



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

CIBOLA COUNTY ROAD DEPARTMENT INFRASTRUCTURE PLACEMENT

PREAMBLE

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

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

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

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

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

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

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

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

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

Section 1. Authority.

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

Section 2. Permit Conditions.

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

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

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

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

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

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

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

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

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

Section 3. Appeals.

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

Section 4. Application Fee.



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

Section 5. Enforcement; penalty.

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

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

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

Section 6. Savings clause.

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

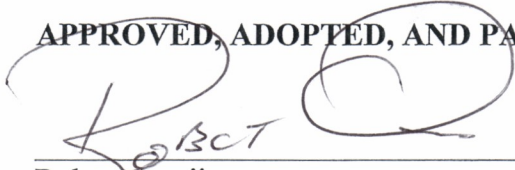
Section 7. Repeal of Conflicting Replaces

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

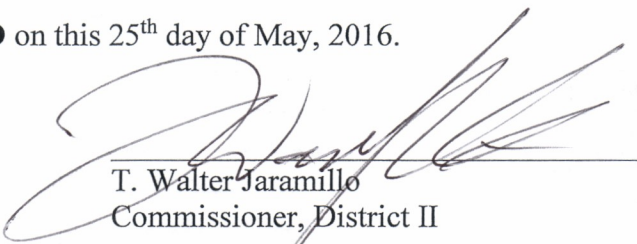
Section 9. Repeal of Conflicting Replac.

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

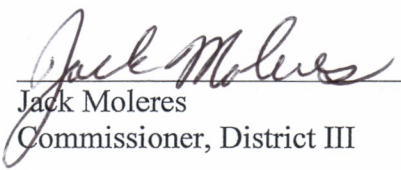
APPROVED, ADOPTED, AND PASSED on this 25th day of May, 2016.



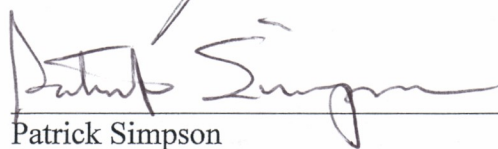
Robert Armijo
Commissioner, District I



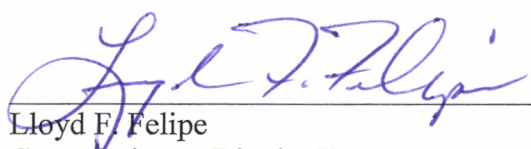
T. Walter Jaramillo
Commissioner, District II



Jack Moleres
Commissioner, District III

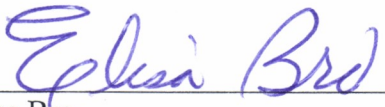


Patrick Simpson
Commissioner, District IV



Lloyd F. Felipe
Commissioner, District V

Attest:



Elisa Bro
Cibola County Clerk




**CIBOLA COUNTY ROAD DEPARTMENT
INFRASTRUCTURE PLACEMENT PERMIT**

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

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

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

201601071 Page 6 of 8B: 024 P: 04985 06/06/2016 11:54 AM
Elisa Bro. Cibola County, NM Clerk and Recorder



COUNTY USE ONLY

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

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

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

Performance Bond or Cash Deposit Received: Yes No

County Road Superintendent

Date

County Commissioner

Date

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

