 7 Presentation Speakers needing to catch a flight so will accommodate for them to speak first. Then will go back into Board of Finance Meeting and then back to Board of Commission Meeting.

Motion made by all to Approve.

Motion to come out of Board of Finance Meeting Made by Commissioner Felipe, second by 1st Vice Chairman Armijo 5-5 Affirmative 5:07 p.m.

Motion to go into Board of Commission Meeting 5:07 p.m. for Presentation Speakers.

Motion to go into Board of Finance made by Commissioner Simpson, second by 1st Vice Chairman Armijo, 5-5 Affirmative at 5:44 p.m.

Motion to approve Short Recess to recognize the ROTC National Champions made by 1st Vice Chairman Armijo, second by Commissioner Felipe, 5-5 Affirmative at 6:10 p.m.

Motion to come out of Recess made by 1st Vice Chairman Armijo, second by Commissioner Simpson, 5-5 Affirmative at 6:17 p.m.

Motion to go back into Board of Finance made by Commissioner Simpson, second by 1st Vice Chairman Armijo, 5-5 Affirmative 6:17 p.m.

C. Approval of Agenda

Motion to approve agenda made by Commissioner Simpson, seconded by 1st Vice Chairman Armijo 5-5 Affirmative.

D. Approval of Minutes

Regular Meeting – March 23, 2016

Motion to approve minutes made by 1st Vice Chairman Armijo, seconded by Commissioner Simpson, 5-5 Affirmative.

Elected Officials Present Staff

T. Walter Jaramillo, Chairman
Robert Armijo, 1st Vice Chairman
Jack Molerres, 2nd Vice Chairman
Patrick Simpson, Commissioner
Lloyd F. Felipe, Commissioner

Tony Boyd, County Manager
Joseph Sanders, Financial Analyst
Julie Quintana, Administrative Assistant
Michelle Dominguez, Chief Deputy Clerk
Doreen Esparza, Recording/Filing Clerk

II) COMMISSION ADJOURNS AS BOARD OF COUNTY COMMISSIONERS AND RECONVENS AS BOARD OF FINANCE

A. Monthly Voucher Report: March 2016

Commissioner Felipe asked if they can get the Monthly Voucher Report in a timely manner so they have more time to overlook the report.

Motion to approve Voucher Report made by Commissioner Felipe, second by Commissioner Simpson, 5-5 Affirmative.

B. Monthly Treasurers Report: March 2016

Report on file: No questions at this time from County Commission.

C. Investment Report: March 2016

Report on file: No questions at this time from County Commission.

D. Schedule of Rents Received: March 2016

Rents received as of March, 2016 from the following:

Smith's Shopping Center:	\$6,869.33
Magistrate Court:	\$10,066.81
APPO:	\$4,875.00
Smith's GR:	<u>\$49,243.14</u>
Grand Total:	\$ 71,054.28

E. Financial Statements: March 2016

Report on file: No questions at this time from County Commission.

Motion to approve made by Commissioner Felipe, second by Commissioner Simpson 5-5
Affirmative.

III Announcements

The next regular Board of Finance Meeting will be held Wednesday May 25, 2016 at 5:00 p.m.

IV. Adjournment

Adjournment at 7:10 p.m.

Cibola County Commission
Special Meeting
May, 5, 2016

The Cibola County Commission held a Special Meeting on Thursday May 5, 2016 at 6:30 pm in the Cibola County Convention Room

Elected Officials Present Staff

T. Walter Jaramillo, Chairman
Robert Armijo, 1st Vice Chairman
Jack Molerres, 2nd Vice Chairman

Tony Boyd County Manager
Joseph Sanders, Financial Director
Julie Quintana, Administrative Asst.
Michelle Dominguez, Chief Deputy Clerk
Natalie Grine, Rec/Fil Clerk

A. CALL TO ORDER

Walter Jaramillo, County Chairman called the meeting to Order at 6:36 pm

B. ROLL CALL

Commissioner Jaramillo does roll call-3-5 Commissioners in attendance.
Commissioner Felipe and Commissioner Simpson were absent.

C. Pledge of Allegiance Recited by all

D. Prayer Led by Manager Tony Boyd

E. Approval of Agenda

Motion to approve the agenda made by Commissioner Armijo, second by Commissioner Molerres 3-0 affirmative.

F. Action Items

- a. **Consideration of Resolution 16-24, in support of Federal Railroad Administration crew size rule.**

Motion to approve Resolution 16-24 support of Federal Administration crew size rule made by Commissioner Armijo, second by Commissioner Molerres 3-0 affirmative.

- b. **Consideration of Resolution 16-25, Travel Expenditures**

Motion to approve Resolution 16-25 made by Commissioner Armijo, second By Commissioner Molerres 3-0 affirmative.

G. Executive Closed Session

Pursuant to Section 10-15-1(H) (2) (5) (7) & (8) the following may be discussed in closed session: a) personnel: Detention Administrator.

Motion and roll call vote to go into Executive Session for the state reasons made by Commissioner Armijo, second by Commissioner Moleres at 6:49 pm 3-0 affirmative.

Motion and vote to go back into regular session made by Commissioner Moleres, second by Commissioner Armijo at 8:26 pm 3-0 affirmative.

Summary of items discussed in closed session.

Personnel Detention Administration / No decision were made in closed session.

Motion and roll call vote that matters discussed in closed session were limited to those specified in Motion, made by Commissioner Armijo, second by Commissioner Moleres 3-0 affirmative.

For closure and that no final action was taken, pursuant to the authority in §10-15-1 NMSA 1978.

H. ANNOUNCEMENTS

A **Workshop** is scheduled for Wednesday, May 11th and May 18th at 5 pm to discuss contracts and budget.

The next Regular Commission Meeting to be held on Wednesday, May 25th, 2016 immediately following the Board of Finance Meeting in the County Convention Room

I. ADJOURNMENT

A motion to adjourn the meeting made by Commissioner Moleres, second by Commissioner Armijo 3-0 affirmative at 8:28 pm.

Cibola County Commission
Workshop
May 11th, 2016

The Cibola County Commission held a Workshop on Wednesday May 11th, 2016 at 5:00 pm in the Cibola County Small Convention Room

Elected Officials Present Staff

T. Walter Jaramillo, Chairman
Robert Armijo, 1st Vice Chairman
Jack Moleres, 2nd Vice Chairman
Patrick Simpson, Chairman

Tony Boyd County Manager
Joseph Sanders, Financial Director
Julie Quintana, Administrative Asst.
Elisa Bro, County Clerk
Natalie Grine, Rec/Fil Clerk

A. CALL TO ORDER

Walter Jaramillo, County Chairman called the meeting to Order at 5:12 pm

B. ROLL CALL

Commissioner Jaramillo does roll call-4-5 Commissioners in attendance.
Commissioner Felipe was absent.

C. Pledge of Allegiance Recited by all

D. Prayer Led by Commissioner Pat Simpson

E. Approval of Agenda

Motion to approve the agenda made by Commissioner Armijo, second by Commissioner Moleres 4-0 affirmative.

F. Commission Workshop (For Discussion Purposes Only)

a. Contracts

Cibola County Historical Society

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

Grants Mainstreet Project

No decisions made only discussion, this item will be presented at the next County Commission Meeting.

Rodeo Association

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

Huitt Zollars

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

Double Six Gallery

No decision were made only discussion, this item will be presented at the next County Commission Meeting.

b. Budget**Detention**

Discussion only, this item will be presented at the next County Commission Meeting.

Dispatch

Discussion only, this item will be presented at the next County Commission Meeting.

Road

Discussion only, this item will be presented at the next County Commission Meeting.

G Announcements

A **Workshop** is scheduled for Wednesday, May 18th at 5 pm to discuss contracts and budgets. The next Regular Commission Meeting to be held on Wednesday, May 25th, 2016 immediately following the Board of Finance Meeting in the County Convention Room.

H. ADJOURNMENT

A motion to adjourn the meeting made by Commissioner Armijo, second by Commissioner Simpson 4-0 affirmative at 7:10 pm.

***Cibola County Commission
Workshop
May 18, 2016***

The Cibola County Commission held a Workshop on Wednesday May 18, 2016 in the Cibola County Commission Room.

Elected officials Present Staff

**T. Walter Jaramillo, Chairman
Robert Armijo, 1st Vice Chairman
Jack Moleres, 2nd Vice Chairman**

**Manager Tony Boyd
Joseph Sanders, Financial Analyst
Elisa Bro, County Clerk
Doreen Esparza, Recording/Filing Clerk**

1. Call to Order

Chairman T. Walter Jaramillo called the Meeting to Order at 5:08 p.m.

2. Roll Call

Chairman T. Walter Jaramillo does roll call 4-5 Commissioners in attendance. Commissioner Felipe absent.

3. Pledge of Allegiance

Recited by all.

4. Prayer

Prayer led by 2nd Vice Chairman Moleres.

5. Approval of Agenda

Approval of Agenda approved by Commissioner Simpson, second by 2nd Vice Chairman Moleres 4-5 affirmative.

6. Commission Workshop (For Discussion Purposes Only)

a. Contracts

i. Road Runner

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

ii. Extension Office

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

iii. Economic Development

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

iv. Recycle Cibola

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

v. Chamber of Commerce

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

b. Budget

The Commissioners have 60 days to finalize the final budget.

7. Announcements

The next Regular Commission Meeting will be held on Wednesday May, 25 2016 at 5:00 p.m. immediately following the Board of Finance Meeting in the County Convention Room.

8. Adjournment

Motion to adjourn the meeting made by 1st Vice Chairman Armijo, second by 2nd Vice Chairman Moleris at 7:05 p.m. 4-5 affirmative.

Cibola County Commission

May 25, 2016

Cibola General Hospital Report

Thank you, Mr. Chair, Commissioners, Manager Boyd, Staff and Support, and Guests for allowing me to provide this update.

Highlights for the last quarter:

1. We held a Community Health Fair at the end of April in conjunction with Continental Divide Co-op's Annual Meeting;
2. Engaged an architect group to analyze the present infrastructure, identify master facility needs and recommend solutions
 - a. The first phase was building/HVAC structure review, which considering the age of the building was in very good shape.
 - b. Phase II suggested the hospital needs more space in numerous departments based on current and future volumes, primarily outpatient business.
 - c. Phase III will be a recommended action of options to be presented to the Board of Directors in July 2016.
3. Reinstated pediatric dental services
4. We had visits from governmental and quasi-governmental agencies, including CAP (laboratory Inspection).
5. Emergency room visits for the month of March 2016 were over 1000, this can be both good and bad.
6. We had a few primary care providers come to CGH for site visits.
7. Exploring opportunities to improve the safety of the hospital for staff and visitors, the following are considerations to investigate:
 - a. Use an insurance broker to evaluate our specific safety needs
 - b. Obtain self-defense training from Grants Police Department or other source
 - c. Suggestions from Commissioner Armijo to utilize reserve sheriff's deputies.
8. Working on FY17 budget which begins July 1, 2016.
9. The Board of Directors reviewed quality indicators, identifying strengths and some areas in which we can improve.





Cibola County Sheriff's Office

Sheriff Tony Mace

Office: 505-876-2040
Dispatch: 505-287-9476
Fax: 505-876-2090

Undersheriff P. Michael Munk
tnymace@yahoo.com
mmunk@co.cibola.nm.us

Physical: 114 McBride Road
Grants, NM 87020
Mailing: 515 W. High St.
Grants, NM 87020

The following are statistics for the Cibola County Sheriff's Department
for APRIL 1 2016 through APRIL 30, 2016.

		April 2015
Accidents	10	6
Arrests	54	61
Transports	27	32
Warrant Transports	29	24
Calls	654	696
Citations	16	51
Warnings	7	-
Civil Papers	28	68
Incidents	40	48
Animal Control Calls		

Please note the above information will change as deputies do all above
duties as it occurs.

APRIL 2016 COMMISSION REPORT

Bookings For April 2016
248
Bookings For March 2017
252

Bookings	Releases
248	230
252	267

Daily Average Inmate Count for April 2016
136
Daily Average Inmate Count for March 2016
145
Highest facility count for the month of April 2016
161

Male	Female
136	36
145	41
161	41
Total	Total
186	202

Revenue Collected for April 2016	
Co. Correctional Fac GRT.	\$42,239.01
Housing	\$48,475.30
Federal Transports	\$1,776.24
Medical	\$4,824.60
All Other	\$2,247.79
Correction Fees	\$17,443.84
Total	\$117,006.78

Rent paid for April 2016	\$9,821.00	From State to General fund
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Juvenile Care paid for April 2016	\$3,445.14	Juvenile's are currently held at the McKinley County Detention Center.
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TOTAL BILLING DAYS FOR APRIL 2016 = 1,434

Paying April 2016	County, City & Federal	# of Inmates	Average # of Billing Days	Billing Days	Rate	Total
	City of Grants	100	4	406	52.00	\$18,163.00
	Village of Milan	8	6.3	51	54.00	\$2,133.00
	United States Marshals	49	15.7	772	50.13	\$38,700.36
	Valencia County				60.00	
	Socorro County				54.00	
	Rio Arriba County	9	12.7	115	54.00	\$6,210.00
	Mora County	2		31	54.00	
	Catron County	2	15.5	31	54.00	\$16.74
	SanMiguel County				54.00	
	Prisoner Transportation Services	14	1.7	25	57.00	\$1,425.00
	Security Transport Services	6	2	3	57.00	\$171.00
	Air Force Nuclear Weapons Center				65.00	
	Pueblo of Acoma					
	Totals	190	57.9	1434		\$66,819.10

April 2016 Non Paying	Non Paying	# of Inmates	Average # of Billing Days	Billing Days	Rate	Total
	APPO	39	17	666	57.00	\$27,730.50
	Magistrate Court	160	9.7	1,555	57.00	\$78,432.00
	District Court	85	22.7	1,935	57.00	\$100,149.00
	Totals	284	49.4	4,156		\$206,311.50

JUVENILE DETENTION LISTING MARCH 2016

[illegible]

Total Man - Days: 46

Rate Per Day: \$108.00

Total Due: \$7,708.31

	Year to Date	Amount
July		\$5,395.95
August		\$10,723.86
September		\$10,922.31
October		\$13,472.08
November		\$8,415.40
December		\$4,291.25
January		\$3,598.95
February		\$3,875.95
March		\$3,445.14
April		\$7,708.31
May		
June		
Total To Date:		\$71,849.20

Total To Date:

Prison Rape Elimination Act (PREA) MONTHLY Reporting Data
Cibola County Detention Center

1) How many persons under the supervision of your facility were-

CONFINED/BOOKED/RELEASED in the month of Ap

Apr-16 478

2) For the month of APRIL, what was the average daily population of your confinement facility?

Apr-16 Male 136 Female 36

3) For the month of APRIL, how many allegations of inmate-on-inmate NONCONSENSUAL SEXUAL ACTS were reported?

Apr-16 0

4) Of the allegations reported in item 3, how many were-

a. Substantiated	April <u>0</u>
b. Unsubstantiated	April <u>0</u>
c. Unfounded	April <u>0</u>
d. Investigation Ongoing	April <u>0</u>

5) For the month of APRIL how many allegations of inmate-on-inmate ABUSIVE SEXUAL CONTACT were reported?

Apr-16 0

6) Of the allegations reported in item 5, how many were-

a. Substantiated	April <u>0</u>
b. Unsubstantiated	April <u>0</u>
c. Unfounded	April <u>0</u>
d. Investigation Ongoing	April <u>0</u>

7) For the month of APRIL how many allegations of inmate-on-inmate SEXUAL HARRASSMENT were reported?

Apr-16 0

8) Of the allegations reported in item 7, how many were-

a. Substantiated	April <u>0</u>
b. Unsubstantiated	April <u>0</u>
c. Unfounded	April <u>0</u>
d. Investigation Ongoing	April <u>0</u>

9) For the month of APRIL how many allegations of STAFF SEXUAL MISCONDUCT were reported?

Apr-16 0

10) Of the allegations reported in item 9, how many were-

a. Substantiated	April <u>0</u>
b. Unsubstantiated	April <u>0</u>
c. Unfounded	April <u>0</u>
d. Investigation Ongoing	April <u>0</u>

11) For the month of APRIL, how many allegations of STAFF SEXUAL HARASSEMENT were reported?

Apr-16 0

12) Of the allegations reported in item 11, how many were-

a. Substantiated	April <u>0</u>
b. Unsubstantiated	April <u>0</u>
c. Unfounded	April <u>0</u>
d. Investigation Ongoing	April <u>0</u>

Cibola County Road Dept.

515 W. High Street

Grants NM 87020

505-285-2570 Phone 505-285 3656 Fax



Monday, May 2, 2016

To: Tony Boyd - County Manager

Fr: Gary Porter - Public Works Director

Re: Monthly Report: 4/1/16 - 4/29/16 (April)

Regular Maintenance

Blade & Shape

<u>Road</u>	<u>Description</u>	<u>Miles</u>
C42	Back Country Byway	36.087
C49	Zuni Canyon Rd.	15.427
C25A	Chapman Rd.	0.951
C52	Gallo Rd.	0.840
C25	Bell Rd.	2.539
C63	Anaconda Rd.	5.931
C48A	Timberlake Rd.	16.400
C35A	Moreno Hill Rd.	10.419
C41	Pie Town Rd.	10.714
Total Miles		99.308

Special Projects

C42	Back Country Byway - Cutting trees, cleaning cattleguards.
C49	Zuni Canyon Rd. - Clean culverts & move rocks off roadway.
C59D	Camino De Silvestre - Install culvert.
C7	Cubero Loop - Roadwork, haul dirt, shoulder work & clean culverts.
C47	Mesa Ridge Rd. - Cut trees, clean cattleguards & culverts.
C30	Bluewater South - Patching.
C10	Diaz Rd. - Clean culverts.
C11	Bibo Ranch Rd. - Clean culverts.
C28	Bluewater Village - Patching.
C8	Encinal-Cubero Rd. - Patching, Shoulder Work, Cutting Trees.

C9

Water Canyon Rd. - Remove old culvert, fix roadway.

C25B

Roberts Rd. - Mowing.

C14A Canada Rd. - Mowing.
C48 Mallory Rd. Clean cattleguards& culverts & fix wing walls.
C14 San Fidel Village - Cut trees.
C49A Parsons Lane - Sweeping.
C24 Elkins Rd. - Sweep.
C20 San Mateo Roads - Fix road to lake.
C21 Murray Acres- Sweeping.
C22 Broadview Acres - Sweeping.
C48A Timberlake Rd. - Clean cattleguards & culverts.
Future Foundations - Work on east side of building on drainage.

Cibola County Road Dept.

515 W. High Street
Grants NM 87020
505-285-2570 Phone Fax 505-287-3656



MAINTENANCE REPORT

April 2016

Road Dept.	128	133.95	10	\$ 16.50	\$ 298.95
Road Dept.	128	51.08	1	\$ 16.50	\$ 67.58
Road Dept.	131	85.19	5.5	\$ 16.50	\$ 175.94
Road Dept.	132	120.93	11	\$ 16.50	\$ 302.43
Road Dept.	133	\$11.31	0.5	\$ 16.50	\$ 19.56
Road Dept.	134	\$16.24	1	\$ 16.50	\$ 32.74
Road Dept.	137	\$119.98	5	\$ 16.50	\$ 202.48
Road Dept.	139	\$241.48	28	\$ 16.50	\$ 703.48
Road Dept.	148	\$72.84	2	\$ 16.50	\$ 105.84
Road Dept.	152	\$132.97	2.5	\$ 16.50	\$ 174.22
Road Dept.	155	\$36.50	1	\$ 16.50	\$ 53.00
Road Dept.	Generator	\$11.34	4	\$ 16.50	\$ 77.34
Road Dept.	Chainsaw	\$68.96	10	\$ 16.50	\$ 233.96
				TOTAL	\$ 2,447.52
Sheriff's	G-78722	\$8.00	1.5	\$ 16.50	\$ 32.75
Sheriff's	G-88607	\$8.00	0.5	\$ 16.50	\$ 16.25
				TOTAL	\$ 49.00

Cibola County Road Dept.

515 W. High Street

Grants NM 87020

505-285-2570 Phone 505-287-3656 Fax



FUEL REPORT - CIBOLA COUNTY ROAD DEPARTMENT

April 2016

UNLEADED					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL.	TOTAL COST
G-18461	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-18473	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-18464	0.31	6.11	336	55.000	\$ 105.34
G-02084	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-15638	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-29800	0.12	15.08	644	42.700	\$ 80.22
G-29091	0.18	10.74	392	36.500	\$ 70.50
G-23696	0.22	8.50	68	8.000	\$ 15.28
G-23697	0.15	12.30	861	70.000	\$ 130.55
G-39980	0.12	15.61	359	23.000	\$ 43.53
G-39988	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-57384	0.18	10.63	772	72.600	\$ 139.71
G-57619	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-57618	0.09	21.00	252	12.000	\$ 22.91
146	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-66164	0.13	14.21	N/U	9.500	\$ 17.40
G-66165	0.08	22.80	N/U	15.000	\$ 28.64
G-70482	0.12	16.34	678	41.500	\$ 80.69
G-78718	0.14	13.33	2,267	170.100	\$ 319.99
G-64239	0.09	21.66	1,666	76.900	\$ 145.67
G-86952	0.11	16.56	679	41.000	\$ 76.16
G-86953	0.07	26.74	1,075	40.200	\$ 76.37
G-86954	0.09	22.46	1,435	63.900	\$ 121.99
G-91750	0.10	19.10	1,098	57.500	\$ 110.52
G-34769	#VALUE!	#VALUE!	N/U	0.000	\$ -
503	0.00	#DIV/0!	13	0.000	\$ -
Extra card	#DIV/0!	0.00	0	10.400	\$ 26.58

TOTAL GAS

845.800

\$ 1,612.05

DIESEL FUEL					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL.	TOTAL COST
G-50237	0.12	14.95	828	55.400	\$ 101.17
G-18484	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-18476	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-18795	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-30550	0.28	6.56	1,151	175.500	\$ 316.86
G-30549	0.34	5.33	213	40.000	\$ 71.78
G-38441	0.38	4.86	462	95.100	\$ 175.99
G-67372	0.27	6.63	591	89.100	\$ 160.18
G-67371	0.32	5.67	986	173.800	\$ 313.30
G-70782	0.29	6.18	1,591	257.300	\$ 467.74
Distributor	#VALUE!	#VALUE!	N/U	0.000	\$ -
Water Truck	0.00	#DIV/0!	23	0.000	\$ -
New Transport	0.61	3.40	743	218.300	\$ 454.69
305	0.00	#DIV/0!	17	0.000	\$ -
306	0.00	#DIV/0!	2	0.000	\$ -
307	6.22	0.29	75	260.700	\$ 466.69
308	2.09	0.88	76	86.300	\$ 158.82
309	0.00	#DIV/0!	33	0.000	\$ -
310	1.64	1.13	9	8.000	\$ 14.74
311	4.88	0.39	13	33.000	\$ 63.43
312	#VALUE!	#VALUE!	N/U	0.000	\$ -
313	#VALUE!	#VALUE!	N/U	0.000	\$ -
314	0.00	#DIV/0!	9	0.000	\$ -
416	5.36	0.34	102	301.400	\$ 547.02
417	6.07	0.29	47	160.300	\$ 285.45
418	7.81	0.23	52	223.800	\$ 406.19
501	0.00	#DIV/0!	13	0.000	\$ -
Extra card	#DIV/0!	#DIV/0!	0	0.000	\$ -
TOTAL DIESEL				2178.000	\$ 4,004.05

***N/U = NOT USED**

Cibola County Road Dept.

515 W. High Street

Grants NM 87020

505-285-2570 Phone 505-287-3656 Fax

**FUEL REPORT CIBOLA COUNTY BY DEPARTMENT****April 2016****SHERIFF'S DEPARTMENT**

VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST
G-85515	0.11	16.69	2,089	125.200	\$ 238.72
G-85514	\$0.08	25.26	4,055	160.551	\$ 314.64
G-61113	\$0.12	15.91	780	49.023	\$ 95.98
G-68384	\$0.00	#DIV/0!	8	0.000	\$ -
G-68920	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-68922	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-68921	\$0.17	11.22	1,349	120.200	\$ 229.74
G-68418	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-72224	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-72225	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-75188	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-78152	\$0.00	#DIV/0!	50	0.000	\$ -
G-78153	#VALUE!	#VALUE!	DNTI	0.000	\$ -

G-78154	#VALUE!	#VALUE!	DNTI	9.700	\$ 18.52
G-78717	\$0.00	#DIV/0!	271	0.000	\$ -
G-78720	\$0.13	14.71	1,100	74.800	\$ 141.81
G-78721	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-78722	\$0.25	7.59	123	16.200	\$ 30.94
G-78723	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-86096	\$0.14	13.44	2,980	221.700	\$ 420.78
G-86996	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-85471	\$0.10	19.33	1,357	70.185	\$ 140.40
A-190-ULS	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-88607	\$0.15	12.24	4,006	327.300	\$ 618.14
G-88606	\$0.14	13.70	3,243	236.700	\$ 450.25
G-88608	\$0.07	28.64	2,101	73.348	\$ 145.50
G-88605	\$0.28	7.42	1,577	212.519	\$ 444.77
Max Pro <i>Armored Truck</i>	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-90204	\$0.10	18.85	2,529	134.200	\$ 257.03
G-90205	\$0.08	24.42	1,939	79.400	\$ 147.99
3035	\$0.08	26.38	3,363	127.498	\$ 253.61
4479	\$0.16	11.96	1,973	165.000	\$ 318.29
4481	\$0.15	13.05	2,816	215.761	\$ 434.23
207902	\$0.17	13.26	2,771	208.923	\$ 460.44
259	\$0.09	20.81	3,309	159.000	\$ 312.11
443	#VALUE!	#VALUE!	DNTI	134.000	\$ 246.19
445	\$0.17	10.93	1,756	160.700	\$ 304.13
9058	\$0.10	19.00	3,980	209.500	\$ 394.84

2219	\$0.12	16.12	3,286	203.900	\$ 387.50
TOTAL SHERIFF'S				3495.308	\$ 6,806.55
<u>MANAGERS</u>					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST
7466	#VALUE!	#VALUE!	DNTI	0.000	\$ -
TOTAL MANAGERS				0.000	\$ -
<u>RURAL ADDRESSING</u>					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST
G60137	\$0.08	22.70	287	12.644	\$ 24.01
TOTAL RURAL ADDRESSING				12.644	\$ 24.01
<u>EMERGENCY MANAGEMENT</u>					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST
G-86167	\$0.15	14.96	1,579	105.529	\$ 231.00
TOTAL EMERGENCY MANAGEMENT				105.529	\$ 231.00
<u>BUILDING & GROUNDS</u>					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST
G-67587	\$0.05	41.82	1,421	33.976	\$ 72.63
TOTAL BUILDING & GROUNDS				33.976	\$ 72.63
<u>I.T.(DATA PROCESSING)</u>					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST

G-90878	\$0.03	58.94	906	15.372	\$ 29.50
G-53547	\$0.00	#DIV/0!	104	0.000	\$ -
TOTAL DATA PROCESSING				15.372	\$ 29.50
<u>ASSESSORS</u>					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST
G-78714	\$0.11	17.44	1,058	60.672	\$ 119.55
G-78715	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-81964	\$0.13	17.01	644	37.853	\$ 80.64
TOTAL ASSESSORS				60.672	\$ 200.19
<u>DETENTION</u>					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST
G-60185	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-24336	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-57383	\$0.22	10.52	247	23.483	\$ 54.46
G-59969	\$0.44	4.68	100	21.369	\$ 44.00
G-60180	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-61368	\$0.12	16.25	291	17.903	\$ 34.00
G-63072	\$0.00	#DIV/0!	11	0.000	\$ -
G-73152	\$0.18	11.19	632	56.484	\$ 113.48
G-78719	\$0.34	5.75	360	62.610	\$ 122.00
G-79636	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-79879	\$0.13	13.69	2,693	196.700	\$ 341.25
G-85729	#VALUE!	#VALUE!	DNTI	0.000	\$ -

X-tra Card	#VALUE!	#VALUE!	DNTI	0.000	\$ -
TOTAL DETENTION				378.549	\$ 709.19
ROAD DEPT. MOTORPOOL					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST
G-18474	#VALUE!	#VALUE!	N/U	0.000	\$ -
TOTAL ROAD DEPT. MOTORPOOL				0.000	\$ -
CONSOLIDATED DISPATCH					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST
G-70403	0.37	5.17	77	14.898	\$ 28.29
Generator	#VALUE!	#VALUE!	N/U	0	\$ -
TOTAL CONSOLIDATED DISPATCH				14.898	\$ 28.29
CLERKS OFFICE					
VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL	TOTAL COST
G-64240	0.32	5.93	25	4.214	\$ 8.00
G55649	0.52	3.66	54	14.742	\$ 28.00
G-72255	0.06	32.55	240	7.374	\$ 14.00
G-86995	0.10	18.59	339	18.232	\$ 35.50
TOTAL CLERKS				44.562	\$ 85.50

DWI PROGRAM					
G-53823	#VALUE!	#VALUE!	DNTI	0.000	\$ -
G-45051	#VALUE!	#VALUE!	DNTI	0.000	\$ -

G-85669	0.08	26.03	1,096	42.108	\$	83.29
TOTAL DWI PROGRAM				42.108	\$	83.29

***DNTI = DID NOT TURN IN / *N/U = NOT USED**



Cibola County, NM

Detail Report with Activity and Encumbrance Account Detail

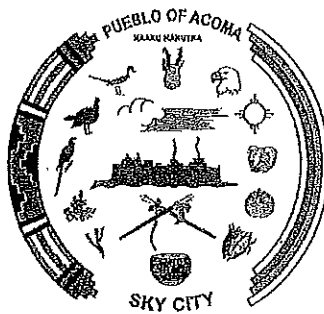
Date Range: 04/01/2016 - 04/30/2016

Account	Post Date	Packet Number	Name	Beginning Balance	Total Activity	Ending Balance	Beginning Enc. Balance	Total Enc. Activity	Ending Enc. Balance
Fund: 563 - CONSTRUCTION FUND									
<u>563-085-445-00101</u>									
	04/12/2016	APKT00451	PROFESSIONAL SERV.	2,501,649.39	362,658.74	2,864,308.13	1,679,707.11	-362,658.74	1,317,048.37
		Vendor: 03429 - NCA ARCHITECTS PLANNERS AIA	OPEN PO CONTINUED 39439		Project Account	Amount	Running Balance	Encumbrance	Running Balance
			Payment Number: 84999			46,128.14	2,547,777.53		
	04/12/2016	39738	OPEN PO WAS 39439						
		Vendor: NCA ARCHITECTS PLANNERS AIA - 03429							
	04/19/2016	APKT00455	8		316,530.60	316,530.60	2,864,308.13		
		Vendor: 28588 - JAYNES CORPORATION	CHANGE ORDER #2						
			Payment Number: 84994						
	04/19/2016	39737A	PRE-CONSTRUCTION OPEN PO						
		Vendor: JAYNES CORPORATION - 28588							
Total Fund: 563 - CONSTRUCTION FUND:				2,501,649.39	362,658.74	2,864,308.13	1,679,707.11	-362,658.74	1,317,048.37
Grand Totals:				2,501,649.39	362,658.74	2,864,308.13	1,679,707.11	-362,658.74	1,317,048.37

Fund Summary

Fund	Beginning Balance	Total Activity	Ending Balance	Beginning		Total		Ending	
				Enc. Balance		Enc. Activity		Enc. Balance	
563 - CONSTRUCTION FUND	2,501,649.39	362,658.74	2,864,308.13	1,679,707.11		-362,658.74		1,317,048.37	
Grand Total:	2,501,649.39	362,658.74	2,864,308.13	1,679,707.11		-362,658.74		1,317,048.37	

Kurt Riley, Governor
Raymond J. Concho, Jr., 1st Lt. Governor
Robert T. Garcia, 2nd Lt. Governor
Jonathan Sims, Tribal Secretary
Christopher J. Garcia, Tribal Interpreter



PUEBLO OF ACOMA
OFFICE OF THE GOVERNOR

25 Pinsbaari Drive
P. O. Box 309
Acoma, NM 87034
Telephone: (505)552-6604
Fax: (505)552-7204

March 9, 2016

Lloyd Felipe, County Commissioner
Tony Boyd, County Manager
Cibola County
Grants, New Mexico 87020

Dear Commissioner Felipe and Mr. Boyd:

The Pueblo of Acoma is requesting for your support and assistance to fund the repairs of a major Grants Cibola County School (GCCS) bus route. This major route is located on SP 30, Pueblo Road, see attached map. The projected cost is \$22,526. Also attached is the scope of work and itemized cost.

Please contact Arvind Patel, Director, Public Works Utility Authority, at (505) 552-5131 if more information is needed and to coordinate this road repair work. Thank you!

Sincerely,

PUEBLO OF ACOMA

Kurt Riley
Governor

cc: Arvind Patel, Director, Public Works Utility Authority
Dave Deutsawe, Interim Director, Planning and Engineering Office
ATO File



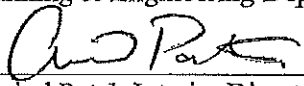
P.O. Box 409
ACOMA, NEW MEXICO 87034

PUEBLO OF ACOMA
PUBLIC WORKS DEPARTMENT

TELEPHONE: (505)552-5180

MEMORANDUM

To: Dave Deutsawe, Acting Director
Planning & Engineering Department

From: 
Arvind Patel, Interim Director
Public Works Department

Date: February 25, 2016

Re: **SP 30 (Pueblo Road) Repairs near SP 304 Beverly Hills Blvd T-Intersection**

Below is a scope of work and projected cost estimate for the repair of SP 30 (Pueblo Road) at the Beverly Hills Boulevard T-Intersection.

Scope of Work:

This scope of work shall include but is not limited to the furnishing of all labor, materials and equipment as required performing the following functions, in accordance with the BIA IAM 82, and the quantities listed on Attachment A:

- Roadway settlement and failures on Pueblo Road SP 30 at the intersection of Pueblo Road and Beverly Hills Blvd – a pavement patch will be performed to repair two areas that have failed and settled in the roadway. Cut and remove asphalt in designated location, remove base course and subgrade to a depth of no less than 12" (subgrade), replace subgrade and base course to match existing thicknesses in this area with the required compaction. Asphalt (SP-4) will be placed at a depth of no less than the existing depth.
- A traffic control plan must be submitted for review and approval before work proceeds.
- Monitor and ensure compliance with OSHA and industry safety standards.
- Ensure quality control of construction methods and installed materials to adhere to BIA IAM 82.

If you should have any questions or require additional information, please contact me.

Thank you.



CITY OF GRANTS
GRANTS, NEW MEXICO
JULY 4, 2016

Ms. Tammy Legler
Grants/Cibola County Chamber of Commerce
P.O. Box 2727
100 N. Iron Avenue
PO Box 297
Grants, NM 87020
Phone: (505) 287-4802
discover@grants.org

*** * * PYROTECHNIC PRODUCTION PROGRAM * * ***

As a beginning declaration, this program proposal is a written sequence of the very best aerial shells and pyrotechnic devices available. All ideas, concepts, and itemized product listing are deemed confidential, and are intended solely for the client's review, and should not be disseminated to anyone other than those persons who are a part of the steering committee for this event.

- 1. PURPOSE.** Western Enterprises, Inc. is pleased to provide the following proposal for the production of a pyrotechnic exhibition to be held in conjunction with the **2016 CITY OF GRANTS 4th OF JULY SPECTACULAR**.
- 2. FIRING SITE.** All pyrotechnics will be fired from a designated point, which meets approval of the Grants Fire Department and Western Enterprises, Inc.
- 3. PLANNING CONSIDERATIONS.** The following provides a list of specific considerations in relationship to this performance.
 - a. Duration.** The duration of your fireworks display will be approximately 20 - 23 minutes in length.
 - b. Insurance.** The coverage provided under this program is \$5,000,000 per occurrence for Broad Form, Contractual, Bodily Injury and Property Damage, and includes all necessary additional insureds. All Western Enterprises vehicles hauling explosives are covered with \$5,000,000 liability coverage. All Western Enterprises technicians are covered by statutory limits of New Mexico State Worker's Compensation.

TO: MS. TAMMY LEGLER
EVENT: CITY OF GRANTS, NEW MEXICO
DATE: JULY 4, 2016
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c. **Permits.** Western Enterprises, Inc. will obtain a New Mexico fireworks display permit to conduct the fireworks display from the Grants Fire Department.

d. **Labor.** A certified pyrotechnic crew from Western Enterprises will be in charge of handling the load in, staging, firing and load out of the pyrotechnic production.

e. **Security.** It is the responsibility of the Sponsor to provide the necessary personnel for security of the area where the pyrotechnics will be staged.

4. GENERAL OVERVIEW OF PERFORMANCE. Western Enterprises, Inc. is honored to have the opportunity to submit this proposal to the **CITY OF GRANTS**, recognizing that this particular event is very significant to this community. It is because of this that we are committed to staging a pyrotechnic production of "Magic" for our client.

This program proposal includes a wide variety of pyrotechnic aerial shells from around the world will be staged in this production, including products from China and the United States.

Strategically interspersed in your performance will be pyrotechnics from our own manufacturing division, **SKYWORKS, LTD.** Their magnesium colored comets, color changing brocade plumes, color changing mines and silk willow shells are showcased both internationally, as well as Disney World and Disney Land.

Your signature "**GRAND AERIAL FINALE**" will create the most dramatic portion of your entire performance, as it will be fired in a special color-separation sequence, rather than the typical frenetic "blur" of variegated fire. Your Finale will initiate with a tremendous barrage of Heavy Reporting Bombs, which will be followed by a barrage of Red Flower Shells, followed by a barrage of White Flower Shells, followed by a barrage of Blue Flower Shells, which is ultimately climaxed by a barrage of Golden Silk Flower Shells, which drape across the sky to bring a thrilling conclusion to the **2016 CITY OF GRANTS FIREWORKS SPECTACULAR!**

"The sky provides the pyrotechnician's canvas, and our art form is portrayed by how we present ourselves in the stars."

TO: MS. TAMMY LEGLER
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ITEMIZED PRODUCT LISTING

OPENING SHELLS (10 Shells)

10 – 3" HEAVY REPORTING SALUTES (1 – 10/3" Salute Chain, marked "Opening Salutes")

GRAND FINALE CLOSING SHELLS (378 Shells)

30 – 3" RED FLOWER SHELLS (3 – 10/3" Red Flower Chains)

10 – 4" RED FLOWER SHELLS (2 – 5/4" Red Flower Chains)

2 – 5" RED FLOWER SHELLS

30 – 3" WHITE FLOWER SHELLS (3 – 10/3" White Flower Chains)

10 – 4" WHITE FLOWER SHELLS (2 – 5/4" White Flower Chains)

2 – 5" WHITE FLOWER SHELLS

30 – 3" BLUE FLOWER SHELLS (3 – 10/3" Blue Flower Chains)

10 – 4" BLUE FLOWER SHELLS (2 – 5/4" Blue Flower Chains)

2 – 5" BLUE FLOWER SHELLS

40 – 3" GOLD FLOWER SHELLS (4 – 10/3" Gold Flower Chains)

10 – 4" GOLD FLOWER SHELLS (2 – 5/4" Gold Flower Chains)

2 – 5" GOLD FLOWER SHELLS

200 HEAVY REPORTING SALUTES (2– 100 Shot Strobing Thunder Barrages)

LOW LEVEL EFFECT BARRAGES (610 Shell Effects)

100 SHOT "C" GOLD COMET BARRAGE

100 SHOT RED W/ WHITE STROBE BARRAGE

100 SHOT NEW COLOR COMET BARRAGE

100 SHOT HAPPY STARS BARRAGE

210 SHOT PURPLE & GREEN RHYME DANCING BARRAGE

TO: MS. TAMMY LEGLER
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THREE INCH SHELLS (215 Shells)

- 20 - AERIAL BOMBS (Heavy reporting salutes)
- 35 - COLOR & FANCY STAR SHELLS (*Consisting of:* Ruby, Blue, Emerald, Pearl, Yellow & Purple with Titanium Twinklers & Aluminum Flitters)
- 70 - ORIENTAL FLOWER PATTERNS (*Consisting of:* Chrysanthemum, Peonies & Dahlias)
- 10 - COMETS (Magnesium Crown Red, Green, Blue, Purple and Yellow with titanium rising tails)
- 10 - SPECIAL SHELLS (*Consisting of:* Diamond Screammers, Gold Whirls, Silver Whirls, Whistles, Serpents & Fish)
- 35 - PATTERN SHELLS (*Consisting of:* Rings, Spider Webs, Willows)
- 35 - PATRIOTIC DESIGNER SHELLS (*Consisting of:* Red Bees, White Bees, Blue Bees, Red w/Glittering Core, Blue w/Glittering Core, Red Crossettes, White Crossettes, Blue Crossettes, Red Go-getters, Blue Go-getters, White Go-getters, Red & Blue Criss-Cross, Blue Flower w/Red strobe core, Red Flower s/blue strobe core, etc.)

FOUR INCH SHELLS (155 Shells)

- 30 - COLOR & FANCY STAR SHELLS (*Consisting of:* Ruby, Blue, Pearl, Emerald, Yellow, Purple with Titanium Twinklers & Aluminum Flitters)
- 45 - ORIENTAL FLOWER PATTERN (*Consisting of:* Chrysanthemum, Peonies & Dahlias)
- 25 - PATTERN SHELLS (*Consisting of:* Rings, Spider Webs, Willows)
- 10 - SPECIAL SHELLS (*Consisting of:* Diamond Screammers, Gold Whirls, Silver Whirls, Whistles, Serpents & Fish)
- 25 - PATRIOTIC DESIGNER SHELLS (*Consisting of:* Red Bees, White Bees, Blue Bees, Red w/Glittering Core, Blue w/Glittering Core, Red Crossettes, White Crossettes, Blue Crossettes, Red Go-getters, Blue Go-getters, White Go-getters, Red & Blue Criss-Cross, Blue Flower w/Red strobe core, Red Flower s/blue strobe core, etc.)
- 20 - **SPECIAL-MADE COMPETITION SHELLS** (*Consisting of:* Long Burning Brocade and Color-changing Plumes, Long Burning Solid Color and Color-changing Octopus, Jeweled Strobe Plumes, Pixie Dust Willows w/variegated pistils, Variegated Coconut Shells w/Strobing Pistils, etc.)

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FIVE INCH SHELLS (130 Shells)

20 - COLOR & FANCY STAR SHELLS (*Consisting of:* Ruby, Pearl, Emerald, Blue, Yellow & Purple with Titanium Twinklers & Aluminum Flitters)

30 - ORIENTAL FLOWER PATTERNS (*Consisting of:* Peonies, Chrysanthemums, & Dahlias)

20 - PATTERN SHELLS (*Consisting of:* Rings, Spider Webs, Willows)

20 - DESIGNER SHELLS (*Consisting of:* Dianthus, Triple Rings, Double Rings w/pistils, Red Palms, Cascading Plume Shells, Crackling Strobes, Jeweled Brocades, Diadem Flowers w/pistils, Magnesium Color Changing Willows, Green Palm Trees, etc)

20 - PATRIOTIC DESIGNER SHELLS (*Consisting of:* Red Bees, White Bees, Blue Bees, Red w/Glittering Core, Blue w/Glittering Core, Red Crossettes, White Crossettes, Blue Crossettes, Red Go-getters, Blue Go-getters, White Go-getters, Red & Blue Criss-Cross, Blue Flower w/Red strobe core, Red Flower s/blue strobe core, etc.)

20 - **SPECIAL-MADE COMPETITION SHELLS** (*Consisting of:* Long Burning Brocade and Color-changing Plumes, Long Burning Solid Color and Color-changing Octopus, Jeweled Strobe Plumes, Pixie Dust Willows w/variegated pistils, Variegated Coconut Shells w/Strobing Pistils, etc.)

SIX INCH SHELLS (60)

10 - COLOR & FANCY STAR SHELLS (*Consisting of:* Ruby, Pearl, Emerald, Blue, Yellow & Purple with Titanium Twinklers & Aluminum Flitters)

10 - ORIENTAL FLOWER PATTERNS (*Consisting of:* Peonies, Chrysanthemums, & Dahlias)

10 - PATTERN SHELLS (*Consisting of:* Rings, Spider Webs, Willows)

5 - DESIGNER SHELLS (*Consisting of:* Dianthus, Triple Rings, Double Rings w/pistils, Red Palms, Cascading Plume Shells, Crackling Strobes, Jeweled Brocades, Diadem Flowers w/pistils, Magnesium Color Changing Willows, Green Palm Trees, etc)

5 - PATRIOTIC DESIGNER SHELLS (*Consisting of:* Red Bees, White Bees, Blue Bees, Red w/Glittering Core, Blue w/Glittering Core, Red Crossettes, White Crossettes, Blue Crossettes, Red Go-getters, Blue Go-getters, White Go-getters, Red & Blue Criss-Cross, Blue Flower w/Red strobe core, Red Flower s/blue strobe core, etc.)

20 - **SPECIAL-MADE COMPETITION SHELLS** (*Consisting of:* Long Burning Brocade and Color-changing Plumes, Long Burning Solid Color and Color-changing Octopus, Jeweled Strobe Plumes, Pixie Dust Willows w/variegated pistils, Variegated Coconut Shells w/Strobing Pistils, etc.)

TO: MS. TAMMY LEGLER
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FLARES

18 - 20-Minute Fusees

NO CHARGE

INSURANCE ON DISPLAY

**\$5,000,000 BROAD FORM, CONTRACTUAL, PROPERTY DAMAGE & BODILY INJURY
(Additional insured included.)**

NEW MEXICO WORKER'S COMPENSATION COVERAGE ON TECHNICIANS

**\$5,000,000 LIABILITY ON WESTERN ENTERPRISES, INC. VEHICLES THAT HAUL
EXPLOSIVES**

MORTARS & EQUIPMENT

**All necessary mortars, racks, equipment, etc. are supplied with this contract, and are the property
of Western Enterprises, Inc.**

TOTAL CONTRACT PRICE - - - - \$20,000.00

FIREWORKS PRODUCTION CONTRACT

1. This Contract is entered into this _____ day of _____, 20____ by and between **WESTERN ENTERPRISES, INC.**, designated herein as the "**SELLER**", and **CITY OF GRANTS, NEW MEXICO**, designated herein as the "**PURCHASER**" for a fireworks production to be held on **JULY 4, 2016**.

2. **SELLER** will secure, prepare and deliver said fireworks as outlined, or will make necessary substitutions of equal or greater value. **SELLER** will include the services of a Pyrotechnic Operator to take charge of, set up and fire the display, along with such help as he deems necessary to perform the fireworks display safely, and in accordance with such Federal, State or Local laws that might be applicable.

3. **SELLER** agrees that the Operator and Assistant(s) are to check the display area after the presentation of the fireworks display for any "duds" or other material, which might not have ignited. Any such material, found by any person other than the Operator, shall be turned to the Operator for safekeeping or disposal of said material.

4. **PURCHASER** will furnish the secured minimum safety distances established by the **SELLER** after an on-site inspection of the proposed firing location. **PURCHASER** will provide adequate police protection and/or other adequate security to maintain these distances. **PURCHASER** also agrees to have a fire truck available on location during the display.

5. A Certificate of Insurance covering the fireworks display will be provided by the **SELLER**, upon signing of the contract, for Commercial General Liability Coverage in the amount of **FIVE MILLION DOLLARS (\$5,000,000.00)** broad form, bodily injury and property damage liability. **PURCHASER** agrees to provide a complete list of all additional insureds to be named on the certificate. **SELLER** also agrees to carry Comprehensive Automobile Liability in the amount of **FIVE MILLION DOLLARS (\$5,000,000.00)** Combined Single Limit and Statutory Workers Compensation Coverage. Those entities/individuals listed on the certificate of insurance shall be deemed as additional insured per this contract.

6. It is agreed and understood that the **PURCHASER** will pay to the **SELLER** the sum of **TWENTY THOUSAND DOLLARS AND NO/100 (\$20,000.00)** to be paid as follows: **30% (\$6,000.00)** of the purchase price will be paid by **PURCHASER** at the time of signing this contract. The balance of the purchase price will be paid within fifteen (15) days after the date of the display. Unpaid accounts are subject to one percent (1%) interest charge per month after fifteen days.

7. In the event of inclement weather or other adverse conditions, so as to cause postponement of the display it is agreed and understood that **PURCHASER** will notify **SELLER** regarding the postponement date, normally the following night, or at some future date within the calendar year. If the **PURCHASER** will not re-schedule the display within the calendar year, or completely cancels the display, the **PURCHASER** agrees that **SELLER** will retain the thirty percent (**30%**) payment described in paragraph #6 as full payment for cancellation of the display.

8. **SELLER** agrees to obtain and pay for the cost of any permit required by the City. **PURCHASER** agrees to be responsible for any cost of Fire Department stand-by fee for personnel or equipment required in connection with the display.

9. Witness whereof, we have caused our signatures to be affixed to this Document, on this _____ day of _____, 20____.

WESTERN ENTERPRISES, INC.
SELLER

CITY OF GRANTS, NEW MEXICO
PURCHASER

BY: _____
authorized agent

BY: _____
authorized agent



***CERTIFIED REPRESENTATIVE
AUTHORIZED TO ORDER FIREWORKS***

THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS (BATF, Dept. of Treasury) REQUIRES THAT WE MAINTAIN A CURRENT LIST OF INDIVIDUALS AUTHORIZED TO ORDER EXPLOSIVE MATERIALS (FIREWORKS) ON BEHALF OF A GROUP OR ORGANIZATION, PLEASE COMPLETE THE REQUIRED INFORMATION LISTED BELOW AND SIGN AT THE BOTTOM OF THIS FORM.

PLEASE COMPLETE AND RETURN WITH SIGNED CONTRACT

NAME	D.L. # & ST.	ADDRESS	DATE & PLACE OF BIRTH
-------------	-------------------------	----------------	----------------------------------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

I CERTIFY THAT THE INTENDED USE OF THE EXPLOSIVE MATERIALS IS FOR A FIREWORKS DISPLAY.

Signature

Date



STATE OF NEW MEXICO
FIRE MARSHAL'S OFFICE
FIREWORKS LICENSING & SAFETY DIVISION

APPLICATION FOR FIREWORKS DISPLAY PERMIT

NAME OF APPLICANT _____

AGE _____

MAILING ADDRESS _____

ZIP _____

TELEPHONE NUMBERS: HOME _____

BUSINESS _____

PERSON OR GROUP SPONSORING DISPLAY _____

PERSON OR COMPANY CONDUCTING DISPLAY _____

NAME OF BUSINESS FIREWORKS OBTAINED FROM _____

DISPLAY LOCATION _____

COUNTY _____

DATE OF DISPLAY _____

TIME _____

RAIN DATE FOR DISPLAY _____

In submitting this application, I certify that the display location shall not be hazardous to life or property.

SIGNATURE OF APPLICANT _____

NOTARY: Subscribed and sworn to before me this _____ day of _____, 19____

POLICE CHIEF'S APPROVAL _____

FIRE CHIEF'S APPROVAL _____

My commission expires _____

1	Real Property Account R01263	2-051-059-258-052	GARCIA, HARRY	15 GARCIA RD	S: 10 T: 10N R: 9W 15 GARCIA RD 0
2	Real Property Account R09981	2-051-059-201-036	GARCIA, HARRY AND MARIE	25 GARCIA	S: 10 T: 10N R: 9W A TRACT OF LAND SITUATED IN THE SE ...
3	Real Property Account R01059	2-051-059-167-032	GARCIA, HARRY AND GRACE MARIE MARTINEZ-GARCIA	GARCIA RD	S: 10 T: 10N R: 9W A TRACT OF LAND WITHIN SE 1/4 5 AC...
4	Real Property Account R00055	2-051-059-030-015	THOMAS, KAREN L.	55 GARCIA RD GRANTS 87020	S: 10 T: 10N R: 9W A TRACT OF LAND WITHIN THE SE 1/2 ...
5	Real Property Account R11333	2-051-059-132-023	GARCIA, HARRY	GARCIA RD	S: 10 T: 10N R: 9W A TRACT OF LAND WITHIN THE SE 1/4 ...
6	Real Property Account R22382	2-051-059-088-024	GARCIA, HARRY AND MARIE	GARCIA RD	S: 10 T: 10N R: 9W MIDDLE 5 ACRES OF A 15 ACRE TRACT P...
7	Real Property Account R04639	2-050-058-462-363	CHAVEZ, ANTHONY I, DAVID D, JOSEPH P. AND GALLEGOS, MOLLY	64 GARCIA BLVD, 74 GARCIA BLVD GRANTS, ... 87020, ...	S: 14 T: 10N R: 9W APPROX. 117.288 ACRES 64 GARCIA ...
8	Real Property Account R22470	2-051-059-337-006	GARCIA-HATTEN, MICHELLE AND HATTEN DEWAYNE	3 GARCIA	Tract: 1 S: 10 T: 10N R: 9W AS SHOWN ON PLAT OF TRACT ...
9	Real Property Account R01136	2-051-059-295-000	HATTEN-GARCIA, MICHELLE	7 GARCIA RD GRANTS 87020	Tract: 2 S: 10 T: 10N R: 9W AS SHOWN ON PLAT OF TRACT ...

County Manager Tony Boyd

This letter is being sent to you in an attempt to change a name of a Rd SE of Grants Current Name Garcia Blvd.

AT THE TIME THE NAME WAS GIVEN TO THIS Rd I WAS WORKING FOR THE COUNTY Rd DEPT. COUNTY MAPPING WAS CONTRACTED.

AT THE TIME Jimmy Chavez and I had a conversation about the Road in Question. I replied that it should be named for where its at, the valley it is in is called BAJAR QUEMAZON. HOW IT BECAME GARCIA BLVD I DO NOT KNOW. BUT THERE IS A HARRY GARCIA THAT HAD JUST MOVED INTO THE AREA AND LIVE IN ^{THE} MIDDLE LOT ON THIS ROAD.

IN ANY CASE IT IS MY BELIEF THAT THE NAME OF THE ROAD SHOULD NOT BE A SURNAME OF ANY ONE OR IF IT HAS TO BE A SURNAME IT SHOULD BE AFTER THE MAN THAT ~~WORKED~~ NEGOTIATED AND WORKED TO IMPROVE THIS ROAD 20 YEARS BEFORE HARRY GARCIA THOUGHT OF LIVING THERE. AND HIS NAME IS ALFREDO COLLEGOS, JR.

HOWEVER HIS FAMILY WILL BE HAPPY IF WE CAN JUST CHANGE THE NAME FROM GARCIA BLVD TO BAJAR QUEMAZON Rd.

Enclosed is a copy of a letter sent to
then Commissioner Edward Michael, maps of
where this Road is, and a petition signed by
the Family that uses the road on a regular
Basis,

Also Enclosed are 3 ways to contact me.
THANK you AND your reply would be greatly
appreciated

Cathy Chy

4-21-13

Commissioner Edward Michael

My name is Anthony Chavez son of
Junior Gallegos.

I am writing to you about the name
of our ranch road. Which you yourself have
driven on, when you bought pigs from us.

Attached is a copy of a map which was given
to me by Darryl (THE county mapper)

THE name of Garcia Blvd was given to it.
This in my and my families opinion should never
have happened. Because when I worked for
the county Road Dept, Jimmy Chavez and I
had discussion about the name. I suggested the
name of the valley where the road sits
BAJAR QUEMAZON OR LA QUEMAZON Rd.

At the time I THOUGHT Jimmy had agreed,
so I left it alone.

A couple of years after dad passed the
county Assesor started using Road names on our
property Description. I guess Jimmy never relayed
the message.

In any case Out of respect for my Dad
who actually negotiated with other land owners AT
THAT time, ALSO BUILT THIS ROAD AS TRAVELABLE easement
TO THE home and land at the end of the Road

WHICH brings us again to the reason
for this Letter. Please help me change the
name of the Road, From GARCIA Blvd to
BAJAR Quemazon Rd or LA Quemazon Rd

I would like to hear from you either by
Letter or by phone or Email.

mailing address:

Anthony Chavez

Po Box 693

Grants NM 87020

phone:

505 240 0080

Email

anthonychavez21@gmail.com.

Thank you and your reply will be greatly
appreciated me and the Gallegos family.

Anthony Chz

**Petition Request to change the name of a road 3
miles east of Grants in Cibola County from
Garcia Blvd. to Bajar Quemazon Road.**

Molly Carpenter

Anthony Chy - PO Box 693 Grants NM 240-0080

James J. Perry

Bernice Delgado - 408 W. Santa Fe Grants -

Ray Carpenter

Dan D. Chy - PO Box 3413 Milan NM

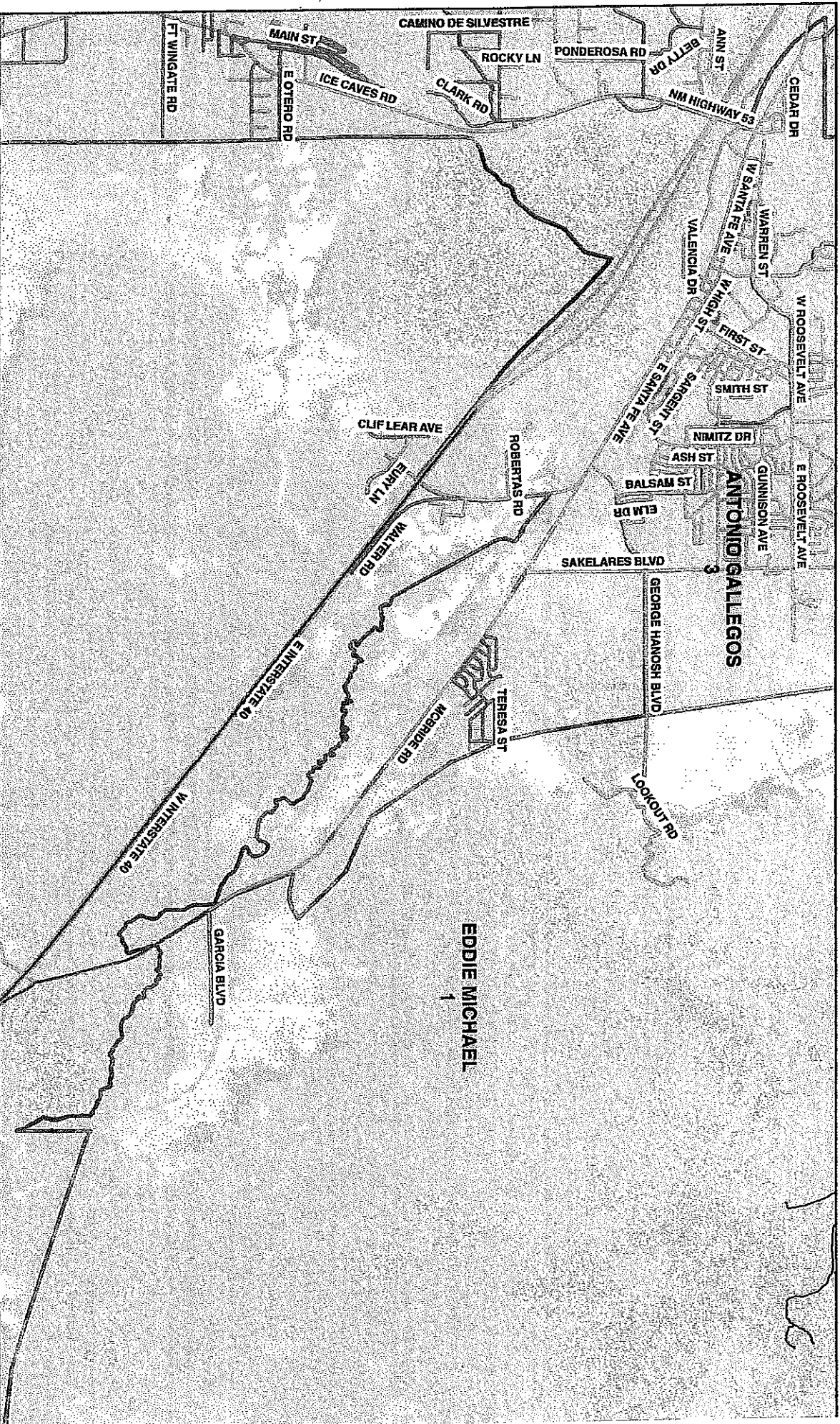
Cibola County Commission Districts

@ 2012 Cibola County

The data on this document is believed to be accurate. However, Cibola County makes no warranties, expressed or implied, including fitness for use.

Cibola County Rural Addressing

515 W. High Street
Grants, NM 87020
(505)285-2515



Cibola County Commission

Legend:

- County Boundary
- Water
- Creek
- Highway
- Local Road
- Cibola County Commission Districts
- District 1
- District 2
- District 3
- District 4
- District 5
- District 6
- District 7
- District 8
- District 9
- District 10
- District 11
- District 12
- District 13
- District 14
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- District 95
- District 96
- District 97
- District 98
- District 99
- District 100



CARPENTER, MOLLY S.



View...

TopoQuest

[Home](#) [View Maps](#) [Find Maps](#) [Find Places](#) [Forum](#) [Resources & Links](#)

Welcome to the TopoQuest Map Viewer!
Bajar Quemazon, NM is an area located in Cibola County in New Mexico. This is the nearest place in the USGS place names database to the center of the map view below. Look below the map view for a list of other places and locations that are visible within this map view. If you need to locate a landmark or feature, you can search for its location on our [Find Places](#) page. If you need to locate a specific USGS topographic map, try our [Find Maps](#) page.

Click on map to:
Zoom in
Zoom out
Re-center

Map contents:
Choose
Automatically
Overall
Coverage
1:24K
Coverage
1:24K Topo
maps (US)
1:50K
Coverage
1:50K Topo
maps (US)
1:100K
Coverage
1:100K Topo
maps (US)
1:250K
Coverage
1:250K Topo
maps (US)
Satellite
Coverage
Satellite
1m
(US)
Zoom level:
1m per pixel
(Sat)
2m per pixel
(Sat)
4m per pixel
8m per pixel
16m per pixel
32m per pixel
64m per pixel
128m per pixel
256m per pixel
512m per pixel
1km per pixel
2km per pixel
4km per pixel

USGS Map Name: Grants SE, NM Map MRC: 35107A7
Map Center: N35.09671° W107.76117° Datum: NAD83 Zoom: 4m/pixel

Note: Areas shaded green have 1:24K topographic map coverage.



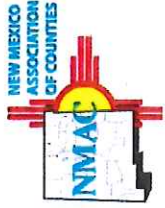
Universal Life Long-Term Care Coverage

- **Product Highlights:**

- Long-Term Care Coverage is embedded in the Universal Life
- Universal Life is flexible, permanent, designed for a lifetime
- Fully portable at the same price
- Spouse, domestic partner, children and grandchildren can be covered even if the employee chooses not to participate
- Accidental death benefit doubles the benefit if death occurs by accident prior to age 75
- Issue age is up to age 80
- Coverage begins the day the application is taken

- **Rates**

- Rates are based on actual age and smoking status for cigarettes only.
- Rates are guaranteed not to go up due to age or renewal
- Money-purchase – employees dictate how much they can afford to pay



Long-Term Care Coverage

- Product Highlights:
 - Long-Term Care Coverage is embedded in the Universal Life (not a rider)
 - Not able to perform 2 activities of daily living will trigger the claims process
 - Self-care for activities of daily living (ADLs) include functional mobility, bathing and showering, dressing, self-feeding, personal hygiene and grooming, toilet hygiene
 - Designed to accelerate the Universal Life Death Benefit at 4% per month for up to 50 months
 - Death benefit restoration restores the life insurance so that it is not diminished by the long-term care payout
 - Pays for assisted living, home healthcare, adult day care, and nursing home care
- Rates (embedded in the life insurance purchase)
 - Rates are based on actual age and smoking status for cigarettes only.
 - Rates are guaranteed not to go up due to age or renewal
 - Money-purchase – employees dictate how much they can afford to pay



Critical Illness with Cancer Coverage

- Product Highlights:
 - Single Benefit – provides one lump-sum benefit upon first diagnosis of a covered condition (Heart Attack, Stroke, Occupational HIV, Renal Failure, Major Organ Transplant, Paralysis of 2+ limbs, Blindness, ALS, Invasive Cancer, Carcinoma in Situ, Coronary Artery Bypass Surgery)
 - Double Benefit – provides two lump-sum benefits with a second benefit payable for a subsequent and different diagnosis
 - Subsequent Condition Benefits – provides one payout for each and every covered condition. Plus, benefits paid on conditions with a partial payout do not reduce later payouts
 - Subsequent and Recurring Conditions Benefits – provides one payout for each and every covered condition. Additional payouts for the recurrence of a same covered condition are also available with no reduction in payout or limit on the number of recurrences
 - Health Screening Benefit – up to \$100 every calendar year
 - Fully Portable at the same price
 - [Best Doctors®](#) - Immediate access to InterConsultation for the best treatment plan, search for the best doctor for the diagnosis, medical priorities are met
- Rates:
 - Based on age and tobacco use
 - Based on lump-sum purchased as low as \$5,000 and up to \$100,000
 - Based on family members covered



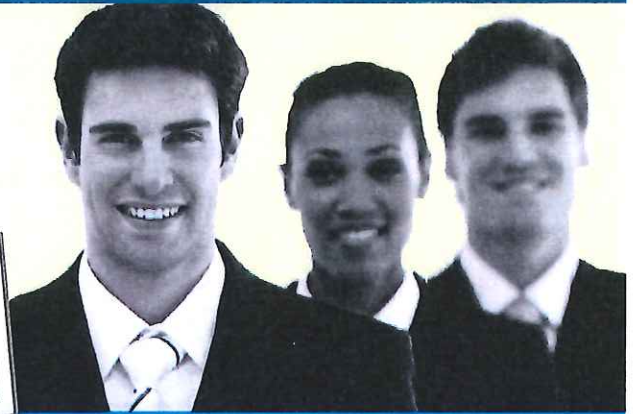
Accident Coverage

- **Product Highlights:**
 - Hospital Benefits – Admission Lump-sum, Confinement per day for 365 days, ICU per day for 15 days
 - Non-occupational coverage
 - Initial Care – ER, Ambulance, MD Visit, Lodging, Surgery, Blood, Emergency dental
 - Injuries – Fractures, Dislocations, Lacerations, Burns, Concussions, Eye injury, Herniated disc, Dismemberment, Tendon, Ligament, Rotator Cuff, Torn Knee Cartilage
 - Follow-up Care – Physical Therapy, Appliances, Prosthetic Device, Artificial Limb, Skin Graft, Transportation
 - Fully portable at the same price
 - Health Screening benefit up to \$100 per calendar year
 - Catastrophic Accident Benefit - \$100,000 for employees and \$50,000 for spouses and children
 - Accidental Death - \$25,000 for employees, \$10,000 for spouses, \$5,000 for children
- **Rates:**
 - Single Employee = \$11.78 per month or \$2.72 per week
 - Employee + Spouse = \$17.68 per month or \$4.08 per week
 - Employee + Child(ren) = \$24.22 per month or \$5.59 per week
 - Employee + Family = \$30.16 per month or \$6.96 per week



Short-Term Disability Coverage

- **Product Highlights:**
 - No Integration (after issue) – Benefits are paid regardless of other coverage – coverage cannot exceed 60% of base income
 - Non-occupational disability
 - Level premiums – rates do not increase with age
 - Guaranteed renewable
 - Fully portable at the same price
 - Choice of designs – flat dollar amount or percentage of earnings
 - Maternity – covered as any other illness (pre-ex applies)
 - International coverage
 - Total Disability Definition – unable to work at his or her job + not working for pay or benefits + under a doctor's care
 - Waiver of Premium – no premium is due while out on disability
- **Rates:**
 - Based on age of employee
 - Based on monthly benefit purchased - \$100.00 up to \$6,000.00 (coverage cannot exceed 60% of base income)
 - Based on elimination period – 0-day for accident; 7-days for illness
 - Based on pay-out period – 6 months



Proposal to Provide Voluntary Insurance for:

NEW MEXICO ASSOCIATION OF COUNTIES

- ✓ Universal Life
- ✓ Accident
- ✓ Critical Illness with Cancer
- ✓ Disability Income

April 13, 2015

Presented by:
Daniels Insurance

Trustmark Sales Team

James Haboush – Regional Sales Director, Southwest Region
Denise Hanna – Key Account Manager
Chelsey Treasure – Sales Implementation Manager

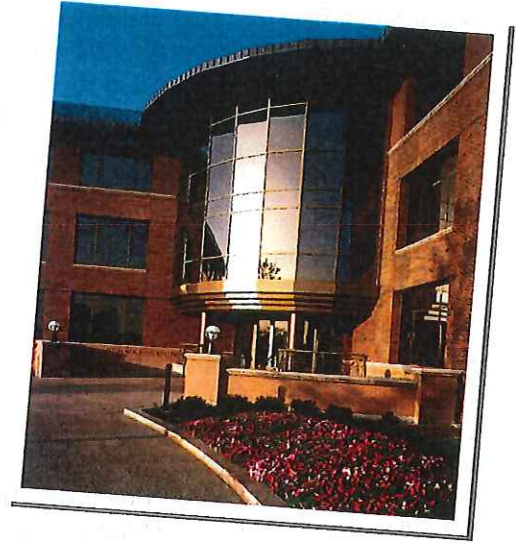
This is an underwriting offer summary only and not intended to be distributed to a potential purchaser. Limitations, exclusions, riders, rates and product availability may vary by state. Check for availability in your state at <https://tmk-webapp.trustmarkins.com/apps/VoluntaryBenefits/ProducersOnly/StateMatrix.cfm>. Refer to the policy or certificate for more information. Please contact your regional sales director listed on the front cover with any questions.

History of Trustmark

Trustmark began in 1913 when four enterprising railroad employees decided that "passing the hat" no longer adequately provided financial security for an injured or disabled coworker. They formed a fraternal association, known as the Brotherhood of All Railway Employees, offering voluntary insurance benefits and quick claim payment.

The small fraternal association grew quickly. Ten years after its founding, it became a mutual insurance company, managed for the benefit of its policyholders. In 1994, the company was renamed Trustmark, in 2001 it acquired National Worksite Advantage, a leading consolidated billing TPA, in 2010, it acquired Health Fitness Corporation and in 2011, acquired Focused Health Solutions (FHS). The company is rated A- (Excellent) by A.M. Best.

Since that pioneering, one-desk beginning, Trustmark has been a company uniquely linked with the people it serves.



Experience the Trustmark Difference

With more than 100 years in the voluntary market, we are committed to provide efficient product and service delivery. You receive the attention of experienced worksite professionals committed to serving your needs and the needs of your employees.

Key Trustmark Strengths

- Pioneer in offering Universal Life with a long-term care benefit that is one of the most extensive in the industry
- First voluntary carrier to enter the Critical Illness market
- Currently ranked No. 1 in U.S. sales for Universal Life
- Offer billing that battles some of the best in the industry with the flexibility to handle specific requirements of payroll-deducted products, as well as create custom interfaces for consolidated billing

Smooth Implementation

To ensure an efficient, educational experience for you and your employees, we provide a dedicated implementation manager as your single point of contact. Your implementation manager actively coordinates and oversees each step of the process:

- Onsite enrollment team training, specific to your group's enrollment
- Setting up the call with your payroll team to start off billing on the right track
- Secure, electronic enrollment system built to your plan's specifications

Experience the Service Difference

We provide exceptional front-to-back product and service delivery. Our systems were designed to handle the unique requirements of payroll-deducted products and offer:

- Deduction starts and stops to match the timing and format of your payroll system
- Billing and reconciliation dates based on your payroll calendar
- Internet capability for billing and remitting premiums as well as inquiry ability
- Experienced, caring claim representatives to walk employees through the claim process

This is an underwriting offer summary only and not intended to be distributed to a potential purchaser. Limitations, exclusions, riders, rates and product availability may vary by state. Check for availability in your state at <https://tmk-webapp.trustmarkins.com/apps/VoluntaryBenefits/ProducersOnly/StateMatrix.cfm>. Refer to the policy or certificate for more information. Please contact your regional sales director listed on the front cover with any questions.

Universal Life

Trustmark's fully portable Universal Life solutions address differing employee needs for permanent life insurance and peace of mind for a lifetime, and are available for employees, their spouses and children. Employees do not have to have coverage themselves to purchase life insurance for their family members. These options include the industry's most comprehensive Living Benefits package.



Plan Features

Universal Life

Offers flexible, comprehensive benefits and enables employees to adjust their death benefit, cash value and premiums as their financial needs change.

Universal LifeEvents®

Matches the needs of insureds throughout their lifetime. Universal LifeEvents pays a higher death benefit during working years when expenses are high. At age 70, when financial needs are typically lower, the death benefit reduces. Living Benefits, however, do not reduce – they continue throughout retirement to match the greater need for long-term care.

Example: Sample death benefits at \$8 per week premium with guaranteed issue underwriting.

Age 35 Non-Smoker LTC included	"Traditional" "Universal Life"		Universal LifeEvents®	
	Benefit at Issue	Benefit at Age 70	Benefit at Issue	Benefit at Age 70*
• Death benefit	\$41,752	\$41,752	\$65,746	\$21,915
• Monthly living benefit	\$1,670	\$1,670	\$2,629	\$2,629

**Benefit change at the later age 70 or year 15*

Accelerated Death Benefit

- Accelerates 75% of death benefit when life expectancy is 24 months or less.

Long Term Care – Built-In

- Long-Term Care (LTC) – Death benefit accelerates 4% per month up to 25 months when receiving assisted living, home healthcare, adult day care or skilled nursing home care. Payments proportionately reduce the death benefit. Subject to a 90-day waiting period and pre-existing condition limitation of 6/6, meaning benefits are not payable for a loss due to a pre-existing condition that starts during the first six months after the effective date of this rider.

Death Benefit Restoration – Built-In

- Death Benefit Restoration – Fully restores the death benefit reduced by LTC.

Extension of LTC –Employee Option

- Extension of LTC – Extends LTC benefits 25 months, allowing the insured to receive LTC benefits a total of 50 months.
- Combo Restoration/Extension of Benefits – Combining Benefit Restoration and LTC Extension of Benefits can triple the policy value.

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Selection(s)

- LTC pays \$4,000 per month for 25 months
- Benefit Restoration restores the death benefit
- Extension of LTC extends living benefits an additional 25 months
- Living benefit package can triple the value of this policy

Benefit Examples

\$100,000 LTC Benefits
\$100,000 Death Benefit
\$100,000 Extension Benefits
\$300,000 Total Benefit

Eligibility

	Universal Life	Universal LifeEvents
• Employees, actively at work <i>Full-time (30+ hours per week), employed at least</i>	Ages 18 to 80 30 days	Ages 18 to 64* 30 days
• Spouses	Ages 18 to 70	Ages 18 to 64
• Children – Under the age of 24, including natural, step children or legally adopted or under legal guardianship (full-time student/dependent 18 to 23)		
• Grandchildren - Under the age of 19		

**An alternate life certificate or policy will be offered to employees ages 65 to 80. (LifeEvents Only)*

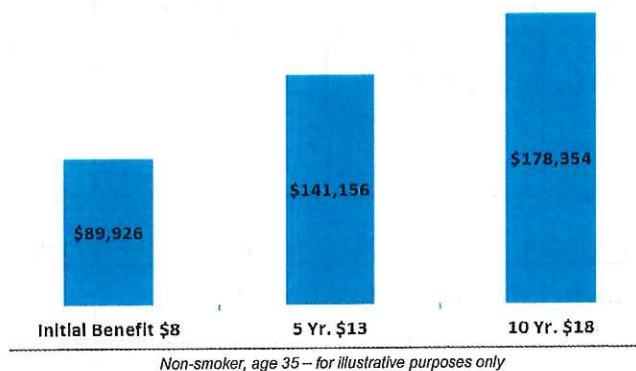
Additional Benefits

Accidental Death Benefit - Built-In

- Doubles the death benefit available at time of claim in the event of death by accidental means prior to the insured's 75th birthday. May not exceed base coverage.

EZ Value Plan – Employee Option

- Automatically increases coverage (on both living and death benefits) to keep pace with increasing needs – without additional underwriting.
- Automated change process is convenient for employers.
- Employees and spouses through age 60 – additional premium of \$1 per week on each of the first 10 anniversaries; or through age 65 (or age 64 for Universal LifeEvents®) – additional \$1/\$2 per week on each of the first five anniversaries.



Non-smoker, age 35 – for illustrative purposes only

(LifeEvents - All death benefit increases resulting from EZ Value increases will reduce to one-third upon the later of the insured reaching age 70 or policy year 15.)

Children's Term Benefit – Employee Option

- Available to children to age 23
- May be added to employee's or spouse's policy in increments of \$5,000 or \$10,000
(Rates: \$0.70 per \$5,000)

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Waiver of Premium - Built-In

- Waives premium for policy and riders for total disability of employee or spouse, including future EZ Value increases.
- Waives premium for child and grandchild coverage when policy owner is totally disabled.
- Disability must begin before the policy anniversary nearest the primary insured's 70th birthday.

Rates

Weekly Rates

Trustmark Universal Life

Long Term Care, Benefit Restoration, Accidental Death & Waiver of Premium

Non-Smoker Rates – Money Purchase								
Issue Age	\$3	\$6	\$8	\$10	\$11	\$12	\$14	\$15
	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount
30	12,653	30,272	42,017	53,763	59,636	65,508	77,254	83,127
40	7,461	18,037	25,088	32,139	35,665	39,190	46,241	49,767
50	N/A*	10,016	13,955	17,893	19,863	21,832	25,771	27,740

Long Term Care, Benefit Restoration, Accidental Death & Waiver of Premium

Smoker Rates– Money Purchase								
Issue Age	\$3	\$6	\$8	\$10	\$11	\$12	\$14	\$15
	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount
30	9,486	22,834	31,733	40,632	45,081	49,531	58,429	62,879
40	5,597	13,622	18,972	24,322	26,997	29,672	35,022	37,697
50	N/A*	7,281	10,158	13,034	14,473	15,911	18,788	20,227

Long Term Care, Benefit Restoration, Accidental Death & Waiver of Premium

Non-Smoker Rates– Defined Benefit					
Issue Age	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000
	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium
30	5.11	9.36	13.62	17.88	26.39
40	7.98	15.07	22.16	29.25	43.44
50	13.61	26.31	39.00	51.70	77.09

Long Term Care, Benefit Restoration, Accidental Death & Waiver of Premium

Smoker Rates– Defined Benefit					
Issue Age	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000
	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium
30	6.49	12.11	17.73	23.35	34.59
40	10.26	19.60	28.95	38.30	56.99
50	18.32	35.70	53.08	70.46	105.22

*Minimum \$5,000 benefit requires premium greater than \$3 per week.

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Rates

Weekly Rates

Trustmark Universal Life

Long Term Care, Benefit Restoration, Extension of Benefits, Accidental Death & Waiver of Premium

Non-Smoker Rates – Money Purchase								
Issue Age	\$3	\$6	\$8	\$10	\$11	\$12	\$14	\$15
	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount
30	12,108	28,967	40,207	51,446	57,066	62,686	73,926	79,545
40	7,083	17,125	23,820	30,515	33,862	37,209	43,904	47,251
50	N/A*	9,514	13,255	16,996	18,867	20,737	24,479	26,349

Long Term Care, Benefit Restoration, Extension of Benefits, Accidental Death & Waiver of Premium

Smoker Rates– Money Purchase								
Issue Age	\$3	\$6	\$8	\$10	\$11	\$12	\$14	\$15
	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount
30	9,078	21,853	30,370	38,886	43,145	47,403	55,919	60,178
40	5,308	12,917	17,990	23,063	25,599	28,136	33,209	35,745
50	N/A*	6,933	9,673	12,413	13,782	15,152	17,892	19,262

Long Term Care, Benefit Restoration, Extension of Benefits, Accidental Death & Waiver of Premium

Non-Smoker Rates– Defined Benefit					
Issue Age	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000
	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium
30	5.30	9.75	14.20	18.64	27.54
40	8.36	15.83	23.29	30.76	45.70
50	14.28	27.65	41.01	54.38	81.11

Long Term Care, Benefit Restoration, Extension of Benefits, Accidental Death & Waiver of Premium

Smoker Rates– Defined Benefit					
Issue Age	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000
	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium
30	6.74	12.61	18.49	24.36	36.10
40	10.77	20.62	30.48	40.34	60.05
50	19.19	37.44	55.69	73.95	110.45

*Minimum \$5,000 benefit requires premium greater than \$3 per week.

Rates

Weekly Rates

Trustmark Universal LifeEvents®

Long Term Care, Benefit Restoration, Accidental Death, Waiver of Premium

Issue Age	Non-Smoker Rates – Money Purchase							
	\$3	\$6	\$8	\$10	\$11	\$12	\$14	\$15
	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount
30	18,224	43,599	60,516	77,433	85,891	94,350	111,267	119,725
40	10,951	26,475	36,824	47,174	52,349	57,523	67,873	73,047
50	5,915	14,421	20,093	25,764	28,599	31,435	37,106	39,942

Long Term Care, Benefit Restoration, Accidental Death, Waiver of Premium

Issue Age	Smoker Rates– Money Purchase							
	\$3	\$6	\$8	\$10	\$11	\$12	\$14	\$15
	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount
30	12,638	30,236	41,967	53,699	59,565	65,431	77,163	83,028
40	7,334	17,731	24,662	31,594	35,059	38,525	45,456	48,922
50	N/A	8,731	12,165	15,598	17,315	19,032	22,465	24,182

Long Term Care, Benefit Restoration, Accidental Death, Waiver of Premium

Issue Age	Non-Smoker Rates– Defined Benefit				
	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000
	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium
30	3.81	6.76	9.72	12.67	18.58
40	5.72	10.55	15.38	20.21	29.88
50	9.74	18.55	27.37	36.19	53.82

Long Term Care, Benefit Restoration, Accidental Death, Waiver of Premium

Issue Age	Smoker Rates– Defined Benefit				
	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000
	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium
30	5.11	9.37	13.64	17.90	26.42
40	8.10	15.32	22.53	29.74	44.17
50	15.48	30.04	44.61	59.17	88.29

*Minimum \$5,000 benefit requires premium greater than \$3 per week.

Rates

Weekly Rates

Trustmark Universal LifeEvents®

Long Term Care, Benefit Restoration, Extension of Benefits, Accidental Death & Waiver of Premium

Issue Age	Non-Smoker Rates – Money Purchase							
	\$3	\$6	\$8	\$10	\$11	\$12	\$14	\$15
	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount
30	17,114	40,944	56,831	72,718	80,661	88,604	104,491	112,434
40	10,217	24,701	34,357	44,013	48,841	53,669	63,326	68,154
50	5,497	13,403	18,673	23,944	26,579	29,214	34,485	37,120

Long Term Care, Benefit Restoration, Extension of Benefits, Accidental Death & Waiver of Premium

Issue Age	Smoker Rates– Money Purchase							
	\$3	\$6	\$8	\$10	\$11	\$12	\$14	\$15
	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount	Insurance Amount
30	11,800	28,231	39,185	50,139	55,616	61,093	72,047	77,524
40	6,805	16,451	22,882	29,313	32,529	35,744	42,176	45,391
50	N/A	8,125	11,320	14,515	16,112	17,710	20,905	22,502

Long Term Care, Benefit Restoration, Extension of Benefits, Accidental Death & Waiver of Premium

Issue Age	Non-Smoker Rates– Defined Benefit				
	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000
	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium
30	4.00	7.15	10.29	13.44	19.73
40	6.07	11.24	16.42	21.60	31.96
50	10.41	19.89	29.38	38.87	57.84

Long Term Care, Benefit Restoration, Extension of Benefits, Accidental Death & Waiver of Premium

Issue Age	Smoker Rates– Defined Benefit				
	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000
	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium	Weekly Premium
30	5.42	9.98	14.54	19.11	28.24
40	8.66	16.44	24.21	31.99	47.54
50	16.57	32.22	47.87	63.52	94.81

*Minimum \$5,000 benefit requires premium greater than \$3 per week.

Universal Life & Universal LifeEvents® Underwriting

Guaranteed Issue Underwriting

The Employee Guaranteed Issue (GI) offer is the lesser of the face amount purchased by \$14 per week or \$200,000; or the lesser of the face amount purchased by \$11 per week with EZ Value option of \$1 per week for 10 years. The AIDS and treated in past six-months modified guarantee issue (MGI) health questions must be completed for consideration even though they will not be used for underwriting the face benefit.

Enrollment Conditions

- 1) *The Benefits Communication/Enrollment Firm has access to at least 70% of the eligible employees during a face to face; one-on-one enrollment meeting or a combined Core Benefit/Voluntary enrollment conducted via a Call Center and assisted by the Benefit Communication/Enrollment Firm. (Eligible employees are required to meet/talk with an enroller to learn about the offer. The employee may then choose to elect or waive coverage.)*
- 2) *Waiver Cards are required and may be obtained through one of the following methods:*
 - o *Electronic option through our enrollment system*
 - o *Paper Waiver Cards, Election Not to Participate form*
 - o *Trustmark approved method of tracking employees seen. Must receive prior approval from Case Underwriting*
- 3) *No more than three Trustmark products should be enrolled. The total number of products being offered at the case (both Trustmark and Non-Trustmark) must be communicated to the Case Underwriter.*
- 4) *MGI questions will be asked of all applicants.*
- 5) *Minimum employee application requirement for UL is 20 employee applications for groups with greater than 100 eligible employees and 10 employee applications for groups with 99 eligible employees and below.*

Enrollment conditions will be verified when the case is sold.

Trustmark offers the waived participation GI underwriting offer with the expectation that when these conditions are met the employee participation will exceed 20%. If the requirements outlined in the proposal are met and final employee participation is less than 20%, however, all employees' ages 18 to 64 who apply for coverage will be issued at least the GI amount.

Modified Guaranteed Issue **

The Employee Modified Guaranteed Issue (MGI) offer is the lesser of the face amount purchased by \$15 per week or \$200,000. MGI underwriting is also used for the dependent spouse and child amounts and EZ Value options shown on page 4. Two health questions, asking about AIDS and a six-month history of treatment in a medical facility, must be answered. If the answer is "yes," the simplified issue (SI) questions must be answered. Requires at least 20 employee applications for groups with greater than 100 eligible employees and 10 employee applications for groups with 99 eligible employees and below. Employee Modified Guarantee Issue underwriting is required when Guarantee Issue is not being offered or for benefits over the Guarantee Issue limit.

- Spouse: Greater of amount purchased by \$4 per week or \$5,000.
- Children: Amount of coverage purchased by \$5.59 per week.

Simplified Issue Underwriting

Employee and Spouse Simplified Issue (SI) is a maximum face amount of \$300,000. Employee and spouse age 65+ and all grandchildren policies use SI underwriting. Simplified Issue is also used for amounts in excess of the GI or MGI amounts or when there is a yes answer to the MGI questions. SI requires that the proposed insured provide height and weight plus answers to three additional questions:

- Details of any major health impairments (within the last five years)
- Any history of drug or alcohol treatment
- Specify the reason for seeing a medical practitioner in the past 12 months (other than for a routine physical)

***Questions vary slightly in some states.*

'Rollback' Underwriting

When an application is qualified for a GI amount, but excess coverage is applied for, the excess will be underwritten using an accept or decline basis. If we decline the excess, we will issue the available maximum amount based on the GI rules. We follow the same practice when there is an application in excess of available MGI limits and SI underwriting is used.

Trustmark's application includes an area that permits the applicant to accept these alternate coverages in advance. This eliminates the need for separate amendments to be signed at a later date.

Underwriting for Employee Riders

Underwriting of Employer-Level (Built-In) Riders

Built-in riders are underwritten on the same basis as the base coverage. Cost for these riders will be included in the premium for the underwriting limits established for this case.

Underwriting of Employee-Optional Riders – Extension of Benefits Rider:

These optional riders are underwritten on a MGI basis when the base coverage is issued GI. If the base coverage is issued MGI or SI, optional riders are underwritten on the same basis as the base coverage. Cost for these riders is not included in the premium for the case underwriting limits.

Underwriting for Riders for Dependents

Riders are underwritten on the same basis as the base coverage. Cost for these riders will be included in the premium for the underwriting limits established for this case.

Accident

Trustmark's Accident insurance helps pay for unexpected healthcare expenses due to accidents that occur every day – from the soccer field to the ski slope and the highway in-between. Accident insurance provides benefits due to covered accidents for initial care, injuries and follow-up care. Benefits are paid directly to the employee, in addition to any other coverage they have.



Plan Features

- Guaranteed issue – No medical questions. Requires at least 20 applications for groups with greater than 100 eligible employees and 10 applications for groups with 99 eligible employees and below.
- Level premiums – Rates do not increase with age
- No limitations for pre-existing conditions
- Guaranteed renewable – Coverage remains in force for life, as long as premiums are paid
- Portable coverage – Employees can continue coverage if they leave or retire
- Plan designs based on highest recorded utilization, so employees get the most comprehensive coverage when they need it most.

Eligibility

- Employees – Ages 18 to 80, actively working full-time (30+ hours per week) and employed at least 30 days
- Spouses – Ages 18 to 80, who are not disabled
- Children – Under the age of 26, who are unmarried and dependent

Benefits for Non-Occupational Coverage, Plan 4

Accident/Injury	Benefit Amount
	Plan 4
Accident Follow-Up Treatment	\$100
Ambulance	\$200
Air	\$1,000
Appliance	\$150
Blood, Plasma and Platelets	\$300
Burns – Flat Amount for:	
Third-degree 35 or more sq. in	\$10,000
Third-degree 9 to 34 sq. in.	\$1,500
Second-degree for 36% or more of body	\$750
Catastrophic Accident Benefit	Employee \$100,000 Spouse \$50,000 Children \$50,000
Concussion	\$100
Dislocations	
Open reduction	Up to \$4,000
Closed reduction	Up to \$2,000
Doctor's Office Visit (Including Urgent Care & Walk-In Clinic)	\$100
Emergency Dental Benefit	
Extraction	\$50
Crown	\$150
Emergency Room Treatment	\$200
Eye Injury	\$200

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Fractures	
Open reduction	Up to \$7,500
Closed reduction	Up to \$3,750
Chips	25% of closed amount
Health Screening Benefit	\$100
Herniated Disc	\$600
Hospital Admission	\$1,500
Hospital Confinement	\$200
Hospital ICU	\$400
Laceration	Up to \$800
Lodging (per night up to 30 days)	\$100
Loss of finger, toe, hand, foot or sight of an eye	
Loss of both hands, feet, sight of both eyes or any combination of two or more losses	\$15,000
Loss of one hand, foot or sight of one eye	\$7,500
Loss of two or more fingers, toes or any combination of two or more losses	\$1,500
Loss of one finger or one toe	\$750
Physical Therapy (per visit, up to six visits)	\$50
Prosthetic Device or Artificial Limb	
More than one	\$1,000
One	\$500
Skin Grafts	25% of burn benefit
Surgery	
Open, abdominal, thoracic	\$1,250
Exploratory	\$125
Tendon/Ligament/Rotator Cuff	
Repair of more than one	\$1,200
Repair of one	\$800
Exploratory without repair	\$200
Torn Knee Cartilage	\$500
Exploratory	\$100
Transportation (100 miles up to three trips)	\$375

Most benefits are paid once per person per covered accident unless otherwise noted.

Weekly Rates

(assumes deductions of 52 times per year)

	Employee	Employee and Spouse	Employee and Children	Family
Rate	\$2.72	\$4.08	\$5.59	\$6.96

Additional Benefits

Catastrophic Accident Benefit - Built-In

- Helps families during the transitional period following a catastrophic loss:
 - Provides a lump-sum benefit for catastrophic loss after fulfilling a 90-day elimination period.
 - Pays \$100,000 for the insured, \$50,000 for the spouse and \$50,000 for a child.
 - A catastrophic loss is the loss of use of sight, hearing, speech, arms or legs.

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Health Screening Benefit - Built-In

(Available with Plans 4, 5 or 6)

This benefit provides \$100 for a screening test, every calendar year for each insured with no coordination of coverage.

Eligible tests include:

- Low-dose mammography
- Pap smear for women over age 18
- Flexible sigmoidoscopy
- Hemocult stool specimen
- Colonoscopy
- Prostate-specific antigen (PSA) test for prostate cancer
- Stress test on a bicycle or treadmill
- Fasting blood glucose test
- Blood test for triglycerides
- Bone marrow testing
- Serum cholesterol test to determine HDL and LDL levels
- Breast ultrasound
- CA 15-3 (blood test for breast cancer)
- CA 125 (blood test for ovarian cancer)
- CEA (blood test for colon cancer)
- Chest x-ray
- Serum protein electrophoresis (blood test for myeloma)
- Thermograph

Definitions

Covered Accident

An accident causing injury, which:

- Occurs after the effective date;
- Occurs while the certificate is in force; and
- Is not excluded by name or specific description in the certificate.

Elimination Period

The period of time after the date of a covered accident for which catastrophic accident benefits are not payable.

Injury or Injuries

An accidental bodily injury that resulted from a covered accident. It does not include sickness, disease or bodily infirmity. Overuses syndromes, typically due to repetitive or recurrent activities, such as osteoarthritis, carpal tunnel syndrome or tendonitis, are considered to be a sickness and not an injury.

Maximum Benefit Period

The longest period of time for which hospital benefits will be paid.

Non-occupational Injury

An injury that did not result from a person's work or occupation; applicable to non-occupational coverage only.

Critical Illness with Cancer

Trustmark's Critical Illness with Cancer insurance offers a lump-sum benefit payment upon first diagnosis of a covered critical illness including:

100% Benefit

Invasive cancer
Stroke
Heart attack
Major organ transplant
Renal failure
Paralysis of two or more limbs
Blindness
ALS (Lou Gehrig's disease)

25% Benefit

Carcinoma in situ
Coronary artery bypass surgery



Stand-alone versions of Critical Illness and Cancer are available.

Plan Features

- Unique underwriting – Guaranteed issue, modified guaranteed issue or simplified issue
- EZ value increases – Optional guaranteed increase in coverage amount
- No benefit reduction
- Level premiums – Rates do not increase with age
- Guaranteed renewable – Coverage remains in force to age 100, as long as premiums are paid
- Waiting period – 30-day waiting period waived if coverage begins more than 30 days after enrollment
- Portable coverage – Employees can continue coverage if they leave or retire
- Best Doctors® – Access to the right medical information and expertise

Eligibility

- Employees – Ages 18 to 70, actively working full-time (30+ hours per week) and employed at least 30 days
- Spouses – Ages 18 to 70
- Children – Under the age of 26, who are unmarried natural, adopted or step children and dependent grandchildren.

Weekly Rates

Employee \$5,000 to \$100,000

Spouse 50% of employee benefit, \$2,500 to \$50,000

Child(ren) 10% of employee benefit, \$500 to \$10,000

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Riders

Subsequent Condition w/ Recurrence

Waiver of Premium

Non-Tobacco Rates				
Trustmark Critical Illness w/ Cancer Insurance Plan				
Insurance Amount - \$20,000				
Issue Age	Employee Weekly Premium	Employee and Spouse Weekly Premium	Employee and Children Weekly Premium	Employee, Spouse, and Children Weekly Premium
35	5.14	7.84	5.41	8.11
45	9.68	15.24	9.94	15.50
55	17.05	27.48	17.35	27.78

Riders

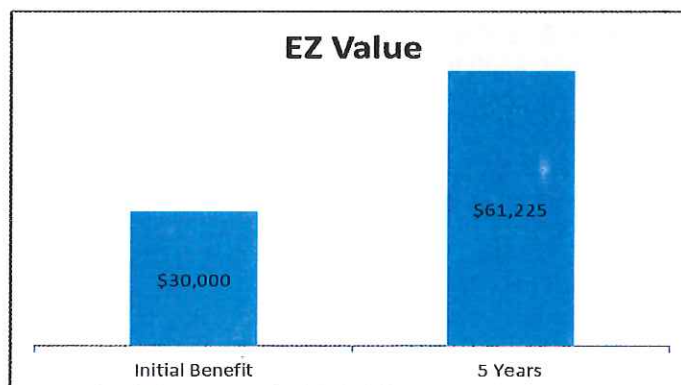
Subsequent Condition w/ Recurrence

Waiver of Premium

Tobacco Rates				
Trustmark Critical Illness w/ Cancer Insurance Plan				
Insurance Amount - \$20,000				
Issue Age	Employee Weekly Premium	Employee and Spouse Weekly Premium	Employee and Children Weekly Premium	Employee, Spouse, and Children Weekly Premium
35	7.51	11.79	7.78	12.06
45	16.69	26.94	16.97	27.22
55	34.05	56.12	34.38	56.45

EZ Value Plan-Employee Option

- Automatically increases coverage to keep pace with increasing needs – without additional underwriting.
- Automated change process is convenient for employers.
- Employees and spouses through age 60 – additional \$1 per week on each of the first five anniversaries.
- No health questions or evidence of insurability when the benefit increases occur. When employee chooses to include this benefit; they will answer the MGI/SI underwriting questions at time of application.



NOTE: Representative values only. Shown for age 30, \$30,000 benefit, non-cigarette smoker with no riders. Actual values will vary by employee age and plan benefits selected.

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Optional Benefits

Subsequent Benefit with Recurring Condition: Built-In

This rider provides a cash payment for each of the covered conditions or the same condition in the event the covered person is diagnosed with multiple covered conditions or illnesses.

- Each subsequent diagnosed condition and each recurring condition will be paid at 100% of the original benefit. Each subsequent diagnosed condition is paid at 100% of the original benefit with a 90 day separation period. Payment for recurring conditions will be made regardless of the number of times the condition recurs with a 12 month separation period.
- Plus, 25% of the total benefit will be paid once each for carcinoma in situ and coronary artery bypass surgery.
- No cash payment will be available for recurrence of carcinoma in situ, coronary artery bypass and invasive cancer.

Waiver of Premium: Built-In

- Waives premium for policy and riders for total disability of employee or spouse, including future EZ Value increases.

Pre-Existing Conditions

Pre-Existing Limitation

In most states, no benefit will be paid for any condition caused by or resulting from a pre-existing condition, which begins in the first 12 months after the covered person's coverage date.

Guaranteed Issue Underwriting

	Non-Takeover
○ Employees only	The greater of \$3 per week or \$10,000
○ Spouses	\$5,000
○ Children	\$1,000

Enrollment Conditions

- 1) *The Benefits Communication/Enrollment Firm has access to at least 70% of the eligible employees during a face to face; one-on-one enrollment meeting or a combined Core Benefit/Voluntary enrollment conducted via a Call Center and assisted by the Benefit Communication/Enrollment Firm. (Eligible employees are required to meet/talk with an enroller to learn about the offer. The employee may then choose to elect or waive coverage.)*
- 2) *Waiver Cards are required and may be obtained through one of the following methods:*
 - *Electronic option through our enrollment system*
 - *Paper Waiver Cards, Election Not to Participate form*
 - *Trustmark approved method of tracking employees seen. Must receive prior approval from Case Underwriting*
- 3) *No more than three Trustmark products should be enrolled. The total number of products being offered at the case (both Trustmark and Non-Trustmark) must be communicated to the Case Underwriter.*
- 4) *MGI questions will be asked of all applicants.*
- 5) *Minimum employee application requirement for CI is 20 employee applications for groups with greater than 100 eligible employees and 10 employee applications for groups with 99 eligible employees and below.*

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Enrollment conditions will be verified when the case is sold.

Trustmark offers the waived participation GI underwriting offer with the expectation that when these conditions are met the employee participation will exceed 20%. If the requirements outlined in the proposal are met and final employee participation is less than 20%, however, all employees ages 18 to 70 who apply for coverage will be issued at least the GI amount.

Guarantee issue does not mean guaranteed benefit. If a person was previously diagnosed with a covered condition or illness prior to the plan effective date, no benefit will be paid for a subsequent diagnosis of the same covered condition or illness after the plan effective date.

Modified Guarantee Issue (MGI) Underwriting: Employee, Spouse and Children

Underwriting for amounts up to \$50,000 is based on responses to three simple questions. Requires at least 20 employee applications for groups with greater than 100 eligible employees and 10 employee applications for groups with 99 eligible employees and below.

Simplified Issue (SI) Underwriting: Employee Only

- For amounts of \$50,001 to \$100,000:
 - Three additional questions are required.
 - No medical exams or other requirements are needed.
 - The maximum benefit amount is equal to two times pay.
- Questions may vary by state. There is a \$50,000 maximum benefit in Louisiana and Maryland.

Modular Underwriting

If coverage for other critical illness is declined, we will issue coverage for cancer, provided the insurability provisions for cancer are met.

If coverage amounts in excess of \$50,000 are applied for and coverage for such amount is declined due to a response to the additional underwriting questions, we will issue the \$50,000 if the proposed insured qualifies.

If an applicant does not qualify for MGI or SI, the GI amount will be issued.

Definitions

Pre-Existing Condition

A sickness or injury for which medical care, diagnosis or advice was received or recommended, or the existence of symptoms, which would have caused an ordinarily prudent person to seek medical care, treatment, diagnosis or advice during the 12 months immediately prior to the coverage effective date.

Disability Income

Trustmark's Disability Income insurance is designed to maximize flexibility and simplicity. Non-occupational coverage will provide benefits to your employees when they are unable to work due to a covered illness or injury.

Plan Features

- Unique underwriting – Guaranteed Issue (GI) or Modified Guaranteed Issue (MGI).
- No integration (after issue) – Benefits paid regardless of other coverage. (The combination of any in-force coverage, including state disability coverage and coverage applied for cannot exceed 60% of base income.)
- Level premiums – Rates do not increase with age.
- Guaranteed renewable – Coverage remains in force to age 72, as long as premiums are paid.
- Portable coverage – Employees can continue coverage if they leave or retire.
- Choice of designs – Flat dollar amount or percentage of earnings.
- Maternity – Covered the same as any other sickness when it begins 10 months after effective date.
- Benefits paid same as payroll cycle – Weekly, bi-weekly, semi-monthly, monthly.
- International coverage – Available if insured becomes disabled while traveling.
- Buy-up option – Coverage may be offered as a buy-up, up to the maximum income replacement established for the group.



Eligibility

- Employees – Ages 18 to 67, actively working full-time (30+ hours per week) and employed at least 30 days

Benefit Periods/Elimination Periods

Benefit Period	Accident/Sickness Elimination Period	Rate Class: 3A Weekly Premium per \$100 Monthly Benefit		
		Ages		
6 Months	0/7	18 to 49	50 to 59	60 to 67
		\$ 0.73	\$ 0.85	\$ 1.14

- Rates – Based on the employee's age as of date of their last birthday.
- Earnings – Only base income is considered; earnings do not include bonuses, commissions, overtime or special pay.

Pre-Existing Conditions

Pre-Existing Limitation

If an insured becomes disabled because of a pre-existing condition, the disability is not covered if it begins during the first 12 months after the plan's effective date.

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Guaranteed Issue Underwriting

	Non-Takeover
o Employees only	\$300 to \$3,000

- Available in \$100 increments up to 60% of monthly earnings, less any other disability coverage in-force at time of application.

Enrollment Conditions

- 1) *The Benefits Communication/Enrollment Firm has access to at least 70% of the eligible employees during a face to face; one-on-one enrollment meeting or a combined Core Benefit/Voluntary enrollment conducted via a Call Center and assisted by the Benefit Communication/Enrollment Firm. (Eligible employees are required to meet/talk with an enroller to learn about the offer. The employee may then choose to elect or waive coverage.)*
- 2) *Waiver Cards are required and may be obtained through one of the following methods:*
 - o *Electronic option through our enrollment system*
 - o *Paper Waiver Cards, Election Not to Participate form*
 - o *Trustmark approved method of tracking employees seen. Must receive prior approval from Case Underwriting*
- 3) *No more than three Trustmark products should be enrolled. The total number of products being offered at the case (both Trustmark and Non-Trustmark) must be communicated to the Case Underwriter.*
- 4) *MGI questions will be asked of all applicants*
- 5) *Minimum employee application requirement for DI is 20 employee applications for groups with greater than 100 eligible employees and 10 employee applications for groups with 99 eligible employees and below.*

Enrollment conditions will be verified when the case is sold.

Trustmark offers the waived participation GI underwriting offer with the expectation that when these conditions are met the employee participation will exceed 20%. If the requirements outlined in the proposal are met and final employee participation is less than 20%, however, all employees ages 18 to 67 who apply for coverage will be issued at least the GI amount.

Modified Guarantee Issue Underwriting: Employee

Available in \$100 increments between \$300 and \$6,000 up to 60% of (base) monthly earnings, less any other coverage in-force at time of application. Requires at least 20 employee applications for groups with greater than 100 eligible employees and 10 employee applications for groups with 99 eligible employees and below.

Definitions

Injury

An accidental bodily injury resulting from a covered accident for which the insured sought treatment from a doctor within 30 consecutive days of the date the covered accident occurred.

Pre-Existing Condition

A sickness or physical condition for which an insured received treatment or medical advice, or had taken medicine within 12 months before the effective date.

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Sickness

Illness, infection, disease, pregnancy, complications of pregnancy, or any other abnormal physical condition, not caused by injury.

Total Disability

- During the first year of disability
 - Unable to work at his or her job
 - Not working for pay or benefits
 - Under a doctor's care for the injury or covered sickness
- After the first year of disability
 - Unable to work at any job for which he or she is qualified by reason of education, training or experience
 - Not working at any gainful job for pay or benefits
 - Under a doctor's care for the injury or covered sickness

If you do not have a job when you become disabled, benefits continue only as long as your doctor confirms that the disabling condition requires you to remain at home.

Waiver of Premium

- After 90 days of Total Disability, or after the Elimination Period, if longer than 90 days
 - Premiums which then become due for as long as the disability continues, but not beyond the Maximum Benefit Period will be waived
 - Total Disability must be the result of an Accident or Sickness for which the policy pays a benefit for
 - The earlier of the Disability ending or the end of the Maximum Benefit Period, premium payments must resume to keep the coverage in force.

State Specific Information

Universal Life

- Ages: Children: UT under age 26; WA – Universal Life policies not available to children/grandchildren
- Benefits: NC – Minimum policy benefit \$10,000
- Riders:
 - Long Term Care: Not available in HI, OR, UT, VT. Built-in only FL, MA
 - Death Benefit Restoration: Not available in HI, NY, OR, UT, VT
 - Extension of Benefits: Not available in CO, CT, FL, HI, MA, MN, NC, NY, OR, TX, UT, VT, WA
 - Combo Restoration/Extension of Benefits: Not available in CO, CT, FL, HI, MN, NC, NY, OR, TX, UT, VT, WA
 - Accident Death Benefit: Not available in OR
 - Accelerated Death Benefit: Not available in OR
 - Child Term Rider: UT - available to age 25
 - EZ Value: Not available in NH, NY
 - Loss of Work/Strike Rider: Not available in CA, FL, MN, MO, MT, NH, NY, TN, VT, WA

Accident

- Ages
 - Employees & Spouses: 18-64 CA, NY
 - Children: NE under age 30; IN, WA even if married
- Product Availability/State requirements:
 - FL: Plan 1: 24-Hour Coverage Only – must include accidental death and catastrophic benefits;
 - KY, NC, SD only 24-Hour Coverage available;
 - Plan 1, 2 or 3 not available in HI, KY, OH
 - Plans 4, 5 or 6 not available in: FL, MN, NH, NY, WA
 - Plan 6 not available in CA, CO, LA,
 - CT: Air & Ambulance benefit must be paid at state level; Hospital Confinement \$200 per day/Hospital ICU \$400 per day up to 30 days for accidental ingestion or consumption of a controlled drug; Outpatient Care \$500 per calendar year for accidental ingestion or consumption of a controlled drug
 - NM: TMJ \$25 benefit
 - NY: Plans 2, 3, 8 & 9 limited to: \$165 Hospital Confinement; \$330 Hospital ICU; Plans 7, 8 & 9: only available in NY
 - FL, MN, NH, NY: Enhanced schedule of benefits
- Riders:
 - Accidental Death Benefit/Common Carrier: Not available in MN
 - Catastrophic Benefit: Not available in MN; UT no waiting period
 - Health Screening Rider: Available only with plans 4, 5 or 6; not available in CO, CT, FL, MN, NH, NY, WA. Available in CA, LA with plans 4 & 5
 - Loss of Work/Strike Rider: Not available in FL, MO, MT, NH, NY, TN, VA, VT, WA
 - Wellness Benefit: Available only with plans 1, 2 or 3; Not available in CT, HI, KS, MN, NH, NY; FL, WA No family visit maximum; ID, UT, WA No waiting period; FL \$50 wellness rider built-in

Critical Illness

- Ages:
 - Employees & Spouses: 18-64: CA, NY
 - Children: NE under age 30
 - Grandchildren: MN, WI under age 18
- Benefit Maximums: GA: \$30,000 Cancer Only plan; \$50,000 in LA, MD
- Benefit Minimums: WA: \$25,000
- Riders:
 - Best Doctors: Not available in CT; GA (Cancer Only plans)
 - EZ Value: Not available in CT, NH, NY, UT, GA-Cancer Only plans
 - Double Benefit: Not available in CT, NH, SD
 - Subsequent Benefit Riders: Not available in CO, MN, NH, WA
 - GA – No recurrence for Renal Failure; Blindness; Paralysis or ALS
 - Loss of Work: Not available in CT, FL, MO, MT, NH, NY, TN, VA, VT, WA
 - Occupational HIV: Not available in GA, NH, NY, SD, VT
 - Waiver of Premium: Not available in GA, NY
- Pre-Existing Condition Limitation: Not applicable in AZ, CA, DC, GA, HI, IL, KY, MA, MI, NJ, PA, SC, VA; Period limitation/definition varies in ID, IN, ME, MT, NY, OR, UT
- State specific regulations:
 - AR – cannot issue coverage to anyone under any Title XIX Plan (Medicaid or similar plans)
 - CA, MA, NY, VT – Every applicant must have Major Medical or Hospital & Medical coverage before applying for this coverage.
 - CT – 0 day separation period for subsequent benefit riders

Disability Income

- Conditionally renewable in LA, OR
- Ages: 18-64 NY
- Product Availability/State Requirements:
 - Elimination/Benefit periods not available in SD, WV 180-day with a 12-month benefit period and a 365-day with 24-month benefit period; VT three-month plans and 365-day with 24-month benefit period.
- Pre-Existing: NH 12/9; NM 6/12
- Loss of Work: Not available in FL, MO, MT, NH, NY, OR, TN, VA, VT, WA

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Proposal Offer

This proposal of insurance is dated April 13, 2015. The values illustrated in this proposal are subject to change at any time prior to enrollment of employees. The underwriting offer is valid if accepted within 90 days, subject to any required documents.

Coverage cannot be cancelled as long as premiums are paid. Individual employee premiums are level. That means premiums are based on the age of the employee at time of policy issue. Policy premiums do not increase due to employees getting older. Families can keep the same benefit and premium levels even if employees leave their employer or retire. Premiums may only be changed if filed with the state and approved by the department of insurance. A written notice of adjustment will be sent at least 30 days prior to the effective date of any approved increase.

The benefits and premiums quoted in this proposal, the final enrollment plan, as well as the solicitation materials which may be developed, are subject to final approval by Trustmark, based upon receipt and acceptance of all signed documents. The benefits, premiums, solicitation materials and marketing are also subject to state insurance department rules and regulations. Trustmark reserves the right to modify this proposal to conform to such rules and regulations. Non-standard marketing materials are subject to Trustmark compliance approval and may result in additional costs not included in this proposal.

Experience the Trustmark Difference

Thank you for taking the time to consider Trustmark. We are committed to provide efficient product and service delivery. You receive the attention of experienced worksite professionals committed to serving your needs and the needs of your employees. Please feel free to contact us with any questions you may have. We look forward to serving you and your employees.

Employer's Application for Insurance Program

This is an agreement to establish an employee payroll deduction program between the undersigned employer ("you/your") and Trustmark Insurance Company and/or Trustmark Life Insurance Company of New York ("Trustmark"). You agree that the payroll deductions will consist of 100% employee funds. Each of your eligible employees is entitled to apply for the insurance coverage(s) you have selected which are issued by Trustmark on a payroll deduction basis. Employee eligibility and coverage specifications are outlined in the Underwriting Offer for this program.

You agree to provide Trustmark representatives with reasonable access to eligible employees on your business premises during regular working hours for the purposes of explaining the plan(s) and enrolling employees.

You agree to honor and administer on a timely basis the written payroll deduction request of each participant. All deductions will be remitted to Trustmark in accordance with a billing schedule to be determined. You will maintain adequate records to ensure that the deductions can be reconciled to the employee, and will notify Trustmark monthly of any change in employee status.

Employer: _____ Employer Tax ID No: _____

Address: _____

This agreement is to remain in effect for a minimum of 12 months from the effective date of coverage for your employees. After that, either you or Trustmark may terminate this program with 60 days prior written notice to the other party. Following termination, your obligation to collect and remit premium ceases, and payments must be made directly to Trustmark by any insured employees who elect to continue coverage.

Each eligible employee has the right at any time to either (1) elect not to participate in this plan; or (2) if participating, elect to cancel. In the event an insured employee ceases to be employed by you, (s)he has the right to continue insurance subject to the provisions of the policy(ies).

The insurance coverage(s) you have selected for the purpose of insuring your eligible employees may be provided under Group Policies issued to an insurance trust to which you hereby make application to participate (if applicable), and you agree subject to acceptance to become a participating employer in said trust (if applicable).

Accepted and Approved for Employer:

By: _____

(Printed name)

(Signature)

Title: _____

Date: _____

Accepted and Approved:

TRUSTMARK

By: _____

Title: _____

Date: _____

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**CIBOLA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION № 16-26**

CIBOLA COUNTY ROAD DEPARTMENT INFRASTRUCTURE PLACEMENT

PREAMBLE

WHEREAS, the Board of County Commissioners met in a Special Meeting on Wednesday, May 25, 2016 at 5:00 p.m. at 515 West High Street, Grants, New Mexico; and,

WHEREAS, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

WHEREAS, Section 4-37-1 *et seq.* NMSA 1978 provides that counties may adopt Replaces, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, NMSA 1978, Section 4-38-13 (1876) provides that the board of county commissioners shall have power at any session to make such orders concerning the property belonging to the county as they may deem expedient; and,

WHEREAS, NMSA 1978, Section 67-4-3 (1921) provides that the board of county commissioners of any county in this state may employ a county road superintendent and by resolution provide that such county road superintendent, subject to supervisory powers in the board of county commissioners, shall have charge of all work of construction and maintenance of county roads and bridges; and,

WHEREAS, it has come to the attention the Cibola County Board of County Commissioners that persons or entities involved in the placement of utilities and other infrastructure including without limitation cattle guards and culverts or other drainage structures, in, under and across County roads and bridges impact the maintenance of the same; and,

WHEREAS, the Cibola County Board of County Commissioners desires to minimize the impact upon the public and the County of Cibola by the placement of utilities and other infrastructure in, under and across County roads and bridges by private persons or entities; and,

WHEREAS, the Cibola County Board of County Commissioners desires the County Road Superintendent to be vested with the authority to grant a permit regulating the placement of utilities and other infrastructure in, under and across County roads and bridges by private persons or entities.

NOW THEREFORE BE IT ORDAINED that the Cibola County Board of County Commissioners hereby adopts the Cibola County Road Department Infrastructure Placement Replace (“this Replace”) as follows:

Section 1. Authority.

The Cibola County Road Superintendent has the authority and power necessary to issue road infrastructure permits, in accordance with the provisions of this Replace, and with the form attached to this Replace and incorporated herein by reference. The County Road Superintendent may deny such application if, in the Superintendent’s opinion, the application would unduly burden the County’s ability to maintain the road in question, or if granting the application would unduly threaten public safety.

Section 2. Permit Conditions.

Any and all Applicants for permits under this Replace shall agree to the following conditions:

- 2.1 Applicant agrees to repair and replace the road surface disturbed by the project to at least the quality of the surface prior to the project.
- 2.2 Applicant agrees to adequately compact and smooth the road surface immediately upon completion of the project.
- 2.3 Applicant agrees to conduct the project in a manner so that one (1) lane of through-traffic is available on the roadway at all times, unless advance special permission is obtained for complete closure.
- 2.4 Applicant agrees to adequately mark the project and notify the public using the affected roadway of work in progress.
- 2.5 Applicant agrees to bury any cable or other infrastructure a minimum depth of twenty-four inches (24”).
- 2.6 Applicant agrees to put of barriers and warning devices and to light the work in progress so as to warn the public using the affected roadway of any danger.
- 2.7 Applicant agrees to indemnify and hold harmless the County for any claim or liability of any kind whatsoever, which arises out of the use of this permit.

2.8 Applicant, and Applicant's heirs and assigns, understand and accept that this permit in no way conveys any property interest to Applicant or Applicant's heirs and assigns, beyond simple permission to use a County Road in the manner specified in this Permit.

2.9 Applicant, and Applicant's heirs and assigns, understand and accept that this permit does not provide any guarantee or otherwise warrant the condition of the County's title to any particular easement or County Road.

2.10 The location and/or duration of this permit may not be changed without prior express approval of the County.

2.11 Applicant, and Applicant's heirs and assigns, understand and accept that the issuance of this permit does not obligate the County in any way with respect to maintenance of the County Road, or maintaining the location of the County Road, or with preserving the Applicant's, or Applicant's heirs and assigns', use of the County Road.

2.12 Applicant agrees to provide upon request, by the Road Superintendent, any permits required for the project by either the State of New Mexico or the United States.

2.13 The Applicant must be licensed & bonded and a performance bond in the amount of \$1,500 shall be delivered to the Road Department, by the Applicant, prior to the issuance of a permit by the Road Superintendent. The performance bond shall be kept on file at the Department along with the Applicant's license and insurance documents. In extenuating circumstances where the Applicant is a private party and is not licensed and bonded, the Road Superintendent may authorize the Applicant to provide a refundable cash deposit in lieu of a performance bond. The deposit shall be refunded upon the Road Superintendent's inspection of the project and determination that the road surface has been satisfactorily repaired and replaced.

2.14 The Applicant understands that Road Superintendent may in his/her discretion require that the Applicant's bond or deposit be increased if the Road Superintendent determines that due to the scope of the project \$1,500.00 would not adequately cover the County's cost to repair and replace the road surface.

Section 3. Appeals.

Any party who is or may be adversely affected by a decision of the County Road Superintendent in approving or disapproving a Road Utility Permit shall appeal the Road Superintendent's decision to the County Commission within thirty (30) days of the date of the decision. The County Commission shall hear the appeal and shall render a decision within thirty (30) days of the date the County Commission receives the notice of appeal and shall also make a written record of its proceedings by stating in the record the basis for its decision and shall make available, for a reasonable fee, a transcript of the proceedings as the written record of the basis of the decision.

Section 4. Application Fee.

Each application shall be submitted with an application fee of \$75.00, or more, as the County Commission may from time to time determine by resolution.

Section 5. Enforcement; penalty.

5.1 The Cibola County Road Superintendent shall enforce the provisions of this Replace. The County Road Superintendent may commence prosecution of violations of this Replace by issuing a written citation charging the violation. Each violation of this Replace shall be punishable by a fine of three hundred dollars (\$300).

5.2 The County Manager or his/her designee may pursue in addition to criminal prosecution any lawful civil remedy and penalty in a court of competent jurisdiction. The County Manager or his/her designee may bring suit to collect any sums due and owing and /or to restrain, enjoin, or otherwise prevent the violation of this Replace; or compel compliance, and shall be entitled to reasonable attorney's fees and costs in the suit.

5.3 The County Manager or his/her designee is authorized to bring a civil action against person violating this Replace pursuant to the provisions of NMSA 1978 Section 30-8-8 (1963).

Section 6. Savings clause.

If any article, section, paragraph, clause, word or phrase of this Replace is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Replace.

Section 7. Repeal of Conflicting Replaces

Cibola County Resolutions are hereby repealed, as well as all other Cibola County Replaces or Resolutions relating to county road infrastructure permits which are in conflict with the above provisions, by the adoption of this Replace.

Section 9. Repeal of Conflicting Replace.

All Cibola County Resolutions relating to or which are in conflict with the above provisions, by the adoption of this Replace.

APPROVED, ADOPTED, AND PASSED on this 25th day of May, 2016.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Patrick Simpson
Commissioner, District IV

Lloyd F. Felipe
Commissioner, District V

Attest:

Elisa Bro
Cibola County Clerk

**CIBOLA COUNTY ROAD DEPARTMENT
INFRASTRUCTURE PLACEMENT PERMIT**

Permit Number:	
Date Issued:	
Date Permit Expires:	
Applicant Name:	
Contact Person (if Applicant is a Company):	
Applicant Address:	
Applicant Phone Number:	
Emergency Contact or Job Site Phone Number:	
Affected Cibola County Road Number:	
Location of Affected Road:	
Length of trenching and/or boring required (ft):	
Depth of trenching and/or boring required (in.) (at least 24 in. minimum):	
Orientation/description of excavation to roadway (crossing or parallel, subsurface or overhead):	
Type of Infrastructure/Utility:	
Beginning Date for Infrastructure Placement:	
Estimated Length of Project Time:	

The Applicant or the Applicant's authorized representative hereby agrees to the following conditions:

1. Applicant agrees to repair and replace the road surface disturbed by the project to at least the quality of the surface prior to the project.
2. Applicant agrees to adequately compact and smooth the road surface immediately upon completion of the project.
3. Applicant agrees to conduct the project in a manner so that one (1) lane of through-traffic is available on the roadway at all times, unless advance special permission is obtained for complete closure.

4. Applicant agrees to adequately mark the project and notify the public using the affected roadway of work in progress.
5. Applicant agrees to bury any cable or other infrastructure a minimum depth of twenty-four inches (24").
5. Applicant agrees to put of barriers and warning devices and to light the work in progress so as to warn the public using the affected roadway of any danger.
7. Applicant agrees to indemnify and hold harmless the County for any claim or liability of any kind whatsoever, which arises out of the use of this permit.
8. Applicant, and Applicant's heirs and assigns, understand and accept that this permit in no way conveys any property interest to Applicant or Applicant's heirs and assigns, beyond simple permission to use a County Road in the manner specified in this Permit.
9. Applicant, and Applicant's heirs and assigns, understand and accept that this permit does not provide any guarantee or otherwise warrant the condition of the County's title to any particular easement or County Road.
10. The location and/or duration of this permit may not be changed without prior express approval to the County.
11. Applicant, and Applicant's heirs and assigns, understand and accept that the issuance of this permit does not obligate the County in any way with respect to maintenance of the County Road, or maintaining the location of the County Road, or with preserving the Applicant's, or Applicant's heirs and assigns', use of the County Road.

Applicant/Permittee

Date

STATE OF NEW MEXICO)
)
COUNTY OF _____) ss.

The forgoing instrument was acknowledges before me this _____ day of

_____, 2010 by _____ (name),
_____. (title).

Notary Public

My Commission Expires:

COUNTY USE ONLY

PERMIT IS Approved ☐ Denied ☐ on this _____ day of _____, 20____.

A Performance Bond or Cash Deposit in the amount of \$1,500.00 is sufficient to cover the County's repair and replacement of the road surface: Yes ☐ No ☐

If NO, A Performance Bond or Cash Deposit and amount of \$_____ is required for the following reasons: _____

Performance Bond or Cash Deposit Received: Yes ☐ No ☐

County Road Superintendent

Date

County Commissioner

Date

IF PERMIT IS DENIED, REASON(S) FOR DENIAL:



**CIBOLA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION № 16-27**

POLICY FOR THE EXCAVATION OF A PRIVATE GRAVE

WHEREAS, the Board of County Commissioners met in a Special Meeting on Wednesday, May 25, 2016 at 5:00 p.m. at 515 West High Street, Grants, New Mexico; and,

WHEREAS, NMSA 1978, Section 4-37-1 (1995) provides that Counties have the power to, “provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants”; and,

WHEREAS, NMSA, 1978, Section 4-38-18 (1976) provides that a Board of County Commissioner has the duty and authority “[t]o represent the county and have the care of the county property and the management of the interest of the county in all cases where no other provision is made by law; and,

WHEREAS, N.M. Const. art. IX, § 14, the Anti-Donation Clause, generally prohibits state or local governments from making out right gifts to persons, nevertheless the Attorney General has interpreted the anti-donation clause to allow public entities to spend public money to achieve their governmental purposes even when the expenditures provide an incidental benefit to private individuals or entities, as long as the benefit, based on the amount, duration, frequency or other characteristic, does not amount to an actual grant or subsidy condemned by the clause, See N.M.A.G. Op. No. 97-02 (Jan. 7, 1997); and,

WHEREAS, NMSA 1978, Section 24-13-1 (1999) provides that “[f]or the purposes of Chapter 24, Article 13 NMSA 1978, a dead person whose body has not been claimed by a friend, relative or other interested person assuming the responsibility for and expense of disposition shall be considered an unclaimed decedent. It is the duty of the board of county commissioners of each county in this state to cause to be decently interred or cremated the body of any unclaimed decedent or indigent person. The county shall ensure that the body is buried or cremated no later than thirty days after a determination has been made that the body has not been claimed, but no less than two weeks after death. If the body is cremated, the county shall ensure that the cremated remains are retained and stored for no less than two years in a manner that allows for identification of the remains. After the expiration of two years the cremated remains may be disposed of, provided the county retains a record of the place and manner of disposition for not less than five years after such disposition; and,

WHEREAS, NMSA 1978, Section 24-13-2 (1999) provides that “[a] deceased person shall be considered to be an indigent for purposes of Chapter 24, Article 13 NMSA 1978 if his estate is insufficient to cover the cost of burial or cremation;” and,

WHEREAS, NMSA 1978, Section 24-13-3 (2001) provides that “[i]f the unclaimed decedent had known assets or property of sufficient value to defray the expenses of cremation or burial, invoices for the expenses shall be forwarded to such person or official authorized by law to be appointed administrator of the estate of the decedent, and such person or official shall pay the expenses out of the decedent's estate. To the extent that the deceased person is indigent, the burial or cremation expenses shall be borne by the county of residence of the deceased person. If the county of residence of the deceased person is not known, the burial or cremation expenses shall be borne by the county in which the body was found. The burial or cremation expenses may be paid by the county out of the general fund or the county indigent hospital claims fund in an amount up to six hundred dollars (\$600) for the burial or cremation of any adult or minor;” and,

WHEREAS, the purpose of this policy is to supplement the County’s current indigent burial policy for those families who are only requesting that graves be excavated for their loved ones; and,

WHEREAS, the County Road Department had determined that the cost to dig a grave, including manpower, equipment and travel is \$250 to open and close or \$150 to open or close per grave; and,

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Cibola that following policy for the digging of private graves in the County is hereby adopted.

Section 1. Procedure for Request

- A. Individuals requesting that the County excavate a private grave for the burial of a loved one shall contact the County Manager and fill out the application form promulgated the County Manager’s Office.
- B. The individual making the request shall state:
 - Option I: the deceased person is an indigent pursuant to NMSA 1978, Section 24-13-2 (1999) and that they are requesting that the work be performed without charge or
 - Option II: the deceased person is not an indigent and services will be paid for pursuant to the fee schedule.
- C. A person claiming that the deceased is indigent shall complete an affidavit to that affect.

Section 2. Fee Schedule

Ability to Pay	Cost
Indigent Deceased	No Cost

Non Indigent Deceased	\$250 to open and close or \$150 to open or close per grave
-----------------------	---

Section 3. Dispatch of Road Department

Upon receipt of a completed application and receipt of the fee (if applicable) the County Manager shall dispatch the Road Department to excavate the grave. The Road Superintendent will schedule the work to be performed within 3 calendar days of dispatch unless circumstances exist wherein the Department is not able to perform the work in that time period.

APPROVED, ADOPTED, AND PASSED on this 25th day of May, 2016.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Patrick Simpson
Commissioner, District IV

Lloyd F. Felipe
Commissioner, District V

Attest:

Elisa Bro
Cibola County Clerk



**CIBOLA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION № 16-28**

ELECTRONIC MEDIA EMAIL & INTERNET USE

1. Access. Access to the Internet through the Cibola County is a privilege. Users granted this privilege must adhere to strict guidelines concerning the appropriate use of this information resource. Users who violate the provisions outlined in this document are subject to disciplinary action up to and including termination. In addition, any inappropriate use that involves a criminal offense will result in legal action. All users are required to acknowledge receipt and understanding of guidelines contained in this document.

2. Purpose & Scope. To define policies and procedures for access to the Internet through the Cibola County network infrastructure. This policy applies to all personnel with access to Internet and related services through the Cibola County network infrastructure. Internet Related services include all services provided with the TCP/IP protocol, including but not limited to Electronic Mail (e-mail), File Transfer Protocol (FTP), and World Wide Web (WWW) access. Internet access includes connections via DSL subscriptions, phone modem access, server-to-Internet access or T1 line access.

3. Acceptable Use. Access to the Internet is specifically limited to activities in direct support of official Cibola County business.

- A. In addition to access in support of specific work related duties, the Cibola County Internet connection may be used for educational and research purposes.
- B. If any user has a question of what constitutes acceptable use he/she should check with their supervisor for additional guidance. Management or supervisory personnel shall consult with the County Manager for clarification of these guidelines.

4. Inappropriate Use. Cibola County Internet access shall not be used for any illegal or unlawful purposes. Examples of this would be the transmission of violent, threatening, defrauding, pornographic, obscene or otherwise illegal or unlawful materials

- A. Use of Cibola County electronic mail or messaging services shall be used for the conduct of Cibola County, business only. These services shall not be used to harass, intimidate or otherwise annoy another person.
- B. The Cibola County, Internet access shall not be used for private, recreational or other non-Cibola County related activity.
- C. The Cibola County Internet connection shall not be used for commercial or political purposes.

- D. Use of the Cibola County, Internet access shall not be used for personal gain such as selling access of a Cibola County user login. Internet access shall not be used for or by performing work for profit with Cibola County resources in a manner not authorized by Cibola County.
- E. Users shall not attempt to circumvent or subvert security measures on Cibola County's network resources or any other system connected to or accessible through the Internet.
- F. Cibola County users shall not use Internet access for interception of network traffic for any purpose unless engaged in authorized network administration.
- G. Cibola County users shall not make or use illegal copies of copyrighted material, store such copies on Cibola County equipment, or transmit these copies over the Cibola County network.

5. 6 Internet & E-Mail Etiquette. Cibola County employees shall ensure all communication through Cibola County email or messaging services is conducted in a professional manner. The use vulgar or obscene language is prohibited.

- A. Cibola County users shall not reveal private or personal information without specific approval from management.
- B. Users should ensure that e-mail messages are sent to only those users with a specific need to know. The transmission of e-mail to large groups or messages with large file attachments should be avoided.
- C. Electronic Mail is not guaranteed to be private. Messages transmitted through the Cibola County e-mail system or network infrastructure are the property of Cibola County and are therefore subject to inspection.

6. Security

- A. Cibola County users who identify or perceive an actual or suspected security problem shall immediately contact the Cibola County Information Systems Security Manager.
- B. Users shall not reveal account passwords or allow another person to use their account. Similarly, users shall not use the account of another user.
- C. Access to the Cibola County network resources shall be revoked for any user identified as a security risk or a demonstrated history of security problems.

7. Penalties. Any user violating these policies is subject to the loss of network privileges and any other Cibola County disciplinary actions as detailed in Section 7 of this ordinance.

8. No Expectation of Privacy. Users should not expect any information transmitted via Cibola County's systems to remain private or confidential.

- A. Cibola County may monitor use of any part of County Systems at any time, without notice, at its discretion. Such monitoring may include, but is not limited to limiting size, accessing, listening to, reading, or retrieving voice mail messages, e-mail, Internet communications, or local files.
- B. Users should be aware that deleted files or other communications may be retrieved and review by Cibola County Management.

- C. Users are prohibited from, among other things, accessing, listening to, reading or retrieving other team members' e-mail, voice mail, or Internet communications unless specifically authorized to do so by Management.

9. User Compliance. All terms and conditions as stated in this document are applicable to all users of the network and the Internet connection.

10. Protection & Handling of Sensitive Information. It is the responsibility of every County employee to ensure the protection of sensitive information and comply with all information technology policies. This includes but is not limited to ensuring such information does not leave the County network, making a reasonable effort to redact sensitive information when sharing records and protecting security account information.

11. Social Media. Cibola County encourages employees to not discredit the County on Social media.

APPROVED, ADOPTED, AND PASSED on this 25th day of May, 2016.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Patrick Simpson
Commissioner, District IV

Lloyd F. Felipe
Commissioner, District V

Attest:

Elisa Bro
Cibola County Clerk

STATE OF NEW MEXICO
CHILDREN, YOUTH AND FAMILIES DEPARTMENT
AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **CHILDREN, YOUTH AND FAMILIES DEPARTMENT**, hereinafter referred to as the "Agency," and **CIBOLA COUNTY**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Agency.

WHEREAS, the Agency is the state agency designated to receive and administer federal funds and the Agency desires to engage and the contractor is willing to provide the services outlined pursuant to Article II - Scope of Work.

NOW THEREFORE, the Agency and the Contractor in consideration of mutual covenants and agreements herein contained, do hereby agree as follows:

ARTICLE I. Term of Agreement

THIS AGREEMENT SHALL BECOME EFFECTIVE UPON WHICH IT IS EXECUTED BY AGENCY SECRETARY OR DESIGNEE. This Agreement shall terminate on **(June 30, 2017)** unless terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations).

ARTICLE II. Scope of Work

The Contractor shall provide the program of services as set forth in the scope of work which is attached hereto as "**Attachment 1 – Scope of Work**" and incorporated herein by reference, unless amended or terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations), infra. In consideration for the provision of those services, the Agency agrees to purchase and the Contractor agrees to perform the services identified in the Scope of Work.

ARTICLE III. Limitation of Cost

The total amount of the monies payable to the Contractor under this Agreement shall not exceed **ONE HUNDRED THIRTY FIVE SIX HUNDRED SIXTEEN DOLLARS AND ZERO CENTS (\$135,616.00)**. The annual budget is attached hereto as "**Attachment 2 – Budget**" and incorporated herein by reference.

ARTICLE IV. Payment

The Agency shall make monthly payments to the Contractor for services and costs specified in **Attachment 2 - Budget**. The Contractor shall submit certified and documented invoices and vouchers monthly for actual work performed and expenses incurred to the Agency. The Contractor's failure to submit such payment vouchers, invoices, and supporting documentation

within fifteen (15) days after they are due may result in the non-availability of funds for payment and/or the denial of payment by the Agency.

ARTICLE V. Return of Funds

Upon termination of this Agreement, or after the services provided for herein have been rendered, surplus money, if any, shall be returned by the Contractor to the Agency.

ARTICLE VI. Termination of Agreement

A. Grounds. The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.

B. Notice; Agency Opportunity to Cure.

1. Except as otherwise provided in Article (VI)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Article XXIII, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

D. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such

action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

ARTICLE VII. Funds Accountability

The parties shall provide for strict accountability of all monies made subject to this Agreement. The Contractor shall maintain fiscal records, follow generally accepted accounting principles, and account for all receipts and disbursements of funds transferred to the Contractor pursuant to this Agreement. The Contractor will include all monies made subject to this Agreement in the annual audit and will provide the Agency with a copy of the annual audit.

ARTICLE VIII. Maintenance of Records

The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments. The Contractor agrees to comply with the requirements and regulations set forth in **Attachment 3—Administrative and Fiscal Standards**, unless the Contractor effectively demonstrates in writing, with written approval from CYFD, that any specific Standard is inapplicable to such Contractor.

ARTICLE IX. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

ARTICLE X. Amendments

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

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

ARTICLE XI. Assignment

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for

money due or to become due under this Agreement without the prior written approval of the Agency.

ARTICLE XII. 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, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

ARTICLE XIII. Acquisition of Property

The parties agree that neither party shall acquire any property as the result of this Agreement.

ARTICLE XIV. Liability

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation or requirements applicable to the performance of the Agreement. Each party shall be liable for its actions according to this Agreement subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. seq., NMSA 1978, as amended.

ARTICLE XV. Execution of Documents

The Agency and the Contractor agree to execute any document(s) necessary to implement the terms of this Agreement.

ARTICLE XVI. Sub-Contracts

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval by the CYFD Secretary or Designee. No such subcontract shall relieve the primary Contractor from any obligations and liabilities under this Agreement, nor shall subcontract obligate direct payment from the Procuring Agency. Contractor must notify subcontractors that they are subject to Article VIII - Maintenance of Records of this agreement.

ARTICLE XVII. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any

program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

ARTICLE XVIII. Workers' Compensation

The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

ARTICLE XIX. Lobbying Certification

The Contractor, by signing below, certifies to the best of his/her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid by or on the behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit a Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of facts upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. (United States Code). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

ARTICLE XX. New Mexico Employees Health Coverage

(Governmental entities are excluded from this provision)

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <http://insurenwnewmexico.state.nm.us/>.

ARTICLE XXI. Background Checks

CYFD contractors that have or could have primary custody of children for at least twenty hours per week are required to comply with NMAC 8.8.3 et. seq. requiring background checks on any employee, staff, volunteer or student intern, that has direct care responsibilities or potential unsupervised physical access to clients. The contractor must submit to CYFD Background Check Unit fingerprint cards and the appropriate fee for such employees, volunteers or staff required to have background checks. CYFD Background Check Unit will conduct nationwide, state and abuse and neglect background checks on required staff or volunteers in accordance with NMAC 8.8.3 standards. A CYFD eligibility letter must be in the employee, volunteer or staff member's personnel file prior to that individual having any unsupervised direct contact or unsupervised potential access to clients.

ARTICLE XXII. Health Insurance Portability and Accountability Act of 1996

The Contractor agrees to comply with the Health Insurance Portability and Accountability Act of 1996, and the terms in **Attachment 4, Business Associate Agreement**, which is attached and incorporated by reference.

ARTICLE XXIII. Appropriations

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

ARTICLE XXIV. Suspension and Debarment Form

The Contractor agrees to comply with the guidelines set for the in the Suspension and Debarment Form in **Attachment 5, Suspension and Debarment Form**.

IN WITNESS WHEREOF, the Agency and the Contractor have caused this Agreement to be executed, said Agreement to become effective as of the date set forth below upon which it is executed by Agency Secretary or Designee.

Contractor – Cibola County

Authorized Signatory

Date: _____

Printed Title of Authorized Signatory

Legal Counsel, Contractor

Date: _____

Agency – Children, Youth and Families Department

Monique Jacobson, CYFD Secretary or Designee

Date: _____

Approved as to legal form and sufficiency.

Michael Heitz, CYFD General Counsel or Designee

Date: _____

Attachment 1 – Scope of Work
Cibola County

Goal:

To improve the Juvenile Justice System and decrease the incidences of juvenile delinquency in the community while increasing the emphasis on prevention and early intervention in juvenile justice services.

Objective:

To provide a continuum of cost effective services and temporary, non-secure alternatives to detention for youth who have been arrested or referred to the juvenile probation office or are at risk of such referral.

Activities:

The Contractor shall:

- A. Develop and maintain a juvenile justice advisory board, herein referred to as the “Community Advisory Board (CAB)”, as required by statute under the Juvenile Continuum Act and the New Mexico Administrative Code 8.14.13.7(E). The Contractor, through the Juvenile Justice Continuum Coordinator (refer to paragraph B), will organize and coordinate regular meetings of the CAB.

The CAB will:

1. Develop and improve the “Comprehensive Strategic Plan” for juvenile justice and detention reform in Cibola County to be updated a minimum of once per year;
2. Set policy for the Comprehensive Strategic Plan and the activities supported under this Agreement;
3. Determine the duties and responsibilities of the Juvenile Justice Continuum Coordinator, in accordance with the Scope of Work;
4. Provide oversight for the programs/service identified in the Scope of Work;
5. Continue to collaborate with the City and County to ensure improvements in the operational collaboration of local resources and service providers; and
6. Maintain a plan for sustainability of the programs/services implemented by the CAB.

- B. Contract with or hire a Juvenile Justice Continuum Coordinator who will:

1. Organize, coordinate and provide staff support for the CAB; this will include board development activities in conjunction with the CAB chair;

2. Inform the Agency's Program Manager of the date of each meeting and submit a copy of the written minutes of each meeting, within thirty (30) days of the meeting;
 3. Submit to the Agency's Program Manager monthly requests for reimbursement. Such requests will be submitted on Agency Program Invoice and Expenditure Report forms, signed and sated by an authorized agent of the Contractor, to ensure that requests for reimbursement are submitted by the due date of the fifteenth (15) day of the following month, unless otherwise approved by the Agency's Program Manager, in advance;
 4. Provide data reports as required by the federal government, corresponding to the activities described in this Scope of Work. The Agency's Program Manager will provide the data report format. Programmatic data reports will be submitted monthly to the Agency and must accompany the monthly invoice. Failure to submit such programmatic data and financial reports may result in notice to the Contractor of non-availability of funds and/or the denial of payment by the Agency.
 5. Provide the Agency standardized progress reports monthly;
 6. Submit to the Agency a written "Final Report" prior to the termination of this Agreement and such other reports deemed necessary by the Agency. The Final Report shall contain at a minimum, but not be restricted to:
 - a. a year plan for sustainability of programs/services;
 - b. accomplishments/milestones achieved during this Agreement period;
 - c. statements regarding achievements, obstacles and progress made regarding the performance measures and related outcomes; and
 - d. continuing development and improvement of the Comprehensive Strategic Plan for a continuum of detention alternative program and services.
 7. Attend meetings as required by the Agency.
- C. The Contractor, based upon their application for the Juvenile Justice Continuum Gant and Title II Form Grant, submitted for state fiscal year 2017, and incorporated herein by reference, agrees to contract with or hire to provide the following services as detailed in the aforementioned grant application which has been incorporated by reference, to youth, referred by the required partners or that are at risk of receiving such a referral, reimbursed based upon the fixed prices and number of youth to be served listed in Attachment 2 – Budget:
1. School Resource Officers;
 2. Northland Program; and
 3. Saturday School Program.

Duties and Responsibilities:

The Contractor shall:

- A. Ensure that the CAB meets all goals and objectives and completes activities as specified in this contract and in compliance with all applicable state and federal laws.

- B. The Contractor agrees that funds received under this award will not be used to supplant state or local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for program activities.
- C. The Contractor understands that the Agency reserves the right to conduct periodic on-site monitoring visits upon reasonable notice to the Contractor and sub-contractors prior to each visit.
- D. The Contractor understands that it will be subject to additional financial and programmatic on-site monitoring, which may be on short notice, and agrees that it will cooperate with any such monitoring.
- E. Attend meetings and trainings as required by the Agency.
- F. Provide copies of the CAB's meeting minutes within thirty (30) days of the meeting.
- G. The Contractor agrees to demonstrate an emphasis on effective, evidence-based strategies.
- H. Ensure that all programs must commence and be operational within ninety (90) days of the last signatory executing this Agreement. If the Contractor's program has not commenced or is not operational within that timeframe, the Contractor must report in writing to the Agency the steps taken to initiate the program, the reasons for the delay, and the expected starting date prior to the end of the ninety (90) days. If this justification is not received prior to the end of the ninety (90) days, the Contractor's program, at the Agency's discretion, may be terminated and the funds allocated to that program redistributed to other sites or programs.
- I. Submit reimbursement invoices to the Agency no later than fifteen (15) days after the end of each month. At a minimum, invoice documentation must include:
 - 1. The approved Agency's Program Invoice and Expenditure Report forms; and
 - 2. Any supporting documentation the Agency requires to verify the expense. This includes, but is not limited to invoices, receipts, time sheets, payroll registers, general ledger account reports, and proof of payment.
- J. Submit monthly programmatic data reports no later than fifteen (15) days after the end of each month. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or hand written.
- K. Submit a final closeout report outlining all accomplishments, measurement of goals and objectives, and barriers to successful implementation or completion of this program within fifteen (15) days of the termination date of this Agreement. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or hand written.

- L. The Contractor agrees to comply with any and all additional reporting requirements or informational requests imposed by the Agency, Department of Justice, Office of Justice Programs, or the New Mexico Legislature. The Agency will notify the Contractor of any additional reporting requirements as they are imposed.
- M. Through the Budget Adjustment Request (BAR) form, submit to the Agency any amendments by the Contractor to request changes and/or corrections for any programmatic, administrative, or financial element associated with this Agreement. The Agency, by written notice, has the right to deny any amendment request. All final BAR forms must be submitted to the Agency no later than forty-five (45) days prior to the end of the fiscal year. Requests submitted after that date may not be accepted or approved.
- N. Communication and details concerning this Agreement shall be directed to the following representative:

Agency

Dorothy Mendonca
JJAC Program Manager
Children, Youth and Families Department
PO Drawer 5160, Room 542
Santa Fe, NM 87502
(P) 505-469-5325

Contractor

Joseph Sanders
Financial Analyst
Cibola County
515 W High Street
Grants, NM 87020-2522
(P) 505-285-2516

- O. The Contractor's obligation to the Agency shall not end until all close out requirements are completed. Activities during this period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, program income balances, and accounts receivable to the Agency), performance measurement reports and determining the custodianship of records.
- P. The Contractor shall obtain written approval from the Agency for any travel outside the State of New Mexico with funds provided under this Agreement. Per Diem and mileage, and other miscellaneous expense, will be paid in accordance with the Department of Finance and Administration (DFA) Rule 2.42.2 NMAC. The request will be in the Agency provided form and format.
- Q. The Contractor will include all applicable provisions of this Agreement in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.
- R. The Contractor, as well as all sub-contractors, is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

- S. The Contractor agrees to comply with applicable restrictions on sub-contracts that do not acquire and provide a Data Universal Numbering System (DUNS) number. This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).
- T. The Contractor agrees that award funds may not be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

This restriction does not apply to the use of funds for any federal, state, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities. Any such activity funded under this Agreement must be reported to the Agency immediately.

- U. The Contractor is encouraged to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this contract, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers, as pursuant to Executive Order 13513. "Federal Leadership on Reducing Text Messaging While Driving", 74 Fed. Reg. 51225 (October 1, 2009).
- V. The Contractor understand and agrees that any training or training materials developed or delivered with funding provided under this contract must adhere to the Office of Justice Programs Training Guiding Principles for Grantee and Subgrantees, available at <http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm>.
- W. Mandatory Reporting Information: Under New Mexico law, all persons are mandatory reporters of suspected abuse or neglect of children. If the contractor suspects abuse or neglect in the audited facilities, the contractor must contact the New Mexico Statewide Central Intake Hotline (SCI) at 1-855-333-SAFE or #SAFE from a cellphone.

The Agency shall:

- A. Reimburse Contractor for verified services provided and incurred costs as stated in Attachment 2 – Budget.
- B. Provide information and/or make referrals for training and technical assistance.
- C. Based on periodic program and fiscal reviews, the Agency retains the sole discretion to reduce the budget of Contractors who do not provide sufficient services, do not submit the required programmatic and financial reports as required, or do not expend funds under this Agreement in a timely manner. The Agency retains the sole discretion to reduce contract amount and reallocate the resulting funds to a Contractor that is able to provide the required services during the contract period. Additionally, any funds not

used per the budget as stated in Attachment 2 – Budget shall revert unless otherwise allowed by the Agency in writing.

D. The Agency will review:

1. Sub-contracts and programs for accomplishment of Outcomes and Performance Measures as set forth in this Agreement.
2. The Community Advisory Board activities and member participation in periodic meetings of the CAB, including minutes of each Board meeting to be provided to the Agency.
3. Any additional funding received by the Contractor for the specific activities and programs included in this Agreement, including efforts by the Contractor to sustain and enhance funding for these programs. The Agency also retains the sole discretion to adjust amounts received under this Agreement if funds are received by the Contractor from other sources for the same services and activities to be performed under this Agreement.

Data Collection:

As a condition of funding, the Contractor agrees to report, at minimum, the following demographics, core measures and performance measurements.

Demographics:

- A. City, State and Zip Code for each youth served;
- B. Race/Ethnicity;
- C. Population Served:
 1. At-Risk Youth;
 2. First Time Offender;
 3. Repeat Offender;
 4. Sex Offender;
 5. Status Offender; and
 6. Violent Offender.
- D. Youth Currently in Detention;
- E. Gender:
 1. Male;
 2. Female; or
 3. Transgender.
- F. Age;
- G. Geographic Location:
 1. Urban;
 2. Tribal;
 3. Rural; or
 4. Frontier.
- H. Other Population Information:

1. Mental Health;
2. Substance Abuse;
3. Truant/Dropout; or
4. Pregnant.

Core Measures:

- A. New youth admissions during this reporting period;
- B. Number of program youth carried over from previous reporting period;
- C. Total number of youth in the program;
- D. Total number of youth who exited the program during the reporting period;
- E. Number of youth who exited the program having completed the program requirements during the reporting period;
- F. Percent of youth who successfully completed the program;
- G. How many youth is your program designed to serve;
- H. Number of current program youth who had an arrest during the reporting period;
- I. Number of current program youth who were committed to a juvenile facility during the reporting period;
- J. Number of program youth who had a re-arrest during the reporting period;
- K. Number of program youth who were re-committed during the reporting period;
- L. Number of program youth who were re-sentenced/received a subsequent consequence during the reporting period;
- M. Number of program youth with gang activity;
- N. Number of program youth who reported being satisfied with the program;
- O. Total number of program families; and
- P. Number of program families who report being satisfied with the program.

Performance Measures:

- A. Alternatives to Detention:
 1. Number of detention alternative program options;
 2. Number of program youth receiving risk assessments (RAI); and
 3. Number of program youth who return to all scheduled hearings.
- B. Delinquency Prevention:
 1. Number of parents served;
 2. Number of program youth who received services for substance use;
 3. Number of program youth with noted behavioral change;
 4. Number of program youth who received services for substance abuse behavior;
 5. Number of program youth with improved school attendance;
 6. Number of program youth who received services for school attendance behavior;
 7. Number of program youth who exited the program having completed the program requirements.
- C. Diversion:
 1. Total number of program youth who received services for diversion behavior;
 2. Number of youth with noted behavior change;

3. Number of first time offenders; and
4. Number of youth formally processed.

D. Mentoring:

1. Total number of mentors;
2. Total time, in days, of service across all mentors for this reporting period;
3. Number of youth in the program who received services for mentoring behavior;
4. Number of youth in the program with noted behavior change;
5. Number of mentors who returned the survey;
6. Number of mentors who reported being satisfied with the program;
7. Number of volunteer advocates in the program; and
8. Number of volunteer advocates remaining active until case completion.

E. Restitution/Community Service:

1. Amount of restitution owed this reporting period;
2. Amount of restitution paid this reporting period;
3. Amount of restitution carried over from last reporting period;
4. Number of current program youth charged with a probation violation;
5. Number of crime victims served by the program;
6. Number of crime victims served that returned a survey; and
7. Number of crime victims who report being satisfied with the program.

F. Restorative Justice:

1. Number of case dispositions;
2. Number of case dispositions that included restorative justice;
3. Number of crime victims;
4. Number of crime victims to participate in restorative justice;
5. Average time in hours spent by the victims' advocates with victims;
6. Average number of contacts between victim and victim advocates;
7. Number of cases in which community members had input into the offender disposition;
8. Number of offenders ordered to pay restitution;
9. Number of offenders that pay restitution;
10. Total number of offenders handled;
11. Number of youth to have restorative justice requirements; and
12. Number of youth to successfully complete their restorative justice requirements.

PULL TOGETHER

1. If Contractor's information is on PULLTOGETHER.org, Contractor is responsible for ensuring that their contact information is current on the website. Updated information may be sent to info@pulltogether.org.
2. If Contractor's information is not on PULLTOGETHER.org and they would like to request that their information be on the website, please send a request to info@pulltogether.org.
3. If printed materials or printed items are purchased utilizing funds under this contract, those items will be on a PullTogether template or have the PullTogether logo. To obtain the template or logo please email info@pulltogether.org.
4. Contractor is responsible for reaching out to three other non-profits or organizations in their area that serve child and families to discuss how to better collaborate and deliver services in a coordinated manner. A list of non-profits or organizations may be found on PULLTOGETHER.org.

Attachment 2 – Budget
Cibola County

A. <u>Continuum and Board Activities:</u>			
Continuum Coordinator		=	\$40,000
Travel		=	484
Youth Committee Members		=	<u>300</u>
			\$40,784
B. <u>School Resource Officers:</u>			
Based on 244 youth to be served			
SRO 1	\$198 x 195 Days	=	\$38,610
SRO 2	\$198 x 195 Days	=	<u>38,610</u>
			\$77,220
C. <u>Northland Program:</u>			
	\$217 x 56 Classes	=	<u>\$12,152</u>
Based on 427 youth to be served			
D. <u>Saturday School:</u>			
	\$52 x 105 Classes	=	<u>\$ 5,460</u>
Based on 85 youth to be served			
Total Grant Award not to exceed:			<u>\$135,616</u>

The Contractor shall be required to source a minimum of forty-percent (40%) of the total budgeted grant amount with local matching funds. The local matching funds may consist of money, land, equipment or in-kind services. Matching funds should be expended at the same rate as the grant funds and must be reported on the monthly invoices.

Budgeted and contracted Grant Amount	\$135,616.00
40% Minimum Match Liability for Cibola County	<u>54,247.00</u>
Projected Budgeted Amount	\$189,863.00

*Per diem and mileage, and other miscellaneous expenses, will be paid in accordance with the Department of Finance and Administration (DFA) Rule 2.42.2 NMAC.

FUNDING INFORMATION:

Juvenile Continuum Grant Fund (State General Fund)

Attachment 3

CHILDREN, YOUTH AND FAMILIES DEPARTMENT'S
ADMINISTRATIVE
AND
FISCAL STANDARDS

For Sole Proprietors,
For Non-Profit Organizations,
Local Bodies of Government,
And
For-Profit Incorporated Entities

Revised April 18, 2016

Note: All contractors and subcontractors are required to adhere to all local, state and federal regulations as applicable to their operations. All contractors are required to follow audit and reporting requirements set forth in this document. In the event of a contradiction between these standards and contract requirements the contract agreement supersedes the Administrative and Fiscal Standards.

ADMINISTRATIVE STANDARDS

For Non-Profit Organizations (with the exception of New Mexico higher education institutions, executive, judicial, and legislative branches of state government)

1. The Board shall ensure that the agency has current articles of incorporation that meet all of the legal requirements of the governmental jurisdiction in which the contractor is located.
2. The Board shall ensure that the agency has current by-laws that are filed with the appropriate local, state, federal body or higher education institutions. At a minimum, the agency by-laws should include:
 - a. Membership (types, qualification, rights, duties);
 - b. Size of Board of Directors;
 - c. Method of selection and removal;
 - d. Duties and responsibilities of officers;
 - e. Committees;
 - f. Quorums;
 - g. Recording of minutes;
 - h. Method for amending by-laws.
3. The Board shall ensure that the agency complies with applicable legal requirements and regulations of all governmental and legally authorized agencies under whose authorities it operates. These include, but are not limited to those regarding equal employment opportunity, workers compensation, unemployment insurance, affirmative action, safety, licensing, etc.
4. Board members shall be residents of the area served by the organization and representative of the social, economic, linguistic, ethnic, and racial target population. The agency shall not employ a person related to a Board member by consanguinity or affinity within the third degree. This includes, but is not limited to, spouse, mother, father, brother, sister, grandparents, aunt, uncle, niece, nephew, first cousins, mother-in-law, father-in-law, brother-in-law or sister-in-law.
5. A permanent record shall be kept of all meetings of the Board. Minutes of the meetings of the agency's Board are required in order to accurately record the decisions made and actions taken. These minutes shall include, but not be limited to, meeting date, names of members attending, topic discussed, decisions reached, actions taken, and attachment of any documents referenced. Board minutes shall be signed and approved by an officer of the Board.

For All Contractors

Personnel

1. The contractor shall have a current and dated organization chart that accurately reflects the staff structure of authority, responsibility and accountability within the organization. The organizational chart must illustrate the relationship of each position or department to all other positions or departments within the organization.
2. The contractor shall have written personnel policies and procedures. All policies and procedures shall be reviewed annually, and any changes, additions, deletions, etc., shall be dated. Procedures must be in place that allows employees to provide input into changes in agency and personnel policies and procedures.
3. The contractor shall maintain current, written job descriptions and job qualifications for all positions (staff, consultants and direct service volunteers) in the agency. Each job description shall include, at a minimum:
 - a. Job title;
 - b. Salary range;
 - c. Duties;
 - d. Responsibilities of the positions;
 - e. Required minimum experience;
 - f. Required minimum training;
 - g. Required minimum education.
4. The contractor shall maintain a current, accurate and confidential personnel record for each paid and direct service volunteer employee. A personnel record on each employee shall contain, at a minimum;
 - a. Job description;
 - b. Initial application/resume;
 - c. Documentation of reference letters;
 - d. Result of employment investigation;
 - e. Background checks;
 1. CYFD contractors that have or could have primary custody of children for at least twenty hours per week are required to comply with NMAC 8.8.3 et. seq. requiring background checks on any employee, staff, volunteer or student intern, that has direct care responsibilities or potential unsupervised physical access to clients. The contractor must submit to CYFD Background Check Unit fingerprint cards and the appropriate fee for such employees, volunteers or staff required having background checks. CYFD Background Check Unit will conduct nationwide, state and abuse and neglect background checks on required staff or volunteers in accordance with NMAC 8.8.3 standards. A CYFD eligibility letter must be in the employee, volunteer or staff member's personnel file prior to that

individual having any unsupervised direct contact or unsupervised potential access to clients.

- f. Education/experience required;
- g. Wage and salary information;
- h. Job performance evaluation;
- i. Documentation/verification of all previous and ongoing training (including all component specific training and education);
- j. Incident reports;
- k. Commendations or disciplinary actions (if any).

This information must be reliable, accurate and current. All employee records must be kept in a locked file to ensure confidentiality.

5. The contractor shall be headed by a director. The director shall be responsible for the daily operation of the agency through decision-making, authorization of expenditures, and the implementation of policies and procedures.

Physical Facilities

The physical facilities must meet all licensing requirements per classification and should be located, constructed, equipped and operated to promote the efficient and effective conduct of the contractor's programs, to protect the health and safety of the persons serviced and the staff to promote the integration of those served into the community, to be accessible to persons served, staff and the community, meet the American's with Disabilities Act (ADA) and the Drug-Free Workplace Act of 1988.

FISCAL STANDARDS

For All Contractors

Compliance

1. The contractor shall comply with all federal and state statutes, rules and regulations. Cost principles, administrative requirements and audit requirements, applicable to federal grants shall apply to state funds as referenced in the section Source Sheet of the CYFD Administrative and Fiscal Standards.
2. The contractor shall comply with all aspects of the provision of the contract, including all insurance, bonding and audit and financial reporting requirements.
3. The contractor (non-federal entities and applicants) must disclose all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.
4. The contractor (non-federal entities and applicants) shall maintain a code of conduct policy that includes annual review and disclosure of any employee, board member or

subcontractor (e.g., consultants or independent contractors) that may have a **conflict of interest** or **conviction of a misdemeanor or felony**, had a judgment withheld or deferred, or are currently charged with committing a misdemeanor or felony.

Insurance

1. The contractor, (with the exception of New Mexico higher education institutions, **executive, judicial, and legislative branches of state government**) shall obtain and maintain at all times during the term of this contract an Employee Dishonesty Policy covering the activities of the contractor in the amount of no less than 25% of the total (cumulative) dollar amount of the current CYFD contract(s).
2. The contractor shall obtain and maintain at all times during the term of this contract a general and professional liability insurance policy issued by an insurance company licensed to do business in the State of New Mexico. The policy shall include liability insurance coverage provided in the amount of at least \$100,000 for damage to or destruction of property arising out of a single occurrence; \$300,000 to any person for any number of claims arising out of a single occurrence for all damages other than property damage; or \$500,000 for all claims arising out of a single occurrence. The policy shall be secured by the contractor within thirty (30) days of the effective date of the current contract.
3. The contractor, (with the exception of New Mexico higher education institutions **executive, judicial, and legislative branches of state government**) if insured by General Services Department's Risk Management Division, shall secure and maintain sufficient fire and extended hazard insurance on all property in the custody of the contractor, which is furnished or owned by the Department or in which the Department has a financial interest, within thirty (30) days of the effective date of the current agreement. Sufficient insurance, for the purposes of this paragraph, means enough to cover CYFD's loss, if any to such property, in the event of fire or other hazard.
4. The contractor, (with the exception of New Mexico higher education institutions **executive, judicial, and legislative branches of state government**) if insured by General Services Department's Risk Management Division, shall name Children, Youth and Families Department as an "Additional Insured" with the insurance carrier of the contractor's liability insurance. A copy of the contractor's "Certificate of Liability Insurance" proving compliance with all the above insurance requirements must be available upon request.

Fiscal Books of Records

The contractor must maintain the following books of record:

1. Chart of Accounts
2. General Ledger

3. Cash receipts and Cash Disbursements Journals
4. General Journal of adjusting entries, correcting entries, accrual entries, and cost allocation entries if not provided for in cash journals.
5. Subsidiary ledgers, if applicable to the organization.
6. Any Capital Outlay Inventory purchased with CYFD funding includes at a minimum:
 - a. Description of property;
 - b. Serial number or other ID number;
 - c. Date of purchase;
 - d. Acquisition cost by funding source(s);
 - e. Location and use of property;
 - f. Disposition data including date and price, if any.
7. Payroll journals and employee earnings records.
8. Fiscal Policy and Procedures that must include:
 - a. Handling of cash/checks;
 - b. Handling of voided checks;
 - c. Authorized check signatures;
 - d. Bank reconciliations;
 - e. Separation of duties;
 - f. Accounting system;
 - g. Travel, if included in the services, will adhere to Per Diem and Mileage Act Sections 10-8-1 to 10-8-8 NMSA 1978, regulations governing the per diem and mileage Act, and 2.42.2.11 NMAC, mileage –private conveyance, effective June 19, 2009.)
 - h. Cost allocation method;
 - i. Accounting policies for donations.
 - j. Conflict of Interest Policy

Reports

1. The contractor shall complete in full the State and Federal payroll tax forms in accordance with required time period and shall insure payroll taxes are paid within the required time frame.
2. The contractor shall complete in full and submit the required forms of the State Department of Labor.
3. The contractor shall submit timely program and financial reports to the funding agencies as specified in the contracts.

Retention of Records

The following are the requirements for the retention of financial records:

1. The contractor shall maintain for three (3) years, (in addition to current year records) detailed accounting and billing records which indicate the date, time, and nature of services rendered, records relating to contract services, and all operating financial documentation which shall be subject to inspection by the Department and if applicable, the State Auditor or their designee.
2. The Department shall have a right to audit billings and related documents both before and after payment. Payments made under a contract between the contractor and the Department shall not foreclose the right of the Department to recover excessive, illegal payments, and/or payments which are not in accordance with the contract.
3. The contractor shall maintain the funds from the CYFD contract **separately** in accurate financial records, books, files, and reports in accordance with generally accepted accounting principles, state and federal laws and regulation, and the requirements of the Departments as described in this Administrative and Fiscal Standards Guidance.
4. The financial management systems established by the contractor shall ensure it provides fiscal and budgetary controls as well as sound accounting procedures. A Schedule of Revenues & Expenditures Budget to Actual Comparison for each contract must be prepared and submitted to the Department at the same time as the annual financial audit or financial statement. The Schedule must include the approved original budget for the fiscal year, revised budget, actual revenue and expenditures and a variance column.

Audits

NOTE: Audit and financial reporting requirements are applicable to all contractors and subcontractors of the Children, Youth and Families Department.

1. Sole proprietor contractors receiving Department funds under \$100,000.00 must submit to the Department the Internal Revenue Services (IRS) Schedule C Profit or Loss From Business (Sole Proprietorship) and provide the State of New Mexico Taxation and Revenue Department Combined Report System (CRS-1) Form. Sole Proprietor billings are subject to review by the CYFD contract and program site reviewers and must be available upon request. A Sole Proprietorship is a type of business entity that is owned and run by one individual and in which there is no legal distinction between the owner and the business.
2. Audits for a contractor receiving under \$250,000.00 per year in cumulative Department funds (a total of all CYFD contracts awarded to the contractor within a fiscal year) whose Board has elected to not conduct an audit must comply with the following:
 - a) The contractor shall prepare financial statements that include a Revenue and Expenditure – Budget to Actual Comparison, Balance Sheet or Statement of Net Position and Income Statement or Statement of Activities. The contractor shall

disclose the method of accounting used (cash or accrual) to prepare such statements. The Revenues and Expenditures – Budget to Actual Comparison statement must include the original budget for the fiscal year as approved by the Board, revised budget, actual revenue and expenditures and variance column. A cash disbursement and cash receipt journal cannot take the place of the Balance Sheet and Income Statement. These financial statements shall be available upon request to the Department's Contract Audit Unit within three (3) months of the contractor's fiscal year end.

- b) This section (Section 2) does not apply to sole proprietor contracts covered under Audits section 1.
3. Audits for a contractor receiving \$250,000.00 to \$500,000.00 per year in cumulative Department funds (a total of all CYFD contracts awarded to the contractor with in a fiscal year) whose Board has elected to not conduct an audit must comply with the following:
- a) The contractor shall have an Independent Auditor's Report of Agreed-Up Procedures (AUP) to ensure compliance with contract requirements in accordance with General Accepted Accounting Practice (GAAP). The AUP report shall be available upon request to the Department's Contract/Audit Unit within nine (9) months of the contractor's fiscal year end.
 - b) The contractor shall ensure that the selected accounting firm performing the AUP report is rotated every six (6) years (or less if mandated by the State Auditor) with a minimum two-year break.
 - c) The selected auditor shall not have provided non-auditing services within the year being audited that may be disallowed by the Generally Accepted Government Auditing Standards (GAGAS) independence standards (refer to The State of New Mexico State Auditor, State Audit Rule Subsection N of 2.2.2.8 NMAC).
4. Audits for a contractor receiving \$500,000.00 or greater per year in cumulative Department funds must disclose how much funding is being received from governmental funds (a total of all CYFD contracts awarded to the contractor with in a fiscal year):
- a) The contractor shall have an Independent Audit Report that conforms to the General Accounting Standards (Yellow Book) as recommended by GAO. This Independent Audit Report shall be available upon request to the Department's Contract/Audit Unit within nine (9) months of the contractor's fiscal year end. The contractor must also submit a copy of any Management Letter Comments issued by the Independent Auditor in a separate report.
 - b) The contractor shall ensure that the auditor or auditing firm performing the audit report is rotated every six (6) years (or less if mandated by the State Auditor) with a minimum two year break.

- c) The selected auditor shall not have provided non-auditing services within the year being audited that may be disallowed by the Generally Accepted Government Auditing Standards (GAGAS) independence standards (refer to The State of New Mexico State Auditor, State Audit Rule Subsection N of 2.2.2.8 NMAC).
- 5. A contractor receiving over \$750,000.00 per year in cumulative Federal funds must disclose in their financial audit report how much funding is being received from governmental funds (a total of all funds awarded to the contractor within a fiscal year) must adhere to the “uniform guidance for federal awards” (Uniform Guidance). The standards set forth in Title 2 Grants and Agreements Subtitle A Chapter II Part 200 Subpart F- Audit Requirements. For one full fiscal year after the effective date of the uniform guidance, non-federal entities must comply with the terms and conditions of their federal award, which will specify whether the uniform guidance applies. The contractor must have available upon request a copy of any Management Letter Comments issued by the Independent Auditor in a separate report.
 - a) The Contractor must have available upon request their audited financial statements within nine (9) months of their fiscal year end to the Agency’s Contract/Audit Unit. The Contractor must also have available upon request the Management Letter Comments issued by the Independent Auditor in a separate report.
 - b) The contractor shall ensure that the auditor or auditing firm performing the audit report is rotated every six (6) years (or less if mandated by the State Auditor) with a minimum two-year break.
 - c) The selected auditor shall not have provided non-auditing services within the year being audited that may be disallowed by the Generally Accepted Government Auditing Standards (GAGAS) independence standards (refer to The State of New Mexico State Auditor, State Audit Rule Subsection N of 2.2.2.8 NMAC).
- 6. Financial Statements, Independent Auditor’s Report of Agreed-Upon Procedures (AUP), and Audits must be mailed to:

Children, Youth and Families Department
Administrative Services Division
Contract Audit Unit
P.O. Box 5160
Santa Fe, NM 87502

SOURCE SHEET

ADMINISTRATIVE REQUIREMENTS

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)

<https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>

State of New Mexico Manual of Model Accounting Practices (MAP's) issued by the New Mexico Department of Finance and Administration-Financial Control Division

<http://www.nmdfa.state.nm.us/Manuals.aspx>

The State of New Mexico State Auditor, State Audit Rule

http://www.saonm.org/state_auditor_rule

COST PRINCIPLES

Title 2 CFR, Chapter 1, Part 170, Reporting Sub-award and Executive Compensation Information.

Title 2 Grants and -Agreements Subtitle A Chapter II Part 200,

- Subpart A – Acronyms and Definitions
- Subpart B- General Provisions
- Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards
- Subpart D- Post Federal Award Requirements
- Subpart E- Cost Principles
- Subpart F – Audit Requirements

FASB and AICPA Statements and Professional Pronouncements.

AUDITS

U.S. General Accounting Office, Government Auditing Standards, (The Yellow Book, current revision).

FASB and AICPA Statements and Professional Pronouncements.

Attachment 4 – Business Associate Agreement

This is a business associate agreement in compliance with 45 CFR Section 160.504(e)(2) of the HIPAA privacy rule. Contractor understands that it may be considered a business associate of the Department under the HIPAA Privacy and Security Rules. Accordingly, the parties agree:

- The disclosures the Department will make to Contractor of any information that identifies an individual and includes information about the individual's health (protected health information), whether in electronic or physical form, shall be limited to the minimum reasonably necessary for Contractor's delivery of services described in the Scope of Work to which the parties have agreed to in the Contract.
- Any disclosures by Contractor of any individual's protected health information inconsistent with this agreement are strictly prohibited and shall be cause for termination of the Contract. Contractor shall take all reasonable steps to avoid such disclosures, including but not limited to implementation of all practical administrative, physical and technical safeguards.
- After the expiration of this Contract, whether because a party has cancelled it, it is fully executed or for any other cause, Contractor shall return all documents containing any individual's protected health information to the Department. Contractor also agrees that it shall take reasonable affirmative precautions to avoid any unauthorized disclosures of protected health information to third parties.
- Contractor understands it is responsible for reporting unauthorized disclosures, including but not limited to electronic security violations, to the Department's privacy office or the federal Office of Civil Rights. Contractor also understands it is responsible for reporting any other disclosure for purposes other than treatment, payment or operations to the Department's privacy office.
- Contractor agrees to bind their agents and subcontractors to the terms of this agreement.
- Contractor understands an individual has the right to inspect and request changes to the protected health information the parties use or create and that an appropriate privacy officer and/or the federal Office of Civil Rights has the authority to inspect the parties' procedures for management of the individual's protected health information.

Attachment 5

Children, Youth and Families Department

Suspension and Debarment Form

- A. Consistent with either 7 C.F.R. Part 3017 or 45 C.F.R. Part 76, as applicable, and as a separate and independent requirement of this contract with the Children, Youth and Families Department (CYFD), the Contractor certifies by signing this form, that it and its principals, to the best of its knowledge and belief: (1) are not debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal department or agency; (2) have not, within a three-year period preceding the effective date of this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; (3) have not been indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with, commission of any of the offenses enumerated above in this Paragraph A; (4) have not, within a three-year period preceding the effective date of this PSC, had one or more public agreements or transactions (Federal, State or local) terminated for cause or default; and (5) have not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1320a-7.
- B. The Contractor's certification in Paragraph A, above, is a material representation of fact upon which the CYFD relied when this contract was entered into by the parties. The Contractor's certification in Paragraph A, above, shall be a continuing term or condition of this contract. As such at all times during the performance of this contract, the Contractor must be capable of making the certification required in Paragraph A, above, as if on the date of making such new certification the Contractor was then executing this contract for the first time. Accordingly, the following requirements shall be read so as to apply to the original certification of the Contractor in Paragraph A, above, or to any new certification the Contractor is required to be capable of making as stated in the preceding sentence:
- (1) The Contractor shall provide immediate written notice to the CYFD's Program Manager if, at any time during the term of this contract, the Contractor learns that its certification in Paragraph A, above, was erroneous on the effective date of this contract or has become erroneous by reason of new or changed circumstances.
 - (2) If it is later determined that the Contractor's certification in Paragraph A, above, was erroneous on the effective date of this contract or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to the CYFD, the CYFD may terminate the contract.

C. As required by statute, regulation or requirement of this contract, and as contained in Paragraph A, above, the Contractor shall require each proposed first-tier subcontractor whose subcontract will equal or exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by any Federal department or agency. The Contractor shall make such disclosures available to the CYFD when it requests subcontractor approval from the CYFD. If the subcontractor, or its principals, is debarred, suspended, or proposed for debarment by any Federal, state or local department or agency, the CYFD may refuse to approve the use of the subcontractor.

By: _____
Contractor

Date: _____

PROFESSIONAL SERVICES CONTRACT

CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and **Grants Main Street Project**, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. Compensation.

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Thirty-Four Thousand Five Hundred Dollars and no cents (\$34,500.00) annually, to be invoiced in equal monthly amounts after performance of the services. No New Mexico gross receipts tax will be levied on the amounts payable under this Agreement. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

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

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

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. **Term.**

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners

4. **Termination.**

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

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

5. **Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. Release.

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

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous

on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the

Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

20. Disclaimer and Hold Harmless.

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

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

22. 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.

23. 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.

24. Authority.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

26. Approval of Contractor Personnel.

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

27. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement.

28. Succession.

This agreement shall extend to and be binding upon the successors and assigns of the parties.

29. Force Majeure.

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

30. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

31. Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Cibola County Manager, pursuant to the Manager's delegated authority. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

33. Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

34. Incorporation and Order of Precedence.

Request for Proposal is incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then
 2. this contract itself; then
 3. the Request for Proposals; then
 4. the Contractors Best and Final Offer(s), in reverse chronological order;
- then
5. the contractor's proposal; then

6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

35. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;
- ii. replace or modify the product or service so that it becomes non-infringing; or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

36. Professional Liability Insurance.

Contractor agrees to maintain in full force throughout the duration of the Agreement a lawyer's professional liability insurance policy with a minimum coverage of \$1,000,000.00 per occurrence/ \$2,000,000.00 aggregate.

37. 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 the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Robert Brown, Interim President //523 W. Santa Fe Avenue //Grants, NM 87020.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.

By: _____ Date: _____
Contractor

Printed Name: Robert Brown, Interim President
Address: 523 W. Santa Fe Avenue
Grants, NM 87020

By: _____ Date: _____
Cibola County Manager

Printed Name: Tony Boyd
Address: 515 West High Street
Grants, NM 87020

By: _____ Date: _____
Cibola County Purchasing Agent

Printed Name: Frances Medina
Address: 515 West High Street
Grants, NM 87020

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this _____ day of _____,
2016.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Pat Simpson
Commissioner, District IV

Lloyd Felipe
Commissioner, District V

Attest:

Lisa Bro
Cibola County Clerk

Attachment 1

Scope of Work

As Part of Basic Services, the Contractor shall conduct the following activities:

A. Organization - provide unified management and coordination for the revitalization and economic development activities in the central business district of Grants/Cibola County.

i. Promote and operate programs to help the business and property owners within the designated Historic MainStreet District ("Downtown") in accordance with the New Mexico MainStreet guidelines and objectives;

ii. Strengthen the role and relationship between the Grants MainStreet Project, Grants MainStreet district merchants and the NM MainStreet program, related to technical assistance on Economic Positioning, Organization, Design and Promotions.

iii. Work closely with the County's elected officials and professional staff, the Chamber of Commerce, the Small Business Development Center and all organizations, individuals, and entities in order to draw on resources to augment the work of its staff and board to bring projects to completion and meet common goals.

iv. Work with and coordinate activities between community civic groups, Downtown business, financial institutions, and the government; forge new and stronger relationships with public and private agencies and the Downtown business community to ensure that teamwork would be in place for the success of the Grants MainStreet Project.

v. Develop an annual work plan for the implementation of the Grants Main Street Project, which will identify the roles of Grants MainStreet and collaborators, define goals and objectives, and establish strategies and a time line for completion. The work plan,

forged through committees and County-wide effort, will be the basis for a process evaluation for the Grants MainStreet Project.

- vi. Provide a qualified, experienced Main Street Project Executive Director whose duties would be, among others, to provide documentation for the Grants MainStreet Project. The MainStreet Project Executive Director would be the principal onsite staff person responsible for coordinating all project activities and volunteers locally, as well as for representing the community regionally and nationally as appropriate and dealing with the New Mexico MainStreet staff of the State Economic Development office.

Indicators: 1) Number of businesses, civic groups, community partners and other stakeholders that collaborate/partner with in Grants MainStreet Project helping to achieve the downtown master plan; 2) number of businesses and volunteers that participate in promotional events and other downtown revitalization activities sponsored by Grants

MainStreet Project. Volunteer hours will be tracked as an indicator of broad-based support.

B. Promotions - continue to develop and update a consistent promotion and marketing program for the downtown commercial district.

i. Coordinate and oversee the implementation of the Grants Historic Route 66 Fall Fiesta, in partnership with the County, the City of Grants and other key community stakeholders or civic groups. Services include coordination of event security, vendors, marketing/public relations, entertainment and other activities pertaining to the annual Route 66 Fall Fiesta.

ii. Coordinate and oversee the implementation of the additional events in the downtown district, including the annual Shop Local Campaigns, the Holiday Light Parade, and the Spring/Summer Spring Clean Flings.

Indicators: 1) On a quarterly basis, produce quality marketing products that bring our brand alive and elevate the image of downtown; 2) Coordinate no less than four annual activities to attract visitors to the district. Coordinate all marketing and promotions for each activity and track all publicity received. Publicity will be tracked and quantified with a dollar value (commensurate market value); 3) Track participation in promotional events by area residents and tourists from outside the community.

C. Design - continue to engage community members, businesses, property owners, local government and other stakeholders in design and implementation of projects for the downtown district, including, but not limited to improvements to building facades, street/landscaping activities, signage, lighting and the overall aesthetic look of the downtown commercial area.

- i. Provide technical assistance to property owners within Downtown for upgrading their property within the boundaries of the Grants MainStreet District.

Lead community efforts to support and advance the completion of the Legacy Trail project, including solicitation of capital outlay resources through the New Mexico

- ii. Economic Development Departments set-aside funds administered through the New Mexico MainStreet Program.

Indicators: 1) Produce conceptual renderings to property owners that reflect enhanced facade improvements; 2) exhibit a historic preservation ethic encouraging appropriate building renovations and design standards for the district.

D. Economic Positioning - continue to strengthen the existing economic assets of the downtown area while diversifying its economic base, including recruiting new businesses, marketing empty space, and strengthening the management capabilities of individual merchants.

- i. Prepare and administer a survey to the Grants MainStreet district merchants to solicit their opinion on opportunities to increase retail activity, barriers to business operations, improving consumer hospitality, and strengthening relations with the community and with the Grants MainStreet Project.
- ii. Support the application and implementation of economic development activities with the historic Downtown MainStreet District, including (but not limited to) business development, events, public relations efforts, shop local campaigns, building improvements, facade or curb appeal projects, streetscapes and beautification efforts.

Indicators: 1) Track key statistics of jobs, new businesses, rental rate per square foot and serve as an information clearing house for this type of information; 2) number of new businesses seminars that are developed and presented each year for downtown merchants; 3) amount of additional gross receipts tax generated by downtown merchants during Grants MainStreet promotional events.

CIBOLA COUNTY

HUITT-ZOLLARS
PROFESSIONAL SERVICES CONTRACT # CC2016-0002

THIS AGREEMENT is made and entered into by and Cibola County, hereinafter referred to as the "Agency," and **HUITT-ZOLLARS**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

A. On-call Architectural Services as needed; where needed.

The receipt of the deliverables contemplated under this Agreement shall assist the Agency in obtaining its goal(s).

2. Compensation.

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed under the individual Task Orders based on the schedule of payments contained in the individual task order. In no event will the Architect be paid any amount in excess of the specified total amount payable in the individual task order without the task order being amended in writing. The New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the Agency to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (200,000.00). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Agency when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without the Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

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

(OR CHOICE – MULTI-YEAR – A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Task Order at the agreed upon rate. The New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the Agency to the Contractor.

The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed 200,000.00) in any FY covered by this Agreement.

B. Payment in the remainder of FY15, FY16, FY17 is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the Cibola County Commission. All invoices MUST BE received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.)

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

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL SIGNED BY COUNTY MANAGER. This Agreement shall remain in effect for a total of four (4) years from date of acceptance by County Manager noted by his signature, unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination for Convenience/Cause.

A. Disclaimer and Hold Harmless: Cibola County shall not be liable to the Architect, or the Architect's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Architect's person or property, occurring in connection with Architect's performance of duties according to this Agreement. Architect shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance of Architect's duties according to this Agreement.

B. Approval of Architectural Personnel. Personnel proposed in the Architect's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Architect without prior written consent of the procuring agency of the County. Replacement of any Architect personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Architect will be responsible for any expense incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. The procuring agency of the County shall retain the right to request the removal of any of the Architect's

Contract ID# _____
personnel at any time.

Survival

The agreement Articles titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement.

Succession.

This agreement shall extend to and be binding upon the successors and assigns of the parties.

Force Majeure.

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting. The Architect is not to proceed with its obligations under the Agreement until the Architect has received a fully signed copy of the Agreement. Further, each individual task order must be fully executed prior to proceeding with any work.

Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

Incorporation and Order of Precedence.

Request for Proposals RFP# _____ and the Architect's proposal are incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then
2. this contract itself; then
3. the Request for Proposals; then
4. the executed task orders with the scope of work, timeframe for completion, and compensation, in reverse chronological order; then
5. the Architect's proposal.

Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The Architect shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the Architect's trade secret infringement relating to any product or service provided under this agreement, the Architect agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. gives the Architect prompt written notice of any claim;
- ii. allow the Architect to control the defense or settlement of the claim; and
- iii. cooperate with the Architect in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the Architect's opinion is likely to become the subject of a claim of infringement, the Architect shall at its option and expense:

- i. provides a procuring agency of the County the right to continue using the product or service;
- ii. replace or modify the product or service so that it becomes non-infringing; or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Architect. The Architect's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

Professional Liability Insurance.

Architect agrees to maintain in full force throughout the duration of the Agreement a liability insurance policy with a minimum coverage of: Comprehensive General Liability - \$1,000,000 per occurrence, \$2,000,000 General Aggregate; Professional liability- \$1,000,000 per occurrence, \$2,000,000 General Aggregate. Occurrence type, if available; if not "Claims Made" type with a minimum of a six (6) year tail. The County will be named as an additional insured on said policy, and will be provided an updated certificate of insurance on an annual basis.

Compliance with Laws

In providing the scope of services outlined herein, the Architect and the County shall comply with all applicable laws, ordinances, and codes of the Federal, State, and local governments.

Construction and Severability

If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

Entire Agreement

This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

C. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the Agency's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the Agency is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS

AGREEMENT.

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

5. **Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by Cibola County for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. **Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of Cibola County. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of Cibola County reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind Cibola County unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. **Assignment.**

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

8. **Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency.

9. **Release.**

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

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of Cibola County and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest: Governmental Conduct Act.

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Agency employee while such employee was or is employed by the Agency and participating directly or indirectly in the Agency's contracting process;

2) this Agreement complies with Section 10-16-7(A) NMSA 1978 because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(A) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(A) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;

4) this Agreement complies with Section 10-16-9(A) NMSA 1978 because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by Section 10-16-9(A) NMSA 1978, this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

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

17. 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, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to worker's compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments

20. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent,

employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

21. New Mexico Employees Health Coverage.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <http://insurenwnewmexico.state.nm.us/>.

22. Employee Pay Equity Reporting

Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employee's contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90 days) of

that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

Notwithstanding the foregoing, if this Contract was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

23. 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.

24. 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.

25. 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 the Agency: Cibola County

To the Contractor: Huitt-Zollars

26. Authority.

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

By: _____ Cibola County Manager

Date: _____

Contract ID# _____

By: _____
Huitt-Zollars (Legal Representative)

Date: _____

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

ID Number: _____

Contract ID# _____

PROFESSIONAL SERVICES CONTRACT

CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and NM State University Cooperative Extension Service, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. Compensation.

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Fifty-Five Thousand Nine Hundred and Five Dollars and no cents (\$55,905.00) annually, to be invoiced in equal monthly amounts after performance of the services. The total amount payable to the Contractor under this Agreement, excluding gross receipts tax and expenses, shall not exceed \$55,905.00. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

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

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

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. **Term.**

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners.

4. **Termination.**

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

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

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. Release.

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

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements

during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

20. Disclaimer and Hold Harmless.

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

The Contractor shall defend, indemnify and hold harmless the County of Cibola from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable

but no later than two (2) days after it receives notice thereof, notify the legal counsel of the County of Cibola and the New Mexico Association of Counties by certified mail.

22. 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.

23. 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.

24. Authority.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

26. Approval of Contractor Personnel.

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

27. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

28. Succession.

This agreement shall extend to and be binding upon the successors and assigns of the parties.

29. Force Majeure.

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

30. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

31. Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Cibola County Manager, pursuant to the Manager's delegated authority. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

33. Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

34. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

i. provide a procuring agency of the County the right to continue using the product or service;

ii. replace or modify the product or service so that it becomes non-infringing;
or

iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

35. 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 the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Patrick Torres //Northern District Dept Head// New Mexico Cooperative Extension Service//4001 Office Ct, Suite 308//Santa Fe, N.M. 87507

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.

By: _____ Date: _____
Contractor

Printed Name: Patrick Torres
Address: 4001 Office Ct., Suite 308, Santa Fe, N.M. 87507

By: _____ Date: _____
Contractor

Printed Name: Chase Elkins, Interim County Program Director
Address: 551 Washington Ave., Grants, NM 87020

By: _____ Date: _____
Cibola County Manager

Printed Name: Tony Boyd
Address: 515 West High Street
Grants, NM 87020

By: _____ Date: _____
Cibola County Purchasing Agent

Printed Name: Frances Medina
Address: 515 West High Street
Grants, NM 87020

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this _____ day of _____,
2016.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Pat Simpson
Commissioner, District IV

Lloyd Felipe
Commissioner, District V

Attest:

Lisa Bro
Cibola County Clerk

Attachment 1

Scope of Work

Required activities include, but are not necessarily limited to, the following:

- A. Provide State programs, State subject matter specialists, administrative and supervisory support and educational materials.
- B. Provide SNAP-ED Food and Nutritional Education Program (ICAN0 at no additional charge.

PROFESSIONAL SERVICES CONTRACT

CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and Cibola Communities Economic Development Foundation, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. **Compensation.**

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Forty-Four Thousand Dollars and no cents (\$44,000.00) annually, to be invoiced in equal monthly amounts after performance of the services. No New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling \$0.00 shall be paid by the County to the Contractor in equal monthly amounts. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$ 44,000.00. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

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

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

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. Term.

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners. July 1, 2016.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

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

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether

sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. Release.

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

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or

in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns

that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

20. Disclaimer and Hold Harmless.

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

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

22. 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.

23. 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.

24. Authority.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

26. Approval of Contractor Personnel.

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

27. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

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This agreement shall extend to and be binding upon the successors and assigns of the parties.

29. Force Majeure.

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

30. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

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32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

33. Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

34. Incorporation and Order of Precedence.

The contractor's proposal is incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then

2. this contract itself; then
 3. the Request for Proposals; then
 4. the Contractors Best and Final Offer(s), in reverse chronological order;
- then
5. the contractor's proposal; then
 6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

35. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;
 - ii. replace or modify the product or service so that it becomes non-infringing;
- or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

36. Professional Liability Insurance.

Contractor agrees to maintain in full force throughout the duration of the Agreement a lawyers professional liability insurance policy with a minimum coverage of \$1,000,000.00 per occurrence/ \$2,000,000.00 aggregate.

37. 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 the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Eileen Chavez Yarborough, Executive Director, Cibola Communities Economic Development//701 E. Roosevelt Avenue//Grants, NM 87020

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.

By: _____ Date: _____
Contractor

Printed Name: Eileen Chavez Yarborough, Executive Director

Address: 701 E Roosevelt Avenue, Grants, NM 87020

By: _____ Date: _____
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street
Grants, NM 87020

By: _____ Date: _____
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street
Grants, NM 87020

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this ____ day of _____,
2015.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Pat Simpson
Commissioner, District IV

Lloyd Felipe
Commissioner, District V

Attest:

Lisa Bro
Cibola County Clerk

Attachment 1

Scope of Work

The purpose of this organization is to facilitate, promote, and ensure economic and community development, to secure opportunities for economic and business development, and increase local employment in Cibola County.

The activities conducted by our organization on behalf of Cibola County include, but are not limited to the following:

1. Plan strategies to encourage expansion and retention of existing business to strengthen economic tax base in Cibola County.
2. Identify and target new businesses and industry specific to Cibola County in collaboration with CCEDF Board and state/regional resource organizations.
3. Increase local employment opportunities through national and statewide networks and marketing opportunities, i.e. participating in sales missions, tradeshow and conferences, membership and participation in industry associations and councils.
4. Promote County as a viable option for location of business/industry, including but not limited to developing a portfolio of regional resources: develop a 'marketing team' of community resource persons to meet with prospective businesses/industries, and develop and maintain a website through a contracted web designer.
5. Represent Cibola County at meetings, presentations, tradeshow and through development of proposals and promotional materials, in collaboration and cooperation with the City of Grants/Village of Milan/Cibola County officials to ensure support and coordinated economic development efforts.
6. Collaborate and facilitate economic development activities with appropriate local entities, i.e. Chamber of Commerce, City/Village/County Departments, Council of Governments, other government agencies, private enterprise, civic/local nonprofit groups, and the general public. Also coordinate activities with other local agencies, i.e. Public schools, Community college, TANF, Workforce Solutions, to address workforce and training issues.
7. Maintain inventory of pertinent information and statistics on all aspects of service area; and maintain a database of business partners, i.e. Electric Co---op, College, Public schools, City, Village, County. Maintain database of available land site, buildings and transportation resources.
8. Participate in regional and statewide activities that promote the County to the development community and to business prospects.
9. Support state, federal and private grant writing initiatives that support economic and community development for service area.
10. Plan, organize and implement town hall meetings, public forums, etc. as needed.
11. Develop yearly economic development work plan in collaboration with CCEDF Board of Directors.
12. Prepare and administer annual CCEDF budget.
13. Perform related duties as needed or assigned by the Board of Directors.

PROFESSIONAL SERVICES CONTRACT

CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and **Cibola County Historical Society**, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. Compensation.

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Five Thousand Dollars and no cents (\$5,000.00) annually, to be invoiced in equal monthly amounts after performance of the services. No Gross Receipt Tax will be paid. The total amount payable to the Contractor under this Agreement, excluding gross receipts tax and expenses, shall not exceed \$5,000.00. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

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

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

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. Term.

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

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

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be

final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. Release.

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

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or

in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns

that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

20. Disclaimer and Hold Harmless.

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

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

22. 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.

23. 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.

24. Authority.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

26. Approval of Contractor Personnel.

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

27. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

28. Succession.

This agreement shall extend to and be binding upon the successors and assigns of the parties.

29. Force Majeure.

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

30. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

31. Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Cibola County Manager, pursuant to the Manager's delegated authority. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

33. Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

34. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

i. provide a procuring agency of the County the right to continue using the product or service;

ii. replace or modify the product or service so that it becomes non-infringing;
or

iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

35. 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 the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Steve Owen] //P.O. Box 346] //Grants, N.M. 87020

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.

By: _____ Date: _____
Contractor

Printed Name: Steve Owen

Address: P.O. Box 346, Grants, N.M. 87020

By: _____ Date: _____
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street
Grants, NM 87020

By: _____ Date: _____
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street
Grants, NM 87020

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this _____ day of _____,
2016.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Pat Simpson
Commissioner, District IV

Lloyd Felipe
Commissioner, District V

Attest:

Lisa Bro
Cibola County Clerk

Attachment 1

Scope of Work

Required activities include, but are not necessarily limited to, the following:

- A. To continue with enhancements for the Museum located at Grants- Milan Airport.

PROFESSIONAL SERVICES CONTRACT

CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and Grants-Cibola Chamber of Commerce, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. Compensation.

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Forty-Six Thousand Five Hundred Dollars and no cents (\$46,500.00) annually, to be invoiced in equal monthly amounts after performance of the services. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$46,500.00. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

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

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

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. Term.

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners. Beginning with the 2016-2017 Fiscal Year starting July 1, 2016.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

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

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. **Assignment.**

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

8. **Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. **Release.**

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

10. **Confidentiality.**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

11. **Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. **Conflict of Interest; Governmental Conduct Act.**

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a

business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

20. Disclaimer and Hold Harmless.

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

The Contractor shall defend, indemnify and hold harmless the County of Cibola from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee,

servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the County of Cibola and the New Mexico Association of Counties by certified mail.

22. 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.

23. 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.

24. Authority.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

26. Approval of Contractor Personnel.

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

27. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement.

Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

28. Succession.

This agreement shall extend to and be binding upon the successors and assigns of the parties.

29. Force Majeure.

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

30. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

31. Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Cibola County Manager, pursuant to the Manager's delegated authority. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

33. Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

34. Incorporation and Order of Precedence.

The contractor's proposal is incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then
2. this contract itself; then
3. the Request for Proposals; then
4. the contractor's proposal; then

5. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

35. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;
- ii. replace or modify the product or service so that it becomes non-infringing; or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

36. 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 the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Grants-Cibola Chamber of Commerce, Tessa Rae Jiminez Executive Director //100 N. Iron Street, PO Box 297 //Grants, NM 87020.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.

By: _____ Date: _____
Contractor

Printed Name: Tessa Rae Jiminez

Address: 100 N. Iron Street

By: _____ Date: _____
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street
Grants, NM 87020

By: _____ Date: _____
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street
Grants, NM 87020

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this ____ day of _____, 2016

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Molerres
Commissioner, District III

Pat Simpson
Commissioner, District IV

Lloyd Felipe
Commissioner, District V

Attest:

Lisa Bro
Cibola County Clerk

Attachment 1

Scope of Work

Required activities include, but are not necessarily limited to, the following:

Activities Reflecting County Funds

According to the Comprehensive plan for Cibola County Implementation Matrix, the goal for Economic Development is to showcase County tourism opportunities and experiences to visitors and potential new residents. These goal falls in line with the Chamber of Commerce "big six" initiatives to drive the foreseen revenue and brand awareness for the city and county.

GOAL #1

Increase awareness of Grants and Cibola County as a tourist destination and brand the City of Grants and Cibola County as New Mexico True in all aspects of advertising, thereby developing a strong coherent brand.

GOAL #2

Develop and incorporate the most aggressive advertising tourist campaign to accompany the new Chamber website and application, increasing Lodgers Tax above prior year and attracting more tourism to Cibola County.

GOAL #3

Work closely with all facets of tourist driven entities in Cibola County including Grants Mainstreet, Arts Council, Economic Development, City of Grants, City of Milan and Pueblo Partners and continue to develop and update one community calendar of events and productive communication.

GOAL #4

Maintain the Chamber's budget and assets within operating guidelines and budget. Provide accountability through the budgeting process, advertising tracking methods, documented expenses and quarterly reporting according to County guidelines.

GOAL #5

Increase attendance and overnight stay for area special events such as Fourth of July, Historic Route 66 Fall Fiesta, Winter Quad, Summer Concert Series, Christmas Light Parade, Pueblo Feast Days and other local events.

GOAL #6

Continue the focus and increase awareness of the "Shop Local Campaign". This will increase local businesses, create jobs, and encourage discretionary monies to be spent locally. Increase business membership through the Chamber of Commerce, while increasing member benefits and member involvement at all Chamber of Commerce functions.

PROFESSIONAL SERVICES CONTRACT

CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and **Cibola County Historical Society**, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. **Compensation.**

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Five Thousand Dollars and no cents (\$5,000.00) annually, to be invoiced in equal monthly amounts after performance of the services. No Gross Receipt Tax will be paid. The total amount payable to the Contractor under this Agreement, excluding gross receipts tax and expenses, shall not exceed \$5,000.00. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

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

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

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. Term.

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

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

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be

final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. Release.

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

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or

in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns

that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

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In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

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The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

20. Disclaimer and Hold Harmless.

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

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

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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.

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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.

24. Authority.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

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A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

30. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

31. Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Cibola County Manager, pursuant to the Manager's delegated authority. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

33. Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

34. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

i. provide a procuring agency of the County the right to continue using the product or service;

ii. replace or modify the product or service so that it becomes non-infringing;
or

iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

35. 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 the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Steve Owen] //P.O. Box 346] //Grants, N.M. 87020

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.

By: _____ Date: _____
Contractor

Printed Name: Steve Owen

Address: P.O. Box 346, Grants, N.M. 87020

By: _____ Date: _____
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street
Grants, NM 87020

By: _____ Date: _____
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street
Grants, NM 87020

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this _____ day of _____,
2016.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Pat Simpson
Commissioner, District IV

Lloyd Felipe
Commissioner, District V

Attest:

Lisa Bro
Cibola County Clerk

Attachment 1

Scope of Work

Required activities include, but are not necessarily limited to, the following:

- A. To continue with enhancements for the Museum located at Grants- Milan Airport.

PROFESSIONAL SERVICES CONTRACT

CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and **Grants Rodeo Association**, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. Compensation.

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Five Thousand Dollars and no cents (\$5,000.00) annually, to be invoiced in equal monthly amounts after performance of the services. The total amount payable to the Contractor under this Agreement, excluding gross receipts tax and expenses, shall not exceed \$5,000.00. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

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

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

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. **Term.**

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners..

4. **Termination.**

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

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

5. **Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be

final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. Release.

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

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or

in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns

that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to worker's compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

20. Disclaimer and Hold Harmless.

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

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

22. 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.

23. 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.

24. Authority.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

26. Approval of Contractor Personnel.

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

27. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement.

28. Succession.

This agreement shall extend to and be binding upon the successors and assigns of the parties.

29. Force Majeure.

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

30. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

31. Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Cibola County Manager, pursuant to the Manager's delegated authority. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

33. Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

34. Incorporation and Order of Precedence.

The contractor's proposal is incorporated by reference into this agreement and will be made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then

2. this contract itself; then
 3. the Request for Proposals; then
 4. the Contractors Best and Final Offer(s), in reverse chronological order;
- then
5. the contractor's proposal; then
 6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

35. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;

- ii. replace or modify the product or service so that it becomes non-infringing;
- or

- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

36. 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 the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Jamie Holton //P.O. Box 1088 //Grants, NM 87020.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.

By: _____ Date: _____
Contractor

Printed Name: Jamie Holton, Director

Address: P.O. Box 1088, Grants, NM 87020

By: _____ Date: _____
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street
Grants, NM 87020

By: _____ Date: _____
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street
Grants, NM 87020

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this _____ day of _____,
2016.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Pat Simpson
Commissioner, District IV

Lloyd Felipe
Commissioner, District V

Attest:

Lisa Bro
Cibola County Clerk

Attachment 1

Scope of Work

Required activities include, but are not necessarily limited to, the following:

Focus on promoting events that will encourage tourists to visit and stay in Cibola County Area.

Promote activities that are indicative of our western culture and to provide a facility free of charge for the youth of the community. i.e. 4-H projects and the annual Agriculture in the classroom which serves approximately 600 elementary school children.

Host the Junior High School Rodeo Association, High School Association, and the Annual 4th of July Rodeo.

PROFESSIONAL SERVICES CONTRACT

CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and **Cibola Arts Council, Double Six Gallery**, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. **Compensation.**

A. The County shall pay to the Contractor in full payment for services satisfactorily performed (\$5,000.00] annually, to be invoiced in equal monthly amounts of \$416.67 with a final payment of \$416.63 exclusive of GRT after performance of the services. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

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

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

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. Term.

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners. This Contract will automatically renew on an annual basis, for up to three (3) additional one (1) year terms unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations).

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

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

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce

funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. Release.

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

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by

reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

20. Disclaimer and Hold Harmless.

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

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

22. 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.

23. 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.

24. Authority.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

26. Approval of Contractor Personnel.

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

27. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement.

28. Succession.

This agreement shall extend to and be binding upon the successors and assigns of the parties.

29. Force Majeure.

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

30. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

31. Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Cibola County Manager, pursuant to the Manager's delegated authority. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

33. Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

34. Incorporation and Order of Precedence.

Request for Proposal, the contractor's proposal is incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then
 2. this contract itself; then
 3. the Request for Proposals; then
 4. the Contractors Best and Final Offer(s), in reverse chronological order;
- then

5. the contractor's proposal; then
6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

35. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;
 - ii. replace or modify the product or service so that it becomes non-infringing;
- or

iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

36. 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 the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Robert Gallegos//1001 W. Santa Fe Avenue//Grants, N.M. 87020.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.

By:  Date: 5/10/16
Contractor

Printed Name: Robert Gallegos

Address: 1001 W. Santa Fe Avenue, Grants NM 87020

By: _____ Date: _____
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street
Grants, NM 87020

By: _____ Date: _____
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street
Grants, NM 87020

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this _____ day of _____,
2016.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Pat Simpson
Commissioner, District IV

Lloyd Felipe
Commissioner, District V

Attest:

Lisa Bro
Cibola County Clerk

Attachment 1

Scope of Work

Required activities include, but are not necessarily limited to, the following:

- A. Grants Art Camps offered during the summer months of June and July. Taught by artists as well as art teachers.
- B. Exhibits promoting the history of Grants and Cibola County.

PROFESSIONAL SERVICES CONTRACT

CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and Roadrunner Public Health, Inc. hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. Compensation.

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Thirty-Six Thousand Dollars and no cents (\$36,000.00) annually, to be invoiced in equal monthly amounts after performance of the services. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling \$2,362.50 shall be paid by the County to the Contractor in equal monthly amounts. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$38,362.50. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

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

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

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. Term.

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners. This Contract will automatically renew on an annual basis, for up to three (3) additional one (1) year terms unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no term for a professional services contract, including extensions and renewals, shall exceed four years. Except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

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

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County

Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

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

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the

Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this

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D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

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

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In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

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The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers

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20. Disclaimer and Hold Harmless.

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

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

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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.

23. 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.

24. Authority.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

26. Approval of Contractor Personnel.

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

27. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

28. Succession.

This agreement shall extend to and be binding upon the successors and assigns of the parties.

29. Force Majeure.

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any

and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

30. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

31. Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Cibola County Manager, pursuant to the Manager's delegated authority. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

33. Cooperation.

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

34. Incorporation and Order of Precedence.

The contractor's proposal is incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then
2. this contract itself; then
3. the Request for Proposals; then
4. the Contractors Best and Final Offer(s), in reverse chronological order; then
5. the contractor's proposal; then
6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

35. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright

or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;
- ii. replace or modify the product or service so that it becomes non-infringing; or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

36. Professional Liability Insurance.

Contractor agrees to maintain in full force throughout the duration of the Agreement a lawyers' professional liability insurance policy with a minimum coverage of \$1,000,000.00 per occurrence/ \$2,000,000.00 aggregate.

37. 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 the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Dr. Paul Sandoval, NMDA //7825 American Heritage Dr. NE //Albuquerque. NM 87109.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.

By: _____ Date: _____
Contractor

Printed Name: Dr. Paul Sandoval, NMDA License # 54564

Address: 7825 American Heritage Dr. NE, Albuquerque, NM 87109

By: _____ Date: _____
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street
Grants, NM 87020

By: _____ Date: _____
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street
Grants, NM 87020

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this _____ day of _____, 2016.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Pat Simpson
Commissioner, District IV

Lloyd Felipe
Commissioner, District V

Attest:

Lisa Bro
Cibola County Clerk

Attachment 1

Scope of Work

Required activities include, but are not necessarily limited to, the following:

- A. -4 ATV's Loaded with hand, gas and electric applicators for water and air.
- B. -2-person ATV – Gas applicator for ornamental, turf and water.
- C. -2 motorcycle field investigation units.
- D. -1 Mobile laboratory.
- E. -5 Trucks Larvacide and for applicator equipped.
- F. -4ULV ground foggers all electric.
- G. -Airplane duster available for fogging (emergency use only, Additional price)

Work to be accomplished in meeting this Agreement will include: Public Health Infectious Disease vectors will be managed and reduced using the following methods. Mosquito Management as primary vectors, while cats, birds, horses, bats, and other vectors as secondary of Human virus transmission. June 1 through September 30. During this time frame, management will be focused, increased or decreased according to human population activity, virus load, and weather conditions.

To meet the scope of work focusing efforts in the following populated areas:

City of Grants, Village of Milan and unincorporated areas of the County as identified through Vector control records.

To begin Mosquito Management, monitoring the mosquito load every month of mosquito season. Depending on the environmental conditions, begin spring flood planting in June. Monitor water sites and begin control as appropriate for the site. Introducing fish, bacteria and or surface tension treatment. Second, treatment will be to eliminate the water source if possible, and lastly introduce a growth inhibitor. These sites are monitored weekly, due to the fact that the water sites change as the weather pattern changes through the vector season. Focusing 70% of efforts on water control.

Mid-June begins the first fogging applications. Apply adulticide to kill mosquitoes in flight. Foggers using Ultra Low Volume electric foggers and are very quiet compared to a gas fogger. Fogging trucks are used in areas of the county that have a large mosquito and human population. Fogging application is weather dependent and usually takes place between 4:00 PM and 5:00 AM.

Attend public events, and meetings as requested to educate the community.

Due to weather conditions beyond our control, we may be required to continue two weeks beyond the contract if conditions are warmer than normal. This will be at no additional cost to the County.

PROFESSIONAL SERVICES CONTRACT

CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and **Recycle Cibola**, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. **Compensation.**

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Four Thousand Six Hundred Dollars and no cents (\$4,600.00) annually, to be invoiced in equal monthly amounts after performance of the services. No New Mexico gross receipts tax will be levied on the amounts payable under this Agreement. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$ 4,600.00. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

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

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

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

3. Term.

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners or July 1, 2016.

Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

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

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be

final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. Release.

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

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or

in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

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

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

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

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

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

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns

that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to worker's compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

20. Disclaimer and Hold Harmless.

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

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

22. 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.

23. 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.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

27. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

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This agreement shall extend to and be binding upon the successors and assigns of the parties.

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A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

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In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

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It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Cibola County Manager, pursuant to the Manager's delegated authority. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

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All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

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The contractor's proposal is incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then

2. this contract itself; then
 3. the Request for Proposals; then
 4. the Contractors Best and Final Offer(s), in reverse chronological order;
- then
5. the contractor's proposal; then
 6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

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A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;

- ii. replace or modify the product or service so that it becomes non-infringing;

or

- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

36. 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 the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Recycle Cibola Representative.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.

By: _____ Date: _____
Contractor

Printed Name: For Recycle Cibola

By: _____ Date: _____
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street
Grants, NM 87020

By: _____ Date: _____
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street
Grants, NM 87020

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this _____ day of _____,
2015.

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Pat Simpson
Commissioner, District IV

Lloyd Felipe
Commissioner, District V

Attest:

Lisa Bro
Cibola County Clerk

Attachment 1

Scope of Work

Required activities include, but are not necessarily limited to, the following:

Green Cycle – The environment ties us together publication for grades 4-6.

The Adventures of the Garbage Gremlin EPA publication. For distribution to school children and at AG. Day and other events

Stop the Waste Activity Book Publication. For distribution to school children and at AG. Day and other events

You can make recycling work Keep America Beautiful Publication.

Recycling Bin Schedules

Reusable Shopping totes giveaways at recycling events and at food stores.

CIBOLA COUNTY

ORDINANCE NO: 16-01

ORDINANCE AUTHORIZING THE OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES AND ALL-TERRAIN VEHICLES ON PAVED STREETS OWNED AND CONTROLLED BY THE COUNTY OF CIBOLA AS SET FORTH IN THIS ORDINANCE.

WHEREAS, the New Mexico Legislature amended Section 66-3-1011 NMSA 1978 to allow the operation of recreational off-highway and all-terrain vehicles on a paved street owned and controlled by the authorizing entity, subject to certain conditions;

WHEREAS, the Governing Body of the County of Cibola has adopted by reference the 2016 Compilation of the New Mexico Uniform Traffic Code, which rewrote section 66-1-1 through 67-7-11 to allow the operation of recreational off-highway and all-terrain vehicles on a paved street owned and controlled by the authorizing authority, subject to certain conditions;

WHEREAS, the Governing Body of the County of Cibola now deems it desirable to allow the operation of recreational off-highway and all-terrain vehicles on paved streets owned and controlled by the County of Cibola, subject to certain conditions;

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF CIBOLA, NEW MEXICO:

SECTION 1: PURPOSE. The purpose of this Ordinance is to allow the operation of recreational off-highway and all-terrain vehicles on a paved street or highway owned and controlled by the County of Cibola, as authorized in this Ordinance.

SECTION 2: DEFINITIONS. As used in this Ordinance:

- A. "All-Terrain Vehicle" is a type of off-highway motor. An all-terrain vehicle means a vehicle fifty inches or less in width, having an unladen dry weight of one thousand pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control, or as otherwise defined in Section 66-3-1001.1(E)(1) of the Off-Highway Motor Vehicle Act.
- B. "Recreational Off-Highway Vehicle" is a type of off-highway motor vehicle. A recreational off-highway vehicle means:

- (1) A recreational off-highway vehicle is a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:
 - (a) a steering wheel for steering control;
 - (b) non-straddle seating;
 - (c) maximum speed capability greater than thirty-five miles per hour;
 - (d) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
 - (e) less than eighty inches in overall width, exclusive of accessories;
 - (f) engine displacement of less than one thousand cubic centimeters; and
 - (g) identification by means of a seventeen-character vehicle identification number; or
- (2) By rule of the Department of Game and Fish, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes.

SECTION 3: OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLE OR ALL-TERRAIN VEHICLE ON PAVED STREETS OWNED AND CONTROLLED BY THE COUNTY OF CIBOLA.

- A. A person shall not operate an off-highway motor vehicle on any
 - (1) limited access highway or freeway at any time; or
 - (2) paved street except as provided in Subsections B, C, D, E, F, and G below.
- B. A recreational off-highway vehicle or all-terrain vehicle may be operated on a paved street owned and controlled by the County of Cibola, if:
 - (1) the vehicle has one or more headlights and one or more tail-lights that comply with the Off-Highways Motor Vehicle Act, Chapter 66, Article 3, NMSA 1978;
 - (2) the vehicle has brakes, mirror, and mufflers;
 - (3) the operator has a valid driver's license, instruction permit or provisional license and an off-highway motor vehicle safety permit;

- (4) the operator is insured in compliance with provisions of the Mandatory Financial Responsibility Act, Chapter 55, Article 5, NMSA 1978; and
 - (5) the operator of the vehicle is wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act; Chapter 66, Article 3, NMSA 1978.
- C. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossing are made after coming to a complete stop prior to entering the street. Off-highway motor vehicle shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then crossing in the most direct manner, as close to a perpendicular angle as possible.
- D. A person shall not operate an off-highway motor vehicle on state game commission-owned, state game commission-controlled or state game commission-administered land, except as specifically allowed pursuant to the Habitat Protection Act, Chapter 17, Article 1, NMSA 1978.
- E. A person shall not operate an off-highway motor vehicle on land owned, controlled or administered by the state parks division of the energy, minerals and natural resources department, pursuant to the State Parks Division statute, Chapter 16, Article 2, NMSA 1978, except in areas designated by and permitted by rules adopted by the secretary of energy, minerals and natural resources.
- F. Unless authorized, a person shall not:
 - (1) Remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or
 - (2) Install any off-highway motor vehicle-related sign.

SECTION 4: SPEED LIMIT. The statute allows the County to establish separate speed limits and operating restrictions for off-highway vehicles. The speed limits shall be as defined below:

- (1) The speed limit for all-terrain vehicles operated within the county shall be 35 miles per hour or the posted speed limit, whichever is less. If the posted speed limit is higher than 35 miles per hour, the operator shall operate the all-terrain vehicle on the extreme right hand side of the roadway.

- (2) The speed limit for recreational off-highway vehicles, UTV's, operated within the county shall be 45 miles per hour or the posted speed limit, whichever is less.

SECTION 5: PASSENGERS

- A. A person operating a recreational off-highway vehicle shall ride only upon the permanent and regular seat attached thereto and such operator shall not carry any other person nor shall any other person ride on a recreational off-highway vehicle unless such vehicle is designed to carry more than one person, if designed for two persons, or upon another seat firmly attached to the recreational off-highway vehicle at the rear of the operator.
- B. A person under the age of eighteen shall not operate an all-terrain vehicle while carrying a passenger.
- C. A person shall ride an all-terrain vehicle only while sitting astride the seat, facing forward, with one leg on either side of the off-highway motor vehicle.
- D. No person shall ride upon an all-terrain vehicle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars.
- E. No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation of the all-terrain vehicle or the view of the operator.

SECTION 6: OBEDIENCE TO TRAFFIC LAWS REQUIRED. Any person operating an off-highway motor vehicle shall obey all traffic laws, rules and regulations and shall be subject to the provisions of Articles 1 through 8 of Chapter 66 NMSA 1968 [except 66-7-102.1 NMSA 1978].

SECTION 7: SEVERABILITY. In the event that any clause, sentence, paragraph, section, or other portion of this Ordinance is found by any Court of competent jurisdiction to be invalid, it is the intent of the Governing Body that the remaining portions of the ordinance be given full force

and effect. It is the expressed intent of the City Council to adopt each section, phrase, paragraph, and word of this Ordinance separately.

SECTION 8 REPEAL. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent they conflict with this Ordinance.

Effective Date. This Ordinance shall become effective on the ___ day of _____, 2016.

PASSED, APPROVED AND ADOPTED this ___ day of _____, 2016.

T. Walter Jaramillo, Chairman

Robert Armijo, 1st Vice-Chairman

Jack Moleres, 2nd Vice Chairman

Patrick Simpson, Commissioner

Lloyd F. Felipe, Commissioner

Attest:

Elisa Bro, County Clerk



CIBOLA COUNTY
BOARD OF COUNTY COMMISSIONERS
ORDINANCE No 16-02

**An Ordinance Relating to Administration, Adopting a Personnel Policy; Setting forth
Personnel Rules and Regulations Establishing Consistent, Basic Policies and Practices
Concerning Relations between the County and its Employees**

PREAMBLE

WHEREAS, NMSA 1978, Section 3-18-1 provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1, have the power to "protect generally the property of its municipality and its inhabitants" and to "preserve peace and order"; and,

WHEREAS, NMSA 1978, Section 4-37-1 *et seq.* provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, NMSA 1978, Section 3-13-4 (1965) allows municipalities and counties to establish a personnel merit system for the hiring, promotion, discharge and general regulation of municipal and county employees.

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SECTION I: DEFINITIONS

- 1.1 ADMINISTRATIVE LEAVE WITH PAY. Leave with pay granted at the County Manager's discretion after considering the elected official's or department director's recommendation. Bereavement Leave will be considered Administrative Leave with pay. See Section 10.13.
- 1.2 ADMINISTRATIVE LEAVE WITHOUT PAY. Leave without pay granted at the County Manager's discretion after considering the elected official's or department director's recommendation.
- 1.3 ANNIVERSARY DATE. Anniversary date means the date of appointment or reemployment and is changed as of the date of promotion, demotion, reduction, or change to a different technical occupation group, group role, or manager category in the same pay band or pay opportunity.
- 1.4 ANNUAL LEAVE. Leave with pay granted to an employee, after accrual at a specific rate, with approval of the employee's supervisor.
- 1.5 APPEAL. Written request that a decision of a formal grievance be reconsidered at a further stage in the grievance procedure.
- 1.6 APPLICANT. A person who has made formal application on an official County personnel application form for a position with the County.
- 1.7 "AT WILL" EMPLOYEE. See definition of "Unclassified Employee".
- 1.8 BOARD. Board means the Board of County Commissioners.
- 1.9 CASUAL EMPLOYEE. An employee hired to fill a position paid by the hour that may be called on short notice and/or on an occasional basis. Casual employee may also be one who works less than twenty (20) hours a week. A casual employee is paid only for hours worked and does not receive any employment benefits. A casual employee does not have the right to grieve employment decisions.
- 1.10 CLASSIFIED EMPLOYEE. An employee who has served the prescribed probationary period and is eligible for the rights and privileges provided for under these Rules.
- 1.11 CONTINUOUS LENGTH OF COUNTY SERVICE. Continuous length of County service means the length of time for which there have been no breaks in employment as an employee spanning from the employee's Date of Hire, other than annual leave, sick leave, military leave authorized pursuant to Section 10.24 below, or authorized leave without pay for less than six (6) months.
- 1.12 CONTRACT EMPLOYEE. Contract employees are FLSA exempt and are unclassified employees and have a contract approved by the Board. Contract employees serve at the will and pleasure of the Board. Contract employees are not entitled to grievance procedures or holiday premium pay.
- 1.13 COUNTY BUSINESS. The performance of duties of a County employee at an employee's normal workstation or at a location authorized by the County.
- 1.14 COUNTY MANAGER. An individual appointed by the Board to conduct the business of the County and to act as the administrative assistant to the Board aiding and assisting the Board in the exercise of their duties and responsibilities. In the event there is no County Manager, the duties and responsibilities specified in these Rules shall be carried out by an appointed Acting County Manager or the chairperson of the Board.
- 1.15 DATE OF HIRE. Date of Hire is the date indicated as such on the employee's Personnel Action Form indicating New Hire as a regular employee, from which there is continuous length of County service. Alternatively, the Date of Hire may be from the date of Reinstatement if reinstatement occurs after a lapse of continuous length of County service.

- 1.16 **DEMOTION.** An employee may be demoted to a position for which the employee is qualified when the employee would otherwise be terminated. The demotion may be a result of funding shortages. An employee who does not possess the necessary ability to render satisfactory performance in the position presently held may be demoted. Employees may voluntarily request such a demotion. Demoted employees may receive a reduction in pay, per County Manager approval and department head recommendation. Only a regular employee demoted due to disciplinary action is entitled to grievance procedures under Section VIII, Grievance Procedures.
- 1.17 **DEPARTMENT DIRECTOR.** An employee hired to fill a position who has the responsibility of supervising and administering a department of County government as determined and designated by the Board.
- 1.18 **DISMISSAL.** Dismissal means the involuntary separation or dismissal from employment for disciplinary reasons.
- 1.19 **DOMESTIC PARTNER.** An individual who has an exclusive and committed relationship with a County employee and the relationship is the same as, or similar to, a marriage relationship in this state. For purposes of these Rules: 1) domestic partners must have shared a common, primary residence for twelve (12) or more consecutive months, 2) must jointly be responsible for each other's common welfare and share financial obligations, 3) neither can be married or a member of another domestic partnership, 4) both must be at least 18 years of age, and 5) are not related by blood to a degree of closeness that would prevent them from being married to each other in this state.
- 1.20 **DUE PROCESS.** The right granted to a regular employee to pre- and post disciplinary hearings for actions of suspension, demotion or dismissal.
- 1.21 **ELECTED OFFICIAL.** An individual elected by popular vote or appointed to fill vacancies in elective office, i.e., County Commissioner, County Clerk, County Treasurer, County Sheriff, County Assessor, and Probate Judge.
- 1.22 **EXEMPT EMPLOYEES.** All executive, administrative and professional employees as those terms are defined in the federal Department of Labor regulations relating to the Fair Labor Standards Act, and whose compensation is based on a fixed salary.
- 1.23 **GRANT FUNDED EMPLOYEE.** A full or part-time employee hired to fill a position that exists only upon receipt of grant funds. This position is terminable-at-will if funding is not received or upon expiration of the grant agreement.
- 1.24 **GRIEVANCE HEARING.** A formal hearing conducted at the request of an employee who is grieving a promotion, suspension, demotion, involuntary transfer, or dismissal as set forth in these Personnel Rules and Regulations.
- 1.25 **GRIEVANCE.** A formal complaint by an employee concerning actions taken by management which result in loss of pay to the employee and/or privileges to the employee including suspension, demotion, involuntary transfer or dismissal.
- 1.26 **HEARING OFFICER.** The individual who is charged with the responsibility of hearing and deciding allegations of improper promotion, post-disciplinary action matters of demotion, suspension and dismissal.
- 1.27 **IMMEDIATE FAMILY.** Spouses, domestic partners, children, parents, siblings, grandparents, grandchildren, like in-laws, and like step-relationships and persons with legal custodial relationships.
- 1.28 **LAYOFF.** The involuntary separation of an employee from County service without fault on the part of the employee, due to the abolition of a position, reorganization, lack of work, or lack of funds.
- 1.29 **MEDICAL DISABILITY DISMISSAL.** The dismissal of an employee from County employment when the employee is unable to perform the essential functions of the position

with reasonable accommodation(s) that do not impose undue hardship upon the County, due to a medical condition, when there is corroborating documentation of this condition from a licensed health-care professional. Although Medical Disability Dismissal is not disciplinary in nature, employees are nonetheless entitled to participate in the County's pre-determination and grievance procedures if they are subject to dismissal.

- 1.30 NONEXEMPT EMPLOYEES. All employees who are not exempt employees as defined in the federal Department of Labor regulations relating to the Fair Labor Standards Act.
- 1.31 PART-TIME EMPLOYEE. An employee who works more than twenty (20) hours and less than forty (40) hours per week. Employees working twenty (20) hours or more on a consecutive basis are eligible for fringe benefits.
- 1.32 PRE-DISCIPLINARY HEARING. A hearing conducted by the County Manager or his/her designee before the imposition of the disciplinary actions of suspension, demotion or dismissal.
- 1.33 PROBATIONARY EMPLOYEE. A full-time or part-time employee hired to fill a regular position that has not yet completed the nine (9) month probationary period of employment during which time the employee is terminable-at-will. During this probationary period the supervisor is required to evaluate the employee on a monthly basis.
- 1.34 PROMOTION. A promotion is the change of an employee from a position in one classification usually to a position in a classification with a higher salary range.
- 1.35 REGULAR EMPLOYEE, Full-time: An employee who has successfully completed probation with a work schedule of at least forty (40) hours per week. Part-time: An employee who has successfully completed probation with a work schedule of more than twenty but less than forty (40) hours per week.
- 1.36 RESIGNATION. Resignation means the voluntary separation of an employee from County service.
- 1.37 SAFETY-SENSITIVE or SECURITY-SENSITIVE POSITION. A safety-sensitive or security-sensitive position is a position approved as such by the elected official or department director and the County Manager, including a supervisory or managerial position in which impairment by drug or alcohol use would constitute an immediate and direct threat to public health or safety and includes, but is not limited to, law enforcement officers, detention officers, employees who are required to regularly carry a firearm, drivers required to have a CDL license, have access to confidential information and/or receive calls for public service and employees who regularly transport other people as their principal job or otherwise designated so by the County Manager.
- 1.38 SICK LEAVE. Leave with pay granted to employees when personal illness, injury, pre-arranged medical or dental examination, quarantine, therapy, counseling or other necessary treatment keeps the employee from performing the duties of the position or when a member of the immediate family is ill, injured or requires treatment for the described reasons.
- 1.39 SUSPENSION. An involuntary leave of absence, with or without pay, for disciplinary reasons, or pending investigation of allegations made against an employee, or for pending determination of the grievance procedure.
- 1.40 TEMPORARY EMPLOYEE. An employee hired to fill a position that will temporarily fill a position that is vacant due to the absence of an employee or for some other requirement. Temporary employment will not exceed a six (6) month period. All temporary employees are terminable-at-will, do not accrue leave, and do not receive employee benefits.
- 1.41 TERM EMPLOYEE. An employee that is hired to fill a position for a specific time period based on Board funding for a specified period of time, funding source or similar situation, not to exceed two years in duration.

- 1.42 **TRANSFER.** The voluntary or involuntary movement of an employee, from one department or office to another department or office in the County service.
- 1.43 **UNCLASSIFIED EMPLOYEE (or At-Will Employee).** An employee who can be dismissed at any time, with or without cause. The terminable-at-will employees in the County shall be: probationary employees; temporary employees; contract employees; and others designated by the Commission. Terminable-at-will employees are not entitled to the grievance procedures provided for in these Rules.

SECTION II: EMPLOYMENT STATUS

2.1 Position Specifications. The County shall establish a set of position specifications for all positions. Position specifications shall include title, tasks, duties, responsibilities and minimum qualifications. They will also specify knowledge, skills, education, and abilities required of applicants. See Definitions for description of employee position. An employee may qualify for one or more of the following position descriptions:

- A. **Probationary Employee.** A full-time or part-time employee hired to fill a regular position that has not yet completed the nine (9) month probationary period of employment during which time the employee is terminable-at-will. During this probationary period, the supervisor is required to evaluate the employee on a monthly basis.
- B. **Temporary Employee.** An employee hired to fill a position that will temporarily fill a position that is vacant due to the absence of an employee or for some other requirement. Temporary employment will not exceed a six (6) month period. All temporary employees are terminable-at-will, do not accrue leave, and do not receive employee benefits.
- C. **Regular Employee.** **Full-time:** An employee who has successfully completed probation with a work schedule of at least forty (40) hours per week. **Part-time:** An employee who has successfully completed probation with a work schedule of more than twenty but less than forty (40) hours per week.
- D. **Part-time Employee.** An employee who works more than twenty (20) hours and less than forty (40) hours per week. Employees working twenty (20) hours or more on a consecutive basis are eligible for fringe benefits.
- E. **Grant Funded Employee.** A full or part-time employee hired to fill a position that exists only upon receipt of grant funds. This position is terminable-at-will if funding is not received or upon expiration of the grant agreement.
- F. **Casual Employee.** An employee hired to fill a position paid by the hour that may be called on short notice and/or on an occasional basis. Casual employee may also be one who works less than twenty (20) hours a week. A casual employee is paid only for hours worked and does not receive any employment benefits. A casual employee does not have the right to grieve employment decisions.
- G. **Unclassified Employee.** An employee who can be dismissed at any time, with or without cause. The terminable-at-will employees in the County shall be: probationary employees; temporary employees; contract employees; and others designated by the Commission. Terminable-at-will employees are not entitled to the grievance procedures provided for in these Rules.
- H. **Classified Employee.** An employee who has served the prescribed probationary period and is eligible for the rights and privileges provided for under these Rules.
- I. **Contract Employee.** Contract employees are FLSA exempt and are unclassified employees and have a contract approved by the Board. Contract employees serve at the

will and pleasure of the Board. Contract employees are not entitled to grievance procedures or holiday premium pay.

- J. Term Employee. An employee that is hired to fill a position for a specific time period based on Board funding for a specified period of time, funding source or similar situation, not to exceed two years in duration.
- K. Temporary Agency Employees. Individuals who perform work for the County through a contract with an independent third-party, like a temporary placement or employment agency. These individuals are not County employees are therefore not entitled to any benefits or rights detailed in this policy.

SECTION III: GENERAL PROVISIONS

3.1 Purpose. The purpose of these Personnel Rules and Regulations (Rules) is to establish consistent, basic policies and practices concerning relations between the County and its employees. These Rules further establish the formal grievance procedure available to regular employees to hear their grievances with respect to promotions, demotions, suspensions, involuntary transfers and dismissal, and provide the method by which a personnel hearing officer is chosen to hear formal grievances. Independent contractors are not subject to the provisions of the Rules.

3.2 Scope. Definite rules and regulations cannot be readily formulated for every possible problem and situation. These Rules serves as a general basis and guide for the proper, efficient, and effective management and administration of personnel matters of the employees of the County. The Rules contained herein replace and supersede all previously issued personnel rules regulations and ordinances applicable to employees of the County as the subject matter is covered in the County Code of Conduct and these Rules.

3.3 Amendment of Rules & Regulations. There shall be no resolution or other action of the Board or other County officials, which is inconsistent with these Rules, except by amendment of these Rules. The Board reserves the right to amend these Rules at its discretion. The County Manager may issue interpretative memoranda or Administrative Instructions, not inconsistent with these Rules, which further detail the interpretation of these Rules.

3.4 Employee Knowledge & Information of Rules & Regulations. The elected official, department director, or Human Resources Manager shall provide a copy of these Rules to present employees and to all new employees with instructions to read and be familiar with all provisions of these Rules. Employees shall sign for a copy upon receipt.

3.5 Equal Employment Opportunity Rules & Regulations. Individuals will not be discriminated against on the grounds of race, age, religion, color, national origin, ancestry, sex, marital status, physical or mental handicap, medical condition, sexual orientation or gender identity, in consideration for employment, promotions, transfers, duration of employment, compensation, terms, conditions, or privileges of employment by the County.

3.6 Administration by County Manager. The County Manager or designee shall administer and interpret the personnel system and the terms of these Rules and its amendments, and all future approved operating procedures. The County Manager shall recommend to the Board any necessary amendments or revisions to the Rules.

3.7 Duties of All Employees. All employees shall adhere to the provisions of these Rules. Elected officials, department directors, division managers, Human Resources Manager and the County Manager further shall be responsible for seeing to the adherence and enforcement of these Rules.

3.8 Chain of Command & Conflict Resolution. In order to maintain open communication between County and its employees and to ensure that employees' general working concerns and conflicts are addressed quickly and efficiently, the County will utilize the chain of command protocol. An Organizational Chart, specifying the chain of command should be made available and updated periodically. Employees have the right to present or make known their complaints, free from interference, restraint, discrimination, coercion, or reprisal. This provision does not apply to serious complaints such as harassment, dangerous working conditions, workplace violence and discrimination, which are otherwise addressed by the policy.

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It is required that an employee discusses his/her concerns first with his/her immediate supervisor. Departments should utilize alternative methods of dispute resolution, including mediation, wherever appropriate to resolve conflicts in the workplace and encourage positive working relationships between employees and management.

If the concern cannot be handled at this level, the employee may request a meeting with the next level supervisor, up to the elected official or department director of his/her department. If it becomes necessary to pursue the issue beyond the department director or supervisor level, or if the concern cannot be handled or remedied within the department due to supervisory conflict, it may be appealed to the County Manager within ten (10) calendar days of the department's final decision. The County Manager or designee may serve as a hearing officer and the County Manager's decision on the complaint shall be final and binding.

3.9 Conflict with Collective Bargaining Agreements. If any provision of this Resolution is in conflict with a written Employee Agreement duly adopted by the Board pursuant to the Public Employee Bargaining Act [NMSA 1978, §§10-7E-1 to 10-7E-26], the terms of the Collective Bargaining Agreement shall control.

3.10 Code of Ethics.

A. The ethical county employee shall:

1. Properly administer the affairs of the county.
2. Promote decisions which only benefit the public interest.
3. Actively promote public confidence in county government.
4. Keep safe all funds and other properties of the county.
5. Conduct and perform the duties of the office diligently and promptly dispose of the business of the county.
6. Maintain a positive image to pass constant public scrutiny.
7. Evaluate all decisions so that the best service or product is obtained at a minimal cost without sacrificing quality and fiscal responsibility.
8. Inject the prestige of the office into everyday dealings with the public employees and associates.
9. Maintain a respectful attitude toward employees, other public officials, colleagues and associates.

10. Effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interest of the county.
 11. Faithfully comply with all laws and regulations applicable to the county and impartially apply them to everyone.
- B. The ethical county official shall not:
1. Engage in outside interests that are not compatible with the impartial and objective performance of his or her duties.
 2. Improperly influence or attempt to influence other officials to act in his or her benefit.
 3. Accept anything of value from any source which is offered to influence his or her action as a public official.
 4. The ethical county official accepts the responsibility that his or her mission is that of servant and steward to the public.

SECTION IV: RECRUITMENT AND SELECTION

4.1 Purpose. It is the policy of the County to select and recruit the best qualified and the best-suited persons for all positions in an open and competitive manner, to ensure no discrimination and to ensure equal employment opportunity for all applicants and employees. The County will comply with all applicable federal and state laws and regulations.

4.2 Recruitment of Applicants. The elected official or department director shall notify the County Manager and the Human Resources Manager of the position to be filled. The Human Resources Manager shall issue job announcements through such media deemed appropriate to ensure open and competitive recruitment of individuals with sufficient time to ensure reasonable opportunity for persons to apply. The Human Resources Manager shall submit announcements and receive all applications through the Administrative Office. All publications for job announcements shall include reference to Cibola County as *"An Equal Opportunity Employer"*.

4.3 Temporarily Filling Vacant Positions. Vacant positions may be filled without public announcement by temporary employees on a temporary basis to replace regular employees on leave and pending the selection of a regular employee for a position or otherwise for a period not to exceed six months.

4.4 Best Qualified & Best-Suited Applicant Determination. The best qualified and best-suited applicant is determined by the elected official or department director, in conjunction with the Human Resources Director, based on minimum qualifications of education, experience, abilities, skills and past work experience as specified in written position specifications for each position. Personal interviews shall be conducted with at least three (3) applicants, or if less than three applications are received, all applicants shall be interviewed.

4.5 Promotion and Transfer Policy. If a regular full-time or part-time employee is substantially equally best qualified and suited in accordance with Section 4.4 with another applicant or applicants, the employee should be given preference in hiring.

4.6 Selection. The elected official, department director or designated representative shall review all applications for positions in their departments, in conjunction with the Human Resources Director, and make their recommendation to the County Manager. Final appointment shall be made by the elected official/department director, in conjunction with the Human Resources

Director, with approval of the County Manager based on the best qualified and the best-suited applicant for the position and the status of the County budget.

4.7 Pre-Selection Prohibited. Posted and advertised positions shall not be promised to any person prior to recruitment and selection to ensure the integrity and fairness of the selection process.

4.8 Ineligibility for Hire and Rehire. Applicants shall be considered ineligible for hire or rehire by the county if the applicant has:

- A. knowingly made any false statement or omission on the employment application;
- B. not met the requirements of the position;
- C. failed to complete pre-employment drug and alcohol screening or physical examinations or other requirements as directed by the County, except that an applicant not meeting drug and alcohol screening testing may reapply after a one-year period. An applicant who has failed a physical exam due to a pre-existing correctable medical condition may reapply at any time after the condition is corrected;
- D. not met the criteria for insurance or bonding as required by County or state law;
- E. been dismissed from County service as a disciplinary measure in five (5) years prior to the date of application;
- F. not been certified by a physician that the applicant can perform the physical requirements or the essential requirements of the position;
- G. been convicted for driving while under the influence of alcohol or drugs in the three years prior to the date of the application, if a valid New Mexico driver's license and class is required for the position; or
- H. been convicted of a felony as described in NMSA 1978, §28-2-1, et seq. or convicted of a felony or infamous crime as defined in NMSA 1978, §10-1-3 and by its nature conflicts with the duties and responsibilities of the position;
- I. not meeting the requirements of state or federal funding agreements; and
- J. the above list is not necessarily exhaustive and may not include all of the reasons that would make an applicant ineligible for hire or rehire.
- K. resigned with pending employment charges pursuant to section 7 and 8 in five (5) years prior to the date of application.

4.9 Testing. The County may require an applicant to submit to testing for certain bona fide occupational qualifications to determine employment eligibility. This may include, without limitation pre-employment physical and drug and alcohol screening examinations for all but elected officials.

4.10 Commencement of Work. No applicant for employment shall commence work or be considered employed by the County until an approval of the selection is made in writing by the County Manager, Finance Director and Human Resources Director on a Personnel Action Form (PAF) and all pre-employment testing and relevant backgrounds checks have been completed. Payroll shall not enter the applicant into the County's system prior to receipt of a completed and signed PAF.

SECTION V: CHANGES IN EMPLOYMENT STATUS

5.1 Promotion. The County encourages the professional growth of its employees and rewards the initiative, creativity, effort, commitment, and diligence of its employees through the promotional process. County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify.

5.2 Evaluation Period. Regular employees that are promoted or voluntarily transferred between Departments to a vacant position will be placed in an evaluation period. This is a period of evaluation and training of the employee in the new position. An evaluation period is for ninety (90) days. If performance while on the evaluation period is deemed unsatisfactory, in writing, by the department director or elected official, the employee may be returned to his/her previous position if that position is available, placed in another vacant position for which the employee is qualified, if available, or dismissed at the discretion of the County Manager if no such positions are available. Employees being transferred back to previous positions receive the same pay received before their promotion.

5.3 Demotion. An employee may be, but is not required to be, demoted to a position for which the employee is qualified when the employee would otherwise be dismissed because the employee's position is being abolished due to lack of funds or lack of work and there are no appropriate vacancies at the same level; when the employee's job is being reclassified; when the employee does not demonstrate the necessary ability to render satisfactory performance in the position presently held; or when the employee voluntarily requests such a demotion, provided there is a position available.

5.4 Transfers

- A. **General Transfer.** Employees may be moved from one position to another of the same grade and pay range either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the County. Voluntary transfers are not grievable. Shifting department or office needs may require that an employee be temporarily or permanently transferred from one geographic location to another within a department or office. An employee may be transferred from one position to another position at the same salary range within a department or office. If such a transfer involves a probationary employee, time served in the former position shall be credited toward achievement of regular full-time status and salary increases, accumulated annual leave and sick leave shall be retained. The County Manager must approve all transfers.
- B. **Voluntary Transfers between Departments.** An employee who voluntarily transfers from one department to a vacant position in another department may be required to accept the new position at its entry level salary depending on his/her experience and qualifications required for the new position. The transferred employee will be subject to an evaluation period of ninety (90) days, as specified in Section 5.2.
- C. **Medical Transfer.** An employee who has been certified by a licensed physician as being physically unable to perform the duties of the employee's current position may be transferred as reasonable accommodation to an available position in which the physician certifies the employee is able to work, and for which the employee is qualified to perform. If no such position is available, the employee is subject to the leave without pay provisions of these Rules.

5.5 Resignation. An employee voluntarily resigning shall submit in writing to the department director or elected official and the Human Resources Manager, a two-week minimum notice of resignation. An employee's final paycheck may be withheld pending submission of a written notice of resignation. Unless unique circumstances exist, failure to provide timely written notice may be grounds for refusal of future employment with the County. Unauthorized absence from work for a period of three (3) consecutive regularly scheduled working days shall be considered a voluntary resignation.

5.6 Layoff Procedure. Upon directive of the Board, the County Manager shall make the determination for layoffs after consulting with elected officials and department directors. When layoffs of more than one employee are required, layoffs shall be determined using the following criteria:

- A. Position in order of priority:
 - 1. Temporary employees,
 - 2. Probationary employees,
 - 3. Casual employees,
 - 4. Part-time employees;
- B. Performance of the employee compared to other employees being laid off in the same or similar positions;
- C. Value of the employee's position to the critical operation of the County or department, such as safety-sensitive or security-sensitive positions;
- D. Length of continuous service with the County; and
- E. Funding source.

5.7 Layoff Return Privileges. Any full-time or part-time regular employee who is laid off and returns within twelve (12) months of layoff shall not have to serve a probationary period if the employee return to his/her previous position and the probationary period has been served. A laid off-returning employee will be credited for all unused sick leave remaining and not compensated for at the time of layoff if the employee returns within the twelve (12) month period. Layoff privileges end:

- A. Twelve (12) months after the effective layoff date;
- B. After an employee has refused employment in a position for which the employee is qualified and/or for which the pay rate is the same or higher than the position previously held; or
- C. When a laid off employee accepts another position with the County. A laid off employee accepting another position with the County shall serve the required evaluation period.

5.8 Medical Disability Dismissal. Employees shall be involuntarily terminated upon completion of the twelve week family/medical leave if the employee is physically unable to perform the essential duties of the employee's position with reasonable accommodation(s) that do not impose undue hardship upon the County, as certified by a qualified, licensed physician. The provisions of this subsection are subject to the provisions regarding Workers' Compensation laws and "On the Job Injury Leave" found in Sections 10.16 and 10.17 of these Rules.

5.9 Reinstatement. Individuals that are reinstated as regular employees to the same or like position are not entitled to any previous benefits such as sick leave which may have been accrued during previous employment with the County except as provided in Section 5.7. Officials who

were County employees prior to being elected to an office, with no discontinuance of service to the County, shall retain all accrued benefits prior to being elected and their years of service as elected officials shall be included for all other applicable benefits afforded under these Rules.

SECTION VI: CONDITIONS OF EMPLOYMENT

6.1 Probationary Period for New Hires. An employee hired to fill a position shall serve a probationary period of nine (9) months, beginning on the first day of work, during which time the employee is terminable-at-will.

- A. Law enforcement officers in the Sheriff's Department and detention officers shall serve a one (1) year probationary period, beginning on the first day of work, during which time the employees are terminable-at-will. If a law enforcement officer is not certified prior to hiring, the law enforcement officer must obtain law enforcement certification within one year of employment. Uncertified law enforcement officers shall be terminated on the six-month anniversary of hire if they are not accepted or enrolled in a basic police officer training program certified by the Law Enforcement Academy Board.
- B. The probationary period is an integral part of the evaluation process and is utilized for observing the employee's performance and obtaining the most effective adjustment of a new employee to the position. Employees will be evaluated one-month prior to the completion of their probationary period. The employee must achieve a satisfactory performance or better by the end of the probationary period before the employee can become a regular employee entitled to all of the rights and benefits of that status.
- C. If the employee satisfactorily completes the probationary period, the employee will become a regular employee. If the employee does not satisfactorily complete the probationary period, the employee may be dismissed, or upon the recommendation of the department head or elected official and with final approval of the County Manager, the probationary period may be extended for a period of ninety (90) days.
- D. In the event a probationary employee is on extended leave for any reason, the probationary period will be extended in an amount equal to that leave period.
- E. Probationary employee provisions. A probationary employee:
 1. can be dismissed, without cause, at any point during the probationary period;
 2. is not eligible for personal holiday leave;
 3. cannot grieve disciplinary actions;
 4. is allowed to use sick and annual leave as soon as it is accrued with approval of supervisor;
 5. shall accrue annual leave and sick leave, consistent with provisions of these Rules upon being hired. Employees terminated during their probationary period are only entitled to payment of annual leave.
 6. is eligible for health insurance and other optional benefits, as provided in Section 9.6.

6.2 Temporary Employee Hired to a Regular Position. An employee who fills a temporary position and is subsequently hired to fill a regular position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from temporary to regular status.

6.3 Former County Employees Hired to a Position. A former County employee re-hired in the same or like position, or re-hired at any time to fill a new position, shall serve the required probationary period.

6.4 Permitted Political Activities. All employees:

- A. may engage in political activity on their own time;
- B. are encouraged to register to vote, and to exercise the right to vote;
- C. have a right to express their opinion on all political subjects and candidates;
- D. may serve as convention delegates;
- E. may sign nominating petitions and make voluntary contributions to political organizations and candidates; and
- F. may serve as an election or poll official.

6.5 Prohibited Political Activities. All employees, department directors and elected officials are prohibited from:

- A. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
- B. Directly or indirectly coercing, attempting to coerce, commanding or advising a state or local official or employee to pay, lend, or contribute anything of value to a party, committee or organization, agency, or person for a political purpose.
- C. Threatening to deny promotions to or retaliating in any way any employee who does not vote for or support certain candidates, requiring employees to contribute to a political fund or candidate, influencing subordinate employees to buy tickets to political fund-raisers and similar events, advising employees to take part in political activity and matters of a similar nature.
- D. Engaging in political activity while on duty.
- E. Using any County-owned equipment, supplies, vehicles, space or property for political purposes.

6.6 Public/Political Office

- A. Employees covered by the provisions of the Hatch Act [5 U.S.C. Sections 1501 to 1508] may not be candidates for partisan political office elections.
- B. Being a local school board member or a member of any post-secondary educational institution's governing body shall not be construed as holding political office.
- C. Employees may not hold a County political office and be a regular full-time, or at-will full-time, employee with the County.

6.7 Nepotism. In order to avoid the practice or appearance of nepotism in employment, near-relatives shall not work in the same department when there is a supervisory relationship between them.

- A. Near-relatives, as used in this ordinance, includes father/mother and spouse, son/daughter and spouse, grandparents, grandchildren and spouse, uncle/aunt and spouse, first cousin and spouse, nephew/niece and spouse, brother/sister and spouse. This also includes unrelated persons sharing a spousal/domestic partner relationship as well as adopted, step relatives in the relationships listed above.

- B. When there is a change in assignment or relationships among County employees, which lead to the supervision of or by other near-relatives, the employee must inform the elected official or department director in writing within five (5) working days. The elected official and department director, subject to the approval of the County Manager, will remove the employee from the supervision of a near relative within five (5) working days (excepted in Section 6.7 D). Such action may include involuntary transfer of the employee to another position, demotion of the supervisor or termination of the employee.
- C. Any problem arising from such a situation should be referred to the County Manager by the elected official or department director for review.
- D. Removal of a supervisory relationship is excepted in the event a first cousin (or spouse of a first cousin) of a current county employee with over one-year employment with the department, is duly elected to a County Office over that employee's department.

6.8 Conflict Ban. No employee shall engage in any business or transaction or accept private employment or other public employment which is incompatible with the proper discharge of the employee's responsibilities, or which gives the appearance of impropriety, or is prohibited by federal, state or county law or county policy.

6.9 Outside Employment. Employees may not, directly or indirectly, engage in any outside employment or financial interest which may conflict, in the County's opinion, with the best interests of the County or interfere with the employee's ability to perform his/her assigned County job. Examples include, but are not limited to, outside employment which:

- A. Prevents the employee from being available for work beyond normal working hours, such as emergencies or peak work periods, when such availability is a regular part of the employee's job;
- B. Is conducted during the employee's work hours;
- C. Utilizes County telephones, computers, supplies, or any other resources, facilities or equipment;
- D. Constitutes employment, contractual commitment or self-employment which conflicts with Section 15.14, below; or
- E. May reasonably be perceived as a conflict of interest, gives the appearance of impropriety or otherwise discredits public service.

An employee who chooses to have an additional job, contractual commitment or self-employment, may do so provided he/she provides prior notification, on the prescribed form, to his/her elected official/department director and the County Manager, and obtains prior approval from his/her elected official/department director and the County Manager. Any outside employment that could potentially interfere with emergency call-out situations must be reported to the employee's department elected official/director. If, after accepting outside employment, situations arise which could interfere with the employee's job, the employee needs to immediately report these situations to his/her elected official or department director.

6.10 Workplace & Sexual Harassment. The County will not tolerate harassment or sexual harassment.

- A. Cibola County is committed to taking reasonable steps to provide a professional working environment free from all forms of harassment, whether based on sex, sexual orientation,

gender identity, race, color, religion, national origin, age, disability or any other protected classification. Although this policy focuses on sexual harassment, it applies equally to all forms of harassment based on a protected classification and the procedures described in this policy shall be followed for all such harassment. This policy also applies when a County employee is subject to harassment in the workplace by someone outside the County.

- B. All County employees and members of the public have a right to be free from harassment from employees on official duty for the County. County employees are forbidden from engaging in harassing conduct in the workplace. Employees are also forbidden from engaging in conduct outside of work that creates a hostile work environment at work. Any act of harassment based upon a protected classification is a violation of county policy.
- C. Harassment Definition: verbal or physical conduct by any employee that, bullies, torments, persecutes, disrupts or interferes with another employee's work performance or that creates an intimidating, offensive or hostile environment.
- D. Sexual Harassment Definition: According to the EEOC, sexual harassment is any unwelcome sexually oriented behavior, demand, comment or physical contact initiated by any individual at the work place when:
 - 1. Submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment;
 - 2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions/opportunities affecting such individual, or
 - 3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.
- E. Examples. Sexual harassment can occur in a variety of forms. Harassing conduct based on gender often is sexual in nature but sometimes is not. This policy forbids harassment based on gender regardless of whether the offensive conduct is sexual in nature. Sexual harassment is unacceptable in the workplace itself and in other work-related settings such as business trips and business-related social events. The following are some common examples of behaviors or situations that constitute sexual harassment:
 - 1. Oral or written sexual statements, comments, jokes, questions or innuendoes;
 - 2. Display of sexually oriented visual items such as calendars, cartoons, photos or posters;
 - 3. Assault, molestation or unwelcome physical contact such as kissing, touching, patting, pinching, brushing against or hugging;
 - 4. Requests, demands or subtle pressure for sexual activity;
 - 5. Threats or retaliation against an employee who refuses unwelcome sexual attention or sexual behavior;
 - 6. Overt promises or practices that imply preferential treatment for any employee in exchange for dates, sexual attention or sexual behavior;
 - 7. Sexual insults and suggestions including, but not limited to, lewd remarks, obscene gestures and sexually suggestive materials;
 - 8. Any conduct that ridicules, or is malicious or abusive to, an individual because of the individual's gender;
 - 9. Pressuring an employee to go out on a date;

- 10. Consensual "romantic" or sexual relationships between a supervisor/manager and an employee; or
- 11. Asking employee questions of a sexual nature.

- F. Responsibility to Report Harassment. Any employee, who believes they are a victim of harassment because of their protected classification, should first confront the person or persons responsible for the offensive behavior and indicate that it is unwelcome and should be stopped. The employee also has an obligation to promptly report the matter to the Human Resources Director or the County Manager. These are the individuals who are authorized by this policy to receive and act upon complaints of harassment or discrimination on behalf of the County. All employees who observe, or become aware of harassment, also have an obligation to bring the matter to the attention of the Human Resources Director or County Manager, even if they are not the victim of harassment.
- G. Investigation of Complaints. It is the County's intent to provide a fair process for investigating and resolving complaints of harassment. The County will investigate all reports of alleged harassment. Information associated with the investigation will be kept confidential, to the extent possible, and consistent with the County's obligation to investigate promptly and thoroughly. All employees are required to cooperate with any investigation by the County in response to an allegation of harassment. Refusal to cooperate in an investigation may result in disciplinary action, up to and including termination.
- H. Appeal. Any affected employee dissatisfied with the conclusion or results of an investigation, or with any corrective measures taken, may appeal the decision to the County Manager. Any such appeal should be in writing and must include the nature of the employee's dissatisfaction with the conclusions or results of the investigation. Any qualifying disciplinary appeal must follow the grievance process.
- I. Protection against Retaliation. The County will not retaliate against an individual who reports sexual harassment in good faith and such retaliation in and of itself is grounds for disciplinary action, up to and including termination without prior progressive discipline. Retaliation is a serious violation of this policy and should be reported immediately.
- J. Discipline. Anyone violating this section will be subject to corrective or disciplinary action up to, and including dismissal.
- K. Unlawful harassment, including sexual harassment, of employees, or members of the public, may be cause for dismissal. If the County determines that harassment has occurred or that counseling, training, disciplinary measures or termination are appropriate, it will take appropriate measures to correct the problem following County disciplinary procedures. Serious cases of harassment constitute cause for termination without prior progressive discipline. Employees who knowingly make false allegations of sexual harassment may be subject to disciplinary action.
- L. Mandatory Training. Periodic mandatory training for all employees, including supervisors, managers and elected officials, will be provided by the County to increase knowledge of the workplace harassment policy, state and federal laws and the process for enforcing the policy.
- M. Vendors and Customers. Employees should report sexual harassment from vendors, customers, other county employees and the general public utilizing this Policy.

6.11 Performance Evaluations.

- A. Employees other than probationary employees shall be evaluated at least annually, and may be evaluated upon the following conditions:
1. A change of status.
 2. Along with a recommendation of any type of salary increase, including step increases if available.
 3. Demotion, suspension or corrective action.
 4. Any other time that a department director or immediate supervisor wishes to make the performance of an employee a matter of record.
- B. **Contents of Evaluation.** A performance evaluation shall contain an overall appraisal of the employee's performance. Forms may be provided or approved by the Human Resources Manager. All evaluations will be signed by the employee, supervisor submitting the evaluation and the Human Resources Manager.
- C. **Employee Rebuttal.** The employee may submit a written rebuttal statement to the performance evaluation that will be attached to and become a part of the performance evaluation. The rebuttal shall be submitted within ten (10) days of the evaluation.
- D. **Unsatisfactory Evaluation.** In the event a regular employee receives an overall evaluation of unsatisfactory performance, the employee shall be warned that the failure to meet reasonable performance standards of the position within a set time period, not to exceed ninety (90) days, shall result in dismissal. This process does not apply to probationary evaluation.

6.12 Fitness for Duty.

The County endeavors to provide a safe and productive work environment for the benefit of its employees and the public they serve. Employees are expected to manage their health in such a way that they can safely and effectively perform their essential job functions and to discuss with their supervisor any circumstance that may impact their ability to do so. The County may require professional evaluation of an employee's physical or mental capabilities to determine his or her ability to perform essential job functions. Such evaluations are conducted by an independent third-party, licensed health care professional and are undertaken only after careful review by Human Resources. To the extent possible, the County will protect the confidentiality of the evaluation and results.

This evaluation process is for only those situation where reliable observation indicates that the employee may not be physically or mental able to perform the essential functions of his or her position due to a physical or mental condition. It is not intended to be a substitute for sick or medical leave request, workers' compensation claims, allegations of violence in the workplace, situations where there is an immediate threat of harm or for performance management disciplinary process.

- A. **Procedures.** If, by observation of an employee's behavior or by receipt of reliable information, the County has reason to believe that an employee may lack the ability to perform the essential functions of his or her position due to a physical or mental condition, the following steps will be taken:
1. The department head or elected official will provide Human Resources with detailed information regarding the reason for and circumstances leading up to the fitness-for-

duty referral, including information on essential job functions, evidence of the employee's inability to perform those functions effectively, and any attempts at resolving the matter.

2. The Human Resources Director will review the information provided in the referral, along with a current job description of the essential functions of the employee's position. If it is determined that a fitness-for-duty evaluation is necessary, the Human Resources Director or designee will notify the employee in writing.
 3. Human Resources will determine the independent, third-party, licensed health care professional who will perform the evaluation, send a written request for an evaluation to him or her, and will schedule the evaluation at the earliest opportunity.
 4. Failure on the employee's part to comply with a scheduled fitness-for-duty evaluation constitutes insubordination and will be cause for disciplinary action, including termination.
 5. All costs of the health care services performed by the health care professional as part of the evaluation will be paid by the County.
 6. If the County Manager deems it necessary, the employee may be placed on temporary, paid administrative leave until the evaluation is completed.
 7. The employee will be requested to sign a voluntary written authorization allowing the health care professional to provide certain information obtained through the evaluation to the County. If no authorization is executed, the County may nevertheless obtain a description of the functional limitations of the employee that may limit the employee's ability to perform the essential function of his or her job, but no statement of medical cause may be disclosed.
 8. Insofar as feasible, the results of the evaluation will be treated as confidential, kept in a separate file within Human Resources, and the minimum necessary information will be shared only with those who need to know the results for legitimate county business purposes.
 9. If it is determined that the employee is not able to perform the essential functions of his or her position, Human Resources will attempt to determine if there is a reasonable accommodation that will allow the employee to continue working. If an appropriate accommodation cannot be made other options will be identified and communicated to the employee as available.
 10. If it appears that any functional limitations on the employee's ability to perform the essential functions of his or her position are the result of a work-related injury, the matter will be referred to Workers Compensation for the processing of a workers' compensation claim.
 11. All actions taken in carrying out this policy will comply with state and federal laws, as well as County policies and procedures and applicable contractual provisions.
- B. **Evaluation and Results.** The fitness-for-duty evaluation will not be conducted for the purpose of diagnosis or treatment, but rather for the purposes of determine and employee's ability to perform the essential functions of the job. Human Resources will provide the evaluator with a description of the essential function of the employee's position prior to the evaluation. The evaluator will be asked by Human Resources to release only that information as permitted under this policy or otherwise permitted or required by law. The evaluator will be asked to complete a written report containing only the following information.
1. A conclusion regarding the determination of fitness for duty;

2. A description of the nature and extent of any functional limitation on the employee's ability to perform his or her job;
 3. A description of the expected duration of each such functional limitation; and
 4. An opinion as to whether or not the functional limitation may be the result of a work-related injury as related by the employee; further medical examination or investigation may be necessary to determine if the functional limitation arises out of, or has been caused by, the employee's occupation.
- C. Insofar as feasible, the results of the evaluation will be treated as confidential, and will be shared only with those who need to know the results for legitimate county business purposes. However, where the employee has placed at issue his or her medical history, mental or physical condition, or treatment, the relevant information may be used and disclosed by the County in connection with such proceedings.
- D. The County Manager will make a decision regarding the employee's status, including but not limited to the employee's return to duty or removal of the employee from any duties pending treatment and re-evaluation, depending on the results of the evaluation and the recommendation of the evaluator. In certain circumstances the employee may be subject to medical disability termination pursuant to Section 5.8 of this Ordinance.

SECTION VII: BASIS FOR EMPLOYEE DISCIPLINE

7.1 Discipline. Disciplinary actions for employees are based on just cause, in order to promote the efficiency of the services rendered by the County and the operation of its respective departments and offices. Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, ancestry, sex, sexual orientation, physical or mental handicap or medical condition. No employee will be disciplined for refusing to perform an unlawful act.

7.2 Definition of Just Cause. Just cause is defined as any conduct, action or inaction arising from or directly connected with the employee's work, which is inconsistent with the employee's obligation to the County and reflects the employee's disregard of the County's interest. Just cause includes, but is not limited to, inefficiency, incompetence, misconduct, negligence, insubordination, performance which continues to be inadequate after reasonable efforts have been made to correct the performance problems, or conviction of a felony or misdemeanor involving moral turpitude and the misdemeanor conviction directly relates to the employee's particular job, trade, or profession.

7.3 Disciplinary Action. The County Manager, elected officials, department directors and supervisors have the authority to discipline an employee under their supervision. However, only the County Manager has the final authority to demote, suspend or terminate an employee for disciplinary reasons. Copies of any written disciplinary action must be furnished to the County Manager's office for placement in the employee's file, with evidence of the employee's receipt of the action.

7.4 Consultation with County Attorney. Dismissal, demotion, and suspension require consultation with the County Attorney before taking disciplinary action. Whenever such

consultation is not practical because of urgency, necessary action may be taken and the situations/ circumstances reviewed with the County Attorney as soon as practical.

7.5 Progressive Discipline. An employee shall be progressively disciplined whenever warranted. All actions involving substandard work performance, leading up to and including dismissal, require documented progressive discipline. The step of corrective action used depends on the severity of the infraction and the employee's previous work record. Because of the serious nature of some infractions, the first disciplinary action may be suspension or dismissal.

7.6 Verbal Reprimand. A verbal reprimand is used for minor infractions to inform the employee that his/her actions, behavior or conduct needs to change. Supervisors will keep written notations of verbal reprimands, and will place the written notation of the verbal reprimand in the employee's personnel file. Causes for verbal reprimands include, but are not limited to:

- A. substandard or unsatisfactory work performance;
- B. repeated absence or tardiness;
- C. misconduct on the job;
- D. failure to meet and/or maintain job requirements as set forth in the job description;
- E. violation any personnel Rules, other County rules, policies, regulations or supplemental rules;
- F. violation of a professional code of ethics accepted by those in the same profession as an employee and as stated in this policy;
- G. non-cooperation by an employee with fellow employees or other personal conduct which substantially interferes with the performance of his/her or another employee's work;
- H. failure to adhere to an established work schedule;
- I. excessive personal cell phone usage; and
- J. failure to obtain authorization for overtime.

7.7 Written Reprimand. An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which a verbal reprimand may be used, or if a verbal reprimand was not effective. Causes for written reprimands include, but are not limited to:

- A. the causes listed for verbal reprimands;
- B. excessive absence or tardiness;
- C. sleeping on the job;
- D. negligence in the performance of duty including negligence in the operation of County vehicles or equipment;
- E. negligence or failure to adhere to established safety rules or regulations as well as willful unsafe conduct;
- F. insubordination and failure to comply with the lawful orders of a supervisor including the refusal to accept after hours assignments;
- G. refusal to perform tasks or duties assigned or detailed in an employee's job description;
- H. unauthorized absence from work;
- I. failure to report duty injuries, accidents or vehicle collisions;
- J. failure to follow the chain of command within a department;
- K. unauthorized use or abuse of County property (e.g. phones, cell phones, computers, vehicles, equipment, etc.).

- L. being untruthful when asked about any work related activities by a supervisor;
- M. abuse of sick leave, including use of sick leave on a day for which vacation or other leave has been denied;
- N. failure to follow a departmental SOP; and
- O. violation of the Code of Ethics (Section 3.10).

Written reprimands for an employee's work performance or conduct shall be placed in the employee's personnel file after providing the employee with a copy of the statement. The employee will be asked to acknowledge having read the comments by signing the statement. If the employee refuses to sign, said refusal to sign shall be noted on the document by the employee's elected official or department director, and a witness shall attest in writing that the statement was presented for signature to the employee, who refused to sign. The elected official or department director's signature, witness' signature, or employee's signature indicates that the employee received the statement, but does not necessarily indicate concurrence with its content. In addition, the elected official or department director may read the letter of reprimand to the employee. The employee may respond with a written rebuttal within ten (10) days after the document was entered into the personnel file, which shall also be placed in the employee's personnel file. The placement of a written reprimand in an employee's file is not grievable.

7.8 Suspension. An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed. Such suspension will not exceed two-hundred forty (240) hours. Suspension of an employee is subject to the formal grievance procedures. Causes for suspension include but are not limited to:

- A. the causes listed for verbal and written reprimands;
- B. continuous documented instances of poor performance;
- C. negligent damage to property and/or person(s);
- D. physical or mental unfitness for duty;
- E. consumption or possession of alcohol or controlled substances on-duty or on County property or in County vehicles;
- F. fighting while on-duty or on County property;
- G. harassment;
- H. sexual harassment;
- I. failure to report confiscation or loss of driver's license when required as condition of employment;
- J. operation of a County vehicle or a private vehicle while on County business without a valid driver's license; and
- K. unlawful carrying or possession of a firearm unless authorized by state law or county policy.
- L. being under the influence of alcohol or controlled substance including illegal drugs as well as abuse of prescription drugs. See Section 11.
- M. Knowingly making any false statement or omission to a supervisor regarding work-related activities.

7.9 Demotion. An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed, provided that there exists a lower job position in the County and the employee is capable of performing such a job. The demotion of an

eligible employee is subject to the formal grievance procedures. A demotion may require a decrease in salary, with approval of the County Manager.

7.10 Dismissal. Dismissal is the final consequence when progressive discipline has failed to change unacceptable behavior or performance, or when the employee has engaged in other behavior that is of a serious nature that is unacceptable for County employees. The dismissal of an employee is subject to the formal grievance procedures. Causes for dismissal include, but are not limited to:

- A. all causes listed for the previous disciplinary actions, if such causes continue after attempts or correction have failed;
- B. acceptance of a bribe, gratuity, gift, or kick-back;
- C. abuse of official position or authority for personal profit or advantage;
- D. theft, abuse or intentional destruction of County property, including electronic media or data;
- E. unauthorized disclosure of confidential information from County records or documents as set forth by applicable state law; falsification, destruction or unauthorized use of County records, reports, or other County data, including electronic media or data;
- F. being convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction directly relates to the particular job, trade, or profession;
- G. being convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly relate to the particular job, trade, or profession, if the County determines after investigation that the person so convicted has not been sufficiently rehabilitated to warrant the public trust.
- H. falsification of County employment application, health history forms or any other document used in the employment process;
- I. serious acts of negligence causing damage to County property, public or private property or injury to an employee or member of the public;
- J. intentional acts causing damage to County property, public or private property or injuring an employee or member of the public;
- K. conduct unbecoming an employee of the County;
- L. engaging in conduct prohibited under the County's Drug-Free Workplace Policy as provided in Section 11.4, below;
- M. insubordination or refusal to carry out reasonable directives;
- N. failure to meet standards of substance abuse rehabilitation programs;
- O. loss of license or certification necessary to legally perform the duties of the employee's position.
- P. determination of Hatch Act violation by Office of Special Counsel;
- Q. Behavior that demonstrates deliberate violations of policy, wrongful intent, evil design, or so as to reveal intentional and substantial disregard of the County's interests, or of employee's duties and obligations to the County of Cibola
- R. willful falsification of, or misrepresentation on, any work records; falsifying data or information requested by the County; forgery or inappropriate alteration of County records or other County documents (including written or audio or audio-visual media); and
- S. action or inaction that subjects the County to civil liability.

7.11 Examples Not Inclusive. The above examples are typical of the types of infractions sometimes encountered but are not inclusive of all situations that may arise. The County reserves

the right to exercise judgment and render disciplinary action or dismissal as deemed appropriate based on the circumstances of each case.

7.12 Pre-Determination (Loudermill) Hearing. Regular employees shall receive a pre-determination hearing prior to possible disciplinary action for cause or other action that may result in suspension without pay, demotion, and loss of pay, or involuntary transfer or dismissal. Prior to delivery of the written notice to the employee, the County Human Resources Director shall review the cause for such action and may require the proposed level of discipline be increased or decreased based on policy and past action. The hearing shall be held by the County Manager or his/her designee, for employees of each respective department.

7.13 Written Notice. The employee's supervisor, department director or elected official shall present the employee with written notification of their intent to conduct a pre-determination hearing at least five (5) working days in advance of the hearing date. The written notification shall explain the reasons for the hearing, the proposed discipline, the employee's right to attend the pre-determination hearing, a list of all evidence and/or witness to be introduced by the Department supporting the Department's position, the time, place and date of the pre-determination hearing and the employee's right to respond to the proposed action. The time, place and date of the pre-determination hearing can be revised upon the written agreement of the parties.

7.14 Immediate Suspension with Pay. In cases where County property, other employees or citizens or their property are at risk because of the employee's actions, the County Manager or in his/her absence, an appointed designee shall put the employee on administrative leave with pay until the pre-determination hearing is held and a decision is rendered. Any employee, who is placed on administrative leave pending disciplinary action, will be required to be away from their place of employment and will not be allowed to perform any job related duties or retain any County property during that time. Administrative leave pending disciplinary action shall not exceed thirty (30) calendar days, unless an extension of time is approved by the County Manager. Administrative leave with pay may also be granted by the elected official or department director, subject to the approval of the County Manager whenever circumstances warrant such leave.

7.15 Pre-Determination Hearing Procedure. The County Manager or his/her designee shall meet with the appropriate elected official or department director, and the employee if he or she chooses to participate, at the appointed time. The County Attorney may be present to assist the Hearing Officer/ County Manager but shall not advocate on behalf a County Department. Legal counsel for the employee and the department, if any, may also be present. At this hearing the employee will have an opportunity to respond to the reasons for the proposed action. Witnesses are permitted as determined relevant to the case by the County Manager or his/her designee. If an employee does not attend the pre-determination hearing and no good cause is shown for his/her absence, the hearing shall proceed as scheduled and a determination may be made.

7.16 Pre-Determination Hearing Decision. The County Manager or his/her designee will issue a decision in writing within ten (10) working days of the hearing. The decision will include the time, date and location of the meeting, persons present, and the determination. The written decision shall be either delivered to the employee (obtaining elected official or department director and witness', or employee's, signature of receipt of the decision) or be sent to the employee by certified mail, return receipt requested.

7.17 Notice of Grievance. Within five (5) working days of receipt of the written decision, the employee must notify the Human Resources Manager or his/her designee in writing of his/her intent to pursue a grievance hearing before a Personnel Appeals Hearing Officer.

SECTION VIII: GRIEVANCE PROCEDURES

The formal grievance procedure is applicable for promotion, suspension, demotion, involuntary transfer or dismissal. A grievance shall not stay the implementation of the pre-determination hearing decision.

8.1 Conditions or Actions Not Grievable. The following matters are not grievable:

- A. disputes as to whether or not an established County practice or Rules are valid;
- B. matters in which a method of review is mandated by law;
- C. matters where the County is without authority to act or does not have the ability to provide a remedy;
- D. dismissal of temporary, casual or contract employees dismissed at any point during their employment with the County;
- E. preferences for employment, promotions, voluntary transfers, temporary assignments, and removal from temporary assignments, and layoffs;
- F. dismissal of a probationary employee prior to the expiration of the probationary period;
- G. letters of complaint when the employee's elected official or department director determines the letters are justified and appropriate to be placed in the employee's personnel file, so long as the procedure for written reprimands are followed including the employee's right to submit a rebuttal;
- H. written reprimands in the employee's file, although within ten (10) days the employee is allowed a rebuttal of the information contained in the reprimand which will be attached to the written reprimand;
- I. denial of permission for outside employment;
- J. performance evaluations;
- K. Suspension from employment for three days or less.
- L. Denial of educational rewards or tuition reimbursement funding.

8.2 Employees Not Eligible for Grievance Procedure. Unclassified, temporary, casual, probationary or contract employees are not eligible to request a grievance hearing. Additionally the following employees are not entitled to the grievance procedure: County Manager, the Assessor's Chief Deputy, the County Clerk's Chief Deputy, the County Treasurer's Chief Deputy, the Under-Sheriff, the Sheriff's Administrative Secretary and the County Fire Marshal.

8.3 Grievance Procedure. A regular employee may request, in writing, a hearing before a personnel Hearing Officer within five (5) working days of receiving the County Manager's decision resulting from the pre-disciplinary process or from other action as may be grievable under this Policy. The request will state with specificity the reason for the grievance and the remedy requested.

8.4 Appointment of Personnel Hearing Officer. Within fifteen (15) working days of the grievant's notification of intent to pursue a disciplinary hearing, the County Manager will provide the grievant with the name of the Hearing Officer.

8.5 Hearing Officer Qualifications. Hearing Officers shall be personnel professionals, be familiar with public or private personnel systems, or have pertinent experience in the fields of management, education or law. The Hearing Officer shall be disinterested in the subject matter of the hearing. The County Manager shall verify the qualifications of the hearing officer. The hearing officer is not required to reside in the County.

8.6 Grievance Hearing Schedule. The County Manager will schedule a hearing to be held within thirty (30) days of the notification that the employee wants to pursue a grievance hearing. In the event no qualified Hearing Officer is available within the thirty (30) day limit, the hearing will be held at the first opportunity. At this hearing, the grievant shall have an opportunity to present witnesses and physical evidence and cross-examine the County's witnesses before a neutral hearing officer. The grievant and the County may be represented by legal counsel.

8.7 Grievance Hearing Procedures - Rules of Procedure.

- A. The hearing will not be open to the public.
- B. The hearing officer shall:
 - 1. make rulings on procedural and substantial issues of the hearing;
 - 2. determine the admissibility of evidence and testimony, all of which must have a direct bearing on the issue before the hearing officer; and
 - 3. issue a written ruling, including findings of fact, which form the basis of the hearing officer's conclusions of law.
- C. The grievant, the grievant's legal representative, if any, and the County Attorney are required to be present at the hearing unless otherwise excused by the hearing officer or by agreement of the parties.
- D. At least five (5) working days prior to the hearing, the parties or their representatives shall prepare and provide copies of all exhibits and evidence for the hearing officer as well as the opposing party. Exhibits and evidence not supplied in the manner detailed above shall be excluded from consideration by the hearing officer.
- E. At least five (5) working days prior to the hearing, all parties must submit to the hearing officer a confidential statement identifying the issues to be heard, a witness list, and a complete list of documents to be admitted as evidence. Further, at least five (5) working days prior to the hearing, witness lists and exhibits shall be exchanged between the parties.
- F. Each party will be responsible for ensuring that their witnesses are present for the hearing.
- G. Witnesses in grievance hearings are not permitted in the hearing room until called upon to testify, unless the witness is a party (i.e., the grievant, the grievant's Elected Official or department director, the County Manager, Human Resources Manager, or County Attorney).
- H. An audio or audio-video record of all grievance hearings will be made.

8.8 Conduct of Hearing. The Grievant shall present an opening statement of issues involved in the case, followed by the County. Opening statements are limited to the pertinent issues of fact and law and shall not exceed ten minutes without the permission of the hearing officer.

8.9 Order of Presentation.

- A. The County will present first. Witnesses for the County may be called and questioned concerning their involvement in or knowledge of the case. Following each witness's testimony, the Grievant will have the opportunity to cross-examine the witness. The hearing officer will then have an opportunity to question the witness. The hearing officer shall restrict all questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the hearing officer.
- B. Witnesses for the Grievant may be called and questioned concerning their involvement in or knowledge of the case. Following each witness's testimony, the County will have the opportunity to cross-examine the witness. The hearing officer will then have an opportunity to question the witness. The hearing officer shall restrict all questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the hearing officer.
- C. Following the presentation of the County's and the Grievant's positions, rebuttals may be offered. Such testimony shall be brief and shall address only the issues brought forth in the County's or Grievant's presentation.
- D. The County's closing statement shall be presented followed by the Grievant's closing statement. These statements shall not exceed ten (10) minutes without the permission of the hearing officer and shall contain a request for the desired outcome.

8.10 Communication of Hearing Officer's Decision. The hearing officer's decision will be issued within thirty (30) working days of the hearing and will be signed by the hearing officer, and transmitted to the grievant, the County Manager and elected official/department director. The hearing officer may uphold, modify or reverse the decision of the County Manager, and may reinstate the employee and award back pay and benefits. No attorney's fees, costs or other damages may be awarded. The standard of proof in a grievance hearing is a preponderance of the evidence. The record of the proceedings will be retained by the County Manager's office for a period of not less than five (5) years from the hearing date along with all of the physical evidence admitted by the hearing officer. The verbal record may be transcribed only in the case of appeal to the District Court by one of the parties. The party requesting the transcription shall pay for the transcription.

8.11 Appeal of Hearing Officer's Decision. Either party may appeal the hearing officer's decision to the District Court by filing with the District Court and the Human Resources Manager a Notice of Appeal within thirty (30) calendar days of the Hearing Officer's decision. A party may cross-appeal within thirty (30) days of the date another party files a Notice of Appeal. Both parties shall be forever estopped from appealing the Hearing Officer's decision after thirty (30) calendar days from the Hearing Officer's decision if no Notice of Appeal is timely-filed.

- A. These Rules, if certified to be complete by the County Clerk, and in effect at the material times, may be included in the record on appeal at the request of any one of the respective parties at any time before forwarding the record to the District Court.
- B. The appeal shall be one of review of the record (transcript) along with all the exhibits as admitted. No trial de novo will be accorded.

SECTION IX: COMPENSATION & BENEFIT PROGRAM

9.1 Purpose. The purpose of the compensation plan is to establish equitable compensation for all positions in the County. Such a plan may establish a salary schedule containing a minimum and

maximum wage or salary for each position. Pay ranges are intended to furnish administrative flexibility. However, all wages and salaries are approved by the Board during the budget process or otherwise. The Board has sole authority to budget and authorize wage and salary increases. The Board acknowledges all changes in compensation and may set pay schedules and Rules regarding any raises and promotional increases for the entire fiscal year for all County employees.

9.2 Hours of Work. Employees will work their scheduled hours pursuant to work schedules established by their department director or elected official. Full-time employees will work a minimum of forty (40) hours per week. Actual work periods may fluctuate at the discretion of the department director or elected official, with approval of the County Manager. Part-time employees are scheduled to work pursuant to scheduling set forth by their supervisors, the department director or elected official.

9.3 Overtime Pay. Only FLSA non-exempt employees shall be compensated for all time actually worked, whether or not the time is authorized. Failure to obtain authorization for overtime shall result in disciplinary action, up to and including dismissal. The rate shall be one and one-half (1½) times regular pay for each hour of overtime. Only actual time worked will be used to calculate overtime; holiday, annual, sick and other leave hours shall not be considered actual working hours. Holiday, annual, sick and other leave hours shall not be considered actual working hours.

- A. Regular employees: such payment shall be made only in cases when an FLSA non-exempt employee works over forty (40) "actual hours" in a normal work week.
- B. Law Enforcement and Detention Personnel: An FLSA non-exempt, law enforcement or detention employee shall be paid overtime according to FLSA regulations in excess of eighty-six (86) hours per pay period permitted by 29 U.S.C. Section 207(k).

9.4 Consistency with Fair Labor Standards Act. The provisions of Section 9.3 are subject to change or revision by the Fair Labor Standards Act and any federal regulation or revision thereof.

9.5 P.E.R.A. Benefits. All County employees, with the exception of those employees, who are subject to exclusion under P.E.R.A. rules, are required to join the Public Employees Retirement Association of New Mexico (P.E.R.A.).

9.6 Insurance Benefits. The County offers group insurance benefits to all employees as long as the employee is scheduled to work at least 30 hours per week and whose term of employment when hired is for six or more months. Independent contractors are not eligible under the County benefit plan. Insurance plans may be changed at the discretion of the Board or the insurance carrier.

9.7 Fringe Benefits. The County will follow the Internal Revenue Service's rules with regard to fringe benefits. Taxable fringe benefits will be included on the employee's W-2 form. (Examples of fringe benefits are: uniforms, uniform allowances, vehicle usage, County cell phones, etc.) If an employee has a question regarding what constitutes a fringe benefit and how that may affect him/her, the employee should contact the Human Resources Manager. Vehicles assigned as take-home vehicles must be properly identified with a logo as Cibola County vehicles.

9.8 Compensatory Time. The use of Compensatory Time is strongly discouraged and may only be awarded in accordance with the County's Compensatory Time policy.

- C. Compensatory time in lieu of cash compensation may only be given if there is no remaining overtime in the County Department's budget and shall be authorized only under emergency circumstances which call for immediate action or in special situations required by the nature of the operation or the status of the activity.
- D. Compensatory time in lieu of cash compensation may be given only if there is a current agreement entered into voluntarily between the employee, department head/elected official and the County Manager.
- E. The employee must have entered into this agreement before compensatory overtime work is performed. *(All requests must be made on the official county form attached to this policy and all lines must be completed)*
- F. Compensatory time off for FLSA non-exempt employees shall be at a rate equal to one and one-half (1.5) hours for each hour of employment for which overtime compensation is required. However, if the additional hours worked would not qualify as overtime (i.e. leave was taken during the work week), but the employee takes time off in lieu of payment such compensatory time would be accrued at the straight time rate.
- G. If compensatory time is authorized under this policy, it is the responsibility of that employee's department head to make every reasonable effort to schedule that employee time off during the same pay period so the employee does not work over a forty (40) hour work week so that compensatory time will accrue as straight time pursuant to section 5 above.
- H. The FLSA-covered employee who has accrued compensatory time off, and who has requested the use of compensatory time, shall be permitted to use the time within a reasonable period after making the request, if the use of compensatory time does not unduly disrupt the operations of the County as determined by the employee's supervisor.
- I. After accrual of 80 hours of compensatory time, any overtime worked must be paid. If compensation is paid to an employee for accrued compensatory time, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such a payment.
- J. A department head shall make every reasonable effort to schedule time off, for an employee to use accrued compensatory time, before June 30 of each year. Any accrued compensatory time off not used by an employee by June 30 shall be paid, to the employee two (2) weeks from the date the County's next fiscal year budget is approved by the New Mexico Department of Finance Administration, at the regular rate earned by the employee at the time the employee receives such a payment.

9.9 Training & Certification Rewards Program. Cibola County recognizes the benefit to the County and constituents when our employees work to obtain more knowledge in their field. Therefore, the County maintains a rewards program for those employees who do work toward certification. Only regular full-time employees are eligible for this program.

- A. Application for reward funds must:
 - 1. Be approved by the department head or elected office;
 - 2. Must be made prior to entering a program; and
 - 3. May be denied for non-availability of funds.
- B. Employees are not eligible for to receive reward money until all required coursework, testing, and completion of the any required project is approved and designated as

complete. The Human Resources Manager must also receive an official certificate for the employee's personnel file

- C. Rewards, not to exceed \$250 may be made for various training that meets the following criteria:
 - 1. The training is recognized nationally and testing is required, and
 - 2. It must be directly related to the employee's job or job series, and
 - 3. The training is not a part of the Minimum Qualification Requirements for the job or job series, and
 - 4. It cannot be post-secondary higher education, e.g., college hours and/or degrees and courses at secretarial or technical colleges (formerly called vocational-technical schools).
- D. Rewards not to exceed \$500 may be made to employees for attainment of a New Mexico Edge County College Core Certification or County College Affiliate Certification Program. However, employees are eligible for no more than two certifications within one fiscal year period. The maximum total reward amount an employee may be given for earning all NM Edge County College certifications is \$3000.00.
- E. Rewards of up to \$1000 may be made for attainment of a certification that
 - 1. Meets all the criteria listed in B.1 above
 - 2. If it is nationally recognized and a baccalaureate degree is required to apply for the certification.
 - 3. This certification requires a substantial amount of study and a comprehensive exam.
 - 4. This type of reward may be given only once to an employee.
- F. Payment of the reward will be made through the County's payroll system and may be subject to state or federal withholding taxes.

9.10 Tuition Reimbursement Program. It is the policy of Cibola County to assist employees wishing to improve their job knowledge by attending classes at an accredited academic institution. In keeping with such policy, the following tuition reimbursement program is available for all regular fulltime employees.

- A. Department heads/elected office must ensure the availability of financial resources within their department budgets to execute this program for an employee. Therefore, applications for reimbursement may be denied for non-availability of funds.
- B. Upon recommendation of the department head or elected official, the Human Resources manager may grant approval for tuition reimbursement if all the following requirements are met:
 - 1. The department head or elected official must certify the availability of funds in the department's budget;
 - 2. Approval for tuition reimbursement must be received by the Department Head and County Manager prior to the beginning of the any class;
 - 3. Tuition reimbursement shall be granted for courses taken that are job-related or degree-related in the field the employee is employed in and that will improve the employee's ability to perform at Cibola County;
 - 4. Employees must receive a final grade of "B" or better in order to be eligible to receive reimbursement and must present a certified final grade to the Human Resources Manager;
 - 5. Employees may receive reimbursement for required textbooks, if such textbooks are donated to the county at the completion of the course and the donation is approved by the department head or elected official; and

6. No employee shall receive more than \$800 in a fiscal year for tuition or book reimbursement.
- G. Upon the recommendation of the Human Resources Manager, tuition reimbursement will be made to the employee through the County's payroll system on the next pay period cycle. As a fringe benefit, this reimbursement may be subject to state or federal taxes.

SECTION X: LEAVE AND HOLIDAYS

10.1 Holidays

- A. The County Commission shall approve holidays at their discretion during the first meeting in January of each year, for the calendar year. All employees, except temporary and casual employees, are eligible for holiday pay. Holiday pay is equal to an employee's basic hourly rate of pay.
- B. Holiday Pay. A paid holiday means up to eight (8) hours paid compensation for time off in recognition of each designated County Holiday. Under no circumstances shall holiday pay exceed 8 hours. Part time employees are eligible to receive an amount of holiday pay in direct correlation to their standard or average hours of work compared to a 40-hour work week.
- C. Holiday Premium Pay. FLSA non-exempt employees authorized and required to work on the day a holiday is observed, shall be compensated one and one half (1 ½) times their hourly rate of pay for all hours actually worked on the employee's first shift. Contract employees, chief deputies, unclassified employees, FLSA exempt employees and temporary and casual employees are not eligible for holiday premium pay.
- D. Employees taking authorized leave with pay during a holiday shall not be charged for leave time during that holiday. Employees scheduled to work on a holiday who call in sick will not be paid holiday pay and the time will be charged against their sick leave accrual. An employee who is on leave without pay or absent without leave shall not be paid for the holiday.

10.2 Personal Holiday Leave. All regular employees who have completed the probationary period will have an eight (8) hour personal holiday each calendar year in addition to the regular holiday schedule. The personal holiday may be taken at any time, upon approval by the employee's supervisor. The entire eight (8) hours must be taken when requesting personal holiday leave. Personal holiday time may not be taken in hourly increments. Personal holiday leave shall not carry over beyond the current calendar year.

10.3 Annual Leave with Pay. Annual leave may not be used before it is accrued and must be approved with at least seven (7) days or more notice by the employee's supervisor prior to being taken. Employees accrue annual leave with pay in accordance with the following schedule, based upon continuous length of County service:

Table 10.1

Full Years of Service	Annual Days Accrued	Annual Hours Accrued and Per Pay Period
Less than ten (10) years	16.25	130 / 5.0

Ten (10) years or more	19.50	156 / 6.0
Twenty (20) years or more	26	208/8.0

10.4 Accrual Limitation. Total number of accrued annual leave hours shall not exceed a maximum of 280 hours.

10.5 Separation from Service or Change in Service Pay. Employees shall be paid for all accrued annual leave upon separation from county service. Upon change from FLSA non-exempt to FLSA exempt status, employees shall be paid a lump sum for the unused portion of their accrued annual leave at their non-exempt rate of pay.

10.6 Annual Leave Conversion. Employees taking a minimum of forty (40) consecutive hours of annual leave (not to include any holidays) are entitled to convert eight (8) hours of sick leave to annual leave per year. Annual leave conversions are processed at the end of the fiscal year.

Employees may convert a maximum of 24 hours accrued vacation leave for cash payment each fiscal year. Payment will be made on the basis of seventy-five cents (\$.75) for each one dollar's (\$1.00) value of leave for the employee.

10.7 Shared Leave Policy. Cibola County employees are permitted to donate or receive annual or personal leave for county employees with severe or extraordinary illnesses, or to provide care for relatives or household members with severe or extraordinary illnesses. Requests to receive shared leave require County Manager approval. A certificate of illness or injury will be required from a physician in order to qualify to use donated hours. Under no circumstances, including termination, can these donated hours be converted into cash.

10.8 Annual Sick Leave with Pay. Employees shall accrue a maximum of eighty (80) hours of sick leave with pay annually. Part-time employees accrue sick leave at the rate of 2.0 hours per pay-period. Casual and temporary employees do not accrue sick leave.

- K. Sick leave shall be authorized by the employee's supervisor, when such leave is requested, when an employee is unable to perform normal job duties due to medical considerations such as, but not limited to, the following: illness, injury, prearranged medical or dental examination, quarantine, therapy, counseling, treatment, or when a member of the employee's immediate family is ill and requires the personal attention of the employee.
- L. A maximum of six hundred (600) hours of sick leave shall be accrued and any sick leave above and beyond the six hundred (600) hours will be forfeited. Upon separation or retirement of an employee who has served five (5) or more years, the County shall pay the employee a sum equal to twenty-five percent (25%) of the value of his accumulated and unused sick leave, based on his/her average rate of pay for the preceding twelve (12) months.

10.9 Sick Leave Authorization. Sick leave may not be used before it is accrued and must be authorized or denied according to County policy. Unless otherwise prescribed by separate department policy, the following procedures shall apply:

- A. Reporting Sick Leave. For shift scheduled employees: sick leave shall be reported as soon as possible but no later than one (1) hour prior to the employee's work shift unless

the nature of the illness or injury requires extended leave, certified by the employee's physician, and of which the employee's supervisor is notified. For all other employees: sick leave shall be reported as soon as possible, but no later than thirty (30) minutes following the start of their normal work day.

- B. Sick leave shall be requested on the prescribed form and the approval or disapproval must be in writing. If an employee uses any falsehood to support a request for leave, any leave authorized may be rescinded and the employee may be subject to disciplinary action. Leave may be granted contingent upon the employee presenting sufficient justification.

10.10 Use of Sick Leave During Probationary Period. Probationary employees accrue sick leave as set forth in 6.1 D and may use sick leave if accrued.

10.11 Certification of Illness for Sick Leave. A physician's written certification may be required prior to receipt of sick leave pay at the discretion of the elected official or department director.

10.12 Sick Leave Incentive. A Cibola County employee who uses twenty (20) hours or less of sick leave per fiscal year will be able to convert eight (8) hours of sick leave to annual vacation leave. Exempt employees are not entitled to participate in this sick leave incentive.

10.13 Bereavement Leave. In the event of a death in the employee's immediate family, he or she will be entitled to bereavement leave. Up to three (3) days may be granted for an employee to attend the funeral of a member of his/her immediate family. These days will be charged against an employee's accrued sick leave. An additional two (2) days of sick leave may be authorized by the Elected Official or Department Head for extenuating circumstances.

10.14 Family Medical Leave

- A. The County provides family medical leave of absence without pay to eligible employees who wish to take time off from work duties to fulfill family obligations relating directly to the birth or adoption of a child or the illness of a child, spouse, domestic partner, parent or the employee themselves. Regular full-time and part-time employees are eligible to request family leave as described in these Rules.
- B. Eligible employees are allowed family/medical leave according to provisions of the Family Medical Leave Act (FMLA). As soon as an eligible employee becomes aware of the need for a family medical leave of absence, the employee shall request leave from their supervisor. Employees requesting family medical leave related to the illness of a child, spouse, domestic partner, parent or the employee themselves shall be required to provide a healthcare provider's certification of employee/family member's serious health condition. Eligible employees who do not request family medical leave in advance of a qualifying event will automatically be placed on family medical leave as soon as it is determined by the Human Resources Director that their leave qualifies for protections under FMLA.
- C. The County may require an employee to submit to a fitness for duty return to work exam when the need for FMLA leave is based on the employee's own serious health condition that may affect the essential functions of the employee's job. The County must notify the employee of this requirement at the beginning of the leave.
- D. Eligible employees are allowed up to twelve (12) weeks of family medical leave or up to twenty-six (26) weeks of leave, in a single 12-month period, to care for a covered service

member recovering from a serious injury or illness incurred in the line of duty on active duty. Eligibility for leave will be determined on a twelve (12) month rolling-back calendar. The employee will be required to take any available annual or sick leave as part of the approved period of leave. If the family medical leave is unpaid, the employee is subject to all rules pertaining to leave without pay, section 10.20.

- E. Subject to the terms, conditions and limitations of the applicable plans, the County will continue to provide health insurance benefits for the full period of the approved family/medical leave, subject to all rules pertaining to leave without pay, Section 10.20.
- F. When family medical leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee qualifies. The County guarantees reinstatement to all eligible employees who are not key employees. If the employee fails to return to work or contact their supervisor on or before their expected date of return, the County will assume that the employee has abandoned their job. The following appointed positions as listed in the Personnel Policy ordinance are key employees within the County and may or may not be eligible to take family medical leave:
 - 1. County Manager
 - 2. Under-Sheriff
 - 3. Deputy Assessor
 - 4. Deputy Clerk
 - 5. Deputy Treasurer
 - 6. Sheriff's Administrative Secretary
- G. According to FMLA, key employees are not guaranteed reinstatement; however, the Board (for contract and unclassified employees), and a department director or elected official may authorize reinstatement, as appropriate subject to approval by the County Manager.

10.15 Administrative Leave. Administrative leave with pay may be granted by the elected officials or department director pending an investigation or disciplinary action, subject to the approval of the County Manager as subject to all rules pertaining to Immediate Suspension with Pay, Section 7.14.

10.16 Workers' Compensation Program. [§§52-5-1 et. seq., NMSA 1978]

- A. The County provides a comprehensive worker's compensation insurance program at no cost to employees. This program covers any injury or anyone suffering from occupational diseases sustained in the course of employment as approved by the insurance carrier. Subject to applicable legal requirements, Workers' Compensation insurance provides benefits after a short waiting period, or if the employee is hospitalized immediately.
- B. Employees who sustain work-related injuries or occupational diseases must inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible. A "First Report of Injury" shall be filed with the Human Resources Manager following the work-related injury. The report shall be signed by the employee and the employee's supervisor. In addition, the supervisor's "Accident Investigating Report" will be filed on the following work day. All accidents shall be reported, however minor.
- C. Neither the County nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary

participation in any off-duty recreational, social, athletic activity, or similar events off-duty.

- D. Subject to the terms, conditions and limitations of the applicable plans, the County will continue to provide health insurance benefits while the employee is receiving worker's compensation benefits, subject to the provisions of Section 10.16 C. Eligible employees will automatically be placed on family/medical leave as soon as the Human Resources Manager determines that their leave qualifies for protection under the Act.

10.17 On-The-Job Injury Leave. An employee injured on the job may use accrued sick leave until exhausted and then the use of annual leave is permissible for each regularly scheduled working day after the injury occurs for all such days that are not paid by Workers' Compensation Insurance. If the employee is on worker's compensation time for more than four (4) weeks, and is entitled to compensation for the first seven (7) days and has used accrued leave for the first seven (7) days of injury, the workers' compensation payments received for all such days shall be paid directly to the County by the workers' compensation carrier. In the event an employee uses accrued leave, in lieu of workers' compensation, the leave used shall be re-credited to the employee upon the County's receipt of the reimbursement by the Workers' Compensation carrier after the expiration of the statutory waiting period.

10.18 Voting Leave. For purposes of national, state or local election, an employee who is registered to vote will be granted up to two (2) hours paid leave for voting, between the time of opening and the time of closing of polls. The employee's supervisor may specify the hours for the leave. This leave will not be granted to any employee whose work day begins more than two (2) hours subsequent to the time of the opening of the polls, or ends more than three (3) hours before the closing of the polls.

10.19 Court Service Leave with Pay. Pay for jury duty shall be authorized only for those days that the employee is scheduled to work. If excused by the court during a working day, the employee shall return to work. Employees serving as jurors shall file for jury pay and turn in any pay received to the County. Any jury duty worked beyond their regular work hours shall be refunded back to the employee.

A. Procedures for Jury Duty Time:

1. Juror Service Verification form from the Court must be attached to the Leave Request Form.
2. Reconciliation of time by Payroll will include matching Jury Hours Summary Sheet received by the Court to time sheet, leave form and Juror Service Verification form.

- B. Court Appearance Time. When required by County duties and subpoenaed to appear before a Court, personnel Hearing Officer, public body or the Board for the purpose of testifying in regard to County matters, the employee will be compensated as regular work time.

10.20 Leave Without Pay. The department director or elected official, with the approval of the County Manager, may grant an employee leave without pay for a period not to exceed six (6) months, when the department director or elected official deems that such leave without pay is in the best interest of the County. Reasons for such leave may include, but are not limited to, medical disability, pregnancy, birth or adoption of a child, and the need to care for a family member. Leave without pay is subject to the following conditions:

- A. **Re-employment upon Return.** If an employee returns to work within three (3) months, the employee will be returned to the same position. If the employee is on leave without pay for more than three (3) months but less than six (6) months, the County will attempt to return an employee to the same or similar position for which the employee is qualified. The position of an employee on leave without pay for more than three (3) months shall not be guaranteed. If there is not a position for the employee at the end of six (6) months, the employee shall be dismissed.
- B. **Physician's Certificate.** Leave without pay requested due to medical reasons or pregnancy-related purposes must be accompanied by a physician's written statement indicating the estimated time disability or recommended time for post-natal leave. An employee returning to work from leave without pay due to medical or pregnancy-related reasons must be released by the employee's physician to return to work.
- C. **Temporary Filling of Position.** Temporary employees may be hired to fill vacancies created by an employee who is on leave without pay.
- D. **Benefits at Employee's Expense.** An employee on leave without pay does not accrue leave or County benefits. The employee wishing to continue receiving insurance benefits may do so at the employee's expense by submitting the employee's and the county's share of the premium to the Human Resources Manager on or before the regular pay day.
- E. **Failure to Report Timely.** Failure on the part of the employee to report to work immediately to the assigned shift following the last day of the request, upon the expiration of approved leave without pay, shall be subject to disciplinary action.

10.21 Life Threatening Illnesses in the Workplace. Employees with life-threatening illnesses, such as cancer, heart disease, and AIDS, often wish to continue their normal pursuits, including work, to the extent allowed by their condition. The County supports these endeavors as long as employees are able to meet acceptable performance standards. As in the case of other disabilities, the County will make reasonable accommodations in accordance with all legal requirements, to allow qualified employees with life-threatening illnesses to perform the essential functions of their jobs.

- A. Medical information on individual employees is treated confidentially. The County will take reasonable precautions to protect such information from inappropriate disclosure. Management, as well as other employees, has a responsibility to respect and maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information is subject to corrective or disciplinary action up to and including dismissal of employment.
- B. The Health Insurance Probability and Accountability Act (HIPAA) and the Americans with Disabilities Act (ADA) require the County to maintain the privacy of protected health information. A copy of the County's HIPAA Notice of Privacy Practices can be obtained from the Human Resources Manager's office.

10.22 Inclement Weather. The County Manager may close offices, authorize late reporting or early release due to inclement weather, and all employees will be compensated for normal work hours as administrative leave with pay and shown on a Leave Report Form. Inclement weather leave with pay will not exceed eight (8) hours in one work day.

10.23 Leave For Unforeseen Circumstances. The County Manager may close individual offices, authorize late reporting or early release due to unforeseen conditions beyond the

County's control that prevent the employees from performing their duties as administrative leave with pay and shown on a Leave Report Form.

10.24 Military Leave.

- A. The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects the job and benefits, for up to five years (or more in some cases), of a service member who must leave his or her civilian job because of military orders to report for training or active duty, voluntary or involuntary, in peacetime or wartime.
- B. Military Leave for Reserve or National Guard Activities (§ 20-I-1 NMSA 1978). USERRA requires service members, or a responsible representative of the military unit, to provide advance written or verbal notice to their employers for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity. Paid Military leave is granted for authorized reserve or National Guard activities for a maximum of fifteen (15) working days with pay during a one (1) year period based on the federal government's fiscal year from October 1 to September 30. Military leave must be requested twenty (20) working days in advance, unless a national or state emergency exists and an immediate call-up is initiated in which case notice as soon as possible is required. The employee must furnish proof of duty orders or other documentation prior to leave being granted unless the leave is for emergency purposes.
- C. Extended Unpaid Military Leave. Employees voluntarily or involuntarily serving on active duty for more than fifteen (15) working days may use accrued annual leave. When military leave has been exhausted, employees have the option of being placed on leave without pay (LWOP) or using accrued leave. Employees may use all of their annual leave on consecutive days or use up to twenty-seven (27) hours per pay period in order to maintain their group insurance benefits. Employees who exhaust their annual leave shall then be placed on LWOP for the remainder of time they are on active duty. Employees shall not receive pay or accrue leave while on LWOP. Employees wanting to maintain insurance benefits while on military duty will be required to pay the employee's share of their premium.
- D. Service members are entitled to return to their County job and receive pay raises, promotions, pension credit and other seniority benefits as if you had been continually employed, provided certain eligibility criteria are met. Protection under the USERRA applies if:
 1. The job the employee left was for more than a brief, non-recurrent period, with no reasonable expectation that such employment would continue indefinitely or for a significant period.
 2. The employee left this job for the purpose of entering active duty.
 3. The employee is discharged under honorable conditions.

AND

4. The employee applied for reemployment within the applicable time limit.

E. If these criteria are met, the USERRA provides the following protections:

1. The employee is entitled to return to the prior position with the same seniority, benefits, pay, and, additionally, any promotion or raise which could have been

- reasonably expected if the employee had remained continuously on the civilian job.
2. The County is required to offer disabled veterans the "nearest approximation" of the job the service member could have reasonably expected with continuous employment.
 3. Service members are protected from being discharged for the protected time period allotted by USERRA according to the time served on active duty, unless the County proves misconduct or violation of policies.
 4. To be re-employed in the same position, the employee's return to work must occur within the following guidelines:
 - i. For a service period of 1-30 days, the employee must report to work immediately by the first regularly scheduled work day;
 - ii. For a service period of 31-180 days, the employee must make application for re-employment within 14 calendar days after he/she is relieved from training or duty;
 - iii. For a service period of 181 days or more, the employee must make application for re-employment ninety (90) calendar days after he/she is relieved from training or duty;
 - iv. An employee who is released from hospitalization of a service-related injury, continuing after discharge for a period of not more than one (1) year, must make application for re-employment ninety (90) calendar days after he/she is relieved from training or duty.

F. Employees may qualify for up to twelve (12) weeks of leave for certain qualifying exigencies arising out of a covered military member's active duty status, or notification of an impending call or order to active duty status, in support of a contingency operation under the FMLA.

10.25 Light Duty Return-To-Work. Employees who are on leave due to an injury or illness may be eligible to return to work on light duty status after their physician certifies their fitness to do so. The department director or elected official and the Human Resources Manager will determine if there is a position or duties suitable for an employee to perform light duty work. The County retains full discretion as to whether or not an employee is eligible for light duty status.

- A. **Coordination with Attending Physician.** An employee on leave due to a work-related disability can return to work only when the County receives the attending physician's written medical release authorizing such return. The Human Resources Manager is responsible for providing the physician with a copy of the employee's job description, copies of job descriptions for potential restricted duty assignments, and written information explaining the County's return-to-work program.
- B. **Return-to-Work Options.** Arrangements to facilitate an employee's early return to work are made in consultation with the employee's attending physician and/or other qualified medical professionals retained by the County or its insurance carrier. The following options will be explored:
 1. **Return to prior position.** An employee is offered the opportunity to return to his or her prior position if the attending physician certifies that the employee can perform the essential functions of the job with or without reasonable accommodations. The Human Resources Manager or his/her designee is responsible for working with the employee's supervisor and attending physician

(and third-party consultants, as necessary) to provide any reasonable accommodations.

2. Restricted duty. Any employees who are not yet able to return to their former duties are offered, subject to the restrictions set out in Section 5.2 of these Rules, a temporary restricted duty assignment that has been approved by the employee's attending physician. The Human Resources Manager is responsible for working with the employee's supervisor, and the employee's attending physician to develop and implement the restricted duty assignment. The assignment can consist of the employee's regular job, with reduced working hours or reduced activities, or an alternative restricted duty position.

C. Limitations on Restricted-Duty Assignments. The following limitations apply to restricted duty assignments:

1. No guarantee of work. As provided in Section 5.9 of these Rules, the County will endeavor to return employees to gainful employment as soon as possible by exploring possible restricted duty assignments. However, the County does not guarantee the availability of restricted duty work.
2. Pay rates and Workers' Compensation benefits. Employees on restricted duty are not guaranteed the rate of pay they received for the position they held at the time they sustained their work-related injury or illness. The pay rate for a restricted-duty assignment is based on the knowledge, skills, and abilities required for the job as well as general market conditions. Employees who return to work before they have reached maximum medical improvement (MMI) may be eligible for temporary partial disability benefits under the state Workers' Compensation program, if they earn less than they earned in the position held at the time they sustained the work-related accident or illness. Employees in restricted duty positions are not permitted to supplement their workers' compensation benefits by using their accrued annual, personal, or medical/sick leave.
3. Four (4) week limit. Restricted duty assignments are temporary arrangements intended to complement and facilitate the healing process. Restricted-duty assignments cannot exceed four (4) weeks without approval from the department director or elected official and approved by the County Manager.

D. Employee Refusal of Work/Training. In the event that an employee refuses to return to regular or restricted duties in response to a written, bona fide offer of employment by the County sent via certified mail, the employee is separated from the County and his/her position will be filled permanently (NOTE: An exception to this rule applies in the case of employees who have not yet exhausted their FMLA leave entitlement, refer to subsection F.).

A written offer of employment shall be on a form promulgated by the County Manager and must clearly state:

1. The position offered and the duties of the position;
2. The County's agreement to any limitations or conditions set out in the attending physician's certification of the employee's fitness to return to work;
3. The job's essential functions; and
4. The job's start date, wage, working hours, supervisor and location;
5. Length of assignment and required training.

E. Coordination with FMLA. Nothing in these Rules should be construed as denying employees their rights under the FMLA or any other federal or state law.

- F. It is the County's policy to designate an employee's absence from work due to a work-related injury or illness as FMLA leave to the extent allowed by federal law. Employees entitled to FMLA leave can voluntarily accept restricted duty assignments while they are recuperating, but they cannot be required to do so. Employees who lose their workers' compensation benefits as a result of declining a restricted duty assignment are required to substitute any available paid leave, such as accrued annual, personal, or medical/sick leave, for unpaid FMLA leave.
- G. Until employees have exhausted their twelve (12) week FMLA entitlement, they have the right to be reinstated to their original job or an equivalent job providing they are able to perform the job's essential functions.

10.26 Change in FLSA Status

- A. Upon change from FLSA non-exempt to FLSA exempt status, employees shall be paid a lump sum for the unused portion of their accrued compensatory leave, overtime, sick leave and vacation leave.
- B. The lump sum payment shall be calculated based on the non-exempt salary rate.
- C. Upon change from non-exempt to exempt status and transfer to a new department, employees shall be paid the lump sum for the unused portion of their accrued compensatory leave by their previous department.
- D. If an employee's change in status is contingent upon a 90 day trial period, pursuant to section 5.2 of this Ordinance, the lump sum payment shall not be made until successful completion of the trial period.

SECTION XI: SUBSTANCE ABUSE POLICY

11.0 Purpose

- A. The Cibola County Commission has adopted this employee substance abuse policy and a drug and alcohol testing policy for the County of Cibola, Sheriff's Department, Road Department, Detention Center Department, Solid Waste Department and all other safety sensitive employees. A safety sensitive employee is an employee who performs duties for the County of Cibola which have safety ramifications for themselves, fellow employees and the general public. These positions may include but are not limited to employees who operate equipment/vehicles, have access to confidential information and/or receive calls for public service.
- B. The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from the risks posed by the misuse of alcohol, the use of prohibited drugs and the misuse of legal drugs. The County is concerned only with those situations where use of alcohol and other drugs seriously interferes with any employee's health, his job performance and adversely affects the job performance of other employees or is considered to be so serious as to be detrimental to the County's operations and the safety of himself/herself and others. There is no intent to intrude upon the private lives of employees.

11.1 Safety Sensitive Employees. This policy applies to all safety-sensitive positions within the County of Cibola. All safety sensitive employees for the County of Cibola are covered by this policy. Adherence to this testing policy is a condition of employment for all safety-sensitive positions. Safety-sensitive functions refer to any functions contained within an employee's realm

of responsibilities that have an impact upon the safety and general welfare of the public. It has been determined by the County of Cibola that there are positions within the County of Cibola, which are of a safety sensitive nature and as such, create the need for compliance with this policy.

11.2 Policy. The County of Cibola is dedicated to providing safe, dependable and economical services to our public. County of Cibola employees are our most valuable resource and it is our goal to provide a healthy, satisfying working environment, which promotes personal opportunities for growth. In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

- A. All safety-sensitive employees will receive training on the effects and consequences of prohibited drug or alcohol use on personal health, safety and the work environment, and the signs and symptoms which may indicate prohibited drug or alcohol use. The County will schedule mandatory classes but it is ultimately the responsibility of the employee to attend a class provided for by the County.
- B. All department heads and supervisors designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol/drug testing will receive training on the physical, behavioral, speech and performance indicators of probable prohibited drug or alcohol misuse.

11.3 Prohibited Substances. "Prohibited substances" addressed by this policy include the following:

- A. Illegally used controlled substances or drugs. Includes, but is not limited to: marijuana, amphetamines, methamphetamines, opiates, phencyclidine (PCP), and cocaine, as well as drugs not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. The collection agency shall adhere to all requirements outlined in 49 CFR, Part 40 DOT Guidelines in determining what constitutes a positive test.
- B. Legal Drugs. The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected shall be reported by the employee to supervisory personnel and medical advice shall be sought by both the employee and supervisor, as appropriate, before performing safety-sensitive functions. A legally prescribed drug means that an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, frequency and the period of authorization. The misuse or abuse of legal drugs while performing official business is prohibited.
- C. Alcohol. The use of beverages or medications containing alcohol, subject to Paragraph 11.3(B) above.

11.4 Prohibited Conduct

- A. **Manufacture, Trafficking, Possession, and Use.** Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or sale of prohibited substances while on duty on County premises, or in County vehicles. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.
- B. **Intoxication/Under the Influence.** Any safety-sensitive employee who fails a drug test or has a breath alcohol concentration of 0.04 or greater shall be removed from their safety-sensitive position and referred to an SAP (substance abuse professional). A safety-sensitive employee with a breath alcohol concentration of 0.02 or greater, but less than 0.04 shall be immediately removed from their safety-sensitive position for a minimum of 8 hours or until they can pass an alcohol test with a BAC of less than 0.02. If a breath analyzer is unavailable, testing will be conducted via blood test.
- C. **Alcohol Use.** No safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No safety-sensitive employee shall use alcohol while on duty, or while performing a safety-sensitive function. No safety-sensitive employee shall use alcohol within four hours of reporting for duty; or during the hours that they are scheduled on call; or up to eight hours following an accident or until tested; or anytime during a period when that employee may have to perform safety-sensitive functions. Employees, who are not scheduled on call, shall upon being notified to report to duty, acknowledge alcohol use and their inability to perform his/her safety-sensitive function and shall be excused from doing so without further consequences. No County employee under the age of 21 shall have a breath alcohol concentration of .02 or greater at any time while performing duties for the County. Violation of these provisions is prohibited and punishable by termination.
- D. **Compliance with Testing Requirements.** All safety-sensitive employees shall be subject to urine drug testing and breath alcohol testing. Refusal to comply with a request for testing, refusal to sign the drug testing chain of custody form, refusal to sign Step #2 on the alcohol breath testing form, inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation, tampering with or attempting to adulterate the specimen or collection procedure or not reporting to the collection site in the time allotted, shall constitute a verified positive test result.

11.5 Testing Which Results In a Dilute Specimen

A. Definitions:

Dilute Drug Screen – A drug screen which is identified by the testing lab as an irregular specimen pertaining to the specimen's specific gravity and creatinine concentration. (The irregularity in specific gravity minimizes the reliability of the testing procedure and therefore reduces the reliability in the results.)

Primary Test – A test which is conducted under Sections 11.10, 11.11 or 11.12.

Monitored Tests – The County of Cibola will offer all employees who are required to take a second level test the opportunity to have the test monitored by a supervisor.

B. Dilute Drug Screen Procedure:

A dilute drug screen for Sheriff Department, Road Department, Detention Center Department and all other safety sensitive County employees who are covered by this policy will be handled as follows:

1. Primary Test:

Identified as Dilute

- a. The employee shall enter into a re-entry contract as defined in Section 11.17 and 11.18 or
 - b. If the employee's physician certifies in writing that there is a valid medical cause for the dilute result, unrelated to illegal drug use or prescription drug abuse, the employee may submit to a hair sample test, at the County's expense, to contest the results.
 - c. The employee without a physician's certification, may submit to a hair sample test to contest the results if the employee pays, in advance, for the cost of the test.
- 2. Second Level Test (test for re-entry purposes or follow-up tests defined within a re-entry contract):**
- a. Monitored Dilute – The County will accept the test results as provided by the lab (a test will be monitored only at the request of the employee)
 - b. Unmonitored Dilute – Shall result in termination as stated in the re-entry contract.

C. Dilute Specimen Test for Employment Applicants: Any applicant for employment with Cibola County whose pre-employment drug and alcohol screen test is identified as dilute, shall not be eligible for employment and is precluded from re-application for employment for:

1. a period of six (6) months from the date of the test or
2. The applicant may submit to a hair sample test to contest the results if the applicant pays, in advance, for the cost of the test. In the event the hair sample test results are negative, the applicant will be eligible for immediate hire.
3. If the employee's physician certifies in writing that there is a valid medical cause for the dilute result, unrelated to illegal drug use or prescription drug abuse, the employee may submit to a hair sample test to contest the results.

11.6 Treatment Requirements. All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with County of Cibola requirements for treatment, after care, or return to duty will be subject to termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

11.7 Proper Application of the Policy. The County of Cibola is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, department heads/supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any department head/supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, will be subject to disciplinary action, up to and including termination.

11.8 Testing Procedures.

- A. All safety-sensitive employees of the County of Cibola shall be subject to drug (urine) and alcohol testing for reasonable suspicion, return to duty, follow-up or random and may be subjected to testing following an accident. Follow-up testing will be conducted for a period of one to five years, with up to six tests performed during the first year and as many as four in subsequent years. The Substance Abuse Professional (SAP) may determine the frequency and duration of follow-up testing.
- B. Testing shall be conducted using techniques, equipment and certified laboratory facilities to ensure a high degree of accuracy and reliability. Alcohol testing may only occur during or immediately before/after performing safety sensitive duties and up to eight hours following an accident. Drug testing may occur any time while performing duties for the County of Cibola and up to 32 hours following an accident.

11.9 Pre-Employment Drug & Alcohol Screening. All applicants for employment with Cibola County shall be required to take a drug and alcohol screening test when they report for their pre-employment medical examination or when otherwise directed by the County Manager or his/her designee. Any applicant for employment with Cibola County who's pre-employment drug and alcohol screen test is identified as positive, shall not be eligible for employment and is precluded from re-application for a period of one (1) year from the date of the test.

11.10 Employee Requested Testing. Any safety-sensitive employee who questions the result of a required drug test under paragraphs 11.10 through 11-15 of this policy may request that an additional test be conducted. This test will be conducted at a different certified laboratory. The test will be conducted on the split sample that was provided by the employee at the same time as the original sample. The method of collecting, storing, and testing the split sample will be consistent with acceptable testing standards. The employee's request for a split sample test must be made to the Medical Review Officer* within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee. An employee requested test will be at the expense of the employee.

11.11 Reasonable Suspicion Testing. All employees shall be subject to urine and/or breath testing when there is reasonable suspicion to believe the employee is under the influence of prohibited substances. A reasonable suspicion referral for testing will be made on the basis of articulatable objective facts and circumstances, which are consistent with the short-term effects of substance abuse. Examples of reasonable suspicion include, but are not limited to the following:

- A. Physical signs and symptoms consistent with prohibited substance use.
- B. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances.

- C. Occurrence of an accident that may have been caused by use of a prohibited substance or alcohol misuse.
- D. Fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

11.12 Post-Accident Testing. Any County employee involved in an accident occurring on County property or involving County equipment/vehicle may be subject to a drug or alcohol test at the request of the Department Head and approval of the County Manager.

* Medical Review Officer – See DEFINITIONS Section 11.21.

11.13 Random Testing

- A. Employees in safety-sensitive positions shall be subjected to random, unannounced drug testing. The selection of safety-sensitive employees for random drug testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made. The random tests will be unannounced and spread throughout the year on all days and during all hours of operation.
- B. When a safety-sensitive employee is informed of a random drug test they must be tested as soon as is practicable but in a time not to exceed 3 hours. All employees who have been randomly selected or are testing in conjunction with Rule 11.11 will be notified, in writing, by the County Manager a department head or supervisor. All tests will be collected as a split sample giving the employee the opportunity to exercise his/her right to an additional test (Section 11.10) on the sample which was collected. Should the County's agent not collect a split sample, the results of the test, for which a split sample was not collected, will be disregarded by management and the employee will not be required to re-test for this specific testing period.
- C. All safety sensitive employees shall be placed in a selection pool and random drug testing shall come from this predetermined pool. The individual pools shall be defined as follows:
 - 1. Sheriff's Department
 - 2. Road Department
 - 3. Detention Center
 - 4. Waste Management Department
 - 5. All other safety-sensitive employees
- D. Shift employees, or employees who are not at work on the day of the scheduled test (random or otherwise), and who have been selected for testing, will be required to test immediately upon their return to work/duty and will be notified and expected to adhere to the rules as described above.

11.14 Return-To-Duty Testing*. A return-to-duty test is required of an employee who has had a positive drug or alcohol test and must be passed (negative non-dilute) before they can return to a safety-sensitive position. The SAP must first clear the employee to return-to-regular-duty after the evaluation and insure the employee has consented to treatment. The return-to-duty test may be for drugs and/or alcohol as required. Any work missed due to a positive drug/alcohol test or

due to treatment shall be charged to the employee's sick leave and/or annual leave (employee's choice) or leave without pay if the employee has no leave balances.

11.15 Follow-Up Testing* Once allowed to return to duty, safety-sensitive employees shall be subject to unannounced follow-up testing for at least 12 but not to exceed 60 months. The frequency and duration of the follow-up testing may be recommended by the SAP as long as not more than six tests are performed during the first 12 months after the employee returns to duty. Follow-up testing is separate from and in addition to the random testing program.

11.16 Employment Assessment. An SAP may refer any safety-sensitive employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds for evaluation. An SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related and drug-related disorders. The SAP may evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse. Employees may select the SAP of their choice as long as the criteria above is met.

11.17 Departmental Rule for Positive Drug/Alcohol Test.

- A. Any probationary employee who, as a result of this policy tests positive for drugs and/or alcohol, will be terminated immediately.
- B. Any employee who has been placed on time for improvement and who tests positive for drugs/alcohol as defined by this policy will be terminated from employment.
- C. Sheriff's Department & Detention Center (includes certified law enforcement officer, dispatchers, administrative personnel, detention center officers and animal control officers).
 - 1. A positive prohibited substance/alcohol test for an officer or dispatcher shall be reported to the New Mexico Law Enforcement Academy Director as outlined in the NMLEA Handbook Subsection B4 of 10.29.1.11 NMAC.
 - 2. Any certified or uncertified law enforcement officer, dispatcher, administrative personnel, detention center officer or animal control officer who tests positive for prohibited substances and/or alcohol under this policy shall be terminated from employment with the County of Cibola, Section 7.10.
 - 3. Any County of Cibola Deputy, Dispatcher, Animal Control Officer, Detention Center Officer or Sheriff Administrative Personnel whose primary test is determined to be a dilute test will be subject to the terms and conditions as defined below (this does not include tests taken as a result of a re-entry contract which are monitored tests and are determined to be dilute):
- D. Road Department and Solid Waste Department covered employees (any employee who operates machinery, heavy equipment or has a CDL)
 - 1. Any Road Department and Solid Waste Department covered employee who tests positive for prohibited substances and/or alcohol under this policy shall be terminated from employment with the County of Cibola, Section 7.10.
 - 2. Any Road Department and Solid Waste Department covered employee whose primary test is determined to be a dilute test will be subject to the terms and conditions as defined below (this does not include tests taken as a result of a re-entry contract which are monitored tests and are determined to be dilute):

- E. Any County of Cibola Sheriff Department, Detention Center, Road Department and Solid Waste Department employees (as defined above) who are covered by this policy and whose primary test is determined to be dilute as herein defined, shall be subject to the terms and conditions of:
 1. The re-entry contracts defined below;
 2. Rule 11.13 of this policy, and;
 3. Rule 11.14 of this policy.
 4. If applicable, any CDL provisions that may apply.
- F. County of Cibola safety sensitive employees shall be terminated upon violation of any of the terms and conditions of the individual's re-entry contract (defined below). An unmonitored dilute, second level test for Sheriff Department, Detention Center, Road Department and Solid Waste Department employees (subject to a re-entry contract) shall result in termination of employment

11.18 Re-Entry Contracts (general safety sensitive employees).

- A. Employees who re-enter the workforce must agree to a re-entry contract. That contract may include, but is not limited to:
 1. A release to work statement from the Substance Abuse Professional.
 2. A negative test for drugs and/or alcohol. (Section 11.14)
 3. An agreement to unannounced frequent follow-up testing for a period of one to five years with up to six tests performed the first year (Section 11.15).
 4. A statement of expected work-related behaviors.
 5. An agreement to follow specified after care requirements with the understanding that violation of the re-entry contract is grounds for termination.
 6. County of Cibola safety sensitive employees shall be terminated upon violation of any of the terms and conditions of the individual's re-entry contract (defined below). An unmonitored dilute, second level test for Sheriff Department, Detention Center Department Road Department or Solid Waste Department employees (subject to a re-entry contract) shall result in termination of employment.
- B. Any safety sensitive employees not covered above shall be terminated upon violation of any of the terms and conditions of the individual's re-entry contract (defined below).

11.19 Detection. The County reserves the right to inspect, at any time, all County property and all County vehicles and equipment for the presence of prohibited substances or alcohol. All inspections will be scheduled as deemed necessary by the County Manager or his/her designee and conducted by the Cibola Sheriff's Department.

11.20 Voluntary Request for Assistance.

- A. The County of Cibola intends to give the same consideration to persons who voluntarily request assistance (prior to being randomly selected or selected for cause) with chemical dependencies as it does to employees having other diseases.
- B. Early recognition and treatment of chemical (drug and alcohol) dependency problems is important for successful rehabilitation and reduced personal, family and social disruption. The County supports sound treatment efforts and an employee's job will not be jeopardized for conscientiously seeking assistance prior to random selection or selection

for cause. Normal County benefits, such as sick leave and the group medical plan, are available to give help in the rehabilitation process to any employee who voluntarily requests assistance for chemical dependencies.

11.21 Definitions

Medical Review Officer (MRO) – The MRO is a licensed physician who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate positive drug test results. The List of primary responsibilities below is followed by standard operating procedures necessary to carry out those responsibilities:

- A. Receive test results from the laboratory
- B. Review all drug testing results prior to reporting
- C. Verify that the laboratory report and assessment are correct
- D. Review and interpret each confirmed lab tested positive result
- E. Conduct a medical interview, providing an opportunity for the employee to discuss a positive test result
- F. Notify employer of verified positive test
- G. Process employee request for re-test
- H. If necessary, re-analyze the original specimen to determine the accuracy of the test result

11.22 Records

- A. All records of the controlled substance abuse prevention program must be kept in a secure location with controlled access in the County Manager's Office. Regulation requires that certain records according to their importance be maintained for varying lengths of time, from one (1) to five (5) years.
- B. Records must be kept confidential and be made available for inspections by the County Manager within two (2) business days following a request by an authorized representative of the Federal Highway Administration. These records should not be made a part of a driver's personnel file.
- C. The following are entitled access to these records through approval of the County Manager:
 - 1. CDL Issuer or his/her representative;
 - 2. The Secretary of Transportation;
 - 3. Any Department of Transportation Agency;
 - 4. Any State or Local Official with regulatory authority over the employee;
 - 5. Any prospective employer with the employee's written permission.

11.23 Confidentially. No laboratory reports or test results shall appear in the employment personnel file unless they are a part of a disciplinary action, but shall be placed in a special locked file.

SECTION XII: EMAIL & INTERNET USE

12.0 Access. Access to the Internet through the Cibola County is a privilege. Users granted this privilege must adhere to strict guidelines concerning the appropriate use of this information resource. Users who violate the provisions outlined in this document are subject to disciplinary action up to and including termination. In addition, any inappropriate use that involves a criminal

offense will result in legal action. All users are required to acknowledge receipt and understanding of guidelines contained in this document.

12.1 Purpose & Scope. To define policies and procedures for access to the Internet through the Cibola County network infrastructure. This policy applies to all personnel with access to Internet and related services through the Cibola County network infrastructure. Internet Related services include all services provided with the TCP/IP protocol, including but not limited to Electronic Mail (e-mail), File Transfer Protocol (FTP), and World Wide Web (WWW) access. Internet access includes connections via DSL subscriptions, phone modem access, server-to-Internet access or T1 line access.

12.2 Acceptable Use. Access to the Internet is specifically limited to activities in direct support of official Cibola County business.

- A. In addition to access in support of specific work related duties, the Cibola County Internet connection may be used for educational and research purposes.
- B. If any user has a question of what constitutes acceptable use he/she should check with their supervisor for additional guidance. Management or supervisory personnel shall consult with the County Manager for clarification of these guidelines.

12.3 Inappropriate Use. Cibola County Internet access shall not be used for any illegal or unlawful purposes. Examples of this would be the transmission of violent, threatening, defrauding, pornographic, obscene or otherwise illegal or unlawful materials

- A. Use of Cibola County electronic mail or messaging services shall be used for the conduct of Cibola County, business only. These services shall not be used to harass, intimidate or otherwise annoy another person.
- B. The Cibola County, Internet access shall not be used for private, recreational or other non-Cibola County related activity.
- C. The Cibola County Internet connection shall not be used for commercial or political purposes.
- D. Use of the Cibola County, Internet access shall not be used for personal gain such as selling access of a Cibola County user login. Internet access shall not be used for or by performing work for profit with Cibola County resources in a manner not authorized by Cibola County.
- E. Users shall not attempt to circumvent or subvert security measures on Cibola County's network resources or any other system connected to or accessible through the Internet.
- F. Cibola County users shall not use Internet access for interception of network traffic for any purpose unless engaged in authorized network administration.
- G. Cibola County users shall not make or use illegal copies of copyrighted material, store such copies on Cibola County equipment, or transmit these copies over the Cibola County network.

12.4 Internet & E-Mail Etiquette. Cibola County employees shall ensure all communication through Cibola County email or messaging services is conducted in a professional manner. The use vulgar or obscene language is prohibited.

- A. Cibola County users shall not reveal private or personal information without specific approval from management.

- B. Users should ensure that e-mail messages are sent to only those users with a specific need to know. The transmission of e-mail to large groups or messages with large file attachments should be avoided.
- C. Electronic Mail is not guaranteed to be private. Messages transmitted through the Cibola County e-mail system or network infrastructure are the property of Cibola County and are therefore subject to inspection.

12.5 Security

- A. Cibola County users who identify or perceive an actual or suspected security problem shall immediately contact the Cibola County Information Systems Security Manager.
- B. Users shall not reveal account passwords or allow another person to use their account. Similarly, users shall not use the account of another user.
- C. Access to the Cibola County network resources shall be revoked for any user identified as a security risk or a demonstrated history of security problems.

12.6 Penalties. Any user violating these policies is subject to the loss of network privileges and any other Cibola County disciplinary actions as detailed in Section 7 of this ordinance.

12.7 No Expectation of Privacy. Users should not expect any information transmitted via Cibola County's systems to remain private or confidential.

- A. Cibola County may monitor use of any part of County Systems at any time, without notice, at its discretion. Such monitoring may include, but is not limited to limiting size, accessing, listening to, reading, or retrieving voice mail messages, e-mail, Internet communications, or local files.
- B. Users should be aware that deleted files or other communications may be retrieved and review by Cibola County Management.
- C. Users are prohibited from, among other things, accessing, listening to, reading or retrieving other team members' e-mail, voice mail, or Internet communications unless specifically authorized to do so by Management.

12.8 User Compliance. All terms and conditions as stated in this document are applicable to all users of the network and the Internet connection.

12.9 Protection & Handling of Sensitive Information. It is the responsibility of every County employee to ensure the protection of sensitive information and comply with all information technology policies. This includes but is not limited to ensuring such information does not leave the County network, making a reasonable effort to redact sensitive information when sharing records and protecting security account information.

SECTION XIII: PAY POLICY

13.1 Purpose. This Section outlines the provisions for the County's system of comparing and classifying positions according to their relative equivalence for the purpose of establishing fair and equitable promotion and pay compensation for employees. The Board approves all positions and salaries as part of the fiscal year budget process.

13.2 Applicability. The provisions of this section shall apply to all employees except that Contract Employees and unclassified employees are subject to wage increases as negotiated and approved by the Board.

- A. Elected officials who include Commissioners, Clerk, Treasurer, Assessor, Sheriff, and Probate Judge are subject only to the statutory provisions of law subject to budget availability and determination by the Board as to the amount to be paid annual to any elected official as determined in the budget process.
- B. Chief deputies shall receive 85% of the related elected official's salary as their fixed salary and shall serve at the pleasure of the elected official. The Sheriff's Administrator serves at the pleasure of the Sheriff and shall receive a fixed salary of 70% of the Sheriff's fixed salary. In addition to their fixed salary Chief Deputies and the Sheriff's Administrator shall be eligible to receive longevity pay as appropriated by the Board of County Commissioners.

13.3 Pay Compensation Process Overview. The pay compensation system includes provisions for:

- A. entry level wages;
- B. transfers;
- C. demotions;
- D. cost of living wage increases;
- E. promotion wage increases;
- F. performance merit increases.

The Board may at their discretion amend the general wage and classification plan and the general wage schedule by resolution or motion of the Board when deemed appropriate.

13.4 Entry Level Wages. All new employees are normally hired at the Entry level position for the level of position that has been vacated or otherwise approved for hire by the elected official or department director, subject to budgetary constraints and the approval of the County Manager.

13.5 Cost of Living Wage Increases. The Board may consider an across the board cost of living wage increase concurrent with approval of the budget each fiscal year or as otherwise approved by the Board. Cost of living increases will normally become effective the first pay period proceeding July 1 of each fiscal year or as otherwise approved by the Board.

13.6 Position Specifications Requirements. Each position has a written Position Specification which includes specifications for minimum qualifications, education, experience, abilities, skills, license, or certification requirements, and a description of duties and responsibilities required for the position.

13.7 Grandfather Clause. Any employee whose position specification is revised is subject to the experience, education, or certification requirements of the new position specification shall show satisfactory progress to meet the new standards within six (6) months or may be subject to reclassification, transfer or dismissal.

13.8 Contents of Personnel File. Subsequent to hiring, a separate record file shall be prepared and maintained for each employee. These records shall be kept in the Human Resources

Manager's office. It is the responsibility of each elected official or department director to ensure that the records of the employees are complete and up-to-date. The file shall contain a minimum of the following records:

- A. the original application form;
- B. the originating personnel action showing occupation, position classification, date of beginning employment and salary and a signed receipt, evidence of receiving these Rules;
- C. copies of personnel action forms.
- D. copies of all performance evaluations, if applicable;
- E. copies of all favorable or unfavorable letters or memorandums such as letters or certificates of appreciation or records of other outstanding achievements regardless of origination, so long as the procedure applicable to written reprimands is followed;
- F. records or certificates of educational training or orientation achievement completion;
- G. records of disciplinary actions such as reprimands, suspensions, demotions or dismissal; and
- H. application for retirement program.

13.9 Access to Personnel Files. Personnel files are the property of the County and access to the information they contain is restricted. Generally, only immediate supervisors and management personnel of the County who have a legitimate reason to review information in a file are allowed to do so. Employees who wish to review their own file should contact the Human Resources Manager's office. With reasonable advance notice, employees may review their own personnel files in County's offices and in the presence of an individual appointed by the County to maintain the files.

SECTION XIV: EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PLAN

14.1 Purpose. The purpose of this section is to recruit, employ and promote the most qualified applicants or employees to work in County employment. Employment and promotional opportunities shall be based solely upon ability and demonstrated competence, not upon extraneous factors. Age, sex, marital status, national origin, religion, race, sexual preference, political affiliation and handicaps not related to ability to perform the job sought, are declared extraneous factors that shall have no bearing on employment or promotional opportunities within County service.

14.2 Statement of Policy. It is the policy of the County to comply with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, amended by the Equal Employment Opportunity Act of 1972 and Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, in all employment and programs administered by the County. The County affirms that individuals will be considered for employment or promotion on the basis of bona-fide occupational qualification only. Each employee or prospective employee will be advised of this policy. All announcements or notices regarding position openings or opportunities will contain the words "An Equal Opportunity Employer".

14.3 Management Responsibility. The Human Resources Director will counsel elected officials and department directors as they investigate and resolve internal complaints of employment

discrimination filed by County employees or employment applicants. The Human Resources Director shall be the referral officer for the County to receive notice of alleged unlawful employment practices from the Equal Employment Opportunity Commission (EEOC) as provided for in Public Law 88-352, Title VII, Section 706(C); 78 Stat. 241 (42 USC 2000e-5).

14.4 Complaint Procedures. Any employee or person refused employment or who believes he/she has been subjected to a discriminatory employment act or practice prohibited by federal or state law shall file with the Human Resources Director a written and signed statement of facts setting out the basis of the complaint.

- A. Upon receiving a written and signed complaint or upon receiving notice of an alleged unlawful employment practice from an individual, the Human Resources Director shall immediately conduct an investigation and attempt to resolve such complaint informally and forward copies of the investigation and results to the elected official/department director and County Manager.
- B. If the complaint is not resolved informally by the process set forth in subsection A above, it will go before a Hearing Officer appointed by the County Manager. The Hearing Officer shall conduct a hearing not more than forty-five (45) days after the complaint has been received by the Human Resources Manager. The complainant, complainant's attorney (if any), the County Manager, Human Resources Director, County Attorney, elected official or department director, and the employee allegedly responsible for the discriminatory act or practice, shall be given five (5) days written notice of the hearing, together with a copy of the complaint filed with the Human Resources Director.
- C. At the hearing, the complainant and respondent shall have the right to be represented by counsel; all testimony shall be received under oath, and the Hearing Officer shall have the authority to issue administrative subpoenas for the attendance of any County employee as a witness.
- D. The Hearing Officer shall report findings and recommendations in writing to the County Manager and elected official or department director not more than twenty (20) days after hearing the complaint. A full record of the proceedings shall be kept either by audio media or in writing by the Human Resources Director in a confidential file.

14.5 Remedies. In the event the County Hearing Officer determines that a discriminatory act or practice has occurred, the County Manager may take appropriate action including, but not limited to, reinstatement, hiring or promotion of the aggrieved individual, with or without back pay, or any other equitable administrative relief necessary to correct and rectify the discriminatory act or practice. Nothing in this policy prohibits any aggrieved party from seeking remedy through the state or federal agency responsible for such actions.

SECTION XV - MISCELLANEOUS

15.1 Designated Work Areas. All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. Employees shall not litter work areas and will keep such areas neat and clean.

15.2 Personal Business. Personal business shall not be conducted during work hours.

15.3 Safety. The County is committed to having all work conducted in a safe manner. All safety precautions shall be followed in accordance with federal, state, or county policies.

15.4 County Property. Employees shall not misuse or destroy County property, records, or other material in their care, control, or custody; nor shall any County property, records, or other material be removed from the premises of the County offices unless written permission by the department director or elected official has been given. Employees shall not use County property, records or equipment for personal use.

15.5 County Vehicles. No County vehicle will be taken out of the County without permission of the elected official or department director and employees shall notify the elected official or department director of their destinations and itineraries. County vehicles shall be used for County business only. County vehicles may not be taken home unless designated permissible as defined in the Accident Prevention Program Policy and adheres to Section 9.7 Fringe Benefits. The Cibola County Vehicle Accident Prevention Policy Program adopted by the Board of County Commissioners June 27, 2006 as may be amended from time to time is hereby adopted and incorporated into this Ordinance by reference.

- A. County vehicles shall not be used for personal business, except as is incidental in commuting. Employee family members or passengers not on official County business are not allowed to ride in a County vehicle and strict adherence to this policy is directed to all employees operating a County vehicle.
- B. No Smoking in Vehicles or Motorized Equipment. Smoking in all county vehicles or motorized equipment is prohibited.

15.6 Personal Appearance. Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the business image the County presents to customers and visitors.

- A. During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who meet the public, both internal and external, must dress in appropriate business attire at all times. Employees may observe casual dress on Friday if the above stipulation does not apply. Examples of questionable work attire are sun dresses with bare backs and/or shoulders, men's undershirts, excessively baggy, short, or tight clothing, sweatpants and shorts, for men or women, bare midriffs or excessively sheer fabrics unless adequate cover-up (jacket, sweater, etc.) is worn throughout the work day, and low-cut tops/blouses/shirts/dresses (e.g., if they expose "cleavage" when the employee is standing or sitting in a normal manner). Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work.
- B. Employees are required to maintain personal cleanliness by bathing daily; maintaining daily oral hygiene (brushing of teeth); using deodorant/antiperspirant to minimize body odor; refraining from the use of heavily scented perfumes, colognes and lotions; maintaining clean and trimmed fingernails; and washing hands after eating or using the restrooms.
- C. An employee should consult their elected official or department director if they have questions as to what constitutes appropriate attire.

15.7 Weapons in the Work Place. It is the policy of the County that employees are strictly prohibited from introducing, possessing, using, buying, or selling weapons, firearms, ammunition, explosives, or other items constituting deadly weapons pursuant to NMSA 1978, § 30-1-12 (B) (1963), as amended, said weapons are prohibited on any premises controlled by the County.

- A. The aforementioned policy statement regarding the possession of firearms or other dangerous items does not pertain to deputies commissioned by and for the Sheriff's Department, Animal Control officers or those Detention officers authorized to carry firearms by the director of the Detention Center, when said employees are in the lawful performance and discharge of their duties.
- B. The aforementioned policy statement regarding the possession of firearms does not prohibit an employee who lawfully possesses a firearm and/or ammunition from transporting or storing a firearm or ammunition in a locked privately owned motor vehicle in a county parking lot or parking area.
- C. The aforementioned policy statement regarding the possession of firearms does not prohibit an employee with a valid concealed handgun license to carry a handgun consistent with the limitations imposed by NMSA 1978, Section 29-19-1 *et seq.*
- D. If an employee has questions about this policy, or becomes aware of anyone acting in violation of this policy, the employee shall contact the elected official or department director immediately.
- E. Failure to abide by the terms of this policy may result in discipline up to and including dismissal.

15.8 Searches & Surveillance. The County's employees should not expect privacy in their personal effects while on County property or on County time. Employee workplaces may be subject to video surveillance. The County may search lockers, desks, toolboxes, lunch sacks, clothing, County internet, County e-mail or County computer accounts and County electronic media/storage, a County vehicle, and any other item in which an unauthorized weapon or other contraband may be hidden. To the extent that an employee refuses to permit a search, such refusal may constitute grounds for disciplinary action.

15.9 Workplace Violence. The County provides a safe work place for all employees. To ensure a safe workplace and to reduce the risk of violence, all employees should review and understand all provisions of this Workplace Violence policy. All employees, including managers and supervisors, are responsible for using safe work practices, for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.

- A. **Prohibited Conduct.** The County does not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities. This list of behaviors, while not inclusive, provides examples of conduct that is prohibited.
 - 1. Causing physical injury to another person;
 - 2. Making threatening remarks;
 - 3. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
 - 4. Intentionally damaging County property or property of another employee;
 - 5. Possession of a weapon (refer to Section 15.7) while on County property or while on County business;

6. Committing acts motivated by, or related to, sexual harassment, harassment or domestic violence.
- B. Reporting Procedures. Any potentially dangerous situations must be reported immediately in writing to a supervisor or the County Manager's office. All reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis. All parties involved in a situation will be counseled and the results of investigations will be discussed with them. The County will actively intervene at any indication of a possibly hostile or violent situation.
- C. Risk Reduction Measures. Hiring: The County takes reasonable measures to conduct background investigations to review candidate's backgrounds and reduce the risk of hiring individuals with a history of violent behavior.
- D. Safety: The risk management carrier conducts annual inspections of the premises to evaluate and determine any vulnerability to workplace violence or hazards. Any necessary corrective action will be taken to reduce all identified risk areas.
- E. Individual Situations: While the County does not expect employees to be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform their supervisor or department director if any employee exhibits behavior which could be a sign of a potentially dangerous situation. Such behavior includes:
1. Discussing the use of weapons in a threatening manner related to the workplace, or bringing them to the workplace;
 2. Displaying overt signs of extreme stress, resentment, hostility, or anger;
 3. Making threatening remarks;
 4. Sudden or significant deterioration of performance;
 5. Displaying irrational or inappropriate behavior.
- F. Dangerous/Emergency Situations. Employees who are confronted by or encounter an armed or dangerous person should not attempt to challenge or disarm the individual.
- G. Enforcement. Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Any employee determined to have committed such acts will be subject to corrective or disciplinary action, up to and including dismissal. Non-employees engaged in violent acts on the County's premises will be reported to the proper authorities.

15.10 Final Paycheck. An employee who resigns shall receive a final paycheck on the first regularly scheduled payday following the employee's effective date of resignation. Any employee who is dismissed shall receive a full paycheck by 5:00 p.m. on the fifth (5th) working day following dismissal or on the next payday, whichever occurs first, or as required by law. In the case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary or, if unnamed, to the employee's estate, on the next regularly scheduled payday.

15.11 Uniforms. An employee in a designated job with the County may be required to wear special clothing to perform the job function with patches, badges or other distinctive items as approved by the elected official, department director or the County Manager.

- A. Employees whose job calls for a uniform and who receive a uniform allowance or a uniform must wear the uniform whenever they are on duty. Uniforms are to be worn in the manner that they were intended to be worn and are not to be modified to satisfy

personal desires. For example, you cannot cut off sleeves or collars or remove patches, etc. Section supervisors or foremen are responsible for insuring that each employee wears the uniform in a neat and clean condition.

- B. The selected top wear of the uniform must be a shirt and **must** have the appropriate patches sewn on. At the time uniforms are selected, field employees and mechanics may select a pair of coveralls in lieu of a set of regular uniforms, unless the job prohibits wearing coveralls. Management may choose to provide insulated coveralls where warranted by working conditions.
- C. Safety Shoe/Boot Program. Drivers, mechanics, and other employees designated by the department to participate in the safety shoe/boot program will be required to wear this safety footwear while on duty. Shoes or boots purchased as safety shoes/boots shall be ANSI-approved (ANSI Z41-1991 standards) and shall be steel-toed in order to qualify for departmental reimbursement. Prior approval from the department director or his designee must be obtained before purchase of another type of safety shoe/boots.
- D. Other Safety-Related Attire. The County emphasizes safety as a primary focus of our activities and will provide necessary safety attire when needed or requested by the employee and approved by the department director or elected official. Safety attire, such as gloves, safety vests, hearing protection devices, safety glasses, disposable coveralls for spraying, and respirators, are important work items and are to be used and maintained by the employee once issued. These items should be maintained as required and turned in for replacement or when no longer needed for the intended activity.
 - 1. *Gloves*: Employees who need gloves (canvas, leather, palm, or all leather) to perform their assigned work shall be furnished gloves by the department at no charge to the employee, providing they turn in their old worn out gloves.
 - 2. *Badges*, if issued to security service employees, will be provided by the department at the department's expense. Any misuse of the badge may lead to corrective/disciplinary action being taken against the individual who misused his/her badge.
- E. Caps or Hats. Employees who work outdoors are encouraged to wear a cap or hat to protect them from the elements, including sun rays. Departments are granted authority, if for safety or security purposes, to promulgate additional policies regarding the wearing of caps or hats in specific work environments. It is encouraged that caps with the County and Department emblem be worn whenever possible, but this is not a mandatory requirement unless for safety or security purposes.

15.12 Return of Uniforms, Equipment & County Property. Upon severance from County service, all County issued uniforms, equipment, keys, cellular phones, laptop computers, etc. shall be returned to the County. Failure to do so shall result in a deduction for cost of replacement of the items from the employee's final paycheck and possible legal action to recover return of security sensitive items.

15.13 Gifts, Gratuities or Kickbacks. All employees are prohibited from accepting gifts or other considerations from anyone given with intent of modifying the employee's performance of duties or encouraging the employees to make purchases from the individual or business involved. Employees will maintain the highest moral standards and any attempt to influence employee's performance by a vendor or other person will be reported to the department director or elected official and to the County Manager.

- A. It is unlawful for any County employee, as defined in §13-1-28 NMSA 1978, to participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract. An employee or any member of an employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a financial interest with regard to matters pertaining to that trust. (§13-1-190 NMSA 1978)
- B. Contingent fees prohibited. It is unlawful for a person or business to be retained or for a business to retain a person or business to solicit or secure a contract upon an agreement or understanding that the compensation is contingent upon the award of the contract, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business and persons or businesses employed by the County which are providing professional services to the County in anticipation of the receipt of federal or state grants or loans (§13-1-192 NMSA 1978).
- C. Contemporaneous employment prohibited. It is unlawful for a County employee who is participating directly or indirectly in the procurement process to become or to be, while such an employee, the employee of any person or business contracting with the County by whom the employee is employed (§13-1-193 NMSA 1978).
- D. Use of confidential information prohibited. It is unlawful for any County employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person (§13-1-194 NMSA 1978).

15.14 Normal Work Hours. Normal work hours will be based on a forty (40) hour work week. All County offices shall be open from 8:00 a.m. to 5:00 p.m. Monday through Friday; unless a different forty (40) hour work schedule is approved by the elected official/department director and the County Manager. During a normal work day, the department director or elected official may authorize an unpaid full one-hour lunch breaks in accordance with departmental scheduling needs.

15.15 Reduced Work Hours. The Board may reduce the number of work hours by resolution if the Board determines that the County budget will not sustain the normal work hours. Reduced work hours will apply to all full time employees of the County, with the possible exception of those employees in safety-sensitive or security-sensitive positions.

15.16 Separation from Service with the County. Upon an employee's termination or resignation from the County, he or she will be entitled to an exit interview process with the Human Resources Director, and the elected official and/or the department director.

SECTION XVI: AUTHORITY

16.1 Rules. These rules are promulgated on the authority granted in state and federal law and the Ordinance providing for these Rules.

16.2 Savings Clause. If any article, section, paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

SECTION XVII: REPEAL OF FORMER PERSONNEL POLICY

Cibola County Ordinance 2006-02 is repealed, as well as all other Cibola County Ordinances or Resolutions relating to personnel which are in conflict with the above provisions, by the adoption of this Ordinance.

APPROVED, ADOPTED, AND PASSED on this _____ day of _____, 2016.

EFFECTIVE: _____, 2016

BOARD OF COUNTY COMMISSIONERS

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

Jack Moleres
Commissioner, District III

Patrick Simpson
Commissioner, District IV

Lloyd F. Felipe
Commissioner, District V

Attest:

Elisa Bro
Cibola County Clerk

EMPLOYEE ACKNOWLEDGEMENT FORM

CIBOLA COUNTY EMPLOYEE RECEIPT OF PERSONNEL POLICY ORDINANCE 2016-____.

I _____ acknowledge that on _____
(print name of employee) (date)

I received an electronic/hard copy of the Cibola County Personnel Policy Ordinance 2016-____. I understand that the Personnel Policy is the law that controls, explains and provides the terms of and conditions of my employment with the County of Cibola. I further understand that I am responsible for compliance with all Cibola County Policies, which can be found on the County's website at www.cibola.co. I further understand that this receipt will be placed in my employment file as evidence of my having been given a copy the policy.

(Signature of Employee)

**CIBOLA COUNTY
ORDINANCE 16-03**

**AN ORDINANCE PROHIBITING ILLEGAL TIRE DUMPSITES, THE
IMPORTATION OF SCRAP TIRES INTO CIBOLA COUNTY AND PROVIDING
FOR THE ABATEMENT OF ILLEGAL TIRE DUMPSITES**

PREAMBLE

WHEREAS, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

WHEREAS, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, the Board of County Commissioners has found that the illegal dumping and disposal of scrap tires has become an environmental, public safety, and health threat as well as blight on the landscape and that illegal tire dumping poses a substantial present or potential hazard to human health and/or the environment; and,

WHEREAS, the Board of County Commissioners has found that the greatest danger posed by illegal tire dumpsites is the possibility of a catastrophic fire occurring due to the large quantities of petroleum and other chemicals in tires since a burning tire pile creates thick, black, toxic smoke as well as large discharges of contaminated oil. The contaminated oil can enter surface water or groundwater, causing serious pollution problems. Once a tire pile is burning, the fire is extremely difficult to extinguish. Furthermore, the shape of a tire allows for easy entrance and containment of rainwater. This creates an ideal breeding habitat for mosquitoes. In addition to the nuisance caused by clouds of mosquitoes generated by scrap tire piles, mosquitoes can carry serious diseases such as eastern equine encephalitis; and,

WHEREAS, the Cibola County Board of Commissioners has determined that the health, safety and general welfare of the residents of Cibola County would best be served by the adoption of this ordinance;

NOW THEREFORE BE IT ORDAINED that the Cibola County Board of Commissioners does hereby establish a Tire Importation and Illegal Tire Dumping Ordinance, as follows:

GENERAL PROVISIONS

SECTION I. TITLE.

This Ordinance and any amendment hereto shall be known and may be cited as the Cibola County Tire Importation and Illegal Tire Dumping Ordinance.

SECTION II. AUTHORIZATION AND SCOPE.

This Ordinance is hereby enacted pursuant to NMSA 1978, Sections 4-37-1 et seq. and NMSA 1978, Section 3-18-1 (1972) and applies to the unincorporated areas of Cibola County.

SECTION III. GENERAL PURPOSE.

This Ordinance is designed to protect the health and welfare of current and future residents of Cibola County by providing for the prevention and abatement of illegal tire dumpsites and prohibiting the importation of scrap tires into Cibola County.

SECTION IV. DEFINITIONS

- A. "abatement" means to reduce in amount, degree or intensity or to eliminate;
- B. "agricultural use" means the beneficial use of scrap tires in conjunction with the operations of a farm or ranch that includes construction projects and aids in the storage of feed;
- C. "board" means the Board of County Commissioners of Cibola County;
- D. "civil engineering application" means the use of scrap tires or other recycled material in conjunction with other aggregate materials in engineering applications;
- E. "county manager" means the person appointed by the Board pursuant to NMSA 1978, Section 4-38-19 (B) (1973);
- F. "composting" means the process by which biological decomposition of organic material is carried out under controlled conditions and the process stabilizes the organic fraction into a material that can be easily and safely stored, handled and used in an environmentally acceptable manner;
- G. "department" means the New Mexico Department of Environment;
- H. "dispose" means to deposit scrap tires into or on any land or water;
- I. "hazardous waste" means the storage and/or dumping of scrap tires in a quantity and concentration that may cause or significantly contribute to an increase in mortality or an

increase in serious irreversible or incapacitating reversible illness or that may pose a substantial present or potential hazard to human health or the environment, or as otherwise defined by the Hazardous Waste Act;

J. "hazardous waste act" means NMSA 1978 Section 74-4-1 *et seq.*;

K. "household" means any single and multiple residence, hotel or motel, bunkhouse, ranger station, crew quarters, campground, picnic ground or day-use recreation area;

L. "illegal dumping" means disposal of scrap tires in a manner that violates Recycling and Illegal Dumping Act and/or this Ordinance;

M. "illegal dumpsite" means a place where illegal dumping has occurred except as stated in Subsection A of Section V of this Ordinance;

N. "import" means to carry, transport or bring scrap tires, for the purpose of disposal, from outside of the jurisdictional boundaries of Cibola County into the jurisdictional boundaries of Cibola County.

O. "motor vehicle" means a vehicle or device that is propelled by an internal combustion engine or electric motor power that is used or may be used on the public highways for the purpose of transporting persons or property and includes any connected trailer or semitrailer;

P. "processing" means techniques to change physical, chemical or biological character or composition of solid waste but does not include composting, transformation or open burning;

Q. "recycling" means any process by which recyclable materials are collected, separated or processed and reused or returned to use in the form of raw materials or products;

R. "Recycling and Illegal Dumping Act" means NMSA 1978 74-13-1 *Et Seq.*;

S. "scrap tire" means a tire that is no longer suitable for its originally intended purpose because of wear, damage or defect;

T. "scrap tire baling" means the process by which scrap tires are mechanically compressed and bound into block form;

U. "scrap tire generator" means a person who generates scrap tires, including retail tire dealers, retreaders, scrap tire processors, automobile dealers, automobile salvage yards, private company vehicle maintenance shops, garages, service stations and city, county and state government, but does not include persons who generate scrap tires in a household or in agricultural operations;

V. “scrap tire hauler” means a person who transports scrap tires for hire for the purpose of recycling, disposal, transformation or use in a civil engineering application;

W. “secretary” means the secretary of environment;

X. “tire” means a continuous solid or pneumatic rubber covering that encircles the wheel of a motor vehicle;

Y. “tire-derived fuel” means whole or chipped tires that produce a low sulfur, high-heating-value fuel;

Z. “tire-derived product” means a usable product produced from the processing of a scrap tire but does not include baled tires;

AA. “tire recycling” means a process in which scrap tires are collected, stored, separated or reprocessed for reuse as a different product or shredded into a form suitable for use in rubberized asphalt or as raw material for the manufacture of other products; and

BB. “tire recycling facility” means a place operated or maintained for tire recycling but does not include:

(1) retail business premises where tires are sold, if no more than five hundred loose scrap tires or two thousand scrap tires, if left in a closed conveyance or enclosure, are kept on the premises at one time;

(2) the premises of a tire retreading business, if no more than one thousand scrap tires are kept on the premises at one time;

(3) premises where tires are removed from motor vehicles in the ordinary course of business, if no more than five hundred scrap tires are kept on the premises at one time;

(4) a solid waste facility having a valid permit or registration issued pursuant to the provisions of the Solid Waste Act or regulations adopted pursuant to that act or registration issued pursuant to the Environmental Improvement Act; or

(5) a site where tires are stored or used for agricultural uses.

SECTION V. PROHIBITED ACTS

A. A person shall not store or use in a civil engineering application, except for agricultural use, more than one hundred scrap tires anywhere in Cibola County, unless the person has a valid permit or registration from the department.

B. A person shall not operate or maintain a tire recycling facility unless the facility has a valid permit issued pursuant to the provisions of the Recycling and Illegal Dumping Act

or is a facility where tires are stored and used for agricultural uses and complies with rules enacted pursuant to the Recycling and Illegal Dumping Act.

C. A person shall not transport scrap tires for hire to a place other than a tire recycling facility unless the place is specifically excluded from the definition of a "tire recycling facility".

D. A person shall not transport scrap tires for hire either for disposal or recycling purposes without being registered as a scrap tire hauler by the department pursuant to rules adopted in accordance with the Recycling and Illegal Dumping Act.

E. A person shall not import scrap tires into the County of Cibola for any reason.

F. A scrap tire generator shall not release scrap tires to a person other than a registered scrap tire hauler pursuant to the Recycling and Illegal Dumping Act.

G. A person shall not engage in the open burning of scrap tires.

H. A person shall not store or dispose of scrap tires or tire-derived products in a manner that creates a public nuisance, promotes the breeding or harboring of disease vectors, creates a hazardous waste or creates a potential for fire or other health or environmental hazards.

G. Except for agricultural uses, a person shall not store scrap tires or tire-derived products for a period exceeding twelve months unless specifically authorized by the Secretary.

H. A scrap tire hauler shall not transport scrap tires without possessing a New Mexico scrap tire manifest approved by the Department.

I. A person shall not engage in, maintain or allow illegal dumping.

SECTION VI. DECLARATION OF PUBLIC NUISANCE

Illegal dumpsites are declared to be public nuisances as defined by NMSA 1978, Section 30-8-1 (1963).

SECTION VII. ABATEMENT OF ILLEGAL DUMPSITE

The Board or the County Manager on behalf of the Board may bring an abatement action pursuant to the provisions of NMSA 1978 Section 30-8-8 (1963) to eliminate an illegal dumpsite.

SECTION IX. CONTINUED FAILURE TO ABATE

Each day an offending condition remains unabated beyond the time allowed for abatement by an appropriate court shall constitute a separate violation of this Ordinance.

SECTION X. PENALTIES

A. Persons violating this Ordinance shall, upon conviction, be subject to a fine not to exceed THREE HUNDRED DOLLARS (\$300.00) and/or NINETY (90) days in jail for.

B. Persons violating this Ordinance by illegally dumping scrap tires on public or private property shall upon conviction, be subject to a fine not to exceed ONE THOUSAND DOLLARS (\$1,000.00) and/or NINETY (90) days in jail for each separate offense.

C. Persons violating this Ordinance by illegally disposing of scrap tires in a quantity or manner that violates the Hazardous Waste Act, NMSA 1978 Section 74-4-1 *et seq.* shall upon conviction be subject to a fine not to exceed; FIVE THOUSAND DOLLARS (\$5,000.00) and/or NINETY (90) days in jail for each separate offense.

SECTION XI. ENFORCEMENT

The County Manager, or his/her designee and the County Sheriff shall enforce the provisions of this Ordinance.

SECTION XII. SAVINGS CLAUSE

If any article, section, paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

APPROVED, ADOPTED, AND PASSED on this _____ day of _____, 2016.

EFFECTIVE: _____, 2016

BOARD OF COUNTY COMMISSIONERS

Robert Armijo
Commissioner, District I

T. Walter Jaramillo
Commissioner, District II

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Attest:

Elisa Bro
Cibola County Clerk

