

STATE OF NEW MEXICO  
COUNTY OF LEA  
RESOLUTION NO. 18-SEP-183R

A RESOLUTION AUTHORIZING GRANT AGREEMENT NO. 16-A2444 AMENDMENT NO. 01 BETWEEN LEA COUNTY AND STATE OF NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION LOCAL GOVERNMENT DIVISION FOR THE PLAN, DESIGN AND CONSTRUCTION EXPANSION OF THE LEA COUNTY REGIONAL AIRPORT (CAPITAL APPROPRIATION FUNDS)

**WHEREAS**, Lea County recognizes that commercial air service plays a vital role in the economic diversification and stability of Lea County, as well as plays a part in the quality of life for its citizens; *and*

**WHEREAS**, Lea County wishes to continue developing the commercial service with enhancements to the commercial terminal and parking areas; *and*

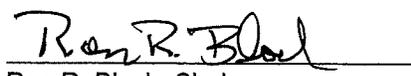
**WHEREAS**, Lea County wishes to amend an agreement to plan, design, and construct an expansion to the terminal at Lea County Regional Airport near Hobbs, NM in Lea County. The amendment would allow Lea County to streamline the reporting process by allowing for online submittals.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the Board of County Commissioners of Lea County, that an amended agreement for 16-A2444 Capital Appropriation Project for the Lea County Regional Airport Terminal Expansion is hereby approved.

**BE IT FURTHER RESOLVED** that the Commission Chair may finalize and sign any agreements consistent with the terms of this resolution.

**PASSED and APPROVED** on this 20<sup>th</sup> day of September, 2018, by the Lea County Board of County Commissioners in an open meeting in Lovington, New Mexico.

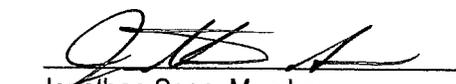
LEA COUNTY BOARD OF COUNTY COMMISSIONERS

  
Ron R. Black, Chair  
Voted:  Yes No Abstain

  
Rebecca, Long, Vice Chair  
Voted:  Yes No Abstain

Lea County  
SEP 20 2018  
LCBCC Meeting

  
Dean Jackson, Member  
Voted:  Yes No Abstain

  
Jonathan Sena, Member  
Voted:  Yes No Abstain

  
Richard Don Jones, Member  
Voted:  Yes No Abstain

**ATTEST:** Keith Manes  
Lea County Clerk

By: *Kelli Williams*  
Kelli Williams, Deputy Clerk

**APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:**

*[Signature]*  
John W. Caldwell, County Attorney



STATE OF NEW MEXICO  
DEPARTMENT OF FINANCE & ADMINISTRATION  
LOCAL GOVERNMENT DIVISION

Severance Tax Bond Projects

GRANT AGREEMENT AMENDMENT NO. 1

Article II Revision	<u>X</u>	Name of Grantee:	Lea County
Article VIII Revision	<u>X</u>	Grant No.	<u>16-A2444</u>
Article IX Revision	<u>X</u>		
Article X Revision	<u>X</u>		

16-A2444                      \$420,000.00                      Appropriation Reversion Date: 30-JUN-20  
Laws of 2016, Chapter 81, Section 22, Paragraph 117, Four hundred twenty thousand dollars (\$420,000) to plan, design, construct, renovate, expand and equip the passenger terminal at the Lea county regional airport in Hobbs in Lea county; less Four Thousand Two Hundred Dollars (\$4,200.00) for art in public places.

**THE SUBJECT GRANT AGREEMENT IS AMENDED AS FOLLOWS:**

**Article II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE**

A (vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
- c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.
- d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the

particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

**All other information in Article II. remains the same.**

## **Article VIII. REPORTS**

### **A. Database Reporting**

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report. Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

### **B. Requests for Additional Information/Project Inspection**

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

## **ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES**

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the

Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. **Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

**ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES**

A. The following general conditions and restrictions are applicable to the Project:

- (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

**All other information in Article X. remains the same.**

**All other Articles of the original Grant Agreement remain the same.**

IN WITNESS WHEREOF, the parties have herein below set their hand.

THIS AGREEMENT has been approved by:

Ron R. Black

Chief Elected Official/Authorized Signatory

Date Thursday, September 20, 2018

Ron R. Black, Chair, Lea County Board of County Commissioners

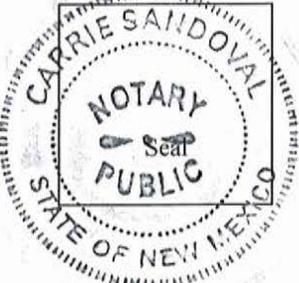
Type or Print Name

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



The foregoing instrument was acknowledged before me this 20th day of September, 2018,  
by Ron R. Black

Carrie Sandoval  
Notary Public



My Commission Expires:

07-11-2020

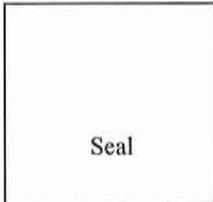
DEPARTMENT OF FINANCE AND ADMINISTRATION  
LOCAL GOVERNMENT DIVISION

\_\_\_\_\_  
Rick Lopez, Director

\_\_\_\_\_  
Date

STATE OF NEW MEXICO )  
 )ss.  
COUNTY )  
OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
by \_\_\_\_\_.



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

My Commission Expires:

\_\_\_\_\_

STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
Request for Payment Form  
Exhibit 1

**I. Grantee Information**

(Make sure information is complete & accurate)

A. Grantee: \_\_\_\_\_

B. Address: \_\_\_\_\_  
(Complete Mailing, including Suite, if applicable)

\_\_\_\_\_  
City, State, Zip

C. Phone No: \_\_\_\_\_

D. Grant No: \_\_\_\_\_

E. Project Title: \_\_\_\_\_

F. Grant Expiration Date: \_\_\_\_\_

**II. Payment Computation**

A. Payment Request No. \_\_\_\_\_

B. Grant Amount: \_\_\_\_\_

C. AIPP Amount (If Applicable): \_\_\_\_\_

D. Funds Requested to Date: \_\_\_\_\_

E. Amount Requested this Payment: \_\_\_\_\_

F. Reversion Amount (If Applicable): \_\_\_\_\_

G. Grant Balance: \_\_\_\_\_

H.  GF       GOB       STB (attach wire if first draw)

I.  Final Request for Payment (if Applicable)

**III. Fiscal Year :** \_\_\_\_\_ **FY 2019 (July 1, 2018 through June 30, 2019)**

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

**IV.  Reporting Certification:** I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

**V.  Compliance Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

\_\_\_\_\_  
Grantee Fiscal Officer  
or Fiscal Agent (if applicable)

\_\_\_\_\_  
Grantee Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

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

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

**(State Agency Use Only)**

Vendor Code: \_\_\_\_\_ Fund No.: \_\_\_\_\_ Loc No.: \_\_\_\_\_

I certify that the State Agency financial and vendor file information agree with the above submitted information.

\_\_\_\_\_  
Division Fiscal Officer      Date

\_\_\_\_\_  
Division Project Manager      Date

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE  
EXHIBIT 2**

Notice of Obligation to Reimburse Grantee # \_\_\_\_\_

DATE: \_\_\_\_\_

TO: Department Representative: \_\_\_\_\_, \_\_\_\_\_

FROM: Grantee Entity: \_\_\_\_\_  
Grantee Official Representative: \_\_\_\_\_

SUBJECT: Notice of Obligation to Reimburse Grantee  
Grant Number: \_\_\_\_\_  
Grant Termination Date: \_\_\_\_\_

As the designated representative of the Department for Grant Agreement number \_\_\_\_\_ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: \_\_\_\_\_

Third Party Obligation Amount: \_\_\_\_\_

Vendor or Contractor: \_\_\_\_\_

Third Party Obligation Amount: \_\_\_\_\_

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): \_\_\_\_\_

The Amount of this Notice of Obligation: \_\_\_\_\_

The Total Amount of all Previously Issued Notices of Obligation: \_\_\_\_\_

The Total Amount of all Notices of Obligation to Date: \_\_\_\_\_ \$ 0.00

*Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.*

Department Rep. Approver: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

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

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.