

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

The Board of County Commissioners (the "Board of Commissioners") of McKinley County (the "County"), in the State of New Mexico, met in open regular session in full conformity with law and the ordinances and rules of the County, in the Commission Chambers, Third Floor at the McKinley County Courthouse, located at 207 West Hill Ave., Gallup, New Mexico, in the County, being the regular meeting place of the Board of Commissioners, at 9:00 a.m. on Tuesday, December 8, 2020, at which time there were present and answering the roll call the following members*:

Chairman:

Billy Moore

Commissioners[†]:

Bill Lee

Absent:

None

Thereupon the following proceedings, among others, were had and taken, to wit:

There was officially filed with the County Clerk, the Chairman and each Commissioner, a copy of an ordinance in final form, which is as follows:

*Adhering to the Social Distancing Protocols issued by the Governor's Office, and the requirements of the Open Meetings Act allowing members of the public to attend and listen to meetings of the quorum of the public body, the meeting was physically closed to the public but open to the public via live stream feeds offered on the approved Facebook account of the McKinley County Office of Emergency Management, as indicated in the notice for this meeting.

[†]Commissioner Tommy Nelson passed away on November 5, 2020, and was therefore not present at the meeting. As such, there exists a vacancy on the Commission which had not been filled as of December 8, 2020.

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**MCKINLEY COUNTY, NEW MEXICO
BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. 2020-DEC-006**

AN ORDINANCE FORMING THE MCKINLEY COUNTY ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT (THE "DISTRICT"); CREATING THE MCKINLEY COUNTY ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT AUTHORITY (THE "AUTHORITY") TO GOVERN THE DISTRICT; MAKING CERTAIN FINDINGS AND DETERMINATIONS RELATING TO THE INITIAL MEMBERS OF THE AUTHORITY; APPOINTING THE MEMBERS OF THE AUTHORITY; ESTABLISHING THE COMPENSATION TO BE PROVIDED TO MEMBERS OF THE AUTHORITY; ESTABLISHING THE CIRCUMSTANCES UNDER WHICH A MEMBER OF THE AUTHORITY MUST RESIGN FROM THEIR POSITION; DECLARING THAT MEMBERS AND EMPLOYEES OF THE AUTHORITY SHALL BE GOVERNED BY THE PROVISIONS OF THE GOVERNMENTAL CONDUCT ACT AND ESTABLISHING PROHIBITED CONDUCT FOR AUTHORITY MEMBERS AND OTHER OFFICIALS; SETTING FORTH THE METHOD BY WHICH MEMBERS OF THE AUTHORITY MAY BE REMOVED FROM THE AUTHORITY; DECLARING THAT THE DISTRICT AND THE AUTHORITY POSSESS THE AUTHORITY, POWERS AND DUTIES CONFERRED UPON THEM BY, AND ARE SUBJECT TO THE PROVISIONS AND LIMITATIONS OF, THE ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT ACT AND THIS ORDINANCE; IMPOSING CERTAIN LIMITATIONS ON THE DISTRICT; REQUIRING QUARTERLY REPORTING; CALLING FOR A MEETING OF THE AUTHORITY PRIOR TO DECEMBER 31, 2020 TO AUTHORIZE CERTAIN COUNTIES TO BECOME PART OF THE AUTHORITY AND TO APPOINT FOUR ADDITIONAL MEMBERS TO THE AUTHORITY; PROVIDING FOR THE OPTIONAL REPEAL OF THE ORDINANCE IN THE EVENT NO OTHER COUNTY JOINS THE DISTRICT OR FAILS TO APPOINT MEMBERS TO THE AUTHORITY AND DISSOLUTION OF THE DISTRICT; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE; TAKING OTHER ACTIONS RELATED TO THE FORMATION OF THE DISTRICT AND THE CREATION OF THE AUTHORITY; AND DECLARING AN EMERGENCY.

WHEREAS, during the 2020 Regular Session of the Legislature of New Mexico (the "Legislature") the Legislature enacted, and Governor Michelle Lujan Grisham signed into law, Chapter 78, Sections 1 to 13 of New Mexico Laws of 2020, codified at NMSA 1978, Sections 71-10-1 to -11 (2020) (the "Electric Generating Facility Economic District Act" or "Act"); and

WHEREAS, the Act, at NMSA 1978, Section 71-10-3 (2020), authorizes a county to form an electric generating facility economic district, the boundaries of which lie within the jurisdiction of the county, and which includes an operating coal-fueled electric generating

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facility that is owned by a non-investor-owned electric utility or a coal-fueled electric generating facility that is owned by a non-investor-owned electric utility and has been or is in the process of being retired; and

WHEREAS, the Act, at NMSA 1978, Section 71-10-4 (2020), requires that a county that forms an electric generating facility economic district (an “EGFED”) shall create an authority to govern the EGFED consisting of five members who shall be appointed by the governing body of the county and specifies the terms, term limits, qualifications, compensation for members of an authority and certain other mandates, limitations, restrictions and requirements applicable to an authority and its members; and

WHEREAS, the Act, at NMSA 1978, Section 71-10-4(E), compels an authority, for the period ending December 31, 2020, to authorize a county that borders the county that created the EGFED within twenty miles of a qualifying electric generating facility to become part of the authority and requires any additional county that becomes part of the EGFED to appoint four additional members to the authority; and

WHEREAS, the Act, at NMSA 1978, Section 71-10-5 (2020), establishes the authority, powers and duties of an authority created by the governing body of a county pursuant to the Act; and

WHEREAS, the Act, at NMSA 1978, Section 71-10-6 (2020), provides that bonds authorized by the Act, the income from those bonds, mortgages or other security instruments executed as security for those bonds, lease agreements authorized by the Act and revenue derived from a lease or sale by an authority are exempt from taxation by the State of New Mexico (the “State”) and its subdivisions; and

WHEREAS, the Act, at NMSA 1978, Section 71-10-7 (2020), authorizes the authority of an EGFED to issue revenue bonds for the purpose of constructing, purchasing, improving, remodeling, furnishing or equipping any necessary buildings, structures, roads or other infrastructure of the EGFED and establishes the revenues that may be pledged to the repayment of such revenue bonds, directs how revenues in excess of annual principal and interest due on such revenue bonds be accumulated, permits an authority to appoint a commercial bank trust department to act as paying agent or trustee of such revenues and to administer the payment of principal of and interest on the bonds, and establishes certain parameters, limitations and procedures for authorizing the issuance and determining the terms of such bonds; and

WHEREAS, the Act, at NMSA 1978, Section 71-10-8 (2020), authorizes an authority that has issued bonds in accordance with the Act to issue refunding bonds for the purpose of refinancing, paying and discharging all or any part of outstanding bonds and establishes certain parameters, limitations and procedures for authorizing the issuance and determining the terms of such refunding bonds; and

WHEREAS, the Act, at NMSA 1978, Section 71-10-9 (2020), provides that except as otherwise provided therein, all bonds or other obligations issued pursuant to the Act are payable solely from the revenues of the EGFED that may be pledged to the payment of such obligations, and the bonds or other obligations shall not create an obligation, debt or liability of the State or

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any other of its political subdivisions, and that no breach of any pledge, obligation or agreement of an EGFED shall impose a pecuniary liability or a charge upon the general credit or taxing power of the State or any other of its political subdivisions; and

WHEREAS, the Act, at NMSA 1978, Section 71-10-10 (2020), provides that the governing body of the county that formed the EGFED and the governing bodies of any counties that have become part of the EGFED may, by majority vote, agree to unwind and dissolve the EGFED and dismiss the authority members if they find the EGFED is not meeting the needs of the community in creating jobs of fostering economic development. In addition, the assets and all debts and obligations of the EGFED shall be transferred to and assumed by the counties as set forth in the unwinding or dissolution agreement; and

WHEREAS, the Act, at NMSA 1978, Section 71-10-11 (2020), specifies that no provision of the Act or Chapter 78, Section 12 of New Mexico Laws of 2020 shall affect an operating coal-fueled electric generating facility that is owned by a non-investor-owned electric utility or a coal-fueled electric generating facility that is owned by a non-investor-owned electric utility and has been or is in the process of being retired unless and to the extent the owner of such a facility and any existing lienors to such a facility agree in writing that such a facility may be affected by the powers of the authority or the governing body of a county; and

WHEREAS, Chapter 78, Section 12 of New Mexico Laws of 2020 enacted a new section of the County Local Option Gross Receipts and Compensating Taxes Act, codified at NMSA 1978, Section 7-20E-29 (2020), which authorizes a majority of the members of the governing body of a county in which an EGFED is located and a bordering county within twenty miles of a qualifying electric generating facility to enact an ordinance imposing an excise tax of up to one-fourth percent of the gross receipts of any person engaging in business in the county or county area for the privilege of engaging in business in the county or county area, the revenues of which shall be dedicated only for the payment of interest on and principal of revenue bonds issued pursuant to the Act and for no other purpose; and

WHEREAS, the Board of County Commissioners (the “Board of Commissioners”) of McKinley County, New Mexico (the “County”), as the governing body of the County, has determined that it is necessary and in the best interest of the County and the inhabitants thereof that the County form the McKinley County Electric Generating Facility Economic District, consistent with the requirements of the Act; and

WHEREAS, the Board of Commissioners has determined that it is necessary and in the best interest of the County and the inhabitants thereof that the County create the McKinley County Electric Generating Facility Economic District Authority to govern the McKinley County Electric Generating Facility Economic District, consistent with the requirements of the Act; and

WHEREAS, NMSA 1978, Section 4-37-7(A) (1981) provides that “[o]rdinances shall not be submitted to the board for final passage until a majority of the members have directed that the title and a general summary of the subject matter of the proposed ordinances be published one time in a newspaper of general circulation within the county at least two weeks prior to the

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meeting of the board at which the ordinance is proposed for final passage. The date and time of the meeting at which the ordinance is to be considered shall also be published[;]" and

WHEREAS, on November 10, 2020, a majority of the members of the Board of Commissioners passed Resolution No. NOV-20-098 (the "Resolution"), which directed that the title and general summary of this ordinance be published one time in the *Albuquerque Journal* and the *Gallup Sun*, newspapers of general circulation within the County, as soon as was practicable following adoption of the Resolution, but with at least one of those publications occurring no less than 14 days prior to the date of the Board of Commissioners' first meeting in December 2020; and

WHEREAS, on November 13, 2020, notice of the Board of Commissioners' December 8, 2020 meeting (the Board of Commissioners' first meeting in December 2020) and the title and general summary of this ordinance was published in both the *Albuquerque Journal* and the *Gallup Sun*, as required by the Resolution. Both of the publications occurred more than 14 days before December 8, 2020, the date upon which this ordinance is being proposed for final passage, as required by Section 4-37-7(A).

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, OF THE COUNTY OF MCKINLEY, NEW MEXICO:

Section 1. FORMATION OF THE DISTRICT; BOUNDARIES OF THE DISTRICT; IDENTIFICATION AND STATUS OF FACILITY; LOCATION OF FACILITY. The McKinley County Electric Generating Facility Economic District (the "District") is hereby formed to carry out the purposes set forth in, and according to the provisions of, this ordinance (the "Ordinance") and the Act. The initial boundaries of the District are set forth in Exhibit A hereto, which lie within the jurisdiction of the County. Tri-State Generation & Transmission Association's Escalante Generating Station (the "Facility") is an operating coal-fueled electric generating facility that is owned by a non-investor-owned electric utility or a coal-fueled electric generating facility that is owned by a non-investor-owned electric utility and has been or is in the process of being retired. The Facility lies within the boundaries of the District.

Section 2. CREATION OF THE AUTHORITY; COMPOSITION OF AUTHORITY; TERMS OF OFFICE AND REQUIREMENTS FOR MEMBERS OF THE AUTHORITY. The McKinley County Electric Generating Facility Economic District Authority (the "Authority") is hereby created to govern the District and shall constitute the governing body of the District. The Authority shall consist of five members, appointed by the Board of Commissioners, whose terms shall be staggered as described herein, including a non-voting member appointed by the governor who shall serve at the pleasure of the governor for a two-year term. No member of the Authority shall serve more than two consecutive four-year terms. A member who has served two consecutive four-year terms on the authority shall not serve another term until after four years following the second term have elapsed. An elected official shall not serve as a member of the Authority. Each member of the Authority shall post a surety bond for the faithful performance of the member's duties pursuant to the Surety Bond Act, NMSA 1978, Sections 10-2-13 to -16 (1978, as amended through 2000), and any subsequent amendments thereto.

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Section 3. QUALIFICATIONS FOR AUTHORITY MEMBERS. To be eligible to serve as a member of the Authority, a person must possess the following qualifications:

A. Experience in energy development business, economic development, finance, commercial real estate investment or accounting or possess other qualifications that the governing body appointing the member determines are necessary or appropriate for carrying out the duties of the Authority but does not have at the time of appointment and will not have during service as a member of the Authority employment or a contract with an energy development business; and

B. No direct substantial conflict of interest in the business or operation of the Authority.

Section 4. FINDINGS RELATING TO INITIAL MEMBERS OF AUTHORITY; APPOINTMENT OF INITIAL MEMBERS OF AUTHORITY.

A. As required by NMSA 1978, Section 71-10-4(G) (2020) and Section 3 of this Ordinance, the Board of Commissioners hereby finds and determines that each of the initial members of the Authority identified in Section 4(B) below possesses: (i) experience in energy development business, economic development, finance, commercial real estate investment or accounting or possesses other qualifications that the Board of Commissioners determines are necessary or appropriate for carrying out the duties of the Authority but does not at the time of appointment and will not have during service as a member of the Authority employment or a contract with an energy development business; and (ii) no direct substantial conflict of interest in the business or operation of the Authority.

B. The Board of Commissioners hereby appoints the following individuals to serve as the initial members of the Authority:

1. Marvin Magee;
2. Anthony Dimas, Jr;
3. Tony Tanner;
4. Rhonda Mitchell; and
5. Bill Lee (effective January 1, 2021).

C. Pursuant to Section 71-10-4(D), the Governor of the State will appoint an individual to serve as a non-voting member of the Authority, whose term of office shall be two years, and who shall serve at the pleasure of the Governor.

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Section 5. **COMPENSATION FOR MEMBERS OF THE AUTHORITY.** Pursuant to Section 71-10-4(F), members of the Authority shall receive per diem and mileage from the District as provided in the Per Diem and Mileage Act, NMSA 1978, Sections 10-8-1 to -8 (1963, as amended through 2018), and any subsequent amendment thereto, and shall receive no other compensation, perquisite or allowance and the County shall not be responsible for such payments.

Section 6. **MANDATORY RESIGNATION.** Any member of the Authority shall resign from the Authority if a matter to be voted on poses a conflict of interest for that member.

Section 7. **APPLICABILITY OF GOVERNMENTAL CONDUCT ACT; PROHIBITED CONDUCT FOR MEMBERS AND EMPLOYEES OF AUTHORITY.**

A. Members and employees of the Authority shall be governed by the provisions of the Governmental Conduct Act, NMSA 1978, Sections 10-16-1 to -18 (1967, as amended through 2019) (the "GCA"), and any subsequent amendment thereto.

B. Members and employees of the Authority are prohibited from:

1. Acquiring a financial interest in a new or existing business venture or business property if the member or employee believes or has reason to believe that the financial interest will be directly affected by an official act conducted in that membership or employment capacity; or

2. Using confidential information acquired by virtue of membership or employment by the Authority for the member's or employee's or another person's private gain; or

3. As a person with a financial or other interest in a business that is party to a contract, enter into a contract with the Authority without there being public notice of the contract, a competitive bidding process for entry into the contract and full disclosure of that financial or other interest.

Section 8. **REMOVAL OF AUTHORITY MEMBERS.** The Board of Commissioners may remove any member of the Authority if it determines that the member has:

1. Neglected or refused to perform an official duty; or

2. Violated the policies or procedures adopted by the Authority; or

3. Developed a direct, substantial conflict of interest in the business of the Authority.

Section 9. **APPLICABILITY OF ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT ACT.** The District and the Authority shall have all of the authority, powers and duties conferred upon them pursuant to, and they shall otherwise be subject to all of

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the provisions and limitations of, the Electric Generating Facility Economic District Act, as described in the recitals hereto, and this Ordinance.

Section 10. **LIMITATION ON BOND ISSUANCE.** Notwithstanding any provision in this Ordinance to the contrary, prior to (i) the issuance of any obligation by the District pursuant to Section 71-10-7 and/or Section 71-10-8 whether designated as a bond, note, loan warrant, debenture, lease purchase agreement or other instrument evidencing an obligation to make payment, (ii) the expenditure of any proceeds from a debt instrument, and (iii) the undertaking of any project with proceeds of a debt instrument, the District shall obtain the approval of the Board of Commissioners. Notwithstanding any approval given pursuant to this Section 10, the County shall not be responsible for any obligation incurred by the District until and unless the County adopts an ordinance pursuant to the provisions of NMSA 1978, Section 4-59-4 or NMSA 1978, Section 4-62-4, which ordinance shall be subject to the approving opinion of expert bond counsel engaged by the County for such purpose.

Section 11. **LIMITATION ON OPERATING EXPENDITURES.** The Authority of the District shall prepare an annual operating budget which shall be presented to and approved by the Board of Commissioners. The approval of the budget by the Board of Commissioners shall be based on the availability of resources of the District for any proposed expenditures. Should another county participate in the District through the appointment of members of the Authority, the Board of Commissioners shall not approve any expenditures unless the cost of such expenditures shall be evenly divided with the other participating county. In no event shall the Board of Commissioners be required to provide any assistance, through appropriation or otherwise, toward the operations of the District or its Authority.

Section 12. **LIMITATION ON ADOPTION OF GROSS RECEIPTS TAX.** The Board of Commissioners shall have no obligation to adopt an ordinance imposing a gross receipts tax in accordance with the power given it pursuant to Section 7-20E-29 and no tax shall be enacted unless a bordering county participating in the District and represented by members of the Authority shall adopt a tax in the same increment of tax.

Section 13. **LIMITATION ON USE OF NON-DISCLOSURE AGREEMENTS; APPLICABILITY OF INSPECTION OF PUBLIC RECORDS ACT AND OPEN MEETINGS ACT.** Neither the District, nor the members of the Authority shall have the power to enter into any non-disclosure or similar confidentiality agreement unless otherwise required pursuant to the laws of the State. To the extent not otherwise required by law, the District and the members of the Authority shall be subject to the provisions of Chapter 10, Article 15 NMSA 1978 (the Open Meetings Act) and Chapter 14 Article 2 NMSA 1978 (the Inspection of Public Records Act).

Section 14. **RECOMMENDATIONS OF CHANGES TO THE ENABLING LEGISLATION.** The members of the Authority, acting on behalf of the Board of Commissioners, shall make no recommendations relating to the Electric Generating Facility Economic District Act without the approval of the Board of Commissioners.

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Section 15. **QUARTERLY REPORTS.** The members of the Authority of the District shall prepare, at least quarterly, a report of the activities of the District to be delivered in writing and by public presentation to the Board of Commissioners.

Section 16. **INITIAL MEETING OF AUTHORITY.** The Board of Commissioners hereby directs the Authority to call a meeting on or prior to December 31, 2020, for the purpose of authorizing any county that borders the County within twenty miles of the Facility to become part of the Authority, as required by Section 71-10-4(E). Any county that becomes part of the District shall be entitled to appoint four additional members to the Authority, consistent with the requirements of Section 71-10-4.

Section 17. **REINFORCEMENT OF THE GOVERNMENTAL CONDUCT ACT.** This Ordinance reinforces and strengthens the GCA, such that no Authority member should have or make a financial benefit in any of their direct and indirect dealings with the Authority.

Section 18. **UNDUE INFLUENCE AND IMPROPER REQUESTS.** In addition to the provisions of the GCA, no elected official, including federal or state legislators and members of any county commission, shall exert undue influence upon, or make any improper request (quid pro quo, etc.) from, any member of the Authority. Any request from such an elected official that results in any direct or indirect financial benefit to that person or any entity for which they have decision making power or are employed by are specifically deemed to be violation of this Section 18. Should any undue influence be exerted, or an improper request occur, the Board of Commissioners or any member of the Authority having knowledge thereof is obligated to file an ethics complaint with the Secretary of State and the State Auditor's Office.

Section 19. **OPTIONAL SUNSET PROVISION; DISSOLUTION OF DISTRICT.** Should Cibola County, New Mexico (or any other qualifying county) fail to and/or decide not to join the District and/or appoint members of the Authority by April 1, 2021, this Ordinance may be repealed by the Board of Commissioners. In addition, should the Board of Commissioners wish to dissolve the District, it may do so in accordance with the provisions of NMSA 1978, Section 71-10-10.

Section 20. **RATIFICATION.** All actions not inconsistent with this Ordinance heretofore taken by the Board of Commissioners, its members, and the officers, employees and agents of the County with respect to the formation of the District, the creation of the Authority, the appointment of the initial members of the Authority and any other subject matter addressed in this Ordinance are ratified, approved and confirmed; including the motion to approve "the Creation of a special Electric Generating Facility Economic District for McKinley County" which was made and voted on unanimously by the Board of Commissioners in its regular meeting of September 15, 2020 as Item No. 11 on the agenda for that meeting and the publication of the Notice of Meeting and Intent to Adopt an Ordinance Regarding the Formation of a District Pursuant to the Electric Generating Facility Economic District Act in the *Albuquerque Journal* and the *Gallup Sun* on November 13, 2020.

Section 21. **REPEALER.** All bylaws, orders, resolutions and ordinances, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of

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such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 22. AMENDMENT OF ORDINANCE. This Ordinance may be amended or supplemented to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision contained herein by ordinance adopted by the Board of Commissioners in accordance with the laws of the County and the State.

Section 23. SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 24. RECORDING; AUTHENTICATION; PUBLICATION. This Ordinance, immediately upon its final passage and approval, shall be authenticated by the signature of the Chairman of the Board of Commissioners and attested by the signature of the County Clerk or a Deputy County Clerk, and shall be recorded in the ordinance book of the County kept for that purpose. The following notice shall be published one time in the *Albuquerque Journal* and the *Gallup Sun*, newspapers having general circulation in the County, as soon as is practicable following the adoption hereof:

[FORM OF NOTICE]

**MCKINLEY COUNTY, NEW MEXICO
NOTICE OF ADOPTION OF ORDINANCE NO. 2020-DEC-006**

Notice is hereby given of the title and of a general summary of the subject matter contained in an ordinance (the "Ordinance") duly adopted and approved by the Board of County Commissioners of McKinley County, New Mexico, on December 8, 2020, relating to the formation of the McKinley County Electric Generating Facility Economic District and the creation of the McKinley County Electric Generating Facility Economic District Authority. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the County Clerk, whose office is located at 207 West Hill Ave., Gallup, New Mexico 87301.

The Title of the Ordinance is:

**MCKINLEY COUNTY, NEW MEXICO
BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. 2020-DEC-006**

AN ORDINANCE FORMING THE MCKINLEY COUNTY ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT (THE "DISTRICT"); CREATING THE MCKINLEY COUNTY ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT AUTHORITY (THE "AUTHORITY") TO GOVERN THE DISTRICT; MAKING CERTAIN FINDINGS AND DETERMINATIONS RELATING TO THE INITIAL MEMBERS OF THE

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AUTHORITY; APPOINTING THE MEMBERS OF THE AUTHORITY; ESTABLISHING THE COMPENSATION TO BE PROVIDED TO MEMBERS OF THE AUTHORITY; ESTABLISHING THE CIRCUMSTANCES UNDER WHICH A MEMBER OF THE AUTHORITY MUST RESIGN FROM THEIR POSITION; DECLARING THAT MEMBERS AND EMPLOYEES OF THE AUTHORITY SHALL BE GOVERNED BY THE PROVISIONS OF THE GOVERNMENTAL CONDUCT ACT AND ESTABLISHING PROHIBITED CONDUCT FOR AUTHORITY MEMBERS AND OTHER OFFICIALS; SETTING FORTH THE METHOD BY WHICH MEMBERS OF THE AUTHORITY MAY BE REMOVED FROM THE AUTHORITY; DECLARING THAT THE DISTRICT AND THE AUTHORITY POSSESS THE AUTHORITY, POWERS AND DUTIES CONFERRED UPON THEM BY, AND ARE SUBJECT TO THE PROVISIONS AND LIMITATIONS OF, THE ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT ACT AND THIS ORDINANCE; IMPOSING CERTAIN LIMITATIONS ON THE DISTRICT; REQUIRING QUARTERLY REPORTING; CALLING FOR A MEETING OF THE AUTHORITY PRIOR TO DECEMBER 31, 2020 TO AUTHORIZE CERTAIN COUNTIES TO BECOME PART OF THE AUTHORITY AND TO APPOINT FOUR ADDITIONAL MEMBERS TO THE AUTHORITY; PROVIDING FOR THE OPTIONAL REPEAL OF THE ORDINANCE IN THE EVENT NO OTHER COUNTY JOINS THE DISTRICT OR FAILS TO APPOINT MEMBERS TO THE AUTHORITY AND DISSOLUTION OF THE DISTRICT; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE; TAKING OTHER ACTIONS RELATED TO THE FORMATION OF THE DISTRICT AND THE CREATION OF THE AUTHORITY; AND DECLARING AN EMERGENCY.

A General summary of the Ordinance is contained in its title.

DATED this 8th day of December, 2020.

/s/ Harriett K. Becenti

Harriett K. Becenti
County Clerk

[END OF FORM OF NOTICE]

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Section 25. CONFLICTS OF INTEREST. No member of the Board of Commissioners or employee of the County has any interest, direct or indirect, in the actions taken in or discussed in this Ordinance, or otherwise in connection with the formation of the District, the creation of the Authority or the appointment of the initial members of the Authority.

Section 26. DECLARATION OF EMERGENCY AND EFFECTIVE DATE. Pursuant to its authority under NMSA 1978, Section 4-37-9(C) (1997), the Board of Commissioners declares that it is necessary for the public peace, health and safety that this Ordinance take effect immediately after passage and recordation in the book kept by the County for that purpose and authenticated by the County Clerk.

[Signature page follows]

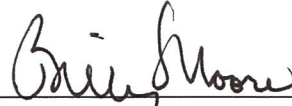
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ADOPTED AND APPROVED this 8th day of December, 2020 in Gallup, McKinley County, New Mexico.

BOARD OF COUNTY COMMISSIONERS,
MCKINLEY COUNTY, NEW MEXICO



Billy Moore, Chair



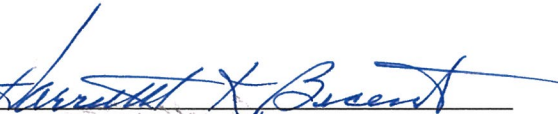
Bill Lee, Commissioner



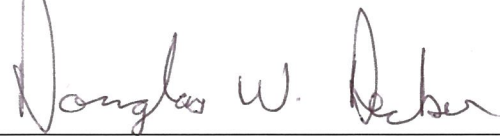
ATTEST:

**APPROVED AS TO FORM AND
SUFFICIENCY :**

By:



Harriett K. Becenti, County Clerk



Doug Decker, County Attorney



[McKinley County Ordinance No. 2020-DEC-006 Signature Page]

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EXHIBIT A

DISTRICT BOUNDARIES

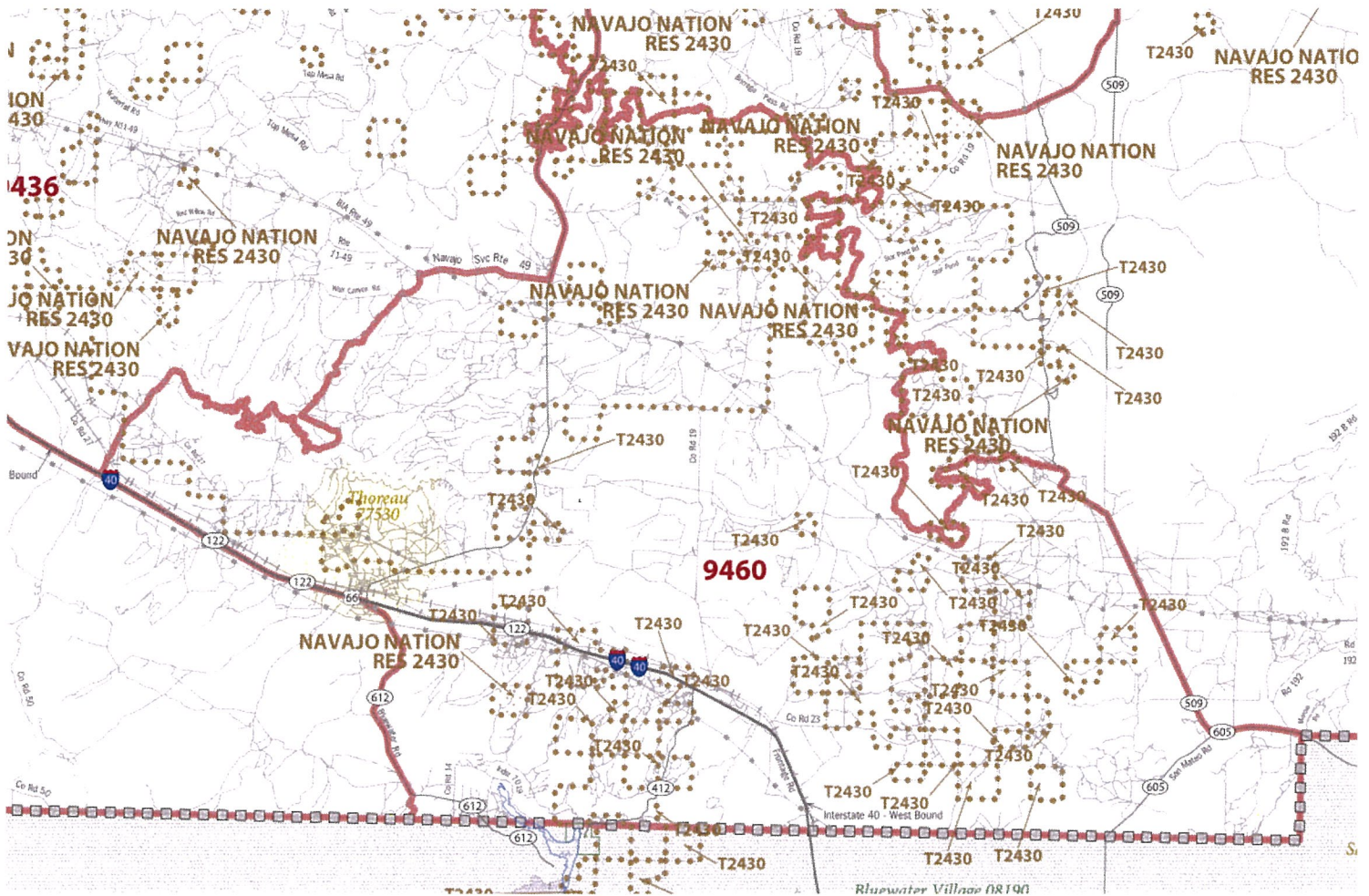
The boundaries of the District shall be coterminous with the boundaries of the 2010 Census Tract boundaries for Census Tract No. 9460 (Prewitt New Mexico), as depicted on the map attached on the following page.

[See Attached Map]

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2010 Census Tract boundaries for Census Tract No. 9460 Prewitt New Mexico. Red line is Tract Boundary.

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Commissioner Billy Moore then moved that the Ordinance as filed with the County Clerk be passed and adopted. Commissioner Bill Lee seconded the motion.

The question being upon the passage and adoption of said Ordinance, the motion was voted upon with the following result:

Those Voting Yea:

Billy Moore, Chair
Bill Lee, Commissioner

Those Voting Nay:

None

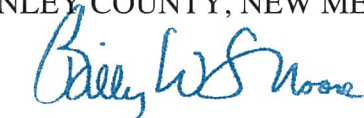
Those Absent:

None

The Chair thereupon declared that at least a majority of all the members of that Board of Commissioners having voted in favor thereof, the motion was carried and the Ordinance duly passed and was adopted. After consideration of matters not relating to the Ordinance, the meeting on motion duly made, seconded and unanimously carried, was adjourned.

BOARD OF COUNTY COMMISSIONERS
MCKINLEY COUNTY, NEW MEXICO

By



Billy Moore,
Chair

(SEAL)

Attest:

By



Harriett K. Becenti,
County Clerk

DOCH 394465

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OR R:\$0.00 H. K. Becenti, McKinley County



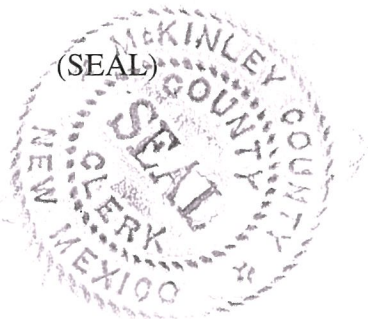
STATE OF NEW MEXICO)
) ss.
COUNTY OF MCKINLEY)

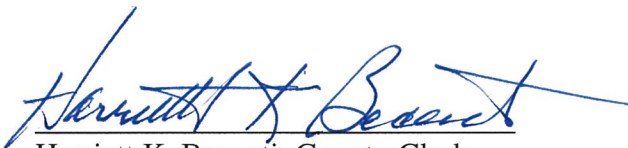
I, Harriett K. Becenti, County Clerk of McKinley County, New Mexico (the "County"), do hereby certify:

1. The foregoing pages are a true, correct and complete copy of the record of the proceedings of the Board of County Commissioners (the "Board of Commissioners") of the County, constituting the governing body of the County, taken at a duly called regular, open meeting of the Board of Commissioners held in the Commission Chambers, Third Floor of the McKinley County Courthouse located at 207 West Hill Ave., Gallup, New Mexico, being the regular meeting place of the Board of Commissioners, on Tuesday, December 8, 2020, beginning at 9:00 a.m., insofar as the same relate to the proposed ordinance, a copy of which is set forth in the official records of the proceedings of the County kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Notice of such meeting was given in compliance with the permitted methods of giving notice of meetings of the Board of Commissioners as required by the open meetings standards then in effect, i.e., the County's Open Meetings Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of McKinley County, New Mexico, this 08 day of December, 2020.




Harriett K. Becenti, County Clerk



DOC# 394465

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OR R: \$0.00 H. K. Becenti, McKinley County



