

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

RESOLUTION NO. 2017 - 75

**A RESOLUTION
AUTHORIZING THE COUNTY ATTORNEY TO BRING CONDEMNATION
ACTIONS, IF NECESSARY, TO ACQUIRE PROPERTY FOR THE MT.
CHALCHIHUITL OPEN SPACE**

WHEREAS, by Resolution No. 2014-127, the Board of County Commissioners ("Board") of Santa Fe County ("County") authorized the County Manager to acquire by negotiated sale two properties ("Properties") for the Mt. Chalchihuitl Open Space; and

WHEREAS, as shown on Exhibit A to Resolution No. 2014-127 and the current Resolution, the Properties are currently under separate private ownership; and

WHEREAS, as described in Resolution 2014-127, the Properties possess significant archeological, historical, and cultural values but also contain lead-contaminated tailings related to historic mining operations; and

WHEREAS, the New Mexico Department of the Environment ("NMED") operates the Voluntary Remediation Program pursuant to 20.6.3 NMAC; and

WHEREAS, under the Voluntary Remediation Program, a prospective owner of a contaminated site such as the County may be released from certain environmental liabilities by remediating the site after acquisition in accordance with a voluntary remediation agreement with NMED; and

WHEREAS, Resolution No. 2014-127 authorizes the County Manager to, among other things, execute a voluntary remediation agreement on behalf of the County; and

WHEREAS, the County will not acquire the Properties unless and until it has negotiated and executed an acceptable voluntary remediation agreement with NMED and has otherwise fully entered into the Voluntary Remediation Program; and

WHEREAS, NMED will not execute a voluntary remediation agreement with a prospective owner of a contaminated site unless the prospective owner is under contract to acquire the site, or, for entities having the power of eminent domain, demonstrates an intent to acquire the site by condemnation; and

WHEREAS, the County is under contract to acquire one of the Properties and must complete that acquisition on or before December 31, 2017; and

WHEREAS, the County Manager will make an offer on the remaining Property in the near future; and

WHEREAS, the County will acquire the Properties for a public purpose; and

WHEREAS, the County Attorney should be authorized to bring condemnation actions to acquire the Properties if the County Manager is unable to timely negotiate an acceptable purchase agreement or if the purchase agreement is breached.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners as follows:

1. The Board authorizes the County Attorney to bring condemnation actions on behalf of the County to acquire the Properties. However, the County Attorney shall not bring such an action against any property owner unless the County Manager first notifies the County Attorney that:

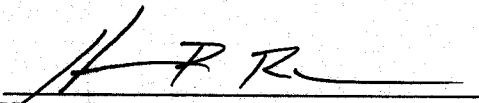
(a) the County Manager was not able to timely negotiate a reasonable purchase and sale agreement with the property owner; or

(b) the property owner executed a purchase and sale agreement but thereafter refused to grant the Property in accordance with the agreement, in which case the County Attorney may include other causes of action related to breach of contract.

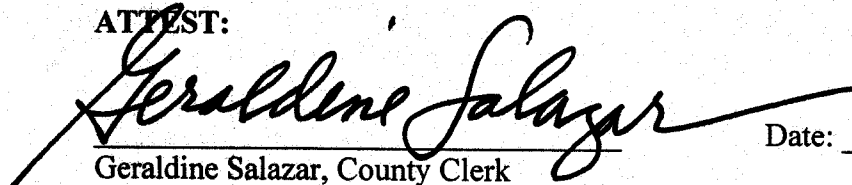
2. The Board further authorizes and directs the County Attorney to seek dismissal of any condemnation action brought against a property owner pursuant to this Resolution upon the property owner's voluntary grant of the Property pursuant to a purchase and sale agreement between the property owner and the County.

PASSED, APPROVED, AND ADOPTED THIS 11th DAY OF JULY 2017.

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

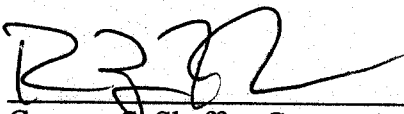

By: 
Henry P. Roybal, Chair

ATTEST:

 Date: 7-14-2017
Geraldine Salazar, County Clerk



APPROVED AS TO FORM:


 Gregory S. Shaffer, County Attorney

Date: 6/28/2017

BCC RESOLUTIONS
PAGES: 3

Deputy *A. Laura Hernandez* County Clerk, Santa Fe, NM

