

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

Barbara L. Reedy
Member

Linda M. Smrkovsky
Chairperson

John S. Sweetser
Member

Friday, July 12, 2019
9:00 a.m. - 10:00 a.m.
Work Session
Luna County Courthouse

1. **Call to Order:** Chair Smrkovsky to commence meeting (At this time, please silence your cell phones and any other electronic devices) Pledge of Allegiance, State Pledge

Regular meeting agenda items and other necessary items may be discussed. No action will be taken during the work session.

2. **Roll Call:**

3. **Service Awards:**

- Felipe Chavez Maintenance Department 10 yrs

4. **Presentations:**

- a.
- b.
- c.

5. **Announcements:**

6. **Commissioners and Staff Discussions on Regular Meeting Agenda Items:**

7. **Adjourn:**

NOTE TO THE PUBLIC: The intent of the work session is for the County Commissioners to receive any additional information from the Staff if necessary. The meeting will be held in an informal manner to provide open discussion.

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BOARD OF COUNTY COMMISSIONERS**

**Barbara L. Reedy
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**Linda M. Smrkovsky
Chairperson**

**John S. Sweetser
Member**

**Friday, July 12, 2019
10:00 a.m.
Regular Meeting
Luna County Courthouse**

1. **Call to Order:** Chair Smrkovsky to commence meeting (At this time, please silence your cell phones and any other electronic devices) Pledge of Allegiance, State Pledge.
2. **Roll Call:**
3. **Approval of Agenda:**
4. **Minutes:**
 - a. Work Session- June 13, 2019
MOTION AND VOTE
 - b. Regular Meeting- June 13, 2019
MOTION AND VOTE
 - c. Special Work Session-June 27, 2019
MOTION AND VOTE
5. **Elected Officials Report:**
6. **County Manager's Report:**
 - a. Regular Report
7. **Indigent Claims Report:**
 - a. Recess as County Commission, Convene as Claims Board
MOTION AND VOTE
 - b. Presentation of Claims Report by Joanne Hethcox \$51.51
 - c. Consider Claims dated July 12, 2019
MOTION AND VOTE
 - d. Recess as Claims Board, Re-Convene as County Commission
MOTION AND VOTE

8. **Public Comment:** The Public has the opportunity to provide comment at this time pertaining to items on the agenda only. Please be advised that this is not a question and answer period. Your comments specific to the agenda items will be limited to three minutes unless the Board of County Commissioners requests more information. The time limit and opportunity to speak is given in an effort to allow public input on business matters of the County to move the agenda forward in a prompt yet efficient manner. Comment will not be allowed on individual agenda items as they are discussed by the Commissioners during new business.

9. **Consent Agenda:**

- a. Accounts Payable: \$1,488,005.73
- b. Payroll: \$1,079,769.41
- c. Oath of Office and Appointment for Deputy Sheriff Jesse Solano
- d. Oath of Office and Appointment for Deputy Sheriff Brandon Baeza

MOTION AND ROLL CALL VOTE

10. **New Business:**

- a. Resolution 19-39 Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the NM Finance Authority
- b. Resolution 19-40 Designating Polling Places
- c. Resolution 19-41 Road Department Capital Outlay

MOTION AND VOTE

11. **Old Business:** JPA Luna County and Village of Columbus-Amended

MOTION AND ROLL CALL VOTE

12. **Executive Session:** Executive Session to discuss Limited Personnel Matters pursuant to 10-15-1(H)(2) NMSA 1978 pertaining to the County Manager's Evaluation & Contract to include job description, performance goals, roles and responsibilities

MOTION AND ROLL CALL VOTE

13. **Upcoming Meetings (unless otherwise specified):**

Special Work Session on Budget- July 18, 2019 at 2:00 p.m.

Special Meeting Approval of Final Budget- July 26, 2019 at 2:00 p.m.

14. **Adjourn:**

NOTE TO THE PUBLIC: Please use the microphone when addressing the Board. This is necessary for recording purposes. Thank you for your cooperation. Headphones for hearing enhancement are available upon request.

**MINUTES
WORK SESSION
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday June 13, 2019**

BE IT REMEMBERED that the Luna County Board of County Commissioners met at 9:00 a.m. on Thursday, June 13, 2019 in the County Commission Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting a Work Session.

CALL TO ORDER: Chair Smrkovsky called the meeting to order at 9:03 a.m. and led the Pledge of Allegiance and the salute to the flag of New Mexico.

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

**Barbara L. Reedy, District 1
Linda M. Smrkovsky, Chair, District 2
John S. Sweetser, District 3**

SERVICE AWARDS:

- Joe Padilla from Economic Development was presented his five year pin by Patsy Rodriguez.
- Cody Owens from the Road Department was not present to receive his five year service pin.
- Felipe Chavez from Maintenance Department was not present to accept his ten year service pin.

PRESENTATIONS:

- a. **NM Highway 11 Corridor Study Update by Wilson & Co.:** Mario Juarez-Infante gave an extensive update on the NM Highway 11 Corridor. Mr. Juarez went over the project overview study area, process and schedule, purpose and need, goals and objectives, who the steering committee is and the alternatives being evaluated in the next steps. Mr. Juarez confirmed the next public meeting regarding this topic will be held in Deming on July 16th at 5:30 pm to 7:00 pm. Commissioner Sweetser asked Mr. Juarez who would make the final decision on this project. Mr. Juarez responded that the steering committee is an advisory committee and the New Mexico Department of Transportation "NMDOT" ultimately makes final decisions. The NMDOT makes sure the project is within the guidance and compliance of the location study procedures. He also mentioned that if DOT is not in agreement with the project they cannot move into the next phase. County Manager David McSherry mentioned that most of the 36 miles of this corridor lie within Luna County and if this Board of Commissioners does not buy into the end product, they will not support the project when it is presented to the NMDOT. He also mentioned that the updates on the Luna County website regarding this study seem to be two years behind. Mr. Juarez agreed to work with the County to update the website. The public is concerned communication is not getting out regarding meetings being held pertaining to NM Highway 11 Corridor Study.

- b. **Land Port of Entry Diversion Berm Update by Wilson & Co.:** Mario Juarez gave an update on the LPOE Diversion Berm. Mr. Juarez mentioned key milestones are materializing the first week of July. The following plans will be submitted:
 - a. Phase one encompasses the west diversion berm west of NM 11
 - b. Phase two is the bridge on NM 11
 - c. Phase three is the channel improvement downstream of NM 11 on the eastside
- c. **Farm and Range Improvement Fund Program by Deming Soil & Water Conservation District:** Rick Holdridge gave an extensive presentation on what the Farm and Range Improvement Fund Program "FRIF" is about. Mr. Holdridge explained they are an elected body who coordinates soil and water conservation efforts working both with producers and the federal government. He explained that part of the money paid to Bureau of Land Management "BLM" by the ranchers is returned to the State to be used for improvement of the land. BLM sends money to the County and the County divides that money between two organizations, the FRIF program and Animal Damage Control. FRIF allows land owners and anyone who has a BLM lease to apply for this money twice a year, which can be used for either BLM, State or private land improvements. Mr. Holdridge asked the Board to think of them during the budget process and to remind them that their return on investment is high and is very well spent by FRIF.

ANNOUNCEMENTS: No announcements were forthcoming.

COMMISSIONERS AND STAFF DISCUSSION ON REGULAR MEETING AGENDA ITEMS: The Luna County Board of County Commissioners presented the Regular Meeting Agenda items for presentation and discussion by attending members of the public. *(*Note: Items were presented for discussion only and no actions were taken.)* The following agenda items were discussed:

Commissioner Reedy asked the County Manager David McSherry if the homeowners at the Dove Meadows Subdivision agreed to pay for the road improvements as discussed at a previous meeting. County Manager David McSherry explained that they are in the middle of the Dove Meadows project and that the County has taken the first step in smoothing the roads for evaluation purpose. He also mentioned they will now evaluate the road conditions and see how they will fit to the existing County Road Ordinances. Mr. McSherry explained that notifying the homeowners in the Dove Meadows subdivision will be part of the evaluation process. Marty Miller explained that the two miles of road at the Dove Meadows Subdivision was included in the certified mileage which makes it the responsibility of the road maintenance department. Ms. Reedy mentioned that there is at least one homeowner in the Dove Meadows Subdivision that is not willing to pay for any road improvements. Mr. Miller explained that the State considers the road in question as a Certified County Road since it was added to the Road Mileage for the year so Luna County is now responsible for maintenance and also the drainage of the road. County Manager David McSherry clarified that the ordinance needs to be reviewed and updated, he plans to give recommendations to the Board in the near future.

ADJOURN: Upon motion made by Commissioner Sweetser and a second made by Commissioner Reedy. Chair Smrkovsky adjourned the meeting at 10:17 a.m.

ATTEST:

**LUNA COUNTY BOARD OF
COUNTY COMMISSIONERS**

Andrea Rodriguez, Luna County Clerk

Barbara L. Reedy, District 1

Approved: _____

Chair, Linda M. Smrkovsky, District 2

John S. Sweetser, District 3

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday, June 13, 2019**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 10:00 a.m. on Thursday, June 13, 2019 in the County Commission Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting any and all business to come properly before the Board.

The following staff and elected officials were present: County Manager David McSherry, County Attorney Charles C. Kretek, Administrative Assistant Laura Garcia, Clerk Andrea Rodriguez, Chief Deputy Clerk Berenda McWright, Deputy Clerk Pilar Salcido, Assessor Michelle Holguin, Chief Deputy Assessor Isabelle Enciso, Treasurer Gloria Rodriguez, Sheriff Kelly Gannaway, Captain Michael Brown, IT Technician Judy Hatch, IT Technician James Ozment, Administrative Assistant Debra Seats, Economic Development Joe Padilla, Administrative Assistant Planning and Development Patsy Rodriguez and Budget & Procurement Director/Indigent Claims Administrator Joanne Hethcox.

CALL TO ORDER: Chair Smrkovsky called the meeting to order at 10:30 a.m., and led the Pledge of Allegiance and the salute to the flag of New Mexico.

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

**Barbara L. Reedy, District 1
Linda M. Smrkovsky, Chair, District 2
John S. Sweetser, District 3**

APPROVAL OF AGENDA: Chair Smrkovsky entertained a motion to approve the agenda as presented. Commissioner Reedy motioned to approve the agenda with moving items c. through item l. from the consent agenda to new business for discussion. Commissioner Sweetser seconded the motion which carried unanimously after a roll call vote.

MINUTES:

- **Work Session – May 08, 2019:** Upon a motion made by Commissioner Sweetser and a second by Commissioner Reedy the Minutes of the May 08, 2019 Work Session were unanimously approved.
- **Regular Meeting – May 08, 2019:** Upon a motion made by Commissioner Reedy and a second by Commissioner Sweetser the Minutes of the May 08, 2019 Regular Meeting were unanimously approved.
- **Emergency Meeting – May 17, 2019:** Upon a motion made by Commissioner Sweetser and a second by Commissioner Reedy the Minutes of the May 17, 2019 Emergency Meeting were unanimously approved.
- **Work Session – May 21, 2019:** Upon a motion made by Commissioner Reedy and a second by Commissioner Sweetser the Minutes of the May 21, 2019 Work Session were unanimously approved.

- **Special Meeting – May 21, 2019:** Upon a motion made by Commissioner Sweetser and a second by Commissioner Reedy the Minutes of the May 21, 2019 Special Meeting were unanimously approved.
- **Special Meeting – May 29, 2019:** Upon a motion made by Commissioner Reedy and a second by Commissioner Sweetser the Minutes of the May 29, 2019 Special Meeting were unanimously approved.

ELECTED OFFICIALS REPORTS: Sheriff Gannaway reported on the statistics for the month of May. Mr. Gannaway stated that assaults and vehicle thefts are down, burglaries and larcenies are up, one arson in Columbus and overall totals are down. Non-criminal are down, accidents and DWI's are up. He also mentioned that Valerie Tyler was promoted to Investigator. He announced that the Sheriff's Department is currently in the hiring process for four positions including a school resource officer, a court security officer and two deputies.

Clerk Andrea Rodriguez reported that the Clerk's Office is very busy with business registration renewals and preparing for the upcoming Local Elections Act Election in November.

Assessor Michelle Holguin reported the appraisers are working on 147 protests. Luna County Specialist Irisel Miranda started June 3rd and is currently in training. The Assessor's Department is working on getting the Sales Ratio Report to Property Tax Division by July 1st, they also received an extension from Property Tax Division for the State Assessed Properties Certification which is now due June 28th. Several Assessors are registered for certification training with IAAO for July 15-19th in Socorro. Ms. Holguin mentioned they hired a GIS Specialist who will start in July. The Assessor's Department is currently fully staffed.

Treasurer Gloria Rodriguez reported that the May financial report is balanced to the penny. On June 7th the department mailed 22,500 delinquent notices and are busy trying to collect, especially those who are delinquent as of 2016 tax year. Ms. Rodriguez did not know how many 2016 delinquent tax bills are out there but the total delinquent properties are 22,500.

Chair Smrkovsky announced that next week is the annual NMC conference in Clovis. She reported that some County employees will be attending the conference and others will be attending both the conference and the New Mexico Edge Classes which start on Monday.

Commissioner Reedy will be attending the New Mexico Economic Development course being held in Silver City on July 21st to July 25th.

COUNTY MANAGER'S REPORT: County Manager David McSherry reported on the following.

- He continues to work on a strategic planning session with the Board and Management staff.
- The County currently has 25 opened positions which include Detention Officers, Dispatchers, Payroll, Deputy Manager and two part time Shelter Advocates.
- Starmax revenue for May is just shy of \$141,000.
- The detention center federal inmates is 346 total inmate count is 542.
- Emergency Shelter has received food donations from Pack Away Hunger. Deming Public Schools donated a bus and will be on site very soon. They were also loaned a bus from First

Baptist Church which was used in the beginning of the emergency situation. The lease of the armory is complete with the New Mexico National Guard and the armory is available now if needed. The LDS Church has also donated food and the community has donated money, food, clothes and their time. Currently there isn't a financial report for the asylum seeker expenses as Mr. McSherry mentioned he is currently gathering information and will evaluate the emergency part of the process.

- The County has received the \$250,000 grant agreement with the State and is available today.

Chris Brice updated the Board on the shelter. He mentioned that the numbers of the individuals at the shelter are less than 100 at this time. Mr. Brice mentioned they continue to work with the Annunciation House out of El Paso. Luna County sent a bus out to Dallas with 57 individuals on Saturday morning and then on Tuesday they sent another bus to Denver with 44-46 individuals, this expense was fully financed by donations from the Annunciation House. The Sherman Foundation was collecting financial donations for the Emergency Shelter but have recently pulled out of that commitment. Jennifer Garner who is on the Board of Save the Children visited the shelter recently. They have been involved with Luna County for the last two weeks which in that time have set up a play area for the kids at the emergency shelter. She mentioned she will lobby her Board for funding to sustain this effort for as long as the shelter is in effect. She also mentioned she will lobby other organizations to do the same for Deming. The County has recently hired seasonal employees who were initially volunteers for the shelter. Mr. Brice mentioned they are looking to see where the shelter can be moved. They currently have two options and are currently waiting on the City to see what the next step is.

Chair Smrkovsky thanked all the volunteers who participated in the operation of the shelter including the organizations who have been involved. Commissioner Reedy again congratulated Chris on his organization of the operation. Commissioner Sweetser commends the leadership that has done an outstanding job in this situation.

INDIGENT CLAIMS REPORT: Upon a motion by Commissioner Reedy and a second by Commissioner Sweetser, the meeting of the Board of County Commissioners was unanimously recessed and the meeting of the Indigent Hospital Claims Board convened. Budget and Procurement Director Joanne Hethcox reported eight claims were received for the month of May in the amount of \$24,060.58, of which two claims were for the Detention Center and six were from Mimbres Memorial Hospital. The GRT collected in May was \$57,468.11. The encumbered amount was \$85,198.18 with a cash balance in the account of \$1,076,636.32. Ms. Hethcox mentioned another \$145,000 was encumbered recently and will be added for next months totals. Mr. Sweetser motioned to approve the Indigent Claims Report as submitted. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote. Commissioner Sweetser motioned to recess as a Claims Board and reconvene as a County Commission. Commissioner Reedy seconded the motion which carried unanimously.

PUBLIC COMMENT: Chair Smrkovsky opened the floor to Public Comment.

Christine Ann Harvey gave an update on Main Street local events.

Sean Blaine commented on item 12. He suggested in lieu of having a meeting after hours he would recommend having this meeting on Fridays at 1:00pm so that the County employees could get half days off and those individuals who work could participate in our meetings. He also commented on item 6. He thanked the County Management, Board of Commissioners, Sheriff's, and Detention department and all the other County volunteers who have participated in our local refugee problem. He stated that this issue is our problem no matter what our personal opinions are and we have to deal with it. Our community and the leadership in this community have done an excellent job in dealing with our problem.

John Richmond gave an update on local events regarding the Chamber of Commerce.

Diana Storm provided a letter from the management of Love U Back to the Board of Commissioners. As this topic was not on the Agenda she did not report further.

Russ Howell wanted to know how she could find the meeting agenda and information pertaining to the meetings work packets on the website. Administrative Assistant Laura Garcia explained how to access the agenda on the Luna County website by selecting Meeting Minutes and then select the meeting information which also includes documents pertaining to meeting.

Ricky Bennett is very concerned regarding the asylum seekers bringing the Ebola disease.

Carmen Torrez is also concerned regarding the big city problem with the asylum seekers. She asked if we can have emergency training for Ebola once it arrives, she also asked if we can have DNA test kits at the County.

Rosalie Bennett explained that the people have the power and when the federal government does not protect its citizens the people have the right to stand up to a government. She mentioned that a well-regulated militia is something that needs to be considered and addressed here in Deming and other places.

Chair Smrkovsky explained that she is aware that there are many concerns addressed here and has thanked those who have volunteered to help the situation. This is something that is here it is not something that we wanted. She understands everybody's concerns and appreciates all comments.

Chris Brice wanted to add that he understands the citizens' concerns and that everyone has their own personal opinions on the matter. He clarified again that no one at the County or City had a choice in this matter. The Border Patrol was going to drop these people off as they were directed to do so. Our choice was to allow 245 people to stand around without any direction, or to take them in and get them to their final destination as safely and as soon as possible.

Sean Blaine commented that nobody wanted this and if you are going to be mad at the situation be mad at the federal government's action for the past 30 years. That is where you need to be making your calls. Everybody here is doing an excellent job in the situation.

CONSENT AGENDA: Upon a motion by Commissioner Reedy and a second by Commissioner Sweetser items a and b were approved of the Consent Agenda with items c-l moved to new business for discussion which was unanimously approved following a roll call vote.

a. Accounts Payable: \$685,486.80

b. Payroll: \$1,031,496.32

NEW BUSINESS: Chair Smrkovsky reviewed each item on the New Business agenda with the Commissioners:

- a. **Committee on Budget/Finance:** County Attorney Charles Kretek suggested restarting the advisory board which Mr. Pearson had previously started. The statutory section that Mr. Pearson was working under is 4-38-38, the creation of the County Advisory Board to address investing and issues with the budget and the Treasurer's Office. The Board of Commissioners agreed they would like to see the three Commissioners on this advisory board which would likely need to meet quarterly and held as a work session. Mr. Kretek suggested scheduling a budget update meeting the last week in September. Mr. McSherry is also in agreement that quarterly budget meetings are a good idea so that budget items can be reviewed and discussed without being in a hurry to meet State deadlines. A meeting will be scheduled in July after strategic planning is complete.
- b. **JPA with Village of Columbus:** Mr. Kretek explained that we have a Multi Service Agreement "MSA" with Columbus which expires at the end of June. The County also had an active Joint Powers Agreement "JPA" with the Village of Columbus which covers law enforcement. In discussions with the Mayor of Columbus, a decision to move towards eliminating the two agreements into one. All of the points involved in the two agreements have been rolled into one JPA which is provided to the Board today. Mr. Kretek explained that in the current JPA the financial obligations have not changed at all, they remain the same as it has for the past four years at least. What has changed is the reporting requirement which was added to find out if the money is sufficient, not enough or if services are being provided at all. County Manager David McSherry asked the Commission to agree to have quarterly meetings to study the fine points of this agreement over the next year for the next budget review. Commissioner Sweetser motioned to approve the JPA with Village of Columbus. Commissioner Reedy seconded the motion which carried unanimously.
- c. **Resolution 19-31 Budget Increases:** Budget and Procurement Director Joanne Hethcox provided summary of the budget increases in regards to overtime for the detention center. They had increased their budget and still had funds left over which was added for this year's spending. The US Marshall's increased in the amount of \$250,000 on revenue and expenditure for inmate medical cost and \$220,000 both on revenue and expenditure in the commissary, with the influx of inmates the County has collected more money in commissary therefore the bill is higher. Commissioner Reedy motioned to approve Resolution 19-31 Budget Increases. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.
- d. **Resolution 19-32 Budget Transfers:** Ms. Hethcox explained that these are all intra departmental transfers moving money from one line item to another within the departments where it is needed. Commissioner Sweetser motioned to approve the Resolution 19-32 Budget Transfers. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- e. **Resolution 19-33 Luna County CAP Project:** Road Department Director Marty Miller explained these funds are for Monte Vista Road, Hermanas Rd to Hwy 11. Commissioner

Reedy motioned to approve Resolution 19-33 Luna County CAP Project. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.

- f. **Resolution 19-34 Luna County SB Project:** Mr. Miller explained this is for the school bus route from Hermanas Grade to Sunshine Road. Commissioner Sweetser motioned to approve Resolution 19-34 Luna County SB Project. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- g. **Resolution 19-35 Luna County SBR Project:** Mr. Miller stated this resolution allows for participation in the local government road fund program administered by the NMDOT to apply micro-surface, fill potholes, control shoulders back to original condition and improve drainage on County Club Road SE from Rockhound Road SE. Commissioner Reedy motioned to approve Resolution 19-35 Luna County SBR Project. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.
- h. **Resolution 19-36 Solana Road SW Project:** In an effort to get funding from HB694 the County submitted a funding request in the amount of \$1,027.576 shared with NMDOT to restore Hermanas Grade and to recycle and reclaim the condition of the road. Commissioner Sweetser motioned to approve Resolution 19-36 Solana Road SW Project with the correction of line b. changing from 25% to 5%. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- i. **Resolution 19-37 Luna County Board of Registration:** Clerk Andrea Rodriguez explained that we have already voted on this but with the new HB407 a new resolution must be created for year 2020-2021. Commissioner Reedy motioned to approve Resolution 19-37 Luna County Board of Registration with the name change of Phil Hoylen to Paul Hoylen. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.
- j. **Resolution 19-38 End of Year Intra-Department Transfers:** Mr. McSherry explained that this resolution allows the County Manager to work with Joanne Hethcox and make year-end adjustments without having to have the Board of Commissioners convene to approve those last minute changes on June 30th. Commissioner Sweetser motioned to approve Resolution 19-38 End of Year Intra-Department Transfers with correction of manager spelling. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- k. **Certification of Fixed Assets:** Ms. Hethcox explained the total of Luna County assets is \$17,725,497.05 unappreciated. DFA requires us to physically inventory our fixed assets every year and this is a certification of those assets. Commissioner Reedy motioned to approve Certification of Fixed Assets. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.
- l. **Removal of Assets:** Joanne Hethcox explained these are assets that have been broken, or are obsolete and no longer need to be on our assets list. Commissioner Reedy motioned to approve Removal of Assets. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.

EXECUTIVE SESSION: to discuss Limited Personnel Matters pursuant to Section 10-15-1 (H) (2) NMSA 1978 pertaining to the County Manager's Evaluation & Contract to include job description, performance goals, roles and responsibilities. Chair Smrkovsky motioned to go into Executive Session to discuss Limited Personnel Matters pursuant to Section 10-15-1 (H) (2) NMSA 1978 pertaining to the County Manager's Evaluation & Contract to include job description, performance goals, roles and responsibilities. The motion was seconded by Commissioner Reedy and carried unanimously following a roll call vote. The Commissioners went into Executive Session at 12:33 p.m. and returned from Executive Session at 3:48 p.m.

Commissioner Reedy motioned to return from Executive Session where no other matters were discussed other than Limited Personnel Matters pursuant to Section 10-15-1 (H) (2) NMSA 1978 pertaining to the County Manager's Evaluation & Contract to include job description, performance goals, roles and responsibilities and where no action was taken. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

UPCOMING MEETINGS: Chair Smrkovsky announced the following upcoming meetings and mentioned that a Budget meeting will also be scheduled.

Special Work Session June 27, 2019 at 9:00am

1. Ben Aragon, Wilson & Company - Feasibility Study Starmax, Mimbres Valley Learning Center and the Luna County Day Care Center
2. Ordinance 98 Animal Control – Draft Ordinance is posted and suggestions can be submitted no later than 5:00 pm on Tuesday June 25, 2019 to the County Manager's Office at laura_garcia@lunacountynm.us

Work Session- July 11, 2019 at 9:00a.m.

Regular Meeting- July 11, 2019 at 10:00 a.m.

ADJOURN: Upon a motion made by Commissioner Reedy and a second made by Commissioner Sweetser the meeting was adjourned at 3:50 p.m.

ATTEST:

**LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS**

ANDREA RODRIGUEZ, LUNA COUNTY CLERK

BARBARA L. REEDY, DISTRICT 1

APPROVED: _____

LINDA M. SMRKOVSKY, DISTRICT 2

JOHN S. SWEETSER, DISTRICT 3

**MINUTES
WORK SESSION
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday June 27, 2019**

BE IT REMEMBERED that the Luna County Board of County Commissioners met at 9:00 a.m. on Thursday, June 27, 2019 in the County Commission Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting a Work Session.

CALL TO ORDER: Chair Smrkovsky called the meeting to order at 9:03 a.m. and led the Pledge of Allegiance and the salute to the flag of New Mexico.

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

**Barbara L. Reedy, District 1
Linda M. Smrkovsky, Chair, District 2
John S. Sweetser, District 3**

SERVICE AWARDS: No Service awards were presented.

PRESENTATIONS:

- a. **Feasibility Study Update on Starmax, Mimbres Valley Learning Center and Day Care by Wilson & Company:** Ben Bacwartz, Planner with Wilson & Company and Marvin Chavez from the Architecture with Wilson & Company presented an extensive update on the feasibility study on Starmax, Mimbres Valley Learning Center and the Luna County owned Day Care facility. Mr. Bacwartz reported as of last fall they have been engaged in analyzing the needs of the community surrounding these facilities which included public meetings and public surveys. The scope of the study was to answer questions, what are the needs of the facilities, what is the cost of improvements, and is it feasible for the County to operate and maintain the facilities going forward. The first step was to complete the analysis and to look at the recent County comprehensive plan making sure there is an understanding of who is living in the community and what their current needs are. Mr. Bacwartz said they looked specifically at the economic projections of what kind of jobs will be available going forward, what industries are growing and what industries are shrinking in the community. Mr. Bacwartz reported they found how the learning center could better serve the business community through an expansion of vocational training which includes welding, technology, electrician and auto diesel mechanic. He also reported that from public discussions and surveys there was a strong support for a number of new outdoor facilities including a skate park, batting cages and a gathering space for the Starmax facility. Mr. Bacwartz also reported that they found strong support throughout the County for additional adult education, English as a second language and a potential for the Western New Mexico University to partner with local employers to perform on the job training programs. Mr. Bacwartz reported total construction costs for

Starmax improvements would be \$5,227,495 and the total construction costs for the Learning Center improvements would be \$13,521,892 which would include adding eight new classrooms and new vocational/trade classrooms. The total construction cost for the Day Care facility improvements would be \$1,722,707. A public meeting is scheduled for tonight at the Special Event Center to address comments on the draft study.

- b. **Proposed Ordinance Number 98 Animal Control:** Chair Smrkovsky opened the floor to public comments pertaining to Ordinance Number 98 Animal Control.

Diana Storm expressed concerns regarding her neighbor's dogs running around the neighborhood and how she can have the laws enforced pertaining to her neighbor.

Mike Reitz Director of DAGSHIP thanked the County for the updated ordinance. Mr. Reitz would like to make sure there's a mechanism in the ordinance to stop any future Ruff Ruff type hording situations, specifically regarding enforcement of the ordinance. Mr. Reitz liked that a cap on the number of dogs people can have was included. Mr. Reitz stated that although it is important that the information be communicated to the Humane Society from the animal control officers he does not feel the Humane Society should be the controlling body, he believes that responsibility should be on the City and County. Mr. Reitz also mentioned that he believes the Humane Society needs more funding in order to properly take care of the animals which include vaccinations, transfers and health inspections. But, most importantly, he believes a Director would be an excellent resource for the Humane Society and again that comes down to funding. Mr. Reitz would also like to see verbiage in the ordinance which says that if anyone has been convicted of animal abuse in any State on any level, that individual should not be qualified or allowed to volunteer at any animal involved facilities. In addition, Mr. Reitz would like to see the verbiage stay in the contract between the Humane Society and Luna County where Luna County could appoint an individual to the Luna County Humane Society Board if the County felt it was necessary. Mr. Reitz would like to see third party inspections being done and Dagship would like to help with the funding for that inspection expense.

Ann Booker announced that she had submitted comments and believes strongly that a higher fee schedule needs to be considered for having intact animals. Ms. Booker also feels the enforcement aspect is very important. She thanked the County for allowing her to be involved in the creation of the ordinance and for being able to give it one last look at the ordinance prior to finalizing it.

Robert Spane commented that the current situation with the animals has been addressed by the Humane Society as of 1969 and the City or the County pays them approximately \$100,000 to support that effort. Mr. Spane mentioned the Humane Society's effort is seen by the community as being inadequate and would like to know who is responsible for overseeing that effort.

Sandy Hasting from Heathers Animal Rescue invites the Board to visit her facility. Ms. Hasting said that she knows for a fact that what was said about Vicky was not true. Ms. Hasting is hoping that with the new animal ordinance in place she can be left alone to take care of her rescues which does not only include dog and cats but would include any animal in need of help.

Diana Storm is concerned that if DAG pays for inspectors for animal control, it would be considered a conflict of interest, she believes inspectors should be paid by the County or State.

ANNOUNCEMENTS: Chair Smrkovsky announced that the County will take comments pertaining to Ordinance 98 Animal Control until Monday, July 15 at 12:00 pm. The comments can be delivered to the County Manager David McSherry or can be e-mailed to laura.garcia@lunacountynm.us. The ordinance will be formally published two weeks prior to the August 11th meeting and voted on at the regular meeting of August 11th 2019. County Manager David McSherry mentioned that there will be a third draft posted no later than Wednesday to correct misspellings in the ordinance. The comments received by July 15 will then be applied to the final draft by the County Manager David McSherry and the County Attorney Charles Kretek. Recommendations to the Board will be made at the regular meeting scheduled on August 11th for final approval.

COMMISSIONERS AND STAFF DISCUSSION ON REGULAR MEETING AGENDA ITEMS: The Luna County Board of County Commissioners presented the Regular Meeting Agenda items for presentation and discussion by attending members of the public. *(*Note: Items were presented for discussion only and no actions were taken.)* The following agenda items were discussed:

Not applicable for this meeting.

ADJOURN: Upon motion made by Commissioner Sweetser and a second made by Commissioner Reedy. Chair Smrkovsky adjourned the meeting at 10:02 a.m.

ATTEST:

**LUNA COUNTY BOARD OF
COUNTY COMMISSIONERS**

Andrea Rodriguez, Luna County Clerk

Barbara L. Reedy, District 1

Approved: _____

Chair, Linda M. Smrkovsky, District 2

John S. Sweetser, District 3

Indigent Hospital Claims Office

David X. McSherry, County Manager

IHC Board Meeting July 12, 2019

Month	Number	Amount	Number	Denied
January	23	\$26,055.34	0	\$0.00
Feburary	6	\$14,781.78		
March	5	\$3,640.93		
April	13	\$2,412.27		
May	8	\$24,060.58		
June	1	\$51.51		
July	0	\$0.00		
August	0	\$0.00		
September	0	\$0.00		
October	0	\$0.00		
November	0	\$0.00		
December	0	\$0.00		
Total	56	\$71,002.41	0	\$0.00
This Month's Total	Mimbres Memorial Hospital			\$51.51
This Month's Total	Gila Regional Medical Center			\$0.00
This Month's Total	Memorial Medical Center			\$0.00
This Month's Total	Deming Fire Dept./EMS			\$0.00
This Month's Total	All Other Services			\$0.00
Total				\$51.51
Year to Date Total	Mimbres Memorial Hospital			\$62,670.61
Year to Date Total	All Other Hospitals			\$2,949.36
Year to Date Total	Deming Fire Dept./EMS			\$1,000.00
Year to Date Total	All Other Services			\$690.00
Total				\$67,309.97
Care of Prisoners This Month - Not including SNCP Funds				\$17,455.97
Care of Prisoners Year to Date Indigent - Not including SNCP Funds				\$379,026.76
Care of Prisoners Year to Date Inmate Prescriptions/OTC Meds				\$53,525.27
Care of Prisoners Year to Date Dr. Bills				\$14,944.94
Total Cost of Care of Prisoners Year to Date				\$447,496.97
Monies Received for June 2019				\$53,175.37
Balance in IHC Fund as of June 30, 2019				\$1,054,896.91
Encumbrances as of June 30, 2019				\$146,052.46
		Date	Amount Approved	Amount Denied
	Signatures	07/12/19	\$51.51	\$0.00
Barbara L. Reedy				
Linda M. Smrkovsky				
John S. Sweetser				

[illegible]

July 12, 2019

[illegible]

LCBCC Meeting July 12th, 2019
Accounts Payable

6/6/2019	\$306,671.60
6/6/2019	\$8,271.79
6/6/2019	\$2,767.51
6/7/2019	\$685.68
6/13/2019	\$534,595.98
6/13/2019	\$17,857.60
6/13/2019	\$14,120.80
6/13/2019	\$1,081.58
6/21/2019	\$540.00
6/27/2019	\$360,929.32
6/27/2019	\$16,798.26
6/27/2019	\$12,287.13
P-Cards	
May 2019	\$211,398.48
Total	\$1,488,005.73

Luna County
Board of County Commissioners

AGENDA 07/12/2019

PAYROLL

06/07/2019	Register # 20190026	\$507,349.78
06/07/2019	*Register # 20190027	\$20,719.96
06/07/2019	*Register # 20190028	\$507.25
06/21/2019	Register # 20190029	\$512,614.87
06/21/2019	*Register # 20190030	\$3,173.85
06/24/2019	*Register # 20190031	\$35,403.70

Total \$ 1,079,769.41

* Special

APPOINTMENT OF DEPUTY SHERIFF

STATE OF NEW MEXICO)
COUNTY OF LUNA) ss

This is to certify that I have this 25th day of JUNE, 2019
A.D. appointed JESSE Solano as
my DEPUTY Sheriff in and for the County of Luna, State of New
Mexico, hereby authorizing him to discharge all duties of said appointment
of DEPUTY SHERIFF, according to the law.

WITNESS MY HAND THIS 25th DAY OF JUNE, 2019 A.D.


SHERIFF, LUNA COUNTY NEW MEXICO

OATH OF OFFICE


STATE OF NEW MEXICO)
COUNTY OF LUNA) ss

I, JESSE Solano, having received the above
appointment as DEPUTY Sheriff in and for the County of
Luna, State of New Mexico, do solemnly swear that I will support the Constitution
of the United States, and also the Constitution of the State of New Mexico, and that
I will faithfully, impartially, and to the best of my ability discharge all the duties of
said office and appointment.

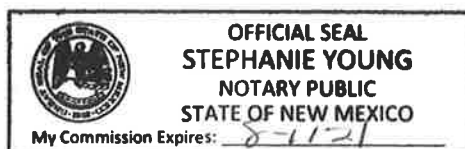

SIGNATURE OF APPOINTEE

STATE OF NEW MEXICO
COUNTY OF LUNA

Subscribed and sworn before me by Kelly Gannaway,
Sheriff and JESSE Solano appointee.
This 25th day of JUNE, 2019.


NOTARY
My Commission Expires 8-11-21

Approved this _____ day of _____ 20____ A.D., by the Board of County Commissioners,
Luna County, New Mexico.



CHAIRMAN, BOARD OF LUNA COUNTY COMMISSIONERS

APPOINTMENT OF BRANDON BAEZA

STATE OF NEW MEXICO)
COUNTY OF LUNA) ss

This is to certify that I have this 3rd day of July, 2019
A.D. appointed BRANDON BAEZA as
my DEPUTY SHERIFF in and for the County of Luna, State of New
Mexico, hereby authorizing him to discharge all duties of said appointment
of DEPUTY SHERIFF, according to the law.

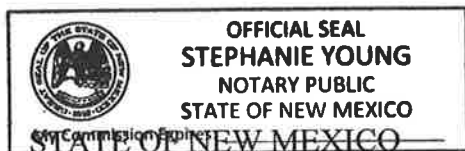
WITNESS MY HAND THIS 3rd DAY OF July, 2019 A.D.

Kelly Gannaway
SHERIFF, LUNA COUNTY NEW MEXICO

OATH OF OFFICE

STATE OF NEW MEXICO)
COUNTY OF LUNA) ss

I, BRANDON BAEZA, having received the above
appointment as DEPUTY SHERIFF in and for the County of
Luna, State of New Mexico, do solemnly swear that I will support the Constitution
of the United States, and also the Constitution of the State of New Mexico, and that
I will faithfully, impartially, and to the best of my ability discharge all the duties of
said office and appointment.



COUNTY OF LUNA

Stephanie Young
NOTARY

My Commission Expires 8-11-21

Kelly Gannaway
SIGNATURE OF APPOINTEE

Subscribed and sworn before me by Kelly Gannaway,
Sheriff and BRANDON BAEZA appointee.
This 3rd day of July, 2019.

Approved this _____ day of _____ 20____ A.D., by the Board of County Commissioners,
Luna County, New Mexico.

CHAIRMAN, BOARD OF LUNA COUNTY COMMISSIONERS

RESOLUTION NO. 19-39

AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY

WHEREAS, Luna County ("Governmental Unit") is a qualified entity under the New Mexico Finance Authority Act, Sections 6-21-1 through 6-21-31, NMSA 1978 ("Act"), and the Luna County Board of County Commissioners ("Governing Body") are authorized to borrow funds and/or issue bonds for financing of public projects for benefit of the Governmental Unit; and

WHEREAS, the New Mexico Finance Authority ("Authority") has instituted a program for financing of projects from the public project revolving fund created under the Act and has developed an application procedure whereby the Governing Body may submit an application ("Application") for financial assistance from the Authority for public projects; and

WHEREAS, the Governing Body intends to undertake acquisition, construction and improvement of Road Department Equipment ("Project") for the benefit of the Governmental unit and its citizens; and

WHEREAS, the application prescribed by the Authority has been completed and submitted to the Governing Body and this resolution approving submission of the completed Application to the Authority for its consideration and review is required as part of the Application.

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

Section 1. That all action (not consistent with the provision hereof) heretofore taken by the Governing body and the officers and employees thereof directed toward the Application and the Project, be and the same is hereby ratified, approved and confirmed.

Section 2. That the completed Application submitted to the Governing Body, be and the same is hereby approved and confirmed.

Section 3. That the officers and employees of the Governing Body are hereby directed and requested to submit the completed Application to the Authority for its review, and are further authorized to take such other action as may be requested by the Authority in its consideration and review of the Application and to further proceed with arrangements for financing the Project.



NEW MEXICO FINANCE AUTHORITY

NMFA Use Only:

App. #:	-PP
FA assigned:	
Legislative Authorization	

PUBLIC PROJECT REVOLVING FUND EQUIPMENT APPLICATION

I. GENERAL INFORMATION

A. APPLICANT /ENTITY

Application Date: 06/14/2019

Applicant/Entity:	Luna County				
Address:	PO Box 551, Deming, NM 88031-0551				
County	Luna	Census Tract:	5		
Federal Employer Identification Number (EIN) as issued by the IRS:	85-6000230				
Legislative District:	Senate:	35	House:	32	
Phone:	575-546-0492	Fax:	575-543-6577	Email Address:	joanne_hethcox@lunacount
Individual Completing Application:	Joanne C. Hethcox				
Address:	PO Box 551, Deming, NM 88031-0551				
Phone:	575-543-6574	Fax:	575-543-6577	Email Address:	joanne_hethcox@lunacount

II. PROJECT SUMMARY

- A. **Project Description.** Complete the following information, using additional paper if necessary. Include any additional documents that may be useful in reviewing this project, i.e. architectural designs, feasibility studies, business plan, etc.

1. Description of Equipment:

1-Roll off Truck; 3-Day cab Trucks; 3-Belly Dumps; Tire Shredder; Tire Cutter; Patcher f



2. When do you need NMFA funds available? When available

B. Total Project Cost & Sources of Funds Detail.

Equipment Items	NMFA Funds Requested	Other Public Funds*	Private Funds	Total
Roll-Off Truck	\$ 145,295.00	\$ 0.00	\$ 0.00	\$ 145,295.00
3-Day Cab Trucks w/ Belly <input type="checkbox"/>	\$ 436,125.00	\$ 103,200.00	\$ 0.00	\$ 332,925.00
Tire Cutter & Shredder	\$ 685,000.00	\$ 0.00	\$ 0.00	\$ 685,000.00
Patcher	\$ 76,000.00	\$ 0.00	\$ 0.00	\$ 76,000.00
Total Cost:\$	\$ 1,342,420.00	\$ 103,200.00	\$ 0.00	\$ 1,239,220.00

III. FINANCING

A. Specify the revenue to be pledged as security for the NMFA loan (a revenue source must be pledged for this type of project).

- ☐ Municipal Local Option GRT – please specify: _____
- ☐ County Option GRT – please specify: _____
- ☒ Other Tax-Based Revenue: Gasoline Tax dedicated to Road Department
- ☐ State-Shared GRT
- ☐ Law Enforcement Funds
- ☐ Fire Protection Funds
- ☐ Other Revenue: _____

B. Preferred financing term: 5 years.

C. Is any debt being repaid from the revenue source(s) referenced in A (1)? Yes ☐ No ☒

If yes, provide bond or loan documents and payment schedule for any existing debt service being paid from the same revenues that would be used to repay a NMFA loan.

IV. READINESS TO PROCEED ITEMS

A. The following items must accompany this application in order for this application to be considered complete:

- ☐ Equipment cost breakdown (if applicable)
- ☐ Three most recently completed fiscal year audit reports

- ☐ Current unaudited financials
- ☐ Current fiscal year budget
- ☐ Equipment Application
- ☐ Application Resolution
- ☐ Minutes of public hearing meeting approving submission of application
- ☐ Any additional information requested by NMFA

V. CERTIFICATION

I certify that:

We have the authority to request and incur the debt described in this application and, upon award, will enter into a contract for the repayment of any NMFA loans and/or bonds.

We will comply with all applicable state and federal regulations and requirements.

To the best of my knowledge all information contained in this application is valid and accurate and the submission of this application has been authorized by the governing body of the undersigned jurisdiction.

Signature:

(highest elected official)

Title: Commission Chair

Jurisdiction:

Luna County

Print Name:

Linda M. Smrkovsky

Date: _____

Signature:

Joanne C. Hethcox

Date: June 14, 2019

Finance Officer/Director:

Joanne C. Hethcox

Be it remembered that at a Regular Meeting of the Luna County Board of County Commissioners in Deming New Mexico, on the 12th day of July 2019, the following proceedings were had and entered of record.

RESOLUTION #19-40

DESIGNATING POLLING PLACES FOR 2020 AND 2021

WHEREAS, Section 1-3-2A, NMSA 1978, requires the Board of County Commissioners, by resolution, to designate the polling place in June or July of each odd-numbered year.

WHEREAS, the designation of the polling place shall be for the period beginning on January 1 of the next succeeding even-numbered year (January 1, 2020) until December 31 of the odd-numbered year thereafter (December 31, 2021).

WHEREAS, the Board of County Commissioners finds that each polling place designated in this resolution complies with the provisions of Section 1-3-7, NMSA 1978.

WHEREAS, the Board of County Commissioners finds that those precincts that are consolidated to create Voting Convenience Centers meet the requirements of Section 1-3-4, NMSA 1978, will be available to voters of any precinct in the County to cast a vote at the Voting Convenience Center, will make voting more convenient and accessible to voters of the consolidated precinct, will not result in delays for voters in the voting process and are centrally located within the consolidated precinct.

WHEREAS, the Board of County Commissioners finds that each polling place provides individuals with physical mobility limitations unobstructed access to at least one voting machine.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Luna County designates the polling locations for the period beginning January 1, 2020 and ending December 31, 2021 as follows:

Precinct Numbers

Location and Address

Voter Convenience Centers:

(All voters in the county may vote at these locations, regardless of where they live.)

2, 3, 8, 9, 10, 11, 15 & 17

Luna County Old Depot Building
217 N. Country Club Road, Deming, NM

1, 5, 6, 7, 12, 13, 14 & 16

Holy Family Parish Hall
615 S. Copper St., Deming, NM

4

Columbus Village Library
112 West Broadway, Columbus, NM

Early Voting Locations:

In-Person
Absentee

Luna County Clerk's Office
700 S. Silver St., Deming, NM

Alt. In-Person
Absentee

Luna County Old Depot Building
217 N. Country Club Road, Deming, NM

Done at Deming, New Mexico this 12th day of July 2019

Luna County Board of County Commissioners

ATTEST:

**Linda M. Smrkovsky, Chairperson
Commissioner, District 2**

Andrea Rodriguez, County Clerk

**Barbara L. Reedy,
Commissioner, District 1**

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

Be it remembered that at a Regular Meeting of the Luna County Board of County Commissioners in Deming New Mexico, on the 12th day of July 2019, the following proceedings were had and entered of record.

LUNA COUNTY

RESOLUTION 19-41

**PARTICIPATION IN CAPITAL OUTLAY PROGRAM ADMINISTERED
BY THE NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, The Board of County Commissioners of Luna County and the New Mexico Department of Transportation wish to enter into a Grant Agreement.

WHEREAS, the total cost of the project is Two Hundred and Fifty Thousand Dollars (\$250,000.00) to be funded by the parties here to as follows:

- a. New Mexico Department of Transportation's share shall be 100%

and

- b. The Board of County Commissioners of Luna County's proportional matching share shall be 0%

TOTAL PROJECT COST IS \$250,000.00

The Board of County Commissioners of Luna County shall pay all costs, which exceed the total amount of **\$250,000.00**.

NOW, THEREFORE, BE IT FURTHER RESOLVED that in official session that The Board of County Commissioners of Luna County determines, resolves, and orders as follows:

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

The agreement terminates on June 30, 2023, and the Board of County Commissioners of Luna County incorporates all the agreements, covenants, and understandings between the parties here to concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

BE IT FURTHER RESOLVED by the Luna County Commission to enter into Cooperative Agreement Control Number **1193355** with the New Mexico Department of Transportation for Capital Outlay to plan, design and construct road and drainage improvements in Luna County within the control of the Luna County Commission in Deming, Luna County, New Mexico.

Done at Deming, New Mexico this 12th day of July 2019.

LUNA COUNTY BOARD OF COMMISSIONERS

ATTEST:

**Linda M. Smrkovsky, Chairperson
Commissioner, District 2**

Andrea Rodriguez, County Clerk

**Barbara L. Reedy,
Commissioner, District 1**

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

JOINT POWERS AGREEMENT
BETWEEN LUNA COUNTY AND THE VILLAGE OF COLUMBUS

THIS JOINT POWERS AGREEMENT ("Agreement") is by and between the Luna County Board of County Commissioners (County) and the Village of Columbus Board of Trustees (Village). It establishes the exchange of services between the parties, including the provision of professional law enforcement services by the County to the Village. It is agreed and understood by both parties that, with regard to law enforcement activities, the Luna County Sheriff will be acting on behalf of the County and the Village, WHEREAS, all parties to this Agreement are "public agencies", as defined Section 11-1-2, NMSA 1978, of the Joint Powers Agreement Act.

WHEREAS, the parties currently have in effect a Joint Powers Agreement for Law Enforcement Services, Resolution 2015-11, which expires on December 31, 2019, and a Multi-Services Agreement, Luna County Resolution 18-32, which expires June 30, 2019.

WHEREAS, this Agreement is intended to supersede and replace the existing JPA for Law Enforcement Services and the MSA but only upon final approval of the Secretary of Finance and Administration, pursuant to Section 11-1-3, NMSA 1978, and those two agreements shall remain in effect until such time as approval is obtained or the parties enter into another agreement.

WHEREAS, consistent with the Joint Powers Agreement Act, Section 11-1-1 through 11-1-7, NMSA 1978, the Parties jointly have the duties and obligations and will exercise the powers described in this Agreement

WHEREAS, it is the opinion of the Village that it is presently unable to adequately, economically or efficiently exercise the police powers pursuant to Section Section 3-18-1

(F) and (G), NMSA 1978, or to appoint police officers to exercise the duties pursuant to Section 3-13-2, NMSA 1978; and

WHEREAS, the Luna County Sheriff's Office has statutory law enforcement duties pursuant to Section 4-41-2, NMSA 1978, and is capable of acting and is uniquely qualified to act as police officers of the municipality.

WHEREAS, the County has the ability to address the continuing needs for rural transportation services on behalf of the residents of Luna County, including those residents living within and near the Village.

WHEREAS, the Village has the ability to provide to Luna County residents living in or near the Village of Columbus volunteer fire protection services, volunteer emergency medical services, recreational services in the form of operation of the public pool and library in Columbus and for the operation of a landfill.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND UNDERTAKINGS SET FOR HEREIN, THE PARTIES AGREE AS FOLLOWS:

1.0 Authority

This agreement is made pursuant to the provisions of law set forth in the Joint Powers Agreements Act, Sections 11-1-1 et seq., NMSA 1978.

2.0 Purposes

The purposes of this Agreement are to:

2.1 Continue the provision of rural transportation services for Columbus residents through Corre Caminos;

2.2 The provision of professional law enforcement services to the Village by and through the Luna County Sheriff;

2.3 The provision of volunteer fire protection for Luna County residents in and near the Village;

2.3 The provision of volunteer emergency medical services for Luna County residents in and near the Village;

2.4 The provision of recreational services to Luna County residents in and near the Village by operation of the public swimming pool and the library in Columbus;

2.5 The operation of a landfill in Columbus.

3.0 Representations

Consistent with the Joint Powers Agreement Act, the parties hereto warrant and represent the following:

3.1 That they, both individually and collectively, have the authority to bind themselves to the terms of this Agreement and to undertake and perform the duties and obligations contained herein; and

3.2 That they have the authority to make the payments, purchases and commitments contained herein.

3.3 That the parties will perform all duties and obligations and conduct all operations in compliance with applicable laws, regulations, rules and ordinances.

4.0 Duties and Obligations

4.1 Corre Caminos Program

The County shall negotiate for the continued availability of rural transportation services for Village residents living in the vicinity of the Village of Columbus through the Corre Caminos program with the Village serving as the delivery point for the services.

The Village shall pay the County \$10,000.00

4.2 Law Enforcement Services

The County, by and through the Luna County Sheriff's Office shall provide professional law enforcement services within the incorporated limits of the Village of Columbus. The specific services provided under this Section, along with the equipment under the next Section, will be more fully described in a separate Memorandum of Understanding prepared by Luna County, which is incorporated herein by reference as if set out in its entirety and reviewed annually and amended or modified when necessary.

The Village shall pay the County \$20,000.00

4.3 Law Enforcement Equipment

The Village shall provide equipment to be utilized by the Luna County Sheriff's Office in providing professional law enforcement services within the incorporated limits of the Village of Columbus and the County by use of the entirety of funds awarded to and received by the Village from the Law Enforcement Protection Fund ("LEPF"), awarded by the State of New Mexico up to the amount stated below.

The Village shall expend \$20,000.00 or the entirety of LEPF funds, as directed by the Luna County Sheriff.

4.4 Volunteer Fire Program

The Village shall provide volunteer fire protection services for Luna County residents living in the vicinity of the Village of Columbus by the Columbus Volunteer Fire Department and the funds paid by the County hereunder shall be used for operational expenses not including salaries, wages or stipends for volunteer fire protection services.

The County shall pay the Village \$20,000.00

4.5 Volunteer Emergency Medical Services

The Village shall provide volunteer emergency medical services for Luna County residents living in the vicinity of the Village of Columbus by the Columbus Volunteer Fire Department and the funds paid by the County hereunder shall be used for operational expenses not including salaries, wages or stipends for volunteer emergency medical services.

The County shall pay the Village \$20,000.00

4.6 Recreation — Public Swimming Pool

The Village shall provide recreation for Luna County residents living in the vicinity of the Village by seasonal operation of the public swimming pool in Columbus.

The County shall pay the Village \$8,000.00

4.7 Recreation — Public Library

The Village shall provide recreation for Luna County residents living in the vicinity of the Village by operation of the public library in Columbus. The County shall pay the Village \$8,000.00

4.8 Public Landfill

The Village provides for the health and welfare of Luna County residents living in the vicinity of the Village by operation of a public landfill in Columbus.

The County shall pay the Village \$8,000.00

5.0 Reporting Requirements

To track and measure the efficacy of County funding during the term(s) of this Agreement, the Village shall file with the Luna County Manager, or his designee, quarterly reports on or before October 15, January 15, April 15, and July 15 of each year this Agreement is in effect, as follows:

5.1 Volunteer Fire and EMS Services

Volume for the number of calls for and responses to fires, rescue, emergency medical services, hazardous conditions and false alarms; the number of volunteers and vehicles responding; the time spent on each response and any inspection reports or notices of violation.

5.2 Recreation — Swimming Pool

The days and hours of operation; the number of residents utilizing the pool, separated by adults and children (under the age of 18); the number of employees working each shift; volume of chemicals and other supplies consumed; and any inspection reports or notices of violation.

5.3 Recreation - Library

The days and hours of operation; the number of residents utilizing the library, separated by adults and children (under the age of 18); the number of employees working each shift; the number of media (books, magazine, online) used; and any inspection reports or notices of violation.

5.4 Health and safety - Landfill

The days and hours of operation; the number of vehicles entering the facility to deposit refuse; the volume by ton of refuse and waste collected; the date and duration of community cleanups conducted; the number of employees and volunteers participating in cleanups; the volume by pounds collected during each cleanup; if recycling is undertaken, the number of vehicles or residents depositing material for recycling; and pounds of materials diverted from the landfill for recycling; and any inspection reports or notices of violation.

5.5 Invoicing

Along with the Quarterly Reports for each of the separate activities, the Village will attach invoices or receipts for expenditures related to that activity and an invoice for payment to the Village from the County for 25% of the approved payment amounts for each separate activity.

6.0 Term of Agreement

6.1 The initial term of this Agreement shall be annual beginning on July 1 , 2019, or as soon thereafter as approved by the Secretary of Finance and Administration, through June 30, 2020, unless amended or terminated by either party and provided herein.

6.2 This Agreement shall remain in effect as long as all of the terms and conditions of this Agreement are met and may be extended for two (2) additional annual terms by the County providing written notice to the Village of such intent and written acceptance by the Village. Such notice will be delivered not earlier than May 1 and no later than June 15 in any year in which it is in effect.

6.3 This Agreement may be terminated by either party by delivery of written notice to the other party at least thirty (30) days prior to the proposed termination date.

6.4 This Agreement and any amendments thereto must be approved by both the Luna County Board of County Commissioners and the Village of Columbus Board of Trustees.

7.0 Books and Records

7.1 Pursuant to Section 11-1-4D, NMSA 1978, this Agreement requires strict accountability of all receipts and disbursements.

7.2 The records of all transactions maintained by either party shall be open for inspection and audit at reasonable times by the other party or their designee and in accordance with all applicable laws, including the Audit Act, Sections 12-6-1 through 12-6-4-14, NMSA 1978.

8.0 Miscellaneous Provisions

8.1 Privileges and Immunities

Pursuant to Section 11-1-6, NMSA 1978, all of the privileges and immunities from liability, including the New Mexico Tort Claims Act, Sections 41-4-1, et seq. NMSA 1978, as amended, exemptions from laws, ordinances and rules and all other benefits which apply shall apply and are not waived by this Agreement.

8.2 Insurance

The County and the Village shall obtain insurance policies and amounts they each deem prudent for their potential liabilities.

8.3 Indemnification

The parties agree to indemnify the other party from the reasonable expenses and costs, including attorney's fees reasonably incurred as a result of negligence, gross negligence or other inappropriate conduct or in connection with performance of any duty or obligation under this Agreement or in the defense of any claim made in connection with performance under this Agreement.

8.4 Distribution

Upon termination, only those due and owing for duties and obligations performed prior to termination shall be paid and any equipment or material in the possession of either party during the term of this Agreement shall remain in their possession and be deemed owned by that party.

8.5 Severability

The articles, sections, subsections, paragraphs, sentences, clauses and phrases of this Agreement are severable. If any such article, section, subsection, paragraph, sentence, clause or phrase is declared unconstitutional, illegal, invalid or unenforceable by a final judgement or decree of any court of competent jurisdiction, such declaration shall not affect any of the remaining provisions of this Agreement.

8.6 Venue and Governing Law

This Agreement shall be interpreted under the laws of the State of New Mexico. Venue for any suit brought upon this Agreement shall lie in the Sixth Judicial District Court of Luna County, New Mexico.

8.7 Subcontracting or Assignment

Either party, in performing its duties and obligations under this Agreement may subcontract such duties upon delivery of written notice to the other party. However, such

subcontracting shall not relieve the subcontracting party from performance of any duties or obligations.

8.8 Equal Employment Opportunity

Neither party will discriminate against any person because of race, color, religion, sex, ancestry, national origin, place of birth, marital or family status, sexual orientation or identification, age or handicap unrelated to a bona fide occupational qualification of the position or because of status as a disabled veteran or Vietnam era veteran.

8.9 Waiver

The waiver by either party hereto of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision of this Agreement.

8.10 Notices

Any notice of termination, request, demands or other communications under this Agreement shall be in writing and shall be deemed delivered: (1) when delivered in person to the representative of the parties listed below; (2) upon receipt when mailed by overnight courier service, mailed first-class certified or registered mail, return receipt requested and addressed to the party at the address below; (3) upon confirmation of receipt if sent by facsimile to the fax number of the party listed below; or (4) upon read receipt if sent by e-mail to the representative of the parties listed below:

Village of Columbus
Esequiel Salas
Mayor
214 W. Broadway
Columbus, NM 88029
Phone: (575) 531-2663
Fax:
Email: mayor@vtc.net

Luna County
David X. McSherry
County Manager
700 S Silver St
Deming, NM 88030
Phone: (575) 546-0494
Fax: (575) 544-4293
Email: David_mcsberry@lunacountynm.us

Such addresses and contact information may be changed from time to time by either party by providing written notice as provided above.

8.11 Execution Authority

By their signatures below, each signatory certifies that they are properly authorized as an agent or officer of the applicable party hereto and have the requisite authority necessary to execute this Agreement on behalf of such party and each party hereby certifies to the other that any resolutions necessary to create such authority have been duly passed and are now in full force and effect.

8.12 Appropriations

The terms of this Agreement are contingent upon sufficient appropriations and authorization by the Luna County Board of County Commissioners and the Village of Columbus Board of Trustees for the performance of this Agreement.

If sufficient appropriations and authorization are not made by the respective governing bodies, this Agreement shall terminate immediately upon delivery of written notice to the other party. The governing body's decision as to whether sufficient appropriations are available shall be accepted by the other party as final.

8.13 Independence of Parties

Employees of Village are not, nor shall they be deemed to be, employees of the County. Employees of County are not, nor shall they be deemed to be, employees of the Village.

8.14 Not Joint Venturers

It is not the intention of the parties hereto to create and nothing contained herein shall be construed as creating a partnership or joint venture between the parties.

8.15 Third Party Beneficiaries

The parties hereto agree that they have not entered into this Agreement for the benefit of any third person or persons and it is their express intention that this Agreement is for their respective benefits only to the parties and not for the benefit of others who might otherwise be deemed to constitute third party beneficiaries thereof.

8.16 Survival

The following provisions shall survive any termination or expiration of this Agreement: Section 7.1, 7.2, 8.1, 8.2, 8.3, 8.4, 8.6 and 8.9.

8.17 Counterparts

This Agreement may be executed in several counterparts, each of which shall be considered an original and all of which shall constitute but one and the same instrument.

8.18 Entire Agreement

This Agreement constitutes the entire agreement of the parties hereto and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions and agreements that have been made in connection with the subject matter hereof and, upon approval by the Secretary of Finance and Administration

cancels and supersedes all prior agreements, resolutions and other declarations regarding the subject matter contained herein.

**Done at Deming, New Mexico this 12th day of July 2019.
LUNA COUNTY BOARD OF COMMISSIONERS**

ATTEST:

**Linda M. Smrkovsky, Chairperson
Commissioner, District 2**

Andrea Rodriguez, County Clerk

**Barbara L. Reedy,
Commissioner, District 1**

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

Done at Columbus, New Mexico the_____day of July 2019.

Village of Columbus

ATTEST:

Esequiel Salas, Mayor

Velia Borunda, Village Clerk