

COUNTY OF LINCOLN
New Mexico
Agenda Special Meeting
Board of County Commissioners

Jackie Powell, Chairwoman

Mark Doth, Member

Dallas Draper, Member

Glenna N. Robbins, Treasurer

Rhonda B. Burrows, Clerk

Preston Stone, Vice-Chair

Kathryn L. Minter, Member

Robert Shepperd, Sheriff

Paul Baca, Assessor

Stirling Spencer, Probate Judge

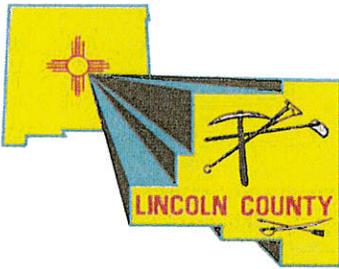
Nita Taylor, County Manager

**County Annex (Substation Office) 115 Kansas City, Ruidoso, New Mexico, Friday
March 7, 2014 @ 2:00 P.M.**

1. Call to Order
2. Roll Call
3. Invocation
4. Pledge of Allegiance
 - A. Pledge – U.S.A. Flag
 - B. Salute – N.M. Flag – (“I salute the flag of the State of New Mexico, the Zia Symbol of perfect friendship among united cultures”)
5. Approval of Agenda
6. Executive Session Pursuant to the Open Meetings Act: discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H(7)
7. Discussion / Possible Action on Refund / Rebate of Dividends (excess Revenues) Otero/Lincoln County Regional Landfill; Amendment of Joint Powers Agreement for the Financing and Establishment of the Otero/Lincoln County Regional Landfill required to rebate the excess funds
8. Discussion / Possible Action – Re: Status of Lincoln County’s current relationship with GSWA
9. Signing of Official Documents if needed
10. Next Regular Meeting – Tuesday, March 18, 2014
11. Adjournment

PLEASE NOTE: ALL SUBJECTS LISTED ON THIS AGENDA ARE TO BE CONSIDERED ACTION ITEMS BY THE BOARD OF COUNTY COMMISSIONERS UNLESS OTHERWISE INDICATED.

March 7, 2014: THIS AGENDA IS SUBJECT TO CHANGE



www.lincolncountynm.net

County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

March 6, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Potential Rebate of Excess Otero/Lincoln County Regional Landfill Revenues to GSWA

PURPOSE: Consider / Take Action on the Rebate of Excess Revenues from the Otero/Lincoln County Regional Landfill to GSWA;

Consider / Take Action on First Amendment to Joint Powers Agreement for the Financing and Establishment of the Otero/Lincoln County Regional Landfill Allowing Rebate of Excess Funds

Discussion: The Otero County/Lincoln County (now Greentree) Solid Waste Authority Boards (“Authorities”) have determined that excess revenues exist that are not needed for the prepayment of debt (of the landfill) or for member rate reduction. It has prepared its First Amendment to the Joint Powers Agreement for the Financing and Establishment of the Otero County/Lincoln County (now Greentree) Regional Landfill (“Amendment 1”). See enclosure 1.

GSWA submitted this Amendment No. 1 to the Department of Finance for approval, but was advised by Thomas Clifford, Secretary of Finance and Administration, that it must be approved and executed by all the parties to the JPA before being resubmitted to DFA for approval. See enclosure 2. Nine of the twelve parties to the JPA have since approved and signed this Amendment 1, with the Village of Ruidoso, the City of Ruidoso Downs and the County of Lincoln yet to approve. GSWA has requested the Commission to approve Amendment 1, thereby approving the rebate of excess revenues.

Recommendation: GSWA was requested to ensure these funds would be used to pay the NMFA debt service, not legal fees or other operational expenses. Per the GSWA Operational Supervisor, because the matter was not an Agenda item for its February 28, 2014 meeting, the Board could not take formal action. I recommend you approve this Amendment 1, allowing the subsequent rebate of the excess funds, with the condition that the Amendment 1 will be signed after confirmation that the GSWA Board has taken formal action that the funds be used *only* to pay NMFA debt service.

FIRST AMENDMENT TO
JOINT POWERS AGREEMENT
FOR THE FINANCING AND ESTABLISHMENT
OF THE OTERO COUNTY/LINCOLN COUNTY (*now GREENTREE*) REGIONAL LANDFILL

This first amendment to the Joint Powers Agreement is made and entered into by and between the Otero County Solid Waste Authority and the Greentree Solid Waste Authority (fka the Lincoln County Solid Waste Authority), County of Otero, City of Alamogordo, Village of Tularosa, Village of Cloudcroft, County of Lincoln, City of Ruidoso Downs, Town of Carrizozo, Village of Capitan and the Village of Corona (hereinafter, Governmental Entities) acting pursuant to the "Joint Powers Agreement Act" of New Mexico, 11-1-1 et. seq. NMSA (1978 Comp.) for the establishing, financing and operating the Otero County/Greentree Regional Landfill facility (hereinafter Landfill). Each body, by its signature hereto, consents to and agrees to be bound by the terms of this amendment;

WHEREAS, the parties to this Agreement previously entered into agreements creating the Otero County Solid Waste Authority and the Greentree Solid Waste Authority; and

WHEREAS, the Governmental Entities acting through their respective Otero County or Greentree Solid Waste Authority Boards, have entered into a Joint Powers Agreement regarding the permitting, financing, construction and operation of the Facility; and

WHEREAS, the Governmental Entities, acting through their respective Otero County or Greentree Solid Waste Authority Boards, have agreed to a 50 – 50 joint ownership of the Landfill, including obligation for the cost and liabilities associated with the ownership and operation of the landfill.

NOW THEREFORE, it is mutually agreed and covenanted between the Governmental Entities amends Paragraph 11(E) as follows:

1. Funds in excess of those described in Paragraph 11(D) are used for the prepayment of debt or rate reduction and upon the joint authorization of the Otero County and the Greentree Solid Waste Authorities, any remaining monies may be re-bated to the Otero County and Greentree Solid Waste Authorities in proportion to actual volumes of solid waste disposed in the facility by the governmental entities of the Otero County and Greentree Solid Waste Authorities (members). Other monies generated from other sources (non-members) not the governmental entities (members) will be re-bated to the Otero County and Greentree Solid Waste Authorities (members) in proportion to their ownership interest in the Landfill.

2. This amendment to the Agreement is authorized pursuant to State Statute 11-1-1 et. seq. NMSA (1983 rep.). This Agreement is governed by and shall be construed in accordance with the laws of the State of New Mexico.

3. The term of this agreement is perpetual. Any withdrawal or termination of the Agreement by a member shall not affect the obligations, financial or otherwise, previously incurred by such parties pursuant to this agreement.

4. Except as amended herein, the original Joint Powers Agreement between the Otero County Solid waste Authority and the Greentree Solid Waste Authority shall continue without change, and in full force and effect as originally executed.

This amendment to the Agreement shall become effective upon execution by all parties hereto and approval by the Department of Finance and Administration of the State of New Mexico.

OCSWA Chairman:

Robert Rentschler
Robert Rentschler
Signed this ___ day of _____, 2013

Attest:

Mary J. Scott
Mary Scott
City of Alamogordo

Village of Cloudcroft

David Venable
David Venable, Mayor
Signed this 18th day of DEC, 2013

Attest:

Jini D. Lurie
Village Clerk



Village of Tularosa

Ray S. Cordova
Ray Cordova, Mayor
Signed this 23 day of January, ²⁰¹⁴ 2013

Attest:

Sharon R. Brusulas
Village Clerk



City Of Alamogordo

Robert Rentschler
~~Susie Galen~~ Mayor Robert Rentschler
Signed this 25th day of JANUARY, 2014

Attest:

Renee Laird
City Clerk

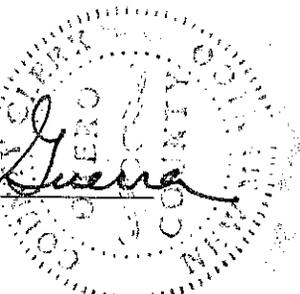


County of Otero

Susan Flores
Susan Flores, Chairwoman Tommy Herrell, VICE
Signed this 19 day of DECEMBER, 2013

Attest:

Demie Guerra
County Clerk



GSWA Chairman

Sam Hammons
Sam Hammons
Signed this 30 day of May, 2013

Attest:

Gary L. Williams
Gary L. Williams
Secretary/Treasurer

Village of Capitan

Sam Hammons
Sam Hammons, Mayor
Signed this 8 day of October, 2013

Attest:

Kay Stuchlik
Village Clerk

Town of Carrizozo

Wes Lindsey
Wes Lindsey, Mayor
Signed this 13 day of Nov, 2013

Attest:

Deann Wehbrunn
Town Clerk

Village of Corona

William Hignight
William Hignight, Mayor
Signed this 23rd day of October, 2013

Attest:

Terri Racher
Village Clerk

City of Ruidoso Downs

Gary L. William
Gary L. William, Mayor
Signed this ___ day of _____, 2013

Attest:

City Clerk

Village of Ruidoso

Gus Raymond Alborn
Gus Raymond Alborn, Mayor
Signed this ___ day of _____, 2013

Attest:

Village Clerk

County of Lincoln

Jackie Powell
Jackie Powell, Chairwoman
Signed this ___ day of _____, 2013

Attest:

County Clerk

JPA AMENDMENT APPROVED:

State of New Mexico Department of Finance & Administration

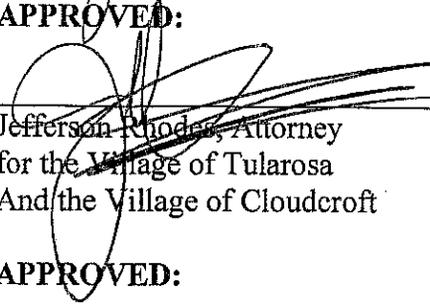
Date

APPROVED:



Stephen P. Thies, City Attorney
for the City of Alamogordo

APPROVED:

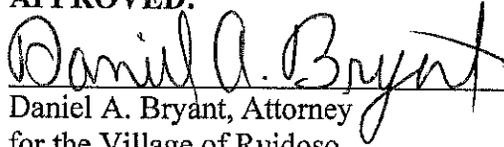


Jefferson Rhodes, Attorney
for the Village of Tularosa
And the Village of Cloudercroft

APPROVED:

Alan P. Morel, Attorney
for Lincoln County

APPROVED:

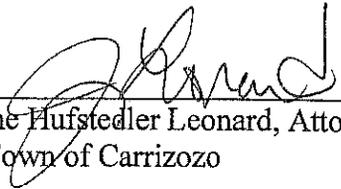


Daniel A. Bryant, Attorney
for the Village of Ruidoso
And Otero County

APPROVED:

John H. Underwood, Attorney
for the City of Ruidoso Downs

APPROVED:



JulieAnne Hufstedler Leonard, Attorney
for the Town of Carrizozo

APPROVED:

Zach Cook, Attorney
for the Village of Capitan
And Green tree Solid Waste Authority

APPROVED:

for the Village of Corona



Susana Martinez
GOVERNOR

State of New Mexico
Department of Finance & Administration
180 Bataan Memorial Building
Santa Fe, New Mexico 87501
Phone: (505) 827-4985
Fax: (505) 827-4984
www.nmdfa.state.nm.us

Thomas E. Clifford, Ph.D.
Cabinet Secretary

September 18, 2013

BY REGULAR MAIL

Debra L. Ingle, Operational Supervisor
Greentree Solid Waste Authority
P.O. Box 2405
Ruidoso Downs NM 88346

Re: Amendment No. 1 to the Joint Powers Agreement for the Finance and Establishment of the Otero/Lincoln County Regional Landfill

Dear Ms. Ingle:

This concerns the proposed Amendment No. 1 to the Joint Powers Agreement ("JPA") for the Finance and Establishment of the Otero/Lincoln County Regional Landfill. The JPA was "made and entered into by and between the County of Otero, City of Alamogordo, Village of Tularosa, Village of Cloudcroft, County of Lincoln, Village of Ruidoso, Village of Ruidoso Downs, Town of Carrizozo, Village of Capitan and Village of Corona" and executed by each of those entities. Amendment No. 1, in contrast, is not executed by any of the parties to the JPA. Rather, it is executed only by the Chairmen of the Greentree Solid Waste Authority and Otero County Solid Waste Authority (collectively, the "Authorities").

We perceive no issue with the substance of the proposed Amendment No. 1, which provides for the potential rebate of excess revenues not needed for the prepayment of debt or member rate reduction. It is not clear to us, however, the legal authority for the Authorities to amend the JPA. In other words, any amendment to the JPA would seemingly have to be approved by all of the remaining parties to the JPA.

Accordingly, we are returning the copies of Amendment No. 1 submitted to DFA for signature unsigned. Amendment No. 1 must be approved and executed by all of the parties to the JPA before being resubmitted to DFA for approval. Alternatively, if the Authorities believe that they have the legal authority to amend the JPA, they must submit their written analysis of that authority to DFA for consideration.

If you have any questions concerning this letter, please feel free to contact Gregory S. Shaffer, DFA's General Counsel. Greg's number is 505.827.3639; his email is GregoryS.Shaffer@state.nm.us. In addition, if you would like DFA to review Amendment No. 1 once it is redrafted for execution by all the parties to the JPA but before it is executed by all of those parties, please submit it to Greg for review. This will help avoid the possibility of Amendment No. 1 being rejected by DFA after it has been approved by all parties to the JPA.

Sincerely,

Thomas E. Clifford, Ph.D.
Secretary of Finance and Administration