

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

Linda M. Smrkovsky
Member

Barbara L. Reedy
Chair

John S. Sweetser
Member

Thursday, October 14th, 2021

10:00 a.m.

Agenda

Regular Meeting

Luna County Courthouse

Meeting ID: meet.google.com/wcm-iczv-vnr To dial in: 414-909-4972 PIN: 939 182 389#

1. **Call to Order:** Chair Reedy 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. **Minutes:**

- a. Regular Meeting: September 9, 2021
 - b. Special Meeting: September 20, 2021

MOTION AND ROLL CALL VOTE

4. **Service Awards/ Retirement:**

- | | | |
|----------------|-------------------|----------|
| ● Alma Arias | Assessor's Office | 5 years |
| ● Tanya Ortiz | CASA | 5 years |
| ● Mary Gooding | LCDC | 20 years |

5. **Presentations:**

- Restrictive Housing Quarterly Report
- Presentation of the 9/11 Flag by Teresa Aguilera

6. **Elected Officials' Report:**

- Assessor
- Clerk
- Treasurer
- Probate Judge
- Sheriff
- Commissioners

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 October 14, 2021 \$165.71

MOTION AND VOTE

- d. Recess as Claims Board, Re-Convene as County Commission

MOTION AND VOTE

9. Community Support Reports:

- 10. Public Comment:** The Public has the opportunity to provide comments 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. Comments will not be allowed on individual agenda items as they are discussed by the Commissioners during new business.

11. Call for Ordinance:

- a. Resolution 21-68; Call to adopt Ordinance 108: Redistricting of County Commission Districts based on 2020 Census

MOTION AND ROLL CALL VOTE

12. Consent Agenda:

- a. Accounts Payable: \$1,262,401.81
b. Payroll: \$ 1,127,618.31

MOTION AND ROLL CALL VOTE

13. New Business:

- a. Resolution 21-64: Budget Increases
MOTION AND ROLL CALL VOTE
- b. Resolution 21-65: Budget Transfers
MOTION AND ROLL CALL VOTE
- c. Resolution 21-66: Requesting a Change to the PERA Return to Work Provisions
MOTION AND ROLL CALL VOTE
- d. Resolution 21-67: Intergovernmental Transfer of Property
MOTION AND ROLL CALL VOTE
- e. Amendments to Collective Bargaining Agreement- AFSCME LCSO #1764
MOTION AND ROLL CALL VOTE
- f. Sunzia Transmission Line #1 Community Benefits Agreement
MOTION AND ROLL CALL VOTE

14. Executive Session:

Executive Session pursuant to Section 10-15-1H(7) NMSA 1978- pertaining to pending litigation update

MOTION AND ROLL CALL VOTE

15. Executive Session Action Taken:

MOTION AND ROLL CALL VOTE

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

Domestic Violence Awareness Event: October 20, 2021 6:00pm-8:00pm
Regular Commission Meeting: November 10, 2021 at 10:00 a.m.

17. Adjourn:

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Thursday, September 09, 2021**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 10:00 a.m. on Thursday, September 09, 2021 in the Chambers 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.

The following staff and elected officials were present: County Manager Chris Brice, Assistant to the County Manager Yossie Nieblas, Deputy Clerk Pilar Salcido, Clerk Berenda McWright, Sheriff Kelly Gannaway, Captain Michael Brown, Road Department Director David Bailey, IT Technician Joseph Apodaca, LCDC Director Lee Cook, Economic Development Community Director Christie Ann Harvey, Grants Administrator Sarah Estrada, Planning Director Premal Patel, Interim Director Pablo Montoya, Community Development Liason Mary Mackey, and County Attorney Charles Kretek. Other directors and elected officials were present virtually.

CALL TO ORDER: Chair Reedy 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, Chair, District 1
Linda M. Smrkovsky, District 2
John S. Sweetser, District 3**

MINUTES: Upon a motion made by Commissioner Smrkovsky and a second by Commissioner Sweetser the Minutes for the Regular Meeting and the Work Session of August 12, 2021 were unanimously approved following a roll call vote.

RETIREMENT: LCDC Director Lee Cook presented a retirement plaque to Jessie Sherbutt. Ms. Sherbutt served 17 years with the Luna County Detention Center. She will continue to visit LCDC as the Chaplin.

ELECTED OFFICIALS REPORTS: Clerk Berenda McWright announced the candidates for the upcoming Local Election and gave her usual report. The voter registrations processed for the month of August in person were 22, 0 via mail, and 103 online and processed 58 removals. Luna County currently has a total of 12,574 active registered voters, of that 5,228 are Democrats, 4,209 are Republicans, 107 are Libertarians, and 3,030 are Declined to State and Other. A total of 469 documents were recorded in the Clerk's office. Seven new business registrations were issued in August with twelve businesses canceling their registration. A total of 225 businesses are currently registered in Luna County. A total of 12 marriage licenses were issued and nine marriage licenses were filed. There were 23 probates opened, six were closed and twelve files were updated. The Lodger's tax collected for the month of July was \$127.42 with a year-to-date total of \$1,833.65. They

attended and processed minutes for two commission meetings (one regular meeting, and one work session). Election Day is November 2nd.

Sheriff Gannaway reported on stats for August. On the criminal side, no homicides or rapes were reported, assaults and burglaries are down. Larceny is the same and vehicle thefts are up with eight for the month of August. No arson and one robbery, overall for the criminal side totals are down. The non-criminal civil are down, accidents are up, and no DWI's to report. Overall totals for non-criminal are down and the grand totals for both criminal and non-criminal are down. Two deputies are in the academy they should be graduating soon. No word on the new vehicles yet. They are looking to hiring another field deputy, a school resource officer plus they will also be hiring another investigator for the task force. They are also looking to promote a Sargent. They are trying to get Shop with a Cop up and going again, they had a meeting last night to discuss plans for it.

Commissioner Smrkovsky reported that the New Mexico Association of Counties Annual Conference in Lea County has been canceled due to the high rate of the new strain of Covid. There are still some NM Edge classes scheduled and they are still looking to having the affiliates meeting which is joint with the County Commissioners, the Managers, and the Finance department to go over things.

COUNTY MANAGER'S REPORT: County Manager Chris Brice was unavailable to report. The Commissioners will receive a written report:

INDIGENT CLAIMS REPORT: Upon a motion by Commissioner Sweetser 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 & Procurement Director Joanne Hethcox reported telephonically 15 claims for the month of August in the amount of \$55,576.99. The claims denied for the month of August were \$27,125.24. The denied claims did not meet the income requirements that our policy addresses. Ms. Hethcox believes the claims denied were from the hospital. The patients have the opportunity to appeal the denials, the hospital may resubmit after they get all requirements in order or they can appeal in writing to the Indigent Claims Board. In August they collected \$67,378.28 in GRT. The balance for the Indigent Claims Fund total is \$1,686,686.60 as of August 31st of that \$350,000 is encumbered. Chair Reedy asked for a motion to consider the claims dated September 9th. Commissioner Smrkovsky made a motion to consider the claims as presented by Joanne Hethcox for August. The motion was seconded by Commissioner Sweetser and approved unanimously.

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

PUBLIC COMMENT:

A public comment period was entertained in order to gain public input regarding items on the Agenda only. No relevant public comment was forthcoming.

OLD BUSINESS:

1. **Luna County Drug and Alcohol Policy (Non-CDL):** County Manager Chris Brice reported this policy was discussed previously in a work session and was delayed because of the new legislation on the legalization for marijuana. Mr. Brice reported they have updated the policy based on the new statutes for the new hires to test for marijuana other than just the safety-

sensitive positions which would include Dispatch, Detention, and the Sheriff's office. The safety-sensitive positions will also continue to be random drug tested for marijuana. Commissioner Smrkovsky motioned to approve the Luna County Drug and Alcohol Policy (Non-CDL). Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.

1. **Ordinance 98: Animal Control - Discussion Only** – Luna County Attorney Charles Kretek reported that he did not receive any comments after publication of Ordinance 98: Animal Control. County Manager Chris Brice state this ordinance will be on the agenda for approval at the next commissioners meeting.

CONSENT AGENDA: Upon a motion from Commissioner Sweetser and a second by Chair Reedy the Consent Agenda was approved unanimously following a roll call vote.

1. Accounts Payable: \$696,954.36
2. Payroll: \$1,125,055.92
3. Resolution 21-58: A Resolution Regarding County Acquisition of Property.

NEW BUSINESS:

- a. **Resolution 21-59: Budget Increases:** Commissioner Smrkovsky motioned to approve Resolution 21-59: Budget Increases. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.
- b. **Resolution 21-60: Luna County Infrastructure Capital Improvement (ICIP) Plan FY 23-27:** Community Development Director Premal Patel reported on the ICIP being submitted for approval. He highlighted a few items that were changed from the last submittal. Mr. Patel stated because there are limited top rank ICIP, they made a few changes to the top ten items. The first one is the Keeler Water Infrastructure for Keeler Farm Rd. Mr. Patel explained this project is in a small subdivision obtaining water from the counties well which was pushed up to number nine on the list. He further explained this was put in the top ten because this project has been an issue for many years and was upgraded for consideration for future grants. The Youth and Recreation item which was number nine was pushed down to number eleven but was able to be kept in the top fifteen. Mr. Patel explained that an "analysis is being done on the well and infrastructure. They are in the planning stages with the Water Association and Community Assistance on making some permanent long-lasting fixes for that whole entire area. Instead of trying to only fix the Keeler Farm issue, they are trying to figure out if they can regionalize this area and fix it. This project is being looked at in a broader view. Commissioner Smrkovsky asked for a breakout of the narrative phase project. County Manager Chris Brice clarified that the Keeler Farms with the Peoples Water Coop is the project we have been dealing with forever. They were awarded a Colonias grant to do a survey of the area in order to fix all of the problems. Since then in Premel's work, he has gotten with the Rural Water Association and they have taken a broader look, not just the Keller Farm but also the other residents around that area. Currently there are twenty residents there, and the County is now looking to service maybe a hundred households there. It makes more sense for the City to do something but if not we can use this engineering money that was received through Colonias to look at the entire area instead of fixing one spot. Commissioner Smrkovsky motion to approve Resolution 21-60: Luna County Infrastructure Capital Improvement Plan also known as (ICIP) Plan FY 23-27 as submitted. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

- c. **Resolution 21-61: Authorizing Submission of an Application to the Water Trust Board for Construction Services for Columbus LPOE Diversion Berm and Pond Phase I Construction:** Mr. Brice explained this is one more revenue string that they have reached out to. It does fit within the Water Trust Boards' scope of awarding funds as part of the storm water diversion project for the berm. Mr. Brice has sent the Notice of Intent to apply for the grant a couple of weeks ago in conjunction with Wilson & Company. This resolution is for the Board to authorize Mr. Brice to apply for over two million dollars from the Water Trust Board. Mr. Brice stated they stand a very good chance of getting approved for this request. Commissioner Sweetser motioned to approve Resolution 21-61: Authorizing Submission of an Application to the Water Trust Board for Construction Services for Columbus LPOE Diversion Berm and Pond Phase I Construction. The motion was seconded by Commissioner Smrkovsky and carried unanimously following a roll call vote.
- d. **Resolution 21-62: Authorizing Submission of an Application to DFA for Participation in the Juvenile Adjudication Fund Program:** DWI Program Manager Edith Vazquez explained the Juvenile Adjudication Fund is basically supplementing the court funding as a fund to allow to continue with weekly activities and different programs for juveniles that are under the misdemeanor first offense program. This is a small fund that will help us to continue with more activities for youth sentenced to teen court. Ms. Vazquez stated this is an annual fund application and is getting lower and lower yearly. This grant started at \$3,000 then went up to \$12,000, then \$15,000 then went down to \$8,000. Ms. Vazquez does not know how much money will be available this year. This funding is collected from the Magistrate Courts when individuals have traffic offenses. The fund goes to DFA and then it comes back to us as an optional grant. This grant will definitely benefit our youth. Commissioner Smrkovsky motioned to approved Resolution 21-62: Authorizing Submission of an Application to DFA for Participation in the Juvenile Adjudication Fund Program. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.
- e. **Resolution 21-63: Budget Transfers:** Commissioner Smrkovsky motioned to approve Resolution 21-63: Budget Transfers. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.
- f. **Proclamation 21-08: In Support of New Mexico's Oil and Gas Industry:** Chair Reedy read Proclamation 21-08 in its entirety. Commissioner Smrkovsky motioned to approve Proclamation 21-08: In Support of New Mexico's Oil and Gas Industry. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.
- g. **Proclamation 21-09: Proclaiming October as Domestic Violence Awareness Month:** Chair Reedy read Proclamation 21-08: Proclaiming October as Domestic Violence Awareness Month in its entirety. Commissioner Smrkovsky motioned to approve Proclamation 21-09: Proclaiming October as Domestic Violence Awareness Month. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.
- h. **Certification of 2021 Property Tax Rates:** Chair Reedy has recommended that this item be tabled as the rates have not been confirmed by DFA.

- i. **Nutt Dairy Exemption from Special Tax Assessment for Predator Control Program:** Commissioner Smrkovsky motioned to approve Nutt Dairy Exemption from Special Tax Assessment for Predator Control Program. This motioned was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

EXECUTIVE SESSION:

Executive Session pursuant to Section 10-15-1H (8) NMSA 1978-for the purpose of discussing the potential purchase, acquisition, and disposal of certain parcels of real property:

Commissioner Sweetser motioned to go into Executive Session pursuant to Section 10-15-1H (8) NMSA 1978 for the purpose of discussing the potential purchase, acquisition, and disposal of certain parcels of real property. The motion was seconded by Commissioner Smrkovsky and carried unanimously following a roll call vote.

The Commissioners went into Executive Session at 11:05 a.m. and returned from Executive Session at 12:12 p.m.

Commissioner Smrkovsky moved to return from Executive Session pursuant to Section 10-15-1H(8) NMSA 1978- where no other matters were discussed other than discussing the potential purchase, acquisition, and disposal of certain parcels of real property, and where no decisions were made. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

Commissioner Smrkovsky stated the action taken was to authorize County Manager Chris Brice to move forward with the acquisition of a property. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

UPCOMING MEETING: Chair Reedy announced the following upcoming meetings.

9/11 Memorial Event – Chair Reedy asked DWI Preventionist Teresa Aguilera to give an update on the 9/11 Memorial Event. Ms. Aguilera stated that Mr. Kretek had an idea of having a type of memorial marker out in the front of the courthouse yard. Baca's Funeral Home has agreed to donate a bench in honor of 9/11 and will be engraving what we would like on it. Mr. Brice talked about having a picture of the twin towers engraved on the bench in dedication to those who perished in the 9/11 event. The only stipulation to that donation is to show who made the donation. There will be 16 readers of 50 names of those who perished on 9/11. The readers are a very diverse group and come from all walks of life and yet here we are for one common cause. Ms. Vasquez hopes this project would bring together a little community that has experienced as much division as anyone else in this country. Commissioner Smrkovsky stated that they are very impressed with how Ms. Aguilera gives professional presentations. She recommended that Ms. Aguilera speak and recognize where the bench will be placed and the Company making that donation.

Regular Commission Meeting: October 14, 2021 at 10:00 a.m

ADJOURN: The meeting was adjourned by Chair Reedy at 12:23 p.m.

ATTEST:

**LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS**

BERENDA MCWRIGHT, LUNA COUNTY CLERK

CHAIR BARBARA L. REEDY, DISTRICT 1

APPROVED: _____

LINDA M. SMRKOVSKY, DISTRICT 2

JOHN S. SWEETSER, DISTRICT 3

**MINUTES
SPECIAL MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Monday, September 20, 2021**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in Special Session at 10:00 a.m. on Monday, September 20, 2021 in the County Commission Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting any and all business to come properly before the Board.

The following staff and elected officials were present: County Manager Chris Brice, Chief Deputy Clerk Leslie Nabours, Deputy Clerk Pilar Salcido, Treasurer Kristy Hobbs, Economic Development & Community Director Christy Ann Harvey, IT Technician Joseph Apodaca, County Attorney Charles Kretek, and Budget and Procurement Director Joanne Hethcox.

CALL TO ORDER: Chair Reedy called the meeting to order at 1:00 p.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, Chair District 1
Linda M. Smrkovsky, District 2
John S. Sweetser, District 3**

PUBLIC COMMENT: Chair Reedy opened the floor for public comment. No public was forthcoming.

OLD BUSINESS: Certification of 2021 Property Tax Rates: Assessor Michelle Holguin explained the tax rates in detail. Commissioner Smrkovsky motioned to approve Certification of 2021 Property Tax Rates. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.

ADJOURN: Upon a motion by Chair Reedy the meeting was adjourned at 10:09 a.m.

ATTEST:

**LUNA COUNTY BOARD OF
COUNTY COMMISSIONERS**

Berenda McWright, Luna County Clerk

Chair Barbara L. Reedy, District 1

Approved: _____

Linda M. Smrkovsky, District 2

John S. Sweetser, District 3



**Lee Cook
Detention Director**

**Pablo Montoya
Deputy Director**

**Luna County Detention Center
1700 4th St NE
Deming, NM 88030
Phone: (575) 544-0191**

October 1, 2021

To: Detention Director Lee Cook

From: Wendy Arreola SMU Sergeant

Subj: RHU Quarterly report IAW HB 364 (New Mexico's Restricted Housing Act)

This report is being submitted in accordance with HB 364, New Mexico Restricted Housing Act reporting requirements. During the period of July 01, 2021 thru September 30, 2021 Luna County Detention Center had 4 detainee who met the reporting requirements under this act. Please see attached report.

A copy of this report will be submitted electronically to the legislative council service library IAW HB 364.

- 1. A 45-year -old white male. The detainee was being monitored by medical personnel on a daily basis. It was requested by medical personnel that detainee be kept in a medical cell in order to observe and or prevent any further issues.**
- 2. A 22-year- old white male. Detainee was a new intake. Detainee was placed in COVID-19 quarantine. Detainee received 1 hour out of cell daily.**
- 3. A 33-year- old white male. Detainee was a new intake. Detainee was placed in COVID-19 quarantine. Detainee received 1 hour out of cell daily.**
- 4. A 27- year-old white male. Detainee was a new intake. Detainee was placed in COVID-19 quarantine. Detainee received 1 hour out of cell daily.**

Very Respectfully,

Wendy Arreola SMU Sergeant

Indigent Hospital Claims Office

Chris A. Brice, County Manager

IHC Board Meeting October 14, 2021

| Month | Number | Amount | Number | Denied |
|--|------------------------------|-------------|--------------------|------------------|
| January | 0 | \$0.00 | 0 | \$0.00 |
| Feburary | 7 | \$21,048.89 | 0 | \$0.00 |
| March | 2 | \$782.93 | | \$0.00 |
| April | 2 | \$1,036.36 | | \$0.00 |
| May | 1 | \$707.68 | | \$0.00 |
| June | 0 | \$0.00 | | \$0.00 |
| July | 3 | \$2,562.06 | | \$0.00 |
| August | 17 | \$55,576.99 | 4 | \$27,125.24 |
| September | 1 | \$165.71 | | \$0.00 |
| October | | \$0.00 | | \$0.00 |
| November | | \$0.00 | | \$0.00 |
| December | | \$0.00 | | \$0.00 |
| Total | 33 | \$81,880.62 | 4 | \$27,125.24 |
| 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 | | | \$165.71 |
| Total | | | | \$165.71 |
| Year to Date Total | Mimbres Memorial Hospital | | | \$76,743.83 |
| Year to Date Total | All Other Hospitals | | | \$273.27 |
| Year to Date Total | Deming Fire Dept./EMS | | | \$0.00 |
| Year to Date Total | All Other Services | | | \$4,697.81 |
| Total | | | | \$81,714.91 |
| Care of Prisoners This Month - Not including SNCP Funds | | | | \$254,687.87 |
| Care of Prisoners Year to Date Indigent - Not including SNCP Funds | | | | \$1,140,400.23 |
| Care of Prisoners Year to Date Inmate Prescriptions/OTC Meds | | | | \$52,519.07 |
| Care of Prisoners Year to Date Dr. Bills | | | | \$9,464.00 |
| Total Cost of Care of Prisoners Year to Date | | | | \$1,202,383.30 |
| Monies Received - September 2021 | | | | \$74,076.01 |
| Balance in IHC Fund as of September 30, 2021 ± | | | | \$1,619,493.67 |
| Encumbrances as of September 30, 2021 | | | | \$730,536.17 |
| | | Date | Amount Approved | Amount Denied |
| | Signatures | 10/14/2021 | \$165.71 | \$0.00 |
| Barbara L. Reedy | | | | |
| Linda M. Smrkovsky | | | | |
| John S. Sweetser | | | | |

[illegible]

Be it remembered that at the Special Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 14th day of October 2021, the following proceedings were had and entered of record.

RESOLUTION NO. 21-68

CALL TO ADOPT ORDINANCE 108

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

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

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners hereby give notice of its intent to consider the adoption of Ordinance 108; Redistricting of County Commission Districts based on 2020 Census, at the Regular Meeting on October 14th, 2021, 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 adoption of Ordinance 108 before the Board of County Commissioners, including but not limited to, the publication of title and a general summary of the proposed adoptions and making a copy of the proposed available to interested persons beginning with the date of publication, but no later than two weeks prior to the November 10th, 2021 meeting.

DONE THIS 14th DAY OF OCTOBER, 2021

by the Board of County Commissioners of Luna County

ATTEST:

Barbara L. Reedy, Chairperson
Commissioner, District 1

Berenda McWright,
County Clerk

Linda M. Smrkovsky,
Commissioner, District 2

REVIEWED FOR LEGAL SUFFICIENCY:

John S. Sweetser,
Commissioner, District 3

Charles C. Kretek, County Attorney

LCBCC Meeting October 14, 2021
Accounts Payable

| | |
|-------------|----------------|
| 9/02/2021 | \$106,687.08 |
| 9/02/2021 | \$2614.81 |
| 9/09/2021 | \$266,847.05 |
| 9/09/2021 | \$171.84 |
| 9/09/2021 | \$744.99 |
| 9/17/2021 | \$269,804.16 |
| 9/17/2021 | \$9656.19 |
| 9/17/2021 | \$2549.96 |
| 9/23/2021 | \$273,968.43 |
| 9/23/2021 | \$2828.05 |
| 9/30/2021 | \$201,872.17 |
| 9/30/2021 | \$8276.62 |
| 9/30/2021 | \$2000.00 |
| | |
| P-Cards | |
| August 2021 | \$114,380.46 |
| | |
| Total | \$1,262,401.81 |

Luna County
Board of County Commissioners

AGENDA 10/14/2021

PAYROLL

| | | |
|------------|----------------------|---------------|
| 09/10/2021 | Register # 20210048 | \$ 537,479.47 |
| 09/10/2021 | *Register # 20210049 | \$ 24,717.09 |
| 09/24/2021 | Register # 20210050 | \$ 552,369.84 |
| 09/24/2021 | *Register # 20210051 | \$ 13,051.91 |

Total \$ 1,127,618.31

* Special Assignment Pay

**LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS**

**RESOLUTION NO. 21-64
Proposed Inter/Intra Fund Budget Increases**

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

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

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

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

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Luna County hereby adopts the changes to the County's Fiscal Year 110, July 1, 2021 through June 30, 2022 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 14th DAY OF OCTOBER 2021.

BOARD OF COUNTY
COMMISSIONERS OF LUNA
COUNTY

Barbara L. Reedy, Chairperson

Linda M. Smrkovsky, District Two

ATTEST:

Berenda McWright, Luna County Clerk

John S. Sweetser, District Three

Be it remembered that at a Regular meeting of the Board of County Commissioners of Luna County in Deming NM on the 14th day of October, 2021, the following budget adjustments are proposed and entered of record.

| SCHEDULE OF BUDGET ADJUSTMENTS | | | | Budget Resolution Number 21-64 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 - Economic Development | 401/11000 | \$ 5,000.00 | 401-58-2008 Printing and Publishing | \$ 5,000.00 | To allow for spending through remainder of fiscal year and for special projects. | \$ 10,000.00 | \$ 15,000.00 |
| Two | Increase | 415/21800 | Community Services - Parents As Teachers | 415/21800 | \$ (297,204.36) | 415-77-1446 (Revenue) Parents As Teachers | \$ (297,204.36) | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ (450,000.00) | \$ (747,204.36) |
| | | | | | \$ 297,204.36 | 415-52-2002 Salaries - Full-Time | \$ 42,000.00 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 221,176.80 | \$ 263,176.80 |
| | | | | | | 415-52-2008 Printing and Publishing | \$ 20,000.00 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 750.00 | \$ 20,750.00 |
| | | | | | | 415-52-2010 Mileage/Per Diem | \$ 20,000.00 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 2,650.00 | \$ 22,650.00 |
| | | | | | | 415-52-2011 Vehicle Expense | \$ 16,000.00 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 12,000.00 | \$ 28,000.00 |
| | | | | | | 415-52-2020 Supplies | \$ 129,950.36 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 5,170.83 | \$ 135,121.19 |
| | | | | | | 415-52-2036 Administrative Expense | \$ 43,073.00 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 31,927.00 | \$ 75,000.00 |
| | | | | | | 415-52-2060 Match - Medicare 1.45% | \$ 651.00 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 3,428.24 | \$ 4,079.24 |
| | | | | | | 415-52-2063 Match - PERA 16.42% | \$ 6,890.00 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 36,870.17 | \$ 43,760.17 |
| | | | | | | 415-52-2064 Match - FICA 6.2% | \$ 2,790.00 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 14,664.02 | \$ 17,454.02 |
| | | | | | | 415-52-2069 Membership Dues/ Subscriptions | \$ 15,000.00 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 3,200.00 | \$ 18,200.00 |
| | | | | | | 415-52-2070 Match - RHCA 2.0% | \$ 850.00 | To account for additional grant funds for the PAT programs in Luna and Hidalgo Counties. | \$ 4,423.54 | \$ 5,273.54 |
| Three | Increase | 421/21800 | Domestic Violence Shelter | 421/21800 | \$ 10,500.00 | 421-00-2020 Supplies | \$ 10,500.00 | To account for last years' expenditures that were covered by donations. | \$ 10,171.84 | \$ 20,671.84 |
| Four | Increase | 421/21800 | Domestic Violence Shelter | 421/21800 | \$ (10,000.00) | 421-77-1623 CYFD | \$ (10,000.00) | To account for additional grant funds for Healing House to provide Professional Services for Counseling. | \$ (253,100.00) | \$ (263,100.00) |

| ITEM NO | Adjustment Type | Fund/DFA Fund | Dept. | From | Amount | To | Amount | Purpose | Approved Budget Balance | Adjusted Budget Balance |
|---------|-----------------|---------------|------------------------------------|-----------|---------------|--|---------------|--|-------------------------|-------------------------|
| | | | | | \$ 10,000.00 | 421-00-2101 Professional/Contract Services | \$ 10,000.00 | To account for additional grant funds for Heating House to provide Professional Services for Counseling. | \$ 15,000.00 | \$ 25,000.00 |
| Five | Increase | 508/29900 | SO Equipment 1/8 GRT | 508/29900 | \$ 120,000.00 | 508-00-2028 Capital Outlay | \$ 120,000.00 | To purchase new law enforcement pursuit vehicles | \$ 84,000.00 | \$ 204,000.00 |
| Six | Increase | 609/22600 | Adult Detention | 609/22600 | \$ 265,000.00 | 609-21-2018 Inmate Medical | \$ 250,000.00 | To allow for increased costs through remainder of fiscal year. | \$ 850,000.00 | \$ 1,100,000.00 |
| | | | | | | 609-21-2116 Department Uniforms | \$ 15,000.00 | To account for department uniform costs due to CBA. | \$ 42,000.00 | \$ 57,000.00 |
| Seven | Increase | 609/22600 | Adult Detention | 609/22600 | \$ 100,000.00 | 609-21-2181 Inmate Housing | \$ 100,000.00 | To allow for increased costs through remainder of fiscal year. | \$ 25,000.00 | \$ 125,000.00 |
| Eight | Increase | 801/59900 | Entertainment Complex | 801/59900 | \$ 15,808.26 | 801-80-2029 Capital Improvements | \$ 15,808.26 | To carryover balance from prior fiscal year. | \$ - | \$ 15,808.26 |
| Nine | Increase | 401/11000 | General Fund - Bureau of Elections | 401/11000 | \$ (895.74) | 401-77-1262 Reimbursements to County | \$ (895.74) | To account for reimbursement from SOS for expenses related to 2021 General Local Election School. | \$ (17,650.00) | \$ (18,545.74) |
| | | | | | \$ 895.74 | 401-05-2010 Mileage/Per Diem | \$ 895.74 | To allow for spending of reimbursement from SOS. | \$ 3,000.00 | \$ 3,895.74 |
| | | | | | \$ 516,308.26 | | \$ 516,308.26 | | \$ 654,682.44 | \$ 1,170,990.70 |

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

Done at Deming New Mexico this Thursday the 14th day of October 2021.

BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY

Barbara L. Reedy, District 1

Linda M. Smrkovsky, District 2

John S. Sweetser, District 3



ATTEST:

Berenda McWright, Luna County Clerk

Entered By:

Date

Checked By:

Date

**LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS**

RESOLUTION NO. 21-65
Proposed Inter Department/Fund Transfers

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

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

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

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

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Luna County hereby adopts the changes to the County's Fiscal Year 110, July 1, 2021 through June 30, 2022 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 14th DAY OF OCTOBER 2021.

BOARD OF COUNTY
COMMISSIONERS OF LUNA
COUNTY

Barbara L. Reedy, Chairperson

Linda M. Smrkovsky, District Two

ATTEST:

Berenda McWright, Luna County Clerk

John S. Sweetser, District Three

Be it remembered that at a Regular meeting of the Board of County Commissioners of Luna County in Deming NM on the 14th day of October, 2021 the following budget adjustments are proposed and entered of record.

Budget Resolution Number 21-65

Proposed Inter Department Transfer

| ITEM NO | Adjustment Type | Fund/ DFA Fund | Dept. | From | FROM Current Balance | Transfer amount | TO Line Number | Transfer Amount | Purpose |
|---------|-----------------|----------------------|---|--|-------------------------|-----------------|---|-----------------|--|
| One | Transfer | 401/11000 | General Fund - Manager's | 401-00-2101 (Commission) Professional/Contract Services | \$116,251.98 | \$2,500.00 | 401-01-2009 (Manager's) Office Supplies | \$2,500.00 | To pay for office equipment for new hires as needed through remainder of fiscal year. |
| Two | Transfer | 401/11000 | General Fund - Planning | 401-14-2008 Printing and Publishing | \$3,550.00 | \$300.00 | 401-14-2006 Postage | \$300.00 | To pay for postage through remainder of fiscal year. |
| Three | Transfer | 415/21800 | Community Services Parents As Teachers | 415-57-2002 Salaries - Full-Time | \$116,603.77 | \$116,603.77 | 415-52-2002 Salaries - Full-Time | \$116,603.77 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2006 Postage | \$400.00 | \$400.00 | 415-52-2006 Postage | \$400.00 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2007 Telephone | \$508.47 | \$508.47 | 415-52-2007 Telephone | \$508.47 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2008 Printing and Publishing | \$13,400.00 | \$13,400.00 | 415-52-2008 Printing and Publishing | \$13,400.00 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2010 Mileage/Per Diem | \$17,440.00 | \$17,440.00 | 415-52-2010 Mileage/Per Diem | \$17,440.00 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2011 Vehicle Expense | \$9,139.79 | \$9,139.79 | 415-52-2011 Vehicle Expense | \$9,139.79 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2013 Equipment Rental | \$1,747.80 | \$1,747.80 | 415-52-2013 Equipment Rental | \$1,747.80 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2017 Rental - Office/Building | \$5,250.00 | \$5,250.00 | 415-52-2017 Rental - Office/Building | \$5,250.00 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2020 Supplies | \$1,821.46 | \$1,821.46 | 415-52-2020 Supplies | \$1,821.46 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2036 Administrative Expense | \$30,000.00 | \$30,000.00 | 415-52-2036 Administrative Expense | \$30,000.00 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2060 Match - Medicare 1.45% | \$1,821.49 | \$1,821.49 | 415-52-2060 Match - Medicare 1.45% | \$1,821.49 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2063 Match - PERA 16.42% | \$19,437.83 | \$19,437.83 | 415-52-2063 Match - PERA 16.42% | \$19,437.83 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2064 Match - FICA 6.2% | \$7,792.10 | \$7,792.10 | 415-52-2064 Match - FICA 6.2% | \$7,792.10 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2065 Match - Group Insurance | \$13,386.84 | \$13,386.84 | 415-52-2065 Match - Group Insurance | \$13,386.84 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |

| ITEM NO | Adjustment Type | Fund/ DFA Fund | Dept. | From | FROM Current Balance | Transfer amount | TO Line Number | Transfer Amount | Purpose |
|---------|-----------------|----------------------|---------------------------|--|-------------------------|-----------------|--|-----------------|---|
| | | | | 415-57-2066 Workers' Compensation Assmnt | \$46.00 | \$46.00 | 415-52-2066 Workers' Compensation Assmnt | \$46.00 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2069 Membership Dues/ Subscriptions | \$650.00 | \$650.00 | 415-52-2069 Membership Dues/ Subscriptions | \$650.00 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2070 Match - RHCA 2.0% | \$2,332.13 | \$2,332.13 | 415-52-2070 Match - RHCA 2.0% | \$2,332.13 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| | | | | 415-57-2101 Professional/Contract Services | \$3,083.13 | \$3,083.13 | 415-52-2101 Professional/Contract Services | \$3,083.13 | To transfer budget from PAT-Hidalgo into PAT-Luna as grants have been combined. |
| Four | Transfer | 428/21800 | CASA | 428-54-2010 Mileage/Per Diem | \$8,671.67 | \$3,500.00 | 428-54-2020 Supplies | \$3,500.00 | To allow for spending through remainder of fiscal year on necessary supplies. |
| Five | Transfer | 801/59900 | Entertainment Complex | 801-80-2025 Utilities | \$79,917.31 | \$1,200.00 | 801-80-2007 Telephone | \$1,200.00 | To allow for spending through remainder of fiscal year on necessary telephone costs. |
| Six | Transfer | 411/21800 | Community Improvements | 411 Community Improvements - EM | | \$35,484.98 | 401 General Fund | \$35,484.98 | To move monies reimbursed from 2020 EMPG salary grant for our emergency manager. |
| | | | | | | | | | |
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| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | \$453,251.77 | \$287,845.79 | | \$287,845.79 | |

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

Done at Deming New Mexico this **Thursday the 14th day of October 2021.**

BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY

Barbara L. Reedy, District 1

Linda M. Smrkovsky, District 2

John S. Sweetser, District 3



ATTEST:

Entered By:

Date

Berenda McWright, 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 14th day of October 2021, the following proceedings were had and entered of record.

RESOLUTION 21-66

REQUESTING A CHANGE TO THE PERA RETURN TO WORK PROVISIONS

WHEREAS, the legislature of the State of New Mexico has adopted legislation establishing the New Mexico Public Employees Retirement Association (PERA) and legislation amending and modifying the same.

WHEREAS, prior to July 1, 2010, Section 10-11-8C, NMSA 1978, retired members could return to work after ninety days of not being employed by a PERA affiliate and continue receiving their retirement benefits and compensation for their employment provided that during such employment contributions to the fund were required and the retired member would not receive any additional service credit for this employment.

WHEREAS, the retired member returning to work at a PERA affiliate within twelve months of their retirement will be required to contribute to PERA and will receive additional service credit or if returning to employment after at least a twelve month hiatus, the retired member has a brief window in which they can opt out and not be required to make member contributions, nor will they receive additional credit with retirement benefits being suspended under both options.

WHEREAS, the impact of the 2010 amendments was immediate and acute in rural and small communities resulting in highly experienced, trained and educated employees retiring and pursuing employment with non-PERA affiliates, private business or out of state.

WHEREAS, the COVID-19 Pandemic exacerbated the detrimental effects of the 2010 amendments, making the already difficult task of filling positions with even minimally qualified persons, particularly in detention and law enforcement, next to impossible.

WHEREAS, legislation repealing the 2010 amendments, suspending them for a period of at least five (5) years or setting a hiatus period of between two and five years before returning to employment with a PERA affiliate and allowing the retiree to continue receiving their retirement benefits on the condition of making contributions to the fund would allow the large pool of highly experienced, trained and educated employees to return and fill desperately needed positions in detention facilities, law enforcement and dispatch centers and allow for these retirees to train minimally qualified applicants up to the same high standards that existed prior to both the 2010 amendments and the COVID-19 Pandemic.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Luna County requests and encourages the New Mexico Legislature and Governor Michelle Lujan Grisham to consider repealing, amending or suspending the provisions of Section 10-11-8, NMSA 1978 that effectively prohibit retirees of PERA affiliates from returning to employment with the same or a different PERA affiliate, particularly for positions in public safety with municipalities and counties.

DONE THIS 14th DAY OF OCTOBER, 2021

by the Board of County Commissioners of Luna County

ATTEST:

Barbara L. Reedy, Chairperson
Commissioner, District 1

Berenda McWright,
County Clerk

Linda M. Smrkovsky,
Commissioner, District 2

John S. Sweetser,
Commissioner, District 3

Be it remembered that at the Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 14th day of October 2021, the following proceedings were had and entered of record.

RESOLUTION NO. 21-67

INTERGOVERNMENTAL TRANSFER OF PROPERTY

At the request of the Mayor of the Village of Columbus and its Trustees, the Board of County Commissioners of Luna County agrees to allow an intergovernmental transfer of one (1) ambulance to the Village of Columbus for their Volunteer Fire Department use. The purpose of the transfer is to facilitate the Fire Department in their ability to aid in responding to medical emergencies in Columbus and the surrounding areas. This transfer is considered to be permanent or indefinite, and Luna County agrees that upon obsolescence of the ambulance, Luna County will be responsible for disposition in accordance with applicable rules, laws, and regulations.

-2020 Ford F350 Type 1 RP 90 Medix Ambulance: Vin # 1FDRF3GTXLEE50202

Done at Deming, New Mexico this 14th day of October, 2021

Luna County Board of County Commissioners

ATTEST:

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

Berenda McWright, County Clerk

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

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

[Type here]

SunZia Transmission Line #1 Community Benefits Agreement

This SunZia Transmission Line # 1 Community Benefits Agreement (“**Transmission Line #1 CBA**”) is made and executed on this 14th day of October 2021, by and between SunZia Transmission LLC, a Delaware limited liability company (“**SunZia**”), and the County of Luna, a political subdivision of the State of New Mexico (“**County**”) (SunZia and County each a “**Party**”, and collectively the “**Parties**”), for the benefit of the residents of Luna County, as related to the construction by SunZia, and/or other development entities, of a new 500 kilovolt electric transmission line (the “**Line**”) through Luna County.

RECITAL

WHEREAS, SunZia intends to develop two (2) high voltage electric transmission lines anticipated to be approximately 520-miles long spanning parts of New Mexico and Arizona in order to convey up to 4,500 megawatts of renewable energy from New Mexico and Arizona to homes, offices and communities in the Southwestern United States; and

WHEREAS, solar and wind renewable energy generation (“**Renewable Generation**”) is a valuable and abundant resource in New Mexico; and

WHEREAS, encouraging Renewable Generation is a priority of the State of New Mexico, as identified in §§ 5-18-2, 62-16-2, 62-16A-4, & 71-7-2 NMSA (1978); and

WHEREAS, this CBA is intended to provide community benefits for the first phase of SunZia (SunZia Line #1). A separate CBA will be negotiated, at a later date, as the timeline for the development of SunZia Phase 2 (SunZia Line #2) becomes more certain; and

WHEREAS, SunZia Line #1 is anticipated to locate approximately 57.01 miles of its transmission line through Luna County; and

WHEREAS, the Parties desire to cooperate in the development of the Line and address some of the significant needs of local residents through this Transmission Line #1 CBA.

NOW THEREFORE, in consideration of the above premises and mutual covenants and agreements herein set forth, the Parties do hereby agree to execute this Transmission Line #1 CBA and agree as follows:

I. Definitions

“Annual Report” has the meaning set forth in Section III below.

“Close of Construction Financing” shall mean the date on which the full notice to proceed is issued to the contractor for SunZia Line #1.

“Commercial Operation Date” shall mean the date on which the Line is first transmitting commercial quantities of electricity for sale.

“County” has the meaning set forth in the introductory paragraph above.

“Health, Safety and Welfare Projects” are County expenditures that protect County residents, promote the physical and emotional health of County residents, or that enable equitable access to services and opportunities, encourage social interaction, or benefit the environment.

“Linear Line Mile” shall be mean the length of the Line measured in miles (rounded to the nearest tenth of a mile) located in the County, as calculated by SunZia’s project engineer.

“Party” or “Parties” has the meaning set forth in the introductory paragraph above.

“Per Mile Contribution” shall have the meaning set forth in Section II below.

“Record of Decision” will be issued by the Bureau of Land Management approving SunZia’s request for right-of-way on federal lands management by the BLM.

“Term” means the period starting from the execution of this Transmission Line #1 CBA and ending seven years thereafter, or at the Commercial Operation Date, whichever is soonest.

“Transmission Line #1 CBA” has the meaning set forth in the introductory paragraph above.

“Line” has the meaning set forth in the introductory paragraph above.

“SunZia” has the meaning set forth in the introductory paragraph above.

II. Responsibilities of SunZia

In order to support the community and meet some of the needs identified, SunZia also commits to perform the following:

SunZia agrees to contribute \$20,000 per Linear Line Mile (“**Per Mile Contribution**”), which is anticipated to be up to approximately \$1,140,200 (total line miles in Luna County will be subject to the Record of Decision), to the County on the following schedule:

- a) 2.5% of the anticipated Per Mile Contribution (anticipated to be \$28,505) within thirty days (30) of execution of this Transmission Line #1 CBA;
- b) 5% of the anticipated Per Mile Contribution (anticipated to be \$57,010) on or before July 31, 2021;
- c) 5% of the anticipated Per Mile Contribution (anticipated to be \$57,010) on or before July 31, 2022; and
- d) 5% of the anticipated Per Mile Contribution (anticipated to be \$57,010) on or before July 31, 2023.

Upon the Close of Construction Financing, SunZia will calculate the Total Linear Line Miles as determined by the Record of Decision. SunZia will then calculate the unpaid

balance of the Per Mile Contribution by subtracting the amounts already paid to the County from the Per Mile Contribution (the “**Remaining Per Mile Contribution**”). SunZia will complete payments of the Per Mile Contribution on the following schedule:

- e) 30% of the Remaining Per Mile Contribution within 30 days of the Close of Construction Financing;
- f) 70% of the Remaining Per Mile Contribution within 30 days of the Commercial Operation Date.

The Per Mile Contribution shall be used by the County to support Health, Safety and Welfare Projects.

III. Monitoring, Timelines, and Enforcement

The Parties intend for the rights and obligations created by this Transmission Line #1 CBA to be both continuing in nature and cooperative, such that both Parties work together with due diligence and good faith in furtherance of the terms and conditions of this Transmission Line #1 CBA.

SunZia shall annually, beginning one year from the execution hereof, prepare an annual report to the County detailing (1) the general status of relevant permitting, development, construction, and operation of the Line; (2) an anticipated timeline for payments pursuant to this Transmission Line #1 CBA; and (3) a summary of any payments made pursuant to this Transmission Line #1 CBA (the “**Annual Report**”). Upon receipt of the Annual Report, the County will provide to SunZia a brief description of how the Per Mile Contribution has been expended to the date of the Annual Report.

SunZia will execute and perform each provision outlined in Section II within the timeframe set forth herein; provided, however, that neither SunZia nor County will have any obligation to perform under this Transmission Line #1 CBA if SunZia elects to terminate as set forth in Section V below.

IV. County Support Obligations

The County will budget and use the contributions provided herein in accordance with the purposes set forth in this Transmission Line #1 CBA. To facilitate the mutual obligations provided herein, the County will promptly review and process any requests and applications related to development of the Line in accordance with County regulations.

V. Expenses/Termination

The Parties agree that (i) SunZia will perform or cause to have performed the items set forth in Section II above at its expense and (ii) County will perform or cause to have performed the items set forth in Section IV above at its expense.

This Transmission Line #1 CBA will remain in full force and effect for the Term, except that it can be terminated immediately in writing under the following circumstances:

- 1) The Parties may mutually agree in writing to modify or revoke any and/or all provisions of this Transmission Line #1 CBA, or to terminate it;
- 2) By SunZia, unilaterally in its discretion, upon the abandonment of its pursuit of permitting or construction of the Line, or the permitting process causes the Line to be routed outside of the County.

At the end of the Term, with mutual agreement from the Parties and/or their designated representatives, this Transmission Line #1 CBA may be renewed under the same and/or any subsequent modified terms and conditions for an additional mutually agreed term.

VI. Miscellaneous

- 1) This Transmission Line #1 CBA will be binding on each of the Parties hereto and their respective personal representatives, executives, agents, attorneys, principals, agents, and assigns. SunZia may assign this Transmission Line #1 CBA to another entity developing the Line by providing written notice thereof to the County. Upon assumption of the obligations in this Transmission Line #1 CBA by the assignee, SunZia shall be released from all obligations hereunder.
- 2) The Parties agree that full and adequate consideration has been given by each Party hereto and each Party acknowledges the sufficiency and adequacy of said consideration.
- 3) The Parties acknowledge that no promise, agreement, statement or representation, whether oral or written, not herein expressed has been made to or relied upon by any one of them and that this Transmission Line #1 CBA contains the entire agreement between the Parties.
- 4) The recitals are incorporated as a part of this Transmission Line #1 CBA.
- 5) If any term, provision, or clause within this Transmission Line #1 CBA will be determined by a court of competent jurisdiction to be invalid, void, or unenforceable, only that particular term, provision, or clause will be nullified. The remainder of the Transmission Line #1 CBA will continue to be in full force and effect.
- 6) This Transmission Line #1 CBA will be governed by and construed in accordance with the laws of the State of New Mexico without regard to its conflict of laws provisions.

AGREED AND ACCEPTED THIS 14TH DAY OF OCTOBER, 2021:

SunZia Transmission LLC

County of Luna

By: _____

By: _____

Name:

Name:

Title:

Title: