

GRANT COUNTY ORDINANCE NO. O-10-02

AN ORDINANCE DECLARING RIGHT-OF-WAYS FOR PURPOSES OF PUBLIC USE

WHEREAS, the Federal Government made an offer of dedication under 43 U.S.C. § 932 (RS 2477) that provides for “[t]he right of way for the construction of highways over public land, not reserved for public uses, is hereby granted,” and

WHEREAS, New Mexico recognizes that RS 2477 dedications can and have been created or accepted through public use alone, and

WHEREAS, although RS 2477 was repealed with the passage of the 1976 Federal Land Policy and Management Act, rights established under the former RS 2477 statute were preserved, and

WHEREAS, for purposes of public use only, Grant County desires to continue its assertion of rights of way over all roadways created through public use that are within Grant County, outside the corporate limits of any municipality, and

WHEREAS, with the adoption of this ordinance, Grant County intends to clarify that its assertion of rights of way over roadways created through public use, including lands dedicated under RS 2477, is for purposes of public use only, and is not an acceptance of maintenance obligations, and

WHEREAS, with the passage or adoption of any prior ordinances, resolutions, orders, or parts thereof, Grant County had no intent to accept maintenance obligations for roadways created through public use, including lands dedicated under RS 2477, and

WHEREAS, due to its lack of clarity, Grant County desires to repeal “GRANT COUNTY ORDINANCE, An Ordinance Defining and Declaring Highways” adopted by the Board of Commissioners of Grant County on December 3, 1992, filed in the Grant County Clerk’s Office book 204, of the records of Ordinances, page 655.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF
GRANT COUNTY, NEW MEXICO:

1. For purposes of public use, Grant County declares public rights of way on all RS 2477 highways created through public use.
2. An acceptance by Grant County of land dedicated for public use, regardless of the source of dedication, is not an acceptance of maintenance obligations by Grant County.

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

The Board of County Commissioners (the "Board") of Grant County (the "County"), in the State of New Mexico, met in open regular session in full conformity with law and the ordinances and rules of the County, in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board, at 3:00 p.m., on Thursday, September 9, 2010 at which time there were present and answering the roll call the following members:

Commissioners:	Mary Ann Sedillo
	Jovita Gonzales
	Christy Miller

Absent:	None
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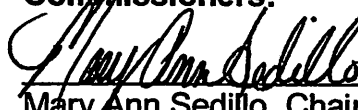
Thereupon the following proceedings, among others, were had and taken, to wit:

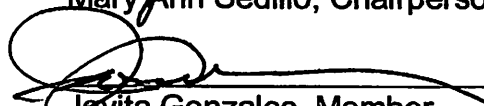
There was officially filed with the County Clerk, the Chairman and each Commissioner, a copy of an ordinance in final form, which is as follows:

3. The following ordinance is hereby repealed: "GRANT COUNTY ORDINANCE, An Ordinance Defining and Declaring Highways" adopted by the Board of Commissioners of Grant County on December 3, 1992, filed in the Grant County Clerk's Office book 204, of the records of Ordinances, page 655.
4. All ordinances, resolutions, orders, and bylaws, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This ordinance shall not be construed to revive any ordinance, resolution, order, or bylaw, or part thereof, heretofor repealed.
5. If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.
6. Upon due adoption of this ordinance, it shall be recorded in the Grant County Clerk's Office in the book kept for that purpose, authenticated by the signatures of the Board of Commissioners of Grant County and the County Clerk.

PASSED, APPROVED, AND ADOPTED, this 9th day of September, 2010, BY A VOTE OF 3 FOR AND 0 AGAINST.


**Board of Grant County
Commissioners:**


Mary Ann Sedillo, Chairperson


Jovita Gonzales, Member


Christy Miller, Member




Robert Zamarripa, Grant County Clerk

Commissioner Miller then moved that the ordinance as filed with the County Clerk at this meeting be passed and adopted. Commissioner Gonzales seconded the motion.

The question being upon the passage and adoption of the ordinance, the motion was voted upon with the following result:

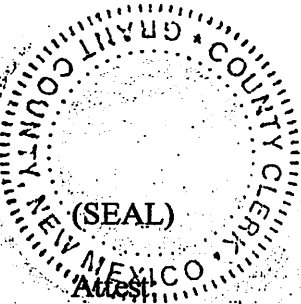
Those Voting Yea: Mary Ann Sedillo
Jovita Gonzales
Christy Miller

Those Voting Nay: ☐

Those Absent: ☐

The Chairman thereupon declared that at least a majority of all the members of the Board having voted in favor thereof, the motion was carried and the ordinance duly passed and adopted.

After consideration of matters not relating to adoption of the Ordinance, the meeting on motion duly made, seconded and unanimously carried, was adjourned.



Robert Zamarripa
Robert Zamarripa, County Clerk

Mary Ann Sedillo
Mary Ann Sedillo, Chairman

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

I, Robert Zamarripa, County Clerk of Grant County, New Mexico (the "County"),
certify:

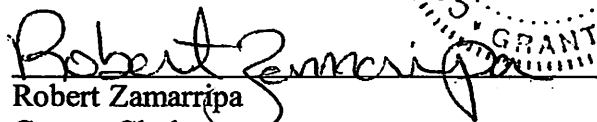
1. The foregoing pages numbered 1 through 4, both inclusive, constitute a full and correct copy of the record of the proceedings taken by the Board of County Commissioners of the County (the "Board") at a regular meeting thereof held on September 9, 2010 so far as said minutes relate to an ordinance, a copy of which is therein set forth (the "Ordinance"). The Ordinance has been duly authenticated by the signatures of the Board and myself as County Clerk, sealed with the corporate seal of said County, and recorded in my office on September 9, 2010.

2. Notice of such meeting of September 9, 2010 was given by publishing a notice of the Board's intent to consider the Ordinance by publication in the *Silver City Daily Press* on August 19, 2010. An affidavit of publication with respect to such notice is attached as Exhibit A. In addition, notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Board as required by the open meetings standards then in effect, *i.e.*, the County's Open Meetings Resolution.

3. The Chairman and members of the Board were present at said meeting, and the members of the Board voted on the passage of the Ordinance as set forth in such record of proceedings.

5. No other business concerning the Ordinance was taken at said meeting.

[seal]


Robert Zamarripa
County Clerk

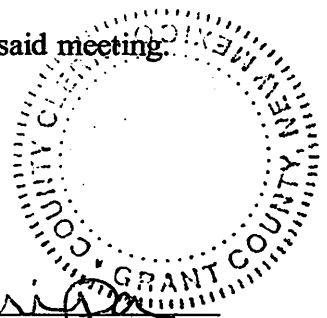


EXHIBIT A

**(Attach Affidavit of Publication of Notice of
September 9, 2010 Meeting as published on
August 19, 2010 in the *Silver City Daily Press*)**

Silver City Daily Press
and Independent
3130A Hwy. 180 E.
Post Office Box 740
Silver City, New Mexico 88062
(575) 388-1576

INVOICE FOR PUBLICATION OF LEGAL NOTICE

GC Commissioners Attn: Randy
PO Box 898
Silver City, NM 88062



PAID
8-25-10

Date	Description	PO#	Inches	Lines1	Total
8/19/10	Notice to Consider Ordinance #O-10-02		10.25	71.75 @ .63	= \$45.20
				@ .49	=
				@ .49	=
				@ .49	=
				@ .49	=
				@ .49	=
				@ .49	=

Total Inches 10.25

Subtotal \$45.20

Tax \$3.33

Please include top portion with payment to ensure proper credit.

Grand Total \$48.54

Affidavit of Publication

STATE OF NEW MEXICO

S S

County of Grant

Mary L. Ybarra, being first duly sworn, on her oath says: That she is the manager of the Silver City Daily Press and Independent, a newspaper printed and published in the Town of Silver City, in the County of Grant and the State of New Mexico, and that said newspaper is now, and was at all times herein mentioned, a newspaper of general circulation.

That the advertisement, copy of which is hereto attached, was published in said hereinbefore mentioned newspaper once each and every week for 1 consecutive week (s), the first publication thereof having been made on 8/19/10 and the last publication thereof having been made on . That said newspaper was regularly printed, published and issued with said notice herein upon the following dates, to wit:

8/19/10

Mary L. Ybarra

Subscribed and sworn to before me on this 20th day of August 2010

Melanie K. Rogers

Notary Public



OFFICIAL SEAL
Melanie K. Rogers
NOTARY PUBLIC
STATE OF NEW MEXICO

Legal
NOTICE OF
CONSIDERATION OF
ORDINANCE NO. O-10-0
GRANT COUNTY,
NEW MEXICO
NOTICE IS GIVEN that
Board of County Commis
ers (the "Board") constit