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County of Lincoln

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AGENDA ITEM NO. 6

SUBJECT:

- a. February 21, 2023, Regular Commission Meeting

Tuesday March 21, 2023

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Todd Proctor, Chair
Jon Crunk, Vice Chair

Samantha Serna, Member
Mark Fischer, Member
Pierre Pfeffer, Member

Minutes Tuesday February 21, 2023

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on February 21, 2023, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico. The meeting was also accessible via Zoom.

1. Call to Order

Chair Proctor called the Regular Meeting of the Board of County Commissioners to order at 8:30 AM.

2. Roll Call

Roll Call.

Present: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Others present included Ira Pearson, County Manager; Alan Morel, County Attorney; and Shannan Hemphill, County Clerk.

3. Invocation

The Invocation was presented by Commissioner Serna.

4. Pledge of Allegiance

- a. Pledge – USA Flag
- b. Salute – NM Flag

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary,

Action: Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Crunk.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

31. **Lincoln County Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7); and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8); and Limited Personnel Matters, Section 10-15-1, Subparagraph (H)(2)**

Motion: To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7); and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8); and Limited Personnel Matters, Section 10-15-1, Subparagraph (H)(2), **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Chair Proctor recessed the Regular Meeting and convened the Closed Session at 8:32 AM.

New or Updated Matters since last report *

1. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018. The case is still pending.

2. **Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts.

On March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court, Case No. S-1-SC-37602 On January 8, 2021, the Supreme Court entered its Dispositional Order of Transfer transferring the case to the Court of Appeals for consideration and review.

On January 28, 2021, a Dispositional Order was entered transferring the case to the NM Court of Appeals for consideration and review. Case No. A-1-CA-39446 On December 8, 2022, the case was submitted to a 3 Judge Panel for a decision.

3. **Romero, et al. v. Stone, et al, Cause No. D-1226-CV-2019-00271** Request for Appointment of Guardian Ad Litem for Plaintiffs and Complaint for Violation of Civil and Constitutional Rights, Negligence, Prima Facie Tort and Wrongful Taking was filed on October 9, 2019 along with a Jury Demand. Lisa B. Riley is the presiding Judge. The case is still pending.

4. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et. al – U.S. Dist. Court Case No. 2:19-cv-00462** – Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the

transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings. Settlement has been reached with some of the Defendants and, Lincoln County has begun to receive payments from some of the settling Defendants. The case is still pending.

5. **Greentree Solid Waste Authority v. Lincoln County, Cause No. D-1226-CV-2014-00095** – Compromise and Settlement Agreement and Release executed on December 17, 2015.

6. **Debra Wilcox v. Board of County Commissioners, Deputy Samuel C. Hanna, Caroline McCoy and Former Sheriff Robert Shepperd, Cause No. D-1215-CV-2021-00574** Complaint for Damages was filed on the 2nd day of September, 2021 by Steven Sanders alleging personal injury resulting from an improper and grossly negligent investigation and for “malicious abuse of process”. County Defendants were served on November 2, 2021. The case is still pending.

7. **Eby Revocable Trust AND William R. Moser v. Lincoln County Assessor, et al, Cause No. D-1226-CV-2021-0260** A Notice of Appeal of Decision of Tax Protest Board was filed on the 14th day of December, 2021 by Attorney Zach Cook. On January 27, 2022, New Mexico Counties assigned Attorney Daniel Macke to represent Lincoln County. The case is still pending.

8. **Crystal Buster v. Board of County Commissioners for Lincoln County, Correctional Solutions Group, LLC, et al, Cause No. 2:21-cv-01208** A Complaint for Recovery of Damages Caused by the Deprivation of Civil Rights with a Jury Demand was filed on the 12th day of December, 2021, by Coyte Law P.C., and the Law Offices of Matthew Vance, P.C. The case is still pending.

9. **Lionel Burns v. Lincoln County Sheriff’s Department; Deputy Daniel Brawley; in their individual and official capacities, and Rhonda Burns, Cause No. D-1226-CV-2022-00032** A Complaint for Damages was filed on the 4th day of March, 2022, by Clayton E. Crowley, Esq. and Joseph J. Gribble, Esq.

On April 22, 2022 the case was removed to the U.S. District Court for the District of New Mexico, Cause No. 1:22-cv-000304. The case is still pending.

10. **Potential Recovery of County of Lincoln Losses from the McBride / Nogal Fires**

11. **Butch’s Properties, LLC v. Vera Cruz Ranches, et al, Cause No. D-1226-CV-2022-00166** A Complaint to Quiet Title was filed on the 18th day of August, 2022 by Attorney William Griffin. Lincoln County was served on the 26th day of August, 2022, and filed its Answer to the Complaint on the 26th day of September, 2022. The case is still pending.

12. ***Pioneer Bank v. Andrew Smith, et al, Cause No. D-1226-CV-2022-00089** An Amended Complaint for Foreclosure and Collection of note was filed on the 24th day of August, 2022 by Attorney Andrew Ragsdale. Lincoln County was served on the 24th day of August, 2022, and filed its Answer to the Complaint the 28th day of September, 2022. On January 11, 2023, Judge Bryant entered an Order to Dismiss without prejudice. This case is now closed.

13. **Rosarita Brady, et al v. The Board of County Commissioners of the County of Lincoln, et al, Cause No. D-1226-CV-2022-00199** A Verified Complaint was filed by Attorneys

Alexandra Bobbit and McKenzie St. Denis on the 27th day of September, 2022. Lincoln County was served on the 22nd day of November, 2022. Lincoln County Defendants filed their Motion to Dismiss in Lieu of an Answer to the Complaint on the 6th day of January, 2023. The case is still pending.

14. **Dennis Rich and Yvonne Rich, v. Walt Hill, et al, Cause No. D-1226-CV-2022-00230**
A Complaint to Quiet Title was filed on the 22nd day of November, 2022 by Attorney H. John Underwood. The County of Lincoln has yet to be served.

Tort Claims Notices Received or Threatened

2023

***Booth, Marcus** – Tort Claim Notice received January 26, 2023, alleging injuries sustained by Claimants head due to the actions by staff of the Lincoln County Detention Center and staff's refusal to take Claimant for medical treatment.

Ornelas, Mark – Tort Claim Notice received on January 4, 2023, alleging injuries sustained on October 11, 2022, as a result of an automobile accident / rollover of the Detention Center Transport Van owned by Lincoln County while being transported from Eddy County Detention Center to Lincoln County Detention Center.

2022

Schwartz, Neil – Tort Claim Notice received on February 10, 2022 alleging malicious and/or tortious actions and/or omissions by the State of New Mexico, the Lincoln County Sheriff's Department, the New Mexico State Police, and the Twelfth Judicial District Attorney's Office resulting in damages to Claimant including, but not limited to, infliction of mental pain and suffering, injuries to Claimant's reputation, and current and future loss of earnings.

Downs, Barbara – Tort Claim Notice received May 6, 2022 alleging improper road and/or waterline maintenance resulting in a vehicle collision due to the icy road at the intersection of Sudderth Drive and Paradise Canyon in Ruidoso, New Mexico. A 2nd Tort Claim Notice was received on May 9, 2022 for a separate source with the same allegations as those set out in the May 6, 2022 notice.

McMinn, David – Tort Claim Notice received on July 6, 2022, alleging multiple, serious issues due to the use of excessive force by BIA law enforcement who may have been agents of or acting on behalf of the Village of Ruidoso, Ruidoso Police Department, Lincoln County, N.M. State Police and the State of New Mexico.

New Mexico Boys and Girls Ranches, Inc. and its Employee, Bridgman, Ted – Tort Claim Notice received on August 9, 2022, alleging violation of civil rights and tort claims act, including a demand to cease and desist and the return of promotional materials confiscated by County representatives at the Lincoln County Fair.

Villanueva, Leticia – Tort Claim Notice received on October 3, 2022, alleging negligent, malicious and/or tortious actions and/or omissions, and infliction of pain and suffering.

Estates of Wesley Clark and Linda Clark – Tort Claim Notice received on October 11, 2022 alleging wrongful deaths as a result of the McBride Fire due in part to faulty siren warning systems.

202 **Snodgrass, Joshua** – Tort Claim Notice received on November 2, 2022 concerning
203 loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022.

204
205 **Grassie, Kurtis** - Loss of employment with the Lincoln County Sheriff's Office
206 commencing on June 23, 2022.

207
208 **2021**

209 **Mow, Jacob** – Tort Claim Notice received February 18, 2021 alleging damage to his
210 vehicle due to icy road conditions on Cora Dutton Rd. and the County Road Department's
211 failure to salt to roadway.

212
213 **Cervantez, Adam** - Tort Claim Notice received on July 8, 2021 alleging the use of
214 excessive force and related constitutional claims during his arrest on April 22, 2021.

215
216 **Kieter, Dave; Jakubcewicz, Mark; Riddle, Jasper; Patton, Van** – Tort claim Noticed
217 received on July 27, 2021. Claimants each allege damages to personal and real property as a
218 result of the extraordinary flooding experienced throughout Lincoln County.

219
220 **Myers, Sylvia** – Tort Claim Notice received August 30, 2021 alleging that Lincoln
221 County Medical Center's treatment fell below the standard of care.

222
223 **Siegel, Erik** – Tort Claim Notice received August 30, 2021 alleging deprivation of rights
224 involving tort, constitutional rights, and other claims.

225
226 **White, Lionel Glenn, Jr., and family members and tenants, Ralph Nosker and his**
227 **family members, Barbara Arthur and her family members, and Barlou, LLC** – Tort Claim
228 Notice received September 16, 2021 alleging inundation by water resulting in damages to
229 existing roadways and parking in the Gavilan Canyon Road area which are all located within the
230 municipality of the Village of Ruidoso.

231
232 **Smoley, Cinthia** – Ms. Smoley submitted to the Lincoln County Treasurer Department a
233 Statement dated 11/2/2021, for "Arbitration Award/monies due for default".

234
235 **Vonderane, Glenn** – Tort Claim Notice received October 19, 2021 alleging personal
236 injury while using a staircase at the Village of Ruidoso public parking lot located at 151 Center
237 Street.

238
239 Chair Proctor adjourned the Closed Session and reconvened the Regular Meeting at 9:32 AM.

240
241 Commissioner Fischer attested matters discussed in the closed meeting were limited to those
242 specified in the motion for closure or in the notice of separate closed meeting and no action was
243 taken.

244
245 **11. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY**
246 **OFFICIALS (Items are for discussion only – no action will be taken)**

247
248 Chair Proctor stated he attended the Lincoln County Days in Santa Fe in February with
249 Manager Pearson, Mayor Crawford and Ron Sena, acting Village Manager where they met with
250 the Governor's Office regarding some McBride Fire Bills. Chair Proctor also attended the
251 Greentree Solid Waste meeting however the only portion which pertained to the County was the
252 Landfill. Chair Proctor informed he attended the NMC meeting and explained there were

253 numerous bills introduced during the Legislative session and the Association of Counties was
254 tracking 183 of the bills. Chair Proctor mentioned if anyone would like information on what they
255 were tracking he would be happy to visit about the bills which pertain to them.

256
257 Commissioner Fischer thanked Chair Proctor for his diligence and work with the legislature on
258 behalf of the County. Commissioner Fischer stated he testified for SJR13 to support the
259 Convention of States and Article Five Convention. Commissioner Fischer informed he received
260 a letter from resident Gary Popplewell which he supported and he hoped Mr. Popplewell would
261 be able to explain the letter more in depth for the rest of the Commissioners during his portion of
262 the public comments.

263
264 Commissioner Serna stated she attended the NMC Conference and the Lincoln County Days as
265 well. Commissioner Serna gave a huge thank you to Senator Burt for his work on the McBride
266 recovery. Commissioner Serna hoped the \$20,000,000 would be used to support workforce
267 housing as she felt it was the biggest loss the community saw as well as support roads and
268 drainage.

269
270 Commissioner Pfeffer stated as the new Commissioner he looked forward to working with the
271 fellow Commissioners to support the people of Lincoln County.

272
273 Commissioner Crunk spoke on the ongoing homeowners insurance issues in the County.
274 Commissioner Crunk stated the Secretary of Insurance retired and his assistant was appointed.
275 Commissioner Crunk informed they were putting a fair plan in place, meaning you could buy a
276 policy from the State however, the maximum policy was \$250,000 which was not enough to
277 cover most of the houses in Ruidoso.

278
279 Clerk Hemphill introduced Kristin Avila as the new Historical Records Clerk. Clerk Hemphill
280 advised there would be a Special All Mail Election for the Capitan School District on May 9,
281 2023 so those in the district would be receiving a ballot in the mail in April. Clerk Hemphill stated
282 she also attended the NMC Conference as well as the Clerk's Affiliate meetings where they
283 discussed numerous bills being presented affecting all the different aspects of the Clerk's Office.

284
285 Sheriff Wood welcomed the new Commissioners and apologized for missing the first meeting.
286 Sheriff Wood stated he also attended the NMC Conference and the Sheriff's Affiliate meetings
287 where they discussed numerous bills going through the Legislature. Sheriff Wood provided
288 statistics from his office over the last month.

289
290 Assessor Hill spoke about the assessed livestock values set by the Livestock Board over the
291 last seven years. Assessor Hill pointed out the values for 2023 show a dramatic increase.

292
293 Treasurer Huddleston informed her office was preparing to send courtesy reminder cards.
294 Treasurer Huddleston stated out of the \$37,000,000 owed they had collected \$26,000,000
295 showing they were at 70% of the property tax collections for the 2022 year. Treasurer
296 Huddleston explained her office was closed temporarily due to a remodel however she had
297 employees in the Finance Office available to take payments. Treasurer Huddleston stated she
298 also attended the NMC Legislative Conference.

299
300 Gary Popplewell, Ruidoso Resident, spoke on concerns and issues some residents of the
301 County would like the Commission to work on in future meetings. Mr. Popplewell provided
302 copies of his letter and requested the Commissioners review it and act on items as appropriate.
303 Mr. Popplewell welcomed new Commissioner Pfeffer.

Jim Spiri, Lincoln Resident, spoke on the difficulties with OMI and the Funeral Home in Alamogordo when trying to bury his brother, who was a veteran. Mr. Spiri questioned if there was a contract between the County, the OMI and the Funeral Homes in Alamogordo or Ruidoso. Mr. Spiri informed he worked with Steven McConnell at Fort Stanton cemetery who was wonderful to work with and helped him to bury his brother, however he was still not able to get his brother's Death Certificates from the funeral home and it had been more than 100 days. Mr. Spiri welcomed Commissioner Pfeffer.

Rick Purcella, County resident, thanked Brianna and Francesca for their help on his solid waste bill. Mr. Purcella informed the Commission a lien had been placed on his property for past due solid waste bills. Mr. Purcella stated he owned the house but hadn't lived there in many years as he was in the military and constantly traveling. Mr. Purcella explained he didn't mind paying a solid waste bill when he lived at the property but had a hard time understanding why he would incur a bill when he was not living there. Mr. Purcella hoped to have the house fixed up so he could move back by the end of the year.

6. Approval of Minutes:

- a. January 17, 2023, Regular Commission Meeting

Motion: Approve the Minutes of November 15, 2022 Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

Vote: Motion passed (**summary:** Yes = 4, No = 0, Abstain = 1).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Crunk, Chair Proctor.

Abstain: Commissioner Pfeffer.

15. Pattern Energy / SunZia Wind

- a. 2020 Mesa Canyons Wind, LLC, IRB: First Amendment to Indenture Agreements, and Second Amendment to Lease Agreement

Jeremy Turner, Director of NM Project Development for Pattern Energy, Introduced Pattern Energy for the new Commissioners. Mr. Turner explained they were asking for the ability to pay \$420,000 in 2025 and compensate the County in 2026 as if the project was complete in 2025. Mr. Turner stated the request for the IRB is to allow for a 1 year extension of the construction timeframe from 2025-2026 accept the \$420,000 payment and allow them to make up the entire payment for the remainder of the wind farm in 2026.

Commissioner Crunk questioned the delay and Mr. Turner explained the delay was due to commitments out of the control of the company. Mr. Turner stated they were working with Blatner Energy and expect to be complete by April 2026.

Commissioner Fischer questioned the economic impact for New Mexico instead of the total economic impact for the whole project which would include a lot of the out of state impacts. Mr. Turner explained there were direct, indirect and induced impacts which were taken into account over the 30 years' time period to come up with the expected economic impact.

Attorney Morel stated he had reviewed the contracts however; Eddie Duffy was contracted as outside Counsel in the transaction.

Mr. Turner provided clarification even though the megawatts weren't fully installed in 2025 they would pay the County in 2026 as if they had been.

Motion: Approve the First Amendment to Indenture Agreements and Second Amendment to Lease Agreement, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Fischer.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

- b. Variance Request for Pattern SC Holdings LLC, Ancho Wind LLC, Cowboy Mesa LLC, and Mesa Canyons Wind, LLC (collectively the "SunZia Wind South Project"), Lincoln County WECS

Adam Cernea Clark, Pattern Energy, explained the requested variance request. Mr. Clark stated there were four instances of the new turbines where they would be within the 1.5x County setback. Mr. Clark informed they were requesting approval for variance setbacks, the smallest of which would be 1.1x setback.

Commissioner Fischer would like to see an engineering study to show the real impact of the change.

Commissioner Pfeffer questioned eligibility for Production Tax Credits.

Jeremy Turner explained if the variance was not granted, they would have to drop the 4 turbines and seek an alternate location if one was available. If unavailable, they would be dropped altogether resulting in a loss of about \$39,000/yr.

Commissioner Serna requested to postpone the variance request and have it brought back with more accurate information for the Commission review.

Motion: Postpone the Variance Request, **Action:** Postpone, **Moved by** Commissioner Serna, **Seconded by** Commissioner Fischer.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

14. Approval of Resolution 2023-39 a Resolution Acknowledging and Accepting FY 2022 Audit for Lincoln County – Presentation/Discussion by Daniel Trujillo-Kubiak Melton & Associates, LLC

Mark Santiago, Kubiak Melton & Associates, informed there were no difficulties during the audit and no disagreements with management. Mr. Santiago stated they evaluated uncorrected misstatements and found none. Mr. Santiago explained GASB 87 was new this year and required leases to be capitalized. Mr. Santiago further explained the new GASB 96 which covered subscription-based IT and required it to be capitalized as well, so it would be implemented in the future.

Mr. Santiago informed the County had a clean opinion on their 2022 Financial report, however there was one compliance finding over the use of County Vehicles. Mr. Santiago explained there was guidance put out on the Opioid settlement funds however it came out late. Mr. Santiago stated they were in agreement with Manager Pearson on the handling of the funds even though it was in conflict with the recommendation. Mr. Santiago added a courtesy

reminder the State Auditor will be more stringent on compliance with the work from home policy in the future.

Commissioner Fischer questioned the net position deficit of \$4,612,606 as a leading indicator of a potential problem going forward in the budget. Mr. Santiago explained when they convert from fund level accounting to full accrual accounting you will see the differences and it is not representative of problems.

Commissioner Serna questioned the finding of the County Vehicle usage and was told it was corrected immediately and was not an issue.

Motion: Adopt Resolution 2023-39 acknowledging and accepting FY 2022 Audit for Lincoln County, **Action:** Adopt, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Crunk. **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

SEE EXHIBIT A: Copy of Resolution 2023-39 is attached hereto in reference thereto made a part hereof.

16. Lincoln County Fairgrounds

a. Fair Board Presentation / Update

Billy Bob Shafer, President of Lincoln County Fair Board, thanked the Commission for the \$37,500/yr issued from the County. Mr. Shafer explained the contract labor line covered the lady who takes care of the facility and books the events.

Renee Montes, Secretary/Treasurer LCFB, explained the financial breakdown.

Shad Cox, LCFB, informed the Smokey Bear Stampede was one of the largest open rodeos in the US. Mr. Cox stated they raised ticket prices in 2022 and it was the largest attended event thus far.

Commissioner Crunk questioned the insurance requirement and recommended updating the insurance company on the ticket price and revenue changes.

Commissioner Fischer questioned the lack of numbers from the 2022 night rodeos. Mr. Shafer informed they did not receive the information from the rodeo contractor prior to the meeting.

Commissioner Serna recommended using Lodgers Tax funds in the future.

Mr. Shafer detailed the Jr. Livestock Sale and County Fair with 107 children exhibiting 350 animals and 121 indoor entries. Mr. Shafer informed they started using an outdoor tent to comply with the Governor's mandate for open air for the Livestock Sale and everyone liked it so much they kept using it each year since. The sale the first year was \$172,000 and it appeared to help increase the sale amount each year since.

Mr. Shafer explained the Lincoln County Cowboy Crisis Fund and stated they had given away around \$100,000 since the beginning of the fund.

b. Fairground Projects – Update

Manager Pearson provided a breakdown of projects completed or underway. Jeff Honeycutt, Road Superintendent stated most projects came out of the Road Department budget.

12. Lincoln County Detention Center Update- and Introduction of New Warden

Ross Castleton, Warden of the Lincoln County Detention Center, informed he had been on the job one week however, he was in corrections for approximately 25 years and had lots of experience.

13. Lincoln County Medical Center Update-Todd Oberheu

Sandie Nunnally, Lincoln County EMS Manager, informed they had hired a new ER physician from Holloman AFB. Ms. Nunnally stated raises had been approved for the EMS department for approximately \$200,00. Ms. Nunnally explained they invited schools to bring children to participate in a MASH camp to teach them a little about the healthcare industry.

Chair Proctor questioned the possible inclusion of Volunteer Fire Department personnel in ambulance responses. Ms. Nunnally informed the PRC required 2 EMT's to be on the Ambulance however they were looking to further discuss their options.

Commissioner Crunk requested ambulance response times from the outlying communities for future review.

10. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

b. Lincoln County / NMSU Extension Services

Melanie Gutierrez, Lincoln County Extension Service, informed they were featured in a pamphlet handed out to the Legislators detailing the quilt camps which the Lincoln County Extension Service held. Ms. Gutierrez updated on different happenings in the County which her office was involved in including taking kids to camps and retreats.

Ms. Gutierrez explained the office used to work with FSA on the forage loss, however they were not included in the process the last couple of years. Ms. Gutierrez stated the ranchers in the area who filed for the grazing loss in 2020 did not receive any funds in 2021 even though there was definite forage loss. Ms. Gutierrez informed FSA had brought the Counties back into the process again this year to help out and her office had turned in the grazing loss assessments.

c. South Central Mountain RC & D

Robert Barber, RC&D Board of Directors, explained the air curtain incinerator they had was designed to burn slash. Mr. Barber informed they had a trailer and were hoping it would be easier to move around.

Mr. Barber provided an update on the EWP for the McBride Fire.

Mr. Barber stated Executive Director Laura Doth was working on insurance issues in the County due to fires and liability.

d. Upper Hondo Soil & Water Conservation District

Robert Barber, Board of Supervisors, discussed the noxious weed program and informed they were doing preemergent spraying.

Mr. Barber explained they had \$39,000 which they were using on cost sharing projects down the Rio Ruidoso. Mr. Barber stated they were applying for additional Grants for various projects in the County.

e. Land and Natural Resources Advisory Committee-LANRAC

Robert Barber, LANRAC, continue to monitor the Lincoln National Forest efforts to revise the forest land management plan. Commissioner Fischer requested to be involved in the EIS comments.

Chair Proctor recessed the meeting at 12:17 PM and reconvened the meeting at 12:45 PM.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending January 31, 2023
- c. Approval of Resolution 2023-37: Disposition of County Inventory and Capital Assets
- d. Approval to Purchase Command Truck for the Lincoln County Office of Emergency Services, Utilizing Fire Protection Fund Monies in the Amount of \$58,584

Motion: Approve the Consent Agenda, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

SEE EXHIBIT B: Copies of the Consent Agenda items including Resolution 2023-37 are attached hereto in reference thereto made a part hereof.

8. Board of Finance – Lincoln County Treasurer, Sherrie Huddleston

Treasurer Huddleston reviewed the Treasurer's Financial Report for the month of January 2023.

Chair Proctor questioned the percentage required. Treasurer Huddleston stated there were options which could be 50%, 75% or 102% however the County was at 102%.

Commissioner Fischer questioned the premium required for that percentage amount. Treasurer Huddleston stated we get less interest on our funds since the bank had to secure a higher percentage.

9. Approval of Budget Adjustment FY 22/23 by Resolution 2023-38

Manager Pearson explained Bonito Fire increased to finish furnishing the new building, the Law Enforcement Protection fund line increased due to sale of property and the Law Enforcement Recruitment and Retention fund monies was received however they were still trying to determine how it could be spent.

Chair Proctor questioned the sale of property for the Law Enforcement Protection fund. Billie Jo Guevara, Finance Director, explained it was due to the rifles which were sold and added to equipment repair.

Commissioner Fischer questioned the expenditures in the Law Enforcement Recruitment and Retention fund since they were unsure how it could be spent. Manager Pearson explained it would be brought back before the Commission if they needed to adjust that budget again after they received clarification.

Motion: Approve the Budget Adjustment FY 22/23 by Adopting Resolution 2023-38, **Action:** Adopt, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

SEE EXHIBIT C: Copy of Resolution 2023-38 is attached hereto in reference thereto made a part hereof.

17. Lincoln County Road Department

a. Consideration and Approval of Wheel Loader Lease

Jeff Honeycutt, Road Superintendent, explained the 3 lease options on 2 pieces of equipment. Sierra Machinery did not have a trip charge however, CAT did, and the price went up significantly.

Commissioner Crunk questioned the number of times they need service each year. Mr. Honeycutt informed there were approximately 50 trips each year for service.

Commissioner Pfeffer questioned the number of times the machines were down and a loaner was needed.

Mr. Honeycutt stated the loaner offset the price of the trip charges and he was working with them to reduce the trip charge back to \$325, the price before the increase.

Motion: Approve the 5 year CAT lease for the wheel loader with the ability for the County Manager to sign all documentation, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Fischer.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

b. Approval to Sign Two (2) Governmental Entity Resolutions to Lease, Purchase and/or Finance Two (2) Motor Graders from CAT Financial

Motion: Authorize Manager Pearson to sign the Resolution Agreements with Caterpillar, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Crunk.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

610 **18. Manager's Report**

611
612 **1) New Mexico Counties (NMC) Legislative Conference – January 17-19**

613
614 Many county employees and elected officials attended the conference. Affiliate meetings
615 had many joint sessions that included:

616
617 Workshop I-Recruitment & Retention NM Workforce Solutions Workshop II-NACo
618 Eryn Hurley
619 Workshop II-Bernalillo County ARPA Funds Workshop II-Valencia County ARPA Funds
620

621 **2) ENMU Legislative Reception – 1/18/2023**

622
623 Commissioner Serna and I attended the ENMU reception in Santa Fe on behalf of
624 Lincoln County. President, Ryan Trosper appreciated our attendance.
625

626 **3) NMC Lobbyist Meetings**

627
628 NMC hosts a virtual ZOOM meeting every morning at 7:30am. Updates are provided
629 regarding the introduction of new Bills, the status of existing Bills and the support / no-
630 support positions of many counties.
631 NMC and lobbyists advocate for the NMC 2023 priorities as well take positions on newly
632 introduced legislation.
633

634 **4) NMDHSEM Visit to Lincoln County – 1/23/2023.**

635
636 M.E. Cormier visited Lincoln County to inspect the damage from the McBride fire. Joe
637 Kenmore was able to navigate a one-hour drive through the burn scar.
638

639 **5) Carrizozo Courthouse Complex Inspection – 1/24/2023**

640
641 Zeke Greer (White Sands Construction) and I walked the entire complex to inspect and
642 evaluate building needs.
643 The main focus was on courthouse security while identifying failing infrastructure.
644 Proposals will be brought before the BOCC during the March meeting.
645

646 **6) New Assessors Training – January 31, 2023**

647
648 The New Mexico Property Tax division hosted a ZOOM meeting for new Assessors. I
649 was able to sit in on a few topics: Sales Ration Study / Protest Process / Exemptions
650

651 This online training is designed to help new Assessors as well as updating experienced
652 personnel.
653

654 **7) Lincoln County Legislative Reception in Santa Fe – 2/1/2023**

655
656 The Ruidoso Chamber of Commerce encouraged all Chamber members and area
657 businesses to join in representing the voice of our community at the Chamber's annual
658 "Lincoln County Day in Santa Fe" on February 1, 2023.

The reception allowed many Lincoln County attendees to interact with legislators and discuss the 2023 legislative session.

8) Bernalillo County Fentanyl Initiative - Keep NM alive Campaign.

Bernalillo County reached out to all NM counties offering to share their Fentanyl Education and Awareness Campaign.

Bernalillo County Commission approved Fentanyl Education and Awareness Campaign as one of its 2023 Legislative Priorities:

Bernalillo County and the City of Albuquerque started with “Community Conversation About Fentanyl” event on October 13, 2022, with over 500 attendees at the Albuquerque Convention Center and over 1,662 online views (live streaming on: keepNMalive.com)

The statewide campaign would include, but not be limited to, video productions, printed materials, media placement, community-based presentations, and mixed-media advertisements focused on youth and family support systems.

Updates will be coming soon.

9) Bonito / Sun Valley Fire Station – Certificate of Occupancy – 2/1/2023

The Fire Station is ready for the Bonito VFD to move in! Transition from the old station has started and will take several months to adjust to the new building. A “Ribbon Cutting” will be scheduled to meet schedules.

10) Director’s Reports

19. Approval to Issue Requests for Proposal (RFPs) and/or Invitation for Bid (IFB):

a. On-Call Electrical Contractor

Manager Pearson explained the County went out to bid for an electrical contractor 2 years ago however services were not being provided as required.

Motion: Approval to issue RFP for On-Call Electrical Contractor, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

b. Carrizozo Courthouse Complex Courtyard Renovation

Manager Pearson explained the project would use specific capital outlay funds from 2020. There was a discussion on the RFP and IFB differences and which would be needed. Manager Pearson stated he would go out to RFP unless an IFB was needed.

Motion: Approval to issue Requests for Proposals or Invitations for Bid on the Courthouse Complex Courtyard Renovation, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Pfeffer.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

20. Lincoln County Solid Waste

- a. Consideration of Administrative Appeal of Solid Waste Lien and Habitable Designation of Customer #2878 – Richard Purcella and Frances Martinez

Manager Pearson stated Mr. Purcella had disputed the habitability of his house, however the Assessors Office had reviewed it and kept the habitable designation therefore they continued to receive a solid waste bill, per ordinance.

Francesca Herrera, Public Works Director, informed the lien had already been filed and Mr. Purcella was requesting for the lien to be released and not to receive any more solid waste bills until he occupies the house.

Commissioner Crunk stated it would be setting a precedent for others to request removal of their liens and no longer receive solid waste bills if they are not living in the house.

Manager Pearson informed Mr. Purcella was aware of the charges and was in the office 3-4 years ago dealing with it.

Assessor Hill stated a notice of value had been sent by his office every year allowing for a dispute. Manager Pearson stated the taxes had been paid.

Postpone item to a future meeting in order to get legal counsel opinion.

- b. Consideration and Approval of Slash, Debris Removal Quote from Sierra Contracting in the Amount of \$2,999.71

Motion: Approve Debris Removal Quote from Sierra Contracting, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

- c. Approval to File Solid Waste Liens:

- i. Harlan H.R. Blake and Mary L. Melancon - **\$463.14**
- ii. Steve Dyer - **\$1,079.64**
- iii. Kenneth B. Ellard - **\$617.52**
- iv. Jennifer Lin Garcia and Kenneth B. Ellard - **\$816.68**
- v. Steven Dean Hutson - **\$991.56**
- vi. Irene Lueras or Fred Lueras - **\$1,141.18**
- vii. Gerardo Medina - **\$2,060.82**
- viii. B. Craig Newkirk - **\$1,372.34**
- ix. Luis Polaco and Ernestina Polaco - **\$1,197.72**
- x. Thomas J. Pollock - **\$715.40**
- xi. Crystal I. Tivis - **\$1,440.04**

Motion: Approve the Solid Waste Liens as listed, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Crunk.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

21. Lodger's Tax Funding:

a. Lodger's Tax Funding Request Procedure Update

Manager Pearson explained the County hired a Lodger's Tax employee, so they hoped to get a better handle on the requests and get more of them paid out. Manager Pearson stated the money that had been approved in the past was not the amount that was paid out due to lack of follow-through. Manager Pearson informed there would be procedural updates brought to the Commission in the future.

b. Approval of Lodger's Tax Funding Requests

i. Event: Lincoln County Art Loop

Amount Requested: \$5,000

Date (s) of Event: 6/30/2023-7/2/2023

Presenter: Lynn Eckman

ii. Event: Alto Artist Tour

Amount Requested: \$5,000.00

Date(s) of Event(s): August 4-6, 2023

Presenter: Lynn Eckman

iii. Event: Aim High

Amount Requested: \$11,000.00

Date(s) of Event(s): 6/30/2023-7/1/2023

Presenter: Rhonda Vincent

iv. Event: Flying J Chuckwagon Dinner & Show

Amount Requested: \$9,000.00

Date(s) of Event(s): 5/27/2023-9/4/2023

Presenter: James Hobbs – President of Flying J

Commissioner Crunk requested additional itemized breakdowns of how the money would be spent in future requests. Commissioner Serna requested the vendor's attend the Commission meeting to discuss their request. Chair Proctor stated that was the job of the Lodger's Tax committee. Chair Proctor recommended allowing the Lodger's Tax Committee to continue their job of reviewing and recommending approval with the possibility of the new Lodger's Tax employee attending the meeting to provide the details to the Commission for approval.

Motion: Approve Lodgers Tax funding requests as recommended by the Lodger's Tax Committee, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

Vote: Motion passed (**summary:** Yes = 4, No = 1, Abstain = 0).

Yes: Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

No: Commissioner Fischer.

22. Appointment of Alternates to the Board of Registration – County Clerk, Shannan Hemphill

Clerk Hemphill stated the Board of Registration members and alternates were appointed on June 15, 2021. Clerk Hemphill explained there was a vacancy on the Board for the Democratic Party therefore pursuant to Section 1-4-34C replacements would need to be appointed to serve until the expiration of the original term. The Democratic Party had submitted two additional members to be appointed as alternates. Clerk Hemphill recommended appointing Dorothy Susan Finch and Linda Perkins as alternates to the Board of Registration.

Motion: Appoint both alternates to the Board of Registration as presented, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Crunk.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

23. Lincoln County Finance

a. Discussion and Direction Regarding Lincoln County Procurement Process and Financial Obligations

Manager Pearson stated the Commissioners were responsible for the Budget and the fiscal responsibility for spending the money however they have run into issues where County departments have signed contracts obligating the County to long-term financial commitments without being presented to the Commission. Manager Pearson requested the ability to create a resolution or policy requesting financial obligations be approved by the Commission.

Commissioner Serna requested Attorney Morel be included and review all contracts prior to their being presented to the Commission for approval.

Commissioner Pfeffer questioned if all contracts needed to be brought to the Commission, only multi-year contracts or if there was a financial threshold which should be adhered to.

Manager Pearson stated he would consult legal counsel and visit with other Counties to see how best to handle the situation and he would bring it back before the Commission for approval.

b. Consideration and Approval of Pro-Vision Invoice in the Amount of \$27,300.00

Manager Pearson explained it was an unbudgeted amount of \$27,300/yr for 35 body cameras for the Sheriff's Office. The Commission approved the purchase of body cameras using approximately \$90,000 in ARPA funds.

Sheriff Wood explained this was for the unlimited storage of the body camera footage and it included a complete warranty of the hardware and software.

Motion: Approve payment of the invoice to Pro-Vision in the Amount of \$27,300, using ARPA funds, if possible, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

24. Consideration and Approval of the State of New Mexico Department of Finance and Administration Fund 89200 Capital Appropriation Project in the amount of \$250,000 to plan, design, construct, purchase and install improvements,

861 including for accessibility compliance, to the county fairgrounds and rodeo arena
862 in Capitan in Lincoln County
863

864 Manager Pearson explained the State Appropriation and Capital Outlay was from 2022 and
865 already in the Fairgrounds Master plan. Manager Pearson stated he needed approval to sign
866 the documents and send them back to DFA.
867

868 **Motion:** Approve the State of New Mexico DFA Fund 89200 Capital Appropriation Project in the
869 amount of \$250,000 and allow the County Manager to sign, **Action:** Approve, **Moved by**
870 Commissioner Crunk, **Seconded by** Commissioner Serna.

871 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

872 **Yes:** Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner
873 Crunk, Chair Proctor.
874

875 **25. Discussion and Direction on Congressionally Directed Spending (CDS) Funding**
876 **from the Office of Senator Lujan**
877

878 Commissioner Serna would like to focus on ICIP projects for this funding. Commissioner Serna
879 recommended completing the request and deciding on the usage after the funds were received.
880

881 **26. Discussion and Direction Regarding Sheriff's Deputy Sergeant's Schedules and**
882 **Benefits**
883

884 Manager Pearson stated the Sheriff's Office for years past had included the Sergeants in the
885 Collective Bargaining Agreement and gave them the same rights.
886

887 Chair Proctor questioned the agreement between the Sheriff's Deputies and the County of
888 Lincoln.
889

890 Sheriff Wood explained the Deputy Sheriff's Association was created however the Sergeants
891 and Lieutenants were not included. Sheriff Wood would like to have some direction from the
892 Commission affording the Sergeants and Lieutenants the same benefits without having to be
893 included in the Collective Bargaining Agreement.
894

895 Chair Proctor recommended seeking legal counsel and bringing ideas and suggestions back to
896 the Commission for action.
897

898 **27. Discussion and Direction Regarding County of Lincoln Cell Phone Policy and**
899 **Procedure**
900

901 Commissioner Crunk stated if employees were in a position where they would get called back,
902 they should be eligible for a county phone. Commissioner Serna informed she would like to get
903 away from issuing a stipend and have a separate phone issued instead. Commissioner Serna
904 requested including the Commissioners in the policy to receive a county cell phone.
905

906 Clerk Hemphill requested the policy be broad enough to cover employees like the Election Clerk
907 who are required to use their cell phone for work related issues. Sheriff Wood stated his officers
908 all use their own cell phones to receive private information such as Drivers License returns,
909 Social Security numbers, Dates Of Birth and other redactable elements which can't be said over
910 the radio since there are so many people listening to scanners.
911

Manager Pearson will bring back an updated cell phone policy for the Commission to review and approve.

Chair Proctor recessed the meeting at 2:45 PM and reconvened the meeting at 2:50 PM.

28. American Rescue Plan Act (ARPA) / Local Assistance and Tribal Consistency Fund (LATCF) Allocation

Manager Pearson informed there was a request for an additional \$74,000 for a match out of ARPA funds for Lincoln Domestic Water. Chair Proctor requested a breakdown showing the funds and the shortage for Commission review and approval. Manager Pearson will schedule Lincoln Domestic to present to the Commission and provide architectural drawings and a price breakdown from a vendor showing the need for the additional funding.

Manager Pearson Requested direction regarding the \$1.9 mil of ARPA funding to be obligated by 2025. Chair Proctor stated he would like a breakdown of eligible spending and potential projects which could be paid for out of ARPA funds.

Manager Pearson stated the LATCF allocation of \$2.9 mil was already issued to the County however they were waiting on the second tranche of money. Manager Pearson informed there were no obligations for the money, it could be added to the general fund and used for anything except lobbying. Manager Pearson stated it was currently in a separate line item waiting for Commission direction.

29. Review, Discussion and Direction of All Lincoln County Ordinances

The Commission recommendation was to review the Ordinances in smaller amounts, 5-10 at a time. Manager Pearson stated he would work with Legal counsel, the Clerk's Office and the ordinance coordinator to review the ordinances and determine which were still on the books and not rescinded or amended and would bring them to the Commission in small batches. The Commission could then determine if a change was needed so a public hearing could be scheduled.

30. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances

There were no Public Hearings to schedule.

32. Signing of Official Documents

33. Next meeting:

- a. Wednesday, March 1, 2023, Special Commission Meeting
- b. Tuesday, March 21, 2023, Regular Commission Meeting

34. Adjourn

Motion: Adjourn, **Action:** Adjourn, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

963
964 There being no further business to come before the Board of County Commissioners, Chair
965 Proctor adjourned the meeting at 3:13 PM.
966
967 Respectfully submitted by,
968 Shannan Hemphill
969 Lincoln County Clerk

DRAFT



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

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AGENDA ITEM NO. 7

SUBJECT:

Approval of Consent Agenda:

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending February 28, 2023
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Procedures & Timeline for 2023-2024 Budget Preparation
- e. Cooperative Law Enforcement Agreement Between the County of Lincoln and the USDA, Forest Service, Lincoln National Forest
- f. Approval of Prior Year Invoice Received 3/13/2023 – Presbyterian - **\$562.00**
- g. Approval of Subaward Recipient Agreement Between the County of Lea and the County of Lincoln
- h. 2022 Volunteer Firefighters Annual Reporting
 - Arabela Volunteer Fire Department
 - Bonito Volunteer Fire Department
 - Glencoe Palo Verde Volunteer Fire Department
 - Hondo Valley Volunteer Fire Department
 - Lincoln Volunteer Fire Department
 - Nogal Volunteer Fire Department
 - White Oaks Volunteer Fire Department

Tuesday, March 21, 2023



County of Lincoln

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ACCOUNTS PAYABLE and PAYROLL

The following claims or bills on file with the office of the Lincoln County Manager were examined and approved as paid with checks hereof drawn upon the various County funds according to the check register covering the period from February 1, 2023, through February 28, 2023 in the amount of \$ 2,051,911.20.

NOW, THEREFORE, the above bills are hereby approved.

ADOPTED, PASSED AND SIGNED the 21st of March 2023.

BOARD OF COMMISSIONERS LINCOLN COUNTY, NEW MEXICO

Todd F. Proctor, Chairman Dist. 1

Jon F. Crunk, Vice Chairman, Dist. 3

Mark G. Fischer, Member Dist. 5

Pierre S. Pfeffer, Member Dist. 4

Samantha J. Serna, Member Dist. 2

ATTEST:

Shannan Hemphill, County Clerk



County of Lincoln

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AGENDA ITEM 7c

MEMORANDUM

TO: County Commissioners

FROM: Ira Pearson, Lincoln County Manager

SUBJECT: Safety Net Care Pool & Indigent Health Care Claims

Purpose: To obtain the approval from the IHC Board of Safety Net Care Pool Authorizations, and the Indigent Health Care (IHC) Payments.

Discussion:

Safety Net Care Pool Authorizations: This month our coordinator processed eight (8) claims, all of which are recommended for approval. If approved, the total recommended authorization this month is **\$2,045.60**.

Indigent Health Care Claims: This month our coordinator processed one (1) claim, which is recommended for approval. If approved, the total monthly payment is **\$5,488.96**. Enclosed is a year-to-date summary of total claims approved and denied. Also enclosed is a summary of total claims approved and denied, for the month of March.

Manager's Analysis – For the last two years, the average Indigent Health Care monthly payments were **\$3,775 and \$2,288** respectively. The FY 21-22 year-end total was **\$27,461.64**. To date, the total expenditure is **\$6,117.75** or a monthly average of **\$679.75**. At this pace we will spend **\$8157.00** in the indigent claim line, for the year.

Similarly, for the last two fiscal years, the total Commission-approved Safety Net Care Pool Claims were **\$92,949 and \$49,213.39** respectively. The FY 21-22 monthly average was **\$4,101**. To date, the total authorization is **\$20,402.67**.

Special Note – 100% of these claims are from the current 22-23 fiscal year.

Recommendation: Approve the claims as indicated for the Safety Net Care Pool report and the Indigent Health Care Program report.

Approved: _____

Todd F Proctor, Chairman

SCP / SAFETY NET CARE POOL CLAIMS

FISCAL YEAR 2022 - 2023

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$18,357.07

ADJUSTMENTS

TOTAL ADJUSTMENTS: \$0.00 \$0.00

MARCH # CLAIMS FOR APPROVAL 8

CLAIMS FOR DENIAL 0

MARCH # TOTAL CLAIMS 8

MARCH TOTAL \$ AMOUNT APPROVED \$2,045.60

TOTAL # CLAIMS THIS FY APPROVED 54

TOTAL # CLAIMS THIS FY DENIED 6

TOTAL # CLAIMS FY 2022 - 2023 60

TOTAL APPROVED THIS FISCAL YEAR \$20,402.67

FACILITY: LINCOLN COUNTY MEDICAL CENTER 03/21/2023 THROUGH 03/21/2023

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID	
23161	02/07/2023	478.00	368.06	077%
23163	02/16/2023	408.00	314.16	077%
23164	01/10/2023	303.14	233.42	077%
23165	01/16/2023	562.20	432.89	077%
23166	02/17/2023	50.00	38.50	077%
23167	12/30/2022	290.04	223.33	077%
23168	01/30/2023	475.25	365.94	077%
23169	02/07/2023	90.00	69.30	077%

2045.60

APPROVED- 8 REJECTED-

INDIGENT HEALTH CARE CLAIMS

FISCAL YEAR 2022 - 2023

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$628.79

ADJUSTMENTS

TOTAL ADJUSTMENTS:

MARCH # CLAIMS FOR APPROVAL	1
# CLAIMS FOR DENIAL	0
MARCH # TOTAL CLAIMS	1

MARCH TOTAL \$ AMOUNT APPROVED	\$5,488.96
--------------------------------	------------

TOTAL # CLAIMS THIS FY APPROVED	4
TOTAL # CLAIMS THIS FY DENIED	1
TOTAL # CLAIMS FY 2022 - 2023	5

CURRENT TOTAL APPROVED THIS FISCAL YEAR \$6,117.75

*Assuming the above is approved

FACILITY: GERALD CHAMPION REGIONAL MED CTR 03/21/2023 THROUGH 03/21/2023

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
23162	12/30/2022	7128.52	5488.96 077%
			5488.96

APPROVED- 1 REJECTED-

YTD

INDIGENT FUND MEETING

MARCH 21, 2023

TOTAL APPLICATIONS	65	26,520.42
TOTAL APPROVED	58	
TOTAL DENIED	7	

ALAMOGORDO		
GERALD CHAMPION REGIONAL MED CTR		6,117.75
APPROVED-	4	
DENIED-	1	

RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		20,402.67
APPROVED-	54	
DENIED-	6	

INDIGENT FUND MEETING

MARCH 21, 2023

TOTAL APPLICATIONS	9	7,534.56
TOTAL APPROVED	9	
TOTAL DENIED		

ALAMOGORDO		
GERALD CHAMPION REGIONAL MED CTR		5,488.96
APPROVED-	1	
DENIED-		

RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		2,045.60
APPROVED-	8	
DENIED-		



County of Lincoln

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February 17, 2023

MEMORANDUM

TO: Lincoln County Department Heads, Public Officials and Volunteer Fire Departments

FROM: Ira Pearson, Lincoln County Manager

SUBJECT: Schedule for FY 2023-2024 Budget Discussion

The following schedule has been approved by the Board of County Commissioners for preparation of the FY 2023-2024.

Internal staff preparation	-	April 4-6, 2023
Special Meeting for review by Commissioners & Opportunity for Special Program Presentations	-	May 2, 2023
Submit Preliminary Budget to Commissioners	-	May 16, 2023
Submit preliminary budget to DFA	-	June 1, 2023
Preliminary Budget approval granted by DFA	-	July 1, 2023
Final Budget hearing with any final adjustments	-	July 18, 2023
Forward final budget to DFA	-	July 31, 2023
Load final budget into accounting system	-	Upon DFA Approval
DFA reviews and certifies budget	-	September 2023

External agencies seeking financial assistance have submitted their requests.

Attached is a budget sheet of my initial estimate for your respective departments. Please use these estimations as a starting point for our review on April 4-6, 2023 and bring requests for significant capital outlay items to the workshop. If there are revenues associated with your department, please adjust that portion of the budget sheet. Finance has already posted the personnel costs to your respective sheets.

The following internal schedule of departmental budget workshops in the Commission Chambers is requested:

April 4, 2023

10:00 am	General Fund 401-01 thru 401-09
11:00 am	Senior Center
1:00 am	Detention Center
3:00 pm	Planning/GIS/Indigent/Solid Waste

April 5, 2023

9:00 am	Road Department /Rural Addressing
10:30 am	Law Enforcement /HIDTA

1: 00 pm	County Assessor
2:00 pm	County Treasurer
3:00 pm	County Clerk

April 6, 2023

8:30 am	LCOES
9:00 am	Arabela Fire
9:30 am	Bonito Fire
10:00 am	Glencoe Fire
10:30am	Hondo Fire
11:00 am	Nogal Fire
11:30 am	Lincoln Fire
12:00 am	White Oaks

Additional sessions may be scheduled to capture additional requests. Please come prepared to address general capital outlay requirements for the coming year.

Thank you,

Ira Pearson
County Manager

FS Agreement No. 23-LE-11030800-043

Cooperator Agreement No. _____

COOPERATIVE LAW ENFORCEMENT AGREEMENT
Between The
LINCOLN, COUNTY OF
And The
USDA, FOREST SERVICE
LINCOLN NATIONAL FOREST

This COOPERATIVE LAW ENFORCEMENT AGREEMENT ('Agreement') is entered into by and between the Lincoln County Sheriff's Office, hereinafter referred to as "Cooperator," and the United States Department of Agriculture (USDA), Forest Service, Lincoln National Forest, hereinafter referred to as the "U.S. Forest Service," under the provisions of the Cooperative Law Enforcement Act of August 10, 1971, Pub. L. 92-82, 16 U.S.C. 551a.

Background: The parties to this agreement recognize that public use of National Forest System lands (NFS lands) is usually located in areas that are remote or sparsely populated. The parties also recognize that the enforcement of State and local law is related to the administration and regulation of NFS lands and Cooperator has/have a limited amount of financing to meet their responsibility of enforcing these laws.

Title: Law Enforcement Activities in Lincoln County

I. PURPOSE:

The purpose of this agreement is to document a cooperative effort between the parties to enhance State and local law enforcement in connection with activities on NFS lands and provide for reimbursement to Cooperator for the intensified portion of this effort.

In consideration of the above premises, the parties agree as follows:

II. THE COOPERATOR SHALL:

- A. Perform in accordance with the approved and hereby incorporated Financial and Operating Plan (Operating Plan) attached as Exhibit A. *See related Provision IV-E.*
- B. Ensure that the officers/agents of Cooperator performing law enforcement activities under this agreement meet the same standards of training required of the officers/agents in their jurisdiction, or the State Peace Officers Standards of Training where they exist.
- C. Provide uniformed officers/agents with marked vehicles to perform all activities unless agreed to otherwise in the Operating Plan.



- D. Advise the U.S. Forest Service Principal Contact, listed in Provision IV-B, of any suspected criminal activities in connection with activities on NFS lands.
- E. Upon the request of the U.S. Forest Service, dispatch additional deputies within manpower capabilities during extraordinary situations as described in Provision IV-J.
- F. Complete and furnish annually the U.S. Forest Service with Form FS-5300-5, Cooperative Law Enforcement Activity Report, identifying the number of crimes occurring on NFS lands. The report shall follow the FBI Uniform Crime Reporting groupings, Part I and Part II offenses. Offenses and arrest information shall be combined and reported for each crime. This report shall separate the crimes handled under this agreement from those handled during regular duties.
- G. Provide the U.S. Forest Service Principal Contact, listed in Provision IV-B, with case reports and timely information relating to incidents/crimes in connection with activities on NFS lands.
- H. Bill the U.S. Forest Service for Cooperator's actual costs incurred to date, displayed by separate cost elements, excluding any previous U.S. Forest Service payment(s) made to the date of the invoice, not to exceed the cumulative funds obligated hereunder and as specified on the Operating Plan. Billing frequency will be as specified in the Operating Plan. See related Provisions III-B, IV-I, and IV-P.
- I. Give the U.S. Forest Service or Comptroller General, through any authorized representative, access to and the right to examine all records related to this agreement. As used in this provision, "records" include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.
- J. Comply with all Federal statutes relating to nondiscrimination and all applicable requirements of all other Federal laws, Executive Orders, regulations, and policies. These include, but are not limited to Sections 119 and 504 of the Rehabilitation Act of 1973 as amended, which prohibits discrimination on the basis of race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, participation in any public assistance program, or disability.
- K. Maintain current information in the System for Award Management (SAM) until receipt of final payment. This requires review and update to the information at least annually after the initial registration, and more frequently if required by changes in information or agreement term(s). For purposes of this agreement, System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a Cooperator. Additional information about registration procedures may be found at the SAM Internet site at www.sam.gov.



- L. Monitor the U.S. Forest Service radio during the following time period(s): for any emergencies or assistance as required between the date of last signature and December 31, 2027. Address any concerns or notify/ request assistance from the U.S. Forest Service as required in the judgment of the Cooperator.
- M. Provide 24 hour law enforcement communication and emergency services to U.S. Forest Service Law Enforcement Officers (LEOs). Provide check in and check out, criminal justice queries, and any other type of LE mission support necessary for LEOs to accomplish their mission.

III. THE U.S. FOREST SERVICE SHALL:

- A. Perform in accordance with the Operating Plan attached as Exhibit A.
- B. Reimburse Cooperator for actual expenses incurred, not to exceed the estimated amount shown in the Operating Plan. The U.S. Forest Service will make payment for project costs upon receipt of an invoice. Each correct invoice shall display Cooperator's actual expenditures to date of the invoice, displayed by separate cost elements as documented in the Operating Plan, less any previous U.S. Forest Service payments. See related Provisions II-H and IV-I. The invoice should be forwarded as follows:

**Submit original invoice(s) for
payment to:**

USDA, Forest Service
Albuquerque Service Center
Payments – Grants & Agreements
101B Sun Avenue NE
Albuquerque, NM 87109
FAX: (877) 687-4894
E-Mail: sm.fs.asc_ga@usda.gov

Send copy to:

DeWayne Ross, Patrol Captain
U.S. Forest Service
Southern New Mexico Zone LEI
3005 E. Camino Del Bosque
Silver City, NM 88061
Phone: 575-388-8269
E-Mail: dewayne.ross@usda.gov

IV. IT IS MUTUALLY UNDERSTOOD AND AGREED UPON BY AND BETWEEN THE PARTIES THAT:

- A. The parties will make themselves available, when necessary to provide for continuing consultation, exchange information, aid in training and mutual support, discuss the conditions covered by this agreement and agree to actions essential to fulfill its purposes.
- B. The principal contacts for this agreement are:

**Principal Cooperator Contacts:**

Cooperator Program Contact	Cooperator Administrative Contact
Michael Wood, Sheriff 300 Central Ave. /P.O. Box 278 Carrizozo, NM 88301 Telephone: 575-648-2341 FAX: 575-648-2862 Email: mwood@lincolncountynm.gov	Yvonne Petty, Administrative Assistant 300 Central Ave. /P.O. Box 278 Carrizozo, NM 88301 Telephone: 575-648-2341 FAX: 575-648-2862 Email: ypetty@lincolncountynm.gov

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
DeWayne Ross, Patrol Captain 3005 E. Camino Del Bosque Silver City, NM 88061 Telephone: 575-388-8329 FAX: 575-388-8425 Email: canuto.molina@usda.gov	Paula Holguin, Program Assistant 3005 E. Camino Del Bosque Silver City, NM 88061 Telephone: 575-388-8399 FAX: 575-388-8425 Email: paula.holguin@usda.gov

- C. An Operating Plan will be negotiated on a calendar year basis. At the end of the year, funds not spent may be carried forward to the next year, or de-obligated at the request of the U.S. Forest Service. Upon expiration of the Cooperative Law Enforcement Agreement, funds not spent will be de-obligated.
- D. This agreement has no effect upon Cooperator's right to exercise civil and criminal jurisdiction on NFS lands nor does this agreement have any effect upon the responsibility of the U.S. Forest Service for the enforcement of federal laws and regulations relative to NFS lands.
- E. Any Operating Plan added to this agreement will be jointly prepared and agreed to by the parties. The Operating Plan shall at a minimum contain:
1. Specific language stating that the Operating Plan is being added to this agreement thereby subjecting it to the terms of this agreement.
 2. Specific beginning and ending dates.
 3. Bilateral execution prior to any purchase or the performance of any work for which reimbursement is to be made.



4. Specify any training, equipment purchases, and enforcement activities to be provided and agreed rates for reimbursement including the maximum total amount(s) for reimbursement.
 5. An estimate of the useful life of any equipment purchased under this agreement as required by Provision IV-K.
 6. Billing frequency requirement(s). *See related Provisions II-H and III-B.*
 7. Designation of specific individuals and alternate(s) to make or receive requests for enforcement activities under this agreement.
 8. A review and signature of a U.S. Forest Service Agreements Coordinator.
- F. Nothing in this agreement obligates either party to accept or offer any Operating Plan under this agreement.
- G. The officers/agents of Cooperator performing law enforcement activities under this agreement are, and shall remain, under the supervision, authority, and responsibility of Cooperator. Law enforcement provided by Cooperator and its employees shall not be considered as coming within the scope of federal employment and none of the benefits of federal employment shall be conferred under this agreement.
- H. Federal Communication Commission procedures will be followed when operating radio(s) on either party's frequency.
- I. Cooperator's reimbursable expenses must be: listed in an approved Operating Plan; expended in connection with activities on NFS lands; and expenses beyond those which are normally able to provide.
- J. During extraordinary situations such as, but not limited to: fire emergency, drug enforcement activities, or certain group gatherings, the U.S. Forest Service may request to provide additional special enforcement activities. The U.S. Forest Service will reimburse Cooperator for only the additional activities requested and not for activities that are regularly performed by Cooperator.
- K. Reimbursement may include the costs incurred by Cooperator in equipping or training its officers/agents to perform the additional law enforcement activities authorized by this agreement. Unless specified otherwise in the Operating Plan, reimbursement for equipment and training will be limited to a pro rata share based on the percentage of time an officer/agent spends or equipment is used under this agreement.
- L. When reimbursement for items such as radios, radar equipment, and boats is being contemplated, reimbursement for leasing of such equipment should be considered. If the U.S. Forest Service's equipment purchases are approved in the Operating Plan, an



estimate of the useful life of such equipment shall be included. When purchased, equipment use rates shall include only operation and maintenance costs and will exclude depreciation and replacement costs. Whether Cooperator is/are reimbursed for lease/purchase costs, or the U.S. Forest Service purchases and transfers the equipment, the total cost for the equipment cannot exceed the major portion of the total cost of the Operating Plan unless approved by all parties in the agreement and shown in the Operating Plan.

- M. When the U.S. Forest Service provides equipment, the transfer shall be documented on an approved property transfer form (AD-107) or equivalent. Title shall remain with the U.S. Forest Service, however; Cooperator shall ensure adequate safeguards and controls exist to protect loss or theft. Cooperator shall be financially responsible for any loss at original acquisition cost less depreciation at the termination of the agreement. Cooperator is/are responsible for all operating and maintenance costs for equipment that the U.S. Forest Service has reimbursed Cooperator for and/or transferred to Cooperator under the AD-107 process or equivalent.
- N. Equipment and supplies approved for purchase under this agreement are available only for use as authorized. The U.S. Forest Service reserves the right to transfer title to the U.S. Forest Service of equipment and supplies, with a current per-unit fair market value in excess of \$5,000.00, purchased by Cooperator using any Federal funding. Upon expiration of this agreement Cooperator shall forward an equipment and supply inventory to the U.S. Forest Service, listing all equipment purchased throughout the life of the project and unused supplies. The U.S. Forest Service will issue disposition instructions within 120 calendar days, in accordance with equipment regulations contained in 7 CFR 3016.32.
- O. When no equipment or supplies are approved for purchase under an Operating Plan, U.S. Forest Service funding under this agreement is not available for reimbursement of Cooperator's purchase of equipment or supplies.
- P. When State conservation agencies have the responsibility for public protection in addition to their normal enforcement responsibility, their public protection enforcement activities may be included in Operating Plans and are then eligible for reimbursement. Reimbursement is not authorized to State Conservation Agencies for enforcement of fish and game laws in connection with activities on NFS lands.
- Q. Pursuant to 31 U.S.C. 3716 and 7 CFR, Part 3, Subpart B, any funds paid to Cooperator in excess of the amount to which Cooperator is/are finally determined to be entitled under the terms and conditions of the award constitute a debt to the federal Government. If not paid within a reasonable period after the demand for payment, the Federal awarding agency may reduce the debt by:
 - 1. Making an administrative offset against other requests for reimbursements.
 - 2. Withholding advance payments otherwise due to Cooperator.



3. Taking other action permitted by statute.

Except as otherwise provided by law, the Federal awarding agency shall charge interest on an overdue debt in accordance with 4 CFR, Chapter II “Federal Claims Collection Standards” and 31 U.S.C. Chapter 37.

- R. Modifications within the scope of the agreement shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by both parties, prior to any changes being performed. The U.S. Forest Service is not obligated to fund any changes not properly approved in advance.
- S. Either party, in writing, may terminate this agreement in whole, or in part, at any time before the date of expiration. Neither party shall incur any new obligations for the terminated portion of this agreement after the effective date and shall cancel as many obligations as is possible. Full credit shall be allowed for each party’s expenses and all noncancelable obligations properly incurred up to the effective date of termination.
- T. PROHIBITION AGAINST INTERNAL CONFIDENTIAL AGREEMENTS. All non federal government entities working on this agreement will adhere to the below provisions found in the Consolidated Appropriations Act, 2016, Pub. L. 114-113, relating to reporting fraud, waste and abuse to authorities:
 - (a) The recipient may not require its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
 - (b) The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (a) of this award provision are no longer in effect.
 - (c) The prohibition in paragraph (a) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information.
 - (d) If the Government determines that the recipient is not in compliance with this award provision, it:
 - (1) Will prohibit the recipient's use of funds under this award, in accordance with sections 743, 744 of Division E of the Consolidated



Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; and

(2) May pursue other remedies available for the recipient's material failure to comply with award terms and conditions.

- U. Federal wage provisions (Davis-Bacon or Service Contract Act) are applicable to any contract developed and awarded under this agreement where all or part of the funding is provided with Federal funds. Davis-Bacon wage rates apply on all public works contracts in excess of \$2,000 and Service Contract Act wage provisions apply to service contracts in excess of \$2,500. The U.S. Forest Service will award contracts in all situations where their contribution exceeds 50 percent of the cost of the contract. If Cooperator is/are approved to issue a contract, it shall be awarded on a competitive basis.
- V. This agreement in no way restricts the U.S. Forest Service or Cooperator from participating in similar activities with other public or private agencies, organizations, and individuals.
- W. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.
- X. Any information furnished to the U.S. Forest Service under this agreement is subject to the Freedom of Information Act (5 U.S.C. 552).
- Y. This agreement is executed as of the date of the last signature and, unless sooner terminated, shall be effective for a period of five years through December 31, 2027.
- Z. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this agreement. In witness whereof, the parties hereto have executed this agreement as of the last date written below.



MICHAEL WOOD, Sheriff
Lincoln County Sheriff's Office

Date

TRAVIS MOSELEY, Forest Supervisor
U.S. Forest Service, Lincoln National Forest

Date

IRA PEARSON, County Manager
Lincoln County

Date

JAMES ALFORD, Special Agent in Charge
U.S. Forest Service, Southwestern Region

Date

The authority and format of this agreement have been reviewed and approved for signature.

MARI LLITERAS
U.S. Forest Service Grants Management Specialist

Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

FS Agreement No. 23-LE-11030800-043

Cooperator Agreement No. _____

EXHIBIT A

COOPERATIVE LAW ENFORCEMENT OPERATING & FINANCIAL PLAN
Between The
LINCOLN, COUNTY OF
And the
USDA, FOREST SERVICE
LINCOLN NATIONAL FOREST

OPERATING AND FINANCIAL PLAN

This Financial and Operating Plan (Operating Plan), is hereby made and entered into by and between the Lincoln County Sheriff's Office hereinafter referred to as "Cooperator," and the United States Department of Agriculture (USDA), Forest Service, Lincoln National Forest, hereinafter referred to as the "U.S. Forest Service," under the provisions of Cooperative Law Enforcement Agreement #23-LE-11030800-043. This Operating and Financial Plan is made and agreed to as of the last signature date on the Cooperative Law Enforcement Agreement and is in effect through December 31, 2027, unless modified during the annual review.

I. GENERAL:

- A. The following individuals shall be the designated and alternate representative(s) of each party, so designated to make or receive requests for special enforcement activities.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Michael Wood, Sheriff 300 Central Ave. /P.O. Box 278 Carrizozo, NM 88301 Telephone: 575-648-2341 FAX: 575-648-2862 Email: mwood@lincolncountynm.gov	Yvonne Petty, Administrative Assistant 300 Central Ave. /P.O. Box 278 Carrizozo, NM 88301 Telephone: 575-648-2341 FAX: 575-648-2862 Email: ypetty@lincolncountynm.gov

**Principal U.S. Forest Service Contacts:**

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
DeWayne Ross, Patrol Captain 3005 E. Camino Del Bosque Silver City, NM 88061 Telephone: 575-388-8329 FAX: 575-388-8425 Email: canuto.molina@usda.gov	Paula Holguin, Program Assistant 3005 E. Camino Del Bosque Silver City, NM 88061 Telephone: 575-388-8399 FAX: 575-388-8425 Email: paula.holguin@usda.gov

- B. Reimbursement for all types of enforcement activities shall be at the following rates unless specifically stated otherwise:

Wages (salaries + fringe benefits) will be reimbursed at the prevailing rate(s) not to exceed \$45.00 an hour.

Mileage will be reimbursed at the prevailing rate(s) not to exceed \$0.59 per mile.

II. PATROL ACTIVITIES:

- A. Time schedules for patrols will be flexible to allow for emergencies, other priorities, and day-to-day needs of both the Cooperator and the U.S. Forest Service. Ample time will be spent in each area to make residents and visitors aware that law enforcement officers are in the vicinity.

1. Provide daily patrol logs for each Deputy that patrols for the U.S. Forest Service to be submitted with each reimbursement request.

2. Patrol on the following U.S. Forest Service roads:

Any and all National Forest System Roads within Lincoln County, New Mexico.

3. Patrol in the following campgrounds, developed sites, or dispersed areas:

Camping areas, such as Bonita, Philadelphia, Big Bear, Argentina, Tanbark Canyon, South Fork Campgrounds, Cedar Creek Picnic Area; and throughout the Smokey Bear Ranger District, especially Nogal Canyon, Baca Campgrounds, Pine Lodge, Eagle Creek Summer Homes, and Hale Lake.



The assigned deputy(ies) will assist U.S. Forest Service Officers with resource-related law enforcement issues on the Lincoln National Forest within Lincoln County, New Mexico.

Provide dispatch, (radio) communications for U.S. Forest Service Law Enforcement Officers as needed. The Sheriff's Department dispatch will be notified when law enforcement officers are in service and out of service.

Communication will be for official law enforcement use only and will provide record of information related to motor vehicles, driver's license information (status), wanted persons inquiries, and other investigative information where the U.S. Forest Service is the party of interest.

Due to the varying nature of terrain encountered in forest areas, patrol vehicles shall be suitable for effective patrols within areas assigned to include rugged terrain.

Parties shall maintain effective interagency communications to include informal meetings with the Sheriff's Department, Lincoln National Forest, U.S. Forest Service Law Enforcement Officers for the purpose of exchanging mutually benefiting information.

Provide 24-hour dispatch services for U.S. Forest Service law enforcement activities.

Dispatch deputies as requested to provide additional manpower for unforeseen or emergency situations upon the request of the U.S. Forest Service.

Total reimbursement for this category shall not exceed the amount of: **\$16,000.00**

III. TRAINING:

See Cooperative Law Enforcement Agreement Provision IV-K for additional information.

Total reimbursement for this category shall not exceed the amount of: **\$0.00**

IV. EQUIPMENT:

See Cooperative Law Enforcement Agreement Provisions IV-K, IV-L, and IV-M for additional information.

Total reimbursement for this category shall not exceed the amount of: **\$0.00**



V. SPECIAL ENFORCEMENT SITUATIONS:

- A. Special Enforcement situations to include but are not limited to: Fire Emergencies, Drug Enforcement, and Large Group Gatherings.
- B. Funds available for special enforcement situations vary greatly from year to year and must be specifically requested and approved prior to any reimbursement being authorized. Requests for funds should be made to the U.S. Forest Service designated representative listed in Item I-A of this Operating Plan. The designated representative will then notify whether funds will be authorized for reimbursement. If funds are authorized, the parties will then jointly prepare a revised Operating Plan.
1. Drug Enforcement: This will be handled on a case-by-case basis. The request will normally come from the Patrol Captain; however, it may come from the Special Agent in Charge or their designated representative. Reimbursement shall be made at the rates specified in Section I-B. Deputies assigned to the incident will coordinate all of their activities with the designated officer in charge of the incident.
 2. Fire Emergency: During emergency fire suppression situations and upon request by the U.S. Forest Service pursuant to an incident resource order, the Cooperator agrees to provide special services beyond those provided under Section II-A, within the Cooperator's resource capabilities, for the enforcement of State and local laws related to the protection of persons and their property. The Cooperator will be compensated at the rate specified in Section I-B; the U.S. Forest Service will specify times and schedules. Upon concurrence of the local patrol Captain or their designated representative, an official from the Incident Management Team managing the incident, Cooperator personnel assigned to an incident where meals are provided will be entitled to such meals.
 3. Group Gatherings: This includes but is not limited to situations which are normally unanticipated, or which typically include very short notices, large group gatherings such as rock concerts, demonstrations, and organization rendezvous. Upon authorization by a U.S. Forest Service representative listed in Section I-A for requested services of this nature, reimbursement shall be made at the rates specified in Section I-B. Deputies assigned to this type of incident will normally coordinate their activities with the designated officer in charge of the incident.

This includes but is not limited to situations which are normally unanticipated, or which typically include very short notice, large group gatherings such as rock concerts, demonstrations, and organizational rendezvous.

Total reimbursement for this category shall not exceed the amount of: **\$0.00**

**VI. BILLING FREQUENCY:**

See Cooperative Law Enforcement Agreement Provisions II-H and III-B for additional information.

- A. Billing frequency is as follows: QUARTERLY – Final bill shall be submitted within 30 days of the close of the calendar year.
- B. The following is a breakdown of the total estimated costs associated with this Operating Plan.

Category	Estimated Costs	Not to Exceed by %
Patrol Activities	\$16,000.00	N/A
Training	0.00	N/A
Equipment	0.00	N/A
Special Enforcement Situations	0.00	N/A
Total	\$16,000.00	N/A

- C. Any remaining funding in this Operating Plan may be carried forward to the next calendar year and will be available to spend through the term of the Cooperative Law Enforcement Agreement, or de-obligated at the request of the U.S. Forest Service. *See Cooperative Law Enforcement Agreement Provision IV-C.*

**PRESBYTERIAN**9521 San Mateo Blvd., NE
Albuquerque, NM 87113**To pay your bill online go to: www.phs.org****For billing inquiries: 505-923-6400
Toll Free: 1-888-438-0890****Hours: Monday to Friday 8:00 a.m - 5:00 p.m.**

CARD NUMBER		SECURITY CODE
CARD HOLDER SIGNATURE		EXP. DATE
GUARANTOR NUMBER 1646328	BILL DATE 03/09/23	DUE DATE 03/24/23
AMOUNT DUE \$562.00		AMOUNT PAID \$

ADDRESSEE:Client/Submitter Lincoln Count Pep
PO BOX 711
CARRIZOZO, NM 88301**REMIT TO:**Presbyterian Healthcare Services
PO Box 911589
Denver, CO 80291-1589*Please detach and return top portion with your payment*

Date	Description	Charges	Pmt/Adjs	Balance
Physician Charges Acct # 137968360 Sandra Provider: Candice Marie Selgado, PA-C				
Patient: Pacheco,Sandra Y MRN: 5034986 Sex: Female DOB: / / SSN: xxx-xx-				
05/13/22	Preventative Visit Balance	214.00	63.00	151.00
Physician Charges Acct # 138065189 Nathan Provider: Candice Marie Selgado, PA-C				
Patient: Montes,Nathan MRN: 1529566 Sex: Male DOB: / / SSN: xxx-xx-				
05/27/22	Preventative Visit Balance	197.00		197.00
Physician Charges Acct # 138255792 Frederich Provider: Candice Marie Selgado, PA-C				
Patient: Ficke,Frederich MRN: 2177736 Sex: Male DOB: / / SSN: xxx-xx-				
06/27/22	Preventative Visit Balance	214.00		214.00



REGION VI DRUG TASK FORCE

522 W. Mermod, #799
Carlsbad, New Mexico, 88220

Phone: (575) 887-0262
Fax: (575) 887-3437

FEB 2 2023

MEMORANDUM

TO: Billie Jo Guevara

FROM: Angie Vickrey

DATE: January 30, 2023

SUBJECT: County of Lincoln Subaward Recipient Agreement

Dear Mrs. Guevara,

Enclosed are three original *Subaward Recipient Agreements* between the *County of Lea* and the *County of Lincoln*. Please review and obtain the necessary signatures on all three copies, please return all originals to the address below; As soon as possible. Once Lea County has signed, I will mail one fully executed original back to you. If you require more than the one original; please make additional copies and send.

Region VI Drug Task Force
ATTN: Angie Vickrey
522 W. Mermod #799
Carlsbad, NM 88220

Please let me know if you have any questions or concerns.

Thank you!!


Angie Vickrey
Executive Administrative Assistant

Encl.

**SUBAWARD RECIPIENT AGREEMENT BETWEEN COUNTY OF LEA AND
COUNTY OF LINCOLN**

1. **Purpose:** This agreement is entered by and between the County of Lea, as fiscal agent, and County of Lincoln (hereinafter referred to as "Subrecipient"). The Subrecipient has been selected by and agrees to accept funds awarded from the Office of National Drug Control Policy (hereinafter referred to "ONDCP") for the High Intensity Drug Trafficking Area (HIDTA) program. The funds will be administered by the County of Lea as pass through entity for the funds awarded from HIDTA. The purpose of this agreement is to clarify the conditions under which the funds are to be accepted and used by Subrecipient and to outline the responsibilities of the participating parties.
2. **Audit Readiness and Compliance:** The Subrecipient agrees to maintain appropriate and detailed records of its receipt and use of the funds, in accordance with the generally accepted accounting principles applying to government agencies. The Subrecipient understands that it may be subject to audit by ONDCP, Southwest Border (SWB) HIDTA-NM Region, County of Lea, and/or any other applicable agency and hereby agrees to cooperate with any of those entities in the event of an inquiry or audit. The Subrecipient further agrees to maintain an inventory control system to account for all expenditures of these funds.
3. **Standards and Guidelines:** The Subrecipient acknowledges it must comply with the HIDTA Policy and Budget Guidance produced by ONDCP, the SWB HIDTA-NM Financial Management Policy as well as other guidelines that have been or will be approved by ONDCP or the SWB HIDTA Executive Committee. The Subrecipient further agrees to comply with the terms of the Office of Management and Budget's "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," as well as all relevant state, county, and municipal financial and accounting regulations, standards, and guidelines. Subrecipient further agrees to abide by all regulations and guidelines governing the use of ONDCP funds distributed for the purchase of evidence or information ("PEPI" Funds).
4. **Lea County HIDTA Risk Assessment:** Each year Lea County will conduct a financial audit of the Subrecipient's financial activity. The Subrecipient will cooperate with this audit. Failure to do so or engaging in a high risk financial activity may result in Lea County suspending reimbursement and notifying the ONDCP.
5. **Termination, Suspension, or Delay:** The Subrecipient agrees that the County of Lea has the right to refuse or delay any payment if the County of Lea believes the payment request fails to meet budgetary guidelines.
6. **Supplemental Agreements Attached:** The Subrecipient acknowledges following documents are attached to this agreement and that the policies set forth therein are acceptable to the Subrecipient and considered an integral portion of the Subaward Agreement.

Documents are as follow:

- Appendix "A" – Agency Information
- Attachment #1 – Special Conditions – HIDTA Subaward Subrecipient Agreements
- Attachment #2 – Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements; Federal Debt Status, and nondiscrimination Status and Implementing Regulations
- Attachment #3 – Confidential Funds Certification
- Attachment #4 – Detail Budget Sheet

7. **Requests for Reimbursement and Closeout of Subaward:** Requests for reimbursement should be submitted for processing on a monthly basis and no less than a quarterly basis, within 30 days of the month's or quarter's end. Final reimbursements for each grant year are due 30 days after the end of the grant year.

This subaward is considered closed after this final payment has been made.

For the County of Lea:

For County of Lincoln:

Printed Name/Title

Printed Name/Title

By: _____

By: _____

Date: _____

Date: _____

**SUBAWARD RECIPIENT AGREEMENT BETWEEN COUNTY OF LEA AND
COUNTY OF LINCOLN**

Appendix A – Agency Information

Federal Award	High Intensity Drug Trafficking Areas Program – CFDA 95.001
Federal Agency	Office of National Drug Control Policy
Grant Award	G23SN0017A
Grant Period	01/01/2023 to 12/31/2024
Federal Award Date:	January 2023
Agency Name:	County of Lincoln – Lincoln County Narcotics Enforcement Unit
Agency Address:	300 Central Ave, Carrizozo, NM 88301
Unique Entity Identifier (DUNS)	KB0049214
Federal Funds Obligated/ Committed to Sub-recipient:	See Attachment #4 – Detail Budget Sheet
Name of Authorized Official:	
Telephone:	
Finance Contact:	Billie-Jo Guevara
Telephone:	575-648-2385 X103

**SUBAWARD RECIPIENT AGREEMENT BETWEEN COUNTY OF LEA AND
COUNTY OF LINCOLN**

Attachment #1 – Special Conditions

Award #G23SN0017A

The following special conditions are incorporated into each award document.

1. This grant is awarded for above program. Variation from the description of activities approved by ONDCP and/or from the budget attached to this letter must comply with the reprogramming requirements as set forth in ONDCP's HIDTA Program Policy and Budget Guidance (PPBG).
2. This award is subject to the requirements in ONDCP's HIDTA PPBG.
3. No HIDTA funds shall be used to supplant state or local funds that would otherwise be made available for the same purposes.
4. The requirements of 28 CFR Part 23, which pertain to information collection and management of criminal intelligence systems, shall apply to any such systems supported by this award.
5. Special accounting and control procedures must govern the use and handling of HIDTA Program funds for confidential expenditures; i.e., the purchase of information, evidence, and services for undercover operations. Those procedures are described in Section 6 of the HIDTA Program Policy and Budget Guidance.
6. Property acquired with these HIDTA grant funds is to be used for activities of the SWB - New Mexico HIDTA. If your agency acquires property with these funds and then ceases to participate in the HIDTA, this equipment must be made available to the HIDTA's Executive Board for use by other HIDTA participants.
7. All law enforcement entities that receive funds from this grant must report all methamphetamine laboratory seizure data to the National Clandestine Laboratory Database/National Seizure System at the El Paso Intelligence Center.
8. Any sub-recipient receiving \$25,000 or more must register with Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) at www.fsrs.gov.
9. No indirect costs will be reimbursed under this subaward agreement.

SUBAWARD RECIPIENT AGREEMENT BETWEEN COUNTY OF LEA AND

COUNTY OF LINCOLN

Attachment #2

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a

Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a

controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

SUBAWARD RECIPIENT AGREEMENT BETWEEN COUNTY OF LEA AND

COUNTY OF LINCOLN

Attachment #2

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

(d) Notifying the employee in the statement required by paragraph(a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a

Place of Performance (Street address, city, county, state, zip code)
300 Central Ave.

Carrizozo, Lincoln New Mexico 88301

Check ☒ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

SUBAWARD RECIPIENT AGREEMENT BETWEEN COUNTY OF LEA AND

COUNTY OF LINCOLN

Attachment #2

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
County of Lincoln	G23SN0017A/Lincoln County Narcotics Enforcement Unit
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

12/98

Budget Detail

2023 - New Mexico

Initiative - Region VI Drug Task Force - Lincoln County

Investigation

Award Recipient - Lea County (G23SN0017A)

Resource Recipient - Lincoln County

Input		\$164,405.00
Personnel	Quantity	Amount
Administrative Staff	1	\$40,598.00
Total Personnel	1	\$40,598.00
Fringe	Quantity	Amount
Administrative staff	1	\$8,100.00
Total Fringe	1	\$8,100.00
Overtime	Quantity	Amount
Investigative - Law Enforcement Officer	2	\$26,100.00
Total Overtime	2	\$26,100.00
Travel	Quantity	Amount
Administrative	0	\$500.00
Investigative/Operational	0	\$1,400.00
Training	0	\$111.00
Total Travel		\$2,011.00
Services	Quantity	Amount
Communications - data lines		\$2,580.00
Communications - mobile phones & pagers		\$4,200.00
Service contracts		\$3,600.00
Shipping & postage		\$720.00
Total Services		\$11,100.00
Supplies		Amount
Investigative/Operational		\$18,792.00
Office		\$13,200.00
Total Supplies		\$31,992.00
Other		Amount
PE/PI/PS		\$44,504.00
Total Other		\$44,504.00
Total Budget		\$164,405.00

BUDGET AMOUNT OF (\$162,905.00) WILL BE REPROGRAMMED TO OTERO COUNTY IN JULY 2023.
LINCOLN COUNTY WILL ONLY HAVE A BUDGET FOR OVERTIME - \$1500.00



2022 Volunteer Firefighters Annual Reporting Form

Instructions: Please print or type in dark ink. This form must be completed in its entirety and returned in hard copy and electronic copy format to PERA along with the appropriate Qualification Record form(s) by March 31, 2023 via RIO and by regular mail, fax, or e-mail to pera-memberservices@state.nm.us for processing. Strikethroughs and correction fluid/tape are not permitted. Please keep copies for your VFD's records.

Section 1

General Information About the Volunteer Fire Department (VFD)

09983	Arabela Volunteer Fire Department		
PERA VFD Number (5 digit number)	VFD Name		
PO Box 262	Tinnie	NM	88351
VFD Mailing Address	City	State	Zip Code
Scott Stark	575-291-7460 or 575-840-7400	caverx@msn.com	
VFD Fire Chief's Name (First and Last)	VFD Chief's Daytime Phone Number	VFD Chief's email Address	
Victoria Sanchez	575-626-2505	vesanchez59@gmail.co,	
Alternate Contact Name (First and Last)	Alternate Contact's Daytime Phone Number	Alternate Contact's Email Address	

Section 2

VFD DEPARTMENT TOTALS

1.	New VFD members reported in 2022:	2
2.	Current/returning (non-retired) VFD members reported in 2022:	7
3.	Retired VFD members reported in 2022:	0
4.	Total number of Volunteer Firefighters reported in 2022 (sum of members entered on lines 1 through 3):	9

Section 3

VFD CHIEF CERTIFICATION

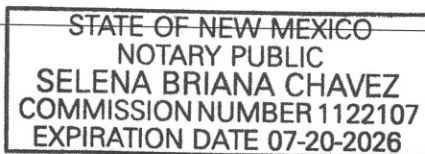
*Notary stamp must be visible

I, Scott Stark, Fire Chief of the Arabela Volunteer Fire Department, affirm that the records submitted to PERA are true and correct and reflect **100%** of my VFD's 2022 roster.

Signature of VFD Fire Chief [Signature] Date 3/10/23

State of New Mexico)
County of Lincoln)

SS:



Signed and sworn to (or affirmed) before me by Scott Stark on this 10th day of March, 2023.

My Commission Expires 07/20/2026 Notary Public Telephone Number 575-378-4422 Signature of Notary [Signature]

Section 4

MAYOR OR COMMISSION CERTIFICATION

Signature of Municipal Mayor or Chair of County Commission _____ Date _____

2022 Volunteer Firefighters Annual Reporting Form

33 Plaza La Prensa
Santa Fe, NM 87507
(505) 476-9300 phone
(505) 954-0342 fax
www.nmpera.org

Instructions: Please print or type in dark ink. This form must be completed in its entirety and returned in hard copy and electronic copy format to PERA along with the appropriate Qualification Record form(s) by March 31, 2023 via RIO and by regular mail, fax, or e-mail to pera-memberservices@state.nm.us for processing. Strikethroughs and correction fluid/tape are not permitted. Please keep copies for your VFD's records.

Section 1

General Information About the Volunteer Fire Department (VFD)

PERA VFD Number (5 digit number) <u>09621</u>	VFD Name <u>BONITO</u>		
VFD Mailing Address <u>P.O. Box 135</u>	City <u>ALTO</u>	State <u>NM</u>	Zip Code <u>88312</u>
VFD Fire Chief's Name (First and Last) <u>SPENCER BALDWIN</u>	VFD Chief's Daytime Phone Number <u>575-937-0007</u>	VFD Chief's email Address <u>0305FIRE@GMAIL.COM</u>	
Alternate Contact Name (First and Last) <u>JOE KENMORE</u>	Alternate Contact's Daytime Phone Number <u>575 808 1381</u>	Alternate Contact's Email Address <u>JKENMORE@LINCOLNCOUNTYNM.GOV</u>	

Section 2

VFD DEPARTMENT TOTALS

1. <u>8</u>	New VFD members reported in 2022:	
2. <u>23</u>	Current/returning (non-retired) VFD members reported in 2022:	
3.	Retired VFD members reported in 2022:	
4. <u>31</u>	Total number of Volunteer Firefighters reported in 2022 (sum of members entered on lines 1 through 3):	

Section 3

VFD CHIEF CERTIFICATION

*Notary stamp must be visible

I, SPENCER BALDWIN, Fire Chief of the BONITO Volunteer Fire Department, affirm that the records submitted to PERA are true and correct and reflect **100%** of my VFD's 2022 roster.

Signature of VFD Fire Chief Spencer Baldwin Date 3-2-2023

State of New Mexico)

County of Lincoln) SS:

Signed and sworn to (or affirmed) before me by Spencer J Baldwin on this 2nd day of MARCH, 2023
VFD Chief's Name (please print) to be completed by Notary

My Commission Expires 5/6/2023 Notary Public Telephone Number 614-746-0154 Signature of Notary [Signature]

Section 4

MAYOR OR COMMISSION CERTIFICATION

Signature of Municipal Mayor or Chair of County Commission _____ Date _____

2022 Volunteer Firefighters Annual Reporting Form

33 Plaza La Prensa
Santa Fe, NM 87507
(505) 476-9300 phone
(505) 954-0342 fax
www.nmpera.org

Instructions: Please print or type in dark ink. This form must be completed in its entirety and returned in hard copy and electronic copy format to PERA along with the appropriate Qualification Record form(s) by March 31, 2023 via RIO and by regular mail, fax, or e-mail to pera-memberservices@state.nm.us for processing. Strikethroughs and correction fluid/tape are not permitted. Please keep copies for your VFD's records.

Section 1

General Information About the Volunteer Fire Department (VFD)

09673	Glencoe-Palo Verde VF		
PERA VFD Number (5 digit number)	VFD Name		
Po Box 1105	Glencoe	NM	88324
VFD Mailing Address	City	State	Zip Code
Mike Bryant	575-937-2991	mikebryant@hotmail.com	
VFD Fire Chief's Name (First and Last)	VFD Chief's Daytime Phone Number	VFD Chief's email Address	
Janett Herrera	575-937-5167	janettkyla2000@yahoo.com	
Alternate Contact Name (First and Last)	Alternate Contact's Daytime Phone Number	Alternate Contact's Email Address	

Section 2

VFD DEPARTMENT TOTALS

1.	New VFD members reported in 2022:	0
2.	Current/returning (non-retired) VFD members reported in 2022:	11
3.	Retired VFD members reported in 2022:	0
4.	Total number of Volunteer Firefighters reported in 2022 (sum of members entered on lines 1 through 3):	11

Section 3

VFD CHIEF CERTIFICATION

*Notary stamp must be visible

I, Mike Bryant, Fire Chief of the Glencoe-Palo Verde VF Volunteer Fire Department, affirm that the records submitted to PERA are true and correct and reflect 100% of my VFD's 2022 roster.

Signature of VFD Fire Chief [Signature] Date 2-13-2023

State of New Mexico)

County of Lincoln) SS:

STATE OF NEW MEXICO

NOTARY PUBLIC

Janett Herrera

Commission Number 1119348

My Commission Expires August 15, 2025

Signed and sworn to (or affirmed) before me by Mike Bryant on this 13 day of February 2023
VFD Chief's Name (please print) to be completed by Notary

My Commission Expires 8-15-2025 Notary Public Telephone Number 575.937.5167 Signature of Notary [Signature]

Section 4

MAYOR OR COMMISSION CERTIFICATION

Signature of Municipal Mayor or Chair of County Commission _____ Date _____

2022 Volunteer Firefighters Annual Reporting Form

33 Plaza La Prensa
Santa Fe, NM 87507
(505) 476-9300 phone
(505) 954-0342 fax
www.nmpera.org

Instructions: Please print or type in dark ink. This form must be completed in its entirety and returned in hard copy and electronic copy format to PERA along with the appropriate Qualification Record form(s) by March 31, 2023 via RIO and by regular mail, fax, or e-mail to pera-memberservices@state.nm.us for processing. Strikethroughs and correction fluid/tape are not permitted. Please keep copies for your VFD's records.

Section 1

General Information About the Volunteer Fire Department (VFD)

09686	Hondo Valley Volunteer Fire Department		
PERA VFD Number (5 digit number)	VFD Name		
PO Box 244	Tinnie	NM	88336
VFD Mailing Address	City	State	Zip Code
Arron Griewahn	575-937-7639	hondovalleyfire@yahoo.com	
VFD Fire Chief's Name (First and Last)	VFD Chief's Daytime Phone Number	VFD Chief's email Address	
Joe Kenmore	575-808-1381	jkenmore@lincolncountynm.gov	
Alternate Contact Name (First and Last)	Alternate Contact's Daytime Phone Number	Alternate Contact's Email Address	

Section 2

VFD DEPARTMENT TOTALS

1.	New VFD members reported in 2022:	2
2.	Current/returning (non-retired) VFD members reported in 2022:	19
3.	Retired VFD members reported in 2022:	
4.	Total number of Volunteer Firefighters reported in 2022 (sum of members entered on lines 1 through 3):	21

Section 3

VFD CHIEF CERTIFICATION

*Notary stamp must be visible

I, Arron Griewahn, Fire Chief of the Hondo Valley Volunteer Fire Department, affirm that the records submitted to PERA are true and correct and reflect **100%** of my VFD's 2022 roster.

Signature of VFD Fire Chief [Signature] STATE OF NEW MEXICO 3-8-23
NOTARY PUBLIC
Date

State of New Mexico)
County of Lincoln) SS: My Commission Expires August 15, 2025

Signed and sworn to (or affirmed) before me by Arron Griewahn on this 8 day of March
VFD Chief's Name (please print) to be completed by Notary

My Commission Expires 8/15/2025 Notary Public Telephone Number 575-937-5167 Signature of Notary Janett Herrera

Section 4

MAYOR OR COMMISSION CERTIFICATION

Signature of Municipal Mayor or Chair of County Commission _____ Date _____

2022 Volunteer Firefighters Annual Reporting Form

33 Plaza La Prensa
Santa Fe, NM 87507
(505) 476-9300 phone
(505) 954-0342 fax
www.nmpera.org

Instructions: Please print or type in dark ink. This form must be completed in its entirety and returned in hard copy and electronic copy format to PERA along with the appropriate Qualification Record form(s) by March 31, 2023 via RIO and by regular mail, fax, or e-mail to pera-memberservices@state.nm.us for processing. Strikethroughs and correction fluid/tape are not permitted. Please keep copies for your VFD's records.

Section 1

General Information About the Volunteer Fire Department (VFD)

09710	Lincoln Fire Department		
PERA VFD Number (5 digit number)	VFD Name		
PO Box 7	Lincoln	NM	88338
VFD Mailing Address	City	State	Zip Code
Jake Canavan	915-433-5704	lincolnfirenm@gmail.com	
VFD Fire Chief's Name (First and Last)	VFD Chief's Daytime Phone Number	VFD Chief's email Address	
Arron Griewahn	575-937-7639	agriewahn@lincolncountynm.gov	
Alternate Contact Name (First and Last)	Alternate Contact's Daytime Phone Number	Alternate Contact's Email Address	

Section 2

VFD DEPARTMENT TOTALS

1.	New VFD members reported in 2022:	2
2.	Current/returning (non-retired) VFD members reported in 2022:	11
3.	Retired VFD members reported in 2022:	0
4.	Total number of Volunteer Firefighters reported in 2022 (sum of members entered on lines 1 through 3):	13

Section 3

VFD CHIEF CERTIFICATION

*Notary stamp must be visible

I, Jake Canavan, Fire Chief of the Lincoln Fire Department Volunteer Fire Department, affirm that the records submitted to PERA are true and correct and reflect **100%** of my VFD's 2022 roster.

Signature of VFD Fire Chief [Signature] Date 3/8/20

State of New Mexico)

County of Lincoln) SS:

STATE OF NEW MEXICO

NOTARY PUBLIC

Janett Herrera

Commission Number 1119348

My Commission Expires August 15, 2025

Signed and sworn to (or affirmed) before me by Jake Canavan on this 8 day of March
VFD Chief's Name (please print) to be completed by Notary

My Commission Expires 8/15/2025 Notary Public Telephone Number 575-937-5167 Signature of Notary [Signature]

Section 4

MAYOR OR COMMISSION CERTIFICATION

Signature of Municipal Mayor or Chair of County Commission _____ Date _____

2022 Volunteer Firefighters Annual Reporting Form

33 Plaza La Prensa
Santa Fe, NM 87507
(505) 476-9300 phone
(505) 954-0342 fax
www.nmpera.org

Instructions: Please print or type in dark ink. This form must be completed in its entirety and returned in hard copy and electronic copy format to PERA along with the appropriate Qualification Record form(s) by March 31, 2023 via RIO and by regular mail, fax, or e-mail to pera-memberservices@state.nm.us for processing. Strikethroughs and correction fluid/tape are not permitted. Please keep copies for your VFD's records.

Section 1

General Information About the Volunteer Fire Department (VFD)

09738	Nogal Volunteer Fire Department		
PERA VFD Number (5 digit number)	VFD Name		
PO Box 62	Nogal	NM	88341
VFD Mailing Address	City	State	Zip Code
Chris Row	575-808-0076	crsplumbinginc@aol.com	
VFD Fire Chief's Name (First and Last)	VFD Chief's Daytime Phone Number	VFD Chief's email Address	
Lauren (Alex) Peterson	575-808-9510	pl Lauren209@gmail.com	
Alternate Contact Name (First and Last)	Alternate Contact's Daytime Phone Number	Alternate Contact's Email Address	

Section 2

VFD DEPARTMENT TOTALS

1.	New VFD members reported in 2022:	4
2.	Current/returning (non-retired) VFD members reported in 2022:	19
3.	Retired VFD members reported in 2022:	0
4.	Total number of Volunteer Firefighters reported in 2022 (sum of members entered on lines 1 through 3):	23

Section 3

VFD CHIEF CERTIFICATION

*Notary stamp must be visible

I, Chris Row, Fire Chief of the Nogal VFD Volunteer Fire Department, affirm that the records submitted
Printed Name of VFD Fire Chief VFD Name

to PERA are true and correct and reflect 100% of my VFD's 2022 roster.

[Signature] 2-27-23
Signature of VFD Fire Chief Date

State of New Mexico)

County of Lincoln) SS:

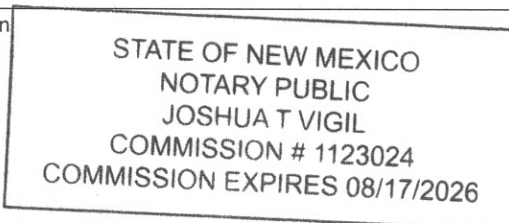
Signed and sworn to (or affirmed) before me by Chris Row on this 27th day of Feb., 2023.
VFD Chief's Name (please print) to be completed by Notary

My Commission Expires 8-17-26 Notary Public Telephone Number 575-257-2245 Signature of Notary [Signature]

Section 4

MAYOR OR COMMISSION CERTIFICATION

Signature of Municipal Mayor or Chair of County Commission Date



2022 Volunteer Firefighters Annual Reporting Form

33 Plaza La Prensa
Santa Fe, NM 87507
(505) 476-9300 phone
(505) 954-0342 fax
www.nmpera.org

Instructions: Please print or type in dark ink. This form must be completed in its entirety and returned in hard copy and electronic copy format to PERA along with the appropriate Qualification Record form(s) by March 31, 2023 via RIO and by regular mail, fax, or e-mail to pera-memberservices@state.nm.us for processing. Strikethroughs and correction fluid/tape are not permitted. Please keep copies for your VFD's records.

Section 1

General Information About the Volunteer Fire Department (VFD)

09970	White Oaks Volunteer Fire Department		
PERA VFD Number (5 digit number)	VFD Name		
964 White Oaks Highway	White Oaks	NM	88301
VFD Mailing Address	City	State	Zip Code
Robert Cranston	575-648-9920	rcranston44@gmail.com	
VFD Fire Chief's Name (First and Last)	VFD Chief's Daytime Phone Number	VFD Chief's email Address	
Joe Kenmore	575-808-1381	JKenmore@lincolncountynm.gov	
Alternate Contact Name (First and Last)	Alternate Contact's Daytime Phone Number	Alternate Contact's Email Address	

Section 2

VFD DEPARTMENT TOTALS

1.	New VFD members reported in 2022:	2
2.	Current/returning (non-retired) VFD members reported in 2022:	13
3.	Retired VFD members reported in 2022:	2
4.	Total number of Volunteer Firefighters reported in 2022 (sum of members entered on lines 1 through 3):	17

Section 3

VFD CHIEF CERTIFICATION

*Notary stamp must be visible

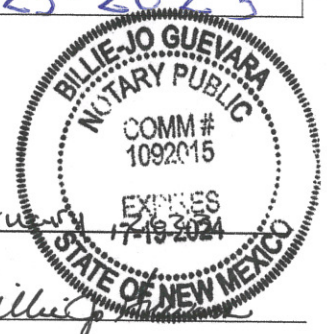
I, Robert Cranston, Fire Chief of the White Oaks Volunteer Fire Department, affirm that the records submitted to PERA are true and correct and reflect 100% of my VFD's 2022 roster.

Signature of VFD Fire Chief Robert Cranston Date 02-23-2023

State of New Mexico)
County of Lincoln) SS:

Signed and sworn to (or affirmed) before me by Robert Cranston on this 23rd day of February
VFD Chief's Name (please print) to be completed by Notary

My Commission Expires 7/19/2024 Notary Public Telephone Number 575-648-2385 Signature of Notary Billie Jo Guevara



Section 4

MAYOR OR COMMISSION CERTIFICATION

Signature of Municipal Mayor or Chair of County Commission _____ Date _____



www.lincolncountynm.gov

County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

AGENDA ITEM NO. 8

SUBJECT:

Approval of Budget Adjustment for FY 22/23 by Resolution 2023-43

Tuesday, March 21, 2023

LINCOLN COUNTY COMMISSION
RESOLUTION NO. 2023-43
BUDGET ADJUSTMENT FY 2022-2023

WHEREAS, the Lincoln County Board of Commissioners, meeting in a regular session on March 21, 2023 did review requests for adjustments to the 2022-23 Budget; and

WHEREAS, it was determined that the proposed budget adjustments would be beneficial for the citizens of Lincoln County;

NOW, THEREFORE, BE IT RESOLVED that the New Mexico Department of Finance and Administration is respectfully requested to approve this resolution with the following adjustments;

Fund	DFA Line #	Description	Revenues	Expenses	Transfer In	Transfer Out
General Fund		General Fund				
401-01-2140	11000-1001-53030	Mileage & Per Diem		\$ 4,500.00		
401-01-2141	11000-1001-57050	Dues/Conferences/Registration		\$ 2,500.00		
401-00-1951	11000-0001-61200	Transfer out to Road Dept				\$ 150,000.00
		Subtotal	\$ -	\$ 7,000.00	\$ -	\$ 150,000.00
Road Dept Fund		Road Dept Fund				
402-00-1675	20400-0001-47499	LGTPF Agreement Grant	\$ 1,068,750.00			
402-00-1950	20400-0001-61100	Transfer from General Fund 5% Match			\$ 56,250.00	
402-00-1950	20400-0001-61100	1/12 Reserve from General Fund			\$ 93,750.00	
402-43-2197	20400-5001-58090	Transportation Project Fund (TPF)		\$ 1,125,000.00		
		Subtotal	\$ 1,068,750.00	\$ 1,125,000.00	\$ 150,000.00	\$ -
Bonito Fire		Bonito Fire				
407-00-1180	20900-0001-46030	Interest Earned	\$ 6,000.00			
407-00-1182	20900-0001-46030	Interest Earned-Debt Service	\$ 2,000.00		\$ -	
407-00-1560	20900-0001-47100	State Fire Allotment	\$ 30,726.00		\$ -	
		Subtotal	\$ 38,726.00	\$ -	\$ -	\$ -
Hondo Fire		Hondo Fire				
409-00-1180	20900-0001-46030	Interest Earned	\$ 5,000.00			
409-00-1182	20900-0001-46030	Interest Earned-Debt Service	\$ 1,000.00		\$ -	
409-00-1560	20900-0001-47100	State Fire Allotment	\$ 20,698.00		\$ -	
		Subtotal	\$ 26,698.00	\$ -	\$ -	\$ -
Lincoln Fire		Lincoln Fire				
410-00-1180	20900-0001-46030	Interest Earned	\$ 5,000.00			
410-00-1560	20900-0001-47100	State Fire Allotment	\$ 13,502.00		\$ -	
		Subtotal	\$ 18,502.00	\$ -	\$ -	\$ -
Nogal Fire		Nogal Fire				
411-00-1180	20900-0001-46030	Interest Earned	\$ 6,000.00			
411-00-1560	20900-0001-47100	State Fire Allotment	\$ 20,702.00		\$ -	
		Subtotal	\$ 26,702.00	\$ -	\$ -	\$ -
Glencoe Fire		Glencoe Fire				
412-00-1180	20900-0001-46030	Interest Earned	\$ 4,000.00			
412-00-1560	20900-0001-47100	State Fire Allotment	\$ 18,524.00		\$ -	
		Subtotal	\$ 22,524.00	\$ -	\$ -	\$ -
White Oaks Fire		White Oaks Fire				
416-00-1180	20900-0001-46030	Interest Earned	\$ 3,000.00			
416-00-1560	20900-0001-47100	State Fire Allotment	\$ 9,806.00		\$ -	
		Subtotal	\$ 12,806.00	\$ -	\$ -	\$ -
Arabela Fire		Arabela Fire				
419-00-1180	20900-0001-46030	Interest Earned	\$ 3,000.00			
419-00-1182	20900-0001-46030	Interest Earned-Debt Service	\$ 200.00		\$ -	
419-00-1560	20900-0001-47100	State Fire Allotment	\$ 10,381.00		\$ -	
		Subtotal	\$ 13,581.00	\$ -	\$ -	\$ -
Legislation Appropriation		Legislation Appropriation				
420-00-1656	30300-0001-47300	Palo Verde Colonias	(1,000,000.00)			
420-28-2920	30300-2002-58010	Palo Verde Colonias Grant		(900,000.00)		
420-28-2920	30300-2002-58010	Palo Verde Slopes Infra. Loan		(100,000.00)		
		Subtotal	(1,000,000.00)	(1,000,000.00)	0.00	0.00
Cell Towers		Cell Towers				
415-001-1262	69900-0001-46060	Reimbursement/Refund	\$ 687.17			
		Subtotal	\$ 687.17	\$ -	\$ -	\$ -

<i>Fire Service OES</i>		<i>Fire Service OES</i>				
424-00-1180	20900-0001-46030	Interest Earned	\$ 2,000.00			
424-00-1560	20900-0001-47100	State Fire Allotment	\$ 10,351.00		\$ -	
		Subtotal	\$ 12,351.00	\$ -	\$ -	\$ -
<i>LCMC GO Bond</i>		<i>LCMC GO Bond</i>				
684-00-1182	40100-0001-46030	Interest Earned-Debt Service	\$ 25,000.00			
		Subtotal	\$ 25,000.00	\$ -	\$ -	\$ -
<i>Zia Sr Citizens</i>		<i>Zia Sr Citizens</i>				
530-00-1737	21900-0001-47499	Grant Carrizozo Sr Center (Ice Machine)	\$ 3,264.00			
530-00-1737	21900-0001-47499	Grant Ruidoso Downs Sr Center (Dish Washer)	\$ 11,052.00			
530-76-2921	21900-4008-58020	Capout Equipment (Carrizozo Ice Machine)		\$ 3,264.00		
530-80-2921	21900-4008-58020	Capout Equipment (Ruidoso Downs Dish Washer)		\$ 11,052.00		
		Subtotal	\$ 14,316.00	\$ 14,316.00	\$ -	\$ -
<i>Indigent</i>		<i>Indigent</i>				
654-29-2525	22000-4001-57200	Safetey Net Pool		\$ 68,000.00		
		Subtotal		\$ 68,000.00		
<i>Colonias Loan/Grant</i>		<i>Colonias Loan/Grant</i>				
686-00-1658	29900-0001-47399	Colonias Grant	\$ 900,000.00			
686-00-1657	29900-0001-46300	Colonias Loan	\$ 100,000.00			
686-30-2922	29900-2002-58090	Palo Verde Slopes Roadway/Bridges		\$ 1,000,000.00		
		Subtotal	\$ 1,000,000.00	\$ 1,000,000.00	\$ -	\$ -
		TOTAL	\$ 1,280,643.17	\$ 1,214,316.00	\$ 150,000.00	\$ 150,000.00

PASSED, APPROVED AND ADOPTED this 21st of March 2023.

BOARD OF COMMISSIONERS FOR
THE COUNTY OF LINCOLN,
STATE OF NEW MEXICO

Todd F. Proctor, Chairman
District I

Mark G. Fischer, Member
District V

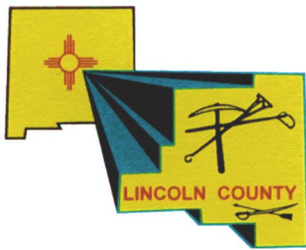
Pierre S. Pfeffer, Member
District IV

Jon F. Crunk, Vice Chairman
District III

Samantha J. Serna, Member
District II

ATTEST:

Shannan Hemphill, County Clerk



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 9

SUBJECT:

Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District
- b. Lincoln County / NMSU Extension Services
- c. South Central Mountain RC & D
- d. Upper Hondo Soil & Water Conservation District
- e. Land and Natural Resources Advisory Committee-LANRAC

Tuesday, March 21, 2023



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

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AGENDA ITEM NO. 10

SUBJECT:

Consideration of Variance Request for Pattern SC Holdings LLC, Ancho Wind LLC, Cowboy Mesa LLC, and Mesa Canyon Wind, LLC (collectively the “SunZia South Project”), Lincoln County WECS

Tuesday, March 21, 2023



March 13, 2023

Mr. Ira Pearson
Lincoln County Commissioner Lincoln County
PO Box 711
Carrizozo, NM 88301

Re: Variance Request for SunZia Wind South LLC (formerly Pattern SC Holdings LLC, Ancho Wind LLC, Cowboy Mesa LLC, and Mesa Canyons Wind LLC) (collectively the “SunZia Wind South Project”), Lincoln County WECS

Dear Mr. Pearson:

In response to the thoughtful questions posed by the Lincoln County Commission at the February 22nd commission meeting, we have endeavored to provide meaningful responses to the questions in the letter and exhibits below. The updated letter and exhibits are intended, in part, to address the questions posed by the Commission.

I am writing regarding the planned location of four (4) wind turbines within the SunZia Wind South Project (“SunZia Wind” or “Project”) in Lincoln County with respect to the setback requirements detailed in Lincoln County Ordinance No. 2017-04 (“Lincoln WECS Ordinance”). The SunZia Wind South Project WECS application was approved by the Lincoln County Commission on October 18, 2022. As currently planned, the turbines identified as 7_89_S, 7_79_S, 7_82_S, and 7_86_S may not meet a setback requirement from County Roads A036 and B001. Currently, all but four of the planned 574 SunZia Wind South turbines within Lincoln County abide by the 1.5 times turbine height (“1.5x”) setback (the “Road Setback”) as written in the Lincoln WECS Ordinance, Sec. 8(C). The purpose of this letter is to seek a variance from this setback requirement in the Lincoln WECS Ordinance with respect to turbines 7_89_S, 7_79_S, 7_82_S, and 7_86_S pursuant to Sec. 16.

Within the Lincoln County WECS Ordinance there are three setback requirements that need to be met by Wind Turbines. The first setback, per Sec. 8(A) relates to minimum setbacks from residences, businesses, and public buildings. The second setback, per Sec. 8(B), states the following, “Distance from any property line of a property that is not a part of the WECS project site shall be 500 feet or one point one (1.1) times the height of the Wind Turbines, whichever is greater, unless a wind easement or waiver of setback has been obtained from the adjoining property owner(s). No setback from internal property lines of an Affected Landowner shall apply.” This 1.1x setback is in-line with what Pattern has seen in multiple jurisdictions to address public safety concerns. The third setback, the Road Setback, relevant to this variance request, per Sec. 8(C), states, “Distance shall not be closer to any public road or other public ROW than 500

feet or one point five (1.5) times the height of the Wind Turbines, whichever is greater.” It also states, “For the purposes of this Section 8, Setback distances shall be measured from the center of the tower of a Wind Turbine to (i) the applicable property boundary, or (ii) to the centerline of the applicable County ROW or public road”.

Pattern originally sited and started construction of certain foundations in 2016 to become eligible for the Production Tax Credit (“PTC”). At that time, a smaller turbine was anticipated. The potential issue with the 1.5x Road Setback is due to an increase in turbine height associated with recent advancements in wind turbine technology. The Project is now designed to utilize taller, more powerful, and more efficient turbine models to generate more energy and more revenue for the Project, the Affected Landowners, and the County. While all the turbine locations and setbacks have been previously approved, SunZia Wind South will need to acquire a variance for the Road Setback for 7_89_S located at 33.822513, -105.546207, 7_79_S located at 33.834351, -105.528634, 7_82_S located at 33.830617, -105.528578, and 7_86_S located at 33.826865, -105.528588 and shown in the following attachments.

As currently planned, the SunZia Wind South Project expects to meet the first two setback requirements at all 574 locations in Lincoln County. Currently, the planned location of turbines 7_89_S, 7_79_S, 7_82_S, and 7_86_S do not meet the 1.5x requirement of the Road Setback as it relates to County Roads A036 and B001 (measured from the center of the turbine to the center of the road, per Sec. 8). Based on the chosen turbine type, the 1.5x requirement equates to approximately 861.2 feet from County Roads A036 and B001. Turbine 7_89_S is over 1.20x or approximately 691 feet (210.6 meters) from County Road A036. Turbine 7_79_S is over 1.30x or approximately 750 feet (228.6 meters) from County Road B001. Turbine 7_82_S is over 1.25x or approximately 742 feet (226.2 meters) from County Road B001. Turbine 7_86_S is over 1.19x or approximately 688 feet (209.7 meters) from County Road B001. Exhibit D shows each turbine and the setback from the respective County Road. We previously presented this request at the February 21, 2023 Commission Meeting where we had measured the setbacks to the edge of the road which equated to approximately 678 feet (206.7 meters), 735 feet (224.0 meters), 730 feet (222.5 meters) and 668 feet (203.6 meters) respectively for Turbines 7_89_S, 7_79_S, 7_82_S and 7_86_S. The setbacks corresponding to those measurements were 1.18, 1.28, 1.27 and 1.16, respectively.

This variance is being requested based on the practical hardship that strict compliance with the requirements of the Lincoln WECS Ordinance will cause the SunZia Wind South Project.

Given the shortfall in setback to the 1.5x WECS requirement, SunZia Wind South is faced with four options:

- (i) Move the turbines such that they strictly satisfy the 1.5x setback,
- (ii) Remove the turbines from the SunZia Wind South layout,
- (iii) Install shorter turbines, or
- (iv) Apply for a Variance as allowed in the WECS.

Under normal circumstances, option (i) would be straightforward and of little consequence, however, as described previously, these locations have been excavated as part of the PTC qualification for the entire SunZia Wind South Project. Moving the location of the foundations would nullify PTC qualification for the portion of the project relying on those locations and cause significant value loss to the project as well as the County. Turbines 7_89_S, 7_79_S, 7_82_S, and 7_86_S are a vital part of SunZia Wind South's 100% PTC strategy. This logic may also be applied to option (ii); removal of the turbine. If the turbines are not installed at their original sites, the PTC qualification strategy for the Project is compromised as well as removing royalty revenue from the private landowner. Option (iii) would also present undue hardship as SunZia Wind South would need to source a shorter turbine as part of an order requiring unique installation and operation activities that are separate from the other 570 units in the Project, which are otherwise all the same, more advanced turbine model. This option would also result in lower revenues to the landowner as a shorter tower height would produce less energy.

In light of these facts, the SunZia Wind South Project respectfully requests the Lincoln County Commission provide SunZia Wind South a setback variance from the setback requirement in the Lincoln WECS Ordinance, Sec. 8(c) for turbines 7_89_S, 7_79_S, 7_82_S, and 7_86_S to allow for setbacks of 1.20x, 1.30x, 1.25x, and 1.19x or greater respectively rather than the previously required 1.5x.

We thank you in advance for your consideration of this variance request and look forward to continuing to work with the County and the Commission in the months and years to come. If you have any questions, comments, or concerns, please feel free to reach out to Adam Cernea Clark or Jeremy Turner.

The following exhibits have been attached to further your understanding of SunZia Wind South's request:

EXHIBIT A – THE SUNZIA WIND SOUTH AREA MAP

EXHIBIT B – APPROVED PROJECT AREA IN THE LINCOLN COUNTY WECS MAP

EXHIBIT C – 7_89_S, 7_79_S, 7_82_S, and 7_86_S MAP

EXHIBIT D – 7_89_S, 7_79_S, 7_82_S, and 7_86_S DETAILED MAP

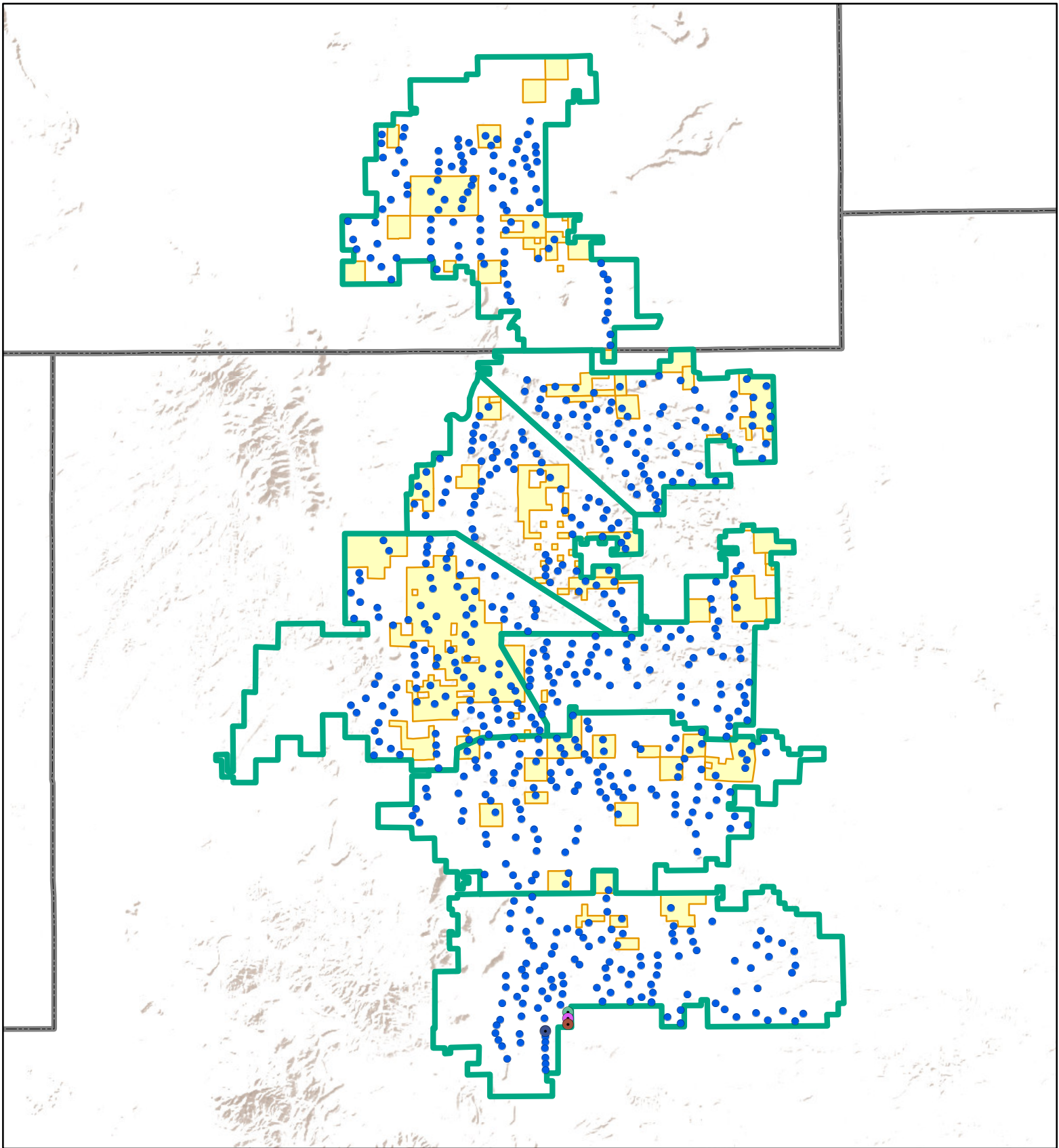
EXHIBIT E – ICING PROTOCOLS


EXHIBIT F – INQUIRY RELATED TO SUNZIA WIND TURBINES

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Murray", with a stylized, flowing script.

Andrew Murray, Authorized Signatory, SunZia Wind South LLC



 SunZia Wind

WTG ID







-  7_79_S
-  7_82_S
-  7_86_S
-  7_89_S
-  SunZia WTGs

Exhibit A

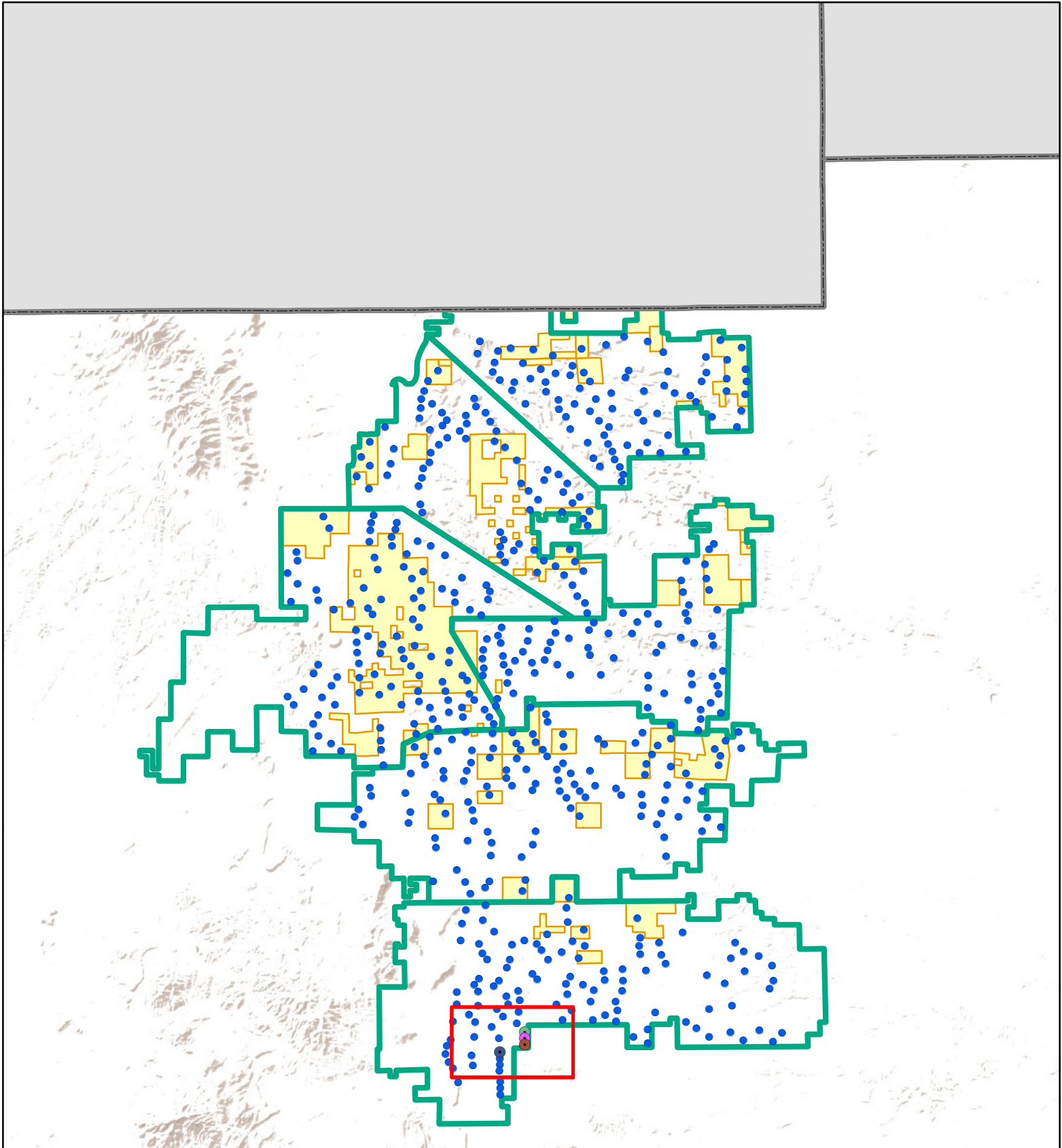



5.5 2.75 0 5.5 Mi.




Privileged
and
Confidential

2/3/2023



 SunZia Wind

WTG ID






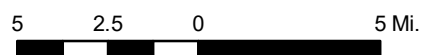
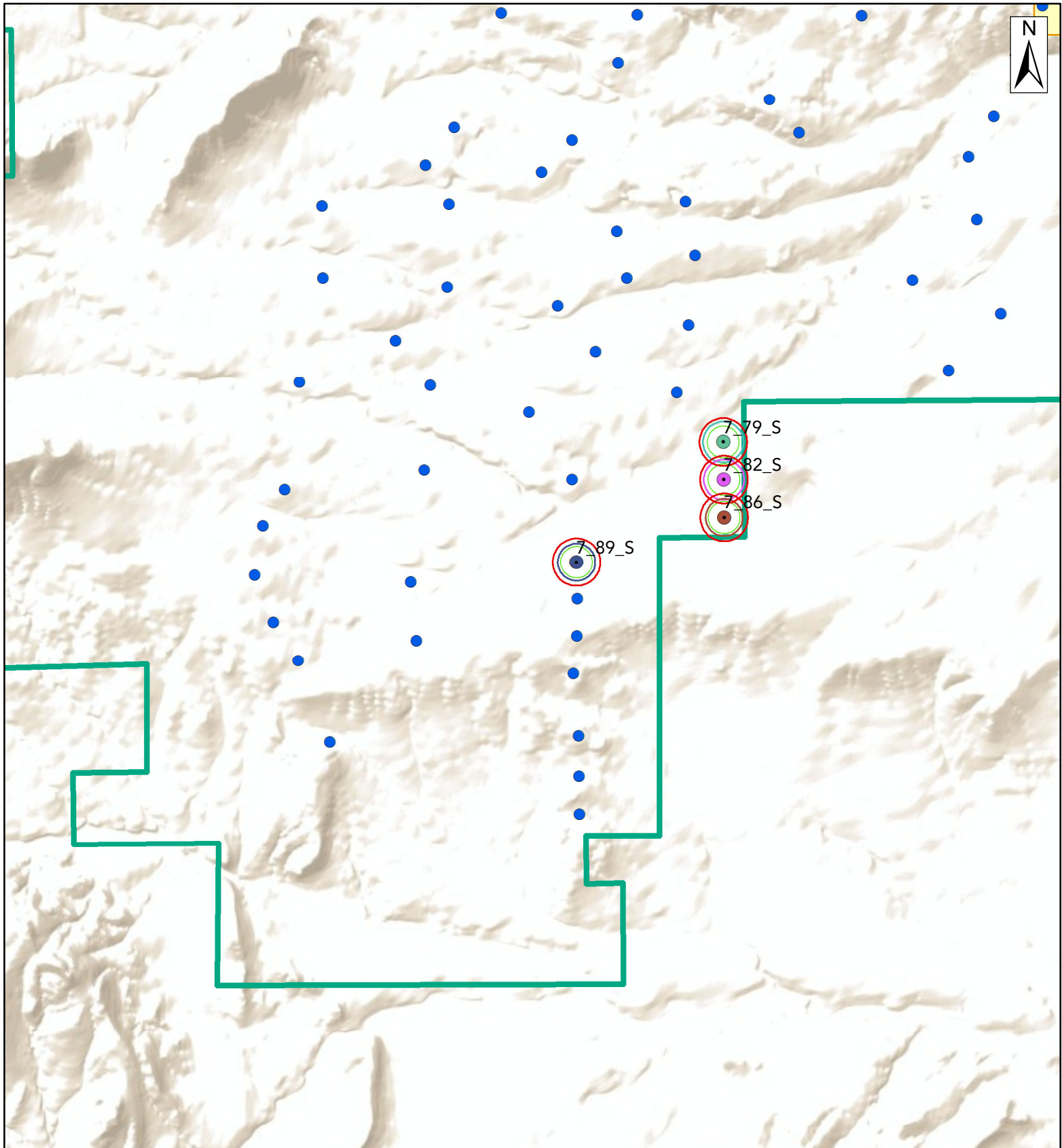
-  7_79_S
-  7_82_S
-  7_86_S
-  7_89_S
-  SunZia WTGs

Exhibit B



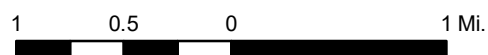
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2/3/2023



- | | |
|---|---|
| 1.5 x TH Buffer - 861.2 ft. | 1.31 x TH Buffer = 750ft |
| 1 x TH Buffer - 574.15 ft. | 1.29 x TH Buffer = 742ft |
| WTG ID | 1.20 x TH Buffer = 688ft |
| ● 7_79_S | 1.20 x TH Buffer = 691ft |
| ● 7_82_S | ● SunZia WTGs |
| ● 7_86_S | SunZia Wind |
| ● 7_89_S | |

Exhibit C



Privileged
and
Confidential
3/7/2023



A036

7_89_S

B001

Exhibit D

▲ 33.822513,-105.546207

— Roads

1 x TH - 574.15 ft.

1.20 x TH - 691 ft.

1.5 xTH - 861.2 ft.

500 250 0 500 Feet

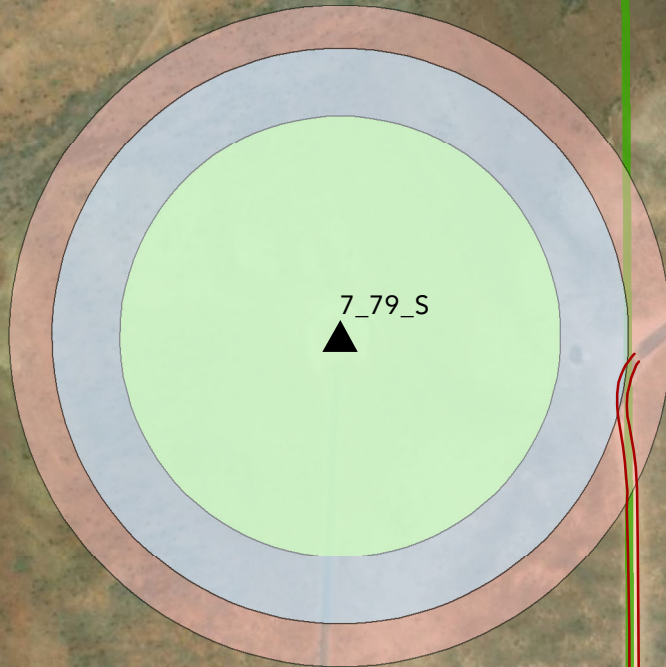


Exhibit D

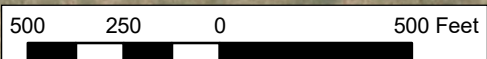
▲ 33.834351, -105.528634

— Roads

1 x TH - 574.15 ft.

1.31 x TH - 750 ft.

1.5 x TH - 861.2 ft.



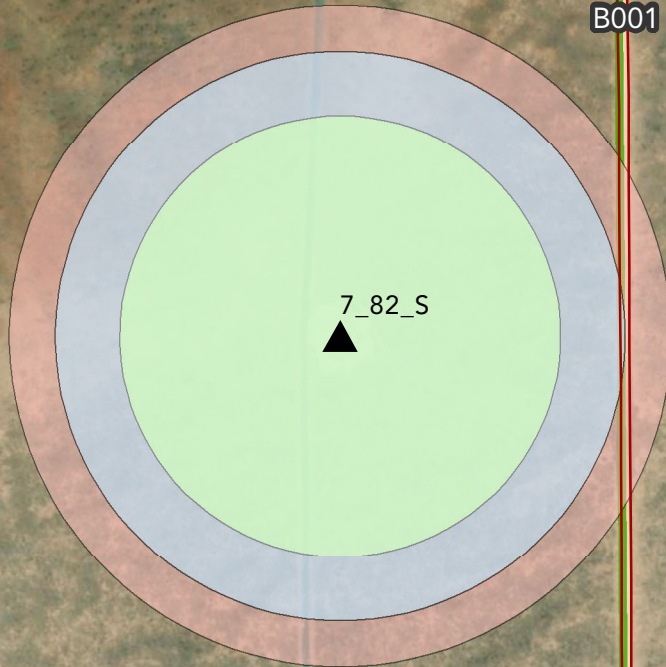


Exhibit D

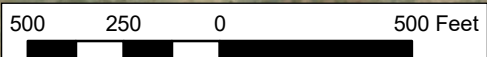
▲ 33.830617, -105.528578

— Roads

1 x TH - 574.15 ft.

1.29 x TH - 742 ft.

1.5 x TH - 861.2 ft.



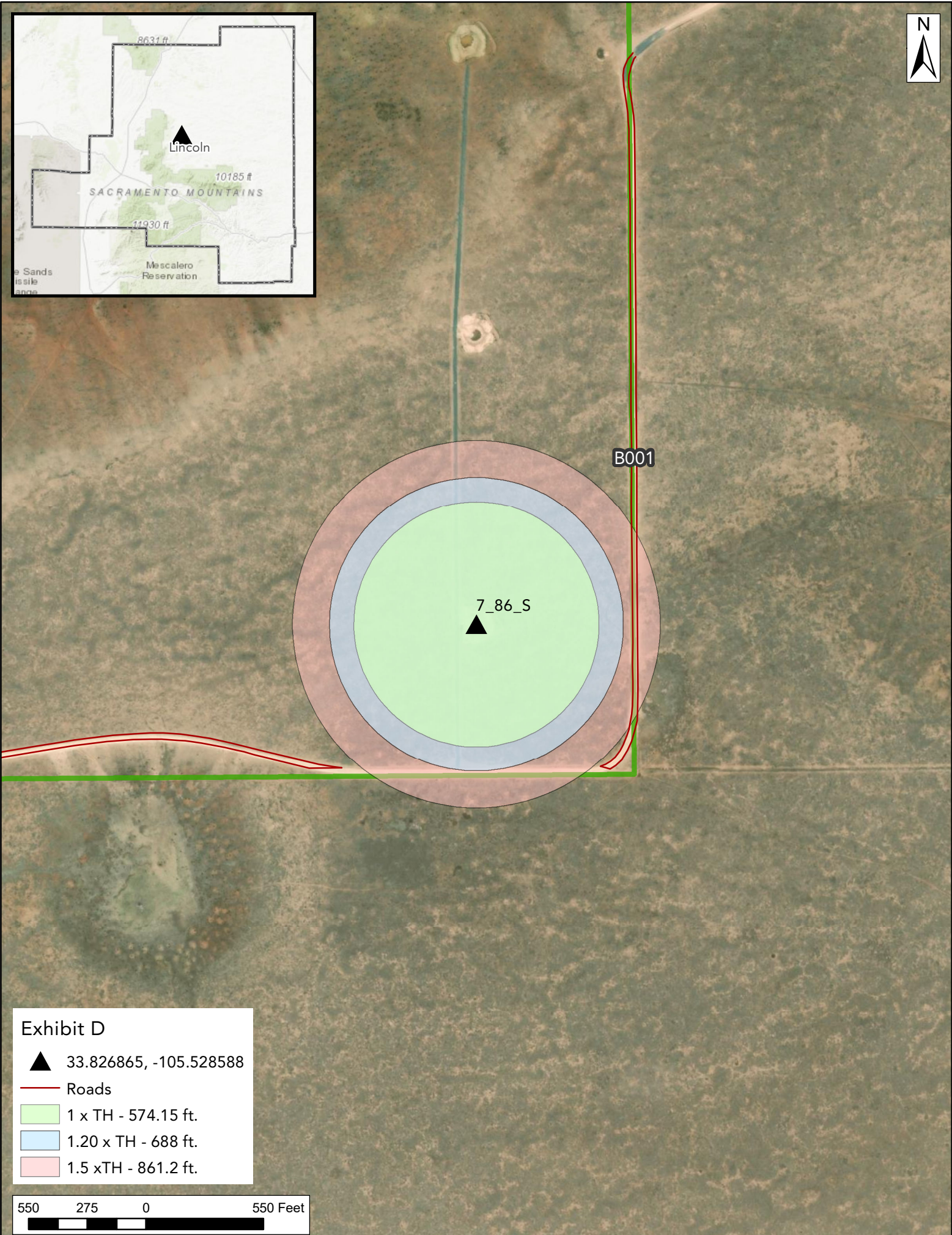


Exhibit D

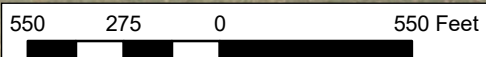
▲ 33.826865, -105.528588

— Roads

1 x TH - 574.15 ft.

1.20 x TH - 688 ft.

1.5 xTH - 861.2 ft.





SMS 521 Inclement Weather

1.1 Icing

1.1.1 Site management shall monitor ice potential to provide advanced Warning of potential Icing conditions.

1.1.2 If Icing conditions are detected by a worker, the worker shall notify site management.

1.1.3 Icing conditions may be present if one or more of the following is true:

1.1.3.1 Freezing rain occurred in the last 24 hours;

1.1.3.2 The temperature has hovered at or around freezing during Precipitation;

1.1.3.3 Ice or compacted snow is visible on any part of the turbine;

1.1.3.4 Ice or compacted snow has fallen off the turbine in the last 24 hours;

1.1.3.5 Ice or compacted snow formations are present within the vicinity of the turbine;

1.1.3.6 The temperature was above 32°F / 0°C after Icing conditions were present; or

1.1.3.7 The current temperature is between -2 and +2 degrees Celsius (28.4 and 35.6 F).

1.1.4 In the event of any of these conditions, site management will issue an ice Watch and instructions to workers to remain clear of areas where there is an icefall potential.



SMS 521 Inclement Weather

1.1.5 When Icing conditions are suspected, use the following steps to approach a turbine:

1.1.5.1 Step 1: Stop

Stop a minimum of 1000 feet (305 m) from any turbine. In some cases, an entire string of turbines may need to be shut down to approach the turbine in question for observation.

NOTE 1: CAUTION

Do not work within 1000 feet (305 m) of an operating turbine that has ice formed on it.

1.1.5.2 Step 2: Observe from a distance

1.1.5.2.1 Observe the turbine using binoculars or similar equipment to look for signs of ice on the ground, inconsistencies on the blade, ice hanging off the nacelle and radiator area. (If ice has developed on the vehicle antenna, that is a good indicator of potential ice on the tower/blades). If it is foggy or the visibility is low, listen for ice falling.

1.1.5.2.2 Perform a remote stop. Wait 5 minutes after the machine has been shut down or once yawing has completed. Observe again with the binoculars from a safe distance (look for ice/snow that has become loose or is falling due to the nacelle's movement).

1.1.5.2.3 Yaw the turbine remotely so that the greatest Hazard above (typically ice on the blades) is on the opposite side of the tower from the entrance door. Wait 5 minutes and observe again.

1.1.5.3 Step 3: Observe closer

1.1.5.3.1 If no ice was observed, proceed to a distance of 300 feet (91 m) away and repeat the ice observation process.

1.1.5.3.2 If no ice is observed at 300 feet, one worker may approach the turbine, continually observing the turbine as they look for ice. If at any time ice is observed, the worker must return to the safe zone.

1.1.6 If the worker does not observe any Icing at the turbine, work may proceed as usual. It should be noted that ice on top of the nacelle or along the tower sections might be very difficult to see. The use of a spotter is encouraged when working near towers during Icing conditions, even if ice has not been seen.

1.1.7 Prior to exiting the turbine, personnel must verify that Icing conditions have not changed. This may occur by calling for remote observation or by checking from the top of



SMS 521 Inclement Weather

the turbine without stepping onto the roof of the nacelle. Consider wind speed, sun, temperature, and Precipitation that could change the characteristics related to falling. If the turbine has started shedding ice, personnel must remain in the tower until the shedding activity has stopped.

1.1.8 Turbines observed to have Icing within 1000 ft. (305m) of public roads or structures, which pose a Hazard to the road or structure, must be shutdown.

NOTE 2:

If any of these steps cannot be completed remotely, do not perform any work in the immediate area until the conditions and safe options have been properly evaluated, addressed, and re-inspected.

1.1.9 Vehicles shall not drive on turbine access roads within 300 ft. of turbines when Icing conditions are present on running turbines.

1.1.10 Vehicles shall not be parked within 300 feet of a turbine if weather conditions may cause ice buildup while the turbine is being serviced.

NOTE 3: STOP WORK

If at any time ice is observed to be shedding from the turbine, STOP WORK and do not approach the turbine.

EXHIBIT F - INQUIRY RELATED TO SUNZIA WIND TURBINES

To:	Jeremy Turner
From:	Terrence Cantorna
Date:	March 08, 2023

EXECUTIVE SUMMARY

The purpose of this memorandum is to address questions from SunZia project stakeholders related to the risk of catastrophic wind turbine failures. While pictures and videos of catastrophic wind turbine failures are widespread, and the media coverage corresponding to those catastrophic failures can be dramatic, the reality of the risk is best addressed, not from a media perspective, but rather from risk exposure and mitigation perspective. The memo presents an overview of turbine technology to be deployed at SunZia Wind and the certification related to those turbines. The certification process governing those wind turbines, particularly with respect to design and manufacturing certification, constitute a robust set of best practices that mitigate the risk of equipment failures, including catastrophic failures.

OVERVIEW

Pattern Energy Group LP ("Pattern") is developing SunZia Wind, a ~3,500 MW portfolio consisting of two wind farms, SunZia South and SunZia North, located in central New Mexico. SunZia Wind will deploy wind turbine generators ("WTGs") that will optimize, among other factors, reliability over the useful life of the projects. The WTGs will be ordered from top-tier original equipment manufacturers ("OEMs") with a proven track record of innovation and reliability. SunZia Wind will contract with these OEMs to design, manufacture, deliver, warrant, and service the WTGs.

SunZia Wind plans to employ a total of ~3.5 GW of WTGs from GE Renewable Energy (“GE”) and Vestas North America (“Vestas”).

WTG models to be deployed at SunZia

OEM	Turbine Type	Turbine Quantity	MW per Turbine	Total MW
GE Renewable Energy	GE 3.6-154	674	3.6	2,426.4
Vestas North America	V163-4.5	242	4.5	1,089.0
Total		916		3,515.4

OEMs to be deployed at SunZia

OEM	North America Cumulative Market Share	North America Installed Base (MW)	Pattern North America Installed Base (MW)*
GE Renewable Energy	40%	56,900	1,822
Vestas North America	27%	38,100	450
Total	67%	95,000	2,272

* MW includes JV Partners' share of MW where applicable

Source: Wood Mackenzie's Wind Turbine OEM Market Shares Report (June 2022)

In both cases, the WTGs will use evolutionary designs, enhancing performance to proven technology platforms with track records of reliable performance in the North American market.

TECHNOLOGY AS AN EVOLUTION FROM EXISTING AND PROVEN PLATFORMS

1- GE 3.6-154

The GE 3.6-154 turbine is an evolution of the GE 3.0-140 turbine. The GE 3.0-140 turbine is part of GE's existing Sierra Platform, which was designed specifically for the North American market, with the first installations achieving a Commercial Operation Date (“COD”) in 2021, and an order book exceeding 1 GW. The Sierra Platform is an established evolution of the structural, mechanical, and electrical design of the 2 MW Platform. The 2 MW Platform is the primary contributor to GE's installations in North America, representing 93%, or 5.7 GW, of its 2021 installations.¹

2- V163-4.5

The V163-4.5 turbine is an evolution of the current Vestas 4 MW WTG Platform offering, which includes the V150-4.0, 4.2, 4.3 and 4.5. The V163-4.5 turbine utilizes the existing 4 MW WTG Platform supply chain to reduce risk. Vestas designed the V163-4.5 to minimize the impact of changes on suppliers, transportation methods, tooling and installation processes, as well as servicing and operational standards.² More than 1 GW of V150s were installed in the US in 2021.³

¹ American Clean Power (ACP)

² <https://www.vestas.com/en/pages/V163-4-5-mw>

³ American Clean Power (ACP)

3- Snapshot of evolutions and commonalities

SunZia Wind Turbine	Existing Qualified Platform	Evolutions	Commonalities
GE 3.6-154	GE 3.0-140	<ul style="list-style-type: none"> +14m rotor +0.6 MW Increased generator capacity Increased gearbox ratio Refined foundation design to support larger rotor, depending on site conditions 	<ul style="list-style-type: none"> Similar tower height range Rear Entry Hub Nacelle – Single main bearing, multi-stage Gearbox, DFIG Generator Converter with 1kV stator circuit 34kV Pad Mount Transformer
V163-4.5	V150-4.3 ⁴	<ul style="list-style-type: none"> +13m rotor +0.2 MW Updated gearbox ratio for larger rotor Refined foundation design to support larger rotor, depending on site conditions Increased capacity hub 	<ul style="list-style-type: none"> Similar tower height range Nacelle – Single main bearing, multi-stage Gearbox (2 planetary, 1 helical), Up-tower transformer Full Scale Converter Cooler top module with passive water to heat exchange Blade root diameter Structural shell blade

THIRD-PARTY REVIEW

Technical due diligence of SunZia Wind WTGs will include IEC Type Certificate⁵ and an assessment by the Independent Engineer (“IE”).

a. IEC Type Certificate

A Type Certificate is a third-party verification, demonstrating that the technical elements of the turbine (including those elements that describe the design life of the WTG) conform to the applicable canon of design and engineering standards. The graph below shows the steps involved in the Type Certificate certification process.



- **Design basis evaluation:** This step serves to evaluate whether the standards, assumptions, and methodologies used in the design are in line with IEC 61400-22.
- **Design evaluation:** this step verifies that the design has been made following the design basis of the previous step.
- **Manufacturing evaluation:** This step evaluates quality systems; manufacturing inspections are performed as well.
- **Type testing:** This step involves laboratory and field tests to blades, gearbox, loads, and power performance.

⁴ The 4MW platform, including V150 turbines, up to the 4.3 MW model are qualified. The V150 4.5 MW has received a Type Certificate in Q3-2022

⁵ International Electrotechnical Commission

- **Final evaluation:** This step concludes the process where findings of the evaluation are provided.

A qualified certifying body, such as DNV or Tuv Nord, will validate the Type Certificate(s) according to IEC standards. SunZia Wind will receive a Type Certificate for each WTG model in 2024 (see the *Type Certificate Schedule* table immediately below), after the WTGs are ordered and prior to SunZia Wind achieving COD. Ordering turbines prior to receipt of a Type Certificate is common practice, particularly for evolutionary technology, and both OEMs have a strong track record of securing comparable Type Certificates for evolutionary technology. Commercial arrangements, as described in *Section 4: Commercial Mitigation*, further align the interests of the OEMs with those of SunZia Wind to timely deliver Type Certificates.

The SunZia Wind WTGs are expected to follow the OEM milestone schedules shown in the table immediately below.

Type Certificate Schedule as stated in DNV Technical Review Documents⁶

	Prototype	Start Production	Design Evaluation Conformity Statement	Type Certificate
GE 3.6-154	Completed	Q3-2023	Q4-2023	Q3-2024
Vestas V163-4.5	Q2-2023	Q3-2023	Q1-2024	Q3-2024

b. IE due diligence

DNV is the industry leading IE and will serve as the SunZia Wind IE. DNV worked with Pattern on the 1.05 GW Western Spirit Wind project in New Mexico. DNV will review, among others, the WTG technology and their applications at the project site. Appendix A contains a letter regarding the Independent Engineer's assessment from DNV.

Appendix A – Excerpt From a Letter From DNV

Wind turbine collapse is a rare event for modern wind turbines. Known causes that can lead to a turbine collapse are often associated with turbine controls, “consequential” blade failures (i.e., blades failing and then striking the tower), improper installation of components, lack of construction oversight, or other causes such as foundation issues.

The Dutch Handbook, published for the Dutch Government, is regarded as a comprehensive and independent review of wind turbine failure rates since 2005, and includes turbine failure data since 1984. The overall purpose of the Dutch Handbook is to provide a framework for siting wind turbines and conducting safety risk assessments, with a particular emphasis on estimating the probability of tower collapse and blade failure. The Dutch Handbook estimates the expected risk of tower collapse for any given turbine to be 1 in 17,000 years (or 1 incident per 17,000 turbines per year) and recommends the use of a failure rate of 1 in 7,700 years (or 1 incident per 7,700 turbines per year) for conservative risk assessment modelling, until more comprehensive data becomes available.

DNV has further researched wind turbine collapse statistics for North America and Europe based on a literature search which was reviewed and validated to the extent possible using public sources and DNV’s internal knowledge of incidents in the wind industry. Wind turbine collapses are rare, and the statistics are likely to be relatively complete and accurate as these events are more likely to be observed and reported than other types of failures. As downtime when a complete failure occurs is typically significant in length (i.e., one year or longer), the financial and operational implications associated with turbine failures provides a large incentive for the industry to strive toward continual improvement in turbine safety and minimizing the overall risk of failure. DNV’s review has shown that records of approximately 40 turbine collapses were found in modern turbines between 2013 and 2022 in North America and Europe. This represents an average of four incidents per year, or approximately 1 per 29,000 turbines per year.

Lincoln County Commission

SunZia Wind South Project

Wind Energy Conversion System Variance

March 21, 2023



A leader in developing assets in dynamic global energy markets



Pattern Energy is a leader in developing renewable energy and transmission assets. From a global headquarters in San Francisco to an operations control center in Houston, we work on projects that range from the earliest stages of development to the repowering of older facilities.

Our team has a wealth of experience in identifying potential sites, engaging with communities, and expertly navigating the processes of permitting, environmental mitigation, meteorological assessment, risk management, and finance to build great projects. Using the industry's most advanced technologies, we provide our customers with renewable energy that is affordable and reliable.

Pattern Energy has offices in San Francisco, San Diego, Houston, New York and New Mexico in the US; Toronto, Canada; Mexico City, Mexico; Santiago, Chile; and Tokyo, Japan.

Global Portfolio & Company Values



Environment

We aim to exceed industry standards in mitigating environmental impacts and advancing best practices.



Community

We participate in and contribute to our local project communities.

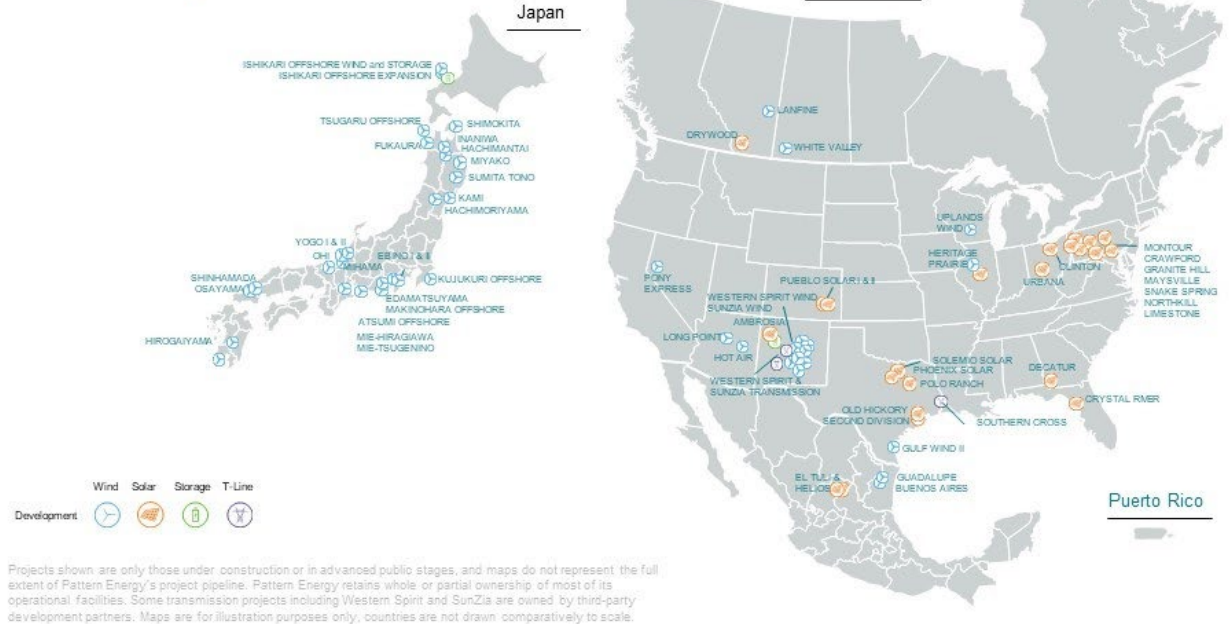


Safety

Our top priority is protecting the safety of the public, our employees, and everyone who works with us.

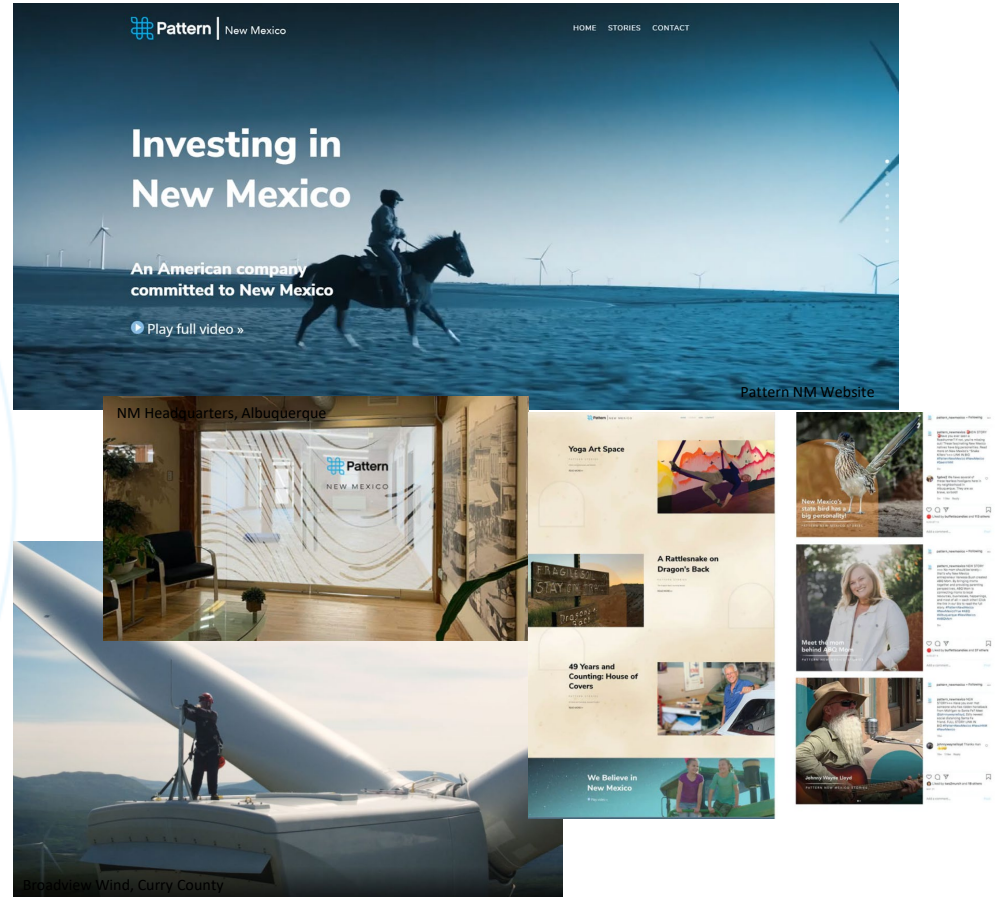


Development Portfolio



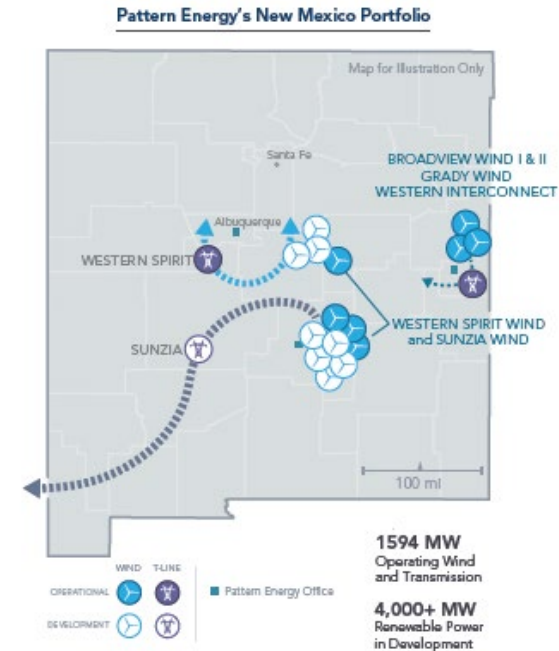
Pattern in New Mexico

- New Mexico headquarters, Albuquerque
- Field offices in Curry County and Corona
- Responsible for over 60 permanent jobs in development and wind facility operation
- Thousands of construction jobs including:
 - 650+ jobs 2016-2019, Broadview & Grady Wind
 - 1,000+ jobs 2020-2021, Western Spirit Wind and Western Spirit Transmission
 - 3,000+ jobs expected before 2026, SunZia Wind and SunZia Transmission



Pattern Energy has successfully developed and financed ~1,600MW of wind and transmission projects in New Mexico.

	OPERATING		OPERATING	DEVELOPMENT
	Broadview Wind	Grady Wind	Western Spirit Wind	SunZia Wind – Includes SunZia Wind South LLC and SunZia Wind North LLC
Size	324 MW	220 MW	1,050 MW	3,500+ MW
County	Curry, NM Deaf Smith, TX	Curry, NM	Guadalupe, Lincoln, and Torrance, NM	San Miguel, Lincoln, and Torrance, NM
Status	COD 2017	COD 2019	COD 2021	Expected full construction ramp in 2023, COD 2026
Inter-connection	Western Interconnect; 35-mile 345kV Developed & constructed by Pattern, owned & operated by Pattern		Western Spirit Transmission; 155-mile 345kV Developed & constructed by Pattern, to be sold to PNM	SunZia Transmission Project; 550+-mile 525kV Developed by SWPG
Capital Cost	\$732 Million		\$2 Billion	~\$6 Billion
Pmt. In Lieu of Taxes	\$18.9 Million		\$88.3 Million	~\$303 Million
Total Econ. Impact	\$2.2 Billion – Direct, Indirect & Induced		\$5.03 Billion – Direct, Indirect & Induced	\$10.3 Billion – Direct, Indirect & Induced
Offtaker	SCE	SMUD	LADWP, SJCE	In process



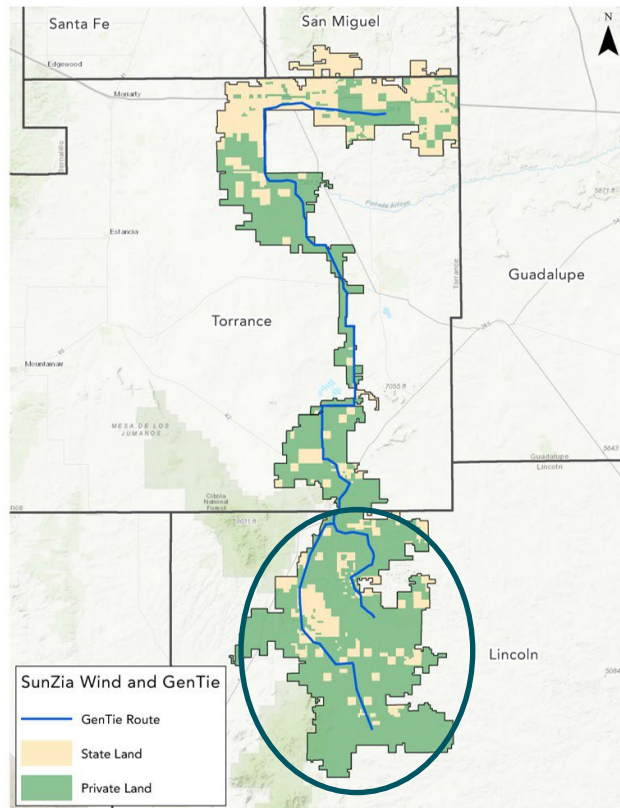
SunZia Wind – Total Project Area

- Development Period 2016 – 2026
- 3,500+ MW
- Approximately 530,000 acres between private and state trust land
- Construction Q2 2023 – Q2 2026
- ~950 Turbines
- Maximum height - 699'
- Average hub height ~ 505'
- Blade tip height ~ 575'
- Performing environmental and cultural studies on the entire project area
- Consultation with various agencies & stakeholders throughout the development period (ex: US Fish & Wildlife, Federal Aviation Administration, Department of Defense, etc.)

Lincoln County

- ~574 Turbines planned
- ~2,067 MW's

SunZia Wind & GenTie



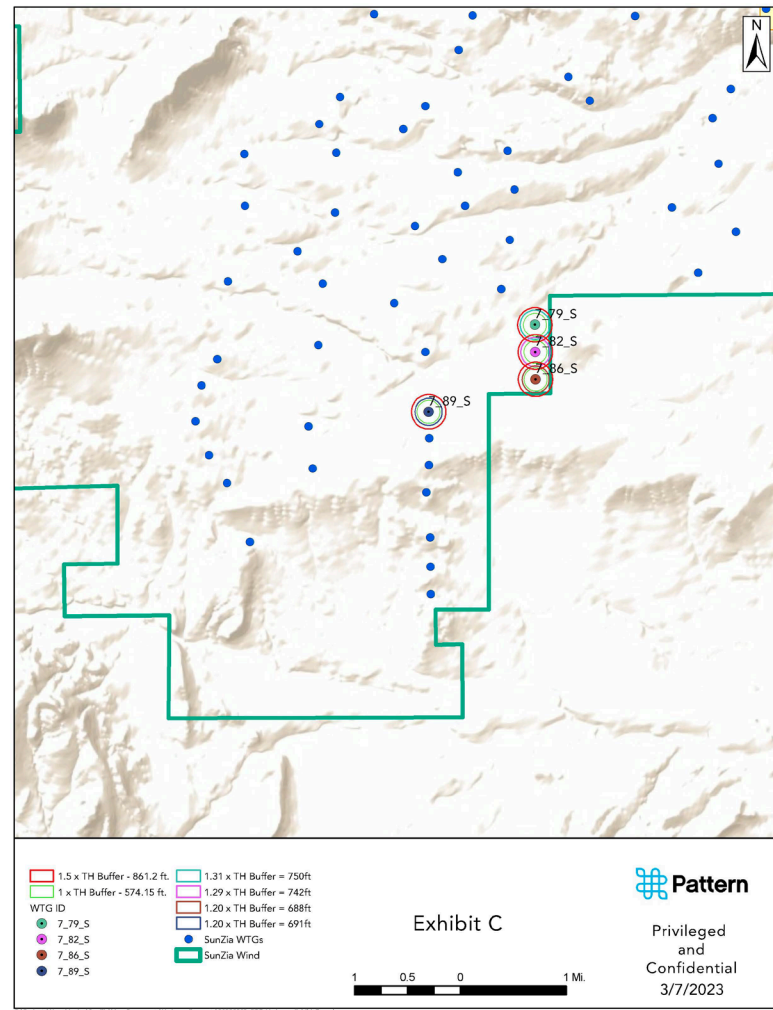
**Preliminary and subject to change*



SunZia.com

Variance Request

- 574 turbines currently planned in Lincoln County
 - All meet 1.5x setback requirement (Road Setback) except four (4) Production Tax Credit (“PTC”) turbines
- Initiated construction of certain foundations in 2016 to qualify the project for federal Production Tax Credits
 - Due to advancement in turbine technology, turbine heights are greater
 - Consistency in turbine technology across the site is more efficient
 - Higher & more efficient energy production for the same footprint
 - Increased megawatts
 - Creates greater economic value



Variance Request – Setback Requirements

- 1) Per Sec. 8(A), “Distance from existing residences, business and public buildings that are outside the Affected Landowner’s property shall be one thousand (1,000) feet. Distance from Affected Landowner’s residence, business, or other buildings shall be one thousand (1,000) feet, unless waived or a different setback is agreed in writing by the Affected Landowner.”
 - 2) Per Sec. 8(B), “Distance from any property line of a property that is not a part of the WECS project site shall be 500 feet or one point one (1.1) times the height of the Wind Turbines, whichever is greater, unless a wind easement or wavier of setback has been obtained from the adjoining property owner(s). No setback from internal property lines of an Affected Landowner shall apply.”
 - 3) Per Sec. 8(C), states, “Distance shall not be closer to any public road or other public ROW than 500 feet or one point five (1.5) times the height of the Wind Turbines, whichever is greater.”
- Section 8 also states, “For the purposes of this Section 8, Setback distances shall be measured from the center of the tower of a Wind Turbine to (i) the applicable property boundary, or (ii) to the centerline of the applicable County ROW or public road.”

Variance Request – Setback Requirements

- The project complies with the first two setback requirements
- 570/574 turbines comply with the third setback requirement
- Per WECS ordinance, measured to the center of the road (shown below)

WTG Height : 175m

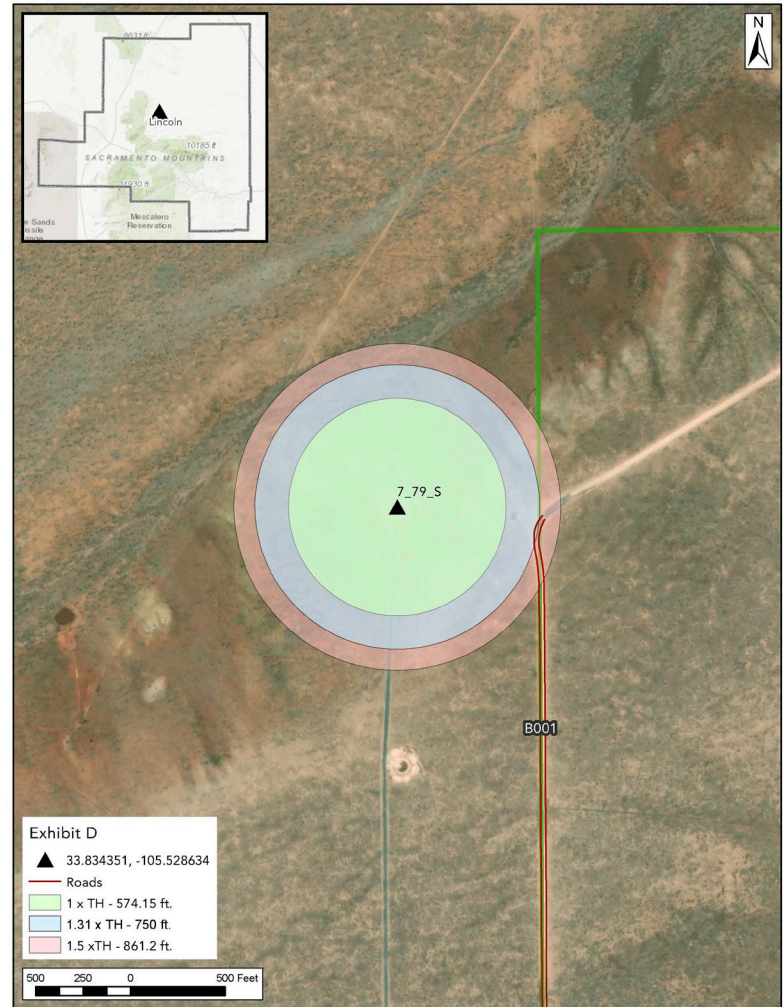
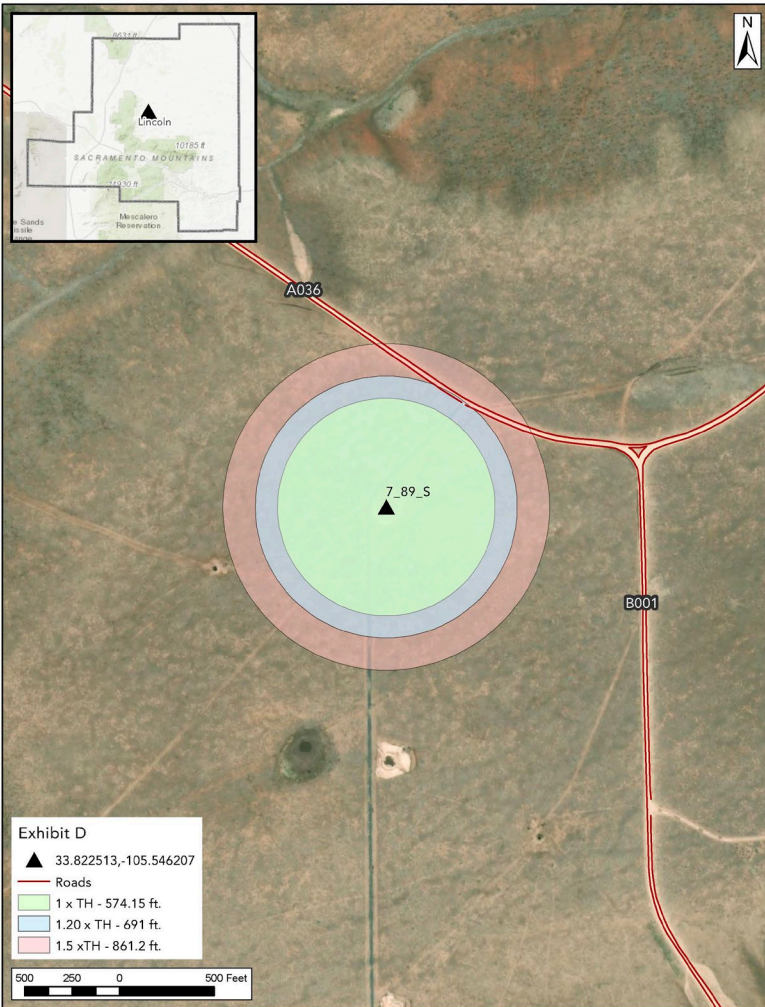
WTG	Feet	Meters	Actual Setback	Lat	Long	County Road Within 1.5x Setback
7_89_S	691.00	210.62	1.20	33.822513	-105.546207	A036
7_79_S	750.00	228.60	1.31	33.834351	-105.528634	B001
7_82_S	742.00	226.16	1.29	33.830617	-105.528578	B001
7_86_S	688.00	209.70	1.20	33.826865	-105.528588	B001

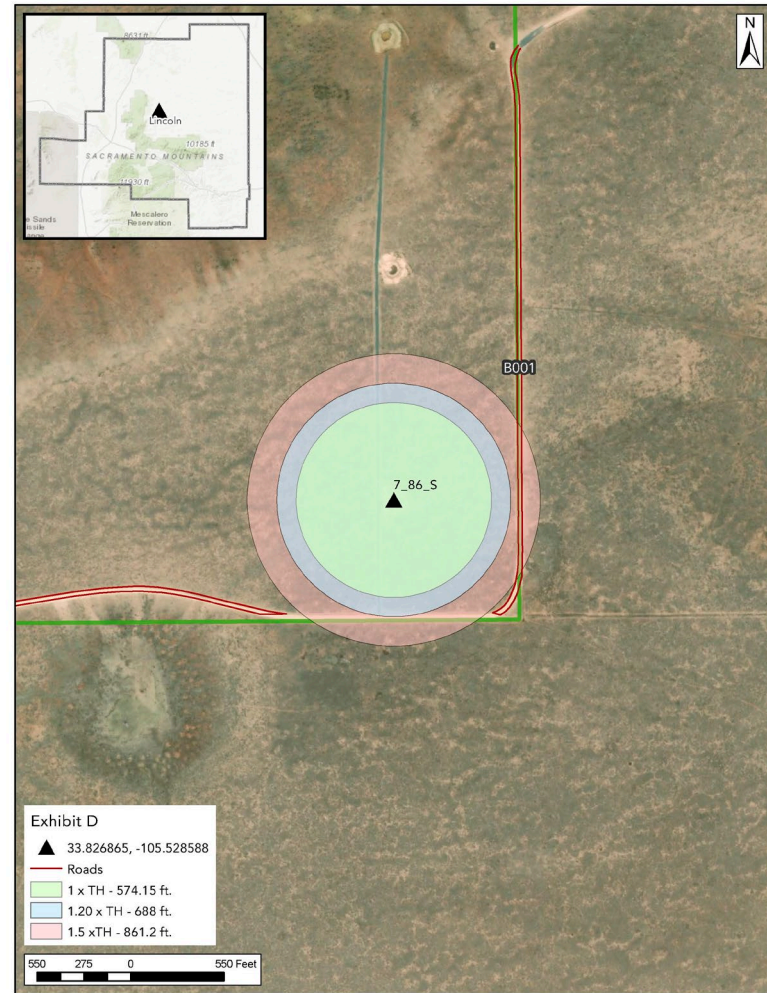
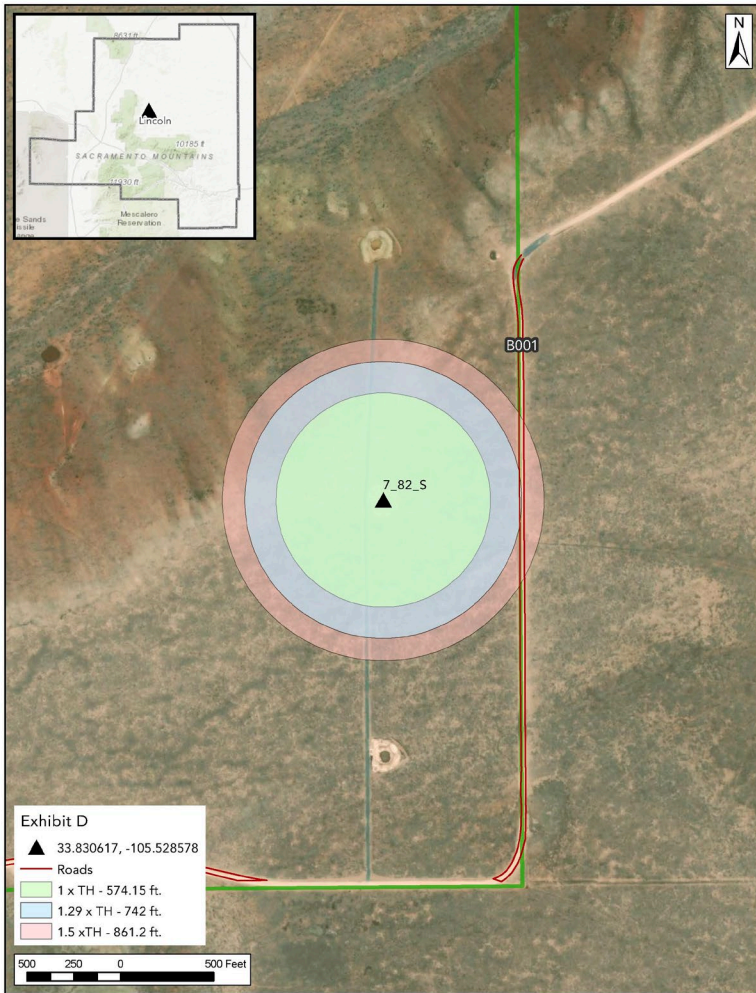
- Measured to the edge of the road (shown below)

WTG Height : 175m

WTG	Feet	Meters	Actual Setback	Lat	Long	County Road Within 1.5x Setback
7_89_S	678.00	206.65	1.18	33.822513	-105.546207	A036
7_79_S	735.00	224.03	1.28	33.834351	-105.528634	B001
7_82_S	730.00	222.50	1.27	33.830617	-105.528578	B001
7_86_S	668.00	203.61	1.16	33.826865	-105.528588	B001

- In both cases, the four turbines all meet a setback of more than 1.15x the turbine height





Variance Request - Additional Information

- Icing protocols in place ensure safety of all workers in the area
 - Guidance for when icing could occur
 - What to do if conditions are favorable for icing
- Turbines for SunZia South
 - GE 3.6-154 (evolution of the GE3.0-140 turbine, apart of GE's existing Sierra Platform)
 - Third-party review
 - International Electrotechnical Commission Certificate
 - Independent Engineer assessment (DNV, who worked on the Western Spirit Wind project)
 - The Dutch Handbook estimates the expected risk of tower collapse for any given turbine to be 1 in 17,000 years (or 1 incident per 17,000 turbines per year)
 - DNV's review has shown records of approximately 40 turbine collapses were found in modern turbines between 2013 and 2022 in North America and Europe (average of four incidents per year or approximately 1 per 29,000 turbines per year)

Contact Information

Jeremy Turner– Director, NM Project Development

Jeremy.Turner@patternenergy.com

Makena Caruso – Associate, Business Development

Makena.Caruso@patternenergy.com

Albuquerque Office:

Pattern Energy

317 Commercial St. NE Suite 100

Albuquerque, NM 87102



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 11

SUBJECT:

Lincoln County Clerk:

- a. Board of Registration Update
- b. Review, Discussion and Direction of the Master Software License Agreement
Between the County of Lincoln and Pioneer Technology Group

Tuesday, March 21, 2023

Lincoln County Board of Registration

Charles Rick Preston, Member
Dorothy Susan Finch, Member
Jerry Maly, Member



Shannan Hemphill, County Clerk
Jeanne Trujillo, Chief Deputy Clerk
Faithe Samora, Bureau of Elections
Clerk

The 2023 Lincoln County Board of Registration met on March 7, 2023, in the Office of the County Clerk. The members of the board were: Charles Rick Preston, Dorothy Susan Finch, and Jerry Maly.

Following is a breakdown of their findings:

- 764 Names on the list of Inactive Voters eligible for removal under the NVRA.
- 0 Names to be updated to Active by the Board of Registration.
- 764 Names to be removed from the voter rolls by the Office of the County Clerk.

Pursuant to Section 1-4-28 (A), NMSA 1978, the Lincoln County Board of Registration directs the Lincoln County Clerk to remove 764 registered inactive voters from the voter registration file.

We, the undersigned, attest this was done on this 7th day of March, 2023 in Lincoln County, State of New Mexico.

Shannan Hemphill
Shannan Hemphill, Lincoln County Clerk

Charles Rick Preston
Charles Rick Preston, Member

Dorothy Susan Finch
Dorothy Susan Finch, Member

Jerry Maly
Jerry Maly, Member



COUNTY OF LINCOLN

New Mexico Board of Registration

Charles Rick Preston, Member
Jerry Maly, Member
Dorothy Susan Finch, Member

Minutes Tuesday, March 7, 2023

Minutes of the Lincoln County Board of Registration Meeting held at 10:00 AM on March 7, 2023 in the Conference Room, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Shannan Hemphill, Lincoln County Clerk called the Meeting of the Board of Registration to order at 10:03 AM.

2. Roll Call

Roll Call.

Present: Member Charles Rick Preston, Member Jerry Maly, and Member Dorothy Susan Finch.

Others present included Shannan Hemphill, County Clerk; and Faithe Samora, Bureau of Elections Clerk.

3. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

4. Oath of Office

Shannan Hemphill, County Clerk administered the Oath of Office for the appointed members of the Board of Registration.

5. Approval of Agenda

Motion: Approval of the Agenda, **Action:** Approve, **Moved by** Rick Preston, **Seconded by** Susan Finch.

Vote: Motion carried by unanimous vote.

6. Approval of Minutes

Motion: Approval of the Minutes, **Action:** Approve, **Moved by** Rick Preston, **Seconded by** Jerry Maly.

Vote: Motion carried by unanimous vote.

7. Per Diem

Members of the Board of Registration were provided information and forms related to per diem reimbursement. All three members declined to be paid per diem.

8. Discussion of the NVRA Purge Process

Clerk Hemphill explained the purge process and provided copies of related New Mexico State Statutes and the "Uniform & Nondiscriminatory Guidelines for Removal of Ineligible Voters" as developed by the Secretary of State.

Pursuant to Section 1-4-28, NMSA 1978, Clerk Hemphill provided the board of registration with a report of voters who received the August 2020 confirmation mailer and who remained in "Inactive" status, generated from SERVIS.

Clerk Hemphill detailed the following criteria meaning a voter was eligible for removal from the voter file pursuant to NMAC 1.10.35.9(A)(8):

1. Was mailed a confirmation mailing in August 2020;
2. Is currently in "Inactive" status;
3. Has not updated their registration address since being mailed the August 2020 confirmation mailing; and
4. Has not voted in any election since being mailed the August 2020 confirmation mailing.

9. Review of the List of Registered Voters

The report listing 764 registered voters in Lincoln County was provided to the Board of Registration.

The Board Members discussed the process and chose to do an in depth review of 5% of the voters chosen at random from the list provided. The Board Members decided if the review was 100% accurate, they would determine the remaining 95% of the list would have been considered accurate as well. The 17-page report was split three ways and the Board Members each chose 12-13 voters from their part of the list for review.

Clerk Hemphill and Mrs. Samora provided the voter registration documents with the PPII redacted as well as any returned mail and any notations in SERVIS for each voter chosen by the Board for review. The documents provided helped the Board with their final determination that the list was accurate and there were no discrepancies.

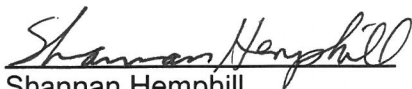
10. Certification of the Lincoln County NVRA Purge List

Finding no discrepancies and having no objections to the list as presented, the Board of Registration certified the list of 764 voters for removal from the voter registrations of Lincoln County. Subsequently, the certificates of registration were stamped "Cancelled" and filed separately for the appropriate retention period.

11. Adjourn

99 There being no further business the meeting was adjourned at 11:57 AM.

100
101 Respectfully submitted by:

102
103
104 

105 Shannan Hemphill
106 Lincoln County Clerk
107



PURCHASE ORDER

914011

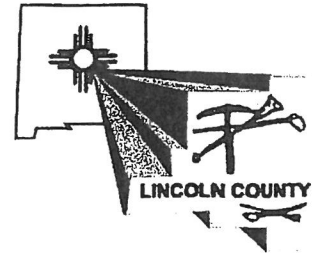
COUNTY OF LINCOLN

(575) 648-2385

Ship to: 300 Central Avenue

P.O. Box 711

Carrizozo, New Mexico 88301-0711

**IMPORTANT: INSTRUCTION FOR INVOICING AND SHIPPING**

1. Lincoln County is tax exempt under Gross Receipts Taxes #01-508838-003 or request an NTTC.
2. Taxes for services must be at the rate where the services are performed.
3. Merchandise is to be received F.O.B. Carrizozo, NM 88301, unless otherwise stated.
4. Purchase Order number must be accurate and appear on all invoices and packages.
5. If submitting Statements, attach a copy of each invoice to each statement.
6. Invoices are paid on a net 30 unless otherwise agreed upon.
7. Notify us immediately if you are unable to ship a complete order.

(ALL INSTRUCTIONS MUST BE COMPLIED WITH BEFORE PAYMENT CAN BE MADE.)

ADDRESS ALL INVOICES TO:

COUNTY OF LINCOLN

ACCOUNTS PAYABLE

P.O. BOX 711

CARRIZOZO, NEW MEXICO 88301-0711

PLEASE SEND ONE COPY OF YOUR INVOICE
WITH ORIGINAL BILL OF LADING

UNIT COST	QUANTITY	ARTICLE AND DESCRIPTION	LINE ITEM	EST. ACTUAL COST
74400.00	1.00	LANDMARK LICENSE	406-63-2705	74400.00
33975.00	1.00	PROJECT MANAGEMENT AND BUSINESS ANALYST	406-63-2705	33975.00
21675.00	1.00	ANNUAL LANDMARK MAINTENANCE AND SUPPORT BUYBOARD COOPERATIVE #661-22	406-63-2962	21675.00
TO BE PAID FROM:				130050.00

VENDOR 2090

PIONEER TECHNOLOGY LLC
PIONEER RECORDS MANAGEMENT LLC
3025 WINDWARD PLAZA, SUITE 200
ALPHARETTA GA 30005

FISCAL YEAR

PURCHASE ORDER NO

914011

DATE

3/23/22

BY


PURCHASING OFFICER

SCHEDULE A : Statement of Work

1. STRATEGY

The purpose of this project is to implement the land records software Landmark on behalf of the Lincoln County Clerk. The latest released version of Landmark application will allow Customer to modernize and improve existing administrative processes using tools designed with industry best practices. The project Scope of Services includes all deliverables and associated professional services described in each section and subsection.

In support of this strategy, Licensor shall furnish all staffing and materials to accomplish the work in a timely manner in accordance with the scope of work. Licensor shall also ensure strict conformity with all applicable Federal, State and local laws, each of which is incorporated by reference, and shall be responsible for obtaining all necessary approvals required for the performance of such work. Customer shall provide remote and onsite access to necessary servers and data and shall provide working facilities to Licensor employees when on site work is required. This accommodation shall include desk or meeting space and access to printing and telecommunications.

2. TERM

Upon execution of the Agreement, Licensor shall commence work in accordance with the agreed upon schedule to be ratified following the kickoff meeting. The initial term of this Agreement shall begin immediately upon Software Acceptance Date and shall continue for a period of four (4) years. At the end of the Term, the Agreement shall automatically renew for subsequent periods equal to the Initial Term, unless terminated by written notice by either party at least ninety (90) days prior to expiration.

3. SOFTWARE MODULES

3.1. *Included:* The following Software modules are included in this Agreement.

Module Name	Description of Software
Landmark	Land Records Recording Server based Software

4. SCOPE OF SERVICES

Licensor shall furnish Customer a list of services and timelines related to this project in accordance with the Scope of Services as listed below.

TBD.

PURCHASE ORDER

COUNTY OF LINCOLN

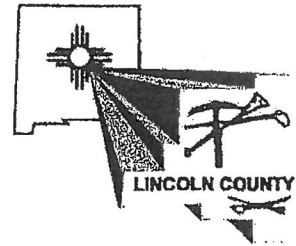
914011

(575) 648-2385

Ship to: 300 Central Avenue

P.O. Box 711

Carrizozo, New Mexico 88301-0711

**IMPORTANT: INSTRUCTION FOR INVOICING AND SHIPPING**

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4. Purchase Order number must be accurate and appear on all invoices and packages.
5. If submitting Statements, attach a copy of each invoice to each statement.
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(ALL INSTRUCTIONS MUST BE COMPLIED WITH BEFORE PAYMENT CAN BE MADE.)

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COUNTY OF LINCOLN

ACCOUNTS PAYABLE

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CARRIZOZO, NEW MEXICO 88301-0711

PLEASE SEND ONE COPY OF YOUR INVOICE
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UNIT COST	QUANTITY	ARTICLE AND DESCRIPTION	LINE ITEM	EST. ACTUAL COST
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TO BE PAID FROM:				130050.00

VENDOR 2090

PIONEER TECHNOLOGY LLC
PIONEER RECORDS MANAGEMENT LLC
3025 WINDWARD PLAZA, SUITE 200
ALPHARETTA GA 30005

FISCAL YEAR

PURCHASE ORDER NO

914011

DATE

3/23/22

BY

PURCHASING OFFICER



MASTER SOFTWARE LICENSE AGREEMENT

between

**Pioneer Technology Group
BuyBoard #661-22**

("Licensor")

having its principal place of business at:

1100 Central Park Drive, Suite 100
Sanford, FL 32771

and

Lincoln County New Mexico Clerk

("Customer")

having its principal address at:

300 Central Avenue
Carrizozo, NM 88301

THIS MASTER SOFTWARE LICENSE AGREEMENT (the "**Agreement**") is dated effective as of the 23 day of March, 2022 ("**Effective Date**") by and between Customer and Licensor. Customer and Licensor may each be referred to individually as a "**Party**" and together as the "**Parties**." The Schedules to this Agreement are attached or incorporated by reference.

1. DEFINITIONS.

The following definitions shall apply in this Agreement:

- 1.1. **Confidential Information.** All information disclosed by a party ("**Discloser**") to the other party ("**Recipient**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer Confidential Information includes Customer Data; Licensor Confidential Information includes the Software and associated services; and Confidential Information of each party includes the terms and conditions of this Agreement and all attached Schedules (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was known to Recipient prior to its disclosure by Discloser without breach of any obligation owed to Discloser, (iii) is received from a third party without breach of any obligation owed to Discloser, or (iv) was independently developed by Recipient.
- 1.2. **Customer Data.** All data of Customer, whether proprietary or non-proprietary to Customer, converted for use with the Licensor Deliverables.
- 1.3. **Customer Materials.** All materials supplied by Customer in connection with this Agreement.
- 1.4. **Deliverables.** Those components, milestones, and/or materials, including, without limitation, the Software, documentation, maintenance modifications, and enhancements to be completed by one Party and delivered or otherwise provided to the other Party in accordance with the terms of this Agreement. Deliverables can mean either Deliverables required from Licensor ("Licensor Deliverables") or Deliverables required from Customer ("Customer Deliverables").
- 1.5. **Documentation.** The written description of the functions and use of the Software.
- 1.6. **Error.** (i) any error or defect resulting from an incorrect functioning of Software caused by the Software's failure to meet a Functional Specification; or, (ii) any error or defect resulting from an incorrect or incomplete statement in Documentation caused by the failure of the Software and/or the documentation to meet a Functional Specification.
- 1.7. **Functional Specifications.** The functions and/or criteria for the Software described as documentation related to the Software or as described in the Schedules.
- 1.8. **Intellectual Property.** All interests of any kind including: (i) trade secrets, (ii) copyrights, (iii) derivatives, (iv) documentation, (v) patents, (vi) the Software, (vii) technical information, (viii) technology, and (ix) any and all proprietary rights relating to any of the foregoing.
- 1.9. **New Product.** Any change or addition to Software and/or related documentation that: (i) has a value or utility separate from the use of the Software and documentation; (ii) may be priced and offered separately from the Software and documentation; and, (iii) is not made available to Licensor's customers generally without separate charge. In the event of any disagreement between the Parties with respect to whether a change or addition constitutes a New Product, the good faith determination of such issue by Licensor shall be final, binding, and conclusive.
- 1.10. **Statement of Work.** The attached SCHEDULE A and/or Addendum(s) that provides the written description and specifications for the services to be provided by Licensor to Customer, including the Deliverables and milestone, delivery, and acceptance schedules.
- 1.11. **Software.** The Licensor software and any Third-Party Software supplied by Licensor pursuant to this Agreement as described in the attached SCHEDULE A. The term "Software" does not include New Products except to the extent added to the Software by separate agreement of the Parties and the payment to Licensor of the additional fees and under additional terms and conditions, if required by Licensor.
- 1.12. **Software Acceptance Date.** The date of acceptance of the Licensor Deliverables by Customer as described in this Agreement or the date that Customer uses the Software in a live environment, whichever is sooner.
- 1.13. **Taxes.** All federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security (or similar taxes), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other taxes of any kind, including without limitation any interest, penalty, or additions, whether or not disputed.

- 1.14. *Test Validation Criteria.* The acceptance criteria for the Licensor Deliverables, including, without limitation, the Software, set forth in the Statement of Work.
- 1.15. *Third-Party Data.* Data, information, or any other materials (in whatever form) not owned or generated by or on behalf of Customer.
- 1.16. *Third-Party Software.* Software which is proprietary to any third party (other than an affiliate of Licensor) which is or will be used by Licensor for the purposes of providing Software and/or services pursuant to this Agreement.
- 1.17. *Warranty Period.* The thirty (30) day period commencing on the installation of the Software

2. LICENSE.

- 2.1. *License.* Licensor grants the Customer a license to the Software and Licensor Deliverables described in the attached SCHEDULE A in accordance with the terms and conditions of this Agreement. Licensor will perform the services described in this Agreement.
- 2.2. *Scope of License Limited.* The right of Customer to use the Software and associated documentation is for Customer's internal use only and limited to the field of use described in the attached SCHEDULE A. No title or ownership in the Software or documentation is transferred to Customer. Customer shall not copy or in any way duplicate the Software, except for necessary backup and archival procedures approved by Licensor in advance and in writing. Only Customer's employees and necessary contractors acting in the proper scope of their services to Customer may access or use the Software or documentation. Customer shall not adapt, modify, reverse engineer, decompile, or disassemble, in whole or in part, any of the Software and/or any documentation.
- 2.3. *Additional Software.* Customer may license additional Software hereunder by execution of a subsequent Schedule and/or Addendum.
- 2.4. *Restrictions.* Customer shall not remove, edit, alter, abridge or otherwise change in any manner any Licensor Intellectual Property notices. Customer may not, and may not permit others to reverse engineer, decompile, decode, decrypt, disassemble, or in any way derive source code from, the software or Service; modify, translate, adapt, alter, or create derivative works from the Service; copy (other than one back-up copy), distribute, publicly display, transmit, sell, rent, lease or otherwise exploit the Service; or distribute, sublicense, rent, lease, loan or grant any third party access to or use of the Service to any third party.

3. FEES, INSTALLATION CHARGES, AND TAXES.

- 3.1. *License Fees.* The license fees for the Software are set forth on the attached SCHEDULE B. Subsequent orders shall be at the fees in effect at the time of receipt by Licensor of any applicable subsequent Schedule and/or Addendum executed by Customer and Licensor. Fees resulting from the provision by Licensor to Customer of Third-Party Software are passed through by Licensor to Customer, and, in that context, such fees payable by Customer shall increase, and such increase shall be payable, as and to the extent of any such fee increases payable by Licensor.
- 3.2. *Installation and Services Fees.* Customer shall also pay for installation of Software and any other services required under that Agreement or requested by Customer. Other services will be performed at the then prevailing fees, plus any travel expenses required, including reasonable mileage, airfare, meals, lodging, and similar expenses. Meals will be billed at the applicable GSA per diem rate.
- 3.3. *Taxes.* Customer is additionally liable for any applicable federal, state, or local Taxes (exclusive of income or gross receipts Taxes properly payable by Licensor) and other fees or assessments incurred as a result of the use of the Software by Customer.
- 3.4. *Currency.* All Fees listed shall be interpreted as being in United States dollars (USD), unless otherwise stated.

4. DELIVERY AND ACCEPTANCE.

- 4.1. *Delivery.* Each Party shall timely perform delivery of its required Deliverables in accordance with the Statement of Work, including the delivery schedule specified therein. Customer shall pay or reimburse Licensor for all costs of shipping Software to Customer, including freight, insurance, and special packaging charges, if any. The carrier, method of shipment, and other matters relating to shipment shall be determined by Licensor. Customer is responsible for movement into or within Customer's premises, site preparation per Licensor requirements, and other site expenses required for installation.
- 4.2. *Testing.* Testing of Licensor Deliverables shall be completed by Customer in accordance with the Test Validation Criteria within fifteen (15) days following initial delivery to Customer.

4.3. *Installation.* Within thirty (30) days following completion of testing of the Licensor Deliverables, Licensor shall install the Licensor Deliverables at the Customer's facilities for acceptance testing.

4.4. *Acceptance.* Within ten (10) days following completion of installation, Customer shall either: (i) accept the Licensor Deliverables in writing; or, (ii) reject the Licensor Deliverables and provide Licensor with a statement of Errors resulting in operation not in conformance with the Test Validation Criteria. Licensor will correct any Error and redeliver the Licensor Deliverables to Customer within thirty (30) days following receipt of the statement of Errors. Customer shall, within ten (10) days following such redelivery, accept or reject the redelivered Licensor Deliverables in accordance with the procedures set forth herein. Failure by Customer to provide a statement of acceptance or statement of Errors within either of the ten (10) day periods specified herein shall be deemed to be acceptance by Customer of the Licensor Deliverables.

5. PAYMENT.

5.1. *Fees for License of Software.* Payment of Software license fees, installation fees, and other fees on the initial License Summary will be made in installments as defined in SCHEDULE B.

5.1.1. Fees for installation of the Software including data conversion, system implementation, training, and forms generation, as indicated on the attached SCHEDULE B, are payable within thirty (30) days following invoice by Licensor.

5.1.2. The pricing during any renewal term may increase by up to ten percent (10%) above the applicable pricing in the prior term, unless Licensor provides Customer notice of different pricing at least eight (8) months prior to the applicable renewal term. Except as expressly provided in the applicable Statement of Work, renewal of promotional or one-time priced subscriptions will be at Licensor's applicable list price in effect at the time of the applicable renewal. Notwithstanding anything to the contrary, any renewal in which subscription volume for any Software or service(s) has decreased from the prior term will result in re-pricing at renewal without regard to the prior term's per-unit pricing.

5.1.3. If any Third-Party Software is obtained directly from Licensor, Customer will pay Licensor fifty (50%) percent of all fees at the time Customer signs this agreement, twenty-five percent (25%) of fees after products are installed at Customer's facility and twenty-five percent (25%) upon Customers use of the Third-Party Software or the date of Acceptance, whichever comes first. Payments for all Third-Party Software provided by Licensor as described in the attached SCHEDULE B shall be payable at least thirty (30) days prior to due date for payment by Licensor to Licensor's provider. These fees, if applicable, shall be detailed in SCHEDULE B.

5.2. *Fees for Subsequent Licenses.* Payment of license fees, installation fees, and other fees to Licensor on any subsequent Schedule and/or Addendum shall be made as specified in such Schedule and/or Addendum.

5.3. *Ancillary Charges and Out of Pocket Expenses.* All additional or ancillary charges (e.g., additional training charges) and all out of pocket expenses of Licensor (e.g., travel expenses) which are payable by Customer hereunder shall be due and payable within thirty (30) days following invoice by Licensor.

5.4. *Failure of Payment.* In the event payment is not made as specified in this Agreement, Customer shall pay interest at the rate of one and one-half percent (1.5%) per month (or the highest applicable legal rate, whichever is lower) on the outstanding overdue balance for each month or part thereof that such sum is overdue; provided, however, that if Customer is a governmental agency or authority subject to a "Prompt Payment" or similar statutory requirement for the transaction contemplated in this Agreement, such statutory requirement shall control to the extent the same is inconsistent with the requirements of this section 5.4.

6. WARRANTY, EXCLUSIONS, AND DISCLAIMER.

6.1. *Software Warranty.* Licensor warrants that the Software shall conform to the Functional Specifications and will be free of Errors during the Warranty Period. Licensor's sole obligation and responsibility to Customer under the foregoing warranty is to remedy, at no cost to Customer, any such Error reported to Licensor during the Warranty Period. Notwithstanding the foregoing or any other term or provision of this Agreement, with respect to Third-Party Software provided by Licensor hereunder, Licensor makes no warranties, but shall, to the extent legally permitted, pass through to Customer all warranties provided by the original licensor/manufacture.

6.2. *Software Warranty Exclusions.* The foregoing warranties do not apply to any of the following:

6.2.1. Damage arising from any cause beyond Licensor's reasonable control, including, without limitation, damage due to the improper operation or use of Software by Customer, abuse or misuse of Software other than as designed or intended, malfunctions caused by alteration or tampering, or any reason specified in section 15 of this Agreement.

6.2.2. Damage resulting from movement of Software after its initial installation.

- 6.2.3. Malfunction or breakdown of Software due to attachment to, or addition or use of, software not supplied by Licensor with the Software, or as a result of attachment of the Software to hardware or software by anyone other than Licensor, or as a result of hardware associated problems.
- 6.2.4. Damage, malfunction, or breakdown of Software due to improper operating environment, including, without limitation, temperature, humidity, dust, or static charge.
- 6.2.5. Destruction or damage, in whole or in part, of Software by any Person other than Licensor.
- 6.2.6. Any harm or damages caused by any Third-Party Software or Third-Party Data providers.
- 6.3. **SOFTWARE WARRANTY DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THIS SECTION 6 OF THIS AGREEMENT, LICENSOR DISCLAIMS AND CUSTOMER WAIVES ALL WARRANTIES ON THE SOFTWARE FURNISHED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND LICENSES THE SOFTWARE "AS IS" AND "WITH ALL FAULTS."

7. FUNCTIONAL SPECIFICATIONS.

Customer understands that such Functional Specifications shall be defined in accordance with Licensor standard applications and that any application and/or communication and/or functions not currently supported by Licensor shall be considered "customized" and, as such, may incur additional costs and delivery schedules beyond those stated and agreed to by Licensor.

8. TRAINING.

Licensor shall provide training in the operation and maintenance of the Software as described in attached SCHEDULE A. Customer may request additional training time and/or additional personnel to be trained, provided that any such additional training shall be chargeable to Customer at Licensor's then current fee for the requested training, plus reasonable travel expenses if such training occurs anywhere other than Licensor's facilities.

9. THIRD-PARTY SOFTWARE LICENSES.

- 9.1. **Integration with Third Party Applications.** Customer shall execute all documents reasonably requested by Licensor and will abide by all reasonable requirements with respect to all Third-Party Software licensed or sublicensed by Licensor to Customer under this Agreement, or necessary to the performance of the Software hereunder in accordance with the Functional Specifications, and Customer agrees to maintain in effect all required licenses and approvals of all applicable third parties. Licensor cannot guarantee the continued availability of Software and/or service features, and may cease providing them without entitling you to any refund, credit, or other compensation, if for example and without limitation, the provider of Third-Party Data and/or Third-Party Software ceases to make that data and/or application available for interoperation with the corresponding Software and/or service features in a manner acceptable to Licensor.

10. RESTRICTIONS UPON DISCLOSURE OF CONFIDENTIAL INFORMATION.

- 10.1. **Protection.** Recipient shall use commercially reasonable care, but in no event less than the same degree of care it uses to protect its own most confidential and proprietary information, to prevent the unauthorized use, disclosure, publication, or dissemination of Discloser's Confidential Information. Recipient shall provide Discloser's Confidential Information to its employees and necessary contractors only on a "need to know" basis, and always subject to the terms of this Agreement. Recipient agrees to accept and use Discloser's Confidential Information solely in connection with Recipient's participation in, and solely with respect to, this Agreement. Recipient shall inform its employees and necessary contractors of these confidentiality obligations and shall take such steps as may be reasonably requested by Discloser to prevent unauthorized disclosure, copying, or use of Discloser's Confidential Information. Recipient acknowledges that, in the event of a breach by Recipient of its obligations under this section 10, in addition to any other right or remedy available to Discloser, at law or in equity, Discloser will suffer irreparable injury, and shall be entitled to preliminary and final injunctive relief (without bond except as otherwise required by applicable law) in order to prevent any further or other breach or any unauthorized use of Discloser's Confidential Information. Recipient shall notify Discloser immediately upon discovery of any prohibited use or disclosure of any of Discloser's Confidential Information or any other breach of these confidentiality requirements (including by any third parties), and shall fully cooperate with Discloser to assist Discloser in regaining possession of its Confidential Information and to prevent further unauthorized use or disclosure of the same.
- 10.2. **Limited Disclosure.** Recipient may disclose Confidential Information of Discloser if and to the extent required by any judicial or administrative governmental request, requirement, or order, provided that Recipient shall take reasonable steps to provide

Discloser sufficient prior notice in order to enable Discloser to contest such request, requirement, or order. Recipient shall, except as otherwise expressly provided by the terms of this Agreement, return all tangible Discloser Confidential Information, including, without limitation, all computer programs, documentation, notes, plans, drawings, and copies thereof, to Discloser immediately upon Discloser's request.

- 10.3. *Ownership.* All Discloser Confidential Information, including, without limitation, any and all adaptations, enhancements, improvements, modifications, revisions, or translations thereof created by Discloser or Recipient, shall be and remain the property of Discloser, and no license or other rights to such Confidential Information is granted or implied hereby. Except as otherwise expressly provided in this Agreement, all Discloser Confidential Information is provided "AS IS" and without any warranty, express, implied, or otherwise, regarding its accuracy or performance.

11. INTELLECTUAL PROPERTY INDEMNITY.

- 11.1. *Indemnification of Intellectual Property Infringement Claims.* In the event of any actual or threatened claims by a third party that the Licensor Deliverables infringe upon any Intellectual Property of such third party, Licensor will indemnify Customer with respect to such claims. Customer shall immediately notify Licensor of any such claim. For claims related to Third-Party Software, no indemnity is provided by Licensor, but Licensor shall, to the extent legally permitted, pass through to Customer any infringement protections with respect to Third-Party Software. The foregoing indemnity shall be ineffective if any of the Licensor Software has been modified, altered, or otherwise changed by Customer (or on behalf of Customer by any Person other than Licensor). Licensor will have no liability or obligation under this section 11 if any claim of infringement is based upon: (i) the combination, operation, or use of the Software with any component other than Licensor Intellectual Property, if such claim would have been avoided but for such combination, operation, or use; and/or, (ii) any derivative of any Licensor Intellectual Property created by any person other than Licensor. Licensor shall have sole control over the selection of counsel and the defense and settlement of any legal proceeding or other claim and Customer shall provide Licensor with all reasonable assistance in the defense of the same.
- 11.2. *Indemnification by Customer.* Customer will defend Licensor against any claim, demand, suit or proceeding made or brought against Licensor by a third party alleging that any Customer Data infringes or misappropriates such third party's intellectual property rights, or arising from Customer's use of the Software, services, and/or content in violation of this Agreement, Order Form, or applicable law (each a "Claim Against Licensor"), and Customer will indemnify Licensor from any damages, attorney fees, and costs finally awarded against Licensor as a result of, or for any amounts paid by Licensor under a settlement approved by Customer in writing of, a Claim Against Licensor, provided Licensor (i) promptly gives Customer written notice of the Claim Against Licensor, (ii) gives Customer sole control of the defense and settlement of the Claim Against Licensor (except that Customer may not settle any Claim Against Licensor unless it unconditionally releases Licensor of all liability), and (iii) gives Customer all reasonable assistance, at Customer's expense.
- 11.3. *Remedy.* In the event of a third party claim that the Licensor Deliverables infringe the intellectual property rights of a third party, Licensor shall have the right, as Customer's sole and exclusive remedy against Licensor, at Licensor's sole election, to: (i) modify the allegedly infringing Licensor Deliverables to be non-infringing, provided that such modification does not adversely impact the functionality of the Software in any material respect; (ii) obtain a license or other rights to enable Customer to continue to use the applicable Software as contemplated in this Agreement, or (iii) to terminate this Agreement and return to Customer any unearned fees paid by Customer to Licensor.

12. RIGHTS IN SOFTWARE, DATA, AND MATERIALS.

- 12.1. *Licensor Ownership.* As between Licensor and Customer, Licensor shall be the sole owner of all right, title, and interest in and to the Software, all Licensor Deliverables, documentation, any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer, and any and all copies or derivatives created by either Party, exclusive only of the Customer Materials. Customer hereby irrevocably grants, transfers, and assigns to Licensor, without reservation, all worldwide ownership rights, title, and interest, including, without limitation, any and all Intellectual Property which Customer may have or acquire, by operation of law or otherwise, in and to any or all of the Software, the Licensor Deliverables, documentation, and in and to any other Intellectual Property of Licensor, along with the good will of the business appurtenant to the use of any of the same. Customer further hereby irrevocably transfers and assigns to Licensor any and all moral rights Customer may have in and to such Software, the Licensor Deliverables, documentation, and in and to any other Intellectual Property of Licensor, and hereby forever waives and agrees never to assert any moral rights it may have during or after termination or expiration of this Agreement. Customer shall, at the request of Licensor, execute any and all documentation necessary to formally transfer such rights to Licensor. Customer shall promptly notify Licensor in writing if it becomes aware of any violation, infringement, or unfair competition related to the Licensor Intellectual Property. Customer agrees to allow Licensor full access to all relevant hardware, software, and material to determine compliance.

- 12.2. *Customer Ownership.* As between Licensor and Customer, Customer shall be the sole owner of all right, title, and interest in and to all Customer Materials. Licensor hereby irrevocably grants, transfers, and assigns to Customer, without reservation, all worldwide ownership rights, title, and interest, including, without limitation, any and all Intellectual Property rights, which Licensor may have or acquire, by operation of law or otherwise, in and to any or all of the Customer Materials. Licensor further hereby irrevocably transfers and assigns to Customer any and all moral rights Licensor may have in such Customer Materials, and hereby forever waives and agrees never to assert any moral rights it may have or obtain, during or subsequent to the termination or expiration of this Agreement. Licensor shall, at the request of Customer, execute any and all documentation necessary to formally transfer such rights to Customer.

13. SUPPORT AND MAINTENANCE SERVICES

- 13.1. *Maintenance Term.* The initial maintenance term will be four (4) years and will commence on installation of the first module of Software. The term of maintenance services shall be automatically extended for successive one (1) year periods unless either Party gives the other Party not less than ninety (90) days prior to the conclusion of the then current term of maintenance services. Licensor may terminate the term of these maintenance services in the event Customer fails to make any payment when due to Licensor after ten (10) days' notice of such failure or in the event of the termination of Customer's license of Software. No termination shall relieve Customer of its payment obligations.
- 13.2. *Scope and Definitions.* Licensor shall provide maintenance and support services necessary to ensure that the Software and Licensor Deliverables operate in conformity with Functional Specifications and the documentation as described in this Agreement. The following terms shall apply to this section 13 and SCHEDULE C.
- 13.2.1. *Critical Defect.* An Error in the Software and Licensor Deliverables or documentation which renders the Software and Licensor Deliverables unable to perform a Functional Specification and for which a workaround is not available.
- 13.2.2. *Non-Critical Defect.* A defect in the Software and Licensor Deliverables or documentation that materially impacts the operation of the Software and for which a workaround is not available.
- 13.2.3. *Telephone Support.* The provision of general information and diagnostic advice and assistance concerning the use and operation of the Software and Licensor Deliverables via telephone. Telephone support is intended to be used by a limited number of people designated by Customer to communicate with Licensor about defects or problems. It is not a substitute for training of personnel by Customer.
- 13.2.4. *Basic Maintenance Period.* The Basic Maintenance Period commences on Monday and continues through Friday of each week (8 a.m. to 6 p.m., Eastern Time), except on the following recognized holidays ("Holidays"): New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day / Indigenous Peoples' Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve, and Christmas Day.
- 13.3. *Covered Maintenance.*
- 13.3.1. *General.* Maintenance services and telephone support will be performed by Licensor during the Basic Maintenance Period. Maintenance services do not include the costs of accessories and expendable supplies necessary to operate the Software and Licensor Deliverables.
- 13.3.2. *Upgrades.* Customer will receive all updated, patches and enhancements to the Software and Licensor Deliverables (except any New Product), including all related update releases and associated documentation.
- 13.3.3. *Online Support and Telephone.* Telephone support includes: (i) remote diagnostics; (ii) service desk and dispatch; (iii) question and answer consulting; and, (iv) non-chargeable user error remedies. Remote diagnostics equipment is required at Customer locations for remote support, which equipment is to be obtained by Customer at its sole expense. Licensor may choose to request a copy of the client database to load in Licensor's offices in an attempt to either recreate the process or run the application to complete a process if time is of the essence.
- 13.3.4. *Exclusions.* Maintenance services do not include maintenance required by: (i) operator error or improper operation or use of the Software and Licensor Deliverables by Customer; (ii) modifications, repairs, or additions to the Software and Licensor Deliverables performed by persons other than Licensor, or damage to Software and Licensor Deliverables by Customer's employees or third persons; (iii) training services. Any maintenance service or related service or training other than the maintenance services described above will be charged at Licensor's then current billable call maintenance rates in effect.
- 13.3.5. *Response Times.* Licensor will use its commercially reasonable efforts to respond within four (4) business hours (but only during the Basic Maintenance Period) of notice from Customer of the need for maintenance services or notice of a request for Online Support or Telephone Support. Any such notice from Customer shall, to the extent possible,

identify all Critical Defects, and, in connection with the provision of any maintenance service, online support, and/or telephone support, Customer shall, at its own expense, provide its full good faith support and cooperation with Licensor's efforts at resolution. Non-Critical Defects will be corrected as soon as practicable or in a following update or release.

- 13.3.6. **Billable Call Maintenance.** Any maintenance service or related service or training other than covered maintenance services, as described in this section 13.3, will be charged at Licensor's then current billable call maintenance rates in effect. Such rates apply to time spent performing maintenance, including travel time. The minimum charge for billable call maintenance is one-half of one hour (1/2 hour). Should billable call maintenance services require travel to the Customer's site, Customer will also be invoiced for actual expenses of travel, including, without limitation, as applicable, mileage, air fare, meals, lodging, and similar expenses; provided, however, that, in the event Customer is a governmental agency or authority, travel expenses shall be limited in amount by applicable federal or state statutory requirements. All charges for billable call maintenance shall be due and payable within thirty (30) days following invoice by Licensor.

14. LICENSE TERMINATION OR EXPIRATION.

- 14.1. Licensor may terminate Customer's license to the Licensor Deliverables if Customer commits any material breach of the terms and conditions of this Agreement, including non-payment of any fees due to Licensor, if Customer does not cure any such default within ten (10) days after notice is given to Customer.
- 14.2. In addition to any other rights of termination specified herein, either Party may terminate this Agreement upon sixty (60) days prior written notice to the other in the event of the other's failure to cure a material breach within thirty (30) days after receipt of the terminating Party's written notice of default concerning the same.
- 14.3. Upon termination, Licensor shall return to Customer, at Customer request, all documents and items of any nature whatever, supplied to Licensor by the Customer or developed by Licensor in accordance with this Agreement, except for any software products developed by Licensor, which remain the property of Licensor.

15. EXCUSABLE DELAYS.

Notwithstanding any other term or provision of this Agreement, Licensor shall not be liable for delays in delivery, failure to deliver, or otherwise to perform any obligation hereunder when such delay or failure arises from causes beyond the reasonable control of Licensor, including, without limitation, such causes as acts of God or public enemies, labor disputes, supplier or material shortages, embargoes, rationing, acts of local, state or national governments or public agencies, utility or communication failures, fire, flood, storms, earthquake, settling of walls or foundations, epidemics, riots, terrorism, civil commotion, strikes, or war.

16. LIMITATION OF LIABILITY.

IN NO EVENT SHALL LICENSOR'S AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE LICENSE FEES PAID BY CUSTOMER TO LICENSOR DURING THE SIX (6) MONTH PERIOD PRIOR TO THE ACCRUAL OF THE CLAIM.

17. LIMITATION ON DAMAGES.

LICENSOR SHALL NOT BE LIABLE IN ANY EVENT FOR DAMAGES RESULTING FROM LOSS OF DATA, LOSS OF PROFITS, AND/OR LOSS OF USE OF PRODUCT, OR FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LICENSOR'S LIABILITY SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE.

18. ALLOCATION OF RISKS.

CUSTOMER UNDERSTANDS AND AGREES THAT THE FEES CHARGED BY LICENSOR SPECIFICALLY REFLECT THE ALLOCATION OF RISKS AND EXCLUSION OF DAMAGES PROVIDED FOR IN THIS AGREEMENT.

19. MISCELLANEOUS PROVISIONS.

- 19.1. **ARBITRATION.** UPON THE DEMAND OF EITHER PARTY, ANY ACTION OR PROCEEDING SEEKING TO ENFORCE OR TO INTERPRET ANY PROVISION OF THIS AGREEMENT OR ANY RIGHT OR OBLIGATION, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY RIGHT OR OBLIGATION, OF ANY PARTY UNDER OR PURSUANT TO THIS AGREEMENT OR ARISING OUT OF LICENSOR'S RELATIONSHIP UNDER THIS AGREEMENT WITH

CUSTOMER, SHALL BE DETERMINED EXCLUSIVELY BY ARBITRATION CONDUCTED BY AND UNDER THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION; PROVIDED, HOWEVER, THAT ARBITRATION SHALL NOT BE REQUIRED IN ANY ACTION OR CLAIM BY A PARTY WHICH INCLUDES A REQUEST FOR INJUNCTIVE, EQUITABLE, OR OTHER EMERGENCY RELIEF.

- 19.2. *Binding upon Successors and Assigns.* This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.
- 19.3. *Severability.* If any provision of this Agreement shall be invalid or unenforceable, such provision shall be deemed limited by construction in scope and effect to the minimum extent necessary to render the same valid and enforceable, and, in the event no such limiting construction is possible, such invalid or unenforceable provision shall be deemed severed from this Agreement without affecting the validity of any other term or provision hereof.
- 19.4. *Entire Agreement.* This Agreement, together with the Schedules and/or Addendum(s), constitutes the entire understanding and agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous agreements, understandings, inducements, and conditions, express or implied, written or oral, between the Parties with respect thereto. The express terms hereof control and supersede any course of performance or usage of trade inconsistent with any of the terms of this Agreement. This Agreement may be executed electronically and in any number of counterparts, which will constitute one and the same agreement.
- 19.5. *Amendment and Waivers.* Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a writing signed by the Party to be bound thereby. The waiver by a Party of any breach or default shall not be deemed to constitute a waiver of any other breach or default. The failure of any Party to enforce any provision shall not be construed as or constitute a waiver of the right of such Party to subsequently enforce such provision.
- 19.6. *Notices.* Whenever any Party desires or is required to give any notice, demand, consent, approval, satisfaction, statement, or request with respect to this Agreement, each such communication shall be in writing and shall be effective only if it is delivered by delivery service, over-night delivery service or facsimile (followed by another permitted form of delivery) and addressed to the recipient Party at its notice address provided on the cover page of this Agreement. Such communications, when personally delivered, shall be effective upon receipt. Any Party may change its address for such communications to another address in the United States of America by giving notice of the change to the other Party in accordance with the requirements of this section 19.6.
- 19.7. *Choice of Law; Construction of Agreement.* This Agreement will be construed under the laws of the State of Georgia, exclusive of its conflicts of laws, principles, and has been negotiated by the respective Parties and the language shall not be construed for or against any Party. The titles and headings are for reference purposes only and shall not in any manner limit the construction of this Agreement which shall be considered as a whole.
- 19.8. *Further Assurances; Cooperation.* Each Party shall execute such further instruments, documents, and agreements, and shall provide such further written assurances, as may be reasonably requested by the other Party to better evidence and reflect the transactions described in and contemplated by, and to carry into effect the intents and purposes of this Agreement.
- 19.9. *Non-Solicitation.* For a period ending two (2) years following the date of termination or expiration of this Agreement, Customer shall not solicit the employment or services of, nor employ or otherwise retain, any employee or former employee of Licensor who has been directly or indirectly involved in the development, licensing, installation, or support of any Licensor software product.
- 19.10. *Independent Contractor Status.* It is the intention of the Parties that their relationship is that of independent contractor and this Agreement shall not create any other relationship, whether partnership, joint venture, agency, or otherwise, between the respective Parties. Neither Party has any authority, whether actual, express, implied, or apparent, to bind or otherwise obligate the other Party in any capacity. Licensor shall be entitled to list Customer in any designation of its customers in advertising or other published materials of Licensor.
- 19.11. *No Third-Party Beneficiary Rights.* No provision of this Agreement is intended or shall be construed to provide or create any third party beneficiary right or any other right of any kind in any Person other than the Parties and their proper successors and assigns, and all terms and provisions shall be personal solely between the Parties to this Agreement and such proper successors and assigns.
- 19.12. *Survival.* The provisions of section 2, sections 10 through 12, and sections 14 through 19 shall survive the expiration or termination of this Agreement.
- 19.13. *Fees and Costs.* In the event of any litigation or arbitration between the Parties in connection with or arising out of this Agreement, or to enforce any right or obligation of either Party under this Agreement, or for a declaratory judgment, or for the construction or interpretation of this Agreement or any right or obligation under or impacted by this Agreement (in each case,

a "Proceeding"), the Party which substantially prevails in any such Proceeding shall be entitled to recover from the other Party all of such prevailing Party's fees and costs, including, without limitation, attorneys' fees, court costs, and costs of expert witnesses and of investigation, incurred at or in connection with any level of the Proceeding, including all appeals.

- 19.14. *Cooperative Procurement:* This agreement may be used as a cooperative procurement vehicle by any jurisdiction that is eligible. Licensors reserves the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, scope and circumstances of that cooperative procurement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives.

LINCOLN COUNTY CLERK:

By: _____
Name: _____
Title: _____
Date: _____

PIONEER TECHNOLOGY GROUP:

By: _____
Name: _____
Title: _____
Date: _____

[Signature Page to this Master Software License Agreement]

SCHEDULE A : Statement of Work

1. STRATEGY

The purpose of this project is to implement the land records software Landmark on behalf of the Lincoln County Clerk. The latest released version of Landmark application will allow Customer to modernize and improve existing administrative processes using tools designed with industry best practices. The project Scope of Services includes all deliverables and associated professional services described in each section and subsection.

In support of this strategy, Licensor shall furnish all staffing and materials to accomplish the work in a timely manner in accordance with the scope of work. Licensor shall also ensure strict conformity with all applicable Federal, State and local laws, each of which is incorporated by reference, and shall be responsible for obtaining all necessary approvals required for the performance of such work. Customer shall provide remote and onsite access to necessary servers and data and shall provide working facilities to Licensor employees when on site work is required. This accommodation shall include desk or meeting space and access to printing and telecommunications.

2. TERM

Upon execution of the Agreement, Licensor shall commence work in accordance with the agreed upon schedule to be ratified following the kickoff meeting. The initial term of this Agreement shall begin immediately upon Software Acceptance Date and shall continue for a period of four (4) years. At the end of the Term, the Agreement shall automatically renew for subsequent periods equal to the Initial Term, unless terminated by written notice by either party at least ninety (90) days prior to expiration.

3. SOFTWARE MODULES

3.1. *Included:* The following Software modules are included in this Agreement.

Module Name	Description of Software
Landmark	Land Records Recording Server based Software

4. SCOPE OF SERVICES

Licensor shall furnish Customer a list of services and timelines related to this project in accordance with the Scope of Services as listed below.

TBD

Commented [SN1]:

SCHEDULE B : Pricing and Payment Schedule (BuyBoard #661-22)

1. FEES

Landmark Software				
Description			Amount	
• Landmark License				
Subtotal of Licenses			\$74,400.00	
Total PTG Licenses			\$74,400.00	
Total Licenses			\$74,400.00	
Pioneer Services				
Description		Hours	Rate	Amount
Project Management & Business Analyst				
Estimated Project Management			\$33,975.00	
Onsite Support		Days		
• Onsite Support (1 person for 15 days)		15	\$1,300	Inc
(Travel Billed Separately)				
Estimated Onsite Support		15	\$1,300	Inc
*Travel Costs (see chart)				
(Billed monthly as incurred)		TBD		TBD
Data & Image Conversion		Hours		
• Primary Database		85	\$225	Inc
• Additional Databases/Images		N/A	\$225	N/A
Estimated Data & Image Conversion		85	\$175	Inc
Reports & Forms		Hours	\$150	
• 15 Reports & Forms Setup		75	150	Inc
• Custom Reports & Forms (8 hours per report/form)		N/A		N/A
Estimated Reports and Forms		75	\$150	Inc
Total Estimated Services			\$33,975.00	

* Travel Costs	
Meals and Incidental	GSA Per Diem Rates
Lodging	Actual Charges
Transportation- Rental Car	Actual Charges (<i>midsize vehicle</i>)
Transportation – Air Travel	Actual Charges (<i>Coach Fare</i>)
Transportation – mileage	Privately owned vehicle mileage reimbursement per GSA Statute.
Transportation – Taxi, Parking, or other	Actual Charges

Landmark Maintenance/Support		
Description		Amount
Annual Landmark Maintenance & Support	1 year	\$21,675.00
Includes:		
Version Upgrades		
Toll Free Help Desk Assistance		
Total Landmark Maintenance		\$21,675.00

OPTIONAL SOFTWARE & SERVICES

OPTIONAL RECORDS MANAGEMENT			
Records Management Services Performed			
Services Performed at Customer Site			
Description	Unit	Rate	Amount
Professional Services		Hourly	
• Project Management Services	1 Hour	\$75	
• Document Preparation Services	1 Hour	\$35	
• Indexing Services- Land Records (Bk/Pg, Grantor(up to 2 parties), Grantee (up to 2 parties), record date, doc type). Other Indexing needs to be assessed as quantified	Per Doc	0.35 - 0.65	

Film Scanning	Qty	Each	
• Micro Film- 16mm Role	1 Image	\$0.02 - \$0.03	
• Micro Film- 35mm Role	1 Image	\$0.025 - \$0.035	
• Microfiche	1 Image	\$0.06 - \$0.08	
Paper Document Scanning	Qty	Each	
• Removable Pages	1 Page	\$0.060	
• Bound Pages	1 Page	\$0.150	
• Over size pages (larger than 11" x 17")	1 Page	\$0.750	
*Travel Costs (see chart above) (Billed monthly as incurred)	TBD		TBD
Records Management Services			
Performed at PTG Headquarters			
Description	Hours	Rate	Amount
Professional Services	Hours		
• Project Management Services	1 Hour	\$50	
• Document Preparation Services	1 Hour	\$20	
• Indexing Services - Land Records (Bk/Pg, Grantor(up to 3 parties), Grantee (up to 3 parties), record date, doc type)Other Indexing needs to be assessed as quantified	Per Doc	\$0.350	
Film Scanning	Qty	Each	
• Micro Film- 16mm Role	1 Image	0.015 - .025	
• Micro Film- 35 mm Role	1 Image	0.02 - .03	
• Microfiche	1 Image	\$0.050	
Paper Document Scanning	Qty	Each	
• Removable Pages	1 Page	\$0.050	
• Bound Pages	1 Page	\$0.120	
• Over size pages (larger than 11" x 17")	1 Page	\$0.700	

*Travel Costs (see chart above) (Billed monthly as incurred)	TBD		TBD

2. PROJECT PAYMENT

2.1. |TBD|

Commented [SN2]:

SCHEDULE C : Service Level Agreement

1. DESCRIPTION OF SERVICES

1.1. Support Services

- 1.1.1. During the term of this Agreement, Licensor will provide the services described herein so as to maintain the Software in good working order, keeping it free from material defects so that the Software shall function properly and in accordance with the accepted level of performance as set forth in the Schedule.
- 1.1.2. Licensor will make available to Customer a telephone number for Customer to call requesting service. The Support Center operates during business hours, 8:00am to 6:00pm EST, Monday through Friday, excluding Holidays. This service telephone line can also be used to notify Licensor of problems associated with the Software and related documentation.

1.2. Remedial Support

Upon receipt by Licensor of notice from Customer through the Licensor Support Center of an error, defect, malfunction or nonconformity in the Software, Licensor shall respond as provided below:

1.2.1. Critical Defect:

Response: Licensor will provide a response by a qualified member of its staff to begin to diagnose and to correct a Critical Defect problem as soon as reasonably possible, but in any event a response via telephone will be provided within four (4) business hours and an emergency software fix or an acceptable work-around will be provided within eight (8) business hours. Licensor will continue to provide best efforts to resolve Critical Defects and will provide problem resolution within five (5) business days of the reported issue.

1.2.2. Non-Critical Defect:

Response: Licensor will provide a response by a qualified member of its staff to begin to diagnose and to correct a Non-Critical Defect problem as soon as reasonably possible, but in any event a response via telephone will be provided within four (4) business hours and an emergency software fix or an acceptable work-around will be provided within five (5) business days.

1.2.3. Feature Request:

Definition: Produces a noticeable situation in which the use is affected in some way which is reasonably correctable by a documentation change or by a future, regular release from Licensor.

Response: Licensor will provide, as agreed by the parties via Change Order, a resolution for Feature Requests in future software releases.

1.3. Services

During the term of this Agreement, Licensor will maintain the Software by providing software updates and enhancements to Customer as the same are offered by Licensor to its licensees of the Software ("Updates"). All software updates and enhancements provided to Customer by Licensor pursuant to the terms of this Agreement shall be subject to the terms and conditions of the Agreement between the parties. Updates will be provided on an as-available basis and include the items listed below:

- 1.3.1. Bug fixes;
- 1.3.2. Enhancements to market data service software provided by Licensor to keep current with changes in market data services or as Licensor makes enhancements;
- 1.3.3. Enhancements to keep current with the current hardware vendor's OS releases, as available from Licensor, provided that the current hardware vendor's OS release is both binary and source-compatible with the OS release currently supported by Licensor; and
- 1.3.4. Performance enhancements to Software.
- 1.3.5. Updates do not include:
 - a. Platform extensions including product extensions to (i) different hardware platforms; (ii) different windowing system platforms; (iii) different operating system platforms; and
 - b. New functions such as (i) new functionality in the market data delivery infrastructure; (ii) new market data feeds; (iii) new applications; and (iv) new presentation tools.

Updates will be provided in machine-readable format and updates to related documentation will be provided in soft copy form. All such deliveries shall be made available to Customer at a specific Licensor FTP location. Duplication, distribution and installation of Updates are the responsibility of Customer. If requested prior to 5:00pm on the current business day, Licensor will provide assistance for the installation of Updates on the next business day.

Licensor will provide support services for previous releases for a minimum period of six (6) months following the general availability of a new release or software update. After this time, Licensor shall have no further responsibility for supporting and maintaining the prior releases.

Licensor assumes no responsibility for the correctness of, performance of, or any resulting incompatibilities with, current or future releases of the Software if Customer has made changes to the system hardware/software configuration or modifications to any supplied source code which affect the performance of the Software and which were made without prior notification and written approval by Licensor. Licensor assumes no responsibility for the operation or performance of any Customer-written or third party application.

1.4. Services Not Included

Services do not include any of the following: (i) custom programming services; (ii) support of any software that is not Software; (iii) training; (iv) out-of-pocket and reasonable expenses, including hardware and related supplies. Services, as described in this section 1.4, if required by Customer, would be executed via approved Change Order

2. SERVICE LEVEL AGREEMENT MANAGERS

2.1. Licensor and Customer will each appoint an appropriate person for ongoing development and management of the Agreement. SLA Manager responsibilities are as follows:

- 2.1.1. Serve as the Point of Contact (POC) for problems or concerns related to the SLA itself and the delivery of services described in the SLA.
- 2.1.2. Maintain ongoing contact with the other party's SLA Manager.
- 2.1.3. Serving as the primary POC in the escalation process.
- 2.1.4. Coordinating and implementing modifications to service delivery and to the SLA Schedule.
- 2.1.5. Periodically assessing the effectiveness of mechanisms selected for service tracking and reporting.
- 2.1.6. Planning and coordinating service reviews.
- 2.1.7. Facilitating and participating in conflict resolution processes regarding service effectiveness
- 2.1.8. Assessing and reporting on how the Licensor and Customer can further strengthen their working relationship.

3. LOCATIONS

3.1. Customer Provided Network Location(s)

Address: _____

4. RESPONSIBILITIES

4.1. Customer Responsibilities

- 4.1.1. Properly stage all Equipment in the Production and Testing environments at the Customer Provided Network Location(s) specified in SCHEDULE C section 3.1.
- 4.1.2. Arrange for all labor, tools, and test equipment necessary to completely install and test the Equipment at the Customer Provided Network Location(s) specified in SCHEDULE C section 3.1.
- 4.1.3. Provide Licensor with a Customer contact list including names, cell and office phone numbers and pager numbers if available of key contacts for the routine service and emergency repair of the Equipment at the Customer Provided Network Location(s) specified in SCHEDULE C section 3.1.
- 4.1.4. Make necessary arrangements to work cooperatively with Licensor in the isolation of troubles at the Customer Provided Network Location(s) specified in SCHEDULE C section 3.1.

- 4.1.5. Bear all costs associated with third party vendor efforts in disaster recovery of the Equipment and Covered Software at the Customer Provided Network Location(s) specified in SCHEDULE C section 3.1.
 - 4.1.6. Provide Licensor with any necessary agency authorization, such as access badges, as may be required for Licensor to fulfill its obligations under this Service Level Agreement Schedule.
 - 4.1.7. Report all troubles with the Software as outlined in SCHEDULE C section 1.
 - 4.1.8. Request assistance from the Licensor with "First Level Services".
 - 4.1.9. Assure proper machine configuration, audit controls, and operating methods.
 - 4.1.10. Establish adequate backup plans, based on alternate procedures.
 - 4.1.11. Implement procedures and checkpoints to satisfy requirements for security and accuracy of input and output as well as restart and recovery in the event of a malfunction.
 - 4.1.12. Customer will be responsible for all hardware, including but not limited to, workstations, servers, IVR equipment, printers, and scanners. Customer will run any Licensor supplied installation files to install any necessary files on a workstation or server that are required to use the Software.
 - 4.1.13. Customer shall provide notification at least sixty (60) days prior to upgrading or replacing infrastructure that are part of a normal end of life replacement plan that requires the assistance of the Licensor. Upgrades include but are not limited to (i) server upgrade or replacement, (ii) IVR upgrade or replacement, (iii) test environment or production environment changes. Emergency support due to hardware failures do not require advanced notice. However, emergencies created due to hardware and infrastructure failures fall under Billable Call Maintenance.
- 4.2. *Licensor Responsibilities*
- 4.2.1. Licensor will provide a central telephone number and email address to be used by Customer to report all troubles, schedule visits, request service, and to request Licensor Technical Support as outlined in sections 1 and 2 of this Schedule.
 - 4.2.2. Licensor will provide Customer with installation files when necessary that will allow Customer the ability to install any necessary files on a workstation that are required to use the Software.
 - 4.2.3. Licensor will provide Customer with updates and patches for any defect or enhancement made to the Covered Software even if the defect or enhancement was not reported by Customer.
 - 4.2.4. Licensor will perform "First Level Services" on the Customer Test Environment and the Customer Production Environment for Covered Software for the Customer or the Customer's designated vendor at the Customer Provided Network Location(s) specified in SCHEDULE C section 3.1.
 - 4.2.5. Licensor performed "First Level Services" on the Covered Software is defined as follows:
 - a. Execute approved SQL Scripts for updates and patches.
 - b. Install updates to Software.
 - c. Install patches to Software.
 - d. Modify IVR scripts if affected by updates and patches.
 - e. Support and diagnostic services as outlined in SCHEDULE C section 1.
 - f. Report any Customer-side defects causing Software performance issues.

PURCHASE ORDER

914703

COUNTY OF LINCOLN

(575) 648-2385

Ship to: 300 Central Avenue

P.O. Box 711

Carrizozo, New Mexico 88301-0711

**IMPORTANT: INSTRUCTION FOR INVOICING AND SHIPPING**

1. Lincoln County is tax exempt under Gross Receipts Taxes #01-508838-003 or request an NTTC.
2. Taxes for services must be at the rate where the services are performed.
3. Merchandise is to be received F.O.B. Carrizozo, NM 88301, unless otherwise stated.
4. Purchase Order number must be accurate and appear on all invoices and packages.
5. If submitting Statements, attach a copy of each invoice to each statement.
6. Invoices are paid on a net 30 unless otherwise agreed upon.
7. Notify us immediately if you are unable to ship a complete order.

(ALL INSTRUCTIONS MUST BE COMPLIED WITH BEFORE PAYMENT CAN BE MADE.)

ADDRESS ALL INVOICES TO:

COUNTY OF LINCOLN

ACCOUNTS PAYABLE

P.O. BOX 711

CARRIZOZO, NEW MEXICO 88301-0711

PLEASE SEND ONE COPY OF YOUR INVOICE
WITH ORIGINAL BILL OF LADING

UNIT COST	QUANTITY	ARTICLE AND DESCRIPTION	LINE ITEM	EST. ACTUAL COST
	1.00	MIGRATION OF DATA & IMAGES FROM TRIADIC TO PIONEER SOFTWARE SERVICES FOR COUNTY CLERK RECORDS ESTIMATED COSTS	406-63-2705	36400.00
TO BE PAID FROM:				36400.00

VENDOR 9850

TRIADIC ENTERPRISES, INC.

121 WEST HEMLOCK
DEMING NM 88030 0471

FISCAL YEAR

PURCHASE ORDER NO

914703

DATE

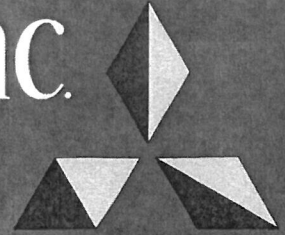
8/09/22

BY

 A handwritten signature in black ink, appearing to read "H. Salgado".

PURCHASING OFFICER

Triadic Enterprises, Inc.



August 1, 2022

Whitney Whittaker
Lincoln County Clerk
By email: WWhittaker@lincolncountynm.gov

Dear Ms. Whittaker:

I am very sorry to hear that you are leaving. We have had a long relationship with the Clerk's office in Lincoln. For years, we have been more than just a software company, we have helped the county perform at its best and in compliance with the State and Federal laws rules and regulations.

Normally, if an outside party desires to migrate the County's information, they pull the data and write custom code for the migration. According to the 'Lincoln County Installation Workbook' provided by Pioneer Technology Group, *"The County will be responsible for exporting all of the data and images and sending them to PTG as soon as possible."* (pg 20) If such a party desires for us to produce work on their behalf, we have standard fees for this.

If we were to assist in the migration of the County's information, here is what we do. We migrate all files to become flat files and unpack any data. All files included the full history. These are not CSV or Pipe delimited, but flat files with field layouts. Most companies have issues trying to unpack numeric fields. We then pull those flat files to our system and move them to ASCII PC files. We then send them to you via email or, if the size is too large, by mail. We include copies of the record layouts.

We will also give you the number of records in each file. It will be up to your new firm to appropriately tie any and all data together in order to fit their specific needs. There are multiple files for each function each transaction may have multiple records. Currently, there are about four-and-a-half-a-million records across all the packages.

There is a \$3000.00 setup fee for each package and a fee based on size for each cut or pull of data, regardless of how many cuts or pulls there may be. For example, with the Indexing package, if you need an initial pull and one additional pull, the fee would be:

Setup	\$7,000.00
Initial pull	\$4,900.00
Second (final) pull	<u>\$4,900.00</u>
Total	\$16,800.00

Any additional manipulation of the data would be an additional charge based on the hourly rates below. Also, if you

tej@triadicnet.com
www.triadicnet.com

MAIN
1-800-221-0653
PH: 575-546-0423 F: 575-546-8330
PO Box 471 Deming NM 88031
121 W Hemlock Deming NM 88030

BRANCH
1-800-540-8130
PH: 505-299-6795 F: 505-299-6433
PO Box 44682 Rio Rancho NM 87174
4020 Peggy Rd Ste M5 Rio Rancho NM 87124

need us to pull any images, we do this based the hourly rates below and it may require making multiple trips to Carrizozo. We would make a test to see how fast your transfer rate is and make the determination as to the most economical. These fees are:

Hourly Rate Per Employee	\$125.00	including travel time
Mileage	\$ 0.62.5	per mile
Per Diem	\$175.00	per night

Applicable gross receipts tax will be added to all charges and fees. After receiving a purchase order, we should be able to pull the first set of information in two or three weeks. Hope this information helps. If you should have any questions, please do not hesitate to call me at 1-800-221-0653. We wish you the best with your new venture and hope it adequately fulfills the needs of your office in Lincoln County.

Sincerely,



Leandra MH Stewart
President

Attachment: Price Quote

COUNTY OF LINCOLN						Migration of Data
CLERK PACKAGES						
	Setup	# of Records as of 7/21/22	Initial Data Flatt	Final Data Flatt	Total per Package	Additional Data Flat
RECORDINGS	\$3,000.00	4,494,272	\$7,000.00	\$4,900.00	\$14,900.00	\$4,900.00
MARRIAGE	\$3,000.00	35,174	\$2,500.00	\$1,750.00	\$7,250.00	\$1,750.00
PROBATES	\$3,000.00	9,516	\$750.00	\$500.00	\$4,250.00	\$500.00
Total		4,538,962			\$26,400.00	

IMAGES (a)	
	# of Images as of 7/22/22
Clerk	
Recordings	590,598
Minutes	120,663
Probates	118,193

(a) Pulling Images is based on an hourly rate and cost depends on how fast your network is. Mileage and per diem will also be charged
The county will need to provided an external hard drive.

PO.
\$ 36,400



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 12

SUBJECT:

9:30 A.M.: PUBLIC COMMENT AND OTHER BUSNIESS FROM COUNTY OFFICIALS
(Items are for discussion only – no action will be taken)

Tuesday, March 21, 2023



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 13

SUBJECT:

Lincoln County Detention Center Update – Warden, Ross Castleton

Tuesday, March 21, 2023



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 14

SUBJECT:

Lincoln County Medical Center:

- a. Update – Todd Oberheu
- b. Discussion and Direction Regarding the Medical Director Agreement for Volunteer Fire Department and Emergency Medical Dispatch
- c. Consideration and Approval of the Temporary Operating Agreement and Premises License Between the County of Lincoln and Presbyterian Healthcare Services (Hondo Valley Healthcare Clinic)

Tuesday, March 21, 2023

**MEDICAL DIRECTOR AGREEMENT
FOR VOLUNTEER FIRE DEPARTMENT AND
EMERGENCY MEDICAL DISPATCH**

This Agreement is made and entered into on this 21st day of March, 2023, and is by and between the County of Lincoln, a political subdivision of the State of New Mexico (the "County") and Presbyterian Healthcare Services, a New Mexico nonprofit corporation ("PHS").

Recitals:

- A. PHS is a New Mexico nonprofit corporation that operates and provides health care to the citizens through lease of the Lincoln County Medical Center ("LCMC") from the County. PHS exists to improve the health of the patients, members and communities it serves, and LCMC is certified to participate in Medicare and Medicaid.
- B. As part of the services provided through the Lincoln County Medical Center lease, PHS operates the counties ambulance service.
- C. The County has a volunteer fire department which coordinates volunteers trained in first response and requires the services of a medical director to provide occasional consultation to the volunteer fire department regarding medical aspects of their program, policies and procedures.
- D. The County also provides dispatch of emergency medical services ("EMS") through the Sheriff's office.
- E. The parties agree that the most effective and efficient use of resources is to have PHS, as operator of the County's ambulance services, provide medical directorship for the County's volunteer fire department as well as medical directorship for dispatch of EMS through the Sheriff's Office.

Agreements:

Now, therefore, in consideration of the foregoing, the parties agree as follows.

1. **Appointment of Director.** For the term of this Agreement, PHS appoints the Medical Director of the LCMC ambulance service to also provide medical directorship for the County's Volunteer Fire Department and Sheriff's Office EMS dispatch. PHS reserves the right to, solely at its own discretion, to replace or reassign the physician that will fulfill the duties of Medical Director for the County's Volunteer Fire Department and Sheriff's Office EMS dispatch, provided that PHS provide advance written notice to the County of such reassignment.

2. **Obligations of PHS's Medical Director.** During the term of this Agreement, PHS's Medical Director shall serve as the Medical Director for the County's Volunteer Fire Department and Sheriff's Office EMS dispatch programs and shall fulfill the accountabilities, duties and responsibilities outlined on the job description attached hereto as Exhibit A and incorporated herein by reference. The parties anticipate that the performance of such duties shall require approximately 1.5 to 2 hours per month or 0.1 full time equivalent.

3. **Obligations of County.** County shall furnish all necessary information and personnel and other support materials and services reasonably necessary for efficient services to be provided by PHS' Medical Director. The County is solely responsible for compensation or reimbursement of any of its employees or volunteers, for maintaining worker's compensation and unemployment compensation coverage, and for filing all applicable returns and paying all federal, state and local taxes in respect to its employees who may provide support to the PHS Medical Director.

2. **Compensation.** During the term of this Agreement, County shall pay PHS an annual fee of Three Thousand Dollars (\$3,000.00). The parties agree that such compensation is offered at this rate based on the fulfillment of a public need, the anticipated hours necessary to fulfill the role and fair market value. PHS shall be solely responsible for the payment of any gross receipts tax due on such amount and will not be reimbursed therefor by County. PHS' Medical Director will maintain time records which verify the hours devoted to services under this Agreement and shall submit such time records to the Administrator of LCMC and the County on an annual basis.

6. **Term.** This Agreement shall commence on March 21, 2023 (the "Commencement Date") and shall continue in effect for a period of four years unless terminated pursuant to paragraph 7 hereof. This Agreement may be renewed for subsequent periods of two years each only by written agreement of the parties.

7. **Termination.** This Agreement may be terminated:

(a) By either party prior to the end of its term if the other party fails to perform its obligations under this Agreement and the failure continues for a period of ten days after written notice which identifies the failure.

(b) By either party upon delivery of written notice that, in the opinion of counsel experienced in health and/or tax law, the continuation of this Agreement will result in a violation of state or federal law, IRS rules or PHS' bond obligations.

(c) By either party on 30 days' prior written notice to the other party.

In the event this Agreement is terminated for any reason prior to the expiration of 12 months from the Commencement Date, the parties may not enter into an agreement for the same or similar services except on the terms and conditions set forth herein. No termination of this Agreement shall impair PHS's right to collect compensation due for services provided prior to the date of termination on a pro rata basis.

8. **Notices.** Any notice required to be given pursuant to the terms of this Agreement shall be in writing and shall be hand-delivered or sent by certified mail to the party to receive such notice at the addresses listed herein.

If to the County:

County Manager

P.O. Box 711

Carrizozo, NM 88301

If to PHS:

Presbyterian Healthcare Services

Attn: Senior Vice President, Legal Services

P.O. Box 26666

Albuquerque, NM 87125-6666

Either party to this Agreement may change the address to which notice is to be submitted by notice delivered pursuant to this paragraph 8.

9. **Compliance with Hospital Policies and Applicable Law.** In discharging duties under this Agreement, the Parties agree that PHS' Medical Director shall comply with the Bylaws of the Medical Staff and all standards and requirements of the Joint Commission on the Accreditation of Health Care Organizations (including requirements for training and competencies), Medicare, Medicaid, and other licensing and accrediting agencies, and all applicable federal and state statutes and regulations. Nothing contained in this Agreement shall be deemed to require or influence in any manner the County's referrals for healthcare services and PHS's Medical Director shall be under no obligation under this Agreement to refer patients to PHS facilities or providers.

10. **Right to Review and Audit.** The County reserves the right, at its sole discretion, to inspect and audit Physician's performance of the services required under this Agreement. PHS will fully cooperate with any such audit and inspection.

11. **Insurance and Indemnification.** The County agrees to indemnify and hold harmless PHS, including its directors, administrators, employees and physicians for any and all negligence arising out of the County through the action or inaction of any of the County's employees, agents, independent contractors or volunteers of the Volunteer County Fire Departments or Sheriff's Office.

12. **Assignment.** The County may not assign its interest in this Agreement to any person, entity, political subdivision or company.

13. **Dispute Resolution.** The County and PHS will meet, at the request of either party, in an attempt to resolve any controversy or claim (a "Dispute") relating to this Agreement. If the Dispute is not resolved within five days after the representatives meet to resolve the Dispute, the County and PHS shall select a mediator (the "Mediator") to assist in resolving the Dispute through the use non-binding mediation. Both parties agree to cooperate with the Mediator in good faith in an effort to resolve the Dispute. If the Dispute is not resolved through either negotiation or mediation within forty-five days after the Dispute is first identified, the matter

shall be resolved through binding arbitration before an arbitrator on whom, and in accordance with such rules as, the parties may agree. The request for arbitration may be initiated by either party by providing notice thereof in accordance with paragraph 8 of this Agreement.

14. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of New Mexico. The parties recognize that this Agreement at all times is subject to applicable state, local and federal law, including but not limited to the Social Security Act and other federal laws, as well as the public health and safety provisions of state laws and regulations. The parties further recognize that this Agreement shall be subject to amendments of such laws and regulations, and to new legislation. Any provisions of law that invalidate, or otherwise are inconsistent with the terms of this Agreement, or that would cause one or both the parties to be in violation of the laws, shall be deemed to have superseded the terms of this Agreement. If it is the reasonable opinion of counsel with expertise in health care law selected by Hospital or Physician, that, due to new or existing state or federal laws, rules or regulations or due to any action of any governmental agency to enforce any existing state or federal law, rule or regulation ("Applicable Law"), any material provision of this Agreement does not comply, or is not reasonably likely to be found by a court with applicable authority to comply, with Applicable Law, or to adversely affect the ability of Hospital to receive reimbursement under the Medicare or Medicaid programs, or adversely affect the tax-exempt status of Hospital or the tax-free treatment of interest paid on any bonds issued on its behalf, then for the purposes of compliance with any Applicable Law or requirements applicable to an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the bonds of such an organization, or obtaining Medicare or Medicaid reimbursement for services rendered at the Hospital, Physician and Hospital shall negotiate in good faith in attempt to alter their legal relationship to comply with Applicable Law while accommodating to the greatest extent possible the terms and intent of this Agreement. If the parties fail to negotiate mutually agreeable terms within thirty (30) days following the commencement of negotiations, either party may terminate this Agreement upon ten (10) days' notice.

15. **Fraud and Abuse Laws.** The parties enter into this Agreement with the intent of conducting their relationship in full compliance with applicable state, local, and federal law including the Medicare/Medicaid Anti-Fraud and Abuse. Notwithstanding any unanticipated effect of any of the provisions herein, neither party will intentionally conduct itself under the terms of this Agreement in a manner to constitute a violation of the Medicare and Medicaid Fraud and Abuse Law or any other illegal remuneration law provisions.

16. **Modification.** This Agreement constitutes the entire understanding of the parties concerning the provision by PHS of Medical Director services for the County's Volunteer Fire Department and Sheriff's Office EMS dispatch programs. No changes, amendments or alterations shall be effective unless signed by both parties. Other Agreements between the County and PHS or a PHS facility, if any, are referenced in a master contract list maintained by PHS.

17. **Access to Records.** Until the expiration of four years after the furnishing of any services pursuant to this Agreement, the parties will make available, upon request of the Secretary of Health and Human Services, or the Comptroller General of the United States, or any of their duly authorized representatives, copies of this Agreement and any books, documents, records and other data of either party that are necessary to certify the nature and extent of costs incurred by either party for such services. If either party to this Agreement carries out any of its duties under this Agreement through a subcontract with a related organization involving a value or cost of \$10,000 or more over a 12 month period, each party will cause such subcontract to contain a clause to the effect that until the expiration of four years after the furnishing of any services pursuant to this contract, the related organization will make available, upon request of the Secretary of Health and Human Services, or the Comptroller General of the United States, or any of their duly authorized representatives, copies of such contract and any books, documents, records and other data of such related organization that are necessary to certify the nature and extent of costs incurred by either party for such services. If such a request for County's or related subcontractor's books, documents and records is made, the County shall consult and cooperate with PHS concerning the proper response to such request. The County or any subcontractor related to the County shall provide PHS with a copy of each such book, document, and record made available to the Comptroller General, the Secretary of Health and Human Services and their duly authorized representatives or shall identify each such book, document, and record and grant PHS access thereto for reviewing and copying. No attorney-client, accountant-client, or other legal privilege will be deemed to have been waived by the County or PHS by virtue of this Agreement.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement, on the date appearing below their signatures.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF LINCOLN

PRESBYTERIAN HEALTHCARE SERVICES

Date: _____

Date: _____

EXHIBIT A

Medical Director of Lincoln County Volunteer Fire Department and Sheriff's Office EMS Dispatch- Job Duties

- Provide consultation as necessary to the Lincoln County Volunteer Fire Department and Sheriff's Office on medically related policies and procedures of first responders and emergency medical dispatch.
- Participate in quality assurance activities and provide review and comment as necessary on specific incidents of care.
- Provide occasional education and training to members of the Lincoln County Volunteer Fire Department and Sheriff's Office EMD dispatchers.

TEMPORARY OPERATING AGREEMENT AND PREMISES LICENSE

Between
The County of Lincoln
And
Presbyterian Healthcare Services
[Hondo Valley Healthcare Clinic]

THIS OPERATING AGREEMENT AND PREMISES LICENSE (hereinafter referred to as "this Agreement") is entered into as of this _____ day of March, 2023, by and between the **Board of County Commissioners of the County of Lincoln** (hereinafter referred to as the "County Commission" or "County"), and **Presbyterian Healthcare Services**, a New Mexico nonprofit corporation (hereinafter referred to as "PHS") doing business as **Lincoln County Medical Center** (hereinafter referred to as "LCMC").

PREMISES LICENSE

The Board of County Commissioners of the County of Lincoln has entered into a Land Lease Agreement (hereinafter referred to as the "Land Lease") with the Board of Education of the Hondo Valley Public Schools (hereinafter referred to as the "Hondo Valley Public Schools") for a certain Tract of Land which situated thereupon is a building owned by the County and which building comprises the Hondo Valley Healthcare Clinic (hereinafter "Health Center"), a copy said Land Lease identifying the Tract of Land and the Building situate thereon is attached hereto as **Exhibit "A"** and is incorporated by reference herein. PHS, by entering into this Agreement agrees to manage and operate a health center in this space and is hereby granted a license to enter the premises for such purposes during the term of this Agreement. The parties expressly agree that PHS is not leasing, or subleasing, either the Property or the Building identified in the attached **Exhibit A**, but does agree that its management and operations will comply with the County's obligations under the Land Lease. The parties to this Agreement hereby further agree that, should the lessor, the Hondo Valley Public Schools, terminate the Land Lease for whatever reason, this Agreement shall terminate concurrently with the underlying Land Lease as to that particular property. The parties to this Agreement recognize that a major part of the consideration for this Agreement is the health care and health maintenance services to the Hondo Schools, and the sick and/or indigent persons of Hondo and the outlying County areas.

OPERATING AGREEMENT

Section 1. Definitions.

1.1 **"County Commission"** shall mean the Board of County Commissioners of Lincoln County, New Mexico. **"County"** shall mean the County of Lincoln, New Mexico, or the County Commission.

1.2 **"Health Center" or "Hondo"** shall mean all of the real and personal property and improvements owned or leased by Lincoln County and commonly known as the Hondo Valley Healthcare Clinic.

1.3 **"Employees at the Center"** shall mean PHS employees.

1.4 **"Premises"** as it relates to Hondo shall be defined as that building owned by the County as identified on ***Exhibit "A"*** attached hereto.

Section 2. Term.

2.1 This Agreement shall be binding after execution by both parties.

2.2 The base term shall be for one (1) year, beginning the ____ day of March, 2023, and ending the ____ day of March, 2024. Unless either party provides sixty (60) days' written notice to the other party of its intent not to renew this Agreement, this Agreement will automatically be renewed for three (3) successive terms of one (1) year each, unless sooner terminated under Section 9 hereof.

Section 3. Operating Moneys.

3.1 The County shall not be obligated to pay LCMC a monthly operating fee for the operation of the Health Center, but the parties agree that they shall review the operations annually and shall negotiate and, if appropriate, adjust the Mill Levy Funding to reflect changes in the number of encounters and in accordance with the provisions of Section 4 (Renewal and Modifications) and Sections 5.01(A) (Days/Hours of Operation), 5.01(G) (Mill Levy Funding), and 5.01(I) (Budget) of this Agreement.

3.2 Early termination for any reason of the County's Land Lease with Hondo Valley Public Schools will automatically terminate all obligations under this Agreement with respect to the Health Center that is the subject of this Agreement effective as of the date of termination of the Land Lease.

3.3 Capital equipment expenditures for the Health Center shall be the financial responsibility of the County. Expenditures for such equipment shall be requested by LCMC and approved or disapproved by the County Commission. Equipment purchased by PHS shall, notwithstanding anything to the contrary in this Agreement, remain the sole and exclusive property of PHS.

Section 4. Renewal and Modifications.

4.1 Proposed changes, additions, or deletions to this Agreement shall be submitted by the party requesting such changes to the other party no later than sixty (60) days prior to the anniversary date, but shall not modify this Agreement unless approved in writing by both parties prior to the anniversary date. If the parties are unable to agree on modifications to the Agreement prior to the anniversary date, the Agreement shall continue in effect until such modifications are agreed to or the Agreement is terminated in accordance with the provisions of Section 9 hereof.

4.2 Modifications shall be appended to this Agreement as numbered amendments and be incorporated as if fully set forth in the body of the Agreement.

Section 5. Services.

5.01 Operating Services. LCMC will operate the Health Center during the term of this Agreement in a manner consistent with good business and professional practices within the communities to be served by the Health Center, within the health care industry and within the terms of this Agreement. Said operating services shall include, but not be limited to, the following:

- A. **Days/Hours of Operation.** The days and hours of operation of the Health Center shall be as mutually agreed upon by the parties, provided however, that once established the days and hours of operation shall remain fixed until any changes are agreed upon by the parties. The parties also agree to include a review of the days and hours of operation as a part of the annual review of Mill Levy Funding.
- B. **Clinic Services (Hondo).** The following shall be provided at the Hondo Valley Healthcare Clinic: primary care and diagnostic treatment for children, adolescents, adults, and the elderly. **Medical services** shall include: medical histories, physical examinations, assessment of health status; treatment for a variety of medical conditions; periodic reduced priced screening and health education; a full range of reproductive health services; stabilization of urgent medical problems; case management; limited in-house laboratory, including blood draws, and dispensing pharmaceutical samples, when available and appropriate; and referrals for specialty care.
- C. **Charges.** LCMC shall establish, maintain, revise, and administer the overall charge structure of the Health Center. LCMC agrees to implement a sliding scale fee structure for services rendered, consistent with PHS policy, which is comparable to the sliding scale fee structure set forth in the

Lincoln County Indigent Hospital/Health Care Ordinance No. 2014-06 or any revisions or replacements thereto.

- D. **Acceptance of Patients.** During the term of this Agreement, LCMC will establish the staffing levels of the Health Center in conformity with the budget submitted pursuant to Section 5.01 (I) of this Agreement. **LCMC agrees that it will accept patients to the best of the Health Center's capacity without regard to race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap.**
- E. **Billing and Collection.** LCMC shall be responsible for issuing bills for services and materials furnished by the Health Center, including but not limited to, bills to Medicare, Medicaid, and other third party payors; shall design and implement credit and collection policies as approved by PHS; and shall establish systems regarding credit and collections, accounts receivable control monitoring and follow-up, including assisting to enforce the rights of the Health Center as creditors under any contract or in connection with rendering any service. All moneys received for services provided shall be the property of LCMC. Under no circumstances shall the County under this Agreement be responsible for the payment of any bills for professional or technical services provided to patients of the Health Center or be entitled to any of its revenues. **County Indigent Funds shall not be utilized for payment of any services provided hereunder as long as the Health Center receives mill levy support.**
- F. **Payment of Accounts and Indebtedness.** LCMC shall be responsible for the payment of all LCMC payroll, trade accounts, amounts due on short-term indebtedness, taxes, and all other normal current business obligations incurred by LCMC in the operation of the Health Center.
- G. **Mill Levy Funding.** The Board of County Commissioners will, on an annual basis, as a part of its budget process, determine the amount of mill levy funding to be disbursed to LCMC for operation of the Health Center pursuant to Section 3 of this Agreement.
- H. **Accounting and Financial Records.** LCMC shall establish and administer all accounting procedures and controls, in accordance with generally accepted accounting principles and shall establish, administer, and revise from time to time systems for the development, preparation, and safekeeping of records and books of account relating to the business and

financial affairs of the Health Center. Included in the foregoing, without limitation, will be the following:

(1) Preparation and delivery to the County Commission of annual financial statements indicating, at a minimum, total revenues, accounts payable, accounts receivable, and the amount drawn down against the County mill levy; in addition, LCMC shall provide interim reports to the County upon request.

(2) Supervising the preparation and filing of such forms and reports as may be required by law in connection with the operations of the Health Center;

(3) Supervising and managing the preparation of cost reports, supporting data, and other material and reports required in connection with the reimbursement under Medicare, Medicaid, Blue Cross, and other third-party payment contracts and programs in which the Health Center may from time to time participate.

I. **Budget.** LCMC shall prepare and submit to the County Commission an annual operating budget based upon the total anticipated operating costs of the Health Center covered by this Agreement. Submission of the budget shall be a prerequisite to the County Commission authorizing the release of annual mill levy proceeds to pay the operating costs of the Health Center. Consistent with State law and the availability of funds generated by the mill levy and set aside for the Health Center, the County Commission will appropriate monies toward the ongoing operation and maintenance of the Health Center (the operating fees or moneys for capital expenditures), as deemed necessary by the County Commission in their sole discretion. Should the County Commission not provide adequate funding for the Health Center's operation, LCMC shall be entitled to terminate this Agreement, pursuant to Section 9.

J. **Medical Staff.** LCMC shall perform all customary functions which are reasonably required to attract and retain qualified medical providers and staff for the Health Center consistent with demonstrated community needs and the operation of licensed Health Centers. LCMC and the County agree as follows:

(1) Providers who work in the Health Center must have either active, consulting, or provisional privileges at Lincoln County Medical

Center.

(2) LCMC will evaluate and consider providing tele-medicine capability at the Health Center so as to provide specialty physicians coverage on an outpatient basis, as appropriate.

- K. **Records and Staffing.** LCMC shall operate and maintain a system to collect and organize appropriate medical records with respect to services rendered at or through the Health Center. All records, including medical records, shall be and remain the property of LCMC. In addition, LCMC shall also be responsible for activities in the areas of staffing, control reports, work load determination and controls, and scheduling. LCMC shall assist the County in any transition of services should this Agreement, for any reason, terminate, by providing the County with such information as it may reasonably require to enable it to continue the operation of the Health Center.
- L. **Cost Control.** LCMC shall implement, as necessary, cost control programs, together with incentive programs comparable to those provided in other affiliated Health Centers.
- M. **Licenses and Permits.** LCMC shall maintain all licenses and permits required in connection with the management and operation of the Health Center.
- N. **Licensure for Medicare and Medicaid Certification.** LCMC shall implement policies designed to ensure that medical providers meet their responsibility for quality patient care and compliance with licensure for Medicare and Medicaid certification standards.
- O. **Repairs, Capital Expenses, Legitimate Operating Expenses.** LCMC shall keep the clinic building in good order and condition as may be necessary to maintain the standards defined in this Section 5, ordinary wear and tear excepted, and shall be responsible for ordinary maintenance and repairs of the clinic building, interior and exterior, structural and non-structural, foreseen and unforeseen, as well as such alterations or additions in or to the improvements which are customarily made in connection with the operation of the Health Center or that are otherwise required by law, regulation or accrediting body in order for LCMC to operate the Health Center. LCMC shall not be responsible for any repairs or maintenance, provided that with the County's prior approval LCMC may elect to undertake repairs or maintenance upon receipt of the County's assurances of its agreement to

reimburse LCMC for the costs of such repairs or maintenance. As used herein, "repairs" shall include all necessary replacements, renewals, and alterations. Major or significant outlay for scheduled replacement of physical systems within the Health Center, or in the event of unscheduled emergency repairs of major structures, such as the roof or heating system, shall not be the responsibility of LCMC but shall be considered as capital expenses and eligible for payment from the mill levy. Capital outlay requests will be submitted to the County Commission for prior approval.

- P. **County of Lincoln Property.** Property and equipment bought with mill levy funds will remain the property of the County and shall be tagged as such.
- Q. **Reports.** LCMC shall submit to the County Commission reasonable reports, as are customary in the health care industry regarding clinic operations, on an annual basis (and otherwise, upon request) and shall, through its representatives, make oral presentations pertaining to such reports when so requested by the County Commission. Said reports shall not contain any individually identifiable health information as that term is defined by the Health Insurance Portability and Accountability Act and the regulations promulgated thereunder.

Section 6. Responsibilities.

6.1 **Applicable Laws and Regulations.** The parties acknowledge and agree that the rights, powers, duties, and responsibilities of the County Commission and LCMC hereunder may be limited by applicable federal, state, and local laws and regulations affecting the operation of the Health Center and the services provided there. The County Commission and LCMC agree to fully comply with such applicable laws and regulations in the performance of their respective responsibilities hereunder.

6.2 **Public Purchases Act.** LCMC shall make all expenditures for goods and services and incur operating expenses in accordance with the budget approved pursuant to Section 5.01 (I). Capital purchases and other goods directly funded by the County Commission will be made in accordance with statutes and regulations applicable to County purchases.

Section 7. General Covenants of the Parties.

7.1 **Operating Expenses.** Subject to the provisions of this Agreement, all of the costs and expenses of operating the Health Center and the compensation of all employees at the Health Center shall be the sole responsibility of LCMC, with the exception of repairs, maintenance and major, significant and unscheduled emergency repairs to the premises as specified in Section 5.01(O).

7.2 Property of LCMC. The County Commission acknowledges that those items which represent to the public a connection between LCMC and the Health Center, including logos, symbols, and specialized systems and procedures utilized by LCMC in rendering services hereunder, are and shall remain the exclusive property of LCMC, and subsequent to the termination hereof, the County Commission shall have no right to utilize the same without the prior written consent of the owner; except that specialized proprietary systems and procedures instituted by LCMC hereunder for business, financial, and information control may be utilized by the County Commission in connection with the operation of the Health Center for a period of three (3) months beyond the termination of this Agreement without prior consent and without further compensation therefore, unless such utilization is specifically prohibited by license or other agreement and so long as the County Commission does not permit or license any other person or entity not in its employ to use them during such three-month period or thereafter, and does not at any time utilize the name of LCMC in connection therewith. In the event that PHS is prohibited by contract or license to allow the County to utilize such system or systems directly, PHS shall continue, to the extent allowed by such contract or license, to provide such services for three months following the termination of this Agreement subject to the parties' written agreement with respect to fees and other terms that may be required by the contract or license governing PHS' use of the system or systems. Notwithstanding the foregoing, LCMC shall assist the County in any transition of services should this Agreement, for any reason, terminate, by providing the County with such information as it may reasonably require to enable it to continue the operation of the Health Center. All property and equipment purchased by PHS or LCMC will remain the property of PHS or LCMC.

7.3 Other Hospitals. The County Commission acknowledges that PHS owns, operates, and/or manages, and may in the future own, operate, and/or manage other clinics and health facilities in the state of New Mexico and other states. The County Commission acknowledges that the present or future involvement of PHS with other facilities outside Lincoln County, New Mexico, shall not be in any way restricted by the terms of this Agreement, so long as such involvement does not impair the undertakings of PHS under Section 5; and it shall not represent any conflict of interest with PHS's obligations with respect to the Health Center, and the County Commission hereby waives any rights to claim any such conflict of interest or any other claims for damages whatsoever based solely thereon.

Section 8. Insurance.

8.1 PHS and LCMC shall obtain, at their own expense, individual medical liability coverage for their employees. PHS will maintain, at its sole and separate expense,

adequate all risks casualty insurance on the contents and other property owned by PHS or LCMC at the Health Center, and public liability (i.e., personal injury and property damage) insurance covering acts within the Health Center as is customarily carried in respect to health care facilities in New Mexico. Such insurance shall cover only those portions of the premises, if any, over which LCMC has the sole and exclusive right of control and shall be effective only for such times as LCMC has the sole and exclusive right of control.

8.2 PHS may establish the terms and limits of all insurance required by this Section in excess of the minimum, to the extent that such coverage is provided to other health care facilities operated by PHS. All insurance policies carried pursuant to the above requirement shall, to the extent obtainable, have attached thereto an endorsement that the same shall not be canceled or changed without prior written notice to PHS and the County Commission. LCMC, through PHS, shall also maintain unemployment and workmen's compensation coverage for its employees at the Health Center. The County Commission, LCMC, and PHS waive the right to recover damages each from the other arising from damages to the premises or the contents of the premises during the term of this Agreement or extension thereof to the extent covered by fire and casualty insurance.

Section 9. Defaults or Termination.

9.1 **Defaults.** The following shall constitute events of default hereunder:

- A. The failure of a party to pay any undisputed amount which may become due to another party hereunder for a period of ninety (90) days after such undisputed amount is payable.
- B. The failure of either party to perform, keep, or fulfill any of the other covenants, undertakings, obligations, or conditions set forth in this Agreement and the continuance of any such default for a period of fifteen (15) days after written notice of such failure, provided that if, upon receipt of such notice, the party charged with a default shall promptly and with due diligence cure the alleged default, or take and continue to take action to cure such alleged default with all due diligence (if such default is not possible to be cured within such fifteen (15) day period), then no default shall have occurred. Upon notice of termination under this section, which notice shall be given within thirty (30) days of the date of the first written notice of default that is required hereunder, the parties shall, at the sole election of the County, continue to perform their obligations under this Agreement for a period of up to ninety (90) days from the date of such notice, such period to be specified by the County, to allow for an orderly

transition of services.

9.2 Termination.

- A. This Agreement may be terminated by mutual agreement of both parties at any time.
- B. This Agreement may be terminated upon ninety (90) days' written notice by either party. Such notice shall be delivered in accordance with Section 15 hereof.
- C. This Agreement shall terminate in the event the underlying Land Lease for the premises comprising the Health Center is terminated. Termination shall be effective as of the date of termination of the underlying Land Lease.
- D. This Agreement may be terminated by LCMC in the event that the County does not approve adequate funding, as determined by PHS or LCMC at their sole discretion, for the operation of that Health Center effective as of the end of the year for which funding has been approved.

9.3 Monies Due on Termination. Upon any termination hereof, the County Commission shall promptly pay to LCMC, and LCMC shall pay to the County Commission, any accrued but unpaid sums due hereunder.

9.4 Termination on Destruction or Condemnation. This Agreement may be terminated upon thirty (30) days' notice from LCMC to the County Commission upon destruction or condemnation of all or a significant portion of the Health Center. During the period following destruction or termination and continuing until termination, LCMC shall be relieved of its obligation to operate the Health Center to the extent such operation is impracticable.

9.5 Termination upon Legal Impairment of Health Center. This Agreement shall be terminated:

- A. if the Health Center's applicable license or third-party provider agreements essential for the Health Center's operations are at any time suspended, terminated, or revoked for a period of thirty (30) consecutive days; or
- B. if the Health Center or a substantial part thereof shall be damaged or destroyed by fire or other act of God, or other uninsured casualty, and the County Commission fails to undertake diligent and timely repair, restoration, rebuilding, or replacement of any such damage or destruction to be completed one hundred twenty (120) days after such damage or destruction.

Section 10. Approval by County Commission and Mill Levy.

Any request by PHS or LCMC to utilize mill levy surpluses must be presented in writing to the County of Lincoln Commissions prior to encumbrance or expenditure of funds. Such

requests will be reviewed and acted upon at the next regularly scheduled meeting of the County of Lincoln Commissions after submission of the request. In the event of an emergency or other unexpected occurrence which requires an immediate commitment of mill levy surplus funds, PHS and LCMC may request an emergency meeting of the Board of Commissioners according to the Open Meetings Act Ordinance adopted by the Commission.

Section 11. Furniture, Fixtures, and Equipment.

11.1 PHS agrees and consents to keep and maintain the County's equipment in good order and repair during the term hereof and any extension or renewal hereof. It is agreed that all equipment replacements, all equipment purchased with County funds through the operations of the Health Center, and all equipment donated to the Health Center, shall be and remain the property of the County of Lincoln for use in said Health Center. All PHS or LCMC property and equipment will remain the property of PHS or LCMC. At the time of termination hereof, or any extension or renewal hereof, PHS agrees to deliver to the County all of the County's equipment, including additions and replacements, in good order and repair, normal wear and tear excepted. Notwithstanding the foregoing, under no circumstances shall LCMC be responsible for any replacement of equipment required as a result of any activities or operations on the premises of the Health Center occurring during any period in which LCMC does not have the sole and exclusive right to occupy the premises of the Health Center.

Section 12. Discrimination.

12.1 **Employment.** There shall be no discrimination in employment, granting medical staff privileges, or availability of clinic facilities on account of race, color, religion, age, sex, sexual orientation, national origin, ancestry, gender identity, or physical or mental handicap.

12.2 **Services.** PHS undertakes that Health Center services shall be provided to the residents of Lincoln County, New Mexico, and such other persons who may legitimately require them, without regard to race, color, religion, age, sex, sexual orientation, national origin, ancestry, gender identity, physical or mental handicap, or ability to pay for such services, within available resources of the Health Center.

Section 13. Successors and Assigns.

This Agreement is not subject to assignment by PHS without the prior approval of the County Commission. In the event approval is requested and granted, the terms, provisions, covenants, undertakings, agreements, and obligations of this Agreement shall be binding upon and shall inure to the benefit of the transferees, successors in interest and the assigns of the parties hereto with the same effect as if mentioned in each instance where the party hereto is named or referred to. The County Commission shall not sell,

lease, or otherwise dispose of the Health Center except to a party who assumes the obligations of the County Commission hereunder.

Section 14. Omnibus Reconciliation Act.

Until the expiration of four (4) years after the furnishing of any services pursuant to this Agreement, the parties will make available, upon request from the Secretary of Health and Human Services, or the Controller General of the United States, or any of their duly authorized representatives, copies of this Agreement and any books, documents, records and other data of either party that are necessary to certify the nature and extent of costs incurred by either party for such services. If either party to this Agreement carries out any of its duties under this Agreement through a subcontracted with a related organization involving a value or cost of \$10,000 or more over a twelve (12) month period, each party will cause such subcontract to contain a clause to the effect that until the expiration of four (4) years after the furnishing of any services pursuant to this contract, the related organization will make available, upon request of the Secretary of Health and Human Services, or the Controller General of the United States, or any of their duly authorized representatives, copies of such contract and any books, documents, records and other data of such related organization that are necessary to certify the nature and extent of costs incurred by either party for such services.

Section 15. Notices.

All notices, requests, and approvals required or permitted to be given hereunder shall be in writing and shall be deposited in the U.S. mail, with postage prepaid, registered or certified, and, *if intended for the County Commission, addressed to:*

Board of County Commissioners of the County of Lincoln
P.O. Box 711
Carrizozo, New Mexico 88301-0711

With copy to:

Alan P. Morel, Lincoln County Attorney [*or his successor*]
P.O. Box 1030
Ruidoso, New Mexico 88355

If intended for PHS, addressed to:

Presbyterian Healthcare Services
Attn: Legal Department
P.O. Box 26666
Albuquerque, New Mexico 87125-6666

If intended for LCMC, addressed to:
Lincoln County Medical Center
Attention: Administrator
P.O. Box 8000
Ruidoso, New Mexico 88355

Any notice, request, or approval required or permitted to be given by any party hereunder shall be deemed effective upon receipt by the other party. Any of the foregoing parties may change their address for these purpose by such party giving notice of such change to each of the other foregoing parties in the manner herein above provided.

Section 16. Severability.

This Agreement is in conformance with and shall be governed by the laws of the State of New Mexico and Ordinances enacted by the Board of Commissioners of the County of Lincoln. In the event that any of the provisions or portions hereof of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions or portions thereof shall not be affected thereby.

Section 17. Legal Action.

In the event any party hereto resorts to legal action against another party, including any affiliate, to enforce the terms and provisions of this Agreement, the prevailing party of such action will be entitled to recover the costs of such action, including, without limitation, the reasonable legal fees and costs so incurred.

Section 18. Dispute Resolution.

Representatives of PHS and the County Commission will meet, at the request of either party, in an attempt to resolve any controversy or claim ("Dispute") relating to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Temporary Operating Agreement and Premises License as of the date above first written.

SIGNATURES FOLLOW ON NEXT PAGE

**COUNTY OF LINCOLN
BOARD OF COUNTY COMMISSIONERS**

By: Todd F. Proctor
Its: Chairman

ATTEST:

By: Shannan Hemphill
Its: Lincoln County Clerk

**PRESBYTERIAN HEALTHCARE
SERVICES**

By: Noah Knisely
Its: VP-Operations,
Regional Delivery System

LINCOLN COUNTY MEDICAL CENTER

By: Todd Oberheu
Its: Administrator

LAND LEASE AGREEMENT
between
**THE BOARD OF EDUCATION OF THE HONDO VALLEY PUBLIC SCHOOL
DISTRICT**
and
THE COUNTY OF LINCOLN
(Tract of Land upon which the Hondo Valley Healthcare Clinic is located)

This Land Lease Agreement ("Agreement") is made and entered into by and between THE BOARD OF EDUCATION OF THE HONDO VALLEY PUBLIC SCHOOL DISTRICT ("Lessor") and THE COUNTY OF LINCOLN, NEW MEXICO ("Lessee").

WHEREAS, Lessor, in its operation of the Hondo Valley Public School District, owns a certain Tract of Land (hereinafter "the Property") within the community of Hondo, County of Lincoln, State of New Mexico, and situated thereon is a building owned by the Lessee; and

WHEREAS, Lessee proposes to lease the Property from thereby allowing the utilization of Lessee's building located thereon for the purpose operating a non-profit community health clinic [by entering into a temporary operating agreement and premises license] for community needs, which will benefit Lessor, the community, the State of New Mexico and its political subdivisions;

NOW, THEREFORE, Lessee and Lessor agree as follows:

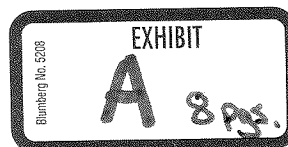
1. **Description.** The tract of land to be leased by Lessor to Lessee upon which the building is situated on is located on the northwest corner of the Hondo Valley School campus next to the entrance to the campus, as more particularly described on **Exhibit A** attached hereto, shall hereafter be referred to as the "Property."

2. **Term.** The base term shall be for four (4) years, with an effective date of the 21st day of May, 2022, and ending the 20th day of May, 2026. Upon expiration of the initial term, this Agreement shall automatically renew each year for a period of one (1) year unless terminated by the parties hereto pursuant to the termination provisions provided in this Agreement.

3. **Rent.** Lessee will provide \$1.00 per year to Lessor as fair market value rent for the lease of the Property. The parties to this Lease Agreement hereby affirmatively state that the \$1.00 per year lease represents fair market value rent for the lease of the Property considering the cost for providing and operating a community health clinic, and further considering the amount of subsidy required to provide for the operation of a rural health clinic. Additional consideration for the \$1.00 per year lease is based upon the County's desire to provide health care and health maintenance services to the Hondo school children and, sick and/or indigent persons of the Hondo Valley.

4. **Prior Inspection.** A joint physical survey and inspection report of the leased Property shall be made on or about the effective date of this Lease, reflecting the then present condition of

Lease Agreement – Tract of Land upon which the Hondo Valley Healthcare Clinic is located – Prepared 12/9/22



the Property. Lessee hereby acknowledges that it knows the condition of said Property, that no representations as to the same have been made by Lessor, and that Lessee hereby accepts the Property "as is" in its present condition.

5. Ownership of Improvements. All improvements on and to the Property shall be owned by the Lessee during the term of this Agreement, and upon expiration of the term said improvements shall remain the property of the Lessor.

6. Taxes. Lessee assumes and agrees to pay, before they become delinquent, if lawfully owed, any general property taxes which may be lawfully levied and assessed against either the Property or the improvements constructed thereon, or both, during the term of this Agreement; provided that Lessee may, in good faith, contest the amount or validity of such taxes and, in such event, permit the taxes to remain unpaid while contested, unless because of the delay, the Property may be subject to loss. Lessee will indemnify Lessor and hold Lessor harmless from any and all tax liabilities on the property.

7. Utilities. Lessee or its designee will promptly pay all utility charges which may be incurred in connection with Lessee's use of the Property, and will indemnify Lessor and hold Lessor harmless therefrom. The term "utilities" includes, but is not limited to, water, gas, electric, and waste disposal.

8. Maintenance. Lessee or its designee shall, at Lessee's or Lessee's designee's sole expense, keep and maintain the Property and all improvements thereon in a reasonable state of repair and preservation, and shall not suffer or permit any continuing nuisance thereon.

9. Assignment and Subletting. Lessee may assign, sublet the Property, or any part thereof, without the express written consent of the Lessor. The parties to this Agreement acknowledge and anticipate that the Lessee intends to enter into a temporary operating agreement and premises license with another entity for the purpose of providing and operating a community health clinic.

10. Inspection. Lessee will permit Lessor to come upon the Property at all reasonable times in order to inspect the condition, use, safety, or security of the Property.

11. Law. Lessee will comply with all applicable federal, state and local laws, and with all applicable rules and regulations of Lessor, and will insure that those persons using the Property also comply. Failure to comply with all applicable laws and prerequisites as noted in this document will result in the reversion of the Property to the Lessor.

12. Non-Discrimination. Lessee, with respect to employment and use of the Property, shall not discriminate unlawfully with respect to race, sex, national origin, or any class protected against discrimination by applicable state or federal laws.

13. Liability Allocation. 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.

14. **Enforcement.** A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

15. **Notices.** All notices relating to this Agreement shall be in writing and delivered to the following address and if mailed, sent certified or registered mail:

Lessor: Board of Education
Hondo Valley Public School District
Attention: Superintendent
P.O. Box 55
Hondo, New Mexico 88336
Phone (575) 653-4411

Lessee: Board of County Commissioners
Attention: Lincoln County Manager
P.O. Box 711
Carrizozo, New Mexico 88301-0711
(575) 648-2385

16. **Waiver.** No failure on the part of Lessor to exercise, nor delay in exercising, any right, power, or privilege shall constitute a waiver of such right, power, or privilege. The rights and/or limitations herein provided are cumulative and not exclusive of any rights and/or remedies otherwise provided by law or equity.

17. **Expiration.** Upon termination of this Agreement by reason of the expiration of the term, or any extended term, Lessee will peaceably surrender to Lessor possession of the Property and all improvements thereon in good condition and repair, reasonable wear excepted.

18. **Insurance.** Lessee or its designee shall, at its expense, maintain in full force and effect during the term of this Agreement and any extension(s) hereof at Lessee's or its designee's expense, public liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to Lessor. Such insurance policies shall name both Lessor, Lessee and its designee as insureds, and list Lessor as an additional insured with limits of coverage not less than Five Hundred Thousand Dollars (\$500,000) for injury or death to any other person; One Million Dollars (\$1,000,000) for any accident; and Five Hundred Thousand Dollars (\$500,000) with respect to damage to property. Such policies shall provide for at least ten (10) days prior notice to Lessor and Lessee of cancellation. At least ten (10) days before any such policy expires, Lessee or its designee shall supply Lessor with a substitute therefore, together with evidence that the premiums therefore were paid. If Lessee or its designee fails to

do so, Lessor may procure such policies or pay such premiums. In such event, Lessee or its designee shall be responsible for reimbursing Lessor the cost of said insurance. Lessee or its designee shall carry and maintain in full force and effect during the term of this Lease and any renewal thereof, at Lessee's or its designee's expense, fire and extended coverage insurance upon all buildings, alterations, additions, and improvements in an amount equal to the replacement value of such buildings, alterations, additions, and improvements. In the event that such buildings, additions, and improvements should be destroyed or substantially damaged in whole or in part, and such loss is covered by fire and extended coverage insurance, Lessor will use the proceeds to replace or repair such buildings, additions or improvements; however, if Lessor determines not to replace and repair the buildings, additions, and improvements, it must first use the proceeds to clear the leased Property of all such buildings, additions, and improvements, including foundations, and thereafter, this Agreement will be deemed to be terminated.

19. Default of Lessee and Remedies of Lessor. Should Lessee or its designee at any time be in default with respect to any provisions of this Agreement, including, but not limited to, failure to pay taxes, abandonment of the Property, failure to pay rent, or breach or default of any other term, covenant, or condition of this Agreement, and should such default continue for a period of five (5) days after written notice from Lessor to Lessee or its designee; or should Lessee or its designee be in default in the prompt and full performance of any other of its promises, covenants, or agreements herein contained and should such default or breach of performance continue for a period of twenty (20) days after written notice thereof from Lessor to Lessee or its designee specifying the particulars of such default or breach of performance (provided, however, if Lessor is required to send more than two (2) written notices of default of any kind in any Lease year, then Lessee or its designee shall be in default under this Agreement, notwithstanding any attempts to cure after the third failure by Lessee or its designee to timely perform), then Lessor may treat the occurrence of any one (1) or more of the foregoing events as a breach of this Agreement, and in addition to any or all other rights or remedies of Lessor and by law provided, it shall be, at the option of the Lessor, without further notice or demand of any kind to Lessee or its designee or any other person:

(a) the right of Lessor to declare the term hereof ended, to terminate this Agreement and take possession thereof and remove all persons therefrom, and Lessee or its designee shall have no further claim thereon or hereunder to the Property; or

(b) the right of the Lessor without declaring this Agreement ended to take possession of the Property and occupy the whole or any part thereof for and on account of tenant and to collect any unpaid rentals and other charges which have become payable or which may thereafter become payable; or

(c) the right of the Lessor, even though it may have taken possession of the Property, to thereafter elect to terminate this Agreement and all the rights of Lessee in or to the premises.

20. Uses to be Made of Property. Lessor acknowledges that Lessee or its designee intends to utilize the building located on the Property for the purposes of a community health clinic and for such other lawful purposes as the Lessor shall consent to in writing. Should Lessee

Lease Agreement – Tract of Land upon which the Hondo Valley Healthcare Clinic is located Prepared 12/9/22

use the Property for any commercial purposes, this Agreement shall terminate automatically. In no event shall the Property be used for any unlawful purpose or other purpose constituting or creating a public or private nuisance. Lessee and Lessor or its designee agree that any nurse, doctor, or other employee employed by or providing services within the health clinic shall not be deemed an employee of the Hondo Valley School District. Lessee agrees to provide a sign for the health clinic which clearly indicates that the Lessee or its designee, and not the Lessor, manages and operates the health clinic. Additionally, Lessee agrees to include on its stationery and all other forms of communication with the public that the health clinic is managed by Lessee or its designee and not Lessor.

21. Termination of Lessor.

Lessor expressly reserves the right to terminate this Agreement if, in the discretion of Lessor, the land on which the Property is located is needed for other school purposes. Lessor may exercise its right under this paragraph by giving Lessee ninety (90) days' written notice by certified or registered mail.

22. General Provisions.

A. New Mexico Law. This Contract and all documents executed are deemed to be contracts under the laws of the State of New Mexico, and for all purposes shall be construed in accordance with such laws.

B. Venue and Jurisdiction. The parties irrevocably agree that venue and jurisdiction are proper in the State of New Mexico and any legal action, suit or proceedings against them, jointly or severally, with respect to enforcement of any matter under or arising out of or in connection with this Contract, shall be brought within the State of New Mexico.

C. Severability: Should any one or more of the provisions contained in this Agreement be for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

D. Entire Agreement. This instrument and the Exhibits attached set forth the entire Agreement between the parties. All negotiations relative to the matters contemplated by this Agreement are merged and there are no other understandings or agreements relating to the matters set forth, other than those incorporated in this Agreement.

E. Modification: No provision of this Agreement shall be altered, amended, revoked or waived, except by an instrument in writing signed by the parties sought to be charged with such amendment, revocation or waiver.

F. Binding Effect: Each party acknowledges that they have read and understand this Agreement, that it is contractual and binding, and each party has had the benefit of independent legal counsel and executes the same as their own free will and accord for the purposes and considerations set forth herein.

G. Authority: Each party by signing this Agreement hereby agrees that they are Authorized to sign the same on behalf of the above named entities thereby binding each other individually as well as their respective entities.

H. Construction: This Agreement shall not be construed against any party for having drafted it or for having the Agreement drafted by such party's counsel.

I. Further Documents: The parties shall, in good faith, execute such additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

J. Remedies Upon Breach: Upon breach of this Agreement by a party, the other party hereto shall be entitled to seek and recover all damages and other remedies available to such party at law, in equity or under the terms of this Agreement, including all costs of litigation and reasonable attorneys' fees.

K. Execution: This Agreement may be executed in one or more counterparts, each of which is deemed to be an original, and all of which will together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals.

DATED this 17th day of January 2023 ~~December, 2022.~~

BOARD OF EDUCATION OF THE
HONDO VALLEY PUBLIC SCHOOL DISTRICT

By: James M. Coz
Its: President

Attest:

[Signature]
Secretary

[seal]

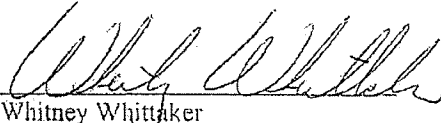
DATED this 20th day of December, 2022.

COUNTY OF LINCOLN
BOARD OF COUNTY COMMISSIONERS

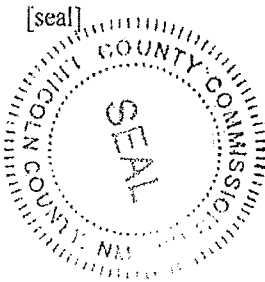


By: Thomas F. Stewart
Its: Chairman

Attest:

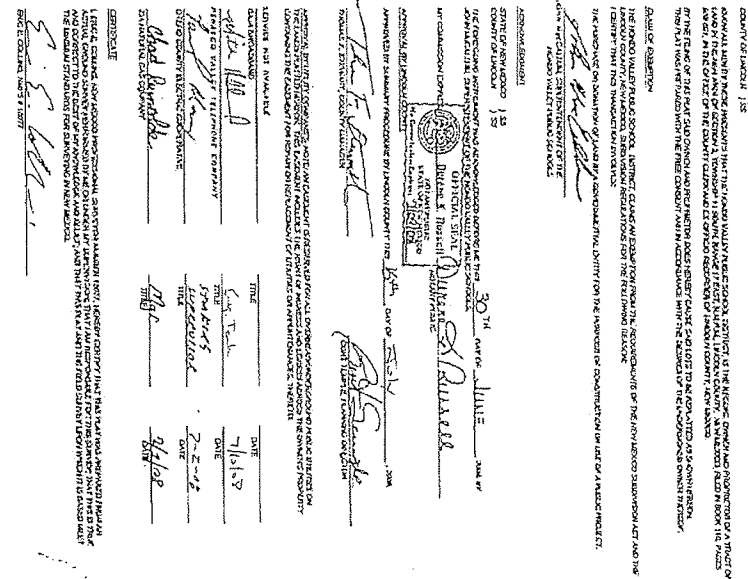


Whitney Whittaker
Lincoln County Clerk



6500 FURNACE • NEWEST WEAPONS
 (733) 677-7467

JULY 2008



7
TULAH COUNTY
OKLAHOMA

10

EXHIBIT
A

LAND LEASE AGREEMENT
between
THE BOARD OF EDUCATION OF THE HONDO VALLEY PUBLIC SCHOOL DISTRICT
and
THE COUNTY OF LINCOLN
(Tract of Land upon which the Hondo Valley Healthcare Clinic is located)

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WHEREAS, Lessee proposes to lease the Property from thereby allowing the utilization of Lessee's building located thereon for the purpose operating a non-profit community health clinic [by entering into a temporary operating agreement and premises license] for community needs, which will benefit Lessor, the community, the State of New Mexico and its political subdivisions;

NOW, THEREFORE, Lessee and Lessor agree as follows:

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Lease Agreement – Tract of Land upon which the Hondo Valley Healthcare Clinic is located – Prepared 12/9/22



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Lessor: Board of Education
Hondo Valley Public School District
Attention: Superintendent
P.O. Box 55
Hondo, New Mexico 88336
Phone (575) 653-4411

Lessee: Board of County Commissioners
Attention: Lincoln County Manager
P.O. Box 711
Carrizozo, New Mexico 88301-0711
(575) 648-2385

16. **Waiver.** No failure on the part of Lessor to exercise, nor delay in exercising, any right, power, or privilege shall constitute a waiver of such right, power, or privilege. The rights and/or limitations herein provided are cumulative and not exclusive of any rights and/or remedies otherwise provided by law or equity.

17. **Expiration.** Upon termination of this Agreement by reason of the expiration of the term, or any extended term, Lessee will peaceably surrender to Lessor possession of the Property and all improvements thereon in good condition and repair, reasonable wear excepted.

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do so, Lessor may procure such policies or pay such premiums. In such event, Lessee or its designee shall be responsible for reimbursing Lessor the cost of said insurance. Lessee or its designee shall carry and maintain in full force and effect during the term of this Lease and any renewal thereof, at Lessee's or its designee's expense, fire and extended coverage insurance upon all buildings, alterations, additions, and improvements in an amount equal to the replacement value of such buildings, alterations, additions, and improvements. In the event that such buildings, additions, and improvements should be destroyed or substantially damaged in whole or in part, and such loss is covered by fire and extended coverage insurance, Lessor will use the proceeds to replace or repair such buildings, additions or improvements; however, if Lessor determines not to replace and repair the buildings, additions, and improvements, it must first use the proceeds to clear the leased Property of all such buildings, additions, and improvements, including foundations, and thereafter, this Agreement will be deemed to be terminated.

19. Default of Lessee and Remedies of Lessor. Should Lessee or its designee at any time be in default with respect to any provisions of this Agreement, including, but not limited to, failure to pay taxes, abandonment of the Property, failure to pay rent, or breach or default of any other term, covenant, or condition of this Agreement, and should such default continue for a period of five (5) days after written notice from Lessor to Lessee or its designee; or should Lessee or its designee be in default in the prompt and full performance of any other of its promises, covenants, or agreements herein contained and should such default or breach of performance continue for a period of twenty (20) days after written notice thereof from Lessor to Lessee or its designee specifying the particulars of such default or breach of performance (provided, however, if Lessor is required to send more than two (2) written notices of default of any kind in any Lease year, then Lessee or its designee shall be in default under this Agreement, notwithstanding any attempts to cure after the third failure by Lessee or its designee to timely perform), then Lessor may treat the occurrence of any one (1) or more of the foregoing events as a breach of this Agreement, and in addition to any or all other rights or remedies of Lessor and by law provided, it shall be, at the option of the Lessor, without further notice or demand of any kind to Lessee or its designee or any other person:

- (a) the right of Lessor to declare the term hereof ended, to terminate this Agreement and take possession thereof and remove all persons therefrom, and Lessee or its designee shall have no further claim thereon or hereunder to the Property; or

- (b) the right of the Lessor without declaring this Agreement ended to take possession of the Property and occupy the whole or any part thereof for and on account of tenant and to collect any unpaid rentals and other charges which have become payable or which may thereafter become payable; or

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Lease Agreement – Tract of Land upon which the Hondo Valley Healthcare Clinic is located Prepared 12/9/22

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B. Venue and Jurisdiction. The parties irrevocably agree that venue and jurisdiction are proper in the State of New Mexico and any legal action, suit or proceedings against them, jointly or severally, with respect to enforcement of any matter under or arising out of or in connection with this Contract, shall be brought within the State of New Mexico.

C. Severability: Should any one or more of the provisions contained in this Agreement be for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

D. Entire Agreement. This instrument and the Exhibits attached set forth the entire Agreement between the parties. All negotiations relative to the matters contemplated by this Agreement are merged and there are no other understandings or agreements relating to the matters set forth, other than those incorporated in this Agreement.

E. Modification: No provision of this Agreement shall be altered, amended, revoked or waived, except by an instrument in writing signed by the parties sought to be charged with such amendment, revocation or waiver.

F. Binding Effect: Each party acknowledges that they have read and understand this Agreement, that it is contractual and binding, and each party has had the benefit of independent legal counsel and executes the same as their own free will and accord for the purposes and considerations set forth herein.

G. Authority: Each party by signing this Agreement hereby agrees that they are Authorized to sign the same on behalf of the above named entities thereby binding each other individually as well as their respective entities.

H. Construction: This Agreement shall not be construed against any party for having drafted it or for having the Agreement drafted by such party's counsel.

I. Further Documents: The parties shall, in good faith, execute such additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

J. Remedies Upon Breach: Upon breach of this Agreement by a party, the other party hereto shall be entitled to seek and recover all damages and other remedies available to such party at law, in equity or under the terms of this Agreement, including all costs of litigation and reasonable attorneys' fees.

K. Execution: This Agreement may be executed in one or more counterparts, each of which is deemed to be an original, and all of which will together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals.

DATED this 17th day of January 2023 ~~December, 2022.~~

BOARD OF EDUCATION OF THE
HONDO VALLEY PUBLIC SCHOOL DISTRICT

By: James M. Coyle
Its: President

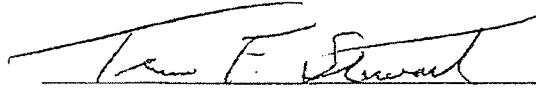
Attest:

Justine J.
Secretary

[seal]

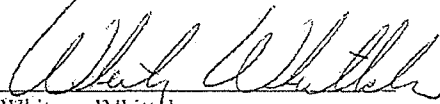
DATED this 20th day of December, 2022.

COUNTY OF LINCOLN
BOARD OF COUNTY COMMISSIONERS

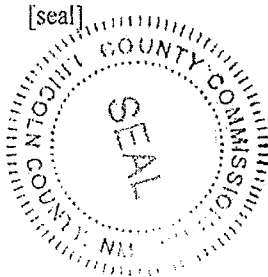


By: Thomas F. Stewart
Its: Chairman

Attest:



Whitney Whittaker
Lincoln County Clerk



J - 177

BOUNDARY SURVEY - NEW MEXICO

Sec 3 T11S R17E
SE 1/4 SW 1/4

BOUNDARY SURVEY - NEW MEXICO

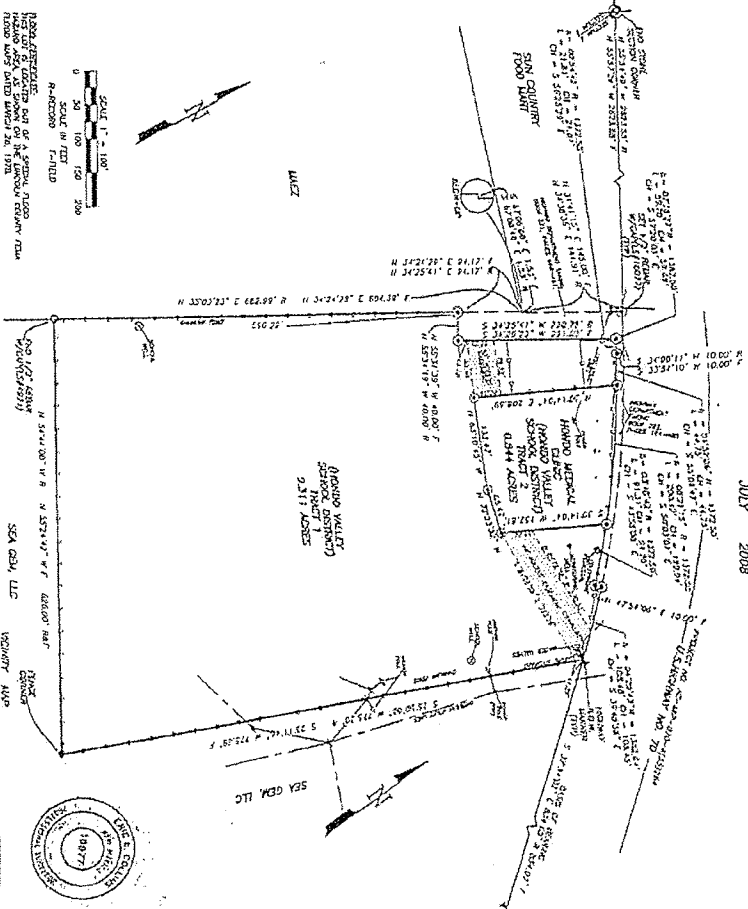
Claim of Exemption &
Boundary Survey
(Hondo Valley Public School Dist)
24 x 24

BOUNDARY SURVEY - NEW MEXICO

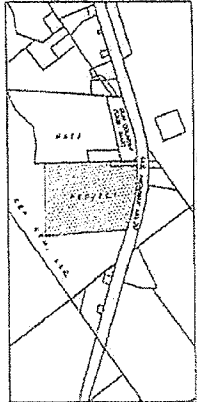
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BOUNDARY SURVEY - NEW MEXICO

BOUNDARY SURVEY PLAT
CLAIM OF EXEMPTION
A TRACT OF LAND IN THE
SE 1/4 SW 1/4 OF SECTION 3,
T 11 S, R 17 E, N.M.P.M.,
LINCOLN COUNTY, NEW MEXICO
JULY 2008



D.J. COLLINS & ASSOCIATES P.C.
SURVEYING, L.L.P.
1042 MEDICAL CENTER
SUITE 100
RUIDOSO, LINCOLN COUNTY, NEW MEXICO
87-400



SECTION 3
T 11 S, R 17 E, N.M.P.M.
LINCOLN COUNTY, NEW MEXICO
JULY 2008

BOUNDARY SURVEY
CLAIM OF EXEMPTION
A TRACT OF LAND IN THE
SE 1/4 SW 1/4 OF SECTION 3,
T 11 S, R 17 E, N.M.P.M.,
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JULY 2008

SECTION 3
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LINCOLN COUNTY, NEW MEXICO
JULY 2008

SECTION 3
T 11 S, R 17 E, N.M.P.M.
LINCOLN COUNTY, NEW MEXICO
JULY 2008





County of Lincoln

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AGENDA ITEM NO. 15

1) New Mexico Counties (NMC) Hosts Harassment Prevention Training – 2/23/2023

Mark Allen (NMC HR attorney) facilitates many trainings that are offered to our county at no cost. Some trainings are designed for supervisors, while this training was geared for all employees.

This training will provide the participant an understanding of the behavior and conduct which constitutes unlawful harassment on the basis of sex, sexual orientation, gender identity, race, color, religion, national origin, age (40+), and disability. Participants will learn the difference between quid pro quo sexual harassment and hostile work environment, who can be considered harassers, and that illegal harassment is not limited to the workplace.

2) Consolidated Dispatch Update

The Village of Ruidoso is still working on the Horton Complex that will contain the dispatch center. The County of Lincoln, Ruidoso and Ruidoso Downs are still working on finalizing an agreement between the entities. Preliminary numbers show that the County of Lincoln will be paying around \$500,000 per year based on charging per call volume. Current County dispatchers will be offered a VOR dispatch job when the consolidation takes place. Current budgeted FTE salary and benefit cost to the county is around \$417,000 – Seven positions.

3) Kick-off Meeting for the Lincoln County Multi-jurisdictional Hazard Mitigation Plan

Wendy Blackwell - SWCA Environmental Consultants – Lead the meeting to introduce and discuss the Planning Team role, planning process, timeline, and community involvement approach. The VOR is the Lead for the Contract. VOR, Ruidoso Downs, Village of Capitan and Lincoln County were all present (we discussed reaching out to Village of Corona). This is a new project for me and will have to learn as we go. Joe Kenmore and a few others have worked on Hazard Mitigation Plans in the past – We will be leaning on them for support.

4) Report a Road Concern is Up and Running on the Website.

www.lincolncountynm.gov / How Do I / REPORT ROAD CONCERN

This form automatically emails Road Superintendent, Admin, me and the Road Foreman. Provided phone numbers, pictures and email addresses help staff respond to concerns and organize the work schedule. Please ask residents, employees and elected officials to utilize this tool.

5) Meeting with Penasco Valley Telephone – Mitch Hibbard

Mitch Hibbard met with staff to update us on the Lincoln Fiber Project and the future plans of installing fiber in Lincoln County. He will be able to present at the 4/18/23 BOCC meeting.

6) Sun Valley Fire Station – Open House 3/7/2023

The open house was a great success. I want to thank everyone for attending and welcoming this new building to our fire team.

7) Lincoln County Recovery Coordination Meeting (DR-4652)

Every two weeks we join the NMDHSEM team to discuss the latest progress on our recovery efforts (McBride and Nogal Fires). FEMA NMDHS, County, VOR EDA and many more teams give the latest update and try to set achievable goals before the next meeting. Progress has been made with EDA (future funding opportunities). We still have NOT been reimbursed for CAT A & B (debris clean up).

8) Pre-Bid Conference for IFB 22-23-3 Lincoln County Courthouse Drainage Improvements 3/10/23

A virtual Pre-Bid conference was held for the courtyard drainage project. Only one company attended the discussion. Bids are due 3/21/2023. BOCC will get updates as soon as complete the IFB Process.

9) Director's Reports



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Director's Report

Date: _____

Name: _____

Department: _____

Vacancies in Department: _____

Activities:

- _____

- _____

- _____

- _____

- _____

- _____

- _____

Future Projects / Plans:



County of Lincoln

109 Kansas City Road Ruidoso, New Mexico 88345 * (575) 258-5934

www.lincolncountynm.gov

March 6, 2023

Dear Lincoln County Residents:

After internal review of accounts and paperwork it has come to the Lincoln County Solid Waste Department's attention that we need a complete, updated application for your 300-acre exemption in accordance with Ordinance 2017-07.

Enclosed is an application that needs to be filled out and returned to the Lincoln County Solid Waste Department by June 1, 2023. Failure to get the application back to the solid waste department, by the due date, will result in the 300-acre exemption being null and void. The solid waste department will resume billing the property on July 1, 2023.

With this application you will also need to provide proof that the New Mexico Environmental Department has approved the way in which you dispose of your solid waste.

The 300-acre exemption certifies that the property owner disposes of their domestic solid waste on site and does not utilize the solid waste collection system. Any violation will result in the 300-acre exemption being null and void.

If you have any questions, please call the solid waste department at the number listed below.

Sincerely,

Kyla Helton
Solid Waste Clerk
khelton@lincolncountynm.com
(575)-258-5934
Lincoln County, NM



County of Lincoln

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Director's Report

Date: 03/16/2023

Name: Brianna Ventura

Department: HR/AA

Vacancies in Department: 0

Activities:

- Attended Harassment Prevention Training on 2/23/2023 via Webinar by Mark Allen, NMC Attorney
- Attended Effective Employee Discipline Training on 2/28/2023 via Webinar by Mark Allen, NMC Attorney
- Met with Public Works Department to review Lodger's Tax Audit procedures as well as Lodger's Tax Committee procedures.
- Updated all WC Claim Reports for 2022. Claims are as follows: Total # of deaths- 0; Total number of cases with days away from work-2; Total number of cases with job transfer or restrictions-2; Total number of other recordable cases-0; Total number of days away from work - 33 days; Total number of days of job transfer/restrictions - 60; Total of: Injuries - 4; Skin Disorders - 0; Respiratory conditions - 0; Poisonings - 0; Hearing loss - 0; All other illnesses (recordable) - 0; Total Record Only Reports - 16
- Current openings: Part-Time cook in Corona; Dispatcher; Sheriff's Certified Deputy; Sheriff's Uncertified Deputy; Operator II
-

Future Projects / Plans:

Currently working on updating phone system as we have multiple issues with the current system.

Continuously updating/fixing website.

Will attend another webinar on 3/30/2023 from Mark Allen regarding Understanding&Preventing Whistleblower & Retaliation Claims. This training is HIGHLY recommended to any/all supervisors/elected officials.



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Director's Report

Date: 3/15/2023

Name: Joe P. Kenmore

Department: OES

Vacancies in Department: 0

Activities:

- Call in last 30 days- 2- brush fires, 4- vehicle accidents, 2-alarms, 1- compactor fire, 2-smoke calls, 1-structure fire, 3- Hazard Power lines in road and tree into house, 2-cancelled in route.

- Fire investigation for structure

- Strategy meeting with USFS, BLM, State Forestry, OES Staff, Capitan FD, Ruidoso FD, LC Sheriff's Office and other affiliated Staff per department.

- Wildland refreshers are done except for 1 in April. This is an annual refresher for safety of all Dept.s

- Brian and Joe are working with the FEMA group to push the forms and paperwork to them as fast as they can take it. It then has to go through the NMDHSEM for approval to pay.

- PERA for the Volunteers at the departments for the retirement has to be in by the end of March.

-

Future Projects / Plans:

Fiber is in place and turn up should be on 3/22

OES is having another meeting with USFS, BLM, St Forestry, and all Dept.'s to plan our strategy for the upcoming fore season.



Lincoln County Fire & Emergency Services

Fire Administration



111 Copper Ridge Road Capitan, N.M. 88316 * Office 575-336-8600 * Fax 575-336-8638

OES 3/14/2023

3/6/2023 Motor Vehicle Accident Cedar Creek off Rainwater. Vehicle reported in the river and Arron and I went as it was not sure where exactly the location and river area. Bonito FD and Ruidoso FD on scene and no injuries.

2/28/2023 03:00 Called to a structure fire on White Angel Mesa. When arriving structure was totally involved. Ruidoso and Ruidoso Downs Fire came up to assist Glencoe and Hondo FD. Bonito was paged to help with manpower. No other personnel were needed. Arron Griewahn was IC and Brian Samson was lead in attack. I helped to get trucks and personnel into scene, got Air Trailer, and relay for Arron tasks. This wasn't finished until 15:00 that afternoon.

3/25/2023 Motor Vehicle Accident on Ski Run Road at about 1:15 with some traffic and we were in route to Buck with the Argo to check comm's after wind storm. Truck was partially off the road with moderate front end damage and driver was out and not injured. S.O. and EMS were in Rout and Arron stayed on scene to protect all from traffic.

The need for OES to be at these incidents to know if more assistance is needed and be able to get the appropriate station and apparatus in route.

Vehicle accident response from OES is to help with both Fire and EMS. Keep the scene as safe for all departments on scene.



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Director's Report

Date: 3-15-23

Name: Jeff Honeycutt

Department: Road

Vacancies in Department: 1 Operator II

Activities:

- 2 New Hires Ronald Aragon from Hondo and Ryan Koch from Ruidoso both Operator II's
Received 2 new Motor Graders (150 All Wheel Drive) still need 3 more (120 All Wheel Drives).
- Met with Eric from Wilson and Company to finalize plan set for Phase 1A on the Fairgrounds parking lot. (Jeff).
Training employee (Frankie) on Motor Grader for 2 weeks (Walter).
- Met with Pattern onsite for Variance request on Turbine setback (Walter).
Hauled Caliche on Red Bluff road at the end of Highway 247/Highway 285 one week all the trucks.(Crew).
- Bladed Forest road 120, met with Forest Service Road Manager on supplying more material for roadway.(Nick, Jeff).
Received Permit for work on Fairgrounds remodel house 2/21/23.(Jeff)
- Started Demo on Fairgrounds remodel house, passed first inspection on 2/28/23. Framing has started.(John,Gilbert,Raymond)
Snow and Ice removal on 2/21, 2/22,2/23. (Crew).
- Installed new culvert at 351 Enchanted Forest Loop. (Crew).
Cleaned Cattle Guards on Border Hill mile marker 307 on Highway 70. (Mike, Dennis,Frederich)
- Issued 6 new addresses, made 9 new street signs, issued 10 driveway permits, did 29 address verifications.(Janett).
Submitted application for Phase II funding for Las Colinas grant in Palo Verde Slopes 1.5 million (Jeff, Ira, Eric)

Future Projects / Plans:

SERTPO meeting in March (Jeff)

Meeting with Pattern about material that needs to be replaced on roads that were used recently (Jeff, Walter)

Meeting with NMDOT on funding for next year's maintenance projects LGRF (Lower Eagle Creek) Jeff.

Start Fairgrounds Phase 1A project, mobilization to start on 3/22/23 with Contractor (Jeff).



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Director's Report

Date: 3/15/23

Name: Renee Montes

Department: Senior Centers

Vacancies in Department: Part time Cook position open in Corona

Activities:

- Working on ALTSD Capital Outlay requests. Due May 31, 2023

- Renovations are progressing at the Corona Site.

- Vehicles have been ordered. Waiting on delivery.

- Equipment grant for Hondo Site is in progress

- The Senior Initiative Food Pantry is held at the Ruidoso Downs Site on
the 4th Tuesday of every month.

- _____

Future Projects / Plans: _____

Submit Capital Outlay request. Deadline May 31st.



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AGENDA ITEM NO. 16

SUBJECT:

Lincoln County Fairgrounds House Update – Road Superintendent, Jeffrey Honeycutt

Tuesday, March 21, 2023

Brianna Ventura

From: Jeffrey Honeycutt
Sent: Wednesday, March 15, 2023 10:17 AM
To: Ira Pearson
Cc: Brianna Ventura; Janett Herrera
Subject: RE: Fairgrounds house update
Attachments: Copy of Remodel Accounting31523.xlsx

Morning Ira,

Please see the attached spreadsheet of the running cost total for materials purchased so far for the Fairgrounds House Remodel. Along with the cost you will also see an associated PO number by which those materials were purchased.

Progress:

- Permit was issued/received on 2/21/23 from the State CID office, 1st inspection was passed on 2/28/23.
- Demo work has started, windows installed, some framing work completed.
- Section of roof on the back portion of the house has been raised to match existing roof line.
- Framing inspection scheduled for next week.

Timeframe:

- Still shooting for a completion date of May 18, 2023.

Cost to date:

- Please see attached spreadsheet.

Let me know if you need anything further.

Thank you,

Jeff Honeycutt
Lincoln County Road Superintendent
575-354-2922 Office
575-808-1390 Cell
575-354-9412 Fax

From: Ira Pearson
Sent: Monday, March 13, 2023 7:54 AM
To: Jeffrey Honeycutt <jhoneycutt@lincolncountynm.gov>; Janett Herrera <JHerrera@lincolncountynm.gov>
Cc: Brianna Ventura <BVentura@lincolncountynm.gov>
Subject: Fairgrounds house update

Jeff,

Can you give me an update on the house remodel?

Progress?

Timeframe?

Fairgrounds House Remodel		PO		AMOUNT		
CONTRACTOR / PERMITS						\$6,000.00
SEPTIC / PLUMBING						\$14,950.00
Lowe's		915444		\$2,439.18		
Home Depot		915658		\$278.24		
ROOF						\$8,050.00
Lowe's		915444		\$679.32		
Foxworth		915461		\$1,828.60		
Champion Building Systems		915500		\$3,375.00		
Foxworth		915461		-\$59.99		
Lowe's		915657		\$227.11		
FURNACE / MECHANICAL						\$19,046.00
Lowe's		915444		\$346.86		
Ferguson		915457		\$1,582.99		
Ferguson		915505		\$4,879.71		
Ferguson		915457		\$134.94		
Lowe's		915657		\$2,497.72		
Ferguson		915457		\$39.90		
MATERIALS						\$22,308.00
Lowe's		915444		\$15.75		
Foxworth		915461		\$166.91		
Foxworth		915461		\$315.78		
Foxworth		915461		\$253.73		
Foxworth		915461		\$724.85		
Roper Const.		915652		\$874.50		
Foxworth		915461		\$961.88		
WINDOWS / DOORS						\$6,000.00
Lowe's		915444		\$1,214.68		
Lowe's		915657		\$1,458.06		
PROJECT/MATERIAL COST TO DATE				\$24,235.72		
				TOTAL APPROVED BY BOCC	\$76,354.00	



County of Lincoln

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AGENDA ITEM NO. 17

SUBJECT:

Lincoln County Lodger's Tax:

- a. Obtain Board of County Commissioner's Approval to Select Two (2) Specific Lodgers for Audit:
 1. Condotel aka Vacation Rental Pros – NM
 2. Caldwell Investment Holdings, LLC
- b. Obtain Board of County Commissioner's Random Selection of Two (2) Additional Lodgers for FY 21/22 Annual Audit
- c. Approval of Lodger's Tax Funding Request:
 1. Event: Ride Ruidoso – Spring Thunder Concerts
Amount Requested: \$20,000.00
Date(s) of Event(s): May 20, 2023
Presenter: Tim Roberts – Village of Ruidoso
- d. Consideration and Approval to Appoint Ashley Roberts to Lodger's Tax Committee

Tuesday, March 21, 2023



March 2, 2023

Ira Pearson, County Manager
Lincoln County
300 Central Avenue
P.O. Box 711
Carrizozo, New Mexico 88301

Dear Mr. Pearson

We are pleased to confirm our understanding of the terms of our engagement and the nature and limitations of the services we are to provide for Lincoln County.

We will apply the agreed-upon procedures listed in the attached schedule that were specified and agreed to by Lincoln County on the accounting records and Lodger's Tax reporting of four lodging establishments listed by Lincoln County as of and for the year ended June 30, 2022. Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA). Those standards require that we obtain your written agreement to the procedures to be applied and your acknowledgment that those procedures are appropriate for the intended purpose of the engagement, as described in this letter. A refusal to provide such agreement and acknowledgment will result in our withdrawal from the engagement. We make no representation that the procedures we will perform are appropriate for the intended purpose of the engagement or for any other purpose.

Because the agreed-upon procedures listed in the attached schedule do not constitute an examination or review, we will not express an opinion or conclusion on the accounting records and Lodger's Tax reporting of four lodging establishments listed within Lincoln County. In addition, we have no obligation to perform any procedures beyond those listed in the attached schedule.

We plan to begin our procedures on approximately March 24, 2023, and, unless unforeseeable problems are encountered, the engagement should be completed by May 21, 2023.

We will issue a written report upon completion of our engagement that lists the procedures performed and our findings. Our report will be addressed to Lincoln County and the parties specified in the report. If we encounter restrictions in performing our procedures, we will discuss the matter with you. If we determine the restrictions are appropriate, we will disclose the restrictions in our report. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

There may exist circumstances that, in our professional judgment, will require we withdraw from the engagement. Such circumstances include the following:

- You refuse to provide written agreement to the procedures and acknowledge that they are appropriate for the intended purpose of the engagement.
- You fail to provide requested written representations, or we conclude that there is sufficient doubt about the competence, integrity, ethical values, or diligence of those providing the written representations, or we conclude that the written representations provided are otherwise not reliable.
- We determine that the description of the procedures performed or the corresponding findings are misleading in the circumstances of the engagement.
- We determine that restrictions on the performance of procedures are not appropriate.

An agreed-upon procedures engagement is not designed to detect instances of fraud or noncompliance with laws or regulations; however, should any such matters come to our attention, we will communicate them in accordance with professional standards and applicable law. In addition, if, in connection with this engagement, matters come to our attention that contradict this, we will communicate such matters to you.

You agree to the procedures to be performed and acknowledge that they are appropriate for the intended purpose of the engagement.

You and the lodges are responsible for the accounting records and Lodger's Tax reporting of four lodging establishments listed within Lincoln County and that it is in accordance with attestation standards established by the American Institute of Certified Public Accountants; and for selecting the criteria and procedures and determining that such criteria and procedures are appropriate for your purposes. You are also responsible for, and agree to provide us with, a written assertion about the accounting records and Lodger's Tax reporting of four lodging establishments listed within Lincoln County. In addition, you are responsible for providing us with (1) access to all information of which you are aware that is relevant to the performance of the agreed-upon procedures on the subject matter, (2) additional information that we may request for the purpose of performing the agreed-upon procedures, and (3) unrestricted access to persons within the entity from whom we determine it necessary to obtain evidence relating to performing those procedures.

At the conclusion of our engagement, we will require certain written representations in the form of a representation letter from management that, among other things, will confirm management's responsibility for the accounting records and Lodger's Tax reporting of four lodging establishments listed within Lincoln County in accordance with attestation standards established by the American Institute of Certified Public Accountants.

Daniel O. Trujillo, CPA, CFE, CGFM, CGMA is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

Our fee for this service will be \$7,204, including gross receipts tax. The fee estimate is based on anticipated cooperation from your personnel and the lodges and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy, and return it to us. If the need for additional procedures arises, or the procedures need to be modified, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we will require that they acknowledge in writing their agreement with the procedures performed or to be performed and their responsibility for the sufficiency of procedures.

Very truly yours,

Kubiak Melton & Associates, LLC

Kubiak Melton & Associates, LLC

RESPONSE:

This letter correctly sets forth the understanding of Lincoln County.

Ara Pearson

County Manager

Date: 3/3/2023

Schedule of Agreed Upon Procedures

The agreed upon procedures we will apply are summarized as follows:

1. We will document our understanding of the nature of the Lodgers' Tax Act, Sections 3-38-13 through 3-38-24 NMSA, 1978, in conjunction with the County's Lodgers Tax Ordinance.
2. We will review and document the system in place at Lincoln County for the collection and recording of lodgers' (occupancy) tax receipts.
3. We will contact with the four lodger's tax establishments that are selected by the County for engagement. We will request documentation from the lodges and will provided procedures over that documentation to:
 - A. Determine the adequacy of the accounting records maintained by the four selected lodging establishments.
 - B. Determine whether the selected lodging establishments have properly reported and paid lodgers' (occupancy) tax to the County for the year ended June 30, 2022.
4. We will draft and submit a final report to the County.

Brianna Ventura

From: Michelle Williams
Sent: Friday, March 10, 2023 11:31 AM
To: Ira Pearson; Scott Annala; Francesca Herrera; Brianna Ventura; Sherrie Huddleston; Denise Gonzales; Troy Niederstadt
Subject: STR Audit.

Good morning,

After reviewing the files and records, I have narrowed down 2 STR's that I would strongly urge an audit for Lodger's tax.

Condotel a/k/a Vacation Rental Pros – NM reported \$0.00 in March of 2022. They reported \$10,576.63 in February 2022 and \$12,860.50 in April 2022. As we know, March is a very good month for STRs because of spring break. I have gone thru Rentalscape and pulled book activities for March 2022 for the file. Also, they have 35 properties attached to their reporting form for March 2022.

Caldwell Investment Holdings, LLC is another property that is on the radar. They haven't paid or reported \$0.00 in lodger's tax since November 2021. So, for audit purposes, they haven't paid 7 months of taxes or penalties. They still owe lodger's tax for this fiscal year and then signed up with Evolve in October of 2022. However, this is irrelevant for audit purposes. But we may want to present this to Alan Morel for a letter regarding delinquent taxes.

Michelle Williams

Lodging Vendor's Tax Administrator

mwilliams@lincolncountynm.gov

575-258-1232, ext. 24



County of Lincoln

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Agenda Item No. 6

SUBJECT:

Funding Requests:

- a. Event: Ride Ruidoso – Spring Thunder Concerts
Amount Requested: \$20,000.00
Date (s) of Event: May 20, 2023
Presenter: Tim Roberts-Village of Ruidoso



County of Lincoln

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www.lincolncountynm.gov

Name of Event: Ride Ruioso- Spring Thunder Concerts Date(s) of Event: May 20, 2023

Name of Organization(s) applying for Funding: Village of Ruidoso

Amount requested for consideration: \$20,000.00

The following list of items will be considered as the Board of County Commissioners and the Lodger's Tax Committee reviews your request for funding. If any space is left blank, please provide reasoning.

Describe Event:

Complimenting the AspenCash Motorcycle Rally in 2023, Ride Ruidoso brings you Spring Thunder benefit concerts at Wingfield Park with live music performances, including headliner band Molly Hatchet and more.

Have Lincoln County Lodger's Tax funds been requested for this event before? Please check one: yes ☐ no ☒

If yes:

How many years has Lincoln County Lodger's Tax funds been used for the Event listed below? NA

List past years' requested funding amount(s):

Year: NA Amount requested: NA Amount funded: NA

Year: NA Amount requested: NA Amount funded: NA

Year: NA Amount requested: NA Amount funded: NA

What is the estimated total cost of the Event listed above for this year? \$65,000.00

What percentage of the cost of the Event listed above are you requesting from the County? 30%

How will the Event track guests who attend to determine how many out-of-town guests utilized County lodging as a result of the Event? This event is in conjunction with AspenCash Motorcylce Rally which is a multi-day event. The event will also Include a motorcycle and car run that will follow the tour routes for the Ruidoso Adventure Tours around all of Lincoln County

Are there any in-kind or matching funds anticipated for the Event? Village of Ruidoso Lodger's tax

If funding is granted by the Board of County Commissioners, please list dollar amounts of how funds are anticipated to be used in advertising:

Newspaper advertising:	Radio:
Magazines:	Internet:
Printing:	Other:

What percentage of your budget is planned to be used for out-of-County advertising? _____


What sources and what amount of funding have been requested elsewhere?

The balance of funding is from Ruidoso Lodger's Tax and sponsorships.

Please feel free to add additional pages for consideration, and samples of past advertising or brochures.

STATEMENT OF UNDERSTANDING

I understand that I am requesting public funds and they are to be administered according to State Law and County Ordinances, and I agree to submit a follow-up report with a financial statement within ninety (90) days following the event or I may forfeit the funds. I understand that funding recommended for approval by the Lincoln County Lodger's Tax Committee must be approved by the Lincoln County Board of County Commissioners. I also understand that approved funding amounts may differ from the amount requested on this application.

Name of Applicant (Please Print): Tim Roberts- Village of Ruidoso	
Signature of Applicant: Timothy Roberts	 Digitally signed by Timothy Roberts Date: 2023.02.21 14:36:00 -07'00'
Address: Street/City/Zip: 313 Cree Meadows Drive Ruidoso NM, 88345	
Phone: 575-973-5604	Email: timothyroberts@ruidoso-nm.gov
Date submitted: 2/21/2023	

Please supply a list of attached documents, and include previous years' Event budgets:

NA- New Event

FOR COUNTY USE:
Date received: 02/21/2023
Received by: Brianna Ventura
Added to Lodger's Tax Committee Agenda scheduled for: February 28, 2023



Manager Pearson,

I hope this finds you well. As you are aware, the Village of Ruidoso will be launching our third annual *Ruidoso Adventure Tour* sweepstakes in March 2023. This annual event aims to increase tourism throughout Lincoln County by encouraging visitors to explore not only outdoor recreation opportunities within the Village of Ruidoso, but also the surrounding county and municipalities, including Capitan, Lincoln, Carrizozo, and White Oaks. The incentivize public involvement, the Village of Ruidoso has earmarked more than \$100,000.00 for sweepstake prizes, funded through our Lodger's Tax fund. This year, the *Ruidoso Adventure Tour* will be launched during our second annual Outdoor Expo being held at the Ruidoso Convention Center, March 11-12, 2023.

In conjunction with the *Ruidoso Adventure Tours*, the Village of Ruidoso has also committed to continuing our *Ride Ruidoso* events in 2023, including a May 20th, concert at Wingfield Park. *Ride Ruidoso* began in 2022 in response to the McBride Fire. This fundraising event was held in September 2022 and resulted in over \$70,000.00 being raised for four local charitable organizations as well as the Ruidoso Housing Trust Fund. The other non-profit organizations supported during this first event included the Boys and Girls Club, Toys for Tots, and the Community Foundation of Lincoln County. Following the success of this inaugural event, the Village of Ruidoso elected to continue the program and is planning a *Ride Ruidoso* concert for May 20th, 2023. This event is being supported through the Village of Ruidoso Lodger's Tax funds and we are seeking additional partners to help continue these successful events. For the May 20th, fundraiser, the Village is respectfully requesting \$20,000.00 in Lodger's Tax support from the County of Lincoln.

This event will not only bring in much-needed support funding for local charitable organizations but also increase tourism and economic development throughout all of Lincoln County. To that end, one of the primary activities planned during the event is an organized motorcycle and car run through Lincoln County. This *Armed Forces Day Run* will follow the routes already set in the *Ruidoso Adventure Tour* mobile application and will include stops in Lincoln, Capitan, White Oaks, and more. We sincerely appreciate the continued support the Village of Ruidoso receives from the County of Lincoln and look forward to expanded partnerships aimed at uplifting the economy and quality of life across the entire county.

Respectfully,

A handwritten signature in black ink, appearing to read "TR", is written over a horizontal line.

Tim Roberts

Village of Ruidoso

*Please find attached marketing information for the May 20th concert as well as last year's *Ruidoso Adventure Tour* program (as we are still finalizing the prizes for this year and plan on announcing those at the Outdoor Expo in a few weeks.)

2022 Ruidoso Adventure Tour

When: Until October 1st

Winners announced at Aspen Fest

Detail:

- There are 6 different themed self-guided tours that can be only accessed through the Discover Ruidoso App.
- Each tour had 5 different locations, the app uses the GPS on your phone to navigate you to the location and check you in once you are there
- You must check in to each 5 stops to get an entry
- You can get an entry for each tour (6 entries)
- If you do not have service, take a "selfie" at the location and the Chamber will manually enter you in

Tours:

- **Fishing**
- **Disc Golf**
- **4x4 Road- Jeep/OHV**
- **Hiking**
- **Mountain Biking**
- **Motorcycle**

Prizes:

- Ruidoso Vacation Package (Approximate value of \$3,500)
- 2022 Kona Process 153 (Mountain Bike size large) (Approximate Value of \$5,000)
- 2021 CFMOTO ZForce 950 (OHV) (Approximate Value of \$17,000)
- 2022 Harley Davidson Motorcycle Softtail Street Bob Approximate Value of \$18,000)
- 2022 No Boundaries 10.6 Series (Approximate Value of \$31,000)

This code will take you to the app



Ride Ruidoso Spring Thunder Concerts at Wingfield Park

Saturday, May
20, 2023
3:00 PM – 10:00
PM

Wingfield Park
300 Center
Street, Ruidoso,
NM, 88345,
United States
(map)

Google
Calendar · ICS

Complimenting the [AspenCash
Motorcycle Rally](#) in 2023, [Ride
Ruidoso](#) brings you **Spring
Thunder** benefit concerts at
Wingfield Park with live music
performances, including
headliner band Molly Hatchet
and more. [Buy Your Spring
Thunder Tickets Today!](#)



WINGFIELD PARK

RUIDOSO
NEW MEXICO

[Buy tickets today >>](#)

RIDE RUIDOSO SPRING THUNDER



English

20, 2023

Ticket options include premium reserved concert seating, general admission, and a 12 and under ticket. Kids 3 years and under get in free.

[BUY TICKETS](#)

CONCERT SCHEDULE

TBD 2:00 pm

Metallica Tribute- Kill EM All

4:00 pm

Motley Crue Tribute Band 6:00

pm

Molly Hatchet 8:00 pm

*Center Street) Unless
Otherwise Specified*

*Concert events benefit the
Community Foundation of
Lincoln County Shelter Fund,
Shop with a Cop, and the
Ruidoso Housing Trust Fund.*

Source::

<https://www.rideruidoso.com/tickets>

Posted in Festivals, Music,
Things to do in Ruidoso,
Summer

Tagged Wingfield Park, live
music, Things to do with friends
in Ruidoso, concert, Annual
Events, AspenCash Motorcycle
Rally, Ride Ruidoso 2023

♥ 0 Likes ➦ Share



AspenCash Motorcycle Rally at Ruidoso Convention Center

Later Event: May 26

Opening Weekend at Ruidoso Downs Race Track

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Receive trip ideas, top activities, and event reminders
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Subscribe today and receive news and updates and **get
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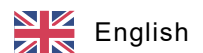
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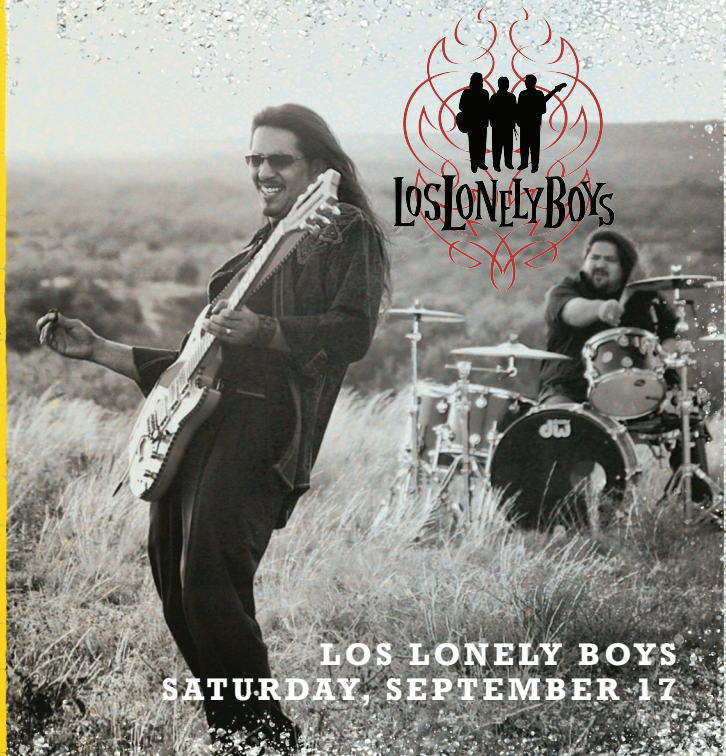
DISCLAIMER

Web strategy by The Agency





WINGFIELD PARK



Concert events will benefit victims of local natural disasters including the McBride Fire and replenish the resources of the Community Foundation of Lincoln County, the Community Foundation of Lincoln County Shelter Fund and the Ruidoso Housing Trust Fund

PRESENTING SPONSOR



- » Concerts
- » Toys for Tots Benefit Run
- » Toys for Tots Burn-out Competition
- » Bike Games
- » Bike Stunt Events
- » Beer, Wine & Food
- » Vendor Market & Swap Meet
- » Rusty Balls Car Show
- » House of Riders NM Bike Show
- » Scorpion Tattoo Contest
- » Ruidoso Valley Chamber of Commerce Pin-up Pageant

For more information visit
RideRuidoso.com

OUTDOOR *expo*

March 11-12 2023
Ruidoso Convention Center

RUIDOSO
— PARKS & RECREATION
LIVING IN NATURE'S PLAYGROUND

Lincoln County Lodgers' Tax Committee Minutes

Regular Meeting February, 28, 2023

Meeting conducted via Zoom

Members present: Sheri Rodgers, Coda Omness, and John Hemphill.

Members absent: Kathleen McDonald

Guest: Tim Roberts, Matt Hugh, Michelle Williams, Pierre Pfeffer, Brianna Ventura, Ira Pearson and Francesca Hererra.

1. Call to Order

The meeting was called to order by Chair John Hemphill at 10:05 am.

2. Roll Call

Three members present. A quorum was established.

3.. The committee will table Vice Chair selection to the March meeting.

4. Approval of Agenda

Sheri Rodgers offered a motion to move funding request before selection of new officers and approve the agenda with changes, seconded by Coda Omness. The motion passed.

5. Approval of Minutes: Sheri Rodgers made a motion to accept the January 31, 2023 regular meeting minutes, seconded by John Hemphill. Motion passed.

6. Funding Request

a. Village of Ruidoso-Ride Ruidoso:

Request: \$20,000

Date(s) of Event: May 20, 2023

Presenter: Tim Roberts

Coda Omness made a motion to fund \$20,000 for advertising for Ride Ruidoso. Sheri Rodgers seconded. The motion passed. Sheri Rodgers reminded Tim Roberts invoices are due 90 days after the event, and to attend the March 21st, Lincoln County Commissioners meeting.

7. Acceptance of Expense Budget Report Ending January 31, 2023

Brianna Ventura went through the line items reminding the committee that funds need to be spent by June 30, 2023.

Reports accepted by committee.

8. Other Items for Discussion:

a. The committee welcomed Ashely Roberts as a potential new committee member. Ms. Roberts presented her resume. Ms. Robert will send a letter to the Lincoln County Commission expressing her interest in serving on the committee.

b. Commissioner Pfeffer discussed with the committee

 funding conferences

 outreach and training for potential applicants

 Ruidoso Lodgers Tax policies

 Utilizing Lodgers Tax funds for a County website presence

 Committee providing a checklist to the County Commission

Chairman Hemphill will meet with County Manager Ira Pearson to clarify County expectations of the Lodgers Tax committee.

Brianna Ventura and Ira Pearson will meet with Lincoln County Commissioners to review the Commissions expectations of the Lodgers Tax Committee and applicants.

No action taken

c. Outstanding Purchase Orders:

The Lincoln County Cowboy Fest and Friends of Lincoln POs are closed.

No action taken

9. Next meeting:

March 28, 2023, Regular Meeting

10. Adjournment

Sheri Rodgers offered a motion to adjourn, with Coda Omness offering a second. The motion passed. The meeting adjourned at 10:57 a. m.

Respectfully submitted,

Coda Omness, Committee Secretary

Brianna Ventura

From: Ashley Roberts <ashley@bonitovalleybrewing.com>
Sent: Tuesday, February 28, 2023 12:46 PM
To: Brianna Ventura
Cc: Ira Pearson
Subject: Re: County Lodgers Tax Committee

Sounds great!

I will be in Texas but I'll be available via zoom.

Thanks,
Ashley

Sent from my iPhone

> On Feb 28, 2023, at 12:09 PM, Brianna Ventura <BVentura@lincolncountynm.gov> wrote:

>

> Good afternoon Ashley! It was a pleasure meeting you this morning.

> I will add this to the agenda packet for the next regular commission meeting which will be Tuesday, March 21, 2023.

> Once the agenda is created, I will send you the Zoom link and agenda.

> Have a great day!

>

> Regards,

>

> Brianna Ventura

> County of Lincoln

> HR Director/Admin. Assistant

> 575-648-2385 ext. 100

> 575-937-0674

> bventura@lincolncountynm.gov

> hr@lincolncountynm.gov

>

>

> -----Original Message-----

> From: Ashley Roberts <ashley@bonitovalleybrewing.com>

> Sent: Tuesday, February 28, 2023 11:58 AM

> To: Brianna Ventura <BVentura@lincolncountynm.gov>

> Subject: County Lodgers Tax Committee

>

> Good afternoon!

>

> I wanted to express my interest in serving on the Lincoln County Lodgers Tax Committee and Board.

>

> I appreciate getting to meet the other members during today's meeting! Please let me know if you need any additional information.

>

> Sincerely,

> Ashley

>
>
> Ashley Roberts
> 850-375-5505
> Ashley@bonitovalleybrewing.com
>
>
>
> Sent from my iPhone



County of Lincoln

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www.lincolncountynm.gov

AGENDA ITEM NO. 18

SUBJECT:

Discussion and Consideration of Resolution 2023-45: Declaration of Fire Danger Emergency

Tuesday, March 21, 2023

**RESOLUTION 2023-45
DECLARATION OF FIRE DANGER EMERGENCY**

(In accordance with Lincoln County Ordinance No. 2017-03)

WHEREAS, the Board of County Commissioners of Lincoln County, New Mexico, has determined that the present fire danger within the County of Lincoln, due to the extreme drought conditions currently existing, is exceedingly high; and

WHEREAS, the Board of County Commissioners of Lincoln County has further determined that, in order to protect the health, safety, and welfare of the citizens of Lincoln County, the Board must take emergency action in its meeting of March 21, 2023.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Lincoln County, New Mexico, hereby proclaims a ban on all burning of open flames, fires, campfires (except in designated areas), trash, rubbish, shrubbery or other material of any kind, except by permit. This Resolution is to remain in effect for thirty (30) days or until rescinded or extended by the Board of County Commissioners.

PASSED, APPROVED AND ADOPTED this 21st day of March, 2023.

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

Todd F. Proctor, Chairman

Jon F. Crunk, Vice-Chairman

Samantha J. Serna, Member

Pierre S. Pfeffer, Member

ATTEST:

Shannan Hemphill, Clerk

Mark G. Fischer, Member



County of Lincoln

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AGENDA ITEM NO. 19

SUBJECT:

Consideration of Lincoln County Sheriff's Office Omnibus Crime Bill Act/HB68 Spending Guidelines and Spending Plan

Tuesday, March 21, 2023

DEPUTY		HIRE DATE	YEARS OF SERVICE as of 3/21/2023
L-1	MICHAEL WOOD	NA	NA
L-2	GERALDINE MARTINEZ	NA	NA
L-3	KIRK WILSON	12/2/2013	9yrs. 3 mos. 20 days
L-4	REX BEARD	3/15/2010	13 yrs. 6 days
L-5	JESSE FINLEY	9/11/2017	5 yrs. 6 mos. 10 days
L-6	KEVIN WEEKLEY	10/10/2017	5 yrs. 5 mos. 11 days
L-7	MELISSA BOXX	9/10/2022	6 mos. 11 days
L-8	RETIRED NUMBER		
L-9	VACANT		
L-10	VACANT		
L-11	RYON MCINNES	2/13/2017	6 yrs. 1 mos. 8 days
L-12	MATTHEW CUDE	5/6/2019	3 yrs. 10 mos. 15 days
L-13	VACANT		
L-14	JULIE GRASSIE	7/1/2019	3 yrs. 8 mos. 20 days
L-15	JEFFREY GAZDIK	7/10/2017	5 yrs. 8 mos. 11 days
L-16	HARI GRAY	2/22/2021	2 yrs. 1 mos.
L-17	VACANT		
L-18	BRYCE BAILEY	8/5/2019	3 yrs. 7 mos. 16 days
L-19	BRENDAN RODELA	1/8/2022	1 yr. 2 mo. 13 days
L-20	DEANNA PRESTON	5/26/2009	13 yrs. 9 mos. 26 days
L-21	ALEX TRUJILLO	6/28/2021	1 yr. 8 mos. 24 days
L-22	KELLEY GORDON	2/22/2021	2 yrs. 1 mos.
L-23	COURT/TRANSPORT		
L-24	GARRETT WIMSATT	4/1/2023	3 mos. @ June 30, 2023
L-25	COURT/TRANSPORT		
L-26	JOSEPH BAILEY	10/16/2021	1 yr. 4 mos. 5 days
L-27	CODY CONWAY	9/3/2022	6 mos. 18 days
L-28	ACO		
L-29	COURT/TRANSPORT		
L-30	VACANT		

* 16 DEPUTIES NM CERTIFIED AS OF 3/21/2023

* MELISSA BOXX WILL BE THROUGH THE ACADEMY BY 4/14/2023 OR 6/23/2023

* GARRETT WIMSATT IS A NEW HIRE AND WE SHOULD BE ABLE TO GET HIM THROUGH THE ACADEMY BY 6/23/2023 JUST AT 3 MONTHS.

FIRST YEAR CERTIFIED DEPUTY TOTAL IS 18.

**Lincoln County Sheriff's Office
Omnibus Crime Bill Act/HB68
Spending Guidelines**

I. PURPOSE

To provide an outline on the distribution of funds received from the Department of Finance (DFA) under the Omnibus Crime Bill Act/HB68, that will increase the investigative capacity of the Lincoln County Sheriff's Office, by providing recruitment and retention stipends to its Sheriff's Deputies.

II. ALLOCATION DISBURSEMENT AMOUNT

Two Hundred Eighty-One Thousand Two Hundred Fifty Dollars and Zero Cents (\$281,250.00) over three years to be utilized in accordance with the provisions of HB68, funded by DFA, to be distributed as follows:

- a. 1st distribution will be a 100% disbursement up to \$112,500.00 for the 1st year to be expended by June 30, 2023.
- b. 2nd distribution will be a 50% disbursement up to \$112,500.00 for the 2nd year with payment to be made in July 2023, to be expended by June 30, 2024.
- c. The last distribution will be a 25% disbursement up to \$56,250.00 for the 3rd year with payment to be made in July 2024, to be expended by June 30, 2025.

III. DEFINITIONS

- a. Law Enforcement Officer (Sheriff's Deputy), means any commissioned employee of a Law Enforcement Agency that is part of or administered by the State or any political subdivision of the State, and includes any employee of a missile range civilian police department who is a graduate of a recognized certified regional Law Enforcement training facility and who is currently certifiable by the academy, which employee is responsible for the prevention and detection of crime or the enforcement of the penal, or traffic or highway laws of this State.
- b. Commissioned means an employee of a Law Enforcement Agency who is authorized by a Sheriff or Chief of Police to apprehend, arrest, and bring before the court all violators within the Law Enforcement Agency's jurisdiction.
- c. Stipend is a fixed sum of money paid periodically for services or to defray expenses, termed a "fee" or "stipend" rather than a salary or wage, that is subject to employment taxes, with payments made according to the policies of the governing entity, County of Lincoln.

- d. Eligibility date is the date of the first year's distribution of March 21, 2023, the date of which these guidelines were reviewed and approved by the Board of County Commissioners in Lincoln County, with the date of eligibility for the following two years starting on July 1st of that particular year running through June 30th of the following year.
- e. Quarterly payments are payments made to commissioned certified Sheriff's Deputies that will be distributed at the end of March, at the end of June, at the end of September, and at the end of December of each year; every three months.
- f. Payment amount is the amount that will be paid to each commission certified Sheriff's Deputy that will be calculated on a yearly basis determined by the number of eligible Certified Deputies employed and by the amount allotted by DFA.

IV. PROCUDURES

To establish appropriate guidelines on the use of funds, including recruitment and retention stipends during the first year of eligibility on or after the eligibility date in the amount of \$6,250.00 per certified commissioned Sheriff's Deputy for the 1st year and with retention stipends to be administered on a quarterly basis for the second and third years of disbursement, to all certified commissioned Sheriff's Deputies or when a newly hired Sheriff Deputy becomes certified through the State of New Mexico, with stipend amounts being determined by what is allocated by DFA for the 2nd and 3rd years, on those who met the following:

- a. A person who is not certified as a Law Enforcement Officer pursuant to the New Mexico Law Enforcement Training Act upon employment with the Lincoln County Sheriff's Office, provided that the recipient successfully obtains such certification, and who is:
 - 1. Newly hired, uncertified, and has been employed with the Sheriff's Office for three months, has successfully graduated from the New Mexico Law Enforcement Academy, and plans to remain with the Sheriff's Office for an additional year.
 - 2. Newly hired, certified individual by another Law Enforcement training program that is comparable to or exceeds the standards of the programs of the New Mexico Law Enforcement Academy, as outlined in the New Mexico Law Enforcement Training Act, has been employed with the Sheriff's Office for three months, who has completed the Certification by Waiver of Previous Training, and plans to remain with the Sheriff's Office for an additional year.
- b. A person who is certified as a New Mexico Law Enforcement Officer pursuant to the Law Enforcement Training Act upon employment and commissioned with the Lincoln County Sheriff's Office, and is a
 - 1. Newly hired New Mexico certified Law Enforcement Officer who has been employed with the Sheriff Office for three months and who plans to remain with the Sheriff's Office for an additional year.

- c. A person who is certified as a Law Enforcement Officer pursuant to the Law Enforcement Training Act currently employed and commissioned by the Lincoln County Sheriff's Office, and is an
 - 1. Employed New Mexico certified Sheriff's Deputy who plans to remain employed with the Lincoln County Sheriff's Office for an additional year.
- d. A Deputy who volunteers to receive a stipend agrees to remain employed with the Lincoln County Sheriff's Office for an additional year, with that year to be determined by the issue date of that stipend at that time. If a Deputy chooses to leave the Lincoln County Sheriff's Office before the end of a particular stipend period, they may be subject to reimbursing the County of Lincoln for money received.

\$6,250.00 stipend

1st year allocation	\$112,500.00
16 Deputies at \$6,250.00 each	(\$100,000.00) all eligible by March 21, 2023
	\$12,500.00
Deputy Boxx at \$6,250.00	(\$6,250.00) Will get her through cert by waiver by 4/14/2023 or 6/23/2023
	\$6,250.00
Deputy Wimsatt at \$6,250.00	(\$6,250.00) New hire should be thru cert by waiver by 6/23/2023
	\$0.00 Amount remaining to be turned back in to DFA

\$6,000.00 Stipend

1st year allocation	\$112,500.00
16 Deputies at \$6,000.00	(\$96,000.00) all eligible by March 21, 2023
	\$16,500.00
Deputy Boxx at \$6,000.00	(\$6,000.00) Will get her through cert by waiver by 4/14/2023 or 6/23/2023
	\$10,500.00
Deputy Wimsatt at \$6,000.00	(\$6,000.00) New hire should be thru cert by waiver by 6/23/2023
	\$4,500.00 Amount remaining to be turned back in to DFA

\$5,000.00 stipend

1st year allocation	\$112,500.00
16 Deputies at \$5,000.00 each	(\$80,000.00) all eligible by March 21, 2023
	\$32,500.00
Deputy Boxx at \$5,000.00	(\$5,000.00) Will get her through cert by waiver by 4/14/2023 or 6/23/2023
	\$27,500.00
Deputy Wimsatt at \$5,000.00	(\$5,000.00) New hire should be thru cert by waiver by 6/23/2023
	\$22,500.00 Amount remaining to be turned back in to DFA

\$4,800.00 yearly stipend

2nd year allocation	\$112,500.00	
23 Certified Deputies		
\$112,500.00 divided by 23	\$4,891.304	each Deputy receives per year
\$4,891.30 divided by 4 (quarterly)	\$1,222.826	each Deputy receives quarterly

Round to \$1,200.00 \$1,200.00 each Deputy receives quarterly

\$1,200.00 multiply by 4 (quarterly)	\$4,800.00	each Deputy receives per year
\$4,800.00 multiply by 23 Deputies	\$110,400.00	

\$2,100.00 Amount remaining to be turned back in to DFA

\$2,400.00 yearly stipend

3rd year allocation	\$56,250.00	
23 Certified Deputies		
\$56,250.00 divided by 23	\$2,445.652	each Deputy receives per year
\$2,445.625 divided by 4 (quarterly)	\$611.413	each Deputy receives quarterly

Round to \$600.00 \$600.00 each Deputy receives quarterly

\$600.00 multiply by 4 (quarterly)	\$2,400.00	each Deputy receives per year
\$2,400.00 multiply by 23 Deputies	\$55,200.00	

\$1,050.00 Amount remaining to be turned back in to DFA



County of Lincoln

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AGENDA ITEM NO. 20

SUBJECT:

Lincoln County Fairgrounds

- a. Consideration to Approve the Fairgrounds Phase 1A Construction Contract/Purchase Order to Renegade Construction, LCC.
- b. Consideration of a Professional Services Task Order for Part-Time Construction Management Services for the Fairgrounds Phase 1A Project to Wilson & Company
- c. Discussion and Consideration of the Fairgrounds Phase 1B construction project, costs, available funding and Contract/Purchase Order

Tuesday, March 21, 2023

March 15, 2023

Ira Pearson, Lincoln County Manager
300 Central Ave.
P.O. Box 711
Carrizozo, NM 88301

Re: Fairgrounds Phase 1A- Construction Award Letter of Recommendation

Dear Mr. Manager Pearson:

Wilson & Company (Wilson) has finalized the construction drawings and specifications for the Fairgrounds Phase 1A Project which generally consists of the following improvements:

- New hot mix asphalt access road from NM-48 to the North side of Magado Creek.
- New hot mix asphalt parking lot including curb and gutter, drainage enhancements and striping.
- Pedestrian sidewalk in front of the Fletcher Hall and along the east perimeter of the new parking lot.

Procurement & Project Costs:

This project may be procured under the Lincoln County Construction On-Call Contract that was approved by the Board of County Commissioners on March 1, 2023, and awarded to both Mesa Verde Enterprises Inc., and Renegade Construction LCC, (Renegade). Renegade provided the lowest bid prices with respect to the Fairground Phase 1A and 1B projects, as such Wilson has coordinated with Renegade and developed the attached Schedule of Values for Phase 1A in accordance with the terms and conditions within the Construction On-Call IFB No.22-23-04. The total project Phase 1A amount is \$938,915.19 (including NMGRT) and is within the current project funding as detailed below.

Fairgrounds Phase 1A: Funding & Cost Analysis		
Secured Funding	Amount	Remarks
2022 Capital Outlay Appropriation ID G2892	\$ 225,995.57	Grant Expires 6/30/2025
American Rescue Plan Act (ARPA)	\$1,000,000.00	Amount previously approved by BOCC
Total Funding	1,225,995.57	
Construction Cost Including NMGRT- Renegade Construction, LCC	\$938,915.19	
Construction Administration Cost Including NMGRT- Wilson & Company	\$23,000.00	
Total Project Costs	\$ 961,915.19	
Balance	\$264,080.38	To be used for Phase 1B

Construction Schedule:

Wilson and Renegade understand the importance of completing Phase 1A before the annual Smokey Bear Stampede Rodeo held over the 4th of July. Renegade may mobilize to the project site on March 22, 2023, and will complete work on or by June 26, 2023, pending no delays due to inclement weather and or material deliveries. The construction contract time for Phase 1A will be set at 70 working days.

Award Recommendation:

Wilson & Company recommends consideration of approving the Fairgrounds Phase 1A Construction Contract to Renegade Construction LCC, in the amount of \$938,915.19 (including NMGRT).

Next Steps Upon Approval:

- Wilson will assist the County in executing an industry standard Owner & Contractor Agreement.
- County to issue a Purchase Order to Renegade.
- Wilson shall issue a Notice to Proceed to Renegade.

Thank you and if you have any questions, please feel free to contact me at my cell no. 575-652-2998.

WILSON & COMPANY

A handwritten signature in blue ink that reads "Eric Hamilton".

Eric Hamilton, PE, CFM
Engineer Manager

Cc: Jeff Honeycutt, Lincoln County Road Superintendent
Toni Foligno, Lincoln County Chief Procurement Officer
Janett Herrera, Road Department Administrative Assistant

Attachments:

- 1) Fairgrounds Phase 1A Construction Schedule of Values

LINCOLN COUNTY FAIRGROUNDS PHASE 1A ACCESS ROAD AND PARKING LOT SCHEDULE OF VALUES								
BID LOT NO.	BID ITEM NO.	NMDOT SPEC NO.	ITEM DESCRIPTION	BID UNIT	PHASE 1A ESTIMATED QTY	RENEGADE CONSTRUCTION, INC.		
						UNIT PRICE	AMOUNT	
QUANTIFIABLE CONSTRUCTION ITEMS								
1	1	203000	UNCLASSIFIED EXCAVATION - CUT TO COMPACTED FILL	C.Y.	300	\$ 11.79	\$ 3,537.00	
2	3	203000	UNCLASSIFIED EXCAVATION - REMOVE AND STOCKPILE ON-SITE	C.Y.	2,300	\$ 5.25	\$ 12,075.00	
2	6	207000	SUBGRADE PREPARATION 10"	S.Y.	8,900	\$ 3.53	\$ 31,417.00	
2	11	303160	BASE COURSE 6"	S.Y.	8,900	\$ 15.64	\$ 139,196.00	
2	14	416106	MINOR PAVING TYPE I, HMA SP-III (2" THICK, PARKING LOT)	S.Y.	7,000	\$ 24.16	\$ 169,120.00	
2	14	416106	MINOR PAVING TYPE I, HMA SP-III (2" THICK, ROADWAY, PLACED IN TWO LIFTS, AREA OF ROADWAY IS DOUBLED TO ACCOUNT FOR SECOND LIFT)	S.Y.	3,800	\$ 24.16	\$ 91,808.00	
1	27	570413	12" STORM DRAIN CULVERT PIPE INC. FITTINGS (HDPE PIPE)	L.F.	90	\$ 95.14	\$ 8,562.60	
2	28	570417	12" STORM DRAIN CULVERT PIPE END SECTION	EACH	4	\$ 868.44	\$ 3,473.76	
2	29	570425	18" STORM DRAIN CULVERT PIPE INC. FITTINGS (HDPE PIPE)	L.F.	470	\$ 92.19	\$ 43,329.30	
2	31	570437	24" STORM DRAIN CULVERT PIPE INC. FITTINGS (HDPE PIPE)	L.F.	155	\$ 117.08	\$ 18,147.40	
1	41	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS - ≤18" CMP PIPE (REMOVE AND SALVAGE; SUBJECT TO QUALITY OF MATERIAL)	LF	21	\$ 60.40	\$ 1,268.40	
2	43	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS - 2' - 4' PIPE FENCE REMOVAL (REMOVE AND DISPOSE)	LF	220	\$ 13.35	\$ 2,937.00	
2	46	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS - CONCRETE REMOVAL (REMOVE AND DISPOSE) (4" TO 10" THICKNESS)	SY	64	\$ 66.69	\$ 4,268.16	
1	47	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS - TREE REMOVAL - 24" DIAMETER (REMOVE AND DISPOSE)	EACH	1	\$ 810.50	\$ 810.50	
2	48	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS - TIRE PARKING BLOCK REMOVAL (REMOVE AND DISPOSE)	EACH	71	\$ 34.56	\$ 2,453.76	
2	62	608004	CONCRETE SIDEWALK 4"	S.Y.	470	\$ 93.27	\$ 43,836.90	
1	64	609324	CONCRETE SLOPED CURB AND GUTTER 6"x24" (MOUNTABLE CURB AND GUTTER, TYPE A)	LF	120	\$ 43.52	\$ 5,222.40	
2	65	609424	CONCRETE VERTICAL CURB AND GUTTER TYPE B 6"x24"	LF	1,105	\$ 39.44	\$ 43,581.20	
2	86	704000	RETROREFLECTORIZED PAINTED PAVEMENT STRIPE 4"	LF	14,500	\$ 1.46	\$ 21,170.00	
2	88	704009	RETROREFLECTORIZED PAINTED MARKINGS (RIGHT ARROW)	EACH	2	\$ 329.13	\$ 658.26	
2	89	704010	RETROREFLECTORIZED PAINTED MARKINGS (LEFT ARROW)	EACH	5	\$ 329.13	\$ 1,645.65	
2	90	704011	RETROREFLECTORIZED PAINTED MARKINGS (THRU ARROW)	EACH	16	\$ 329.13	\$ 5,266.08	
2	98	STS-003	ADS NYOPLAST 24" DRAIN BASIN (2824AG) INCL. EXCAVATION, BACKFILL, COMPACTION, FRAMES, LID GRATE, WATERTIGHT JOINTS, ADAPTERS & 5'x5' CONCRETE COLLAR	EACH	6	\$ 5,128.70	\$ 30,772.20	
1	99	STS-004	ADS NYOPLAST 30" DRAIN BASIN (2830AG) INCL. EXCAVATION, BACKFILL, COMPACTION, FRAMES, LID GRATE, WATERTIGHT JOINTS, ADAPTERS & 5.5'x5.5' CONCRETE COLLAR	EACH	1	\$ 6,983.25	\$ 6,983.25	
2	100	407000	ASPHALT MATERIAL FOR TACK COAT	TON	1	\$ 1,374.34	\$ 1,374.34	
2	101	408100	PRIME COAT MATERIAL	TON	17	\$ 1,374.37	\$ 23,364.29	
SUBTOTAL							\$ 716,278.45	
NEGOTIABLE ITEMS								
2	53	602060	RIPRAP CLASS "G" (6" THICK)	SY	810	\$ 58.60	\$ 47,466.00	
SUBTOTAL							\$ 47,466.00	
QUANITIFIABLE CONSTRUCTION SUBTOTAL							\$ 763,744.45	
CONSTRUCTION ENGINEERING								
BID LOT NO.	BID ITEM NO.	NMDOT SPEC NO.	ITEM DESCRIPTION	% RANGE OF PROJECT TOTAL	BID UNIT	PHASE 1A ESTIMATED QTY	UNIT PRICE	AMOUNT
N/A	104	603281	SWPPP PLAN PREPARATION AND MAINTENANCE	0%-1%	LS	1	\$ 7,754.44	\$ 7,754.44
	105	608000	TRAFFIC CONTROL MANAGEMENT	0%-3%	LS	1	\$ 7,754.44	\$ 7,754.44
	108	621000	MOBILIZATION	0%-10%	LS	1	\$ 46,526.67	\$ 46,526.67
	110	702810	TRAFFIC CONTROL DEVICES FOR CONSTRUCTION	0%-3%	LS	1	\$ 7,754.44	\$ 7,754.44
	111	801000	CONSTRUCTION STAKING BY THE CONTRACTOR	0%-3%	LS	1	\$ 23,263.33	\$ 23,263.33
	113	906000	MATERIAL ACCEPTANCE TESTING PER MINIMUM TESTING REQUIREMENTS	0%-3%	LS	1	\$ 23,263.33	\$ 23,263.33
CONSTRUCTION ENGINEERING SUBTOTAL							\$ 116,316.65	
PROJECT SUBTOTAL INCLUDING QUANTIFIABLE CONSTRUCTION ITEMS, NEGOTIABLE ITEMS AND CONSTRUCTION ENGINEERING ITEMS EXCLUDING NMGR							\$ 880,061.10	
NMGR @ 6.6875%							\$ 58,854.09	
PROJECT TOTAL INLCUDING NMGR							\$ 938,915.19	

*THE ABOVE PRICING IS IN ACCORDANCE WITH THE LINCOLN COUNTY CONSTRUCTION ON-CALL INVITATION TO BID NO. 22-23-04.

Memorandum

To: Ira Pearson, Lincoln County Manager

From: Eric Hamilton, PE,

CC: Jeff Honeycutt

Date: 3/15/2023

Re: Fairground Phase 1B Funding and Projected Costs

The intent of this memorandum is to facilitate discussion regarding the budget shortfall for the Fairgrounds Phase 1B project and to assist in identifying additional funding sources to complete or partially complete this phase.

The current project funding and costs are detailed below.

Fairgrounds Phase 1B: Funding & Cost Analysis		
Secured Funding	Amount	Remarks
American Rescue Plan Act (ARPA)	\$ 264,080.38	Balance from Phase 1B
Total Funding	\$ 264,080.38	
Construction Cost Including NMGR- Renegade Construction	\$ 1,146,010.18	
Construction Administration Cost Including NMGR- Wilson & Company	\$ 23,000.00	
Total Project Costs	\$ 1,169,010.18	
Budget Shortfall	\$ (904,929.80)	

Phase 1B can be described and delineated into the 5 major categories below:

- Drainage- New subsurface storm drain system and site grading to promote positive drainage to new drainage infrastructure.
 - Cost: \$322,437.01
- Pedestrian Access Sidewalk.
 - Cost: \$129,747.74
- Wash Rack for the Fair Livestock.
 - Cost: \$443,127.49
- Access Control Fencing and Gates.
 - Cost: \$250,697.94

Attachment: Fairgrounds Phase 1B Schedule of Values

LINCOLN COUNTY FAIRGROUNDS PHASE 1B SCHEDULE OF VALUES							
BID LOT NO.	BID ITEM NO.	NMDOT SPEC NO.	ITEM DESCRIPTION	BID UNIT	PHASE 1B ESTIMATED QTY	RENEGADE CONSTRUCTION, INC.	
						UNIT PRICE	AMOUNT
GRADING AND DRAINAGE							
1	1	203000	UNCLASSIFIED EXCAVATION - CUT TO COMPACTED FILL	C.Y.	2,100	\$ 11.79	\$ 24,759.00
2	3	203000	UNCLASSIFIED EXCAVATION - REMOVE AND STOCKPILE ON-SITE	C.Y.	900	\$ 5.25	\$ 4,725.00
2	29	570425	18" STORM DRAIN CULVERT PIPE INC. FITTINGS (HDPE PIPE)	L.F.	650	\$ 92.19	\$ 59,923.50
2	31	570437	24" STORM DRAIN CULVERT PIPE INC. FITTINGS (HDPE PIPE)	L.F.	575	\$ 117.08	\$ 67,321.00
1	40	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS - SIDEWALK (REMOVE AND DISPOSE)	SY	165	\$ 48.44	\$ 7,992.60
1	41	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS - ≤18" CMP PIPE (REMOVE AND SALVAGE; SUBJECT TO QUALITY OF MATERIAL)	LF	40	\$ 60.40	\$ 2,416.00
1	43	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS - 2' - 4' PIPE FENCE (REMOVE AND DISPOSE)	LF	50	\$ 27.27	\$ 1,363.50
2	98	STS-003	ADS NYOPLAST 24" DRAIN BASIN (2824AG) INCL. EXCAVATION, BACKFILL, COMPACTION, FRAMES, LID GRATE, WATERTIGHT JOINTS, ADAPTERS & 5'x5' CONCRETE COLLAR	EACH	13	\$ 5,128.70	\$ 66,673.10
1	99	STS-004	ADS NYOPLAST 30" DRAIN BASIN (2830AG) INCL. EXCAVATION, BACKFILL, COMPACTION, FRAMES, LID GRATE, WATERTIGHT JOINTS, ADAPTERS & 5.5'x5.5' CONCRETE COLLAR	EACH	3	\$ 6,983.25	\$ 20,949.75
GRADING AND DRAINAGE QUANTIFIABLE ITEMS SUBTOTAL							\$ 256,123.45
*GRADING AND DRAINAGE CONSTRUCTION ENGINEERING ITEMS SUBTOTAL							\$ 46,102.22
GRADING AND DRAINAGE SUBTOTAL INCLUDING QUANTIFIABLE CONSTRUCTION ITEMS AND CONSTRUCTION ENGINEERING ITEMS EXCLUDING NMGR							\$ 302,225.67
NMGR @ 6.6875%							\$ 20,211.34
GRADING AND DRAINAGE TOTAL INCLUDING NMGR							\$ 322,437.01
SIDEWALK							
2	62	608004	CONCRETE SIDEWALK 4"	S.Y.	1,105	\$ 93.27	\$ 103,063.35
*SIDEWALK CONSTRUCTION ENGINEERING ITEMS SUBTOTAL							\$ 18,551.40
SIDEWALK INCLUDING QUANTIFIABLE CONSTRUCTION ITEMS AND CONSTRUCTION ENGINEERING ITEMS EXCLUDING NMGR							\$ 121,614.75
NMGR @ 6.6875%							\$ 8,132.99
SIDEWALK TOTAL INCLUDING NMGR							\$ 129,747.74
FENCING							
2	59	607026	CHAIN LINK FENCE, 6'	LF	1,955	\$ 65.83	\$ 128,697.65
1	60	607410	CHAIN LINK GATE, 10' SPAN	EACH	2	\$ 5,564.97	\$ 11,129.94
1	61	607416	CHAIN LINK GATE, 16' SPAN	EACH	9	\$ 6,590.10	\$ 59,310.90
FENCING QUANTIFIABLE ITEMS SUBTOTAL							\$ 199,138.49
*FENCING CONSTRUCTION ENGINEERING ITEMS SUBTOTAL							\$ 35,844.93
FENCING SUBTOTAL INCLUDING QUANTIFIABLE CONSTRUCTION ITEMS AND CONSTRUCTION ENGINEERING ITEMS EXCLUDING NMGR							\$ 234,983.42
NMGR @ 6.6875%							\$ 15,714.52
FENCING TOTAL INCLUDING NMGR							\$ 250,697.94
WASHRACK							
1	3	203000	UNCLASSIFIED EXCAVATION - REMOVE AND STOCKPILE ON-SITE	CY	2200	\$ 8.54	\$ 18,788.00
1	4	203100	BORROW	CY	300	\$ 41.93	\$ 12,579.00
1	19	511000	STRUCTURAL CONCRETE CLASS A (FLATWORK, I.E. SLAB ON GRADE, CUTOFF WALLS, MISCELLANEOUS)	CY	85	\$ 1,811.23	\$ 153,954.55
1	21	511030	STRUCTURAL CONCRETE CLASS AA (FREE STANDING WALLS)	CY	30	\$ 1,786.91	\$ 53,607.30
1	24	540060	REINFORCING BARS GRADE 60	LB	5500	\$ 2.61	\$ 14,355.00
2	27	570417	12" STORM DRAIN CULVERT PIPE INCL. FITTINGS (HDPE PIPE)	LF	175	\$ 67.22	\$ 11,763.50
1	62	608004	CONCRETE SIDEWALK 4"	SY	245	\$ 103.64	\$ 25,391.80
N/A	N/A	N/A	TRANSVERSE GRATE (ITEM NOT INCLUDED IN CONSTRUCTION ON-CALL CONTRACT; UNIT PRICE TO BE NEGOTIATED WITH CONTRACTOR)	LF	80	\$ 200.00	\$ 16,000.00
N/A	N/A	663772	CONNECTION TO EXISTING WATERLINE (ITEM NOT INCLUDED IN CONSTRUCTION ON-CALL CONTRACT; UNIT PRICE TO BE NEGOTIATED WITH CONTRACTOR)	EACH	1	\$ 6,600.00	\$ 6,600.00
N/A	N/A	N/A	3/4" HOSE BIB (ITEM NOT INCLUDED IN CONSTRUCTION ON-CALL CONTRACT; UNIT PRICE TO BE NEGOTIATED WITH CONTRACTOR)	EACH	20	\$ 500.00	\$ 10,000.00
N/A	N/A	663643	POLYETHELENE PIPE-3/4" (ITEM NOT INCLUDED IN CONSTRUCTION ON-CALL CONTRACT; UNIT PRICE TO BE NEGOTIATED WITH CONTRACTOR)	LF	180	\$ 30.00	\$ 5,400.00
N/A	N/A	663645	POLYETHELENE PIPE-2" (ITEM NOT INCLUDED IN CONSTRUCTION ON-CALL CONTRACT; UNIT PRICE TO BE NEGOTIATED WITH CONTRACTOR)	LF	100	\$ 45.00	\$ 4,500.00
N/A	N/A	607080	TIE-DOWN RAILING (ITEM NOT INCLUDED IN CONSTRUCTION ON-CALL CONTRACT; UNIT PRICE TO BE NEGOTIATED WITH CONTRACTOR)	LF	75	\$ 189.92	\$ 14,244.30
ENGINEERING CONTINGENCY @ 10% FOR NEGOTIATED PRICE ITEMS							\$ 5,674.43
WASHRACK QUANTIFIABLE ITEMS SUBTOTAL							\$ 347,183.45
*WASHRACK CONSTRUCTION ENGINEERING ITEMS SUBTOTAL							\$ 62,493.02
WASHRACK SUBTOTAL INCLUDING QUANTIFIABLE CONSTRUCTION ITEMS, ENGINEERING CONTINGENCY AND CONSTRUCTION ENGINEERING ITEMS EXCLUDING NMGR							\$ 415,350.90
NMGR @ 6.6875%							\$ 27,776.59
WASHRACK TOTAL INCLUDING NMGR							\$ 443,127.49
PROJECT TOTAL INCLUDING NMGR							\$ 1,146,010.18

*CONSTRUCTION ENGINEERING ITEMS INCLUDE THE COST OF CLEARING AND GRUBBING, SWPP PLAN PREPARATION AND MAINTENANCE, MOBILIZATION, CONSTRUCTION STAKING BY THE CONTRACTOR & MATERIAL ACCEPTANCE TESTING PER MINIMUM TESTING REQUIREMENTS.
**THE ABOVE PRICING IS IN ACCORDANCE WITH THE LINCOLN COUNTY CONSTRUCTION ON-CALL INVITATION TO BID NO. 22-23-04.

May 27, 2022

Ira Pearson, Lincoln County Manager
300 Central Ave.
P.O. Box 711
Carrizozo, NM 88301

CC: Jeff Honeycutt, Lincoln County Road Superintendent

Re: Amendment No. 1 to Task Order Dated May 27, 2022: Professional Engineering Design Services for the Lincoln County Fairgrounds Site Improvements and the Magado Creek Vehicle Bridge

Amendment Scope of Work: Construction Administration for The Phase 1A Improvement Project.

Funding: American Rescue Plan Act.

Procurement: On-call RFP #20-21-007 Agreement

Dear Mr. Manager Pearson:

Wilson & Company appreciates the opportunity to submit this contract amendment to provide Construction Administration Services for the Fairgrounds Phase 1A Project. Wilson & Company is committed to provide the best value while identifying cost saving approaches for the County. Our project manager, Eric Hamilton and Lincoln County Road Superintendent, Jeff Honeycutt previously coordinated and have agreed that this project will not require full or partial site observation. The construction site's proximity to Jeff's office along with Jeff's active role warrants weekly spot observation from Wilson & Company. Jeff & Eric will stay in close communication for the life of this project and make oversight adjustments as needed. For this reason, we propose a contract to be on a time & materials, not to exceed basis.

Task	Description
-------------	--------------------

1.	Construction Administration
-----------	------------------------------------

- | | |
|----|--|
| a. | Execute an Owner & Contractor Agreement with Renegade Construction for the Fairgrounds Phase 1A project. |
| b. | Issue Notice to Proceed. |
| c. | Host a virtual pre-construction meeting. |
| d. | Review material submittals, construction reports, construction schedule, material testing reports provided by others, track and monitor contract time & budget, process request for information (RFI's), change orders and monthly pay applications. |
| e. | Monthly Construction Progress Report: <ul style="list-style-type: none">▪ Prepare a summary of construction activities captioned and dated construction photographs and a discussion of problems encountered and their solutions. Up to 3 reports. |

- f. Conduct one site visit per week, 9 hours per visit including travel time.
- g. Conduct preliminary and final walk-through meetings, develop, and distribute punch list and meeting minutes.
- h. Prepare project close out documentation including final adjusting change order.
- i. Please note, Renegade Construction will be responsible for on-site and laboratory material testing as part of their construction contract. This is not part of Wilson's scope of services.

We will provide the abovementioned services on a time & material basis not to exceed \$23,000.00 including NMGR. Your approval signature below shall signify authorization to proceed. If you should have any questions or comments concerning this proposal or any aspect of this project, please feel free to contact Eric Hamilton at eric.hamilton@wilsonco.com or myself by email at daniel.aguirre@wilsonco.com.

WILSON & COMPANY



Daniel Aguirre, PE, CFM
Senior Vice President

Ira Pearson
County Manager

Date



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 21

SUBJECT:

Lincoln Domestic Water Association:

- a. State Water Trust Boarding Funding Update
- b. Consideration of Request for Additional Grant Match Dollars Using the American Rescue Plan Act (ARPA) Fund

Tuesday, March 21, 2023

Water Trust Board

Lincoln Mutual Domestic Water Consumers and Sewage Works Association

2022 WTB Water Storage Conveyance and Delivery Projects

NMFA Board Date: 5/26/2022

Application No. WPF-5672

A. Executive Summary

- | | |
|--|---------------------------------|
| 1. Applicant: Lincoln MDWC&SWA | Amount: \$2,360,000 |
| 2. Project Name: Lincoln MDCWA Water System | County: Lincoln |
| 3. Complies with WTB Policies? Y | Scope: Design, construct |

B. Project

4. Project Scope:

Design/Construction water system including replacing /upsizing 3,400 LF of water pipeline and installing new fire hydrants; replacing existing meters and upgrading to AMR system; constructing new supply well and automating all well operations.

5. Project Partners:

6. Funding Award:

Loan	10%	\$236,000
Grant	90%	\$2,124,000
Required Match	NMFA/local	\$354,000

7. Total Estimated Project Cost:

SOURCES:	Water Project Fund Request	\$2,360,000
	Federal Source	\$0
	State Source (NMFA-LGPF)	\$50,000
	Local Source	\$280,000
	Total Sources	\$2,690,000
USES:	Feasibility/PERs	\$50,000
	Design & Specifications	\$280,000
	Construction Inspection	\$160,000
	Construction	\$2,100,000
	Legal Costs	\$0
	Project Management	\$0
	Environmental Surveys	\$0
	Archaeological Surveys	\$0
	Land Acquisition	\$75,000
	Easements & ROW	\$25,000
	Fiscal Agent Fees	\$0
	Total Uses	\$2,690,000

8. Financing:

Pledged Revenue	Category	Amount
Primary	NSR of the Association	\$7,740
Total Revenue	\$7,740 (3 yr. average, unaudited 2019-2021)	
Distributing Entity:	Lincoln MDWCA	
Intercept Status:	n/a	
Distributing Timing:	annual	

Lien Status	Senior
Parity Lien Total Outstanding Debt	
Senior Lien Total Outstanding Debt	
Expected Coverage Ratio	0.64x

Special Closing, Funding Conditions or Comments:

Verification of projected net revenues sufficient to cover all debt payments (rate increase/timelines,

9. Consulting Professionals:

Primary Contact:	Rory McMinn	Secondary Contact:	Rebecca Vanavan
Engineer/Contractor:	Donzil Worthington	Legal Counsel:	John Underwood

C. WTB Funding History

Project	Project Name	Funding Date	Completion Date	Loan Amount	Grant Amount	Total Amount
5672-WPF	Water System Improvements	2022 proposed project		\$236,000	\$2,124,000	\$2,360,000
Total:				\$236,000	\$2,124,000	\$2,360,000

D. Readiness to Proceed

As part of the conditional funding of this application, the NMFA will require the Applicant to submit or meet the following criteria:

1. A monthly draw-down schedule of project expenditures, including Month and Year;
2. Verification of match in the amount of \$354,000;
3. Approval of plans/specification by NMED-Construction Programs Bureau prior to disbursement of construction funds;
4. Verification that right-of-way, easements and permits have been secured;
5. Updated project budget;
6. Verification of projected net revenues sufficient to cover all debt payments (rate increase/timelines);
7. Verification of submitted updates to the OSE;
8. All contingencies must be satisfied by September 30, 2022;
9. Any additional information requested by the Water Trust Board or the NMFA Board.

Lincoln Mutual Domestic Consumers Association

Credit Analysis

Credit Commentary

The Village of Lincoln is an unincorporated community in Lincoln County, NM, located 57 miles west of Roswell with a population of 149 as of the 2010 Census. Lincoln MDCA has 54 residential connections and no commercial connections.

The Association is going through a major transition in terms of management and oversight. This small water association is run primarily by senior community volunteers. Some have left voluntarily, while others have passed away. Newer staff and volunteers have recently joined. Management of the association has communicated that the community is in dire need of a new water system. The need is also evidenced by the repairs and maintenance expense trends in the financials.

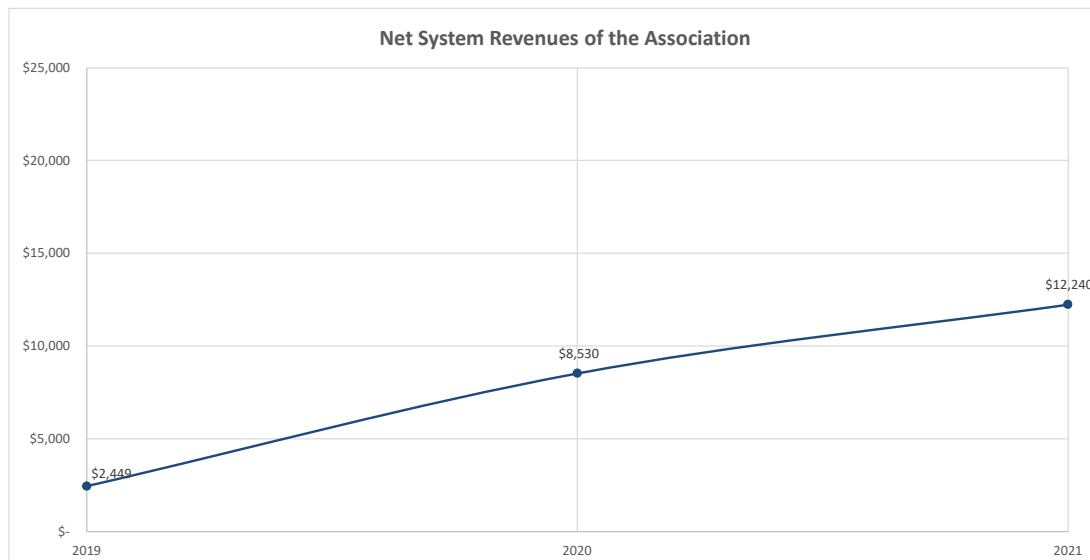
The Association suffered multiple distribution line leaks over the past 3 years, two of which required major repairs and surface restoration. In 2020 Well No. 1 had severe corrosion of steel casing. A new PVC liner with gravel pack was installed and new downhole pumps were also installed, which necessitated changing out electrical service controls as well. New tanks were also purchased as part of major repair work. The financial trends in contractor, supplies and repairs & maintenance expense are explained by this repair and replacement work. Water base rate and sales revenues grew in 2020 - 2021 due to a new meter surcharge the Association instituted in order to cover the unanticipated repair costs. Water revenues declined in 2020 - 2021 due to the Association losing several metered large garden/orchard customers who elected to utilize acequia water.

The Association currently has no debt outstanding. The Association does not currently meet 1.0x coverage based on the more conservative three-year average, however would meet coverage using FY2021. It is expected net system revenues going forward will be more in-line with FY2021.

Pledge Analysis: Net System Revenues

		Year Ended December 31				
	3 Yr Average (2019 - 2021)	2021 <i>Audit not required</i>	2020 <i>Audit not required</i>	2019 <i>Audit not required</i>	Yr-over-Yr Change 21 vs. 20 20 vs. 19	
Revenues						
Base Water Rate	\$ 9,400	\$ 10,550	\$ 10,100	\$ 7,550	4.5%	33.8%
Sales	\$ 6,086	\$ 12,716	\$ 4,423	\$ 1,120	187.5%	295.0%
Water	\$ 7,822	\$ 6,653	\$ 7,153	\$ 9,660	-7.0%	-26.0%
Other	\$ 131	\$ -	\$ 217	\$ 177	-100.0%	22.5%
Total Operating Revenue	\$ 23,440	\$ 29,919	\$ 21,893	\$ 18,507	36.7%	18.3%
Expenses						
Bank charges & fees	\$ 52	\$ 50	\$ 50	\$ 55	0.0%	-9.1%
Contractors	\$ 5,772	\$ 6,206	\$ 5,438	\$ 5,672	14.1%	-4.1%
Insurance	\$ 2,067	\$ 2,067	\$ 2,067	\$ 2,067	0.0%	0.0%
Job supplies	\$ 838	\$ 808	\$ 652	\$ 1,054	24.0%	-38.2%
Office supplies & software	\$ 468	\$ 571	\$ 615	\$ 217	-7.2%	182.9%
Other business	\$ 306	\$ 346	\$ 500	\$ 72	-30.9%	592.0%
Reimbursable	\$ 408	\$ 362	\$ 863	\$ -	-58.1%	NM
Repairs & maintenance	\$ 9,714	\$ 3,567	\$ 15,679	\$ 9,896	-77.2%	58.4%
Taxes & licenses	\$ 552	\$ 99	\$ 167	\$ 1,390	-41.0%	-88.0%
Travel	\$ 1,089	\$ 1,236	\$ 588	\$ 1,442	110.3%	-59.2%
Miscellaneous	\$ 38	\$ 113	\$ -	\$ -	NM	NM
Utilities	\$ 2,501	\$ 2,254	\$ 2,462	\$ 2,788	-8.4%	-11.7%
Total Operating Expenses	\$ 23,804	\$ 17,679	\$ 29,080	\$ 24,654	-39.2%	18.0%
Less extraordinary repairs	\$ (8,104)	\$ -	\$ (15,717)	\$ (8,597)		
Net Operating Expenses	\$ 15,700	\$ 17,679	\$ 13,364	\$ 16,058	32.3%	-16.8%
Net Revenue Available for Debt Service	\$ 7,740	\$ 12,240	\$ 8,530	\$ 2,449	43.5%	248.2%

NM = Not Meaningful



Lincoln Mutual Domestic Consumers Association

Pledge Debt Profile - Net System Revenue

Issue	WPF-5672 Proposed				
Par Amount	\$ 236,000	Total Senior Debt Service	Total Debt Service	Total Revenue	Total Debt Service Coverage
Issue Date	N/A				
Call Date	N/A				
Source	NMFA				
2022	\$ -	\$ -	\$ -	\$ 7,740	N/A
2023	\$ -	\$ -	\$ -	\$ 7,740	N/A
2024	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
2025	\$ 12,143	\$ 12,143	\$ 12,143	\$ 7,740	0.64
2026	\$ 12,143	\$ 12,143	\$ 12,143	\$ 7,740	0.64
2027	\$ 12,143	\$ 12,143	\$ 12,143	\$ 7,740	0.64
2028	\$ 12,143	\$ 12,143	\$ 12,143	\$ 7,740	0.64
2029	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
2030	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
2031	\$ 12,143	\$ 12,143	\$ 12,143	\$ 7,740	0.64
2032	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
2033	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
2034	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
2035	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
2036	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
2037	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
2038	\$ 12,143	\$ 12,143	\$ 12,143	\$ 7,740	0.64
2039	\$ 12,143	\$ 12,143	\$ 12,143	\$ 7,740	0.64
2040	\$ 12,143	\$ 12,143	\$ 12,143	\$ 7,740	0.64
2041	\$ 12,143	\$ 12,143	\$ 12,143	\$ 7,740	0.64
2042	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
2043	\$ 12,142	\$ 12,142	\$ 12,142	\$ 7,740	0.64
Total	\$ 242,849	\$ 242,849	\$ 242,849		

BOND SOLUTION**Lincoln MDWCA
WPF-5672 Water System-Design and Construction**

<i>Period Ending</i>	<i>Proposed Principal</i>	<i>Proposed Debt Service</i>	<i>Total Adj Debt Service</i>	<i>Revenue Constraints</i>	<i>Unused Revenues</i>	<i>Debt Serv Coverage</i>
06/01/2023						
06/01/2024	10,962	12,142	12,142	7,740	-4,402	63.74568%
06/01/2025	11,580	12,143	12,143	7,740	-4,403	63.74253%
06/01/2026	11,609	12,143	12,143	7,740	-4,403	63.74232%
06/01/2027	11,638	12,143	12,143	7,740	-4,403	63.74242%
06/01/2028	11,667	12,143	12,143	7,740	-4,403	63.74295%
06/01/2029	11,696	12,142	12,142	7,740	-4,402	63.74379%
06/01/2030	11,725	12,142	12,142	7,740	-4,402	63.74505%
06/01/2031	11,755	12,143	12,143	7,740	-4,403	63.74148%
06/01/2032	11,784	12,142	12,142	7,740	-4,402	63.74347%
06/01/2033	11,813	12,142	12,142	7,740	-4,402	63.74589%
06/01/2034	11,843	12,142	12,142	7,740	-4,402	63.74347%
06/01/2035	11,872	12,142	12,142	7,740	-4,402	63.74662%
06/01/2036	11,902	12,142	12,142	7,740	-4,402	63.74494%
06/01/2037	11,932	12,142	12,142	7,740	-4,402	63.74368%
06/01/2038	11,962	12,143	12,143	7,740	-4,403	63.74274%
06/01/2039	11,992	12,143	12,143	7,740	-4,403	63.74221%
06/01/2040	12,022	12,143	12,143	7,740	-4,403	63.74211%
06/01/2041	12,052	12,143	12,143	7,740	-4,403	63.74242%
06/01/2042	12,082	12,142	12,142	7,740	-4,402	63.74316%
06/01/2043	12,112	12,142	12,142	7,740	-4,402	63.74421%
	236,000	242,848	242,848	154,800	-88,048	

Project Number:

Status Date:

Comment:

DO NOT TYPE IN SHADED AREAS

Project Funding Source:

Status:

Status Date:

Type:

Amount:

(Please Follow Instructions Below)

Contact staff at WTBAdmin@nmfa.net if you have any questions or need clarification.

DESCRIPTION:	WTB Funds	Local Funds	State Funds	Federal Funds	Total
Feasibility/PERs			\$50,000		\$50,000
Design & Specifications		\$280,000			\$280,000
Construction Inspection	\$160,000				\$160,000
Environmental Surveys					\$0
Archaeological Surveys					\$0
Construction	\$2,100,000				\$2,100,000
Land Acquisition	\$75,000				\$75,000
Easements & ROW	\$25,000				\$25,000
Project Management					\$0
Legal Costs					\$0
Total	\$2,360,000	\$280,000	\$50,000	\$0	\$2,690,000

Instructions

1. Do not change this form; insert proposed project budget amounts in white spaces provided.
2. The **"WTB Funds"** column total should be the **same** as the **"Application Amount"** in the application. How much are you requesting from the Water Project Fund?
3. The "Total" column is the total project budget including all match and local funds to be spent.
3. The "Description" items for **"WTB Funds"** (lines 11-20) should match the **Project Scope** in the application.

4. Provide documentation for the source of Local Funds, State Funds, and Federal Funds.

5. Save and attach this Budget Detail form as an **Excel spreadsheet**; do not attach a PDF.

LMDWCA MEETING MINUTES

ANNUAL-RESOLUTION 1/20/2023

Meeting was called to order for annual meeting and to discuss and approve resolutions regarding the grant and loan from the Department of Finance & Administration's Water Trust Board at 1900 on Friday, January 20, 2023.

Meeting Started with a roll call. Michael Johnson, Rebecca Canavan, Mike Hurst and Rory McMinn Board Members constituted a quorum. John Underwood, Attorney for LMDWCA&LSW via phone, Donzil Worthington w/Bohannon-Huston, Johnny Boswell-Member, Sharon and John Amastae-Members, Mr. & Mrs. Carpenter-Members, Shirley Dimas-Member and Scott Coleman-Member joined later

Approval of minutes from January 20, 022 Motion approval by Mike Johnson and seconded by Rebecca Canavan Motion passed.

A resolution 2023-002 accepting the open meetings act. Motion by Mike J and seconded by Rebecca Canavan No comments or questions to follow. Motion passed.

Topic of Grant discussed of \$2,124,000 and Loan \$236,000 total from state \$2,360,000.00 and Lincoln County to provide funds to match 10% \$354,000 grant money.

John Underwood stated that he has reviewed all the necessary documents to move forward. He additionally stated that he found them to be correct and in the familiar "State" document format presenting to the Board that they are ready for their approval.

Each Resolution and all paperwork was then presented and the meeting was opened for discussion on the Grant/Loan Agreement Resolution 2023-003 accepting the Grant/Loan amount. Discussed loan interest of 0.0% but one quarter of 1% (0.025%) administration fee. There being no further discussion or comments a motion for approval was made by Mike Johnson and seconded by Rebecca Canavan. The motion carried with all Board and Members voting in favor.

Due to the nature of the funding just passed, the State has calculated that the current revenue stream is insufficient to repay the loan portion. Therefore, raising water rates from current 2 tenths of a cent per gallon for water service to a new 4 tenths of a cent will provide the necessary water revenue to service the note. Base meter rate and assessment rates will remain the same. This was discussed by members. A Rate Resolution 2023-004 was motioned for approval by Mike Hurst and was seconded by Rebecca Canavan. The motion was passed as all Board and Member voted in favor of the motion.

Next were documents for certification of no pending litigations against the system. Next was delivery deposit and cross receipts certificate, this states how we handle the funds and how it's moved forward. Donzil Worthington of Bohannon-Huston provided information on the timeframe.. Timeframe of closing with engineers in mid-February with agreement to move forward. Design would take about 6 months and in part needing permits for DOT, these take place immediately after design starting and paperwork. Also looking into current well locations and easements, taking place a third of the way into design. The environmental side is also looked at with timeframes due to state funding/attorneys process (finance authority). State reviewing and approvals should be finished by November. Looking at project not

beginning until Feb/March 2024. Anticipation of year long construction, give or take with supply chain etc. Donzil stated that funding is good through 2025, but a two year period is the goal of completion. Mike Johnson stated concerns for archaeological and historical aspect, Mr. Worthington stated that there shouldn't be any new breaking ground-mostly all where everything is but that it is considered and will be taken care of.

The next document of discussion is right-away certificate that state requires a right away assessment be done for construction funding and easements in place to verify for state. State approves all the process, and everything involved. Timing of everything is critical due to pricing of supplies and that we have a locked in price so timing is key. Mr. McMinn discussed again why the new system is being put into place and how we've reached this place. He stated that the Cody's take care of this system, and all maintenance that's involved.

The old well that the state engineer's office wanted to be plugged was discussed. This is on someone's property and so it was discussed this won't be possible due to liability on someone's property. Subsequently discussed that there is a lot of federal land and that when contacted, BLM stated that they would be happy to assist however they are able to accomplish drilling an additional well.

It was asked if anyone had any more questions in regard to the official documents. Motion to pass the certificates was by Rebecca C, Mike Hurst seconded the motion and all signified by saying "aye". All paperwork and documents were discussed. Mr. McMinn stated that if anyone had questions or if they wanted to see or have paperwork they could email him and he would provide the documents.

The annual meeting portion then proceeded. The bank balance was discussed along with profit and loss. Where biggest expense goes. The fidelity amount was discussed as well as if it should be moved into something else more profitable. Mike Johnson has suggestion. It was motioned that financials were reviewed and approved by Rebecca and seconded by Mike Hurst, all signified with saying "aye". Motioned carried.

Nelson Martin was elected to replace Troy Nelson who is no longer a resident of Lincoln. Mike Hurst was ratified to continue to remain on board. Motion by Johnny Boswell and seconded by Rebecca C. It was stated that Rebecca Canavan would need to be replaced for secretary/treasurer by Fall due to other priorities. This position is still open and available.

Contracting with a CPA was discussed to move forward with the new project and all that will be necessary for proper accounting of incoming and outgoing funds. Many members felt this was necessary as well as board members. This is to be discussed another time.

Mr. McMinn explained the process of finding an Engineer/Design team to handle the new water system for Lincoln. Bohannon-Huston were the ultimate choice for moving forward. The recommendation/selection was approved for the construction engineering firm. Motion by Rebecca Canavan and seconded by Mike Hurst. Donzil answered any questions by members.

Bosrd wished to extend the monthly maintenance contract with Floyd and Carla Cody .

Donzil took the floor again to say that in his professional opinion he felt we had excellent results in our efforts for this system and the funding awarded. Rory McMinn was thanked by all members for his efforts. Meeting was adjourned at 2045.

PASSED, APPROVED AND ADOPTED THIS 20th DAY O JANUARY-, 2023.

LINCOLN MUTUAL DOMESTIC WATER
CONSUMERS ASSOCIATION AND
LINCOLN SEWAGE WORKS ASSOCIATION,
LINCOLN COUNTY, NEW MEXICO

By _____
Rory McMinn, President

ATTEST:

By _____
Rebecca Canavan, Treasurer

WATER PROJECT FUND STATUS REPORT
PREPARED FOR THE NEW MEXICO FINANCE AUTHORITY

Loan/Grant Agreement
Lincoln MDWCA & LSWA, Loan/Grant No. WPF-5672

From: [Rory McMinn](#)
To: [Ira Pearson](#); [LLC Eladar](#)
Subject: Fwd: State Water Trust Board
Date: Thursday, May 5, 2022 2:02:33 PM

Breakdown of Water Trust Board award. As you will see, \$280,000 is for 10% match.

Rory McMinn
575/626-7100 Cell

Begin forwarded message:

From: Donzil Worthington <dworthington@bhinc.com>
Date: May 5, 2022 at 11:47:37 AM MDT
To: Rory McMinn <rory@rmcminn.com>
Cc: Andrea Burkert <ABurkert@bhinc.com>
Subject: RE: State Water Trust Board

The project was for the full \$2,690,000
The \$280,000 local match as proposed, reduced the funds requested thru the WTB to \$2,360,000
They awarded the remaining total \$2,360,000 based on their offer of 90% grant leaving a 10% loan of \$236,000
They will finance the \$236,000 loan for 20 years, (30 potentially) at 0% interest (but a 0.25% administrative fee)
At least that is what I am seeing.

The debt service and local match are separate items...but they will roll the local match into the debt in some cases, but that increases the yearly debt service so was not desired initially.

If the County has an additional \$236K they might want to participate with, there would be 0 debt service

We can talk more...
You are not committed to anything until you sign closing Documents...likely in the fall

Donzil Q. Worthington
Project Development Manager – Water & Waste Water Systems
Bohannon Huston
p. 505.823.1000 | d. 505.798.7985 | c. 505.274.1111
Connect: bhinc.com | [Facebook](#) | [LinkedIn](#) | [Twitter](#)
Our Values: A Spirit of Service | Integrity | Innovation | Quality & Excellence

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-----Original Message-----

From: Rory McMinn <rory@rmcminn.com>

Sent: Thursday, May 5, 2022 11:16 AM

To: Andrea Burkert <ABurkert@bhinc.com>

Cc: Donzil Worthington <dworthington@bhinc.com>

Subject: Re: State Water Trust Board

We have told Commission that it is 10% match or 236,000. We bantied about at 280,000. So we'll try to grab that 34,000 extra.

Rory McMinn
575/626-7100 Cell

On May 5, 2022, at 10:46 AM, Andrea Burkert
<ABurkert@bhinc.com> wrote:

Hi Rory!

As Donzil mentioned on the phone, Lincoln's project was approved for the full amount requested at 90/10 (grant/loan)! Attached is the approved budget detail showing WTB funds of \$2,360,000 and your local match of \$280,000.

Let us know if you have any questions.

Thank you!

Andrea Burkert

Senior Administrative Assistant Water Resources Bohannon Huston
p.

505.823.1000 | d. 505.798.7983

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Upcoming out of office:

Thursday, May 19 - Friday, May 20

-----Original Message-----

From: Rory McMinn <rory@rmcminn.com>

Sent: Thursday, May 5, 2022 10:12 AM

To: Rebecca Canavan <canavanrjc@gmail.com>; ozonehog johnson

<ozonehog@gmail.com>; Mike Hurst <mnhurst1@yahoo.com>;
TROY NELSON

<trocoman@hotmail.com>; hillbillylife54@hotmail.com; Donzil

Worthington <dworthington@bhinc.com>; Andrea Burkert

<ABurkert@bhinc.com>; Nathan Roberts <nroberts@bhinc.com>

Cc: LLC Eladar <eeaela@yahoo.com>

Subject: State Water Trust Board

I was informed moments ago that the State Water Trust Board has approved our application. They will fund a 90/10 grant with Lincoln County agreeing to provide the 10% matching funds.

The devil remains in the details. Rebecca and I have had to deal with the most upsetting process to get us to this point. I understand that

the follow-up documentation is worse.

Congratulations to us.

Rory McMinn

575/626-7100 Cell

The Most Dangerous Man in the World

Menace to tyrants, liberator of generations.

By Dan Sanchez

In 1683, the most dangerous man in the world escaped from England to the Netherlands.

He didn't look very formidable. He was 51 years old, lanky, and asthmatic. He had, according to one description, a "long face, large nose, full lips, and soft, melancholy eyes."

Yet the king of England considered him one of his deadliest enemies. As the right-hand man of Charles II's chief political opponent in the country, he was suspected of conspiring to assassinate the king.

What really made him a threat to the throne was not his skill in the lethal arts, but his genius in the literary arts. In the hand of John Locke, the pen was truly mightier than the sword.

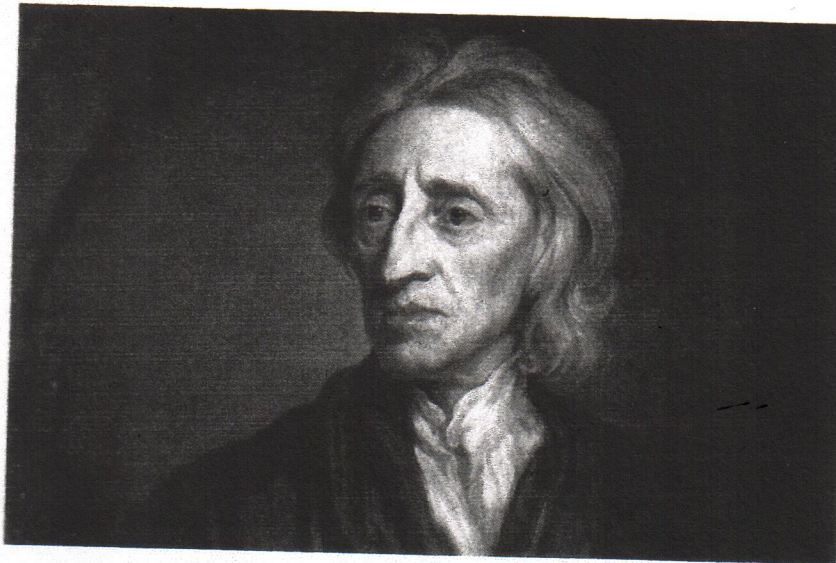
Locke sailed out of England with a powerful weapon, one that would eventually overthrow not just one monarch, but all of them. That weapon was a book, at that point an unpublished draft: "Two Treatises of Government."

That book was a systematic philosophical case for liberty. Locke knew that his anti-absolutist book might get him killed by England's absolute monarch. Indeed, later that year Locke's ally Algernon Sidney was executed for treason, and Sidney's "Discourses Concerning Government" were cited as evidence in his trial.

So Locke did not publish his treatises until 1689, the year after Charles' successor James II was deposed in the "Glorious Revolution"—and even then, only anonymously. Locke publicly denied authorship throughout the rest of his life, only admitting it in his will. He died in 1704.

Later in that century the ideas in "Two Treatises of Government" became the elements of America's founding philosophy:

- Equality, in the original sense, not of



The ideas contained in the papers that John Locke smuggled across the water from England in 1683 turned the world upside down: or rather, right side up.

equal abilities or equal wealth, but of non-subjugation;

- Inalienable Rights, not to government entitlements, but to life, liberty, and property;

- Democracy, in the original sense, not of mere majoritarian voting, but of popular sovereignty: the idea that governments should not be masters, but servants of the people;

- Consent of the Governed: the idea that governments can only legitimately govern by the consent of the governed, i.e., the sovereign people;

- Limited Government: the idea that the sole purpose and proper scope of legitimate

government is only to secure the rights of the people;

- Right of Revolution: the idea that any government that oversteps its limits and tramples the very rights it was charged with securing is a tyranny, and that the people have a right to resist, alter, and even abolish tyrannical governments.

These ideas animated the American Revolution and permeated the Declaration of Independence, the Constitution, and the Bill of Rights. The enormously successful American experiment caused the global prestige of Lockean political philosophy to soar. As Locke's political principles were adopted throughout the world, liberty spread and absolutism receded.

The ideas contained in the papers that John Locke smuggled across the water from England in 1683 turned the world upside down: or rather, right side up.

This wondrous achievement for humankind has since been partially reversed in many ways. Enemies of liberty have twisted Locke's terms to pervert their meaning and serve modern variants of absolutism.

But world history took a much freer course because Locke lived, thought, wrote, and published.

Whether he knew it or not at the time, John Locke was the most dangerous man in the world as well as the most heroic—a menace to tyrants and a liberator of generations.

For more on John Locke's life, works, and influence, read Jim Powell's wonderful profile, "John Locke: Natural Rights to Life, Liberty, and Property." ■

Dan Sanchez is the director of content at the Foundation for Economic Education and the editor-in chief of FEE.org. This essay was reprinted from FEE.org, with permission.

513
514 c. Facilities Repair Budget
515

516 Manager Pearson updated on the repairs and other things done by the Road Department for the
517 facilities and looked for a different way to handle them.
518

519 **21. Approval of Nogal Fire Station Water Storage Construction Contract**
520

521 Mr. Hamilton informed on the funding for the project. He stated only one bid was received and it
522 was significantly over budget. Mr. Hamilton will discuss other options at the Special Meeting.
523

524 **26. Lincoln Domestic Water Association:**

525 a. State Water Trust Board Funding Update
526

527 Rory McMinn informed the State Water Trust Board awarded the Grant amount of \$2,360,000
528 based on a 90/10 grant/loan split so the total would be \$2,690,000. Mr. McMinn stated they are
529 requesting \$280,000 from the County. Mr. McMinn explained they needed to upgrade all of the
530 piping in town and drill a new well as the two they currently have are not sufficient.
531

532 b. Consideration of Request of Lincoln County to Provide Grant Match
533

534 **Motion:** Approve a \$280,000 Grant using ARPA funds, **Action:** Approve, **Moved by**
535 Commissioner Willard, **Seconded by** Commissioner Crunk.

536 **Vote:** Motion passed (**summary:** Yes = 4, No = 0, Abstain = 1).

537 **Yes:** Chair Stewart, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

538 **Abstain:** Commissioner Allen.
539

540 **22. Discussion and Consideration of Community Development Block Grant Projects**
541

542 Manager Pearson stated in order to participate in CDBG a letter would need to be submitted listing
543 potential projects as well as the methodologies by June 1st.
544

545 There was a lengthy discussion to decide what projects could be considered and the list was
546 narrowed down to three.
547

548 **24. Consideration of Recreational Off-Highway Vehicle Route Signage Maintenance**
549 **Agreement between the New Mexico Department of Transportation and the County**
550 **of Lincoln.**
551

552 Attorney Morel updated on the required signage.
553

554 Mr. Honeycutt stated the signs had been purchased and were awaiting final approval for
555 placement.
556

557 **Motion:** Approve the Agreement, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded**
558 **by** Commissioner Allen.

559 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

H. John Underwood, Ltd

A T T O R N E Y S A T L A W

H. John Underwood

January 26, 2023

Carla Solis Najjar
VIRTUE & NAJJAR, PC
2204 Brothers Road
Santa Fe, New Mexico 87505n

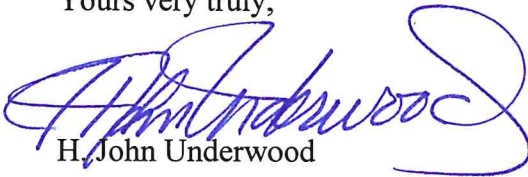
via email csnajjar@virtuelaw.com

Re: *Lincoln Mutual Domestic Water Consumers Association*

Dear Ms. Najjar:

Please find signed copies of the Final Opinion of Counsel for the Borrower/Grantee, as well as the Right-of-Way Certificate which have been executed by me. I will provide the originals to my client, as I understand Mr. McMinn will be forwarding all originals to you.

Yours very truly,



H. John Underwood

HJU/m

cc: client
 file

NEW MEXICO FINANCE AUTHORITY

FINAL OPINION OF COUNSEL FOR THE BORROWER/GRANTEE

To: New Mexico Finance Authority
207 Shelby Street
Santa Fe, New Mexico 87501

Re: Lincoln Mutual Domestic Water Consumers Association and
Lincoln Sewage Works Association, Lincoln County, New Mexico
\$2,360,000 Loan/Grant No. WPF-5672

Ladies and Gentlemen:

I am an attorney representing the Lincoln Mutual Domestic Water Consumers Association and Lincoln Sewage Works Association (the "Borrower/Grantee") in connection with the above-referenced Loan/Grant. I am licensed to practice law and in good standing in the State of New Mexico. I provide this opinion in my role as counsel to the Borrower/Grantee, understanding that the New Mexico Finance Authority (the "Lender/Grantor") is relying on this opinion letter and but for this opinion letter, the Loan/Grant would not be approved.

Capitalized terms used in this Opinion have the same meaning as defined in Resolution No. 2023-003 adopted by the Governing Body of the Borrower/Grantee on January 20, 2023 (the "Resolution") unless otherwise defined in this Opinion or the context requires otherwise.

I hereby certify that I have examined:

- (1) The Lincoln Mutual Domestic Water Consumers Association and Lincoln Sewage Works Association Water Project Fund Application dated October 8, 2021 and December 22, 2021, the New Mexico Water Trust Board Approval dated May 5, 2022, and the Lender/Grantor Approval dated May 26, 2022 for Loan/Grant No. WPF-5672 (the "Application" and the "Approval," respectively), relating to the Project.
- (2) The incorporation documents creating the Borrower/Grantee.
- (3) The Annual Open Meetings Act Resolution(s) of the Borrower/Grantee in effect on January 20, 2023 and on February 24, 2023.
- (4) The proceedings of the Governing Body (including all agendas, minutes, resolutions, ordinances and publications) which authorize the Loan/Grant application, the Project development, the budget for the Project, and the

contracts with the various Project professionals including but not limited to architects, engineers, planners and contractors.

- (5) Proceedings of the Borrower/Grantee from the date of the Application to the date of this Opinion, including, without limiting the generality of the foregoing, the corporate action of the Borrower/Grantee relating to (a) the selection of its President, Board of Directors, and Treasurer; (b) the adoption of the Borrower/Grantee's Annual Open Meetings Act Resolution or resolutions; (c) the adoption of ordinances or resolutions governing the operation of the Project; (d) the plans and specifications for the Project; (e) cost estimates for the Project; (f) the adoption of ordinances, resolutions and regulations for the furnishing of service to customers; (g) the proposed operating budget for services to be provided, in whole or in part, in connection with the Project; (h) the proposal to finance the Project, in whole or in part, with a Loan/Grant made by the Water Trust Board, acting through the Finance Authority; (i) the Resolution authorizing the Authorized Officers to execute necessary documents to obtain the Loan/Grant for the Project; (j) all necessary approvals for the Project from federal, State or local authorities; and (k) the execution and delivery of the Loan/Grant Agreement evidencing the Loan/Grant.
- (6) The Resolution and the Loan/Grant Agreement providing that the Lender/Grantor on behalf of the Borrower/Grantee shall maintain a book Project Account on behalf of the Borrower/Grantee and shall cause the disbursement of the Loan/Grant Amount as provided in Article IV of the Loan/Grant Agreement.
- (7) The records and files of all offices in which there might be recorded, filed, or indexed, any liens of any nature whatsoever, affecting the title to any real property to be acquired with the Loan/Grant proceeds, or on which will be located any Project property to be acquired with the Loan/Grant proceeds.

Based upon my examination of the foregoing, it is my opinion that:

- A. The Borrower/Grantee is a duly organized and existing incorporated mutual domestic water association and sewage works association in good standing under the laws of the State of New Mexico.
- B. The ordinances, resolutions, rules and regulations governing the operation of the Project have been duly adopted and are now in full force and effect.
- C. The Authorized Officers of the Borrower/Grantee were duly and validly elected or appointed and are empowered to act for the Borrower/Grantee.
- D. The Borrower/Grantee has corporate power:

- (1) to design, acquire, construct, install and complete the Project;
 - (2) to execute and deliver Loan/Grant documents including those identified above;
 - (3) to perform all acts required by such Loan/Grant documents to be done by it; and
 - (4) to own, operate and maintain the Project during its Useful Life.
- E. All proceedings of the Borrower/Grantee, its elected and appointed officers, and employees, required or necessary to be taken in connection with the authorization of the actions specified above have been duly taken and all such authorizations are presently in full force and effect.
- F. The Resolution has been duly signed and adopted in accordance with all applicable laws and has not been repealed, rescinded, revoked, modified, amended or supplemented in any manner except as set forth in the Resolution. The Resolution constitutes valid and sufficient legal authority for the Borrower/Grantee to carry out and enforce the provisions of the Loan/Grant Agreement.
- G. The Resolution is a valid and binding special limited obligation of the Borrower/Grantee enforceable in accordance with its terms and creates the pledge of the Net System Revenues (as defined in the Loan/Grant Agreement) of the Borrower/Grantee, as described in the Loan/Grant Agreement (the “Pledged Revenues”) which it purports to create.
- H. The Loan/Grant Agreement is a valid and binding special, limited obligation of the Borrower/Grantee, enforceable in accordance with its terms and provisions and the terms and provisions of the Resolution.
- I. No event will result from the execution and delivery of the Loan/Grant Agreement that constitutes a default or an event of default under either the Loan/Grant Agreement or the Resolution, and no event of default and no default under the Loan/Grant Agreement or the Resolution has occurred and is continuing on the date of this Opinion.
- J. The Borrower/Grantee has duly authorized and approved the consummation by it of all transactions, and has complied with all requirements and satisfied all conditions, which are required by the Loan/Grant Agreement to have been authorized, approved, performed or consummated by the Borrower/Grantee at or prior to the date of this Opinion. The Borrower/Grantee has full legal right, power and authority to carry out and consummate the transactions contemplated by the Resolution and the Loan/Grant Agreement.

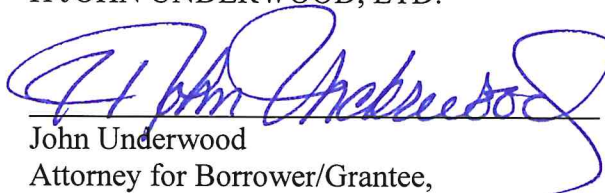
- K. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the enforceability of the Loan/Grant Agreement or any of the actions required to be taken by the Resolution or the Loan/Grant Agreement to the date of this Opinion have been obtained and are in full force and effect.
- L. Neither the Borrower/Grantee's adoption of the Resolution nor any action contemplated by or pursuant to the Resolution or the Loan/Grant Agreement does or will conflict with, or constitutes a breach by the Borrower/Grantee of, or default by the Borrower/Grantee under any law, court decree or order, governmental regulation, rule or order, ordinance, resolution, agreement, indenture, mortgage or other instrument to which the Borrower/Grantee is subject or by which it is bound.
- M. There is no actual or threatened action, suit, proceeding, inquiry or investigation against the Borrower/Grantee, at law or in equity, by or before any court, public board or body, nor to my knowledge, is there any basis therefore, affecting the existence of the Borrower/Grantee or the titles of its officials to their respective offices, or in any way materially adversely affecting or questioning (a) the territorial jurisdiction of the Borrower/Grantee, (b) the use of the proceeds of the Loan/Grant Agreement for the Project and to pay certain costs of the Lender/Grantor and the Water Trust Board associated with the administration of the Water Project Fund, (c) the validity or enforceability of the Loan/Grant Agreement or any proceedings of the Borrower/Grantee with respect to the Resolution or the Loan/Grant Agreement, (d) the execution and delivery of the Loan/Grant Agreement, (e) the authority of the Borrower/Grantee to repay the Loan Amount, or (f) the power of the Borrower/Grantee to carry out the transactions contemplated by the Resolution and the Loan/Grant Agreement.
- N. There are no recorded liens of any nature whatsoever affecting the title to any real property upon which the Project will be located.
- O. The Borrower/Grantee has proper title, easement and rights of way to the property upon or through which the Project is to be designed and constructed.
- P. No legal proceedings have been instituted or are pending, and to my [our] knowledge none are threatened, whether or not the Borrower/Grantee is named as a party in such proceedings, which would affect the Borrower/Grantee's interest in the real property upon which the Project will be located, and there are no judgments against the Borrower/Grantee or liens against any property of the Borrower/Grantee that would impair the Borrower/Grantee's ability to complete the Project.
- Q. The Borrower/Grantee has acquired as legally bound to acquire pursuant to the Loan/Grant Agreement all of the necessary land rights, easements and rights-of-way for the Project and the Borrower/Grantee now has sufficient, adequate and

continuous rights-of-way to permit the design, construction, installation, operation and maintenance of the Project.

- R. The Borrower/Grantee's Governing Body has duly adopted and approved Resolution No. 2023-002 on January 20, 2023, establishing new water rates and charges for all connected members effective a month after the Rate Resolution No. 2023-002 became effective. Resolution No. 2023-002 has not been amended or repealed and is in full force and effect. Resolution No. 2023-002 is irrevocable as long as the Loan is outstanding.

Dated this 24th day of February, 2023.

H JOHN UNDERWOOD, LTD.



John Underwood
Attorney for Borrower/Grantee,
Lincoln Mutual Domestic Water Consumers
Association and Lincoln Sewage Works
Association
1221 Mechem Dr. #5
Ruidoso, New Mexico 88345

\$2,360,000
LINCOLN MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION
AND LINCOLN SEWAGE WORKS ASSOCIATION,
LINCOLN COUNTY, NEW MEXICO
WATER PROJECT FUND LOAN/GRANT
No. WPF-5672

RIGHT-OF-WAY CERTIFICATE

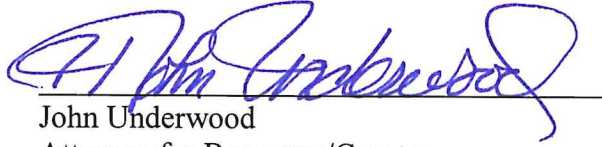
The undersigned on behalf of the Lincoln Mutual Domestic Water Consumers Association and Lincoln Sewage Works Association (the "Borrower/Grantee"), an incorporated mutual domestic water association and sewage works association in good standing in the County of Lincoln in the State of New Mexico, hereby certifies:

1. That the Borrower/Grantee is the owner in fee simple of the lands needed for the construction, operation, design and maintenance of the facilities to be designed, installed, repaired, or enlarged with the proceeds of the above-referenced Loan/Grant made by the New Mexico Finance Authority and the New Mexico Water Trust Board (the "Project"), or that the Borrower/Grantee has acquired and presently holds continuous and adequate rights-of-way on lands owned by others that are needed for the Project, whether public or private, and such omissions, defects, or restrictions as may exist will in no substantial way or manner endanger the value or the operation of the Project.
2. That the Borrower/Grantee has acquired all necessary permits, franchises, and authorizations or other instruments by whatsoever name designated, from public utilities and public bodies, commissions, or agencies authorizing the construction, operation, and maintenance of the facilities upon, along or across streets, roads, highways, and utility corridors.
3. That the attached map or plat shows the location of all lands and rights-of-way needed for the Project, which lands and rights-of-way the Borrower/Grantee has acquired and now holds by purchase or dedication, by right of use or adverse possession, or by legal conveyances such as right-of-way or easement deeds, permits, or other instruments or will obtain prior to disbursement of any portion of the Loan/Grant Amount for construction.

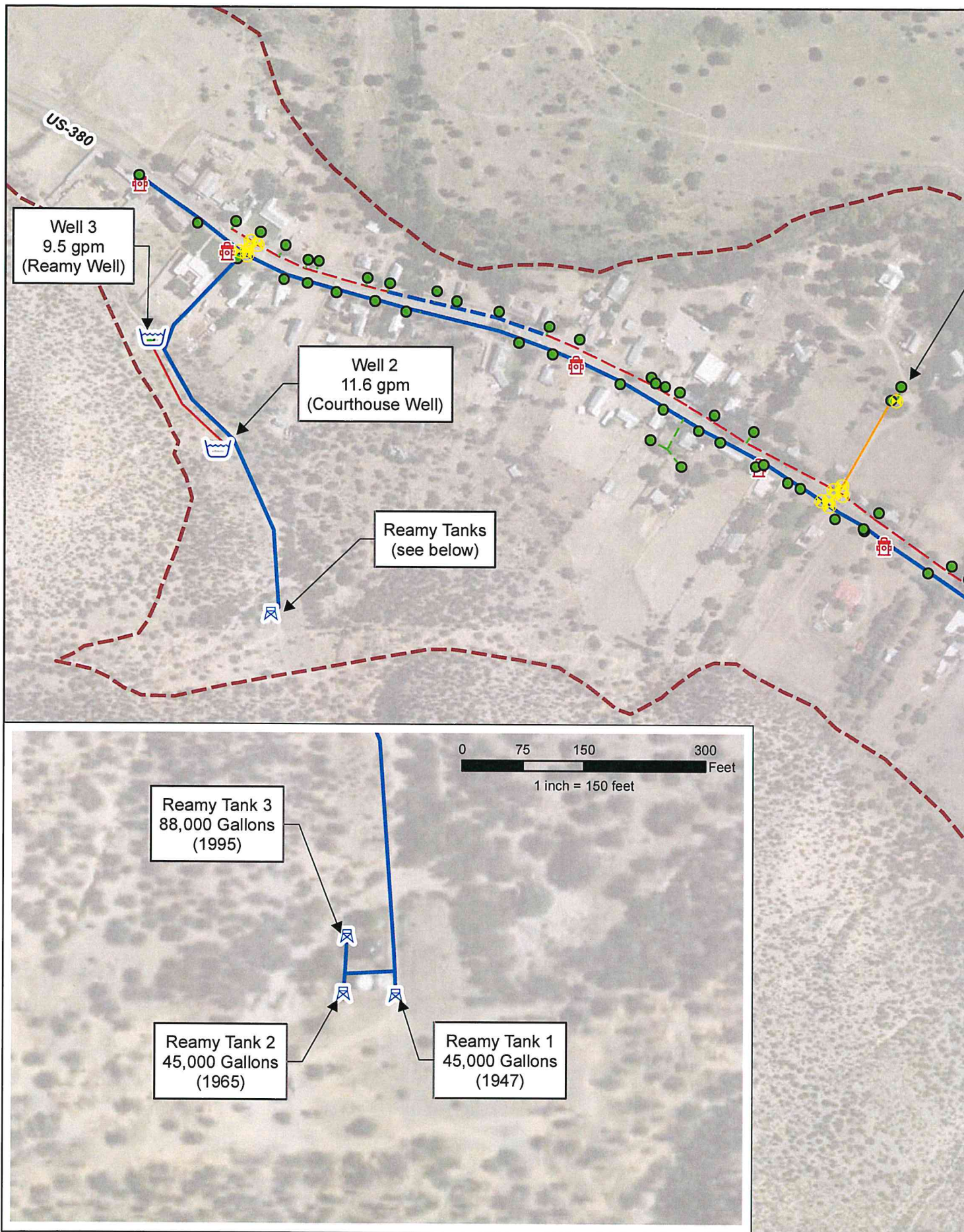
[Signature page follows.]

IN WITNESS WHEREOF, the undersigned has executed this Certificate on behalf of the Lincoln Mutual Domestic Water Consumers Association and Lincoln Sewage Works Association, New Mexico as of this 24th day of February, 2023.

H JOHN UNDERWOOD, LTD.



John Underwood
Attorney for Borrower/Grantee,
Lincoln Mutual Domestic Water Consumers
Association and Lincoln Sewage Works
Association
1221 Mechem Dr. #5
Ruidoso, New Mexico 88345



November 21, 2021

Memorandum of Understanding

Lincoln Mutual Domestic Water Consumers Association (LMDWCA), with Engineering Grant funding from the New Mexico Finance Authority, hired Bohannon-Huston, Inc. (BHI). BH has performed an engineering assessment, has developed an LMDWCA approved plan, made application for funding on behalf of LMDWCA to the State Water Trust Board and has made presentations to the Lincoln County Commissioners (Commission) regarding supplemental or additional funding from Lincoln County to support the project.

While the application to the State Water Trust Board has been made it is one of, but not the only potential source for project funding available. The State Water Trust Board's history is to require supplemental funding ranging between 10% to 20% of the total amount of project funding requested. Therefore LMDWCA has requested of the Commissioners that they provide supplemental funding as necessary to allow LMDWCA to move the project to completion. The requested amount is \$750,000 over the life of the project with an interim or short term firm commitment of \$280,000 thereby providing assurance to the State Water Trust Board that the supplemental funding is committed.

The application process with the State Water Trust Board allows the applicant, if their application request is to be granted, to decline acceptance. The Commissioners desire to have the same ability to decline providing funding for reasons determined by them.

Therefore, this Memorandum of Understanding is designed to provide both the Commissioners and LMDWCA the opportunity to move forward together in their joint desire to see the project funded and completed in a timely manner. The Commission's intent is to provide matching funding, as necessary, for the LMDWCA approved plan once LMDWCA provides to the Commission documentation of their ability to receive project funding.

Lincoln Mutual Domestic Water Consumers Association & Lincoln Sewage Works

March 15, 2023

Electronic Transmission

Mr. Ira Pearson, County Manager

IPearson@lincolncountynm.gov

Board of Lincoln County Commissioners
Lincoln County New Mexico
P.O. Box 711
Carrizozo, NM 88301

RE: LMDWCA & LSW's successful application to the NM State Water Trust Board (NM DFA) for \$2,360,000 for infrastructure development, upgrades and improvements to the water system in the Settlement of Lincoln, NM and the subsequent request made to the Lincoln County Commission for funding of a required match in the total amount of \$354,000.

Dear Chairman Proctor and Commissioners:

LMDWCA & LSW was originally created in 1955. Through the decades that followed many volunteers have operated the system. A boon to the system took place during the time of the heavy investment in restoration of Historic Lincoln by the Lincoln County Heritage Trust. Subsequent to that period in the 1970's through the 1980's the system has been maintained, but not much more than that.

As I stated above, we are all members of the system and as such are volunteers. We have an approved Water System Operator and we meet all of the required Federal and State Safe Drinking Water regulations.

A former member of our Board of Directors expressed concerns in 2017-2018 regarding the possible deteriorating condition of the water storage tanks. Our Board hired a National Association of Corrosion Engineers (NACE) certified diver to enter our tanks and to inspect their condition and make recommendations. The fact that they had lost protection due to their age was the start of our process of reaching this point in our efforts to maintain the system.

Our first grant, from the Water Trust Board, was for Preliminary Engineering Report (PER) that was performed Bohannon Huston, Inc. whose local office is in Albuquerque. All of the pricing and proposed improvements and changes are as a result of that PER.

This funding process, while having been very exasperating to us since we do not have the government employee mindset has, however, helped us greatly in achieving the necessary compliance so that our system is now current on all required rules, reports and regulations under the Drinking Water Act, the Office of the State Auditor, the Department of Environment, the Department of Finance and Administration, the Secretary of State, the Office of the State Engineer and etc.

We are now at the point that we need to confirm our earlier request for additional funding. The 2022 Board of Commissioners had approved our original \$280,000 funding request the amount of which was generated from preliminary WTB documentation. When we were very close to the final approval from the WTB we learned that the amount had been adjusted upward by interest to an amount that we estimated to be \$360,000 or an additional \$80,000 in matching funds. However, as you will see within the attached documentation our required match is \$354,000 not \$360,000.

Suffice it to state that we too have been dealing with a moving target and regret any assumptions that we may have made, but feel fortunate to have overshot our request for our actual needs by \$6,000.

The Commission's consideration of our request is more than greatly appreciated as we will not be able to move forward without your continued support of our efforts.

I am available to discuss this individually and will also be attending the meeting in person so that I may be available to all of you as a Commission as well.

Regards and thanks in advance for your consideration,
LMDWCA & LSW

A handwritten signature in dark ink, appearing to be 'Rory McMinn', with a stylized, flowing script.

Rory McMinn, President

DECEMBER 2022						
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JANUARY 2023						
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FEBRUARY 2023						
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27	28					

NEW MEXICO FINANCE AUTHORITY
FINANCING SCHEDULE & DISTRIBUTION LIST

\$2,360,000
WATER PROJECT FUND LOAN/GRANT
(\$2,124,000 Grant/\$236,000 Loan)
LINCOLN MUTUAL DOMESTIC WATER CONSUMERS
AND SEWAGE WORKS ASSOCIATION
LINCOLN COUNTY, NEW MEXICO

Project No. WPF-5672

Prepared: December 13, 2022

DATE	ACTION	PARTIES
Wednesday, December 22, 2021	Application received by Finance Authority	Borrower/Grantee
2022 Regular Session (Ch. 14)	Legislative approval	Legislature
Thursday, May 5, 2022	Water Trust Board approval	WTB
Monday, May 30, 2022	Water Trust Board Award Letter Sent	WTB
Thursday, December 15, 2022	Distribute Draft Financing Schedule to Finance Authority for review and comment	VN
Wednesday, December 28, 2022	Distribute draft Financing Schedule; Resolution, Agreement and closing documents for review and comment by Finance Authority, Borrower/Grantee and Borrower/Grantee's counsel	VN
Friday, January 6, 2023	Comments due on drafts of all documents from Finance Authority Borrower/Grantee and Borrower/Grantee's counsel	Finance Authority, Borrower/Grantee, Borrower/Grantee's counsel

DATE	ACTION	PARTIES
Friday, January 6, 2023	Final Debt Service Schedule Due to VN	Finance Authority
Friday, January 13, 2023	All documents in final form distributed to Borrower/Grantee for signature with a copy to the Finance Authority	VN
Friday, January 20, 2023	Submit Notice of Adoption of Resolution to the <i>Roswell Daily Record</i> before 11:00 a.m	VN
Friday, January 20, 2023	Governing Body adopts Resolution	Borrower/Grantee
Tuesday, January 24, 2023	Publication of Notice of Adoption of Resolution in the <i>Roswell Daily Record</i>	Legal newspaper for Borrower/Grantee,
Friday, January 27, 2023	Closing documents signed by Borrower/Grantee and delivered to VN	Borrower/Grantee
Thursday, February 16, 2023	Delivery of closing documents forwarded to Finance Authority in electronic form for signature before 5:00 p.m.	VN
Wednesday, February 22, 2023	Finance Authority signs closing documents	Finance Authority
Thursday, February 23, 2023	Thirty-day limitations period ends	
Friday, February 24, 2023	Closing by email	All
Friday, February 24, 2023	Send closing email to WG	VN
Two weeks after receipt of all final transcript documents	Transcript distributed	VN

DISTRIBUTION LIST

BORROWER/GRANTEE

Name: Lincoln Mutual Domestic Water
Consumers and Sewage Works Association
Address: P.O Box 55, Hwy 380
1311 Calle La Placita
Lincoln, New Mexico 88338
Phone: (575) 653-4423

Contact(s): Rory McMinn, President
Email: rory@mcminn.com
Phone: (575) 626-7100

Rebecca Canavan, Treasurer
Email: canavanrjc@gmail.com
Phone: (575) 653-4423

NEW MEXICO FINANCE AUTHORITY

New Mexico Finance Authority (Finance Authority)
207 Shelby Street
Santa Fe, New Mexico 87501

Angela Quintana, Senior Program Administrator
Phone: (505) 992-9648
Email: WTBAdmin@nmfa.net

Bryan Otero, Legal and Compliance Counsel
Email: botero@nmfa.net

Susan Pittard, Attorney
Email: spittard@nmfa.net

Michael Johnson, Vice President and Director
Email: ozonehog@gmail.com

Troy Nelson, Director
Email: trocoman@hotmail.com

Mike Hurst, Director
Email: mnhurst1@yahoo.com

BORROWER/GRANTEE'S ENGINEER

Contact(s): Donzil Worthington
Project Development Manager
Bohannon Huston, Inc.
Address: 7500 Jefferson Street NE
Albuquerque, New Mexico 87109
Email: dworthington@bhinc.com
Phone: (505) 823-1000

BORROWER/GRANTEE'S COUNSEL

John Underwood
H John Underwood, Ltd.
Address: 1221 Mechem Dr. #5
Ruidoso, NM 88345
Phone: (575) 258-9090
Email: junderwoodlaw@windstream.net

LOAN/GRANT COUNSEL

Virtue & Najjar, PC (VN)
2204 Brothers Road, Suite A
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Santa Fe, New Mexico 87505
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Charlotte Larragoite, Paralegal
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Rio Trujillo, Funding Coordinator
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Jolin Anaya, Funding Coordinator
Email: janaya@nmfa.net

Delanne Reichard, Funding Coordinator
Email: dreichard@nmfa.net

NEWSPAPER

Roswell Daily Record
2301 North Main Street,
Roswell, New Mexico 88201
Phone No.: 575-622-7710, ext. 5
Email: legals@rdrnews.com

Deadline: Published Tuesday through Friday and
Sunday. Submit publication two days prior to
publication before 11:00 a.m.



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 22

SUBJECT:

Consideration of Resolution 2023-46 Opposing the Listing of the Lesser Prairie Chicken as an Endangered Species

Tuesday, March 21, 2023

RESOLUTION 2023- 46
OPPOSING THE LISTING OF THE LESSER
PRAIRIE CHICKEN AS AN ENDANGERED SPECIES

WHEREAS, the U.S. Fish and Wildlife Service ("FWS") has issued the final rule to list the Lesser Prairie Chicken, scientific name *Tympanuchus pallidicinctus*, as an endangered species; and

WHEREAS, the listing of the Lesser Prairie Chicken (LPC) as an endangered species will create a wide range of adverse effects upon communities, industries, and people who are located within, reside, ranch, farm, and use the millions of acres of public and private lands identified as Lesser Prairie Chicken habitat for a Distinct Population Segment in the states of Colorado, Kansas, New Mexico, Oklahoma and Texas; and

WHEREAS, the proposed rule to list the lesser prairie chicken (LPC) and separate the population into two Distinct Population Segments (DPS) fails to recognize that the historic range has always been geographically separated by distance and changes in the weather that have been successfully accommodated by the LPC; and

WHEREAS, the FWS has not demonstrated that there exists any genetic differences in the DPS one, or DPS two, that would hinder the LPC from existing in any environment across the entire range; and

WHEREAS, the declaration that a southern DPS and endangered status appear to be unfounded, the language describing critical habitat is vague, and the location of specific boundaries are not easily identifiable, potentially leading to subjective actions by FWS; and

WHEREAS, biological surveys and studies that were contrary to the FWS narrative of population decreases in the LPC actually discovered that there was an overall increase in the populations of LPC from 1997 to 2012; and

WHEREAS, the FWS seems to have arbitrarily and capriciously dismissed any studies which disagreed with their studies of population trends, levels of sustainability, species resiliency, and other factors which were used to designate the LPC as endangered; and

WHEREAS, the loss of the robust energy, agriculture and utility employment sectors in the region, will also adversely impact thousands of support jobs necessary to sustain the region's economic health and vitality; and

WHEREAS, local industries and employment sectors are already actively taking actions for mitigation and protecting wildlife and native species, including the Lesser Prairie Chicken; and

WHEREAS, the scope of protection offered by FWS in listing the Lesser Prairie Chicken as "endangered" is excessive and will result in harm to working families, local industries and communities, as well as the State of New Mexico.

NOW THEREFORE, BE IT RESOLVED, by the board of Lincoln County Commissioners that they stand in opposition to the implementation of the final rule to list the Lesser Prairie Chicken as an endangered species.

BE IT FURTHER RESOLVED, that the theory of two Distinct Population Segments be reconsidered taking all information into account and properly determining the validity of all surveys, studies, and other information, to arrive at a conclusion, rather than making the narrative fit the desired outcome.

PASSED, APPROVED AND ADOPTED this 21st day of March, 2023.

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

Todd F. Proctor, Member

Samantha J. Serna, Member

Jon F. Crunk, Member

Mark G. Fischer, Member

Pierre S. Pfeffer, Member

Attest:

Shannan Hemphill, County Clerk



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 23

SUBJECT:

Discussion and Direction Regarding the Solid Waste Management Contract and the Issuance of a Request for Proposal (RFP)

Tuesday, March 21, 2023

I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The County of Lincoln, State of New Mexico (NM), on behalf of the Lincoln County Board of County Commissioners (BCC), seeks sealed Proposals from experienced and capable Offerors that can implement a comprehensive program for the management of solid waste within the unincorporated areas of Lincoln County, New Mexico.

B. SUMMARY SCOPE OF WORK

The scope of work consists of providing solid waste management for all households in the unincorporated portions of the County (excluding the Alto Lakes Water and Sanitation District). The existing system of Solid Waste Services currently provided to the County residents by the Greentree Solid Waste Authority include:

- 30 cubic-yard (cy) compactors at 12 Collection Station locations
- 3 cy container collection services for solid waste at numerous locations within the County (~~approximately 369 units~~) — **Increase to 500**
- 3 cy container collection services for various recyclables (e.g., plastics, cardboard, metals) at some of the Collection Stations and container collection locations
- **Remove qty** ~~2 cy container~~ collection services for Ashes at the **Collection Stations** — **Insert - Designated Compactor Sites**
- 96-gallon (gal) Poly-Carts for residential curb-side collection services for customers within two subdivisions (~~approximately 352 Customers~~) **Increase to 400**
- 12 cy of residential slash collection (annually) **for** County residents in forested areas (~~approximately 1,850 Customers~~) **Insert - per**
- Illegal dumping clean-up associated with Collection Stations and containers collection locations

In addition to the services identified above, Contractor shall also provide community outreach and education to residents. The County will retain full responsibility for all aspects of billing, as well as, payment and collections management.

The successful Offeror will be responsible for operating, maintaining and improving the County identified waste equipment and facilities. Additional or replacement facilities constructed and operated will be on County-controlled property and ownership of all infrastructure shall revert to the County at the completion of the contract. The successful offeror will guarantee (via a performance bond) that they are in compliance with current New Mexico Environment Department (NMED), Federal and State Department of Transportation (DOT), Federal OSHA and ANSI standards and requirements. In addition, the successful Offeror will be required to utilize a transfer or disposal facility designated by the County and permitted by NMED.

C. SCOPE OF PROCUREMENT

The scope of this procurement consists of evaluating the existing collection system as it is currently operating and providing a baseline Proposal for these existing operations. In addition, the County is interested in receiving alternative Proposals that reflect improvements to the existing operations based on the experience of the Offeror with similar collection systems. All Proposals will require the development of an implementation plan that will be utilized by the selected Offeror to implement the operation of a comprehensive solid waste collection program for residents of the unincorporated portions of the County (excluding the Alto Lakes Water and Sanitation District). The base Proposal should consider the neighborhood poly-cart collection services, rural container collections, recycling, ash, and slash management capabilities, as well as operating and improving the twelve County owned Collection Stations. An alternate Proposal may be provided that includes or deletes any combination of the base services, while still providing access to solid waste disposal services to all of the residences identified. The duration of the contract resulting from this Request for Proposals (RFP) shall be for **eight (8) years** from the date of award. Under no circumstances shall the term of this contract exceed **8 years**. This procurement will result in a single source award.

Change to 4 years

D. PROCUREMENT MANAGER

The County of Lincoln has designated a Procurement Manager who is responsible for this procurement and whose name, address, and telephone number are listed below. Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other County employees do not have the authority to respond on behalf of the County of Lincoln.

Mr. Orlando Samora, Lincoln County Purchasing Agent

<u>Delivery Address (Including Proposal delivery):</u> 300 Central Avenue, Carrizozo, NM 88301	<u>Mailing Address:</u> P.O. Box 711, Carrizozo, NM 88301
---	--

Phone: (575) 648-2385 ext. 105

Fax: (575) 648-2381

E-mail: osamora@lincolncountynm.gov

NOTE: All deliveries via express carrier (INCLUDING PROPOSAL DELIVERY) should be addressed to Mr. Samora's Delivery Address, above.

E. DEFINITION OF TERMINOLOGY

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 24

SUBJECT:

Lincoln County Executive Session Pursuant to the Open Meetings Act: Discussion of All Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7); And Discussion Of the Purchase Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8); And Limited Personnel Matters, Section 10-15-1, Subparagraph (H)(2)

Tuesday, March 21, 2023

Alan P. Morel, P.A.

Attorney at Law

700 Mechem Drive, Suite 12
Post Office Box 1030
Ruidoso, New Mexico 88355-1030

Jira Plaza
Telephone (575) 257-3556
Facsimile (575) 257-3558

March 21, 2023

LINCOLN COUNTY EXECUTIVE SESSION PURSUANT TO THE OPEN MEETINGS ACT: DISCUSSION OF ALL THREATENED AND/OR PENDING LITIGATION, SECTION 10-15-1, SUBPARAGRAPH (H)(7); AND DISCUSSION OF THE PURCHASE ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE PUBLIC BODY, SECTION 10-15-1, SUBPARAGRAPH (H)(8); AND LIMITED PERSONNEL MATTERS, SECTION 10-15-1, SUBPARAGRAPH (H)(2)

New or Updated Matters since last report *

1. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055**
Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018. The case is still pending.

2. **Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts.

On March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court, Case No. S-1-SC-37602 On January 8, 2021, the Supreme Court entered its Dispositional Order of Transfer transferring the case to the Court of Appeals for consideration and review.

On January 28, 2021, a Dispositional Order was entered transferring the case to the NM Court of Appeals for consideration and review. Case No. A-1-CA-39446 On December 8, 2022, the case was submitted to a 3 Judge Panel for a decision.

3. **Romero, et al. v. Stone, et al, Cause No. D-1226-CV-2019-00271** Request for Appointment of Guardian Ad Litem for Plaintiffs and Complaint for Violation of Civil and Constitutional Rights, Negligence, Prima Facie Tort and Wrongful Taking was filed on October 9, 2019 along with a Jury Demand. Lisa B. Riley is the presiding Judge. The case is still pending.

4. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et. al – U.S. Dist. Court Case No. 2:19-cv-00462** – Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings. Settlement has been reached with some of the Defendants and, Lincoln County has begun to receive payments from some of the settling Defendants. The case is still pending.

5. **Greentree Solid Waste Authority v. Lincoln County, Cause No. D-1226-CV-2014-00095** – Compromise and Settlement Agreement and Release executed on December 17, 2015.

6. **Debra Wilcox v. Board of County Commissioners, Deputy Samuel C. Hanna, Caroline McCoy and Former Sheriff Robert Shepperd, Cause No. D-1215-CV-2021-00574** Complaint for Damages was filed on the 2nd day of September, 2021 by Steven Sanders alleging personal injury resulting from an improper and grossly negligent investigation and for “malicious abuse of process”. County Defendants were served on November 2, 2021. The case is still pending.

7. **Eby Revocable Trust AND William R. Moser v. Lincoln County Assessor, et al, Cause No. D-1226-CV-2021-0260** A Notice of Appeal of Decision of Tax Protest Board was filed on the 14th day of December, 2021 by Attorney Zach Cook. On January 27, 2022, New Mexico Counties assigned Attorney Daniel Macke to represent Lincoln County. The case is still pending.

8. **Crystal Buster v. Board of County Commissioners for Lincoln County, Correctional Solutions Group, LLC, et al, Cause No. 2:21-cv-01208** A Complaint for Recovery of Damages Caused by the Deprivation of Civil Rights with a Jury Demand was filed on the 12th day of December, 2021, by Coyte Law P.C., and the Law Offices of Matthew Vance, P.C. The case is still pending.

9. **Lionel Burns v. Lincoln County Sheriff’s Department; Deputy Daniel Brawley; in their individual and official capacities, and Rhonda Burns, Cause No. D-1226-CV-2022-00032** A Complaint for Damages was filed on the 4th day of March, 2022, by Clayton E. Crowley, Esq. and Joseph J. Gribble, Esq.

On April 22, 2022 the case was removed to the U.S. District Court for the District of New Mexico, Cause No. 1:22-cv-000304. The case is still pending.

10. **Potential Recovery of County of Lincoln Losses from the McBride / Nogal Fires**

11. **Butch’s Properties, LLC v. Vera Cruz Ranches, et al, Cause No. D-1226-CV-2022-00166** A Complaint to Quiet Title was filed on the 18th day of August, 2022 by Attorney William Griffin. Lincoln County was served on the 26th day of August, 2022, and filed its Answer to the Complaint on the 26th day of September, 2022. The case is still pending.

12. **Rosarita Brady, et al v. The Board of County Commissioners of the County of Lincoln, et al, Cause No. D-1226-CV-2022-00199** A Verified Complaint was filed by Attorneys Alexandra Bobbit and McKenzie St. Denis on the 27th day of September, 2022. Lincoln County was served on the 22nd day of November, 2022. Lincoln County Defendants filed their Motion to Dismiss in Lieu of an Answer to the Complaint on the 6th day of January, 2023.

13. **Dennis Rich and Yvonne Rich, v. Walt Hill, et al, Cause No. D-1226-CV-2022-00230** A Complaint to Quiet Title was filed on the 22nd day of November, 2022 by Attorney H. John Underwood. The County of Lincoln has yet to be served.

14. ***State of New Mexico v. Richard Jeremy Moisa, Cause No. M-30-MR-2022-00087A** A Complaint for Violation of Lincoln County’s Animal Control Ordinance was filed by LCSO Sgt. Jesse Finley on the 29th day of August, 2022. A Final Pre-Trial Conference is scheduled to take place on the 28th day of March, 2023, and a Bench Trial is scheduled to take place before Judge Mickie Vega on the 4th day of April, 2023.

15. ***BB Lane, LLC / 137 Bluebelle Lane** Violation of Lincoln County’s Lodgers’ Tax Ordinance.

Tort Claims Notices Received or Threatened

2023

***Smoley, Cinthia** – Tort Claim Notice received February 24, 2023, [Claimant also sent the Tort Claim directly to New Mexico Counties Claims Department] alleging that beginning on November 28, 2022, she was subjected to a conspiracy of constitutional deprivations when she was unlawfully removed from her home at 105 Bluebird Lane, Ruidoso, NM. Her claims include that: she sustained injuries while being detained, she was abused during her incarceration at the Lincoln County Detention Center, she was assigned a Public Defender without her consent, and that all of her pets were immediately euthanized by the Lincoln County Humane Society the day of her arrest. Claimant has named the following agencies in her claim: Twelfth Judicial District Court, Lincoln county Sheriff's Office, Ruidoso Police Department, New Mexico State Police, Ruidoso Animal Control, Lincoln County Animal Control, Humane Society, Lincoln County Magistrate Court Judge, Katie Lund.

***Smoley, Robert** – Tort Claim Notice received February 24, 2023, [Claimant also sent the Tort Claim directly to New Mexico Counties Claims Department] alleging that beginning on November 28, 2022, he was subjected to a conspiracy of constitutional deprivations when he was unlawfully removed from his sister's home at 105 Bluebird Lane, Ruidoso, NM where is resided. His claims include that he was abused during his incarceration at the Lincoln County Detention Center, he was assigned a Public Defender without his consent, and that all of his pets were immediately euthanized by the Lincoln County Humane Society the day of his arrest. Claimant has named the following agencies in his claim: Twelfth Judicial District Court, Lincoln county Sheriff's Office, Ruidoso Police Department, New Mexico State Police, Ruidoso Animal Control, Lincoln County Animal Control, Humane Society, Lincoln County Magistrate Court Judge, Katie Lund.

Ramos, Heber – Tort Claim Notice received on February 17, 2023, alleging Civil Rights Violations and injuries sustained while Mr. Ramos was incarcerated at the Lincoln County Detention Center.

Booth, Marcus – Tort Claim Notice received January 26, 2023, alleging injuries sustained by Claimants head due to the actions by staff of the Lincoln County Detention Center and staff's refusal to take Claimant for medical treatment.

Ornelas, Mark – Tort Claim Notice received on January 4, 2023, alleging injuries sustained on October 11, 2022, as a result of an automobile accident / rollover of the Detention Center Transport Van owned by Lincoln County while being transported from Eddy County Detention Center to Lincoln County Detention Center.

2022

Schwartz, Neil – Tort Claim Notice received on February 10, 2022 alleging malicious and/or tortious actions and/or omissions by the State of New Mexico, the Lincoln County Sheriff's Department, the New Mexico State Police, and the Twelfth Judicial District Attorney's Office resulting in damages to Claimant including, but not limited to, infliction of mental pain and suffering, injuries to Claimant's reputation, and current and future loss of earnings.

Downs, Barbara – Tort Claim Notice received May 6, 2022 alleging improper road and/or waterline maintenance resulting in a vehicle collision due to the icy road at the intersection of Sudderth Drive and Paradise Canyon in Ruidoso, New Mexico. A 2nd Tort Claim Notice was received on May 9, 2022 for a separate source with the same allegations as those set out in the May 6, 2022 notice.

McMinn, David – Tort Claim Notice received on July 6, 2022, alleging multiple, serious issues due to the use of excessive force by BIA law enforcement who may have been agents of or acting on behalf of the Village of Ruidoso, Ruidoso Police Department, Lincoln County, N.M. State Police and the State of New Mexico.

New Mexico Boys and Girls Ranches, Inc. and its Employee, Bridgman, Ted – Tort Claim Notice received on August 9, 2022, alleging violation of civil rights and tort claims act, including a demand to cease and desist and the return of promotional materials confiscated by County representatives at the Lincoln County Fair.

Estates of Wesley Clark and Linda Clark – Tort Claim Notice received on October 11, 2022 alleging wrongful deaths as a result of the McBride Fire due in part to faulty siren warning systems.

Snodgrass, Joshua – Tort Claim Notice received on November 2, 20022 concerning loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022.

Grassie, Kurtis - Loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022.

2021

Cervantez, Adam - Tort Claim Notice received on July 8, 2021 alleging the use of excessive force and related constitutional claims during his arrest on April 22, 2021.

Kieter, Dave; Jakubcewicz, Mark; Riddle, Jasper; Patton, Van – Tort claim Noticed received on July 27, 2021. Claimants each allege damages to personal and real property as a result of the extraordinary flooding experienced throughout Lincoln County.

Myers, Sylvia – Tort Claim Notice received August 30, 2021 alleging that Lincoln County Medical Center's treatment fell below the standard of care.

Siegel, Erik – Tort Claim Notice received August 30, 2021 alleging deprivation of rights involving tort, constitutional rights, and other claims.

White, Lionel Glenn, Jr., and family members and tenants, Ralph Nosker and his family members, Barbara Arthur and her family members, and Barlou, LLC – Tort Claim Notice received September 16, 2021 alleging inundation by water resulting in damages to existing roadways and parking in the Gavilan Canyon Road area which are all located within the municipality of the Village of Ruidoso.

Smokey, Cinthia – Ms. Smokey submitted to the Lincoln County Treasurer Department a Statement dated 11/2/2021, for "Arbitration Award/monies due for default".

Vonderane, Glenn – Tort Claim Notice received October 19, 2021 alleging personal injury while using a staircase at the Village of Ruidoso public parking lot located at 151 Center Street.



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 25

SUBJECT:

Approval of Sign and Submit the Teva and Allergan Opioid Settlement
Participation Forms

Tuesday, March 21, 2023

New National Opioids Settlements: Teva, Allergan, CVS, Walgreens, and Walmart
Opioids Implementation Administrator
opioidsparticipation@rubris.com

Lincoln County, NM
Reference Number: CL-388096

TO LOCAL POLITICAL SUBDIVISIONS AND SPECIAL DISTRICTS:

THIS PACKAGE CONTAINS DOCUMENTATION TO PARTICIPATE IN THE NEW NATIONAL OPIOID SETTLEMENTS. YOU MUST TAKE ACTION IN ORDER TO PARTICIPATE.

Deadline: April 18, 2023

Five new proposed national opioid settlements ("*New National Opioid Settlements*") have been reached with **Teva, Allergan, CVS, Walgreens, and Walmart** ("Settling Defendants"). This *Participation Package* is a follow-up communication to the *Notice of National Opioid Settlements* recently received electronically by your subdivision or special district ("subdivision").

You are receiving this *Participation Package* because New Mexico is participating in the following settlements:

- **Teva**
- **Allergan**

If a state does not participate in a particular Settlement, the subdivisions in that state are not eligible to participate in that Settlement. However, please be advised that the New Mexico Office of the Attorney General has entered into New Mexico-only settlements with CVS, Walmart, Kroger, and Albertsons. Subdivisions may be eligible to participate in those settlements, but will need to coordinate with the New Mexico Office of the Attorney General directly. **This communication concerns only Teva and Allergan.**

This electronic envelope contains:

- *Participation Forms* for Teva and Allergan, including a release of any claims.
- *Addendum to the New Mexico Opioid Allocation Agreement.*

The *Participation Form* for each settlement must be executed, without alteration, and submitted on or before April 18, 2023, in order for your subdivision to be considered for initial participation calculations and payment eligibility.

Based upon subdivision participation forms received on or before April 18th, the subdivision participation rate will be used to determine whether participation for each deal is sufficient for the settlement to move forward and whether a state earns its maximum potential payment under the settlement. If the settlement moves forward, your release will become effective. If a settlement does not move forward,

that release will not become effective. In order for New Mexico to receive its maximum potential payment from Teva and Allergan, all eligible subdivisions must sign onto both the Teva and Allergan settlements.

Any subdivision that does not participate cannot directly share in the Teva/Allergan settlement funds, even if the subdivision's state is settling and other participating subdivisions are sharing in settlement funds. Any subdivision that does not participate may also reduce the amount of money for programs to remediate the opioid crisis in its state. Please note, a subdivision will not necessarily directly receive settlement funds by participating; decisions on how settlement funds will be allocated within a state are subject to intrastate agreements or state statutes. In New Mexico's case, that intrastate agreement is the New Mexico Opioid Allocation Agreement, which will be extended to the Teva and Allergan settlements via the *Addendum* included in this packet.

You are encouraged to discuss the terms and benefits of the *New National Opioid Settlements* with your counsel, with the New Mexico Office of the Attorney General, and other contacts within your state.

Information and documents regarding the *New National Opioid Settlements* and how they are being implemented in your state and how funds will be allocated within your state allocation can be found on the national settlement website at <https://nationalopioidsettlement.com/>. This website will be supplemented as additional documents are created.

How to return signed forms:

There are three methods for returning the executed *Participation Forms* and any supporting documentation to the Implementation Administrator:

- (1) *Electronic Signature via DocuSign*: Executing the *Participation Forms* electronically through DocuSign will return the signed forms to the Implementation Administrator and associate your forms with your subdivision's records. Electronic signature is the most efficient method for returning *Participation Forms*, allowing for more timely participation and the potential to meet higher settlement payment thresholds, and is therefore strongly encouraged.
- (2) *Manual Signature returned via DocuSign*: DocuSign allows forms to be downloaded, signed manually, then uploaded to DocuSign and returned automatically to the Implementation Administrator. Please be sure to complete all fields. As with electronic signature, returning manually signed *Participation Forms* via DocuSign will associate your signed forms with your subdivision's records.
- (3) *Manual Signature returned via electronic mail*: If your subdivision is unable to return executed *Participation Forms* using DocuSign, signed *Participation Forms* may be returned via electronic mail to opioidsparticipation@rubris.com. Please include the name, state, and reference ID of your subdivision in the body of the email and use the subject

line Settlement Participation Forms - [Subdivision Name, Subdivision State] - [Reference ID].

Detailed instructions on how to sign and return the *Participation Forms*, including changing the authorized signer, can be found at <https://nationalopioidsettlement.com>. You may also contact opioidsparticipation@rubris.com.

The sign-on period for subdivisions ends on April 18, 2023.

If you have any questions about executing these forms, please contact your counsel, the Implementation Administrator at opioidsparticipation@rubris.com, or Brian Moore at the New Mexico Office of the Attorney General at bmoore@nmag.gov or (505) 717-3511.

Thank you,

National Opioids Settlements Implementation Administrator

The Implementation Administrator is retained to provide the settlement notice required by the respective settlement agreements referenced above and to manage the collection of settlement participation forms for each settlement.

EXHIBIT K
Subdivision and Special District Settlement Participation Form

Will your subdivision or special district be signing the settlement participation forms for the Allergan and Teva Settlements at this time?

☐ Yes ☐ No

Governmental Entity: Lincoln County	State: NM
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Agreement dated November 22, 2022 (“*Allergan Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Allergan Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Allergan Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Allergan Settlement as provided therein.
2. Following the execution of this Settlement Participation Form, the Governmental Entity shall comply with Section III.B of the Allergan Settlement regarding Cessation of Litigation Activities.
3. The Governmental Entity shall, within fourteen (14) days of the Reference Date and prior to the filing of the Consent Judgment, file a request to dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the MDL Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
4. The Governmental Entity agrees to the terms of the Allergan Settlement pertaining to Subdivisions and Special Districts as defined therein.
5. By agreeing to the terms of the Allergan Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the Allergan Settlement solely for the purposes provided therein.



7. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Allergan Settlement.
8. The Governmental Entity has the right to enforce the Allergan Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision or Participating Special District, hereby becomes a Releasor for all purposes in the Allergan Settlement, including, but not limited to, all provisions of **Section V (Release)**, and along with all departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Allergan Settlement are intended to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Allergan Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision or Participating Special District as set forth in the Allergan Settlement.
11. In connection with the releases provided for in the Allergan Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Allergan Settlement.

12. Nothing herein is intended to modify in any way the terms of the Allergan Settlement, to which the Governmental Entity hereby agrees. To the extent this Settlement Participation Form is interpreted differently from the Allergan Settlement in any respect, the Allergan Settlement controls.



I have all necessary power and authorization to execute this Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



Exhibit K
Subdivision and Special District Settlement Participation Form

Governmental Entity: Lincoln County	State: NM
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Agreement dated November 22, 2022 (“*Teva Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Teva Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Teva Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Teva Settlement as provided therein.
2. Following the execution of this Settlement Participation Form, the Governmental Entity shall comply with Section III.B of the Teva Settlement regarding Cessation of Litigation Activities.
3. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, file a request to dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in In re National Prescription Opiate Litigation, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
4. The Governmental Entity agrees to the terms of the Teva Settlement pertaining to Subdivisions as defined therein.
5. By agreeing to the terms of the Teva Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the Teva Settlement solely for the purposes provided therein.
7. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Teva Settlement.



8. The Governmental Entity has the right to enforce the Teva Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision or Participating Special District, hereby becomes a Releasor for all purposes in the Teva Settlement, including but not limited to all provisions of Section V (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Teva Settlement are intended by Released Entities and the Governmental Entity to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Teva Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision or Participating Special District as set forth in the Teva Settlement.
11. In connection with the releases provided for in the Teva Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Teva Settlement.

12. Nothing herein is intended to modify in any way the terms of the Teva Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Teva Settlement in any respect, the Teva Settlement controls.



I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



ADDENDUM TO THE NEW MEXICO OPIOID ALLOCATION AGREEMENT

The Parties to the New Mexico Opioid Allocation Agreement (“NMOAA”), for good and valuable consideration received, hereby enter into this Addendum for purposes of effectuating the terms of additional settlements with Pharmaceutical Supply Chain Participants. The Parties agree as follows:

The Parties agree that the definition of “Settlement” as set forth in the NMOAA shall be amended to include the settlement reached with Allergan, Teva, and any and all such further national settlement agreements with any other Pharmaceutical Supply Chain Participant joined by the State of New Mexico and Participating Local Governments after March 1, 2023.

Signature: _____

Name: _____

Title: _____

Date: _____



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 26

SUBJECT:

Consideration of Entering an Opioid Remediation Collaborative Joint Powers Agreement Between the County of Lincoln and Other “Counties” or “Participating Entities”

Tuesday, March 21, 2023

**AMENDMENT TO THE OPIOID REMEDIATION COLLABORATIVE
JOINT POWERS AGREEMENT**

THIS Amendment to the Joint Powers Agreement ("Agreement"), is made by and between the Counties of Catron, Cibola, Guadalupe, Hidalgo, Sierra, Socorro and Valencia, referred to collectively as “the Counties” or “Participating Entities,” and additional entities that wish to join the Opioid Remediation Collaborative.

RECITALS:

WHEREAS, the Counties are bodies corporate and politic existing by and under the Constitution and Laws of the State of New Mexico; and,

WHEREAS, the amendment to the Joint Powers Agreement is made under the authority of the Joint Powers Agreement Act, NMSA 1978, Sections 11-1-1 et seq. (“Joint Powers Act”),

WHEREAS, NMSA 1978, Section 4-37-1 (1995) provides that Counties have the power to, “provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants”; and,

WHEREAS, both the State of New Mexico and the Counties were signatories to a New Mexico Opioid Allocation Agreement, in the amount of \$195,547,175.00, which proceeds must be utilized to remediate the opioid epidemic; and,

WHEREAS, under the agreement, the State of New Mexico will receive 45% of the opioid allocation, and the Counties and Municipalities will share in 55% of the opioid litigation proceeds; and,

WHEREAS, the Counties have commenced discussions to explore the feasibility of pooling their resources, and to explore participation with the State and other counties and municipalities to support the development of a treatment system to help those suffering from opioid use disorder within New Mexico; and,

WHEREAS, the Counties collectively lack the in-house expertise to develop of sustainable treatment system; and,

WHEREAS, pursuant to the Joint Powers Agreement approved by the Secretary of Finance and Administration on February 24, 2023, the Counties formed an Opioid Remediation Collaborative to pool their collective recoveries to fund a study with the opioid litigation proceeds, to develop and implement a sustainable opioid remediation

system in New Mexico, and to seek and secure additional funding to support this mission, and;

WHEREAS, additional local governments have expressed interest in joining the Opioid Remediation Collaborative, and pooling their recovery of the opioid litigation proceeds to develop and implement a sustainable opioid remediation system in New Mexico.

NOW, THEREFORE, the parties agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are incorporated by reference as a material part of this agreement as if the same were set out completely in this agreement.
2. **Amendment.** The Agreement shall be amended as set forth in this instrument, and, except as expressly amended by this instrument, shall remain in full force and effect as written.
3. Section 4.1 of the Agreement is hereby replaced in its entirety with the following (changes indicated in underline and ~~striketrough~~):

4.1 Each participating entity shall appoint one (1) representative to govern the activities of the ORC. ~~The activities of the ORC shall be governed by a six (6) member Board consisting of a representative appointed by each of the participating entities.~~ The Chair of the ORC Board shall have the same voting rights as any other member of the Board. Upon request or invitation, and pursuant to an affirmative vote, additional parties may be added as participating entities to the Opioid Remediation Collaborative. Such participating entities shall be permitted to appoint a representative to the ORC Board. A representative of the New Mexico Department of Health shall serve as ex-officio member of the ORC Board. Ex-officio members shall have no voting powers, and their presence does not bear on the existence of a quorum.

4. Section 12.0 of the Agreement is hereby replaced in its entirety with the following (changes indicated in underline and ~~striketrough~~):

12.0 CONTACT AND NOTICES

The parties may, from time to time, change their contact person and shall provide prompt notice of such change to the other party. Any notice required under this JPA shall be deemed given and delivered to, and received by, the receiving party three (3) days after deposit in the U.S. mail, certified mail, return receipt requested, postage prepaid, addressed to the receiving party at the mailing address set forth below:

Catron County

~~Stan Brown~~ Loren Cushman
County Manager
100 Main Street
Reserve, NM 87830

Cibola County

Kate Fletcher
County Manager
700 E. Roosevelt Street
Grants, NM 87020

Guadalupe County

Diana Urban
County Manager
130 S. 4th Street
Santa Rosa, NM 88435

Hidalgo County

Tisha Green
County Manager
305 Pyramid Street
Lordsburg, NM 88045

Socorro County

~~Daniel~~ Michael Hawkes
County Manager
PO Box I
Socorro, NM 87801

Sierra County
Amber Vaughn
County Manager
1712 N. Date
Truth or Consequences, NM 87901

Valencia County

Danny Monette
County Manager
PO Box 1119

Los Lunas, NM 87030

Lincoln County
Ira Pearson
County Manager
P.O. Box 711
Carrizozo, NM 88301

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of signature by the Secretary of the Department of Finance and Administration, or his designee, as set forth below.

**BOARD OF COUNTY COMMISSIONERS
OF CATRON COUNTY**

Buster Green, Commissioner

Audrey McQueen, Commissioner

Haydn Forward, Commissioner

(SEAL)

ATTEST:

Sharon Armijo, County Clerk

Date

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF CIBOLA**

Daniel J. Torrez, Chair

Martha Garcia, 1st Vice-Chair

Christine Lowery, 2nd Vice Chair

Ralph Lucero, Member

Robert S. Windhorst, Member

ATTEST BY:

Michelle E. Dominguez, Cibola County Clerk

Date

**BOARD OF COUNTY COMMISSIONERS
OF GUADALUPE COUNTY**

Dr. Randall Brown, Chairman

Ricky Chavez, Commissioner

Ernest E. Chavez, Commissioner

ATTEST BY:

Robert Serrano III, County Clerk

**BOARD OF COUNTY COMMISSIONERS
OF HIDALGO COUNTY**

Joel Edwards, Chairman

Kelly Peterson, Commissioner

Art Malott, Commissioner

ATTEST

Melissa Delagarza, County Clerk

Date

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF SOCORRO**

Antonio “Ray” Martinez, Chair
District V

Craig D. Secatero, Vice-Chair
District II

Joe R. Gonzales, Member
District I

John Aguilar, Member
District III

Glen Duggins, Member
District IV

ATTEST BY:

Betty Saavedra, County Clerk

Date

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF SIERRA**

Jim Paxon, Chair

Travis Day, Vice- Chair

Hank Hopkins, Commissioner

ATTEST BY:

SHELLY TRUJILLO, COUNTY CLERK

DATE

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF VALENCIA**

Gerard Saiz
Commissioner, District I

Troy Richardson
Commissioner, District II

Morris Sparkman
Commissioner, District III

Joseph Bizzell
Commissioner, District IV

Jhonathan Aragon
Commissioner, District V

Attest:

Michael Milam, County Clerk

Date

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF LINCOLN**

Todd F. Proctor, Chairman
Commissioner, District I

Samantha Serna
Commissioner, District II

Jon Crunk, Vice Chairman
Commissioner, District III

Pierre Pfeffer
Commissioner, District IV

Mark Fischer, Vice Chairman
Commissioner, District V

Attest:

Shannan Hemphill, County Clerk

Date

APPROVED

DEPARTMENT OF FINANCE AND ADMINISTRATION

By: _____
Cabinet Secretary

Date: _____

Ira Pearson

From: Alan P. Morel <apmpa@apmpa.com>
Sent: Friday, March 3, 2023 9:08 AM
To: 'David Pato'
Cc: Ira Pearson; apmpa@apmpa.com
Subject: RE: Opioid Remediation Collaborative

Mr. Pato,

Thanks for all your hard work on this issue. I believe Lincoln County will want to participate in the Opioid Collaborative JPA. I will place the matter on our next commission meeting March 21, 2023 for consideration. I have copied the Lincoln County manager Ira Pearson on this email and expect that he would be the contact for Lincoln County. I do have three new commissioners so I hope we are still on board? I know you are busy but if you were available to discuss this with the Lincoln County commission that would be great. I can certainly wing it if you can't. We are still doing Zoom meetings if that would be an option? Thanks again for your help.

Very truly yours,

Alan P. Morel
Alan P. Morel, P.A.
700 Mechem Drive, Ste. 12
P.O. Box 1030
Ruidoso, New Mexico 88355
Tel. (575) 257-3556
Fax. (575) 257-3558
apmpa@valornet.com

NOTE: IF YOU ARE A CLIENT, DO NOT FORWARD THIS EMAIL OR ANY ATTACHMENTS TO ANYONE. IF YOU DO, YOU MAY BE WAIVING THE ATTORNEY-CLIENT PRIVILEGE.

This message, including all attachments, may contain information that is attorney-client privileged or confidential in nature and exempt from disclosure by law. The unauthorized disclosure or interception of email is a federal crime. See 18 U.S.C. Sec. 2517(4). If you are not the intended recipient (or authorized to receive for the addressee) you may not use, copy or disclose to anyone the message or any information contained in the message or its attachments. If you have received this message in error, do not copy or distribute it and please advise the sender by calling (575) 257-3556, return the e-mail and its attachments to apmpa@valornet.com, and delete the message. Thank you.

From: David Pato <dave@npslawfirm.com> Sent: Wednesday, March 1, 2023 10:59 AM
To: Attorneys Affiliate <attorneys.affiliate@nmcounties.org>; Laurence P. Guggino Jr. <larry@griegoguggino.com>
Cc: Loren Cushman <loren.cushman@catroncountynm.gov>; Stan Brown <stan.brown@catroncountynm.gov>; Kate Fletcher <kate.fletcher@co.cibola.nm.us>; Diana Urban <diana.urban@guadco.us>; Tisha Green <tisha.green@hidalgocounty.org>; Amber Vaughn <avaughn@sierraco.org>; Michael Hawkes <mhawkes@co.socorro.nm.us>; Danny Monette <danny.monette@co.valencia.nm.us>; CenturyLink Customer <shartley@q.com>
Subject: Opioid Remediation Collaborative

Dear Friends and Colleagues,

I hope this e-mail finds you all well. I am writing to enthusiastically report that the Secretary of the Department of Finance has approved the formation of the Opioid Remediation Collaborative by the counties of Catron, Cibola, Guadalupe, Hidalgo, Sierra, Socorro, and Valencia, I have attached a copy of the JPA for your reference. The Opioid Remediation Collaborative was formed with the local distribution of the opioid litigation proceeds to develop and implement a sustainable, best practice, opioid treatment program in the participating counties, I would like to extend to your entities an invitation to join the Collaborative.

With the pooling of each entity's portion of the opioid recovery, the Collaborative will be conducting a comprehensive gap analysis of existing harm reduction and addiction treatment and recovery services in the county, securing technical assistance to identify opioid abatement strategies that can support existing services for sustainability purposes, identifying possible opportunities to fill addiction service gaps and to facilitate program implementation and sustainability, and to assisting the participating entities with identifying strong systems of care infrastructure to build on recurring abatement strategies.

While it does not appear that we will secure supplemental funding from our state legislative delegation this year, our federal Congressional Delegation has expressed interest in this initiative, and has indicated that the ORC might qualify for federal Substance Abuse and Mental Health Services Administration ("SAMSHA") funding. We will continue to engage both our state and federal delegation to secure additional funding for this effort.

If your entity would like to join the Collaborative, I would respectfully request that you have your clients execute the attached amendment to the Opioid Remediation Collaborative Joint Powers Agreement, and return the executed amendment by May 1, 2023. I would be appreciative if you would kindly prepare a signature page for your client, and provide an executed signature page by May 1, 2023. I would additionally be appreciative if you would also kindly send your client's contact information so that I may incorporate that information under the "Contact and Notices" heading in the Amendment. Finally, I would be appreciative if you would identify your client's delegate and alternate to the ORC, along with your submission of the amendment.

To the extent that it might be of assistance, I here propose the following action items for your client's consideration:

"Consideration of Amendment to the Opioid Remediation Collaborative Joint Powers Agreement"

"Appointment of Delegate/Alternate to Opioid Remediation Collaborative"

I very much welcome the opportunity to visit with you about the collaborative, its genesis, and its vision, and I look forward to a productive partnership. Please do not hesitate to reach me on the number below, or on my cell at (505) 459-0277, to discuss.

Thanks so much.

Best regards,

David M. Pato
Nance, Pato & Stout, LLC
P.O. Box 772
Socorro, NM 87801-0772
(575) 838-0911 x. 802
(866) 808-1165 (fax)
www.npslawfirm.com

**JOINT POWERS AGREEMENT
OPIOID REMEDIATION COLLABORATIVE**

THIS AGREEMENT is entered into by and between the Counties of Catron ("Catron"), Cibola ("Cibola"), Guadalupe ("Guadalupe"), Hidalgo ("Hidalgo"), Sierra ("Sierra"), Socorro ("Socorro"), and Valencia ("Valencia"), referred to collectively as the ("Counties") or ("Participating Entities").

I. RECITALS

WHEREAS, the Counties are bodies corporate and politic existing by and under the Constitution and Laws of the State of New Mexico; and,

WHEREAS, this agreement is made under the authority of the Joint Powers Agreement Act, NMSA 1978, Sections 11-1-1 et seq. ("Joint Powers Act"),

WHEREAS, NMSA 1978, Section 4-37-1 (1995) provides that Counties have the power to, "provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants"; and,

WHEREAS, both the State of New Mexico and the Counties were signatories to a New Mexico Opioid Allocation Agreement, in the amount of \$195,547,175.00, which proceeds must be utilized to remediate the opioid epidemic; and,

WHEREAS, under the agreement, the State of New Mexico will receive 45% of the opioid allocation, and the Counties and Municipalities will share in 55% of the opioid litigation proceeds; and,

WHEREAS, the estimated year one distribution will be \$17,439.42 to Catron County, \$119,198.58 to Cibola County, \$28848.91 to Guadalupe County, \$30,333.52 to Hidalgo County, \$159,100.56 to Sierra County, \$113,641.08 to Socorro County, and \$427,768.21 to Valencia County; and,

WHEREAS, the Counties have commenced discussions to explore the feasibility of pooling their resources, and to explore participation with the State and other counties and municipalities to support the development of a treatment system to help those suffering from opioid use disorder within New Mexico; and,

WHEREAS, the Counties collectively lack the in-house expertise to develop of sustainable treatment system; and,

WHEREAS, the Counties here propose to collaborate to fund a study with the opioid litigation proceeds, and to develop and implement a sustainable opioid remediation system in New Mexico.

NOW THEREFORE the parties hereby establish the Opioid Remediation Collaborative, as detailed herein, which Board will exercise the common power outlined below to develop and implement a sustainable, best practice, opioid treatment resource and/or program that will assist New Mexico with closing the addiction treatment gap for those suffering from opioid addiction.

II. COMMON POWER

The parties share the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order” and, “provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of ... its inhabitants”. See NMSA 1978, § 3-18-1 (1972) and NMSA 1978, § 4-37-1 (1995)

III. GENERAL PROVISIONS

- 3.1 Pursuant to the provisions of the Joint Powers Agreements Act, the parties agree that the “Opioid Remediation Collaborative” (ORC) shall be organized and empowered as set forth herein.

- 3.2 The ORC will provide the services outlined herein to both the incorporated and unincorporated areas within the geographic area of the Participating Entities.
- 3.3 To do all acts necessary and proper to accomplish the purposes of this Agreement, including, but not limited to, the following:
- a. Work with the Participating Entities, States, and other stakeholders to develop and implement a sustainable, best practice, opioid treatment resource and/or program that will assist the participating entities in closing the addiction treatment gap for those suffering with opioid addiction in those communities.
 - b. Identify opioid abatement strategies that can support existing services for sustainability purposes.
 - c. Identify possible opportunities to fill addiction service gaps.
 - d. Provide technical advisory assistance to the Participating Entities and the local providers as it relates to program implementation and sustainability.
 - e. Assist the Participating Entities with identifying a strong system of care infrastructure to build on reoccurring abatement strategies that will be implemented annually, based on funding opportunities.
 - f. Engaging the respective legislative delegations of the participating communities to secure additional support and funding for the regional opioid treatment system.
 - g. Identify and seek resources and financial commitments to fund the efforts outlined above.
 - h. Establish, maintain, and administer the opioid remediation fund, which fund shall be held in a separate line item of the Valencia County budget, which fund shall consist of the opioid litigation proceeds from each of the participating entities, federal monies, legislative appropriations, public and private grants, gifts and private donations received for the purpose of received for the

purpose of developing and implementing a system of sustainable regional opioid remediation.

- i. Accept and spend federal monies, public and private grants, gifts, contributions, and devises to assist in carrying out the purposes of this article. These monies do not revert to the parties' respective general funds at the end of a fiscal year, but shall carry-over to the next fiscal year to be used only for such purposes as outlined herein.

IV. **BOARD OF DIRECTORS (ORC Board)**

- 4.1 The activities of the ORC shall be governed by a six (6) member Board consisting of a representative appointed by each of the participating entities. The Chair of the ORC Board shall have the same voting rights as any other member of the Board. Upon request or invitation, and pursuant to an affirmative vote, additional parties may be added as participating entities to the Opioid Remediation Collaborative. Such participating entities shall be permitted to appoint a representative to the ORC Board. A representative of the New Mexico Department of Health shall serve as ex-officio member of the ORC Board. Ex-officio members shall have no voting powers, and their presence does not bear on the existence of a quorum.
- 4.2 The powers and duties of the Board shall be to:
 - a) Engage such Contractors/Consultants required to perform those duties outlined in Section 3.3 of this Joint Powers Agreement.
 - b) Elect one (1) of its members as Chairperson and one (1) Vice Chairperson.
 - c) Hold meetings to receive reports and provide its consultants with guidance and direction in compliance with the "Opens Meeting Act";
 - d) Determine the time and place of meetings and give public notice thereof;
 - e) Assure for proper management and control of the finances and property of ORC;

- f) Establish and adopt bylaws and internal rules and regulations and policies as it deems necessary to conduct the affairs of ORC, including but not limited to personnel matters;
- g) Submit periodic certified financial statements detailing revenues received from all sources, expenditures, and obligations incurred and unpaid to the parties to this Agreement;
- h) Submit a quarterly activity report to the parties;
- i) Acquire and approve all appropriate insurance contracts for adequate coverage that will protect the interests of the ORC and the parties to this Agreement, including but not limited to worker's compensation, general liability, unemployment compensation, and property damage. Liability insurance policies shall be reviewed on a regular basis and coverage will be increased when necessary.
- j) Approve and execute all ORC contracts, public or private;
- k) Acquire and hold all personal or real property of ORC or of the parties; and

5.0 FINANCES AND BUDGETING

- 5.1 The County of Valencia shall act as the fiscal agent for the ORC and shall collect all revenues accruing to and make all disbursements for the ORC, including providing a monthly expense and revenue report and the Treasurer will provide a Treasurer's report.
- 5.2 No participating entity is responsible for the provision of any funds in support of this Agreement. The operation of the ORC is contingent upon receipt of opioid litigation proceeds, legislative appropriations, public and private grants, gifts and private donations received for the purpose of developing and implementing a sustainable, best practice, opioid treatment resource and/or program that will assist New Mexico with closing the addiction treatment gap for those suffering from opioid addiction.
- 5.3 Operating funds of the ORC shall be held in one or more separate accounts and shall not be commingled with the funds of any of the parties to this agreement, and shall only be utilized as provided herein.

- 5.4 The ORC may invest its funds only in accordance with any applicable laws of the State which govern the investment of public funds.
- 5.5 No Party to this agreement shall have any liability to pay for any debt or other obligation incurred by the ORC unless there is a specific written agreement to do so accompanied by an appropriation approved with the requisite formalities.
- 5.6 The ORC Board shall be strictly accountable and responsible for the proper expenditure of all public funds.
- 5.7 The ORC shall use, funds provided pursuant to this JPA solely for the uses set forth herein.
- 5.8 The terms of the Bateman Act, being Sections 6-6-11 (1968), applies to this Agreement. The Act supersedes any conflicting provision of the Agreement.
- 5.9 Expenditures of the ORC are subject to the provisions of the New Mexico Procurement Code, being NMSA 1978, Sections 13-1-28 et seq. (1984, as amended through 2021), and violation thereof may subject the responsible party to civil and or criminal penalties.
- 5.10 The fiscal agent shall not allow any department of the fiscal agent to charge against any account unless the ORC submits a signed invoice and or supporting documentation, consistent with the policies and procedures established by the ORC Board, and the County of Valencia Procurement Code.
- 5.11 The fiscal agent shall be responsible for providing a monthly expense and revenue report to ORC and for providing the report to the ORC Board for review and approval.
- 5.12 The fiscal agent shall strictly account for receipts and disbursements made pursuant to this JPA, in accordance with the County of Valencia Procurement Code and all other applicable laws and regulations.

6.0 BOOKS AND RECORDS

- 6.1 The ORC shall maintain adequate and correct accounts of its funds, properties and business transactions, said accounts shall be open to

inspection at any reasonable time by the parties hereto, their accountants or their agents. The ORC shall cause to be conducted an annual audit, which audit shall be conducted by an independent certified public accountant, approved by the State auditor. The ORC shall submit a copy of said audit to each of the parties.

- 6.2 Within 90 days after the end of each fiscal year, the ORC shall prepare and present to the parties a comprehensive annual report of the ORC's activities and finances during the preceding year. The ORC shall also render to the parties hereto, at reasonable intervals and within a reasonable time period, such reports and accounting as the parties hereto may from time to time request.
- 6.3 The ORC shall prepare and present such other reports as may be required by law, regulation or contract to any authorized governmental agency.

7.0 OTHER PROVISIONS

- 7.1 This JPA and the rights of the parties hereto shall be governed by and construed in accordance with the Laws of the State of New Mexico.
- 7.2 This JPA incorporates all of the agreements and understandings between the parties hereto concerning the subject matter hereof, and all such agreements and understandings have been merged into this written JPA. No prior agreements or understandings, verbal or otherwise, of the parties or their agents are valid or enforceable unless embodied in this JPA.

8.0 TERMINATION OF AGREEMENT

- 8.1 The term of this Agreement shall be perpetual, unless terminated as herein provided. Any of the parties may terminate this Agreement at any time, upon the issuance of notice of at least one fiscal-year notice, with the termination will become effective at the beginning of the next fiscal year.
- 8.2 Upon termination of this Agreement by one or more of the parties to this Agreement, the powers granted to the ORC under this Agreement shall

continue to the extent necessary to make an effective disposition of the property. Any property acquired shall be distributed in proportion to the contributions of the parties, though its use will be limited as described herein.

- 8.3 If any provision of this Agreement is subsequently held to be invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall not be affected thereby and the remaining provisions of this Agreement would continue in full force and effect, unless the fulfillment of the purpose of the Agreement is rendered impracticable.
- 8.4 If any provision of this JPA, or the application of such provisions to any person or circumstances shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this JPA, or the application of its provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and the remainder of this JPA can be performed in substantial accordance with the original intent of the parties hereto.
- 8.5 If any provision of this JPA, or the application of such provisions to any person or circumstances shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this JPA, or the application of its provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and the remainder of this JPA can be performed in substantial accordance with the original intent of the parties hereto.
- 8.6 Pursuant to the provisions of the Joint Powers Act, NMSA 1978, Sections 11-1-1 et seq., all privileges and immunities from liability, exemptions from laws, ordinances, and rules, which apply to the activity of officers, agents, or employees of any signatory public agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same extent while engaged in the performance of any of their functions and duties under the provisions of the JPA.

8.7 The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given to all Participating Entities.

9.0 AMENDMENTS

9.1 This agreement may be amended by the parties from time to time, but any amendment shall be in writing, executed by all of the parties thereto, and approved by the Department of Finance and Administration.

10.0 LIABILITY PROVISION

10.1 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 as a result of this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act. In accordance with NMSA 1978, Sections 11-1-5 (1961), it is expressly declared that ORC is a separate and independent legal entity from Sierra County, Catron County and Socorro County, which are the entities that comprise the JPA. The members of the ORC Board, its officers, and members of the JPA shall not be held personally liable for any acts performed or omitted in good faith by ORC.

11.0 INSURANCE

11.1 ORC shall obtain insurance to cover any suit which may be brought against it and its officers and employees. All liability insurance policies shall list all the participating counties as additional insureds. The liability shall contain minimum limits amounts of \$1,000,000.00 per person and \$2,000,000.00 per occurrence.

12.0 CONTACT AND NOTICES

The parties may, from time to time, change their contact person and shall provide prompt notice of such change to the other party. Any notice required under this JPA shall be

deemed given and delivered to, and received by, the receiving party three (3) days after deposit in the U.S. mail, certified mail, return receipt requested, postage prepaid, addressed to the receiving party at the mailing address set forth below:

Catron County

Stan Brown
County Manager
100 Main Street
Reserve, NM 87830

Cibola County

Kate Fletcher
County Manager
700 E. Roosevelt Street
Grants, NM 87020

Guadalupe County

Diana Urban
County Manager
130 S. 4th Street
Santa Rosa, NM 88435

Hidalgo County

Tisha Green
County Manager
305 Pyramid Street
Lordsburg, NM 88045

Socorro County

Daniel Hawkes
County Manager
PO Box I
Socorro, NM 87801

Sierra County

Amber Vaughn
County Manager
1712 N. Date

Truth or Consequences, NM 87901


Valencia County


Danny Monette
County Manager
PO Box 1119
Los Lunas, NM 87030


IN WITNESS WHEREOF, the parties have executed this Agreement which becomes effective as of the date of approval by the Department of Finance and Administration.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

**BOARD OF COUNTY COMMISSIONERS
OF CATRON COUNTY**

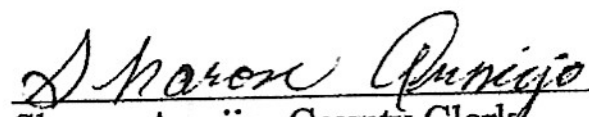

Anita A. Hand, Chair


John "Cliff" Snyder, Commissioner

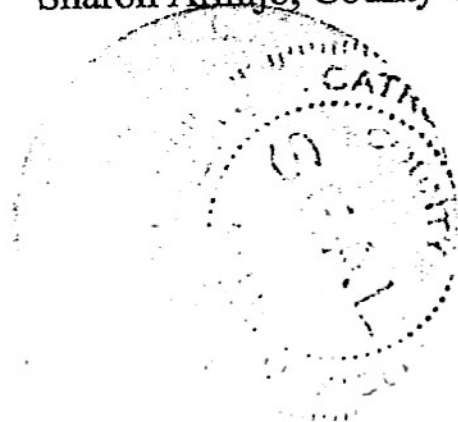

Hayden Forward, Commissioner

(SEAL)

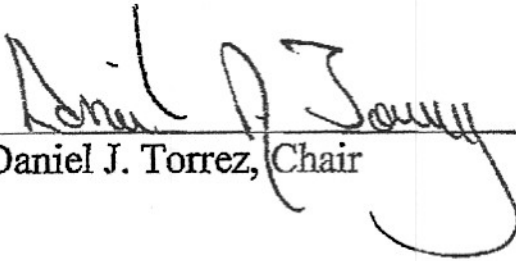
ATTEST:


Sharon Armijo, County Clerk

11-10-22
Date




**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF CIBOLA**

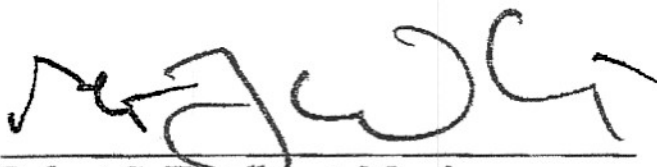

Daniel J. Torrez, Chair


Martha Garcia, 1st Vice-Chair

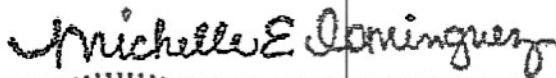
ABSENT

Christine Lowery, 2nd Vice Chair

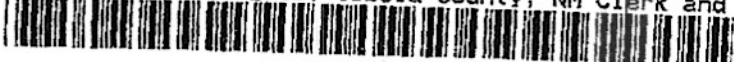

Ralph Lucero, Member


Robert S. Windhorst, Member

ATTEST BY:


Michelle E. Dominguez, Cibola County Clerk


11/2/2022
Date



**BOARD OF COUNTY COMMISSIONERS
OF GUADALUPE COUNTY**



James E. Moncayo, Chairman



Albert E. Campos, Commissioner



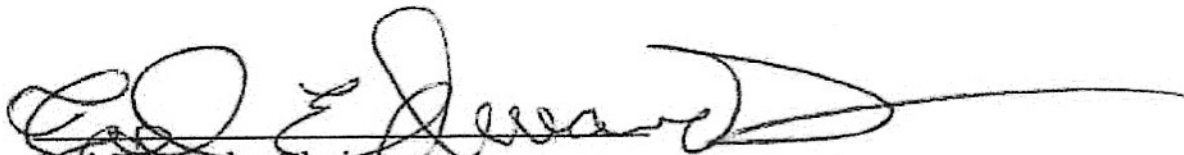
Ernest E. Chavez, Commissioner


ATTEST BY:



Robert Serrano III, County Clerk

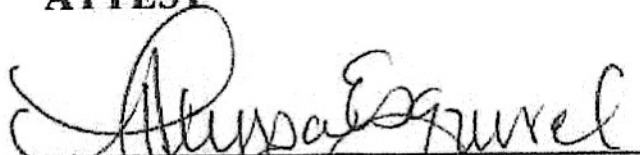
**BOARD OF COUNTY COMMISSIONERS
OF HIDALGO COUNTY**


Joel Edwards, Chairman

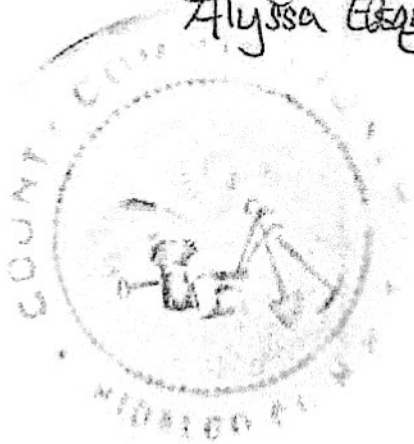

Johnny Hatch, Commissioner


Art Malott, Commissioner

ATTEST


Alyssa Esquivel, County Clerk

December 14, 2022
Date



**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF SOCORRO**

ABSENT
Antonio Ray Martinez, Chair
District V

Craig D. Secat
Craig D. Secatero, Vice-Chair
District II

Joe R. Gonzales
Joe R. Gonzales, Member
District I

Manuel E. Anaya
Manuel E. Anaya, Member
District III

Glen Duggins
Glen Duggins
District IV

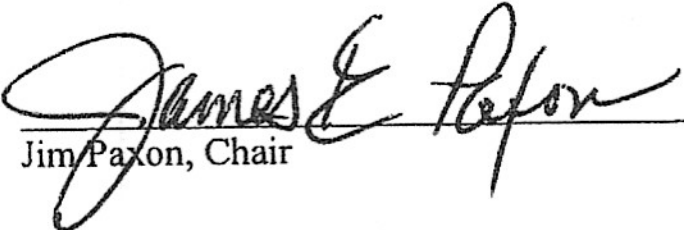
ATTEST BY:


Betty Saavedra
Betty Saavedra, County Clerk

10-25-22
Date



**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF SIERRA**


Jim Paxson, Chair


Travis Day, Vice- Chair



Hank Hopkins, Commissioner

ATTEST BY:

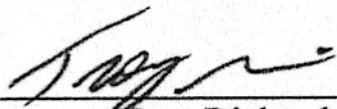

SHELLY TRUJILLO, COUNTY CLERK

10/25/2022
DATE

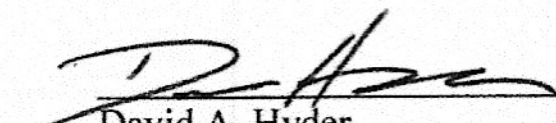
**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF VALENCIA**



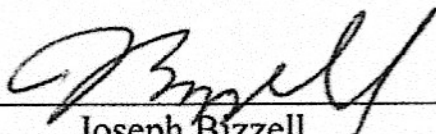
Gerard Saiz
Commissioner, District I



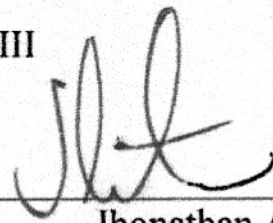
Troy Richardson
Commissioner, District II



David A. Hyder
Commissioner, District III



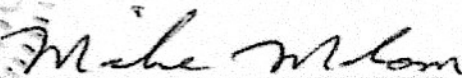
Joseph Bizzell
Commissioner, District IV



Jhonathan Aragon
Commissioner, District V



Attest:

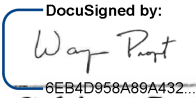


Michael Milam, County Clerk

11-16-2022
Date

APPROVED

DEPARTMENT OF FINANCE AND ADMINISTRATION

By: 
Cabinet Secretary Wayne Propst

Date: 2/24/2023



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 27

SUBJECT:

Discussion and Direction Regarding Construction Permitting, Oversight and Enforcement of the Memorandum of Understanding Between the Village of Ruidoso and the County of Lincoln for the Provision of Regulation Services of Residential and Commercial Construction Within Certain Specified Areas of the County of Lincoln

Tuesday, March 21, 2023

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
VILLAGE OF RUIDOSO
AND
THE COUNTY OF LINCOLN**

**FOR THE PROVISION OF REGULATION SERVICES OF RESIDENTIAL AND
COMMERCIAL CONSTRUCTION WITHIN CERTAIN SPECIFIED AREAS OF
THE COUNTY OF LINCOLN**

THIS AGREEMENT is made and entered into between the COUNTY OF LINCOLN ("COUNTY") and the VILLAGE OF RUIDOSO ("Ruidoso"). County and Ruidoso are collectively referred to as "the Parties." The common power to be exercised is as set forth in the Agreement.

WHEREAS, the Parties are public agencies, as defined in § 11-1-2 NMSA, 1978, and are authorized by law to enter into this Agreement; and,

WHEREAS, pursuant to the Construction Industries Licensing Act (CILA) § 60-13-41F, NMSA, 1978 allows a county, municipality or other political subdivision to enter into a memorandum of understanding ("MOU") to share a certified building official and inspectors operating in another county, municipality or other political subdivision provided the certified building official is employed in the same political subdivision, an adjacent political subdivision, within 100 miles of each other or is approved by the Construction Industries Division ("CID"); and

WHEREAS, Ruidoso is a Municipality as defined in § 3-1-2 (G) NMSA, 1978, and has by ordinance adopted the conditions, provisions, limitations and terms of a building code pursuant to its powers under § 3-18-1 NMSA, 1978; and,

WHEREAS, pursuant to § 3-18-6 A(4) and C(1) NMSA, 1978, a municipality has jurisdiction over building permits issued by the municipality except with respect to construction specifically exempted by the CILA, pursuant to § 60-13-44 E; and may authorize the investigation of code violations or activities of licensees or others that constitute violations of state minimum codes, the county's ordinances or complaints relative or issued permits; and,

WHEREAS, the Parties desire to enter into this Agreement in order to effectuate administrative efficiency in the regulation of residential and commercial construction, including plan review, general, mechanical, electrical and plumbing inspections and permits located within the geographical boundaries of the County in those areas designated on **Exhibit "A"**, excluding Ruidoso, which are incorporated herein by reference as they currently exist or may be modified in the future by agreement of the parties; and

WHEREAS, the Village of Ruidoso has a certified building official, approved inspectors and a full service planning, permitting and inspection department, including permitting and inspections of general, mechanical, plumbing and the electrical trades as

well as having the ability to investigate all code violations or activities of licensees based on the Village of Ruidoso's issuance of permits, ability to enforce minimum state code requirements and ordinances enacted by the County of Lincoln. The County of Lincoln is desirous of having the Village of Ruidoso conduct plan review, issue permits and conduct inspections and investigations of code violations in the geographical boundaries of the County of Lincoln.

NOW THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES THAT THE REGULATION OF RESIDENTIAL AND COMMERCIAL CONSTRUCTION LOCATED WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE COUNTY AND WITHIN THE GEOGRAPHICAL BOUNDARIES SET FORTH ON EXHIBIT "A", WHICH ARE NOT CONSIDERED PUBLIC BUILDINGS SHALL BE ACCOMPLISHED AS FOLLOWS:

1. **AUTHORIZATION AND SCOPE.** Ruidoso is hereby granted the authority to issue building permits, conduct inspections, and enforce violations of residential and commercial construction located within the geographical boundaries of the County in the geographical boundaries set forth on **Exhibit "A"** as they currently exist or may be modified in the future by agreement of the parties, which are not considered public buildings, subject to the terms and conditions set forth herein. Ruidoso will issue, monitor and maintain documents for all construction permits and provide inspection services for said permits in general, mechanical, electrical and plumbing construction. Ruidoso will also provide Building Code Enforcement services, responding to complaints within the County's jurisdiction, subject to the terms and conditions of this Agreement within the constraints of applicable law. Public buildings are defined as a building or other structure on public owned lands or used by a municipality, county or other political subdivision of the state utilizing state, county or municipal funds, bonds or other revenues.

2. **PREREQUISITES.**

- a. Ruidoso shall, at all times relevant to this Agreement, maintain a full service, plan review, permitting and inspection program and shall employ full time plan review personnel and electrical, mechanical, plumbing and general construction inspectors who are certified by the Construction Industries Division of the State of New Mexico throughout the term of this Agreement.
- b. If Ruidoso is unable to maintain a full service, plan review, permitting and inspection program, and to provide Building Code Enforcement Services, if it fails to replace within sixty (60) days and employ the requisite inspectors as set forth in this Agreement, or if Ruidoso loses an inspector such that it is no longer maintaining a full service inspection program, Ruidoso shall immediately notify both CID and the County of Lincoln. For the sixty-day period, CID shall conduct inspections for the trade lacking an inspector allowing Ruidoso to fill the inspector vacancy. At the end of the sixty day period, if Ruidoso does not fill the vacancy, permitting and inspection

services associated with the vacancy shall continue to be provided by the State for both the Village and the County until such time as Ruidoso is able to again provide a full service inspection program in accordance with this MOU. Other than this contingency, the County may terminate this Agreement by providing and delivering written notice to Ruidoso of termination at least two (2) months or sixty (60) days prior to the effective date of termination and take such action as is necessary to provide for these services in-house or through an agreement with the State of New Mexico.

3. **BUILDING STANDARDS.** The building standards applied by Ruidoso shall be, at the least, the minimum State standards, as required by § 3-17-6 A NMSA, 1978 and NMSA 1978, §60-13-44 F.
4. **VIOLATION ENFORCEMENT AND MONITORING.** Ruidoso will enforce and provide monitoring of Building Ordinance violations consistent with State Law and conduct enforcement of complaints received in the jurisdiction covered by this MOU. Ruidoso shall, when necessary, cite into a court of competent jurisdiction violations of the Building Ordinance or violations of permits issued by Ruidoso.
5. **TERM.** The term of this Agreement shall be for four years beginning July 1, 2022 to June 30, 2026. During that period the parties shall regularly communicate concerning the performance of the services contemplated herein and shall jointly monitor permitting fees, inspection performance time frames, and any other issues or performance standards contained on **Exhibits “B” and “C”** which are attached hereto and are incorporated herein by reference. Thereafter, in the event the parties determine to continue with this Agreement it shall continue until terminated pursuant to the terms hereof or by operation of law.
6. **TERMINATION.** This Agreement may be terminated by either party upon delivery of at least ninety (90) days’ written notice to the other at any time during the term of this Agreement, or three (3) months prior to the effective date of termination. By such termination, neither party may nullify or void any obligation required to have been performed prior to the effective date of termination.
7. **SUBCONTRACTING AND ASSIGNMENT.** Ruidoso may not subcontract any portion of the services to be performed by it pursuant to this Agreement, assign this Agreement, or obligate itself in any manner to any third party with respect to any rights or responsibilities under this Agreement, without prior written consent of the County and the written approval of CID.
8. **RECEIPTS AND DISBURSEMENTS.** Ruidoso shall account for receipts and disbursements relating hereto and shall make all relevant financial records available to the County upon request and shall maintain all related records in accordance with state records retention policies after this Agreement has expired or has been terminated.

9. **AMENDMENT.** This Agreement may not be altered, changed, or amended except by an instrument in writing executed by the parties hereto and approved between the parties to this Agreement and the Construction Industries Division.
10. **WAIVER.** No waiver of any breach or term or condition of this Agreement shall constitute a waiver of any other term or condition of this Agreement, or a subsequent waiver of the same breach or term or condition. No waiver of any term or condition of this Agreement shall be valid or binding unless in writing and signed by the party alleged to have granted the waiver.
11. **GOVERNING LAW.** This Agreement and the interpretation hereof shall be governed by the laws of the State of New Mexico pertaining to such agreements. The District Court of the Twelfth Judicial District within and for Lincoln County shall be the court of venue for resolution of any disputes that arise pursuant to this agreement.
12. **MERGER OF PRIOR AGREEMENTS.** This Agreement incorporates all of the conditions, agreements and understandings between the parties concerning the subject matter hereof, and all such conditions, agreements and understandings have been merged into this Agreement. No prior condition, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.
13. **HOLD HARMLESS.** 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. Nothing contained in this Agreement should be construed as a waiver of the protections afforded to local governments under the New Mexico Tort Claims Act.
14. **APPROPRIATIONS.** The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Village Council for the performance of this Agreement and Ruidoso has the appropriate personnel as approved by CID to fulfill all the terms of this MOU.
15. **ANALYSIS AND REPORTING OF FEES COLLECTED.** The parties agree that the Village of Ruidoso shall provide a report to the County of Lincoln at a minimum of an annual basis which will identify the building permits issued, the fees charged, a cost comparison of fees charged with the cost of providing said services, and the location of the services rendered: i.e. within the municipal limits of the Village of Ruidoso or in the County.

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

Approved this _____ day of _____, 2022.

**Construction Industries Division
Regulation & Licensing Department,**

By: Director
Its: Acting Director

Approved this _____ day of _____, 2022.

VILLAGE OF RUIDOSO

By: Lynn D. Crawford
Its: Mayor

Seal

ATTEST:

Ronald L. Sena, Clerk

VILLAGE OF RUIDOSO LEGAL

APPROVED AS TO FORM
Zachary J. Cook

Approved this _____ day of _____, 2022.

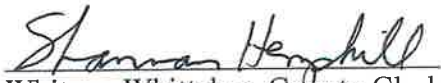
**BOARD OF COUNTY COMMISSIONERS
OF LINCOLN COUNTY**



By: Thomas F. Stewart
Its: Chair

Seal

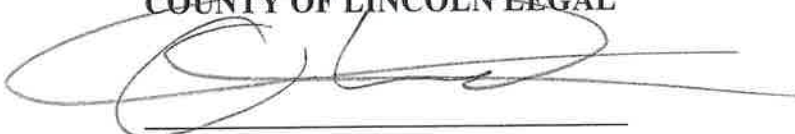
ATTEST:



Whitney Whittaker, County Clerk
Shannan Hemphill, Chief Deputy Clerk



COUNTY OF LINCOLN LEGAL

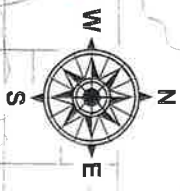
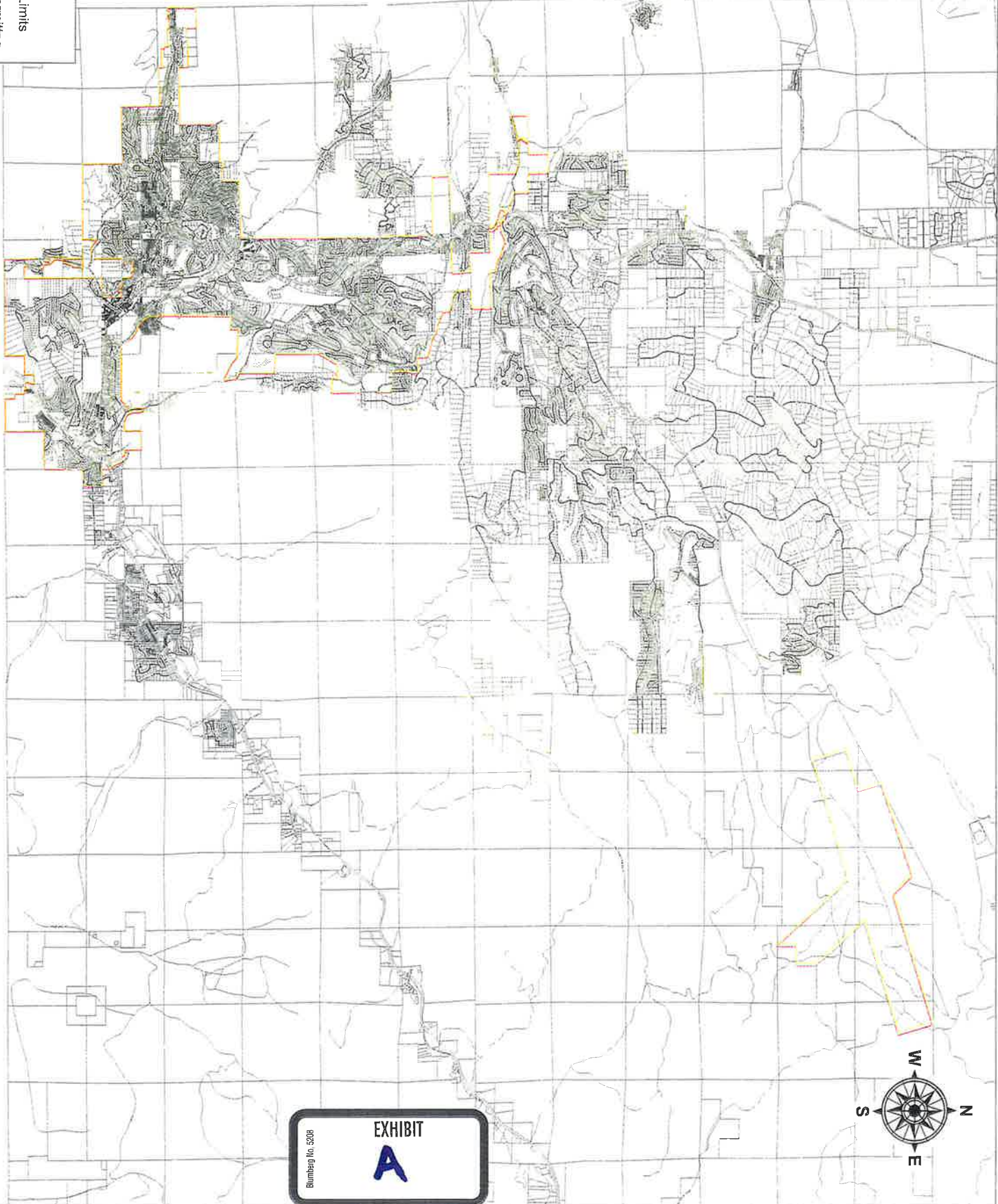


APPROVED AS TO FORM
Alan P. Morel

Legend

 VOR City Limits

 Ruidoso Permitting



Bumberg No. 5206

EXHIBIT

A

EXHIBIT "B"

TO LINCOLN COUNTY-RUIDOSO

MEMORANDUM OF UNDERSTANDING

FOR INSPECTIONS AND PERMITTING IN

LINCOLN COUNTY

1. The fee schedule for inspections and permitting pursuant to this Memorandum of Understanding is attached hereto and incorporated herein by reference. The Parties hereby agree that the fee for inspections to be charged County residents shall be the same as those charged Ruidoso.
2. Requests to schedule inspections shall be telephoned to an automated inspection request phone number. The permit holder shall provide all information required by the inspector when requesting an inspection to be scheduled. Requests will be processed the next business day and will be scheduled as work load and staff availability permit. Every effort will be made to schedule and complete inspections within one (1) to two (2) business days.
3. When an applicant appears for a building permit, or downloads an application on line, the applicant shall be provided with an application form which shall include a space for County approval. The applicant shall be instructed to take the application form to the County Annex building for review. After insuring that all County requirements are fulfilled, the County shall approve the application form and the applicant shall be instructed to return to Village Hall to complete the application and pay the applicable fee.
4. The County review shall include at least the following elements:
 - A. Flood plain documentation, certification and approval where necessary;
 - B. Driveway cut approval (contingent on payment of the required fee and inspection by the Road Department);
 - C. Registration/sign up with Lincoln County Solid Waste Services for solid waste collection for both household collection and construction debris where applicable;
 - D. Address issued by County Rural Addressing.

Exhibit "C"

TO LINCOLN COUNTY-RUIDOSO MEMORANDUM OF UNDERSTANDING FOR INSPECTIONS AND PERMITTING IN LINCOLN COUNTY

Village of Ruidoso Municipal Code

Sec. 22-34. - Permit fees; expiration of permit.

- (a) *Fees generally* . The fees for permits shall be set from time to time and shall be as set forth in the following schedule all permit fees are inclusive of plan review fees.
- (b) *Determination of value* . The determination of value or valuation under any of the provisions of these codes shall be made by the building official. The value to be used in computing the permit fee shall be the total value of all construction work for which the permit is issued, including all finish work. This valuation shall be based on the most current International Code Council Building Valuation Data Sheet. The building official shall issue by April 1st of each year a valuation worksheet for use during the calendar year. Where the owner or contractor provides a signed contract stating the value of construction, such value shall be used in calculating the permit fee under the following conditions:

Where the owner or contractor provides a signed contract stating the value of construction, such value shall be used in calculating the permit fee under the following conditions:

- (1) Work involved is for renovation of existing structure when no new square footage is added and/or no building official valuation covers work involved.
 - (2) Contract value is greater than building official valuation and involves quality of work which is better than building official listed valuation for work involved.
 - (3) The building official may use the lower of the two valuations when the scope of work to be permitted and the use of the structure should be determined at the lower valuation.
- (c) *Reinspection fees* . Reinspection fees may be required by the inspector for the following reasons:
 - (1) The approved plans are not available on site for review by the inspector at the time of inspection.
 - (2) Work is not ready for inspection.
 - (3) Work is covered up without approval or inspection.
 - (4) The previous correction notice, for the work under inspection, is not completed.
 - (5) Access into or a means to access inspection is not provided by permittee or their representative.
- (d) *Failure to obtain permit* . Where work for which a permit is required by this article is started prior to obtaining a permit, a stop work order (or red tag) shall be issued by the building official, the building official's representative or code enforcement officer. Permit fees specified may be doubled for the first offense and tripled for all subsequent offenses, but the payment of such fee(s) shall not relieve any person from fully complying with the requirements of this article in the execution of the work, nor from any other penalties prescribed by this article or this Code.
- (e) *Expiration; extensions* . If the work for a permit has not commenced within 180 days after the permit is issued, any permit issued pursuant to the provisions of this article shall expire. If the work authorized by such permit or extension of the permit, is suspended or abandoned for a period of 180 days after the work is commenced, the permit shall expire. A valid inspection shall be required to be approved at least once every 180 days to document that work on the project has not been suspended or abandoned. The building official is authorized to grant one permit extension upon request. Extension requests must be provided in writing by the permittee prior to permit expiration.

Permits that have expired or are voided for any reason are subject to section 22-34(c) and (d) and any other applicable sections of this article or this Code. The building official may charge a fee to renew a permit that has expired or is voided for any reason, up to the amount of the existing permit fee.

- (f) *Failure to comply with a stop work order (or red tag)* . Any person(s) not complying with a notice to stop work issued by the building official, the building official's representative, state CID inspector or code enforcement officer, may be subject to payment of up to triple the permit fees specified and/or any other penalties prescribed by this article or this Code. Every day that a person or persons fails to honor a stop work order shall be considered a separate violation subject to the penalties provided in this article or this Code. Stop work orders for work in violation on permitted projects, shall apply to the specified violation only, unless otherwise noted by the building official and are subject to a fee of up to three times the cost of the total of the projects construction permit fees, for each day work is continued in violation of the stop work order with a minimum of \$300.00.

(Code 1985, § 8-1-3; Ord. No. 99-01, 2-9-99; Ord. No. 2007-04, 4-24-07; Ord. No. 2009-10, 6-9-09; Ord. No. 2010-10, 9-14-10; Ord. No. 2015-08, 9-15-15; Ord. No. 2017-07, § 1, 6-13-17)



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 28

SUBJECT:

Discussion and Direction Regarding Placing Cellular Towers on County of Lincoln Property

Tuesday, March 21, 2023



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

AGENDA ITEM NO. 29

SUBJECT:

Discussion and Consideration of Purchasing a Back-Up Generator for Sheriff's Dispatch Center

Tuesday, March 21, 2023