

**MCKINLEY COUNTY ELECTRIC GENERATING
FACILITY ECONOMIC DISTRICT**

**AUTHORIZING CIBOLA COUNTY TO BECOME
PART OF THE MCEGFED
RESOLUTION NO. 2020-DEC-002**

AUTHORIZING CIBOLA COUNTY, NEW MEXICO TO BECOME PART OF THE MCKINLEY COUNTY ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT AUTHORITY (THE "AUTHORITY") AND REQUESTING THAT CIBOLA COUNTY APPOINT FOUR ADDITIONAL MEMBERS TO THE AUTHORITY; APPROVING THE ADOPTION OF BYLAWS FOR THE MCKINLEY COUNTY ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT (THE "DISTRICT"); [MAKING PROVISIONS FOR THE POSTING OF SURETY BONDS IN ACCORDANCE WITH THE SURETY BOND ACT]; APROVING RETENTION OF COUNSEL FOR THE DISTRICT; RATIFYING []; AND TAKING RELATED ACTION.

WHEREAS, the McKinley County Electric Generating Facility Economic District (the "District") is an electric generating facility economic district located in McKinley County, New Mexico (the "County"), duly created and existing pursuant to the Electric Generating Facility Economic District Act, NMSA 1978, Sections 71-10-1 to -11 (2020) (the "Act"), and McKinley County Ordinance No. 2020-DEC-006, adopted by the Board of County Commissioners (the "Board") of the County on December 8, 2020 and as amended from time to time (the "District Ordinance" and, together with the Act, the "District Legislation"); and

WHEREAS, District has been formed by the County to carry out the purposes set forth in the District Legislation; and

WHEREAS, the Act requires that any county that forms an electric generating facility economic district shall create an authority to govern said district that shall consist of five members who shall be appointed by the Board; and

WHEREAS, pursuant to the District Legislation and particularly, the District Ordinance, the Board created the McKinley County Electric Generating Facility Economic District Authority (the "Authority") to govern the District and which constitutes the governing body of the District; and

WHEREAS, pursuant to the District Legislation and particularly, the District Ordinance, the Board appointed the following individuals to serve as the inaugural 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).

WHEREAS, pursuant to the District Legislation and particularly, the Act, the Authority is required to, for the period ending December 31, 2020, authorize a county that borders the county that created the District within twenty miles of a qualifying electric generating facility to become part of the Authority; and

WHEREAS, pursuant to the District Legislation and particularly, the Act, any additional county that becomes part of the District shall appoint four additional members to the Authority; and

WHEREAS, pursuant to the District Legislation and particularly, the Act, Cibola County, New Mexico ("Cibola County") is a county that borders the County (the county that created the District) within twenty miles of a qualifying electric generating facility and is therefore eligible to become part of the Authority; and

WHEREAS, pursuant to a letter dated December 10, 2020, attached hereto as **Exhibit A**, Cibola County's Board of County Commissioners has expressed to the County its recognition that it is necessary and in the best interest of Cibola County and its inhabitants to become a part of the District and that it will be affirming Cibola County's joining of the District at its organizational meeting in January 2021, and will make appointments to the Authority in accordance with the Act at that time; and

WHEREAS, pursuant to the District Legislation and particularly, the Act, the Authority desires to authorize Cibola County to become part of the Authority; and

WHEREAS, proposed bylaws for the District (the "Bylaws") have also been presented for consideration and approval by the Authority; and

WHEREAS, the Authority desires to adopt the proposed Bylaws, attached hereto as **Exhibit B**, to guide the operation of the District; and

WHEREAS, pursuant to the District Legislation and particularly, the Act, members of the Authority are required to post a surety bond for the faithful performance of that member's duties pursuant to the Surety Bond Act, NMSA 1978, Section 10-2-13 to -16 (1978, as amended through 2000) (the "SBA"); and]

WHEREAS, the Authority desires to provide for the posting of such surety bonds in conformity with the SBA; and]

WHEREAS, the Authority desires to take other actions necessary and related to the operation of the District as an electric generating facility economic district in compliance with the Act, the District Ordinance and all other applicable laws, regulations, rules and requirements, to proceed with the objectives of the District, as set forth in this Resolution.

THEREFORE, BE IT RESOLVED BY THE MCKINLEY COUNTY ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT AUTHORITY, AS THE GOVERNING BODY OF THE DISTRICT, AS FOLLOWS:

1. Authorization of Cibola County to Join the Authority. The Authority hereby authorizes Cibola County to become a part of the Authority, as required by the District Legislation, and, specifically, NMSA 1978, Section 71-10-4(E) (2020).
2. Appointment of Members of the Authority by Cibola County. In adopting any resolution or ordinance memorializing Cibola County's election to become part of the Authority, the Board of County Commissioners of Cibola County is requested to appoint four additional members to the Authority, consistent with the requirements of NMSA 1978, Section 71-10-4 (2020).
3. Adoption of Bylaws. The Bylaws, in the form attached to this Resolution as **Exhibit B**, are hereby approved and adopted as the Bylaws of the District.
4. Provision of Surety Bonds. Board gave instructions to obtain quotes for purchasing bonds for board members once the bank account has been created, and authorized payment from that account.
5. Selection of District Counsel. Deferred until future meeting.
6. Ratification of Prior Actions. All actions not inconsistent with the provisions of this Resolution heretofore taken by the Board, the Authority, their members, and the officers, employees and agents of the County, the District and the Authority and relating to the District or the Authority and any other subject matter addressed in this Resolution are hereby ratified, approved and confirmed, including the setting of the inaugural meeting of the Authority, the provision of notice to the public of such meeting and the preparation of documents considered at such meeting.
7. Amendment of Resolution. This Resolution may be amended or supplemented to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision contained herein by resolution adopted by the Authority in accordance with the laws of the County and the State.
8. Severability. If any section, paragraph, clause or provision of this Resolution 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 Resolution.
9. Effective Date. This Resolution shall take effect immediately upon its adoption by the Authority.

[Remainder of page left blank intentionally.]

Passed by the McKinley County Electric Generating Facility Economic District Authority
this 28 day of December 2020.

MCKINLEY COUNTY ELECTRIC
GENERATING FACILITY ECONOMIC
DISTRICT AUTHORITY


Chairperson

ATTEST:


Secretary

CERTIFICATE

I hereby certify that the above and foregoing Resolution was duly passed by the Governing Body of the McKinley County Electric Generating Facility Economic District at its [regular] meeting held on December 28, 2020, and that a quorum was present and that the vote was for (4) ayes and Zero (0) nays; One (1) member(s) did not vote or were absent.

By:

C. V. A. Dimas Jr.
Secretary

EXHIBIT A

Letter from Cibola County Board of Commissioners dated December 10, 2020

EXHIBIT B

District Bylaws