

**April 4, 2012**  
Agenda  
9:30 A.M. Business Meeting  
Valencia County Commission Chambers  
444 Luna Avenue  
Los Lunas, NM 87031

Board of County Commissioners  
*Donald E. Holliday, Chair District IV*  
*Georgia Otero-Kirkham, Vice-Chair District II*  
*Mary Andersen District I*  
*Lawrence R. Romero District III*  
*Ron Gentry District IV*

**AMENDED April 2, 2012**  
**8:05 a.m.**

*Donald Holliday*

- 1) Call Meeting to Order
- 2) Pledge of Allegiance
- 3) Approval of Agenda
- 4) Approval of Minutes: March 7, 2012 Business Meeting; March 14, 2012 Public Hearing; March 21, 2012 Business Meeting

**PRESENTATION(S)**

- 5) Synergy Renewables – Theresa Cardenas

**DISCUSSION (Non-Action) ITEM(S)**

- 6) Department Reports – Juvenile Justice Board Progress Report – Cynthia Ferrari
- 7) Reports from Commissions, Boards & Committees

**ACTION ITEM(S)**

- 8) Child Abuse Prevention Month Proclamation – **Antoinette Torres**
- 9) Consideration of Lease Addendum between TNT Investments, LLC and Valencia County-13<sup>th</sup> Judicial District Attorney Office – **Ruben Chavez**
- 10) Consideration of Procedure for Accepting Donations of Real Property – **Ruben Chavez**

**FINANCIAL MATTERS:**

- 11) Consideration of Budget Resolution 2012-\_\_\_: **Christina Card**
- 12) Consideration of Approval: Payroll / Warrants: **Christina Card**

**PUBLIC COMMENT:**

Please sign up on the sheet located just outside the Commission chambers. The Board will allow each member of the public wishing to address the Board a full and complete opportunity to address the Commission

**EXECUTIVE SESSION:**

BOOK 073 PAGE 67

Pursuant to Section 10-15 1 (H) (2) (7) & (8), the following matters may be discussed in closed session: a. personnel: County Manager contract, Public Works Director contract; Appointment of Interim County Manager b. pending or

threatened litigation Manzano View Paving, Sand Hill Road; Job, LLC; Living Cross vs. Los Lunas et al c. real property; d. other specific limited topics that are allowed or authorized under the stated statute.

- ♦ Motion and roll call vote to go into Executive Session for the stated reasons
- ♦ Board meets in closed session
- ♦ Motion and vote to go back into regular session
- ♦ Summary of items discussed in closed session
- ♦ Motion and roll call vote that matters discussed in closed session were limited to those specified in motion for closure, and that no final action was taken, pursuant to the authority in §10-15-1 NMSA 1978.

**ACTION ITEMS FROM EXECUTIVE SESSION:**

- a) County Manager contract
- b) Public Works Director contract
- c) Appointment of Interim County Manager
- d) Delegation of Authority for Litigation Contract for Living Cross

**NEXT COMMISSION MEETING:**

- ♦ **April 11, 2012 – Public Hearing @ 5:00 P.M.**  
Valencia County Commission Board Room 444 Luna Ave. LL, NM

**ADJOURN:**

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*If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Valencia County Manager's Office at the Valencia County Courthouse, Los Lunas, New Mexico, (505) 866-2014 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Valencia County Manager's Office at the old Valencia County Courthouse if a summary or other type of accessible format is needed.*

# VALENCIA COUNTY BOARD OF COMMISSIONERS

## BUSINESS MEETING

APRIL 4, 2012

<b>PRESENT</b>	
Donald E. Holliday, Chairman	
Georgia Otero Kirkham, Vice-Chair	
Lawrence R. Romero, Member	
Ron Gentry, Member	
Mary J. Andersen, Member	
Eric Zamora, County Manager	
Adren Nance & Dave Pato, County Attorneys	
Sally Perea, County Clerk	
Press and Public	

1) The meeting was called to order by Chairman Holliday at 9:30 A.M.

2) Chairman Holliday led the Pledge of Allegiance.

3) Approval of Agenda

Commissioner Romero moved for approval of the agenda. Seconded by Chairman Holliday. Motion carried unanimously.

4) Approval of Minutes: March 7, 2012 Business Meeting  
March 14, 2012 Public Hearing Meeting  
March 21, 2012 Business Meeting

### PRESENTATION(S)

5) Synergy Renewable – Theresa Cardenas

Ms. Cardenas of the Noble Renewable Group presentation consisted of Synergy Renewables turnkey waste-to energy solution which is capable of disposing of a wide range of solid wastes. Their technology and process is innovative and comprehensive by providing a solution that is environmentally friendly, economically viable and the most efficient method for transforming waste into energy. They are acutely aware of the rapidly increasing challenges associated with land-filling and disposing of municipal waste coupled with the need to create more diversified and renewable sources of energy. They meet these challenges by utilizing the best technology in the world to convert waste into clean renewable energy. This process decreases the dependence on foreign fossil fuels and reduces greenhouse gas emissions. Ms. Cardenas will forward more technical information to the commission for their review.

### DISCUSSION (Non-Action) ITEMS

6) Department Reports \_ Juvenile Justice Board Progress Report – Cynthia Ferrari

Ms. Ferrari updated the commission on the progress of the Juvenile Justice Board. Forty board members are now attending the monthly meeting, the RACK meetings are also being held at Belen High school, they have currently partnered with Big Brothers Big Sisters with the mentoring program, the Teen Court is now being funded with Juvenile Justice funds, the board has established a webpage on the Valencia County website, experiential wilderness services for Valencia County youth will be provided at no cost from the Santa Fe Mountain Center and they have partnered with Scout Reach to provide programming for the youth. Anyone interested in these programs can go on their webpage to get further information.

7) Reports from Commissions, Boards & Committees.

NONE

### ACTION ITEM(S)

8) Child Abuse Prevention Month Proclamation – Antoinette Torres

Antoinette Torrez with the Valencia County's Children, Youth and Family Department and Bart Sandoval the agency's Northwestern Regional Manager thanked the commission for acknowledging Child Abuse Prevention Month which a national recognition. Today from 2:00 P.M. - 4:00 P.M. at the Daniel Fernandez they will be holding an event in recognition of child abuse prevention month and New Mexico's Governor Suzanna Martinez will be attending. Ms. Torrez read and presented the proclamation to the commission. Commissioner Gentry moved for approval of the Proclamation. Seconded by Commissioner Andersen. Motion carried unanimously. ( See Exhibit A)

**9) Consideration of Lease Addendum between TNT Investments, LLC and Valencia County 13<sup>th</sup> Judicial District Attorney Office – Ruben Chavez**

Commissioner Andersen moved to table this item for two weeks and asked the county's attorney and Mr. Vinyard to work on a new lease to include six month intervals instead of a year in the event they need to obligate these funds elsewhere. Seconded by Commissioner Romero. Motion carried 3-2. Commissioner Otero-Kirkham and Chairman Holliday voted no.

**10) Consideration of Procedure Accepting Donation of Real Property Resolution 2012-15 Ruben Chavez**

County Attorney Adrian Nance stated what this procedure does is set forth a process where if someone wants to donate land the county can inform them as to how it needs to be done and then it goes through the review of administration and ultimately administration can recommend whether or not the commission wants to accept that donation, whether more information is needed or this is something the county is not interested in. This is just a procedure tool for administration. Section 3 provides that final acceptance will be by the Board of County Commissioners. Commissioner Otero-Kirkham moved for approval. Seconded by Commissioner Andersen. Motion carried unanimously.

County Clerk Sally Perea announced Resolution 2012-15. ( See Exhibit B)

**FINANCIAL MATTERS:**

**11) Consideration of Budget Resolution 2012-16 Christina Card**

Commissioner Gentry moved for approval. Seconded by Commissioner Romero. Motion carried unanimously.

County Clerk Sally Perea announced Resolution 2012-16. (See Exhibit C)

**12) Consideration of Approval – Payroll / Warrants – Christina Card**

Commissioner Gentry moved for approval. Seconded by Commissioner Otero-Kirkham. Motion carried unanimously. (See Exhibits D,E & F)

**PUBLIC COMMENTS:**

Members of the audience making comments at today meeting were Brian Hamlin, Jake Forest, James Crawford and Clarke Metcalf.

**EXECUTIVE SESSION:**

Pursuant to Section 10-15 1 (H) (2) (7) & (8), the following matters may be discussed in closed session: a.) Personnel – County Manager contract, Public Works Director contract, Appointment of Interim County Manager, b.) Pending or threatened litigation- Manzano View Paving, Sand Hill Road, Jobs LLC and Living Cross vs. Los Lunas et al, c.) Real Property, d.) Other specific limited topics that are allowed or authorized under the stated statute

Commissioner Otero-Kirkham moved to go into Executive Session. Seconded by Commissioner Andersen. Commissioner Romero voted yes, Commissioner Otero-Kirkham voted yes. Commissioner Andersen voted yes. Commissioner Gentry voted yes. Chairman Holliday voted yes. Motion carried 5-0.

Commissioner Andersen moved to go back into regular session. Seconded by Chairman Holliday. Motion carried unanimously.

Counsel stated items discussed in Executive Session were limited to those in the motion for closure which included Manzano View Paving, Sand Hill Road, Jobs LLC, Living Cross vs. Los Lunas et al, as well as County Managers Contract and Public Works Director Contract and no final action was taken.

Commissioner Otero-Kirkham motioned for approval of the summary as stated by Attorney Adrian Nance. Seconded by Chairman Holliday. Commissioner Romero voted yes. Commissioner Otero-Kirkham voted yes. Commissioner Gentry voted yes. Commissioner Andersen voted yes. Chairman Holliday voted yes. Motion carried 5-0.

**ACTION ITEMS FROM EXECUTIVE SESSION:**

**a.) County Manager Contract**

Commissioner Otero-Kirkham moved for approval of the County Manager's Contract as presented. Seconded by Commissioner Andersen. Motion carried unanimously. (See Exhibit G)

Minutes of April 4, 2012 Business Meeting

**b.) Public Works Director Contract**

Commissioner Andersen moved for approval of the Public Works Director Contract as discussed in Executive Session. Seconded by Commissioner Gentry. Motion carried unanimously. (See Exhibit H)

**c.) Appointment of Interim County Manager**

Commissioner Gentry moved for approval of Lawrence Esquibel as the Interim County Manager and giving him the authority to go into one specific contract for \$5,000.00 with the attorneys and this law firm. Seconded by Commissioner Andersen. Motion carried unanimously.

**d.) Delegation of Authority for Litigation Contract for Living Cross**

As included in the above item. (See Exhibit I)

**NEXT COMMISSION MEETING:**


The next Public Hearing Meeting of the Valencia County Board of County Commission will be held on April 11, 2012 at 5:00 P.M. in the County Commission Room at the Valencia County Courthouse.

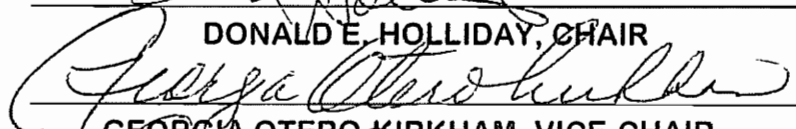
**ADJOURNMENT:**

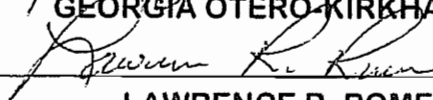
Commissioner Andersen moved for adjournment. Seconded by Chairman Holliday. Motion carried unanimously. TIME 12:08 P.M.

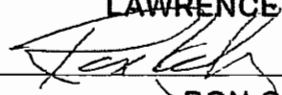
**NOTE:** All proposals, documents, items, etc., pertaining to items on the agenda of the April 4, 2012 Business Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

**VALENCIA COUNTY BOARD OF COMMISSIONERS**

  
\_\_\_\_\_  
DONALD E. HOLLIDAY, CHAIR

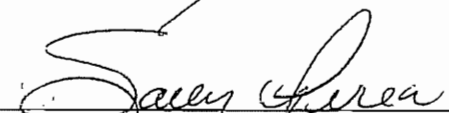
  
\_\_\_\_\_  
GEORGIA OTERO-KIRKHAM, VICE-CHAIR

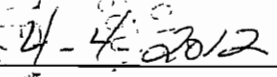
  
\_\_\_\_\_  
LAWRENCE R. ROMERO, MEMBER

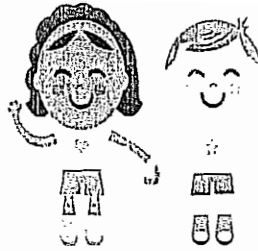
  
\_\_\_\_\_  
RON GENTRY, MEMBER

  
\_\_\_\_\_  
MARY J. ANDERSEN, MEMBER

**ATTEST:**

  
\_\_\_\_\_  
SALLY PEREA, COUNTY CLERK

  
\_\_\_\_\_  
DATE



## PROCLAMATION

### "Child Abuse Prevention"

WHEREAS, children are the link to the future and our hope for a better tomorrow. Today's children will guide our nation through future challenges with vision, strength, creativity, and leadership. In order to grow into healthy, happy adults and responsible citizens, we must provide our children the love, nurturing, and protection they need and deserve; and

WHEREAS, every child deserves to live within a safe, permanent, and caring family. Regrettably, abuse and neglect continue to threaten the well being of many young Americans. Many children are not safe, even in their own homes. The statistics are staggering. Every year, there are thousands of reported incidents of child abuse; and even more disturbing, hundreds of these incidents result in a child's death. Whether suffering neglect, harsh physical punishment, sexual abuse, or psychological trauma, the children who survive will carry the scars of their abuse for the rest of their lives. We can, and must, do more to fight these tragedies and to protect our children from harm; and

WHEREAS, child abuse prevention requires partnerships among Federal, State, and local governments, faith-based and community-based organizations, schools, law enforcement, and social service agencies. These organizations must work together with parents to protect children and help build healthy families and communities so children can reach their potential; and

WHEREAS, every April, communities across the country join to raise public awareness about child abuse, to provide information about how to prevent it, and to assist families in need of support, recovery, and encouragement. During National Child Abuse Prevention Month, and throughout the year, Americans are encouraged to find ways to cherish our children, and strengthen our families.

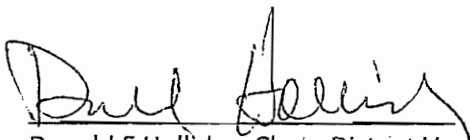
NOW THEREFORE BE IT RESOLVED that the Valencia County Commission does hereby proclaim the month of April 2012 as:

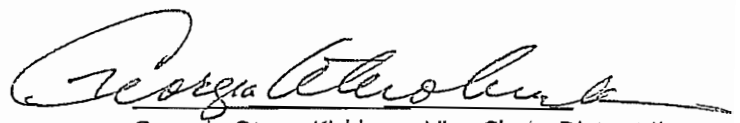
**"CHILD ABUSE PREVENTION MONTH"**

In Valencia County

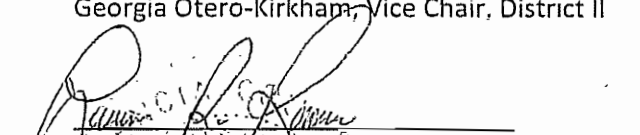
DONE, this 4<sup>th</sup> day of April 2012, in Valencia County, State of New Mexico.

BOARD OF COMMISSIONERS

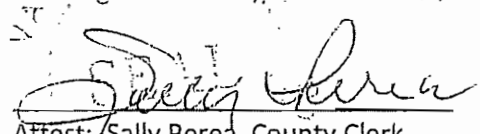
  
Donald E. Holliday, Chair, District V

  
Georgia Otero-Kirkham, Vice Chair, District II

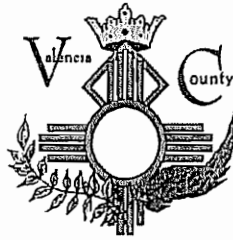
  
Mary Andersen, Commissioner, District I

  
Lawrence R. Romero, Commissioner, District III

  
Ron Gentry, Commissioner, District IV

  
Attest: Sally Perea, County Clerk

( EXHIBIT A )



**VALENCIA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
RESOLUTION № 2012- 15**

**PROCEDURE FOR ACCEPTING DONATIONS OF REAL PROPERTY**

**RECITALS**

**WHEREAS**, pursuant to NMSA 1978 Section 4-38-1 (1884) the powers of a county as a body politic and corporate shall be exercised by a board of county commissioners; and,

**WHEREAS**, NMSA 1978, Section 4-38-13 (1953) provides that board of county commissioners shall have power at any session to make such orders concerning the property belonging to the county as they may deem expedient; and,

**WHEREAS**, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt those resolutions and ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers 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 and its inhabitants; and,

**WHEREAS**, the ownership of real property and the management of such real property has the potential of imposing unacceptable risks and liabilities on the County of Valencia if the property is remote, contains environmental hazards or has a clouded chain of title.

**WHEREAS**, the Board of County Commissioners of Valencia County is interested in adopting a resolution that embodies the policies and procedures to be employed by the County regarding the acceptance of gifts of real property in order to safeguard the County against accepting gifts of real property that are difficult to sell or are encumbered with defects that could put the County at risk once it is in the chain of title.

**SECTION I. GENERAL.**

Valencia County shall consider accepting title to real property as a gift if the donated real property can be sold to realize its cash value for the County or if the property is located in an area where the real property may be used to meet the operational needs of County Government.

( EXHIBIT B )

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## **SECTION II. PROCEDURE TO ACCEPT REAL PROPERTY.**

### **(A) Step 1. Establishing County Interest:**

The process of establishing Valencia County interest in accepting a gift of real estate shall begin once the following information is provided to the Valencia County Manager:

1. The name, address, telephone number and e-mail address of the proposed donor.
2. A statement of the reasons for the donor's desire to make the gift.
3. A general description of the property including the exact location, any structures (above and below ground), past uses of the property, location characteristics and pictures.
4. Proof of donor's ownership of the property in the form of a copy of the donor's deed to the real property.
5. A statement as to whether the contribution is of the donor's complete or partial interest in the property. Valencia County will not accept as a gift a partial, fractional or minority interest in real property.
6. A list of any personal property to be included with the gift.
7. Copies of current real estate tax bills and special assessment bills.

### **(B) Step 2. Obtaining Further Details**

If based on the information obtained in Step 1 it is determined by the County Manager that the County will not benefit from the real property the County Manager shall inform the donor, in writing, that the County rejects the donation. If the County Manager determines, based on the information obtained in Step 1., that the County may potentially benefit from this donation of real property, the following additional documents shall be obtained by the County Manager before the donation is presented to the Board of County Commissioners:

1. A recent legal description and survey, if necessary, of the property showing any easements and right-of-ways.
2. A ten year tax search.
3. An up to date appraisal report performed by either an independent, professional real estate appraiser or by the County Assessor's Office listing property market value and marketability.



4. A chain of title report as to the ownership of the real property by the County Assessor – if there appears to be any inconsistencies in the chain of title the County will require that the donor provide a title abstract.
5. If after the County Administration reviews the real property and there appears to be any potential environmental hazards the donor will provide at his/her expense a Phase I Environmental Assessment of the property in a form and content which would be satisfactory to an institutional lender, together with a report of the physical condition of the property.
6. If the County Manager determines after review of the additional information that accepting the property will not be in the County's best interest the County Manager shall inform the donor, in writing, that the County rejects the donation.

(C) Step 3. Recommendation

If after review, the County Manager finds that accepting the property would be in the County's best interest, the County Manager shall present a report to the Board of County Commissioners at a regular County Commission meeting detailing why accepting the property would be in the County's best interest. The County Manager's report shall explain why the real property will either be beneficial for County Government use or why the real property can easily be sold for its cash value as well as a plan for the real property.

**SECTION III. FINAL ACCEPTANCE**

After receiving the County Manager's recommendation to accept the real property the Board of County Commissioners may, at its sole discretion, vote to accept the real property. If the Board votes to accept the property the donor must transfer the real property, by Warranty Deed, to the County of Valencia within 30 days of the vote or the acceptance will be considered null and void. If the Board votes not to accept the donation the County Manager shall inform the donor, in writing, that the County rejects the donation.

**SECTION IV. APPEAL**

The upon the receipt of a letter of denial a potential donor may request the denial to be reconsidered at a regular meeting of the Board of County Commissioners.

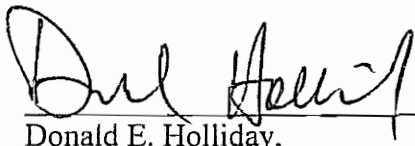
**APPROVED, ADOPTED, AND PASSED** on this 4 day of April, 2012.



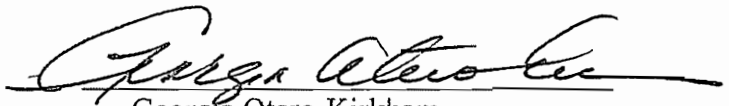
Resolution 2012- 15

Procedure for Accepting Donations of Real Property

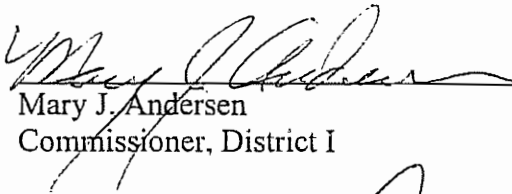
BOARD OF COUNTY COMMISSIONERS



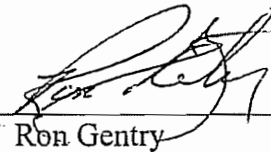
Donald E. Holliday,  
Chairman, District V



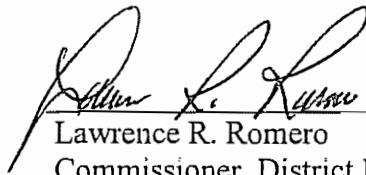
Georgia Otero-Kirkham,  
Vice-Chair, District II



Mary J. Andersen  
Commissioner, District I

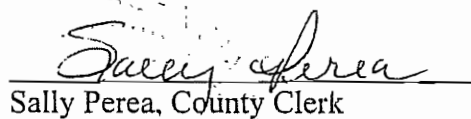


Ron Gentry  
Commissioner, District IV



Lawrence R. Romero  
Commissioner, District III

Attest:



Sally Perea, County Clerk

BOOK 073

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REVISED 12/08/06

ENTITY NAME: \_\_\_\_\_  
FISCAL YEAR: \_\_\_\_\_  
DFA Resolution Number: \_\_\_\_\_

For Local Government Division use only:

(A) ENTITY RESOLUTION NUMBER	(B) FUND	(C) REVENUE EXPENDITURE TRANSFER (TO or FROM)	(D) APPROVED BUDGET	(E) ADJUSTMENT	(F) ADJUSTED BUDGET	(G) PURPOSE
2012-16	401-07-2028	Capital Outlay	\$24,000.00	(\$2,273)	\$21,727	
	401-07-2004	Temporary Salaries	\$10,240.00	(\$4,000)	\$6,240	
	401-07-2056	Supplies	\$7,290.00	\$6,273	\$13,563	
	401-01-2200	Construction Project	\$350,000.00	(\$50,000)	\$300,000	
		CDBG Cash Match	\$0.00	\$50,000	\$50,000	
	420-33-2176	Appraisal Increment	\$2,200.00	-\$960.00	\$1,240	
	420-33-2002	Full Time Salaries	\$202,578.00	960	\$203,538	
	446-39-2028	Capital Outlay	\$69,129.00	-\$804.00	\$68,325	
	446-39-2100	Professional Services	\$388,312.00	-\$6,500.00	\$381,812	
	446-39-2056	Supplies	\$10,000.00	\$7,153.00	\$17,153	
	446-39-2177	Training	\$500.00	\$151.00	\$651	
	426-00-1410	Valencia County EMS	\$368,750.00	-\$65,000.00	\$303,750	
	426-52-2058	EMS- Equipment	\$0.00	\$65,000.00	\$65,000	
	416-27-1014	Jarales-State Fire Protection	\$50,332.00	-\$20,000.00	\$30,332	
	416-27-2058	Equipment	\$3,200.00	\$20,000.00	\$23,200	
	497	Cash in Lieu	67709	\$14,026.00	\$81,735	Additional funds granted to Valencia County for older American Program
	497-84-2093	Cash in Lieu	63695	\$14,026.00	\$77,721	
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				#VALUE!	#VALUE!	
				#VALUE!	#VALUE!	

BOOK 072

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( EXHIBIT C )

ATTEST: \_\_\_\_\_ Title \_\_\_\_\_ (Date) \_\_\_\_\_  
Mayor/Board Chairman

*Paul Talley*

4-4-2012

*Paul Talley*  
Secretary Clerk  
OF NEW

VALENCIA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
ACCOUNTS PAYABLE AUTHORIZATION

*Sally Perea*  
The attached computer printout lists all the checks issued by the Manager's Office on March 23, 2012 covering vendor bills processed on the above date.  
Check # 112608 to 112728 inclusive, for the total of \$206,621.12.

All have been reviewed for:

1. Appropriate documentation and approvals.
2. Authorized budget appropriations.
3. Compliance with New Mexico Statutes, and
4. DFA Rules and Regulations.

In recognition of the above, the Fiscal Office requests this action be officially recorded in the minutes of the regular county commission meeting before which body this matter came.

Recommended:

*Christina Card*  
\_\_\_\_\_  
Director of Finance

Done this 4th day of April, 2012.

VALENCIA COUNTY BOARD OF COMMISSIONERS

*Donald E. Holliday*  
\_\_\_\_\_  
Donald E. Holliday, Chair  
*Lawrence R. Romero*  
\_\_\_\_\_  
Lawrence R. Romero, Commissioner  
*Ron Gentry*  
\_\_\_\_\_  
Ron Gentry, Commissioner

*Georgia Otero-Kirkham*  
\_\_\_\_\_  
Georgia Otero-Kirkham, Vice-Chair  
*Mary J. Andersen*  
\_\_\_\_\_  
Mary J. Andersen, Commissioner

ATTEST:

*Sally Perea*  
\_\_\_\_\_  
Sally Perea, County Clerk (EXHIBIT D)

Sally Perea

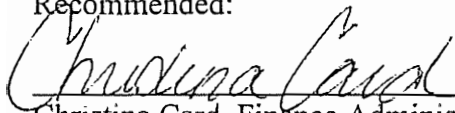
**VALENCIA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
PAYROLL AUTHORIZATION**

The attached computer printout lists all checks issued by the Managers Office on  
March 23, 2012 covering payroll process on the above date.  
Direct Deposit Check 24421 thru direct deposit check# 24613 inclusive.  
Deduction Check# 112568 thru deduction check# 112607 inclusive.  
Payroll Check # 92095 thru payroll check # 92168 inclusive.  
Listing total \$ 362903.91  
All have been reviewed for:

1. Appropriate documentation and approvals
2. Authorized budget appropriations.
3. Compliance with New Mexico Statutes, and
4. DFA Rules and Regulations.

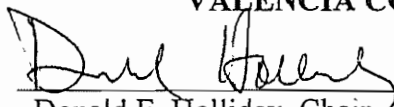
In recognition of the above, the Manager's Office request this action be officially recorded in the minutes of the regular county commission meeting before which body this matter came.

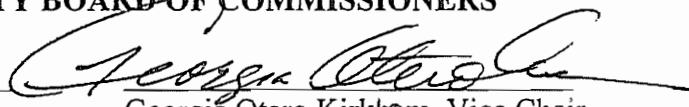
Recommended:

  
Christina Card, Finance Administrator

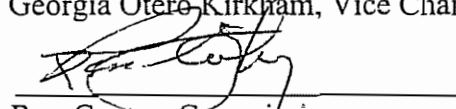
Done this 4<sup>th</sup> day of April, 2012


**VALENCIA COUNTY BOARD OF COMMISSIONERS**

  
Donald E. Holliday, Chair

  
Georgia Otero-Kirkham, Vice Chair

  
Mary Andersen, Commissioner

  
Ron Gentry, Commissioner

  
Lawrence Romero, Commissioner

ATTEST:

  
Sally Perea, County Clerk ( EXHIBIT E )

**VALENCIA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
ACCOUNTS PAYABLE AUTHORIZATION**

*Sally Perea*  
The attached computer printout lists all the checks issued by the Manager's Office on March 29, 2012 covering vendor bills processed on the above date.  
Check # 112729 to 112791 inclusive, for the total of \$207,419.76.

All have been reviewed for:

1. Appropriate documentation and approvals.
2. Authorized budget appropriations.
3. Compliance with New Mexico Statutes, and
4. DFA Rules and Regulations.

In recognition of the above, the Fiscal Office requests this action be officially recorded in the minutes of the regular county commission meeting before which body this matter came.

Recommended:

*Christina Card*  
\_\_\_\_\_  
Director of Finance

Done this 4th day of April, 2012.

**VALENCIA COUNTY BOARD OF COMMISSIONERS**

*Donald E. Holliday*  
\_\_\_\_\_  
Donald E. Holliday, Chair

*Lawrence R. Romero*  
\_\_\_\_\_  
Lawrence R. Romero, Commissioner

*Ron Gentry*  
\_\_\_\_\_  
Ron Gentry, Commissioner

*Georgia Otero-Kirkham*  
\_\_\_\_\_  
Georgia Otero-Kirkham, Vice-Chair

*Mary J. Andersen*  
\_\_\_\_\_  
Mary J. Andersen, Commissioner

ATTEST:

*Sally Perea*  
\_\_\_\_\_  
Sally Perea, County Clerk (EXHIBIT F)

## **EMPLOYMENT AGREEMENT**

This Agreement is made and entered into this 4<sup>th</sup> day of April 2012, by and between the Valencia County, a political subdivision of the state of New Mexico, acting by and through its duly elected Board of County Commissioners, hereinafter referred to as "Board" and Mr. Bruce Swingle, hereinafter referred to as "Mr. Swingle."

### **WITNESSETH**

**WHEREAS**, the Board has desires to extend to Mr. Swingle an offer of employment pursuant to the terms and conditions contained in this Agreement; and,

**WHEREAS**, Mr. Swingle has agreed to such employment pursuant to said terms and conditions.

**NOW, THEREFORE**, in consideration of the following recitals, the covenants and conditions hereafter set forth and the obligations to be fulfilled by each party hereunder, the parties hereto agree as follows:

### **Section 1 EMPLOYMENT**

The County agrees to employ Mr. Swingle as the County Manager for Valencia County. Mr. Swingle accepts such employment on the terms and conditions contained in this Agreement. The term of this Agreement shall commence on April 23, 2012, and shall be valid for two years until June 30, 2013, unless sooner terminated as provided herein. The compensation and benefits as provided in Section 3 of this Agreement will be open for negotiation after completion of the first year of this Contract. Thereafter, this Agreement may be extended for successive additional one-year terms, or for a longer term, upon mutual agreement of the parties.

### **Section 2 DUTIES**

Mr. Swingle shall perform full-time professional services to the County in his capacity of County Manager, consistent with the provisions of this Agreement. Mr. Swingle shall at all times faithfully, industriously, and to the best of his ability, perform all such duties that may be required of him as County Manager, which include without limitation those duties detailed in NMSA 1978, § 4-38-19 (1973) and those duties as attached hereto as Exhibit "A". The county shall defend and indemnify Mr. Swingle from and against any and all claims or causes of action brought against Mr. Swingle and arising in connection with his duties hereunder.

The Board may evaluate Mr. Swingle's performance of his duties as County Manager annually in accordance with objective criteria enumerated in the Valencia County Personnel Rules and Regulations, Policy No. 401-01-2, as amended, or the most recently adopted personnel policy, and further in accordance with such other criteria as may be determined from time to time by the Board in its sole discretion; however, that the Board shall furnish to Mr. Swingle a description of the aforesaid criteria at the beginning of each calendar year.

( EXHIBIT G )

Page 1 of 6

BOOK 073      PAGE      51

The following provisions of the Personnel Policy do not apply or apply as modified below to Mr. Swingle or with respect to his employment with the County:

- A. all provisions related to termination and grievance procedures afforded to County Employees do not apply to Mr. Swingle;
- B. all provisions relating to compensation and overtime pay do not apply to Mr. Swingle (i.e., Mr. Swingle is a Fair Labor Standards Act exempt employee);
- C. Mr. Swingle shall be credited with 160 hours of paid annual leave upon execution of this agreement and shall accrue leave at the same rate as an employee with fifteen years of service every year thereafter.

All other provisions of the Personnel Policy will apply to Mr. Swingle.

### **Section 3 COMPENSATION AND BENEFITS**

The Board agrees to pay Mr. Swingle as County Manager a gross annual base salary (base salary) in an amount of ninety thousand dollars (\$90,000.00) in equal installments at established County pay periods and exclusive of any other benefits provided for in this Agreement. The Board agrees to offer Mr. Swingle standard employee benefits afforded all employees which includes: annual leave, holiday, sick leave, retirement, medical, life and dental insurance. Further, Mr. Swingle agrees to make any contribution which is standard and usual for employees for said benefits. The standard contribution is established by the Board and may be changed at any time. The County shall withhold from Mr. Swingle's base salary all required federal and state withholding taxes, as well as any required FICA contributions, and other statutorily mandated withholdings.

### **Section 4 VOLUNTARY TERMINATION**

Mr. Swingle may terminate this Agreement by delivering, at least thirty (30) days prior to the anticipated date of termination, a written notice to the Board of his intent to terminate this Agreement. If he is requested to do so by the Board, Mr. Swingle shall continue under the terms of this Agreement to render his services on behalf of the Board to the date of termination.

### **Section 5 INVOLUNTARY TERMINATION**

The Board may terminate this Agreement by delivering to Mr. Swingle a written notice of the Board's intent to terminate this Agreement, as determined by a minimum of a 3/5 vote of the Board. For purposes of this section only, in the event the Board requests that Mr. Swingle resign and Mr. Swingle resigns pursuant to such request, then such action shall constitute an involuntary termination hereunder.

In the event of involuntary termination hereunder, the Board shall have no further obligations under this Agreement to Mr. Swingle except as follows:

- A. Within ten (10) business days from and after the date on which termination becomes effective, the County shall pay to Mr. Swingle in a single payment an



amount equal to a sum of the amounts allocated for two (2) months under this Agreement for Mr. Swingle's base salary as described in Section 3 hereof.

- B. The County shall also pay Mr. Swingle accrued annual leave and sick leave as set forth in the Valencia County Personnel Rules and Regulations.
- C. The payments described herein to be extended to Mr. Swingle in the event of involuntary termination shall constitute the payment of liquidated damages, and Mr. Swingle shall have no further claim or cause of action against the County, its Board, or the individual members thereof as a result of any termination hereunder.
- D. The foregoing obligations of the County shall apply to any involuntary termination of Mr. Swingle by the Board except upon the occurrence of one or more of the following events.
  - i. A determination by the Board that Mr. Swingle has intentionally engaged in illegal conduct;
  - ii. Conviction of Mr. Swingle of a crime punishable as a felony, or in the event Mr. Swingle enters a plea of no lo contender or no contest upon being accused of any such crime, or enters into a plea bargain agreement in response to accusations of any such crime;
  - iii. Engaging in any conduct which is unethical or immoral for a professional;
  - iv. Habitual or excessive use of intoxicants or drugs, or;
  - v. A breach by Mr. Swingle of Section 2 of this Agreement.

In any such event, the Board may terminate this Agreement immediately and without further obligation hereunder to Mr. Swingle, except for accrued base salary earned, and benefits as stated in Section 5(B), to the date of termination.

## **Section 6 OTHER PROVISIONS**

- A. In the event of termination of this Agreement or Mr. Swingle's resignation, the parties hereby agree that all County property and all finished or unfinished County documents and property held by Mr. Swingle shall immediately be tendered and delivered to the County as its property.
- B. This Agreement is subject to modification, if changes are determined necessary upon performance evaluation, with the consent of both parties.
- C. Mr. Swingle shall not acquire nor continue any financial interest that directly affects his ability to carry out the duties of County Manager and shall otherwise comply with the applicable terms of the Personnel Rules and Regulations.

- D. Mr. Swingle shall maintain his conduct at the highest standards.
- E. The Board shall provide Mr. Swingle with professional membership in organizations relating to his employment as County Manager as determined appropriate by the County Manager and as afforded other County employees, within budgetary limitations.
- F. Mr. Swingle's duties require that he shall have the exclusive use of a County automobile for official use at all times during his employment. The County shall be responsible for liability, property damage and compensation insurance associated with the Mr. Swingle's use of the automobile, and for the maintenance, operation and other operating expenses associated with his use of said automobile. Any income tax liabilities associated with Mr. Swingle's use of the automobile shall be his sole responsibilities.

#### **Section 7 NOTICES**

Any notice required or permitted under this Agreement shall be sufficient if in writing, and if personally delivered to the person intended to receive such notice or if sent by mail to his residence in the case of Mr. Swingle or to the principal office in the case of the County.

#### **Section 8 GOVERNING LAW**

This Agreement shall be subject to and governed by the laws of the State of New Mexico, the invalidity or unenforceability of any particular provision of this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

#### **Section 9 CONTRACT AMENDMENT**

This Agreement may be amended by mutual agreement in writing by the parties. However, Mr. Swingle's annual salary may increase as agreed upon by the parties without requiring an amendment to this Agreement. In addition, the Board may change benefit contribution requirements without amendment to this Agreement.

#### **Section 10 ENTIRE AGREEMENT**

Page 4 of 6

The parties hereto agree that this Agreement incorporates all of the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and that all covenants, agreements and understandings have been merged into this Agreement.

**Section 11**  
**SAVINGS CLAUSE**

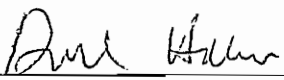
In the event that one or more provisions of this Agreement shall be declared invalid or unenforceable by any court of competent jurisdiction, then the remaining provisions of this Agreement shall nonetheless continue to be valid and enforceable by and between the parties.

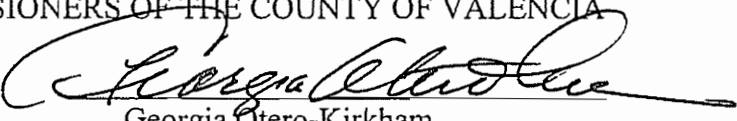
**IN WITNESS WHEREOF**, the Board and Mr. Swingle have each caused this Agreement to be executed as of the date first written above.


**BOARD OF COUNTY COMMISSIONERS**  
P.O. Box 1119 / 444 Luna Ave.  
Los Lunas, NM 87031

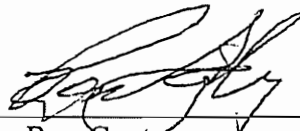
**APPROVED, ADOPTED, AND PASSED** on this 14th day of April, 2012.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF VALENCIA

  
Donald E. Holliday,  
Chairman, District V

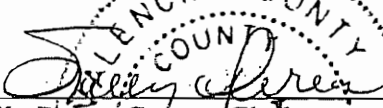
  
Georgia Otero-Kirkham,  
Vice-Chair, District II

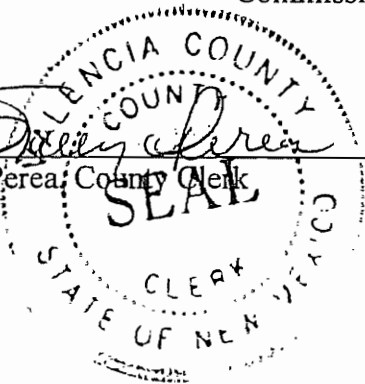
  
Mary J. Andersen  
Commissioner, District I

  
Ron Gentry  
Commissioner, District IV

\_\_\_\_\_  
Lawrence R. Romero  
Commissioner, District III

Attest:

  
Sally Perea, County Clerk



Bruce Swingle, Manager

Date: 04/06/12

STATE OF NEW MEXICO )

) SS.

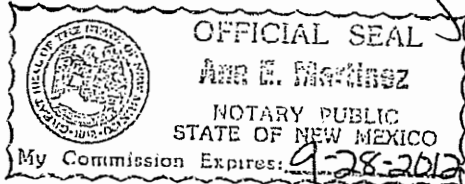
COUNTY OF VALENCIA )

This instrument was acknowledged before me this 16 day of April, 2012 by Bruce Swingle.

Notary Public

My commission expires: \_\_\_\_\_

0282012



## **EMPLOYMENT AGREEMENT**

This Agreement is made and entered into this 4<sup>th</sup> day of April 2012, by and between Valencia County, a political subdivision of the state of New Mexico, acting by and through its duly elected Board of County Commissioners, hereinafter referred to as "Board" and Mr. Jacobo Martinez, hereinafter referred to as "Mr. Martinez".

### **WITNESSETH**

**WHEREAS,** The Board has voted to extend to Mr. Martinez an offer of employment pursuant to the terms and conditions contained in this Agreement; and,

**WHEREAS,** Mr. Martinez has agreed to such employment pursuant to said terms and conditions.

**NOW, THEREFORE,** in consideration of the following recitals, the covenants and conditions hereafter set forth and the obligations to be fulfilled by each party hereunder, the parties hereto agree as follows:

### **SECTION 1 EMPLOYMENT**

The County agrees to employ Mr. Martinez as the Public Works Director for Valencia County. Mr. Martinez accepts such employment on the terms and conditions contained in this Agreement. The term of this Agreement shall commence on April 4, 2012 and shall be valid for until June 30, 2013, unless sooner terminated as provided herein. Thereafter, this Agreement may be extended for successive additional one-year terms, or for a longer term, upon mutual agreement of the parties.

### **SECTION 2 DUTIES**

Mr. Martinez shall perform full-time professional Services to the County in his capacity of Public Works Director, consistent with the provisions of this Agreement. Mr. Martinez shall at all times faithfully, industriously, and to the best of his ability, perform all such duties that may be required of him as Public Works Director, which include without limitation those duties attached hereto as Exhibit "A". The County shall defend and indemnify Mr. Martinez from the and against any and all claims or causes of action brought against Mr. Martinez and arising in connection with his duties hereunder.

### **SECTION 3 COMPENSATION AND BENEFITS**

The Board agrees to pay Mr. Martinez as Public Works Director a gross annual bas salary (base salary) in an amount of Sixty thousand dollars (\$60,000.00) in equal installments at  
( EXHIBIT H )

established County pay periods and exclusive of any other benefits provided for in this Agreement. The base salary may, in the sole discretion of the Board, be subject to annual Increases of up to ten percent (10%) based upon the performance by Mr. Martinez of his duties as Public Works Director. Mr. Martinez shall serve as a Fair Labor Standards Act exempt employee.

The Board shall evaluate Mr. Martinez’s performance of his duties as Public Works Director annually in accordance with objective criteria enumerated in the Valencia County Personnel Rules and Regulations, Policy No. 401-01-2, as amended, or the most recently adopted personnel policy, and further in accordance with such other criteria as may be determined from time to time by the Board in its sole discretion; however, that the Board shall furnish to Mr. Martinez a description of the aforesaid criteria at the beginning of each calendar year.

The Board agrees to offer Mr. Martinez standard employee benefits afforded all employees which includes; annual leave, holiday, sick leave, retirement, medical, life and dental insurance. Further, Mr. Martinez agrees to make any contribution which is standard and usual for employees for said benefits. The standard contribution is established by the Board and may be increased at any time. The County shall withhold from Mr. Martinez base salary all required federal and state withholding taxes, as well as Mr. Martinez’s FICA contributions, and other statutorily mandated withholdings.

The following provisions of the Personnel Policy do not apply to Mr. Martinez or his employment with the County:

- A. all provisions related to termination and grievance procedures afforded to County Employees;
- B. all provisions relating to compensation and overtime pay (i.e., Mr. Martinez is a Fair Labor Standards Act exempt employee);

All other provisions of the Personnel Policy will apply to Mr. Martinez.

**SECTION 4**  
**VOLUNTARY TERMINATION**

Mr. Martinez may terminate this Agreement by delivering, at least thirty (30) days prior to the anticipated date of termination, a written notice to the Board of his intent to terminate this Agreement. If he is requested to do so by the Board, Mr. Martinez shall continue under the terms of this Agreement to render his services on behalf of the Board to the date of termination.

**SECTION 5**  
**INVOLUNTARY TERMINATION**

The Board may terminate this Agreement by delivering to Mr. Martinez a written notice of the Board’s intent to terminate this Agreement, as determined by a minimum of a 3/5 vote of the Board.

In the event of involuntary termination hereunder, the Board shall have no further obligations under this Agreement to Mr. Martinez except as follows:

- A. Within ten (10) business days from and after the date on which termination becomes effective, the County shall pay to Mr. Martinez in a single payment an amount equal to a sum of the amounts allocated for two (2) months under this Agreement for Mr. Martinez base salary as described in Section 3 hereof.
- B. The County shall also pay Mr. Martinez accrued annual leave and sick leave as set forth in the Valencia County Personnel Rules and Regulations.
- C. The payments described herein to be extended to Mr. Martinez in the event of involuntary termination shall constitute the payment of liquidated damages, and Mr. Martinez shall have no further claim or cause of action against the County, its Board, or the individual members thereof as a result of any termination hereunder.
- D. The foregoing obligations of the County, Mr. Martinez shall apply to any involuntary termination of Mr. Martinez by the Board except upon the occurrence of one or more of the following events.
  - i. Expiration of this Agreement of June 30, 2013 (or the extended anniversary thereof); or
  - ii. A determination by the Board that Mr. Martinez has intentionally engaged in illegal conduct; or
  - iii. Conviction of Mr. Martinez of a crime punishable as a felony, or in the event Mr. Martinez enters a plea of no contender upon being accused of any such crime, or enters into a plea bargain agreement in response to accusations of any such crime; or
  - iv. Engaging in any conduct which is unethical or immoral for a professional;
  - v. Habitual or excessive use of intoxicants or drugs; or
  - vi. A breach by Mr. Martinez of Section 2 of this Agreement.
  - vii. A determination that by the Board that Mr. Martinez has engaged in activity warranting just cause discipline pursuant to Section 7 of the Valencia County Personnel Policy No. 401-01-2 as amended.

In any such event, the Board may terminate this Agreement immediately and without Further obligation hereunder to Mr. Martinez, except for accrued base salary earned, and benefits as stated in Section 5(B), to the date of termination.

## SECTION 6

## **OTHER PROVISIONS**

- A. In the event of termination of this Agreement or Mr. Martinez resignation, the parties hereby agree that all County property and all finished or unfinished County documents and property held by Mr. Martinez shall immediately be tendered and delivered to the County as its property.
- B. This Agreement is subject to modification, if changes are determined necessary upon performance, with the consent of both parties.
- C. Mr. Martinez shall not acquired nor continue any financial interest that directly affects his ability to carry out the duties of Public Works Director and shall otherwise comply with the applicable terms of the Personnel Rules and Regulations.
- D. Mr. Martinez shall maintain his conduct at the highest standards.
- E. The Board shall provide Mr. Martinez with professional membership in organizations relating to his employment as Public Works Director as determined appropriate b the Chairperson of the Board and as afforded other County employees, within budgetary limitations.

## **SECTION 7 NOTICES**

Any notice required or permitted under this Agreement shall be sufficient if in writing, and if personally delivered to the person intended to receive such notice or if sent by mail to his residence in the case of Mr. Martinez or to the principal office in the case of County.

## **SECTION 8 GOVERNING LAW**

This Agreement shall be subject to and governed by the laws of the State of New Mexico, the invalidity or unenforceability of any particular provision of this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

## **SECTION 9 CONTRACT AMENDMENT**

This Agreement may be amended by mutual agreement in writing by the parties. However, Mr. Martinez annual salary many increase as agreed upon by the parties without requiring an amendment to this Agreement. In addition, the Board may change benefit contribution requirements without amendment to this Agreement.

## **SECTION 10 ENTIRE AGREEMENT**



The parties hereto agree that this Agreement incorporates all of the agreements, covenants and understanding between the parties hereto concerning the subject matter hereof, and that all covenants, agreements and understandings have been merged into this Agreement. No prior agreements or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable.

**SECTION 11  
SAVINGS CLAUSE**

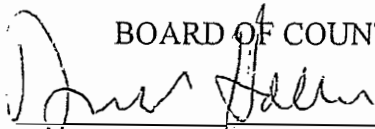
In the event that or more provisions of this Agreement shall be declared invalid or unenforceable by any court of competent jurisdiction, then the remaining provisions of this Agreement shall nonetheless continue to be valid for enforceable by and between the parties.

**IN WITNESS WHEREOF**, the Board and Mr. Martinez have each caused this Agreement to be executed as the date(s) written below.

**BOARD OF COUNTY COMMISSIONERS**  
P.O. Box 1119/444 Luna Ave.  
Los Lunas, NM 87031

**APPROVED, ADOPTED, AND PASSED** on this 4<sup>th</sup> day of April, 2012.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF VALENCIA



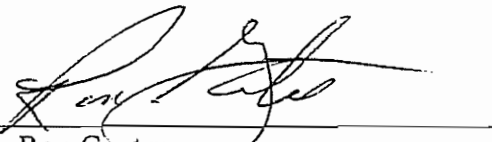
Donald E. Holliday,  
Chairman, District V



Georgia Otero-Kirkham,  
Vice-Chair, District II



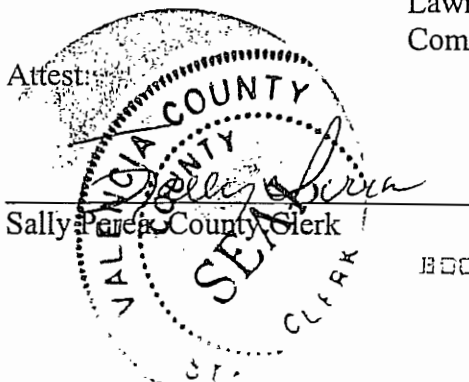
Mary J. Andersen  
Commissioner, District I



Ron Gentry  
Commissioner, District IV

\_\_\_\_\_  
Lawrence R. Romero  
Commissioner, District III

Attest:



Sally Perea, County Clerk

BOOK 073

PAGE 91

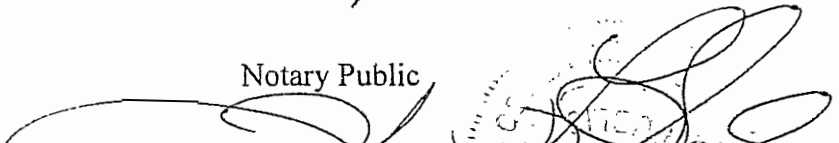
Jacobo Martínez, Publi

Date: 4.4.2

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF VALENCIA )

This instrument was acknowledged before me this 4 day of April, 2012 by Jacobo Martinez.

Notary Public



1-10-63

CONTRACT BETWEEN  
THE COUNTY OF VALENCIA  
AND  
WALLIN HUSS & MENDEZ LAW FIRM, LLC  
FOR LEGAL SERVICES

THIS AGREEMENT is made and entered into the 5 day of April, 2012 by and between the Board of County Commissioners of Valencia County, through Interim County Manager Lawrence Esquibel hereinafter referred to as the "County" and the Wallin, Huss & Mendez Law Firm, LLC hereinafter referred to as the "Contractor".

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Scope of Work.

Contractor shall be responsible for performing legal services and providing the County legal representation in the matter of Living Cross Ambulance Service, Inc. v. Valencia County Regional Emergency Communications Center et al. Cause No. D-1314-CV-2001-512.

2. Compensation

A. The County shall pay to the Contractor at the rate(s) described on Exhibit "A" attached hereto per hour for legal services performed hereunder.

B. The County shall pay the Contractor the New Mexico gross receipts tax levied on the amounts payable under this Agreement.

C. Payment shall be made at the end of each month, upon receipt of a detailed, certified statement containing a report of work completed and disposition of same.

D. The total compensation under this Agreement shall not exceed \$5,000.00 excluding GRT.

E. No charges shall be billed to the County for any of the following services or items unless prior-authorized by Valencia County:

- a. Secretarial, word processing, proofreading, filing, office machine attendants, file organization or other clerical services;
- b. Photocopy expenses at more than 10 cents per page;
- c. Computer time;
- d. Telephone expenses;
- e. Charges related to computer usage, online or Internet related investigation or research;
- f. Local faxes (incoming or outgoing);
- g. Audit Letters; and
- h. Any other expense properly chargeable to overhead or as a capital expense.

F. The Independent Contractor shall maintain detailed time records which set forth each service rendered in each matter, the person rendering such service, his/her hourly rate,

( EXHIBIT I )

Page 1 of 7

BOOK 073

PAGE 92

if any, the time expended in rendering such service and the date such service was rendered. The Independent Contractor shall submit these records along with its billings to the County monthly. The records shall be subject to inspection by the County. The County has the right to audit billings both before and after payment, and to contest any billing or portion thereof. Payment under this Agreement does not foreclose the County's right to recover excessive or illegal payments.

3. Term.

This Agreement shall terminate on June 30, 2013 unless terminated pursuant to paragraph 4, infra or until the expenditure limit of the agreement detailed in paragraph 2 above is reached. In accordance with Section 13-1-150 NMSA 1978, no contract term, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

A. Termination

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

B. Termination Management

Immediately upon receipt by either the County or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the County and 2) comply with all directives issued by the County in the notice of termination as to the performance of work under this Agreement.

5. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of Valencia County or the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of Valencia County or the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

6. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the County.

7. Subcontracting.  
The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County.
8. Records and Audit.  
The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments.
9. Release.  
The Contractor's acceptance of final payment of the amount due under this Agreement shall operate as a release of the County, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the County of Valencia or the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.
10. Confidentiality.  
Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.
11. Product of Service -- Copyright.  
All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Valencia and shall be delivered to the County no later than the termination date of this Agreement. Nothing produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.
12. Amendment.  
This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.
13. Merger.  
This Agreement incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understanding, oral or otherwise, of the

parties or their agents shall be valid or enforceable unless embodied in this Agreement.

14. Penalties.

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

15. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

16. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement and shall be enforceable in the Thirteenth Judicial District Court in Valencia County.

17. Professional Liability Insurance.

The Contractor shall procure and maintain in full force throughout the duration of the Agreement a lawyers professional liability insurance policy with a minimum coverage of \$1,000,000.00 per occurrence/ \$2,000,000.00 aggregate.

18. Appropriations.

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the governing body for the performance of this Contract. If sufficient appropriations are not made by the governing body, this Contract shall terminate upon written notice being given by the County to the Contractor. The County's determination as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

19. Conflict of Interest.

The Contractor warrants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18 NMSA 1978, regarding contracting with a public officer have been followed.

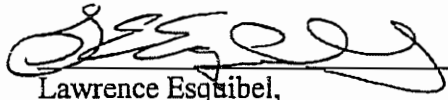
20. Independent Contractor's Taxes.  
Neither Federal nor State taxes shall be withheld or paid by the County on behalf of the Contractor or the Contractor's employees or agents. The Contractor shall be solely responsible for the payment of all Federal and State taxes and assessments payable in connection with the payment to the Contractor by the County for services rendered to the County.
21. Worker's Compensation.  
Due to the fact that the Contractor is engaged in his own business enterprise and is not an employee of the County, the County will not obtain worker's compensation insurance coverage for the Contractor or the Contractor's employees or agents. The Contractor shall obtain workman's compensation insurance for himself and for the Contractor's employees and agents, if required by law to do so, and shall provide the County certificates of any necessary coverage upon demand.
22. Severability.  
If any clause or provision of this Agreement is held to be illegal by a court of competent jurisdiction, invalid or un-enforceable, then it is the intention of the parties hereto that the remainder of the Agreement shall remain in full force and effect. However, if the purpose of the Agreement can no longer be carried out by either party, the Agreement is void and no damages shall accrue to either party.
23. Mediation.  
In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.
24. Notice to Proceed.  
It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Valencia County Manager, if the amount of the contract is \$5,000.00 or less, further, that the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.
25. Attorney's Fees  
In the event this Agreement results in dispute, mediation, litigation, or settlement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

26. Paragraph Headings.  
Paragraph headings are for convenience and reference and are not intended to limit the scope of any provision of this Agreement.
27. Cooperation.  
All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.
28. Force Majeure.  
In case performance of any terms or provision hereof shall be delayed or prevented because of compliance with any law, decree or order of any governmental agency or authority of local, State or Federal government or because of riots, war, terrorism, explosions, acts of civil or military authority, acts of public enemy, public disturbances, lack of adequate security escort, strikes, lockouts, difference with workers, earthquakes, fires, floods, Acts of God or any other reason whatsoever which is not reasonable within the control of the party whose performance in interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent; the party so suffering may, at its option, suspend, without liability , the performance of its obligations hereunder during the period such cause continues.
29. Duplicate Originals.  
This Agreement may be executed in two identical originals, each of which shall be considered an original and all of which shall constitute but one and the same instrument.
30. Notices.  
Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:
- To the County: The Valencia County Manager, P. O. Box 1119, Los Lunas, NM 87031
- To the Contractor: Wallin, Huss & Mendez Law Firm, LLC Attn: Adolfo J. Mendez, P.O. Box 696, Moriarty, NM 87035-0696

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date listed above.



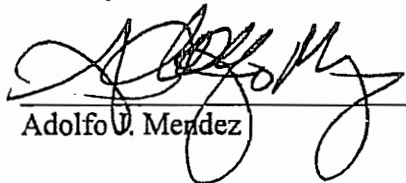
BOARD OF COUNTY COMMISSIONERS  
VALENCIA COUNTY, NEW MEXICO

  
Lawrence Esquivel,  
Interim County Manager

4/5/12  
Date

Approved pursuant to the authority delegated to Interim County Manager Lawrence Esquivel by the Board of County Commissioners at a duly noticed regular County Commission meeting on April 4, 2012.

Wallin, Huss & Mendez Law Firm, LLC

  
Adolfo V. Mendez

4/6/12  
Date

## **EXHIBIT TO ATTORNEY BILLING GUIDELINES**

### **ATTORNEY RATES**

<u>Experience</u>	<u>Hourly Rate</u>
Up to 5 years	\$110.00
6-10 years	\$125.00
Over 10 years	\$150.00

### **PARALEGAL & LAW CLERK RATES**

<u>Experience</u>	<u>Hourly Rate</u>
Up to 5 years	\$ 45.00
6-10 years	\$ 50.00
Over 10 Years	\$ 55.00
Law Clerks	\$ 60.00

**\*NOTE:** These rates are effective on January 1, 2008 for new claims only. Claims which have been assigned prior to this date will continue to be billed at the rates previously agreed to.

**\*NOTE:** Investigator hourly rate revised October 12, 2008 and effective for claims assigned after that date.

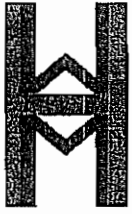
**\*NOTE:** The \$150 hourly billing rate is effective September 1, 2009 for new claims only. Claims which have been assigned prior to this date will continue to be billed at the rates previously agreed to.

**Paragraph 5 regarding the mileage reimbursement rate will become effective September 1, 2009 for all claims.**

**Revised 11/30/11**

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Approved by ML BOD 12/7/11 & Effective 1/1/12



WALLIN,  
HUSS &  
MENDEZ,  
LLC

P.O. Box 696  
Moriarty, NM 87035  
P: (505) 832-6363  
F: (505) 832-4044

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DENNIS K. WALLIN

BRANDON HUSS

ADOLFO J. MÉNDEZ II

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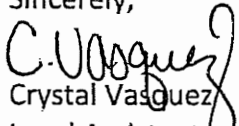
April 17, 2012

Adren Nance  
P.O. BOX 772  
Socorro, NM 87801

Dear Mr. Nance:

Enclosed for you please find The contract between The County of Valencia and Wallin, Huss & Mendez Law Firm, LLC for Legal Services dated April 6, 2012. If you have any questions, please contact this office.

Sincerely,

  
Crystal Vasquez  
Legal Assistant