



## QUAY COUNTY GOVERNMENT

300 South Third Street

P.O. Box 1245

Tucumcari, NM 88401

Phone: (575) 461-2112

Fax: (575) 461-6208

### AGENDA REGULAR SESSION QUAY COUNTY BOARD OF COMMISSIONERS August 12, 2013

#### 9:00 A.M. Call Meeting to Order

Pledge of Allegiance

Approval of Minutes-Regular Session July 22, 2013

Approval/Amendment of Agenda

#### Public Comment

#### Ongoing Business-None

#### New Business

- I. **Mark Lake, Tucumcari Main Street**
  - Third Annual Fired-Up Festival September 28<sup>th</sup>
  
- II. **Donald Adams, Quay County Fire Marshal**
  - Request Approval of Bard-Endee Fire Department Grant Application
  
- III. **Janie Hoffman, Quay County Assessor**
  - NMAC Board Report and Election
  
- IV. **Larry Moore, Quay County Road Superintendent**
  - Request Approval of 2013-2014 Resolution No. 4 Participation in Cooperative Agreement Project Number CAP-4-14(454)
  - Request Approval of 2013-2014 Resolution No. 5 Participation in Cooperative Agreement Project Number SP-4-14(904)
  - Request Approval of 2013-2014 Resolution No. 6 Participation in Cooperative Agreement Project Number SB-77.11(934)14
  - Request Approval of 2013-2014 Resolution No. 7 Request for Match Waiver for Cooperative Agreement Project Number CAP-4-14(454)
  - Request Approval of 2013-2014 Resolution No. 8 Request for Match Waiver for Cooperative Agreement Project Number SP-4-14(904)
  - Roads Update



DOC #CM-00315  
09/05/2013 12:40 PM Doc Type: COCOM  
Fee: (No FieldTag Finance Total Fees found)  
Quay County, NM Veronica Marez, County Clerk

Pages: 56

SEAL  
COUNTY CLERK  
VERONICA MAREZ  
QUAY COUNTY, NM

- V. **Richard Primrose, Quay County Manager**
- Request Approval of Warranty Deed transferring Building and Land to the Quay Community
  - Correspondence
- VI. **Approval of Accounts Payable**
- VII. **Other Quay County Business That May Arise During Commission Meeting**
- VIII. **Request for Closed Executive Session Pursuant to Section 10-15-1 (H)7. The New Mexico Open Meetings Act to Discuss Threatened or Pending Litigation – Christina Fleming, Drake Swenson v. Quay County Clerk's Office; Quay County Manager's Office**
- IX. **Any Action That May Arise as a Result of Closed Executive Session**

**Adjourn**

*Lunch- Time and Location to be Announced*

7

**REGULAR SESSION-BOARD OF QUAY COUNTY COMMISSIONERS**

**August 12, 2013**

**9:00 a.m.**

BE IT REMEMBERED THE HONORABLE BOARD OF QUAY COUNTY COMMISSIONERS met in regular session the 12th of August, 2013 at 9:00 a.m. in the Commissioners' Room of the Quay County Courthouse, Tucumcari, New Mexico for the purpose of taking care of any business that may come before them.

**PRESENT & PRESIDING:**

Brad Bryant, Chairman  
Mike Cherry, Member  
Sue Dowell, Member  
Richard Primrose, County Manager  
Veronica Marez, County Clerk

**OTHERS PRESENT:**

Larry Moore, Quay County Road Superintendent  
Cheryl Simpson, Quay County Manager's Office  
Janie Hoffman, Quay County Assessor  
Becky Wallace, Quay County Family Health Center Administrator  
Donald Adams, Quay County Fire Marshal  
Mark Lake, Tucumcari Main Street  
Steve Henson, Quay County Sun

The meeting was called to order by Chairman Brad Bryant. Brad Bryant led the Pledge of Allegiance.

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the minutes from the July 22, 2013 regular commission meeting. MOTION carried with all members voting "aye".

A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve the agenda as prepared. MOTION carried with all members voting "aye".

**PUBLIC COMMENT: NONE**

**OLD BUSINESS: NONE**

**NEW BUSINESS:**

Mark Lake, Tucumcari Main Street requested for County to be a sponsor for the Third Annual Fired-Up Festival September 28, 2013. A MOTION was made by Mike Cherry, SECONDED

by Sue Dowell to approve the amount of \$2,500 to sponsor the Fired-Up Festival. MOTION carried with all members voting "aye".

Donald Adams, Quay County Fire Marshal requested approval of Bard-Endee Fire Department Grant Application. A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve Application. MOTION carried with all members voting "aye". A copy of the Grant Application is attached and made a part of these minutes.

Janie Hoffman, Quay County Assessor reported the following NMAC report.

1. List of 7 priorities selected by the NMAC Board in Angel Fire. A copy of list is attached and made a part of these minutes.
2. State Fair will be having the Gathering of Counties this year on Thursday September 19, 2013 at the New Mexico State Fair.
3. The Board approved the resolution to authorize the sale of the NMAC building in Santa Fe.
4. Alvin Maestas from Guadalupe County is the new NMAC Treasurer.
5. The next NMAC Board Meeting has been scheduled for October 17-18.

Lane Bradley and Ashley Bradley, Quay Residents joined the meeting. Time noted 9:25 A.M.

Larry Moore, Quay County Road Superintendent presented the following report:

1. Requested Approval of 2013-2014 Resolution No. 4 Participation in Cooperative Agreement Project Number CAP-4-14(454). A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve the Resolution No. 4. MOTION carried with all members voting "aye". A copy of the Resolution is attached and made a part of these minutes.
2. Requested Approval of 2013-2014 Resolution No. 5 Participation in Cooperative Agreement Project Number SP-4-14(904). A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve the Resolution No.5. MOTION carried with all members voting "aye". A copy of the Resolution is attached and made a part of these minutes.
3. Requested Approval of 2013-2014 Resolution No. 6 Participation in Cooperative Agreement Project Number SB-7731(934)14. A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve the Resolution No. 6. MOTION carried with all members voting "aye". A copy of the Resolution is attached and made a part of these minutes.
4. Requested Approval of 2013-2014 Resolution No.7 Request for Match Waiver for Cooperative Agreement Project Number CAP-4-14(454). A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the Resolution No.7. MOTION carried with all members voting "aye". A copy of the Resolution is attached and made a part of these minutes.
5. Requested Approval of 2013-2014 Resolution No.8 Request for Match Waiver for Cooperative Agreement Project Number CAP-4-14(904). A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the Resolution No.8. MOTION carried with all members voting "aye". A copy of the Resolution is attached and made a part of these minutes.
6. Moore discussed Railroad Alignment on Quay Road AI by David Gonzales from the District 4 New Mexico Department of Transportation and they saw no reason to realign road. Adam Romero gave us an Application to request fixing the road at our expense and we could be liable if an accident happens.

7. Mr. Armijo is requesting Children at Play signs be taken down on Quay Road 64.5 because they are being shot at. Moore's suggestion is to leave signs up if they have children in neighborhood.
8. Culvert at Quay Road 64 collapsed and crew's will be replacing with 30"-36" pipes.
9. Crews bladed 51.6 miles
10. Crew's are removing sand from roads.

Chairman Bryant requested a recess. Time noted 9:40 A.M.  
Return to regular session. Time noted 9:45A.M.

Richard Primrose gave the following County Manager's Report:

1. Requested approval of Warranty Deed transferring Building and Land to the Quay Community. A MOTION was made by Sue Dowell, SECONDED Mike Cherry to approve transferring Building and Land. MOTION carried with all members voting "aye". A copy of the Warranty Deed is attached and made a part of these minutes.

CORRESPONDENCE:

1. Chairman Bryant received a letter from the State of New Mexico Department of Finance and Administration and our budget has been approved.
2. Received an invoice from the NMAC for Participation fees for Fiscal Year 2013-2014.
3. Reception honoring Tom Dominguez will be held Wednesday August 21, 2013 at the Quay County Extension Office.
4. Presented the monthly RPHCA report.
5. Chamber Commerce After Hours will be recognizing World Champion Blacksmith, Jim Keith on August 13, 2013.
6. Quay County Fair is this week.
7. CDBG meeting is Wednesday in Clovis.
8. Commission meeting for August 26, 2013 will be held in House.

CHECKS WERE REVIEWED.

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the expenditures as presented. MOTION carried with all members voting "aye". A copy of the expenditure report is attached and made a part of these minutes.

Under Other Business: NONE

A MOTION was made by Sue Dowell, SECONDED by Mike Cherry, to go into executive session pursuant to the Open Meetings Act 10-15-1(H)7 NMSA to discuss Threatened or pending litigation. Christina Fleming, Drake Swenson v. Quay County Clerk's Office; Quay Clerk's Office; Quay County Manager's Office. MOTION made with Cherry voting "aye", Dowell voting "aye", Bryant voting "aye". Time noted 10:05 A.M.

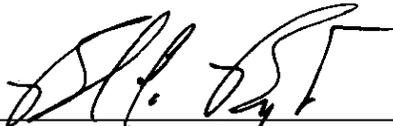
-----EXECUTIVE SESSION-----

A MOTION was made by Sue Dowell, SECONDED by Mike Cherry that only pending litigation was discussed during Executive Session and no action was taken. MOTION made with Cherry voting "aye", Dowell voting "aye", Bryant voting "aye".

Return to regular session. Time noted 10:35 am.

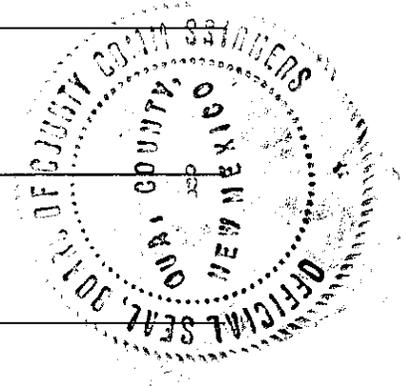
There being no further business, a MOTION was made by Sue Dowell, SECONDED by Mike Cherry to adjourn the regular meeting of the Board of Quay County Commissioners until the next regular meeting set for August 26, 3013, unless sooner called. MOTION carried with all members voting "aye". Time noted 10:40 a.m.

BOARD OF QUAY COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Brad Bryant, Chairman

  
\_\_\_\_\_  
Mike Cherry, Member

  
\_\_\_\_\_  
Sue Dowell, Member



ATTEST:

  
\_\_\_\_\_  
Veronica Marez, County Clerk

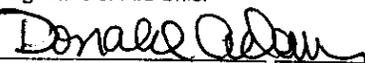
- 3) Request is not for a Critical Need
- 4) Previous recipient

**Category D**

- 1) Non-compliant

**CRITICAL NEEDS**

- Fire apparatus/equipment
- PPE (structural, wildland, SCBA)
- Communications
- Clearly will have significant impact on ISO
- Maintenance, training, water

ACKNOWLEDGEMENT/SIGNATURES		
Name of Department/District: <b>Bard-Endee</b>	County: Quay	
Name of Fire Chief (please print) <b>Donald Adams</b>	Signature of Fire Chief 	Date <b>8/12/13</b>
Name/Title of County/Municipal Fiscal Agent (please print) <b>Richard Primrose County Manager</b>	Signature of Fiscal Agent	Date <b>8/12/13</b>
Mailed, Emailed, or Faxed applications <u>will not</u> be accepted.		

This application may be downloaded from the following website: <http://www.nmprc.state.nm.us/sfm.htm>

**Please answer all questions in this application.**  
**Incomplete applications will not be considered.**

Yes

Please explain:  
 With this added water on wheels I feel its possible to go to a ISO 7 or Less.

**GRANT FUNDING JUSTIFICATION**

**Financial Need:** Give us a financial snapshot of your area. Tell us why you need assistance and describe your department/organization's current funding issues.

We are a growing department have just built a new sub-station and have loans on our other trucks and unable to fund the full amount ourselves at this time.

We are saving enough on this years funding and next years with the \$100,000 (grant)we can buy a new tanker. If we get the grant, and order the truck it will take at least 6 months to a year to gets it build and delivered, which will work for us and not put us in a bind for money.

**Request:** Provide a brief description of what the request does, how the dollars will be spent and explain the need.

This will give us a NFPA rated Tanker and enable us to try and lower our ISO to a 7 or lower.

We will need to get the full \$100,000 to make this work. We will have the match to make this happen.

It will also enable us to give mutual aid to other department and not leave our district short of a mobile supply.

We will retire one of our current tankers which is a old State Hwy. truck and 25 year old steel tank.

**Problem:** Provide a brief description of the problem your department/district is addressing with this grant application.

This will give us a NFPA rated Tanker and enable us to try and lower our ISO to a 7 or lower.

**Analysis of Benefits:** Provide a brief description of how the department/district this performance will be improved and how this compares to the proposed expenditure.

If we get the grant and get our ISO lower it will help our department and lower the Insurance for the Homes and business in our district.

**Community and Your Organization's Relationship:** Provide a description of your department/organization's role and relationship within the community and what impact this request will have.

If we get the grant and get our ISO lower it will help our department and lower the Insurance for the Homes and business in our district.

**Consequences:** Provide a brief description of consequences of not funding this grant request. If your department does not receive the requested grant, what will the department do?

Try to keep our older Equipment running and save for the future for a new truck.

**PROJECT BUDGET SHEET**

Qty	Item Description	Unit cost	Total cost
1	Tanker	\$225,000.00	\$225,000.00
Total amount			\$225,000.00
Less matching amount (minimum 20% of the Total amount)			(\$125,000.00)
Grant amount requested (maximum request \$100000)			\$100,000.00

**FISCAL AGENT COMMITMENT STATEMENT**

I, as fiscal agent for the Bard-Endee Fire department, certify that a minimum of 20% in matching funds are committed to the project for which this application is submitted.

Richard Primrose Quay County Manager  
 Name of County/Municipal Fiscal Agent (please print) Title

[Signature] 8/12/13  
 Signature of County/Municipal Fiscal Agent Date

## Richard Primrose

---

**From:** Tasia Young [tyoung@nmcounties.org]  
**Sent:** Monday, August 05, 2013 11:48 AM  
**Cc:** Paul Gutierrez; NMAC Legislative Team  
**Subject:** new NMAC legislative priorities

Here is a list of the 7 priorities selected by the NMAC Board in Angel Fire last Friday

- Amend state law to authorize County Treasurers to receive all payments of property taxes, including for those properties that have been turned over to the Property Tax Division for collection and been placed on installment agreements (Treasurers).
- Clarify the responsibility of County Treasurers and the Property Tax Division, so that if a delinquent property does not appear on the most recent delinquent property tax list, that property reverts back to the County Treasurer for collection, and the penalty and interest collected is distributed to the county.(Treasurers)
- Require liens to contain language that notice of the lien was sent to the property owner prior to filing the lien (Clerks)
- Support suspension of Medicaid benefits in lieu of termination, during incarceration in county detention facilities (Commissioners)
- Increase existing county local option gross receipts tax for county correctional facilities (Detention Administrators)
- Provide for a more equitable, transparent, and understandable property tax system (Assessors)
- Provide for the disclosure of sales data for all real property, (includes non-residential but not agricultural land or subsurface rights on mineral deeds) (Assessors)

There were no resolutions proposed by the Managers Affiliate in June. I will prepare a booklet this week, with back-up information, to be used by Board members in presenting the priorities to their BOCC's within the next 2 months..

Tasia Young  
Lobbyist  
505-469-6409



# Quay County Government

FISCAL YEAR 2013-2014

RESOLUTION No. 4

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

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

**WHEREAS**, the total cost of the project will be \$249,552.00 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or \$187,164.00
- and
- b. Quay County's proportional matching share shall be 25% or \$62,388.00

TOTAL PROJECT COST IS \$249,552.00

The County of Quay shall pay all costs, which exceed the total amount of \$249,552.00

Now therefore, be it resolved in official session that The County of Quay determines, resolves, and orders as follows:

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

The agreement terminates on December 31, 2014 and The County of Quay incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement

**NOW THEREFORE BE IT RESOLVED** by the County of Quay to enter in Cooperative Agreement Project Number CAP-4-14(454), Control Number L400134 with the New Mexico Department of Transportation for LGRF Project for year 2013-2014 to

**SCOPE:** Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements, parking lot improvements, and miscellaneous to various entity streets.

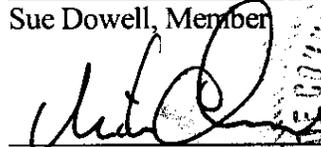
**TERMINI:** Route 66 Blocks 0100-0520 4.2 miles; Route 66 Blocks 1400-1475 .75 miles; Route 66 Culverts Blocks 1400-1475; Quay Road 64 Blocks 4100-4300 2.15 miles

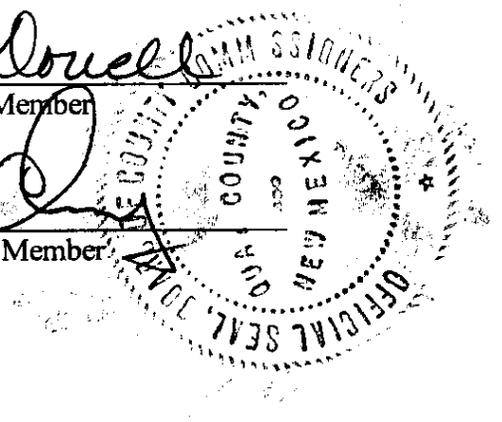
within the control of the County of Quay in Tucumcari/Quay County, New Mexico.

**DONE AND RESOLVED** this August 12, 2013.

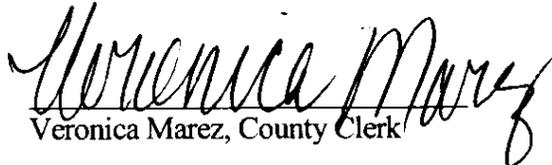
  
\_\_\_\_\_  
Brad Bryant, Chairman

  
\_\_\_\_\_  
Sue Dowell, Member

  
\_\_\_\_\_  
Mike Cherry, Member



Attest:

  
\_\_\_\_\_  
Veronica Marez, County Clerk



**Contract No.** \_\_\_\_\_  
**Vendor No.** 54395  
**Project No.** CAP-4-14(454)  
**Control No.** L400134

## COOPERATIVE AGREEMENT

**THIS COOPERATIVE AGREEMENT** entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013 between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION** (“Department”) and the **QUAY COUNTY**, (“Public Entity”).

In consideration of the covenants contained herein and pursuant to Sections 67-3-28 and 67-3-28.2 NMSA 1978 and Commission Policy No. 44-12, THE PARTIES AGREE AS FOLLOWS:

### SECTION ONE – PURPOSE:

The purpose of this Agreement is to provide Local Government Road Funds to **Public Entity** for the **Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements, parking lot improvements, and miscellaneous to various entity streets**, Project No. **CAP-4-14(454)**, Control No. **L400134** ("Project"). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement shall specify and delineate the rights and duties of the Parties hereto.

### SECTION TWO – PROJECT FUNDING BY PARTIES:

1. The estimated total cost for the Project is **Two Hundred Forty Nine Thousand Five Hundred and Fifty Two Dollars (\$249,552)** to be funded in proportional share by the parties hereto as follows:
  - a. **Department’s share shall be 75%** **\$187,164**  
**Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements,**

**parking lot improvements, and miscellaneous to various entity streets**

**b. The Public Entity's required proportional matching**

Share shall be **25%**

**\$62,388**

For purpose stated above

**c. Total Project Cost**

**\$249,552**

2. The **Public Entity** shall pay all Project costs, which exceed the total amount of **Two Hundred Forty Nine Thousand Five Hundred and Fifty Two Dollars (\$249,552)**.

**SECTION THREE – THE PUBLIC ENTITY SHALL:**

1. Act in the capacity of lead agency for the purpose as described in Section One.
2. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
3. Be solely responsible for all local matching funds identified in Section Two. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
4. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section One and the Project estimate approved by the District Engineer.
5. In the event a contractor is hired for the Project, require the contractor to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractor's policy and a certificate of insurance must be provided to the Department and it shall state that coverage provided under the policy is primary over any other valid insurance.
6. Require contractors that the Public Entity hires to perform services to defend, indemnify and hold harmless the Department from and against all suits, actions or claims of any character brought because of injury, including death or damages arising out of contractors' construction or maintenance activities pursuant to this agreement, as memorialized herein and subject to any additional permit that may be required of the contractor to perform said

activities.

7. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
  - a. Utility Certification,
  - b. Drainage and storm drain design,
  - c. Geotechnical design,
  - d. Pavement design,
  - e. Environmental and archaeological clearances Certification,
  - f. Right of-way acquisition Certification,
  - g. Hazardous substance/waste site(s) contamination,
  - h. Railroad Certification,
  - i. Intelligent Transportation System (ITS) Certification
8. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
9. Obtain all required written agreements or permits, when applicable, from all public and private entities.
10. Allow the Department to inspect the Project to determine that the Project is being constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, shall result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
11. Complete the project within 18 months of approval of funding by the State Transportation Commission.
12. Agree that the Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed within nine (9) months from the effective date of this agreement.
13. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established

Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the “**Project Certification of Design, Construction, and Cost,**” form, which is attached as Exhibit A.

14. Within thirty (30) days of completion, furnish the Department an “**AS BUILT Summary of Costs and Quantities**” form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in “**Project Certification of Design, Construction, and Cost**” form.
15. Failure to provide the “**Project Certification of Design, Construction, and Cost**” form and an “**AS BUILT Summary of Costs and Quantities**” report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
16. Maintain all facilities constructed or reconstructed with funds provided by this Agreement.

**SECTION FOUR – THE DEPARTMENT SHALL:**

Pay project funds as identified in Section Two, Paragraph 1a, to the Public Entity in a single lump sum payment after:

1. Receipt of a Notice of Award and Notice to Proceed and,
2. Verification of available Local Government Road Funds and Public Entity’s local matching funds identified in Section Two, Paragraph 1b.

**SECTION FIVE – BOTH PARTIES AGREE:**

1. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department shall be accounted for and disposed of by the Public Entity as directed by the Department.
2. That no money in the Local Government Road Fund shall be used by the Department to administer any program, and no entity receiving a distribution pursuant to a program requiring matching funds shall use another distribution made pursuant to NMSA 1978 Section 67-3-28.2, to meet the match required.

3. That the provisions of the Local Government Road Fund Project Handbook (Current Edition) and any amendments thereto, are incorporated herein by reference and shall control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments thereto.

**SECTION SIX – THIRD PARTY BENEFICIARY CLAUSE:**

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

**SECTION SEVEN – PROJECT RESPONSIBILITY:**

The improvements proposed in Section One of this Agreement shall not be under the jurisdiction and control of the Department.

**SECTION EIGHT – JURISDICTION:**

By reason of the Department's participation in the funding of this Project, the Department is not incorporating this Project into the state highway system, nor is the Department assuming any maintenance or user responsibility of liability for participation on this project.

**SECTION NINE – NEW MEXICO TORT CLAIMS ACT:**

Each party shall be responsible for liability arising from personal injury or damage to person and property occasioned by its own agents or employees in the performance of this Agreement, subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act (Section 41-4-1, et seq., NMSA 1978). This paragraph is intended only to define the liabilities between the parties hereto and is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

The Public Entity and its "employees" as defined in the New Mexico Tort Claims Act, and the Department and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive

sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

**SECTION TEN – EQUAL OPPORTUNITY COMPLIANCE:**

The Public Entity agrees to abide by all applicable Federal and State Laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the Public Entity agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, age or disability, 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 the Public Entity is found to be not in compliance with these requirements during the life of this Agreement, the Public Entity agrees to take appropriate steps to correct these deficiencies.

**SECTION ELEVEN –LEGAL COMPLIANCE**

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including , but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace, including laws and regulations hereafter enacted. The Public Entity shall ensure that the requirements of this compliance are made a part of each subcontract on this Project at all tiers.

**SECTION TWELVE – PUBLIC ENTITY'S PRIOR COSTS:**

Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and will not be included in the amount to be disbursed as agreed upon.

**SECTION THIRTEEN – ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS:**

There shall be strict accountability for all receipts and disbursements relating hereto. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation shall be reimbursed to the Department within thirty days.

**SECTION FOURTEEN – DEPARTMENT'S AUTHORIZATION OF EXPENDITURES:**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico, for performance of this Agreement. The Department is expressly not committed to expenditure of any funds until such time as they are budgeted, appropriated by the legislature, and approved for expenditure. The Department's decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

**SECTION FIFTEEN – UNEXPENDED, UNENCUMBERED PROJECT BALANCES:**

Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this project shall revert to the Department. These balances, if any, shall be reimbursed to the Department within thirty- (30) days of project completion or expiration of this Agreement, whichever occurs first.

**SECTION SIXTEEN – TERMS OF THIS AGREEMENT:**

This Agreement constitutes the entire Agreement between the parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this Agreement and not enforceable pursuant to this Agreement. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

**SECTION SEVENTEEN – TERM:**

This Agreement becomes effective upon signature of all Parties. This Agreement terminates on December 31, 2014.

**SECTION EIGHTEEN – TERMINATION:**

1. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing 30 days written notice.
2. The Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed within nine months from the effective date of this agreement.
3. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
4. Neither party shall have any obligation after said date of termination, except as stated in Sections Five, Seven and Eight. The Public Entity agrees to reimburse to the Department all unexpended Department funds disbursed in accordance with this Agreement.

**SECTION NINETEEN – SCOPE OF AGREEMENT:**

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 understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**SECTION TWENTY – SEVERABILITY:**

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

**SECTION TWENTY-ONE – 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.

**SECTION TWENTY-TWO – AMENDMENT:**

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

**IN WITNESS WHEREOF**, the Parties have set their hands and seals this day and year set forth below.

**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

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

Date: \_\_\_\_\_

Cabinet Secretary or Designee

**QUAY COUNTY**

By: *Phillip D. Ruess*

Date: 8/12/13

County Manager

**ATTESTED**

By: *Moronica Manly*

Date: \_\_\_\_\_

County Clerk

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

TO: New Mexico Department of Transportation  
District \_\_\_\_\_ LGRF Coordinator

Cooperative Agreement No. \_\_\_\_\_ Control No. \_\_\_\_\_  
Joint Powers Agreement No. \_\_\_\_\_ Control No. \_\_\_\_\_

Entity: \_\_\_\_\_

Scope of Work (Including Routes and Termini):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

2. Construction of the project was performed in accordance with standards and specifications set forth in:

And completed on \_\_\_\_\_, 20\_\_\_\_; and

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

_____ Name	_____ Date
_____ Print Name	_____ Title





# Quay County Government

FISCAL YEAR 2013-2014

RESOLUTION No. 5

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

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

**WHEREAS**, the total cost of the project will be \$122,501.00 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 75% or \$91,875.00

and

b. Quay County's proportional matching share shall be 25% or \$30,625.00

TOTAL PROJECT COST IS \$122,501.00

The County of Quay shall pay all costs, which exceed the total amount of \$122,501.00

Now therefore, be it resolved in official session that The County of Quay determines, resolves, and orders as follows:

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

The agreement terminates on December 31, 2014 and The County of Quay incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement

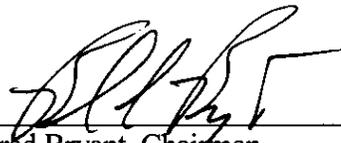
**NOW THEREFORE BE IT RESOLVED** by the County of Quay to enter in Cooperative Agreement Project Number SP-4-14(904), Control Number L400120 with the New Mexico Department of Transportation for LGRF Project for year 2013-2014 to

**SCOPE:** Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements, parking lot improvements, and miscellaneous to various entity streets.

**TERMINI:** Quay Road 43 Blocks 4500-4930 4.3 miles; Quay Road AR Blocks 4225-4300 .75 miles

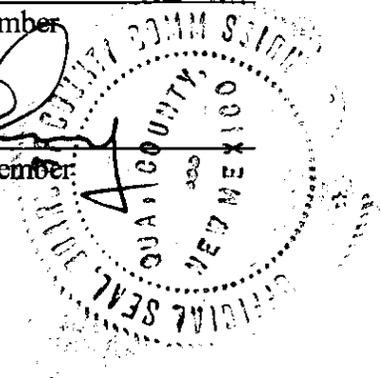
within the control of the County of Quay in Tucumcari/Quay County, New Mexico.

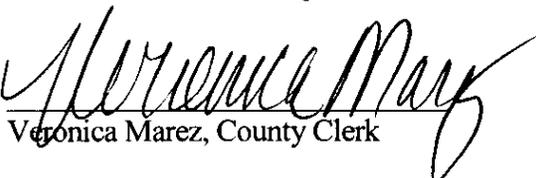
**DONE AND RESOLVED** this August 12, 2013.

  
\_\_\_\_\_  
Brad Bryant, Chairman

  
\_\_\_\_\_  
Sue Dowell, Member

  
\_\_\_\_\_  
Mike Cherry, Member



Attest:  
  
\_\_\_\_\_  
Veronica Marez, County Clerk



Contract No. \_\_\_\_\_  
Vendor No. 54395  
Project No. SP-4-14(904)  
Control No. L400120

## COOPERATIVE AGREEMENT

**THIS COOPERATIVE AGREEMENT** entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013 between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION** (“Department”) and the **QUAY COUNTY**, (“Public Entity”).

In consideration of the covenants contained herein and pursuant to Sections 67-3-28 and 67-3-28.2 NMSA 1978 and Commission Policy No. 44-12, THE PARTIES AGREE AS FOLLOWS:

### **SECTION ONE – PURPOSE:**

The purpose of this Agreement is to provide Local Government Road Funds to **Public Entity** for the **Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements, parking lot improvements, and miscellaneous to various entity streets**, Project No. **SP-4-14(904)**, Control No. **L400120** ("Project"). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement shall specify and delineate the rights and duties of the Parties hereto.

### **SECTION TWO – PROJECT FUNDING BY PARTIES:**

1. The estimated total cost for the Project is **One Hundred twenty two Thousand Five Hundred and One Dollars (\$122,501)** to be funded in proportional share by the parties hereto as follows:
  - a. **Department’s share shall be 75%** **\$91,875**  
**Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements,**

**parking lot improvements, and miscellaneous to various entity streets**

- b. The **Public Entity's** required proportional matching

Share shall be **25%** **\$30,625**

For purpose stated above

- c. **Total Project Cost** **\$122,501**

2. The **Public Entity** shall pay all Project costs, which exceed the total amount of **One Hundred twenty two Thousand Five Hundred and One Dollars (\$122,501)**.

**SECTION THREE – THE PUBLIC ENTITY SHALL:**

1. Act in the capacity of lead agency for the purpose as described in Section One.
2. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
3. Be solely responsible for all local matching funds identified in Section Two. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
4. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section One and the Project estimate approved by the District Engineer.
5. In the event a contractor is hired for the Project, require the contractor to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractor's policy and a certificate of insurance must be provided to the Department and it shall state that coverage provided under the policy is primary over any other valid insurance.
6. Require contractors that the Public Entity hires to perform services to defend, indemnify and hold harmless the Department from and against all suits, actions or claims of any character brought because of injury, including death or damages arising out of contractors' construction or maintenance activities pursuant to this agreement, as memorialized herein and subject to any additional permit that may be required of the contractor to perform said

activities.

7. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
  - a. Utility Certification,
  - b. Drainage and storm drain design,
  - c. Geotechnical design,
  - d. Pavement design,
  - e. Environmental and archaeological clearances Certification,
  - f. Right of-way acquisition Certification,
  - g. Hazardous substance/waste site(s) contamination,
  - h. Railroad Certification,
  - i. Intelligent Transportation System (ITS) Certification
8. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
9. Obtain all required written agreements or permits, when applicable, from all public and private entities.
10. Allow the Department to inspect the Project to determine that the Project is being constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, shall result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
11. Complete the project within 18 months of approval of funding by the State Transportation Commission.
12. Agree that the Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed within nine (9) months from the effective date of this agreement.
13. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established

Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **“Project Certification of Design, Construction, and Cost,”** form, which is attached as Exhibit A.

14. Within thirty (30) days of completion, furnish the Department an **“AS BUILT Summary of Costs and Quantities”** form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in **“Project Certification of Design, Construction, and Cost”** form.
15. Failure to provide the **“Project Certification of Design, Construction, and Cost”** form and an **“AS BUILT Summary of Costs and Quantities”** report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
16. Maintain all facilities constructed or reconstructed with funds provided by this Agreement.

**SECTION FOUR – THE DEPARTMENT SHALL:**

Pay project funds as identified in Section Two, Paragraph 1a, to the Public Entity in a single lump sum payment after:

1. Receipt of a Notice of Award and Notice to Proceed and,
2. Verification of available Local Government Road Funds and Public Entity’s local matching funds identified in Section Two, Paragraph 1b.

**SECTION FIVE – BOTH PARTIES AGREE:**

1. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department shall be accounted for and disposed of by the Public Entity as directed by the Department.
2. That no money in the Local Government Road Fund shall be used by the Department to administer any program, and no entity receiving a distribution pursuant to a program requiring matching funds shall use another distribution made pursuant to NMSA 1978 Section 67-3-28.2, to meet the match required.

3. That the provisions of the Local Government Road Fund Project Handbook (Current Edition) and any amendments thereto, are incorporated herein by reference and shall control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments thereto.

**SECTION SIX – THIRD PARTY BENEFICIARY CLAUSE:**

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

**SECTION SEVEN – PROJECT RESPONSIBILITY:**

The improvements proposed in Section One of this Agreement shall not be under the jurisdiction and control of the Department.

**SECTION EIGHT – JURISDICTION:**

By reason of the Department's participation in the funding of this Project, the Department is not incorporating this Project into the state highway system, nor is the Department assuming any maintenance or user responsibility of liability for participation on this project.

**SECTION NINE – NEW MEXICO TORT CLAIMS ACT:**

Each party shall be responsible for liability arising from personal injury or damage to person and property occasioned by its own agents or employees in the performance of this Agreement, subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act (Section 41-4-1, et seq., NMSA 1978). This paragraph is intended only to define the liabilities between the parties hereto and is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

The Public Entity and its "employees" as defined in the New Mexico Tort Claims Act, and the Department and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive

sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

**SECTION TEN – EQUAL OPPORTUNITY COMPLIANCE:**

The Public Entity agrees to abide by all applicable Federal and State Laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the Public Entity agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, age or disability, 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 the Public Entity is found to be not in compliance with these requirements during the life of this Agreement, the Public Entity agrees to take appropriate steps to correct these deficiencies.

**SECTION ELEVEN – LEGAL COMPLIANCE**

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including , but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace, including laws and regulations hereafter enacted. The Public Entity shall ensure that the requirements of this compliance are made a part of each subcontract on this Project at all tiers.

**SECTION TWELVE – PUBLIC ENTITY'S PRIOR COSTS:**

Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and will not be included in the amount to be disbursed as agreed upon.

**SECTION THIRTEEN – ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS:**

There shall be strict accountability for all receipts and disbursements relating hereto. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation shall be reimbursed to the Department within thirty days.

**SECTION FOURTEEN – DEPARTMENT'S AUTHORIZATION OF EXPENDITURES:**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico, for performance of this Agreement. The Department is expressly not committed to expenditure of any funds until such time as they are budgeted, appropriated by the legislature, and approved for expenditure. The Department's decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

**SECTION FIFTEEN – UNEXPENDED, UNENCUMBERED PROJECT BALANCES:**

Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this project shall revert to the Department. These balances, if any, shall be reimbursed to the Department within thirty- (30) days of project completion or expiration of this Agreement, whichever occurs first.

**SECTION SIXTEEN – TERMS OF THIS AGREEMENT:**

This Agreement constitutes the entire Agreement between the parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this Agreement and not enforceable pursuant to this Agreement. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

**SECTION SEVENTEEN – TERM:**

This Agreement becomes effective upon signature of all Parties. This Agreement terminates on December 31, 2014.

**SECTION EIGHTEEN – TERMINATION:**

1. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing 30 days written notice.
2. The Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed within nine months from the effective date of this agreement.
3. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
4. Neither party shall have any obligation after said date of termination, except as stated in Sections Five, Seven and Eight. The Public Entity agrees to reimburse to the Department all unexpended Department funds disbursed in accordance with this Agreement.

**SECTION NINETEEN – SCOPE OF AGREEMENT:**

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 understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**SECTION TWENTY – SEVERABILITY:**

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

**SECTION TWENTY-ONE – 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.

**SECTION TWENTY-TWO – AMENDMENT:**

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

**IN WITNESS WHEREOF**, the Parties have set their hands and seals this day and year set forth below.

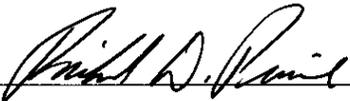
**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

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

Date: \_\_\_\_\_

Cabinet Secretary or Designee

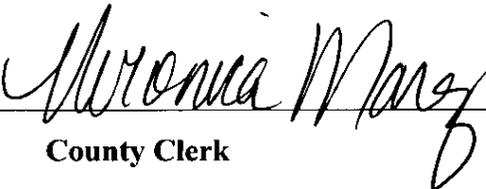
**QUAY COUNTY**

By: 

Date: 8/12/13

County Manager

**ATTESTED**

By: 

Date: \_\_\_\_\_

County Clerk

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

TO: New Mexico Department of Transportation  
District \_\_\_\_\_ LGRF Coordinator

Cooperative Agreement No. \_\_\_\_\_ Control No. \_\_\_\_\_  
Joint Powers Agreement No. \_\_\_\_\_ Control No. \_\_\_\_\_

Entity: \_\_\_\_\_

Scope of Work (Including Routes and Termini):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

And completed on \_\_\_\_\_, 20\_\_\_\_; and

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

_____ Name	_____ Date
_____ Print Name	_____ Title





# Quay County Government

FISCAL YEAR 2013-2014

RESOLUTION No. 6

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

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

**WHEREAS**, the total cost of the project will be \$139,202.00 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or \$104,402
- and
- b. Quay County's proportional matching share shall be 25% or \$34,800.00

TOTAL PROJECT COST IS \$139,202.00

The County of Quay shall pay all costs, which exceed the total amount of \$139,202.00

Now therefore, be it resolved in official session that The County of Quay determines, resolves, and orders as follows:

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

The agreement terminates on December 31, 2014 and The County of Quay incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement

**NOW THEREFORE BE IT RESOLVED** by the County of Quay to enter in Cooperative Agreement Project Number SB-7731(934)14, Control Number L400127 with the New Mexico Department of Transportation for LGRF Project for year 2013-2014 to

**SCOPE:** Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements, parking lot improvements, and miscellaneous to various entity streets.

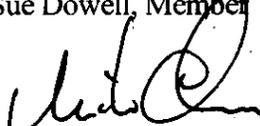
**TERMINI:** Quay Road N Blocks 6600-6700 1 mile; Quay Road 64 Blocks 1500-1700 2 miles; Quay Road 65 Blocks 1600-1800 2 miles

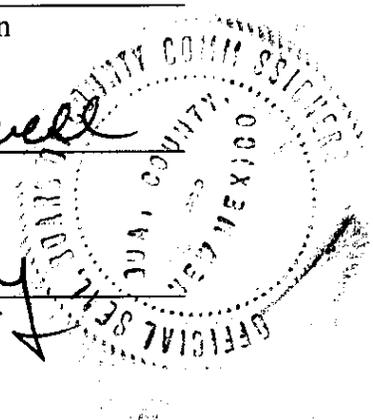
within the control of the County of Quay in Tucumcari/Quay County, New Mexico.

**DONE AND RESOLVED** this August 12, 2013.

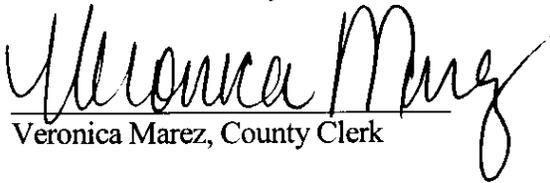
  
\_\_\_\_\_  
Brad Bryant, Chairman

  
\_\_\_\_\_  
Sue Dowell, Member

  
\_\_\_\_\_  
Mike Cherry, Member



Attest:

  
\_\_\_\_\_  
Veronica Marez, County Clerk

Contract No. \_\_\_\_\_  
Vendor No. 54395  
Project No. SB-7731(934)14  
Control No. L400127

## COOPERATIVE AGREEMENT

**THIS COOPERATIVE AGREEMENT** entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013 between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION** (“Department”) and the **QUAY COUNTY**, (“Public Entity”).

In consideration of the covenants contained herein and pursuant to Sections 67-3-28 and 67-3-28.2 NMSA 1978 and Commission Policy No. 44-12, THE PARTIES AGREE AS FOLLOWS:

### **SECTION ONE – PURPOSE:**

The purpose of this Agreement is to provide Local Government Road Funds to **Public Entity** for the **Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements, parking lot improvements, and miscellaneous to various entity streets**, Project No. **SB-7731(934)14**, Control No. **L400127** ("Project"). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement shall specify and delineate the rights and duties of the Parties hereto.

### **SECTION TWO – PROJECT FUNDING BY PARTIES:**

1. The estimated total cost for the Project is **One Hundred Thirty Nine Two Hundred and Two Dollars (\$139,202)** to be funded in proportional share by the parties hereto as follows:
  - a. **Department’s share shall be 75%** **\$104,402**  
**Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements, parking lot improvements, and miscellaneous to various entity streets**

- b. The **Public Entity's** required proportional matching  
Share shall be **25%** **\$34,800**  
For purpose stated above
  
- c. **Total Project Cost** **\$139,202**

2. The **Public Entity** shall pay all Project costs, which exceed the total amount of **One Hundred Thirty Nine Two Hundred and Two Dollars (\$139,202)**.

**SECTION THREE – THE PUBLIC ENTITY SHALL:**

1. Act in the capacity of lead agency for the purpose as described in Section One.
2. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
3. Be solely responsible for all local matching funds identified in Section Two. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
4. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section One and the Project estimate approved by the District Engineer.
5. In the event a contractor is hired for the Project, require the contractor to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractor's policy and a certificate of insurance must be provided to the Department and it shall state that coverage provided under the policy is primary over any other valid insurance.
6. Require contractors that the Public Entity hires to perform services to defend, indemnify and hold harmless the Department from and against all suits, actions or claims of any character brought because of injury, including death or damages arising out of contractors' construction or maintenance activities pursuant to this agreement, as memorialized herein and subject to any additional permit that may be required of the contractor to perform said activities.

7. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
  - a. Utility Certification,
  - b. Drainage and storm drain design,
  - c. Geotechnical design,
  - d. Pavement design,
  - e. Environmental and archaeological clearances Certification,
  - f. Right of-way acquisition Certification,
  - g. Hazardous substance/waste site(s) contamination,
  - h. Railroad Certification,
  - i. Intelligent Transportation System (ITS) Certification
8. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
9. Obtain all required written agreements or permits, when applicable, from all public and private entities.
10. Allow the Department to inspect the Project to determine that the Project is being constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, shall result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
11. Complete the project within 18 months of approval of funding by the State Transportation Commission.
12. Agree that the Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed within nine (9) months from the effective date of this agreement.
13. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for Local Government Road Fund

projects, by submitting the “**Project Certification of Design, Construction, and Cost,**” form, which is attached as Exhibit A.

14. Within thirty (30) days of completion, furnish the Department an “**AS BUILT Summary of Costs and Quantities**” form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in “**Project Certification of Design, Construction, and Cost**” form.
15. Failure to provide the “**Project Certification of Design, Construction, and Cost**” form and an “**AS BUILT Summary of Costs and Quantities**” report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
16. Maintain all facilities constructed or reconstructed with funds provided by this Agreement.

**SECTION FOUR – THE DEPARTMENT SHALL:**

Pay project funds as identified in Section Two, Paragraph 1a, to the Public Entity in a single lump sum payment after:

1. Receipt of a Notice of Award and Notice to Proceed and,
2. Verification of available Local Government Road Funds and Public Entity’s local matching funds identified in Section Two, Paragraph 1b.

**SECTION FIVE – BOTH PARTIES AGREE:**

1. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department shall be accounted for and disposed of by the Public Entity as directed by the Department.
2. That no money in the Local Government Road Fund shall be used by the Department to administer any program, and no entity receiving a distribution pursuant to a program requiring matching funds shall use another distribution made pursuant to NMSA 1978 Section 67-3-28.2, to meet the match required.
3. That the provisions of the Local Government Road Fund Project Handbook (Current Edition) and any amendments thereto, are incorporated herein by reference and shall control the

contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments thereto.

**SECTION SIX – THIRD PARTY BENEFICIARY CLAUSE:**

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

**SECTION SEVEN – PROJECT RESPONSIBILITY:**

The improvements proposed in Section One of this Agreement shall not be under the jurisdiction and control of the Department.

**SECTION EIGHT – JURISDICTION:**

By reason of the Department's participation in the funding of this Project, the Department is not incorporating this Project into the state highway system, nor is the Department assuming any maintenance or user responsibility of liability for participation on this project.

**SECTION NINE – NEW MEXICO TORT CLAIMS ACT:**

Each party shall be responsible for liability arising from personal injury or damage to person and property occasioned by its own agents or employees in the performance of this Agreement, subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act (Section 41-4-1, et seq., NMSA 1978). This paragraph is intended only to define the liabilities between the parties hereto and is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

The Public Entity and its "employees" as defined in the New Mexico Tort Claims Act, and the Department and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability

pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

#### **SECTION TEN – EQUAL OPPORTUNITY COMPLIANCE:**

The Public Entity agrees to abide by all applicable Federal and State Laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the Public Entity agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, age or disability, 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 the Public Entity is found to be not in compliance with these requirements during the life of this Agreement, the Public Entity agrees to take appropriate steps to correct these deficiencies.

#### **SECTION ELEVEN –LEGAL COMPLIANCE**

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including , but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace, including laws and regulations hereafter enacted. The Public Entity shall ensure that the requirements of this compliance are made a part of each subcontract on this Project at all tiers.

#### **SECTION TWELVE – PUBLIC ENTITY'S PRIOR COSTS:**

Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and will not be included in the amount to be disbursed as agreed upon.

#### **SECTION THIRTEEN – ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS:**

There shall be strict accountability for all receipts and disbursements relating hereto. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years

after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation shall be reimbursed to the Department within thirty days.

**SECTION FOURTEEN – DEPARTMENT'S AUTHORIZATION OF EXPENDITURES:**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico, for performance of this Agreement. The Department is expressly not committed to expenditure of any funds until such time as they are budgeted, appropriated by the legislature, and approved for expenditure. The Department's decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

**SECTION FIFTEEN – UNEXPENDED, UNENCUMBERED PROJECT BALANCES:**

Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this project shall revert to the Department. These balances, if any, shall be reimbursed to the Department within thirty- (30) days of project completion or expiration of this Agreement, whichever occurs first.

**SECTION SIXTEEN – TERMS OF THIS AGREEMENT:**

This Agreement constitutes the entire Agreement between the parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this Agreement and not enforceable pursuant to this Agreement. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

**SECTION SEVENTEEN – TERM:**

This Agreement becomes effective upon signature of all Parties. This Agreement terminates on December 31, 2014.

**SECTION EIGHTEEN – TERMINATION:**

1. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing 30 days written notice.
2. The Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed within nine months from the effective date of this agreement.
3. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
4. Neither party shall have any obligation after said date of termination, except as stated in Sections Five, Seven and Eight. The Public Entity agrees to reimburse to the Department all unexpended Department funds disbursed in accordance with this Agreement.

**SECTION NINETEEN – SCOPE OF AGREEMENT:**

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 understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**SECTION TWENTY – SEVERABILITY:**

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

**SECTION TWENTY-ONE – 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.

**SECTION TWENTY-TWO -- AMENDMENT:**

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

**IN WITNESS WHEREOF**, the Parties have set their hands and seals this day and year set forth below.

**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

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

Date: \_\_\_\_\_

Cabinet Secretary or Designee

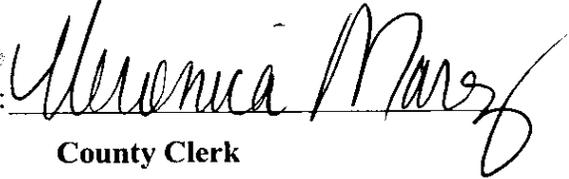
**QUAY COUNTY**

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

Date: 8/12/13

County Manager

**ATTESTED**

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

Date: \_\_\_\_\_

County Clerk

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

TO: New Mexico Department of Transportation  
District \_\_\_\_\_ LGRF Coordinator

Cooperative Agreement No. \_\_\_\_\_ Control No. \_\_\_\_\_  
Joint Powers Agreement No. \_\_\_\_\_ Control No. \_\_\_\_\_

Entity: \_\_\_\_\_

Scope of Work (Including Routes and Termini):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

2. Construction of the project was performed in accordance with standards and specifications set forth in:

And completed on \_\_\_\_\_, 20\_\_\_\_; and

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

_____ Name	_____ Date
_____ Print Name	_____ Title







# Quay County Government

FISCAL YEAR 2013-2014

## RESOLUTION No. 7

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

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

WHEREAS, the total cost of the project will be **\$249,552.00** to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or **\$187,164.00**

and

- b. **Quay County's** proportional matching share shall be 25% or **\$62,388.00** if a 'Hardship' for 'Match Waiver' is not deemed to be present by Department of Finance and Administration and the Department of Transportation

TOTAL PROJECT COST IS **\$249,552.00**

**Quay County** shall pay all costs, which exceed the total amount of **\$249,552.00**.

WHEREAS, **Quay County** limited tax base, which limits the funding for meeting the proportional matching share; and, a fund exists in the NMDOT appropriated by New Mexico State Legislature for Public Entities in need of 'hardship' match money and **Quay County** requests participation in this Match Waive Program in the amount of **\$62,388.00**.

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

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

The agreement terminates on December 31, 2014 and **Quay County** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter

hereof, and all such covenants, agreements and understanding have been merged into the written agreement.

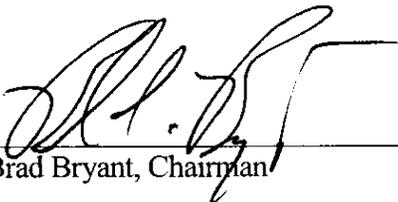
NOW therefore, be it resolved **Quay County** to enter into Cooperative Agreement Project Number CAP-4-14(454)Control Number L400134 with the New Mexico Department of Transportation For LGRF Project for year 2013-2014 to

**SCOPE:** Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements, parking lot improvement, and miscellaneous to various entity streets

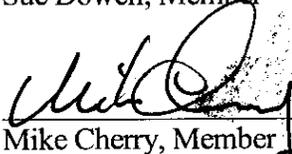
**TERMINI:** Route 66 Blocks 0100-0520 4.2 miles; Route 66 Blocks 1400-1475 .75 miles  
Route 66 Culverts Blocks 1400-1475; Quay Road 64 Blocks 4100-4300  
2.15 miles

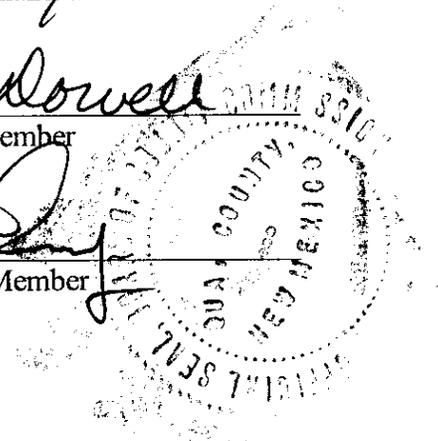
within the control of the **Quay County** in **Quay County**, New Mexico.

**DONE AND RESOLVED** this 12<sup>th</sup> day of August 2013.

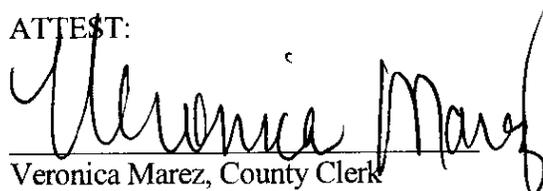
  
\_\_\_\_\_  
Brad Bryant, Chairman

  
\_\_\_\_\_  
Sue Dowell, Member

  
\_\_\_\_\_  
Mike Cherry, Member



ATTEST:

  
\_\_\_\_\_  
Veronica Marez, County Clerk



# Quay County Government

FISCAL YEAR 2013-2014

## RESOLUTION No. 8

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

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

WHEREAS, the total cost of the project will be **\$122,501.00** to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 75% or **\$91,875.00**

and

b. **Quay County's** proportional matching share shall be 25% or **\$30,625.00** if a 'Hardship' for 'Match Waiver' is not deemed to be present by Department of Finance and Administration and the Department of Transportation

**TOTAL PROJECT COST IS \$122,501.00**

**Quay County** shall pay all costs, which exceed the total amount of **\$122,501.00**.

WHEREAS, **Quay County** limited tax base, which limits the funding for meeting the proportional matching share; and, a fund exists in the NMDOT appropriated by New Mexico State Legislature for Public Entities in need of 'hardship' match money and **Quay County** requests participation in this Match Waive Program in the amount of **\$30,625.00**.

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

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

The agreement terminates on December 31, 2014 and **Quay County** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter

hereof, and all such covenants, agreements and understanding have been merged into the written agreement.

NOW therefore, be it resolved **Quay County** to enter into Cooperative Agreement Project Number SP-4-14(904) Control Number L400120 with the New Mexico Department of Transportation For LGRF Project for year 2013-2014 to

**SCOPE:** Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements, blade and shape, traffic signal improvements, parking lot improvements, and miscellaneous to various entity streets

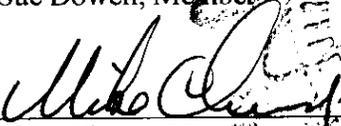
**TERMINI:** Quay Road 43 Blocks 4500-4930 4.3 miles; Quay Road AR Blocks 4225-4300 .75 miles

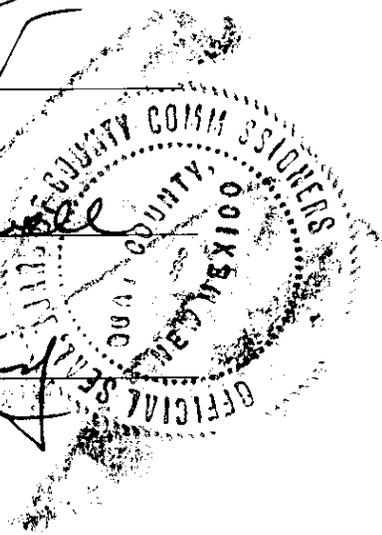
within the control of **Quay County** in **Quay County**, New Mexico.

**DONE AND RESOLVED** this 12<sup>th</sup> day of August 2013.

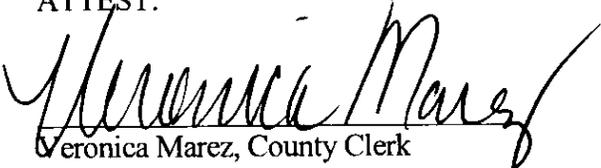
  
Brad Bryant, Chairman

  
Sue Dowell, Member

  
Mike Cherry, Member



ATTEST:

  
Veronica Marez, County Clerk

# WARRANTY DEED

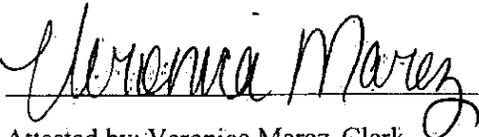
QUAY COUNTY GOVERNMENT, a political subdivision of the State of New Mexico, for consideration paid, grants to THE QUAY COMMUNITY CENTER, a New Mexico 501(c) 3, non-profit corporation, whose mailing address is HC 31, Box 55, Quay, New Mexico 88433, the following described real estate in Quay County, New Mexico:

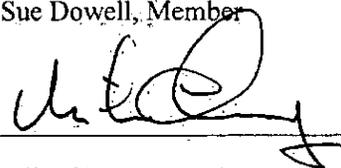
Beginning at a stone in the West right-of-way of Highway Number 209 (formerly known as 18), said stone being 848 feet South of the Section line at North side of Section Nine (9), Township Eight (8) North, Range Thirty (30) East, and running West 600 feet to a stone; thence South 726 feet to a stone; thence East 600 feet to a stone in the West right-of-way line of Highway number 209; thence with said right-of-way line North 726 feet to the point of beginning, containing 10 acres. Said land being in the East Half of the Northeast Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$ ) of Section Nine (9), Township Eight (8) North, Range Thirty (30) East, N.M.P.M.

with warranty covenants.

  
\_\_\_\_\_  
Brad Bryant, Chairman

  
\_\_\_\_\_  
Sue Dowell, Member

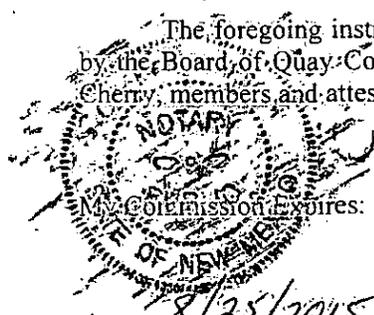
  
\_\_\_\_\_  
Attested by: Veronica Marez, Clerk

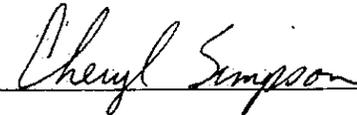
  
\_\_\_\_\_  
Mike Cherry, Member

State of New Mexico )

County of Quay )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of August, 2013 by the Board of Quay County Commissioners, Brad Bryant, Chairman, Sue Dowell and Mike Cherry, members and attested by Veronica Marez, Quay County Clerk.



  
\_\_\_\_\_  
Notary Public

  
DOC #201308120005  
08/12/2013 04:08 PM Doc Type: WD  
Fee 0.00 Pages: 1 GLUJAN  
Quay County, NM Veronica Marez, County Clerk

