

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: May 13, 2011

TO: BOARD OF COUNTY COMMISSIONERS

VIA: KATHERINE MILLER, COUNTY MANAGER

FROM: ROBERT MARTINEZ, PUBLIC WORKS TRANSPORTATION MANAGER *RM*

SUBJECT: May 31, 2011
REQUEST AUTHORIZATION TO ENTER INTO A LIGHTING AGREEMENT
WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT)
FOR INSTALLATION OF INTERSECTION LIGHTING ON NM 14 AND SANTA
FE STUDIOS ROAD (AKA MONTANAS DE ORO) FOR THE SANTA FE STUDIOS
DEVELOPEMENT (PUBLIC WORKS DEPARTMENT)

Background and Summary

As part of the Santa Fe Studios development plan, the NMDOT has set forth conditions for off site improvements to NM 14. In Phase 1A of the NM 14 roadway improvements for this project, the installation of roadway lighting will promote traffic safety. It is anticipated that a future phase of this project will necessitate the installation of a traffic signal however a new and distinct signal and lighting agreement will be required between the parties at that time.

After the subject roadway lighting system has been constructed, Santa Fe County will be required to provide all electric energy, lighting fixtures and routine maintenance. At present, the yearly cost to provide electrical energy for a typical lighted intersection (streetlights only) of this nature is approximately seven hundred dollars (\$700.00) dollars a year; however LED fixtures will reduce these energy costs.

Staff has confirmed that the NMDOT will allow for the placement of LED light fixtures, at this intersection, as per the proposed lighting agreement. Public Works staff will proceed with a change order to direct the contractor to install LED fixtures. The additional cost for these LED fixtures should be less than \$2,500.00.

Action Requested:

The Public Works Department requests approval to enter into a Lighting Agreement with the New Mexico Department of Transportation (NMDOT) for the installation of roadway lighting at this location.

CONTRACT NO.: _____

VENDOR NO: _____

SIGNALIZATION AND LIGHTING AGREEMENT

THIS AGREEMENT, made and entered into pursuant to the provisions of NMSA 1978, Section 67-3-28, as amended, this ____ day of _____, 2011, by and between the NEW MEXICO DEPARTMENT OF TRANSPORTATION, acting by and through the SECRETARY, (hereinafter called the DEPARTMENT), and SANTA FE COUNTY, New Mexico, acting by and through its duly elected officials, (hereinafter called the PUBLIC ENTITY), and (hereinafter collectively called the Parties).

RECITALS:

WHEREAS, the PUBLIC ENTITY contemplates the letting of a contract for the construction of a highway project within the boundaries of the PUBLIC ENTITY, said project being identified as Phase IA of the NM 14 Roadway Improvements, and within the boundaries of SANTA FE COUNTY;

WHEREAS, the PUBLIC ENTITY and the DEPARTMENT agree with the need for installation of intersection lighting on Type III standards that are recognized as uniform state and federal standards (hereinafter Type III Standards);

WHEREAS, the PUBLIC ENTITY and the DEPARTMENT agree that the Lighting Project will be without a mast-arm at the intersection of NM 14 and Montanas de Oro, and the exact design, which shall be determined by the DEPARTMENT, will be in conformance with applicable laws, regulations and recognized uniform standards;

WHEREAS, the installation of the intersection lighting will promote traffic safety;

WHEREAS, the PUBLIC ENTITY and the DEPARTMENT anticipate that there may be a need for the installation of a traffic signal light at the intersection of NM 14 and Montanas de Oro in the future.

WHEREAS, the DEPARTMENT will require a traffic signal warrant study in the future that will determine when a traffic signal light is warranted at said intersection.

WHEREAS, a new and distinct signal and lighting agreement between the Parties will be required prior to installation of any future traffic light signal;

WHEREAS, it is the desire of the Parties to set forth their understandings and agreements pursuant to which improvements shall be made, and subsequently operated and maintained as required; and

WHEREAS, the Parties to this Agreement only contemplate Phase IA, the installation of lighting and applicable signage at the intersection of NM 14 and Montanas de Oro,

NOW THEREFORE, the Parties enter into this Agreement as follows:

SECTION I: THE DEPARTMENT SHALL:

Review and approve the necessary plans and estimates and all other documents required for the construction of the Project in the manner provided by law and in accordance with applicable laws, regulations and standards.

SECTION II: THE PUBLIC ENTITY SHALL:

1. Provide the necessary plans and estimates and other documents required for the review, approval and construction of the Project and cause the Project to be constructed in the manner provided by law and in accordance with such plans and documents approved by the DEPARTMENT.
2. Provide and install meter pedestal, footings, foundations for Type III standards, pull boxes, underground conduits, Type III standards without mast-arm, with luminaires on extended shaft, for intersection lighting and anticipated future signalization for the following intersection in conformance with the approved plans and specifications of the DEPARTMENT.
3. After the subject lighting system has been constructed, provide, at its own expense, all electrical energy, routine maintenance such as bulb and/or luminaire replacement, and that in case of accidental damage to the Type III standards or fixtures, replace them with the same kind or brand for continued satisfactory operation of the said roadway lighting system.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the lighting system.
5. Follow all applicable procurement laws and regulations and obtain the necessary approvals prior to making the necessary expenditures for the Project.

SECTION III: THIRD PARTY BENEFICIARIES:

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

SECTION IV: 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 New Mexico Tort Claims Act (Section 41-4-1, et seq. N.M.S.A. 1978) and any amendments thereto. This paragraph is intended only to define the liabilities between the Parties hereto and it is not intended to modify, in any way, the Parties' liabilities as governed by common law or the New Mexico Tort Claims Act. By entering this AGREEMENT, the DEPARTMENT and the PUBLIC ENTITY, and their "public employees" as defined in the New Mexico Tort Claims Act, do not waive any sovereign immunity, nor do they waive any limitation(s) of liability pursuant to law. No provision in this AGREEMENT modifies or waives any provision of the New Mexico Tort Claims Act.

SECTION V: 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 VI: TERMS OF THIS AGREEMENT:

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

SECTION VII: EQUAL OPPORTUNITY COMPLIANCE:

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

SECTION VIII: APPROPRIATIONS AND AUTHORIZATIONS:

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the AGREEMENT. If sufficient appropriations and authorizations are not made by the Legislature or the Congress of the United

States if federal funds are involved, this AGREEMENT shall terminate upon written notice being given by the DEPARTMENT to the PUBLIC ENTITY. The DEPARTMENT is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure by the DEPARTMENT. The DEPARTMENT's decision as to whether its funds are sufficient for fulfillment of this AGREEMENT shall be final.

SECTION IX: 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 X: PUBLIC ENTITY SOLE JURISDICTION:

By mere reason of the DEPARTMENT's participation in this Project, the DEPARTMENT is not incorporating this Project into the State Highway System, nor is the DEPARTMENT assuming maintenance responsibility for the Project.

SECTION XI: PROJECT RESPONSIBILITY:

Design, construction and installation for this Project are the PUBLIC ENTITY'S's sole responsibility and nothing is intended to give the DEPARTMENT any responsibility for future maintenance of the Project or related road improvement within the DEPARTMENT's road system.

SECTION XII: CONTINGENT ON PROJECT BEING LET:

In the event that the Project is not let for any reason, this AGREEMENT shall become null and void and shall create no obligation on any of the parties.

SECTION XIII: 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 hereto have executed this AGREEMENT the day and year hereinafter first written.

PUBLIC ENTITY

NEW MEXICO DEPARTMENT OF
TRANSPORTATION

By: _____
Virginia Vigil, Chair
Santa Fe Board of County Commissioners

By: _____
Secretary Date

RECOMMENDED BY:

DOT State Traffic Engineer Date

DOT Traffic Services Engineer Date

DOT District Engineer Date

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

By *Cynthia A. Chitt* Date *3-18-11*
Assistant General Counsel

Approved as to form
Santa Fe County Attorney
~~*William Marie Webster*~~ *Stephen King, County Attorney*
Date: ~~*3-22-11*~~
3/28/11