Date: January 28, 2014

To: Santa Fe Board of County Commissioners

From: Steven Brugger, Affordable Housing Administrator SRB

via: Robert Griego, Planning Manager RG
Penny Ellis-Green, Growth Management Director

Re: Request for Approval of Amended and Restated Affordable Housing Agreement for Oshara Village Phase 1

Background and Summary

This is a request for approval of an Amended and Restated Affordable Housing Agreement for Oshara Village between Century Bank, successor in interest to Oshara Village LLC, and Santa Fe County. The proposed Amended and Restated Affordable Housing Agreement is included as Exhibit 1. Exhibits 2, 3, and 4 include the original Affordable Housing Agreement for Oshara Village, and the First and Second Amendments to this Agreement.

At its November 12, 2013 BCC meeting, Commissioners approved CDRC Case MIS #13-5200 Oshara Village Master Plan Amendment. Century Bank requested a Master Plan Amendment to rezone 26 live/work lots into 26 residential townhome lots, to rezone 10 live/work lots to 7 residential patio lots, to rezone 17 commercial lots to 9 residential patio lots and to create 5 residential patio lots.

With this request, the applicant proposes to add 11 net new residential units to Phase 1 of Oshara Village, for a total of 186 units. With the existing 15% affordable requirement applied to 186 total units, the development must include 28 affordable units. This is one more than what is currently required under the existing affordable housing agreement. The affordable housing agreement must be modified to reflect this change of one new affordable unit, as well as the change in property ownership.

This Amended and Restated Affordable Housing Agreement for Phase 1 of Oshara Village follows the basic template of the affordable housing agreements which the BCC approved for La Pradera and La Entrada on December 11, 2012. Similar to the La Pradera agreement, where the developer desired to be made subject to the Affordable Housing Ordinance 2006-02, as amended by Ordinance 2012-1, rather than the Community College District Affordable Housing Ordinance under which the development had first been approved, Century Bank, as the successor in interest to Oshara Village, LLC, desires to be made subject to Ordinance 2006-02 and Ordinance 2012-1, rather than the Community College District Affordable Housing Ordinance, with similar provisions to be included in its amended and restated affordable housing agreement.

Under the current affordable housing agreement, Oshara Village LLC had built and sold 20 of the required 27 units. Although 9 units each had been required to serve households in Income Range 1, 2 and 3, the developer had previously built and sold 13 affordable units in Income Range 1; S affordable units in Income Range 2; and 2 affordable units in Income Range 3. If the existing agreement were followed, the developer's remaining affordable housing requirement would have been met through the provision of seven affordable units in Income Range 3.

Through this amended and restated affordable housing agreement, the developer agrees to meet its remaining affordable housing obligation of eight units by serving Income Range 3 households in the manner set forth in the Affordable Housing Ordinance 2006-02, as amended by 2012-1, and the Affordable Housing Regulations detailed in Resolution 2010-189.

Staff Recommendation

Approve the Amended and Restated Affordable Housing Agreement for Oshara Village Phase 1, included herein as Exhibit 1.

Attachments

Exhibit 1: Amended and Restated Affordable Housing Agreement for Oshara Village Phase 1
Exhibit 2: Existing Oshara Village Phase 1 Affordable Housing Agreement
Exhibit 3: First Amendment to Oshara Village Phase 1 Affordable Housing Agreement
Exhibit 4: Second Amendment to Oshara Village Phase 1 Affordable Housing Agreement

AMENDED AND RESTATED
SANTA FE COUNTY
AFFORDABLE HOUSING AGREEMENT
OSHARA VILLAGE PHASE 1

This Amended and Restated Santa Fe County Affordable Housing Agreement (the "Amended and Restated Agreement") for Phase 1 of Oshara Village (the "Project") is entered into this ____ ______ day of ____________, 2014, between Century Bank (the "Applicant") as successors in interest to Oshara Village, LLC (the "Previous Applicant") and Santa Fe County (the "County").

RECITALS:

WHEREAS, the County and the Previous Applicant entered into the Affordable Housing Agreement for Phase 1 of Oshara Village on May 4, 2006 (the "Agreement"), which obligated the Previous Applicant to provide twenty seven (27) Affordable Units, nine (9) for Income Range 1, nine (9) for Income Range 2, and nine (9) for Income Range 3; and

WHEREAS, the County and the Previous Applicant entered into the First Amendment to the Affordable Housing Agreement for Phase 1 of Oshara Village on February 14, 2007 (the "First Amendment"), which modified the designation of Affordable Lots; and

WHEREAS, the County and the Previous Applicant entered into the Second Amendment to the Affordable Housing Agreement for Phase 1 of Oshara Village on September 26, 2007 (the "Second Amendment"), which further modified the designation of Affordable Lots; and

WHEREAS, the Previous Applicant has built twenty (20) Affordable Units, thirteen (13) in Income Range 1, five (5) in Income Range 2 and two (2) in Income Range 3; and

WHEREAS, Century Bank became the successor in interest to the Previous Applicant and assumed responsibility for fulfilling the remaining affordable housing requirement of this project; and

WHEREAS, Century Bank proposes that Homewise, Inc. will completely satisfy its affordable housing requirements under this project; and

WHEREAS, the County has adopted Santa Fe County Ordinance No. 2000-12 (the "Community College District") and the Community College District Affordable Housing Regulations, dated July 31, 2002 (the "Community College District Regulations") which have a fifteen percent (15%) affordable housing requirement and which governed the Agreement, the First Amendment and the Second Amendment; and

WHEREAS, the Applicant has submitted and the County has approved on November 12, 2013, a master plan amendment (the "Approval") to rezone twenty six (26) live/work lots into twenty six (26) residential townhome lots, to rezone ten (10) live/work lots into seven (7)

EXHIBIT

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residential patio lots; and to rezone seventeen (17) commercial lots to nine (9) residential patio lots, resulting in the creation of eleven (11) additional residential units, bringing the total number of residential units in Phase 1 of Oshara Village to one hundred eighty six (186) units; and

WHEREAS, the Approval increases the Applicant's affordable housing obligation by one (1) Affordable Unit; and

WHEREAS, Santa Fe County Ordinance No. 2006-02, as amended, and No. 2012-01 (the "Ordinances") and Santa Fe County Resolution 2010-189 (the "Regulations") were in effect at the time of the Approval, making the Approval subject to a fifteen percent (15%) affordable housing requirement and all other requirements set forth in the Ordinances and Regulations; and

WHEREAS, the Applicant desires that all remaining affordable housing obligations under the Project be made subject to the Ordinances and the Regulations; and

WHEREAS, the County and the Applicant wish to restate and amend their previous Agreements entirely, for the sake of clarity and simplicity, and through this Amended and Restated Agreement the parties shall memorialize the Applicant's obligations under the Ordinances and the Regulations.

AGREEMENT

NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. The Agreement, as amended, is further amended and restated by this Amended and Restated Agreement.

2. **Definitions.** All capitalized terms have the same meanings given them in the Ordinances and Regulations.

3. **Certification of Previous Qualified Transactions.** From the date of the Agreement up until the date of execution of this Amended and Restated Agreement, Applicant has identified twenty seven (27) lots on which it would build or cause to be built Affordable Units and has delivered twenty (20) Affordable Units that are Qualified Transactions in compliance with the Regulations. Thirteen (13) of these Affordable Units were sold in Income Range 1; five (5) Affordable Units were sold in Income Range 2; and two (2) Affordable Units were sold in Income Range 3. Adding the one (1) Affordable Unit requirement of the Approval to the original twenty seven (27) Affordable Unit requirement, the total Affordable Unit requirement is twenty eight (28) Affordable Units. Applicant and County agree that under Section K3(b) of the Community College District Ordinance, which requires a five percent (5%) affordable housing provision for each of the three applicable Income Ranges, and under Section 4 of the Ordinances, which requires a 3.75% affordable housing provision in each of the four applicable Income Ranges, Income Range 1 and 2 requirements have been completely met and that Income Range 3 requirements and Income Range 4 requirements (under the Ordinances) have not been met, The Applicant and the County further agree that the Applicant shall satisfy its remaining affordable housing obligation by building the number of affordable units required

under Income Range 3 of the Community College District Ordinance while being subject to the Regulations for Income Range 3, as set forth in the Ordinances, which set forth requirements for unit size, pricing and specifications, household income and asset requirements, affordability liens, and other procedural requirements.

4. **Controlling Affordable Housing Ordinance and Regulations.** The Ordinances and the Regulations shall apply to the Project and shall govern the Applicant's performance of all obligations under this Amended and Restated Agreement, unless otherwise stated herein. The applicable affordable housing percentage requirement for the Project, including the Approval, is fifteen percent (15%).

5. **Required Affordable Units and Lots.** To comply with the fifteen percent (15%) affordable housing requirement for the Project set forth in Section 4 and the twenty eight (28) Affordable Units required for the Project for all approved master plans, plats and development plans up to and including the Approval, and having already constructed and sold twenty (20) Affordable Units as set forth in Section 3, Applicant agrees to cause to be built and sold to Eligible Buyers an additional eight (8) Affordable Units within the Project for the Maximum Target Housing Prices for Income Range 3 set forth in the Regulations. The County may revise the Maximum Target Housing Prices and the Applicant agrees to be subject to this revision for any Affordable Units not yet constructed and sold. Until this revision is made, the Applicant shall be subject to the current Maximum Target Housing Prices in the Regulations. The Maximum Target Housing Prices represent the maximum effective purchase prices to be paid by the Eligible Buyer, after any subsidies are applied, including the County Affordability Mortgage and Lien. The contract sales prices, as set forth in the HUD-1 settlement statement, for all Affordable Units may be greater than the Maximum Target Housing Prices and shall be set between ninety five percent (95%) and one hundred percent (100%) of the unit's appraised value. All Affordable Units shall meet the minimum structural requirements, minimum bedrooms and bathrooms, minimum heated floor area, and other requirements set forth in the Ordinances and the Regulations, unless otherwise stated herein. The Applicant shall make available eight (8) three bedroom Affordable Units for sale.

6. **Adjustment of Maximum Target Housing Prices.** The Maximum Target Housing Prices as defined .in Section 5 may be adjusted each year. The adjustment shall correspond to an increase or decrease in the revised Maximum Target Housing Prices in the Affordable Housing Regulations.

7. **Adjustment of Maximum Target Housing Prices Due to Homeowners Association Fees.** In the event that the homeowners' association fee applicable to an Affordable Unit exceeds $100 per month (regardless of the billing cycle), the Maximum Target Housing Price, as defined in Section 5, for the Affordable Unit shall be reduced by the Applicant so that the buyer's mortgage loan principal amount is reduced by the amount that the monthly fee exceeds $100. Applicant must disclose the homeowners' association fee to the County and make any required adjustment to the Maximum Target Housing Price in order for the Affordable Unit sale to be certified as a Qualified Transaction.

8. **Development Schedule.** The parties agree that the development schedule for the Project, including individual phases, shall be such that a minimum of one (1) Affordable Unit shall be constructed for every seven (7) units constructed, including both market-rate and Affordable Units.

9. **Integration of Affordable Units in the Project.** Lot numbers 146A, 147A, 148A, 149A, 150A, 176A, 177A and 178A, as depicted on Exhibit A, are the lots upon which Affordable Units shall be built in conformance with the Ordinances and the Regulations. The Applicant may replace a designated Affordable Lot with an alternate Affordable Lot within the subdivision by submitting a lot substitution form, Exhibit B, for consideration by the Affordable Housing Administrator. Absent approval by the Affordable Housing Administrator, the lot substitution will not be implemented. Architectural features of the Affordable Units and market rate units shall be similar in appearance throughout the Project.

10. **Final Plat Recordation.** This Affordable Housing Agreement must be filed and recorded simultaneously with the Final Plat for the Project. Should the Final Plat be filed and recorded without this Affordable Housing Agreement, such filing and recordation shall be null and void and without any legal effect.

11. **Marketing Plan.** Applicant agrees to market the Affordable Units thorough print advertising, fliers and other promotional media, notice to the County and affordable housing agencies whose mission it is to promote affordable housing and first time homebuyers, and notice to real estate brokers. The marketing material shall clearly state the requirements of the Ordinances and Regulations with regard to pricing, subsidy, long term affordability provisions, rental restrictions and buyer eligibility requirements.

12. **Closing of Qualified Transactions.** All Qualified Transactions shall be closed in accordance with the procedures in this Section.

A. <u>Notice of Closing; Appraisal</u>. The Applicant shall give the County at least ten (10) days' advance written notice of the scheduled closing date for a Qualified Transaction. The notice shall include:

1. The name of the Eligible Buyer (s) as well as a copy of their Certification of Eligibility;
2. The date and time of the scheduled closing;
3. The name and location of the title company closing the transaction and the name and telephone number of the closing agent(s);
4. An appraisal of the Affordable Unit being sold, which appraisal shall (i) be prepared by a properly licensed, certified real estate appraiser; (ii) be paid for by the Applicant, unless such appraisal is required by the mortgage lender, in which case it shall be paid for by the lender or the Eligible Buyer; and (iii) has been prepared within the previous six (6) months.

B. <u>Recordation of Affordability Mortgage and Lien</u>. The Ordinances' goals of having Affordable Units owner-occupied by Eligible Buyers and maintaining long term affordability shall be achieved through the execution at closing of a County Affordability Mortgage and Lien, which contains a right of first refusal and shared appreciation requirements, as set forth in the Ordinances and the Regulations. At least two (2) business days prior to the date of the scheduled closing, the County shall deliver to the title company (with a copy to the Applicant and the Eligible Buyer) the Affordability Mortgage and Lien along with written instructions to the closing agent concerning the execution, recording, and returning of the Affordability Mortgage and Lien. Any cost associated with the recording and returning of the Affordability Mortgage and Lien shall be borne by the Applicant.

C. Settlement Statement. The Applicant shall cause the title company to transmit, within ten (10) days of the closing of a Qualified Transaction, a copy to the County of the Settlement Statement (HUD-1) for the Qualified Transaction, signed by the seller and purchaser.

D. Certificate of Compliance. Upon receipt and review by the County of the closing statement from the title company or the Applicant, the County shall issue a Certificate of Compliance for the Qualified Transaction.

13. **Affordability Lien and Maintenance of Long-Term Affordability.** Notwithstanding the provisions of Section 12, County and Applicant agree that the Applicant may provide the required Affordable Units through a program with a non-profit housing organization where the non-profit holds a lien in lieu of the County affordability lien provided that the total lien held by the non-profit, including its cash subsidy, can be no greater than three (3) times the amount of cash proven to be contributed by the non-profit from its own funds to subsidize the homeowner. Furthermore, the principal amount of the lien shall equal the contract sales price as shown on the HUD-1 settlement statement, which includes all liens; less the effective sales price, which is the affordable buyer's first mortgage amount plus down payment from their own funds; less the cash subsidy contributed by entities other than the non-profit. If there remains a difference between the total principal amount of the lien that is allowed per the above formula and the maximum lien amount that can be retained by the non-profit, as set forth above, the difference shall become the principal amount of a subordinate County affordability mortgage and lien. The effective sales price paid by the Eligible Buyer after any subsidy shall be less than or equal to the Maximum Target Housing Price, as set forth in the Regulations. Applicant agrees that the contract sales price for an Affordable Unit must be set between ninety-five percent (95%) and one hundred percent (100%) of the unit's appraised value. Applicant agrees that the note and mortgage instruments used by the non-profit to secure this lien shall represent a deferred payment, non-amortizing, zero percent (0%) loan that shall not include a shared appreciation provision, nor include a right of first refusal with the County and must be approved by the Affordable Housing Administrator. Applicant agrees that the difference between the cash subsidy provided by the non-profit and the total amount of the lien retained by the non-profit shall, upon payoff of this subsidy loan, be committed to affordable housing programs for households in Santa Fe County, per an agreement between the non-profit and the Applicant, a copy of which shall be provided to the County prior to the first closing of an Affordable Unit under this Amended and Restated Agreement. Applicant agrees that for such a transaction to be certified as a Qualified Transaction, all other provisions of Section 12 of this Amended and Restated Agreement must be satisfied, along with all provisions of the Ordinances and Regulations, unless otherwise stated herein.

14. **Incentives.** In consideration of Applicant's obligations hereunder and in accordance with the Ordinances and the Regulations, the County has agreed to provide the following incentives to the Applicant:

A. Relief from Development Fees. County agrees to waive all development fees for each Affordably Priced Housing Unit to be provided by Applicant hereunder.

B. Relief from County Water Utility Connection Charge. County agrees to waive any water connection charges that exceed the cost of the water meter for each of the Affordably Priced Housing Units to be provided by Applicant hereunder; provided, however, that nothing herein shall relieve Applicant of any obligation it may have under any Water Service Agreement with the County to provide a line extension or other infrastructure to the Affordably Priced Housing Units.

C. Water for Affordably Priced Housing Units. County agrees to supply the Affordably Priced Housing Units identified in Section 5 above with water, including all necessary water rights pursuant to Section 8 of the Affordable Housing Ordinance, provided that the Affordably Priced Housing Units are constructed. This does not obligate the County to provide any infrastructure necessary for the storage, pumping, treatment or delivery of water, including any water line extension or other water infrastructure to the development.

15. **Successors, Assigns and Buyers of Affordable Lots.** Applicant's obligations hereunder shall be binding upon its successors and assigns as well as any developer, contractor, or other third party (other than an Eligible Buyer) to whom an Affordable Lot identified in Section 9 and Exhibit A is transferred. Applicant agrees to provide County with ten (10) business days advance written notice of its intent to transfer an Affordable Lot to someone other than an Eligible Buyer, along with a request for lot substitution as set forth in Section 9 of this Amended and Restated Agreement.

16. **Remedies.** Applicant acknowledges and agrees that, but for the Affordable Housing Agreement, County would not have approved the final master plan, plat and phases for the Project. Applicant further acknowledges and agrees: (i) that because the integrated Affordable Units to be provided by Applicant are a public good, no adequate remedy exists at law to remedy Applicant's failure to fulfill its obligations hereunder; and (ii) that it would be inconvenient and unfeasible for County to accurately measure the value of some of the incentives that Applicant received hereunder; and (iii) an appropriate remedy for Applicant selling Affordable Lots to non-Eligible Buyers, or for Applicant to not provide the required number of Affordable Units in the Project or a phase of the Project, is to: (a) pay the County 50% of the Maximum Target Housing Price set forth in the Regulations for each required Affordable Unit, defined as a three bedroom unit, in the applicable Income Range; (b) collect all development fees and water connection charges that were waived for each house on an Affordable Lot; and (c) collect the current market price of water rights utilized by the County to provide water to each house on an Affordable Lot.

In the event Applicant does not sell Affordable Units to Eligible Buyers in the amount required in Section 4 and Section 8 within five (5) years, which time may be extended by the County if a proportional number of market rate units also remains unsold, and has not paid the

County fifty percent (50%) of the Maximum Target Housing Price set forth in the Regulations for each required Affordable Unit, defined as a three bedroom unit, in the applicable Income Range, the County shall be entitled to:

A. Execute an injunction halting all construction or development on the Project until such time as Applicant remedies its breach and complies with its obligations hereunder;

B. Refuse to grant preliminary or final plat approval for any future phase of the Project;

C. Collect all development fees and water connection charges that were waived for each house on an Affordable Lot that Applicant sold to a non-Eligible Buyer;

D. Collect the current market price of water rights utilized by the County to provide water to each house on an Affordable Lot that Applicant sold to a non-Eligible Buyer.

E. Receive from Applicant title at no cost to all remaining identified Affordable Lots, per Exhibit A.

F. Receive from Applicant fifty percent (50%) of the Maximum Target Housing Price set forth in the Regulations, for each required, yet unsold Affordable Unit, defined as a three bedroom unit, in the applicable Income Range.

17. **Miscellaneous Provisions.**

A. If any provision of this Amended and Restated Agreement or the application thereof to any person or circumstances is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this Amended and Restated Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable.

B. This Amended and Restated Agreement shall be construed and enforced in accordance with the Ordinances and Regulations and the laws of the State of New Mexico.

C. No actions taken by the parties following a breach of any of the terms contained in this Amended and Restated Agreement shall be construed to be a waiver of any claim or consent to any succeeding breach of the same or any other term.

D. This Amended and Restated Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Amended and Restated Agreement. No prior or contemporaneous agreement, covenant or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Amended and Restated Agreement.

E. At the request of the County, Applicant shall provide the County with such documentation the County deems relevant to establish Applicant's compliance with this Amended and Restated Agreement. Any failure by Applicant to comply with this subparagraph shall constitute a breach of this Amended and Restated Agreement, subjecting Applicant to the per unit payment provisions of Section 16 above, multiplied by the number of Affordable Units for which information has been requested.

F. This Amended and Restated Agreement shall not relieve Applicant from complying with present or future County ordinances, duly adopted resolutions or regulations applicable to development within the County.

G. This Amended and Restated Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties thereto.

H. This Amended and Restated Agreement must be filed and recorded.

I. Entering into this Amended and Restated Agreement does not prohibit Applicant or Applicant's buyers from applying for downpayment assistance from the County under the program which may be in effect at that time.

18. This Amended and Restated Agreement shall terminate upon the County issuing a certificate of compliance with the Amended and Restated Affordable Housing Agreement in accordance with Section 7.5 of the Regulations. The County may terminate this Amended and Restated Agreement and impose all Section 16 enabled payments for the required, yet unsold Affordable Units and recapture the cost of any granted incentives in the event of a breach of the Amended and Restated Agreement by Applicant.

IN WITNESS WHEREOF, the parties have duly executed this Amended and Restated Affordable Housing Agreement as of this ________ day of ________________, 2014.

APPLICANT:

Century Bank
A New Mexico corporation

By:____________________________

SANTA FE COUNTY

By:________________________________
Board of County Commissioners

APPROVED AS TO FORM:

By:____________________________
Stephen C. Ross, County Attorney

SANTA FE COUNTY AFFORDABLE
HOUSING ADMINISTRATOR

____
By: Steven Brugger, AICP

STATE OF NEW MEXICO)
) ss
COUNTY OF SANTA FE)

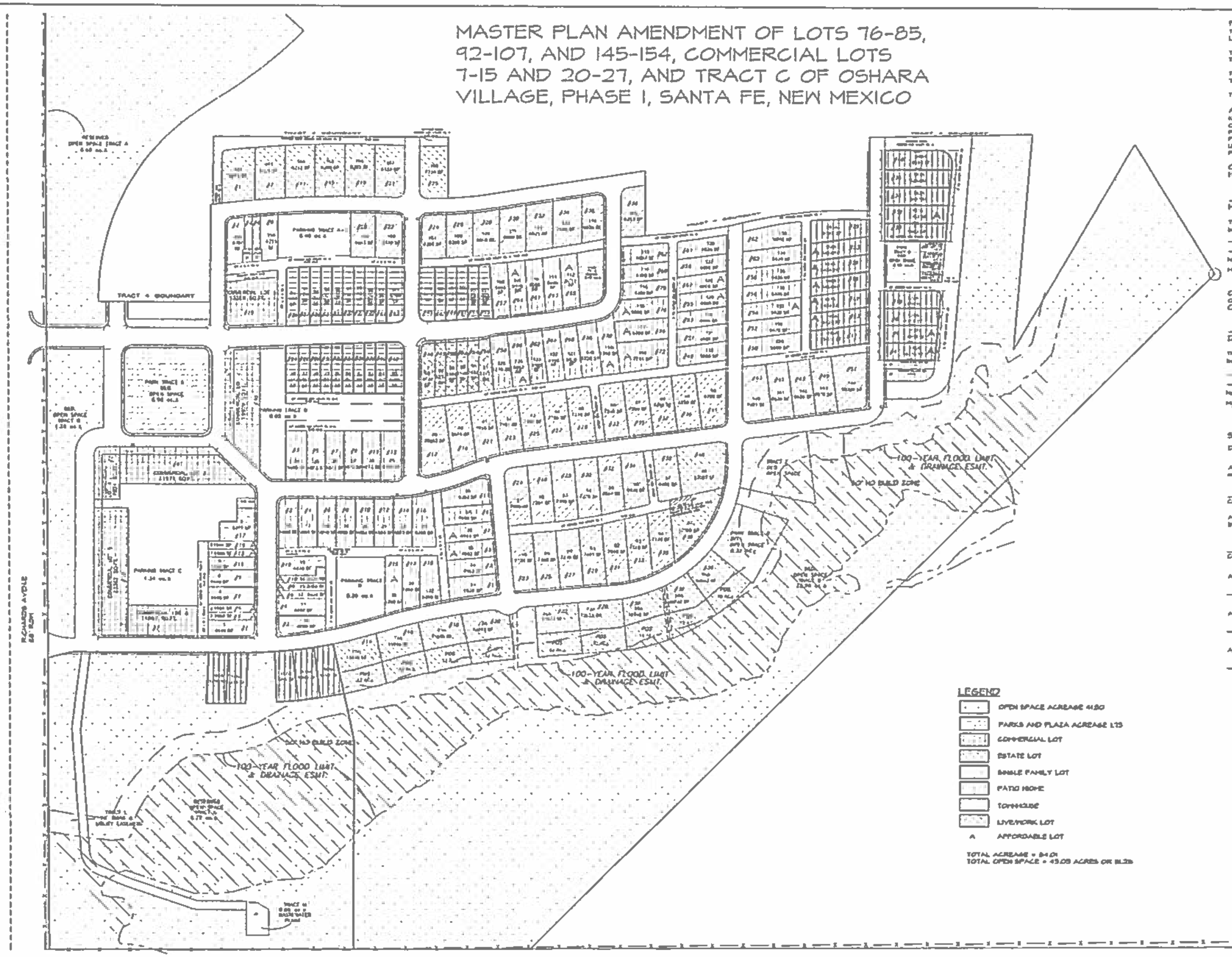
The foregoing was acknowledged before me this ___ day of _________________, 2014, by ___________________________ (name), _______________________ (title) of ___ _________________, a New Mexico corporation, on behalf of said corporation.

____
Notary Public

My commission expires:
____

EXHIBIT A: MASTER PLAN FOR OSHARA VILLAGE PHASE 1, WITH AFFORDABLE LOTS DEPICTED

MASTER PLAN AMENDMENT OF LOTS 76-85, 92-107, AND 145-154, COMMERCIAL LOTS 7-15 AND 20-27, AND TRACT C OF OSHARA VILLAGE, PHASE I, SANTA FE, NEW MEXICO



PURPOSE:

TO CHANGE ZONING OF 26 LOTS (LOTS 76-85 AND 92-107) FROM LIVE WORK TO TOWNHOMES.

TO CHANGE ZONING OF 10 LOTS (LOTS 145-154) FROM LIVE WORK TO 7 PATIO HOME LOTS.

TO CHANGE ZONING OF 17 COMMERCIAL LOTS (COMMERCIAL LOTS 7-15 AND 20-27) TO 4 PATIO HOMES.

TO ALLOW 3 PATIO HOMES TO BE DEVELOPED IN TRACT C.

AFFIDAVIT:

KNOW ALL PERSONS BY THESE PRESENT THAT THE UNDERSIGNED OWNERS HAVE CAUSED THE MASTER PLAN AMENDMENT TO BE PREPARED. ALL THE APPEARS ON THIS PLAN IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS. THIS DEVELOPMENT LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF SANTA FE COUNTY.

Owner of Lots 76-85 and 92-107
Homewise, Inc.

____
Michael D. Loftin, Executive Director

The foregoing was sworn, acknowledged and subscribed before me by Michael D. Loftin, Executive Director, Homewise, Inc.
____________ this _______ day of
________ 20__
Notary Public________________
My Commission Expires on____________

Owner of Lots 145-154, Commercial Lots 7-15, 20-27 and Tract C.
Century Bank

____
Don K. Padgett, President and CEO Century Bank

The foregoing was sworn, acknowledged and subscribed before me by Don K. Padgett, President and CEO Century Bank.
____________ this _______ day of
________ 20__
Notary Public________________
My Commission Expires on____________

SANTA FE COUNTY APPROVALS

Development Permit # ________

Approved by the Board of County Commissioners at their meeting of __________

____
Chairperson Date

Approved by the County Development Review Committee at their meeting of __________

____
Chairperson Date

Approved by

____
County Land Use Administrator Date

Approved by

____
County Fire Marshal Date

Approved by

____
County Public Works Director Date

DESIGN ENGINUITY

MASTER PLAN AMENDMENT OF A PORTION OF OSHARA VILLAGE PHASE I

PROPOSED MODIFICATIONS

SCALE	DATE	SHEET
1"=100'	04/03/2013	2

EXHIBIT B: LOT SUBSTITUTION FORM

I, ______________________, Affordable Housing Administrator for Santa Fe County, do hereby approve/disapprove the Applicant's request to substitute Lot # ____ in Oshara Village for Affordable Lot # __________, identified in Exhibit A as one of the required Affordable Lots. Exhibit A to the Amended and Restated Agreement for Oshara Village is hereby modified through the execution of this document.

FATC-0-4008

EXHIBIT 2

SANTA FE COUNTY
AFFORDABLE HOUSING AGREEMENT FOR
PHASE I OF OSHARA VILLAGE

This Affordable Housing Agreement (the "Agreement") is entered into this 4th day of MAY, 2006, between Oshara Village, LLC, the developer for Oshara Village, Phase I (the "Applicant") and Santa Fe County (the "County").

WHEREAS, the County has adopted Santa Fe County Ordinance No. 2000-12, creating the Community College District (the "CCD") within Santa Fe County, and the Santa Fe Extraterritorial Zoning Authority has adopted EZA Ordinance No. 2000-03, creating the CCD within the Extraterritorial Zoning (collectively, the "Ordinance"); and

WHEREAS, pursuant to the Ordinance, the County Land Use Administrator ("Administrator") has adopted the Community College District Affordable Housing Regulations, dated July 31, 2002 (the "Regulations") which are applicable and govern this Agreement; and

WHEREAS, the Ordinance and Regulations provide that a final plat will not be recorded until the applicant has entered into an Affordable Housing Agreement with the County to identify the locations for proposed affordable housing units with the subdivision known as Oshara Village, Phase I (the "Development"); and

WHEREAS, Applicant has prepared an Affordable Housing Plan dated 25 May Apr 2006 which was approved by the Administrator and the EZC and BCC on N/A, in accordance with Article IV § 4.1 of the Regulations (the "AHP"); and

WHEREAS, Applicant and the County desire to enter into this Agreement in accordance with the Ordinance and Regulation requirements;

NOW, THEREFORE, the County and Applicant agree as follows:

1. Affordable Housing Lots. Applicant owns the residential lots described in Exhibit A (the "Lots").

2. Affordable Homes. In accordance with the AHP, Applicant agrees to construct the Affordable Homes, as defined in the Regulations and described in Exhibit A, on the Lots. The County agrees that the Affordable Homes and Lots are integrated into the Development as required by the Ordinance and Regulations.

3. Marketing Date. Applicant shall begin marketing the Affordable Homes on or before twelve (12) months from Plat recordation, in accordance with the AHP.

4. Construction Schedule. Applicant shall begin construction of each Affordable Home within thirty (30) days of the date an Eligible Buyer enters into a binding agreement for the purchase of the Affordable Home, but not later than twelve (12) months from the approval of this Agreement by the Administrator.

5. Miscellaneous Provisions.

A. If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid or unenforceable by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable.

B. This Agreement shall be construed and enforced in accordance with the Ordinance and Regulations.

C. No actions taken by the parties following a breach of any of the terms contained in this Agreement shall be construed to be a waiver of any claim or consent to any succeeding breach of the same or any other term.

D. This Agreement states the entire agreement of the parties. This Agreement shall not relieve Applicant from complying with present or future County or EZ ordinances, duly adopted resolutions or regulations applicable to the development.

E. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

WHEREFORE, the parties set their hands and seals this 4th day of May, 2006.

APPLICANT:

OSHARA VILLAGE, LLC

By: [signature]
Name: Alan Hoffman
Title: Managing Member

SANTA FE COUNTY:

____
County Manager

APPROVED AS TO FORM:

____
County Attorney

ACKNOWLEDGEMENT

STATE OF NEW MEXICO)
) ss
COUNTY OF SANTA FE)

OFFICIAL SEAL
NAOMI HERNANDEZ
NOTARY PUBLIC - STATE OF NEW MEXICO
My commission expires: Dec. 11, 2007

On this 9th day of June, 2006, the foregoing instrument was acknowledged before me by Gerald T.E. Gonzalez, County Manager of Santa Fe County New Mexico.

Naomi Hernandez
Notary Public

My Commission Expires: Dec. 11, 2007

STATE OF NEW MEXICO)
) ss
COUNTY OF SANTA FE)

OFFICIAL SEAL
NAOMI HERNANDEZ
NOTARY PUBLIC - STATE OF NEW MEXICO
My commission expires: Dec. 11, 2007

On this 9th day of June, 2006, the foregoing instrument was acknowledged before me by Alan Hoffman, Managing member Oshara Village LLC.

Naomi Hernandez
Notary Public

My Commission Expires: Dec. 11, 2007

Exhibit A

Income Range	1	=	60% of Median
	2	=	80% of Median
	3	=	100% of Median

(See change dated (recorded) 2/22/07

2,3,7,8,12,13,14

Replaces 3,4,5,6,7,12,13

Oshara Village
Phase I

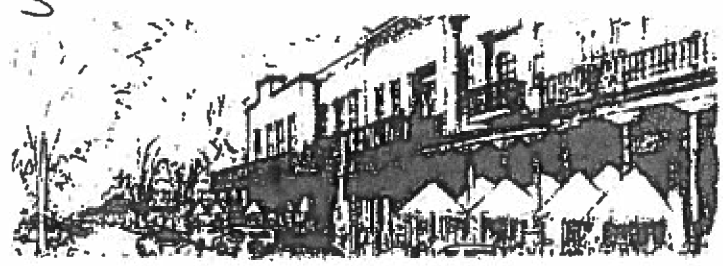
Income Range	Lot Number	
1	30	
1	112	
1	116	
1	117	
1	118	
1	119	
1	128	
1	129	
1	137	
2	3	2
2	4	3
2	5	7
2	6	8
2	7	12
2	12	13
2	13	14
2	147	
2	153	
3	35	
3	36	
3	~~108~~	148
3	109	
3	124	
3	~~125~~	150
3	~~130~~	152
3	149	
3	151	

Change effective 2/22/07

EXHIBIT 3

Oshara Village, LLC

A village for the new millennium



February 14, 2007

Santa Fe County
Land Use Dept.
Santa Fe, NM

AMENDMENT TO SANTA FE COUNTY AFFORDABLE HOUSING
AGREEMENT FOR PHASE I OF OSHARA VILLAGE
INSTRUMENT #1487414

Dear Jack Kolkmeyer,

As per our affordable housing agreement with Santa Fe County, we required the signature of the Land Use Administrator to modify the lots designated as affordable. Please note we are requesting a minor modification in the lots designated as affordable within the townhouse product. These changes are for design purposes only, they all remain in the same block and have just moved from one lot to the next. All modified lots will remain within the block that they were originally designated. This change will not alter or cluster the location of the affordable units.

The lots that are currently designated are 3, 4, 5, 6, 7, 12 and 13. We are requesting that they be change to 2, 3, 7, 8, 12, 13 and 14.

This is in reference to the lot line adjustment that we have before you at this time. Since the change in designation requires your signature in a recorded document, please countersign this letter with your acknowledgement and approval, and we will file this letter as an official amendment to the Affordable Housing Agreement.

Sincerely,

Anna C Hansen

Director of Community Building
Oshara Village

J. Kolkmeyer

Jack Kolkmeyer.
Land Use Director

Anna C Hansen, 2-22-07

State of New Mexico / County of Santa Fe
This instrument was acknowledged before me on February 22, 2007 by Anna C. Hansen, Director of Community Building, Oshara Village, llc.

Marcella M. Salazar

OFFICIAL SEAL
Marcella
NOTA
STATE OF
My Commission Expires: 7

EXHIBIT
3

www.osharavillage.com
Mobile: 505.316.0449 • Fax: 505.988.7443 • Email: alan@osharavillag

9/27/2012

COUNTY CLERK
VALERIE ESPINOZA
SANTA FE COUNTY NEW MEXICO

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

AMENDMENT
PAGES: 2

I Hereby Certify That This Instrument Was Filed for Record On The 22ND Day Of February, A.D., 2007 at 10:25 And Was Duly Recorded as Instrument # 1471879 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

Deputy

EXHIBIT 4

SECOND AMENDMENT TO AFFORDABLE HOUSING AGREEMENT FOR PHASE I OF OSHARA VILLAGE

This Second Amendment to the Affordable Housing Agreement for Phase 1 of Oshara Village is entered into this 26th day of September, 2007, between Oshara Village, LLC, (the Developer) and Santa Fe County (the County).

Whereas, the Developer entered into an Affordable Housing Agreement for Phase 1 of Oshara Village (the Agreement) on May 4, 2006, wherein the Developer designated certain lots as Affordable Housing Lots; and

Whereas, the Agreement provided that it could be amended by written agreement executed by both parties; and

Whereas, the parties amended the Agreement (First Amendment) on February 22, 2007; and

Whereas, the Developer now desires to substitute three lots upon which affordable live/work spaces will be constructed thereby removing three patio home lots from the affordable housing lot designation; and

Whereas, the Developer has conducted research which indicates that the current market demand is for affordable live/work spaces.

Now therefore, the parties agree to the following amendments to the Agreement:

1. Exhibit A of the Agreement is hereby replaced with Exhibit A attached hereto and made a part hereof by reference. The amended Exhibit A reflects that lots 108, 125 and 130, which are patio home lots will no longer be Affordable Housing Lots, and lots 148, 150 and 152 are now designated as Affordable Housing Lots upon which live/work units will be constructed by or on behalf of the Developer.

2. Lots 108, 125 and 130 were designated for Income Range 3. Those lots are no longer Affordable Housing Lots, and lots 148, 150 and 152 are designated for Income Range 3.

3. All provisions of the Agreement not amended by the First Amendment or Second Amendment to the Agreement remain in full force and effect.

WHEREFORE, the parties set their hands and seals the 26 day of September 2007

EXHIBIT

4

Applicant:
Oshara Village

Anna Hansen 9-26-07
Anna Hansen Date
Oshara Village,LLC, Director of Community Building,

State of New Mexico/County of Santa Fe
This Instrument was acknowledged before me on September 26, 2007
By Anna Hansen, Director of Community Building, Oshara Village LLC

OFFICIAL SEAL
Philip M. Barajas
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 04-27-2011

Philip M. Barajas
Notary

J. Kolkmeyer 9/26/07
Jack Kolkmeyer Date
Land Use Administrator
Santa Fe County

9/26/07
Duncan Sill Date
Affordable Housing Administrator
Santa Fe County

for Stephen C. Ross 9-26-07
Approved as to Form Date
Santa Fe County Attorney

COUNTY CLERK SANTA FE COUNTY NEW MEXICO

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

SECOND AMENDMENT
PAGES: 3

I Hereby Certify That This Instrument Was Filed for Record On The 2ND Day Of October, A.D., 2007 at 13:30 And Was Duly Recorded as Instrument # 1501729 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy ______________ County Clerk, Santa Fe, NM

SFC CLERK RECORDED 10/02/2007

Amended Exhibit A (8-26-07)

Income Range	1	=	60% of Median
	2	=	80% of Median
	3	=	100% of Median

Oshara Village
Phase I

Income Range	Lot Number
1	30
1	112
1	116
1	117
1	118
1	119
1	128
1	129
1	137

Income Range	Lot Number
2	2
2	3
2	7
2	8
2	12
2	13
2	14
2	147
2	153

Income Range	Lot Number
3	35
3	36
3	109
3	124
3	148
3	149
3	150
3	151
3	152

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *December 31, 2013*

TO: *Board of County Commissioners*

FROM: *Adam Leigland, Public Works Department Director*

VIA: *Katherine Miller, County Manager*

ITEM AND ISSUE: ***BCC Meeting Jan 28, 2015***
PRESENTATION OF THE COUNTY IMPROVEMENT DISTRICT (CID) REVIEW COMMITTEE REPORT ON THE PROPOSED CID FOR LAS LAGUNITAS AND APPROVAL OF REPORT RECOMMENDATIONS (PUBLIC WORKS/ADAM LEIGLAND)

BACKGROUND:

On September 10, 2013, the Board of County Commissioners (BCC) passed Resolution 2013-86, a policy that outlines the County's implementation of the State's County Improvement District Act (NMSA 4-55A-2 through 4-55A-43 (1978)), which allows New Mexico counties to create County Improvement Districts (CID), special assessment districts for the purposes of providing or improving infrastructure such as roads, utilities, flood control or storm drainage structures, railroads, and parks and open space. Under the CID policy, communities may petition the BCC for the creation of a CID. If a community does so, the BCC considers the request and convenes a CID Review Committee to meet with the applicant, evaluate the request, and perform four major tasks (discussed in detail later in this report).

The CID Review Committee comprises the County Manager, the Finance Director, the Public Works Director, and the County Attorney. After completing its tasks, the Review Committee then submits a report to the BCC on its findings along with a recommendation for any next steps.

The Las Lagunitas Homeowners Association (the Applicant) submitted a petition for the creation of a CID to install a sewer collection and/or treatment system in their community. The petition was evaluated and determined to meet the requirements of the Act and the CID policy. The Review Committee was therefore duly convened by Resolution 2013-103 (approved by the BCC on September 24, 2013), and met with the Applicant on October 10, 2013.

Las Lagunitas is a 106-lot subdivision (105 residential and one commercial) located along the I-25 frontage road near La Cienega, in Commission District 3 (see attached map). Of the 106 lots, 74 are currently developed, and of those, 48 are served by small multi-family package treatment units (cluster systems) for wastewater treatment, while the remaining 26 are served by individual advanced treatment units (ATUs). Over time, it has emerged that the cluster systems and ATUs were not originally installed correctly by the developer, nor were they operated correctly since installation. The Las Lagunitas Homeowners Association is now violating its discharge permit which relates to the cluster systems, which could result in impacts to ground water quality and financial penalties from the New Mexico Environment Department. To alleviate the threat to ground water, the Las Lagunitas Homeowners Association will be required to upgrade their cluster systems. However, even with significant upgrades to the cluster systems, both the cluster systems and ATUs will remain difficult to operate and maintain, so threats to ground water quality may remain. A better option would be for the Las Lagunitas Homeowners Association to connect to the County's wastewater system and decommission the ATUs and cluster systems. Las Lagunitas is already a water customer of the County utility.

DISCUSSION OF TASKS:

The CID policy outlines four tasks for the CID Review Committee, expounded below.

Task 1: *Make an initial determination of whether the Applicant's ownership interest, delegation of ownership rights, or other legal control of the real property proposed to be included in the CID creates standing to submit an Application.*

The Review Committee determined to the best of its ability that the Applicant has the ownership interest to create the required standing.

Task 2: *Make an initial determination of whether the proposed CID is consistent with the County's growth policies, land use and development policies, zoning, and other applicable plans, policies, and regulations and is contained on or could be proposed for inclusion on the County's Capital Improvement Plan.*

The Review Committee determined that the improvements intended by the proposed CID are consistent with the Sustainable Growth Management Plan, in particular Key to Sustainability 5 in Section 11.1.2 and Policies 42.11, 42.12, 42.18, 42.20, 42.24, and 42.35. The proposed improvements were presented to the County's Technical Review Team on December 19, 2013, and no conflicts with County land use and development policies, zoning, or other applicable plans, policies, and regulations were identified. The Technical Review Team did ask that, as part of this effort, the existing County waterline that currently serves Las Lagunitas be extended to the Taylor Subdivision (see map). Further, the Applicant is currently in violation of their ground water discharge permit (DP-1107), issued pursuant to the New Mexico Water Quality Control Commission Regulations (20.6.2 NMAC); the proposed CID will bring them into compliance with State regulations. The proposed capital improvement is currently listed on the County's Capital Improvement Plan.

Task 3: *Establish a proposed schedule for (i) the Applicant's resubmittal of the complete and valid petition and preliminary application, if necessary; (ii) preparation and compilation of the Final Application; (iii) Review Committee's compilation of its report; (iv) County Commission meetings* *and hearings necessary for the consideration of and action on the Application; and (v), addressing such other matters as the Review Committee determines should be addressed in connection with an application.*

The Review Committee determined that the preliminary application and petition are complete and therefore that no resubmittal is necessary.

After the presentation of this report, the next step in the CID process is to proceed to the preparation and presentation of the Final Application. The CID policy and the County Improvement District Act require the Final Application to contain the following information:

1. Detailed description of the improvements;
2. Detailed estimate of the cost of the improvements;
3. Detailed description of costs incurred by the Review Committee;
4. Description of each property to be assessed;
5. The estimated amount of the assessment against each tract or parcel of land;
6. Estimated benefit to each parcel;
7. CID formation and execution schedule;
8. Financing and cash flow plan.

The Review Committee believes that items 1, 2, and 6 call for the services of a consultant. Items 1 and 2 will require the preparation of a design to at least the 30% level, while item 6 will require a financial cost/benefit analysis. Using an existing engineering services price agreement, it is estimated that the consultant would be able to complete 30% design documents and a financial cost benefit analysis within four months from the approval to proceed. Note that while the cost of these contracts can be included into the overall assessment, the County must still provide the funds up front and the County will be required to absorb these costs should the CID creation fail.

The next step, if after the presentation of the Final Application the BCC chooses to proceed, is to finalize the project design and award the construction contract so that the true and final cost of the improvements can be determined. This information is needed to calculate the property assessments. The contract award would require BCC approval.

Once the final costs and individual assessments are determined, an assessment roll must be created and filed with the County Clerk. This must be done before any public meetings on the assessment are held. The County Improvement District Act further requires that the date of the meeting on the assessment ordinance be established by resolution after the filing of the assessment roll.

There will be at least two additional required public meetings. If the BCC elects to create an assessment after the meeting on the Final Application and after the final costs are known, it must then levy the assessment through an ordinance, which will require two public meetings, one to publish title and general summary and one to adopt the ordinance.

Summing all the above, a rough (somewhat aggressive) schedule can be drawn up, shown below:

Date	Action or Milestone
Jan 28, 2013	Public meeting: Presentation of Review Committee Report; BCC decision to proceed to Final Application
Jul 29, 2014	Public meeting: Presentation of Final Application; BCC decision to create CID and solicit construction contract
Sep 9, 2014	Public meeting: Award of construction contract; determination of final costs of the improvements
Sep 15, 2014	Filing of assessment roll with County Clerk
Sep 30, 2014	Public meeting: Publication of title and general summary of assessment ordinance; resolution setting date of assessment public meeting
Oct 14, 2014	Public meeting: Adoption of assessment ordinance
Jan 1, 2015	Assessments begin

Task 4: *Identify any related County approvals that will be required to permit the CID, if approved by the BCC, to construct (i) improvements proposed to be financed through the CID, and (ii) additional improvements contemplated in connection with the overall project of which the proposed CID is a part.*

County approvals would be needed to build the new lift station and to trench and install the sewer lines on any land under County jurisdiction, which would include the subdivision of Las Lagunitas itself and Comanche Drive. Approvals from NMDOT and the NM National Guard would also be needed.

REVIEW COMMITTEE COMMENTS AND RECOMMENDATION:

The Review Committee considered two possible technical solutions to the problem. The first was to install what is known as a pressure sewer and centralized package treatment plant. In such a system, pumps at each individual residence pressurize the wastewater and send it through small-diameter lines to a centralized package treatment plant of some type, which is generally relatively close by. Since the lines are pressurized, area topography is less important as a design consideration, and in general pressure systems incur lower capital costs. Pressure sewer systems are typically used to provide centralized sewer treatment in rural or low-density settings. A rough estimate for such a system in Las Lagunitas would be $800K.

The second option was to install a traditional gravity system, and then convey the waste to the County's Quill wastewater treatment plant, located 2.5 miles away, by tying into the existing system at the NM National Guard Onate complex. This option will require a lift station and force main from Las Lagunitas to the National Guard lift station and County takeover of the National Guard lift station, including possible upgrades necessitated by the project. A rough estimate for such a system for Las Lagunitas would be $1.2M.

The Review Committee rejected the first option for four reasons. First, County experience with other such pressure systems elsewhere has shown them to be exceedingly maintenance-intensive. Second, the pumps that pressurize the system would be the responsibility of the homeowner, not the County Utility, and this is generally not acceptable to utility customers. Third, utilizing the Quill plant better exploits the County's investment in that plant and reduces the operation and maintenance workload associated with Las Lagunitas as new customers. Fourth, running a sewer line from Las Lagunitas to the Quill plant will open up other areas within the County to sewer service that would otherwise be out of economical reach, for instance the Taylor Subdivision, the Corral Blanco Area, and Carlson Subdivision (see attached map). It should be noted that the subject CID would pay only for the sewer collection system within Las Lagunitas and a prorated share of the sewer trunk line from Las Lagunitas to the Quill Plant. Also, because of anti-donation restrictions, the County cannot pay for any sewer connections that fall on private property, that is, the connections from the house to the edge of the property line and the County infrastructure located there. This will be the responsibility of the parcel owner.

In making its recommendation, the Review Committee feels that it is important to note two things. First, even though the capital costs will eventually be recovered through the property assessments, the County must produce the funds up front and full recovery won't occur for ten or more years. The upfront capital funds will therefore be unavailable for reuse elsewhere for some time. Second, the assessment district implementation will still require staff time. There will be an administrative burden in properly collecting and accounting for the assessments, ongoing for the life of the assessment. Staff will also need to manage the design and execution of the improvements funded by the assessment. In other words, an assessment district requires a large commitment of County financial resources and staff time.

The Review Committee recommends proceeding to the submission and review of the Final Application, the next step in the CID creation process. The subject improvements meet numerous County goals: those listed above as well as increasing the revenue base of the County Utility (an increase estimated at $40,000 per year). In addition to the staff time needed to prepare the Final Application, moving to the next step will require the expenditure of approximately $150,000 of County capital funds, to use for contracts to produce the 30% design and the financial cost/benefit analysis. These funds are currently not budgeted for such a purpose, but the Review Committee recommends using the capital GRT currently budgeted for the acquisition of rural water systems. The BCC allocated $800,000 for this purpose in Fiscal Year 2012, and to date, only $600,000 has been used or is estimated to be needed (see attached table).

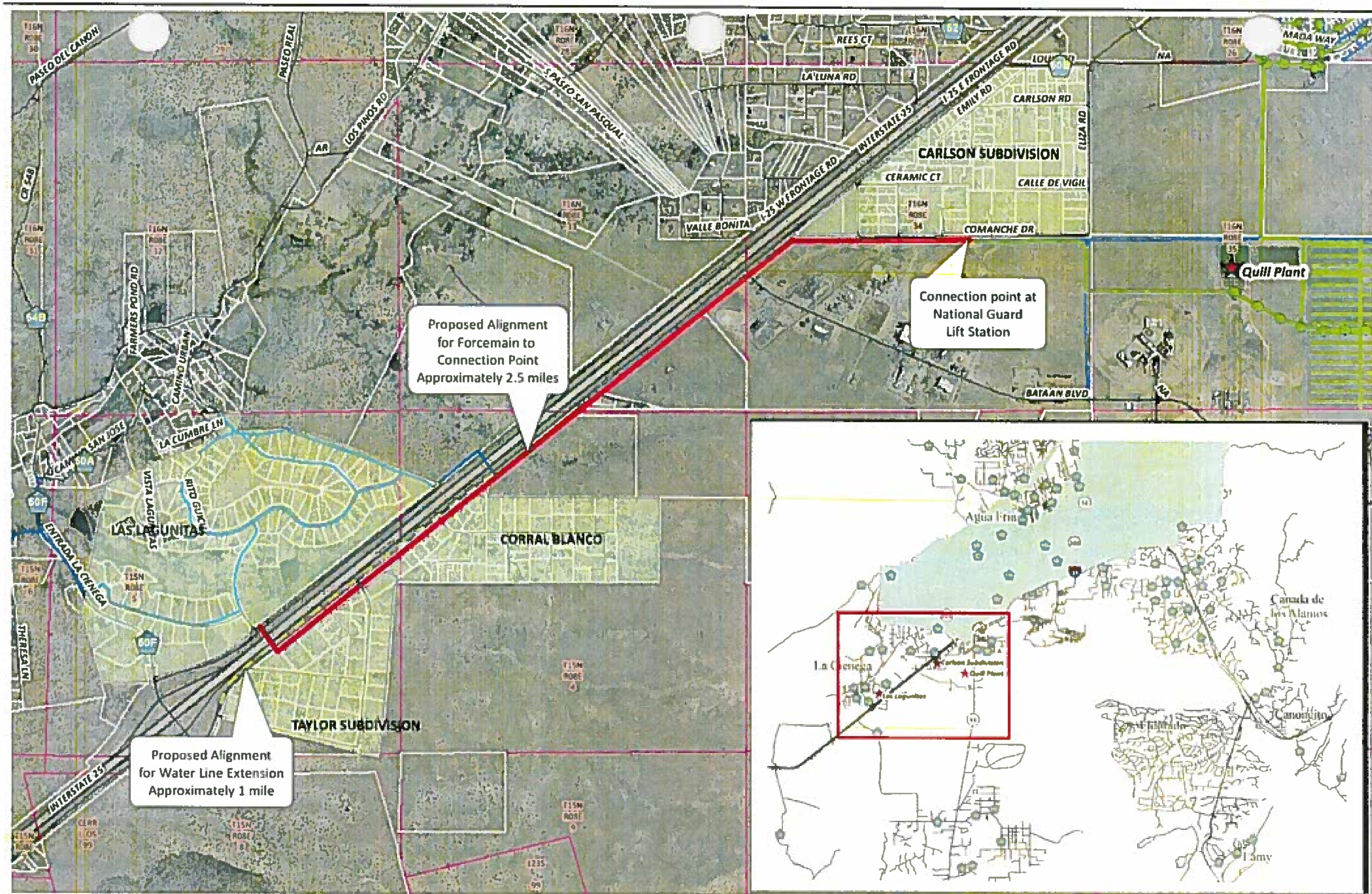
Even though the construction of these improvements won't occur until October 2014 at the soonest, the upfront funding for the work should be identified in the FY15 budget preparation cycle. Staff feels that the best financing mechanism is a loan from the New Mexico Finance Authority. In this way, the County initial outlay of capital funds would be limited to, say, $250,000, and the subsequent servicing of the debt could be covered by the assessments.

If the BCC adopts the Review Committee recommendations, the specific BCC actions would be:

1. Authorize staff to prepare the Final Application.
2. Rebudget $150,000 in capital GRT from rural water system acquisition to design of Las Lagunitas sewer system and financial cost/benefit analysis.
3. Authorize staff to solicit contracts for design of sewer system and financial cost/benefit analysis as inputs to the Final Application.

REQUESTED ACTION:

Approval of the three Review Committee recommendations listed above.



LEGEND

- SFCU Sewer Manhole Locations
- SFCU Sewerlines
- SFCU Water Lines
- Proposed Water Line
- GPS Roads All
- Proposed Subdivision Connections
- SF County Parcels
- Township, Range, and Section Bndys

0 1,000 2,000 4,000 Feet

1 inch = 2,000 feet

This information is for reference only. Santa Fe County assumes no liability for errors associated with the use of these data. Users are solely responsible for confirming data accuracy.

Aerial photography from 2008

Township Range Section

Proposed FM/Sewerline Alignment

Santa Fe County Utilities Division

PC

12-19-13

Sheet No. 1 of 1

Table 1: Rural Water System Funding

System	Budgeted Amount ($000)	Fund Source
Cuatro Villas MDWCA	625	GOB
Greater Chimayo MDWCA	625	GOB
Chupadero MDWCA	300	GRT
Canoncito MDWCA	200	GRT
Hyde Park Estates CWA	100	GRT
La Bajada MDWCA	250	GOB

SANTA FE COUNTY
FISCAL IMPACT REPORT (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed ordinance or resolution as to its direct impact upon the County's operating budget and is intended for use by staff of the Human Resources and Finance Divisions, the County Manager and the governing body of Santa Fe County. Ordinances/resolutions with a fiscal impact must be reviewed by the Finance Division Director or the Budget Administrator. Ordinances/resolutions with proposed staffing increases must be reviewed and approved by the Human Resources staff and approved by the County Manager before presentation to the Board of County Commissioners (BCC).
Please refer to the instructions on how to complete this form.

Section A. General Information

☐ Ordinance ☑ Resolution ☐ Other
A single FIR may be used for related ordinances and/or resolutions.

Short Title(s): Las Lagunitas County Improvement District contracts

Reviewing Division(s): Finance

Person Completing FIR: Adam Leigland

Date: 1/2/2014

Phone: x3023

Teresa C Martinez 1/13/14

Section B. Summary

Briefly explain the purpose and major provisions of the ordinance/resolution.

This County Improvement District creation policy has numerous steps and this request is to proceed to the next step in the creation of a CID for Las Lagunitas. This is also asking for the allocation of $150k of GRT to pay for contracts to provide inputs into the public hearing.

Section C. Fiscal Impact

NOTE: Financial information on this FIR does not directly translate into a Santa Fe County budget increase.

a. The item must be presented to the Finance Division for analysis and recommendation as a potential request to increase the existing budget for the county.
b. Detailed budget information must be included, such as funding source, amounts and justification.

c. Detailed salary and benefit for new full-time equivalents (FTE's) must be included. The request must be approved by the staff of the Human Resources Division for each new FTE request.

1. Projected Expenditures:

a. Indicate Fiscal Year(s) affected – the current fiscal year and the following three fiscal years, where applicable
b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
c. Indicate: "R" if recurring annual costs
Indicate: "NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
d. Attach additional projection schedules if four years does not adequately project revenue and costs patterns
e. Costs may be netted or show as an offset if some cost savings are projected (please explain further in Section 3 Narrative)
f. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.
g. This form allows for information related to two fiscal years. Please note *info* relation to other fiscal years in narrative 3.

Exp. Classification	FY 14	"A" or "N"	"R" or "NR"	FY	"A" or "N"	"R" or "NR"	Funds affected
Salary and Benefits							Select or type...
Maintenance							Select or type...
Other Operating							Select or type...
Contractual Services							Select or type...
Capital Requirements	$150,000	A	NR				Capital Outlay GRT
Total	$150,000						

*Any indication that additional staffing would be required must be reviewed and approved in advance by the County Manager by attached memo before release of FIR to the Board of County Commissioners (BCC).
** For salary and benefit information contact the Finance Division, or attach the New FTE Request form to provide necessary information.

2. Revenue Sources:

a. To indicate new revenues and/or
b. Required for costs for which new expenditure budget is proposed above in item 1.
c. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.

Type of Revenue	*FY*	*"R" or "NR"*	*FY*	*"R" or "NR"*	*Funds Affected*
				Select..	Select or type...
Total	$0		$0		

3. Expenditure/Revenue Narrative:
Explain expenditures, grant match requirements, justify salary and benefit costs for new FTE request, detail capital and operating uses, etc. Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. (Attach supplemental page, if necessary). Also, provide expanded information for fiscal year three and four impact for both revenue and expenditures.

This request is to allocate $150k of capital to prepare two inputs into the statute-required public hearing. If, based on these two inputs, the BCC decides to continue with the creation of the CID, the County will have two sources of revenue: the assessments (~$100k/year) and utility revenue from the new sewer connections (~$40k/year).

Section D. General Narrative

1. Conflicts:
Does this proposed ordinance/resolution duplicate/conflict with/companion to/relate to any County code, approved ordinance or resolution, other adopted policies and legislation? Include details of county adopted ordinances/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None identified

2. Consequences of Not Enacting This Ordinance/Resolution:
Are there consequences of not enacting this ordinance/resolution? If so, describe.

The community will still need to address their sewer issues, so if the BCC chooses not to proceed with the CID, the community will need to find another way.

3. Technical Issues:
Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None

4. Community Impact:
Briefly describe the major positive or negative effects the ordinance/resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The creation of a CID and the construction of a sewer system will have a positive impact on the community of Las Lagunitas.

No file attached No file attached No file attached

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *January 14, 2014*

TO: *Board of County Commissioners*

FROM: *Adam Leigland, Public Works Department Director* 1/16/14

VIA: *Katherine Miller, County Manager*

ITEM AND ISSUE: *BCC Meeting January 28, 2014*
PRESENTATION ON SOLARIZING COUNTY FACILITIES AND APPROVAL OF FY15 SOLAR PROJECTS PLAN

BACKGROUND AND SUMMARY

Beginning with adoption of the 2010 Sustainable Growth Management Plan and continuing with BCC resolutions adopted this year, the Commission has clearly established policy to pursue developing solar projects at existing and new County facilities. In response to that directive, staff developed the attached document, "Solarizing County Facilities: Overview and Policy Considerations." The purpose of the document is to help guide the Commission's deliberations on the initiative with the intent of developing a FY15 Solarizing County Facilities Project Plan.

DISCUSSION

Staff offers the following recommendations for the Board's consideration and possible action:

- Staff recommends that projects be at least 8-10 kW in size to facilitate more rapid deployment of solar and keep the number of projects manageable. Roof-mounted systems in that size range are estimated to cost in the $35K-50K range, and solar carports approximately $45K-60K.
    - Seek direction from the Commission on prioritizing sites for FY15 implementation from the "Candidate Sites" list (below) and establishing an FY15 solar project development budget and funding source.
    - Where feasible and not cost prohibitive, staff recommends developing solar carport projects as a priority over roof-mounted projects. This will maximize public visibility of the projects and avoid roof-related complications in the future.

    - For those facilities where a roof-mounted project is desired, utilize capital funds, as necessary, to conduct structural engineering assessments of facility roofs from facilities selected for further feasibility analyses.
    - Size PV systems to generate not more than 80% of a facility's average annual electric usage.
- Use County capital funds, as necessary, to match any capital outlay funds obtained from the 2014 NM Legislative session to solarize existing County fire stations.
- Obtain individual Commissioner direction on utilizing District-specific capital funds to pursue solar projects during the remainder of FY14.
- Adult Detention Facility and Public Safety Complex: Direct staff to continue to investigate feasibility of pursuing a solar power purchase and option-to-buy agreement and report back on costs and benefits.
- New County Facilities: Direct staff to "institutionalize the inclusion of solar power in all new County facilities" by including, where feasible, the costs of a solar system (sized to meet at least 50% of the projected electric demand of the proposed facility) in all capital projects budgeting.

County Facilities – Candidate Sites for Solar Projects – FY 15

1. Northern Regional Fire Station - Pojoaque
    a. Roof-mounted system
    b. Integrate with volunteer quarters remodel

2. Agua Fria Fire Station #1 – Caja del Oro Grande Road
    a. Solar carport
    b. With annexation, may become a City facility in the future.

3. Agua Fria Fire Station #2 - La Tierra
    a. Solar carport

4. Nancy Rodriguez Community Center
    a. integrate system with proposed improvements

5. Southern Regional Fire Station – Edgewood
    a. Solar carport

6. Public Works Building
    a. Solar carport in public parking area

7. Hondo Fire Station #2
    a. Solar carport

8. Vista Grande Library – Eldorado
    a. Solar carport

9. Turquoise Trail Fire Station
    a. Solar carport

10. Eldorado Main Fire Station – Avenida Vista Grande
    a. Integrate with apparatus bay addition and roof replacement envisioned within the next 18 months.

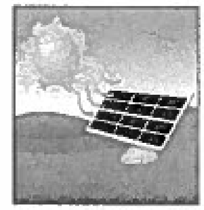
11. County Fairgrounds
    a. Roof-mounted

ACTION REQUESTED

Approval of recommended solarization plan

Attachment: *Solarizing County Facilities: Overview and Policy Considerations* (January 2014)

Solarizing County Facilities: Overview and Policy Considerations



January 2014

In response to Board of County Commissioners (BCC) direction, this document provides an overview of options for solarizing existing and future County facilities. The focus is on installing solar electric photovoltaic (PV) systems, not solar thermal (hot water, space heating, etc.).

Background

The BCC has adopted the following policies related to solarizing County facilities.

- Resolution 2010-210, Sustainable Growth Management Plan: "Retrofit existing government operated and owned facilities with.... renewable energy measures."
- Resolution 2013-007: "To the extent feasible given funding and staff availability, the County shall ensure that cost-effective renewable energy... strategies are implemented throughout County facilities and daily operations."
- Resolution 2013-049: "Each County-funded project must consider energy savings features such as solar energy..."
- Board Action on Infrastructure Capital Improvement Plan: September, 2013. BCC placed a request for $1.3 million for solarizing County fire stations in the "top 5" list submitted to the NM Department of Finance and Administration for state capital outlay funding in the 2014 NM Legislature.

Solar Resource, Siting Considerations, and Facility Selection Criteria

The solar resource is excellent throughout Santa Fe County suggesting that any given location throughout the County is an excellent potential site for solar-electric power generation. From a technical stand-point, the only factor that compromises solar generation is the presence of any shading of the panels by trees, other buildings, topography, etc. Year-round solar generation is maximized by sloping the panels south-facing approximately the same degree as the site's latitude (about 35 degrees in Santa Fe).

Given that the solar resource is consistently robust throughout the County, there are not technically optimal site locations. Assuming there is sufficient area to install solar panels (roof, parking lot, on-site vacant land), a viable solar system can be installed at any County facility. Facility siting decisions can, therefore, be driven by the following considerations: construction costs at a particular location (influencing the cost-benefit "payback" period), desirability of the public visibility of the project, and individual policy preferences of each Commissioner.

Types of Projects

PV projects on County facilities can be developed in three configurations.

1. Roof-mounted: Flat roofs or roofs with significant area pitched south-facing are ideal. West and east facing pitched-roofs are feasible, however, they "stand out" from the roof more and, therefore, may negatively affect the aesthetics of the building. Other considerations are the condition (particularly age) of the roof, its structural integrity, and whether a solar system compromises any remaining warranty of the roof. County facilities where a roof-mounted system is desirable will require a structural engineering assessment.

   For flat roofs, generally "ballasted" systems are used which use weights to allow the system to essentially rest on the roof without roof penetrations. Ballasted systems are pitched south only about 10-15 degrees to avoid issues with high winds. Pitched roofed PV systems use a variety of mounting configurations that involve roof penetrations. Consideration should be given to avoiding roofs older than 5 years, particularly flat roofs. Vandalism is not a concern with roof-mounted systems. If public visibility of the solar system is desirable, however, roof-mounted systems obviously are not a good choice.

2. Ground-mounted: Often mounted on poles on on-site vacant land. Ground-mounted solar arrays can be fixed mounted, single-axis tracking or dual-axis tracking. Tracking systems allow the panels to be directed directly toward the sun as the sun moves during the day. As a result, such systems generate more electricity per installed kilowatt of panels but tend to cost more and, due to the reliance on moving parts, create the potential for maintenance issues in the future. For County projects less than 50 kilowatts in size, fixed systems probably make the most sense. Vandalism is a concern for ground-mounted systems in remote areas. When located in

certain areas (along busy roads or highways), ground-mounted systems can offer significant public visibility.

3. Solar Carports (PV Parking Lots): The PV panels serve as the roof of the simple parking structure and are becoming increasingly popular for larger systems (see photo on pg. 6). The City of Santa Fe is pursuing a PV parking lot at the Genoveva Chavez Community Center. They provide a vehicle shading benefit and are very visible, thus offering a tangible "we support solar" statement to the general public. Options exist to include electric vehicle charging stations. Simple, inexpensive PV parking lot structures are generally not designed to be completely rain proof. Aesthetics can be an issue for PV parking lots for certain facilities and locations, potentially necessitating visual design improvements that involve additional costs. Depending on the size of the system, simple solar carport structures can add about $1000 or more per installed kW of PV capacity.

Ground-mounted and PV parking lots systems obviously avoid the roof condition issues associated with roof-mounted systems.

PV System Solar Generation and Costs

For fixed-mounted (i.e. non-tracking) PV systems, one kilowatt (kW) of DC installed capacity generates about 1500-1800 kilowatt-hours (kWh) of electricity (alternating current - ac) per year. Depending on the type of solar panel (poly- vs. monocrystalline), electric generation decreases by 0.5-1%/year as the panels degrade over time.

For smaller PV projects (5-30 kW), costs are in the $3800-5000/kw range for roof and ground-mounted systems. If a simple, solar carport structure is desired, costs can increase to $4800-6000/kW. Long distances from the solar system to the electric service/meter (requiring the need for the trenching and burying conduit) and the condition of the electric service (potentially requiring upgrading) can result in project costs in the upper range or more.

Only slight economies of scale (i.e. lower installed cost per kw for a larger project) are realized for projects in the 10-50 kW range. In short, the cost-benefit pay-back does not change appreciably for a 10kW vs. a 50 kW project. Cost installation economies of scale, however, improve for projects in excess of 100kW.

Most solar installers include a 10 year comprehensive warranty.

PV System Financial Incentives

Upfront Installation Incentives

The County cannot take advantage of the 30% federal and 10% state income tax credits that are available to commercial businesses and private citizens. Solar systems are exempt from state GRT.

Production-based Incentives:

- Net Metering: PNM and the three rural electric cooperatives that provide electricity in Santa Fe County (Jemez Mountains, Central NM, and Mora-San Miguel) are all required by PRC rule to provide net metering. Net metering means that the electric utility compensates the solar system owner at the same cents/kWh rate as what they charge for their power. The electric meter "nets out" solar generation from a customer's electric usage. The net metering benefit generally is only in effect up to the amount of the customer's electric usage. Thus, maximizing the net metering benefit requires not oversizing the solar system such that it becomes a net excess solar electric power generator. The current utility electric rate for the County's smaller facilities is approximately 11-13 cents/kWh, although it varies by utility and the rate class of the specific customer account. As utility rates increase over time, the net metering financial benefit (in the form of foregone or reduced utility bills) also increases. See the financial analyses spreadsheet at the end of this document.

- Renewable Energy Certificate (REC) Payments: As part of state law and PRC rule, PNM is also required to pay this additional production-based incentive – currently 4-5 cents/kWh for systems less than 100 kW and 2 cents/kWh for the larger systems. The REC payment contract is for 8 years. The electric coops do not have REC incentive payments.

Power Purchase Agreement (PPA) Project Structure: A PPA is where the solar project is owned by a third party (e.g. solar developer) and the County purchases the power on a contractually-agreed cents/kWh basis for a certain period of time. This allows the solar developer to take advantage of federal income tax and accelerated depreciation incentives and pass those benefits along to the County in the form of a lower PPA price. PPA's are generally viable only for larger PV projects (e.g. >100 kW). PPA arrangements can include an "option to buy" the solar system provision at some point in the future. Staff has begun an initial investigation of pursuing such an option for the Adult Detention Facility and the Public Safety Complex.

System Sizing Considerations

The issue of what is an "optimal size" for a solar PV project at a given County facility has been raised. In short, there really isn't an optimal size for a PV project, save for ensuring that the project does not generate more electricity, over the course of a year, than the facility's electric usage (as noted under the net metering discussion). In short, the cost-effectiveness and "pay back period" are essentially the same for, say, a 10 kW system vs. a 40 kW system.

Choosing to have a solar facility generate 20%, 50%, or 100% of a County facility's electric usage is, therefore, a policy and budgetary decision – not really one of optimization. In addition, the following factors can limit a PV project's size: size of usable (condition and orientation of pitch) roof area, availability of on-site vacant land for a ground mount system, size of parking lot, and shading (from buildings or trees) issues.

County energy staff recommends that solar systems not be sized to generate more than 80% of historic "load" (electrical usage) to allow for future energy efficiency improvements that will reduce electric usage at the facility.

Pay-Back Analyses

A 25 year payback analyses spread sheet is on page 7 for a hypothetical 10 solar PV projects, each 10 kW in size, in PNM's service territory. The analysis indicates that the systems are "paid off" in utility bill savings and incentives in year 15. For those projects in rural electric coops' (e.g. Jemez Mountains and Central NM) service territory, the payback period is closer to 16 years due to the absence of REC incentive payments. With some minor component replacement expenses, however, the PV systems can be expected to continue generate electricity for another 15 years or more, providing nearly free electricity during that period. Solar systems, therefore, offer a solid return on investment when evaluating them over the long-term.

Impact of Utility Retail Cost of Electricity on Payback Analyses

Solar systems reduce the amount of electricity a customer must purchase from the utility. Therefore, the utility's electric rate directly affects the payback analyses.

Electric rates are specific to each utility and also vary within a utility depending on the "rate schedule" the electric service falls under. The following are a few existing electric rates for utilities in the County.

- PNM, Rate Schedule 2A "Small Power Service" (serving the majority of the smaller County's facilities such as fire stations, community centers, etc.) – Retail Rate: approximately 11.3 cents/kWh.
- PNM, Rate Schedule 3B "General Power Service – Time of Use Rate" (larger facilities such as the Public Safety Complex and ADF). This rate has both a seasonal (higher rates in the summer) and time of day ("on-peak" is 8 a.m. – 8 p.m.) component to it. The on-peak rate is approximately 8.2 cents/kWh and the off-peak rate 4.7 cents/kWh.
- Jemez Mountains Electric Coop, Rate 2, "Small Commercial Service" (e.g. fire stations), 11.7 cents/kWh.
- Central NM Electric Coop, Rate 1, "General Service" (fire stations), 13.2 cents/kWh.

In short, the higher the utility electric rate, the faster the payback. Note that the Adult Detention Facility/Public Safety Complex has an average on/off-peak rate of only about 6.5 cents/kWh, suggesting a much longer payback period than the County's smaller facilities with rates in the 11.3-13.2 cents/kWh range.

Future utility rate increases, of course, affect (i.e. shorten) the payback period. While future rate increases are unknown, to ignore their likelihood would be an oversight. For the 25 year payback analyses (pg. 7), staff assumed a 4%/year rate increase.

<u>PNM's REC Payment:</u> Further reduces the payback period by a couple of years.

C.O'Hare
15 January 2014

Solar Carport

Financial Analysis for 10, 10 kW Solar PV Systems in PNM's Service Territory

PV System Cost	$450,000			
Year 1 energy production	180,000	kWh	0.5% annual	reduction
REC payment Rate	$0.040	for 8 years		
Initial PNM kWh cost	$0.113	wtd avg.	Rate Sched	2A
PNM Utility Rate Escalation	4.00%	per year		

Year	Annual Energy Output (kWh)	PNM kWh Cost	Annual Value of PV Production	Annual PNM REC Revenue	Total Annual PV Investment Revenue	Cumulative Revenue* from PV Investment
0						
1	180,000	$0.113	$20,340	$7,200	$27,540	$27,540
2	179,100	$0.118	$21,048	$7,164	$28,212	$55,752
3	178,200	$0.122	$21,780	$7,128	$28,908	$84,660
4	177,300	$0.127	$22,537	$7,092	$29,629	$114,288
5	176,400	$0.132	$23,319	$7,056	$30,375	$144,663
6	175,500	$0.137	$24,128	$7,020	$31,148	$175,811
7	174,600	$0.143	$24,964	$6,984	$31,948	$207,760
8	173,700	$0.149	$25,829	$6,948	$32,777	$240,537
9	172,800	$0.155	$26,723		$26,723	$267,260
10	171,900	$0.161	$27,647		$27,647	$294,908
11	171,000	$0.167	$28,603		$28,603	$323,510
12	170,100	$0.174	$29,590		$29,590	$353,101
13	169,200	$0.181	$30,611		$30,611	$383,712
14	168,300	$0.188	$31,666		$31,666	$415,378
15	167,400	$0.196	$32,757		$32,757	$448,135
16	166,500	$0.204	$33,884		$33,884	$482,019
17	165,600	$0.212	$35,049		$35,049	$517,067
18	164,700	$0.220	$36,253		$36,253	$553,320
19	163,800	$0.229	$37,497		$37,497	$590,816
20	162,900	$0.238	$38,782		$38,782	$629,599
21	162,000	$0.248	$40,111		$40,111	$669,709
22	161,100	$0.258	$41,483		$41,483	$711,193
23	160,200	$0.268	$42,902		$42,902	$754,094
24	159,300	$0.279	$44,367		$44,367	$798,462
25	158,400	$0.290	$45,881		$45,881	$844,343

*In this context, "revenue" is the effective dollar amount of reduction to the electric bill.

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

To: Santa Fe County Board of County Commissioners

From: Teresa C. Martinez, Finance Division Director

Via: Katherine Miller, County Manager

Date: December 30, 2013

Re: **Board Discussion and Possible Approval Of Increasing The Salary Limits For Elected County Officials. (Finance/Teresa Martinez)**

BACKGROUND

During the FY 2013 legislative session, a bill relating to counties to specifically increase the salary limits for elected county officials was approved.

ISSUE

The bill removed certain classifications of counties, increased valuation criteria for class C counties and increased the maximum salary allowance for commissioners, treasurers, assessors, sheriffs, county clerks and probate judges by 15 percent. The intention of the maximum increases is to help compensate qualified individuals to serve in an elected official's capacity. Such an increase is at the discretion of the county commission. The increase will take effect on the first day of the term of an elected county official who takes office after the date that the salary increase is approved.

SUMMARY

The Finance Department is requesting consideration and approval by the Board of County Commissioners to increase the maximum salary allowance for commissioners, treasurers, assessors, sheriffs, county clerks and probate judges by 15 percent.

SANTA FE COUNTY
FISCAL IMPACT REPORT (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed ordinance or resolution as to its direct impact upon the County's operating budget and is intended for use by staff of the Human Resources and Finance Divisions, the County Manager and the governing body of Santa Fe County. Ordinances/resolutions with a fiscal impact must be reviewed by the Finance Division Director or the Budget Administrator. Ordinances/resolutions with proposed staffing increases must be reviewed and approved by the Human Resources staff and approved by the County Manager before presentation to the Board of County Commissioners (BCC).
<u>Please refer to the instructions on how to complete this form.</u>

Section A. General Information

☐ Ordinance ☐ Resolution ☑ Other
A single FIR may be used for related ordinances and/or resolutions.

Short Title(s):	Increase in salary limits of elected officials
Reviewing Division(s):	County Manager's Office/Finance Division
Person Completing FIR:	Teresa C. Martinez
Date: 12/31/2013	Phone: (505) 995-2780

Section B. Summary

Briefly explain the purpose and major provisions of the ordinance/resolution.

<u>During the FY2013 Legislative Session, a bill (334/aHHGAC) was approved allowing for an increase in the salary limits of elected officials. The bill increases the maximum salary allowance for commissioners, treasurers, assessors, sheriffs, county clerks, and probate judges by 15 percent. Such an increase is at the discretion of the Board of County Commissioners.</u>

Section C. Fiscal Impact

NOTE: Financial information on this FIR does not directly translate into a Santa Fe County budget increase.

a. The item must be presented to the Finance Division for analysis and recommendation as a potential request to increase the existing budget for the county.
b. Detailed budget information must be included, such as funding source, amounts and justification.
c. Detailed salary and benefit for new full-time equivalents (FTE's) must be included. The request must be approved by the staff of the Human Resources Division for each new FTE

request.

1. Projected Expenditures:

a. Indicate Fiscal Year(s) affected – the current fiscal year and the following three fiscal years, where applicable
b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
c. Indicate: "R" if recurring annual costs
Indicate: "NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
d. Attach additional projection schedules if four years does not adequately project revenue and costs patterns
e. Costs may be netted or show as an offset if some cost savings are projected (please explain further in Section 3 Narrative)
f. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.
g. This form allows for information related to two fiscal years. Please note *info* relation to other fiscal years in narrative 3.

Exp. Classification	FY 2014	"A" or "N"	"R" or "NR"	FY 2015	"A" or "N"	"R" or "NR"	Funds affected
Salary and Benefits	$0	N	R	$23,287.60	N	R	General
Maintenance							Select or type...
Other Operating							Select or type...
Contractual Services							Select or type...
Capital Requirements							Select or type...
Total	$0			$23,287....			

*Any indication that additional staffing would be required must be reviewed and approved in advance by the County Manager by attached memo before release of FIR to the Board of County Commissioners (BCC).
** For salary and benefit information contact the Finance Division, or attach the New FTE Request form to provide necessary information.

2. Revenue Sources:
a. To indicate new revenues and/or
b. Required for costs for which new expenditure budget is proposed above in item 1.
c. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.

Type of	FY 2014	"R"	FY 2015	"R" or	Funds Affected

Revenue		or "NR"		"NR"	
General Fund	$0	R	$23,287.60	R	General
				Sel	Select or type...
Total	$0		$23,287.6		

3. Expenditure/Revenue Narrative:

Explain expenditures, grant match requirements, justify salary and benefit costs for new FTE request, detail capital and operating uses, etc. Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. (Attach supplemental page, if necessary). Also, provide expanded information for fiscal year three and four impact for both revenue and expenditures.

The increase in salaries for each elected office will cause an increase in general fund support beginning in FY 2015. In FY 2014 there is no impact in that the salary increases may only take effect at the start of a new term. The following reflects the additional annual impact per fiscal year:

FY 2015	$23,288.00	w/benefits (6 months calculation)
FY 2016	$46,575.00	w/benefits (contemplates a full year)
FY 2017	$69,647.00	w/benefits (all increases included)

The amounts listed above represent the annual increase that would affect each fiscal year if the salary limits for all elected officials at the County increased. These increases would affect the general fund directly.

In FY 2015, if approved, increases will impact the Commissioners of districts 1 and 3, the assessor, the probate judge and the sheriff. Commission districts 2, 4 and 5, the treasurer and the county clerk increases will take effect in FY 2017 if so approved.

Section D. General Narrative

1. Conflicts:

Does this proposed ordinance/resolution duplicate/conflict with/companion to/relate to any County code, approved ordinance or resolution, other adopted policies and legislation? Include details of county adopted ordinances/resolutions and dates. Summarize the relationships, conflicts or overlaps.

N/A

2. Consequences of Not Enacting This Ordinance/Resolution:

Are there consequences of not enacting this ordinance/resolution? If so, describe.

If the increases are not approved by the BCC, the elected officials will not receive an increase. The last statutory increase in salaries occurred in 2006 and was also a 15% increase. The intent of the legislation was to increase salaries to assist in the recruitment and compensation of qualified individuals to serve in an elected official's capacity.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

N/A

4. Community Impact:

Briefly describe the major positive or negative effects the ordinance/resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

N/A

File Attachment | File Attachment | File Attachment

1/3/2014

X Teresa C. Martinez

Signed by: Teresa Martinez

Signed by Teresa Martinez View details
on Friday, January 03, 2014 1:56 PM (Mountain Standard Time)

NO PACKET MATERIAL FOR THIS ITEM

NO PACKET MATERIAL FOR THIS ITEM

MEMORANDUM

DATE: January 21, 2014

TO: Board of County Commissioners

FROM: Julia Valdez, Constituent Services Liaison, Manager's Office

VIA: Katherine Miller, County Manager

ITEM AND ISSUE: BCC Meeting January 28, 2014

An Ordinance Establishing A Living Wage Within Santa Fe County; Specifying Employers Subject To The Living Wage; Making Findings As To The Necessity Of A Living Wage; Establishing A Prohibition On Retaliation For Reporting Violations Of The Living Wage; Providing For Remedies And Penalties; Specifying Enforcement Officers; Providing The Process To Be Employed Upon Complaints Of Violation; Establishing Severability; And Providing An Effective Date. First Public Hearing (Commissioners Stefanics and Chavez)

BACKGROUND

There is a large overlap between the poverty population and the people who would be benefited by the minimum wage increase.

Santa Fe County supports low income residents through taxpayer-funded social services – i.e., healthcare, public housing, affordable housing, behavioral health services, emergency services and other social services.

Creating a minimum wage in the unincorporated area of the county at $10.50 could help lift residents of Santa Fe County out of poverty and reduce the ranks of our poor.

Section 1 declares the authority for Santa Fe County to enact this ordinance.

Section 2 establishes the boundaries and identifies who is affected and/or not affected by this ordinance.

Section 3 identifies the findings as to why this ordinance is brought forth.

Section 4 outlines the requirements of paying a minimum wage. It establishes rates and yearly adjustments.

Section 5 ensures there is no retaliation or circumvention of this ordinance.

Section 6 defines penalties and remedies of violation of this ordinance.

Section 7 claims this ordinance not to be in conflict with the New Mexico Constitution.

Section 8 states that if any provision or part of the requirement is held to be invalid by legal jurisdiction, the remainder of the ordinance will continue to be enforced.

Section 9 businesses in Santa Fe County must post that it is compliant with this ordinance.

Section 10 outlines the procedure for violations.

Section 11 states the effective date of this ordinance.

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

ORDINANCE NO. 2014-____

AN ORDINANCE ESTABLISHING A LIVING WAGE WITHIN SANTA FE COUNTY; SPECIFYING EMPLOYERS SUBJECT TO THE LIVING WAGE; MAKING FINDINGS AS TO THE NECESSITY OF A LIVING WAGE; ESTABLISHING A PROHIBITION ON RETALIATION FOR REPORTING VIOLATIONS OF THE LIVING WAGE; PROVIDING FOR REMEDIES AND PENALTIES; SPECIFYING ENFORCEMENT OFFICERS; PROVIDING THE PROCESS TO BE EMPLOYED UPON COMPLAINTS OF VIOLATION; ESTABLISHING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

SECTION 1 – AUTHORITY.

This Ordinance is enacted pursuant to the authority in NMSA 1978, § 4-37-1 (1975) (as amended) to make and publish any ordinance to discharge the powers not inconsistent with statutory or constitutional limitations placed on counties and to exercise powers that are necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the County's inhabitants, and NMSA 1978, § 4-37-3 (1993) (as amended) which permits prosecution of violations of County ordinances in any court of competent jurisdiction.

SECTION 2 – APPLICABILITY.

A. This Ordinance shall be effective within the exterior unincorporated boundaries of Santa Fe County.

B. Santa Fe County government shall pay a living wage as established by this Ordinance to all permanent workers employed by the County. However, the provisions of this sub-section are expressly limited by and subject to union negotiations, as appropriate.

C. As of the effective date of this ordinance, contracts entered into by Santa Fe County government for services, including construction services, shall require the contractor to pay the living wage established by this Ordinance if the total contract amount of the contract is, or by way of amendment becomes, equal to or greater than thirty thousand dollars ($30,000).

D. Businesses who undertake an economic development project and execute a project participation agreement with Santa Fe County shall pay the living wage established by this Ordinance for the duration of the project.

E. Businesses required by Santa Fe County Ordinance to have a business license from Santa Fe County shall pay the living wage established by this Ordinance.

F. For purposes of identifying who shall be paid the living wage established by this Ordinance, all individuals employed by or providing work to an employer identified in subsections A through E above, whether on a part-time, full-time or temporary basis, shall be considered to be an employee for purposes of this Ordinance. Also considered an employee for purposes of this Ordinance are contingent or contracted workers, and persons working through a temporary service, staffing or employment agency or similar entity. However, the following shall not be considered employees entitled to the living wage established by this Ordinance:

(1) An individual employed by the United States, the state or any political subdivision of the state other than Santa Fe County;

(2) An individual engaged in the activities of an educational; charitable, religious or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis;

~~(3) Students regularly enrolled in primary or secondary schools working after school hours or on vacation;~~

(3~~4~~) Apprentices in a registered apprentice program recognized by the State of New Mexico Apprenticeship and Training Committee or the Federal Bureau of Apprenticeship and Training.~~otherwise provided by law~~ ~~(a~~Apprentices are those bound to serve another for a specified time in order to learn some art, trade, profession, or business and must qualify as an apprentice under a federal or state approved apprenticeship program~~)~~;
~~11.1.2.19 NMAC which requires among other things a certification showing the registration status of the apprentice and a written apprenticeship agreement);~~

(4~~5~~) G.I. bill trainees while under training;

(5~~6~~) Temporary employees of an education, charitable or religious youth camp or retreat where room and board is provided to the employee, or if a day camp, where board only is provided. To qualify under this exemption the employer ~~Seasonal employees of an employer obtaining and~~ must hold~~ing~~ a valid certificate issued annually by the director of the labor relations division of the workforce solutions department of the State of New Mexico pertaining to exemption of seasonal employees;

(6~~7~~) Any employee that is the parent, spouse, child or other member of the employer's immediate family; for purposes of this subsection, the employer shall include the principal stockholder of a family corporation;

(7~~8~~) Interns working for a business for academic credit in connection with a course of study at an accredited school, college or university;

(~~9~~8) Persons working for a business in connection with a court-ordered community service program; and

~~(10) Any person who has received a certificate from the state labor commissioner pursuant to NMSA 1978, Section 50-4-23 (preventing curtailment of opportunities for employment of persons with a disability).~~

SECTION 3 – FINDINGS.

A. The Board of County Commissioners (hereinafter referred to as "the Board") finds that the public welfare, health, safety and prosperity of citizens of Santa Fe County requires that citizens be paid a living wage sufficient to ensure a decent and healthy life;

B. The Board finds that establishing a mandatory minimum hourly wage will promote the public welfare, health, safety and prosperity by ensuring that citizens can better support and care for their families through their own efforts;

C. According to the United States Census Bureau:

(1) The average earnings per capita in Santa Fe County is twenty-three percent (23%) below the national average and the cost of living is eighteen percent (18%) above the national average; and

(2) Fifteen and six-tenths percent (15.6%) of residents in Santa Fe County lived below the poverty level between 2007 and 2011;

D. The Board finds that housing costs in Santa Fe County are higher than in most other parts of New Mexico, and low income workers spend a disproportionate percentage of their income sheltering themselves and their families;

E. The Board finds that when businesses do not pay adequate wages, the community bears the cost in the form of increased demand for taxpayer-funded social services;

F. Santa Fe County developed an affordable housing program that requires developers to include affordable homes in each subdivision, down payment assistance, assistance with roof repairs and other housing-related benefits;

G. The Board finds that it has expended public funds to provide summer programs for children residing in the County and to fund medical care for indigent residents; and

H. The Board finds that it is in the public interest to require that employers benefiting from the opportunity to do business in Santa Fe County pay employees a living wage that is adequate to meet the basic needs of living in Santa Fe County.

SECTION 4 – LIVING WAGE PAYMENT REQUIREMENTS.

A. The living wage paid to an employee shall be $10.50 per hour. Beginning January 1, 2015, and each January 1 thereafter, the minimum wage shall be adjusted upward based on the percentage increase, if any, as of August of the immediately preceding year over the level as of August of the previous year, of the Consumer Price Index for the Western Region for Urban Wage Earners and Clerical Workers, U.S. City Average for All items. Santa Fe County shall post the living wage on the Santa Fe County website after this Ordinance becomes effective and prior to each adjustment of the living wage.

B. An employee who customarily and regularly receives more than thirty dollars ($30.00) a month in tips shall be paid at least a base wage of five dollars and sixteen cents ($5.~~16~~25). The employer may consider tips and commissions as part of wages, but the tips and commissions combined with the employer's cash wage shall not equal less than the living wage as provided in subsection A of this section. In the event an employee earns insufficient tips combined with the base wage to receive a cash wage at least equal to the living wage, the employer shall make up the difference to ensure the employee receives a cash wage equal to the living wage. All tips received by such employee shall be retained by the employee, except that nothing in this section shall prohibit the pooling of tips among employees. Where employees practice tip pooling or splitting (as where staff give a portion of their tips to bus persons), only the amount actually retained by each employee shall be considered part of that employee's wages. Beginning January 1, 2015, and each January 1 thereafter, the base wage shall be adjusted upward based on the percentage increase, if any, as of August of the immediately preceding year over the level as of August of the previous year, of the Consumer Price Index for the Western Region for Urban Wage Earners and Clerical Workers, U.S. City Average for All items. Santa Fe County shall post the base wage on the Santa Fe County website after this Ordinance becomes effective and prior to each adjustment of the base wage.

SECTION 5 - PROHIBITION AGAINST RETALIATION AND CIRCUMVENTION.

It shall be unlawful for any employer or employer's agent or representative to discharge, demote, deny promotion to or in any way discriminate against an employee in the terms or conditions of employment in retaliation for the person asserting a claim or right pursuant to this Ordinance or assisting another person to do so.

SECTION 6 – REMEDIES AND PENALTIES.

A. A person violating this Ordinance shall be guilty of a misdemeanor and, upon conviction, may be punished in accordance with NMSA 1978, Section 4-37-3 (1975)(as amended). A person violating any of the requirements of this Ordinance shall be guilty of a separate offense for each day or portion thereof and for each worker or person as to which any such violation has occurred. This Ordinance may be enforced by a duly authorized code enforcement officer.

B. The County, any individual aggrieved by a violation of this Ordinance, or any entity whose members have been aggrieved by a violation of this Ordinance, may bring a civil action in a court of competent jurisdiction to restrain, correct, abate or remedy any violation of this Ordinance and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, reinstatement, the payment of any wages due, an additional amount as liquidated damages equal to twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs.

~~B~~C. The remedies provided in this Ordinance are not exclusive, and nothing in this Ordinance shall preclude any person from seeking any other remedies, penalties, or relief provided by law.

SECTION 7 – PROSPECTIVE APPLICATION.

Nothing in this Ordinance shall be deemed to nor shall be applied in such a manner so as to have a constitutionally prohibited effect as an *ex post facto* law or impairment of an existing contract within the meaning of New Mexico Constitution, Article II, §19.

SECTION 8 – SEVERABILITY.

The requirements and provisions of this Ordinance are severable. In the event that any requirement, provision, part, subpart or clause of this Ordinance, or the application thereof to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, it is the intent of the Board that the remainder of the Ordinance be enforced to the maximum extent possible consistent with the objective of ensuring a living wage.

SECTION 9 – NOTICE POSTING.

Any holder of a Santa Fe County business license shall, as a condition of obtaining or holding a Santa Fe County business license, post and display in a prominent location next to its business license a notice, in English and Spanish, that the business is in compliance with the provisions of this Ordinance and shall include the text of Sections 2 and 4 of this Ordinance. Failure to comply with this Section shall be construed as a violation of this Ordinance and, in addition, shall be considered grounds for suspension, revocation, or termination of the business license.

SECTION 10 – PROCEDURE.

Violations of this Ordinance shall be investigated and prosecuted consistent with the process employed concerning alleged violations of the Sustainable Land Development Code, as amended. A complaint form for use in reporting violations of this Ordinance shall be available on the County webpage for use in reporting violations.

SECTION 11 – EFFECTIVE DATE.

This Ordinance shall become effective sixty (60) days after its adoption by the Board.

PASSED, APPROVED AND ADOPTED this ___ day of ____, 2014.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By:______________________________
Daniel W. Mayfield, Chair

ATTEST:

____
Geraldine Salazar, Santa Fe County Clerk

APPROVED AS TO FORM:

____
Stephen C. Ross, County Attorney

SANTA FE COUNTY
FISCAL IMPACT REPORT (FIR)

This Fiscal impact Report (FIR) shall be completed for each proposed ordinance or resolution as to its direct impact upon the County's operating budget and is intended for use by staff of the Human Resources and Finance Divisions, the County Manager and the governing body of Santa Fe County. Ordinances/resolutions with a fiscal impact must be reviewed by the Finance Division Director or the Budget Administrator. Ordinances/resolutions with proposed staffing increases must be reviewed and approved by the Human Resources staff and approved by the County Manager before presentation to the Board of County Commissioners (BCC).
Please refer to the instructions on how to complete this form.

Section A. General Information

☑ Ordinance ☐ Resolution ☐ Other
A single FIR may be used for related ordinances and/or resolutions.

Short Title(s):	An Ordinance Establishing a Living Wage Within Santa Fe
Reviewing Division(s):	Growth Management/Finance
Person Completing FIR:	Julia Valdez
Date: 1/6/2014	Phone: 986-6202

Section B. Summary

Briefly explain the purpose and major provisions of the ordinance/resolution.
This ordinance establishes a $10.50 living wage 60 days after enactment.
Beginning January 1, 2015 and each January 1 thereafter, the minimum wage will be adjusted upward based on the percentage increase of the Consumer Price Index.

Section C. Fiscal Impact

NOTE: Financial Information on this FIR does not directly translate into a Santa Fe County budget increase.

a. The item must be presented to the Finance Division for analysis and recommendation as a potential request to increase the existing budget for the county.
b. Detailed budget information must be included, such as funding source, amounts and justification.

c. Detailed salary and benefit for new full-time equivalents (FTE's) must be included. The request must be approved by the staff of the Human Resources Division for each new FTE request.

1. Projected Expenditures:

a. Indicate Fiscal Year(s) affected – the current fiscal year and the following three fiscal years, where applicable
b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
c. Indicate: "R" if recurring annual costs
Indicate: "NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
d. Attach additional projection schedules if four years does not adequately project revenue and costs patterns
e. Costs may be netted or show as an offset if some cost savings are projected (please explain further in Section 3 Narrative)
f. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.
g. This form allows for information related to two fiscal years. Please note *info* relation to other fiscal years in narrative 3.

Exp. Classification	FY 14	"A" or "N"	"R" or "NR"	FY 15	"A" or "N"	"R" or "NR"	Funds affected
Salary and Benefits				$52,416	N	R	General
Maintenance							Select or type...
Other Operating				$2,000	N	NR	General
Contractual Services							Select or type...
Capital Requirements				$28,735	N	NR	General
Total	$0			$83,151			

*Any indication that additional staffing would be required must be reviewed and approved in advance by the County Manager by attached memo before release of FIR to the Board of County Commissioners (BCC).
** For salary and benefit information contact the Finance Division, or attach the New FTE Request form to provide necessary information.

2. Revenue Sources:

a. To indicate new revenues and/or
b. Required for costs for which new expenditure budget is proposed above in item 1.
c. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.

Type of Revenue	*FY 14*	*"R" or "NR"*	*FY 15*	*"R" or "NR"*	*Funds Affected*
				Select..	Select or type...
Total	$0		$0		

3. Expenditure/Revenue Narrative:

Explain expenditures, grant match requirements, justify salary and benefit costs for new FTE request, detail capital and operating uses, etc. Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. (Attach supplemental page, if necessary). Also, provide expanded information for fiscal year three and four impact for both revenue and expenditures.

If approved, this ordinance will require the approval of a new FTE by the board of county commissioners. The FTE classification is that of a Code Enforcement Officer. The new requirement will increase the support required of the General Fund annually by $52,416. One-time costs include training, laptop and a vehicle totaling $27,685.

Section D. General Narrative

1. Conflicts:

Does this proposed ordinance/resolution duplicate/conflict with/companion to/relate to any County code, approved ordinance or resolution, other adopted policies and legislation? Include details of county adopted ordinances/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None

2. Consequences of Not Enacting This Ordinance/Resolution:

Are there consequences of not enacting this ordinance/resolution? If so, describe.

Establishing a mandatory minimum hourly wage will promote the public welfare, health, safety and prosperity by ensuring that citizens can better support and care for their families through their own efforts.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None. This is a new ordinance.

4. Community Impact:

Briefly describe the major positive or negative effects the ordinance/resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

According to the United States Census Bureau:
The average earnings per capita in Santa Fe County is twenty-three percent (23%) below the national average and the cost of living is eighteen percent (18%) above the national average;
Fifteen and six-tenths percent (15.6%) of residents in Santa Fe County lived below the poverty level between 2007 and 2011.
Housing costs in Santa Fe County are higher than in most other parts of New Mexico, and low income workers spend a disproportionate percentage of their income sheltering themselves and their families.
It is in the public interest to require that employers benefiting from the opportunity to do business in Santa Fe County pay employees a living wage that is adequate to meet the basic needs of living in Santa Fe County. Creating a minimum wage in the unincorporated area of the county at $10.50 could help lift residents of Santa Fe County out of poverty and reduce the ranks of our poor.

No file attached No file attached No file attached

Valid signature - Signed by Julia Valdez
Tuesday, January 07, 2014 10:54:00 AM

Detailed Information Regarding New FTE / Staff Request

Classification: Code Enforcement Officer

Range: 16 **Hourly Range:** 13.9038 - 20.8557

Salary Hourly $18 Annual $37,440

Hours in a fiscal year used to calculate annual salary: Regular / Corrections / RECC 2080 hours
Fire 2312 hours

Benefits Percentage 40 % Annual $14,976

Percentages used to calculate benefits: 40% Regular / Corrections / RECC
50% Fire

Other Associated Costs:

	Initial Cost	Recurring Operational Costs
Work station:		
Computer:		
Laptop:	$823	
Cell Phone:	$100	$600
Vehicle:	$26,712	$1,000
Uniform:	$1,100	
Other:		
TOTAL	$52,416	1600.

Click here to sign this section

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: *January 21, 2014*

TO: *Board of County Commissioners*

VIA: *Katherine Miller, County Manager*

FROM: *Julia Valdez and Chris M. Barela, Constituent Service Liaisons*

RE: *AMENDING AND RESTATING ORDINANCE 2002-08, AN ORDINANCE GOVERNING TOBACCO PRODUCTS PLACEMENT, DISTRIBUTION, DISPLAY, AND SALES AND ESTABLIGHING PENALTIES FOR VIOLATION,* ***TO ENSURE CONFORMITY WITH STATE LAW, TO REGULATE E-CIGARETTE SALES TO MINORS AND TO INSERT A SEVERABILITY CLAUSE***

Board of County Commission meeting January 28, 2014

BACKGROUND AND SUMMARY:

Electronic nicotine delivery systems or, e-cigarettes, are battery-powered heating elements that are designed to deliver nicotine in the form of a vapor. E-cigarette cartridges are available in a variety of flavors such as bubblegum, chocolate and mint that appeal to our youth. They are seen as gateway products to tobacco abuse and nicotine addiction.

The Centers for Disease Control and Prevention released data that shows the percentage of middle and high school students that tried e-cigarettes more than doubled between 2011 and 2012. 76% of young people who currently use e-cigarettes may lead to smoking real cigarettes.

Minors under 18 years of age are already prohibited from buying cigarettes and other tobacco products. This ordinance requests and urges that New Mexico State Legislature enact legislation that prohibits sales of e-cigarettes to minors.

REQUEST ACTION:

Commissioners Liz Stefanics and Robert A. Anaya respectfully request that the Board of Santa Fe County Commissioners Authorize to Publish Title and General Summary of Ordinance 2014-_____, Amending and Restating Ordinance 2002-08 (An Ordinance Governing Tobacco Products Placement, Distribution, Display, and Sales and Establishing Penalties for Violation) To Ensure Conformity with State Law, To Regulate E-Cigarette Sales to Minors and to insert a Severability Clause.

SANTA FE COUNTY

ORDINANCE NO. 2014-___

AMENDING AND RESTATING ORDINANCE 2002-08.
AN ORDINANCE GOVERNING TOBACCO PRODUCTS PLACEMENT, DISTRIBUTION, DISPLAY, AND SALES AND ESTABLISHING PENALTIES FOR VIOLATION, TO ENSURE CONFORMITY WITH STATE LAW, TO REGULATE E-CIGARETTE SALES TO MINORS AND TO INSERT A SEVERABILITY CLAUSE

WHEREAS, approximately 434,000 Americans die each year of diseases caused by cigarette smoking;

WHEREAS, the Surgeon General of the Public Health Service has determined that smoking is the leading cause of preventable death in this country;

WHEREAS, the Surgeon General, the U.S. Department of Health and Human Services, and the Institute of Medicine have concluded that youth access to tobacco products, especially illegal tobacco sales to minors by retail outlets, is a major contributing factor to tobacco ~~inflation,~~ use and addiction among children and adolescents;

WHEREAS, nicotine in tobacco has been found by the Surgeon General's report entitled "The Health Consequences of Smoking: Nicotine Addiction" to be a powerfully addictive drug, and it is therefore important to prevent young people from using nicotine;

WHEREAS, most adults who smoke wish to quit, a majority of current adult smokers have tried to quit without success, and one-half of all teenagers who have been smoking for five years or more have made at least one serious but unsuccessful attempt to quit;

WHEREAS, every day more than 3,000 minors begin smoking: one-half of smokers begin before the age of 18 and 90 percent begin before the age of 21;

WHEREAS, one-third of New Mexico students have smoked cigarettes in the past month;

WHEREAS, there is a need in Santa Fe County to control ~~tile~~ selling of tobacco products to minors;

WHEREAS, present methods of prohibiting tobacco sales and distribution to minors have proven ineffective in preventing tobacco sales and distribution to minors;

WHEREAS, it is in the public interest to regulate the manner of sale and distribution of tobacco products in order to promote retailer compliance with the Tobacco Products Act prohibiting tobacco sales to minors, and to promote the health, safety and welfare of the residents of Santa Fe County and minors under eighteen (18) years of age;

WHEREAS, the County can enact an ordinance ~~on~~ regulating the sale and distribution of tobacco products intended for smoking pursuant to the authority set forth in the "Tobacco Products Act" , 30-49-1 et seq. NMSA 1978, and in NMSA 1978 Section 4-37-1;

WHEREAS, the County is authorized to enact an ordinance on the sale of tobacco products to persons under the age of eighteen (18) years, and to enforce penalties on those who violate the County Ordinance pursuant and consistent with NMSA 1978, Section 30-49-1, et. seq. NMSA 1978;

WHEREAS, according to the Centers for Disease Control and Prevention the use of e-cigarettes is on the rise among minors, increasing from 4.7% of students who had tried e-cigarettes in 2011 to 10% in 2012, and confirming that 1.78 million middle and high school students nationwide tried e-cigarettes in 2012;

WHEREAS, according to a 2009 report from the U.S. Food and Drug administration, laboratory analysis of e-cigarette products found that they contained nicotine, carcinogens and toxic chemicals;

WHEREAS, the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin;

WHEREAS, use of e-cigarettes, which contain addictive nicotine, can lead minors into a nicotine addiction that may result in their daily use of tobacco; and

WHEREAS, Santa Fe County intends to protect its youth against the possible health consequences of use of e-cigarettes."

NOW, THEREFORE, be it resolved by the Board of County Commissioners of Santa Fe County that:

1. The following definitions shall apply to this Ordinance: ~~A "Tobacco Products Placement Ordinance" is titled and enforceable by the following:~~

~~**Definitions:**~~

a. **E-cigarette**. Products composed of a mouthpiece, heating element, battery and/or electronic circuits that provide a vapor of liquid nicotine to the user, or rely on vaporization of any liquid or solid nicotine, regardless of whether the product is referred to as an e-cigarette or otherwise.

b. **~~P~~*Minor*~~erson~~**. *An individual who is less than eighteen years of age.* ~~Any individual, partnership, firm or corporation and any of the preceding in both the singular and the plural.~~

c. *Self-service display~~merchandising~~*. *A display to which the public has access without the assistance of the seller or the seller's employee.* ~~The open display of tobacco products that the public has access without the intervention of a store employee.~~

~~***Tobacco Product***. Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.~~

~~***Vendor-assisted***. Only a store employee has access to the tobacco products and assists the customer by supplying the product. The customer does not take possession of the product until it is purchased.~~

2. Display Signs.

A person, firm, corporation, partnership or other entity engaged in the sale at retail of tobacco products ~~-~~shall obtain and display signs prominently in the ~~immediate area at each~~ place ~~at~~ whereich tobacco products are sold and where a tobacco product vending machine is located. The signs shall reads as follows: ~~that meets the requirements of this Ordinance.~~

A. A person less than 18 years of age who purchases a tobacco product is subject to a fine of up to $300;

B. A person who sells a tobacco product to a person less than 18 years of age is subject to a fine of up to $300.

~~Provision of signs shall be the responsibility of persons authorized to sell tobacco products under the provisions of this Ordinance.~~

~~The signs shall be in accordance with the state Tobacco Products Act, 30-49-9 NMSA 1978.~~

3. Prohibited sales: Regulations of the Manner of Sale and Distribution of Tobacco Products.

~~Prohibition on Sale or Distribution to Individuals Under the Age ofeighteen (18) and in certain other cases.~~

A. No person shall knowingly sell, offer to sell, barter or give any tobacco product to a minor.~~A person or an employee or agent of that person shall not sell or distribute a tobacco product:~~

~~To any individual that the employer, employee or agent knows is under 18 years of age;~~

B.

No person shall sell, offer to sell or deliver a tobacco product in a form other than an original factory-sealed package.

C. No person shall sell a tobacco produc to a person who is unable to produce an identity card as evidence that the person is eighteen years of age or over, unless the person appears without reasonable doubt to be over the age of eighteen. Any person selling goods at retail or wholesale may refuse to sell tobacco products to any person who is unable to produce an identity card as evidence that the individual is eighteen years of age or over.~~To any individual (other than an individual who appears without reasonable doubt to be over 18 years of age) who does not present a driver's license or other generally accepted means of identification that describes the individual as 18 years of age or older, contains a likeness of the individual and appears on its face to be valid.~~

~~4.~~ ~~Prohibition on~~ Self-Service Tobacco Merchandising.

~~No persons who owns, operates or manages a business where tobacco products are sold, nor any person who sells or offers for sale tobacco products or displays tobacco products for sale, shall store any tobacco product by means of self-service merchandising.~~

No person who owns, operates or manages a business where tobacco products are sold, nor any person who sells or offers for sale tobacco products, shall:

A. ~~s~~Sell, permit to be sold, offer for sale, display for sale, or store any tobacco product by means other than vendor assisted sales;~~.~~

~~A person is exempt from the requirements of this section if both:~~

~~The business where tobacco products are sold prohibits entry of individuals under the age of 18 at all times unless accompanied by an adult; and~~

~~Photographic identification is required from ail individual who appears to be under 27 years of age.~~

~~The sale of tobacco products in any form other than an original factory-wrapped package is prohibited.~~

~~**Prohibition on Maintaining Vending Machines.**~~

B. ~~A person or an employee or agent of that person shall not m~~Maintain any devices that automatically dispenses tobacco products, except that~~-~~

~~T~~tobacco products may be sold ~~at retail through~~by vending machines in the following locations:

i. In locations not held open to the public, including controlled areas within factories, businesses and offices~~only where the machine(s) is in an area not open to the general public, included but not limited to the controlled area of factories, businesses, and offices;~~

ii. In locations in which the vending machine is equipped with a remote-controlled lock-out device or

iii. In age-controlled locations where minors are not permitted unless accompanied by a parent or guardian.

~~In places to which persons under the age of 18 are not permitted access without a parent or guardian; and~~

~~In places where alcoholic beverages are offered for sale or consumption on the premise.~~

C. An owner of a device that violates this provision shall remove said device within three months of the effective date of this Ordinance.

5. Sampling.

It shall be unlawful for any person to engage in distributing free samples of a tobacco product to a person under 18 years of age, except that this provision shall not apply to an individual who provides free samples of tobacco products to a family member or to an acquaintance on private property not held open to the public.

6. Minors.

No person under the age of eighteen (18) years of age shall procure or attempt to procure any tobacco product for his/her own use or for the use by any other minor~~person~~.

~~No person under the age of eighteen (18) years shall present any written, printed, or photostatic or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older that is false for the purpose of procuring or attempting to procure any tobacco product(s).~~ No minor shall present any written, printed or photostatic evidence of age or identity that is false for the purpose of procuring or attempting to procure any tobacco products.

7. Evidence of Age and Identify.

Evidence of the age and identity of the person may be shown by any document that contains a picture of the person issued by a federal, state, county or municipal government, including a motor vehicle driver's license or an identification card issued to a member of the armed forces.

8. E-cigarettes.

All provisions of this Ordinance governing tobacco products shall also govern e-cigarettes.

Penalty.

A. A violation of any of the provisions of this Ordinance by any person over the age of eighteen (18) years shall be a misdemeanor punishable by a fine of up to three hundred ~~one thousand~~ dollars ($~~10~~300) or imprisonment of up to ninty days~~one year~~ or both.

B. A violation of this Ordinance by any person under the age of eighteen (18) years shall be punished by a fine not to exceed one hundred dollars ($100) or forty-eight (48) hours of community service.

10. Severability.

The requirements and provisions of this Ordinance are severable. In the event that any requirement, provision, part, subpart or clause of this Ordinance, or the application thereof to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, it is the intent of the Board that the remainder of the Ordinance be enforced to the maximum extent possible consistent with the objective of preventing the sale of tobacco products and e-cigarettes to minors.

APPROVED, ADOPTED AND PASSED this ____ day of __________, 2014.

BOARD OF COUNTY COMMISSIONERS

____
Daniel Mayfield, Chairperson

ATTEST:

____
Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

____
Stephen C. Ross, County Attorney

Date: Nov 19, 2013; Section: Front Page; Page: 1

Lawmakers concerned about e-cigarettes

▪ *Governor says she would add issue to 2014 agenda*

By Dan Boyd
Journal Capitol Bureau

Electronic cigarettes are drawing the attention of New Mexico lawmakers and could face new regulations during the upcoming 30-day legislative session.

One proposal that will be discussed, and possibly endorsed, this week by an interim legislative panel would ban the sale of so-called "e-cigarettes" to New Mexicans under the age of 18.

"We don't know everything about them, but we know we don't want them in the hands of children," said Rep. Elizabeth Thomson, D-Albuquerque, the co-chair of the interim Tobacco Settlement Revenue Oversight Committee.

A spokesman for Gov. Susana Martinez said she would consider adding the issue to lawmakers' 2014 agenda. The governor has the authority to decide what nonbudgetary topics should be considered by the Legislature during even-numbered years.

"The governor doesn't believe that children should use or have access to tobacco or nicotine," Martinez spokesman Enrique Knell said Monday. "We're certainly willing to explore options around that issue."

Electronic cigarettes are battery-powered devices that allow a vaporized liquid — that often is flavored and includes nicotine — to be inhaled by the user. They are touted by advocates as a safer and cheaper alternative to traditional cigarettes.

Twenty-seven states already have enacted laws banning

See LAWMAKERS on PAGE 3

Date: Nov 19, 2013; Section: News; Page: 3

Lawmakers concerned with e-cigarettes

from **PAGE 1**

their sale to minors, according to the National Conference of State Legislatures. Some states have also prohibited using e-cigarettes indoors or in public places.

In New Mexico, no such restrictions have been put in place on e-cigarettes, which have become increasingly popular in recent years.

With no state laws on the books, the Santa Fe City Council is also considering an ordinance that would make it illegal to sell e-cigarettes, or similar products, to minors.

One Santa Fe vendor of electronic cigarettes has said he thinks that would be a good idea, though he told the Journal such a law should distinguish between nicotine-containing e-cigarettes and those without nicotine.

At the state level, Sen. John Ryan, an Albuquerque Republican, plans to sponsor the bill to bar the sale of e-cigarettes to minors.

Meanwhile, Sen. Cisco McSorley, D-Albuquerque, the other co-chair of the interim tobacco committee, said Monday that other measures dealing with electronic cigarettes should be considered by the Legislature.

One option could be to levy a tax on the product, he said. Traditional tobacco cigarettes are currently taxed in New Mexico at a rate of $1.66 per pack.

"Nicotine has been determined to be a drug that is addictive," McSorley said. "We're going to have medical issues surrounding the use of this."

While the U.S. Food and Drug Administration is expected to issue new guidelines soon on electronic cigarettes, there is debate about how safe they are. A previous USDA analysis turned up carcinogens and toxic chemicals in exhaled e-cigarette vapor.

MEMORANDUM

DATE: January 14, 2014

TO: Board of County Commissioners

VIA: Katherine Miller, County Manager

FROM: Kathy Holian, Santa Fe County Commissioner, District 4

RE: **A Presentation On The Draft Plan, For Planning Santa Fe's Food Future By Pam Roy. (Commissioner Holian)**

Issue:

On the January 28th agenda, under Proclamations and Presentations:

A Presentation on Planning Santa Fe's Food Future, draft plan prepared by the Santa Fe City and County Advisory Council on Food Policy ("Food Policy Council"). (Susan Perry, Chair, and Erin Ortigoza and Alena Paisano, Food Policy Council staff)

The Santa Fe Food Policy Council, as an advisory body to Santa Fe County, has an active interest in promoting a future of local food security for residents across Santa Fe County. These collaborative efforts aim to ensure access to healthy and local food, as well as protect agricultural activity, skill sets, and resources necessary for maintaining our agricultural heritage.

Over the past few years, the Santa Fe Food Policy Council has, in partnership with numerous stakeholders throughout the community, embarked on a community research process to asses our local food system. This effort represents a major step on our collective journey toward building a local, healthy, and prosperous food system for Santa Fe County. In October 2013, a draft of the first ever Food Plan for Santa Fe region, ***"Planning for Santa Fe's Food Future: Querencia, a Story of Food, Farming, and Friends,"*** was released. The document highlights several goal areas and policy action items, focusing on how our community accesses, produces and shares knowledge about food.

102 Grant Ave. • P.O. Box 276 • Santa Fe, New Mexico 87504-0276 • 505-986-6200 • Fax: 505-995-2740
www.santafecountynm.gov

The Food Policy Council regularly gives updates to the Board of County Commissioners, and the purpose of this presentation is to outline the draft plan. In the upcoming year, this document will serves as a tool to reach out to all corners of our county to gain input and understanding and strengthen relationships to provide a foundation for future food policy initiatives and programs. The process will culminate in the development of a strategic food plan for the City of Santa Fe and Santa Fe County – a detailed road-map for action and accountability around food related issues.

Request Action:

This is an information agenda item only and no action is required.

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Date: *January 28, 2014*

To: *Board of County Commissioners*

From: *Rudy N. Garcia, Legislative Liaison Project Manager* Rudy G.
Tony Flores, Assistant County Manager

Via: *Katherine Miller, Santa Fe County Manager*

Subject: *Legislative Update*

Background

At the time of this writing, the 51st Legislature has convened for its thirty (30) day session. In an effort to keep the Board of County Commission abreast of the issues that affect Santa Fe County, the legislative team will provide bi-weekly formal updates on the following legislative matters.

Legislation

Pre-filed Legislation (pre-filed legislation period 12/16/13 through 1/17/14):

- 147 House
- 113 Senate

Bills of Interest:

Bill: HB16
Sponsors: Trujillo, Carl (D46)

Title: DISTRIBUTION – LOCAL DWI GRANT FUND – MUNICIPALITIES
Summary: Sets distribution rates for FY16, FY17, and FY18 exclusive of penalties and interest
Related: None at this Time

Bill: HB15
Sponsors: Bandy (R3)
Title: TOBACCO PRODUCTS AND E-CIGARETTE ACT
Summary: (For the Tobacco Settlement Revenue Oversight Committee) Expands and renames the existing Tobacco Products Act to include e-cigarettes within the Tobacco Products and E-Cigarette Act. Prohibits the sale of e-cigarettes to minors in person or via the internet; specifies ID requirements and penalties.
Related to: Proposed SFC ordinance change (scheduled for 1/14/14 commission meeting) regarding e-cigarettes

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Bill: SB20
Sponsors: Campos, P. (D8)
Title: CAPITAL OUTLAY REVIEW AND MONITORING PROCESS
Summary: (Nearly identical to 2013 SRC substitute for SB507) Overhauls the capital outlay review and monitoring processes in state government.
Related to: Future Capital Outlay Projects

Bill: SB87
Sponsors: Neville, Stephen P. (D2)
Title: DISTRIBUTION OF THE GROSS RECEIPTS TAX TO MUNICIPALITIES AND COUNTIES, REDUCING THE AMOUNT OF A MUNICIPAL OR COUNTY HOLD HARMLESS GORSS RECEIPTS TAX THAT MAY BE IMPOSED
Summary: Reduces the amount of an excise tax from $3/8^{ths}$ to $1/8^{th}$.
Related: None at this Time

Capital Outlay

Utilizing the capital outlay projects prioritized by the Board of County Commission (Resolution 2013-101), the legislative team has met with each delegation member to review individual capital outlay requests and has prepared and submitted the necessary Capital Outlay Request Forms.

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

TO: Board of County Commissioners

FROM: Carole Jaramillo, Budget Administrator

VIA: Teresa Martinez, Finance Division Director
Katherine Miller, County Manager

DATE: January 21, 2014

SUBJECT: **Presentation Of The Results Of The National Citizen Survey (Carole Jaramillo/Finance Division)**

Background
In the spring of 2013 the BCC voted to contract with the National Research Center (NRC) to conduct its National Citizen Survey in Santa Fe County.
The National Citizen Survey was undertaken to learn more about how the citizens rate the County, primarily with respect to the County's "livability", its services and its governance. The resulting information was intended to be used to assist the Commission and management in prioritizing County resources.
This particular survey was selected because it is a standardized survey which can be directly compared with other jurisdictions, and can be "fed" directly into the International City/County Management Association (ICMA) Centers for Performance Management CPM 101 program in which the County participates.

Issue
The survey contract was executed in late June, 2013. After customization of the survey instrument, data was collected from September 21 through October 25, 2013. The National Research Center performed its analysis which included demographic and geographic sub tabulation. Draft reports were submitted in November, 2013. Review of the draft was completed and reports were finalized on January 2, 2014. The survey consisted of a mailed-out survey of 3,000 households which were randomly selected. A total of 882 surveys were completed and returned which translates to a 31% response rate with a 3% margin of error. These response and error rates compare well to the survey completed by Santa Fe County in FY 2011.

Survey results were very enlightening and provided a great deal of information about how the County compares to other jurisdictions, what we do well, and how we can improve. The results are summarized in the presentation that follows.

National Citizen Survey

Results for Santa Fe County, NM

January, 2014

National Citizen Survey – Background and Purpose

In the Spring of 2013 the BCC voted to contract with the National Research Center (NRC) to conduct its National Citizen Survey in Santa Fe County.

The National Citizen Survey was undertaken to learn more about how the citizens rate the County, primarily with respect to the County's "livability", its services and its governance. The resulting information was intended to be used to assist the Commission and management in prioritizing County resources.

This particular survey was selected because it is a standardized survey which can be directly compared with other jurisdictions, and can be "fed" directly into the International City/County Management Association (ICMA) Centers for Performance Management CPM 101 program in which the County participates.

The results of the survey were enlightening and provided a great deal of information about how the County compares to other jurisdictions.

National Citizen Survey – Timeline

- The National Research Center contract was fully executed on 6/24/13.
- Customization and preparation of the survey instrument was completed on 9/4/13.
- Survey materials were produced and mailed:
  - Pre-notification postcards sent 9/13/13
  - 1st wave of surveys sent 9/21/13
  - 2nd wave of surveys sent 9/27/13
- Data collection was completed 10/25/13.
- Data analysis was conducted and report drafts were completed and submitted by NRC on 11/15/13.
- Review of draft was completed and returned to NRC with changes on 12/2/13.
- Reports were finalized on 1/2/14.

SURVEY STATISTICS

- Surveys mailed out - 3,000
- Undeliverable surveys - 185 / 6%
- Surveys completed - 882 / 31%*
- Margin of Error - 3%

Compared to the FY 2011 survey which had 709 respondents and a 3.7% error rate.

* Average response rate for National Citizen Survey is 25% to 40%.

National Citizen Survey – Understanding the Report

The percentages in the slides that follow indicate the percentage of respondents that rate Santa Fe County positively (excellent or good) in the given category, while the shading on bar charts indicates how Santa Fe County compares to other jurisdictions or the national benchmark.

Thus, a category may be rated positively by a majority of Santa Fe County respondents and still fall below the national benchmark. This is because other respondents in other areas rate their jurisdiction higher. The opposite could also occur.

"Special topics" are custom questions which the County developed to obtain specific information and do not have direct comparative data to other jurisdictions or a national benchmark.

National Citizen Survey – Quality of Life

Survey Captures resident's Opinion Within Three Pillars of a Community, Across Eight Central Facets of Community

Pillars of a Community:

1. Community Characteristics
2. Governance
3. Participation

Facets of a Community:

1. Safety
2. Mobility
3. Natural Environment
4. Built Environment
5. Economy
6. Recreation & Wellness
7. Education & Enrichment
8. Community Engagement

- Overall quality of life was rated good or excellent by 73% of respondents, this is similar to national benchmarks.
- The two facets rated ***most important,*** called "key drivers," to respondents' overall quality of life are Safety and Economy.
- Natural Environment, Economy and Community Engagement were rated similar to the national benchmarks.

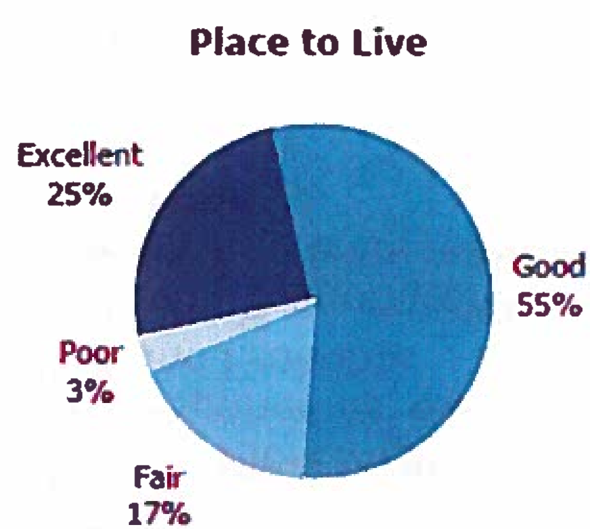
Thus, a solid majority of the respondents rate their quality of life as good or excellent and compared to other jurisdictions that have been surveyed, Santa Fe County respondents rate comparably in three of eight areas and not as high as other jurisdictions in five of eight areas.

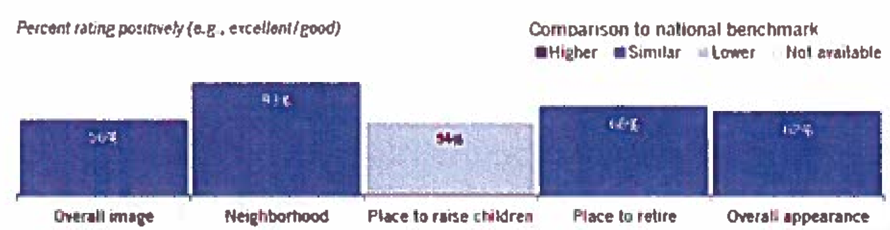
National Citizen Survey Pillar 1– Community Characteristics

Community Characteristics = What makes a community livable, attractive and a place where people want to be?

- 80% of respondents rate Santa Fe County as a excellent or good place to live.

- More than 50% of respondents rated Santa Fe County excellent or good for overall image, neighborhood, place to raise children, place to retire and overall appearance. This is similar to how other jurisdictions rated except for Santa Fe County as a place to raise children which was below the national benchmark.





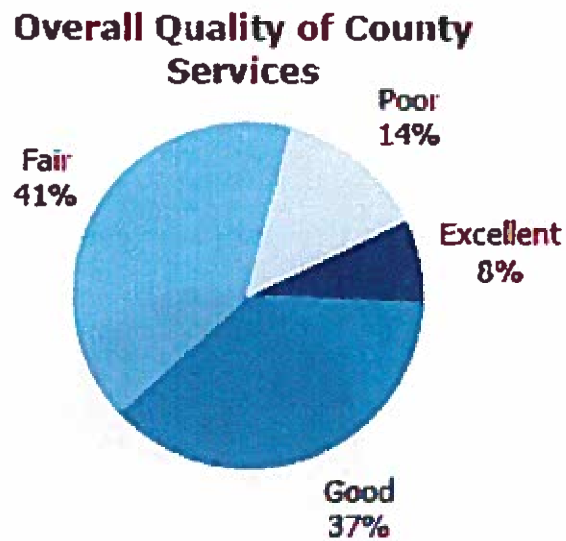
National Citizen Survey Pillar 2 - Governance

Governance = How well does the government of Santa Fe County meet the needs and expectations of the residents?

Respondents were asked to rate the quality of 25 specific Santa Fe County services.

Almost eight out of ten rated the overall quality of County services as "good" or "fair".

Almost half of respondents rated the County's overall customer service positively.

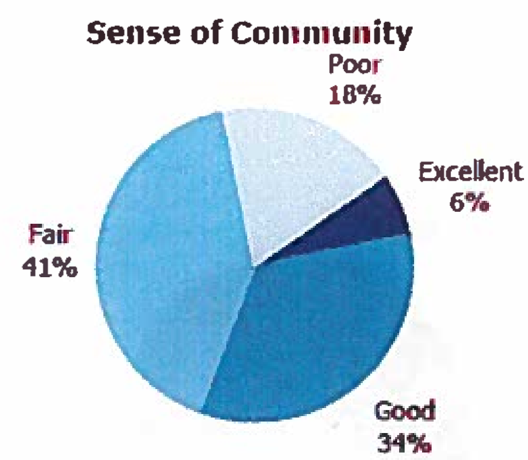


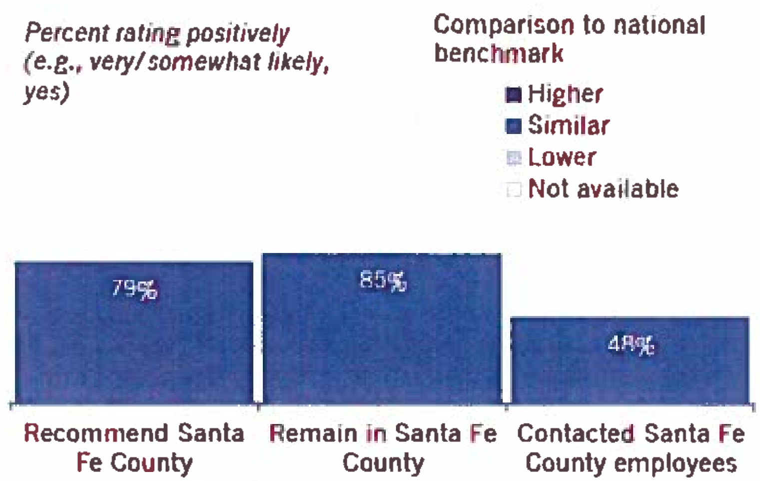
National Citizen Survey Pillar 3– Participation

Participation = Are the residents of Santa Fe County connected to the community and to each other?

The survey included 19 activities and behaviors for which respondents indicated how often they participated in or performed each, if at all. These activities ranged from attending public meetings, to reading the local news, to volunteering time to a group or activity, to making efforts to conserve water, to talking with their neighbor.

About four in ten respondents rated their sense of community positively. The vast majority of respondents would recommend Santa Fe County as a place to live and plan to remain in Santa Fe County for the next five years. Nearly half of respondents have contacted a County employee in the last 12 months.



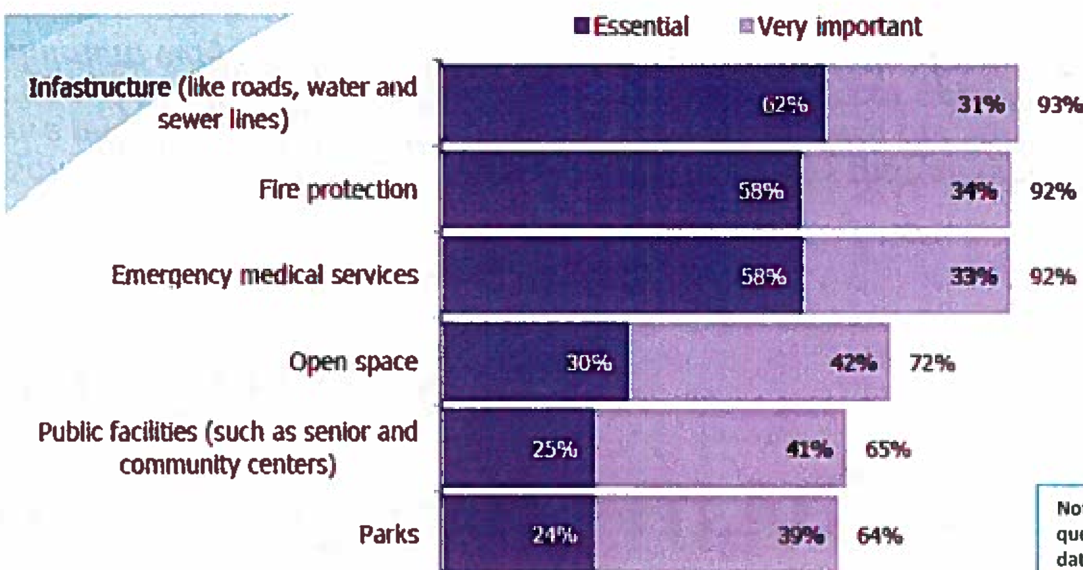


National Citizen Survey – Special Topics

The survey asked respondents the following:

How important, if at all, are each of the following services to your quality of life in Santa Fe County?

- Infrastructure (like roads, water and sewer lines)
- Fire protection
- Emergency medical services
- Open space
- Public facilities (such as senior and community centers)
- Parks



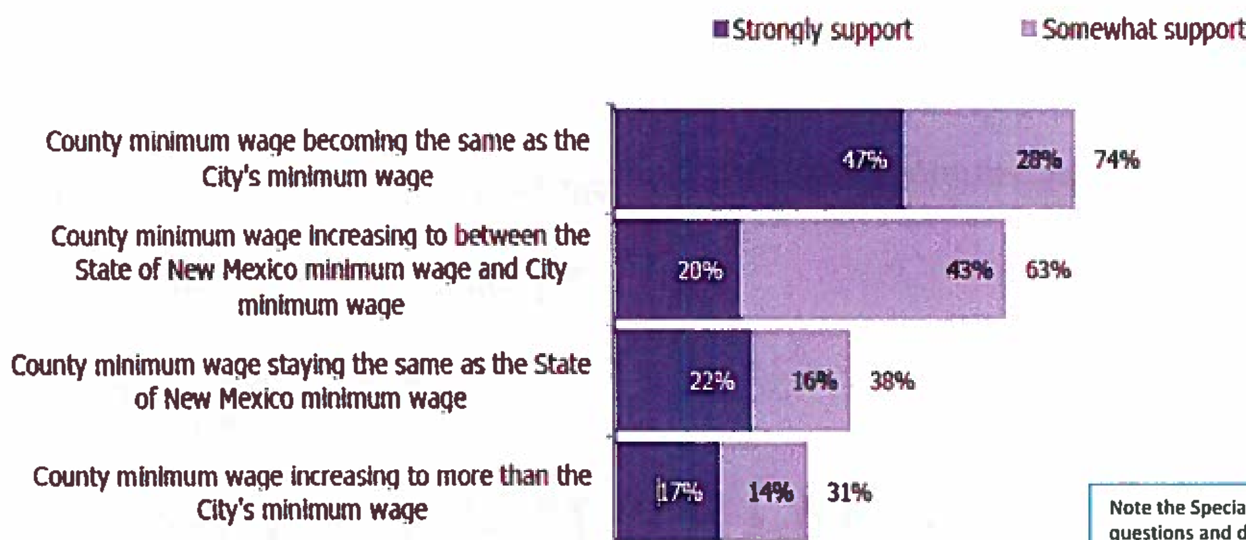
Note the Special Topics are custom questions and do not have comparative data to other jurisdictions.

National Citizen Survey – Special Topics

The survey asked respondents the following:

The City of Santa Fe currently has a "living wage" that means that all employees of City businesses are paid no less than $10.51/hour (as compared with the State of New Mexico minimum wage of $7.50/hour). To what extent to you support or oppose each of the following minimum wage scenarios for the unincorporated areas of Santa Fe County?

- *City minimum wage becoming the same as the City's minimum wage.*
- *County minimum wage increasing to between the State of NM minimum wage and City minimum wage.*
- *County minimum wage staying the same as the State of New Mexico minimum wage.*
- *County minimum wage increasing to more than the City's minimum wage.*

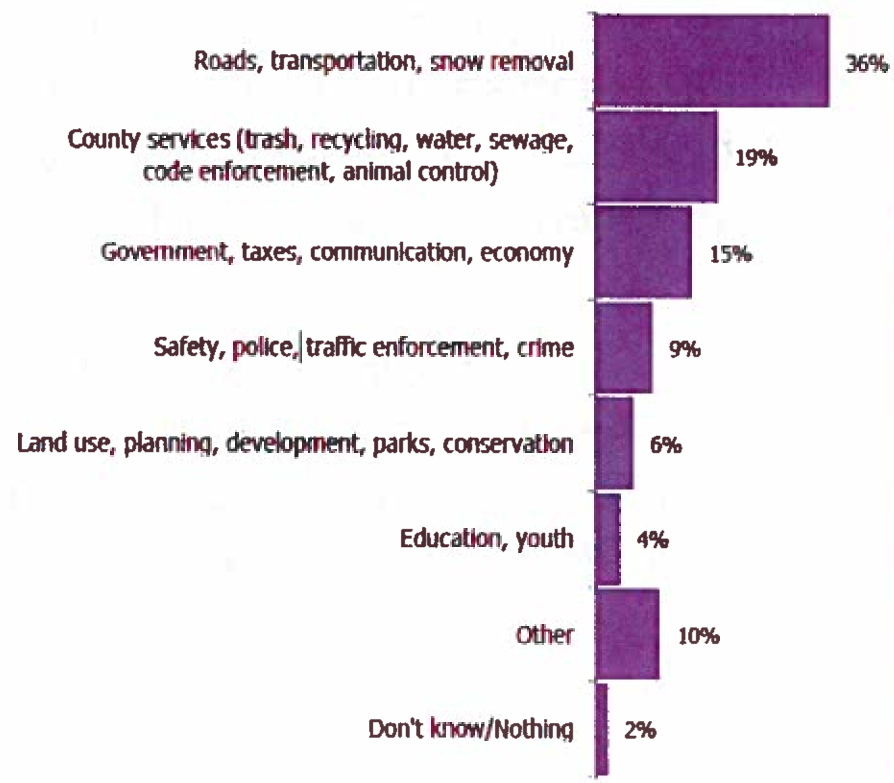


Note the Special Topics are custom questions and do not have comparative data to other jurisdictions.

National Citizen Survey – Special Topics

Respondents were asked to record in their own words the one service the County could change or improve. The responses were placed into categories for reporting.

Of the 507 respondents who wrote in a response, most were concerned about roads, transportation and snow removal, while a very small number of respondents were concerned about education and youth.



Note the Special Topics are custom questions and do not have comparative data to other jurisdictions.

National Citizen Survey – What We Learned from the Survey

What we have going for us…

Citizens like living in Santa Fe County, plan to stay and would recommend living here to others. In general, residents like their neighborhoods, feel safe there and consider the County a good place to retire and a decent place to raise children.

Residents believe that safety is "key driver" of their quality of life and feel that fire services, EMS/ambulance services and law enforcement do a good job. The vast majority of residents did not report a crime and were not victims of crime and have an overall feeling of safety. This feeling of safety is particularly high in the residents' own neighborhoods. (Fire protection and emergency medical services are considered essential or very important by more than nine in ten residents.)

National Citizen Survey – What We Learned from the Survey

What we have going for us...

Economy is another “key driver” of quality of life for the residents of Santa Fe County. The majority of residents purchase goods in Santa Fe County and work in Santa Fe County. A strong majority of residents think Santa Fe is a good place to visit which indicates that they are generally satisfied with the area, its amenities and the overall image and appearance of the County.

The natural environment, clean air and opportunities for recreation, fitness and cultural/arts and music activities are positives for the County. The majority of resident believe that they have good, clean drinking water and that the County has good open space, parks and public libraries. Seven out of ten residents consider open space essential or very important.

National Citizen Survey – What We Learned from the Survey

What we have going for us…

Most residents find it pretty easy to get around Santa Fe County by vehicle and almost all find infrastructure such as roads and water/sewer lines to be essential or very important.

Santa Fe County residents believe that there is an adequate availability of affordable quality food and try to practice healthy habits such as eating five portions of fruits and vegetables per day, participating in moderate to vigorous physical activity, and utilizing paths and walking trails. A majority of residents believe they are in very good to excellent health.

National Citizen Survey – What We Learned from the Survey

What we have going for us…

Santa Fe County residents have a “green” mentality with the vast majority of residents reporting water conservation and energy efficiency efforts at home as well as recycling at home. Nearly half of residents reported carpooling instead of driving alone some of the time and more than 1/3rd report walking or biking instead of driving at times.

Santa Fe County is considered by its residents to be open and accepting with good opportunities to participate in community issues. It is also viewed as having good opportunities to volunteer with nearly half of residents doing so. Citizens also try to be informed by reading or watching local news and almost nine out of ten vote in local elections.

National Citizen Survey – What We Learned from the Survey

Areas to review and improve ...

With economy being a "key driver" of quality of life for County residents it is important for Santa Fe County to look at the local economy and economic development initiatives to improve in this area. The overall economic health of the County along with cost of living and employment opportunities weren't rated positively.

Hand in hand with the modest view of the economic health of the County, is the issue of availability of housing options and affordable housing in the area. Nearly half of residents are under housing cost stress.

Santa Fe County residents did not rate the ability to travel by bicycle and public transportation well.   The positive rating for ease of travel by vehicle would indicate that there are enough roads in Santa Fe County, however the condition of the roads remains a concern for residents as does snow removal, street lighting and cleaning and storm drainage.

National Citizen Survey – What We Learned from the Survey

Areas to review and improve …

Just over half of residents reported observing a code violation and a high percentage of residents did not rate the County's cleanliness (illegal dumps, weeds, litter, graffiti, etc.) positively. A number of the responses indicate that land development should be controlled and limited due to current infrastructure and scarcity of water resources in the County. However, residents would also like to see an easier and cheaper building permit process.

Availability of affordable quality health and mental health services as well as preventive health services is an issue nationally, however Santa Fe County residents are less positive about availability of these services than other jurisdictions with about 1/3rd rating health and preventive health services positively and 1/4th rating mental health services positively. About 1/3rd of residents rated the County's health services positively.