

**COUNTY OF LINCOLN**  
**New Mexico**  
**Regular Meeting**  
**Board of County Commissioners**

**Preston Stone, Chairman**  
**Elaine Allen, Member**  
**Lynn Willard, Member**  
**Rhonda Burrows, Clerk**  
**Robert Shepperd, Sheriff**

**Dallas Draper, Vice Chairman**  
**Thomas F. Stewart, Member**  
**Paul Baca, Assessor**  
**Beverly Calaway, Treasurer**  
**Stirling Spencer, Probate Judge**

**Nita Taylor, County Manager**

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**AGENDA**

**Commission Chambers, Tuesday, December 15, 2015 @8:30 A.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. Approval of Minutes-
  - a. November 6, 2015 Special Commission Meeting
  - b. November 17, 2015 Regular Commission Meeting
  - c. November 19, 2015 Special Commission Meeting
  - d. November 23, 2015 Special Commission Meeting
7. Approval of Consent Agenda
  - a. Payroll/Accounts Payable/Budget/ Expenditures
  - b. Treasurer’s Financial Report for the Month ending November 30, 2015
8. Board of Finance – County Treasurer
9. Recognition and Congratulations to Undersheriff Kenneth Cramer, Retirement Date December 18, 2015
10. Hwy 54 Construction Through Carrizozo – Presentation by NM Dept. of Transportation

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

11. Forest, Land & Natural Resources Matters:
  - a. Smokey Bear Ranger District
  - b. Cibola National Forest
  - c. Community Forester
  - d. Upper Hondo Soil & Water Conservation District
  - e. Office of State Engineer-Water Issues
12. Support of the Original Intent of the New Mexico Livestock Code by Resolution 2015-28
13. Community Development Block Grant (CDBG) Annual Requirements
  - a. Resolution 2015-23 Purchasing Policy
  - b. Resolution 2015-24 CDBG Policies & Certifications
  - c. Resolution 2015-25 Fair Housing
14. Support of 2016 NMAC Legislative Priorities by Resolution 2015-26 – Presentation by NMAC President Sharon Stover and NMAC Executive Director Steve Kopelman
15. **9:30 A.M.:** PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)
16. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
17. Manager's Report
18. Approval Requesting Loan Payoff for Hondo Volunteer Fire Department
19. Inventory Assets Annual Certification

### **CHRISTMAS HOLIDAY POTLUCK LUNCHEON**

20. Catron County Wolf Program – Presentation by Catron County Commissioner Anita Hand and Catron County Manager Kate Fletcher
21. Consideration / Action Lincoln County Medical Center
  - a. Timing of Voter Approval for Hospital Funding
  - b. Hiring of Architectural Firm
22. Award of Bid 15-16-004 Janitorial Services Lincoln County Courthouse Complex
23. Consideration / Action on Road Department Superintendent Position
24. Renewal of County Attorney Contract

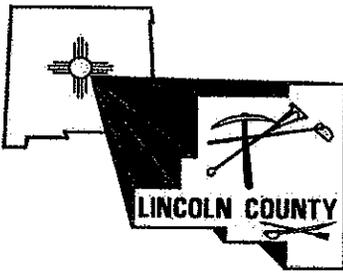
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PLEASE NOTE: ALL SUBJECTS LISTED ON THIS AGENDA ARE TO BE CONSIDERED ACTION ITEMS BY THE BOARD OF COUNTY COMMISSIONERS UNLESS OTHERWISE INDICATED.

25. Midyear Budget Adjustment by Resolution 2015-27
26. Consideration of Appointments and Removals from Boards/Commissioners/Committees:
  - a. Lincoln Historic Preservation Board
  - b. Planning Commission
  - c. Senior Citizens Olympic Committee
  - d. Road Task Force Steering Committee
27. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance
28. Lincoln County State Audit Report
29. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).
30. Settlement of D-1226-CV-2014-00095: Greentree Solid Waste Authority v. Lincoln County
31. Consider / Potential Action on the First Amendment to the Joint Powers Agreement (JPA) for the Financing and Establishment of the Otero / Lincoln County Regional Landfill
32. Signing of Official Documents
33. Next meetings:
  - a. January 26, 2016, Regular Commission Meeting
34. Adjourn

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



# *County of Lincoln*

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

[www.lincolncountynm.gov](http://www.lincolncountynm.gov)

## Agenda Item 6

### SUBJECT

Approval of Minutes:

- a) November 6, 2015 Special Commission Meeting
- b) November 17, 2015 Regular Commission Meeting
- c) November 19, 2015 Special Commission Meeting
- d) November 23, 2015 Special Commission Meeting

1 **COUNTY OF LINCOLN**

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2 **New Mexico**  
3 **Special Meeting**  
4 **Board of County Commissioners**

5  
6 **Preston Stone, Chair**  
7 **Dallas Draper, Vice Chair**

**Thomas F. Stewart, Member**  
**Elaine Allen, Member**  
**Lynn Willard, Member**

8  
9 **Minutes**  
10 **Friday November 6, 2015**

11  
12 Minutes of the Special Meeting of the Lincoln County Commission held at 2:00 P.M. on November  
13 6, 2015 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New  
14 Mexico.

15  
16 **1. Call to Order**

17  
18 Chair Stone was absent and Vice Chair Draper attending telephonically appointed Commissioner  
19 Stewart to serve as Chair for the Special Meeting.

20  
21 Chair Stewart called the Special Meeting of the Board of County Commissioners to order at  
22 1:53:50 P.M.

23  
24 **2. Roll Call**

25  
26 **Roll Call.**

27 **Present:** Commissioner Stewart, Commissioner Allen, Commissioner Draper (telephonically),  
28 Commissioner Willard.

29 **Absent:** Chair Stone.

30  
31 Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Whitney  
32 Whittaker, Chief Deputy Clerk.

33  
34 **3. Invocation**

35  
36 The Invocation was presented by Chair Stewart.

37  
38 **4. Pledge of Allegiance**

- 39  
40 a. Pledge – US Flag  
41 b. Salute – NM Flag  
42

43 **5. Approval of Agenda**

44  
45 **Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,  
46 **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

47 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

48 **Yes:** Commissioner Allen, Commissioner Draper, Commissioner Stewart, Commissioner Willard.  
49 **Absent:** Chair Stone.

50  
51 **6. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened**  
52 **and/or Pending Litigation, Section 10-15-1, Sub-paragraph H(7); and Discussion of**  
53 **the purchase, acquisition or disposal of real property or water rights by the public**  
54 **body, Section 10-15-1, Sub-paragraph H(8).**  
55

56 **Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened  
57 and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph  
58 H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body,  
59 Section 10-15-1, Sub-Paragraph H.(8) and as follows:  
60

61 1. *\*Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,*  
62 *et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory  
63 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,  
64 2013 and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper  
65 filed an appeal June 10, 2014 and Judge John F. Davis was assigned Aug. 3, 2014. Joint Answer  
66 Brief of Defendants-Appellees' Steven Sederwall and Rick Virden with Request for Oral Argument  
67 filed in the Court of Appeals Sept. 28, 2015.

68 2. *Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095.* Suit filed May  
69 1, 2014 Verified Petition for Declaratory and Supplemental Relief; Injunction. County was served  
70 May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending  
71 Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict of interest  
72 and was disqualified from representing GSWA. GSWA has retained Robert Doughty as new  
73 counsel Dec. 13, 2014. GSWA filed its Withdrawal of Plaintiff's Original and First Amended  
74 Verified Emergency Motion Seeking Further Relief on Plaintiff's Request for Preliminary Injunction  
75 Concerning Rate at which County Will Bill May 7, 2015. Lincoln County filed its Motion to Continue  
76 its Motion for Sanctions May 8, 2015 and the Order of Continuance was filed May 11, 2015.

77 3. *\*Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104.* Suit  
78 filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction.  
79 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge  
80 Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept.  
81 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief  
82 was filed with the Court of Appeals Oct. 24, 2014. GSWA filed its Reply Brief Dec. 1, 2014. The  
83 case has been submitted to a panel of judges for decision and the County received Notice of  
84 Submission from the Court of Appeals Jan. 2, 2015. Mr. Beauvais' Attorney Charging Lien was  
85 filed April 29, 2015. Court of Appeals filed their Opinion October 1, 2015 upholding the District  
86 Court's granting of Summary Judgment in favor of the County and Alto Lakes Water and  
87 Sanitation District. GSWA filed its Petition for Writ of Certiorari Oct. 27, 2015 With New Mexico  
88 Supreme Court.

89 4. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-*  
90 *041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et*  
91 *al (T)* and H-50-1 into H-272 *et. al. (T)* filed July 15, 2013 pertaining to movement / transfer of  
92 water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs.  
93 Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been  
94 retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of  
95 the County.

96 5. *Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188* Appeal of  
97 the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case

98 assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed  
99 Oct. 23, 2014.

100 6. *Edward Rider/Brennon Moorhead v. The Board of County Commissioners, Brack Rains,*  
101 *Matt Christian, Robert Shepperd D 1226 CV 2015-00103* Complaint for Damages and Summons  
102 received June 15, 2015. Removed to Federal Court July 7, 2015. Order Granting Defendants'  
103 Motion to Dismiss filed Oct. 7, 2015.

104 7. A. *Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd D-1226-CV-2015-*  
105 *00112* Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015. Filed Amended  
106 Complaint alleging Civil Rights Violation and Gender Based Discrimination on Oct. 13, 2015.

107 B. *Preston, DeAnna: Notice of Charge of Discrimination* submitted to the U.S. Equal Employment  
108 Opportunity Commission July 21, 2015. Mediation was Oct. 29, 2015.

109 8. *Valle del Sol v. Naron, et. al.* D-1226-CV-2015-00166 Complaint to Enforce and Collect  
110 Upon Promissory Note and to Foreclose Mortgage upon Real Property filed Sept. 24, 2015.

111 9. *\*Cody McMurray v. Board of County Commissioners, et al – D 1226 CV 2015-00170 Div.*  
112 *III-* Complaint for Damages filed Sept. 28, 2015 by Attorney W. Chris Nedbalek alleging violation  
113 of Civil Rights.

114 10. *\*Bill Turner v. Board of County Commissioners, et al – Cause No. 2:15-CV-00827-LAM-*  
115 *SMV –* Complaint for Damages filed Sept. 28, 2015 by Attorney W. Chris Nedbalek alleging  
116 violation of Civil Rights.

117  
118 **Tort Claims Notices Received or Threatened**  
119 **2015**

120 **Cherry, Doris** – Tort Claim Notice posted in Lincoln County News Jan. 1, 2015 stating  
121 possible Civil Rights Violation lawsuits regarding alleged Americans with Disabilities Act non-  
122 compliance in remodeling the Lincoln County Courthouse buildings.

123 **McDaniel, Carl** – Tort Claim Notice received Jan. 23, 2015 from Attorney John Sugg  
124 alleging violation of the Unfair Trade Practices Act and engaging in unfair or deceptive trade  
125 practices and/or unconscionable trade practices by GSWA.

126 **UNM Hospital-Prins, Chad** – Tort Claim Notice received Feb. 26, 2015 in which UNM  
127 Hospital seeks reimbursement of expenses incurred while Lincoln County Detention Center  
128 inmate Prins was on furlough.

129 **Sehorn, Sean M.** – Tort claim Notice received March 2, 2015 from Attorney Gary Mitchell  
130 alleging Lincoln County Detention Center failed to provide adequate medical treatment during  
131 inmate Sehorn's incarceration.

132 **Lavin, Erica L. and Rathgeber, Jack** – Tort Claim Notice received March 2, 2015 from  
133 Attorney Gary Mitchell alleging Constitutional Rights were violated resulting in wrongful  
134 termination.

135 **Hanley, Constance** – Tort Claim Notice received March 20, 2015 from Attorney John  
136 Sugg alleging violations of 42 USC section 1983, malicious prosecution, failure to investigate,  
137 defamation of character, libel and abuse of process.

138 **Capitan Iron Mine through A. Blair Dunn** – Threatened Litigation on April 1, 2015  
139 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with  
140 Lincoln County Mine Ordinance 2009-01.

141 **Chavez, Billy – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and**  
142 **Litter in the County.** March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to  
143 dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-  
144 10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected  
145 and noted no progress had been made.

146 **Culp, Susan v. LCMC/Lincoln County:** Tort Claim Notice received May 4, 2015 from  
147 Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent

148 supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about  
149 March 3, 2015 during Ms. Culp's gall bladder removal surgery.

150 **Reyes, Roberto** – Tort Claim Notice received May 15, 2015 from Attorney Timothy  
151 White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and  
152 wrongful conduct of the Lincoln County Sheriff's Department.

153 **Torres, Leopoldo**: Tort Claim Notice received June 4, 2015 from inmate Torres alleging  
154 inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

155 **Wallace, Stephen**: Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell  
156 alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention  
157 Center without proceeding with a timely extradition.

158 **Rodriguez, Victor** – Tort Claim Notice received July 13, 2015 from Attorney W. Chris  
159 Nedbalek alleging hostile treatment from fellow employees while employed at Lincoln County  
160 Detention Center.

161 **Prudencio, Fabian and Corinne** – Tort Claim Notice received July 24, 2015 from  
162 Attorney Daniel P. Ulibarri alleging negligence, personal injury, spoliation, indemnification and  
163 property damage against the County of Lincoln.

164 **Yates, Barbara** – Verbal Threat against the County issued July 21, 2015 due to ongoing  
165 flooding at her private property.

166 **Davis, Jack and Rema** – Verbal Threat against the County issued July 21, 2015 due to  
167 ongoing flooding at their private property.

168 **Capitan Iron Mine** – Tort Claim Notice received Sept. 24, 2014 via email from A. Blair  
169 Dunn, alleging County trespass on private property.

170 **Estate of Viola/Orlando Montes** – Tort Claim Notice received Sept. 28, 2015 from  
171 Attorney J. Robert Beauvais alleging vender was allowed onto Lincoln County Fairgrounds  
172 without necessary safety equipment.

173 **\*L. Phillip Onsrud** – Tort Claim Notice received Nov. 3, 2015 via email alleging lack of  
174 medical care while incarcerated in Lincoln County Detention Center.

175 **2014**

176 **Ramos, Aaron** – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his  
177 rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos alleges  
178 damages by not being granted detainee to detainee correspondence.

179 **Millerden, Kenneth and Anita** – Tort Claim Notice received May 9, 2014 from Attorney  
180 Victor F. Poulos alleging negligence from staff at Lincoln County Medical Center during partum  
181 care for their infant son.

182 **Ogden, John D** – Tort Claim Notice received May 26, 2014 alleging mistreatment while  
183 incarcerated at Lincoln County Detention Center on March 11, 2014.

184 **Rounds, Christopher** – Tort Claim Notice received June 4, 2014 alleging being held in  
185 Lincoln County Detention Center without being advised of his charges.

186 **Herbert, Crystal** – Tort Claim Notice received June 23, 2014 from Attorney Matthew  
187 Coyte/Coyte Law alleging false imprisonment, due process violations, unlawful detention of a  
188 minor, emotional distress.

189 **Class Action** – Tort Claim Notice received June 23, 2014 from Attorney Ryan  
190 Villa/Cooper Law Firm alleging false imprisonment, false arrest, deprivation of rights at Lincoln  
191 County Detention Center that arise with Immigration and Customs Enforcement charges.

192 **Atwell, Stacey** – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of  
193 her two minor children during a request for a deputy to assist in keeping the peace.

194 **McGarry, Sean** – Tort Claim Notice received July 25, 2014 from Attorney S. Doug Jones  
195 Witt alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent  
196 infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge  
197 regarding discharge from the Capitan Police Department.  
198

199 **Ramos, Aaron** – Tort Claim Notice received August 7, 2014 alleging lack of Due Process  
200 for inmates at Lincoln County Detention Center.

201 **Lambert, David and Bonnie** - Tort Claim Notice received Sept. 8, 2014 from Attorney W.  
202 Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own  
203 equipment to alter a platted County right of way without the authorization or knowledge of the  
204 County.

205 **Rider, Edward Allen and Moorhead, Brennon** – Tort Claim Notice received Oct. 20,  
206 2014 by Attorney W. Chris Nedbalek alleging Lincoln County Narcotics Enforcement Unit officers  
207 destroyed items in a home.

208 **Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Oct. 24, 2014 by  
209 Attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a  
210 violation of 8<sup>th</sup> Amendment Rights.

211 **Ryen, Allen**- Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek  
212 alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.

213 **Inmate Group** – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek  
214 alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

215 **Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Nov. 14, 2014  
216 by attorney W. Chris Nedbalek alleging inadequate medical care and overcrowding at Lincoln  
217 County Detention Center.

218 **Inmate Group** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek  
219 alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

220 **Long, Cameron** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris  
221 Nedbalek alleging mistreatment by an Officer with Adult Probation and Parole.

222 **McClarnon, Brian** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris  
223 Nedbalek alleging violations of U.S. Constitutional Amendment rights.

224 **Diana Martwick, 12<sup>th</sup> Judicial District Attorney** – Tort Claim Notice received Nov. 25,  
225 2014 alleging lack of adequate office space provided by the County of Lincoln.

226 **Inmate Group** – Tort Claim Notice received Dec. Dec. 22, 2014 by attorney W. Chris  
227 Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.

## 228 2013

229  
230  
231 **Harrisburg Documents**- Attempts to recover Lincoln County documents illegally taken from the  
232 county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.  
233

234 **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

235 **Vote:** Motion carried by unanimous roll call vote (summary: Yes = 4).

236 **Yes:** Commissioner Allen, Commissioner Draper, Commissioner Stewart, Commissioner Willard.

237 **Absent:** Chair Stone

238  
239 Chair Stewart recessed the Regular Meeting and convened the Closed Session at 2:00:38 P.M.

240  
241 Chair Stewart recessed the Closed Session and reconvened the Regular Meeting at 2:54:50 P.M.

242  
243 Commissioner Willard attested that matters discussed in the closed meeting were limited to those  
244 specified in the motion for closure or in the notice of separate closed meeting.  
245

## 246 **7. Discussion/Potential Action Regarding Transition of Collection of Solid Waste from** 247 **GSWA to Lincoln County:** 248 249

250 **Motion:** Authorize the Manager to negotiate and purchase new and used solid waste equipment  
251 pursuant to the procurement code not to exceed \$616,000, **Action: Approve, Moved by**  
252 Commissioner Stewart, **Seconded by** Commissioner Allen.

253 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

254 **Yes:** Commissioner Allen, Commissioner Draper, Commissioner Stewart, Commissioner Willard.

255 **Absent:** Chair Stone.

256  
257 **Motion:** Direct the Manager to enter into a new, separate agreement with the New Mexico  
258 Finance Authority to service prior obligations of the County's Environmental Gross Receipts Tax,  
259 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

260 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

261 **Yes:** Commissioner Allen, Commissioner Draper, Commissioner Stewart, Commissioner Willard.

262 **Absent:** Chair Stone.

263  
264 **Motion:** Authorize the Manager to begin negotiations for the use of compactor lease sites with  
265 existing property owners or the State of New Mexico; and authorize the Manager to negotiate  
266 for the continuation of site utilities, **Action:** Approve, **Moved by** Commissioner Stewart,  
267 **Seconded by** Commissioner Allen.

268 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

269 **Yes:** Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

270 **Absent:** Chair Stone.

271  
272 **8. Discussion/Potential Action Regarding Lease Negotiations with Presbyterian**  
273 **Healthcare Services for Lincoln County Medical Center**

274  
275 Ms. Taylor introduced Newpoint Healthcare Advisor Chairman Joseph Lupica to discuss options  
276 for the renegotiation of the Lincoln County Medical Center lease with Presbyterian.

277  
278 Mr. Lupica discussed his firm's credentials as an advisory firm dedicated to strategizing options  
279 for process improvement appropriate for each client.

280  
281 Chair Stewart summarized the revenues of the voter imposed Mill Levy related to hospital funding.  
282 Chair Stewart reminded the County could no longer utilize Mil Levy funds for capital improvements  
283 due to a recent Supreme Court decision.

284  
285 Peggy Altamura, RN, MBA speaking as a principal consultant for Newpoint discussed potential  
286 recommendations and possible solutions. Ms. Altamura noted a quick glance at local hospital  
287 data indicated a decline in surgical procedures. Ms. Altamura stated Newpoint analyzed local  
288 data to assist with lease negotiations.

289  
290 Commissioner Willard stated LCMC had shown transparency while working with the County and  
291 discussed LCMC's margin of profitability as included in various hospital presentations.

292  
293 Commissioner Draper was excused from the meeting at 3:57:47 P.M.

294  
295 Mr. Lupica provided a presentation on strategies utilized by his corporation to develop solutions  
296 which best suit a client's needs.

297

298 **Motion:** Direct the County Attorney and Manager to work with Newpoint to identify issues  
299 regarding the hospital lease with Presbyterian and present findings for validation and/or approval,  
300 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.  
301 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 3).  
302 **Yes:** Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.  
303 **Absent:** Chair Stone.  
304 **Excused:** Commissioner Draper.

305  
306 **9. Signing of Official Documents:**

307  
308 **10. Next Meetings:**

309  
310 Regular Meeting- November 17, 2015

311  
312 **11. Adjournment:**

313  
314 There being no further business to come before the Board of County Commissioners, Chair Elect  
315 Stewart adjourned the meeting at 4:12:24 P.M.

316  
317 Respectfully submitted by,  
318 Whitney Whittaker  
319 Lincoln County Chief Deputy Clerk

DRAFT

1 **COUNTY OF LINCOLN**

---

2 **New Mexico**  
3 **Regular Meeting**  
4 **Board of County Commissioners**

5  
6 **Preston Stone, Chair**  
7 **Dallas Draper, Vice Chair**

**Thomas F. Stewart, Member**  
**Elaine Allen, Member**  
**Lynn Willard, Member**

8  
9 **Minutes**  
10 **Tuesday, November 17, 2015**

11  
12 Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on November  
13 17, 2015 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New  
14 Mexico

15  
16 **1. Call to Order**

17  
18 Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:29:20  
19 AM

20  
21 **2. Roll Call**

22  
23 **Roll Call.**

24 **Present: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,**  
25 **Commissioner Willard.**

26  
27 Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda  
28 Burrows, County Clerk.

29  
30 **3. Invocation**

31  
32 The invocation was presented by Commissioner Stone.

33  
34 **4. Pledge of Allegiance**

- 35  
36 a. Pledge – US Flag  
37 b. Salute – NM Flag  
38

39 **5. Approval of Agenda**

40  
41 **Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,  
42 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

43  
44 **6. Approval of Minutes**

- 45  
46 a. October 20, 2015 - Regular Commission Meeting  
47

48 **Motion:** Approve the minutes of the October 20, 2015 Regular Commission Meeting with minor  
49 format correction, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by**  
50 Commissioner Draper.

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

52 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
53 Commissioner Willard.

54  
55 **7. Approval of Consent Agenda**

- 56  
57 a. Payroll/Accounts Payable/Budget/ Expenditures  
58 b. Treasurer's Financial Report for the Month ending October 31, 2015  
59

60 **Motion:** Approval of Consent items as presented, **Action:** Approve, **Moved by** Commissioner  
61 Draper, **Seconded by** Commissioner Stewart.

62  
63 Commissioner Willard questioned if the Treasurer had received the monthly hospital lease  
64 payment.

65  
66 Beverly Calaway informed the lease payment was received on a timely basis.

67  
68 Punkin Schlarb, Finance Director responded to questions from Commissioner Stewart and Chair  
69 Stone regarding specific credits and payments.

70  
71 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

72 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
73 Commissioner Willard.

74  
75 **SEE EXHIBIT A.** Copies of Consent Items are attached hereto in reference thereto made a part  
76 hereof.

77  
78 **8. Recognition and Memorialization of Johnson Stevenson Stearns, Lincoln County**  
79 **Pioneer**

80  
81 Nita Taylor, Manager presented a proclamation to recognize and memorialize Johnson Stevenson  
82 Stearns a lifetime resident of Lincoln County, pioneer, and historian. Ms. Taylor stated Mr.  
83 Stearns passed away on October 20, 2015 at the age of 98 having spent a lifetime in Lincoln  
84 County.

85  
86 Commissioner Willard read the Proclamation acknowledging Johnson Stearns and his many  
87 contributions as a friend, neighbor, respected colleague and businessman. Commissioner Willard  
88 informed Mr. Stearns retired as President of the United New Mexico Bank also having served  
89 over the years as the Carrizozo City Clerk, Mayor of Carrizozo, and as a Carrizozo School Board  
90 Member. Mr. Stearns was a member of the Carrizozo Rotary Club, served on the Lincoln County  
91 Hospital Board, was the Treasurer for the Nogal Ranchman's Camp Meeting and was a founding  
92 member of the Nogal Presbyterian Church.

93  
94 **Motion:** Approve the Proclamation of Recognition and Memorialization of Johnson Stevenson  
95 Stearns, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner  
96 Stewart.

97 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).  
98 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
99 Commissioner Willard.

100  
101 **9. Forest, Land & Natural Resources Matters:**

102  
103 a) Smokey Bear Ranger District

104  
105 Ms. Taylor reminded of the departure of Ranger David Warnack and stated Acting District Ranger  
106 Anthony Sanchez could not attend today's meeting but provided a critical update report on  
107 activities related to the Forest Plan revision process. Ms. Taylor stated the update also included  
108 information on the Objection Period for the North Fork Wells Environmental Impact Statement  
109 and Draft Record of Decision which ended on November 9, 2015. Ms. Taylor noted the USFS  
110 Regional Office received one objection to the EIS and Draft Decision but no specifics regarding  
111 the objection were provided.

112  
113 b) Cibola National Forest

114  
115 Ms. Taylor reported the Cibola Range District had received multiple comments regarding the  
116 "Potential Wilderness Inventory" associated with the Cibola Forest Plan revision. Ms. Taylor  
117 provided copy of the issues of concern submitted by the New Mexico Department of Agriculture  
118 and other related documents or resources. Ms. Taylor also provided a calendar of events  
119 associated with the Cibola's Forest Plan Revision process.

120  
121 c) Community Forester

122  
123 Ms. Taylor presented the update from Rick Merrick, Community Forester for South Central  
124 Mountain RC & D informing there was good attendance at the November 3, 2015 Eastern New  
125 Mexico Speaker Series on the topic of "Update on Forest Plan Revision". Ms. Taylor stated Mr.  
126 Merrick reported more than seventy people attended the NM Prescribe Burn Council Workshop  
127 on October 29, 2015 with plans to host additional workshops in other areas of the state. Ms.  
128 Taylor stated Mr. Merrick also informed the steering committee for the Sacramento Mountain  
129 Wood Industry Summit conference set for March of 2016 was actively seeking vendors, speakers  
130 and topics for the event.

131  
132 Commissioner Willard commented on his attendance at the Prescribed Burn Council Workshop  
133 and commended Joe Kenmore of the Office of Emergency Services for his response to public  
134 questions regarding burn bans within the County.

135  
136 d) Upper Hondo Soil and Water Conservation District

137  
138 Laura Johnson, Program Coordinator for the Upper Hondo Soil and Water Conservation District  
139 (UHSWCD) provided an update on the reorganization of the Lincoln County Cooperative Weed  
140 Management Program. Ms. Johnson directed attention to the UHSWCD website and the newly  
141 posted interactive map of treatment areas and also historical areas of infestation. Ms. Johnson  
142 stated the District would update the maps based on spray records. Ms. Johnson stated the  
143 UHSWCD would continue to act as the fiscal agent for the Cooperative Weed Management  
144 Program and planned to submit applications for additional funding to the US Forest Service and  
145 to the US Department of Agriculture Water Quality Conservation Program to expand the Weed  
146 Treatment Program in Lincoln County. Ms. Johnson stated the UHSWCD also planned to partner  
147 with the Bureau of Land Management to map treatment areas.

148  
149 Ms. Johnson discussed ongoing work on the Upper Hondo River to remove non-native invasive  
150 species with 1064 acres of treatment to date and plans to begin Phase Six extending the project  
151 to the Chaves County line. Ms. Johnson stated the District also planned to apply for funding from  
152 the Water Trust Board for planning and development of the repair and design of the Salado Dam.  
153

154 e) Office of State Engineer-Water Issues  
155

156 Ms. Taylor reported the following application was reposted to the State Engineer's website:  
157

158 Cheryl Knobel H-505-PODS for Alpine Village Sanitation District: Permit to change point  
159 of diversion by ceasing the use of well Number H-505-5-2 and to drill a new well for the  
160 diversion of 11.7 acre feet per annum for domestic and sanitary purposes. Move from  
161 and move to points of diversion and place of use are 2.5 miles northwest of the Village of  
162 Ruidoso.  
163

164 Ms. Taylor stated there was an additional posting in the Lincoln County News regarding an  
165 application for transfer of water rights by Alto Lakes Water and Sanitation District. Ms. Taylor  
166 stated she would review the posting for additional information.  
167

168 Ms. Taylor discussed the extensive time commitment required to participate in the Forest Revision  
169 Plans for both the Cibola and Lincoln National Forest and suggested the Board of Commissioners  
170 consider appointing the County's Land and Natural Resources Advisory Committee (LANRAC) to  
171 represent Lincoln County.  
172

173 Commissioner Stewart questioned the associated costs of LANRAC member participation.  
174

175 Punkin Schlarb, Finance Director informed all committees and boards were entitled to mileage  
176 and per diem if participation required travel in excess of thirty miles.  
177

178 There was a general consensus to request LANRAC represent Lincoln County at Forest Plan  
179 Revision meetings and to provide the appropriate compensation for mileage and per diem.  
180

181 **10. Lincoln County Medical Center**  
182

183 a) Update of Financing Options – Erik Harrigan, RBC Capital Markets  
184

185 Ms. Taylor reminded during the September 15, 2015 Regular Commission Meeting she and Erick  
186 Harrigan of RBC Capital Markets were directed to research application processes and funding  
187 opportunities for the renovation and remodel of Lincoln County Medical Center (LCMC) through  
188 the New Mexico Finance Authority and the US Department of Agriculture.  
189

190 Erick Harrigan, RBC Capital Markets presented a summary of the various financing options for  
191 the renovation and remodel LCMC project. Mr. Harrigan discussed the associated interest rates  
192 and loan guarantees required for General Obligation Bonds, pledged Gross Receipt Tax (GRT)  
193 revenues, and loans secured by lease revenue.  
194

195 Commissioner Allen questioned what GRT increments the County would need to impose to  
196 secure a loan based on that revenue source.  
197

198 Mr. Harrigan stated to secure a loan based on GRT revenues would require the pledge of a current  
199 1/8<sup>th</sup> and potential imposition of additional increments for a total of 3/8<sup>ths</sup> to meet minimum  
200 coverage requirements.  
201

202 Commissioner Stewart questioned if a General Obligation Bond was approved by the voters,  
203 would the associated property millage be imposed automatically or could the County potentially  
204 offset the debt payment with a combination of lease payment revenues and revenues from a  
205 Gross Receipts Tax increment.  
206

207 Mr. Harrigan explained the NM Department of Finance and Administration's (DFA) method to  
208 annually review the County's budgeted obligations and evaluate the total required revenues for  
209 debt service. Mr. Harrigan stated should the County have sufficient funds from other appropriate  
210 revenue sources such as the hospital lease, then DFA would not impose the General Obligation  
211 Bond property millage.  
212

213 Commissioner Stewart commented the County would have the flexibility to impose an additional  
214 1/8<sup>th</sup> "Hold Harmless" GRT if the hospital lease payment was insufficient to meet the debt service  
215 rather than increase property tax.  
216

217 Chair Stone suggested the ideal situation was to offset the full debt service with a renegotiated  
218 hospital lease payment.  
219

220 Commissioner Stewart requested Attorney Morel research the possibility of a Special Election  
221 and expressed concern about expending funds for architectural services prior to approval by the  
222 voters of a bond or GRT to facilitate the construction loan.  
223

224 **13. 9:30 A.M. PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY**  
225 **OFFICIALS**  
226

227 Commissioner Stewart reminded he welcomed dignitaries to Lincoln County at the ground  
228 breaking ceremony for the Fort Stanton National Veteran's Cemetery. Commissioner Stewart  
229 presented a "memento" provided by the Secretary of Veterans Services honoring the support  
230 received from Lincoln County.  
231

232 Commissioner Allen expressed her concern for the citizens of France after the recent terrorist  
233 attacks.  
234

235 Commissioner Draper echoed Commissioner Allen's sentiment and expressed gratitude for the  
236 United States Constitution Second Amendment.  
237

238 Beverly Calaway, Treasurer provided a packet of pie charts and graphs of current mill rates, total  
239 property taxes billed, and the allocation of collected taxes to various entities. Ms. Calaway  
240 reminded property tax bills now defined the actual distribution of taxes paid by each tax payer to  
241 various entities.  
242

243 Jack Davis, reminded of his prior discussions with the Board of Commissioners concerning water  
244 run off affecting his property in Alto. Mr. Davis stated he was working with the County to resolve  
245 the issues and thanked the Commission for their positive attitude.  
246

247 Jim Kalvelage, resident of Alto expressed concern about the County's relationship with Greentree  
248 Solid Waste Authority and stated his main concern was the potential discontinuance of onsite

249 slash collection. Mr. Kalvelage stated it was a burden to require property owners haul pine  
250 needles and other yard waste to Sierra Contracting and expressed belief the discontinuance of  
251 the onsite slash disposal program would contribute to fire danger.  
252

253 Robert Phillips, of Alto also expressed concern about the discontinuance of onsite slash pickup  
254 and the associated fire hazard. Mr. Phillips noted his homeowners insurance rates had  
255 increased by 100% over the past years due to the fire risk and requested the County consider  
256 providing onsite slash pickup.  
257

258 **10. Lincoln County Medical Center (continued)**  
259

260 **a) Update of Financing Options – Erik Harrigan, RBC Capital Markets**  
261

262 Mr. Harrigan provided additional information regarding application requirements for the New  
263 Mexico Finance Authority and the US Department of Agriculture. Mr. Harrigan noted both entities  
264 would require a revenue source other than pledged lease payments. Mr. Harrigan stated the  
265 USDA application process was lengthy and would likely require a new environmental study as  
266 well as a full design prior to submission of an application. Mr. Harrigan discussed the current  
267 interest rates and rate setting policies of both agencies. Mr. Harrigan reminded voter approval of  
268 a tax question in November of 2016 would not yield any property tax revenue for the County to  
269 collect for a debt service payment within that tax year. Mr. Harrigan stated this delay of revenue  
270 would require consideration when establishing the debt payment structure for repayment of any  
271 bond issued.  
272

273 Rhonda Burrows, County Clerk provided a copy of a memo prepared for the County Attorney  
274 identifying dates and requirements for a Special Election in 2016. Ms. Burrows reminded State  
275 Statute prohibited the conduct of a Special Election fifty days prior to any statewide election. Ms.  
276 Burrows further reminded Municipal Elections were set for March 1, 2016 and the Ruidoso School  
277 District planned a Special Bond Election for February 2, 2016.  
278

279 There was a lengthy discussion regarding costs and potential timing of a Special Election.  
280

281 Commissioner Allen questioned what contingency options were available should voters not  
282 approve a General Obligation Bond.  
283

284 Mr. Harrigan stated the County could potentially impose additional GRT increments and create a  
285 supplemental pledge of lease revenue.  
286

287 Attorney Morel commented on the potential election scenarios but reminded a decision on this  
288 question was not on today's agenda for action.  
289

290 Attorney Morel explained the architectural contract was listed as an action item on today's agenda  
291 due to the USDA requirement for completion of full design plans prior to submission of an  
292 application.  
293

294 Al Santos, LCMC administrator informed the hospital's next Joint Commission on Accreditation of  
295 Health Care Organizations (JCAHCO) inspection was scheduled in June 2017 and expressed  
296 belief postponement of voter approval of financing until the 2016 General Election could affect  
297 the hospital's reaccreditation. Mr. Santos also stated if the voters did not approve a bond for  
298 renovation and remodel, LCMC's risk for loss of licensure would increase.  
299

300 b) Architectural Contract with Dekker, Perich, and Sabatini for design of LCMC  
301

302 Ms. Taylor reminded during the April 14, 2015 Special Commission Meeting the architectural firm  
303 Dekker, Perich, and Sabatini provided a facility assessment and proposed a schematic design for  
304 the renovation and remodel of LCMC.  
305

306 Bobby George, Principal Architect with Dekker, Perich, and Sabatini stated the prior presentation  
307 of the preliminary design and development options was developed with the goal of a financial  
308 commitment after the 2014 General Election. Mr. George stated since the preliminary design  
309 estimated costs were presented, a large decline in available labor had occurred thus increasing  
310 labor costs. Mr. George stated based on current information future construction bids and labor  
311 costs were likely to increase. Mr. George stated the base estimate construction cost of \$25  
312 million could increase 2% to 4% or approximately \$500,000 per year of delay in construction. Mr.  
313 George suggested the cost of a Special Election was negligible as compared to the cost of  
314 delaying construction.  
315

316 Mr. George stated the initial work financed by the LCMC Auxiliary was conducted to provide some  
317 "real" dollar estimates to present to the County and the voters. Mr. George stated his firm worked  
318 with each of the departments within the hospital to determine the "real" square footage needed to  
319 accomplish the future needs of each department. Mr. George explained the estimated fees for  
320 the design phase were based on CES contractor rates.  
321

322 Ms. Taylor reminded the estimated time for completion of the design plans by Dekker, Perich, and  
323 Sabatini was five to six months with an estimated cost of \$2,099,445.  
324

325 Commissioner Stewart suggested the estimated increased construction cost of \$40,000 per  
326 month was supportive of the argument for a Special Election.  
327

328 Commissioner Allen concurred with Commissioner Stewart but questioned references during the  
329 discussion of a total cost of \$40 million for the planned renovation versus the estimated cost to  
330 the County of \$27 million.  
331

332 Mr. George explained the total cost of \$40 million included: \$27 million for hospital construction,  
333 \$1.9 million for construction of the Emergency Medical Services building, \$8 million in furniture  
334 and fixtures furnished by Presbyterian, professional fees including architectural fees, gross  
335 receipts taxes and construction contingencies.  
336

337 Commissioner Willard questioned if there were design characteristics which were "wants" versus  
338 "needs".  
339

340 Mr. George explained the project was focused on patient centered care and design plans were  
341 developed to meet future needs. Mr. George stated "wants" were not included in the mix but the  
342 plans were focused on actual needs and growth of services.  
343

344 Chair Stone, speaking for himself, objected to pressure to act quickly on any decision to build a  
345 "state of the art" facility which would require the County to obligate residents to a 30 year debt for  
346 an estimated \$32 million dollars.  
347

348 Mr. George suggested the question today was whether to wait for voter approval of a bond or to  
349 proceed with the design plans to facilitate loan applications and other preplanning efforts. Mr.

350 George stated there was a component of the estimated architectural fee which was directly related  
351 to actual construction which could be paid at a later date.  
352

353 There was general consensus to consider when to present a bond question to the voters and  
354 reconsideration of the architectural contract during the December Regular Meeting.  
355

356 c) Consulting Contract with Newpoint Healthcare Advisors  
357

358 Attorney Morel discussed the prior presentation by Joseph Lupica, Chairman of Newpoint during  
359 the November 6, 2015 Special Commission Meeting and the offer to provide assistance with  
360 future hospital lease negotiations. Attorney Morel stated he prepared a draft agreement but the  
361 final draft was pending definition of the full scope of services and terms. Attorney Morel requested  
362 direction as to the scope of services and authorization to complete the negotiations for  
363 professional services for a maximum of \$60,000 to be reimbursed \$20,000 per month inclusive of  
364 all expenses.  
365

366 Chair Stone questioned if the reimbursement for services would cease if issues were resolved  
367 prior to the three month term of the contract.  
368

369 Attorney Morel confirmed reimbursement would cease when services were complete.  
370

371 There was a general discussion regarding the advantages of seeking expertise to assist with  
372 decisions related to the hospital lease with Presbyterian particularly as the payment related to the  
373 financing of the renovation and remodel of LCMC.  
374

375 Commissioner Stewart suggested costs incurred be budgeted from the hospital lease revenues.  
376

377 **Motion:** Approve the consulting contract with Newpoint Healthcare Advisors as negotiated by  
378 the Attorney for a maximum of \$60,000, **Action:** Approve **Moved by** Commissioner Willard,  
379 **Seconded by** Commissioner Stewart.

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

381 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
382 Commissioner Willard.  
383

384 **Motion:** Authorize the Manager to sign the contract with Newpoint Healthcare Advisors, **Action:**  
385 Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Draper.

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

387 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
388 Commissioner Willard.  
389

390 **11. Lincoln Hills Subdivision request to cease use of a portion of Gene Littler Lane by**  
391 **Resolution 2015-18**  
392

393 Attorney Morel reminded of the prior discussion during the October 20, 2015 Regular Commission  
394 Meeting regarding the request to cease use of a portion of Gene Littler Lane. Attorney Morel  
395 stated he was directed to ensure adjacent property owners received proper notification, to confirm  
396 proper notification of changes to the subdivision development agreement and plats were  
397 accomplished; and confirm the Lincoln Hills Subdivision would dedicate a particular 60 feet of  
398 roadway to Lincoln County.  
399

400 Attorney Morel informed in response to notification, only one response was received from  
401 adjacent property owners and the response was supportive of the action. Attorney Morel  
402 presented a Resolution approving the request for partial closure Gene Littler Lane.  
403

404 **Motion:** Adopt Resolution 2015-18 Closing a portion of Gene Littler Lane between Antler Drive  
405 and Paso Monte Loop assuring the remainder remains open, **Action:** Approve, **Moved by**  
406 Commissioner Stewart, **Seconded by** Commissioner Draper.

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

408 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper.

409 **No:** Commissioner Willard.

410  
411 **SEE EXHIBIT B:** Copy of Resolution 2015-18 is attached hereto in reference thereto made a  
412 part hereof.  
413

414 **12. Opposing U.S. Fish & Wildlife Service Wolf Recovery Program by Resolution**  
415 **2015-22**  
416

417 Ms. Taylor informed in January of 2015 the Federal Fish and Wildlife Service finalized plans to  
418 enlarge the Mexican Wolf Experimental Population recovery area in Arizona and New Mexico.  
419 Ms. Taylor stated the change dramatically enlarged the area for wolf release from US Interstate  
420 10 to the border of Mexico.  
421

422 Ms. Taylor stated in September of 2015 the New Mexico Game and Fish Department denied the  
423 US Fish and Wildlife Services' request to release additional wolves in New Mexico based on a  
424 lack of information. Ms. Taylor stated the New Mexico Game Commission unanimously upheld  
425 the denial.  
426

427 Ms. Taylor stated on October 1, 2015 the US Fish and Wildlife Service proposed numerous  
428 potential wolf release sights in Socorro County prompting the Socorro County Commission to  
429 adopt a resolution opposing the release of wolves in Socorro County. Ms. Taylor presented a  
430 similar Resolution for consideration.  
431

432 **Motion:** Adopt Resolution 2015-22, **Action:** Approve, **Moved by** Chair Stone, **Seconded by**  
433 Commissioner Allen.

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

435 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
436 Commissioner Willard.  
437

438 **SEE EXHIBIT C:** Copy of Resolution 2015-22 is attached hereto in reference thereto made a  
439 part hereof.  
440

441 **14. Approval of Required 2016 Operational Resolutions:**  
442

- 443 a) Resolution 2015-15 - Establishing 2016 Regular Commission Meetings
- 444 b) Resolution 2015-16 - Establishing 2016 County Official Holiday Calendar
- 445 c) Resolution 2015-17 - Open Meetings Act
- 446 d) Other 2016 Committee Meetings – Planning Commission, Lincoln Historic
- 447 e) Preservation Board and Lodger's Tax Committee
- 448

449 Ms. Taylor presented the annual operational resolutions and monthly meeting dates for approval  
450 and publication.

451  
452 **Motion:** Adopt Resolution 2015-15; Resolution 2015-16; Resolution 2015-17; and approve other  
453 2016 Committee Meeting scheduled dates; **Action:** Approve, **Moved by** Commissioner Willard,  
454 **Seconded by** Commissioner Stewart.

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

456 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
457 Commissioner Willard.

458  
459 **SEE EXHIBIT D:** Copies of Resolution 2015-15; Resolution 2015-26; and Resolution 2015-17  
460 are attached hereto in reference thereto made a part hereof.

461  
462 **15. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims**  
463

464 Mr. Annala presented the Safety Net Care Provider Pool claims for approval. Mr. Annala  
465 processed 10 claims with 7 recommended for approval and three recommended for disapproval  
466 for a monthly authorization of \$3,866. Mr. Annala stated approval of the claims would result in a  
467 total approval to date of SNCP claims for Fiscal Year 2015-2016 of \$80,624 or a monthly average  
468 of \$16,125.

469  
470 Mr. Annala presented the Indigent Health Care Payments request for the month and stated he  
471 processed 3 claims with 1 claim recommended for approval and 2 for disapproval for a total  
472 payment this month of \$10,000. Mr. Annala stated approval of the claim would result in a total  
473 expenditure to date for IHC claims for Fiscal Year 2015-2016 of \$80,530 or a monthly average of  
474 \$6,106. Mr. Annala stated based on the current monthly average he anticipated an annual  
475 expenditure of \$73,273 for the fiscal year.

476  
477 **Motion:** Approval and denial of the claims as indicated for SCP/SNCP and Indigent Health Care  
478 as recommended, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by**  
479 Commissioner Willard.

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

481 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
482 Commissioner Willard.

483  
484 **SEE EXHIBIT E:** Copies of the Sole Community Provider and Indigent Health Care Payments  
485 are attached hereto in reference thereto made a part hereof.

486  
487 **16. Manager's Report**  
488

489 **1. 2016 Capital Outlay Project Request Forms:** Capital Outlay request forms were  
490 provided to Hubert Quintana on October 22, 2015. The County's legislative delegation  
491 held a hearing on November 10, 2015. The Manager provided a copy of information  
492 presented to the legislators supporting Lincoln County requests. The Manager reported  
493 Commissioner Allen co-presented the information and Commissioner Willard also  
494 attended the hearing. The Manager noted the ICIP and narrative explanation indicated  
495 construction costs for the Lincoln County Medical Center remodel as \$17 million for the  
496 first-year and \$16 million for the second year, the Manager stated the requests were  
497 clarified and legislators were informed the County was not requesting the full amounts

498 but rather an annual capital outlay of perhaps \$500,000 to leverage against the debt. The  
499 Manager stated legislators were very interested in the LCMC remodel project and  
500 understood the importance of the initiative to the citizens of Lincoln County. Legislators  
501 present were Senator Bill Burt, Senator Ted Barela, Representative Zach Cook and  
502 Representative Nora Espinoza.  
503

- 504 **2. Auditor Exit Interview:** the Accounting & Consulting Group conducted an exit interview  
505 on October 29, 2015. Ray Roberts, Managing Partner conducted the interview with the  
506 Manager, Finance staff, and Treasurer's staff. The Manager reported Commissioner  
507 Stone and Commissioner Willard also attended the exit interview. Mr. Roberts  
508 summarized the findings, complimented staff on their consistent work to fix identified  
509 problems and for learning from the process. Mr. Roberts estimated his firm would have  
510 the formal audit available for public review by the December Regular Commission  
511 Meeting.  
512
- 513 **3. New Mexico DOT Presentation:** the Manager reported the NM Department of  
514 Transportation had hired the consultant firm of Molzen Corbin. The Manager stated this  
515 firm would deliver a presentation to the County Commission and meet with the Town of  
516 Carrizozo residents to begin to socialize the plans for Highway 54 improvements through  
517 Carrizozo. The Manager anticipated the firm would attend the December 15, 2015  
518 Regular Commission Meeting and also schedule the first Stakeholder Kickoff Meeting in  
519 Carrizozo on that same date. The Manager stated Molzen Corbin was aware of concerns  
520 regarding drainage problems and the lack of curbs and gutters as well as other problems  
521 and were prepared to address the concerns.  
522
- 523 **4. El Capitan Mine:** the Manager reported a number of individuals mistakenly attended the  
524 Special Commission Meeting of November 6, 2015 believing the agenda included a  
525 discussion of issues related to the El Capitan Mine. The Manager reported the individuals  
526 requested she inform Commissioners of their interest and attendance. The Manager  
527 provided a list of the eight individuals in attendance and relayed their concerns regarding  
528 the high amount of activity occurring at the mine and the associated noise levels during  
529 late hours of the day. The Manager stated in response to a request from Commissioner  
530 Willard she contacted the attorney for El Capitan Mine to request a tour. The Manager  
531 stated a tour was offered for mid-December and requested input from Commissioners on  
532 a final date.  
533
- 534 **5. Village of Ruidoso After Hours:** Debi Lee, Village of Ruidoso Manager invited Lincoln  
535 County to participate in an "After Hours" event at the Ruidoso Convention Center on  
536 November 19, 2015. The theme of the celebration was local governments working  
537 together to achieve goals. The County and the Village are working together on several  
538 initiatives including building inspections for certain areas of the County, the Multi-  
539 jurisdictional Hazard Mitigation Plan, and a partnership with the Village of Ruidoso and  
540 Socorro County on the SET Application for Economic Development.  
541
- 542 **6. La Casa:** the Manager participated in a teleconference with the Director of Operations for  
543 La Casa Family Health Center who acknowledged the Hondo Clinic was temporarily  
544 closed from August 8, 2015 through October 30, 2015. The Manager reported the clinic's  
545 temporary health care professional abruptly left to accept a permanent position elsewhere.  
546 Hondo Clinic patients were offered continued care with providers at La Casa's Health  
547 Center in Roswell. La Casa anticipated staffing the clinic with a full-time Certified Nurse  
548 Practitioner from November 2, 2015 until December 11, 2015 with plans to hire a Family

549 Practice Physician to begin in January of 2016. The Manager planned to verify operational  
550 status and informed La Casa they would receive no additional payments until services  
551 provided equaled payments rendered.  
552

553 The Manager commented on the need to define reporting requirements for clinics and  
554 hospital expenditures in order to capture any disruption of services and other factors.  
555

- 556 **7. Detention Center Update:** the County received the fully executed First Amendment to  
557 the Agreement from Emerald Correctional Management, LLC. The Manager reminded  
558 the amendment solidified the provision of tele-psychiatry and other face-to-face mental  
559 health services for detainees. The Manager noted Lincoln County was one of the first  
560 counties in the state to utilize the tele-psychiatry technology.  
561

562 **8. Departmental Updates:**

563 **a) Punkin Schlarb, Finance Director** discussed ongoing efforts by maintenance staff to  
564 clear drains and resolve roof leaks in the Annex prior to moving the Finance  
565 Department offices. Ms. Schlarb anticipated presenting several mid-year budget  
566 adjustments for the FY-2015-2015 Budget during the December Regular Meeting.  
567

568 **b) Joe Kenmore, Office of Emergency Services Director (OES)** informed the Bonito  
569 Fire Department received notice their ISO Rating was lowered from a class 8 to a class  
570 6. Mr. Kenmore stated the Hondo Fire Department aided by Spencer Baldwin of OES  
571 applied for and received a grant in the amount of \$80,000. Mr. Kenmore stated the  
572 Hondo Fire Department had funding to meet the \$20,000 match. Mr. Kenmore stated  
573 the funds were for construction of a new Hondo Fire Station.  
574

575 **c) Billie Joe Guevara, Administrative Assistant/Human Resources** informed  
576 interviews were scheduled for the Assets and Information position on December 3,  
577 2016.  
578

579 **d) Renee Montes, Senior Services Director** reported on an informative presentation on  
580 family caregivers sponsored by the Aging and Long Term Services Department with  
581 NM Secretary Designate Myles Copeland in attendance. Ms. Montes stated  
582 Commissioner Willard and members of the local Creative Aging group also attended  
583 the workshop. Ms. Montes stated she and Chair Stone attended the Creative Aging  
584 Group meeting in Capitan which was also well attended by community members. Ms.  
585 Montes stated the Lincoln County RFP for Senior Services was submitted on October  
586 28, 2016 and anticipated an award notification in January.  
587

588  
589 Chair Stone recessed the Regular Meeting at 11:57:42 AM and reconvened at 12:59:08 PM.  
590

591 **e) Bill Cupit, Interim Road Superintendent** discussed department preparations for  
592 winter weather including accumulation of salt and inspection of winter weather  
593 equipment. Mr. Cupit stated there was approximately \$25,000 in funds available for  
594 work on Bonito Road and he was considering options. Mr. Cupit stated he also  
595 planned seek cooperation from the US Forest Service for work on Hale Road and  
596 Ranger Road. Mr. Cupit briefly discussed efforts to clear trees from County right-of  
597 ways and ongoing road maintenance projects.  
598

599 Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:03:34 PM.

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**20. 1:00 P.M.: Public Hearing to consider the following**

**a) Ordinance 2015-04; Amending the Lincoln County Personnel Policies and Procedures Ordinance 2014-08**

Attorney Morel explained the only proposed change to the Ordinance was a change in the classification of the Road Superintendent position from a classified employee position to an unclassified employee position. Attorney Morel reminded the position was currently vacant therefore the timing of the revision was appropriate.

Chair Stone requested public comment and receiving none proceeded to the public hearing for Ordinance 2015-05.

**b) Ordinance 2015-05; Amending Ordinance 2009-03 an Ordinance that Regulates Refuse, Solid Waste, and Litter in Lincoln County**

Attorney Morel reviewed the proposed changes including: deletion of the definition and all references to "refuse" as a duplicative definition of "solid waste"; clarification of the definition of construction debris; deletion of all references to Greentree Solid Waste Authority; deletion of language which permitted the accumulation of solid waste on individual properties providing the debris was not within 200 feet of another property; clarification of requirements for disposal of ashes; deletion of language specific to mobile home parks, condominiums, and multifamily residences; and deletion of language related to permitting procedures for a Solid Waste Disposal Permit.

Attorney Morel recommended additional language to define the County's relationship with the various water and sanitation districts within the county.

Commissioner Willard questioned if the Ordinance should include language defining the exemption from solid waste collection for large landowners.

Attorney Morel informed exemptions from solid waste billing were included in the related Lincoln County Ordinance 2015-03 which defined solid waste collection and billing practices.

Chair Stone questioned what authority was responsible for enforcement of the various requirements set forth in the Ordinance.

Attorney Morel stated the Lincoln County Sheriff's Office was charged with enforcement responsibilities.

Commissioner Stewart questioned if the County should consider a requirement for licensed contractors to provide proof of proper disposal of any construction related materials.

Attorney Morel reminded Lincoln County did not issue business licenses and therefore tracking contractors could prove difficult. Attorney Morel offered to research the question and possible options.

Chair Stone requested further public comment and receiving none recessed the Public Hearing and reconvened the Regular Meeting at 1:21:13 PM.

651 **Motion:** Adopt Ordinance 2015-04 and adopt Ordinance 2015-05 with amendments to include  
652 references to Water and Sanitation Districts, **Action:** Approve, **Moved by** Commissioner Stewart,  
653 **Seconded by** Commissioner Willard.

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

655 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
656 Commissioner Willard.

657  
658 **SEE EXHIBIT F:** Copies of Ordinance 2015-04 and Ordinance 2015-05 are attached hereto in  
659 reference thereto made a part hereof.

660  
661 **17. Approval of the following Resolutions/Agreements: Road Fund Time Extension for**  
662 **Certain Projects/First Amendments to Cooperative Agreements**

663  
664 a) Resolution 2015-19

665 b) Resolution 2015-20

666 c) Resolution 2015-21

667  
668 Ms. Taylor informed the Road Department requested approval to seek a one year extension to  
669 Lincoln County's 2014 Cooperative Agreements which terminate on December 31, 2015. Ms.  
670 Taylor stated the Road Department was requesting the extension from the New Mexico  
671 Department of Transportation to secure funding until December 31, 2016.

672  
673 Ms. Taylor reminded timely bids were received for the initial projects identified but actual costs  
674 were lower than estimated. Ms. Taylor stated additional projects were identified and the  
675 agreements were amended to secure the remaining funding to complete the additional projects.

676  
677 **Motion:** Adopt Resolution 2015-19, Resolution 2015-20, and Resolution 2015-21, **Action:**  
678 Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

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

680 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
681 Commissioner Willard.

682  
683 **SEE EXHIBIT G:** Copies of Resolution 2015-19; Resolution 2015-20; and Resolution 2015-21  
684 are attached hereto in reference thereto made a part hereof.

685  
686 **18. Approval to Extend Interim Road Superintendent Position**

687  
688 Ms. Taylor reported six applications were received for the vacant Road Superintendent position  
689 and subsequently three of the applicants were interviewed for the position. Ms. Taylor stated  
690 members of the selection panel unanimously recommended the position remain open and the  
691 search broaden for qualified applicants.

692  
693 Ms. Taylor reminded of prior approval to extend the Interim Road Superintendent's contract to  
694 November 26, 2015 and requested an additional extension through December 31, 2015. Ms.  
695 Taylor stated the extension would provide additional time to seek a permanent employee and  
696 provide for a transition period.

697  
698 **Motion:** Authorize the Manager to extend the Interim Road Superintendent's contract through  
699 December 31, 2015, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by**  
700 Commissioner Allen.

701 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).  
702 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
703 Commissioner Willard.

704  
705 **19. Authorization to Issue Invitation to Bid for County Cleaning Services**  
706

707 Ms. Taylor informed the current contract for Janitorial Services was awarded in November of 2014  
708 to R and B Cleaning Service. Ms. Taylor stated the bid and contract awarded did not include  
709 services for the Annex Building which was in the process of remediation and repair. Ms. Taylor  
710 stated obtaining additional services for the approximately 7400 square feet would require  
711 issuance of a new Request for Proposal for County Janitorial Services.  
712

713 **Motion:** Authorize the Chief Procurement Officer to issue a Request for Proposal for Janitorial  
714 Services, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner  
715 Allen.

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

717 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
718 Commissioner Willard.

719  
720 **21. Authorization to Schedule Public Hearing to Consider Other Outdated or New**  
721 **Lincoln County Ordinance**

722  
723 **a) Setting Forth Wolf-Human Incident Emergency Protective Measures**  
724

725 Chair Stone expressed belief Lincoln County had the opportunity to increase the authority and  
726 jurisdiction of the County Sheriff for the protection of residents from wolves.  
727

728 Attorney Morel reminded governance and regulation of endangered species was heavily pre-  
729 empted by Federal Authority.  
730

731 Commissioner Stewart expressed belief State Statute existed which provided for the destruction  
732 of any animal threatening livestock or life.  
733

734 Sheriff Shepperd confirmed State Statute existed granting authority for the destruction of  
735 predators but stated the Statute excluded the destruction of animals defined in the Endangered  
736 Species Act. Sheriff Shepperd discussed the current federal requirements and conditions under  
737 which a resident has the right to kill an animal.  
738

739 Sheriff Sheppard stated Catron County had contracted with a private individual for predator  
740 control and suggested inviting that individual to participate in a public hearing and discussion of  
741 this problem.  
742

743 Chair Stone reflected on the over reach of the Endangered Species Act as affecting numerous  
744 activities including proper management of forest lands.  
745

746 Sheriff Shepperd expressed belief current Federal regulations conflict with constitutionally  
747 provided private property rights.  
748

749 There was general consensus to request a presentation from Catron County on their current  
750 policies and practices to deal with wolf-human incidents.  
751

752 **23. Consideration of Appointments and Removals from Boards/Commissioners/**  
753 **Committees:**

- 754
- 755 a) Lincoln Historic Preservation Board
- 756 b) Planning Commission
- 757 c) Senior Citizens Olympic Committee
- 758 d) Road Task Force Steering Committee
- 759

760 No action was taken.

761

762 **24. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened**  
763 **and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of**  
764 **the purchase, acquisition or disposal of real property or water rights by the public**  
765 **body, Section 10-15-1, Sub-Paragraph H.(8).**  
766

767 **Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened  
768 and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph  
769 H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body,  
770 Section 10-15-1, Sub-Paragraph H.(8) and as follows:

771 **New or Updated Matters since last report = \***  
772

- 773 1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,*  
774 *et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory  
775 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,  
776 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper  
777 filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014. Joint Answer  
778 Brief of Defendants-Appellees' Steven Sederwall and Rick Virden with Request for Oral Argument  
779 filed in the Court of Appeals Sept. 28, 2015.
- 780 2. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed May  
781 1, 2014. Verified Petition for Declaratory and Supplemental Relief Injunction. County was served  
782 May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending  
783 Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict of interest  
784 and was disqualified from representing GSWA. GSWA has retained Robert Doughty as new  
785 counsel Dec. 13, 2014. GSWA filed its Withdrawal of Plaintiff's Original and First Amended  
786 Verified Emergency Motion Seeking Further Relief on Plaintiff's Request for Preliminary Injunction  
787 Concerning Rate at which County Will Bill May 7, 2015. Lincoln County filed its Motion to Continue  
788 its Motion for Sanctions May 8, 2015 and the Order of Continuance was filed May 11, 2015.
- 789 3. *\*Greentree Solid Waste Authority v. Lincoln County, et. al.* D-0101-CV-2013-00104. Suit  
790 filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction.  
791 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge  
792 Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept.  
793 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief  
794 was filed with the Court of Appeals Oct. 24, 2014. GSWA filed its Reply Brief Dec. 1, 2014. The  
795 case has been submitted to a panel of judges for decision and the County received Notice of  
796 Submission from the Court of Appeals Jan. 2, 2015. Mr. Beauvais' Attorney Charging Lien was  
797 filed April 29, 2015. Court of Appeals filed their Opinion October 1, 2015 upholding the District  
798 Court's granting of Summary Judgment in favor of the County and Alto Lakes Water and  
799 Sanitation District. GSWA filed its Petition for Writ of Certiorari Oct. 27, 2015 With New Mexico  
800 Supreme Court.
- 801 4. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-*

- 802 041. Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et*  
803 *al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of  
804 water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs.  
805 Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been  
806 retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of  
807 the County.
- 808 5. *Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188* Appeal of  
809 the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case  
810 assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed  
811 Oct. 23, 2014.
- 812 6. *Edward Rider/Brennon Moorhead v. The Board of County Commissioners, Brack Rains,*  
813 *Matt Christian, Robert Shepperd D 1226 CV 2015-00103* Complaint for Damages and Summons  
814 received June 15, 2015. Removed to Federal Court July 7, 2015. Order Granting Defendants'  
815 Motion to Dismiss filed Oct. 7, 2015.
- 816 7. A. *Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd D-1226-CV-2015-*  
817 *00112* Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015. Filed Amended  
818 Complaint alleging Civil Rights Violation and Gender Based Discrimination on Oct. 13, 2015  
819 B. *Preston, DeAnna. Notice of Charge of Discrimination* submitted to the U.S. Equal  
820 Employment Opportunity Commission July 21, 2015. Mediation was Oct. 29, 2015.
- 821 8. *Valle del Sol v. Naron, et. al. D-1226-CV-2015-00166* Complaint to Enforce and Collect  
822 Upon Promissory Note and to Foreclose Mortgage upon Real Property filed Sept. 24, 2015.
- 823 9. *Cody McMurray v. Board of County Commissioners, et al – D 1226 CV 2015-00170 Div.*  
824 *III-* Complaint for Damages filed Sept. 28, 2015 by Attorney W. Chris Nedbalek alleging violation  
825 of Civil Rights.
- 826 10. *Bill Turner v. Board of County Commissioners, et al – Cause No. 2:15-CV-00827-LAM-*  
827 *SMV –* Complaint for Damages filed Sept. 28, 2015 by Attorney W. Chris Nedbalek alleging  
828 violation of Civil Rights.

829  
830 **Tort Claims Notices Received or Threatened**

831 **2015**

832 **Cherry, Doris** – Tort Claim Notice posted in Lincoln County News Jan. 1, 2015 stating  
833 possible Civil Rights Violation lawsuits regarding alleged Americans with Disabilities Act non-  
834 compliance in remodeling the Lincoln County Courthouse buildings.

835 **McDaniel, Carl** – Tort Claim Notice received Jan. 23, 2015 from Attorney John Sugg  
836 alleging violation of the Unfair Trade Practices Act and engaging in unfair or deceptive trade  
837 practices and/or unconscionable trade practices by GSWA.

838 **UNM Hospital-Prins, Chad** – Tort Claim Notice received Feb. 26, 2015 in which UNM  
839 Hospital seeks reimbursement of expenses incurred while Lincoln County Detention Center  
840 inmate Prins was on furlough.

841 **Sehorn, Sean M.** – Tort claim Notice received March 2, 2015 from Attorney Gary Mitchell  
842 alleging Lincoln County Detention Center failed to provide adequate medical treatment during  
843 inmate Sehorn's incarceration.

844 **Lavin, Erica L. and Rathgeber, Jack** – Tort Claim Notice received March 2, 2015 from  
845 Attorney Gary Mitchell alleging Constitutional Rights were violated resulting in wrongful  
846 termination.

847 **Hanley, Constance** – Tort Claim Notice received March 20, 2015 from Attorney John  
848 Sugg alleging violations of 42 USC section 1983, malicious prosecution, failure to investigate,  
849 defamation of character, libel and abuse of process.

850 **Capitan Iron Mine through A. Blair Dunn** – Threatened Litigation on April 1, 2015  
851 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with  
852 Lincoln County Mine Ordinance 2009-01.

853 **Chavez, Billy – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and**  
854 **Litter in the County.** March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to  
855 dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-  
856 10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected  
857 and noted no progress had been made.

858 **Culp, Susan v. LCMC/Lincoln County:** Tort Claim Notice received May 4, 2015 from  
859 Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent  
860 supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about  
861 March 3, 2015 during Ms. Culp's gall bladder removal surgery.

862 **Reyes, Roberto –** Tort Claim Notice received May 15, 2015 from Attorney Timothy  
863 White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and  
864 wrongful conduct of the Lincoln County Sheriff's Department.

865 **Torres, Leopoldo:** Tort Claim Notice received June 4, 2015 from inmate Torres alleging  
866 inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

867 **Wallace, Stephen:** Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell  
868 alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention  
869 Center without proceeding with a timely extradition.

870 **Rodriguez, Victor –** Tort Claim Notice received July 13, 2015 from Attorney W. Chris  
871 Nedbalek alleging hostile treatment from fellow employees while employed at Lincoln County  
872 Detention Center.

873 **Prudencio, Fabian and Corinne –** Tort Claim Notice received July 24, 2015 from  
874 Attorney Daniel P. Ulibarran alleging negligence, personal injury, spoliation, indemnification and  
875 property damage against the County of Lincoln.

876 **Yates, Barbara –** Verbal Threat against the County issued July 21, 2015 due to ongoing  
877 flooding at her private property.

878 **Davis, Jack and Rema –** Verbal Threat against the County issued July 21, 2015 due to  
879 ongoing flooding at their private property.

880 **Capitan Iron Mine –** Tort Claim Notice received Sept. 24, 2014 via email from A. Blair  
881 Dunn, alleging County trespass on private property.

882 **Estate of Viola/Orlando Montes –** Tort Claim Notice received Sept. 28, 2015 from  
883 Attorney J. Robert Beauvais alleging vender was allowed onto Lincoln County Fairgrounds  
884 without necessary safety equipment.

885 **L. Phillip Onsrud –** Tort Claim Notice received Nov. 3, 2015 via email alleging lack of  
886 medical care while incarcerated in Lincoln County Detention Center.

887  
888 **2014**

889 **Ramos, Aaron –** Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his  
890 rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos alleges  
891 damages by not being granted detainee to detainee correspondence.

892 **Millerden, Kenneth and Anita –** Tort Claim Notice received May 9, 2014 from Attorney  
893 Victor F. Poulos alleging negligence from staff at Lincoln County Medical Center during prepartum  
894 care for their infant son.

895 **Ogden, John D –** Tort Claim Notice received May 26, 2014 alleging mistreatment while  
896 incarcerated at Lincoln County Detention Center on March 11, 2014.

897 **Rounds, Christopher –** Tort Claim Notice received June 4, 2014 alleging being held in  
898 Lincoln County Detention Center without being advised of his charges.

899 **Herbert, Crystal –** Tort Claim Notice received June 23, 2014 from Attorney Matthew  
900 Coyte/Coyte Law alleging false imprisonment, due process violations, unlawful detention of a  
901 minor, emotional distress.

902 **Class Action –** Tort Claim Notice received June 23, 2014 from Attorney Ryan  
903 Villa/Cooper Law Firm alleging false imprisonment, false arrest, deprivation of rights at Lincoln

904 County Detention Center that arise with Immigration and Customs Enforcement charges.  
905 **Atwell, Stacey** – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of  
906 her two minor children during a request for a deputy to assist in keeping the peace.  
907 **McGarry, Sean** – Tort Claim Notice received July 25, 2014 from Attorney S. Doug Jones  
908 Witt alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent  
909 infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge  
910 regarding discharge from the Capitan Police Department.  
911 **Ramos, Aaron** – Tort Claim Notice received August 7, 2014 alleging lack of Due Process  
912 for inmates at Lincoln County Detention Center.  
913 **Lambert, David and Bonnie** - Tort Claim Notice received Sept. 8, 2014 from Attorney W.  
914 Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own  
915 equipment to alter a platted County right of way without the authorization or knowledge of the  
916 County.  
917 **Rider, Edward Allen and Moorhead, Brennon** – Tort Claim Notice received Oct. 20,  
918 2014 by Attorney W. Chris Nedbalek alleging Lincoln County Narcotics Enforcement Unit officers  
919 destroyed items in a home.  
920 **Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Oct. 24, 2014 by  
921 Attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a  
922 violation of 8<sup>th</sup> Amendment Rights  
923 **Ryen, Allen**- Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek  
924 alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.  
925 **Inmate Group** – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek  
926 alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.  
927 **Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Nov. 14, 2014  
928 by attorney W. Chris Nedbalek alleging inadequate medical care and overcrowding at Lincoln  
929 County Detention Center  
930 **Inmate Group** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek  
931 alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.  
932 **Long, Cameron** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris  
933 Nedbalek alleging mistreatment by an Officer with Adult Probation and Parole.  
934 **McClarnon, Brian** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris  
935 Nedbalek alleging violations of U.S. Constitutional Amendment rights.  
936 **Diana Martwick, 12<sup>th</sup> Judicial District Attorney** – Tort Claim Notice received Nov. 25,  
937 2014 alleging lack of adequate office space provided by the County of Lincoln.  
938 **Inmate Group** – Tort Claim Notice received Dec. Dec. 22, 2014 by attorney W. Chris  
939 Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.

### 941 **2013**

942 **Harrisburg Documents**- Attempts to recover Lincoln County documents illegally taken  
943 from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in  
944 recovery efforts.

945  
946 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

948 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
949 Commissioner Willard.

950  
951 Chair Stone recessed the Regular Meeting and convened the Closed Session at 1:41:26 PM.

952  
953 Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 3:36:38 PM.  
954

955 Commissioner Draper attested that matters discussed in the closed meeting were limited to those  
956 specified in the motion for closure or in the notice of separate closed meeting  
957

958 **24. Potential Property Purchase**

959  
960 No action was taken.  
961

962 **26. Potential Action – GSWA**

963  
964 **Motion:** Authorize the Manager to negotiate a new professional services agreement for the  
965 implementation of Solid Waste Collection Services for a maximum of \$60,000 with Charles  
966 Fielder, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner  
967 Willard.

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

969 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
970 Commissioner Willard.  
971

972 **27. Signing of Official Documents**

973  
974 **28. Next meetings:**

975  
976 November 19, 2015 - Special Commission Meeting  
977 December 15, 2015 - Regular Commission Meeting  
978 January 26, 2016 - Regular Commission Meeting  
979

980 **29. Adjourn**

981  
982 There being no further business to come before the Board of County Commissioners, Chair Stone  
983 adjourned the meeting at 3:39:51 PM  
984

985 Respectfully submitted by,  
986 Rhonda B. Burrows  
987 Lincoln County Clerk  
988

1 **COUNTY OF LINCOLN**

---

2 **New Mexico**  
3 **Special Meeting**  
4 **Board of County Commissioners**

5  
6 **Preston Stone**, Chair  
7 **Dallas Draper**, Vice Chair

**Thomas F. Stewart**, Member  
**Elaine Allen**, Member  
**Lynn Willard**, Member

8  
9 **Minutes**  
10 **Friday November 19, 2015**

11  
12 Minutes of the Special Meeting of the Lincoln County Commission held at 2:15 PM on  
13 November 19, 2015 at the Ruidoso Substation, 115 Kansas City Road, Ruidoso, New Mexico.

14  
15 **1. Call to Order**

16  
17 Chair Stone called the Special Meeting of the Board of County Commissioners to order at  
18 2:15:24 PM.

19  
20 **2. Roll Call**

21  
22 **Roll Call.**

23 **Present:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper.  
24 **Absent:** Commissioner Willard.

25  
26 Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and  
27 Whitney Whittaker, Chief Deputy Clerk.

28  
29 **3. Invocation**

30  
31 The invocation was presented by Commissioner Draper.

32  
33 **4. Pledge of Allegiance**

- 34  
35 a. Pledge – US Flag  
36 b. Salute – NM Flag  
37

38  
39 **5. Approval of Agenda**

40 **Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,  
41 **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.  
42 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).  
43 **Yes:** Chair Stone, Commissioner Allen, Commissioner Draper, Commissioner Stewart.  
44

45 **6. Executive Session Pursuant to the Open Meetings Act: Discussion of all**  
46 **Threatened and/or Pending Litigation, Section 10-15-1, Sub-paragraph H(7); and**

47 **Discussion of the purchase, acquisition or disposal of real property or water**  
48 **rights by the public body, Section 10-15-1, Sub-paragraph H(8).**  
49

50 **Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened  
51 and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph  
52 H.(7) and the purchase, acquisition or disposal of real property or water rights by the public  
53 body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:  
54

55 1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,*  
56 *et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory  
57 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,  
58 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper  
59 filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014. Joint  
60 Answer Brief of Defendants-Appellees' Steven Sederwall and Rick Virden with Request for Oral  
61 Argument filed in the Court of Appeals Sept. 28, 2015.

62 2. *Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095.* Suit filed  
63 May 1, 2014. Verified Petition for Declaratory and Supplemental Relief: Injunction. County was  
64 served May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All  
65 Pending Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict  
66 of interest and was disqualified from representing GSWA. GSWA has retained Robert Doughty  
67 as new counsel Dec. 13, 2014. GSWA filed its Withdrawal of Plaintiff's Original and First  
68 Amended Verified Emergency Motion Seeking Further Relief on Plaintiff's Request for  
69 Preliminary Injunction Concerning Rate at which County Will Bill May 7, 2015. Lincoln County  
70 filed its Motion to Continue its Motion for Sanctions May 8, 2015 and the Order of Continuance  
71 was filed May 11, 2015.

72 3. *\*Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104.* Suit  
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74 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge  
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76 Sept. 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response  
77 Brief was filed with the Court of Appeals Oct. 24, 2014. GSWA filed its Reply Brief Dec. 1, 2014.  
78 The case has been submitted to a panel of judges for decision and the County received Notice  
79 of Submission from the Court of Appeals Jan. 2, 2015. Mr. Beauvais' Attorney Charging Lien  
80 was filed April 29, 2015. Court of Appeals filed their Opinion October 1, 2015 upholding the  
81 District Court's granting of Summary Judgment in favor of the County and Alto Lakes Water and  
82 Sanitation District. GSWA filed its Petition for Writ of Certiorari Oct. 27, 2015 With New Mexico  
83 Supreme Court.

84 4. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-*  
85 *041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et*  
86 *al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of  
87 water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs.  
88 Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has  
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223  
224 **2013**

225  
226 **Harrisburg Documents**- Attempts to recover Lincoln County documents illegally taken from the  
227 county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery  
228 efforts.

229  
230 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

231 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

232 **Yes:** Chair Stone, Commissioner Allen, Commissioner Draper, Commissioner Stewart.

233  
234 Chair Stone recessed the Regular Meeting and convened the Closed Session at 2:17:05 PM.

235  
236 Chair Stone recessed the Closed Session and reconvened the Regular Meeting at 3:14:53 PM.

237  
238 Commissioner Draper attested that matters discussed in the closed meeting were limited to  
239 those specified in the motion for closure or in the notice of separate closed meeting.

240  
241 **7. Greentree Solid Waste Authority Transition Efforts**

242  
243 **Motion:** The County of Lincoln rejects outright Greentree Solid Waste Authority's "All or  
244 Nothing Proposal" Turn Key Offer to the County of Lincoln for the following reasons:

245 Paragraph 1 of the agreement: requires Lincoln County agree to purchase unidentified  
246 equipment (compactors);

247 Paragraph 2 of the agreement: requires Lincoln County to assume contractual  
248 obligations without having provided the County with a copy of all the contracts in question;

249 Paragraph 5 of the agreement: requires Lincoln County not request the New Mexico  
250 Finance Authority to intercept the Lincoln County Environmental Gross Receipts Tax and that  
251 the tax be paid directly to Greentree Solid Waste Authority;

252 Paragraph 6 of the agreement: requires Lincoln County work with Greentree Solid  
253 Waste Authority to provide notification to the New Mexico Finance Authority regarding Lincoln  
254 County's decision to remove services to a third party provider when there is no known  
255 requirement to do so;

256 Paragraph 10 of the agreement: requires Lincoln County agree to an amendment of the  
257 Joint Powers Agreement which provides all rebates and/or refunds from the landfill operation be  
258 paid to Greentree Solid Waste Authority rather than to the individual member entities;

259 Paragraph 11 of the agreement: requires Lincoln County to guarantee no impact to  
260 member entities which Lincoln County is in absolutely no position to guarantee;

261 further, the agreement fails to provide for the dismissal of the second Greentree Solid  
262 Waste Authority lawsuit and

263 lastly, payment of \$760,000 to Greentree Solid Waste Authority for worn out, end-of-life  
264 equipment which the citizens of Lincoln County have already paid for is an absolute travesty.

265 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

266 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

267 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper.

268  
269 **Motion:** Instruct the County Manager to pay \$4,198 in additional funds for November and  
270 December for alleged increase in services provided with the total amount per month to be  
271 \$93,327.90 under the current schedule of payments and not in advance of services provided in  
272 December, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner  
273 Allen.

274 **Vote:** Motion passed (**summary:** Yes = 3, No = 1, Abstain = 0).

275 **Yes:** Commissioner Allen, Commissioner Draper, Commissioner Stewart.

276 **No:** Chair Stone.

277  
278 Chair Stone clarified his vote stating he did not believe any entity has the right legally nor  
279 obligation to "blackmail" any other agency.

280  
281 **Motion:** Schedule a Special Commission meeting for Monday, November 23, 2015 at 8:30 AM  
282 to finalize the contract with Sierra Contracting and conduct any other business which may be  
283 appropriate; including an Executive Session to include those items listed in the motion for  
284 Executive Session on this date, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded**  
285 **by** Commissioner Allen.

286 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

287 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper.

288  
289 **8. Signing of Official Documents:**

290  
291 **9. Next Meetings:**

292  
293 Regular Meeting- December 15, 2015

294  
295 **10. Adjournment:**

296  
297 There being no further business to come before the Board of County Commissioners, Chair  
298 Stone adjourned the meeting at 3:19:32 PM.

299

300 Respectfully submitted by,  
301 Whitney Whittaker  
302 Lincoln County Chief Deputy Clerk

DRAFT

1 **COUNTY OF LINCOLN**

---

2 **New Mexico**  
3 **Special Meeting**  
4 **Board of County Commissioners**

5  
6 **Preston Stone**, Chair  
7 **Dallas Draper**, Vice Chair

**Thomas F. Stewart**, Member  
**Elaine Allen**, Member  
**Lynn Willard**, Member

8  
9 **Minutes**  
10 **Monday November 23, 2015**

11  
12 Minutes of the Special Meeting of the Lincoln County Commission held at 8:30 AM on November  
13 23, 2015 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New  
14 Mexico

15  
16 **1. Call to Order**

17  
18 Chair Stone called the Special Meeting of the Board of County Commissioners to order at 8:29:00  
19 A.M.

20  
21 **2. Roll Call**

22  
23 Present: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
24 Commissioner Willard.

25  
26 Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Whitney  
27 Whittaker, Chief Deputy Clerk.

28  
29 **3. Invocation**

30  
31 The invocation was presented by Chair Stone.

32  
33 **4. Pledge of Allegiance**

- 34  
35 a. Pledge – US Flag  
36 b. Salute – NM Flag

37  
38 **5. Approval of Agenda**

39  
40 **Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,

41 **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.

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

43 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
44 Commissioner Willard.

46 **6. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened**  
47 **and/or Pending Litigation, Section 10-15-1, Sub-paragraph H(7); and Discussion of**  
48 **the purchase, acquisition or disposal of real property or water rights by the public**  
49 **body, Section 10-15-1, Sub-paragraph H(8).**  
50

51 **Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened  
52 and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph  
53 H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body,  
54 Section 10-15-1, Sub-Paragraph H.(8) and as follows:  
55

56 1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,*  
57 *et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory  
58 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,  
59 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper  
60 filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014. Joint Answer  
61 Brief of Defendants-Appellees' Steven Sederwall and Rick Virden with Request for Oral Argument  
62 filed in the Court of Appeals Sept. 28, 2015.

63 2. *Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095.* Suit filed May  
64 1, 2014. Verified Petition for Declaratory and Supplemental Relief; Injunction. County was served  
65 May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending  
66 Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict of interest  
67 and was disqualified from representing GSWA. GSWA has retained Robert Doughty as new  
68 counsel Dec. 13, 2014. GSWA filed its Withdrawal of Plaintiff's Original and First Amended  
69 Verified Emergency Motion Seeking Further Relief on Plaintiff's Request for Preliminary Injunction  
70 Concerning Rate at which County Will Bill May 7, 2015. Lincoln County filed its Motion to Continue  
71 its Motion for Sanctions May 8, 2015 and the Order of Continuance was filed May 11, 2015.

72 3. *Greentree Solid Waste Authority v. Lincoln County, et al. D-0101-CV-2013-00104.* Suit  
73 filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction.  
74 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge  
75 Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept.  
76 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief  
77 was filed with the Court of Appeals Oct. 24, 2014. GSWA filed its Reply Brief Dec. 1, 2014. The  
78 case has been submitted to a panel of judges for decision and the County received Notice of  
79 Submission from the Court of Appeals Jan. 2, 2015. Mr. Beauvais' Attorney Charging Lien was  
80 filed April 29, 2015. Court of Appeals filed their Opinion October 1, 2015 upholding the District  
81 Court's granting of Summary Judgment in favor of the County and Alto Lakes Water and  
82 Sanitation District. GSWA filed its Petition for Writ of Certiorari Oct. 27, 2015 With New Mexico  
83 Supreme Court.

84 4. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-*  
85 *041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et al.* and H-272 *et*  
86 *al* (T) and H-50-1 into H-272 *et al.* (T) filed July 15, 2013 pertaining to movement / transfer of  
87 water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs.  
88 Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been  
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224  
225  
226 **Harrisburg Documents**- Attempts to recover Lincoln County documents illegally taken from the  
227 county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

228  
229 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

231 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,  
232 Commissioner Willard.

233  
234 Chair Stone recessed the Regular Meeting and convened the Closed Session at 8:31:50 A.M.

235  
236 Chair Stone recessed the Closed Session and reconvened the Regular Meeting at 9:50:24 A.M.

237  
238 Commissioner Stewart attested that matters discussed in the closed meeting were limited to those  
239 specified in the motion for closure or in the notice of separate closed meeting.

## 240 **7. Greentree Solid Waste Authority Transition Efforts**

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243 No action was taken.

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**8. Approval of Agreement with Sierra Contracting, Inc. for Collection of Solid Waste Services**

Nita Taylor, County Manager reminded RFP 15-16-002 for Solid Waste Collections Services was awarded to Sierra Contracting, Inc. during the October 20, 2015 Regular Meeting subject to successful negotiations. Ms. Taylor presented the finalized agreement for approval

**Motion:** Approve the Agreement with Sierra Contracting, Inc. for Collection of Solid Waste Services, **Action:** Approve, **Moved by** Commissioner Stewart, Seconded by Commissioner Draper.

A brief discussion took place on the subject of slash disposal options, plans and public notifications

Ms. Taylor commented on plans for public education concerning the collection of solid waste including provision of informational links on the County website and other notification efforts such as holding town hall meetings.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).  
**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

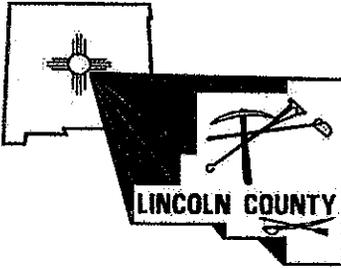
**9. Signing of Official Documents:**

**10. Next Meetings:**  
Regular Meeting- December 15, 2015

**11. Adjournment:**

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 10:00:24 A.M.

Respectfully submitted by,  
Whitney Whittaker  
Lincoln County Chief Deputy Clerk



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# *County of Lincoln*

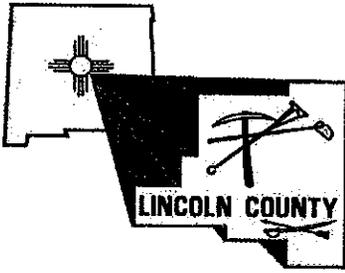
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P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

## Agenda Item 7

### SUBJECT

1. Approval of Consent Agenda
  - a. Payroll/Accounts Payable/Budget/ Expenditures
  - b. Treasurer's Financial Report for the Month ending November 30, 2015



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# County of Lincoln

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## ACCOUNTS PAYABLE and PAYROLL

The following claims or bills on file with the office of the Lincoln County Manager were examined and approved as paid with checks hereof drawn upon the various County funds according to the check register covering the period from November 1 through November 30, 2015 in the amount of \$1,641,540.72.

**NOW, THEREFORE**, the above bills are hereby approved.

**ADOPTED, PASSED AND SIGNED** the 15th day of December 2015.

### BOARD OF COMMISSIONERS LINCOLN COUNTY, NEW MEXICO

\_\_\_\_\_  
Preston Stone, Chairman

\_\_\_\_\_  
Dallas Draper, Vice-Chairman

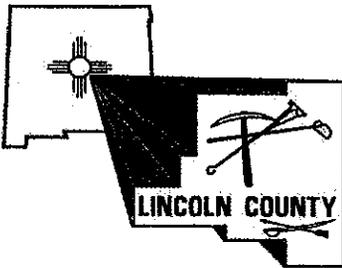
\_\_\_\_\_  
Elaine Allen, Member

\_\_\_\_\_  
Dr. Lynn Willard, Member

\_\_\_\_\_  
Thomas F Stewart, Member

ATTEST:

\_\_\_\_\_  
Rhonda B Burrows, County Clerk



# County of Lincoln

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## AGENDA ITEM NO. 8

December 4, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager

**SUBJECT:** Board of Finance

**Purpose:** To recess the Board of County Commissioners and convene as the Board of Finance.

### **Discussion:**

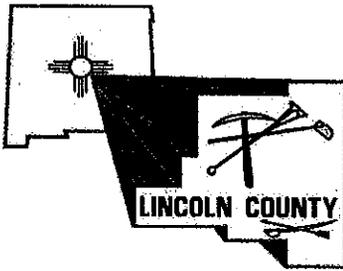
With regard to investment decision-making, the county treasurer determines how to deposit and invest county funds. That decision must then be approved by the board of county commissioners, sitting as the county board of finance. The board of finance has no power to modify the county treasurer's decision without the treasurer's concurrence. On the other hand, the county treasurer cannot impose a unilateral decision upon the board of finance.

State statute 6-10-8 reads as follows: "The board of county commissioners in each county in the state shall, ex officio and without additional compensation, constitute a county board of finance and as such shall, subject to the limitations of this act, have supervision over the determination of the qualifications and selection of banks, savings and loan associations and credit unions, whose deposits are insured by an agency of the United States, to receive the public money of their respective counties and of independent rural school districts, rural school districts and municipal school districts of municipalities having less than twenty-five thousand population according to the next preceding United States census and of any special or other districts in their respective counties for which the respective county treasurers of such counties as a ex-officio tax collectors. The county clerk in each county shall, ex officio and without additional compensation, act as clerk of such county board of finance. Every county board of finance shall hold meetings whenever necessary for the discharge of its duties, and the chairman shall convene such board whenever necessity therefore exists or when requested so to do by two of its members or at any time when the county treasurer shall advise the chairman that she has in her custody public money in

excess of the aggregated amount which depositories qualified by law are entitled to hold. A majority of the board shall constitute a quorum for the transaction of business.

The county treasurer of each county in the state shall have supervision of the deposit and safekeeping of the public money of her county and all the money which may at anytime come into or be in his possession as county treasurer and ex-officio tax collector for the use and benefit of the state or of any county, municipality or district or of any subdivision of any county or of any state or public institution and by and with the advice and consent of the respective boards of finance having jurisdiction over the respective funds shall designate banks, savings and loan associations and credit unions, whose deposits are insured by an agency of the United States, to receive on deposit all moneys entrusted in her care.”

**Recommendation:** Receive and approve the treasurer’s report.



# County of Lincoln

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## AGENDA ITEM 9

December 6, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

**SUBJECT:** Recognition and Congratulations to Undersheriff Kenneth Cramer, Retiring from Lincoln County Sheriff's Department

### DISCUSSION:

Undersheriff Kenneth Cramer is retiring from the Lincoln County Sheriff's Department, after having provided more than 15 years of service to the citizens of Lincoln County.

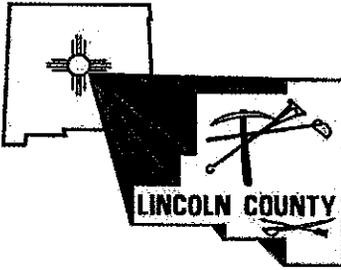
Undersheriff Kenneth Cramer began his law enforcement career in May of 1968, following the footsteps of his father, a trooper with the Ohio State Highway Patrol. His distinguished career began as a dispatcher on the midnight shift in Hancock County for \$1.25 per hour. On June 1, 1971, Undersheriff Cramer joined the Findlay, Ohio Police Department as a patrolman. He subsequently graduated from the University of Findlay with a Bachelor of Science degree in Education prior to being promoted to the rank of sergeant, then lieutenant. He successively held every Police Department rank, except Captain, over the succeeding 29 years. Undersheriff Cramer was not only a cop. He combined his law enforcement occupation with a business venture when he started a towing and automotive repair business from a spare room in his garage. That operation eventually became more than a second full-time job; it had expanded to 10 trucks, 15 full-time employees, 3 locations, a body shop and a Marathon gas station. Cramer made the choice to sell the business when promoted to lieutenant at the police department. On June 2, 2000, Undersheriff Cramer retired from the Findlay Police Department and moved to New Mexico; and on Juneteenth (June 19, 2000), he was hired by Lincoln County Sheriff Tom Sullivan as a Deputy Sheriff; in 2004, he was assigned to plain clothes investigation; and in 2005 promoted to Detective Sergeant. In 2007, he was appointed Commander of the Lincoln County Narcotics Enforcement Unit, which he commanded until it was disbanded by Sheriff Rick Virden in 2012. In January, 2013, newly elected Sheriff Robert Shepperd appointed Cramer as Undersheriff, his final law enforcement position which he will proudly hold until his selected retirement date of December 18<sup>th</sup>, 2015.

Undersheriff Cramer will be moving to Phoenix, Arizona following his retirement to become caretaker for longtime partner, Francine Murtaugh, who suffered a debilitating stroke in 2014 while she, herself, was serving as caretaker for her mother, who was in hospice care at that time.

**Recommendation:** Recognize and be thankful for the many years' of service Undersheriff Cramer gave to Lincoln County. Send him off with well wishes. We will miss him.

County Manager's Fax  
(575) 648-4182

Finance/Purchasing Fax  
(575) 648-2381



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# County of Lincoln

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## AGENDA ITEM 10

December 6, 2015

### MEMORANDUM

**TO:** County Commissioners  
**FROM:** Nita Taylor, Lincoln County Manager  
**SUBJECT:** US Hwy 54 Construction through Carrizozo: Presentation by NM – DOT

### DISCUSSION:

Sherri Holliefield, NMDOT Project Development Engineer, along with Molzen Corbin Study Team, will be in attendance to provide an update regarding the plans to improve US 54 through Carrizozo. Per Ms. Holliefield, the NMDOT has contracted with Engineering Consultant Molzen Corbin to assist in the various phases of the project; Jerry Paz is the project manager for Molzen Corbin.

Molzen Corbin is tasked with conducting an Alignment Study (Phase IA/IB), environmental investigations (Phase IC) and preliminary roadway design (Phase ID). Once activity has commenced, all phases should be completed within seven to eight months.

The purpose of the project phases is to investigate the corridor between mileposts 123 and 123.7 (**See Enclosure 1**) to determine the best roadway improvements for the project corridor. This includes:

- Conducting a detailed transportation needs analysis to evaluate the existing conditions and identify roadway deficiencies;
- Analyzing land use and growth trends and existing and future traffic conditions;
- Conducting a safety analysis to review crash data and develop possible countermeasure strategies;
- Conducting a drainage study that analyzes both onsite and offsite watersheds that affect the study corridor; developing drainage improvements;
- Investigating the need for traffic signalization;
- Identifying utility location and/or impacts to proposed roadway improvements;
- Conducting environmental investigations and ensuring ADA compliance.

Molzen Corbin has been provided the Revitalization Plan that was prepared for the Town of Carrizozo, as well as information on the curb and gutter areas that were constructed during the Works Progress Administration (WPA). The information in these documents will be considered to determine the recommended improvements for the study area.

**Recommendation:** Provide input and direction, as required.

County Manager's Fax  
(575) 648-4182

Finance/Purchasing Fax  
(575) 648-2381

US 54 Carrizozo  
(MP 123.7)

US 380

2nd Ave.

3rd Ave.

4th Ave.

5th Ave.

E Avenue

12th St.

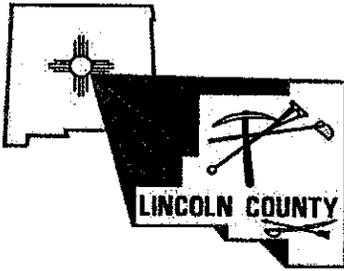
12th St.

13th St.

US 54 - Carrizozo  
Study/Project Limits  
CN: 2100720

US 54 Carrizozo  
(MP 123)





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# County of Lincoln

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## AGENDA Item No. 11

December 6, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

**SUBJECT:** Forest, Land and Natural Resources Matters

**Smokey Bear Ranger District:** Smokey Bear Ranger District recently appointed **Emily Platt** as Acting Ranger for the Smokey Bear District. Acting District Ranger Platt or another member of the District may be in attendance to update the Commission on key activities.

**Cibola National Forest.** No update on Forest Plan activity.

**Forest Health - Community Forester.** Rick Merrick with South Central Mountain RC&D may be in attendance to update the Commission on forest health activities.

**Upper Hondo Soil & Water Conservation District.** Laura Johnson, Program Coordinator, for Upper Hondo SWCD, will be in attendance to update the Commission of key activities.

**Water Issues:** Alto Lakes Water & Sanitation District filed application No. H-719 et.al. into H-1922 (T) for a permit under the Water-Use Leasing Act to temporarily change the point of diversion, and the place and purpose of use of 1.0 acre-foot per annum of ground water diverted from 57 different wells. **See Enclosure 1.** Application is made for a permit to temporarily transfer 1.0 acre-foot to TEAMO that, if granted, would expire on October 31, 2021. The move-from point of diversion and place of use is located within the Alto Lakes Water & Sanitation District service area. The move-to point of diversion and place of use is located at the Brewer gas station on Ski Run Road.

**Recommendation:** No action requested. Provide direction as required.

County: Lincoln  
 Name: Alto Lakes Water & Sanitation District c/o David A. Edington  
 File#: No. H-719 et.al. into H-1922 (T)

**NOTE TO PUBLISHER:** Immediately after last publication, publisher is requested to file affidavit of such publication with the State Engineer, 1900 W. Second St., Roswell, New Mexico 88201.

NOTICE is hereby given that on October 2, 2015; Alto Lakes Water & Sanitation District c/o David A. Edington, P.O. Box 750, Alto, New Mexico 88312 and TEAMO c/o Ken Mosley, P.O. Box 2713, Ruidoso, New Mexico 88355 filed application No. H-719 et.al. into H-1922 (T) for a permit under the Water-Use Leasing Act (NMSA 1978, Sections 72-6-1 thru-7) to temporarily change the point of diversion, and the place and purpose of use of 1.0 acre-foot per annum of ground water diverted from the following described wells:

<u>WELLS</u>	<u>SUBDIVISION</u>	<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
H-719	NW1/4SW1/4SE1/4	34	10 S.	13 E.
H-719-S	NW1/4NW1/4SW1/4	34	10 S.	13 E.
H-719-S-2	NW1/4NW1/4SE1/4	26	10 S.	13 E.
H-719-S-3	NE1/4SW1/4NE1/4	34	10 S.	13 E.
H-719-S-4	NE1/4SW1/4NE1/4	34	10 S.	13 E.
H-719-S-5	SE1/4SE1/4NE1/4	34	10 S.	13 E.
H-719-S-6	SE1/4SE1/4NW1/4	34	10 S.	13 E.
H-719-S-7	NW1/4SE1/4NW1/4	34	10 S.	13 E.
H-719-S-8	SE1/4NE1/4NW1/4	34	10 S.	13 E.
H-719-S-9	SE1/4NW1/4NE1/4	34	10 S.	13 E.
H-719-S-11	NW1/4NW1/4SE1/4	26	10 S.	13 E.
H-719-S-13	NW1/4NE1/4NE1/4	25	10 S.	13 E.
H-719-S-14	NE1/4NE1/4NE1/4	25	10 S.	13 E.
H-719-S-16	SW1/4SE1/4SW1/4	35	10 S.	13 E.
H-719-S-17	SE1/4SW1/4SE1/4	35	10 S.	13 E.
H-719-S-18	SW1/4SW1/4SE1/4	35	10 S.	13 E.
H-719-S-19	SE1/4SE1/4SE1/4	35	10 S.	13 E.
H-719-S-20	NE1/4SW1/4SE1/4	35	10 S.	13 E.
H-719-S-21	SW1/4NW1/4NW1/4	30	10 S.	13 E.

The applicant proposes to temporarily cease the diversion of 1.0 acre-foot per annum of groundwater for domestic use within the Alto Lakes Water & Sanitation District on land described as follows:

<u>SUBDIVISION</u>	<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>ACRES</u>
S1/2NW1/4NW1/4	19	10 S.	14 E.	
Pt. NW1/4NE1/4NE1/4	31	10 S.	14 E.	
Pt. NE1/4NE1/4NW1/4	31	10 S.	14 E.	
S1/2NE1/4NE1/4	24	10 S.	13 E.	
E1/2NE1/4	25	10 S.	13 E.	
SW1/4NE1/4	25	10 S.	13 E.	
Pt. SE1/4NW1/4	25	10 S.	13 E.	
SW1/4	25	10 S.	13 E.	
Pt. NW1/4SE1/4	25	10 S.	13 E.	
NE1/4SE1/4	25	10 S.	13 E.	
SE1/4	26	10 S.	13 E.	
SE1/4SW1/4	26	10 S.	13 E.	
Pt. SW1/4SW1/4	26	10 S.	13 E.	
	26	10 S.	13 E.	

Pt. NW1/4SW1/4				
Pt. NE1/4SW1/4	26	10 S.	13 E.	
Pt. S1/2SE1/4	27	10 S.	13 E.	
Pt. E1/2NE1/4	33	10 S.	13 E.	
Pt. NE1/4SE1/4	33	10 S.	13 E.	
Pt. N1/2SW1/4	34	10 S.	13 E.	
N1/2SE1/4	34	10 S.	13 E.	
NE1/4	34	10 S.	13 E.	
Pt. NW1/4	34	10 S.	13 E.	
Pt. NE1/4	35	10 S.	13 E.	
Pt. NW1/4	35	10 S.	13 E.	
S1/2	35	10 S.	13 E.	
N1/2NE1/4	36	10 S.	13 E.	
Pt. S1/2NE1/4	36	10 S.	13 E.	
Pt. SE1/4NW1/4	36	10 S.	13 E.	
Pt. SE1/4NW1/4	36	10 S.	13 E.	
Pt. SW1/4NW1/4	36	10 S.	13 E.	
Pt. NW1/4NW1/4	36	10 S.	13 E.	
NE1/4NW1/4	36	10 S.	13 E.	
NW1/4NW1/4NW1/4	31	10 S.	13 E.	1.205
NE1/4NW1/4NW1/4	31	10 S.	13 E.	2.211
SE1/4NW1/4NW1/4	31	10 S.	13 E.	5.600
SW1/4NW1/4NW1/4	31	10 S.	13 E.	3.100

The applicant proposes to temporarily commence the diversion of 1.0 acre-foot per annum, of ground water to be diverted from the following described point of diversion:

<u>WELL</u>	<u>SUBDIVISION</u>	<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
H-1922	SE1/4SW1/4NE1/4	33	10 S.	13 E.

for water sales purpose at the following location,

<u>SUBDIVISION</u>	<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>ACRES</u>
NE1/4 (101 Ski Run Road, Brewer Gas Station)	33	10 S.	13 E.	

This application is filed under the Water-Use Leasing Act, NMSA 1978, Sections 72-6-1 through 72-6-7.

Application is made for a permit to temporarily transfer 1.0 acre-foot per annum of water right to TEAMO that, if granted, would expire on October 31, 2021. Upon termination or expiration of the desired permit, the subject water right will automatically revert to the move-from point of diversion and the move-from place and purpose of use pursuant to the applicable provisions in that permit.

The above described move-from points of diversion and place of use is located within the Alto Lakes Water & Sanitation District service area, Alto, Lincoln County, New Mexico. The move-to point of diversion and place of use is located at the Brewer gas station on Ski Run Road, Lincoln County, New Mexico.

Any person, firm or corporation or other entity having standing to file objections or protests shall do so in writing (legible, signed, and to include the writer's complete name, mailing address and telephone number). The objection or protest to the granting of the application shall be specific as to how the granting of the application will adversely affect the objector or protestant. The written protest must be filed, in triplicate, with

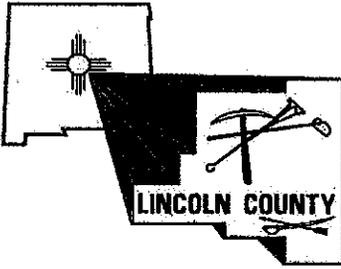
the State Engineer, 1900 W. Second St., Roswell, New Mexico 88201 within 10 days after the date of the last publication of this Notice. A facsimile ("fax") will be accepted as a timely protest as long as the hard copy is mailed and postmarked within 24 hours of the fax. Protests can be faxed to 575-623-8559. A copy of the written protest filed with the State Engineer must be sent to the applicant by certified mail within 10 days after the date of the last publication of this Notice. If no timely protest or objection is filed, the State Engineer will evaluate the application in accordance with the Water-Use Leasing Act.

**Smokey Bear RD, Lincoln National Forest, Briefing Paper for  
Lincoln County Commissioners Meeting  
December, 2015**

Critical and Project Updates

- The objection period for the North Fork Wells permit Final Environmental Impact Statement and Draft Record of Decision ended November 9<sup>th</sup> with one objection being received at the Regional Office. The Regional Office is still reviewing and preparing a response to the objection. An objection resolution meeting may be held in January.
- We plan to implement prescribed burns throughout the county for the remainder of the winter and have been awaiting the right weather conditions. Ventilation has not been good enough to burn this week though fuel conditions are ripe. We will begin burning in the Cedar Creek area when weather conditions are conducive.
- We are working with Ruidoso Parks & Recreation, PNM Power Company, Eco-Servants, ENMU, and the Lincoln County Bird Club to plan and install two osprey platforms at Grindstone Reservoir. We plan to partner with the 8th grade class at the Cien Aguas International School in Albuquerque on interpretive signs for the site that will describe the species, its life history and habitat needs, and distribution in the Southwest.
- Acting District Ranger Emily Platt will be serving likely until late February or early March when the permanent ranger arrives. We will keep you informed as the hiring process progresses. Emily comes to the district from Portland, Oregon where she serves as a planning specialist at the PNW Regional Office. Emily has almost a decade of experience collaborating with diverse communities on Forest Service management projects. She also has a PhD in Forest Resources from Oregon State University where she researched fire, landscape resilience, and Forest Service governance.

End of Report



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# County of Lincoln

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

Agenda Item No. 12

December 9, 2015

**TO:** County Commissioners

**FROM:** Preston Stone, Chair, Board of County Commissioners, Lincoln County

**SUBJECT:** Consideration / Approval of Resolution 2015-28, a Resolution supporting the original intent of the Livestock Code of New Mexico regarding Livestock Inspectors

The State of New Mexico Livestock Code, Chapter 77, NMSA 1978 is construed to carry out its purposes which are to promote greater economy, service and efficiency in the administration of the laws relating to the livestock industry of New Mexico, to control disease, to prevent the theft or illegal movement of livestock and to oversee the New Mexico meat inspection program.

The New Mexico Livestock Board is established to govern the livestock industry of the state in the manner required by law. Seven of the nine Board members must raise and own cattle or raise and own sheep in the State of New Mexico and must be State residents.

The New Mexico Livestock Board employs Livestock Inspectors and Brand Inspectors and other personnel necessary to carry out the purposes of the Livestock Code. According to 77-2-7, NMSA 1978, all Livestock Inspectors appointed by the Board shall have the same powers as any other peace officer in the enforcement of the Livestock Code.

Lincoln County Resolution 2015-28 seeks to establish that the County of Lincoln supports the original intent of the Livestock Code regarding the Livestock Board's ability to direct their Inspectors in the execution of their duties.

Chair Stone will provide additional background at the December 15, 2015 Commission meeting.

**Recommendation:** Consider Resolution 2015-28 for approval.

**RESOLUTION 2015-28**

**A RESOLUTION SUPPORTING THE ORIGINAL INTENT OF THE NEW MEXICO  
LIVESTOCK CODE**

**WHEREAS**, the County of Lincoln recognizes the original intent of The Livestock Code as set out in statute; and,

**WHEREAS**, the Livestock Code was created to promote greater economy, service and efficiency in the administration of the laws relating to the livestock industry of New Mexico, to control disease, to prevent theft or illegal movement of livestock and to oversee the New Mexico Meat Inspection Program; and,

**WHEREAS**, the Livestock Board was empowered to employ Livestock Inspectors and Brand Inspectors and other personnel necessary to carry out the purposes of the Livestock Code; and,

**WHEREAS**, all Livestock Inspectors appointed by the Board shall have the same powers as any other peace officer in the enforcement of the Livestock Code; and,

**WHEREAS**, under that Statute defined as 77-2-1.1 NMSA 1978 a "Livestock Inspector" although being granted full law enforcement powers is defined as having power of enforcement of the Livestock Code and other criminal laws relating to livestock without mention of the enforcement of any other laws of the State of New Mexico.

**NOW, THEREFORE, BE IT RESOLVED**, that the County of Lincoln fully support the original intent of the New Mexico Livestock Code and believe the Livestock Board can give discretion to the Livestock Inspectors as to what equipment they feel is necessary to carry about their persons in the execution of their duties as Livestock Inspectors.

**PASSED, APPROVED AND ADOPTED** this 15<sup>th</sup> day of December, 2015, by the Board of County Commissioners of the County of Lincoln, New Mexico.

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF LINCOLN, NEW MEXICO**

\_\_\_\_\_  
Preston Stone, Chair

\_\_\_\_\_  
Dallas Draper, Vice Chair

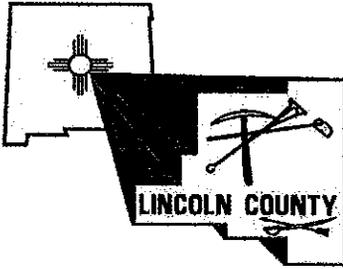
\_\_\_\_\_  
Elaine Allen, Member

\_\_\_\_\_  
Thomas F. Stewart, Member

\_\_\_\_\_  
Dr. Lynn Willard, Member

**ATTEST:**

\_\_\_\_\_  
Rhonda Burrows, Clerk, County of Lincoln



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# County of Lincoln

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## Agenda Item 13

December 4, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager 

**SUBJECT:** Resolution 2015-23 Re-Adoption of Lincoln County Purchasing Policy &  
Resolution 2015-24 CDBG Policies & Certifications  
Resolution 2015-25 Fair Housing

**Purpose:** To conduct the annual review and re-adopt the Purchasing Policy and CDBG Policies & Certifications

### Discussion:

The CDBG rules require annual re-adoption of the Purchasing Policy affirming that New Mexico Procurement purchasing laws is being followed and/or exceeded. The following CDBG Policies & Certifications per resolution 2015-24 are before you for your approval:

1. Resolution 2015-24-CDBG Policies & Certifications
2. Citizen Participation Plan
3. Fair Housing Resolution 2015-25
4. Section 3 Plan
5. Residential Anti-displacement and Relocation Assistance Plan
6. Resolution 2015-23 Purchasing Policy amending Resolution 2014-31 Purchasing Policy

**Recommendation:** Approve Resolution 2015-23 that re-adopts the attached Lincoln County Purchasing Policy, CDBG Policies & Certifications Resolution 2015-24 and Fair Housing Resolution 2015-25.

**Lincoln County**

**RESOLUTION 2015-24**

**ADOPTION OF REQUIRED  
COMMUNITY DEVELOPMENT BLOCK GRANT POLICIES  
& CERTIFICATIONS**

**WHEREAS**, municipalities or other entities that accept Community Development Block Grant Funds must adopt certain mandated federal policies; and

**WHEREAS**, Lincoln County, hereinafter referred to as the County wishes to ensure compliance with federal guidelines by adopting the following required policies or certifications:

- |   |  |
|---|--|
| <b>Citizen Participation Plan -</b>                                     | encourages citizen participation with particular emphasis on low and moderate income persons; outlines the objectives and plan to implement those objectives   |
| <b>Fair Housing Resolution or Proclamation</b>                          | certifies commitment to further the efforts of Fair Housing which prohibits discrimination in the sale, rental, leasing and financing of housing or land to be used for the construction of housing on the basis of race, color, religion, sex, disability, familial status or national origin |
| <b>Residential Anti-Displacement &amp; Relocation Assistance Plan -</b> | certifies that it will replace all occupied and vacant occupiable low/moderate-income dwelling unites demolished or converted to a use other than as a low/moderate income housing as a direct result of activities assisted with Housing and Community Development Funds                      |
| <b>Section 3 Plan -</b>   | encourages the use of small local businesses and the hiring of low income residents of the community   |
| <b>Procurement Code</b>   | certifies that the <u>County</u> will comply with the New Mexico State Procurement Code  |

**NOW, THEREFORE, BE IT RESOLVED**, that the County adopts the above CDBG policies and affirmations which will have to be re-adopted annually.

**PASSED, APPROVED, SIGNED AND ADOPTED** at a duly called and convened regular meeting of the governing body of the Lincoln County this 15<sup>th</sup> day of December, 2015.

SIGNED: \_\_\_\_\_  
Commission Chair

ATTEST: \_\_\_\_\_  
County Clerk

## **Lincoln County Citizen Participation Plan**

### **Introduction**

In accordance with the 1987 revisions to the Housing and Community Development Act and in an effort to further encourage citizen participation, Lincoln County has prepared and adopted this Citizen Participation Plan.

### **Objective A**

Lincoln County will provide for and encourage citizen participation within its area of jurisdiction, with particular emphasis on participation by persons of low- and moderate-income.

#### *Action items:*

1. *Adopt and circulate an Open Meetings Resolution which provides citizens with reasonable notice of county/municipality upcoming meetings, actions and functions.*
2. *Develop press releases on county/municipality meetings, actions and hearings, and circulate to newspapers, radio and television media.*
3. *Develop and maintain listing of groups and representative of low- and moderate-income persons, and include on mailing lists of announcements, notices, press releases, etc.*

### **Objective B**

Lincoln County will provide citizens with reasonable and timely access to local meetings, information and records relating to the proposed and actual use of CDBG funds.

#### *Action items:*

1. *Public notices, press releases, etc., should allow for a maximum length of notice to citizens.*
2. *Appropriate information and records relating to the proposed and actual use of CDBG funds must be available upon request to all citizens. Personnel and income records may be exempted from these requirements.*
3. *Meetings, hearing, etc., should be conducted at times and locations conducive to public attendance, e.g., evenings, Saturdays.*

### **Objective C**

Lincoln County will provide technical assistance to groups and representatives of low- and moderate-income persons that request assistance in developing proposals. Note: the level and type of assistance is to be determined by the county/municipality.

#### *Action items:*

1. *Low- and moderate-income groups should be advised that technical assistance, particularly in the area of community development, is available from the county/municipality upon request.*
2. *Document technical assistance provided to such groups and has documentation available for review.*

#### **Objective D**

Lincoln County will provide a minimum of two public hearings to obtain citizen participation and respond to proposals and questions at all stages of the Community Development Block Grant Program.

##### *Action Items:*

1. *Advise citizens of the CDBG program objectives, range of activities that can be applied for, and other pertinent information.*
2. *Conduct a minimum of two public hearings:*
  - a. *One public hearing will be held to advise citizens of the program objectives and range of activities that can be applied for, and to obtain the citizen's views on community development and housing needs, to include the needs of low- and moderate-income people. This hearing will take place prior to the selection of the project to be submitted to the state for CDBG funding assistance.*
  - b. *A second public hearing will be held to review program performances, past use of funds and make available to the public its community development and housing needs, including the needs of low- and moderate-income families, and the activities to be undertaken to meet such needs.*
3. *Publish public hearing notices in the non-legal section of newspapers or in other local media. Evidence of compliance with these regulations will be provided with each CDBG application, .e.g., hearing notice minutes of public meetings, list of needs and activities to be undertaken, etc. Amendments to goals, objectives, and applications are also subject to public participation.*

#### **Objective E**

Lincoln County will provide timely written answers to written complaints and grievances within 15 working days where practical.

##### *Action Items:*

1. *Adopt complaint handling procedures or policies to insure that complaints or grievances are responded to within 15 days, if possible.*
2. *Allow for appeal of a decision to a neutral authority.*
3. *File a detailed record of all complaints or grievances and responses in one central location with easy public access.*

**Objective F**

Lincoln County will identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of residents can be reasonably expected to participate.

*Action items:*

1. *Identify areas where large majorities of non-English speaking persons reside and make appropriate provisions when issues affecting these areas are to be discussed at public meetings, hearings, etc. Appropriate provisions will include having interpreters available at the meeting and having briefing material available in the appropriate language.*
  
2. *Maintain records/rosters of public hearing attendees and proceedings to verify compliance with this objective.*

**PASSED AND ADOPTED BY THE LINCOLN COUNTY COMMISSION ON THIS 15<sup>th</sup> DAY OF December, 2015.**

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Commission Chair

## Fair Housing Resolution 2015-25

A resolution of the Commissioners of Lincoln County adopting a fair housing policy, making known its commitment to the principle of fair housing, and describing actions it shall undertake to affirmatively further fair housing.

**WHEREAS**, the Housing and Community Development act of 1974 as amended requires that all applicants for Community Development Block Grants funds certify that they shall affirmatively further fair housing; and

**WHEREAS**, the Civil Rights Act of 1968 (commonly known as the Federal Fair Housing Act) and the Fair Housing Amendments Act of 1988 declare a national policy to prohibit discrimination in the sale, rental, leasing and financing of housing or land to be used for the construction of housing or in the provision of brokerage services, on the basis of race, color, religion, sex, disability, familial status or national origin; and

**WHEREAS**, fairness is the foundation of the American system and reflects traditional American values; and

**WHEREAS**, discriminatory housing practices undermine the strength and vitality of America and its people;

**NOW, THEREFORE, BE RESOLVED THAT** the Commissioners of Lincoln County hereby wish all persons living, working, doing business in or traveling through Lincoln County to know that: discrimination in the sale, rental, leasing, and financing of housing or land to be used for construction of housing, or in the provision of brokerage services on the basis of race, color, religion, sex, handicap, familial status or national origin is prohibited by Title VIII of the Fair Housing Act Amendments of 1988; and that it is the policy of Lincoln County to implement programs, within the constraints of its resources, to ensure equal opportunity in housing for all persons regardless of race, color, religion, sex, handicap, familial status or national origin; and within available resources Lincoln County will assist all persons who feel they have been discriminated against in housing issues on the basis of race, color, religion, sex, handicap, familial status or national origin to seek equality under existing federal and state laws to file a complaint with the New Mexico Attorney General's Office or the U.S. Department of Housing and Urban Development; and that Lincoln County shall publicize this Resolution and thereby encouraging owners of rental properties, developers, builders and others involved with housing to become aware of their respective responsibilities and rights under the Fair Housing Amendments Act of 1988 and any applicable state or local laws or ordinances; and that Lincoln County shall undertake the following actions to affirmatively further fair housing:

List all such actions, including: mailing copies of this resolution to the real estate community, banks, developers, community organizations and local media; posting copies of this resolution at identified locations; distributing flyers; etc.

**PASSED AND ADOPTED BY THE** Commissioners of Lincoln County on  
this 15<sup>th</sup> day of December, 2015.

ATTEST:

APPROVED AS TO FORM:

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County Clerk

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Commission Chairman

## Fair Housing Self-Assessment

**COMMUNITY OF:**     Lincoln County

1.     To the best of your knowledge has your community been involved in any complaints regarding discrimination the sale or rental of housing on the basis of race, color, religion, sex, national origin, familial status or handicap?

Yes      No

2.     If yes, give a brief description of the nature of any complaints and resolutions.

3.     Has your community adopted a Fair Housing Program to help local citizens be aware of their rights regarding fair housing under federal and state law, and in filing a complaint if discrimination is suspected?

Yes      No

4.     What do you perceive as the most potentially serious problem areas regarding discrimination in fair housing in your community?

Problem Area	Very Serious	Serious	Moderate	Not a Problem
Color				X
Familial Status				X
Handicap				X
National Origin				X
Race				X
Religion				X
Sex				X

5.     Does your community contain any subsidized housing units?

Yes      No

6.     As best as can be determined, do relevant public policies/practices regarding zoning and building codes have an adverse impact on the achievement of fair housing choice?

Yes      No

7. Are you aware of any practices in the local real estate community as it relates to buying, selling and house rentals that may adversely affect the achievement of fair housing choice in your community?

Yes  No

8. Do your community records contain data on the actual number and percentage of persons residing in the community by race, color, religion, sex, national origin, age, handicap and familial status, as well as income characteristics by group?

Yes  No

9. Is information available to you that list major local employers by type and the number of people employed within your community by salary and racial group?

Yes  No

10. Is there public transportation available in your community?

Yes  No

11. Do your community records contain data on the total number of housing units in the community by type, and the number of vacant units?

Yes  No

12. Does your community contain any housing for the handicapped such as group homes, independent living complexes, etc.?

Yes  No

13. Has your community participated in the CDBG program prior to 1993?

Yes  No

14. Has your community been involved with any other state or federal programs that required the reporting of specific fair housing information?

Yes  No

\_\_\_\_\_  
Signature of Authorized County Official

\_\_\_\_\_  
Date

**Lincoln County**  
**Residential Anti-Displacement and Relocation Assistance Plan**

**I. Background/Introduction**

Section 104(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5304(d)(4)), Section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(16)), and implementing regulations at 24 CFR Part 42, specify that a grantee under the Community Development Block Grant (CDBG) must certify that it has in effect and is following a "Residential Anti-Displacement and Relocation Assistance Plan" (Plan). As a CDBG grantee, **Lincoln County** must certify to State of New Mexico Department of Finance and Administration Local Government Division that it has and is following such a Plan.

The Plan must include three components: 1) one-for-one replacement requirements for lower-income housing units, 2) relocation assistance, and 3) a description of the steps **Lincoln County** will take to minimize displacement.

**II. Activities Covered by the Plan**

All activities involving the use of CDBG funds that cause displacement as a direct result of demolition or conversion of a lower-income dwelling are subject to the requirements specified in the Plan. Activities for which funds are first obligated on or after September 30, 1988 are subject to the requirements specified in the Plan, without regard to the source year of the funds.

**III. Uniform Relocation Act**

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) govern displacement that directly results from acquisition, rehabilitation, or demolition of real property when federal funds are used. The **Lincoln County's** Residential Anti-Displacement and Relocation Assistance Plan is in no way intended to supersede the URA. CDBG-assisted activities may still be subject to the requirements of the URA.

**IV. One-for-One Replacement Units**

All occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than as lower-income dwelling units in connection with an assisted activity must be replaced with comparable lower-income units. Replacement lower-income dwelling units may be provided by any governmental agency or private developer and must meet the following requirements:

- A. The units must be located within **Lincoln County** to the extent feasible, the units shall be located within the same neighborhood as the units replaced
- B. The units must be sufficient in number and size to house no fewer than the number of occupants who could have been housed in the units that are demolished or converted. The number of occupants who could have been housed in the units shall be in accordance with applicable local housing occupancy codes. The units may not be replaced with smaller units (e.g., a 2-bedroom unit with two 1-bedroom units), unless **Lincoln County** has provided information demonstrating that such a proposed replacement is consistent with the needs assessment contained State of New Mexico Department of Finance and Administration Local Government Division HUD-approved Consolidated Plan.

- C. The units must be in standard condition and must at a minimum meet Section 8 Program Housing Quality Standards. Replacement lower-income units may include units brought from a substandard condition to standard condition if: 1) no person was displaced from the unit; and 2) the unit was vacant for at least 3 months before execution of the agreement between **Lincoln County** and the property owner.
- D. The units must initially be made available for occupancy at any time during the period beginning one year before the recipient makes public the information required under Section F below and ending three years after the commencement of the demolition or rehabilitation related to the conversion.
- E. The units must be designed to remain lower-income dwelling units for at least 10 years from the date of initial occupancy. Replacement lower-income dwelling units may include, but are not limited to, public housing or existing housing receiving Section 8 project-based assistance.
- F. Before **Lincoln County** enters into a contract committing it to provide CDBG funds for any activity that will directly result in the demolition of lower-income dwelling units or the conversion of lower-income dwelling units to another use, **Lincoln County** must make the following information public and submit it in writing to LGD:
1. A description of the proposed assisted activity;
  2. The location on a map and number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than for lower-income dwelling units as a direct result of the assisted activity;
  3. A time schedule for the commencement and completion of the demolition or conversion;
  4. The location on a map and the number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units. If such data is not available at the time of the submission to LGD, the submission shall identify the general location on an area map and the approximate number of dwelling units by size, and information identifying the specific location and number of dwellings units by size shall be submitted and disclosed to the public as soon as it is available;
  5. The source of funding and time schedule for the provision of replacement dwelling units;
  6. The basis for concluding that each replacement unit will remain a lower-income dwelling unit for at least 10 years from the date of initial occupancy; and
  7. Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units is consistent with the needs assessment contained in the State of New Mexico Department of Finance and Administration Local Government Division Consolidated Plan.
- G. The one-for-one replacement requirements may not apply if HUD determines, based on objective data, that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within **Lincoln County**. In making such a determination, LGD will consider such factors as vacancy rates, numbers of lower-

income units in **Lincoln County**, and the number of eligible families on the Section 8 waiting list

V. Relocation Assistance

Each lower-income person who is displaced as a direct result of CDBG assisted demolition or conversion of a lower-income dwelling shall be provided with relocation assistance.

Relocation assistance includes advisory services and reimbursement for moving expenses, security deposits, credit checks, other moving expenses, including certain interim living costs, and certain replacement housing assistance.

Displaced persons have the right to elect, as an alternative to the benefits described in this Plan, to receive benefits under the URA, if they determine that it is in their best interest to do so. The following relocation assistance shall be available to lower-income displacement persons:

- A. Displaced lower-income persons will receive the relocation assistance required under 49 CFR 24, Subpart C (General Relocation Requirements) and Subpart D (Payment for Moving and Related Expenses) whether the person elects to receive assistance under the URA or the assistance required by CDBG regulations. Relocation notices must be distributed to the affected persons in accordance with 49 CFR 24.203 of the URA;
- B. The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit and for credit checks required to rent or purchase the replacement dwelling unit;
- C. Actual reasonable out-of-pocket costs incurred in connection with temporary relocation, including moving expenses and increased housing costs, if:
  1. The person must relocate temporarily because continued occupancy of the dwelling unit constitutes a substantial danger to the health or safety of the person or the public; or
  2. The person is displaced from a lower-income dwelling unit, none of the comparable replacement units to which the person has been referred qualifies as a lower-income dwelling unit, and a suitable lower-income dwelling unit is scheduled to become available through one-for-one replacement requirements
- D. Replacement Housing Assistance. Displaced persons are eligible to receive one of the following two forms of replacement housing assistance:
  1. Each person shall be offered rental assistance equal to 60 times the amount necessary to reduce the monthly rent and estimated average monthly cost of utilities for a replacement dwelling to the "Total Tenant Payment," as determined under 24 CFR 813.107. All or a portion of this assistance may be offered through a certificate or housing voucher for rental assistance under the Section 8 program. Where Section 8 assistance is provided to the displaced person, **Lincoln County** must provide the person with referrals to comparable units whose owners are willing to participate in Section 8 program to the extent that cash assistance is provided, it will be provided in installments.

2. In lieu of the housing voucher, certificate or cash assistance described above, the person may elect to receive a lump sum payment allowing them to secure participation in a housing cooperative or mutual housing association. This lump sum payment shall be equal to the capitalized value of 60 monthly installments of the amount that is obtained by subtracting the "Total Tenant Payment," as determined under 24 CFR 813.107, from the monthly cost of rent and average monthly cost of utilities at a comparable replacement dwelling unit. To compute the capitalized value, the installments shall be discounted at the rate of interest paid on passbook savings in a federally-insured financial institution conducting business within **Lincoln County**.

Displaced lower-income tenants shall be advised of their right to elect relocation assistance pursuant to the URA and the regulations at 49 CFR 24 as an alternative to the relocation assistance available under CDBG regulations.

VI. Eligibility for Relocation Assistance

A lower-income person is eligible for relocation assistance if they are considered to be a "displaced person" as defined in 24 CFR 42.305. A displaced person means a lower-income person who, in connection with an activity assisted under the CDBG program, permanently moves from real property or permanently moves personal property from real property as a direct result of demolition or conversion of a lower-income dwelling.

For purposes of this definition, a permanent move includes a move made permanently and:

- A. After notice by the owner to move from the property, if the move occurs on or after the date of the submission of a request to **Lincoln County** for CDBG assistance that is later approved for the requested activity; or,
- B. After notice by the owner to move from the property, if the move occurs on or after the date of the initial official submission to HUD of the consolidated plan under 24 CFR Part 91 describing the assisted activity; or
- C. Before the dates described in A & B above, if **Lincoln County** or LGD determines that the displacement was a direct result of conversion or demolition in connection with a CDBG assisted activity; or
- D. By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:
  1. The tenant moves after execution of the CDBG agreement covering the acquisition, rehabilitation or demolition and the move occurs before the tenant is provided written notice offering the tenant the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex upon completion of the project under reasonable terms and conditions, including a monthly rent and estimated average monthly utility costs that do not exceed the greater of the tenant's monthly rent before such agreement, or the total tenant payment as determined under 24 CFR 813.107 if the tenant is lower-income, or 30 percent of gross household income if the tenant is not lower-income.
  2. The tenant is required to relocate temporarily, does not return to the building/complex, and either is not offered payment for all reasonable out-of-

pocket expenses incurred in connection with the temporary relocation, or other conditions of the temporary relocation are not reasonable.

3. The tenant is required to move to another dwelling unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

If the displacement occurs on or after the appropriate date described in A & B above, the lower-income person is not eligible for relocation assistance if:

- A. The person is evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable federal, State or local law, or other good cause, and **Lincoln County** determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;
- B. The person moved into the property on or after the date described in A & B above after receiving written notice of the expected displacement; or
- C. **Lincoln County** determines that the displacement was not a direct result of the CDBG assisted activity and LGD concurs with this determination.

## VII. Minimizing Displacement

The CDBG regulations regarding the demolition or conversion of lower-income dwelling units are designed to ensure that lower-income persons are provided with adequate, affordable replacement housing. Naturally, involuntary displacement should be discouraged whenever a reasonable alternative exists. Involuntary displacement is extremely disruptive and disturbing, especially to lower-income persons who do not have the means to locate alternative housing.

There are various ways that displacement can be minimized. The following are steps that will be taken to minimize the involuntary displacement of lower-income persons when CDBG funds are involved:

- A. Screening of Applications. All CDBG applications will be reviewed to determine whether involuntary displacement is likely to occur. Those applications involving displacement will receive a lower priority recommendation for funding unless it can be shown that alternatives are not available.
- B. Acquisition of Property. Applicants who apply for CDBG funds to acquire property for the development of lower-income housing will be encouraged to purchase vacant land. In the case of in-fill and other projects where this is not feasible and the project involves potential displacement, the applicant shall agree to allow the displaced lower-income person(s) to occupy the new housing at an affordable rent.

Applicants who utilize CDBG funds to rehabilitate or convert a lower-income unit to a nonresidential use will be required to supply replacement housing consistent with paragraph IV, as well as relocation assistance.

- C. Cost of Relocation Assistance. The cost of any required relocation assistance and the provision of replacement housing will be borne by the applicant and may be paid for out of CDBG funds awarded to the project.

## VIII. Definitions

- A. "Comparable replacement dwelling unit" means a dwelling unit that:
  - 1. Meets the criteria of 49 CFR 24.2(d)(1) through (6); and
  - 2. Is available at a monthly cost for rent plus estimated average monthly utility costs that does not exceed the "Total Tenant Payment" determined under 24 CFR 813.107 after taking into account any rental assistance the household would receive.
- B. "Lower-income dwelling unit" means a dwelling unit with a market rental (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing and moderate rehabilitation established under 24 CFR Part 888.
- C. "Standard condition" means units that at a minimum meet the Existing Housing Quality Standards of the Section 8 rental subsidy program.
- D. "Substandard condition suitable for rehabilitation" means units with code violations that can be brought to Section 8 Housing Quality Standards within reasonable monetary amounts.
- E. "Vacant occupiable dwelling unit" means a dwelling unit that is in a standard condition; a vacant dwelling unit that is in substandard condition, but is suitable for rehabilitation; or a dwelling unit in any condition that has been occupied (except by a squatter) at any time within the period beginning 3 months before the date of execution of the agreement by **Lincoln County** covering the rehabilitation or demolition.

## IX. Grievances

**Lincoln County** will provide timely written answers to written complaints and grievances within 15 working days where practical. Action items:

- A. Adopt complaint handling procedures or policies to insure that complaints or grievances are responded to within 15 days, if possible.
- B. Allow for appeal of a decision to a neutral authority.
- C. File a detailed record of all complaints or grievances and responses in one central location with easy public access.

IX. Certification

**Lincoln County** herewith certifies to follow the Residential Anti-Displacement and Relocation Assistance Plan described above and adopt the plan by resolution annually.

Plan Adoption Date: December 15, 2015

Adoption Instrument: Resolution 2015-24

Certified By:

\_\_\_\_\_  
Commission Chairman

\_\_\_\_\_  
Date

### Lincoln County Section 3 Plan

**Lincoln County** is committed to comply with Section 3 of the Housing and Urban Development Act of 1968. This Act encourages the use of small local businesses and the hiring of low income residents of the community.

**Lincoln County** has appointed Nita Taylor, County Manager as the Section 3 Coordinator, to advise and assist key personnel and staff on Section 3, to officially serve as focal point for Section 3 complaints, and as the on-site monitor of prime contractors and sub-contractors to insure the implementation and enforcement of their Section 3 plans. The approval or disapproval of the Section 3 plan is the ultimate responsibility of Lincoln County. Documentation of efforts will be retained on file for monitoring by the state.

Therefore, Lincoln County shall:

1. Hiring
  - a. Advertise for all **Lincoln County** positions in local newspapers
  - b. List all **Lincoln County** job opportunities with the State Employment Service
  - c. Give preference in hiring to lower income persons residing in the **Lincoln County**. This means that if two equally qualified persons apply and one is a resident of the **Lincoln County** and one is not, the resident will be hired
  - d. Maintain records of **Lincoln County** hiring as specified on this form

ANTICIPATED		N/A	HIRING	
PLANNED			ACTUAL	
Job Classification	# of Positions to be Filled	# of Positions to be Filled by Lower Income County Residents	# of Positions Filled	Positions Filled by Lower Income County Residents

- Chart for Section 3 Plan **MUST** be filled out in its entirety.

## 2. Contracting

- a. **Lincoln County** will compile a list of businesses, suppliers, and contractors located in **Lincoln County**.
- b. These vendors will be contacted for bid or quotes whenever Lincoln County requires supplies, services or construction.
- c. Preference will be given to small local businesses. This means if identical bids/quotes are received from a small business located within **Lincoln County** and one from outside **Lincoln County**, the contract will be awarded to the business located within the community.

## 3. Training

- a. **Lincoln County** shall maintain a list of all training programs operated by **Lincoln County** and its agencies and will direct them to give preference to Lincoln County residents. **Lincoln County** will also direct all CDBG-sponsored training to provide preference to **Lincoln County** residents.

## 4. CDBG Contracts

All CDBG bid proposals and contracts shall include the following Section 3 language.

- a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170. Section 3 requires that the greatest extent feasible, opportunities for training and employment be given lower income residents of the project areas, and contracts for work in connection with the project be awarded to business concerns residing in the project area.
- b. The parties to this contract will comply with the provision of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under the Section 3 clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for, or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135, and will not let any subcontract unless the subcontractor has first provided it with the requirements of these regulations.
- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department, issued there under prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

**Lincoln County** shall require each contractor to prepare a written Section 3 plan as a part of their bids on all jobs exceeding \$100,000. All Section 3 plans shall be reviewed and approved by **Lincoln County's** Equal Opportunity Section 3 Compliance Officer and retained for monitoring by the state.

**Lincoln County** will maintain all necessary reports and will insure that all contractors and subcontractors submit required reports.

#### LOWER INCOME CLARIFICATION

A family who resides in **Lincoln County** and whose income does not exceed the income limit for the size of family as per the attached Section 8 Income Limit for **Lincoln County**. Information contained in our Section 3 Plan reflects the status of **Lincoln County** employees regarding lower income considerations based on their salary paid by **Lincoln County**.

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Commission Chair

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Date



**LINCOLN COUNTY PURCHASING POLICY**  
**RESOLUTION ~~2014-31~~2015-23**

**1.0 SECTION I: GENERAL PROVISIONS**

**1.1 User Applicability**

These procedures and provisions relate to all departments, agencies, personnel, individuals or other users authorized to make purchases from public funds budgeted, controlled by or otherwise under the supervision of Lincoln County Government.

**1.2 Administration**

The responsibility for administration of the provisions of this policy shall be under the Lincoln County Manager. The Purchasing Agent shall have the responsibility and authority to insure that all provisions of law and this policy are followed and shall be authorized to issue any supplement consistent with this policy deemed necessary to administer, manage or clarify this policy. Supplements shall be approved by the County Manager and certified copies of all supplements shall be attached to and made a part of this policy. The Purchasing Agent shall be responsible for having the knowledge to insure that all provisions of this policy and all other purchasing concerns and activities of Lincoln County are appropriate and consistent with the most current, generally accepted purchasing techniques, and all provisions of law. Upon the absence of the County Manager, the Finance Director will be responsible for approval of provisions as set forth in the policy.

**1.3 Purchasing Agent and Purchasing Office**

The Purchasing Agent and Purchasing Office are the general terms for the individuals or offices designated by the County Manager to fulfill the responsibility and functions of the Purchasing Agent and Purchasing Office as provided in this policy. The terms Finance Department and Finance Director are used to describe the office and/or personnel directly responsible for establishing accountability procedures in relationship to the purchasing function.

**1.4 Authorized Purchasers**

Only individuals authorized by the directors or top level supervisors of the applicable users shall be permitted to make Lincoln County purchases. Such authorization shall be submitted to the Purchasing Agent on form FD-1 to include name and written signature of all authorized users. All authorized users shall receive and sign for a copy of the policy, and such users shall thereby be responsible for the knowledge and appropriate compliance and use of the provisions of this policy.

**1.5 Definition of a Purchase**

For the purpose of this policy, a purchase includes the execution of any expense to be paid out of County supervised funds.

**1.6 Unauthorized Purchases**

Any purchase which is not legally and appropriately approved within the County budget or by other County Commission action, or which does not substantially

comply with the provisions of the State Statues, particularly the State Procurement Code, and the provisions of this policy shall be considered an unauthorized County purchase, and thereby not subject to payment by the County. The County hereby declares and establishes that it will assume no responsibility for payment of unauthorized purchases. Furthermore, any individual initiating or otherwise executing any unauthorized purchase is solely responsible for payment. All authorized purchases shall be legally budgeted or approved within an appropriate fund, or within an appropriate line item as approved by Lincoln County Commission. Purchases which are not within the authorized budget, or otherwise have not received County Commission approval are unauthorized purchases. All questionable purchases shall be submitted to the County Manager for review, and determination shall be made by the County Manager regarding their being authorized or unauthorized purchases under the provisions of this policy.

**1.7 Penalties**

Any business or person that willfully or knowingly violates the Procurement code is guilty of:

A. A misdemeanor if the transaction involves fifty thousand dollars (\$50,000) or less; or

B. A fourth degree felony if the transaction involves more than fifty thousand dollars (\$50,000). Procurement Code violations are not longer simply a misdemeanor. A fourth degree felony if the transaction involves more that \$50K. Misdemeanor if the transaction involves \$50K or less. To be a violation, the conduct must first be "willful" violation of the Code.

**1.8 Consistency with State Procurement Code**

The provisions of this policy are subject to change as per the revised State Procurement Code. Any revision thereof that is inconsistent with the provisions of this policy shall rule. All purchase users shall be given a copy of such revisions and notified that they are in effect.

**1.9 Amendment**

Amendment of this policy shall be executed by resolution approved by the Board of County Commissioners.

**1.10 Interpretation of Policy and Supplements**

In any case that a provision of the purchasing policy is vague or unclear, the County Manager may provide a written supplement for clarification so that the provision shall be implemented consistently by all departments and offices.

**2.0 SECTION II: STANDARD PURCHASING PROCEDURES**

**2.1 Standard Purchases Procedures Applicability**

The provisions of this section apply to all standard or non-emergency purchases, and are hereafter referred to as "standard purchasing procedures" in this policy. "Standard Purchases" are described as systematic, planned and necessary purchases for administration and operation of a project, division, and/or department. There shall be no exception to these standard procedures except as provided in "Non-

Standard, Urgent (FD-6) and Emergency Purchases (FD-14) Procedures": in Section III of this policy.

## **2.2 Initiating a Purchase: Purchase Requisition**

Standard purchases may be initiated either by use of a completed Lincoln County Purchase Requisition (FD-2) submitted to the Purchasing Office or by electronic submission in the format specified by the AS-400 by an authorized purchaser with access to our system and as recorded in the Purchasing Office. If the Purchase Requisition (FD-2) is used it shall include pertinent information as required by the Purchasing Agent to include but not necessarily limited to:

- A. Vendor to whom the purchase order will be issued.
- B. Quantity - Specify approximate number per unit being requested. Units may be "each", "box", "gals", "reams", "pounds" etc.
- C. Description - The description of the items or services should be sufficiently complete to identify the item being purchased and to allow processing of the requisition without requesting additional information. Common use items may be identified by brand names.
- D. Unit cost, or estimated cost, if exact cost cannot be determined.
- E. Department -Department initiating the requisition.
- F. Date - Date the requisition is prepared.
- G. Department Head or Authorized Agent -Signature. (Should match information as submitted on FD-1)
- H. GSA Number or BID Number, State Purchasing Contract or Lincoln County Bid Number.
- I. General Ledger Account Number - The appropriate budgeted fund, department and line item number must be shown on each requisition in order for the costs of the items purchased to be appropriately charged. It is the authorized user's (as described in 1.4 of this policy) responsibility to assign the line item account number to the requisition.

Requisitions may include multiple line items PROVIDED they are within the same fund.

Requisitions which do not include the above information will be refused by the Purchasing Agent or representative. After a sufficient requisition is accepted by the Purchasing Office, the Purchase Order will be processed.

## **2.3 Purchase Orders**

Prior to executing the purchase, the vendor must receive the purchase order or purchase order number. Purchases executed prior to obtaining a purchase order are considered unauthorized, except as otherwise provided in "Non-Standard and Emergency Purchasing Procedures", Section III of this policy. The purchaser shall inform the vendor that the purchase order number must be included on the invoice submitted to the County for payment. If a change to the purchase order is necessary due to adding or subtracting of goods, form FD13 Purchase Order Change/Cancellation must be filed in the Finance Department.

**2.4 Invoices**

An invoice is an itemized document submitted by the vendor to the County for payment for material or services provided to the County. It is the responsibility of the department to insure that a purchase order is provided to the vendor when ordering materials or services and the vendor shall include the purchase order number on the invoice submitted to the County for payment. Exceptions to this policy must meet all criteria as outlined in Section 3.2.2 of this policy.

**2.4.1 Verification of Invoices**

Authorized personnel of the ordering department will verify the correctness of invoices, including purchase order number, pricing and that all goods have been received. Invoices shall be approved by authorized personnel of the ordering department (should match information as submitted on FD-1).

**2.4.2 Processing for Payment**

It shall be the responsibility of the Finance Office to insure that all invoices received are appropriately authorized prior to payment. It is the responsibility of the Finance Administrator to ensure that appropriate procedures are established and followed for payment of invoices, and that payments are made in a timely manner, and to insure that discounts are taken and late charges avoided.

**2.5 Over Expenditures**

Requisitions shall not be initiated and purchase orders shall not be issued, approved or processed in cases that line items will be over expended, except as approved by the Finance Director in accordance with State and County regulations and provisions, and provided there are legally sufficient budget balances available otherwise. It shall be the primary responsibility of the purchase user to insure sufficient funds are available prior to initiating a purchase. The Finance Administrator shall provide sufficient information; data or reports, upon request, to keep purchasers properly updated on budget balances, and shall notify any office, department or agency head, after analysis of the monthly budget report, of any indications of an existing or impending budget balance problem.

**2.6 Competitive Purchases**

Purchase users shall attempt to insure that all purchases are made at the best possible prices, and purchases shall be made in accordance with the following provisions. The dollar limits assigned to each category apply to the cost of the total order, not to the cost of each item.

- A. \$2,500 or Less:** Purchases shall be made at the best obtainable price (according to State Statute 13-1-125 C).
- B. \$2,501 to \$20,000 :** Purchases shall be made at the best obtainable price after three (3) bona fide written or telephone quotes from different vendors (using form FD-3) have been solicited for the items(s) being purchased. Form FD-3 must be submitted

to the Purchasing Department to support the purchases.

- C. **\$20,001 to \$ \$ 60,000:** (Except as stated in Sections 2.6 E and F of this policy). All purchases exceeding \$20,000 shall be appropriately initiated, processed and executed through the Purchasing Agent, and require either three (3) bona fide written quotes or State/Federal Purchasing contract, if available.
  - D. **\$ \$60,001 and Above:** Pursuant to State Statute 13-1-104 all purchases exceeding \$ \$60,000 require formal bid procedures as specified by State regulations and shall be processed and executed by the Purchasing Agent after receiving approval from the County Manager to advertise for bids. Such purchases must be approved in the current budget and, if deemed appropriate, the county manager may request approval of the County Commission to go out for bid. Such bids exclude the amount of state and local gross receipt taxes from price evaluation of the small purchase cap. The central purchasing office shall maintain for a minimum of three (3) years records of all competitive sealed bids or proposals. Excludes amount of state and local gross receipts taxes from price evaluation of the small purchase cap. The central purchasing office shall maintain for a minimum of three (3) years, records of all competitive sealed bids or proposal.
  - E. **Telephone and Written Quote Exceptions:** In the event there are not three (3) known vendors which have materials or services available, less than three (3) quotes are permissible provided the user verifies on the requisition that every reasonable attempt has been made to obtain three (3) quotes, and the quotes obtained will be included with the requisition. Sole source documentation must be included with the requisition when the above procedures have been followed, but there is only one vendor available. When a vendor has a State or Federal Purchasing Contract, or if a vendor has an agreement or contract with the County to provide materials or services, multiple quotes are not required.
  - F. **State or Federal Purchasing Contract and Cooperative Bid Exceptions:** Direct purchases may be made in cases that a vendor has a State or Federal Purchasing Contract recorded in the Purchasing Office. Also, the County may purchase items cooperatively through another public body's bid process consistent with State regulations.
  - G. **Bid Specifications:** Specifications should be written primarily to address the need of the County for a specific item to perform a specific function. Specifications written for purchases shall not be "closed or exclusive," or otherwise written in such a way as to intentionally favor or exclude a vendor. Reference to specific types or quality shall be followed by wording "or equal" and all specifications regardless of wording shall be considered as "or equal."
- 2.7 Sole Source Purchase SB 182 (HELP)**  
A sole source purchase is permissible when there is only one (1) vendor that can provide an item or service. The department head shall certify on a sole source form (FD-5) that a good faith effort has been made to contact other vendors in the general overall geographical region that the sole source has been located, and that the item

or service is the only source found to be available in the region. The Purchasing Agent shall certify that

1. every effort has been made to determine if there is a Federal Purchasing or State Contract for the item or service requested and
2. that negotiations, as appropriate, have been conducted with the sole source vendor to determine that it is the best obtainable price. The central purchasing office shall maintain for a minimum of three (3) years, records of all sole source procurement. The record of such procurement shall be public record and shall contain:
  - A. The contractor's name and address;
  - B. The amount and term of the contract
  - C. A listing of the services, construction or items of tangible personal property procured under the contract; and
  - D. The justification for the procurement method form FD-5.

A new section of the Procurement Code is enacted to read:

**“SOLE SOURCE CONTRACT—NOTICE—PROTEST**

- A. At least thirty days before a sole source contract is awarded, the state purchasing agent, a central purchasing office or designee of either shall post notice of the intent to award a sole source contract on its website. If a central purchasing office does not maintain a web site, it shall post the notice on the state purchasing agent's website. The notice shall identify at a minimum:
  1. The parties to the proposed contract;
  2. The nature and quantity of the service, construction or item of tangible personal property being contracted for; and
  3. The contract amount.
- B. Any qualified potential contractor who was not awarded a sole source contract may protest to the state purchasing agent or a central purchasing office. The protest shall be submitted in writing within fifteen calendar days of the notice of intent to award a contract being posted by the state purchasing agent or central purchasing office.”

**“COMPETITIVE SEALED BIDS AND PROPOSALS—RECORD MAINTENANCE.—**A central purchasing office shall maintain, for a minimum of three years, all records relating to the award of a contract through a competitive sealed bid or competitive sealed process.”----- SB182.

## **2.8 Fixed Asset Purchase**

All All capital outlay purchases are considered fixed assets pursuant to State Statute 12-6-10 and shall be noted as such on the purchase requisition. The following documents shall be completed as applicable, Form FD-10 FIXED ASSETS ADDITION, Form FD-11 FIXED ASSETS DELETION FORM and Form FD-12 FIXED ASSETS TRANSFER FORM. It shall be the responsibility of the Purchasing Office to screen all purchases and identify and process fixed assets in

accordance with all current State and County Provisions and Laws regarding fixed assets.

**2.9 Procurement of Professional Services**

All professional services having a value not exceeding sixty thousand dollars (\$60,000) will be procured at the best negotiated price as pursuant to State Statute 13-1-125 C

**2.10 Personal Use Prohibited**

There shall be no purchases made for personal or private use.

**3.0 SECTION III: NON-STANDARD, URGENT AND EMERGENCY PURCHASING PROCEDURES**

**3.1 Non-Standard, Urgent and Emergency Procedures:**

**General Provisions**

The provisions of this section apply to all purchases other than purchases subject to the standard purchasing procedures as specified in Section II of this policy. Generally, this section includes all purchases which are justifiably urgent or are emergencies, and cannot, therefore, reasonably follow the standard processing and other non-standard procedures of this policy. It is the responsibility of the Authorized Purchaser to insure that all purchases made under provisions of this section are immediate and unforeseen. Questionable purchases shall be reported to and reviewed by the County Manager.

**3.2 Emergency or Urgent Purchases**

Emergency purchases (FD-14) are authorized purchases only in cases which are justifiable, necessary and cannot be delayed until the standard purchasing procedures can be utilized. As pursuant to State Statute 13-1-127B an emergency condition is a situation which creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures, acts of terrorism, or similar events and includes the planning and preparing for an emergency response. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

1. the functioning of government;
2. the preservation or protection of property; or
3. The health or safety of any person

Purchases which could have been reasonably pre-planned or anticipated shall not be considered as an emergency or urgent purchase. Emergency procurements shall be made with competition as is practicable under the circumstances. Emergency or urgent purchases are permissible provided they are in accordance with the following provisions.

Emergency procurements shall not include the purchase or lease purchase of heavy

road equipment. The state purchasing agent or a central purchasing office shall use due diligence in determining the basis for the emergency procurement and for the selection of the particular contractor. The determination shall be in writing and included in the procurement file.

A new section of the Procurement Code is enacted to read:  
“EMERGENCY CONTRACT—NOTICE—PROTEST”

- C. When an emergency contract is awarded, the state purchasing agent, a central purchasing office or designee of either shall post notice of the intent to award an emergency contract on its website within three (3) business days. If a central purchasing office does not maintain a web site, it shall post the notice on the state purchasing agent’s website. The notice shall identify at a minimum:
4. The parties to the proposed contract;
  5. The nature and quantity of the service, construction or item of tangible personal property being contracted for; and
  6. The contract amount.
- D. Any qualified potential contractor who was not awarded an emergency contract may protest to the state purchasing agent or a central purchasing office. The protest shall be submitted in writing within fifteen calendar days of the notice of intent to award a contract being posted by the state purchasing agent or central purchasing office.”

### **3.2.1 Urgent Purchases**

An urgent purchase is a purchase which justifiably requires immediate purchase, and which cannot reasonably or practicably be telephoned in to the Purchasing Office to obtain a purchase order number prior to the purchase being made. A written explanation on form FD-6 shall be submitted three (3) normal working days after the purchase is made. In cases that an invoice is received by the Purchasing Office prior to form FD-6 being submitted, processing shall not proceed. All urgent purchases (form FD-6) shall be approved by the top level office or department head, or designee as stated on form FD-1 Authorized Purchasers.

### **3.2.2 Emergency Purchases**

An emergency purchase (FD-14) is permissible when there is an existing condition which creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures, acts of terrorism, or similar events, and includes the planning and preparing for an emergency response. The existence of the emergency condition creates an immediate and serious need for procurement of items or services or construction that cannot be met through normal procurement methods and which would seriously threaten the functioning of government; the preservation or protection of property; or the health or safety of any person. An emergency condition must be determined by the County Manager and

concurring in by the Chairman of the Board of County Commissioners. The central purchasing office shall maintain for a minimum of three (3) years, records of all emergency procurement. The record of such procurement shall be public record and shall contain:

1. The contractor's name and address.
2. The amount and term of the contract.
3. A listing of the services, construction or items of tangible personal property procured under the contract; and
4. The justification for the procurement method must be recorded on form FD-13.

A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the procurement file.

### **3.2.3 Urgent or Emergency Requisitions**

All urgent or emergency requisitions shall have the words "Urgent" or "Emergency" written on the top as is applicable, and shall be accompanied by a receipt or invoice for the purchase.

### **3.3 Telephone Orders and Repairs**

All orders for new telephones or telephone repairs must be initiated and processed through the Finance Office to insure appropriate and legal purchasing procedures are followed, and to insure appropriate record keeping.

### **3.4 Open Purchase Orders**

For the purpose of this policy, open purchase orders are purchase orders which are utilized for numerous and repeated daily purchases which are anticipated over an extended period of time, not to exceed 31 days.

- A. Authorization to use open purchase orders in all cases shall require prior approval by the County Manager after written justification for using open purchase orders is submitted on form FD-7.
- B. A written requisition shall be submitted for each vendor each time that an open purchase order is requested. The words "OPEN" must be marked boldly on the requisition before it may be used for multiple purchases and an estimated amount must be stated. The period for each open purchase order shall begin on the date issued and end on the last day of the month it is issued.
- C. Actual invoices for the purchases made against an open purchase order shall be submitted to the Finance Office upon receipt and the final invoice shall be marked "FINAL" to denote closing of the open purchase order. The Purchasing Agent shall review any cases of improper use of open purchase orders with the County Manager.
- D. The purchase user shall advise the vendor that when the amount of the

purchases reaches the total dollar amount issued for the open purchase order the purchase order shall be closed out and a new one issued for additional purchases.

- E. Care should be exercised that an open purchase order is always in force before a purchase is made against it.

### **3.5 Petty Cash Purchases**

Petty cash funds are cash funds which are made readily available to offices or department heads for the purpose of making small purchases in times when it is not practical or feasible to pay by warrant. Single purchases must not exceed a maximum of twenty-five dollars (\$25.00). Petty cash fund custodians for each fund shall consist of the Department Head and his authorized designee(FD8). Fund custodians and other employees who are authorized to make petty cash purchases are responsible for preparing vouchers and all other paperwork involved in these purchases.

A petty cash fund shall not exceed two hundred dollars (\$200.00) for any County Office as form FD8 designates (and filed with the Finance Department).

A petty cash fund shall be established in the amount of one thousand dollars (\$1000.00) in the Sheriff's Department for use as per diem for out-of-state transportation and extradition of prisoners or emergency per diem for purchases where normal purchasing procedures are not feasible. This fund is to be established by a checking account, and reconciliation with supporting documents must be submitted to the Treasurer's Office monthly.

#### **3.5.1 Responsibility**

- A. The Finance Administrator shall be responsible for establishing written safeguards, provisions and procedures to insure appropriate accounting and maximum accountability for all petty cash funds. The Finance Administrator may at any time change the procedures for petty cash funds, or eliminate a petty cash fund if deemed appropriate, or eliminate a petty cash fund in cases when procedures are not being reasonably followed or in cases when unnecessary or repetitious shortages/overages in funds occur.
- B. Petty cash funds are subject to audit by the County Manager or Finance Administrator at any time without notice.
- C. Custodians shall be assigned to each individual petty cash fund and be held responsible to the Finance Administrator for the fixed amount of all funds in their custody and for the appropriate management of the petty cash funds.
- D. A custodian's statement of responsibility, FD-8, will be signed and kept on file in the Finance Department for the amount of each fund in the possession of the custodian.
- E. All custodians shall sign for a copy of the Petty Cash Procedures and be knowledgeable thereof. Certified copies of updated Petty Cash Procedures shall be attached to and made

a supplement of this Policy.

- F. Transfer of a fund from one (1) person to another will be made by the Finance Administrator. At such time, the fund will be counted, the present custodian's statement of responsibility signed, and the fund transferred.
- G. The purchaser is responsible for the full amount of cash received from the petty cash fund until a cash register tape or invoice is returned to the petty cash custodian.

### **3.5.2 Safeguarding Petty Cash Funds**

Petty cash funds should be kept by the custodian in a metal box equipped with a lock. This locked box will be kept overnight in a locked cabinet, vault or safe. These funds and supporting invoices should not be carried on the person of the custodian. Only the department head and his authorized designee should have access to the petty cash funds.

### **3.5.3 Petty Cash Receipt/Vouchers**

A petty cash receipt/voucher, (hereinafter called "voucher") must be processed in the following manner:

- A. A voucher should be completed in ink for each disbursement from the petty cash fund.
- B. An invoice will be secured for each purchase showing exact items purchased. If only a cash register tape is available items purchased should be described on the voucher.
- C. Only purchases for twenty-five dollars (\$25.00) and under may be paid from petty cash.
- D. Splitting of invoices for purchases of over twenty-five dollars (\$25.00) will not be permitted under any circumstances. Personal use is strictly prohibited.

### **3.6 Routine Monthly Purchases and Other Non-standard Purchases**

Routine monthly County purchases such as utility bills or other service charges, subscription renewals and membership dues and other non-standard purchases such as professional services, lease purchases, formal bids, purchase of real property, funds appropriated for support to other agencies, emergency purchases, or other purchases requiring special approval purchases for County construction projects, purchases by agreement or contract, and other special purchases shall be processed in accordance with State statutes and this Purchasing Policy.

### **3.7 Exemptions from the Procurement Code**

Hospital and health care exemption: The provisions of the Procurement Code shall not apply to procurement of items of tangible personal property or services by a state agency of a local public body through: (State statute 13-1-98.1)

- A. an agreement with any other state agency, local public body or external procurement unit or any other person, corporation, organization or association that provides that the parties to the agreement shall join together for the purpose of

making some or all purchases necessary for the operation of public hospitals or public and private hospitals, if the state purchasing agent or a central purchasing office makes a determination that the arrangement will or is likely to reduce health care costs; or

**B.** an agreement with any other state agency, local public body or external procurement unit or any other person, corporation, organization or association for the purpose of creating a network of health care providers or jointly operating a common health care service, if the state purchasing agent or a central purchasing office makes a determination that the arrangement will or is likely to reduce health care costs, improve quality of care or improve access to care.

The provisions of the Procurement Code shall not apply to the purchase for resale by the state fair commission of feed and other items necessary for the upkeep of livestock; contracts entered into by the Crime Victims Reparation Commission to distribute federal grants to assist victims of crime, including grants from the federal Victims of Crime Act of 1984 and the federal Violence Against Women Act; and procurements exempt from the Procurement Code as otherwise provided by law.

The provisions of the Procurement Code shall further not apply to purchases of books, periodicals, and training materials in printed or electronic format from the publishers or copyright holders thereof; purchases not exceeding ten thousand dollars (\$10,000.00) consisting of magazine subscriptions, web-based or electronic subscriptions, conference registration fees and other similar purchases where prepayments are required.

### **3.8 End of Fiscal Year**

Special purchasing procedures shall be followed to insure that State law and regulations and proper accounting procedures are followed to appropriately close out at the end of the fiscal year.

**Provisions are as follows:**

**A. Thirty (30) Days Prior to Year Ending:**

Thirty (30) days prior to end of the fiscal year, purchase orders will be issued only for purchases in which invoices will be received within an estimated thirty (30) days, except as otherwise specifically approved by the Purchasing Agent.

**B. Fifteen (15) Days Prior to Year Ending:**

There shall be no purchases of any kind made, or purchase orders issued or processed within fifteen (15) days prior to the end of the fiscal year, except in extreme emergencies or as specifically approved otherwise by the Purchasing Agent.

### **3.9 Approval and Revision of Supplements**

All supplements or revisions to supplements of this policy shall be approved by the County Manager and attached to and made a part of this policy.

#### 4.0 SECTION IV: FORMS

##### 4.1 Standardized Forms

Standardized forms used for the processing of the foregoing policy are as follows:

- A. **FD-1 AUTHORIZED PURCHASERS**  
Authorized signatures for Requisition/Purchase Orders. This is the form used by purchase users authorizing personnel in their respective departments to sign requisition/purchase orders.
- B. **FD-2 REQUISITION/PURCHASE ORDER**  
The requisition/purchase order is required as per Section 2.2 and 2.3. The requisition/purchase order is supplied to the purchase user and is the authorization to make a purchase as per Section 2.3. The white copy is the original document which must be given to the vendor; the yellow copy is the purchase user copy, the pink and goldenrod copies are for the Finance Department use.
- C. **FD-3 TELEPHONE QUOTES**  
The telephone quotes form must be used in compliance with Section 2.6.B
- D. **FD-4 REQUEST FOR WRITTEN QUOTE**  
The written quotation form must be used in compliance with Section 2.6.B
- E. **FD-5 SOLE SOURCE CERTIFICATION**  
The sole source certification is used in compliance with Section 2.7.
- F. **FD-6 URGENT PURCHASE**  
The urgent purchase form is used in compliance with Section 3.2.2.
- G. **FD-7 REQUESTS FOR AUTHORIZATION FOR OPEN PURCHASE ORDERS**  
This form is used in compliance with Sections 2.2, 3.3, 3.4, 3.7 and 3.9.
- H. **FD-8 CUSTODIAN STATEMENT OF RESPONSIBILITY**  
This form is used in compliance with Section 3.7 and supplements thereof and designates the custodian and his responsibility regarding Petty Cash Funds.
- I. **FD-9 REPORT OF PETTY CASH FUND**  
This form is used in compliance with Section 3.5 and supplements thereof to report any discrepancies in the Petty Cash Fund.
- J. **FD-10 ADDITIONS TO FIXED ASSETS**  
This form is used to add fixed assets to inventory
- K. **FD-11 DELETIONS TO FIXED ASSETS**  
This form is used to delete fixed assets from inventory
- L. **FD-12 TRANSFER OF FIXED ASSETS**  
This form is used to transfer fixed assets within inventory.
- M. **FD-13 PURCHASE ORDER CHANGE/CANCELLATION**  
This form is used to make changes to an existing purchase order prior to receipt of Invoice.
- N. **FD-14 EMERGENCY PURCHASE**  
This justification for an emergency purchase is used in compliance with Section 3.2.2.

##### 4.2 Revision of Forms

All standardized forms as specified in this Policy may be changed as deemed appropriate by the County Manager.

**COUNTY OF LINCOLN  
PO BOX 711  
CARRIZOZO, NM 88301-0711**

\*\*\*\*\*

TO: PURCHASING DEPARTMENT, OFFICE OF THE MANAGER

FROM: \_\_\_\_\_

SUBJECT: AUTHORIZED SIGNATURES FOR REQUISITIONS

DATE: \_\_\_\_\_

.....

THE FOLLOWING PERSONS ARE AUTHORIZED TO SIGN AND/OR ENTER PURCHASE REQUISITIONS FOR EXPENDABLE SUPPLIES, SERVICES, AND/OR CAPITAL OUTLAY.

- A. NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)

	NAME	COMPUTER USER ID
1.	_____	_____
2.	_____	_____

- B. MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) AND LESS THAN SIXTY THOUSAND DOLLARS (\$60,000.00) AND CAPITAL OUTLAY REQUISITIONS.

	NAME	COMPUTER USER ID
1.	_____	_____
2.	_____	_____



**REQUEST FOR WRITTEN QUOTE**

This is an Inquiry - **NOT AN ORDER**

Please Quote Promptly

\*\*\*\*\*

TO: \_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*

Please quote prices on items listed below. Note delivery requirements and state firm delivery date.

**LINCOLN COUNTY**

DEPARTMENT \_\_\_\_\_

PO BOX 711

300 Central

Carrizozo, NM 88301-0711

DATE: \_\_\_\_\_

REPLY DUE BY \_\_\_\_\_

DELIVERY REQUESTED BY \_\_\_\_\_

Items must be quoted

FOB Carrizozo, FFA

Lincoln County pays net 30 unless other arrangement

are made

ITEM	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT

**Vendor: Please complete this information**

1. Delivery Promised \_\_\_\_\_ **Purchasing Department**

2. Terms \_\_\_\_\_ Requisition # \_\_\_\_\_

3. Date of Quotation \_\_\_\_\_ P.O. # \_\_\_\_\_

FED ID

No. \_\_\_\_\_

NM CRS

No. \_\_\_\_\_

NM Pref. No. \_\_\_\_\_

\_\_\_\_\_  
Authorized Vendor Signature

**SOLE SOURCE CERTIFICATION**

A Sole Source Certification is required when there is only one (1) vendor that can provide an item or service.

For example, if the sole source is located in the County, an attempt must be made to contact vendors in only the County which may have the item. However, if the sole source is located in Texas, then an attempt must be made to contact vendors in the Texas, New Mexico region.

If there is a GSA or State Contract for the item a sole source certification is not permissible.

**CERTIFICATION BY DEPARTMENT**

I hereby certify that a good faith effort has been made to contact other vendors in the general overall geographical region that the sole source has been located, and that the item or service is the only source found to be available in that region.

Names of vendors contacted which do not have the item or service available:

\_\_\_\_\_  
\_\_\_\_\_

Description of sole source item or service

\_\_\_\_\_  
\_\_\_\_\_

Name of Sole Source Vendor: \_\_\_\_\_

Address of Sole Source Vendor: \_\_\_\_\_

\_\_\_\_\_

Price of Sole Source Items or Service: \_\_\_\_\_

\_\_\_\_\_ Department Head

\_\_\_\_\_ Date

---

**CERTIFICATION OF PURCHASING AGENT**

I certify that there is not a GSA or State Contract for the item or service requested and that negotiations, as appropriate, have been conducted with the sole vendor to determine that this is the best price obtainable.

\_\_\_\_\_ Purchasing Agent

\_\_\_\_\_ Date

**URGENT PURCHASE**

*Required immediate purchase which could not reasonably or practicably be telephoned into the Purchasing Office to obtain a Purchase Order number prior to the purchase.*

DATE: \_\_\_\_\_

The attached Invoice Number \_\_\_\_\_ purchased on \_\_\_\_\_  
Invoice # Date

from \_\_\_\_\_ purchased at \_\_\_\_\_ am/pm being submitted for  
Vendor Name Time

payment from line item: \_\_\_\_\_  
Budget Line #

The following reasons substantiate this purchase made without pre-authorization at a time other than regular business hours of the Finance Office.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signed:

\_\_\_\_\_  
Title:

\*\*\*\*\*  
\*\*\*

- Above urgent purchase allowed
- Above urgent purchase must go before Commission
- Additional information is needed before approval is allowed
- Appears to be an ongoing situation.

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signed:

\_\_\_\_\_  
Title:

**REQUEST FOR AUTHORIZATION  
OPEN PURCHASE ORDERS**

DEPARTMENT: \_\_\_\_\_

AUTHORIZED PERIOD: \_\_\_\_\_

\*\*\*\*\*

	<u>VENDOR NAME</u>	<u>VENDOR NO.</u>	<u>AMOUNT</u>	<u>BUDGET LINE NO.</u>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____
9.	_____	_____	_____	_____
10.	_____	_____	_____	_____

Open Purchase Orders are purchases which are utilized for numerous and repeated daily purchases which are anticipated over an extended period of time. The period for each open purchase order number shall end on the last day of the month it is issued, and shall not exceed 31 days.

I certify that the above is in conformance with the Lincoln County Purchasing Policy, Section 3.4.

Approved: \_\_\_\_\_  
                    County Manager                      Department Head

\_\_\_\_\_                      \_\_\_\_\_  
                    Date    Date

**PETTY CASH  
CUSTODIAN'S STATEMENT OF RESPONSIBILITY**

This is to certify that I, \_\_\_\_\_ am the authorized department head of the \_\_\_\_\_ department and that I have designated \_\_\_\_\_ as my authorized alternate custodian of the \_\_\_\_\_ fund.

Furthermore, I certify that I have received from the County of Lincoln \$ \_\_\_\_\_ to be used for the \_\_\_\_\_ Fund. Upon my termination as custodian of this fund, I will account for the entire fund to the Finance Administrator. If there is a shortage in the fund which cannot be explained to the County, I hereby authorize the County to deduct same amount from any wages or salary which may be due me and promise to pay to the County any deficiency, immediately. If such shortage in the fund is due to criminal act on my part, I realize that I may be prosecuted for the same.

I have read and understand the procedures relating to petty cash funds and agree to abide by these procedures.

\_\_\_\_\_  
Custodian-Department Head

\_\_\_\_\_  
Alternate Custodian

**REPORT OF PETTY CASH FUND**

DATE: \_\_\_\_\_ DEPARTMENT: \_\_\_\_\_

**PETTY CASH FUND TOTAL AMOUNTS**      \$ \_\_\_\_\_  
**TOTAL CASH ON HAND**                    \$ \_\_\_\_\_  
**TOTAL RECEIPTS**                            \$ \_\_\_\_\_  
**TOTAL FUND**                                    \$ \_\_\_\_\_  
 (SHOULD EQUAL TOTAL PETTY CASH FUND)

<b>CASH ON HAND (CASH COUNT LISTED BELOW)</b>		<b>EXPENDITURES</b>	
	<b>\$</b>	<b>LINE NUMBER</b>	<b>AMOUNT</b>
PENNIES	\$		\$
NICKELS	\$		\$
DIMES	\$		\$
QUARTERS	\$		\$
ONES	\$		\$
FIVES	\$		\$
TENS	\$		\$
TWENTYS	\$		\$
	\$		\$
<b>TOTAL CASH</b>	<b>\$</b>	<b>TOTAL ALL EXPENDITURES</b>	<b>\$</b>

**ADDITION TO FIXED ASSETS**

DEPT# \_\_\_\_\_ G/L \_\_\_\_\_  
LOCATION \_\_\_\_\_ PURCHASE PRICE \_\_\_\_\_  
SOURCE \_\_\_\_\_ MODEL \_\_\_\_\_  
SERIAL NUMBER \_\_\_\_\_ TYPE/CLASS \_\_\_\_\_

DESCRIPTION \_\_\_\_\_  
\_\_\_\_\_

FINANCIAL \_\_\_\_\_ PHYSICAL \_\_\_\_\_

Is this a replacement for an existing item already in inventory? \_\_\_\_\_

If yes, please give Inventory Tag Number \_\_\_\_\_

Is this a repair to an existing item in inventory? \_\_\_\_\_

If yes, please give Inventory Tag Number \_\_\_\_\_

Does this add value to an existing item already in inventory? \_\_\_\_\_

If yes, please give Inventory Tag Number \_\_\_\_\_

\*\*\* Is item being replaced by transfer or deleted? If so, please complete section below.\*\*\*

**DELETION TO FIXED ASSETS**

DATE \_\_\_\_\_ INVENTORY# \_\_\_\_\_  
DEPARTMENT \_\_\_\_\_ G/L# \_\_\_\_\_  
DESCRIPTION \_\_\_\_\_ BOOK VALUE \_\_\_\_\_

EXPLANATION \_\_\_\_\_  
\_\_\_\_\_

**TRANSFER OF FIXED ASSETS**

DATE \_\_\_\_\_ INVENTORY# \_\_\_\_\_  
DESCRIPTION \_\_\_\_\_  
\_\_\_\_\_

FROM \_\_\_\_\_ TO \_\_\_\_\_  
PERSON AUTHORIZING TRANSFER \_\_\_\_\_  
PERSON RECEIVING TRANSFER \_\_\_\_\_

**FOR FINANCE PERSONNEL ONLY**

DATE ENTERED \_\_\_\_\_ INITIAL \_\_\_\_\_  
INVENTORY NUMBER \_\_\_\_\_  
CHECK NUMBER \_\_\_\_\_  
LABEL PRINTED \_\_\_\_\_ INITIAL \_\_\_\_\_

**DEFINITIONS**

- 1. Department**  
Name of department purchasing item
- 2. G/L #**  
Line number(s) used from budget listing, this should correspond to the purchase order
- 3. Location**  
Where item will be used or kept
- 4. Source**  
Name of company you purchased from
- 5. Model**  
Model number is on the label from manufacturer
- 6. Serial Number**  
Number that will identify product to vendor-generally found on the same label as the model number
- 7. Type/Class**  
Brief description to categorized inventory (see list below)
- 8. Description**  
Words that describe the product (example: HP8150dtn Printer)
- 9. Financial**  
Type of monies used to buy product (see list below)
- 10. Physical**  
General category of purchase (see list below)

Note: Everything that has a listing below cannot be deviated from.

TYPE/CLASS		FINANCIAL	PHYSICAL
Appliance	Audio Equip	County	Land
Build Equip	Building	Bonds	Buildings
Computer	Copier	Federal Funds	Other Improvements
EMS Equip	Equip	Special Revenue	Machinery & Equipment
Field Supply	Fire Equip	Special Assessment	Construction in Progress
Land & Improvements	Furniture	State Grant/Appropriations	Infrastructure
Firearms	Med Equip	Local Grants	
Office Equip	Printer		
Recreation	Road Equip		
Safe	Tools		
Vehicle/Trailer	Vehicle Equip		
Video Equip	Voting Equip		

**PURCHASE ORDER CHANGE/CANCELLATION**

**CIRCLE ONE:**                      **CHANGE**                      **CANCEL**

PURCHASE ORDER NO. \_\_\_\_\_

VENDOR NAME: \_\_\_\_\_

VENDOR NUMBER \_\_\_\_\_

ORIGINAL DATE PURCHASE ORDER WAS ISSUED: \_\_\_\_\_

DEPARTMENT: \_\_\_\_\_

DATE CHANGE REQUESTED \_\_\_\_\_

PERSON REQUESTING CHANGE \_\_\_\_\_

CHANGE VENDOR **FROM:** \_\_\_\_\_

CHANGE VENDOR **TO:** \_\_\_\_\_

CHANGE LINE NO. **FROM:** \_\_\_\_\_

CHANGE LINE NO. **TO:** \_\_\_\_\_

CHANGE DOLLAR AMOUNT **FROM:** \_\_\_\_\_

CHANGE DOLLAR AMOUNT **TO:** \_\_\_\_\_

EXPLANATION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\*

**PURCHASING DEPARTMENT**

Purchase Order Changed \_\_\_\_\_  
Date

Purchase Order Changed \_\_\_\_\_  
By

**EMERGENCY PURCHASE**

An emergency condition is a situation which creates a threat to public health, welfare or safety - creating an immediate and serious need for services, construction or urgent purchases without which would threaten the function of government preservation or protection of property, or the health or safety of any person.

DATE: \_\_\_\_\_

The attached Invoice Number \_\_\_\_\_ purchased on \_\_\_\_\_

Invoice Date

from \_\_\_\_\_ at \_\_\_\_\_ am/pm is being submitted for payment

Vendor Name Time

from line item: \_\_\_\_\_  
Budget Line No.

The following reasons substantiate this purchase made without pre-authorization at a time other than regular business hours of the Financial Office.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signed:

\_\_\_\_\_  
Title:

\*\*\*\*\*

*Emergency conditions must be determined by the County Manager with the consensus of three Commissioners.*

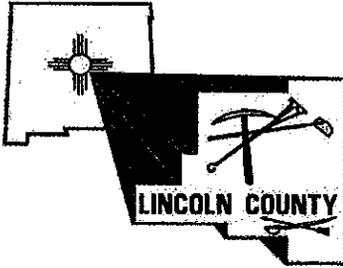
- Above emergency purchase allowed.
- Above emergency purchase must go before Commission.
- Additional information is needed before approval is allowed.
- Appears to be an ongoing situation.

COMMENTS:

\_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_

Titled: \_\_\_\_\_



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# County of Lincoln

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

## AGENDA ITEM 14

December 6, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager 

**SUBJECT:** Support for NMAC 2014 Legislative Priorities

**Purpose:** To obtain approval of the Resolution 2015-26

### Discussion:

Annually, The New Mexico Association of Counties (NMAC) adopts legislative priorities to focus efforts at changing state statutes and other pieces of legislation impacting counties. NMAC's President Sharon Stover and Executive Director Steve Kopelman will be present to discuss the priorities and seek approval.

At **Enclosure 1** is proposed County Resolution 2015-26 in support of NMAC's legislative priorities.

**Recommendation:** Discuss and approve resolution 2015-26 adopting the New Mexico Association of Counties' legislative priorities.

**Resolution 2015-26**  
**Supporting the 2016 Legislative Priorities of the New Mexico Association of Counties**

**WHEREAS**, in August, 2015, the Board of Directors of the New Mexico Association of Counties approved four legislative priorities for consideration by the New Mexico Legislature at its 2016 Regular legislative session; *and*

**WHEREAS**, the Association has requested that the Board of County Commissioners in each of the state's 33 counties adopt a resolution supporting the Association's legislative priorities; *and*

**WHEREAS**, this is an important step in assuring maximum understanding of, and support for, the Association's legislative priorities at the county level; *and*

**WHEREAS**, the adoption of such resolutions will enable the Association to demonstrate to the state legislature local and statewide support for the Association's legislative priorities; *and*

**WHEREAS**, the legislative priorities adopted by the Association's Board of Directors include support for legislation on the following four issues:

**Restore Detention Center Funding**-Support an increase in the 2016 General Appropriations Act that would fund the County Detention Facilities Reimbursement Act at a level sufficient to reimburse counties for the actual cost of holding the three categories of prisoners specified under the act.

**Support Funding for a Statewide Emergency Medical Services (EMS) Assessment**- Support an appropriation to conduct a statewide EMS assessment through the New Mexico Department of Health EMS Bureau, in coordination with the State Fire Marshal, and reconvene the NMAC EMS Task Force, to develop additional policy recommendations regarding appropriate funding levels and mechanisms for recurring EMS services funding.

**Funding for the New Mexico 3D Elevation Program (3DEP) to Develop Light Detection and Ranging Technology (LiDAR)**-Support legislation that would allocate funding to be used in collaboration with other federal, local, and tribal funds to match federal funding from the National 3D Elevation Program. LiDAR applications include watershed and water resource management, infrastructure planning and development, and precision agriculture and forestry management.

**Gross Receipts Tax Reform** – Counties should partner with state government in any legislative efforts at gross receipts tax restructure and reform.

**NOW, THEREFORE, BE IT RESOLVED** that the Lincoln County Board of County Commissioners does hereby support the legislative priorities of the New Mexico Association of Counties as set forth above, and urges that legislation incorporating these priorities be enacted by the state legislature during its 2016 Regular legislative session.

**PASSED AND ADOPTED** on the 15<sup>th</sup> day of December, 2015.

**BOARD OF COMMISSIONERS OF  
THE COUNTY OF LINCOLN,  
NEW MEXICO**

\_\_\_\_\_  
Preston Stone, Chairman

\_\_\_\_\_  
Elaine Allen, Member

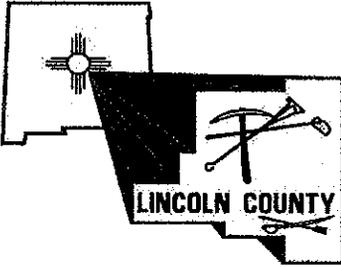
\_\_\_\_\_  
Dr. Lynn Willard, Member

\_\_\_\_\_  
Dallas Draper, Vice Chair

\_\_\_\_\_  
Thomas F. Stewart, Member

**ATTEST:**

\_\_\_\_\_  
Rhonda Burrows, County Clerk



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# *County of Lincoln*

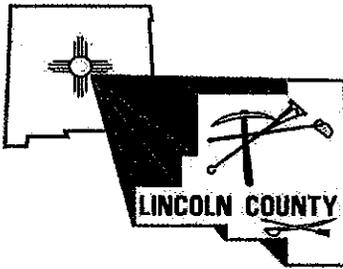
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## Agenda Item No. 15

### **SUBJECT**

**9:30 A.M.** Public Comment and Other Business from County Officials (Items are for discussion only – no action will be taken)



# County of Lincoln

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## AGENDA ITEM 16

December 7, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager

**SUBJECT:** Safety Net Care Pool & Indigent Health Care Claims

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

### Discussion:

**Safety Net Care Pool Authorizations:** This month our coordinator processed Thirty-three (33) claims. Twenty-two (22) claims are recommended approval and Eleven (11) claims are recommended for disapproval. If approved, the total recommended authorization this month is \$8,211.95. See Enclosure. 1.

**Indigent Health Care Claims:** This month our coordinator processed Twenty-nine (29) claims, all of which are recommended for approval. If approved, total recommended payment this month is \$4,727.32. At Enclosure 2 is a summary of total applications approved and denied. At Enclosure 3 is the summary of the Indigent Fund Meeting for December.

**Manager's Analysis** – For the last two years, the average Indigent Health Care monthly payments were \$16,919 and \$5,304 respectively. The FY 14 - 15 year-end total was \$63,642. To date, the total expenditure is \$35,257.76 or an average of \$5,876.29 a month. At this pace, we will spend \$70,515.52 in FY 15 – 16, in the indigent claim line item.

Similarly, for the last two fiscal years, the total Commission-approved Sole Community Provider Claims were \$1,034,535 and \$254,747 respectively. The FY 14 - 15 monthly average was \$21,229. To date, the Safety Net Care Pool total authorization is \$88,835.89 or an average of \$14,805.98 a month.

**Recommendation:** Approve and disapprove the claims as indicated for the Safety Net Care Pool report at Enclosure 1 and approve the Indigent Health Care Program report as indicated at Enclosure 2.

Approved: \_\_\_\_\_  
Preston Stone, Chairman

# SCP / SAFETY NET CARE POOL CLAIMS FISCAL YEAR 2015 - 2016

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$80,623.94

ADJUSTMENTS

TOTAL ADJUSTMENTS: \$0.00 \$0.00

DECEMBER # CLAIMS FOR APPROVAL 22  
# CLAIMS FOR DENIAL 11  
DECEMBER # TOTAL CLAIMS 33

DECEMBER TOTAL \$ AMOUNT APPROVED \$8,211.95

TOTAL # CLAIMS THIS FY APPROVED 97  
TOTAL # CLAIMS THIS FY DENIED 18  
TOTAL # CLAIMS FY 2015 - 2016 115

TOTAL APPROVED THIS FISCAL YEAR \$88,835.89

FACILITY: LINCOLN COUNTY MEDICAL CENTER 12/15/2015 THROUGH 12/15/2015

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID	
21139	11/09/2015	118.00	90.86	077%
21140	10/09/2015	200.00	154.00	077%
21141	09/18/2015	616.00	474.32	077%
21147	07/31/2014	1777.20		000%
CLAIM WAS PREVIOUSLY APPROVED				
21148	10/20/2014	77.00		000%
PAST FILING DEADLINE				
21149	07/02/2015	50.00	38.50	077%
21152	09/13/2015	378.00		000%
CLAIM WAS PREVIOUSLY APPROVED				
21153	09/14/2015	316.40		000%
CLAIM WAS PREVIOUSLY APPROVED				
21154	09/15/2015	149.60		000%
CLAIM WAS PREVIOUSLY APPROVED				
21155	04/16/2015	681.50	524.76	077%
21177	10/28/2015	1120.00	862.40	077%
21178	07/14/2015	396.80		000%
DATE OF SERVICE NOT ELIGIBLE FOR PAYMENT				
21179	08/08/2015	612.40		000%
DATE OF SERVICE NOT ELIGIBLE FOR PAYMENT				
21180	08/05/2015	95.80		000%
DATE OF SERVICE NOT ELIGIBLE FOR PAYMENT				
21181	08/24/2015	54.40		000%
DATE OF SERVICE NOT ELIGIBLE FOR PAYMENT				
21142	10/09/2015	251.00	193.27	077%
21182	08/28/2015	538.80	414.88	077%
21183	10/26/2015	670.40	516.21	077%
21184	10/13/2015	922.40	710.25	077%
21185	11/12/2015	50.00	38.50	077%
21186	10/28/2015	1002.00	771.54	077%
21187	11/06/2015	144.56	111.31	077%

FACILITY: LINCOLN COUNTY MEDICAL CENTER 12/15/2015 THROUGH 12/15/2015

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID	
21139	11/09/2015	118.00	90.86	077%
21140	10/09/2015	200.00	154.00	077%
21141	09/18/2015	616.00	474.32	077%
21147	07/31/2014	1777.20		000%
CLAIM WAS PREVIOUSLY APPROVED				
21148	10/20/2014	77.00		000%
PAST FILING DEADLINE				
21149	07/02/2015	50.00	38.50	077%
21152	09/13/2015	378.00		000%
CLAIM WAS PREVIOUSLY APPROVED				
21153	09/14/2015	316.40		000%
CLAIM WAS PREVIOUSLY APPROVED				
21154	09/15/2015	149.60		000%
CLAIM WAS PREVIOUSLY APPROVED				
21155	04/16/2015	681.50	524.76	077%
21177	10/28/2015	1120.00	862.40	077%
21178	07/14/2015	396.80		000%
DATE OF SERVICE NOT ELIGIBLE FOR PAYMENT				
21179	08/08/2015	612.40		000%
DATE OF SERVICE NOT ELIGIBLE FOR PAYMENT				
21180	08/05/2015	95.80		000%
DATE OF SERVICE NOT ELIGIBLE FOR PAYMENT				
21181	08/24/2015	54.40		000%
DATE OF SERVICE NOT ELIGIBLE FOR PAYMENT				
21142	10/09/2015	251.00	193.27	077%
21182	08/28/2015	538.80	414.88	077%
21183	10/26/2015	670.40	516.21	077%
21184	10/13/2015	922.40	710.25	077%
21185	11/12/2015	50.00	38.50	077%
21186	10/28/2015	1002.00	771.54	077%
21187	11/06/2015	144.56	111.31	077%
21188	11/03/2015	335.00	257.95	077%
21144	10/09/2015	147.00	113.19	077%
21143	08/07/2015	72.00	55.44	077%
21192	10/20/2015	797.00	613.69	077%
21145	09/18/2015	147.00	113.19	077%
21146	10/09/2015	104.00	80.08	077%
21196	03/31/2015	2034.60		000%
CLAIM WAS PREVIOUSLY APPROVED				
21197	10/21/2015	1008.00	776.16	077%
21198	10/19/2015	1260.00	970.20	077%
21199	10/26/2015	430.20	331.25	077%
21200	11/12/2014	507.40		000%
DATE OF SERVICE NOT ELIGIBLE FOR PAYMENT				

8211.95

APPROVED- 22 REJECTED- 11

# INDIGENT HEALTH CARE CLAIMS FISCAL YEAR 2015 - 2016

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$30,530.44

ADJUSTMENTS

NMCC Claim # 20850	51.79
NMCC Claim # 15122	31.21
NMCC Claim #'s 20954, 20986, 21013 & 21014	1325.37
NMCC Claim # 19024	882.83

**TOTAL ADJUSTMENTS:** 2291.2

DECEMBER # CLAIMS FOR APPROVAL	29
# CLAIMS FOR DENIAL	0
DECEMBER # TOTAL CLAIMS	29

DECEMBER TOTAL \$ AMOUNT APPROVED \$4,727.32

TOTAL # CLAIMS THIS FY APPROVED	49
TOTAL # CLAIMS THIS FY DENIED	7
TOTAL # CLAIMS FY 2015 - 2016	56

CURRENT TOTAL APPROVED THIS FISCAL YEAR \$35,257.76  
\*Assuming the above is approved

FACILITY: FRONTIER MEDICAL

12/15/2015 THROUGH 12/15/2015

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
21193	11/16/2015	220.00	220.00 100%
			220.00

APPROVED- 1 REJECTED-

FACILITY: GERALD CHAMPION REGIONAL MED CTR 12/15/2015 THROUGH 12/15/2015

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
21150	08/12/2015	520.00	400.40 077%
21151	09/29/2015	50.00	38.50 077%
21156	07/07/2015	362.22	278.91 077%
21157	07/09/2015	57.77	44.48 077%
21158	07/17/2015	453.92	349.52 077%
21159	07/20/2015	355.56	273.78 077%
21160	07/22/2015	100.39	77.30 077%
21161	07/23/2015	87.77	67.58 077%
21162	07/24/2015	321.57	247.61 077%
21163	07/25/2015	304.13	234.18 077%
21164	07/27/2015	87.77	67.58 077%
21165	07/28/2015	696.08	535.98 077%
21166	07/29/2015	100.39	77.30 077%
21167	07/30/2015	228.36	175.84 077%
21168	07/31/2015	100.39	77.30 077%
21169	08/03/2015	134.18	103.32 077%
21170	08/04/2015	100.39	77.30 077%
21171	08/05/2015	100.39	77.30 077%
21172	08/06/2015	228.36	175.84 077%
21173	08/07/2015	100.39	77.30 077%
21174	08/10/2015	134.18	103.32 077%
21175	08/11/2015	100.39	77.30 077%
21176	08/12/2015	100.39	77.30 077%
21189	10/21/2015	199.34	153.49 077%
21190	06/30/2015	66.45	51.17 077%
21191	10/21/2015	199.34	153.49 077%
21194	07/22/2015	106.80	82.24 077%
21195	07/26/2015	456.74	351.69 077%
			4507.32

APPROVED- 28 REJECTED-

INDIGENT FUND MEETING

DECEMBER 15, 2015

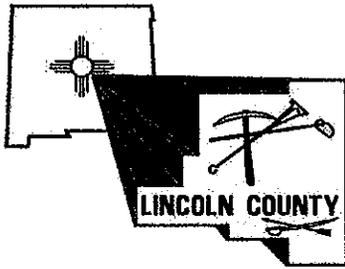
TOTAL APPLICATIONS	62	12,939.27
TOTAL APPROVED	51	
TOTAL DENIED	11	
RUIDOSO		
FRONTIER MEDICAL		220.00
APPROVED-	1	
DENIED-		
ALAMOGORDO		
GERALD CHAMPION REGIONAL MED CTR		4,507.32
APPROVED-	28	
DENIED-		
RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		8,211.95
APPROVED-	22	
DENIED-	11	

YTD

INDIGENT FUND MEETING

DECEMBER 15, 2015

TOTAL APPLICATIONS	171	124,093.65
TOTAL APPROVED	146	
TOTAL DENIED	25	
RUIDOSO		
DONA ANA MEDICAL SUPPLY DBA LINC		279.68
APPROVED-	3	
DENIED-		
RUIDOSO		
FRONTIER MEDICAL		1,100.00
APPROVED-	2	
DENIED-		
ALAMOGORDO		
GERALD CHAMPION REGIONAL MED CTR		13,607.09
APPROVED-	34	
DENIED-	1	
RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		88,835.89
APPROVED-	97	
DENIED-	18	
ALTO		
LINCOLN COUNTY RADIOLOGY		987.91
APPROVED-	2	
DENIED-	1	
RUIDOSO		
MICHAEL P CLEMENTS, M.D.		
APPROVED-		
DENIED-	3	
ALBUQUERQUE		
NEW MEXICO ONCOLOGY HEMATOLOY		985.38
APPROVED-	4	
DENIED-	2	
ALBUQUERQUE		
PRESBYTERIAN HOSPITAL		17,297.70
APPROVED-	2	
DENIED-		
RUIDOSO		
RUIDOSO HOME CARE & HOSPICE		1,000.00
APPROVED-	2	
DENIED-		



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# County of Lincoln

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

## Agenda Item 17

December 10, 2015

### MEMORANDUM

**TO:** County Commissioners  
**FROM:** Nita Taylor, Lincoln County Manager  
**SUBJECT:** Manager's Report

1. **Carrizozo Senior Center.** The Carrizozo Sr. Center is progressing on schedule. Project Manager Ricardo Maldonado from Wilson & Company maintains a close oversight, and reports that submittals have been timely received from Contractor Ryan Roper, and have been uploaded accordingly. The numerous submittals include: 1. Plumbing (piping specialties, equipment, fixtures); 2. HVAC (fire damper, ceiling fans, air distribution, kitchen hood, RTUs, Unit Heaters, Split System) and 3. Electrical (conductors & cables, grounding & bonding, raceways & boxes, panelboards, wiring devices, lighting, lighting control panels).

Contractor Ryan Roper reported on December 3<sup>rd</sup> that the building had been over-excavated and engineer fill will be brought in soon to allow proceeding with earthwork, followed by foundation work and the plumbing rough-in. Mr. Roper reported that he applied for the building permit in October, and had still not received it as of that date. (CID was implementing a new program, causing issuance of permits to be delayed).

Completion of this project is of significant value to all residents of Lincoln County. Not only will this newly constructed center serve the Town of Carrizozo, but also headquarter the Director and staff of the Zia Sr. Centers for the entire county. Manager proposes a Commission-led ground-breaking ceremony at its January 26<sup>th</sup> meeting.

2. **SpyGlass Group, LLC.** Based on Commission concurrence and direction, the County entered into Agreement in May of this year with SpyGlass Group, LLC to have a Snapshot Audit conducted to analyze primary telecommunications service accounts, including local voice, long distance voice, data, and internet and wireless services. The purpose the audit was to seek cost recovery, service elimination and cost reduction recommendations. Upon completion, SpyGlass was to share its findings, deliver its recommendations, implement recommendations with telecommunications providers, and deliver a complete telecommunications inventory to the County. SpyGlass did just that:

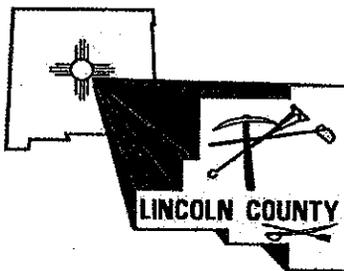
- Total Land-line forward-looking annual cost savings: \$12,324.12
- Credit for incorrect past tax assessments: \$ 7,276.94
- Total wireless forward-looking annual cost savings: \$ 1,439.40
- Annual Savings based on new spending agreements negotiated: \$ 7,308.00

Total contractual fee to SpyGlass was:

- ½ of the cost recovery for incorrect tax Assessments: \$ 3,638.47
- 12 months annual cost savings for land-line service: \$ 12,324.12
- 12 months annual cost savings for wireless service: \$ 1,439.40

The true savings will be in following years as annualized reductions in telecommunication costs are realized. The SpyGlass audit team was professional, thorough, and accommodating to work with. Manager highly recommends their services to other governmental entities.

3. **Building Maintenance** is never ending. The entire County Complex has been re-roofed, except for the Commission Chambers / Managers Building. Roof leakage, as evidenced by the water-stained ceiling tiles throughout the building, is prevalent. This condition was brought to the County's attention earlier this year following a NMAC building inspection. Projected cost for complete re-roof is \$83,500. Manager requests Commission concurrence for this maintenance job, as the funds have been previously budget and approved by Commission.
4. **El Capitan Mine.** Manager received response from El Capitan Mine attorney that he could host a mid-December date (13<sup>th</sup> or 15<sup>th</sup>) for a Commission tour. Due to the timing of the December Commission meeting, an alternative January date has been requested.
5. **Hats-Off – Yovanne Lucero.** Lincoln County's already-busy Chief Deputy Assessor just got busier upon her swearing into the office of the Mayor of the Town of Carrizozo. Ms. Lucero has served as Mayor Pro Tem since 2014, and became Mayor upon the resignation of former Mayor Wes Lindsay on November 10<sup>th</sup> due to health reasons. Ms. Lucero, lifelong resident of Lincoln County, graduated from Hondo High School, followed by obtaining her Bachelor's Degree from the University of New Mexico in Psychology/Criminology. After being hired by the Lincoln County Assessor's Office in November 2007, she attended and graduated from ENMU-Las Cruces with a double major in Public Administration and Criminal Justice. Congratulations to Yovanne Lucero!
6. **Departmental Updates:**
  - a. Finance – Punkin Schlarb
  - b. Roads – Bill Cupit
  - c. Planning – Curt Temple
  - d. EOC – Joe Kenmore
  - e. Human Resources – Billie Joe Guevara
  - f. Senior Centers – Renee Montes



# County of Lincoln

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## AGENDA ITEM 18

December 6, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

**SUBJECT:** Hondo Volunteer Fire Department Payoff of Loan

**Purpose:** To obtain approval for Hondo Volunteer Fire Department to Pay off its New Mexico Finance Authority Loan for Class-A Engine

### Discussion:

The Hondo Fire Department would like to pay off its existing loan with NMFA for a Class-A Engine with an outstanding balance of \$77,000.00. Hondo Fire Chief Coleman and Emergency Operations Director Kenmore have worked with Finance Director Schlarb to ensure existing funds are adequate to cover this early pay off and meet other financial obligations. Permission was sought and obtained from the New Mexico State Fire Marshal to commit the Hondo Fire District's fire protection funds to pay off the outstanding balance of this loan. See **Enclosure 1**. See **Enclosure 2** for correspondence from Hondo Fire Department to the New Mexico Finance Authority requesting the early pay off of the existing loan.

**Recommendation:** Authorize the Hondo Volunteer Fire Department to pay off its current loan to NMFA.

# NEW MEXICO PUBLIC REGULATION COMMISSION

## COMMISSIONERS

DISTRICT 1 KAREN L. MONTROYA, CHAIRPERSON  
DISTRICT 2 PATRICK H. LYONS  
DISTRICT 3 VALERIE ESPINOZA  
DISTRICT 4 LYNDA LOVEJOY, VICE CHAIRPERSON  
DISTRICT 5 SANDY JONES



1120 Paseo De Peralta 4<sup>th</sup> Floor, Rm# 413  
P.O. Box 1269  
Santa Fe, NM 87504

## STATE FIRE MARSHAL DIVISION

*John Standefer, State Fire Marshal*  
1-800-244-6702 or (505) 476-0174

## INTERIM CHIEF OF STAFF

Andrea Delling

## STATE FIRE SERVICE SUPPORT BUREAU

December 1, 2015

Joe Kenmore, Director  
Lincoln County Fire & Emergency Services  
111 Copper Ridge Rd.  
Angus, NM 88316

Reference: Payoff of loan for Hondo FD

Dear Joe,

In response to your request dated December 1, 2015, in regards to paying off an outstanding loan for the Hondo Fire District. You advise that there is an outstanding loan through the New Mexico Finance Authority for a Class-A Engine with an outstanding balance of \$77,000.00.

**Your request is approved; you are authorized to commit The Hondo Fire District's Fire Protection funds in the amount of \$77,000.00 to pay off the outstanding balance of The loan.**

If I may be of further assistance, please feel free to contact me at (505) 470-1997.

Respectfully,

A handwritten signature in black ink, appearing to read "Rudy F. Padilla".

Rudy F. Padilla  
Fire Department Inspector  
New Mexico State Fire Marshal Division

XC: Nita Taylor, Lincoln County Manager  
Vernon Muller, Deputy State Fire Marshal  
File

1 888 4 ASK PRC  
[www.nmprc.state.nm.us](http://www.nmprc.state.nm.us)

**PRC**  
Working for You!

ENCL 1



**County of Lincoln**  
**Fire and Emergency Services**  
Fire Administration

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• 111 Copper Ridge Rd. Angus, NM 88316 • Phone: (575) 336-8600/FAX: (575) 336-8638 •

December 1, 2015

LaRain K. Valdez  
New Mexico Finance Authority  
207 Shelby Street  
Santa Fe, NM 87501

Ms. Valdez,

The Hondo Valley Volunteer Fire Department currently has an outstanding loan with the New Mexico Finance Authority in the amount of \$77,000.00. We are planning on paying off our current loan and placing a down payment with a new loan with the NM Finance Authority for the purchase of a new piece of apparatus.

The Hondo Valley Volunteer Fire Department has currently reduced its Insurance Service Office (ISO) rating from a class 8 to a class 6. This reduction and the increase in our annual budget, due to the new ISO rating, has made it financially possible for us to pay off our current loan amount. The Hondo Valley Volunteer Fire Department is currently researching the purchase of a new urban interface engine (which is a structure and wildland truck combination).

We are short one engine to be placed at the Picacho station and the new purchase will fulfill this need. The New Mexico Finance Authority is requesting at least one financial representative to sign this letter authorizing the Hondo Valley Volunteer Fire Department in paying off its current loan. Your consideration in this matter is greatly appreciated.

Sincerely,

Arron Griewahn  
Asst. Fire Chief  
575-937-7639

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Preston Stone, Chairman

---

Date



**County of Lincoln**  
**Fire and Emergency Services**  
Fire Administration

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• 111 Copper Ridge Rd. Angus, NM 88316 • Phone: (575) 336-8600/FAX: (575) 336-8638 •

\_\_\_\_\_  
Dallas Draper, Vice Chairman

\_\_\_\_\_  
Date

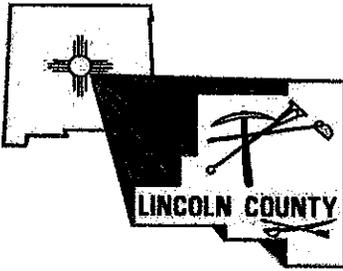
\_\_\_\_\_  
Nita Taylor, County Manager

\_\_\_\_\_  
Date

ATTESTED BY:

\_\_\_\_\_  
Rhonda B Burrows, County Clerk

\_\_\_\_\_  
Date



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# County of Lincoln

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## AGENDA ITEM 19

December 6, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

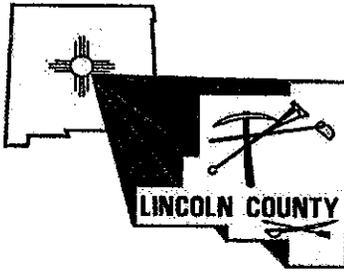
**SUBJECT:** Annual Capital Assets Inventory Certification

**Purpose:** To Certify the Annual Inventory Listing

### Discussion:

As directed by the Lincoln County Board of Commissioners, the Finance Director has supervised his year's annual inventory of chattels and equipment valued at over \$5,000. In accordance with generally accepted auditing procedures, and in order to meet the annual requirements for certification as specified in State Statute 12-6-10, we hereby certify the listing for property over \$5,000 for Lincoln County.

**Recommendation:** Approve and sign the attached Annual Inventory Certification.



# County of Lincoln

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December 15, 2015

RPC CPAs + Consultants, LLP  
Attn.: Zoë Vergas  
PO Box 3130  
Albuquerque, NM 87190-3130

**RE: Annual Inventory Certification for FY 2014-2015**

Ms. Vergas,

For FY 2014-2015, this year's annual inventory of chattels and equipment valued at \$5,000 and above, known as capital assets, has been determined in accordance with generally accepted auditing procedures, and meets the annual requirements for certification as specified in state statute 12-6-19:

Total capital assets not being depreciated: \$2,074,068 – which represents a decrease of \$3,644,700 over FY 2013-2014 ending value of \$5,718,768 and includes land, intangible assets and construction in progress.

Total capital assets being depreciated \$80,137,063 – which represents additions of \$6,672,011 and deletions of \$856,247 resulting in a net increase of \$5,815,764 over FY 2013-2014 ending value of \$74,321,299 and includes completed buildings, equipment, infrastructure and other additions.

In addition, the annual inventory for FY 2014-2015 of all recorded fixed assets, which includes all assets subject to annual physical inventory; stewardship assets valued \$4,999 and below plus capital assets valued at \$5,000 and above was

Total fixed assets: \$82,211,131 – which represents an increase of \$2,171,064 over FY 2013-2014 ending value of 80,040,067. These figures have been reviewed by our auditors

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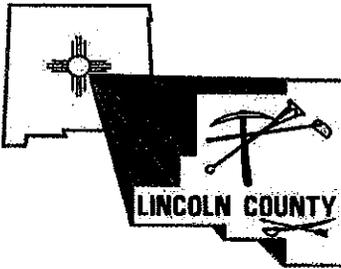
Preston Stone, Chairman  
Lincoln County Board of Commissioners

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Nita Taylor  
County Manager

County Manager's Fax  
(575) 648-4182

Finance/Purchasing Fax  
(575) 648-2381



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# County of Lincoln

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## AGENDA ITEM 20

December 6, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager 

**SUBJECT:** Catron County Wolf Presentation

**Purpose:** To Consider Information Provided by Catron County Commissioner Anita Hand and Catron County Manager Kate Fletcher Regarding Catron County's Wolf Program

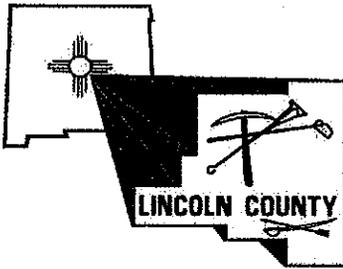
### Discussion:

At its November 17, 2015 meeting, the Commission unanimously approved Resolution 2015-22 opposing the Federal Fish and Wildlife Service's plan to enlarge the Mexican Wolf Experimental Population recovery area in Arizona and New Mexico.

The Commission also discussed the possibility of increasing the authority and jurisdiction of the County Sheriff for the protection of residents and livestock from wolves. Mr. Morel reminded the Commission that governance and regulation of endangered species is heavily preempted by Federal Authority.

Commissioners and Sheriff are aware of actions taken by the Catron County Commission to develop policies and practices to deal with wolf-human incidents. Catron County Commission Anita Hand and Manager Kate Fletcher graciously accepted our invitation to provide the Commission with an overview of actions taken and current status.

**Recommendation:** Consider information presented, and provided direction, if necessary.



# County of Lincoln

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## AGENDA Item No. 21.a

December 6, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager

**SUBJECT:** Lincoln County Medical Center – Timing of Voter Approval

**DISCUSSION:** During its April 21, 2015 meeting the Commission unanimously approved the option presented by Lincoln County Medical Center and Dekker/Perich/Sabatini Architectural Firm to renovate and remodel the existing hospital at a cost to be financed in the amount of \$25 - \$30 million.

Subsequent to that unanimous support of renovating and remodeling the hospital, the Commission has discussed and considered a number of times the funding options and the timeline associated with each option. During the November 17<sup>th</sup> meeting, all options were discussed, including a General Obligation Bond, the imposition of additional GRT increments and the timing of taking the matter to the public for voter approval. Also considered by the Commission are the processes to apply for various types of loans, including a New Mexico Finance Authority loan and a USDA Loan. The USDA loan application process is lengthier, as it would likely require a new environmental study as well as a fully designed project prior to submission of the application.

Because an investment of this magnitude will be borne by the Lincoln County taxpayers for many years, the Commission leaned toward taking the matter to the voters by way of a special or general election. Clerk Burrows prepared a memo addressing the "Timeline to Conduct Special Election". See **Enclosure 1**. The letter illustrates statutory restrictions and other considerations, such as when municipal elections and other special elections are scheduled, perhaps impacting voter willingness to support additional taxes:

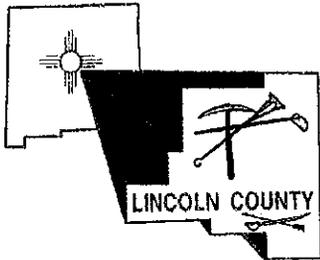
1. The special elections shall not be held within fifty days prior to or following a statewide election;
2. A local government ballot question by the Board of County Commissioners can appear on the general election ballot;
3. The Ruidoso School District plans to schedule a special election in February for an \$18 million General Obligation Bond revenue option;
4. Municipal elections are held on March 1<sup>st</sup>; Village of Ruidoso plans on a \$3 million General Obligation Bond revenue option;
5. The last date to hold a Special Election prior to the June election is April 12, 2016;
6. The last date to hold a Special Election prior to the November election is September 13, 2016;

The Commission found itself in a quagmire due to the pros, the cons and the conflicts associated with the multiple factors to be considered:

1. LCMC Administrator informed the Commission that the hospital's next JCAHO inspection was scheduled in June 2017 and expressed belief that postponement of voter approval of financing until the 2016 General Election could affect the hospital's reaccreditation. He also stated if the voters did not approve a bond for renovation and remodel, LCMC's risk for loss of licensure would increase.
2. There is no mention in the Accreditation Quality Report issued by The Joint Commission (JCAHO) to Lincoln County Medical Center that its accreditation is at risk due to the physical condition of the building; other healthcare professionals have stated that the risk of loss of licensure of LCMC has been overstated.
3. If the Commission's choice is to apply for a USDA loan, an architectural firm must be contracted to complete the design prior to the submittal of the loan application, at an approximate cost of \$2 million;
4. If the voters do not pass the bond issue or tax increment, the \$2 million design is for naught;
5. Will the voters pass a bond issue or tax increment just following those special elections held by the Village of Ruidoso and the Ruidoso School District;
6. If the voters do pass the bond issue or tax increment revenue option, architectural design can commence;
7. Once the six-month architectural design is complete, construction can commence;
8. The longer the timeline to start and finish the design, the more likely the construction costs will increase by approximately \$40,000 per month;
9. If the voters do not pass the General Obligation Bond issue or tax increment revenue option, a less costly construction option will have to be considered.

For the Commission to be able to make its most informed decision on the spending of this magnitude of public funds, it is critical to validate LCMC's statement that it will lose accreditation and licensure if construction does not start early in 2017, or if voter approval for funding is postponed until the General Election.

**Recommendation:** Determine if Commission has adequate information to set the date for an election for voter approval of hospital funding. If not, direct Manager to provide additional information for subsequent Commission consideration. If so, set the date.



# LINCOLN COUNTY CLERK

Rhonda B. Burrows, County Clerk Whitney E. Whittaker, Chief Deputy Clerk

300 Central Ave. • P.O. Box 338 • Carrizozo, New Mexico 88301-0970  
(575) 648-2394 ext. 6 • Fax (575) 648-2576 • (800) 687-2705 ext. 6  
[www.lincolncountynm.gov](http://www.lincolncountynm.gov)

## Memo

**From:** Rhonda Burrows, County Clerk  
**To:** Nita Taylor, County Manager; Alan Morel, County Attorney  
**Date:** 10/02/2015  
**Re:** Timeline for conduct of Special Election

---

As per your request we have researched the timeline of events associated with the Special Election process. As you know 2016 is a Presidential Election year with the Primary Election set for June 7, 2016 and the General Election set for November 8, 2016. State Statute limits the timing of any special election as described below:

### **1-12-71. Restriction on local government elections.**

No municipal, school, county or special district election shall be held within fifty days prior to or following any statewide election. This section does not prohibit a local government ballot question authorized by the board of county commissioners from appearing on the general election ballot.

Based on this statute we presume the last date to hold a Special Election prior to the June Primary Election is April 18, 2016 however this falls on a Monday, therefore we have calculated a timeline from the Tuesday prior or April 12, 2016. Similarly the last date prior to the November General Election is September 19, 2016 also a Monday, again calculating a timeline from the Tuesday prior or September 13, 2016. While there is no statutory obligation to conduct an election on a Tuesday it is a customary day of the week familiar to voters.

Obviously the Board of County Commissioners would need to adopt the Resolution and issue the Proclamation for any Special Election prior to the "Publish the Proclamation" date. I have attached a copy of NMSA 1-24-2 for information related to the proclamation

Other considerations and dates to remember include: Municipal Elections are set for March 1, 2016; other entities such as the Ruidoso School District may schedule a special election; and there are a limited number of resources such as voting machines to accommodate all of these processes.

I have included the timeline of events based on this "last day to hold a special election" scenario and you will note the timing of events follow in a defined sequence based upon the actual date of the election.

As a reminder the dates of April 12, 2016 or September 13, 2016 are utilized as examples only to illustrate the timelines. As the County Clerk I would request input on any decision regarding a final date for scheduling a Special Election based upon the other considerations and dates previously discussed.

### **Special Election prior to the Primary Election of June 7, 2016**

Special Election Date: April 12, 2016  
Early Vote: March 26, 2016 (the third Saturday before)  
Books Close: March 15, 2016 (28 days before)  
Absentee: March 15, 2016 (28 days before)  
Overseas voter: March 3, 2016 (40 days before)  
Publish Proclamation: February 16, 2016 (56 days before)

### **Special Election prior to the General Election of November 8, 2016**

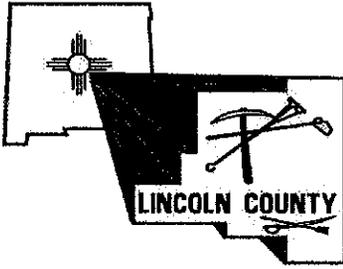
Special Election Date: September 13, 2016  
Early Vote: August 27, 2016 (the third Saturday before)  
Books Close: August 16, 2016 (28 days before)  
Absentee: August 16, 2016 (28 days before)  
Overseas voter: August 4, 2016 (40 days before)  
Publish Proclamation: July 19, 2016 (56 day before)

**1-24-2. Special election procedures; proclamation; publication.**

A. Whenever a local government special election is to be called or is required by law, the governing body shall by resolution issue a public proclamation calling the election. The proclamation shall forthwith be filed with the county clerk. The proclamation shall specify:

- (1) the date on which the special election will be held;
- (2) the purpose for which the special election is called;
- (3) if officers are to be elected or positions on the governing body are to be filled, the date on which declarations of candidacy are to be filed;
- (4) if a question is to be voted upon, the text of that question;
- (5) the precincts in each county in which the election is to be held and the location of each polling place in the precinct;
- (6) the hours that each polling place will be open; and
- (7) the date and time of closing the registration books by the county clerk as required by law.

B. After filing with the county clerk the proclamation issued pursuant to Subsection A of this section, and not less than fifty-six days before the date of the election, the governing body shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation within the boundaries of the local government or special district. The proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended.



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# County of Lincoln

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

## AGENDA Item No. 21.b

December 6, 2015

### MEMORANDUM

**TO:** County Commissioners

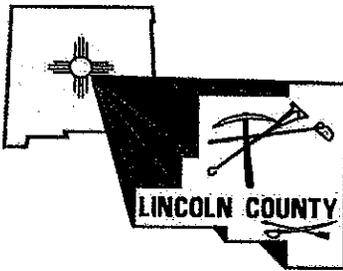
**FROM:** Nita Taylor, Lincoln County Manager 

**SUBJECT:** Lincoln County Medical Center – Hiring of Architectural Firm

**DISCUSSION:** During its November 17, 2015 meeting the Commission postponed the decision of whether to hire the Dekker/Perich/Sabatini Architectural Firm for the design of the hospital renovation to this December meeting. The estimated cost for the design project is approximately \$2 million. There are two factors most relevant to this decision:

1. If the Commission wants to pursue the filing of the loan application with the USDA, the completed design of the project must accompany the loan application; the timeline for design completion is six months;
2. If the design work commences prior to a special or general election for voter approval of funding, and the voters do not approve, the \$2 million is for naught.

**Recommendation:** Do not enter into an architectural design contract until after voter approval is obtained. Once approved, consider filing loan application with New Mexico Finance Authority, which does not require full design to accompany loan application.



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# County of Lincoln

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## AGENDA ITEM NO. 22

December 9, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager

**SUBJECT:** Bid Award 15-16-004

**Purpose:** To consider options in awarding bid for Janitorial Services – Lincoln County Courthouse Complex

### Discussion:

**Responses to Bid 15-16-004 – Janitorial services – Lincoln County Courthouse Complex** were due on Tuesday, December 8, 2015. See Enclosure 1 for the specifications for this job. A mandatory pre-bid meeting was held at the Lincoln County Complex, of which one local contractor attended.

One contractor responded to the bid:

1. R&B Cleaning                      \$6,800 / Month = \$81,600 a year

This sole bid is substantially higher per square foot than that contained in the existing contact. The total square footage increased from 38,000 to 45,000 square feet; and the price per square foot increased from \$0.08 to \$0.15 per square foot.

In year's past, the custodial position has been held by county employees. As two employees could be hired for comparable costs of contracting this work out, assessment should be given to the benefits of having this work done internally vs contracting the work out.

**Recommendation:** 1) Reject current bid as it is over budget, 2) Authorize Manager to assess the value to the county of hiring staff to perform this work or negotiate with the bidder, R & B cleaning, for a different contractual amount. Should the decision be to contract the work out, contract is to include benchmarks for quality of work performed and a timeline for corrective action. Bid will be awarded upon completion of an acceptable contract between the parties. Should the decision be to hire additional staff, the job will be offered in-house, and if there is no in-house hire, the job will be posted in a newspaper ad and will be submitted immediately.

**COUNTY OF LINCOLN  
Carrizozo, NM 88301**

**Invitation to Bid  
15-16-004**

**Janitorial Services  
Lincoln County Courthouse Complex**

**Due: December 8, 2015  
2:00 p.m. Local Time**

**OVERVIEW**

The County of Lincoln is seeking sealed competitive bids to enter into a pricing agreement for Janitorial Services at its Courthouse Complex in Carrizozo, New Mexico. The agreement will be for a base period of one year from date of award. Upon mutual agreement with the awarded firm, the County of Lincoln requests the option to renew this contract for an additional three one-year terms.

**1. INTRODUCTION**

The County of Lincoln requires Janitorial Services for the entire Lincoln County Court Complex in Carrizozo, NM. The facilities to be maintained are approximately 45,000 total square feet.

**2. SCOPE OF WORK**

Janitorial Services are required for the County of Lincoln at a fixed monthly rate. Lincoln County will provide all trash liners, toilet tissue, paper towels, hand soap, stripper, sealer, wax buffer, spot remover, all other cleaning supplies and equipment provided by vendor.

The cleaning is to include, but not be limited to the following:

To be done daily:

- General office cleaning to include dusting all surfaces including electronic equipment.
- Clean and sanitize all bathrooms, to include toilets, sinks, mirrors, walls, stalls, and floors
- Clean, sanitize and polish water fountains
- Empty wastebaskets and replace liners as needed and place refuse in dumpsters
- Spot clean entrance doors
- Nightly clean up to commence at 5:00 pm
- If a work area is too cluttered to clean, do not clear it off; put a note on that desk or work area stating that it could not be cleaned or provide prior notice to County staff of when dusting or clean-up will be done on that area.

To be done weekly:

- Dust and polish all wood furniture
- Dust all window blinds and window sills
- Plastic chair mats to be cleaned weekly including floor under the mats.
- Clean office chairs (vacuum and dust)
- Clean all floors throughout facilities (tile and carpet) to include vacuuming and mopping

To be done quarterly:

- Stripping, waxing, buffing all floors
- Ceiling fans dusted and cleaned
- Optional Services: Carpet Shampoo (price per square foot to be provided),  
Clean Windows inside and outside (price to be provided)

3. **MANDATORY PRE-BID MEETING**

A mandatory pre-bid meeting will be held at the Lincoln County Courthouse located at 300 Central Avenue, in Carrizozo, New Mexico at 9:00 am on **Monday, November 30, 2015.**

4. **INSURANCE**

Contractor agrees to maintain a policy of general liability and vehicle insurance for the term of this Agreement in the amount at least equal to that specified in the New Mexico Tort Claims Act, NMSA 1978, §41-4-19 (1976), as that statute may be amended from time to time. Contractor shall provide County with proof of General Liability Insurance, Vehicle Insurance, Worker's Compensation Insurance, and a copy of its Contractor's License upon the signing of this Agreement.

5. **BONDING REQUIREMENTS**

See Janitorial Service Bond example attached.

6. **CONTACT**

Orlando Samora, County Purchasing Agent (575) 648-2385 ext. 105 for site and general questions.

**NOTE: DIRECT CONTACT REGARDING THIS BID WITH LINCOLN COUNTY ELECTED OFFICIALS OR LINCOLN COUNTY STAFF, OTHER THAN PURCHASING DEPARTMENT STAFF, FINANCE DIRECTOR, OR COUNTY MANAGER WILL RENDER THE BID NON-COMPLIANT.**

7. **IMPORTANT INFORMATION REGARDING MAIL DELIVERY**

Carrizozo is in a remote section of southern New Mexico. *Normal* mail delivery does not exist here and overnight delivery by any carrier is a myth!

- Within New Mexico allow 3-4 days by regular mail.
- Out of state mail can take 5 days by regular mail.
- If you want UPS, Federal Express or Priority Mail, check with the carrier first they should be able to tell you when your mail *might* arrive in Carrizozo.
- Mail early or hand deliver. The County cannot be responsible for mail delays. Your proposal will be returned unopened if it arrives late. Faxed proposals will not be accepted.

8. **CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

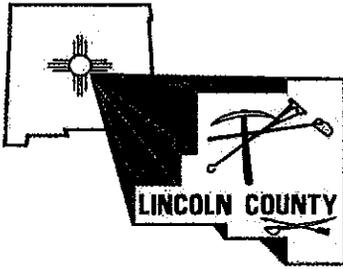
17, 2006 Chapter 81, Laws of 2006 requires and prospective contractor seeking to enter into a contract with any state agency or local public body to file a "Campaign Contribution Disclosure Form" with that state agency or local public body.

**THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.**

9. An in-state resident business/contractor or veterans' preference will be given to all resident New Mexico businesses that have been issued certification by the State of New Mexico. To qualify for the preference, the bidder must list a valid resident business certificate number and shall submit a copy of the certificate with the bid. If you have a question regarding a Resident Business (or Veteran Business) Certification, or wish to be given a number, you may contact the New Mexico State Department of Taxation and Revenue at 505-827-0951. This number is valuable to have as it allows the county to add an additional 5% or more to the final score and could mean a difference in award. Please note that this number is NOT your State CRS Number (i.e. 01-503047-004). In addition, **any preference numbers issued by the NM State Purchasing Office were valid only through December 31, 2011 and must be re-issued through the Taxation and Revenue Department.**

10. **GENERAL INSTRUCTIONS, TERMS AND CONDITIONS**

Lincoln County *General Instructions, Terms and Conditions* are included in this bid and are applicable to it and the resulting award.



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# County of Lincoln

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

## AGENDA ITEM NO. 23

December 10, 2015

### MEMORANDUM

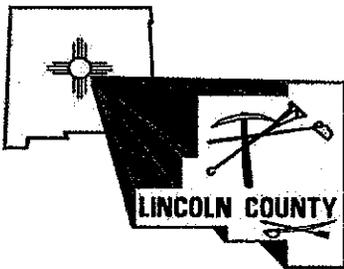
**TO:** County Commissioners  
**FROM:** Nita Taylor, Lincoln County Manager  
**SUBJECT:** Road Department – Superintendent Position

**Purpose:** To Consider Salary Change for Advertised Road Superintendent Position

**Discussion:** The County has advertised for the Road Superintendent position several times in early October at a starting salary of \$50,000, and has received limited response. It was broadly advertised in newspapers across the state, including the Ruidoso News, Lincoln County News, Albuquerque Journal, Roswell Daily Record and El Paso Times. It was also distributed to the New Mexico Association of Counties, the Road Department Affiliate (consisting of all thirty-three counties), the Municipal League, and the Human Resources Affiliate. Of the six applications received, the interview panel selected three to interview. While each brought unique qualifications to the table, none held the all-encompassing qualifications sought for this position. The second job ad was placed in the Ruidoso News with an open application date. No responses have since been received.

Information sought from, and received by other counties disclosed that the range of *starting* salary for this position spans from \$38,000 to \$65,000; and for *top* salary spans from \$58,000 to \$94,000. Manager has held numerous conversations with local industry representatives, from both the private and local government sectors, who advise a starting salary likely to draw strong, highly qualified individuals, would be in the \$65,000 range.

**Recommendation:** Authorize Manager to set the starting advertised salary for Lincoln County Road Superintendent at \$65,000, and to re-advertise immediately for that position.



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# County of Lincoln

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## Agenda Item 24

December 7, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

**SUBJECT:** Attorney's Contract Renewal

**Purpose:** To Consider Renewal of the County Attorney's Contract for Service

### Discussion:

The attorney's current contract for calendar year 2015 is a flat fee of \$15,725.00 plus \$1,356.28 in tax per month, which includes all fees and costs except litigation of individual cases of ordinance violations in magistrate and district courts.

Attorney Morel provided a comparison of actual hours worked by Attorney and his staff and what his fees would have been if he and his staff were compensated at their normal hourly rates. The County has realized a savings of \$66,096 for eleven months this year by utilizing flat rate billing.

Attorney Morel's institutional knowledge of Lincoln County's past and current legal issues enables him to provide the County Commission, other Public Officials, the Manager and our entire Staff with sound legal advice and representation in a manner that minimizes the County's risk.

**Recommendation:** Although Attorney Morel has not proposed to negotiate a new flat rate for calendar year 2016, I recommend the Commission increase his monthly flat fee by 3% (\$471.75 plus tax) to 5% (\$786.25 plus tax).

County Manager's Fax  
(575) 648-4182

Finance/Purchasing Fax  
(575) 648-2381

## AGREEMENT

**THIS AGREEMENT** is made and entered into on the 15th day of December, 2015, by and between the **BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, NEW MEXICO**, whose address is Post Office Box 711, Carrizozo, New Mexico, 88301, hereinafter referred to as "County," and **ALAN P. MOREL, P.A.**, whose address is Post Office Box 1030, Ruidoso, New Mexico, 88355, hereinafter referred to as "Attorney."

1. County hereby retains and employs Attorney, pursuant to the authority conferred upon it by New Mexico Statute, to act under the title of "Lincoln County Attorney," and to render to County and its duly authorized officers and elected officials all legal advice and services to include, but not limited to:
  - A. Representing the County and its duly authorized officers and elected officials in all matters brought by or against said County, during and throughout the continuance of the Agreement, which may be pending or which may hereafter be instituted in the courts of the State of New Mexico and the courts of the United States of America located within the State of New Mexico, and before all administrative agencies and departments of the government;
  - B. Travel to and attending all meetings of the Board of County Commissioners of Lincoln County, New Mexico;
  - C. Travel to and attending all meetings of the New Mexico Association of Counties;
  - D. Routine telephone calls;
  - E. Preparing and/or reviewing all contracts, ordinances, resolutions, franchises, and other miscellaneous documents;
  - F. Advising each of the elected officers and various department heads;
  - G. Handling of routine litigation matters that arise during a fiscal year, such as the receipt, cataloging, and response to Tort Claim Notices, gathering of information and transmission of that information to the New Mexico Association of Counties' defense counsel, and coordination of communication regarding the defense of those matters;

- H. Rendering legal opinions;
  - I. Undertaking all collections as requested;
  - J. Examining Abstracts of Title;
  - K. Performing any and all other legal services as the County or its duly authorized officers or elected officials may request or require from time to time.
2. Attorney hereby accepts the employment by County and will render to the best of his ability the services described herein during the continuance of the Agreement.

Attorney shall have the authority to retain on behalf of County and at the direction of the Board of County Commissioners such other professional assistance as is necessary to Attorney in the performance of this Agreement. Such assistance may include the retention of other legal counsel for specialized matters, and experts or professionals in various fields as required in the performance of this contract.

3. As compensation in full for all services to be rendered during the term of this Agreement by Attorney, County shall pay to Attorney for its services a flat fee of \$15,725.00 per month for work performed by Alan P. Morel, his paralegals, legal assistants and his staff, plus gross receipts tax at the current Village of Ruidoso rate of 8.6250 percent in the amount of \$1,356.28. The sum of \$17,081.28 shall include all fees and costs (mileage, photocopies, postage, facsimile, long distance telephone calls, registration fees, and travel expenses). In the event the Village of Ruidoso's gross receipts tax rate of 8.6250 percent increases or decreases, the gross receipts tax payable herein shall be adjusted accordingly.
4. The flat fee set forth in paragraph 3 above may or may not include extraordinary work or assignments. In such instances, Lincoln County Manager and Attorney shall meet to discuss the particular matter, establish a projected cost, and determine whether it should be handled by the County Attorney's office or forwarded to outside counsel. Post discussion, Lincoln County Manager and the Attorney shall present the matter to the Board of County Commissioners of Lincoln County for their consideration and approval. In certain instances, the Attorney could be conflicted, or be required to appear as a witness, and this contingency would cover such matters as well. In addition, Attorney requests the County continue to pay Attorney on an hourly basis for any litigation matter for which Attorney represents the County. Attorney requests the County continue to pay for the cost of Attorney's legal research software and services, currently obtained through NMOneSource.com.

All work excepted from the flat fee will be billed at an hourly rate of \$150.00 per hour for Attorney, and \$75.00 per hour for paralegals, legal assistants, and support staff. The hourly rate charges will be assessed in fractional portions of an hour, breaking the hour into

segments of one-tenth (1/10) of an hour each, thereby billing one-tenth (1/10) of the hourly amount for each tenth of an hour's work.

Attorney requests that, in the event County Manager resigns for any reason, Attorney immediately be returned to compensation on an hourly basis.

5. The County and Attorney shall establish a budget for collective bargaining issues that may arise during the fiscal year, and those matters shall be handled internally or through assignment to outside counsel or consultants based upon the nature of the matter and economic requirements.
6. A separate fiscal budget line-item shall be established for the payment of litigation costs, filing fees, expert witness fees, deposition and other discovery costs, and document production.
7. This Agreement shall remain in full force and effect for a period of one (1) year from the date hereof or until such time as it is terminated by Attorney upon sixty (60) days written notice or by County upon sixty (60) day written notice that employment is to be so terminated.
  - a. The term of this Agreement shall begin on the 1<sup>st</sup> day of January, 2016.

**IN WITNESS WHEREOF**, the parties have executed this Agreement effective the day and year first above written.

**COUNTY:**

**BOARD OF COUNTY COMMISSIONERS  
OF LINCOLN COUNTY, NEW MEXICO**

**ATTORNEY:**

**ALAN. P. MOREL, P.A.**

By: \_\_\_\_\_  
Preston Stone, Chair

By: \_\_\_\_\_  
Alan P. Morel, President

**ATTEST:**

\_\_\_\_\_  
Rhonda Burrows  
Lincoln County Clerk

## 2015 Legal Services: Actual Time Worked Fees Compared to Contract Fees

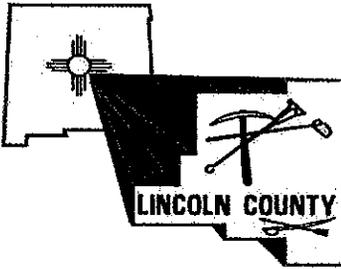
Month	Attorney Hrs @ \$150/hr	Paralegal Hrs @ \$75/hr	Reimb. Expenses	Subtotal	GRT @ 8.6250%	Total	Difference + / (-) \$17,081.28 Monthly Flat Rate		
Jan. 2015	92.0	\$13,800.00	97.1	\$7,282.50	\$500	\$21,582.50	\$1,861.50	\$23,444.00	\$6,362.72
Feb. 2015	95.4	\$14,310.00	85.4	\$6,405.00	\$500	\$21,215.00	\$1,829.80	\$23,044.80	\$5,963.52
Mar. 2015	110.3	\$16,545.00	90.4	\$6,780.00	\$500	\$23,825.00	\$2,054.91	\$25,879.91	\$8,798.63
April 2015	104.8	\$15,720.00	82.4	\$6,180.00	\$500	\$22,400.00	\$1,932.00	\$24,332.00	\$7,250.72
May 2015	79.8	\$11,970.00	84.5	\$6,337.50	\$500	\$18,807.50	\$1,622.15	\$20,429.65	\$3,348.37
June 2015	92.9	\$13,935.00	83.5	\$6,262.50	\$500	\$20,697.50	\$1,785.16	\$22,482.66	\$5,401.38
July 2015	111.0	\$16,650.00	84.3	\$6,322.50	\$500	\$23,472.50	\$2,024.48	\$25,496.98	\$8,415.70
Aug. 2015	90.7	\$13,605.00	58.3	\$4,372.50	\$500	\$18,477.50	\$1,593.67	\$20,071.17	\$2,989.89
Sept. 2015	90.2	\$13,530.00	78.6	\$5,895.00	\$500	\$19,925.00	\$1,718.53	\$21,643.53	\$4,562.25
Oct. 2015	101.9	\$15,285.00	79.6	\$5,970.00	\$500	\$21,755.00	\$1,876.36	\$23,631.36	\$6,550.08
Nov. 2015	97.9	\$14,685.00	86.4	\$6,480.00	\$500	\$21,665.00	\$1,868.60	\$23,533.60	\$6,452.32
<b>TOTAL</b>									<b>\$66,095.58</b>
<b>For 11 Months:</b>	<b>1066.9</b>	<b>\$160,035.00</b>	<b>910.5</b>	<b>\$68,287.50</b>	<b>\$5,500</b>	<b>\$233,822.50</b>	<b>\$20,167.16</b>	<b>\$253,989.66</b>	<b>Total Difference Over \$17,081.28 Monthly Flat Rate Contract Amount For 11 Months</b>
<b>Current Annual Contract: \$17,081.28 (\$15,725.00 plus GRT of \$1,356.28) Per Month x 11 Months = \$187,894.08</b>									
<b>Monthly Average Based on 11 Months</b>	<b>96.99</b>	<b>\$14,548.64</b>	<b>82.78</b>	<b>\$6,207.95</b>	<b>\$500</b>	<b>\$21,256.59</b>	<b>\$1,833.38</b>	<b>\$23,089.97</b>	<b>Monthly Average Difference Over \$17,081.28 Monthly Flat Rate Contract Amount For 11 Months</b>

# 2014 Legal Services: Actual Time Worked Fees Compared to Contract Fees

Month	Attorney Hrs	@ \$150/hr	Paralegal Hrs	@ \$75/hr	Reimb. Expenses	Subtotal	GRT @ 8.6250%	Total	Difference + / (-) \$16,266.59 Monthly Flat Rate
Jan. 2014	107.6	\$16,140.00	47.3	\$3,547.50	\$500	\$20,187.50	\$1,741.17	\$21,928.67	\$5,662.08
Feb. 2014	85.3	\$12,795.00	33.1	\$2,482.50	\$500	\$15,777.50	\$1,360.80	\$17,138.30	\$871.71
Mar. 2014	94.4	\$14,160.00	34.8	\$2,610.00	\$500	\$17,270.00	\$1,489.54	\$18,759.54	\$2,492.95
April 2014	71.1	\$10,665.00	34.0	\$2,550.00	\$500	\$13,715.00	\$1,182.92	\$14,897.92	(\$1,368.67)
May 2014	93.2	\$13,980.00	51.2	\$3,840.00	\$500	\$18,320.00	\$1,580.11	\$19,900.11	\$3,633.52
June 2014	105.1	\$15,765.00	47.1	\$3,532.50	\$500	\$19,797.50	\$1,707.53	\$21,505.03	\$5,238.44
July 2014	129.6	\$19,440.00	84.3	\$6,322.50	\$500	\$26,262.50	\$2,265.14	\$28,527.64	\$12,261.05
Aug. 2014	100.1	\$15,015.00	74.9	\$5,617.50	\$500	\$21,132.50	\$1,822.67	\$22,955.17	\$6,688.58
Sept. 2014	117.1	\$17,565.00	80.6	\$6,045.00	\$500	\$24,110.00	\$2,079.48	\$26,189.48	\$9,922.89
Oct. 2014	104.3	\$15,645.00	80.2	\$6,015.00	\$500	\$22,160.00	\$1,911.30	\$24,071.30	\$7,804.71
Nov. 2014	113.7	\$17,055.00	58.8	\$4,410.00	\$500	\$21,965.00	\$1,894.48	\$23,859.48	\$7,592.89
<b>TOTAL For 11 Months:</b>	<b>1121.5</b>	<b>\$168,225.00</b>	<b>626.3</b>	<b>\$46,972.50</b>	<b>\$5,500</b>	<b>\$220,697.50</b>	<b>\$19,035.14</b>	<b>\$239,732.64</b>	<b>\$60,800.15</b>
Current Annual Contract: \$16266.59 (\$14,975.00 plus GRT of \$1,291.59) Per Month x 11 Months =									<b>\$178,932.49</b>
<b>Monthly Average Based on 11 Months</b>	<b>101.96</b>	<b>\$15,293.80</b>	<b>56.94</b>	<b>\$4,270.23</b>		<b>\$20,063.41</b>		<b>\$21,793.88</b>	<b>\$5,527.28</b>
									<b>Monthly Average Difference Over \$16,266.59 Monthly Flat Rate Contract Amount For 11 Months</b>

# 2013 Legal Services: Actual Time Worked Fees Compared to Contract Fees

Month	Attorney Hrs	@ \$150/hr	Paralegal Hrs	@ \$75/hr	Reimb. Expenses	Subtotal	GRT @ 8.6250%	Total	Difference + / (-) \$15,723.47 Monthly Flat Rate
Jan. 2013	129.7	\$19,455.00	66.6	\$4,995.00	\$500	\$24,950.00	\$2,151.93	\$27,101.93	\$11,378.46
Feb. 2013	87.1	\$13,065.00	49.3	\$3,697.50	\$500	\$17,262.50	\$1,488.89	\$18,751.39	\$3,027.92
Mar. 2013	62.3	\$9,345.00	48.7	\$3,652.50	\$500	\$13,497.50	\$1,164.15	\$14,661.65	(\$1,061.82)
Apr. 2013	126.1	\$18,915.00	66.3	\$4,972.50	\$500	\$24,387.50	\$2,103.42	\$26,490.92	\$10,767.45
May 2013	84.5	\$12,675.00	71.6	\$5,370.00	\$500	\$18,545.00	\$1,599.50	\$20,144.50	\$4,421.03
June 2013	74.1	\$11,115.00	52.2	\$3,915.00	\$500	\$15,530.00	\$1,339.46	\$16,869.46	\$1,145.99
July 2013	102.2	\$15,330.00	60.8	\$4,560.00	\$500	\$20,390.00	\$1,758.64	\$22,148.64	\$6,425.17
Aug. 2013	96.7	\$14,505.00	67.3	\$5,047.50	\$500	\$20,052.50	\$1,729.53	\$21,782.03	\$6,058.56
Sept. 2013	82.4	\$12,360.00	62.0	\$4,650.00	\$500	\$17,510.00	\$1,510.23	\$19,020.23	\$3,296.76
Oct. 2013	85.2	\$12,780.00	55.8	\$4,185.00	\$500	\$17,465.00	\$1,506.35	\$18,971.35	\$3,247.88
Nov. 2013	103.0	\$15,450.00	33.8	\$2,535.00	\$500	\$18,485.00	\$1,594.33	\$20,079.33	\$4,355.86
<b>TOTAL for 11 Months:</b>	<b>1033.3</b>	<b>\$154,995.00</b>	<b>634.4</b>	<b>\$47,580.00</b>	<b>\$5,500</b>	<b>\$208,075.00</b>	<b>\$17,946.43</b>	<b>\$226,021.43</b>	<b>53,063.26</b>
<p style="text-align: center;"><b>Current Annual Contract: \$15,723.47 (\$14,475.00 plus GRT of \$1,248.47) Per Month x 11 Months = \$172,958.17</b></p>									<p style="text-align: center;"><b>Total Difference Over \$15,723.47 Monthly Flat Rate Contract Amount For 11 Months</b></p>
<b>Monthly Average Based on 11 Months</b>	<b>93.9</b>	<b>\$14,090.5</b>	<b>57.7</b>	<b>\$4,325.45</b>		<b>\$18,915.91</b>		<b>\$20,547.40</b>	<b>\$4,823.93</b>
<p style="text-align: center;"><b>Monthly Average Difference Over \$15,723.47 Monthly Flat Rate Contract Amount For 11 Months</b></p>									<p style="text-align: center;"><b>Monthly Average Difference Over \$15,723.47 Monthly Flat Rate Contract Amount For 11 Months</b></p>



# County of Lincoln

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

www.lincolncountynm.gov

AGENDA Item No. 25

December 9, 2015

## MEMORANDUM

**TO:** County Commissioners

**FROM:** *AT*  
Cuft Temple, Acting Lincoln County Manager

**PURPOSE:** To Obtain Approval of Mid-Year Budget Adjustments for FY 15-16 by Resolution 2015-27

**Discussion:** Per statute, Counties may request adjustments to its budgets to accommodate changes in its financial operations during the fiscal year; Commission approval adjustments must be also approved by the Department of Finance and Administration. Resolution 2015-27 includes mid-year line item adjustments to revenues and expenses, and also illustrates line item transfers.

I am highlighting the details of budget items below:

- LCMC lines below are being shifted to create a new LCMC lease fund.

Rental 502-00-1290	-550,000
Lease 502-00-1951	-2,600,000
Professional Services 509-71-2150	+1,070,000
Cap-Out Land Purchase 509-71-2937	+80,000
Architects 509-71-2956	+2,000,000
Total new line amount \$3,150,000	
- Road Department budget increase request to complete plan of operation.

Total Requested \$238,748	
---------------------------	--
- Funding of Lincoln County Waste line item.

Electric 563-84-2107	+8,000
Agreement Equipment 563-84-2538	+273,000
Transition Cost 563-84-2126	+25,000
CAP OUT Equipment 563-84-2921	+343,013
Total new line amount \$649,013	

The remainder of the budget adjustments is due to normal County business fluctuations, and any questions you may have will be addressed at the Commission meeting.

**Recommendation:** Manager has reviewed line item adjustments and recommends approval of Resolution 2015-27, along with any changes the Commission may want, on the line item adjustments attached.

County Manager's Fax  
(575) 648-4182

Finance/Purchasing Fax  
(575) 648-2381

DEPT	DESCRIPTION	INCREASE	DECREASE	TOTAL
411492148	Fire Equipment & Supplies		(12,084)	
411492925	CAP OUT - Vehicle (Pumper/Tanker)	12,084		
	<b>TOTAL NOGAL FIRE</b>			<b>0</b>
412502108	Building Maintenance	14,181		
412502921	CAP OUT - Equipment		(14,181)	
	<b>TOTAL GLENCOE FIRE</b>			<b>0</b>
414912603	CAP OUT - Construction		(170,551)	
414912705	CAP OUT - ROAD (software for fuel tanks)	80,000		
414912913	CAP OUT - Sheriff SUV Vehicles	110,634		
414912920	CAP OUT - Building (Maintenance)	1,373		
414912921	CAP OUT - Equipment/Op Screening Plant	54,354		
414912924	Renovations - New Horizons	39,190		
414912940	ROAD - Transport (change to Screening Plant)		(15,000)	
414912975	Communications Improvements (Dispatch)		(100,000)	
	<b>TOTAL ML CAPITAL OUTLAY</b>			<b>0.00</b>
416972148	Fire Equipment & Supplies	2,361		
416972937	Fac Expansion/Improvements	7,639		
	<b>TOTAL WHITE OAKS FIRE</b>			<b>10,000</b>
418232590	USGS Study Agreement	11,000		
	<b>TOTAL AGREEMENTS</b>			<b>11,000</b>
419522130	Maintenance Vehicle		(6,806)	
419522905	CAP OUT - Bunker Gear	1,753		
419522925	CAP OUT - Vehicles	5,053		
	<b>TOTAL ARABELA FIRE</b>			<b>0</b>
420282548	New Horizons Renovations	70,810		
420282920	White Oaks Fire Station	25,000		
420282920	Hondo Fire Station	210,000		
	<b>TOTAL LEGISLATIVE APPROPRIATIONS</b>			<b>305,810</b>
424692920	CAP OUT - Building	8,088		
424692921	CAP OUT - Equipment/OP		(8,088)	
	<b>TOTAL FIRE ADMINISTRATION SERVICES</b>			<b>0</b>
460812003	Federal - Drug Enforcement Grant		(5,000)	
460812010	FICA		(310)	
460812015	Medicare		(73)	
460812079	Confidential Funds		(4,617)	
	<b>TOTAL JAG</b>			<b>(10,000)</b>
462922920	CAP OUT - Building (Capitan Repeater)	30,000		
	<b>TOTAL HOMELAND SECURITY</b>			<b>30,000</b>

**RESOLUTION 2015-27**  
**A RESOLUTION ADJUSTING THE 2015-2016**  
**BUDGET FOR LINCOLN COUNTY**

**WHEREAS**, THE Lincoln County Board of Commissioners, meeting in regular session on December 15, 2015, did review requests for adjustment to the 2015-2016 Budget; and

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

**NOW, THEREFORE, BE IT RESOLVED** that the County of Lincoln, Board of Commissioners is respectfully requested to approve this resolution with the following adjustments:

**ATTACHMENTS:**

Schedule of Budget Adjustments  
Mid-Year Budget Worksheets FY 2015-2016

**PASSED, APPROVED AND ADOPTED** this 15<sup>th</sup> day of December 2015.

**BOARD OF COMMISSIONERS**  
**LINCOLN COUNTY, NEW MEXICO**

\_\_\_\_\_  
Preston Stone, Chairman

\_\_\_\_\_  
Dallas Draper, Vice-Chairman

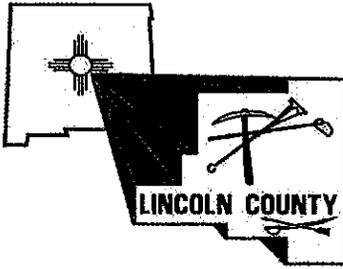
\_\_\_\_\_  
Elaine Allen, Member

\_\_\_\_\_  
Dr. Lynn Willard, Member

\_\_\_\_\_  
Thomas F Stewart, Member

ATTEST:

\_\_\_\_\_  
Rhonda B Burrows, County Clerk



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# County of Lincoln

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## Agenda Item 26

December 7, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager

**SUBJECT:** Appointments and Removals from Boards/Commissioners Committee Update

#### Discussion:

Consider and appoint/reappoint the following member to the committee:

- Lincoln Historic Preservation Board-Becky Borowski

The following are the Boards/Commissioners Committee that still needs members appointed:

- Land and Natural Resources Advisory Committee - one position
- Planning Commission - two positions
- Senior Citizens Olympic Committee – one position
- Road Task force needs one Commissioner and one additional private citizens appointed to this committee.

**Recommendation:** Appoint Becky Boarowski to the Lincoln Historic Preservation Board and continue to look for members for LANRAC, Planning Commission, Senior Citizens Olympic Committee and the Road Task Force Committee.

## Billie-Jo Guevara

---

**From:** Nita Taylor  
**Sent:** Tuesday, December 01, 2015 2:30 PM  
**To:** Billie-Jo Guevara  
**Cc:** Nita Taylor  
**Subject:** FW: Lincoln historic preservation board

Billie,

See following message. Please add Becky Borowski's name as a candidate for a member on the Lincoln Historic Preservation Board.

Thanks.

-----Original Message-----

**From:** B B [<mailto:becky.borowski@gmail.com>]  
**Sent:** Tuesday, December 01, 2015 11:51 AM  
**To:** Nita Taylor <[NTaylor@lincolncountynm.gov](mailto:NTaylor@lincolncountynm.gov)>  
**Subject:** Lincoln historic preservation board

I have decided it is my turn serve my community on the Lincoln Historic Preservation Board. I have lived in this community for about 35 years and have watched from the sidelines as many have tirelessly worked to be good stewards to preserve this piece of history. You included. Now, I believe, I will throw my hat into the ring! I have looked online for an application for consideration and have found none.

Please consider this my request.

Becky Borowski  
Sent from my iPhone

**AND NATURAL RESOURCES ADVISORY COMMITTEE - 2 YEAR TERM (ORDINANCE NO. 2008-4)**

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
DIST 1	Pete Gnatkowski Vice Chairman linceo.ln@nmsu.edu	HC 31, Box 48, Carrizozo, NM		02/17/15	02/2017
DIST 2	Mary Ann Siegel-Russ siegbleg1@hotmail.com	104 Plumas Place, Ruidoso 575-937-0720		10/12/14	10/2016
DIST 3	Bob Johnson bobj@valornet.com	Box 464, Alto, NM 88312 (575)336.4002		01/13/15	01/2017
DIST 4	Douglas Fuqua dfuqua1@hotmail.com	Box 1042 Alto, NM 88312 (575)336.1832		10/20/15	10/2017
DIST 5	<b>TABLED</b>				
AT LARGE	Duane Frost dsfrost@plateautel.net	Box 81, Claunch, NM 87011 (849.4950)		01/13/15	01/2017
AT LARGE	Robert Barber rweb1601@hotmail.com	Box 126, 270 Cora Dutton Rd, Capitan 575-354-7018/575-808-9814		02/17/15	02/2017

NO REQUIREMENT FOR AN APPOINTEE TO BE DOMICILED IN ANY PARTICULAR VOTING DISTRICT OF THE COUNTY. PUBLICATION IS REQUIRED. TWO AT-LARGE MEMBERS WILL BE SLECTED AND APPOINTED BY A MAJORITY VOTE OF THE BOARD OF COUNTY COMMISSIONERS.

**LINCOLN HISTORIC PRESERVATION BOARD - 2 YEAR TERM (ORDINANCE NO. 2004-5 (BOX 65, LINCOLN 88338)**

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
DIST 1	REGINALD RICHEY RWRNM@PVTN.NET	PO BOX 237, LINCOLN 653-4015	5	09/15/15	09/17
DIST 2	LEE ABBOTT (CELL 614-507-3210)	BOX 177, LINCOLN, (653-4153)	5	01/13/15	01/17
DIST 3	L.M. SMITH lms2bls@pvtnetworks.net	BOX 215, LINCOLN	5	06/23/15	06/17
DIST 4	MELISSA BOUTE	BOX 162, LINCOLN, NM 88338	5	10/20/15	10/17
DIST 5	<del>GINGER MOORE (653-4073)</del> gemoore105@yahoo.com	BOX 57, LINCOLN, NM 88338	5	<del>02/16</del>	<del>02/16</del>

MEMBERS MUST BE PROPERTY OWNERS IN THE HISTORIC DISTRICT. PUBLICATION IS REQUIRED.

**LOCAL WORKFORCE INVESTMENT ACT ADVISORY BOARD - 03/03/00**

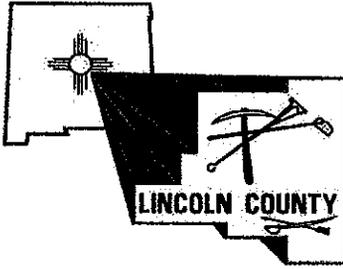
DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
	LYNN WILLARD	109 NOGAL PLACE, RUIDOSO	2	02/17/15	
	CHET SOUTHARD	BOX 609, ALTO 88312	4		
	GARY COZZENS	709 MECHEM DRIVE, RUIDOSO 88345	4		

NOMINATIONS ARE MADE BY CHAMBERS OF COMMERCE AND APPOINTED BY OTHER MUNICIPALITIES.

**LODGERS TAX COMMITTEE, LINCOLN COUNTY -2 YEAR TERM (ORDINANCE NO. 2004-04)**

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
336-4330	TOURIST RELATE- JAMES HOBBS	BOX 2505 RUIDOSO 88355	4	02/17/15	02/17
973-8244	GENERAL PUBLIC - SUE HUTCHISON Suehutch1958@gmail.com	1149 SHOESHONE TRAIL ALTO	4	08/15/15	08/17
653-4609 505-3506127	LODGING INDUSTRY - DAVID VIGIL	BOX 15, LINCOLN 88338	5	06/10/14	06/16
937-2121	TOURIST RELATED- ALICE SEELY; alice@aliceseely.com	BOX 166 HONDO, NM 88336	5	04/25/14	04/16

**X**



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# *County of Lincoln*

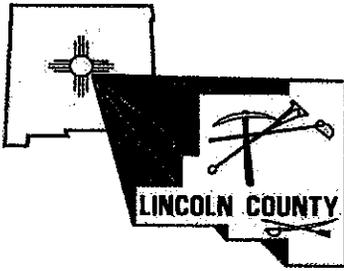
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## Agenda Items 27

### SUBJECT

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



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# County of Lincoln

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## AGENDA ITEM NO. 28

December 8, 2015

### MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager

SUBJECT: Lincoln County FY 14-15 Audit Brief

**Purpose:** To provide an opportunity for Accounting & Consulting Group, LLP, to present the FY 14-15 Audit Brief to the Commission

#### **Discussion:**

On October 29, 2015, the County received its exit conference with Accounting & Consulting Group, LLP, Ray Roberts, CPA, Managing Partner. The report was submitted November 3, 2015, to the New Mexico State Auditor, meeting the required deadline.

At enclosure 1 is the release by the State Auditor specifying that the audit becomes public five days after the date of the release letter, at or which time the audit report shall be:

1. Released by the Office of the State Auditor to the Legislative Finance Committee and the Department of Finance of Administration; and
2. Presented to the Commission at a public meeting, for approval. **The presentation of the audit report should be documented in the minutes of the meeting.**

The independent public accountants' findings and comments are included in the audit report on pages 188-192 (enclosure 2). Under separate cover, the Board of County Commissioner's has received a complete copy of the 2014-2015 annual audit report.

**Recommendation:** As required by State Auditor administrative instructions noted in the letter at enclosure 1, I recommend you approve the annual audit.



Timothy Keller  
State Auditor

Sanjay Bhakta, CPA, CGFM, CFE, CGMA  
Deputy State Auditor  
RECEIVED

**State of New Mexico**  
**OFFICE OF THE STATE AUDITOR**

DEC 07 2015

December 7, 2015

ADMINISTRATION  
LINCOLN COUNTY NM  
SAO Ref. No. 5014

Nita Taylor, County Manager  
Lincoln County  
300 Central Ave.  
Carrizozo, NM 88301-

SUBJECT: Audit Report—Lincoln County—2014-2015 Fiscal Year—Prepared by Accounting & Consulting Group, LLP

The audit report for your agency was received by the Office of the State Auditor (Office) on November 3, 2015. The State Auditor's review of the audit report required by Section 12-6-14(B) NMSA 1978 and 2.2.2.13 NMAC has been completed. This letter is your authorization to make the final payment to the Independent Public Accountant (IPA) who contracted to perform the agency's financial and compliance audit. In accordance with Section 2 of the audit contract, the IPA is required to deliver the specified number of copies of the audit report to the agency.

Pursuant to Section 12-6-5 NMSA 1978, the audit report does not become public record until five days after the date of this release letter, unless your agency has already submitted a written waiver to the Office. Once the five-day period has expired or upon the Office's receipt of a written waiver, the audit report shall be:

- released by the Office to the Legislative Finance Committee and the Department of Finance and Administration;
- posted by the Office on our website; and
- presented by your agency to a quorum of the agency's governing authority at a public meeting, per Section 2.2.2.10(J)(3)(d) NMAC, *Requirements for Contracting and Conducting Audits of Agencies*.

The IPA's findings and comments are included in the audit report on pages 189-192. **It is ultimately the responsibility of the governing authority of the agency to take corrective action on all findings and comments.**

Sincerely,

A handwritten signature in cursive script that reads "Timothy Keller".

Timothy Keller  
State Auditor

cc: Accounting & Consulting Group, LLP

2540 Camino Edward Ortiz, Suite A, Santa Fe, New Mexico 87507

Local (505) 476-3800 \* Fax (505) 827-3512

<http://www.saonm.org> \* 1-866-OSA-FRAUD

ENCL 1

**Section I – Summary or Audit Results:**

*Financial Statements:*

- |  |            |
|--|------------|
| 1. Type of auditors' report issued   | Unmodified |
| 2. Internal control over financial reporting:                                    |            |
| a. Material weaknesses identified?   | Yes        |
| b. Significant deficiencies identified not considered to be material weaknesses? | None Noted |
| c. Noncompliance material to the financial statements noted?                     | None Noted |

*Federal Awards:*

- |   |   |  |
|---|---|--|
| 1. Internal control over major programs:  |   |  |
| a. Material weaknesses identified?  |   | None Noted   |
| b. Significant deficiencies identified not considered to be material weaknesses?                                      |   | None Noted   |
| 2. Type of auditors' report issued on compliance for major programs   |   | Unmodified   |
| 3. Any audit findings disclosed that are required to be reported in accordance with section 510(a) of Circular A-133? |   | None Noted   |
| 4. Identification of major programs:  |   |  |
|   | <u>CFDA</u><br><u>Number</u><br>10.664<br>10.665 & 10.666 | <u>Federal Program</u><br>Hazardous Fuel Reduction<br>Forest Reserve |
| 5. Dollar threshold used to distinguish between type A and type B programs:   |   | \$300,000  |
| 6. Auditee qualified as a low-risk auditee under the requirements set forth by OMB Circular A-133 section 530?        |   | No   |

## **Section II – Financial Statement Findings**

### **FS 2014-002 – Internal Controls over Inventory (Repeated/Modified) – Material Weakness**

*Condition:* During our testwork we noted that the fuel inventory is accessible by multiple people within the County and restricted access and monitoring controls are not in place for the year ended June 30, 2015. In the prior year the County's response to create a document for tracking inventory was implemented and access to inventory has been limited at the Sheriff's Department, however, the tracking of fuel inventory is still inconsistent and it was noted during observation that the fuel meters are not reading correctly.

*Criteria:* The COSO Internal Control Integrated Framework consists of five critical elements that must be present in carrying out the achievement objectives of an organization. These elements are known as the control environment, risk assessment, control activities, information and communication and monitoring. With these elements in place, the County can maximize its potential for achieving its performance targets and reduce the risk of loss of resources.

*Effect:* Without all of the five elements of the COSO Internal Control Integrated Framework present, the County is exposing itself to the risk of misappropriation of assets.

*Cause:* The County has not implemented proper internal controls in order to verify that all inventory is properly safeguarded and not missing or stolen.

*Auditors' Recommendations:* We recommend that the County implement an internal control process, including regular inventory counts, in order to properly safeguard County inventory.

*Agency's Response:* The County of Lincoln is conducting research regarding the purchase of gasoline pumps and/or meters to keep track of incoming and outgoing fuel. This implementation has been assigned to the Administrative Assistant for the Road Department.

### **FS 2014-003 – Travel and Per Diem (Repeated/Modified) – Other Noncompliance**

*Condition:* During our testwork over Travel and Per Diem, we noted that in 1 out of 12 items tested, the County over paid per diem in the amount of \$111 for the year ended June 30, 2015. In the prior year the County responded that a secondary check would be implemented on these types of expenditures, however, in one instance tested this implemented control was ineffective and travel costs were overpaid.

*Criteria:* The Per Diem and Mileages Act, NMAC 2.42.2.8 (A) states that per diem rates shall be paid to public officers and employees in accordance with provisions of the act. NMAC 2.42.2.8 (B) (2) states that travel for public officers and employees where overnight travel is required shall be reimbursed for out of state areas at \$115.

*Effect:* The County overpaid travel and per diem in the amount of \$111.

*Cause:* The County incorrectly paid per diem for two overnight travel days in the amount of \$226 however only one overnight travel day in the amount of \$115 should have been paid.

*Auditors' Recommendations:* We recommend that the County more closely monitor their reimbursements in order to verify proper payment of per diem and mileage reimbursements.

*Agency's Response:* The County has implemented new procedures that will eliminate incorrect payments of travel and per diem. This implementation has been assigned to the Finance Officer.

**Section II – Financial Statement Findings (continued)**

**FS 2015-001 Preparation of Accounts Receivable – Findings that do not Rise to the Level of Significant Deficiency**

*Condition:* During our performance of testing subsequent receipts related to the audit procedures performed over accounts receivable, we noted that the County incorrectly excluded one receivable item in the total amount of \$11,139.

*Criteria:* According to AU-C Section 265, a system of internal control over financial reporting does not stop at the general ledger. Well designed systems include controls over financial statement preparation, including GAAP-Basis accruals, and any footnote disclosures. Generally Accepted Accounting Principles (GAAP) state that revenue recognition is recognized in the period in which the transaction is incurred.

*Effect:* The County's accounts receivable balance was understated at year end.

*Cause:* The County created a listing of accounts receivable at June 30, 2015 and left off one item that should have been including in that listing. The item was reimbursement for Title III B – Grants for Supportive Services and Senior Centers funds for expenditures incurred in June and was overlooked in the preparation of the accounts receivable listing by the County.

*Auditors' Recommendation:* We recommend that the County double check their listing of accounts receivable and subsequent receipts in order to verify that all accounts receivable items are included in the year end balance.

*Agency's Response:* The County has implemented additional receipting procedures that will eliminate errors in the collection of data for the accounts receivable listing. The County Treasurer is responsible for the procedures.

**Section II – Financial Statement Findings (continued)**

**FS 2015-002 Deficiencies in Solid Waste Internal Control Structure Design, Operation, and Oversight – Material Weakness**

*Condition:* During our process of understanding the County's new Solid Waste billing and collection procedures, we noted instances where elements of the County's internal control framework were nonexistent or deficient. The County's risk assessment, control activities, and monitoring elements were not documented, sufficiently designed or implemented as we noted the following:

- The County did not keep records of their review process of the Solid Waste receivables. Although billings started in January 2015, there was no documented evidence of review of the deposit slips or daily cash reports until April 2015.
- The County hired a clerk to handle Solid Waste billings and collections and there is a lack of segregation of duties among their responsibilities. As of year end at June 30, 2015, the clerk had the authority to bill solid waste customers, make adjustments to customer accounts, and even stop customer billings. Although the clerk must provide the assessor notes to why adjustments are made, the clerk still has the authority to make changes to customer accounts that are not reviewed and approved by management.
- As of June 30, 2015 the Board of Commissioners has not finalized policies regarding solid waste collections, delinquent accounts, and the estimation of uncollectible accounts.

*Criteria:* The COSO Internal Control Integrated Framework consists of five critical elements that must be present in carrying out the achievement objectives of an organization. These elements are known as the control environment, risk assessment, control activities, information and communication, and monitoring. With these elements in place, the County can maximize its potential for achieving its performance targets and reduce the risk of loss of resources.

*Effect:* Without all of the five elements of the COSO Internal Control Integrated Framework present, the County is exposing itself to the risk of misappropriation of assets and does not have set processes in place to maximize the resources of the County to achieve the goals set forth by the County.

*Cause:* The County implemented a new service during the year and has not identified proper controls nor have they properly created or implemented policy and procedures over solid waste billings in order to prevent and detect errors or fraud.

*Auditors' Recommendation:* The County should implement policies and procedures over Solid Waste, including a review process of all cash deposits and customer account adjustments and proper segregation of duties with regards to adjustments to customer accounts. Also, the Board of Commissioners should implement a final policy regarding the Solid Waste billings and collections including their estimate of uncollectible accounts.

*Agency's Response:* The County has taken steps to improve segregation of duties with cash deposits and account adjustments to the Solid Waste Customers. Additional steps have been identified and implemented under the oversight of the Finance Director.

**Section II – Financial Statement Findings (continued)**

**FS 2015-003 – Cash Appropriations in Excess of Available Cash Balances – Other Noncompliance**

*Condition:* The County rebudgeted “cash balances” in excess of available cash balances in the following funds:

	<b>Designated Cash</b>	<b>Beginning Year &amp; A/R Available</b>	<b>Cash Appropriation in excess of available balances</b>
Drug Enforcement Grant Special Revenue Fund	\$ 3,777	\$ 2,376	\$ (1,401)
Legislative Appropriation Capital Projects Fund	346,236	278,626	(67,610)

*Criteria:* Section 2.2.2.10.(N)(1)(b), NMAC, requires all County’s to be budgeted by the local governing body and submitted to the Department of Finance and Administration for approval. Cash balances re-budgeted to make up for deficit budgeted revenues that do not cover the budgeted expenditures cannot exceed the actual cash balance available at the end of the prior period.

*Effect:* The effect of a budget with inadequate designated cash available to cover the excess of budgeted expenditures over budgeted revenue could result in the County incurring debt to pay for current year budgeted expenditures, which would result in noncompliance with the Bateman Act.

*Cause:* Inadequate monitoring of cash available to be transferred to other funds caused this noncompliance.

*Auditors’ Recommendations:* Greater attention should be given throughout the year to the cash balances actually available to cover budgeted revenues, which include proper monitoring of year end cash balances.

*Agency’s Response:* The Treasurer and Finance Office have received a tool from DFA that will improve proper monitoring of year-end cash balances. The County Treasurer and Finance Director will utilize this tool routinely to monitor cash balances.

**Section III – Federal Award Findings**

None noted.

**Section IV – Prior Year Audit Findings**

FS 2008-001 (FS 08-01) – Capital Assets Additions and Related Accumulated Depreciation Estimates – Resolved

FS 2012-001 (FS 12-01) – Grant Compliance – Resolved

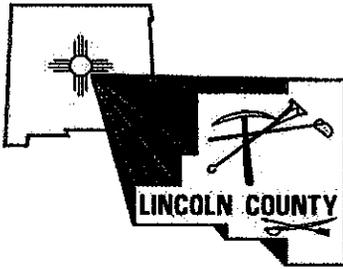
FS 2013-002 – Preparation of Accounts Payable – Resolved

FS 2014-001 – Internal Controls over Payroll – Resolved

FS 2014-002 – Internal Controls over Inventory – Repeated/Modified

FS 2014-003 – Travel and Per Diem – Repeated/Modified

FS 2014-004 – Form SSA 1945 - Resolved



# *County of Lincoln*

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## Agenda Item. 29

### SUBJECT

Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).

See attached list.

Alan P. Morel, P.A.  
Attorney at Law

700 Mechem Drive, Suite 12  
Post Office Box 1030  
Ruidoso, New Mexico 88355-1030

Jira Plaza  
Telephone (575) 257-3556  
Facsimile (575) 257-3558

December 15, 2015

**LINCOLN COUNTY EXECUTIVE SESSION PURSUANT TO THE OPEN MEETINGS  
ACT: DISCUSSION OF ALL THREATENED AND/OR PENDING LITIGATION  
SECTION 10-15-1, SUBPARAGRAPH H.(7); AND DISCUSSION OF THE PURCHASE,  
ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE  
PUBLIC BODY, SECTION 10-15-1, SUBPARAGRAPH H.(8)**

**New or Updated Matters since last report \***

1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014. Joint Answer Brief of Defendants-Appellees' Steven Sederwall and Rick Viriden with Request for Oral Argument filed in the Court of Appeals Sept. 28, 2015.
2. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed May 1, 2014 Verified Petition for Declaratory and Supplemental Relief: Injunction. County was served May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict of interest and was disqualified from representing GSWA. GSWA has retained Robert Doughty as new counsel Dec. 13, 2014. GSWA filed its Withdrawal of Plaintiff's Original and First Amended Verified Emergency Motion Seeking Further Relief on Plaintiff's Request for Preliminary Injunction Concerning Rate at which County Will Bill May 7, 2015. Lincoln County filed its Motion to Continue its Motion for Sanctions May 8, 2015 and the Order of Continuance was filed May 11, 2015.
3. *\*Greentree Solid Waste Authority v. Lincoln County, et. al.* D-0101-CV-2013-00104. Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept. 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief was filed with the Court of Appeals Oct. 24, 2014. GSWA filed its Reply Brief Dec. 1, 2014. The case has been submitted to a panel of judges for decision and the County received Notice of Submission from the Court of Appeals Jan. 2, 2015. Mr. Beauvais' Attorney Charging Lien was filed April 29, 2015. Court of Appeals filed their Opinion October 1, 2015 upholding the District Court's granting of Summary Judgment in favor of the County and Alto Lakes Water

and Sanitation District. GSWA filed its Petition for Writ of Certiorari Oct. 27, 2015 With New Mexico Supreme Court. GSWA's Writ of Certiorari was denied by the New Mexico Supreme Court December 2, 2015.

4. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-041*. Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of the County.

5. *Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188* Appeal of the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed Oct. 23, 2014.

6. *\*Edward Rider/Brennon Moorhead v. The Board of County Commissioners, Brack Rains, Matt Christian, Robert Shepperd D 1226 CV 2015-00103* Complaint for Damages and Summons received June 15, 2015. Removed to Federal Court July 7, 2015. Order Granting Defendants' Motion to Dismiss filed Oct. 7, 2015. Second Amended Civil Complaint filed Nov. 4, 2015.

7. *A. Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd D-1226-CV-2015-00112* Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015. Amended Complaint alleging Civil Rights Violation and Gender Based Discrimination filed on Oct. 13, 2015.

*B. Preston, DeAnna: Notice of Charge of Discrimination* submitted to the U.S. Equal Employment Opportunity Commission July 21, 2015. Mediation was Oct. 29, 2015.

8. *Valle del Sol v. Naron, et. al.* D-1226-CV-2015-00166 Complaint to Enforce and Collect Upon Promissory Note and to Foreclose Mortgage upon Real Property filed Sept. 24, 2015.

9. *\*Cody McMurray v. Board of County Commissioners, et al – D 1226 CV 2015-00170 Div. III-* Complaint for Damages filed Sept. 28, 2015 by Attorney W. Chris Nedbalek alleging violation of Civil Rights. First Amended Complaint filed in Federal Court Nov. 25, 2015 in which the County of Lincoln and the Board of County Commissioners are not named.

10. *Bill Turner v. Board of County Commissioners, et al – Cause No. 2:15-CV-00827-LAM-SMV –* Complaint for Damages filed Sept. 28, 2015 by Attorney W. Chris Nedbalek alleging violation of Civil Rights.

#### Tort Claims Notices Received or Threatened

##### 2015

**Cherry, Doris** – Tort Claim Notice posted in Lincoln County News Jan. 1, 2015 stating possible Civil Rights Violation lawsuits regarding alleged Americans with Disabilities Act non-compliance in remodeling the Lincoln County Courthouse buildings.

**McDaniel, Carl** – Tort Claim Notice received Jan. 23, 2015 from Attorney John Sugg alleging violation of the Unfair Trade Practices Act and engaging in unfair or deceptive trade practices and/or unconscionable trade practices by GSWA.

**UNM Hospital-Prins, Chad** – Tort Claim Notice received Feb. 26, 2015 in which UNM Hospital seeks reimbursement of expenses incurred while Lincoln County Detention Center inmate Prins was on furlough.

**Sehorn, Sean M.** – Tort claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Lincoln County Detention Center failed to provide adequate medical treatment during inmate Sehorn's incarceration.

**Lavin, Erica L. and Rathgeber, Jack** – Tort Claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Constitutional Rights were violated resulting in wrongful termination.

**Hanley, Constance** – Tort Claim Notice received March 20, 2015 from Attorney John Sugg alleging violations of 42 USC section 1983, malicious prosecution, failure to investigate, defamation of character, libel and abuse of process.

**Capitan Iron Mine through A. Blair Dunn** – Threatened Litigation on April 1, 2015 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with Lincoln County Mine Ordinance 2009-01.

**Chavez, Billy – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and Litter in the County.** March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted no progress had been made.

**Culp, Susan v. LCMC/Lincoln County:** Tort Claim Notice received May 4, 2015 from Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about March 3, 2015 during Ms. Culp's gall bladder removal surgery.

**Reyes, Roberto** – Tort Claim Notice received May 15, 2015 from Attorney Timothy White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and wrongful conduct of the Lincoln County Sheriff's Department.

**Torres, Leopoldo:** Tort Claim Notice received June 4, 2015 from inmate Torres alleging inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

**Wallace, Stephen:** Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention Center without proceeding with a timely extradition.

**Rodriguez, Victor** – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging hostile treatment from fellow employees while employed at Lincoln County Detention Center.

**Prudencio, Fabian and Corinne** – Tort Claim Notice received July 24, 2015 from Attorney Daniel P. Ulibarri alleging negligence, personal injury, spoliation, indemnification and property damage against the County of Lincoln.

**Yates, Barbara** – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at her private property.

**Davis, Jack and Rema** – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at their private property.

**Capitan Iron Mine** – Tort Claim Notice received Sept. 24, 2014 via email from A. Blair Dunn, alleging County trespass on private property.

**Estate of Viola/Orlando Montes** – Tort Claim Notice received Sept. 28, 2015 from Attorney J. Robert Beauvais alleging vender was allowed onto Lincoln County Fairgrounds without necessary safety equipment.

**L. Phillip Onsrud** – Tort Claim Notice received Nov. 3, 2015 via email alleging lack of medical care while incarcerated in Lincoln County Detention Center.

## **2014**

**Ramos, Aaron** – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos alleges damages by not being granted detainee to detainee correspondence.

**Millerden, Kenneth and Anita** – Tort Claim Notice received May 9, 2014 from Attorney Victor F. Poulos alleging negligence from staff at Lincoln County Medical Center during prepartum care for their infant son.

**Ogden, John D** – Tort Claim Notice received May 26, 2014 alleging mistreatment while incarcerated at Lincoln County Detention Center on March 11, 2014.

**Rounds, Christopher** – Tort Claim Notice received June 4, 2014 alleging being held in Lincoln County Detention Center without being advised of his charges.

**Herbert, Crystal** – Tort Claim Notice received June 23, 2014 from Attorney Matthew Coyte/Coyte Law alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

**Class Action** – Tort Claim Notice received June 23, 2014 from Attorney Ryan Villa/Cooper Law Firm alleging false imprisonment, false arrest, deprivation of rights at Lincoln County Detention Center that arise with Immigration and Customs Enforcement charges.

**Atwell, Stacey** – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of her two minor children during a request for a deputy to assist in keeping the peace.

**McGarry, Sean** – Tort Claim Notice received July 25, 2014 from Attorney S. Doug Jones Witt alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge regarding discharge from the Capitan Police Department.

**Ramos, Aaron** – Tort Claim Notice received August 7, 2014 alleging lack of Due Process for inmates at Lincoln County Detention Center.

**Lambert, David and Bonnie** - Tort Claim Notice received Sept. 8, 2014 from Attorney W. Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own equipment to alter a platted County right of way without the authorization or knowledge of the County.

**Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Oct. 24, 2014 by Attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a violation of 8<sup>th</sup> Amendment Rights.

**Ryen, Allen**- Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.

**Inmate Group** – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

**Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging inadequate medical care and overcrowding at Lincoln County Detention Center.

**Inmate Group** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

**Long, Cameron** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging mistreatment by an Officer with Adult Probation and Parole.

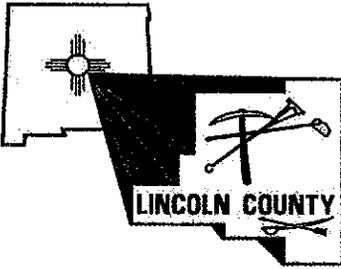
**McClarnon, Brian** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging violations of U.S. Constitutional Amendment rights.

**Diana Martwick, 12<sup>th</sup> Judicial District Attorney** – Tort Claim Notice received Nov. 25, 2014 alleging lack of adequate office space provided by the County of Lincoln.

**Inmate Group** – Tort Claim Notice received Dec. Dec. 22, 2014 by attorney W. Chris Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.

2013

**Harrisburg Documents-** Attempts to recover Lincoln County documents illegally taken from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.



[www.lincolncountynm.gov](http://www.lincolncountynm.gov)

# *County of Lincoln*

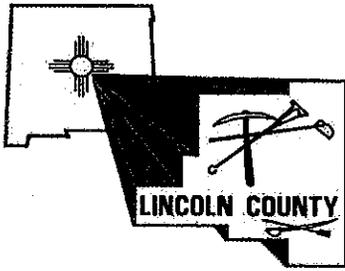
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P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

## Agenda Item 30

### SUBJECT

Settlement of D-126-CV-2014-00095: Greentree Solid Waste Authority v.  
Lincoln County



[www.lincolncountynm.gov](http://www.lincolncountynm.gov)

# *County of Lincoln*

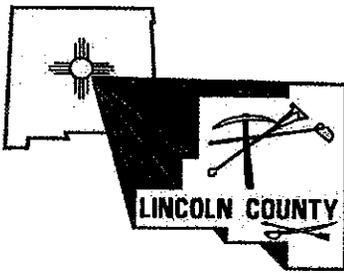
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## Agenda Item 31

### SUBJECT

Consider/Potential Action on the First Amendment to the Joint Powers Agreement (JPA) for the Financing and Establishment of the Otero/Lincoln County Regional Landfill



# County of Lincoln

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

[www.lincolncountynm.gov](http://www.lincolncountynm.gov)

## Agenda Item No. 31

December 9, 2015

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager

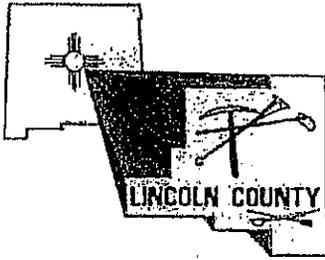
**SUBJECT:** GSWA- First Amendment to the JPA for the Financing and Establishment of the Otero County / Lincoln County Regional Landfill

**PURPOSE:** Consider / Potential Action on the First Amendment to the JPA for the Financing and Establishment of the Otero / Lincoln County Regional Landfill.

**Discussion:** At its March 7, 2014 Special Meeting, the Commission considered approving the First Amendment to the JPA for the Financing and Establishment of the Otero County / Lincoln County Regional Landfill Allowing Rebate of Excess Revenues. See Enclosure 1 for Manager's explanatory letter to the Commission. See Enclosure 2 for a copy of the First Amendment requiring signature of all entities for the Amendment to be approved by DFA. See Enclosure 3 for DFA correspondence outlining requirements. The Commission previously voted in favor of approving the First Amendment with the caveat that the funds would be restricted to repayment of the New Mexico Finance Authority debt incurred by GSWA.

GSWA submitted this Amendment 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 the DFA for approval. See Exhibit 3 at paragraph 3. Eleven of the twelve parties to the JPA have since approved and signed this First Amendment with the County of Lincoln yet to approve. GSWA has requested the Commission to approve the First Amendment.

**Recommendation:** I recommend you approve the First Amendment as a part of the settlement with GSWA.



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.

County Manager's Fax  
(575) 648-4182

Finance/Purchasing Fax  
(575) 648-2381

Rural Addressing Fax  
(575) 648-2816

*ENCL 1*

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 12<sup>th</sup> day of DEC, 2013

Attest:

Jinid Lurie  
Village Clerk



Village of Tularosa

Ray Cordova  
Ray Cordova, Mayor  
Signed this 23 day of January, 2014

Attest:

Alanna R. Bruneau  
Village Clerk



City Of Alamogordo

Robert Rentschler  
~~Susie Galen~~, Mayor Robert Rentschler  
Signed this 25<sup>th</sup> day of JANUARY, 2014

Attest:

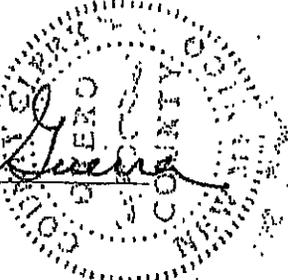
Berna Kain  
City Clerk

County of Otero

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

Attest:

Dennis Lurie  
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:

Kary Atchland  
Village Clerk

Town of Carrizozo

Wes Lindsey

Wes Lindsey, Mayor

Signed this 13 day of Nov, 2013

Attest:

Deann Whitcomb  
Town Clerk

Village of Corona

William Hight

William Hight, Mayor

Signed this 23 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:

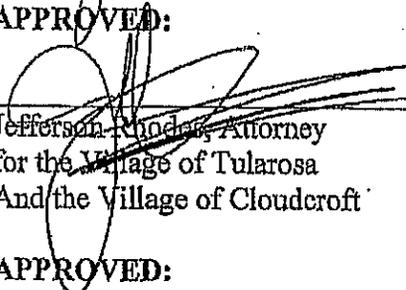
\_\_\_\_\_  
State of New Mexico Department of Finance & Administration

\_\_\_\_\_  
Date

**APPROVED:**

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

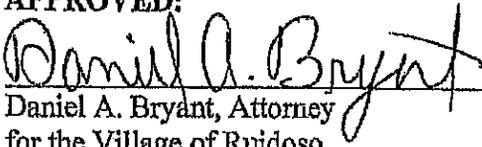
**APPROVED:**

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

**APPROVED:**

\_\_\_\_\_  
Alan P. Morel, Attorney  
for Lincoln County

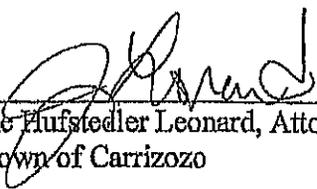
**APPROVED:**

  
\_\_\_\_\_  
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 Hufstедler 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

FROM: KONICA FAX

TO:

5052582206

OCT 20, 1989

4:03AM P.22

ATTEST:

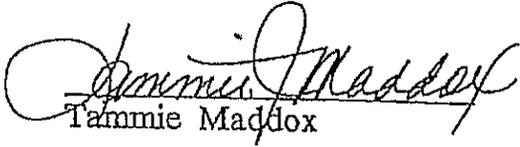
BOARD OF LINCOLN COUNTY  
COMMISSIONERS

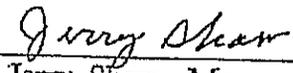
Martha M Proctor By Monroy Montes  
 Martha Proctor Monroy Montes, Chairman



ATTEST:

VILLAGE OF RUIDOSO, NEW MEXICO

  
Tammie Maddox

By   
Jerry Shaw, Mayor

original  
signature  
page



Susana Martínez  
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 Coronoa" 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