

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

Barbara L. Reedy
Member

John S. Sweetser
Chair

Linda M. Smrkovsky
Member

**Thursday, November 12, 2020
10:00 a.m.
Agenda
Regular Meeting
Luna County Courthouse**

Meeting ID: <https://meet.google.com/wcm-iczv-vnr> To dial in: 617-675-4444 PIN: 309 156 665 9554#

1. **Call to Order:** Chair Sweetser 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. Regular Meeting- October 8, 2020
MOTION AND ROLL CALL VOTE
 - b. Special Meeting- October 13, 2020
MOTION AND ROLL CALL VOTE
5. **Presentations:**
 - PlaySharity Funding Request
6. **Elected Officials Report:**
7. **County Manager's Report:**
8. **Indigent Claims Report:**
 - a. Recess as County Commission Convene as Claims Board
MOTION AND VOTE
 - b. Presentation of Claims Report by Joanne Hethcox
 - c. Consider Claims dated November 12, 2020 - \$ 0.00
MOTION AND VOTE
 - d. Recess as Claims Board, Re-Convene as County Commission
MOTION AND VOTE

9. **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.

10. **Call to Amend Ordinance:**

- Resolution 20-53 Call to Amend Ordinance 54; Relating to Collective Bargaining for Luna County, New Mexico; Providing Rights, Responsibilities, and Procedures in the Employment Relationship Between Employees and the Employer.

MOTION AND ROLL CALL VOTE

11. **Public Hearing:**

- Resolution 20-54 Repeal of Ordinance 87: Zoning Regulations for the Former Extra-Territorial

MOTION AND ROLL CALL VOTE

12. **Consent Agenda:**

- a. Accounts Payable: \$1,221,025.21
- b. Payroll: \$1,112,641.05
- c. Oath of Office and Appointment for Deputy Sheriff Lorenzo Paredes
- d. Resolution 20-55 Establishing Salaries for Elected Officials

MOTION AND ROLL CALL VOTE

13. **New Business:**

- a. Resolution 20-56 Budget Increases

MOTION AND ROLL CALL VOTE

- b. Resolution 20-57 Expressing Concern Regarding Certain Proposals Before the New Mexico Civil Rights Commission

MOTION AND ROLL CALL VOTE

- c. Resolution 20-58 Authorization to take necessary actions to sell County property; 665.51 acres off Whirlwind Rd SE, Section 34 & 35, T27S R8W

MOTION AND ROLL CALL VOTE

- d. National Native American Heritage Month Proclamation

MOTION AND ROLL CALL VOTE

- e. Authorizing the submission of Funding Application for Colonias Infrastructure Roads Project

MOTION AND ROLL CALL VOTE

- f. PlaySharify Funding request

MOTION AND ROLL CALL VOTE

- g. Luna County Drug and Alcohol Policy

MOTION AND ROLL CALL VOTE

- h. Service Animals Policy

MOTION AND ROLL CALL VOTE

14. **Certification of Canvass Results for the General Election 2020:**
MOTION AND ROLL CALL VOTE

15. **Executive Session:**

Executive Session pursuant to Section 10-15-1H(2) NMSA 1978-limited personnel matters pertaining to the County Manager's contract.

16. **Upcoming Meetings/ Events (unless otherwise specified):**.

- Regular Commission meeting: December 10, 2020 at 10:00 a.m.

17. **Adjourn:**

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Thursday, October 8, 2020**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 10:00 a.m. on Thursday, October 8, 2020 in the Basement Training room of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting any and all business to come properly before the Board. Due to the Covid-19 Pandemic and the Governor's Orders regarding social distancing, the commission meeting was also conducted via teleconference and webcasting with a minimum in attendance from the public and staff.

The following staff and elected officials were present: County Manager Chris Brice, Assistant to the County Manager Yossie Nieblas, Administrative Assistant Lupita Hernandez, Chief Deputy Clerk Berenda McWright, Deputy Clerk Pilar Salcido, Chief Deputy Assessor Isabelle Enciso, Sheriff Kelly Gannaway, Captain Michael Brown, IT Help Desk Debra Seats, Community Development Director Premal Patel, and Budget & Procurement Director Joanne Hethcox. Other directors and elected officials were present virtually.

CALL TO ORDER: Chair Sweetser called the meeting to order at 10:00 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, District 2
John S. Sweetser, Chair District 3**

APPROVAL OF AGENDA: Chair Sweetser entertained a motion to approve the agenda. Commissioner Smrkovsky moved to approve the agenda as submitted. Commissioner Reedy seconded the motion which carried unanimously.

MINUTES: Upon a motion made by Commissioner Reedy and a second by Commissioner Smrkovsky the Minutes for the Regular Meeting of September 10, 2020 were unanimously approved following a roll call vote.

SERVICE AWARD: LCDC Captain Lionel Lozano and LCDC Lieutenant Lucio Caballeros presented a five-year service award to Alex Snyder. Mr. Jose Ramos from the Road Department was not present to receive his twenty-five year service award.

PRESENTATIONS:

- **Restrictive Housing Quarterly Report:** County Manager Chris Brice reported five detainees were restricted for the month of September. The restrictions for four individuals were Covid-19 related and one was due to side effects of new medication.

ELECTED OFFICIALS REPORTS: Assessor Michelle Holguin's report was submitted electronically.

Chief Deputy Clerk Berenda McWright reported that early and absentee voting has begun. Over 2000 absentee ballots have been mailed out and 400 early voters have been processed to date. Chairs have been provided for those waiting outside for early voting. The chairs provided are being disinfected a few times a day. The alternate location for early voting will be at the Learning Center beginning October 17th. Early voting ends on October 31st.

Treasurer Gloria Rodriguez thanked all of the departments involved in entering data for the tax roll. She also thanked Triadic for their involvement. Ms. Rodriguez stated the tax roll is complete and will be delivered soon, she is also hoping that the tax bills will be mailed out by the 19th of October. Homeowners have until December 10th to pay the first half of tax bills.

Sherriff Gannaway reported for the month of September a rape case is currently being investigated. Assaults and burglaries are down larcenies are up and there have been five vehicle thefts. Non-Criminal civil are up, accidents are down and DWI are zero. Sherriff Gannaway also reported they purchased a new vehicle funded by Stonegarden and they have also recently purchased a few more cameras, including one for himself.

Commissioner Smrkovsky reported that she attended the meeting for the New Mexico Legislative Committee on the 1st of October. A big topic of discussion was the Civil Rights Bill. The bill will need to be watched closely. Ms. Smrkovsky stated the bill takes away the statute of limitations on lawsuits against the County. There also is not a cap on the amount of money that can be awarded. This could be very detrimental to the County.

COUNTY MANAGER'S REPORT: County Manager Chris Brice reported:

- Dispatch – Had almost 9,504 911 calls for the month of September, 103 warrants and 50 new protection orders.
- Detention Center – Had 286 individuals booked and 185 released. The County currently has 178 Marshall Inmates. Four cadets graduate from the academy and they still continue to hire new people. Covid 19 is under control at the LCDC.
- Road Department - 26 miles of road bladed, 2287 tires received, road construction is ongoing.
- Budget and Procurement – Currently working with auditors Chair Sweetser was present for in brief. Some concerns but nothing major. Stonegarden is finally up to date including billing and invoicing monthly.
- Human Resource – Current openings Detention Officer, Starmax Cook, Concession and a Bowling Manager. Newly hired, detention officer, two shelter advocates at helping hands, and one bartender. Mr. Roache out of the Chamber of Commerce was selected for the Starmax Director. Mr. Roache has a huge amount of experience that will be good at Starmax, he starts on the 19th. Promotions were given to Sgt. David Townsend and Court Security Captain Garret Gigante. Currently conducting interviews for maintenance, adult drug court monitor, and a mechanic.

- Starmax – Opened Friday and Saturday from 5:00 p.m. to 12:00 a.m. and Sunday 10:00 a.m. to 7:00 p.m. NFL games will be showing. Every other Friday night is karaoke night. Saturday night is music of some sort.
- Emergency Management – Temporary EOC activated due to flash flooding on September 9th. Sheriff's office and Luna County Fire Department were phenomenal. The MRAP was sent out to rescue a family north of town that could not get out of their house. Detention Center inmates were used to fill sand bags, they were distributed everywhere. The State came down and helped us do a damage assessment, we are waiting on the final results. We continue to monitor Covid-19 as numbers go up and down.
- Safety and Risk – Joann Moorman and Phillip conducted building safety inspection on all of our buildings. Maintenance has been given a list of things that need to get fixed.
- Luna County Fire - Volunteers responded to one brush fire, one vehicle, two semi-truck and an RV fire last month. Fire trucks are being inspected by DOT.
- DWI - 102 misdemeanor offenders are being tracked and 13 DWI arrests were made for the month of September. MRT classes have started back up with Teresa at the Detention Center. DWI program was awarded a \$9,000 grant for teen court.
- Health Council – Six health councils in the State of New Mexico were selected to contract for services to assist in addressing health inequities and health disparities by increasing stakeholder engagements, we were one of those selected. Edith has done a phenomenal job on all of her programs and it was not surprising that she was selected for that.
- Community Health and Wellbeing – Healing House was named as a recipient of New Mexico Coalition against Domestic Violence's Community Hero Award. A Domestic Violence Awareness event will be held on October 28, at 7:00 p.m. CASA is serving seven kids in Luna County and 33 in Grant County. Parents as Teachers are currently serving 109 clients in Luna County, 49 in Hidalgo and food boxes continue to be distributed.
- The IT Department received almost 865 work orders for the month and completed 173. There was over 200 attacks on networks and they continue to work on several projects including District Courts new access control system.
- Economic Development/Planning and Development – Luna County received funding from the Cares Act grant. The ICIP has been submitted to DFA and has been approved. Meeting is scheduled with architect on the batting cages at Starmax.
- Maintenance – M Squared Electric LLC is working on the PNM lighting project including the lights in the clock tower. The Health Complex design is being finalized by Perich Sabatini. Park Plaza has pending asbestos issues of which 60% have been completed.
- Started ETZ talks which is good news to get everyone on the same page with respect to the ETZ. All in agreement on moving forward. Repealing the Ordinance and rewrite it so that it benefits both the County and the City to some degree. It really benefits the citizens who live within the ETZ and it give them straight answers. A grant in the amount of \$15,000,000 for Columbus was not awarded. Economic Development Director Premal Patel scheduled a debrief so that the Federal DOT can explain to us what they saw, what they didn't see, and what they would like to see next time.
- Apache Tribe – Their intent is to put a convenience store and a gas station in that area and the plan is to employ 50 individuals when it is all said and done.

INDIGENT CLAIMS REPORT: Upon a motion by Commissioner Reedy and a second by Commissioner Smrkovsky, 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 no claims for the month of September. The gross receipts collections totaled \$60,127.74 and the balance for the Indigent Claims Fund totaled \$1,556,461.29, of that \$352,348.29 is encumbered. Commissioner Smrkovsky motioned to approve the Indigent Claims Report as presented. Commissioner Reedy seconded the motion which carried unanimously.

Commissioner Reedy motioned to recess as a Claims Board and reconvene as a County Commission. Commissioner Smrkovsky seconded the motion which carried unanimously.

PUBLIC COMMENT: Chair Sweetser opened the floor to public comment. Christy Ann Harvey went before the Board and gave an update on recent Main Street activity.

Alberta Morgan went before the Board to voice her concerns of the use of the Zia symbol.

CONSENT AGENDA: Upon a motion from Commissioner Smrkovsky, and a second by Commissioner Reedy the Consent Agenda was approved as submitted following a roll call vote.

- a. **Accounts Payable: \$1,200,406.00**
- b. **Payroll: \$1,081,618.58**
- c. **Exemption from Special Tax Assessment for Predator Control Program – New Mexico Feeding Company**
- d. **Exemption from Special Tax Assessment for Predator Control Program – Nutt Dairy LLC**

OLD BUSINESS

- a. **Elected Official Salary Survey:** County Manager Chris Brice stated this topic has been discussed several times, his recommendation would be to give an increase of 10%. Commissioner Smrkovsky motioned to approve an 8% salary increase for newly elected officials. Commissioner Reedy seconded the motion which carried following a roll call vote. Chair Sweetser asked to be abstained from this vote as he is a current candidate up for re-election.

NEW BUSINESS:

- a. **Resolution 20-51 Budget Increases:** Budget and Procurement Director Joanne Hethcox reported on the increases. Commissioner Smrkovsky motioned to approve Resolution 20-51 – Budget Increases. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- b. **Domestic Violence Awareness Month Proclamation:** Domestic Violence Awareness Month Proclamation was read by Chair Sweetser. Commissioner Smrkovsky motioned to approve Domestic Violence Awareness Month Proclamation. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- c. **Approval of Commission on Aging Board Member – T. Max Lawrence:** County Manager explained Mr. Lawrence was the recommendation from the Senior Center. Commissioner Reedy moved to approve the Approval of Commission on Aging Board

Member – T. Max Lawrence. Commissioner Smrkovsky seconded the motion which carried unanimously following a roll call vote.

- d. **St. Vincent de Paul Thrift Store & Homeless Shelter Funding Request:** County Manager stated St. Vincent de Paul Thrift Store & Homeless Shelter has requested funding in the amount of \$2,000 to help out with operational needs of the homeless shelter. Commissioner Smrkovsky motioned to approve the Request for St. Vincent de Paul Thrift Store & Homeless Shelter Funding in the amount of \$2,000. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- e. **Authorizing the Submission of Application for funding to Water Trust Board:** Economic Development Director Premal Patel explained this call to vote is basically giving the manager's office authorization to prepare applications for Water Trust Board which is due January 1st. Commissioner Smrkovsky motioned to approve Authorizing the Submission of Application for Funding to Water Trust Board understanding that the time constraint versus the Board having a meeting and asked that the Board get an update on the application. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- f. **Consideration to Update DFA Comprehensive Plan Grant:** Mr. Brice explained this was discussed previously where the County can apply for a grant to get the plan updated. Commissioner Smrkovsky asked to be sure and include the housing plan to this plan. Commissioner Smrkovsky motioned to approve the Consideration to Update DFA Comprehensive Plan Grant. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.

Executive Session pursuant to §10-15-1(H) (2) NMSA 1978 – Limited Personnel Matters; and Section §10-15-1(H) (7) NMSA 1978 Attorney-Client Privilege Information on all Pending and Threatened Claims.

Commissioner Smrkovsky motioned to move into Executive Session pursuant to §10-15-1(H) (2) NMSA 1978 – Limited Personnel Matters; and Section §10-15-1(H) (7) NMSA 1978 Attorney-Client Privilege Information on all Pending and Threatened Claims. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote. The Commissioners went into Executive Session at 11:15 a.m. and returned from Executive Session at 12:53 p.m.

Commissioner Smrkovsky entertained a motion to return from Executive Session where no other matters were discussed other than what was stated in the motion for the Executive Session. The motion was seconded by Commissioner Reedy and carried unanimously following a roll call vote.

Chair Sweetser stated no action was taken.

UPCOMING MEETINGS: Chair Sweetser announced the following upcoming meetings:

Special Meeting – October 13, 2020 @ 10:00 a.m.

Regular Commission Meeting – November 12, 2020 @ 10 a.m.

ADJOURN: The meeting was adjourned by Chair Sweetser at 12:55 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

CHAIR, JOHN S. SWEETSER, DISTRICT 3

**MINUTES
SPECIAL MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Tuesday, October 13, 2020**

BE IT REMEMBERED that the Luna County Board of County Commissioners met at 10:00 a.m. on Tuesday, October 13, 2020 in the Basement Training room of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting a Special Meeting. Due to the Covid-19 Pandemic and the Governor's Orders regarding social distancing, the commission meeting was conducted via teleconference and webcasting with a minimum in attendance from the public and staff.

The following staff and elected officials were present: County Manager Chris Brice, Executive Assistant Yossie Nieblas, Administrative Assistant Lupita Hernandez, Chief Deputy Clerk Berenda McWright, Deputy Clerk Pilar Salcido, Chief Deputy Assessor Isabelle Enciso, Code Supervisor Frankie Tarazon, IT Administrative Assistant Debra Seats, and Community Development Director Premal Patel.

CALL TO ORDER: Chair Sweetser called the meeting to order at 10:00 a.m. and led the Pledge of Allegiance and the salute to the flag of the State 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, District 2
John S. Sweetser, Chair, District 3**

CALL TO REPEAL ORDINANCE:

- **Ordinance 87: Zoning Regulations for the Former Extra-Territorial Zone:** Community Development Director Premal Patel explained that Ordinance 87 was a result of Luna County withdrawing from the City-County joint jurisdiction of the extra-territorial zone. Luna County recognizes that the zone would continue to remain in full force and the jurisdiction of zoning would remain with the City of Deming within the first mile surrounding the City limits. Due to the potential growth in Luna County, the City of Deming and Luna County administration recognize the need to revert back to the extra-territorial zoning ordinance that was in effect in June of 2014. There will be changes to the ordinance which have been requested by both parties and will be introduced at a later date. Staff recommended repealing Ordinance 87 in its entirety and keeping in force the extra-territorial zoning ordinance which was intact in June of 2014. Mr. Patel also recommended that the ETZ Authority start with a three member board until changes are recommended. Chair Sweetser asked Mr. Patel why Luna County pulled out of the joint jurisdiction. Mr. Patel stated that he does not have the full story as to why the County decided to withdraw. The repeal was actually a big hurdle on getting development done and the County is definitely in need of fixing the ETZ. County Manager Chris Brice explained the City of Deming has authority over the individuals living in the one-mile zone and there really is not any authority after that point. Mr. Brice stated that step one is to repeal the ordinance and step two is to re-write the ordinance to benefit all involved. Luna County Attorney Charles Kretek further explained that the reason the County

pulled out of the ETZ was because back in 2013 the County Manager and the City Manager were in dispute over who was going to pay for what and how far the ETZ would go. At that time the statutory ETZ was one mile but could have been extended all the way up to five miles. Mr. Kretek believes at that point they had a three mile ETZ with a one mile hard buffer. An attorney was hired back then to write up a new ETZ ordinance, which was rejected by DFA in December of 2013. The next day the Chairman wrote a letter to the City of Deming saying the County would be pulling out of the JPA. The County officially withdrew in June of 2014 and imposed Ordinance 87. Mr. Brice stated the County does not intend to do another JPA or get DFA approval. Commissioner Smrkovsky asked Code Enforcement Supervisor Frankie Tarazon if he had anything to say. Mr. Tarazon stated that if the County does bring the ETZ back he would like to recommend adding another Code Enforcement Officer so that new person could concentrate on the ETZ which is the way the City used to do it. Mr. Tarazon said they currently have two Code Enforcement Officers and they split the County in half which keeps them very busy. Commissioner Reedy motioned to direct the County Manager's Office to publish the title and summary of Ordinance 87 – Zoning Regulations for the Former Extra-Territorial Zone, one time in the Deming Headlight at least two weeks prior to the meeting of the Board at which the ordinance is proposed for final passage. The publication shall also include the date and time at which the ordinance is to be considered. Commissioner Smrkovsky seconded the motion which carried unanimously following a roll call vote.

PUBLIC COMMENT: No public comment was forthcoming.

NEW BUSINESS:

- a. Resolution 20-52 - Call for Repeal of Ordinance 87:** Commissioner Smrkovsky moved to approve Resolution 20-52 – Call for Repeal of Ordinance 87. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- b. Drug Testing Policy - Discussion only:** County Manager Chris Brice explained the current drug testing policy is out dated and probably in violation of OSHA so the County is currently looking to update and modify the policy.
- c. Service Animal Policy – Discussion only:** County Manager Chris Brice explained that he would like to get us in line with State Statutes and Federal law regarding service animals and create a policy on what we can and cannot do.

ADJOURN: Chair Sweetser adjourned the meeting at 12:25.

ATTEST:

**LUNA COUNTY BOARD OF
COUNTY COMMISSIONERS**

Andrea Rodriguez, Luna County Clerk

Barbara L. Reedy, District 1

Approved: _____

Linda M. Smrkovsky, District 2

Chair John S. Sweetser, District 3



Play Sharity Foundation, 501C3 Public Nonprofit Organization
301 S. Tin St Deming, NM 88030
PO Box 1287 Deming, NM 88031
www.playsharity.org
EIN: 83-1991442

Luna County Commissioners,

Thank you for your continued support of Play Sharity. We are writing to request the reinstatement of the \$50,000 annual community service partnership. This support is critical to help us continue our Play Sharity programming which includes a resource library, tutoring services, assistance to families, and community improvement projects.

Thank you for your time and consideration.

Sincerely,

The Play Sharity Executive and Honorary Board



Play Sharity Monthly Report for the Period Ending October 30, 2020

Play Sharity – Resource Library & Programming

Play Sharity refers to families enrolled in their program as *members*. Through the Play Sharity Free Membership Fund, has the availability to distribute **250 free memberships** to children in low-income families. As of September 30, 2020, Play Sharity has **currently distributed 150** of these free memberships. Members have access to the contactless Resource Library and activity kit programming. The Resource Library includes high-quality educational resources ordinarily available in classrooms. The resources cover, but is not limited to, the following topics: geography, biology, botany, geology, astronomy, measurement, vocabulary, literacy, phonics, reading skills, coding, and engineering. The Resource Library also includes items for fine and gross motor development, including: stride bikes, EZ rollers, sports equipment, and outdoor games. Staff have unpacked, assembled, barcoded, and cataloged in our online software **1,670 resources** in the library. Members select the resource through an online portal; staff sanitize materials and delivered to members through a curbside delivery service.

Play Sharity – Tutoring

The Play Sharity can offer a one-of-a-kind tutoring service using the wide variety of hands-on games and materials in our Resource Library. Play Sharity tutors facilitate *hands-on learning* which provides the following benefits:

- 1) It is a more engaging way to learn
- 2) It can lead to increased retention
- 3) It can offer practice in problem solving and critical thinking
- 4) It often results in a physical creation

Play Sharity hired **2 part-time tutors** with educational degrees to assist **20 families** in our first free tutoring service. Funding for this service was provided by the Con Alma Health Foundation.

It is the hope of the Play Sharity that funding can be secured to hire a permanent full-time tutor and paid interns to expand the free tutoring services to serve more families.

Play Sharity – Maker Space

The Play Sharity Reggio Emilia Art & Makerspace includes equipment and supplies available to volunteers and members. At the start of the pandemic in March of 2020, and using sewing machines from the maker space, Play Sharity staff and volunteers made and distributed **1,600 face masks** to nursing homes, first responders, senior citizen center, women's shelter, homeless shelter, and the public. Additionally, Play Sharity donated supplies to the Luna County Detention Center to make facemasks for their staff and inmates and leased the sewing machines to the center. This program was the first free distribution of face masks in the area.

Play Sharity – Play and Learn At Home!

Play Sharity has distributed **510 activity kits** to the public. These activity kits include print outs, crayons, and hands-on learning activities for children.

Play Sharity assembled and distributed **580** Halloween activity kits to the public.

Play Sharity assembled and distributed **206** STEAM activity kits in collaboration with the Explora Science Museum.

Play Sharity – Sparking Curiosity Summer Camp

Play Sharity **enrolled 30 children** in the Sparking Curiosity Summer Camp. The program targets elementary children who are not meeting expectations at school and sparks a new interest in learning. **Five** high school volunteers received a stipend to serve as camp counselors. Play Sharity staff and Camp counselors assembled and delivered weekly activity boxes covering the following topics: anatomy, geography, science, technology, engineering, art, and math. Multiple zoom classes were held online by the camp counselors each week during the month-long program.

Play Sharity – COVID Relief

Play Sharity coordinated and served as the packing location for **1458 backpacks** filled with daily necessities, art, and school supplies. Play Sharity staff and board members transported supplies to Play Sharity, organized pallets of boxes, assembled the packing line, coordinated volunteers, registered, and e-mailed confirmations to recipients to avoid long lines. Play Sharity staff distributed the bags in Columbus and Deming. Based on online registrations, the household size of individuals receiving the support averaged 4.5 and a salary of \$16,000. The children's ages ranged from preschool through high school. Individuals also were able to register onsite. Main partners included: Luna County JJCS, Hispanics In Philanthropy, All Together NM, Colores United, and CYFD.

Play Sharity assisted **59 families** with children with emergency assistance through COVID relief grants.

Play Sharity – Museum

Due to COVID-19, the Play Sharity museum is closed since it is an interactive exhibit museum. Museum staff, board and volunteers have been developing new exhibitions and play spaces.

Indigent Hospital Claims Office

Chris A. Brice, County Manager

IHC Board Meeting November 12, 2020

Month	Number	Amount	Number	Denied
January	9	\$20,649.49	0	\$0.00
February	4	\$20,700.21	0	\$0.00
March	0	\$0.00		
April	11	\$30,846.52		
May	5	\$6,257.04		
June	2	\$8,013.26		
July	1	\$1,103.03		
August	3	\$7,411.33	1	\$4,273.26
September	0	\$0.00		
October	0	\$0.00		
November		\$0.00		
December		\$0.00		
Total	35	\$94,980.88	1	\$4,273.26

This Month's Total	Mimbres Memorial Hospital	\$0.00
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		\$0.00

Year to Date Total	Mimbres Memorial Hospital	\$72,912.93
Year to Date Total	All Other Hospitals	\$0.00
Year to Date Total	Deming Fire Dept./EMS	\$500.00
Year to Date Total	All Other Services	\$21,567.95
Total		\$94,980.88

Care of Prisoners This Month - Not including SNCP Funds	\$24,814.58
Care of Prisoners Year to Date Indigent - Not including SNCP Funds	\$1,175,839.91
Care of Prisoners Year to Date Inmate Prescriptions/OTC Meds	\$96,986.47
Care of Prisoners Year to Date Dr. Bills	\$370.00
Total Cost of Care of Prisoners Year to Date	\$1,273,196.38

Monies Received for October, 2020	\$61,478.50
Balance in IHC Fund as of October 31, 2020	\$1,631,400.25
Encumbrances as of October 31, 2020	\$700,913.29

	Date	Amount Approved	Amount Denied
Signatures	11/12/2020	\$0.00	\$0.00
Barbara L. Reedy			
Linda M. Smrkovsky			
John S. Sweetser			

Be it remembered that at the Special Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 12th day of November 2020, the following proceedings were had and entered of record.

RESOLUTION NO. 20-53

CALL FOR AMENDING OF ORDINANCE 54

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

WHEREAS, the New Mexico Public Employee Bargaining Act was amended effective July 1, 2020 and Section 10-7E-10B, NMSA 1978, this revised local ordinance must be submitted to the New Mexico Public Employee Labor Relations Board;

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

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners hereby give notice of its intent to consider the amendment of Ordinance 54 at the Regular Meeting on December 10, 2020, at 10:00 a.m. or as soon thereafter as the matter may be heard in the Luna County Courthouse, 700 S. Silver Ave., Deming, New Mexico.

BE IT FURTHER RESOLVED that the Luna County Manager is authorized to take all necessary action necessary to properly place the issue of the amendment of Ordinance 54 before the Board of County Commissioners, including but not limited to, the publication of title and a general summary of the proposed amendments and making a copy of the proposed available to interested persons beginning with the date of publication, but no later than two weeks prior to the December 10, 2020 meeting.

Done at Deming, New Mexico this 12th day of November, 2020

Board of County Commissioners of Luna County

ATTEST:

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

Andrea Rodriguez, County Clerk

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

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

LUNA COUNTY
ORDINANCE # 54
AMENDED

LUNA COUNTY-NM
ANDREA RODRIGUEZ, CLERK
201603132
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BY ANDREA

RELATING TO COLLECTIVE BARGAINING FOR LUNA COUNTY, NEW MEXICO;
PROVIDING RIGHTS, RESPONSIBILITIES, AND PROCEDURES IN THE EMPLOYMENT
RELATIONSHIP BETWEEN EMPLOYEES AND THE EMPLOYER.

BE IT ENACTED BY LUNA COUNTY:

SECTION 1. SHORT TITLE. -- This Ordinance may be cited as the "Luna County Labor Management Relations Ordinance".

SECTION 2. PURPOSE. -- The purpose of the Labor Management Relations Ordinance is to guarantee employees the right to organize and bargain collectively with their employer; to protect the rights of the employer and the employees and to promote harmonious and cooperative relationships between the employer and the employees; and to acknowledge the obligation of the employer and the employees to provide orderly and uninterrupted services to the citizens.

SECTION 3. CONFLICTS. -- In the event of conflict with other Luna County Ordinances, the provisions of the Luna County Labor Management Relations Ordinance shall supersede other previously enacted ordinances.

Luna County sanctioned rules and regulations, administrative directives, departmental rules and regulations, and work place practices shall control unless there is a conflict with a collective bargaining agreement. Where a conflict exists, the collective bargaining agreement shall control.

SECTION 4. DEFINITIONS. -- As used in the Labor Management Relations Ordinance:

- A. "appropriate bargaining unit" means a group of employees designated by the Board for the purpose of collective bargaining.
- B. "Board" means the Luna County Labor Management Relations Board;
- C. "certification" means the designation by the Board of a labor organization as the exclusive representative for all employees in an appropriate bargaining unit;

- D. "collective bargaining" means the act of negotiating between the employer and an exclusive representative for the purpose of entering into a written agreement regarding wages, hours, and other terms and conditions of employment;
- E. "confidential employee" means a person who devotes a majority of his/her time to assisting and acting in a confidential capacity with respect to a person who formulates, determines, and effectuates management policies;
- F. "emergency" means a one-time crisis that was unforeseen and unavoidable;
- G. "employee" means a regular, non-probationary employee of Luna County;
- H. "employer" means Luna County;
- I. "exclusive representative" means a labor organization that, as a result of certification by the Board, represents all employees in an appropriate bargaining unit for the purposes of collective bargaining;
- J. "fair share" means the payment to a labor organization which is the exclusive representative for an appropriate bargaining unit by an employee of that bargaining unit who is not a member of that labor organization equal to a certain percentage of membership dues. Such figure is to be calculated based on United States and New Mexico statutes and case law identifying those expenditures by a labor organization which are permissibly chargeable to all employees in the appropriate bargaining unit under United States and New Mexico statutes and case law, including, but not limited to, all expenditures incurred by the labor organization in negotiating the contract applicable to all employees in the appropriate bargaining unit, servicing such contract, and representing all such employees in grievances and disciplinary actions;
- K. "governing body" means the Luna County Commission;
- L. "impasse" means failure of the employer and an exclusive representative, after good faith bargaining, to reach agreement in the course of negotiating a collective bargaining agreement;
- M. "labor organization" means any employee organization one of whose purposes is the representation of public employees in collective bargaining and in otherwise meeting, consulting, and conferring with employers on matters pertaining to employment relations;
- N. "lockout" means an act by the employer to prevent its employees from going to work for the purpose of resisting demands of the employees' exclusive representative or for the purpose of gaining a concession from the exclusive representative;

- O. "management employee" means an employee who is engaged primarily in executive and management functions and is charged with the responsibility of developing, administering, or effectuating management policies. An employee shall not be deemed a management employee solely because the employee participates in cooperative decision-making programs on an occasional basis;
- P. "mediation" means assistance by an impartial third party to resolve an impasse in contract negotiation between the employer and an exclusive representative through interpretation, suggestion, and advice;
- Q. "professional employee" means an employee whose work is predominantly intellectual and varied in character and whose work involves the consistent exercise of discretion and judgment in its performance and requires knowledge of an advanced nature in a field of learning customarily requiring specialized study at an institution of higher education or its equivalent. The work of a professional employee is of such character that the output or result accomplished cannot be standardized in relation to a given period of time;
- R. "strike" means an employee's refusal, in concerted action with other employees, to report for duty or his willful absence or withholding of service in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the working conditions, compensation, rights, privileges, or obligations of employment;
- S. "supervisor" means an employee who devotes a majority amount of work time to supervisory duties, who customarily and regularly directs the work of two or more other employees, and who has the authority in the interest of the employer to hire, promote, or discipline other employees or to recommend such actions effectively. This definition does not include individuals who perform merely routine, incidental, or clerical duties or who occasionally assume supervisory or directory roles or whose duties are substantially similar to those of their subordinates and does not include lead employees or employees who occasionally participate in peer review or evaluation of employees.

SECTION 5. RIGHTS OF EMPLOYEES. --

Employees, other than management, supervisory, confidential, and probationary employees, may form, join, or assist any labor organization for the purpose of collective bargaining through a representative chosen by the employees without interference, restraint, or coercion. Employees also have the right to refuse to form, join, or assist any labor organization.

SECTION 6. MANAGEMENT RIGHTS. -- Unless limited by the provisions of a collective bargaining agreement or by other statutory provision, the employer's rights shall include, but are not limited to, the following:

- A. To direct the work of, hire, promote, assign, transfer, demote, suspend, discharge, or terminate public employees;
- B. To determine qualifications for employment and the nature and content of personnel examinations;
- C. To take actions as may be necessary to carry out the mission of the employer in emergencies; and
- D. The employer retains all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act.

SECTION 7. LABOR MANAGEMENT RELATIONS BOARD-CREATED-TERMS.

- A. The "Labor-Management Relations Board" is hereby created. The Board shall be composed of three members appointed by the County Manager and approved by the County Commission. One member shall be appointed on the recommendation of individuals representing labor, one member shall be appointed on the recommendation of the County Manager, and one member shall be appointed on the recommendation of the first two appointees.
- B. Board members shall serve for a period of one (1) year with terms commencing in the month of September, except in the initial appointment, which will be a shorter term, effective the same day as this Ordinance. Vacancies shall be filled in the same manner as the original appointment, and such appointments shall only be made for the remainder of the unexpired term. A Board member may serve an unlimited number of terms.
- C. During the term of appointment, no Board member shall hold or seek any other political office or public employment or be an employee of a union, an organization representing public employees, or a public employer.
- D. Each Board member shall be paid per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

SECTION 8. BOARD-POWERS AND DUTIES. --

- A. The Board shall promulgate rules and regulations necessary to accomplish and perform its functions and duties as established in the Labor Management Relations Ordinance, including the establishment of procedures for:
 - 1) the designation of appropriate bargaining units;

- 2) the selection, certification, and decertification of exclusive representatives; and
 - 3) the filing, hearing, and determination of complaints of prohibited practices. This does not apply to negotiation impasse or grievances subject to the required negotiated grievance process.
- B. The Board shall:
- 1) hold hearings and make inquiries necessary to carry out its functions and duties;
 - 2) request from employers and labor organizations the information and data necessary to carry out the functions and responsibilities of the Board.
- C. The Board may issue subpoenas requiring, upon reasonable notice, the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence, or documents relevant to the matter in question. The Board may prescribe the form of the subpoena, but it shall adhere insofar as practicable to the form used in civil actions in the district court. The Board may administer oaths and affirmations, examine witnesses, and receive evidence. Subject to the approval of funds, the board may contract with a third party to assist it in carrying out its functions.
- D. The Board shall decide all issues by majority vote and shall issue its decisions in the form of written orders and opinions. The decisions of the Board on interpretation and applications of the Ordinance are final and binding on the parties subject to the appeal process provided in Section 20. The Board's hearing authority does not apply to negotiation impasses or issues dealing with the collective bargaining agreement where a grievance procedure has been negotiated for that purpose by the parties as required by law.
- E. The Board has the power to enforce provisions of the Luna County Labor-Management Relations Ordinance and the Board's Labor-Management Relations Rules and Regulations through the imposition of appropriate administrative remedies.
- F. The Board shall have no power to promulgate policy other than for its own operation.
- G. No rule or regulation promulgated by the Board shall require, directly or indirectly, as a condition of continuous employment, any employee covered by the Labor Management Relations Ordinance to pay money to any labor organization that is certified as an exclusive representative. This issue of fair share shall be a permissive as opposed to a mandatory subject of bargaining between the employer and the exclusive representative.

SECTION 9. HEARING PROCEDURES. --

- A. The Board may hold hearings for the purposes of:

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- 1) information gathering and inquiry;
 - 2) adopting rules and regulations; and
 - 3) adjudicating disputes and enforcing the provisions of the Labor Management Relations Ordinance, and rules and regulations adopted pursuant to the Ordinance.
- B. The Board shall adopt regulations setting forth procedures to be followed during hearings of the Board. Such regulations shall meet minimal due process requirements of the state and federal constitutions.
- C. Proceedings against the party alleged to have committed a prohibited practice shall be commenced by service upon it and the Board of a written notice together with a copy of the charges and relief requested.
- D. All adopted rules and regulations shall be filed in accordance with applicable laws.
- E. A verbatim record made by electronic or other suitable means shall be made of every rule-making and adjudicatory hearing. The record shall not be transcribed unless required for judicial review or unless ordered by the Board. The party requesting the transcript shall pay for the transcription. In the case of judicial review, the payment shall be made by the party filing the appeal.
- F. Each party to a prohibited labor practice shall bear the cost of producing its own witnesses and paying its representative for hearings under this Ordinance.
- G. No regulation proposed to be adopted by the Board that affects any person or governmental entity outside of the Board and its staff shall be adopted, amended, or repealed without public hearing and comment on the proposed action before the Board. The public hearing shall be held after notice of the subject matter of the regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views, and the method in which copies of the proposed regulation, proposed amendment, or repeal of an existing regulation may be obtained. All meetings shall be held at a County facility. Notice shall be published once at least thirty (30) days prior to the hearing date in a newspaper of general circulation in Deming, New Mexico, and notice shall be mailed at least thirty (30) days prior to the hearing date to all persons who have made a written request for advance notice of hearings.

SECTION 10. APPROPRIATE BARGAINING UNITS. --

- A. The Board shall, upon receipt of a petition for a representation election filed by a labor organization, designate the appropriate bargaining unit. Appropriate bargaining units

shall be established on the basis of occupational groups or clear and identifiable community of interest in employment terms, employment conditions, and related personnel matters among the employees involved. Occupational groups shall generally be identified as blue collar, secretarial clerical, technical, para-professional, professional, corrections, firefighters, and police officers. Department, craft, or trade designations other than as specified above shall not determine bargaining units. The parties, by mutual agreement and approval of the Board, may further consolidate occupational groups. The essential factors in determining appropriate bargaining units shall include the principles of efficient administration of government, the history of collective bargaining, and the assurance to employees of their rights guaranteed by the Ordinance.

- B. If the labor organization and the employer cannot agree on the appropriate bargaining unit within thirty (30) days, the Board shall hold a hearing concerning the composition of the bargaining unit. Any agreement as to the appropriate bargaining unit between the employer and the labor organization is subject to the approval of the Board.
- C. The Board shall not include in any appropriate bargaining unit, probationary, supervisory, managerial, or confidential employees.

SECTION 11. ELECTIONS. --

- A. Whenever, in accordance with regulations prescribed by the Board, a petition is filed by a labor organization containing the signatures of at least thirty percent (30%) of the employees in an appropriate bargaining unit, the Board shall post a notice to affected employees regarding the filed petition and proceed with the process for conducting a secret ballot representation election.
- B. Once a labor organization has filed a petition with the Board requesting a representation election, other labor organizations may seek to be placed on the ballot. Any labor organization may file a competing petition containing the signatures of not less than thirty percent (30%) of the employees in the appropriate bargaining unit no later than ten (10) calendar days after the Board has posted a written notice that a petition for a representation election has been filed by a labor organization.
- C. All representation elections shall include the option for "no representation", except in a run-off election where the choice of "no representation" was not one of the two choices that received the highest votes.
- D. In the event of an election with two or more labor organizations on the ballot and none of the choices on the ballot received a majority of the votes cast, then a run-off election shall

be held within fifteen (15) calendar days. The choices on the run-off election shall consist of the two (2) choices, which received the greatest number of votes in the original election.

- E. A valid election requires that at least forty percent (40%) of the eligible employees in an appropriate bargaining unit cast a vote. In an election with only one labor organization, and the majority of the votes cast are in favor of representation the Board shall certify that labor organization as the exclusive representative for all the employees in the bargaining unit.
- F. No election shall be conducted if an election has been conducted in the twelve (12) month period immediately preceding the proposed representation election. No election shall be held during the term of an existing collective bargaining agreement, except as provided in Section 13.B. of this ordinance, or after the expiration of the third year of a collective bargaining agreement with a term of more than three (3) years.
- G. Election disputes shall be resolved by the Board.
- H. As an alternative to the provisions of Subsection A of this section, the employer and a labor organization with a reasonable basis for claiming to represent a majority of the employees in an appropriate bargaining unit may establish an alternative appropriate procedure for determining majority status. The procedure may include a labor organization's submission of authorization cards from a majority of the employees in an appropriate bargaining unit. The local board shall not certify an appropriate bargaining unit if the employer objects to the certification without an election.

SECTION 12. EXCLUSIVE REPRESENTATION. -- A labor organization that has been certified by the Board as the exclusive representative for employees in an appropriate bargaining unit shall represent all employees in the bargaining unit. The exclusive representative shall act for all employees in the bargaining unit and negotiate a collective bargaining agreement covering all employees in the bargaining unit. The exclusive representative shall represent the interests of all employees in the bargaining unit without discrimination or regard to membership or non-membership in the labor organization. The existence of an exclusive bargaining representative shall not prevent employees from taking their grievances through the grievance process or filing prohibited practices with the Board. Any settlement of a grievance or relief given on a prohibited practice brought by an individual shall not be inconsistent with or in violation of the collective bargaining agreement in effect between the employer and the exclusive representative or inconsistent with or in violation of a memorandum of understanding between the employer

and the exclusive representative applicable to the day-to-day administration of the collective bargaining agreement. The exclusive representative shall be afforded the opportunity to be present at such hearings and make its views known.

SECTION 13. DECERTIFICATION OF EXCLUSIVE REPRESENTATIVE. --

- A. Any member of a labor organization or the labor organization itself may initiate decertification of a labor organization as the exclusive representative if thirty percent (30%) of the employees in the appropriate bargaining unit make a written request to the Board for a decertification election. A decertification election shall be valid only if at least forty percent (40%) of the eligible employees in the bargaining unit vote in the election.
- B. When there is a collective bargaining agreement in effect, a request for a decertification election shall be made to the Board no earlier than ninety (90) days and no later than sixty (60) days before the expiration of the collective bargaining agreement; provided, however, that a request for a decertification election may be filed at any time after the expiration of the third year of a collective bargaining agreement with a term of more than three (3) years.
- C. When, within the time period prescribed in subsection B. of this section, a competing labor organization files a petition containing signatures of at least thirty percent (30%) of the employees in the appropriate bargaining unit, a representation election rather than a decertification election shall be conducted.
- D. When an exclusive representative has been certified but no collective bargaining agreement is in effect, the Board shall not accept a request for a decertification election earlier than twelve months subsequent to a labor organization's certification as the exclusive representative.

SECTION 14. SCOPE OF BARGAINING. --

- A. Except for retirement programs provided under the Public Employees Retirement Act, the parties shall bargain in good faith on all wages, hours, and other terms and conditions of employment and other issues agreed to by the parties. The parties shall enter into a written agreement covering employment relations regarding the issues agreed to in collective bargaining.
- B. Bargaining in good faith shall not require either party to agree to a proposal or to make a concession.

- C. The obligation to bargain collectively imposed by the Labor Management Relations Ordinance shall not be construed as authorizing employers and exclusive representatives to enter into any agreement that is in conflict with state statutes or federal statutes. In the event of conflict between the provision of any federal or state statutes and any agreement entered into by the employer and the exclusive representative, the former shall prevail.
- D. Payroll deduction of the exclusive representative's membership dues shall be a mandatory subject of bargaining if either party chooses to negotiate the issue. The amount of dues shall be certified in writing by an official of the labor organization and shall not include special assessments, penalties, or fines of any type levied by the exclusive representative. During the time that a Board certification is in effect for a particular exclusive representative, the employer shall not deduct dues for any other labor organization from members of the same bargaining unit.
- E. Fair share is a permissive subject of bargaining.
- F. Any agreement or impasse resolution by the employer and an exclusive representative that requires the expenditure of funds shall be contingent upon the specific appropriation of funds by the governing body and the availability of funds to fund the agreed upon provision. An arbitrator's decision shall not require the re-appropriation of funds.
- G. The parties have a requirement that a grievance procedure culminating with final and binding arbitration be negotiated. This applies only to grievances and the interpretation and application of the agreement between the parties and does not apply to negotiation impasses. The parties shall share the cost of any proceedings conducted pursuant to this subsection equally. Each party is responsible for paying any cost related to its witnesses and representation.

SECTION 15. NEGOTIATIONS AND IMPASSE RESOLUTION. --

- A. The following meetings shall be closed:
 - 1) meetings for the discussion of collective bargaining strategy between the governing body and the employer's negotiating team preliminary to negotiations sessions;
 - 2) collective bargaining sessions; and
 - 3) consultations and impasse resolution procedures at which the employer and/or the exclusive representative of the appropriate bargaining unit are present.
- B. The following negotiation procedures shall apply to the employer and exclusive representatives:

- 1) The negotiations for the first contract shall be opened upon written notice by either party to the other requesting that negotiating sessions be scheduled. Subsequent requests for negotiations shall be post marked no earlier than 120 days nor later than 60 days prior to the contract ending date or as negotiated by the parties. The parties may open negotiations at any time by mutual agreement.
 - 2) All negotiations will be conducted in closed sessions. Negotiations will be held at a facility and at a time mutually agreed upon by the parties.
 - 3) Recesses and study sessions may be called by either team. Prior to the conclusion of any negotiating sessions, the reconvening time will be agreed upon. Caucuses may be taken as needed.
 - 4) Tentative agreements reached during negotiations will be reduced to writing, dated, and initialed by each team spokesperson. Such tentative agreements are conditional and may be withdrawn should later discussion change either party's understanding of the language as it related to another part of the agreement.
 - 5) Agreement on contract negotiations is accomplished when the Union President and the County Manager sign the agreement. Provisions in multi-year agreements providing for economic increases for subsequent years shall be contingent upon the governing body appropriating the funds necessary to fund the increase for the subsequent year(s). Should the governing body not appropriate sufficient funds to fund the agreed upon increase, either party may reopen negotiations.
- C. The following impasse procedure shall be followed by the employer and exclusive representative:
- 1) if an impasse occurs, either party shall request mediation assistance. If the parties cannot agree on a mediator, either party may request the assistance of the federal mediation and conciliation service;
 - 2) if the impasse continues after thirty (30) calendar days, either party may request an unrestricted list of seven (7) arbitrators from the federal mediation and conciliation service. The parties shall choose one arbitrator by alternately striking names from such list. Which party strikes the first name shall be determined by coin toss. The arbitrator shall render a final, binding, written decision resolving unresolved issues no later than thirty (30) calendar days after the arbitrator has been notified of his or her selection by the parties. The arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offer.

However, an impasse resolution decision of an arbitrator or an agreement provision by the employer and an exclusive representative that requires the expenditure of funds shall be contingent upon the specific appropriation of funds by the governing body and the availability of funds. An arbitrator's decision shall not require the employer to re-appropriate funds. The parties shall share all of the arbitrator's costs incurred pursuant to this subsection equally. Each party shall be responsible for paying any costs related to its witnesses and representation. The decision shall be subject to judicial review pursuant to the standards set forth in the Uniform Arbitration Act.

- 3) In the event that an impasse continues after the expiration of a contract, the existing contract will continue in full force and effect until it is replaced by a subsequent written agreement. However, this shall not require the employer to increase any employees' levels, steps, or grades of compensation contained in the existing contract.

SECTION 16. EMPLOYERS -- PROHIBITED PRACTICES

A. A public employer or its representative shall not:

- 1) discriminate against an employee with regard to terms and conditions of employment because of the employee's membership in a labor organization;
- 2) interfere with, restrain, or coerce any employee in the exercise of any right guaranteed under the Labor Management Relations Ordinance;
- 3) dominate or interfere in the formation, existence, or administration of any labor organization;
- 4) discriminate in regard to hiring, or any term or condition of employment in order to encourage or discourage membership in a labor organization;
- 5) discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition, grievance, or complaint or given any information or testimony under the provisions of the Labor Management Relations Ordinance or because an employee is forming, joining, or choosing to be represented by a labor organization;
- 6) refuse to bargain collectively in good faith with the exclusive representative;
- 7) refuse or fail to comply with any provisions of the Labor Management Relations Ordinance, Board regulations, or the Public Employee Bargaining Act; or

- 8) refuse or fail to comply with any collective bargaining agreement. This issue is subject to the required grievance procedure negotiated by the parties.
- B. During the negotiation and the impasse procedure, County Commissioners and management employees are prohibited from negotiating issues which are the subject of negotiations and from making any offers, commitment, or promise whatsoever to employees or the exclusive representative, other than through the appointed County negotiating team. It is the intent of this language that the integrity of the negotiating process be maintained. All negotiations and concessions shall occur only between the respective appointed negotiating teams.

SECTION 17. EMPLOYEES - LABOR ORGANIZATIONS - PROHIBITED PRACTICES. --

- A. An employee, a labor organization, or its representative shall not:
- 1) discriminate against an employee with regard to labor organization membership because of race, color, religion, creed, age, disability, sex, or national origin;
 - 2) solicit membership for an employee or labor organization during the employee's duty hours. This does not include the work breaks or lunch periods;
 - 3) restrain or coerce any employee in the exercise of any right guaranteed by the provisions of the Labor Management Relations Ordinance;
 - 4) refuse to bargain collectively in good faith with the employer;
 - 5) refuse or fail to comply with any collective bargaining agreement with the employer. This issue is subject to the required negotiated grievance procedure negotiated by the parties;
 - 6) refuse or fail to comply with any provision of the Labor Management Relations Ordinance;
 - 7) picket homes or private businesses of employees, appointed individuals, or elected officials of the Luna County;
 - 8) restrain or coerce the employer in the selection of its agent for bargaining.
- B. During the negotiation and the impasse procedure the employees, the exclusive representative or any of its employees are prohibited from negotiating issues which are the subject of negotiations with anyone other than the appointed County negotiating team. It is the intent of this language that the integrity of the negotiating process be maintained. All negotiations and concessions shall occur only between the respective appointed negotiating teams.

SECTION 18. STRIKES AND LOCKOUTS PROHIBITED. -

- A. No employee or labor organization shall engage in a strike. No labor organization shall cause, instigate, encourage, or support a strike. The employer shall not cause, instigate, or engage in an employee lockout.
- B. The employer may apply to the district court for injunctive relief to end a strike, and an exclusive representative of public employees affected by a lockout may apply to the district court for injunctive relief to end a lockout.
- C. The Board, upon a clear and convincing showing of proof at a hearing that a labor organization directly caused or instigated an employee strike, may impose appropriate penalties on that labor organization, up to and including decertification of the labor organization with respect to any of its bargaining units which struck as a result of such causation or instigation. A strike means an employee's refusal, in concerted action with other employees, to report for duty or his willful absence or withholding of service in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the working conditions, compensation, rights, privileges, or obligations of employment.

SECTION 19. AGREEMENTS VALID -- ENFORCEMENT. --

All collective bargaining agreements and other agreements between the employer and exclusive representative are valid and enforceable according to their terms when entered into in accordance with the provisions of this Labor Management Relations Ordinance.

SECTION 20. JUDICIAL ENFORCEMENT -- STANDARD OF REVIEW. --

- A. The Board may request the District Court to enforce any order issued pursuant to the Labor Management Relations Ordinance, including those for appropriate temporary relief and restraining orders. The Court shall consider the request for enforcement on the record made before the Board. The Court shall uphold the action of the Board and take appropriate action to enforce it unless the Court concludes that the order is:
 - 1) arbitrary, capricious, or an abuse of discretion;
 - 2) not supported by substantial evidence on the record considered as a whole; or
 - 3) otherwise not in accordance with law.
- B. Any person or party, including any labor organization, affected by a final regulation, order, or decision of the Board, may appeal to the District Court for further relief. All such appeals shall be based upon the record made at the Board hearing. All such appeals to the District Court shall be taken within thirty (30) calendar days of the date of the final

regulation, order, or decision of the Board. Actions taken by the Board shall be affirmed unless the Court concludes that the action is:

- 1) arbitrary, capricious, or an abuse of discretion;
- 2) not supported by substantial evidence on the record taken as a whole; or
- 3) otherwise not in accordance with law.

SECTION 21. SEVERABILITY.--

If any part or application of the Luna County Labor Management Relations Ordinance is held invalid, the remainder or its application to other situations or persons shall not be affected.

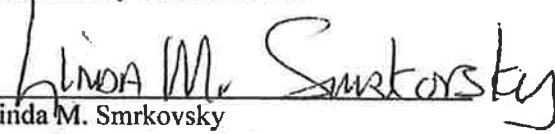
SECTION 22. EFFECTIVE DATE.--

The effective date of the Luna County Labor Management Relations Ordinance is October 8th, 2016 and hereby supersedes any and all ordinances pertaining to Collective Bargaining or Labor Management Relations previously approved by Luna County.

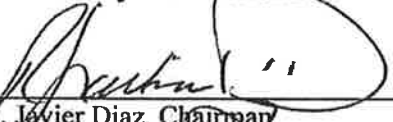
PASSED, APPROVED, SIGNED AND ADOPTED THIS 8th **DAY OF** September **2016.**



Joe L. Milo, Jr.
Luna County Commissioner



Linda M. Smrkovsky
Luna County Commissioner



R. Javier Diaz, Chairman
Luna County Commissioner

Attest:


Andrea Rodriguez
Luna County Clerk

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BY ANDREA

LUNA COUNTY, NEW MEXICO

ORDINANCE 54

SECOND AMENDED

~~RELATING TO COLLECTIVE BARGAINING FOR LUNA COUNTY, NEW MEXICO;~~ PROVIDING RIGHTS, RESPONSIBILITIES, AND CONDITIONS OF CONTINUED EXISTENCE AND TRANSFER OF AUTHORITY UPON TERMINATION OF LOCAL BOARD.

BE IN ENACTED BY LUNA COUNTY: _____

SECTION 1.0 SHORT TITLE. This Ordinance may be cited as the “LUNA COUNTY LABOR MANAGEMENT RELATIONS ORDINANCE”.

SECTION 2.0 PURPOSE. The purpose of the Labor Management Relations Ordinance is to guarantee employees the right to organize and bargain collectively with their employer, to protect the rights of the employer and the employees and to promote harmonious and cooperative relationships between the employer and the employees; and to acknowledge the obligation of the employer and the employees to provide orderly and uninterrupted services to the citizens.

SECTION 3.0 CONFLICTS. In the event of conflict with other Luna County Ordinances, the provisions of the Luna County Labor Management Relations Ordinance shall supersede other previously enacted ordinances.

Luna County sanctioned rules and regulations, administrative directives, departmental rules and regulations, and workplace practices shall control unless there is a conflict with a collective bargaining agreement. Where a conflict exists, the collective bargaining agreement shall control.

SECTION 4.0 DEFINITIONS. As used in this Labor Management Relations Ordinance:

- 4.1 “appropriate bargaining unit” means a group of employees designated by the Luna County Board for the purpose of collective bargaining;
- 4.2 “appropriate governing body” means the policymaking body or individual representing a public employer;
- 4.3 “authorization card” means a signed affirmation by a member of an appropriate bargaining unit designating a particular organization as exclusive representative;
- 4.4 “Board” means the Luna County Labor Management Relations Board;
- 4.5 “certification” means the designation by the board of a labor organization as the exclusive representative for all public employees in an appropriate bargaining unit;

- 4.6 “collective bargaining” means the act of negotiating between a public employer and an exclusive representative for the purpose of entering into a written agreement regarding wages, hours and other terms and conditions of employment;
- 4.7 “confidential employee” means a person who devotes a majority of the person’s time to assisting and acting in a confidential capacity with respect to a person who formulates, determines and effectuates management policies;
- 4.8 “emergency” means a one-time crisis that was unforeseen and unavoidable;
- 4.9 “exclusive representative” means a labor organization that, as a result of certification, has the right to represent all public employees in an appropriate bargaining unit for the purposes of collective bargaining;
- 4.10 “impasse” means failure of a public employer and an exclusive representative, after good-faith bargaining, to reach agreement in the course of negotiating a collective bargaining agreement;
- 4.11 “labor organization” means an employee organization, one of whose purposes is the representation of public employees in collective bargaining and in otherwise meeting, consulting and conferring with employers on matters pertaining to employment relations;
- 4.12 “lockout” means an act by the employer to prevent its employees from going to work for the purpose of resisting demands of the employees' exclusive representative or for the purpose of gaining a concession from the exclusive representative;
- 4.13 “management employee” means an employee who is engaged primarily in executive and management functions and is charged with the responsibility of developing, administering or effectuating management policies. An employee shall not be deemed a management employee solely because the employee participates in cooperative decision-making programs or whose fiscal responsibilities are routine, incidental or clerical;
- 4.14 “mediation” means assistance by an impartial third party to resolve an impasse between a public employer and an exclusive representative regarding employment relations through interpretation, suggestion and advice;
- 4.15 “professional employee” means an employee whose work is predominantly intellectual and varied in character and whose work involves the consistent exercise of discretion and judgment in its performance and requires knowledge of an advanced nature in a field of learning customarily requiring specialized study at an institution of higher education or its equivalent. The work of a professional employee is of such character that the output or result accomplished cannot be standardized in relation to a given period of time;
- 4.16 “public employee” means a regular non-probationary employee of Luna County, and includes

those employees whose work is funded in whole or in part by grants or other third party sources;

4.17 “public employer” means Luna County;

4.18 “strike” means a public employee’s refusal, in concerted action with other public employees, to report for duty or the willful absence in whole or in part from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of public employment; and

4.18 “supervisor” means an employee who devotes a majority of work time to supervisory duties, who customarily and regularly directs the work of two or more other employees and who has the authority in the interest of the employer to hire, promote or discipline other employees or to recommend such actions effectively, but “supervisor” does not include an individual who performs merely routine, incidental or clerical duties or who occasionally assumes a supervisory or directory role or whose duties are substantially similar to those of the individual’s subordinates and does not include a lead employee or an employee who participates in peer review or occasional employee evaluation programs.

SECTION 5.0 RIGHTS OF EMPLOYEES.

5.1 Employees, other than management, supervisory, confidential, and probationary employees, may form, join, or assist any labor organization for the purpose of collective bargaining through a representative chosen by the employees without interference, restraint, or coercion. Employees also have the right to refuse to form, join, or assist any labor organization.

5.2 Public employees have the right to engage in other concerted activities for mutual aid or benefit. This right shall not be construed as modifying the prohibition on strikes set forth in Section 18 of this ordinance.

SECTION 6.0 RIGHTS OF EMPLOYER. Unless limited by the provisions of a collective bargaining agreement or by other statutory provision, the employer may:

6.1 Direct the work of, hire, promote, assign, transfer, demote, suspend, discharge, or terminate public employees;

6.2 Determine qualifications for employment and the nature and content of personnel examinations;

6.3 Take actions as may be necessary to carry out the mission of the employer in emergencies, and;

6.4 Retain all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act.

SECTION 7.0 LABOR MANAGEMENT RELATIONS BOARD – CONDITIONS OF CONTINUED EXISTENCE AND TRANSFER OF AUTHORITY UPON TERMINATION.

7.1 The Labor-Management Relations Board created on September 8, 2016 pursuant to the original Ordinance Number 54 shall continue to exist except as provided in NMSA 1978 Section 10-7E-10(B) through 10-7E-10(J) (2020).

7.2 The Board shall be composed of three members appointed by the Luna County Manager and approved by the Board of County Commissioners of Luna County. One member shall be appointed on the recommendation of individuals representing labor, one member shall be appointed on the recommendation of the Luna County Manager, and one member shall be appointed on the recommendation of the first two appointees.

7.3 Board members shall serve for a period of one (1) year with terms. Vacancies shall be filled in the same manner as the original appointment and such appointments shall only be made for the remainder of the unexpired term. A Board member may serve an unlimited number of terms.

7.4 During the term of appointment, no Board member shall hold or seek any other political office or public employment or be an employee of a union, an organization representing public employees or a public employer.

7.5 Each Board member shall be paid per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

SECTION 8.0 BOARD – POWERS AND DUTIES.

8.1 The Labor Management Relations Board shall promulgate rules and regulations necessary to accomplish and perform its functions and duties as established in the Labor Management Relations Ordinance, including the establishment of procedures for:

- 8.1.1 the designation of appropriate bargaining units;
- 8.1.2 the selection, certification, and decertification of exclusive representatives; and
- 8.1.3 the filing, hearing, and determination of complaints of prohibited practices.

8.2 The Labor Management Relations Board shall:

- 8.2.1 hold hearings and make inquiries necessary to carry out its functions and duties;
- 8.2.2 conduct studies on problems pertaining to employee-employer relations; and
- 8.2.3 request information and data from public employers and labor organizations necessary to carry out its functions and responsibilities; and

8.2.4 hire personnel or contract with third parties as the appropriate governing body deems necessary to assist the Labor Management Relations Board in carrying out its functions and may

delegate any or all of its authority to those third parties, subject to final review of the Labor Management Relations Board.

8.3 The Labor Management Relations Board may issue subpoenas requiring, upon reasonable notice, the attendance and testimony of witnesses and the production of evidence, including books, records, correspondence or documents relating to the matter in question. The Labor Management Relations Board may prescribe the form of subpoena, but it shall adhere insofar as practicable to the form used in civil actions in the district court. The Labor Management Relations Board may administer oaths and affirmations, examine witnesses and receive evidence.

8.4 The Labor Management Relations Board shall decide issues by majority vote and shall issue its decisions in the form of written orders and opinions.

8.5 The Labor Management Relations Board has the power to enforce provisions of the Public Employee Bargaining Act and this ordinance through the imposition of appropriate administrative remedies, actual damages related to dues, back pay including benefits, reinstatement with the same seniority status that the employee would have had but for the violation, declaratory or injunctive relief or provisional remedies, including temporary restraining orders or preliminary injunctions. No punitive damages or attorney fees may be awarded by the Labor Management Relations Board.

8.6 No rule or regulation promulgated by the Labor Management Relations Board shall require, directly or indirectly, as a condition of continuous employment, any employee covered by the Labor Management Relations Ordinance to pay money to any labor organization that is certified as an exclusive representative.

SECTION 9.0 HEARING PROCEDURES.

9.1 The Labor Management Relations Board may hold hearings for the purposes of:

9.1.1 Information gathering and inquiry;

9.1.2 Adopting rules and;

9.1.3 Adjudicating disputes and enforcing the provisions of the Labor Management Relations Ordinance and rules adopted pursuant to the Ordinance.

9.2 The Board shall adopt rules setting forth procedures to be followed during hearings of the Board. Such rules shall meet minimal due process requirements of the state and federal constitutions.

9.3 The Labor Management Relations Board may appoint a hearing examiner to conduct any adjudicatory hearing authorized by Labor Management Relations Board. At the conclusion of

the hearing, the examiner shall prepare a written report, including findings and recommendations, all of which shall be submitted to the Labor Management Relations Board for its decision.

9.4 A rule proposed to be adopted by the Labor Management Relations Board that affects a person or governmental entity outside of the Labor Management Relations Board and its staff shall not be adopted, amended or repealed without public hearing and comment on the proposed action before the Labor Management Relations Board. The public hearing shall be held after notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule, proposed amendment or repeal of an existing rule may be obtained. All meetings shall be held in Luna County. Notice shall be published once at least thirty (30) days prior to the hearing date in a newspaper of general circulation in Luna County and notice shall be mailed at least thirty (30) days prior to the hearing date to all persons who have made a written request for advance notice of hearings.

9.5 All adopted rules shall be filed in accordance with applicable state statutes.

9.6 A verbatim record made by electronic or other suitable means shall be made of every rulemaking and adjudicatory hearing. The record shall not be transcribed unless required for judicial review or unless ordered by the board or local board.

SECTION 10.0 APPROPRIATE BARGAINING UNITS.

10.1 The Labor Management Relations Board shall, upon receipt of a petition for a representation election filed by a labor organization, designate the appropriate bargaining unit. Appropriate bargaining units shall be established on the basis of occupational groups or a clear and identifiable community of interest in employment terms, employment conditions, and related personnel matters among the employees involved. Occupational groups shall generally be identified as blue collar, secretarial clerical, technical, paraprofessional, professional, corrections, firefighters, and police officers. Department, craft, or trade designations other than as specified above shall not determine bargaining units. The parties, by mutual agreement and approval of the Board, may further consolidate occupational groups. The essential factors in determining appropriate bargaining units shall include the principles of efficient administration of government, the history of collective bargaining, and the assurance to employees of their rights guaranteed by the Ordinance.

10.2 If the labor organization and the employer cannot agree on the appropriate bargaining unit within thirty (30) days, the Labor Management Relations Board shall hold a hearing concerning the composition of the bargaining unit. Any agreement as to the appropriate bargaining unit between

the employer and the labor organization is subject to the approval of the Labor Management Relations Board.

10.3 The Labor Management Relations Board shall not include in any appropriate bargaining unit, probationary, supervisory, managerial, or confidential employees.

10.4 Jobs included within a bargaining unit pursuant to a Luna County labor management relations ordinance in effect on January 1, 2020 shall remain in that bargaining unit after enactment of this ordinance unless otherwise removed by the Labor Management Relations Board in accordance with its rules governing unit clarification.

SECTION 11.0 ELECTIONS.

11.1 Whenever, in accordance with rules prescribed by the Labor Management Relations Board, a petition is filed by a labor organization containing the signatures of at least thirty percent of the public employees in an appropriate bargaining unit, the board or local board shall conduct a secret ballot representation election to determine whether and by which labor organization the public employees in the appropriate bargaining unit shall be represented. Upon acceptance of a valid petition, the Labor Management Relations Board shall require the__to provide the labor organization within ten business days the names, job titles, work locations, home addresses, personal email addresses and home or cellular telephone numbers of any public employee in the proposed bargaining unit. This information shall be kept confidential by the labor organization and its employees or officers. The ballot shall contain the name of any labor organization submitting a petition containing signatures of at least thirty percent of the public employees in the appropriate bargaining unit. The ballot shall also contain a provision allowing public employees to indicate whether they do not desire to be represented by a labor organization. An election shall only be valid if forty percent of the eligible employees in the bargaining unit vote in the election.

11.2 Once a labor organization has filed a valid petition calling for a representation election, other labor organizations may seek to be placed on the ballot. Such an organization shall file a petition containing the signatures of not less than thirty percent of the public employees in the appropriate bargaining unit no later than ten days after the Labor Management Relations Board and the public employer post a written notice that the petition in Subsection A of this section has been filed by a labor organization.

11.3 As an alternative to the provisions of Subsection A of this section, a labor organization with a reasonable basis for claiming to represent a majority of the employees in an appropriate bargaining unit may submit authorization cards from a majority of the employees in an appropriate bargaining unit to the Labor Management Relations Board, which shall, upon verification that a majority of the

employees in the appropriate bargaining unit have signed valid authorization cards, certify the labor organization as the exclusive representative of all public employees in the appropriate bargaining unit. The employer may challenge the verification of the Labor Management Relations Board; the Labor Management Relations Board shall hold a fact-finding hearing on the challenge to confirm that a majority of the employees in the appropriate bargaining unit have signed valid authorization cards.

11.4 If a labor organization receives a majority of votes cast, it shall be certified as the exclusive representative of all public employees in the appropriate bargaining unit. Within fifteen days of an election in which no labor organization receives a majority of the votes cast, a runoff election between the two choices receiving the largest number of votes cast shall be conducted. The Labor Management Relations Board shall certify the results of the election, and, when a labor organization receives a majority of the votes cast, the Labor Management Relations Board shall certify the labor organization as the exclusive representative of all public employees in the appropriate bargaining unit.

11.5 An election shall not be conducted if an election or runoff election has been conducted in the twelve-month period immediately preceding the proposed representation election. An election shall not be held during the term of an existing collective bargaining agreement, except as provided in Section 13 herein.

SECTION 12.0 EXCLUSIVE REPRESENTATION.

12.1 A labor organization that has been certified by the Labor Management Relations Board as representing the public employees in the appropriate bargaining unit shall be the exclusive representative of all public employees in the appropriate bargaining unit. The exclusive representative shall act for all public employees in the appropriate bargaining unit and negotiate a collective bargaining agreement covering all public employees in the appropriate bargaining unit. The exclusive representative shall represent the interests of all public employees in the appropriate bargaining unit without discrimination or regard to membership in the labor organization. A claim by a public employee that the exclusive representative has violated this duty of fair representation shall be forever barred if not brought within six months of the date on which the public employee knew, or reasonably should have known, of the violation.

12.2 This section does not prevent a public employee, acting individually, from presenting a grievance without the intervention of the exclusive representative. At a hearing on a grievance brought by a public employee individually, the exclusive representative shall be afforded the opportunity to be present and make its views known. An adjustment made shall not be inconsistent

with or in violation of the collective bargaining agreement then in effect between the public employer and the exclusive representative.

12.3 Luna County shall provide an exclusive representative of an appropriate bargaining unit reasonable access to employees within the bargaining unit, including the following:

12.3.1 for purposes of newly hired employees in the bargaining unit, reasonable access includes:

12.3.1.1 the right to meet with new employees, without loss of employee compensation or leave benefits; and

12.3.1.2 the right to meet with new employees within thirty days from the date of hire for a period of at least thirty minutes but not more than one hundred twenty minutes, during new employee orientation or, if the public employer does not conduct new employee orientations, at individual or group meetings; and

12.3.2 for purposes of employees in the bargaining unit who are not new employees, reasonable access includes:

12.3.2.1 the right to meet with employees during the employees' regular work hours at the employees' regular work location to investigate and discuss grievances, workplace-related complaints and other matters relating to employment relations; and

12.3.2.2 the right to conduct meetings at the employees' regular work location before or after the employees' regular work hours, during meal periods and during any other break periods.

12.4 Luna County shall permit an exclusive representative to use the public employer's facilities or property, whether owned or leased by the employer, for purposes of conducting meetings with the represented employees in the bargaining unit. An exclusive representative may hold the meetings described in this section at a time and place set by the exclusive representative. The exclusive representative shall have the right to conduct the meetings without undue interference and may establish reasonable rules regarding appropriate conduct for meeting attendees.

12.5 The meetings described in this section shall not interfere with Luna County operations.

12.6 If Luna County has the information in its records, Luna County shall provide to the exclusive representative, in an editable digital file format agreed to by the exclusive representative, the following information for each employee in an appropriate bargaining unit:

12.6.1 the employee's name and date of hire;

12.6.2 contact information, including:

12.6.2.1 cellular, home and work telephone numbers;

12.6.2.2 a means of electronic communication, including work and personal electronic mail addresses; and

12.6.2.3 home address or personal mailing address; and

12.6.2.4 employment information, including the employee's job title, salary and work site location.

12.7 Luna County shall provide the information described in Subsection 12.6 of this section to the exclusive representative within ten days from the date of hire for newly hired employees in an appropriate bargaining unit, and every one hundred twenty days for employees in the bargaining unit who are not newly hired employees. The information shall be kept confidential by the labor organization and its employees or officers. Apart from the disclosure required by this subsection, and notwithstanding any provision contained in the Inspection of Public Records Act, the public employer shall not disclose the information described in Subsection 12.6 of this section, or public employees' dates of birth or social security numbers to a third party.

12.8 An exclusive representative shall have the right to use the electronic mail systems or other similar communication systems of a public employer to communicate with the employees in the bargaining unit regarding:

12.8.1 collective bargaining, including the administration of collective bargaining agreements;

12.8.2 the investigation of grievances or other disputes relating to employment relations; and

12.8.3 matters involving the governance or business of the labor organization.

12.9 Nothing in this section prevents Luna County from providing an exclusive representative access to employees within the bargaining unit beyond the reasonable access required under this section or limits any existing right of a labor organization to communicate with public employees.

SECTION 13.0 DECERTIFICATION OF EXCLUSIVE REPRESENTATIVE.

13.1 A member of a labor organization or the labor organization itself may initiate decertification of a labor organization as the exclusive representative if thirty percent of the public employees in the appropriate bargaining unit make a written request to the board for a decertification election. Decertification elections shall be held in a manner prescribed by rule of the board. An election shall only be valid if forty percent of the eligible employees in the bargaining unit vote in the election.

13.2 When there is a collective bargaining agreement in effect, a request for a decertification election shall be made to the board no earlier than ninety days and no later than sixty days before the expiration of the collective bargaining agreement; provided, however, a request for an election may be filed at any time after the expiration of the third year of a collective bargaining agreement

with a term of more than three years.

13.3 When, within the time period prescribed in Subsection B of this section, a competing labor organization files a petition containing signatures of at least thirty percent of the public employees in the appropriate bargaining unit, a representation election rather than a decertification election shall be conducted.

13.4 When an exclusive representative has been certified but no collective bargaining agreement is in effect, the board shall not accept a request for a decertification election or an election sought by a competing labor organization earlier than twelve months subsequent to a labor organization's certification as the exclusive representative.

SECTION 14.0 SCOPE OF BARGAINING.

14.1 Except for retirement programs provided pursuant to the Public Employees Retirement Act public employers and exclusive representatives:

14.1.1 shall bargain in good faith on wages, hours and all other terms and conditions of employment and other issues agreed to by the parties. However, neither the public employer nor the exclusive representative shall be required to agree to a proposal or to make a concession; and

14.1.2 shall enter into written collective bargaining agreements covering employment relations.

14.2 Entering into a collective bargaining agreement shall not obviate the duty to bargain in good faith during the term of the collective bargaining agreement regarding changes to wages, hours and all other terms and conditions of employment, unless it can be demonstrated that the parties clearly and unmistakably waived the right to bargain regarding those subjects. However, no party may be required, by this provision, to renegotiate the existing terms of collective bargaining agreements already in place.

14.3 In regard to the Public Employees Retirement Act, Luna County in a written collective bargaining agreement may agree to assume any portion of a public employee's contribution obligation to retirement programs provided pursuant to the Public Employees Retirement Act. Such agreements are subject to the limitations set forth in this section.

14.4 The obligation to bargain collectively shall not be construed as authorizing Luna County and an exclusive representative to enter into an agreement that is in conflict with the provisions of any other statute of this state; provided, however, that a collective bargaining agreement that provides greater rights, remedies and procedures to public employees than contained in a state statute shall not be considered to be in conflict with that state statute. In the event of an actual conflict between the provisions of any other statute of this state and an agreement entered into by the public

employer and the exclusive representative in collective bargaining, the statutes of this state shall prevail.

14.5 Payroll deduction of the exclusive representative's membership dues shall be a mandatory subject of bargaining if either party chooses to negotiate the issue. The amount of dues shall be certified in writing by an official of the labor organization and shall not include special assessments, penalties or fines of any type. __shall honor payroll deductions until the authorization is revoked in writing by the public employee in accordance with the negotiated agreement and this subsection and for so long as the labor organization is certified as the exclusive representative. Public employees who have authorized the payroll deduction of dues to a labor organization may revoke that authorization by providing written notice to their labor organization during a window period not to exceed ten days per year for each employee. __and the labor organization shall negotiate when the commencement of that period will begin annually for each employee. If no agreement is reached, the period shall be during the ten days following the anniversary date of each employee's employment. Within ten days of receipt of notice from a public employee of revocation of authorization for the payroll deduction of dues, the labor organization shall provide notice to the public employer of a public employee's revocation of that authorization. A public employee's notice of revocation for the payroll deduction of dues shall be effective on the thirtieth day after the notice provided to the public employer by the labor organization. No authorized payroll deduction of dues held by Luna County or a labor organization on July 1, 2020 shall be rendered invalid by this provision and shall remain valid until replaced or revoked by the public employee. During the time that a board certification is in effect for a particular appropriate bargaining unit, the public employer shall not deduct dues for any other labor organization.

14.6 Luna County and a labor organization, or their employees or agents, are not liable for, and have a complete defense to, any claims or actions under the law of this state for requiring, deducting, receiving or retaining fair share dues or fees from public employees, and current or former public employees do not have standing to pursue these claims or actions if the fair share dues or fees were permitted at the time under the laws of this state then in force and paid, through payroll deduction or otherwise, on or before June 27, 2018. This subsection:

14.6.1 applies to all claims and actions pending on July 1, 2020 and to claims and actions filed on or after July 1, 2020; and

14.6.2 shall not be interpreted to infer that any relief made unavailable by this section would otherwise be available.

14.7 An impasse resolution or an agreement provision by Luna County and an exclusive

representative that requires the expenditure of funds shall be contingent upon the specific appropriation of funds by the appropriate governing body and the availability of funds. An agreement provision by a local school board and an exclusive representative that requires the expenditure of funds shall be contingent upon ratification by the appropriate governing body. An arbitration decision shall not require the re-appropriation of funds.

14.8 An agreement shall include a grievance procedure to be used for the settlement of disputes pertaining to employment terms and conditions and related personnel matters. The grievance procedure shall provide for a final and binding determination. The final determination shall constitute an arbitration award within the meaning of the Uniform Arbitration Act; such award shall be subject to judicial review pursuant to the standard set forth in the Uniform Arbitration Act. The costs of an arbitration proceeding conducted pursuant to this subsection shall be shared equally by the parties.

14.9 The following meetings shall be closed:

14.9.1 meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between Luna County and the exclusive representative of the public employees of Luna County;

14.9.2 collective bargaining sessions; and

14.9.3 consultations and impasse resolution procedures at which the public employer and the exclusive representative of the appropriate bargaining unit are present.

SECTION 15.0 IMPASSE RESOLUTION.

15.1 The following impasse procedures shall be followed by Luna County and exclusive representatives:

15.1.1 if an impasse occurs, either party may request from the Labor Management Relations Board that a mediator be assigned to the negotiations unless the parties can agree on a mediator. A mediator with the federal mediation and conciliation service shall be assigned by the Labor Management Relations Board to assist negotiations unless the parties agree to another mediator; and

15.1.2 if the impasse continues after a thirty-day mediation period, either party may request a list of seven arbitrators from the federal mediation and conciliation service. One arbitrator shall be chosen by the parties by alternately striking names from such list. Who strikes first shall be determined by coin toss. The arbitrator shall render a final, binding, written decision resolving unresolved issues pursuant to **Section _____** of this Ordinance and the Uniform Arbitration Act no later than thirty days after the arbitrator has been notified of selection by the parties. The

arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offer. The costs of an arbitrator and the arbitrator's related costs conducted pursuant to this subsection shall be shared equally by the parties. Each party shall be responsible for bearing the cost of presenting its case. The decision shall be subject to judicial review pursuant to the standard set forth in the Uniform Arbitration Act.

15.2 Luna County may enter into a written agreement with the exclusive representative setting forth an alternative impasse resolution procedure.

15.3 In the event that an impasse continues after the expiration of a contract, the existing contract will continue in full force and effect until it is replaced by a subsequent written agreement. However, this shall not require Luna County to increase any employees' levels, steps or grades of compensation contained in the existing contract.

SECTION 16.0 EMPLOYERS – PROHIBITED PRACTICES.

Luna County or its representative shall not:

16.1 Discriminate against an employee with regard to terms and conditions of employment because of the employee's membership in a labor organization;

16.2 Interfere with, restrain, or coerce any employee in the exercise of any right guaranteed under the Labor Management Relations Resolution or use public funds to influence the decision of its employees or the employees of its subcontractors regarding whether to support or oppose a labor organization that represents or seeks to represent those employees, or whether to become a member of any labor organization; provided, however, that this subsection does not apply to activities performed or expenses incurred:

16.2.1 addressing a grievance or negotiating or administering a collective bargaining agreement;

16.2.2 allowing a labor organization or its representatives access to Luna County facilities or properties;

16.2.3 performing an activity required by federal or state law or by a collective bargaining agreement;

16.2.4 negotiating, entering into or carrying out an agreement with a labor organization;

16.2.5 paying wages to a represented employee while the employee is performing duties if the payment is permitted under a collective bargaining agreement;

16.2.6 representing Luna County in a proceeding before the board or a local board or in a judicial review of that proceeding;

16.3 Dominate or interfere in the formation, existence or administration of a labor organization;

16.4 Discriminate in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization;

16.5 Discharge or otherwise discriminate against a public employee because the employee has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of this Ordinance or because a public employee is forming, joining or choosing to be represented by a labor organization;

16.6 Refuse to bargain collectively in good faith with the exclusive representative;

16.7 Refuse or fail to comply with a provision of this Ordinance or board rule; or

16.8 Refuse or fail to comply with a collective bargaining agreement.

16.9 Negotiate issues which are the subject of negotiations or make any offer, commitment, or promise whatsoever to employees or the exclusive representative, other than through the appointed negotiating team. It is the intent of this language that the integrity of the negotiating process be maintained. All negotiations and concessions shall occur only between the respective appointed negotiating teams.

SECTION 17. EMPLOYEES – LABOR ORGANIZATIONS – PROHIBITED PRACTICES.

17.1 An employee, a labor organization, or its representative shall not:

17.1.1 Discriminate against an employee with regard to labor organization membership because of race, color, religion, creed, age, disability, sex, or national origin;

17.1.2 Solicit membership for an employee or labor organization during the employee's duty hours. This does not include the work breaks or lunch periods;

17.1.3 Restrain or coerce any employee in the exercise of any right guaranteed by the provisions of the Labor Management Relations Ordinance;

17.1.4 Refuse to bargain collectively in good faith with the employer;

17.1.5 Refuse or fail to comply with any collective bargaining agreement with the employer. This issue is subject to the required negotiated grievance procedure negotiated by the parties;

17.1.6 Refuse or fail to comply with any provision of the Labor Management Relations Ordinance;

17.1.7 Picket homes or private businesses of employees, appointed individuals, or elected officials of Luna County;

17.1.8 Restrain or coerce the employer in the selection of its agent for bargaining;

17.1.9 Negotiate issues which are the subject of negotiations or make any offer,

commitment, or promise whatsoever to the public employer, other than through the appointed negotiating team. It is the intent of this language that the integrity of the negotiating process be maintained. All negotiations and concessions shall occur only between the respective appointed negotiating teams.

SECTION 18.0 STRIKES AND LOCKOUTS PROHIBITED.

18.1 No employee or labor organization shall engage in a strike. No labor organization shall cause, instigate, encourage, or support a strike. The employer shall not cause, instigate or engage in an employee lockout.

18.2 The employer may apply to the district court for injunctive relief to end a strike, and an exclusive representative of public employees affected by a lockout may apply to the district court for injunctive relief to end a lockout.

18.3 The Labor Management Relations Board, upon a clear and convincing showing of proof at a hearing that a labor organization directly caused or instigated an employee strike, may impose appropriate penalties on that labor organization, up to and including decertification of the labor organization with respect to any of its bargaining units which struck as a result of such causation or instigation. A strike means an employee's refusal, in concerted action with other employees, to report for duty or his willful absence or withholding of service in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the working conditions, compensation, rights, privileges, or obligations of employment.

SECTION 19.0 AGREEMENTS VALID – ENFORCEMENT.

All collective bargaining agreements and other agreements between the employer and exclusive representative are valid and enforceable according to their terms when entered into in accordance with the provisions of this Labor Management Relations Ordinance.

SECTION 20.0 JUDICIAL ENFORCEMENT – STANDARD OF REVIEW.

20.1 The Board may request the District Court to enforce any order issued pursuant to the Labor Management Relations Ordinance, including those for appropriate temporary relief and restraining orders. The Court shall consider the request for enforcement on the record made before the Board. The Court shall uphold the action of the Board and take appropriate action to enforce it unless the Court concludes that the order is:

20.1.1 Arbitrary, capricious, or an abuse of discretion;

20.1.2 Not supported by substantial evidence on the record considered as a whole; or

20.1.3 Otherwise not in accordance with law.

20.2 Any person or party, including any labor organization, affected by a final regulation, order, or decision of the Board, may appeal to the District Court for further relief. All such appeals shall be based upon the record made at the Board hearing. All such appeals to the District Court shall be taken within thirty (30) calendar days of the date of the final regulation, order, or decision of the Board. Actions taken by the Board shall be affirmed unless the Court concludes that the action is:

20.2.1 Arbitrary, capricious, or an abuse of discretion;

20.2.2 Not supported by substantial evidence on the record taken as a whole; or

20.2.3 Otherwise not in accordance with law.

SECTION 21.0 SEVERABILITY.

If any part or application of the Luna County Labor Management Relations Ordinance is held invalid, the remainder or its application to other situations or persons shall not be affected.

SECTION 22.0 EFFECTIVE DATE.

The effective date of the Luna County Labor Management Relations Ordinance is December 10, 2020.

APPROVED AND ADOPTED THIS 10th DAY OF DECEMBER, 2020.

**BOARD OF COUNTY COMMISSIONERS
LUNA COUNTY, STATE OF NEW MEXICO**

ATTEST:

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

**Andrea Rodriguez,
County Clerk**

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

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

Be it remembered that at the Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 12th day of November 2020, the following proceedings were had and entered of record.

RESOLUTION NO. 20-54

REPEAL OF ORDINANCE 87

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

WHEREAS, the Board of County Commissioners issued a call to repeal Ordinance 87 on November 12, 2020, after which notice was published in accordance with Section 4-37-7, NMSA 1978;

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Luna County that Ordinance 87 – Zoning Regulations for the Former Extra-Territorial Zone is repealed effective thirty (30) days after the recording of this Resolution, pursuant to Section 4-37-9B, NMSA 1978.

Done at Deming, New Mexico this 12th day of November, 2020

Board of County Commissioners of Luna County

ATTEST:

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

Andrea Rodriguez, County Clerk

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

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

LCBCC Meeting November 12, 2020

Accounts Payable

10/01/2020	\$189,537.83
10/01/2020	\$1,823.69
10/09/2020	\$298,342.71
10/09/2020	\$6,953.42
10/16/2020	\$279,356.14
10/16/2020	\$544.79
10/22/2020	\$188,835.44
10/30/2020	\$132,874.57
10/30/2020	\$1,051.65

P-Cards

September 2020

\$121,704.97

Total \$1,221,025.21

Luna County
Board of County Commissioners

AGENDA 11/12/2020

PAYROLL

10/09/2020	Register # 20200049	\$ 524,851.26
10/09/2020	*Register # 20200050	\$ 34,143.97
10/23/2020	Register # 20200101	\$ 531,723.88
10/23/2020	*Register # 20200102	\$ 193.41
10/23/2020	*Register # 20200103	\$ 21,728.53

Total \$ 1,112,641.05


* Special

APPOINTMENT OF LORENZO PAREDES

STATE OF NEW MEXICO)
COUNTY OF LUNA) ss

This is to certify that I have on this 21st day of October, 2020 A.D. appointed Lorenzo Paredes as my DEPUTY SHERIFF in and for the County of Luna, State of New Mexico, hereby authorizing Lorenzo Paredes to discharge all duties of said appointment of DEPUTY SHERIFF, according to the law.

WITNESS MY HAND THIS 21st DAY OF October, 2020 A.D.



SHERIFF, LUNA COUNTY, NEW MEXICO

OATH OF OFFICE

STATE OF NEW MEXICO)
COUNTY OF LUNA) ss


I, Lorenzo Paredes, 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 Lorenzo Paredes, appointee.
This 21st day of October, 2020.



NOTARY
My Commission Expires 03-03-2023

Approved this _____ day of _____ 2020 A.D., by the Board of County Commissioners, Luna County, New Mexico.

CHAIRMAN, BOARD OF LUNA COUNTY COMMISSIONERS

Be it remembered that at the Special Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 12th day of November 2020, the following proceedings were had and entered of record.

RESOLUTION 20-55

ESTABLISHING SALARIES FOR ELECTED OFFICIALS

WHEREAS, Section 4-44-1, NMSA 1978 establishes classification of counties for the purpose of fixing salaries of public officers on a biennial basis, pursuant to Section 4-44-2, NMSA 1978; and

WHEREAS, Luna County is classified as a B Over County and as such, the Luna County Board of Commissioners shall establish salaries not to exceed salaries set by the Legislature, Section 4-44-4.1, NMSA 1978;

WHEREAS, the New Mexico Constitution, Article IV, Section 27, prohibits changing the salary of any elected official during the term of office in which the change is made;

WHEREAS, the Board of County Commissioners of Luna County initially addressed the salaries of elected officials by Resolution 18-13, and voted at the Regular Meeting on October 8, 2020, to implement an eight percent (8%) raise for eligible elected officials on January 1, 2021;

WHEREAS, the Board of County Commissioners of Luna County desires to standardize the salaries of the Chief Deputies for the Assessor, Clerk and Treasurer offices at ninety (90%) of the elected officials' salary, including changes, during their respective terms.

NOW THEREFORE BE IT RESOLVED, the Board of County Commissioners of Luna County approves the salaries listed below effective January 1, 2021, and applied to eligible elected officials:

Position	Current Salary	New Salary	Effective 01/01/2021
Assessor	\$61,559.94	\$66,484.74	No
Chief Deputy Assessor	\$56,513.60	\$59,836.27 (90%)	Yes
Clerk	\$61,559.94	\$66,484.74	Yes
Chief Deputy Clerk	\$58,905.60	\$59,836.27 (90%)	Yes
Commissioner District 1	\$24,544.26	\$26,507.80	No
Commissioner District 2	\$24,544.26	\$26,507.80	No
Commissioner District 3	\$24,544.26	\$26,507.80	Yes
Probate Judge	\$21,525.66	\$23,247.71	No
Sheriff	\$64,175.28	\$69,309.30	No
Treasurer	\$61,559.94	\$66,484.74	Yes
Chief Deputy Treasurer	\$58,843.20	\$59,836.27 (90%)	Yes

DONE THIS 12TH DAY OF NOVEMBER, 2020
LUNA COUNTY BOARD OF COMMISSIONERS

ATTEST:

John S. Sweetser, Chairperson
Commissioner, District 3

Andrea Rodriguez, County Clerk

Barbara L. Reedy, Commissioner
District 1

Linda M. Smrkovsky, Commissioner
District 2

**LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS**

**RESOLUTION NO. 20-56
Proposed Inter/Intra Fund Budget Increases**

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

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

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

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

NOW THEREFORE BE IT RESOLVED that the Luna County Board of County Commissioners hereby adopts the changes to the County's Fiscal Year 109, July 1, 2020 through June 30, 2021 Budget proposed by the County's management staff and attached hereto in spreadsheet form, as amendments to the previously adopted operating budget.

PASSED, APPROVED AND ADOPTED THIS 12th DAY OF NOVEMBER, 2020.

LUNA COUNTY

Chairperson

ATTEST:

Andrea Rodriguez, Luna County Clerk

Be it remembered that at a Regular meeting of the Luna County Board of County Commissioners in Deming NM on the 12th day of November, 2020, the following budget adjustments are proposed and entered of record.

SCHEDULE OF BUDGET ADJUSTMENTS			Budget Resolution Number 20-56 Proposed Inter/Intra FUND Budget Increase/Decrease						Entity Code	
									DFA Resolution Number	
ITEM NO	Adjustment Type	Fund/DFA Fund	Dept.	From	Amount	To	Amount	Purpose	Approved Budget Balance	Adjusted Budget Balance
One	Increase	401/11000	General Fund - Commission	401/11000	\$ 75,000.00	401-00-2128 Funding - City Landfill	\$ 75,000.00	To pay tipping fees at Butterfield Landfill for County residents per Chris Brice and Aron Sera - to be added into MSA.	\$ 165,000.00	\$ 240,000.00
Two	Increase	401/11000	General Fund - Treasurers	401/11000	\$ 12,481.81	401-07-2002 Salaries - Full-Time	\$ 9,839.81	To adjust for pay increases for full-time employees.	\$ 150,073.56	\$ 159,913.37
						401-07-2060 Match - Medicare 1.45%	\$ 152.52	To adjust for pay increases for full-time employees.	\$ 3,367.32	\$ 3,519.84
						401-07-2063 Match - PERA 16.67%	\$ 1,640.30	To adjust for pay increases for full-time employees.	\$ 35,279.30	\$ 36,919.60
						401-07-2064 Match - FICA 6.2%	\$ 652.38	To adjust for pay increases for full-time employees.	\$ 14,403.30	\$ 15,055.68
						401-07-2070 Match - RHCA 2.0%	\$ 196.80	To adjust for pay increases for full-time employees.	\$ 4,232.67	\$ 4,429.47
Three	Increase	407/29900	Treasurers' Mobile Home Collections Account	407/29900	\$ 7,817.82	407-07-2002 Salaries - Full-Time	\$ 6,163.04	To adjust for pay increases for full-time employees.	\$ 11,584.04	\$ 17,747.08
						407-07-2060 Match - Medicare 1.45%	\$ 95.53	To adjust for pay increases for full-time employees.	\$ 179.55	\$ 275.08
						407-07-2063 Match - PERA 16.67%	\$ 1,027.38	To adjust for pay increases for full-time employees.	\$ 1,931.06	\$ 2,958.44
						407-07-2064 Match - FICA 6.2%	\$ 408.61	To adjust for pay increases for full-time employees.	\$ 768.02	\$ 1,176.63
						407-07-2070 Match - RHCA 2.0%	\$ 123.26	To adjust for pay increases for full-time employees.	\$ 231.68	\$ 354.94
Four	Increase	407/29900	Treasurers' Mobile Home Collections Account	407/29900	\$ 35,000.00	407-07-2028 Capital Outlay	\$ 35,000.00	To pay for tax roll archiving and counter remodel and installation of bullet resistant COVID screens	\$ 30,000.00	\$ 65,000.00
Five	Decrease	415/21800	Community Services - AIM Grant	415/21800	\$ 100,300.00	415-77-1466 AIM Grant (Revenue)	\$ 100,300.00	To decrease budget for AIM Grant which was canceled by DOH and was replaced by two additional TOP Clubs	\$ (100,300.00)	\$ -
					\$ (100,300.00)	415-59-2003 Salaries - Part-Time	\$ (25,000.00)	To decrease budget for AIM Grant which was canceled by DOH and was replaced by two additional TOP Clubs	\$ 25,000.00	\$ -
						415-59-2010 Mileage/Per Diem	\$ (1,500.00)	To decrease budget for AIM Grant which was canceled by DOH and was replaced by two additional TOP Clubs	\$ 1,500.00	\$ -

ITEM NO	Adjustment Type	Fund/DFA Fund	Dept.	From	Amount	To	Amount	Purpose	Approved Budget Balance	Adjusted Budget Balance
						415-59-2020 Supplies	\$ (21,887.50)	To decrease budget for AIM Grant which was canceled by DOH and was replaced by two additional TOP Clubs	\$ 21,887.50	\$ -
						415-59-2060 Match - Medicare 1.45%	\$ (362.50)	To decrease budget for AIM Grant which was canceled by DOH and was replaced by two additional TOP Clubs	\$ 362.50	\$ -
						415-59-2064 Match - FICA 6.2%	\$ (1,550.00)	To decrease budget for AIM Grant which was canceled by DOH and was replaced by two additional TOP Clubs	\$ 1,550.00	\$ -
						415-59-2101 Professional/Contract Services	\$ (50,000.00)	To decrease budget for AIM Grant which was canceled by DOH and was replaced by two additional TOP Clubs	\$ 50,000.00	\$ -
Six	Increase	408/22300	DWI - Grant	408/22300	\$ (26,633.00)	408-77-1312 DWI - Grant (Revenue)	\$ (26,633.00)	To increase revenue and expense budgets for the awarded Distribution Reversion funds to supplement Grant award.	\$ (68,000.00)	\$ (94,633.00)
					\$ 26,633.00	408-00-2005 Salaries - Overtime	\$ 3,690.00	To increase revenue and expense budgets for the awarded Distribution Reversion funds to supplement Grant award.	\$ -	\$ 3,690.00
						408-00-2020 Supplies	\$ 14,291.15	To increase revenue and expense budgets for the awarded Distribution Reversion funds to supplement Grant award.	\$ 2,360.16	\$ 16,651.31
						408-00-2060 Match - Medicare 1.45%	\$ 57.20	To increase revenue and expense budgets for the awarded Distribution Reversion funds to supplement Grant award.	\$ 576.66	\$ 633.86
						408-00-2064 Match FICA 6.2%	\$ 244.65	To increase revenue and expense budgets for the awarded Distribution Reversion funds to supplement Grant award.	\$ 2,466.64	\$ 2,711.29
						408-00-2101 Professional/Contract Services	\$ 8,350.00	To increase revenue and expense budgets for the awarded Distribution Reversion funds to supplement Grant award.	\$ 13,050.00	\$ 21,400.00
					\$ 130,299.63		\$ 130,299.63		\$ 367,503.96	\$ 497,803.59

NOW, THEREFORE, it is respectfully requested that the Luna County Commissioners, authorize the above adjustments to the Luna County Budget.

Done at Deming New Mexico this **Thursday the 12th day of November, 2020.**

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

Barbara L Reedy, District 1

Linda M. Smrkovsky, District 2

John S. Sweetser, District 3



ATTEST:

Entered By:

Date

Andrea Rodriguez, Luna County Clerk

Checked By:

Date

Be it remembered that at the Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 12th day of November 2020, the following proceedings were had and entered of record.

RESOLUTION 20-57

EXPRESSING CONCERN REGARDING CERTAIN PROPOSALS BEFORE THE NEW MEXICO CIVIL RIGHTS COMMISSION

WHEREAS, The New Mexico Civil Rights Commission was created by the New Mexico Legislature during the 2020 Special Session in response to actual and perceived civil rights violations by law enforcement officers in other jurisdictions;

WHEREAS, the Board of County Commissioners of Luna County has grave concerns regarding several of the proposals being considered by the New Mexico Civil Rights Commission;

WHEREAS, the first proposal of concern is the expansion of existing causes of action or establishment of a new state law cause of action for Constitutional violations by law enforcement officers and allowing for uncapped damage awards, attorneys fees and costs;

WHEREAS, the second proposal of concern is the elimination or restriction of the use of the doctrine of qualified immunity by counties;

WHEREAS, the third proposal of concern is another amendment to the New Mexico Tort Claims Act expanding the waiver of sovereign immunity protection currently afforded to counties and all their employees, not just law enforcement officers and allowing for personal, non-indemnified liability of employees;

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

1. Luna County does not believe that a new state law cause of action is necessary because New Mexico has already waived immunity for the deprivation of rights secured by federal and state constitutions and laws. Further, the New Mexico Legislature expanded the scope of the waiver twice in 2020.
2. Luna County believes that qualified immunity is such a narrow defense that can only be raised by individual defendants, not entities, under a limited set of circumstances in federal court cases that it does not need to be further limited or eliminated in its entirety.
3. Luna County believes that damage awards, especially attorney's fees, are already excessive, and imposing personal, non-indemnified liability will deter quality individuals from pursuing careers in law enforcement and detention and will either result in exorbitant premiums or the unavailability of certain coverage at any cost and will ultimately financially cripple governmental entities like Luna County.

4. Luna County believes none of the proposals discussed herein will result in accountability of individuals or result in meaningful change or reform. Better results can be achieved by spending taxpayer money to improve training of law enforcement officers and enhancing the authority of the New Mexico Law Enforcement Academy, Sheriff's and managers to investigate and impose discipline, when appropriate.

DONE THIS 12th DAY OF NOVEMBER, 2020

LUNA COUNTY BOARD OF COMMISSIONERS

ATTEST:

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

Andrea Rodriguez, County Clerk

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

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

Be it remembered that at the Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 12th day of November 2020, the following proceedings were had and entered of record.

RESOLUTION 20-58

AUTHORIZING THE SALE OF COUNTY PROPERTY

WHEREAS, Luna County, by and through the Board of County Commissioners, is the owner of the two parcels of property listed herein:

1. A parcel of land lying in Section 35, Township 27 South, Range 08 West, North of Columbus, Luna County, New Mexico, more particularly described on attachment A; and
2. A parcel of land lying in Section 34 and 35, Township 27 South, Range 08 West, north of Columbus, New Mexico, more particularly described in attachment Parcel B.

WHEREAS, Luna County has no current or future plans to develop or utilize the property;

WHEREAS, Luna County wishes to dispose of the property by sale, trade, transfer, or lease.

NOW THEREFORE, BE IT RESOLVED by signature of the Board of Commissioners of Luna County, it is agreed to dispose of the property by process in compliance the laws of the State of New Mexico and Luna County Ordinances and Resolutions, policies and procedures.

FURTHERMORE, BE IT RESOLVED that the County Manager is hereby authorized to execute and enter into an agreement or take all other action necessary, including execution of documentation, to dispose of subject property.

Done at Deming, New Mexico this 12th day of November, 2020

Board of County Commissioners of Luna County

ATTEST:

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

Andrea Rodriguez, County Clerk

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

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

Proclamation

National Native American Heritage Month

WHEREAS, November has been designated as National Native American Heritage Month.

NOW THEREFORE, this month, we recommit to supporting Native America Tribes and people, we resolve to work side-by-side with their leaders to secure stronger, safer communities and preserve their sacred heritage for future generations. The County of Luna honors the storied legacy of American Indians and Alaska Natives in our Nation and their cherished legacy, rich culture and heroic history of military services inspires us all. The County of Luna hereby proclaims November “National Native American Heritage Month” and we urge all citizens to recognize and acknowledge the importance of Indian Country to the cultural identity of our County, State, and Nation.

Chris Brice, Luna County Manager

John S. Sweetser, Chairperson

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

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



Luna County Drug and Alcohol Policy

for DOT Safety Sensitive Employees subject to Federal drug and alcohol
testing
US DOT 49 CFR Part 40
and
US DOT Federal Motor Carrier Safety Administration (FMCSA) Part 382

LUNA COUNTY MANAGEMENT POLICY

LUNA COUNTY DRUG AND ALCOHOL POLICY

SECTION 1.0 COUNTY PHILOSOPHY

1.1 The County believes that it has an obligation and right to have alert, drug/alcohol free employees on the job, and must provide a safe work environment. This means that during working hours, all employees are expected to be free from any substance, whether legal or illegal, that can negatively affect job performance or risk the health and safety of employees or the public.

1.2 The purpose of this testing policy is to protect the physical and psychological well-being of all the employees at the County's facilities and job sites and protect the safety of the public as well as comply with federal regulations. Use of intoxicants and drugs that alter the ability to function on the job in an effective and safe manner will not be tolerated. The use of or condition of being under the influence of drugs/alcohol while at work can affect the morale of other employees as well as increase accidents, theft, and absenteeism.

1.3 This testing policy is a critical step in establishing and maintaining an efficient and safe work force and will be applied in conjunction with all established County policies, procedures and programs.

1.4 The County will vigorously pursue the enforcement of this policy, and will make efforts to protect the privacy of its employees. It is the intent of this policy to encourage and support employee recovery from substance abuse through the County Employee Assistance Program, (EAP), unless the EAP proves ineffective for that employee.

1.5 The Luna County Human Resources Director is the Designated Employer Representative (DER). For questions about drug testing, contact the Human Resources Department.

SECTION 2.0 SCOPE

2.1 This policy applies to employees who are required to maintain a Commercial Driver's License (CDL) to perform their duties as an employee of Luna County. Departments impacted include: Luna County Road Department and Luna County Detention Center. Covered positions include, but are not limited to: Truck Drivers, Equipment Operators, Equipment Mechanics, Landfill Operators, Detention Transport and Supervisors/Managers. A master list of jobs impacted is maintained in the Human Resources Department.

SECTION 3.0 DEFINITIONS

3.1 Accident (as defined by FMCSA §390.5) - Except as provided in this definition, an occurrence involving a *commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:*

3.1.1 A fatality;

3.1.2 Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

3.1.3 One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

3.1.4 The term accident does not include:

3.1.4.1 An occurrence involving only boarding and alighting from a stationary motor vehicle; or

3.1.4.2 An occurrence involving only the loading or unloading of cargo.

3.2 Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

3.3 Alcohol Concentration - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

3.4 Commercial motor vehicle - A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

3.4.1 Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

3.4.2 Has a gross vehicle weight rating of 26,001 or more pounds; or

3.4.3 Is designed to transport 16 or more passengers, including the driver; or

3.4.4 Is of any size and is used in the transportation of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

3.5 Confirmation alcohol test - A subsequent test using an Evidential Breath Test (EBT), following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.

3.6 Confirmation drug test - A second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. (Gas chromatography/ mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine).

3.7 Controlled substance - Controlled substance means the category of drugs as listed in 49 CFR Part 40 including:

3.7.1 Marijuana

3.7.2 Cocaine

3.7.3 Opiates (Codeine and Morphine or Oxycodone/Oxymorphone) or 6-acetylmorphine (6-AM when specimen confirms w/morphine at 2000 ng/mL or greater)

3.7.4 Phencyclidine (PCP)

3.7.5 Amphetamines or Methamphetamines

3.8 Covered employee - Any employee that is subjected to alcohol and drug testing requirements of 49 CFR 382 or this policy.

3.9 Covered position - Covered position is one that is subject to the alcohol and drug testing requirements of 49 CFR 382 or this policy.

3.10 Designated Employer Representative (DER) - The person(s) designated by Luna County to receive confidential test results.

3.11 Dilute Specimen - A urine sample with a low Specific Gravity and a low Creatinine level.

3.12 Driver - Any person who operates a commercial motor vehicle. This includes, but is not limited to, full time, regularly employed drivers; casual, intermittent or occasional drivers. For the purpose of pre-employment/pre-duty testing only, the term includes a person applying to an Employer to drive a commercial motor vehicle.

3.13 Invalid Test - A urine sample with which the laboratory has been unable to obtain a valid test result.

3.14 Medical Review Officer (MRO) - A licensed physician (Medical Doctor or Doctor of Osteopathy) responsible for receiving laboratory results generated by an Employer's drug testing program who has knowledge of substance abuse disorders, possesses a certificate of completion or certification from an approved MRO program and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

3.15 On-Duty Time -

3.15.1 All time at a carrier or shipper plant, terminal, facility or other property or on any public property, waiting to be dispatched (as defined by Luna County), unless the driver has been relieved from duty by Luna County;

3.15.2 All-time inspecting equipment or otherwise inspecting, servicing or conditioning any commercial motor vehicle at any time;

3.15.3 All driving time, i.e., time spent at the driving controls of a commercial motor vehicle at any time;

3.15.4 All time, other than driving time, in or upon any commercial motor vehicle;

3.15.5 All-time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded, or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

3.15.6 All time spent performing the requirements relating to accidents; or

3.15.7 All-time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

3.16 Performing a Safety-Sensitive Function - A driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform a safety-sensitive function.

3.17 Positive Drug Test - A drug test that is confirmed by gas chromatography separation and mass spectrometric identification technology at or above the cut-off levels established by the Department of Health and Human Services (DHHS). These cut-off levels may change from time to time depending upon DHHS rules. The County will always test at the currently-required DHHS levels. The County will attempt to notify covered employees if these levels change. Currently, the cut-off levels are (expressed in nanograms per milliliters (ng/mL):

	Screening	Confirmation
Marijuana	50	15
Cocaine	150	150
Opiates	2000	2000
(Codeine and Morphine)	2000	2000
(Oxycodone/Oxymorphone)	100	100
6-acetylmorphine (6-AM)	2000	10
When Specimen confirms w/ morphine at 2000 ng/ml or greater		
Phencyclidine (PCP)	25	25
Amphetamines	500	250
Methamphetamines	500	250

3.18 Prohibited Conduct – Employee conduct at that is not allowed by this policy as set out in Section 4.

3.19 Refusal to Test (refusal to provide an acceptable alcohol or controlled substance test)

3.19.1 Failing to provide adequate breath for alcohol testing without a valid medical explanation after he or she has received notice of the requirements for breath testing in accordance with the requirements of 49 CFR 382 or this policy.

3.19.2 Failing to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the requirements of 49 CFR 382 or this policy.

3.19.3 Failure to cooperate with the process in a manner that obstructs the collection of the specimen.

3.20 Safety-sensitive function - Any of those duties set forth in DOT Regulations: 49 CFR Part 382 (See also “on duty time”).

3.21 Screening alcohol test - An analytical procedure, to determine whether an employee may have a prohibited concentration of alcohol in a breath sample.

3.22 Screening drug test - An immunoassay screen, to eliminate "negative" urine specimens from further analysis.

3.23 Substance abuse professional (SAP) - A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) who possesses a certificate of completion or certification from an approved SAP program with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

3.24 Validity testing - Laboratory testing of urine samples for the presence of substances not normally found in human urine or naturally occurring substances at levels not consistent with human urine. Validity testing shall be conducted in accordance with the most recently published DOT guidelines.

SECTION 4.0 PROHIBITIONS

4.1 Alcohol concentration: No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.

4.2 Alcohol possession: No covered employee shall perform a safety-sensitive function while the employee possesses alcohol, unless the alcohol is manifested and transported as part of a shipment.

4.3 On-duty use: No covered employee shall use alcohol or a controlled substance while performing safety-sensitive functions.

4.4 Pre-duty use: No covered employee shall perform any safety-sensitive function within four (4) hours after ingesting alcohol.

4.5 Use following an accident: No covered employee involved in an accident and required to provide a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident test, whichever occurs first.

4.6 Refusal to submit to required alcohol or controlled substance test: No covered employee shall refuse to submit to a post-accident alcohol or controlled substance test, a random alcohol or controlled substance test, a reasonable suspicion alcohol or controlled substance test, or return to duty alcohol or controlled substance test, or the follow-up alcohol or controlled substance test as required under 49 CFR 382 or this County's policy and procedures.

4.7 Controlled substance use: No covered employee shall report to duty or remain on duty requiring the performance of safety-sensitive functions when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle. If the safety sensitive employee is taking a controlled substance listed on the DOT prohibited medication listing, the employee is required to submit a signed statement from the prescribing physician stating that the employee may perform safety sensitive functions while taking a prohibited medication. The prescribing physician shall not name the prescribed medication in their report to Luna County.

4.8 Controlled substance test: No covered employee shall report to duty, remain on duty or perform any safety sensitive functions if the employee tests positive for controlled substance.

SECTION 5.0 REQUIRED TESTS

5.1 Pre-employment -

5.1.1 All applicants for employment in a covered position will be informed that their employment into a covered position is contingent upon passing a test for controlled substances. Successfully passing the test requires a negative result for controlled substances as verified by a Certified Drug and Alcohol Technician.

5.1.2 Refusal to test by any finalist for a covered position will result in the individual not being hired into that position. Luna County will pay the costs associated with pre-employment testing.

5.1.3 Luna County will not pay the candidate's time for a pre-employment test.

5.2 Post-accident

5.2.1 Luna County conducts post-accident drug testing in accordance with FMCSA §382.303. A covered employee involved in an accident which involves a commercial motor vehicle shall be tested for alcohol and controlled substance as soon as practicable when the accident criteria meets the following DOT requirements:

5.2.1.1 Covered employee was performing safety-sensitive functions with respect to the vehicle if the accident involved the loss of human life or;

5.2.1.2 Covered employee receives a citation under State or local law for a moving traffic violation arising from the accident; AND

5.2.2 The commercial vehicle was disabled (such that it cannot be driven in daylight hours), OR anyone involved in the accident was immediately transported from the scene for emergency medical care.

5.2.3 If the alcohol test is not administered within two (2) hours of the accident Luna County shall follow the requirements of 49 CFR 382. Luna County shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, Luna County shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

5.2.4 If the controlled substance test is not administered within thirty-two (32) hours or the alcohol test within eight (8) hours of the accident, Luna County shall cease attempts to administer the test and follow the requirements of 49 CFR 382. Luna County shall cease attempts to administer a controlled substances test and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

5.2.5 It is the responsibility of any covered employee who is subject to a post-accident testing to remain readily available for such testing. If the covered employee is not readily available, he/she may be deemed by Luna County to have refused to submit to testing. This provision shall not be construed to require the delay of necessary medical attention for injured people, to prohibit the employee from leaving the scene of an accident to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

5.2.6 The results of a post-accident breath or blood test for the use of alcohol or a urine test for the use of controlled substances, conducted by Federal, State or local officials having independent authority for the test(s) shall be considered to meet the requirements of this policy and that the results of such test can be obtained by Luna County in a timely manner.

5.2.7 The supervisor or designee must accompany the employee to the drug testing facility.

5.3 Random

5.3.1 Luna County conducts random drug testing on DOT safety sensitive positions, in accordance with FMCSA §382.305. The minimum annual percentage rates for these tests are set, and can be modified, by the Federal Motor Carrier Safety Administration.

5.3.2 The selection of covered employees for random alcohol and/or controlled substance testing shall be made by a scientifically valid method, such as a random table or a computer-based random number generator that is matched with employees' identification numbers. The random selection and testing dates shall be unannounced and spread reasonably throughout the year with each employee having an equal chance of being tested each time the random selections are made. Each covered employee randomly selected for testing shall, upon notification, immediately report to the testing site. Employees who are engaged in travel, working offsite within Luna County or cannot, for safety reasons immediately report for testing, must report as soon as practical thereafter but not later than two (2) hours after receiving notification. Employees travelling or working outside of Luna County must report upon their return.

5.3.3 The number of covered employees selected will be in excess of the actual number required to enable the testing pool to reach the appropriate annualized rate despite absence due to sick-leave, vacations or other valid absences.

5.3.4 The supervisor or designee must accompany the employee to the drug testing facility. Luna County will pay testing costs including paid time for random testing.

5.4 Reasonable suspicion

5.4.1 A covered employee must submit to testing for alcohol and/or controlled substance if his or her supervisor or other employer representative meeting the training requirements of FMCSA §382.307 has reasonable suspicion to believe that the employee has violated the driver prohibitions of this policy. The determination that reasonable suspicion exists to require the employee to undergo an alcohol and/or controlled substance test must be based on specific, contemporaneous, articulable observation concerning the appearance, behavior, speech or body odors of the covered employee. Additionally, findings may also include indications of the chronic and withdrawal effects of controlled substances.

5.4.2 If an alcohol test is required under this section the time constraints and documentation if they are not met are the same as those for a post-accident alcohol testing, within two (2) hours. The supervisor shall prepare a report indicating the reason for the delay. Alcohol testing must be accomplished within eight (8) hours of the request; after eight (8) hours all attempts shall cease to obtain an alcohol test.

5.4.3 If a controlled substance test is required under this section. The time constraints and documentation are the same as those for a post-accident alcohol testing, within two (2) hours. The supervisor shall prepare a report indicating the reason for the delay. Controlled substances testing should be accomplished within thirty-two (32) hours of the request; after thirty-two (32) hours all attempts shall cease to obtain a controlled substances test.

5.4.4 A written record shall be made of the observations leading to an alcohol and/or controlled substance reasonable suspicion test. The record shall be signed by the department supervisor or other employer representative that made the observation, within 24 hours of the observed behavior or before the results of the controlled substance test are released, whichever is earlier.

5.4.5 The supervisor or designee must accompany the employee to the drug testing facility.

5.5 Return-to-duty

5.5.1 Before a covered employee returns to performing a safety sensitive function after engaging in prohibited conduct, the covered employee shall undergo a return to duty-controlled substance and/or alcohol test. All return-to-duty controlled substance testing must be directly observed per 49 CFR part 40. The return-to-duty test result for controlled substance must indicate a verified negative result for use. The return-to-duty test result for alcohol must indicate an alcohol concentration of less than 0.02.

5.5.2 The supervisor or designee must accompany the employee to the drug testing facility.

5.6 Follow-up

5.6.1 All drivers who have engaged in prohibited conduct and are eligible to return to duty, shall be subject to unannounced follow-up alcohol and/or controlled substance testing for up to sixty (60) months. The duration, number and frequency of such follow-up testing shall be as directed by the Substance Abuse Professional, and shall consist of at least six (6) tests in the first 12 months following the employee's return to duty. The Substance Abuse Professional may terminate the requirements for follow-up testing at any time after the first six (6) tests have been administered, if the Substance Abuse Professional determines that such testing is no longer necessary. All follow up controlled substance testing must be directly observed per 49 CFR part 40. Follow up testing will be conducted at the employee's expense.

SECTION 6.0 HANDLING TEST RESULTS AND CONFIDENTIALITY OF RESULTS

6.1 All reports and documentation generated under the requirements of 49 CFR Part 382 and this policy will be maintained in accordance with the requirements of 49 CFR Part 382.

6.2 Confidentiality and access to records is pursuant to the Luna County Drug and Alcohol Policy for DOT Safety Sensitive Employees and subject to Federal drug and alcohol testing US DOT 49 CFR Part 40 and US DOT Federal Motor Carrier Safety Administration (FMCSA) Part 382.

6.3 A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substance. Except as required or allowed by law or expressly authorized, records may be released to another identified party only with the specific, written consent of the covered employee authorizing release of the information to the party. The release request must specifically identify the individual to whom the information may be released and must specify the terms of the employee's consent for use of this information.

6.4 Except as required or allowed by law or expressly authorized or required in this section, Luna County shall not release to a third-party information contained in records required to be maintained under 49 CFR 382.

6.5 Luna County is required to obtain, pursuant to an employee's signed consent, information regarding the drug and alcohol testing of the applicant including any refusals to be tested, during the preceding two (2) years of the date of application for employment. Departments are required to make reasonable effort to collect the information post-job offer, prior to the contingent employee's first day on the job. Departments should document the attempts made to collect this information.

6.6 The Department must ensure completion of the "CDL Holder Pre-Employment Form" for past two years where the contingent employee was required to hold a Commercial Driver's License (CDL). If during past two years, the contingent employee used their CDL as an independent operator (self-employed, farmer, firefighter or in the military), the following form is needed: "CDL/Independent Operator Pre-Employment Form."

6.7 This process check also applies to employees transferring from a non-DOT safety sensitive position into a covered position.

SECTION 7.0 REQUIREMENT TO SUBMIT TO ALCOHOL AND CONTROLLED SUBSTANCE

TESTING - Any covered employee subject to testing under the requirements of 49 CFR 382 or this policy must submit to being tested for alcohol and/or controlled substances immediately, or as soon as possible, upon notification to do so by his or her supervisor or other designated Employer representative. Failure to immediately report for a test will, in most cases, result in the driver being deemed as refusing to submit which carries the same consequences as a positive controlled substances test or an alcohol test with a concentration of 0.04 or greater. In most cases, refusals to be tested will result in immediate termination.

SECTION 8.0 EMPLOYEE VOLUNTARY ADMISSION OF ALCOHOL OR CONTROLLED SUBSTANCES USE

8.1 Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation or treatment requirements of CFR Part 40 rules, provided that:

8.1.1 The employee does not self-identify in order to avoid testing under CFR Part 40 rules;

8.1.2 The employee makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and

8.1.3 The employee does not perform a safety sensitive function until Luna County is satisfied that the employee has been evaluated and has successfully demonstrated compliance with any education or treatment requirements in accordance with the recommended treatment plan as established by a Substance Abuse Professional.

8.1.4 Luna County will take no adverse action against an employee making a voluntary admission within the parameters of this policy. If an employee self-discloses, the supervisor should notify the Human Resources Department immediately. Luna County may refer the employee for an evaluation with a Substance Abuse Professional (SAP).

8.1.5 The employee must complete the initial evaluation with the SAP as soon as possible, and no longer than five (5) business days from the time of self-disclosure. If the employee has failed to complete the evaluation as directed, it will be considered misconduct and Luna County will take disciplinary action up to and including termination.

8.1.6 Employees who have voluntarily admitted use are not qualified to perform safety sensitive functions and will be placed on a paid medical leave or assigned non-safety sensitive work duties, if available and appropriate.

8.1.7 The employee will be allowed to return to safety sensitive duty when the SAP determines that the employee is in full compliance with recommended education or treatment and has an established follow-up program in place. The employee will be required to take and pass a non-DOT return to duty drug and/or alcohol test prior to return to safety sensitive duty. The employee will be required to submit to follow up testing at an interval and number established by the evaluating counselor. Employees who are returned to duty following voluntary admission shall be required to sign a last chance or return to work agreement with Luna County.

8.1.8 Any employee returned to duty following a voluntary admission may be required to consent to follow-up, non-DOT Luna Drug and Alcohol Policy for DOT Safety Sensitive Employees subject to Federal drug and alcohol testing US DOT 49 CFR Part 40 and US DOT Federal Motor Carrier Safety Administration (FMCSA) Part 382.

8.1.9 If during the follow-up period, the employee fails to comply with the recommended treatment or fails a follow-up drug and/or alcohol test, it will be considered prohibited conduct under 49 CFR Part 40. The employee who has engaged in prohibited conduct will be required to comply with all applicable requirements under the DOT rules. Employees who have engaged in prohibited conduct are subject to immediate disciplinary action by Luna County up to and including termination.

SECTION 9.0 TESTING PROCEDURES AND RESULTS

9.1 Alcohol Testing Procedures

9.1.1 The instrument that will be used to determine the presence of alcohol is the Evidential Breath Testing device (EBT). Only qualified Breath Alcohol Technicians shall be used to conduct breath alcohol testing according to 49 CFR Part 40. If test results are negative, the Breath Alcohol Technician will inform Luna County and the employee and no further action is needed. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test shall be performed. If the result of the confirmation test is 0.02 or greater but less than 0.04, the driver will be immediately removed from safety sensitive function and placed on a paid leave for at least 24 hours or the next working day, whichever comes first. The driver will also be required to take a County required breath alcohol test prior to

performing any safety sensitive function. If the result of the confirmation test is 0.04 or greater the employee will be subject to the same consequences as testing positive for a controlled substance.

9.2 Controlled Substance Procedures

9.2.1 Luna County is required to use the "split sample" method of collection when conducting the test for controlled substances. The collection of samples for controlled substances testing shall be conducted by qualified collection technicians following the guidelines as published in 49 CFR Part 40. The employee will be required to show the collection technician the contents of his/her pockets. If the employee possesses a substance that is obviously intended to adulterate or substitute a specimen, a direct observation shall be immediately conducted in accordance with federal protocols. Any positive test will be reviewed by a certified licensed physician Medical Review Officer (MRO).

9.2.2 An employee who requests to have a test performed on a split specimen following a positive drug result on the primary specimen must make the arrangements and pay for the test through Luna County. Luna County will reimburse the employee for the testing cost if the test result does not re-confirm the non-negative test. Time loss incurred while seeking an evaluation or participating in treatment programs as well as the time needed to submit to follow-up testing shall be at the employee's expense and will not be compensated by Luna County.

9.2.3 If, at any time, the employee refuses to submit to an observed collection when it is required under any of the circumstances outlined in 49 CFR Part 40, it will be deemed a refusal to submit and will result in disciplinary action. The urine sample will be placed into two (2) separate specimen bottles for shipment to a Department of Health and Human Services (DHHS) certified laboratory.

9.2.4 If the screening test indicates a negative result, Luna County will inform the employee and no further action is needed. If the test result of the primary specimen is positive for drugs, adulterated or substituted the MRO shall notify the employee of the verified test result. The employee will be offered the opportunity to request that the MRO direct the split specimen be tested in a different DHHS-certified laboratory to re-confirm the presence of the drug(s), adulterant, or substitution for which a non-negative result was obtained. The MRO shall honor this request if it is made within 72 hours of the employee having been notified of a verified non-negative test result. The result on the split specimen will be transmitted back to the MRO. While waiting for the test result to be completed on the split specimen the employee shall not be permitted to perform safety-sensitive functions and shall be placed on a paid leave. If the test results of the split specimen fail to reconfirm the non-negative result of the primary specimen, the MRO will cancel the test and report the reasons as required by 49 CFR 382.

9.2.5 A canceled test is considered neither positive nor negative. If a split sample test fails to reconfirm the non-negative test result, the employee will be paid for the time that he/she normally would have worked during the waiting process. In certain cases of a cancelled pre-employment, post-accident, return to duty or follow-up test a recollection may be necessary. If a test is cancelled due to the split sample not being available for testing, Luna County is required to have an immediate direct observation sample conducted. The MRO may also require a direct observation collection on cancelled tests in which the employee has not provided an adequate explanation for an invalid test result. Employees who request a split sample to be tested at a second DHHS laboratory shall bear all costs associated with the split testing unless the test fails to confirm the non-negative test result.

SECTION 10 CONSEQUENCES OF ENGAGING IN PROHIBITED ALCOHOL AND/OR CONTROLLED SUBSTANCES USE OR TREATMENT/ FOLLOW-UP VIOLATIONS

10.1 Luna County has a zero-tolerance policy. Employees who violate any provision of this policy shall be subject to immediate discipline up to and including termination with or without notice. Nothing in this document alters the employment relationship or status of employees. It does establish violation of this policy as just cause for disciplinary actions up to and including termination.

10.2 Referral, Evaluation, and Treatment

10.2.1 Employees in violation of this policy will be subject to discipline, including termination. The DOT safety sensitive employee must still be given a list of SAP and must undergo evaluation in order to be eligible to work in any DOT safety sensitive position for any other employer in the future.

10.2.2 The employee shall be evaluated by a qualified SAP. If determined necessary by the SAP, the employee must properly follow any education, treatment or rehabilitation program identified. The employee must be re-evaluated by the SAP to determine that the employee has properly followed, and is in compliance with the prescribed treatment or rehabilitation program.

10.2.3 The employee shall undergo a return-to-duty drug and/or alcohol test with a result indicating an alcohol concentration less than 0.02 and/or a negative controlled substances test.

10.2.4 Additionally, the employee will be subject to unannounced follow-up alcohol and/or controlled substance tests following his or her return-to-duty. The number and frequency shall be as directed by the Substance Abuse Professional and consist of at least six (6) tests in the first 12 months following the employee's return to duty. Such follow-up testing shall not exceed 60 months from the date of the employee's return-to-duty. The Substance Abuse Professional may terminate, at his or her discretion, the follow-up tests at any time after the first six (6) tests have been administered. The treatment or rehabilitation program used may not be the Substance Abuse Professional's private practice or be provided by a person or organization from which the substance abuse professional receives remuneration or has a financial interest.

10.2.5 Employees are financially responsible for any and all costs associated with the SAP process and required follow-up drug/alcohol testing. The Substance Abuse Professional shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use.

10.3 Available work for employees removed from safety sensitive duties

10.3.1 Luna County will not be required to provide non-safety-sensitive work for a covered employee who has violated any of the provisions of this policy. If, however, an employee has made a voluntary admission of use in accordance with this policy and, if appropriate, non-safety sensitive work is available it may be offered on a case-by-case basis.

SECTION 11 CONSEQUENCES OF AN ALCOHOL TEST RESULT OF AT LEAST 0.02 BUT LESS THAN 0.04

11.1 Any covered employee tested under the provisions of 49 CFR 382 or this policy that is found to have an alcohol concentration of 0.02 or greater but less than 0.04, shall not perform or continue to perform safety-sensitive functions. Testing positive may result in immediate termination.

11.2 If the employee is permitted to undergo treatment prescribed by an Substance Abuse Professional, the employee may not return to work until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test. They may not be permitted to return to safety sensitive duties without the completion of a treatment program, and follow up testing as provided in the section above.

11.3 If the result of the confirmation test is 0.04 or greater the employee will be subject to the same consequences as testing positive.

11.4 Luna County will not provide non-safety-sensitive work for a covered employee tested under the provisions of 49 CFR 382 or this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04. Additionally, the employee may be required to pass a County required return-to-duty test, which results in an alcohol concentration of less than 0.02 before he or she begins their next regularly scheduled duty period.

SECTION 12 EDUCATIONAL INFORMATION ON EFFECTS OF ALCOHOL AND CONTROLLED SUBSTANCES

12.1 All covered employees will receive training and/or education materials on the effects of alcohol and controlled substances on a person's health, work and personal life; signs and symptoms of an alcohol or controlled substance problem; and available methods of intervention when an alcohol or controlled substances program is suspected. Supervisors are required to complete annual drug free workplace training,

SECTION 13 PRESCRIPTION MEDICATIONS AND OVER THE COUNTER DRUGS

13.1 Employees are responsible to report to-duty free from the effects of any controlled substance or alcohol. Covered employees must report the use of prescriptions and over-the-counter drugs that could have a disabling effect or otherwise adversely affect the covered employee's fitness for duty or job performance to their immediate supervisor (without giving the name of prescription/over the counter drug).

13.2 It is the covered employee's responsibility to determine from the physician, pharmacist, or other health care professional whether or not the prescribed or over-the-counter drugs could affect the covered employee's fitness for duty or impair job performance or if the medication is listed on the prohibited controlled substance listing as published by the DOT.

13.3 Covered employees may be required to provide a written medical authorization to work from a physician, upon reporting the use of prescription or over-the-counter drugs. Failure to report the use of prescription or over-the-counter drugs that have disabling effects or otherwise affect the covered employee's fitness for duty while at work and failure to provide proper evidence of medical authorization to work may result in discipline, up to and including suspension and/or termination.

SECTION 14 CERTIFICATE OF RECEIPT

14.1 Each covered employee will be required to sign a certificate of receipt certifying that he or she has received a copy of this policy, which is the basis for implementing the requirements of the U.S. Department of Transportation Federal Motor Carrier Safety Administration rules and regulations pertaining to alcohol and controlled substances testing of covered employees.

ACKNOWLEDGEMENT AND RECEIPT OF LUNA COUNTY
Drug and Alcohol Policy for DOT Safety Sensitive Employees
Subject to Federal Drug and Alcohol Testing US DOT 49 CFR Part 40 and
US DOT Federal Motor Carrier Safety Administration (FMCSA) Part 382

I, _____ have received a copy of the Drug and Alcohol Policy for DOT Safety Sensitive Employees from Luna County; and furthermore, I understand and agree to adhere to the Luna County's Drug and Alcohol Policy, which is a condition of employment. I acknowledge that I may choose from any DOT approved drug testing facility/laboratory to perform my re-test at my own expense should I elect to have a re-test performed pursuant to applicable provisions herein.

DONE AND APPROVED THIS 12TH DAY OF NOVEMBER, 2020

LUNA COUNTY BOARD OF COMMISSIONERS

ATTEST:

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

Andrea Rodriguez, County Clerk

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

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



Luna County Service Animal Policy

LUNA COUNTY MANAGEMENT POLICY ACCOMMODATION FOR ELIGIBLE ANIMALS

SECTION 1.0: GENERAL PROVISIONS

Section 1.0 Purpose

1.1 To ensure compliance with the requirements of and recognition of rights under applicable federal and state laws, including the Americans with Disabilities Act and the New Mexico Service Animal Act.

1.2 To establish guidelines for the provision of reasonable accommodations to persons with disabilities.

1.3 To establish the procedures for allowing or disallowing the presence of an Eligible Animal, as defined herein.

Section 2.0 General Policy Statement

2.1 Luna County is committed to ensuring that persons with disabilities will not be discriminated against and that they will have full and equal access to services and the workplace.

2.2 All persons accompanied by an Eligible Animal, as defined herein, shall be allowed to enter all areas of Luna County buildings and facilities open to the general public.

2.3 All employees accompanied by an Eligible Animal, as defined herein, shall be allowed to enter all areas of Luna County buildings and facilities for which they are Authorized Employees and shall not be prohibited from entry solely on the basis of being accompanied by an Eligible Animal.

2.4 This policy does not authorize the presence or accompanying by any other animal except for Eligible Animals, as defined herein.

Section 3.0 Definitions

3.1 **Eligible Animal** means any animal selected to accompany an individual with a disability or a medically recognized need, regardless of whether the animal works or performs tasks for the benefit of the individual and includes Emotional Support Animals, Comfort Animals, Therapy Animals and Qualified Service Animals, as those terms may be defined in the New Mexico Service Animal Act, Section 28-11-2, NMSA 1978.

3.2 **Individual with a Disability** means a person who has a physical or mental impairment that substantially limits one or more major life activity, has a record of such impairment or is regarded as having such an impairment.

3.3 **Individual with a Medically Recognized Need** means a person for who a medical or behavioral health professional has prescribed or directed accompaniment by an Eligible Animal at all times or intermittently.

3.4 **Direct Threat** means a significant risk of substantial harm to the health or safety of others that cannot be eliminated or mitigated by a reasonable modification or practices or procedures.

3.5 **Direct Threat Assessment** means an individualized assessment completed by the County Manager, or his designee, to determine whether a service animal poses a direct threat based on:

3.5.1 Reasonable judgment that relies on current medical or other applicable knowledge or, in the absence thereof, on the best available objective evidence;

3.5.2 The nature, duration and severity of the risk posed;

3.5.3 Reasonable probability that potential harm will actually occur; and

3.5.4 Whether reasonable modifications can mitigate the risk posed.

3.6 **Fundamental Alteration** means a change so significant that it alters the nature of the facility or public service being offered. For example, Eligible Animals are generally prohibited from restricted access, such as the secure area of the Luna County Detention Center, which are not open to the public or unauthorized employees because of the safety and security requirements imposed by law and court orders and the presence of Eligible Animals in such areas would compromise the safety and security of the facility regardless of any accommodations or modifications and therefore constitutes a Fundamental Alteration.

3.7 **Authorized Employee** means any employee of Luna County employed in a position that does not require or afford special authorization to conduct their job duties. For example, Sheriff's Deputies and Luna County Detention Center Personnel have specific authorization to enter Luna County buildings or facilities not otherwise open to the public or other employees.

3.8 **Handler** means any individual accompanied by an Eligible Animal or a third person who accompanies an Individual with a Disability or an Individual with a Medically Recognized Need and is in control of the Eligible Animal for such person.

Section 4.0 Procedure

4.1 Eligible Animals shall be permitted in all Luna County buildings or facilities open to the public or, in the case of employees, areas for which they are otherwise authorized to enter provided that:

4.1.1 The building or facility to be entered can reasonably accommodate the Eligible Animal's type, size and weight;

4.1.2 The handler can sufficiently control, care for and clean-up after the Eligible Animal;

4.1.3 The Eligible Animal is house-broken or potty trained;

4.1.4 The Eligible Animal is in compliance with local licensure and vaccination requirements; and

4.1.5 The presence of the Eligible Animal does not pose a Direct Threat or require or result in a Fundamental Alteration.

4.2 Eligible Animal owners are **not** required to register with Luna County but are encouraged to contact the County Manager's office if they are in need of assistance, have questions, concerns or comments, or would like to provide advance notice of the presence of their Eligible Animal.

4.3 In the rare instances where an Eligible Animal must be excluded or removed temporarily or permanently, such a decision may only be made by the County Manager and a Direct Threat Assessment or an individualized assessment regarding Fundamental Alteration has been made and supports the exclusion or removal. Eligible Animals may also be excluded or removed when:

4.3.1 The handler cannot sufficiently control the Eligible Animal from disruptive behavior, such as barking, running and jumping;

4.3.2 The handler cannot sufficiently control the Eligible Animal from aggressive behavior, such as biting, lunging, growling or clawing;

4.3.3 The handler cannot sufficiently provide for other control, care or clean-up necessary.

4.4 If an Eligible Animal must be excluded or removed, the handler may return or remain in the Luna County building or facility without the animal and will be provided with reasonable assistance necessary to complete the purpose of the visit.

4.5 When it is not obvious or readily apparent that an animal in a Luna County building or facility is an Eligible Animal, Luna County employees may only ask if the animal is required because of a disability or at the direction of a health care professional. Luna County employees are expressly prohibited from, and may be disciplined for:

4.3.1 Asking any other questions such as the nature or extent of the person's disability;

4.3.2 Requesting identification or documentation to support the animal status;

4.3.3 Requesting a demonstration of the animal's service tasks or work;

4.3.4 Refuse access based on allergies or general fear of dogs;

4.3.5 Treat persons accompanied by Eligible Animals in any less favorable or adverse manner;

- 4.3.6 Pet, touch, feed or give commands to the Eligible Animal, except in an emergency;
- 4.3.7 Direct or require the removal of the handler or Eligible Animal.
- 4.4 Employees or other persons with concerns regarding the presence of any animal in Luna County buildings or facilities are directed to address them to the County Manager, or in his absence, the director or senior most staff member present in the building or facility.
- 4.5 While Eligible Animals are generally permitted in Luna County buildings and facilities, they may be restricted from entering restricted or secure areas that are not open to the public or that are restricted to authorized personnel only, such as food preparation areas or the secure area of the Luna County Detention Facility.

Section 5.0 Compliance

- 5.1 All Luna County employees and personnel, including Elected Officials and contractors are subject to responsible for complying with this Policy.
- 5.2 Violations of this Policy shall be reported to the County Manager's office and all allegations or complaints will be appropriately investigated and substantiated violations will subject employees and personnel found in violation to disciplinary action, up to and including termination.

INDIVIDUALIZED ASSESSEMENT FORM

Any decision to exclude or remove any Eligible Animal from Luna County buildings or facilities shall be made only after completion of the individualized assessment, completed by or at the direction of the County Manager, in collaboration with affected department personnel.

Assessment Date: _____

Dept.: _____

Dept. Head/Designee: _____

Person Assessed: _____

Animal Assessed (Name/Type): _____

A. Check All That Apply to the Animal:

- ☐ Animal is not housebroke or potty trained (# of accidents _____)
- ☐ Poor Hygiene (malodorous, dirt, fleas, etc.)
- ☐ Illness (fever, vomiting, diarrhea, other ailment)
- ☐ Disruptive (barking, running, jumping)
- ☐ Aggressive (biting, lunging, growling, lunging)
- ☐ Is not an Eligible Animal

Additional Facts/Observations: _____

B. Based on Facts Set Out Above:

Nature of risk posed by animal: _____

Duration of risk: _____

Severity of risk: _____

Probability of injury: _____

Mitigation Actions: _____

C. Describe facts demonstrating a Fundamental Alteration: _____

D. Check All that Apply to Handler:

- ☐ Unwilling or unable to control animal (leash, harness, verbal, visual)
- ☐ Unwilling or unable to feed, care for and clean-up after animal
- ☐ Unwilling or unable to provide for additional assistance with animal when necessary

Seeks entry into restricted or secure area

Is not an Individual with a Disability

Is not an Individual with a Medically Recognized Need for an Eligible Animal

Based on the results of this Individualized Assessment:

There are no concerns or restrictions regarding the Eligible Animal's presence in Luna County buildings or facilities.

The following modifications/accommodations must be made prior to entry by the Eligible Animal:

The animal poses a Direct Threat and should be excluded or removed temporarily/permanently from the following buildings or facilities:

The animal requires or results in a Fundamental Alteration and should be excluded or removed temporarily/permanently from the following buildings or facilities:

The animal does not qualify as an Eligible Animal.

The handler is not an Individual with a Disability or with a Medically Recognized Need for an Eligible Animal.

DONE AND APPROVED THIS 12TH DAY OF NOVEMBER, 2020

LUNA COUNTY BOARD OF COMMISSIONERS

ATTEST:

John S. Sweetser, Chairperson
Commissioner, District 3

Andrea Rodriguez, County Clerk

Barbara L. Reedy, Commissioner
District 1

Linda M. Smrkovsky, Commissioner
District 2