

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Thursday, February 9, 2023**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 10:00 a.m. on Thursday, February 9, 2023, in the County Commission Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting any and all business to come properly before the Board.

The following staff and elected officials were present: County Manager Chris Brice, Executive Assistant Malarie Villegas, Executive Assistant Yossie Nieblas, County Attorney Charles Kretek, HR Director Rosa Porras, Budget and Procurement Director Joanne Hethcox, Emergency Management Director Pablo Montoya, Chief Deputy Clerk Leslie Nabours, Deputy Clerk Toni Esparza, Assessor Michelle Holguin, Chief Deputy Assessor Isabelle Enciso, Chief Deputy Treasurer Johnathan Richmond, Planning and Zoning Director Lupita Hernandez, DWI Program Manager Edith Vazquez, Central Dispatch Director Lauree Sanchez, Road Department Director David Bailey, LCSO Under Sheriff Jimmy Garcia, LCSP Sheriff Patrol LT Israel Valdez, LCSO Sgt. James Mcburney, LCSO Deputy Paul Garcia, LCSO Sgt. Paul Sanchez, LCDC Director Lee Cook, LCDC Operations Captain Robert Apodaca, LCDC Chief of Security Andrew Gilmore, Starmax Director Tyler Massey, IT Technician Luis Ortega.

CALL TO ORDER: Chair Sweetser called the meeting to order at 10:00 a.m. after the Pledge of Allegiance and the salute to the flag of the State of New Mexico.

ROLL CALL: Deputy Clerk Toni Esparza called roll. The following members of the Board constituting a quorum were present:

**Ray Trejo, District 1
Colette M Chandler, District 2
John S. Sweetser, Chair District 3**

MINUTES: Commissioner Trejo motioned to approve the minutes for the Regular Meeting on January 12, 2023, and Work Session on January 25, 2023, as presented. The motion was seconded by Commissioner Chandler and was unanimously approved following a roll call vote.

County Manager Chris Brice explained that there are sign-in sheets if the public would like to make comments on any of the New Business items. Mr. Brice stated that the members of the public who sign-up and specify which item they would like to comment on will be called up and will have three minutes to comment on the specified agenda item only. Mr. Brice stated that by doing this the meeting will move along in a timely manner being that this is a business meeting.

PRESENTATIONS:

Jail Inspection Report 2023: Luna County Detention Center Director Lee Cook presented a Jail Inspection Report from January 12, 2023. Commissioners Trejo and Chandler thanked Mr. Cook and his staff for the good job they all do keeping the facility running.

Sheriff Patrol Lieutenant Israel Valdez presented Deputy of the Year Recognition Award to Deputy Paul Garcia for the improvement and courage he has demonstrated while on duty.

CONSENT AGENDA:

- Accounts Payable: \$2,184,307.25
- Payroll: \$1,290,34396
- Resolution 23-18: Budget Increase
- Resolution 23-19 Budget Transfers
- Resolution 23-21: Approval to participate in the Local DWI Grant and Distribution Program
- Memorandum of Understanding between Luna County DWI and New Mexico Department of Finance and Administration/Local Government Division/ Driving While Intoxicated Program
- Statement of Assurance Local DWI Grand and Distribution Program
- Oath of Office for Jimmy Garcia; Undersheriff
- Oath of Office for Isaac Lenhardt; Deputy Sheriff

Commissioner Chandler motioned to approve the Consent Agenda as presented. The motion was seconded by Commissioner Trejo and was unanimously approved following a roll call vote.

Public Hearing: Ordinance 76, Second Revised Tax Obligation for Land Transfers, Division and/or Recombinations. Chair Sweetser opened the floor for public comments. Sean Blaine stated that he feels there needs to be a statement added that informs not only the seller but also the buyer of the tax burden for the purchase of the property. Mr. Brice stated that the tax bills are being sent out to all persons involved. Commissioner Trejo asked if, with the revision of this Ordinance, the affected departments were involved. Mr. Brice stated that all parties being affected were involved in the revision, (Assessor, Treasurer, Banks, and Title companies). Both Ms. Holguin and Mr. Richmond verified their department's involvement in the new and final Ordinance draft. Commissioner Chandler motioned to approve Ordinance 76, Second Revised tax Obligation for Land Transfers, Division and/or Recombinations as presented. The motion was seconded by Commissioner Trejo and was unanimously approved following a roll call vote.

NEW BUSINESS:

Resolution 23-20: Disposal of Assets: Mr. Brice stated that this resolution is to approve that a 2006 Ford 500 be disposed of in Auction. Commissioner Trejo motioned to approve Resolution 23-20: Disposal of Assets. The motion was seconded by Commissioner Chandler and was unanimously approved following a roll call vote.

Resolution 23-22: Authorizing the Purchase of Property (Rockhound Colonias Project). Road Department Director David Bailey stated that the property will be purchased to have a ponding area for flooding and drainage in the Colonias area. Commissioner Chandler motioned to approve Resolution 23-22: Authorizing the Purchase of Property (Rockhound Colonias Project). The Motion was seconded by Commissioner Trejo and unanimously approved following a roll call vote.

Resolution 23-23: Appointment of Representative to serve on the Region IV Chief Elected Officials Board of the Southwestern Area of the State of New Mexico for the Year 2023. WIOA Administrator Glory Juarez stated that this resolution is to appoint an elected official from Luna County to sit on the Board. Ms. Juarez stated that federal funding comes through the Department of

Workforce Solutions. The responsibility of the Board is to administer the grant funding, to approve the Service Provider Contracts, to approve the Agent Contract, and the Administrative Entity Contract. Ms. Juarez stated that this would basically educate and provide services to the communities. Commissioner Trejo stressed his interest in being the elected official appointed to serve on the Region IV Chief Elected Official Board of the Southwestern Area of the State of New Mexico for the year 2023. Commissioner Chandler motioned for Commissioner Trejo to be the appointed Representative to serve on the Region IV Chief Elected Officials Board of the Southwestern Area of the State of New Mexico for the Year 2023. The motion was seconded by Chair Sweeter and was unanimously approved following a roll call vote.

Luna County 2023 Annual Certified County Maintained Mileage Report. Road Department Director David Bailey explained that every January the Road Department receives a letter from the State requesting a new certification of miles for the year. Mr. Bailey stated that this is how the State appoints gas tax and the other Revenues that come from Santa Fe to local government for mainly asphalt maintenance. Commissioner Trejo motioned to approve the Luna County 2023 Annual Certified County Maintained Mileage Report. The motion was seconded by Commissioner Chandler and unanimously approved following a roll call vote.

Indigent Claims Report: Commissioner Chandler motioned to recess as County Commission and convene as a Claims Board. The motion was seconded by Commissioner Trejo and unanimously approved. Budget and Procurement Director Joanne Hethcox reported that there were two claims both of which were for the Detention Center in the amount of \$1,544.97. Ms. Hethcox stated that in January the County received \$132,618.43 through GRT for the Indigent Program. There is a balance in that fund as of January 31, 2023, of approximately \$2,069,916.91 of which \$650,110.54 is previously encumbered for County obligations. Commissioner Trejo motioned to consider Claims dated February 9, 2023: \$1,544.97. The motion was seconded by Commissioner Chandler and was unanimously approved. Commissioner Chandler motioned to recess as a Claims Board and re-convene as County Commission. The motion was seconded by Commissioner Trejo and unanimously approved.

Community Support Reports: Executive Director of the Economic Development Council Christie Ann Harvey reported that she attended a meeting regarding H2A Housing for the agricultural community. She also attended a Border Authority Meeting as well as Silver Spikes in Santa Fe. She is working on the High Speed Broadband effort. She is also setting a meeting regarding the Market Rate Apartment Complex with a prospective developer. She was re-appointed to the Border Authority Board.

Candice McBain the Marketing Strategist from K Fox TV and CBS 4 gave a short presentation regarding an advertising campaign that she has been running for Luna County. The contract is coming up for renewal in April.

Debbie Troyer the Economic Development Coordinator of the Deming Luna County Chamber of Commerce reported on the new chamber members which included Rico Electric, T Mobile and Pianist Carmen Macdonald. There is a total of 272 members businesses of the Chamber of Commerce. A total of 28 businesses participated in the passport to fun game. The 2023 Chamber Gala will be held on March 11th and details can be found on the website and Facebook page. They

are kicking off Lemonade Day events on March 25th at Starmax. Lemonade day events will be held through October.

Elected Officials Report:

Assessor: Assessor Michelle Holguin reported that this is a busy time of the year for the Assessor's Office. Ms. Holguin stated that this is the rendering Period, where all information must be turned in and picked up, and reported to her office. Ms. Holguin stated that she is currently working on the Preliminary Budget as well as getting ready for evaluation by Property Tax Division which is done annually. Personal property, Livestock, and Manufactured Homes stickers need to be picked up and turned in by the end of February to avoid an assessed five percent penalty. Ms. Holguin stated that all exemptions are available right now through the end of April. These exemptions include Veterans, Head of Household, Disabled Exemptions, and 65 and older limitation freeze. Ms. Holguin also stated that the Notice of Values would be mailed out at the end of March. Ms. Holguin stressed how important it is to look at the Notice of Value when received, this will inform the public of what their taxes would be, which is based on the current tax rate because the new tax rate does not come in until September. If there are any questions on the tax evaluation, now is the time to ask about it. This is 30 days from the time these are mailed.

Clerk: No report given.

Probate Judge: No report given.

Treasurer: Chief Deputy Treasurer Jonathan Richmond reported that the only thing that their office had to report was that the telephone system had been integrated with Triadic to make the payment process easier for customers.

Sheriff: Under Sheriff, Jimmy Garcia reported for the month of January. Mr. Garcia stated that there were 193 calls of which 154 were non-criminal (civil), ten larcenies, seven burglaries, six motor vehicle thefts, five assaults and batteries, and eleven motor vehicle accidents.

Commissioners: No comments from the Commissioners were forthcoming.

County Managers Report: Mr. Brice reported they attended meetings in Santa Fe with the Border Industrial Alliance, Jerry Pacheco's group out Santa Teresa, and met with the Governor to discuss major projects, which he felt were received well. He also attended meetings along with the Silver Spikes and they had a really good discussion with the Governor regarding the Border. The Governor mentioned that she intends to take a trip down here to share her ideas soon after the Legislative Session.

Mr. Brice stated that the major projects for the Road Department are finally wrapping up. The road project for the Columbus Industrial Park is going out to bid soon. This will be a five or six million dollar project. They are in the process of purchasing six properties through the Sanders group for the Berm Project in Columbus.

Mr. Brice reported the DFA has not approved the Armory Board transfer. They will get the language right to get that cleared up and start designing the new Emergency Center.

Mr. Brice also reported that he is working closely with Senators Diamond and Representative Jones on funding for Capital Outlay.

The United States Marshall's average daily population is 192 which is low. The Marshalls are looking closely throughout the state at detention center staffing issues which are causing the numbers to be low. Staff retention is directly related to pay. They will continue to work with the Collective Bargaining Agreement to get pay up. There is a bill in Santa Fe to move minimum wage to \$16.00 per hour and if that is passed Luna County will be behind. Salaries for dispatchers is up to a good rate thanks to the salary study.

Mr. Brice stated that a Chuck Kretek and Malarie Villegas are working on the Budget and Strategic Planning Retreat.

Executive Session: Executive Session pursuant to section 10-15-1H(7) NMSA 1978 matters pending litigation; Opioid Litigation; Ruiz; Thomas; Punchall; Valencia; Munoz; Biggins; SNMEC; IPRA; PELRB and limited personnel matters pursuant to Section 10-15-1H(2). Commissioner Trejo motioned to go into Executive Session pursuant to section 10-15-1H(7) NMSA 1978 matters pending litigation; Opioid Litigation; Ruiz; Thomas; Punchall; Valencia; Munoz; Biggins; SNMEC; IPRA; PELRB and limited personnel matters pursuant to Section 10-15-1H(2). The motion was seconded by Commissioner Chandler and was unanimously approved following a roll call vote. Commissioner Trejo motioned to return from Executive Session where no other matters were discussed but Limited Personnel matters and pending Litigation. The motion was seconded by Commissioner Chandler and unanimously approved following a roll call vote. Chair Sweetser announced that no action was taken in Executive Session.

Upcoming Meetings/Events (Unless otherwise specified):

Luna County Offices will be closed; on President's Day February 20, 2023

County College: Luna County Assessor's and Treasurer's Department: February 23, 2023, at 5 p.m.

Regular Meeting: March 9, 2023, at 10 a.m.

Public Comment: Susan Schiffner commented that the new Commission Board should review all of the Ordinances and Resolutions that have been approved from Election Day to the Present and make any changes that the Commissioners see fit to make. Ms. Schiffner also asked that the County Attorney's position and salary be looked into, she commented that she feels that a full-time Attorney is unnecessary since a lot of other counties do not have one. Carmen MacDonald commented that she believes misprision (the deliberate concealment of the knowledge of a crime) is occurring in Luna County. She also asked if the county could announce when the Governor of New Mexico is coming to visit so that the community would have the opportunity to meet her. Ms. MacDonald also commended the clean-up occurring at the Jack Key property. Linda Harmon read a portion of the Constitution of New Mexico and then she commented that she has generations of family who have been in the military. She stated that she feels the constitution is being violated during Commissioner's Meetings.

Adjourn: Upon a motion by Chair Sweetser the meeting was adjourned at 12:30 p.m.

ATTEST:

Berenda McWright, Luna County Clerk

Approved: _____

**LUNA COUNTY BOARD OF
COUNTY COMMISSIONERS**

Ray J. Trejo, District 1

Collette M. Chandler, District 2

John S. Sweetser, District 3

**MINUTES
SPECIAL MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Wednesday, February 22, 2023**

BE IT REMEMBERED: The Luna County Board of County Commissioners met at 1:00 pm on Wednesday, February 22, 2023, in the Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting a Special Session.

CALL TO ORDER: Chair Sweetser called the meeting to order at 1:05 pm and led the Pledge of Allegiance and the salute to the flag of New Mexico.

ROLL CALL: Deputy Clerk Pilar Salcido called roll. The following Commissioners constituting a quorum were present:

**Ray J. Trejo, District 1
Colette M. Chandler, District 2
John S. Sweetser - Chair, District 3**

Executive Session is pursuant to Section 10-15-1H (2) NMSA 1978-Limited Personnel Matters. Commissioner Sweetser motioned to go into Executive Session pursuant to Section 10-15-1H (2) NMSA 1978 for the purpose to discuss limited personnel matters. The motion was seconded by Commissioner Trejo and carried unanimously following a roll call vote.

The Commissioners went into Executive Session at 1:10 p.m. and returned from Executive Session at 2:41 p.m.

Commissioner Chandler moved to return from Executive Session pursuant to Section 10-15-1H(2) NMSA 1978-where no other matters were discussed other than limited personnel matters. The motion was seconded by Commissioner Trejo and carried unanimously. Commissioner Trejo motioned to direct County Manager Chris Brice to adjust the current budget by the next monthly meeting. Commissioner Chandler stated the budget adjustment will include adding a Captain's position for the Sherriff's office. The motion was seconded by Commissioner Chandler and carried unanimously following a roll call vote.

Upcoming Meetings/Events (unless otherwise specified):

County College: Luna County Assessors and Treasures Department: February 2023, at 5 p.m.
Regular Meeting: March 9, 2023, at 10 a.m.

ADJOURN: Commissioner Chandler motioned to adjourn. The motion was seconded by Commissioner Trejo and was approved unanimously. The meeting was adjourned at 2:53 p.m.

ATTEST:

**LUNA COUNTY BOARD OF
COUNTY COMMISSIONERS**

Berenda McWright, Luna County Clerk

Ray J. Trejo, District 1

Approved: _____

Colette M. Chandler, District 2

Chair John S. Sweetser, District 3

LCBCC Meeting March 9, 2023

Accounts Payable

2/01/2023	\$132,660.26
2/03/2023	\$16,683.04
2/03/2023	\$335,292.77
2/17/2023	\$201,044.99
2/17/2023	\$806,335.00
2/17/2023	\$42,101.98
2/24/2023	\$844,038.47
2/24/2023	\$18,637.22

P-Cards

January 2023

\$362,578.66

Total \$2,759,372.39

Luna County
Board of County Commissioners



Agenda 3/9/2023

PAYROLL

Date	Register	Amount
2/10/2023	20230006	\$633,893.78
2/10/2023	*20230007	\$23,462.75
2/24/2023	20230008	\$627,216.40
2/24/2023	*20230009	\$20,860.54

Total: \$1,305,433.47

* Special Assignment Pay

**LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS**

**RESOLUTION NO. 23-24
Proposed Inter/Intra Fund Budget Increases**

WHEREAS, the Board of County Commissioners of Luna County has the statutory authority to approve, modify and amend the County's annual operating budget; and

WHEREAS, development of an annual budget includes a considerable amount of professional guessing about events that may occur in the future; and

WHEREAS, during the course of the budget year actual events can result in receiving revenues or making expenditures that were not expected at the time the budget was prepared and adopted; and

WHEREAS, it is necessary to adjust the County's adopted budget to properly provide for these unexpected events.

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Luna County hereby adopts the changes to the County's Fiscal Year 111, July 1, 2022 through June 30, 2023 Budget proposed by the County's management staff and attached hereto in spreadsheet form, as amendments to the previously adopted operating budget.

PASSED, APPROVED AND ADOPTED THIS 9th DAY OF MARCH, 2023.

BOARD OF COUNTY
COMMISSIONERS OF LUNA
COUNTY

Ray J. Trejo, District One

Colette M. Chandler, District Two

ATTEST:

Berenda L. McWright, Luna County Clerk

John S. Sweetser, District Three

**LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS**

**RESOLUTION NO. 23-25
Proposed Inter Department/Fund Transfers**

WHEREAS, the Board of County Commissioners of Luna County has the statutory authority to approve, modify and amend the County's annual operating budget; and

WHEREAS, development of an annual budget includes a considerable amount of professional guessing about events that may occur in the future; and

WHEREAS, during the course of the budget year actual events can result in receiving revenues or making expenditures that were not expected at the time the budget was prepared and adopted; and

WHEREAS, it is necessary to adjust the County's adopted budget to properly provide for these unexpected events.

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Luna County hereby adopts the changes to the County's Fiscal Year 111, July 1, 2022 through June 30, 2023 Budget proposed by the County's management staff and attached hereto in spreadsheet form, as amendments to the previously adopted operating budget.

PASSED, APPROVED AND ADOPTED THIS 9th DAY OF MARCH, 2023.

BOARD OF COUNTY
COMMISSIONERS OF LUNA
COUNTY

Ray J. Trejo, District One

Colette M. Chandler, District Two

John S. Sweetser, District Three

ATTEST:

Berenda L. McWright, Luna County Clerk

Proclamation 23-03

Child Abuse Awareness & Prevention Month

Whereas; The County of Luna recognizes that each child is a contribution to the community, and every child is entitled to be loved, cared for, nurtured, and feel free from verbal, sexual, emotional & physical abuse and neglect.

Whereas; Child abuse and neglect are a serious problem affecting every segment of our community, and finding solutions requires input and action from everyone. Child abuse can have long-term psychological, emotional, and physical effects with lasting consequences for victims of abuse. Based on the latest data collected from the Child Maltreatment Report, it is found that child abuse and neglect is prevalent in the United States. There were 60.8% of neglected victims reported, **10.7%** physically abused and **7%** sexually abused. More than **15%** were victims of two or more maltreatment types.

Whereas; Effective child abuse prevention activities succeed because of the partnerships created between child welfare professionals, education, health, community, and faith-based organizations, businesses, law enforcement agencies, and families. We acknowledge that we must work together as a community to increase awareness about child abuse and contribute to promote the social and emotional well-being of children and families in a safe, stable, and nurturing environment.

Therefore; The Board of County Commissioners of Luna County hereby proclaims the Month of April as "**NATIONAL CHILD ABUSE & NEGLECT PREVENTION MONTH**" in Luna County and urges all citizens to recognize and acknowledge each child for their accomplishments and to dedicate yourselves to the task of improving the quality of life for all children and families.

Done at Deming, New Mexico this 9th day of March 2023.

LUNA COUNTY BOARD OF COMMISSIONERS

ATTEST:

Ray J. Trejo,
Commissioner, District 1

Berenda McWright, County Clerk

Colette M. Chandler,
Commissioner, District 2

John S. Sweetser, Chairperson
Commissioner, District 3

“ April as Fair Housing Month”

Proclamation 23-04 Fair Housing Month

Whereas; The County of Luna Recognizes fair and equal housing is a right guaranteed to all Americans; the principle of fair and equal housing is a fundamental human entitlement.

Whereas; All citizens have the right to live where they choose within their financial means. People must not be denied housing because of race, color, religion, sex, national origin, handicap, or familial status. We must, as individuals, assure equal access to housing for all in our communities.

Whereas; Luna County acknowledges the importance of assuring fair and equal treatment to all citizens;

Therefore; The Board of County Commissioners of Luna County hereby proclaims the month of April as **“FAIR HOUSING MONTH”** in Luna County.

DONE THIS 9TH DAY OF MARCH 2023
by the Board of County Commissioners of Luna County

Chris A. Brice, Manager

**Ray J. Trejo,
Commissioner, District 1**

**Colette M. Chandler,
Commissioner, District 2**

**John S. Sweetser, Chairperson
Commissioner, District 3**

Be it remembered that at the Special Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 9th day of March 2023, the following proceedings were had and entered of record.

RESOLUTION 23- 26

CALL TO AMEND ORDINANCE 112

WHEREAS, pursuant to Section 4-37-1, NMSA 1978, grants Counties, through the Board of County Commissioners the power to make, publish and repeal ordinances;

WHEREAS, Section 4-37-7, NMSA 1978, Ordinances governs the proposal of ordinances;

WHEREAS, Board of County Commissioners enacted Ordinance 112 at a regular meeting on June 6, 2022;

WHEREAS, the Ordinance as enacted does not comply with New Mexico Game and Fish standards;

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners hereby give notice of its intent to consider the amendment of Ordinance 112; at the Regular Meeting on April 13, 2023, at 10:00 a.m. or as soon thereafter as the matter may be heard in the Luna County Courthouse, 700 S. Silver Ave., Deming, New Mexico.

BE IT FURTHER RESOLVED that the Luna County Manager is authorized to take all necessary action necessary to properly place the issue of the amended Ordinance 112 before the Board of County Commissioners, including but not limited to, the publication of title and a general summary of the proposed adoptions and making a copy of the proposed available to interested persons beginning with the date of publication, but no later than two weeks prior to the April 13, 2023 meeting.

DONE THIS 9th DAY OF MARCH, 2023

BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY

ATTEST:

John S. Sweetser, Chairperson
Commissioner, District 3

Berenda McWright,
County Clerk

Ray J. Trejo,
Commissioner, District 1

Colette M. Chandler,
Commissioner, District 3

**LUNA COUNTY, NEW MEXICO
RESOLUTION NO. 23-27**

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A COLONIAS INFRASTRUCTURE PROJECT FUND LOAN/GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO FINANCE AUTHORITY (“FINANCE AUTHORITY,” OR THE “LENDER/GRANTOR”) AND LUNA COUNTY, NEW MEXICO (THE “BORROWER/GRANTEE”), FOR THE BENEFIT OF ROCKHOUND, IN THE TOTAL AMOUNT OF \$1,080,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTION OF ROAD AND DRAINAGE IMPROVEMENTS, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE LOAN AMOUNT OF \$108,000 SOLELY FROM FIFTY PERCENT (50%) OF A ONE-EIGHTH OF ONE PERCENT (0.125%) INCREMENT OF COUNTY LOCAL OPTION GROSS RECEIPTS TAX AND ACCEPTANCE OF A GRANT AMOUNT OF \$972,000 CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

Capitalized terms used in the following preambles have the same meaning as defined in this Resolution unless the context requires otherwise.

WHEREAS, the CIB is a public body duly organized and created under and pursuant to the laws of the State of New Mexico (the “State”), particularly the Colonias Infrastructure Act, NMSA 1978, §§ 6-30-1 through 6-30-8, as amended, (the “Colonias Infrastructure Act” or the “Act”); and

WHEREAS, the Finance Authority is a public body politic and corporate, separate and apart from the State, constituting a governmental instrumentality, duly organized and created under and pursuant to the laws of the State, particularly NMSA 1978, §§ 6-21-1, through 6-21-31, as amended (the “Finance Authority Act”); and

WHEREAS, the Borrower/Grantee is a Political Subdivision of the State, being a legally and regularly created, established, organized and existing county under the general laws of the State and more specifically, Section 4-16-1, NMSA 1978, as amended; and

WHEREAS, the Act creates the Colonias Infrastructure Project Fund (the “Fund”) in the Finance Authority, to be administered by the Finance Authority to originate grants or loans to Qualified Entities for Qualified Projects recommended by the CIB; and

WHEREAS, there exists within the boundaries of the Borrower/Grantee, Rockhound, a community that has been designated as a Colonia within the meaning of the Act; and

WHEREAS, the Borrower/Grantee will be receiving the Loan/Grant for the benefit of Rockhound and the public they serve; and

WHEREAS, the Borrower/Grantee submitted an application dated February 24, 2022, for the Project; and

WHEREAS, the CIB has determined that the Project is a Qualified Project and that the Borrower/Grantee is a Qualified Entity under the Board Rules; and

WHEREAS, the CIB on May 24, 2022, recommended to the Finance Authority that the Borrower/Grantee receive financial assistance from the Fund in the form of the Loan/Grant, for the benefit of the Colonia and the CIB has recommended that the Finance Authority enter into and administer the Loan/Grant Agreement; and

WHEREAS, the Finance Authority approved the Loan/Grant Amount from the Fund to the Borrower/Grantee on June 23, 2022; and

WHEREAS, the Borrower/Grantee has determined that it is in the best interests of the Borrower/Grantee and the Colonia that the Borrower/Grantee enter into an Agreement with the Lender/Grantor to borrow \$108,000 from the Lender/Grantor and to accept a grant in the amount of \$972,000 from the Lender/Grantor to finance the costs of construction of road and drainage improvements, this project being more particularly described in the Term Sheet; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts granted and loaned pursuant to the Loan/Grant Agreement, that the Loan/Grant Amount, together with the Local Match and other moneys available to the Borrower/Grantee, is sufficient to complete the Project, and that it is in the best interest of the Borrower/Grantee and the Colonia and the constituent public they serve that the Loan/Grant Agreement be executed and delivered and that the funding of the Project take place by executing and delivering the Loan/Grant Agreement; and

WHEREAS, the Governing Body has determined that it may lawfully enter into the Loan/Grant Agreement, accept the Loan/Grant Amount and be bound to the obligations and by the restrictions thereunder; and

WHEREAS, the Loan/Grant Agreement shall not constitute a general obligation of the Borrower/Grantee, the CIB or the Finance Authority or a debt or pledge of the full faith and credit of the Borrower/Grantee, the CIB, the Finance Authority or the State; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the County Clerk this Resolution and the form of the Loan/Grant Agreement which is incorporated by reference and considered to be a part hereof; and

WHEREAS, the Governing Body hereby determines that the Local Match is now available to the Borrower/Grantee to complete the Project; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use of the Loan/Grant Amount for the purposes described, and according to the restrictions set forth, in the Loan/Grant Agreement; (ii) the availability of other moneys necessary and sufficient, together with the Loan/Grant Amount, to complete the Project; and (iii) the authorization, execution and delivery of the Loan/Grant Agreement which are required to have been obtained by the date of this Resolution, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LUNA COUNTY, NEW MEXICO:

Section 1. Definitions. Capitalized terms defined in the foregoing recitals shall have the same meaning when used in this Resolution unless the context clearly requires otherwise. Capitalized terms not defined in the recitals and defined in this Article I shall have the same meaning when used in this Resolution including the foregoing recitals, unless the context clearly requires otherwise. Capitalized terms not defined herein shall have the meaning given them by the Loan/Grant Agreement.

“Agreement” or “Loan/Grant Agreement” means the Loan/Grant Agreement and any amendments or supplements thereto, including the Exhibits attached thereto.

“Authorized Officers” means, any one or more of the Chairperson, Vice Chair, County Manager and County Clerk, of the Borrower/Grantee.

“Borrower/Grantee” means Luna County, New Mexico.

“CIB” means the Colonias Infrastructure Board created by the Act.

“Closing Date” means the date of execution of the Loan/Grant Agreement by the Borrower/Grantee and the Finance Authority.

“Colonia” or “Colonias” means a Colonia as defined in the Act, and more particularly in NMSA 1978, § 6-30-3(C), as amended, and particularly Rockhound.

“Colonias Infrastructure Project Fund” or “Fund” means the fund of the same name created pursuant to the Act and held and administered by the Finance Authority.

“Conditions” has the meaning given to that term in the Loan/Grant Agreement.

“Completion Date” means the date of final payment of the cost of the Project.

“Eligible Architectural, Engineering and Construction Management Fees” means the fees and costs associated with the architectural, engineering and construction project management costs for services rendered to the Borrower/Grantee for the transaction of the Project and those directly associated with the Project, in an amount up to twelve percent (12%) of the Loan/Grant Amount.

“Eligible Fees for Other Professional Services” means the fees and costs incurred for other professional services necessary to the completion of the Project including, but not limited to, services provided by accounting and auditing firms, hydrologists and surveyors. Such fees may not exceed five percent (5%) of the Loan/Grant Amount.

“Eligible Fiscal Agent Fees” means fees and costs incurred by a fiscal agent for the administration of Project funds, including the collection and reporting of Project information as required by the Loan/Grant Agreement, in an amount not exceeding five percent (5%) of the Loan/Grant Amount.

“Eligible Items” means eligible Project costs for which loans/grants may be made pursuant to Title 2, Chapter 91, Part 2 NMAC, the Board Rules and applicable Policies, and includes costs of acquiring and constructing the Project, and, without limitation, Eligible Legal Costs and Eligible Fiscal Agent Fees.

“Eligible Legal Costs” means legal fees and costs for services rendered by legal counsel on behalf of the Borrower/Grantee for transaction of the Project and those directly associated with the qualified project, in an amount not exceeding ten percent (10%) of the Loan/Grant Amount, but does not include adjudication services.

“Finance Authority” means the New Mexico Finance Authority.

“Fiscal Year” means the period commencing on July 1 of each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Borrower/Grantee as its fiscal year.

“Generally Accepted Accounting Principles” means the officially established accounting principles applicable to the Borrower/Grantee consisting of the statements, determinations and other official pronouncements of the Government Accounting Standards Board, Financial Accounting Standards Board, Federal Accounting Standards Board or other principle-setting body acceptable to the Finance Authority establishing accounting principles applicable to the Borrower/Grantee.

“Governing Body” means the Board of County Commissioners of the Borrower/Grantee, or any future successor governing body of the Borrower/Grantee.

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and shall equal 90% of the Amount disbursed not to exceed \$972,000.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Resolution and not solely to the particular section or paragraph of this Resolution in which such word is used.

“Lender/Grantor” means the Finance Authority.

“Loan” or “Loan Amount” means 10% of the amount disbursed to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and shall not equal more than \$108,000.

“Loan/Grant” or “Loan/Grant Amount” means the amount provided to the Borrower/Grantee as the Grant Amount and borrowed by the Borrower/Grantee as the Loan Amount pursuant to the Loan/Grant Agreement for the purpose of funding the Project. The value of the Loan/Grant shall not equal more than \$1,080,000.

“Local Match” means the amount determined pursuant to the Policies to be provided by the Borrower/Grantee which includes the total value of the soft or hard match (each as defined in the Policies) which, in combination with the Loan/Grant Amount and other monies available to the Borrower/Grantee, is sufficient to complete the Project. The Local Match is \$108,000.

“Loan Payments” means, collectively, the Principal Component (defined in the Loan/Grant Agreement) and interest, if any, to be paid by the Borrower/Grantee as payment of the Loan/Grant Agreement as shown on Exhibit “C” to the Loan/Grant Agreement.

“NMAC” means the New Mexico Administrative Code.

“NMSA 1978” means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented from time to time.

“Pledged Revenues” means fifty percent (50%) of the third one-eighth of one percent (0.125%) increment of County Local Option Gross Receipts Tax enacted pursuant to Section 7-20E-9, NMSA 1978, as amended, and the Tax Ordinance, distributed to the Borrower/Grantee and pledged to the payment of the Loan Payments pursuant to this Resolution and the Loan/Grant Agreement and described in the Term Sheet.

“Policies” means the Colonias Infrastructure Project Fund Project Selection and Management Policies, approved by the CIB.

“Political Subdivision of the State” means a municipality, a county, water and sanitation district, an association organized and existing pursuant to the Sanitary Projects Act, NMSA 1978, § 3-29-1 through § 3-29-21, as amended, or any other entity recognized by statute as a political subdivision of the State.

“Project” means the project described in the Term Sheet.

“Project Account” means the book account, if any, established by the Finance Authority in the name of the Borrower/Grantee for purposes of tracking expenditure of the Loan/Grant

Amount by the Borrower/Grantee to pay for the costs of the Project, as shown in the Term Sheet, which account shall be kept separate and apart from all other accounts of the Finance Authority.

“Qualified Entity” means a county, municipality, or other entity recognized as a Political Subdivision of the State pursuant to NMSA 1978, § 6-30-3(F), as amended.

“Qualified Project” means a capital outlay project recommended by the CIB to the Finance Authority for financial assistance that is primarily intended to develop Colonias infrastructure. A Qualified Project may include a water system, a wastewater system, solid waste disposal facilities, flood and drainage control, roads or housing infrastructure pursuant to NMSA 1978, § 6-30-3(G), as amended, but does not include general operation and maintenance, equipment, housing allowance payments or mortgage subsidies.

“Resolution” means this Resolution as it may be supplemented or amended from time to time.

“Rules” means Review and Selection of Colonias Infrastructure Projects, New Mexico Colonias Infrastructure Board, Sections 2.91.2.1 through 2.91.2.18 NMAC.

“State” means the State of New Mexico.

“Tax Ordinance” means Ordinance No. 21, as amended, passed and approved by the Borrower/Grantee on September 14, 1992, pursuant to Section 7-20E-9, NMSA 1978, as amended, which imposes a one-eighth of one percent (0.125%) increment of County Local Option Gross Receipts Tax on the gross receipts of persons engaging in business within the Borrower/Grantee, effective January 1, 1993, originally imposed what was known as the third increment of County Local Option Gross Receipts Tax. Pursuant to Laws 2019, Chapter 274, § 16, the County Local Option Gross Receipts Tax imposed by Ordinance No. 21 is no longer identifiable as the third increment, and instead comprises one-eighth of one percent (0.125%) of the maximum rate of county gross receipts tax that may be imposed under Section 7-20E-9, NMSA 1978, as amended, of one and three-quarters percent (1.75%), fifty percent (50%) of which is pledged to the Loan.

“Term Sheet” means Exhibit “A” attached to the Loan/Grant Agreement.

“Useful Life” means the period during which the Project is expected to be usable for the purpose for which it was acquired and constructed, which is thirty (30) years.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Borrower/Grantee and officers of the Borrower/Grantee directed toward the acquisition and completion of the Project, the pledge of the Pledged Revenues to payment of amounts due under the Loan/Grant Agreement, and the execution and delivery of the Loan/Grant Agreement shall be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the Project and the Loan/Grant Agreement. The acquisition and completion of the Project and the method of funding the Project through execution and delivery of the Loan/Grant Agreement and the other documents related to the

transaction are hereby authorized and ordered. The Project is for the benefit and use of the Borrower/Grantee, the Colonia and the public they serve.

Section 4. Findings. The Governing Body hereby declares that it has considered all relevant information and data and hereby makes the following findings:

A. The Project is needed to meet the needs of the Borrower/Grantee, the Colonia and the public they serve.

B. Moneys available and on hand for the Project from all sources other than the Loan/Grant are not sufficient to defray the cost of acquiring and completing the Project but, together with the Loan/Grant Amount, are sufficient to complete the Project.

C. The Project and the execution and delivery of the Loan/Grant Agreement pursuant to the Act to provide funds for the financing of the Project are necessary, convenient and in furtherance of the governmental purposes of the Borrower/Grantee, and in the interest of the public health, safety, and welfare of the constituent public served by the Borrower/Grantee.

D. The Borrower/Grantee will acquire and complete the Project with the proceeds of the Loan/Grant, the Local Match and other amounts available to the Borrower/Grantee, and except as otherwise expressly provided by the Loan/Grant Agreement, will utilize, operate and maintain the Project for the duration of its Useful Life.

E. Together with the Loan/Grant Amount, and other amounts available to the Borrower/Grantee, the Local Match is now available to the Borrower/Grantee, and in combination with the Loan/Grant Amount, will be sufficient to complete the Project.

F. The Lender/Grantor shall maintain on behalf of the Borrower/Grantee a separate Project Account as a book account only on behalf of the Borrower/Grantee and financial records in accordance with Generally Accepted Accounting Principles during the construction or implementation of the Project.

G. The Borrower/Grantee has title to or easements or rights of way on the real property upon which the Project is being constructed or located.

Section 5. Loan/Grant Agreement—Authorization and Detail.

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Borrower/Grantee and acquiring and completing the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of \$972,000 and borrowing the Loan Amount of \$108,000 to be utilized solely for Eligible Items necessary to complete the Project, and solely in the manner and according to the restrictions set forth in the Loan/Grant Agreement, the execution and delivery of which is hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to finance the acquisition and completion of the Project.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of \$972,000 and the Loan shall be in the amount of \$108,000. Interest on the Loan Amount shall be zero percent (0%) per annum of the unpaid principal balance of the Loan Amount.

Section 6. Approval of Loan/Grant Agreement. The form of the Loan/Grant Agreement as presented at the meeting of the Governing Body, at which this Resolution was adopted, is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan/Grant Agreement with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the County Clerk is hereby authorized to attest the Loan/Grant Agreement. The execution of the Loan/Grant Agreement shall be conclusive evidence of such approval.

Section 7. Security. The Loan Amount shall be solely secured by the pledge of the Pledged Revenues herein made and as set forth in the Loan/Grant Agreement.

Section 8. Disposition of Proceeds: Completion of the Project.

A. Project Account. The Borrower/Grantee hereby consents to creation of the Project Account by the Finance Authority and further approves of the deposit or crediting of a portion of the Loan/Grant Amount to pay expenses. Until the Completion Date, the amount of the Loan/Grant credited to the Project Account shall be used and paid out solely for Eligible Items necessary to acquire and complete the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement.

B. Completion of the Project. The Borrower/Grantee shall proceed to complete the Project with all due diligence. Upon the Completion Date, the Borrower/Grantee shall execute a certificate stating that completion of and payment for the Project has been completed. Following the Completion Date or the earlier expiration of the time allowed for disbursement of Loan/Grant funds as provided in the Loan/Grant Agreement, any balance remaining in the Project Account shall be transferred and deposited into the Colonias Infrastructure Project Fund or otherwise distributed as provided in the Loan/Grant Agreement.

C. CIB and Finance Authority Not Responsible. Borrower/Grantee shall apply the funds derived from the Loan/Grant Agreement as provided therein, and in particular Article V of the Loan/Grant Agreement. Neither the CIB nor the Finance Authority shall in any manner be responsible for the application or disposal by the Borrower/Grantee or by its officers of the funds derived from the Loan/Grant Agreement or of any other funds held by or made available to the Borrower/Grantee in connection with the Project. Lender/Grantor shall not be liable for the refusal or failure of any other agency of the State to transfer any portion of the Loan/Grant Amount in its possession, custody and control to the Finance Authority for disbursement to the Borrower/Grantee, or to honor any request for such transfer or disbursement of the Loan/Grant Amount

Section 9. Payment of Loan Amount. Pursuant to the Loan/Grant Agreement, the Borrower/Grantee shall pay the Loan Amount directly from the Pledged Revenues to the Finance

Authority as provided in the Loan/Grant Agreement in an amount sufficient to pay principal and other amounts due under the Loan/Grant Agreement and to cure any deficiencies in the payment of the Loan Amount or other amounts due under the Loan/Grant Agreement. The Borrower/Grantee hereby consents to the creation of an ACH authorization agreement to facilitate regular electronic payments of the Loan Amount and Administrative Fee.

Section 10. Lien on Pledged Revenues. Pursuant to the Loan/Grant Agreement, the Loan/Grant Agreement constitutes an irrevocable lien (but not an exclusive lien) upon the Pledged Revenues to the extent of the Loan Amount, the priority of which is consistent with that shown on the Term Sheet.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan/Grant Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Resolution and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Loan/Grant Agreement including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan/Grant Agreement.

Section 12. Amendment of Resolution. This Resolution after its adoption may be amended without receipt by the Borrower/Grantee of any additional consideration, but only with the prior written consent of the Finance Authority.

Section 13. Resolution Irrepealable. After the Loan/Grant Agreement has been executed and delivered, this Resolution shall be and remain irrepealable until all obligations due under the Loan/Grant Agreement shall be fully discharged, as herein provided.

Section 14. Severability Clause. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 15. Repealer Clause. All bylaws, orders, ordinances, resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 16. Effective Date. Upon due adoption of this Resolution, it shall be recorded in the book of the Borrower/Grantee kept for that purpose, authenticated by the signatures of the Chairperson and County Clerk of the Borrower/Grantee, and this Resolution shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of this Resolution, this Resolution shall be effective upon adoption of this Resolution by the Governing Body.

Section 17. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Resolution shall be published in substantially the following form:

[Form of Notice of Adoption of Resolution for Publication]

Luna County, New Mexico
Notice of Adoption of Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in Resolution No. 23-27, duly adopted and approved by the Board of County Commissioners of Luna County, New Mexico on March 9, 2023. A complete copy of the Resolution is available for public inspection during normal and regular business hours in the office of the County Clerk or by contacting the County Clerk, at 700 South Silver Avenue, Deming, New Mexico 88030.

The title of the Resolution is:

**LUNA COUNTY, NEW MEXICO
RESOLUTION NO. 23-27**

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A COLONIAS INFRASTRUCTURE PROJECT FUND LOAN/GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO FINANCE AUTHORITY (“FINANCE AUTHORITY,” OR THE “LENDER/GRANTOR”) AND LUNA COUNTY, NEW MEXICO (THE “BORROWER/GRANTEE”), FOR THE BENEFIT OF ROCKHOUND, IN THE TOTAL AMOUNT OF \$1,080,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTION OF ROAD AND DRAINAGE IMPROVEMENTS, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE LOAN AMOUNT OF \$108,000 SOLELY FROM FIFTY PERCENT (50%) OF A ONE-EIGHTH OF ONE PERCENT (0.125%) INCREMENT OF COUNTY LOCAL OPTION GROSS RECEIPTS TAX AND ACCEPTANCE OF A GRANT AMOUNT OF \$972,000 CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS

RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS
IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE
LOAN/GRANT AGREEMENT.

A general summary of the subject matter of the Resolution is contained in its title. This notice constitutes compliance with NMSA 1978, § 6-14-6, as amended.

[End of Form of Notice of Adoption for Publication]

PASSED, APPROVED AND ADOPTED THIS 9TH DAY OF MARCH, 2023.

LUNA COUNTY, NEW MEXICO

By _____
John S. Sweetser, Chairperson of the Board of
County Commissioners

ATTEST:

By _____
Berenda McWright, County Clerk

[Remainder of page intentionally left blank.]

Governing Body Member _____, then moved adoption of the foregoing Resolution, duly seconded by Governing Body Member _____.

The motion to adopt the Resolution, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye:

Those Voting Nay:

Those Absent:

_____ () Members of the Governing Body having voted in favor of the motion, the Chairperson declared the motion carried and the Resolution adopted, whereupon the Chairperson and County Clerk signed the Resolution upon the records of the minutes of the Governing Body.

After consideration of matters not relating to the Resolution, the meeting upon motion duly made, seconded and carried, was adjourned.

LUNA COUNTY, NEW MEXICO

By _____
John S. Sweetser, Chairperson of the Board of
County Commissioners

ATTEST:

By _____
Berenda McWright, County Clerk

[Remainder of page intentionally left blank.]

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

I, Berenda McWright, the duly qualified and acting County Clerk of Luna County, New Mexico (the “Borrower/Grantee”), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of County Commissioners of the Borrower/Grantee (the “Governing Body”), had and taken at a duly called regular meeting held at the County Commission Chambers, 700 South Silver Avenue, Deming, New Mexico 88030, on March 9, 2023, at the hour of 10:00 a.m., insofar as the same relate to the adoption of Resolution No. 23-27 and the execution and delivery of the proposed Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. The proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1, as amended, including the Borrower/Grantee's open meetings Resolution No. 23-01, adopted and approved on January 12, 2023, in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of April, 2023.

LUNA COUNTY, NEW MEXICO

By _____
Berenda McWright, County Clerk

[SEAL]

6406748

Be it remembered that at a Regular Meeting of the Luna County Board of County Commissioners in Deming New Mexico, on the 9th day of March 2023, the following proceedings were had and entered of record.

RESOLUTION 23-28

ACCEPTANCE AND APPROVAL OF THE FY2022 AUDIT

WHEREAS, the County of Luna is required by §12-6-3 NMSA 1978 to contract with an independent auditor to perform the required annual audit or agreed upon procedures for Fiscal Year 2022; and,

WHEREAS, the Luna County Board of County Commissioners has directed the accomplishment of the audit for FY2022 be completed; and,

WHEREAS, this audit has been completed and presented to the Luna County Board of County Commissioners at the Regular Meeting of March 9, 2023 as allowed per the February 17, 2023 Letter from the Statue Auditor authorizing release of the FY2022 audit; and

WHEREAS, NMAC 2.2.2.10 (M) (4) provides in pertinent part that “Once the audit report is officially released to the agency by the state auditor (by a release letter) and the required waiting period of five calendar days has passed, unless waived by the agency in writing, the audit report shall be presented by the IPA, to a quorum of the governing authority of the agency at a meeting held in accordance with the Open Meetings Act, if applicable;” and,

NOW THEREFORE, BE IT RESOLVED, that the Luna County Board of County Commissioners does hereby accept and approve the completed audit report and findings as presented.

Done at Deming, New Mexico this 9th day of March 2023.

BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY

ATTEST:

Ray J. Trejo
Commissioner, District 1

Berenda McWright, County Clerk

Colette M. Chandler
Commissioner, District 2

John S. Sweetser, Chair
Commissioner, District 3

Be it remembered that at a Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 9th day of February, 2023, the following proceedings were had and entered of record.

LUNA COUNTY

RESOLUTION 23-29

DISPOSITION OF PERSONAL PROPERTY

WHEREAS, pursuant to Section 4-38-1, NMSA 1978, the powers of a county as a body politic and corporate shall be exercised by a Board of County Commissioners;

WHEREAS, Section 4-38-13, NMSA 1978, provides that the Board of County Commissioners shall have the power at any session to make such orders concerning the property belonging to the county as they may deem expedient;

WHEREAS, Section 13-6-1, NMSA 1978 declares that a County may dispose of tangible personal property and delete it from the public inventory upon a specific finding that each item is of current resale value of five thousand dollars (\$5,000.00) or less and is worn out, unusable or obsolete to the extent that the item is no longer economical or safe for continued use;

WHEREAS, a designated committee of three Luna County Officials has declared that all of the tangible personal property that is the subject of this resolution meets the criteria set for in Section 13-6-1, NMSA 1978; and

WHEREAS, pursuant to Section 13-6-2, NMSA 1978, the personal property will be disposed of by live or online auction open to the public or by an inter-governmental transfer to another state agency or local public body.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of County Commissioners of Luna County:

1. Finds that the property described in the Attachments hereto and incorporated by reference into this Resolution consists of property owned by the County of Luna with varying resale values, which is worn-out, unusable or obsolete to the extent that the items are no longer economical or safe for continued use by the County;
2. A copy of this Resolution and Attachments shall be sent to the State Auditor and the Local Government Division of the Department of Finance and Administration at least thirty (30) days before the disposal of the property, pursuant to Section 13-6-1(B)(2), NMSA 1978;
3. A copy of this Resolution and Attachments shall be made a permanent part of the official minutes of Luna County and maintained as a public record subject to the Inspection of Public Records Act.
4. All of the personal property will be disposed of by live or online auction process open to the public or through inter-governmental transfer.

Done at Deming, New Mexico this 9th day of March, 2023.

BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY

ATTEST:

Ray J. Trejo
Commissioner, District 1

Berenda McWright, County Clerk

Colette M. Chandler
Commissioner, District 2

John S. Sweetser, Chair
Commissioner, District 3

County of Luna



Barbara L. Reedy
Commissioner, District 1

Chris Brice
County Manager

Linda M. Smrkovsky
Commissioner, District 2

John S. Sweetser, Chair
Commissioner, District 3

700 South Silver Avenue • Post Office Box 551 • Deming, New Mexico 88031
Telephone (575) 546-0494 Facsimile (575) 544-4293

Date: 03-02-2023

To: Luna County Board of County Commissioners
From: Joanne C. Hethcox, Budget and Procurement Director
CC: Chris Brice, County Manager

Subj: Disposal of Assets

Inventory #	Year	Make	Model	VIN	Mileage
981451	2008	BUILDING			
Explanation for Disposal	Building no longer needed for Luna County purposes and was sold to Presbyterian Medical Services per SBOF approval.				
Inventory #	Year	Make	Model	VIN	Mileage
982011	2008	LAND			
Explanation for Disposal	Building no longer needed for Luna County purposes and was sold to Presbyterian Medical Services per SBOF approval.				
Inventory #	Year	Make	Model	VIN	Mileage
Explanation for Disposal					

Signed by SeamlessDocs.com
Joanne C. Hethcox
5b021b9c4ab55a79ee8b3e9e867b092
Joanne C. Hethcox

Be it remembered that at a Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 9th day of March 2023, the following proceedings were had and entered of record

RESOLUTION #23-30

Amended Resolution 22-44 Luna County SP Project

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the County of Luna and the New Mexico Department of Transportation enter into a Cooperative Agreement.

WHEREAS, the total cost of the project will be \$101,937.07 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation’s share shall be 75% or \$76,453.80

And

- b. Luna County’s proportional matching share shall be 25% or \$25,484.27

TOTAL PROJECT COST IS \$101,937.00

Luna County shall pay all costs, which exceed the total amount of \$101,937.07.

Now therefore, be it resolved in official session that Luna County determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on December 31, 2023 and Luna County incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by the Luna County to amend the Cooperative Agreement Control Number HW2 L100530 with the New Mexico Department of Transportation for LGRF Project year 2022–2023 to change previous termini from Geranio Rd SE from the intersection of Solana Rd SE south 1.1 miles to EOP to new termini of 4th St from San Luis to EOP. This project is within the control of Luna County in Deming, Luna County, New Mexico.

**Done at Deming, New Mexico this 9th day of March 2023
LUNA COUNTY BOARD OF COMMISSIONERS**

ATTEST:

**Ray J. Trejo,
Commissioner, District 1**

Berenda McWright, County Clerk

**Colette M. Chandler,
Commissioner, District 2**

**John S. Sweetser, Chairperson
Commissioner, District 3**

Be it remembered that at a Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 9th day of March 2023, the following proceedings were had and entered of record.

RESOLUTION #23-31

Amended Resolution 22-45 Luna County SBR Project

**PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the County of Luna and the New Mexico Department of Transportation enter into a Cooperative Agreement.

WHEREAS, the total cost of the project will be \$189,836.00 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or \$142,377.00.

And

- b. Luna County's proportional matching share shall be 25% or \$47,459.00.

TOTAL PROJECT COST IS \$189,836.00.

Luna County shall pay all costs, which exceed the total amount of \$189,836.00.

Now therefore, be it resolved in official session that Luna County determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on December 31, 2023 and Luna County incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by Luna County to amend the Cooperative Agreement Control Number HW2 L100546 with the New Mexico Department of Transportation for LGRF Project year 2022–2023 to change previous termini from New Frontier SW from the intersection of Cottonwood Rd SW to Brazil Rd SE (4 miles), and Sunshine Rd SE from Maverick Rd SE to NM Highway 11 to EOP to new termini of Solana Rd SE from McCan Rd SE to Lucca Rd SW (4 miles), excluding NM Highway 11 and the New Mexico Department of Transportation Right of Ways. This project is within the control of Luna County in Deming, Luna County, New Mexico.

**Done at Deming, New Mexico this 9th day of March 2023.
LUNA COUNTY BOARD OF COMMISSIONERS**

ATTEST:

**Ray J. Trejo,
Commissioner, District 1**

Berenda McWright, County Clerk

**Colette M. Chandler,
Commissioner, District 2**

**John S. Sweetser, Chairperson
Commissioner, District 3**

Be it remembered that at a Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 9th day of March 2023, the following proceedings were had and entered of record.

RESOLUTION #23-32

Amended Resolution 22-46 Luna County CAP Project

**PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the County of Luna and the New Mexico Department of Transportation enter into a Cooperative Agreement.

WHEREAS, the total cost of the project will be \$434,099.00 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or \$325,574.00

And

- b. Luna County's proportional matching share shall be 25% or \$108,525.00

c.

TOTAL PROJECT COST IS \$434,098.00

Luna County shall pay all costs, which exceed the total amount of \$434,099.00.

Now therefore, be it resolved in official session that Luna County determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on December 31, 2023 and Luna County incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by the Luna County to amend the Cooperative Agreement Control Number HW2 L100541 with the New Mexico Department of Transportation for LGRF Project year 2022–2023 to change previous termini from McCan Rd SE from the intersection of ½ mile North of Dona Ana Rd SE to Wagon Wheel Rd SE (3 miles), Lucca Rd SW from the intersection of Monte Vista Rd SW south to Sunshine Rd SW to EOP to a new termini of Scotch Pine Rd Se, and McCan Rd SE to EOP (.8 miles) and McCan Rd SE from County Maintenance line ¼ mile North of Solana Rd SE to Rockhound Rd SE (2.25 miles). This project is within the control of Luna County in Deming, Luna County, New Mexico.

**Done at Deming, New Mexico this 9th day of March 2023
LUNA COUNTY BOARD OF COMMISSIONERS**

ATTEST:

Ray J. Trejo,
Commissioner, District 1

Berenda McWright, County Clerk

Colette M. Chandler,
Commissioner, District 2

John S. Sweetser, Chairperson
Commissioner, District 3

Be it remembered that at a Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 9th day of March 2023, the following proceedings were had and entered of record

RESOLUTION #22-33

Luna County SP Project

**PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the County of Luna and the New Mexico Department of Transportation enter into a Cooperative Agreement.

WHEREAS, the total cost of the project will be \$103,482.52 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 75% or \$77,611.89

And

b. Luna County's proportional matching share shall be 25% or \$25,870.63

TOTAL PROJECT COST IS \$103,482.52

Luna County shall pay all costs, which exceed the total amount of \$103,482.52.

Now therefore, be it resolved in official session that Luna County determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on December 31, 2024 and Luna County incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by the Luna County to enter the Cooperative Agreement Control Number to be determined with the New Mexico Department of Transportation for LGRF Project for year 2023–2024 to “Mill 10” existing chip seal, conform shoulders back to original condition, improve drainage, apply 1 lift PEP Prime and and 2 lifts of chip seal, and apply safety striping and signage on Geranio Rd from NM 549 to EOP (1.1 miles), Ash St from NM 418 to Skyview (1.6) and Skyview Rd from the Frontage Rd to NM 418 (1.7 miles), excluding NM 549, NM 418 and the New Mexico Department of Transportation Right of Ways. This project is within the control of Luna County in Deming, Luna County, New Mexico.

**Done at Deming, New Mexico this 9th day of March 2023
LUNA COUNTY BOARD OF COMMISSIONERS**

ATTEST:

**Ray J. Trejo,
Commissioner, District 1**

Berenda McWright, County Clerk

**Colette M. Chandler,
Commissioner, District 2**

**John S. Sweetser, Chairperson
Commissioner, District 3**

Be it remembered that at a Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 9th day of March 2023, the following proceedings were had and entered of record

RESOLUTION #22-34

Luna County SBR Project

**PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the County of Luna and the New Mexico Department of Transportation enter into a Cooperative Agreement.

WHEREAS, the total cost of the project will be \$243,305.37 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or \$182,479.02.

And

- b. Luna County's proportional matching share shall be 25% or \$60,826.35.

TOTAL PROJECT COST IS \$243,305.37.

Luna County shall pay all costs, which exceed the total amount of \$243,305.37.

Now therefore, be it resolved in official session that Luna County determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on December 31, 2024 and Luna County incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by Luna County to enter into Cooperative Agreement Control Number to be determined with the New Mexico Department of Transportation for LGRF Project for year 2023–2024 to “Mill 10” existing chip seal, construct a new roadway subgrade base and compact, apply 1 lift PEP Prime and and 2 lifts of chip seal, conform shoulders back to original condition, improve drainage, and apply safety striping and signage on 8th St from Orno Rd South to EOP. This project is within the control of Luna County in Deming, Luna County, New Mexico.

**Done at Deming, New Mexico this 9th day of March 2023
LUNA COUNTY BOARD OF COMMISSIONERS**

ATTEST:

**Ray J. Trejo,
Commissioner, District 1**

Berenda McWright, County Clerk

**Colette M. Chandler,
Commissioner, District 2**

**John S. Sweetser, Chairperson
Commissioner, District 3**

Be it remembered that at a Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 9th day of March 2023, the following proceedings were had and entered of record.

RESOLUTION #23-35

Luna County CAP Project

**PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the County of Luna and the New Mexico Department of Transportation enter into a Cooperative Agreement.

WHEREAS, the total cost of the project will be \$426,459.00 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or \$319,844.25

And

- b. Luna County's proportional matching share shall be 25% or \$106,614.75

TOTAL PROJECT COST IS \$426,459.00

Luna County shall pay all costs, which exceed the total amount of \$426,459.00.

Now therefore, be it resolved in official session that Luna County determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on December 31, 2024 and Luna County incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by the Luna County to enter into Cooperative Agreement Control Number to be determined with the New Mexico Department of Transportation for LGRF Project year 2023–2024 to “Mill 10” existing chip seal, construct a new roadway subgrade base and compact, apply 1 lift PEP prime and 2 lifts of chip seal, conform shoulders back to original condition, improve drainage, and apply safety striping and signage on Uvas Valley Rd NE from the intersection of New Mexico Hatch Hwy (State Road 26) south 6 miles to EOP, excluding NM 26 and the New Mexico Department of Transportation Right of Ways. This project is within the control of Luna County in Deming, Luna County, New Mexico.

**Done at Deming, New Mexico this 9th day of March 2023
LUNA COUNTY BOARD OF COMMISSIONERS**

ATTEST:

**Ray J. Trejo,
Commissioner, District 1**

Berenda McWright, County Clerk

**Colette M. Chandler,
Commissioner, District 2**

**John S. Sweetser, Chairperson
Commissioner, District 3**

Be it remembered that at a Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 9th day of March 2023, the following proceedings were had and entered of record

RESOLUTION #23-36

NMDOT 2023 Annual Hardship Sale

**PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the County of Luna and the New Mexico Department of Transportation (NMDOT) enter into a Cooperative Agreement annually for repair and maintenance of local county roads.

WHEREAS, the NMDOT is providing funds of up to \$500,000 statewide to be used solely by incorporated municipalities, counties, and land grants-mercedes to purchase surplus automotive and major road equipment at annual auction sale.

WHEREAS, Luna County is eligible to participate in the Annual Hardship Sale as a qualifying county entity with a financial hardship in regards to purchasing new or used heavy equipment.

WHEREAS, Luna County is further in need of upgrades to its existing fleet where most vehicles are well over 20 years old, and relies exclusively on grants and capital outlays to procure new equipment.

WHEREAS, Luna County could benefit heavily from receiving \$25,000 max from the NMDOT Local Government Road Fund towards the purchase of said equipment, and is willing to pay any differences that exist within the Road Department budget.

Now therefore, be it resolved in official session that Luna County determines, resolves, and orders as follows:

That authorization for the Luna County Road Department to participate in the NMDOT 2023 Annual Hardship Sale is hereby given and adopted, and has a priority standing.

Luna County agrees to provide a letter of justification, and a wish-list for requested equipment, to the NMDOT for review, and further agrees to pay for any differences between the actual cost of equipment sold and the voucher(s) provided. Luna County incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

Done at Deming, New Mexico this 9th day of March 2023
LUNA COUNTY BOARD OF COMMISSIONERS

ATTEST:

Ray J. Trejo,
Commissioner, District 1

Berenda McWright, County Clerk

Colette M. Chandler,
Commissioner, District 2

John S. Sweetser, Chairperson
Commissioner, District 3

Be it remembered that at the Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 9th day of March 2023, the following proceedings were had and entered of record.

RESOLUTION NO. 23-37

AUTHORIZING THE SALE OF PROPERTY

WHEREAS, pursuant to Section 4-38-1, NMSA 1978, the powers of a county as a body politic and corporate shall be exercised by a Board of County Commissioners;

WHEREAS, Section 4-38-13, NMSA 1978, provides that the Board of County Commissioners shall have the power at any session to make such orders concerning the property belonging to the County as they may deem expedient;

WHEREAS, Section 13-6-2(B)(3), NMSA 1978, declares that a County may dispose of real property by negotiated sale to a private person, subject to approval of the State Board of Finance as required by Section 13.6.2.1(A), NMSA 1978;

WHEREAS, Luna County is the owner of two parcels lying in Sections 34 and 35, Township 27 South, Range 8 West and more commonly referred to as Sunnyside or Irwin Farms;

WHEREAS, Luna County has not current or future plans to develop or utilize the property and wishes to dispose of the property by sale;

WHEREAS, the parcels to be sold will be appraised and sold at or above the appraised at fair market value; and

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF LUNA COUNTY, NEW MEXICO that the County Manger, or his designee, is authorized to sell the parcels referred to as Sunnyside or Irwin Farms property in compliance with applicable New Mexico laws and Luna County Ordinances, and to take all necessary action to accomplish the acquisition of said parcels.

DONE THIS 9th DAY OF MARCH, 2023

by the Board of County Commissioners of Luna County

ATTEST:

John S. Sweeter, Chair
Commissioner, District 3

Berenda McWright,
County Clerk

Luna County, Board of County Commissioners

**Supplemental Narrative for Solar PV Development NM 18 I LLC (“South
Peak”) Permitting Application**

Luna County, New Mexico



Project Overview

Galehead Development (“Galehead”), together with Lacuna Sustainable Investments (“Lacuna” and collectively, is pleased to apply to Luna County for a Conditional Use Permit for Solar PV Development NM 18 I, LLC (referred to hereafter as “South Peak” or the “Project”).

South Peak is a 75 MWac solar generation and 37.5 MW/150 MWh storage development project located in Luna County, New Mexico. The Project is in the Facilities Study stage process of Public Service Company of New Mexico’s (“PNM”) interconnection queue. Following this phase, the Project is expected to execute a Large Generator Interconnection Agreement (“SGIA”) with Network Resource Interconnection Service (“NRIS”) with PNM, which is currently anticipated for Q1 2023. It holds PNM queue number IA-PNM-2019-01 and is the first project listed in PNM’s interconnection queue on OASIS. In order to connect to Hondale Substation, the Project is forecasted to pay to PNM \$7.7 million to upgrade the substation. The upgrade will enable future projects owned by other developers to also connect to the substation.

The Project is expected to begin construction in December 2024 and to complete construction and connect to PNM’s Hondale Substation by December 2025.

Item	Description
Project Name	South Peak
Project SPV	Solar PV Development NM 18 I LLC
Location	Luna County, New Mexico
Generation Type	Solar PV (single axis tracking) with AC-coupled battery energy storage (“BESS”)
PV System Capacity	75 MWac 97.5 MWdc
BESS System Capacity	37.5 MW 150 MWh
Capacity Injection Rights	75 MW
Interconnecting Utility	Public Service Company of New Mexico (PNM)
Interconnection Status	In Facilities Study stage (first project in PNM’s entire interconnection queue)
Point of Interconnection	Hondale Substation
Legal Description	Parcel 1: 3050148395403 Parcel 2: 3050149262270
UPC	Parcel 1: SW Qtr, Sec 23, Township 25 South, Range 9 West

	Parcel 2: East Half and Northwest Quarter of Sec 26, Township 25 South, Range 9 West, less 6 acres sold to Leo and Mary Koenig and less 5 acres sold containing residence, barn, coral, and buildings to John Stewart
Land Status	The applicant has executed two commercially viable Option to Lease Agreements for 100% of the Project site.
Mineral Rights	The landowner controls the mineral rights as well as surface rights on the parcels where the Project will be built.
Anticipated Project Completion	December 2025

Sponsor Information

Galehead Development

Galehead Development was founded in 2016 and consists of a 40 person team based in Boston, MA. Galehead identifies and develops greenfield land sites optimal for renewable energy generation facilities. LandCommand® is Galehead’s proprietary GIS prospecting analytics software and has delivered over 18+ GW of active wind, solar, and storage pipeline across 25 states. Our founders have over 40 years of experience in the power industry and Fortune 500 management.

Galehead Development currently manages approximately 13 GW of development assets for our Joint Development Partners and Pipeline. About 1 GW of renewable capacity originated by Galehead will commence construction in 2022-2023. Galehead has nearly 5.5 GW of diversified (solar/wind/storage) pre-NTP development asset sales to Downstream Partners. Galehead recently completed a platform investment by Macquarie’s Green Investment Group (Macquarie’s GIG).

Lacuna Sustainable Investments

Lacuna Sustainable Investments was founded in 2019 to address the lack of investment in early stage, pre-construction renewable energy infrastructure. Lacuna provides flexible and patient capital to people, projects, and portfolios in the renewable energy space, with a particular focus on solar and storage across the US. Now in its second fund, the firm seeks situations where its capital can fulfill a need and expertise provides tangible value on the journey to the “right” long-term capital, investor, or owner.

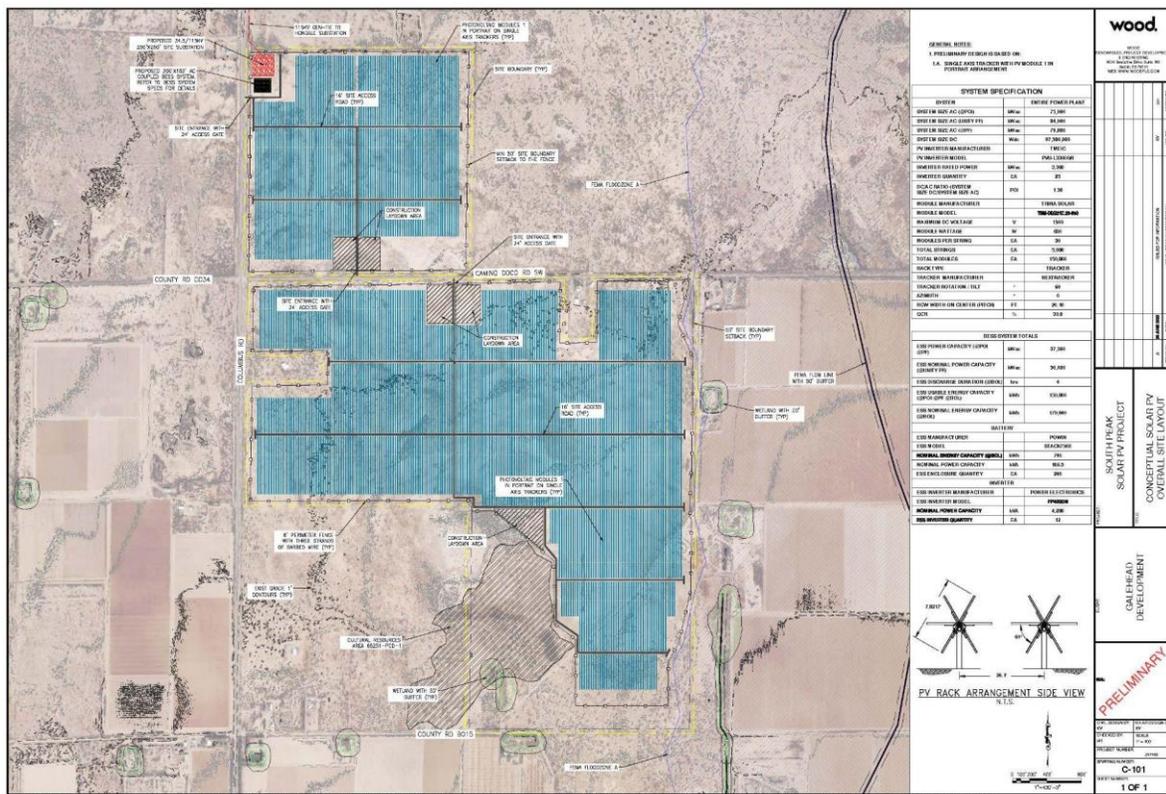
Lacuna has particular expertise addressing the strategic, capital, and operational issues its partners face on a day-to-day basis – earned through the team’s collective range of experiences as entrepreneurs, advisors and operators at self-funded start-ups and work with industry leading developers, independent power producers, and top legal, accounting and private equity firms.

Collectively, the Lacuna team has over 50 years experience developing, investing in, and financing renewable energy projects across the country. Lacuna currently has \$150MM of dedicated capital under management and has demonstrated the ability to access broader capital markets for its partners and projects.

Project Layout

The Project commissioned Wood Plc, an internationally renowned engineering consultancy, to develop a site layout for the project. As shown in figure [#] below, the Project crosses two parcels, both of which are owned by Mr. James Koenig, a long-time resident of Luna County. The northern parcel will contain solar panels as well as house the project substation and the battery energy storage facility. The layout is designed to avoid wetlands, flood zones, and areas identified on which potential cultural artifacts reside in order to have minimal impact on the land and its surroundings.

Figure 1 - Site Layout



Project Environmental Review

The Project commissioned SWCA Environmental Consultants, a nationwide environmental consulting firm, to complete a set of solar permitting-relevant field studies have been completed for the Project. This includes a Critical Issues Analysis (“CIA”), biological / species study, a wetlands delineation, a cultural survey, and a Phase I Environmental Assessment (“ESA”). A discussion of the results of these studies are described below.

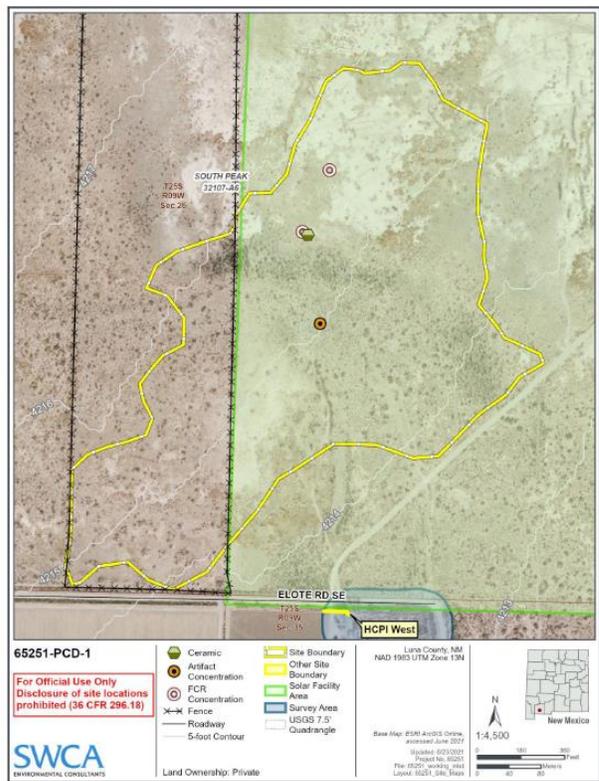
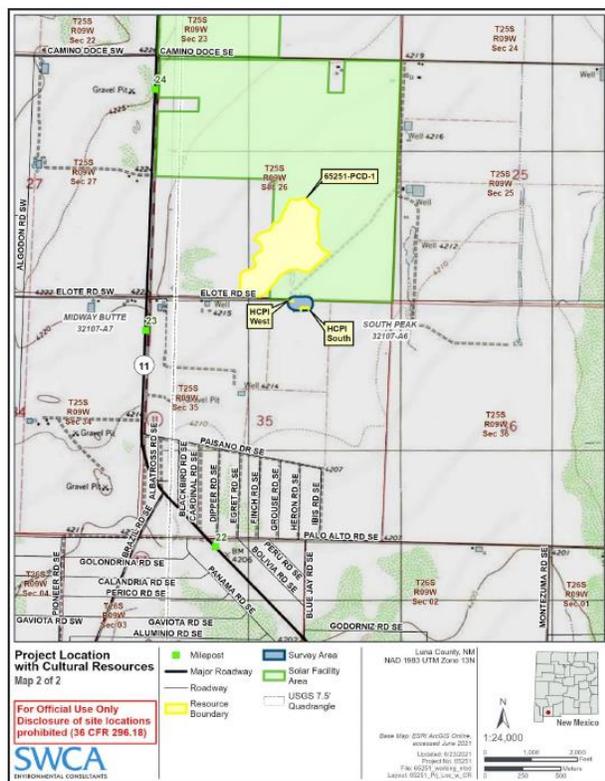
Study	Description	Results Summary
CIA	A desktop survey reviewing the potential for biological / species, wetlands, cultural, and contamination consideration on site as well as viewshed considerations, zoning and permitting requirements.	<ul style="list-style-type: none"> ● No hydric or partially hydric soils. ● Viewshed will be small. Solar panels and related equipment would not be tall enough to be seen from a distance. ● No conservation easements within the Project site nor any NRCS program easements. ● Not “prime” or “unique” farmland. ● Immediate vicinity of the project may support critical habitat for listed species. Field Survey recommended. ● <i>See below for more details on wetlands and cultural desktop analysis and field surveys</i>
Biological Field Survey	A field survey evaluating the potential effects of the proposed project on federally threatened or endangered species listed under the Endangeres Species Act of 1973, state threatened or endangered species listed under New Mexico Wildlife Conservation Act and the state’s endangered plant species regulations. The survey also provides a description of of general site characteristics, vegetation, wildlife, and aquatic resources in the Project area.	<ul style="list-style-type: none"> ● Non-hydric soils ● Project area and surrounding landscape has been previously disturbed by cattle grazing, litter dumping, and lightly-used two-track roads ● Suitable nesting habitat for migratory birds is present. ● One potentially active passerine nest and nine inactive nests identified. No raptor nests. ● Peregrine falcon flying above at the time of field survey, but expected to migratory as no critical habitat for the species is within the project area. ● No bald or golden eagles were observed during the survey and the area does not support suitable habitat for these species. ● <i>No listed species identified in the</i>

		<p><i>area during the field survey</i>, except for a single peregrine falcon above, which was likely migratory.</p> <ul style="list-style-type: none"> ● Recommendation: No mitigations specific to listed wildlife species are necessary.
Wetlands Field Survey (subset of biological survey)	A field survey evaluating the presence of wetlands on site.	<ul style="list-style-type: none"> ● No mapped streams and state wetlands unlikely given terrain and the NHD and NWI datasets (desktop) ● One potential wetland mapped within the project area during field survey. ● The wetland is a “stock pond” with no hydric soils. ● Pond not located within the project footprint (within setback area). ● No potentially jurisdictional waterfeatures ● Recommendation: no Nationwide Permit or USACE coordination necessary.
Cultural Field Survey	A field survey to find, identify, and record any cultural resources that might be affected within the area and to provide National Register of Historic Places (“NHRP”) eligibility recommendations for those resources and to inform cultural resource impact avoidance and minimize effects.	<ul style="list-style-type: none"> ● ARMS database search indicated no previous surveys had been conducted within the Project Area. ● No cultural or historic sites were known to occur on the property nor any SRCP- or NRHP-listed cultural properties (desktop). ● Field surveys indicated three cultural properties on a segment of the site. ● Two of the three are within the project’s setback area and all three will be avoided per the current site layout ● Recommendation to avoid these areas, but not subject to special permitting under New Mexico state and Federal law because they are situated on private land.
Phase 1 ESA	A desktop and field survey evaluating the potential	<ul style="list-style-type: none"> ● No RECs, <i>controlled RECs</i>, or significant data gaps in connection

	<p>presence of Recognized Environmental Conditions (“RECs”) on the site, where an REC is the presence or likely presence of hazardous substances or petroleum products due to a release to the environment.</p>	<p>with the subject property.</p>
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Below is a map for showing the resource boundary for the identified cultural resources from the cultural studies field survey. As shown on the site layout, the Project expects to avoid this area in its entirety.

Figure 2 - Cultural Resource Area



Permitting

Following approval of the Conditional Use Permit (“CUP”), the Project will pursue permits with other authorities prior to beginning construction. While the CUP is considered discretionary, the

other permits are considered ministerial, which means that they would be automatically granted as long as the permit-specific criteria are met.

Below is a matrix of permits the Project will require prior to construction.

Scope	Authority	Permit, License, or Consultation	Anticipated Date of Completion
State	NM Department of Environmental Protection (NMED) – Surface Water Quality Bureau (SWQB)	National Pollutant Discharge Elimination System (NPDES) Stormwater General Permit for Construction	December 2023
	NM Department of Transportation (NMDOT)	Oversize and/or Overweight Permit Application	December 2024
		Commercial Driveway Permit	December 2024
	NM Regulation & Licenses Department	General Construction Building Permit	December 2024
		Electrical Permit	December 2024
Local	Luna County	Conditional Use Permit	December 2022

Technical Review

In addition to the environmental and cultural studies completed, several technical field surveys were completed. These include a preliminary geotechnical survey, American Land Title Association (“ALTA”), and a topographical survey for the site. The geotechnical and topographical field surveys inform site design aspects for the Project and to enable the appropriate equipment to be matched to the site. The ALTA survey confirms the boundaries of the property and how they relate to the Title for the property. While these studies do not inform permitting considerations, it demonstrates the commitment of the sponsor to the Project.

Economic Development Benefits

Mesilla Valley Economic Development Authority (MVEDA) completed an economic analysis to estimate the development benefits of a 75 MW project in which the economic conditions would be similar to what is found in Luna County. On a pre-Industrial Revenue Bond (IRB) basis given current estimated construction and equipment costs, the Project would bring approximately \$1.15 million in incremental annual property tax revenue to the County. This is based on a total estimated

construction cost and capital investment in the County of approximately \$145 million. However, in the effort of transparency, the Project would seek an IRB with the County prior to construction start. MVEDA estimated \$41.5 million of total value of the economic impact of the project and \$50 million of construction impact.

Indigent Hospital Claims Office

Chris A. Brice, County Manager

IHC Board Meeting March 9, 2023

Month	Number	Amount	Number	Denied
January	2	\$1,544.97	0	\$0.00
Feburary	5	\$20,133.68		
March	0	\$0.00		
April	0	\$0.00		
May	0	\$0.00		
June	0	\$0.00		
July	0	\$0.00		
August	0	\$0.00		
September	0	\$0.00		
October	0	\$0.00		
November	0	\$0.00		
December	0	\$0.00		
Total	7	\$21,678.65	0	\$0.00
This Month's Total	Mimbres Memorial Hospital			\$8,089.68
This Month's Total	Gila Regional Medical Center			\$0.00
This Month's Total	Memorial Medical Center			\$0.00
This Month's Total	Deming Fire Dept./EMS			\$0.00
This Month's Total	All Other Services			\$12,044.00
Total				\$20,133.68
Year to Date Total	Mimbres Memorial Hospital			\$8,634.65
Year to Date Total	All Other Hospitals			\$0.00
Year to Date Total	Deming Fire Dept./EMS			\$0.00
Year to Date Total	All Other Services			\$13,044.00
Total				\$21,678.65
Care of Prisoners This Month - Not including SNCP Funds				\$361,911.24
Care of Prisoners Year to Date Indigent - Not including SNCP Funds				\$471,161.41
Care of Prisoners Year to Date Inmate Prescriptions/OTC Meds				\$18,745.18
Care of Prisoners Year to Date Dr. Bills				\$6,290.16
Total Cost of Care of Prisoners Year to Date				\$496,196.75
Monies Received - February 2023				\$140,533.72
Balance in IHC Fund as of February 28, 2023				\$1,866,034.56
Encumbrances as of February 28, 2023				\$1,095,947.87
		Date	Amount Approved	Amount Denied
	Signatures	3/9/2023	\$20,133.68	
	Ray J. Trejo			
	Colette M. Chandler			
	John S. Sweetser			

