

TORRANCE COUNTY
SPECIAL ADMINISTRATIVE
COMMISSION MEETING
November 17, 2022
9:00 A.M.

For Public View
Do Not Remove



Torrance County

BOARD OF COUNTY COMMISSIONERS (BCC)

Ryan Schwebach, Chair, District 2

LeRoy M. Candelaria, Vice Chair, District 3

Kevin McCall, Member, District 1

Janice Y. Barela, County Manager

SPECIAL ADMINISTRATIVE MEETING AGENDA

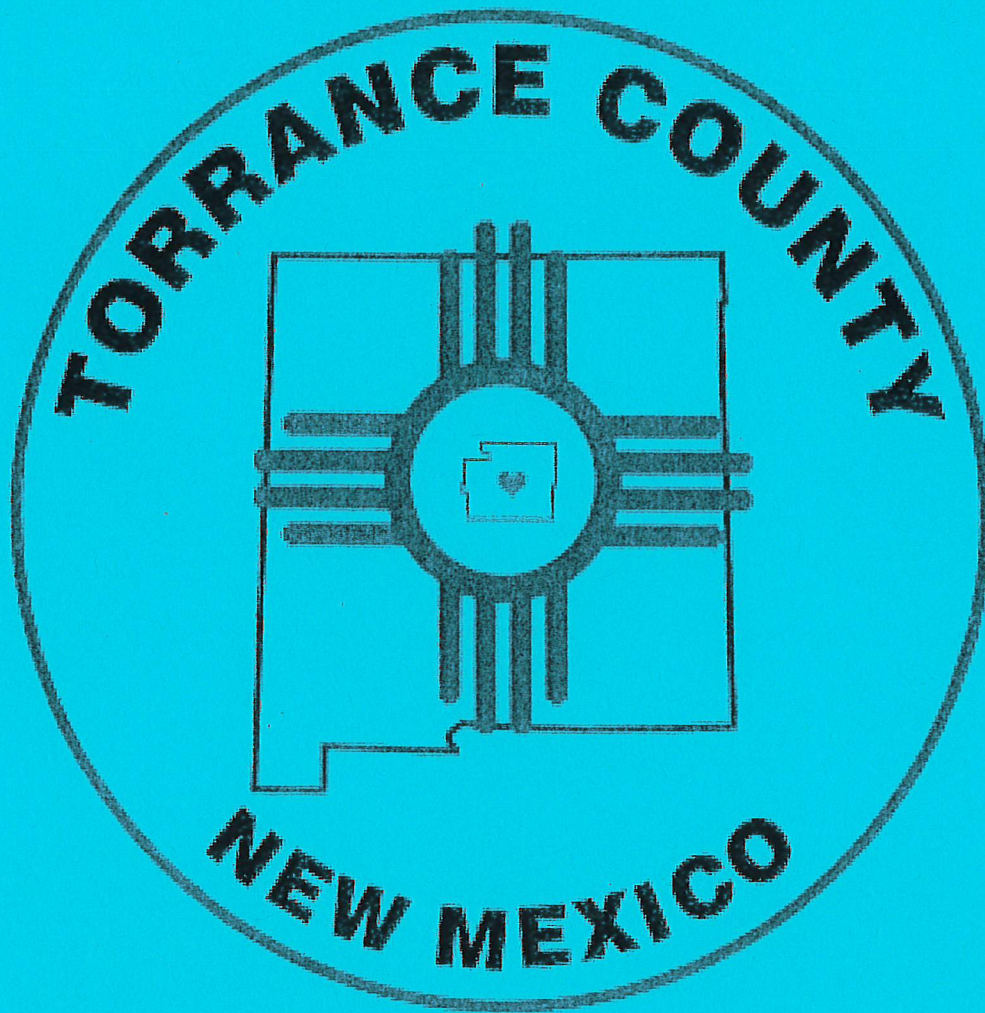
THURSDAY, NOVEMBER 17, 2019 @ 9:00 AM

- 1. Call to Order**
- 2. Invocation and Pledge of Allegiance**
- 3. PUBLIC COMMENT and COMMUNICATIONS**
 - A. Public comment on agenda items only.
- 4. ADOPTION OF RESOLUTION**
 - A. **ROAD:** Resolution 2022-____, approving Transportation Project Fund Agreement for completion of Martinez Road paving project with revised agreement provided by New Mexico Department of Transportation (NMDOT) to correct NMDOT share.
- 5. APPROVALS**
 - A. **FIRE:** Discussion/Approval of Memorandum of Understanding (MOU) between the City of Moriarty and Torrance County for mutual aid involving fire suppression. (Deferred from 11/9/2022)
 - B. **FIRE:** Seeking additional funding for District 2's renovation due to issues that arose during the renovation. (Deferred from 11/9/2022)
 - C. **CLERK:** Torrance County Board of County Commissioners convene as County Canvassing Board to review/certify the canvass of 2022 General Election.
- 6. DISCUSSION**
 - A. **MANAGER:** Update on Torrance County Unofficial Audit of 2022 Primary Election.

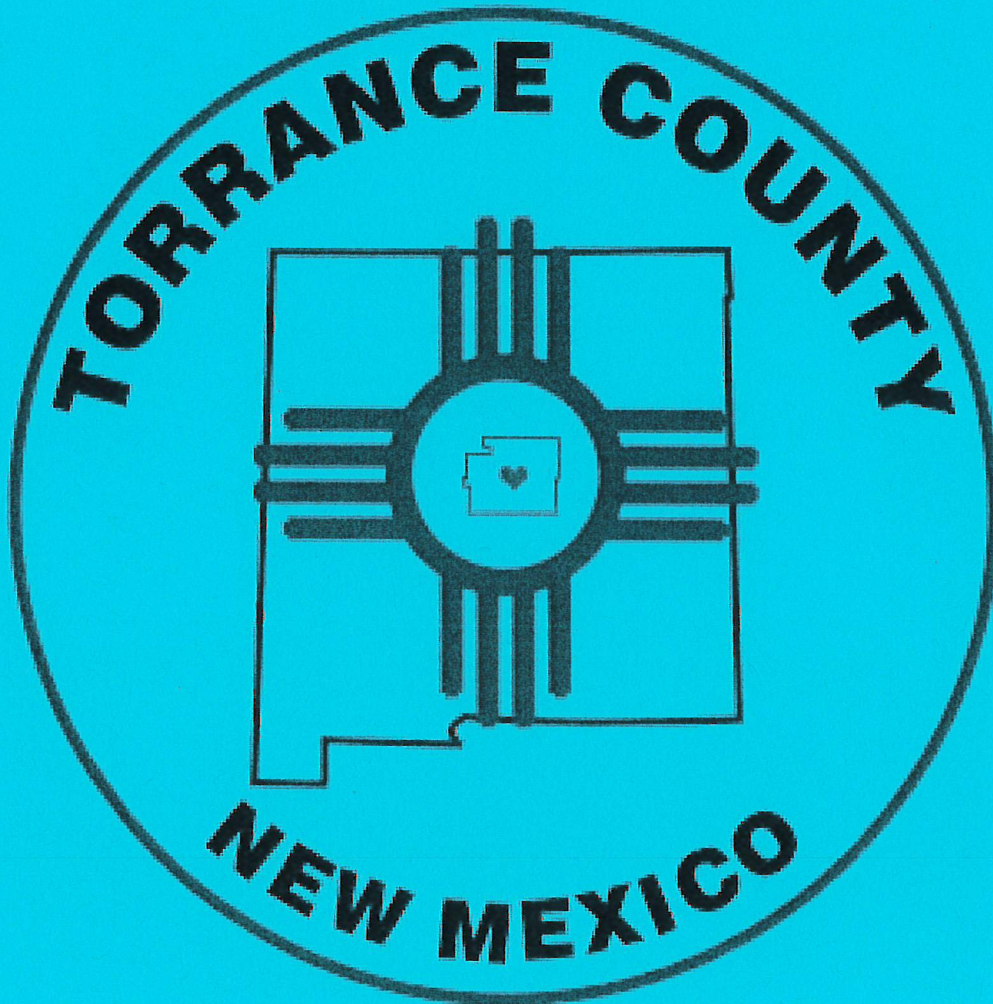
6. EXECUTIVE SESSION

A. COMMISSION: Discuss threatened or pending litigation in which the public body is or may become a participant, closed pursuant to NMSA, Section 10-15-1(H)(7) specifically, 2022 General Election Issues.

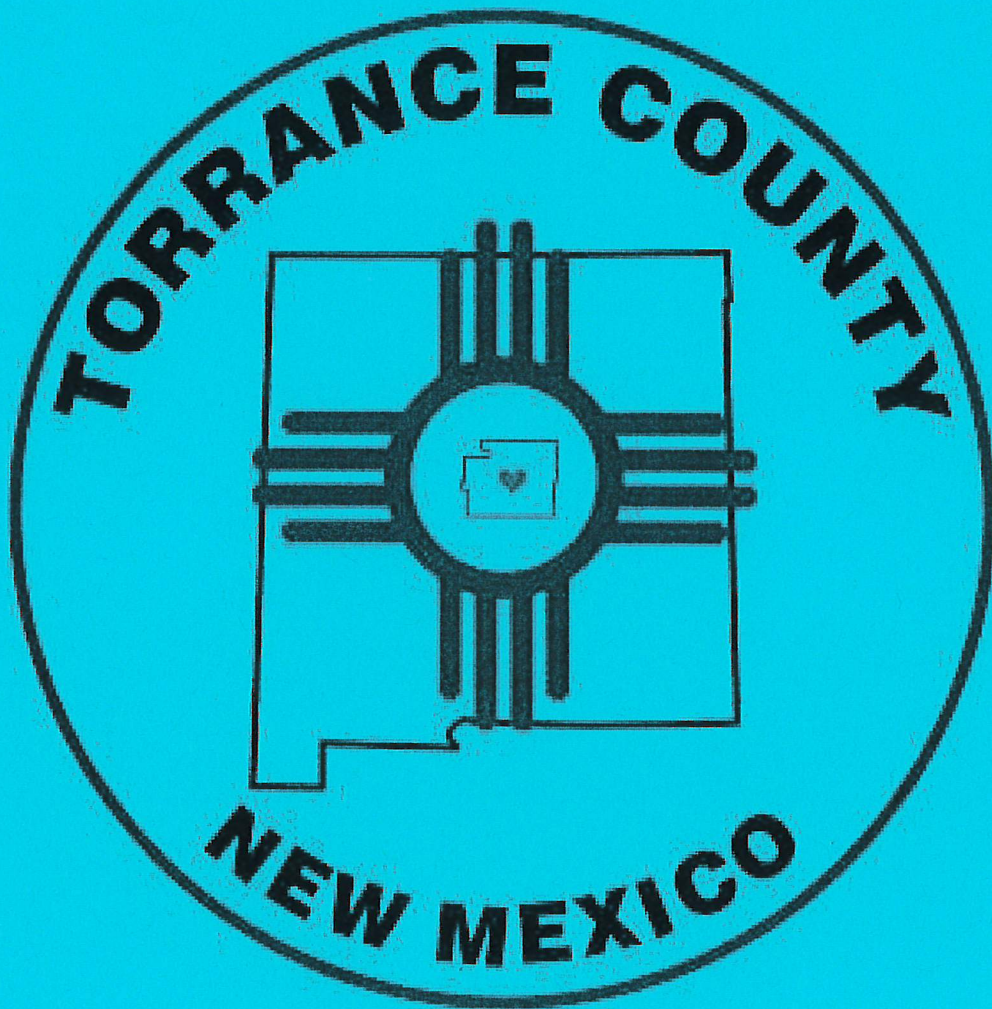
7. Adjourn



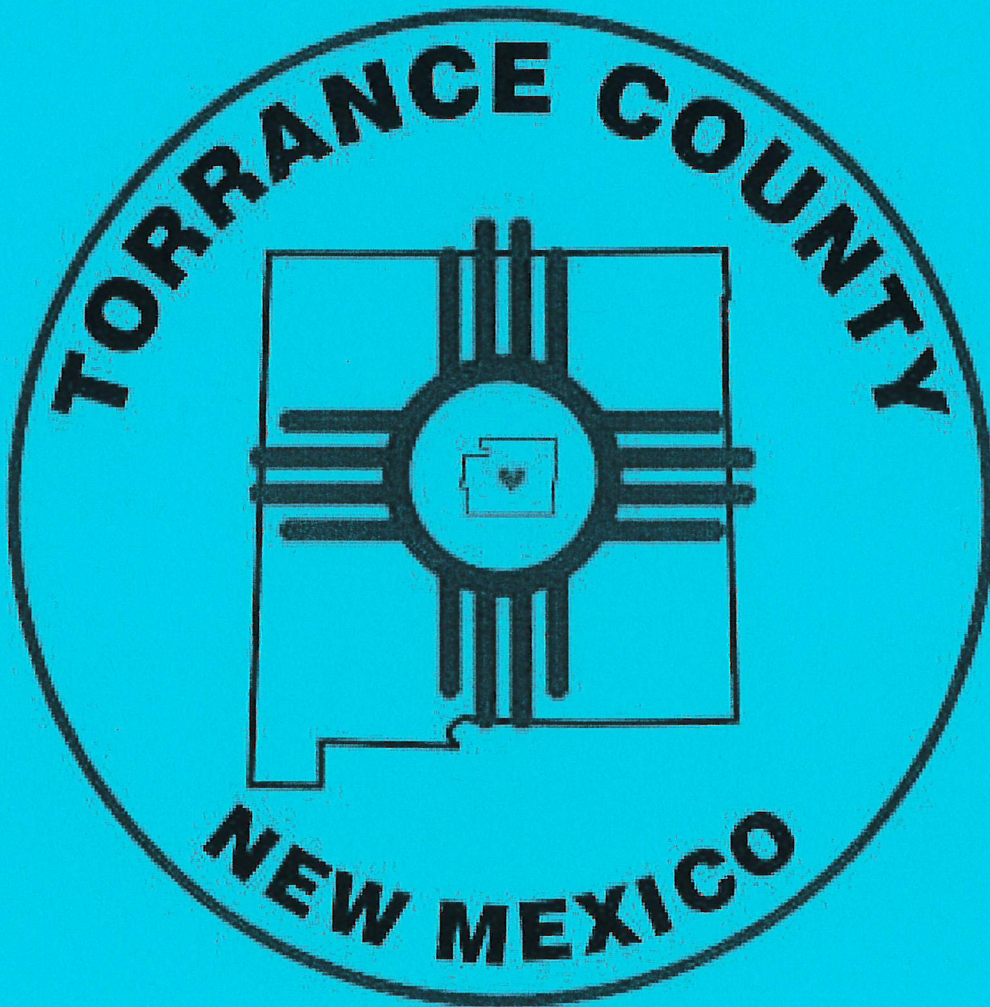
*Agenda Item
No. 1*



Agenda Item
No. 2



*Agenda Item
No. 3-A*



Agenda Item
No. 4-A

**TORRANCE COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. R 2022-**

**PARTICIPATION IN TRANSPORTATION PROJECT FUND PROGRAM ADMINISTERED BY
NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the **Torrance County** and the New Mexico Department of Transportation have entered into a grant agreement under the Transportation Fund Program for a local road project.

WHEREAS, the total cost of the project will be \$767,987.75 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 95% or \$729,588.36

and

b. Torrance County's proportional matching share shall be 5% or \$38,399.39

TOTAL PROJECT COST IS \$767,987.75

The Torrance County shall pay all costs, which exceed the total amount of \$767.987.75

NOW THEREFORE, BE IT RESOLVED in official session that Torrance 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 June 30, 2025, and the Torrance County incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW THEREFORE, BE IT RESOLVED by the governing body of TORRANCE COUNTY that Torrance County enters into a Cooperative Agreement for Project Control Number LP50041 with the New Mexico Department of Transportation for the TPF Program for year 2023 for Martinez Road Improvement-From Hwy 41 proceed west on Martinez Road for 1.1 miles to start of project proceed west on Martinez Road 3.1 miles to end of project at intersection of Martinez Road and Lexco Road. Beginning Mile point N 34°59.8240 W 106° 04.681 Ending Mile point N 34° 59.8159 W 106° 07.2435 within the control of the Torrance County in New Mexico.

DONE THIS 17th DAY OF November, 2022.

APPROVED AS TO FORM ONLY:

BOARD OF COUNTY COMMISSIONERS

County Attorney Date

Ryan Schwebach, Chair

LeRoy Candelaria, Vice Chair

Kevin McCall, Member

ATTEST:

County Clerk

Date:

Contract No. _____
Vendor No. 000054405
Control No. HW2LP50041

**TRANSPORTATION PROJECT FUND
GRANT AGREEMENT**

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

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-78 and 18.27.6 NMAC, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Transportation Project Funds (TPF) to the Public Entity for the following project scope **Martinez Road Improvement-From Hwy 41 proceed west on Martinez Road for 1.1 miles to start of project proceed west on Martinez Road 3.1 miles to end of project at intersection of Martinez Road and Lexco Road. Beginning Mile point N 34° 59.8240 W 106° 04.681 Ending Mile point N 34° 59.8159 W 106° 07.2435** (Project or CN LP50041). This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

a. The estimated total cost for the Project is Seven Hundred Sixty Seven Thousand Nine Hundred Eighty Seven Dollars and Seventy Five Cents (**\$767,987.75**) to be funded in proportional share by the parties as follows:

1. Department's share shall be 95% **\$729,588.36**
Martinez Road Improvement-From Hwy 41 proceed west on Martinez Road for 1.1 miles to start of project proceed west on Martinez Road 3.1 miles to end of project at intersection of Martinez Road and Lexco Road. Beginning Mile point N 34° 59.8240 W 106° 04.681 Ending Mile point N 34° 59.8159 W 106° 07.2435

2. The Public Entity's required proportional matching Share shall be 5% **\$38,399.39**
For purpose stated above

3. Total Project Cost **\$767,987.75**

- b. The Public Entity is responsible for all costs that exceed Project funding.
c. All allocated funds must be spent by **June 30, 2025**.
d. The Public Entity represents that no federal funds will be used to finance the Project.
e. The Public Entity must repay Project funding to the Department if:
1. The Project is cancelled or partially performed.

2. A final audit conducted by the Department at Project completion determines the following: an overpayment, unexpended monies or ineligible expenses.

3. The Department:

- a. Shall distribute the funds, identified in Section 2a1, in a lump sum to the Public Entity after:
 1. The Department has received this Agreement fully executed with a Resolution of Sponsorship attached as Exhibit B.
 2. Receipt of a letter requesting funds, which includes the following Project documents: Notice of Award/Work Order and Notice to Proceed for the Project.
 3. If a Department's or another entity's right-of-way is involved, a permit or letter of approval/authorization, from the entity with jurisdiction over the Project right-of-way.
- b. Will not:
 1. Perform any detailed technical reviews of Project scope, cost, budget, schedule, design or other related documents;
 2. Have any involvement in the construction phase;
 3. Be involved in permit preparation or the review or coordination with regulatory agencies.
 4. Conduct periodic assurance inspections or comparison material testing.
 5. Participate in resolving bidding and contract disputes between the Public Entity and contractors.
- c. May perform Project monitoring that might consist of the following:
 1. Review of Project status to ensure that project goals, objectives, performance requirements, timelines, milestone completion budgets and other guidelines are being met.
 2. Request written Project status reports.
 3. Conduct a review of the Local Entity's performance and administration of the Project funds identified in Section 2a.
- d. Reserves the right, upon receipt of the Public Entity's Certification of Completion, Exhibit A, to request additional documents that demonstrate Project completion.
- e. If required, the District Engineer or designee, will conduct a Project review to determine if permit is required from the Department. If there is a determination that a permit is not required, a letter of approval and authorization will be forwarded to the Public Entity.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
- c. Be responsible for all design activities necessary to advance the Project to construction and coordinate construction.
- d. Unless otherwise specified in a letter of authorization or permit, design and construct the Project in accordance with the Public Entity's established design standards.
- e. Have sole responsibility and control of all project phases and resulting quality of the completed work.
- f. If the Project is in full or on a portion of a state highway, on a Department right of way or a National Highway System route:

1. Obtain from the Department a permit in accordance with 18.31.6.14 NMAC, State Highway Access Management Requirements or a letter of authorization; and
 2. Design and construct the Project in accordance with standards established by the Department.
- g. Adopt a written resolution of Project support that includes a commitment to funding, ownership, liability and maintenance. The resolution is attached to this Agreement as Exhibit B.
 - h. Consider placing pedestrian, bicycle and equestrian facilities in the Project design in accordance with NMSA 1978, Section 67-3-62.
 - i. Comply with any and all state, local and federal regulations including the Americans with Disabilities Act (ADA) and laws regarding noise ordinances, air quality, surface water quality, ground water quality, threatened and endangered species, hazardous materials, historic and cultural properties, and cultural resources.
 - j. Be responsible for all permit preparation, review and coordination with regulatory agencies.
 - k. Cause all designs, plans, specifications and estimates to be performed under the direct supervision of a Registered New Mexico Professional Engineer, in accordance with NMSA 1978 Section 61-23-26.
 - l. Allow the Department to perform a final inspection of the Project and all related documentation to determine if the Project was constructed in accordance with the provisions of this Agreement. At the Department's request, provide additional documentation to demonstrate completion of the required terms and conditions.
 - m. Meet with the Department, as needed, or provide Project status reports within thirty (30) days of request.
 - n. Within 60 days after Project completion, provide the Certification of Completion, which is attached as Exhibit A, that it has complied with the requirements of 18.27.6 NMAC and this Agreement.
 - o. Upon completion, maintain all the Public Entity's facilities constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Unless otherwise indicated in a letter of authorization, the Project will not be incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- c. Pursuant to NMSA 1978, Section 67-3-78, Transportation Project Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
- d. The requirements of 18.27.6 NMAC are incorporated by reference.
- e. The inability to properly complete and administer the Project may result in the Public Entity being denied future grant funding.

6. Term.

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on the earliest of the following dates: (a) Department receipt of the Certification of Completion or (b) **June 30, 2025**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment. Neither party shall have any obligation after said date except as stated in Sections 2e, 4l, 4n and 7.

7. Termination.

If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) days written notice. This Agreement may also be terminated pursuant to Section 15. Neither party has any obligation after termination, except as stated in Sections 2e, 4l, 4n and 7.

8. Third Party Beneficiary.

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

9. New Mexico Tort Claims Act.

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq.*

10. Contractors Insurance Requirements.

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

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

11. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or

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

12. Terms of this Agreement.

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

13. Legal Compliance.

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

14. Equal Opportunity Compliance.

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

15. Appropriations and Authorizations.

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

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five (5) years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.

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

18. Applicable Law.

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

19. Amendment.

This Agreement may be amended by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

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

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

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

By: _____
Assistant General Counsel

Date: _____

Torrance County

By: _____

Date: _____

Title: _____

Attest: _____

Title: _____

EXHIBIT A

CERTIFICATION OF PROJECT COMPLETION

Public Entity:

Control No. LP50041

I, _____, in my capacity as _____ of _____ certify in regard to Control No. **LP50041**:

1. That the Public Entity has complied with the terms and conditions of the requirements under this Agreement and 18.27.6 NMAC.
2. That all work in was performed in accordance with the Agreement.
3. That the total Project cost of _____, with New Mexico Department of Transportation 95% share of _____ and the Public Entity share of _____ is accurate, legitimate, and appropriate for the Project.
4. That the Project was completed on _____ of _____, 20_____

In Witness Whereof, _____ in his/her capacity as _____ of _____ certify that the matters stated above are true to his/her knowledge and belief.

Torrance County

By: _____ Date: _____

Title: _____ Date: _____

ATTEST:

By: _____ Date: _____

Public Entity Clerk

When completed, send Certification of Project Completion to the District Coordinator, New Mexico Department of Transportation.

EXHIBIT B
RESOLUTION
Torrance County

PARTICIPATION IN TRANSPORTATION PROJECT FUND PROGRAM ADMINISTERED BY
NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **Torrance County** and the New Mexico Department of Transportation have entered into a grant agreement under the Transportation Fund Program for a local road project.

WHEREAS, the total cost of the project will be \$767,988 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 95% or \$798,588.36

and

b. **Torrance County**'s proportional matching share shall be 5% or \$38,399.39

TOTAL PROJECT COST IS \$767,987.75

The **Torrance County** shall pay all costs, which exceed the total amount of \$767,987.75.

Now therefore, be it resolved in official session that **Torrance 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 June 30, 2025 and the **Torrance County** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

Now therefore, be it resolved by the **Torrance County** to enter into Cooperative Agreement for Project Control Number **LP50041** with the New Mexico Department of Transportation for the TPF Program for year 2023 for Martinez Road Improvement-From Hwy 41 proceed west on Martinez Road for 1.1 miles to start of project proceed west on Martinez Road 3.1 miles to end of project at intersection of Martinez Road and Lexco Road. Beginning Mile point N 34° 59.8240 W 106° 04.681 Ending Mile point N 34° 59.8159 W 106° 07.2435- within the control of the **Torrance County** in New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

(PRINTED NAME, POSITION)

DATE

(PRINTED NAME, POSITION)

DATE



*Agenda Item
No. 5-A*

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF MORIARTY AND TORRANCE COUNTY
FOR MUTUAL AID AND AUTOMATIC AID
INVOLVING FIRE SUPPRESSION**

I. INTRODUCTION AND PURPOSE

The of purpose of this Mutual Aid Agreement (hereinafter referred to as “Agreement”) is for the sharing of resources between the city of Moriarty, (hereinafter referred to as “City”) and the County of Torrance, New Mexico, (hereinafter referred to as “County”) to ensure the continuation of necessary emergency resources in the event the City or County requests aid to assist in its mitigation of an emergency event. Such a request may seek the use of another party’s equipment, offices, meeting spaces, workspaces, employees, processes, consultation, and other services or property, or any combination of the above, and not limited to this list of possible resources. By way of a more specific example, and not limitation, the parties hereto may engage the other party for the provision of employees, equipment, or property for their fire protection.

In furtherance of this purpose, the Agreement provides a framework through which the parties to this Agreement may assist one another in times of need. Each party to this Agreement recognizes that it may need to call upon another party to assist in its own need to provide ongoing services, to respond to catastrophes, emergencies, natural disasters, or the like. Each party further recognizes that non-emergency and emergency cooperation remains in the long-term interests of both, and therefore enters into this Agreement to ensure a consistent, coordinated, and timely response in providing mutual aid and automatic aid. By signing below, each Party agrees to be bound by all the terms contained herein.

II. PARTIES

This Agreement is made by and between the following parties, having an address and place of business as set forth below:

- a. The City of Moriarty, in the County of Torrance
201 Broadway Blvd
Moriarty, New Mexico 87035

- b. Torrance County, in the County of Torrance
205 S. Ninth Street
Estancia, New Mexico 87016

III. LEGAL AUTHORITY

Pursuant to Section 59A-53-5 (C) NMSA 1978, the City and the County will consent by resolutions adopted by their respective governing bodies to the assistance and the boundaries of the other areas serviced. The parties shall adopt such resolutions no later than (90) calendar days after the acceptance of this Agreement.

IV. DEFINITIONS

- a. "Assistance" shall mean all acts of assisting either City or County conducted for or on behalf of a requesting party, including but not limited to travel to and from the site of the emergency.
- b. "Assisting Party" shall mean a party, either the City or County, which has determined to provide Assistance as set forth in Section V, below, and which actually provides Assistance to a requesting party. Employees of Assisting Party shall at all times during Assistance continue to be employees of Assisting party and shall not be deemed to be employees of requesting City of County for any purpose.
- c. "Employees" shall mean of either party, personnel working and providing Assistance in the capacity as a volunteer or as a full-time FLSA covered emergency medical service provider or firefighter.
- d. "Expenses" shall include:
 - i. The City and County covenant and agree that the cost of wages paid under then existing wage agreements, irrespective of whether the agreement is a collective bargaining agreement, personnel policy provision, individual labor agreement, or otherwise, are the responsibility of the respective employer and neither party shall request compensation for wages.
 - ii. The City and County covenant and agree that no claims for compensation will be made against each other for any loss, damage, personal injury or death occurring as a consequence of rendering Assistance under this Agreement and such rights and claims are hereby expressly waived.

V. REQUESTS FOR ASSISTANCE

Any party to this Agreement shall contact the regional dispatch center responsible for either party to request Assistance under this Agreement. Providing of any Assistance shall be subject to the availability of personnel and equipment at the sole discretion of the City Fire Chief and the County Fire Chief, respectively. See X. Limitations.

VI. SCOPE OF AGREEMENT

- a. The City will render mutual aid to Torrance County in the areas designated in Attachment A.
- b. The County will render mutual aid to the City of Moriarty in the areas designated in Attachment B.
- c. The City will render automatic aid to Torrance County in the areas designated in Attachment A, for commercial structure fires, commercial fire alarms, confirmed residential structure fire.
- d. The County will render automatic aid to the City of Moriarty in the areas designated in Attachment B, for commercial structure fires, commercial fire alarms, confirmed residential structure fires

VII. OBLIGATIONS OF REQUESTING PARTY

In connection with Assistance, the requesting party shall have the following obligations with regard to the Assisting Party:

- a. To provide its best estimate of the type and amount of equipment needed, the number and types of employees requested, and the estimated duration of the Assistance.
- b. To provide Assisting Party accurate Directions to where the Assisting Party employees will report for assignment and the name, title and telephone number of the representative of the requesting party that will direct employees of the Assisting Party.
- c. To provide a description of the requesting party's systems or operational plan, initiation of incident command system, applicable standard operating procedures, standing directives, and other useful information, as applicable.
- d. To release all employees of Assisting party once Assistance is no longer necessary or desirable.

VIII. OBLIGATIONS OF ASSISTING PARTY

In connection with Assistance, the Assisting Party shall have the following obligations with regarding to the requesting party:

- a. Comply with operational directives as provided by requesting party.
- b. Ensure compliance with safety policies including accountability for personnel and equipment.

- c. Communicate with on-scene incident command for any changes or modifications to personnel and/or equipment should the need arise.

IX. JOINT RESPONSIBILITIES

It shall be the responsibility of each party to do the following:

- a. Identify potential hazards that could affect the City or the County and its personnel.
- b. Conduct joint planning, intelligence sharing and threat assessment development; and conduct a joint meeting and training at least biennially.
- c. Identify and inventory current services, equipment, supplies, personnel and other resources related to planning, prevention, mitigation, response and recovery activities; and
- d. Adopt and put into practice a jointly-agree standardized incident management system.

X. LIMITATIONS

The City and County will covenant and agree that either may withhold Assistance to the extent necessary to provide reasonable protection and services to its own jurisdiction. In the event during which Assistance is provided the Assisting Party's Employees shall continue to be under the command and control of the Assisting Party, to include standard operating procedures and medical protocols, but shall be under the requesting party's operational control. Assets and equipment of the Assisting Party shall remain under its ultimate control but shall be under the requesting party's operational control during the time of any response hereunder.

XI. TERM

This agreement shall continue in force and effect until such time as one of the parties withdraws its participation, upon no less than ten (10) days' written notice.

XII. APPLICABLE LAW

This Agreement is adopted under the laws of the State of New Mexico and shall be interpreted, governed by, and construed in accordance with the laws of the State of New Mexico, without regard to conflict of laws/rules of another state.

XIII. SEVERABILITY

All the provisions of this Agreement shall be considered as separate terms and conditions. In the event that any provision hereof is determined to be invalid, prohibited or unenforceable by a court or other body of competent jurisdiction, this Agreement shall be construed as if such invalid,

prohibited or unenforceable provision had been more narrowly drawn so as not to be invalid, prohibited or unenforceable, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby.

XIV. LIABILITY

Neither Party shall be liable for any claims, actions, demands, suits, or judgments arising from the other Party's performance under this Agreement or the performance of the other Party's agents, officers, or employees. Both Parties shall be liable only for claims, actions, demands, suits or judgments arising from its own performance under this Agreement or the performances of its own agents, officers or employees.

XV. NEW MEXICO TORT CLAIMS ACT

Neither Party shall be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq., as amended. This Agreement is not intended to modify in any way the Parties' sovereign immunity under common or statutory law or any provisions of the New Mexico Tort Claims Act. The City and the County and their respective "public employees" as defined in the New Mexico Tort Claims Act do not waive sovereign immunity and do not waive any defense or limitation of liability pursuant to law.

XVI. ASSIGNMENT

Neither party may assign its interest in this Agreement without the prior written consent of the other party.

XVII. NO WAIVER

No failure to exercise, and no delay in exercising any right, power, or remedy hereunder any document delivered pursuant hereto shall impair any right, power, or remedy which the parties hereto may have, nor shall any such delay be construed to be a waiver of any such rights, powers, or remedies, or an acquiescence in any breach or default under this Agreement, not shall any waiver of any breach or default of any party hereunder be deemed a waiver of any default of breach subsequently occurring.

XVIII. NOTICE

Any required notice or other communication to be given hereunder shall be in writing and mailed, certified with return receipt requested, or emailed, or sent by such party at the address or number set forth below:

City of Moriarty
Attn: Honorable Ted Hart, Mayor

201 Broadway Blvd.
Moriarty, New Mexico 87035

Torrance County
Attn: Janice Barela, County Manager
205 S Ninth Street
Estancia, New Mexico 87016

With copies to:

Torrance County Dispatch
205 S Ninth Street
Estancia, New Mexico 87016

Torrance County Fire Chief
205 S Ninth Street
Estancia, New Mexico 87016

City of Moriarty Fire Chief
201 Broadway Blvd.
Moriarty, New Mexico 87035

XIX. JOINT DRAFTING

The parties agree that this Agreement jointly drafted, and that they both had opportunity to negotiate terms and to obtain assistance of counsel in reviewing terms prior to execution. This Agreement shall be construed neither against nor in favor of either party but shall be construed in a neutral manner.

XX. ENTIRE AGREEMENT

This Agreement embodies the entire agreement and understanding between the parties relating to the subject matter hereof, and there are no covenants, promises, agreements, condition or understandings, oral or written, excepts as herein set forth.

XXI. RECORDING

The parties hereto agree that any party may record this Agreement in the land records of either the City or the County without further consent from the other party.

XXII. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

XXIII. AGREEMENT AND COUNTERPARTS

This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all parties to all the counterparts had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of the Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached it to one or more signature pages. By signing below, both the City and County agree and acknowledge that the foregoing terms and conditions shall apply to any request and rendering of Assistance as of the date written below. This Agreement supersedes and previous agreements.

IN WITNESS WHEREOF, the City and County have caused this Agreement to be executed and delivered by its duly authorized representatives as of the date specified below.

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

CITY OF MORIARTY

Chairperson

Mayor

Member

City Clerk

Member

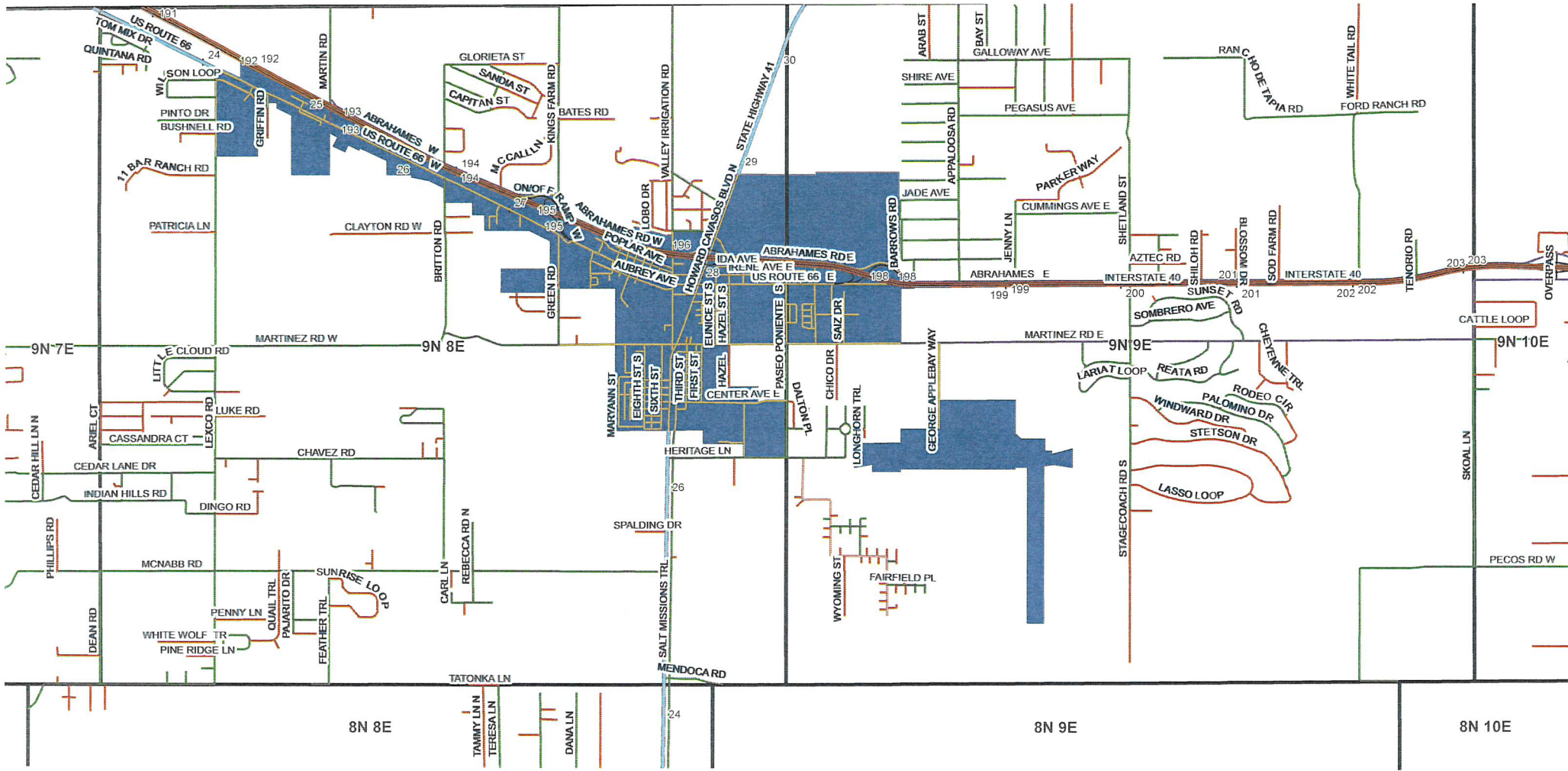
ATTEST:

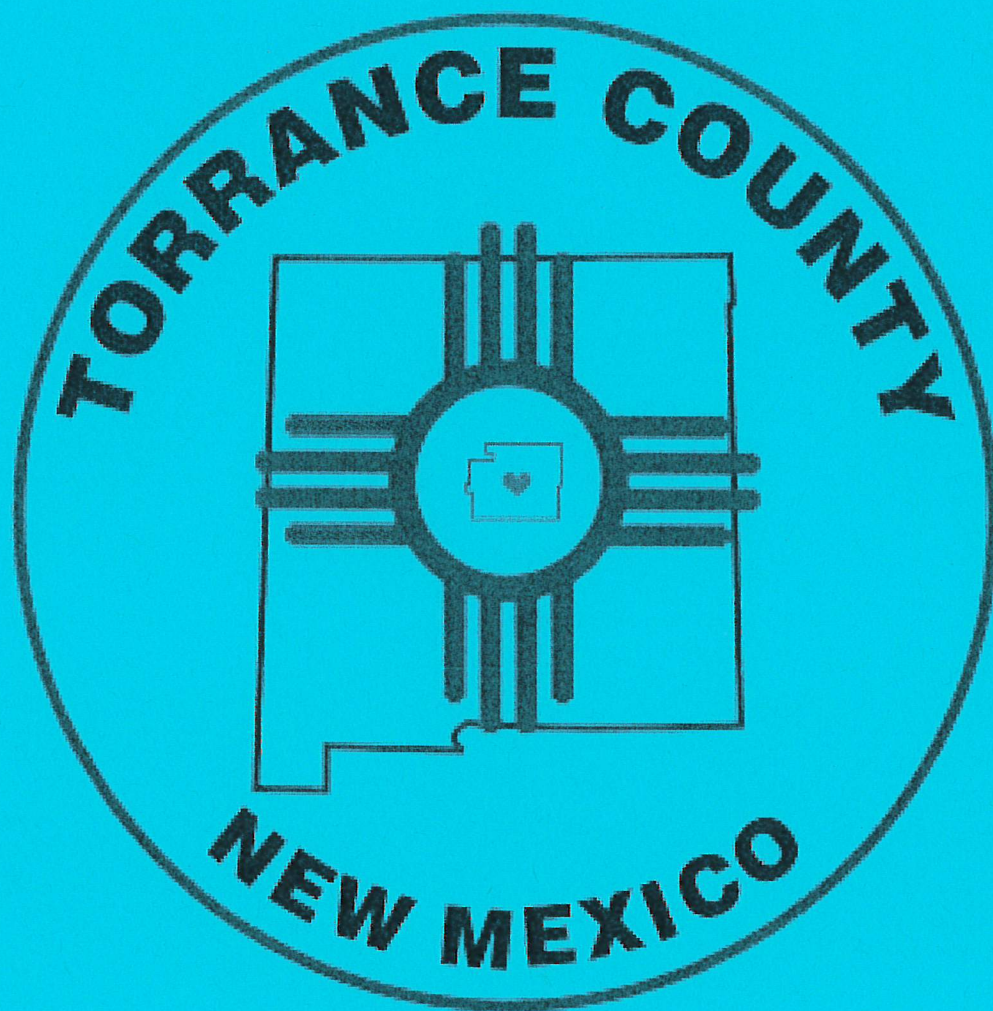
County Clerk

Approved as to form:

County Attorney

A





Agenda Item
No. 5-B



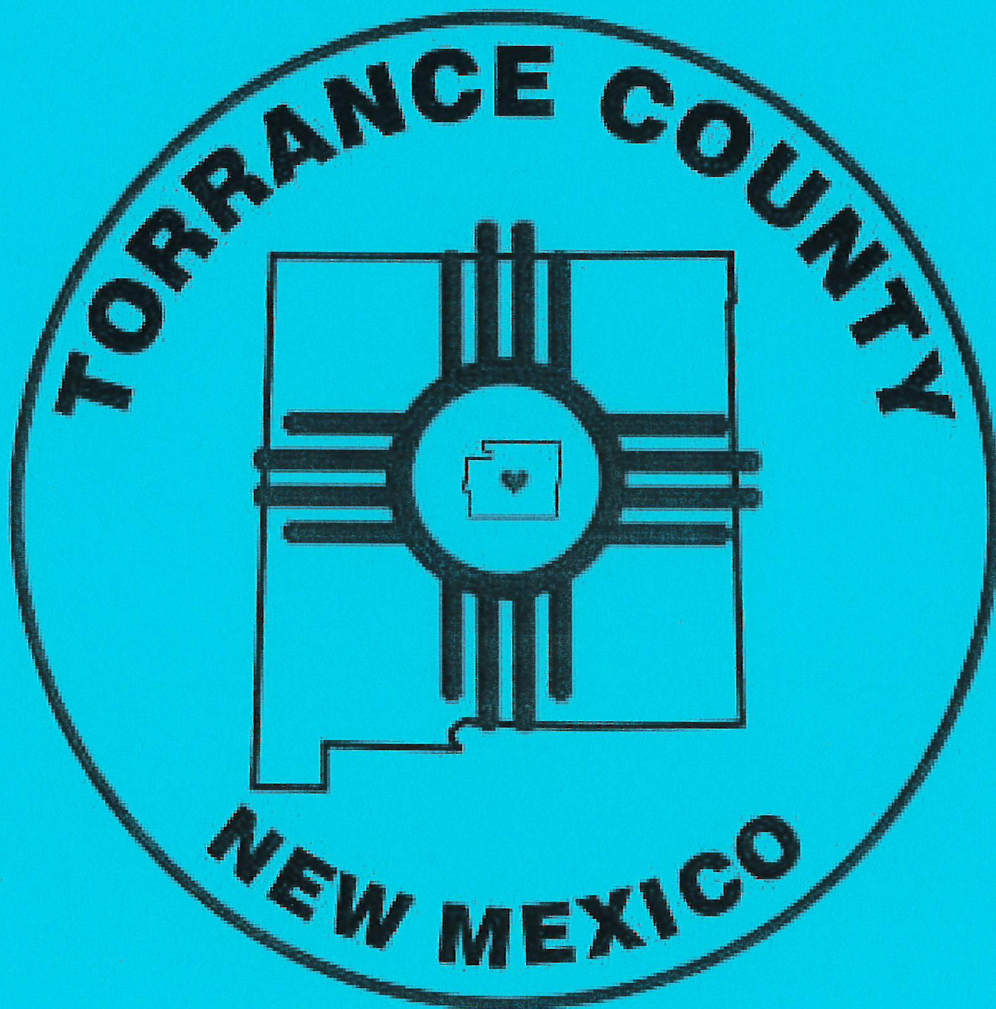
Agenda Item
No. 5-C



*Agenda Item
No. 6-A*



Agenda Item
No. 7-A



*Agenda Item
No. 8*