SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

SPECIAL MEETING

September 11, 2009

Michael Anaya, Chair – District 3
Harry Montoya, Vice Chair – District 1
Kathy Holian – District 4
Liz Stefanics – District 5
Virginia Vigil – District 2

SANTA FE COUNTY

SPECIAL MEETING

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September 11, 2009

This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 8:35 a.m. by Chair Mike Anaya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance and State Pledge, roll was called by County Clerk Valerie Espinoza and indicated the presence of a quorum as follows:

Members Present:
Commissioner Mike Anaya, Chair
Commissioner Harry Montoya, Vice Chair
Commissioner Kathleen Holian
Commissioner Liz Stefanics
Commissioner Virginia Vigil

Members absent:
[None]

V. INVOCATION

A moment of silence was observed in remembrance of September 11, 2001.

VI. APPROVAL OF THE AGENDA

A. Amendments
B. Tabled or Withdrawn Items

ROMAN ABEYTA (County Manager); Mr. Chair, we do have the agenda for this morning. Staff is requesting an amendment to the agenda, which would be to move up Matters from the County Attorney to be heard first due to time constraints. So that would be all of the items under B. Matters from the County Attorney.

CHAIRMAN ANAYA: Okay. Is there a motion to approve the agenda?
COMMISSIONER STEFANICS: I'll move.
COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Moved by Commissioner Stefanics, second by Commissioner Montoya. Any further discussion or changes?

The motion passed by unanimous [5-0] voice vote.

VIII. <u>STAFF AND ELECTED OFFICIAL ITEMS</u>

B, <u>Matters From the County Attorney</u>

1. Consideration and Approval of the Third Amendment to the Project Participation and Land Transfer Agreement by and between the Board of County Commissioners, La Luz Holdings, LLC and Santa Fe Film and Media Studios Inc.

STEVE ROSS (County Attorney): Mr. Chair, all these items are connected and they really all relate to the first item which is the proposed third amendment to the project participation agreement. The County Clerk is handing out a number of last minute changes to what's in your packet. *[Exhibit 1]* So I suggest we work from that document. I can explain a little bit. I understand that Mr. Rubin is going to make a brief presentation to you all. I know we have some time pressures this morning. I also understand there's going to be a motion to take this first item into executive session at some point, so we can take that up when it becomes appropriate.

The changes that are reflected in the agreement are – there are two or three significant changes, the first of which is the participation of the union. When I wrote the agreement up I thought there was either going to be a guarantee or an assignment on the part of the union to back up some of the loan that's proposed in this agreement and that's not going to happen. The union is going to agree to be a receiver in the event of a default. Then there's a slight change that's been made to the terms of the payments on the land transfer, and that is that the payments will be made, as proposed in this agreement, every 100,000 – at the time that the qualified entity performs 100,000 hours of – provides 100,000 hours of jobs in connection with the budget participation agreement.

And one Commissioner has proposed that we limit that to some time certain. I've put in here five years but we can talk about what makes sense there. Those are the significant changes. A lot of the other changes that have been made – most of those are typographical. At this point I guess I'll just turn it back to you, Mr. Chair, for questions and the possible presentation on the part of Mr. Rubin.

CHAIRMAN ANAYA: Any questions of our County Attorney? Commissioner Stefanics.

COMMISSIONER STEFANICS: No, Mr. Chair. I would like to hear whatever presentation there's going to be, and then I will ask for an executive session.

CHAIRMAN ANAYA: Okay. All right. Who's going to do the presentation?

JIM RUBIN: Mr. Chair, Commissioners. Good morning. Thank you for having this special session. My name is Jim Rubin. These are just some quick bullet points to explain the transaction in case you have any particular questions. *[Exhibit 2]* I know you're quite familiar with it at this point but let me run through it as briefly as possible, given your time constraints.

First, obviously, the Studios will receive the – or the County will receive the $10 million grant from the state which you will disburse through to the Studios under the existing memorandum of understanding that we have with the County. The Studios will invest the $6 million loaned by you, loaned by the County and the $10 million into the project, into phase 1-A of the project, and it will purchase the media district property for $2,620,000.

As some of you will recall – not everyone was on the Commission back then – after the County purchased the property the property was reappraised and the price went up. We are sticking with the price that was appraised a year or more ago, even though the markets of course have tumbled and this property may well be worth less money today that it was back then.

Additionally Santa Fe Studios will deliver a $2 million letter of credit or set up an escrow, some device for the County, which will be in place as additional collateral until the jobs goals under the LEDA agreement have been met.

Santa Fe Studios, the Hools, will provide all operating capital for day to day affairs of the studios. And you should note that right now the Hools have brought to productions into town that are being filmed or about to be filmed but they don't get any credit for these because we haven't closed yet. They have strived over the last few years to bring as many productions as they can into town. We're not asking for credit on those particular films but the Hools are very proud that they've been able to do that for Santa Fe County.

Thus the total investment in the land and improvements at a minimum will be $18,620,000, and what I looked at this from as a commercial attorney and doing a lot of bank work too from time to time is what the loan to value ratio is going to be with respect to the County's $6 million loan and what the property will be worth as built. That's not even reappraised with improvements in place. This is just with the funds to build it and to buy the land. I can tell you that Los Alamos National Bank wanted the loan to value ratio to be under 60 percent; that was one of its requirements. Under this arrangement it will be 32 percent, meaning the amount of the loan, as compared to the value of the land and improvements, based upon construction costs, etc. plus the land costs, will be 32 percent which most banks will take. You'll be very well secured in this project.

Turning the next page on the land transfer purchase –

COMMISSIONER VIGIL: Mr. Chair, on that.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: On that page before we do it, Mr. Rubin. Could you give me an estimate if it's possible of what the day-to-day operations is?

MR. RUBIN: What the costs will be?

COMMISSIONER VIGIL: Yes. Do you have an estimate? Or even if it's an annual estimate.

MR. RUBIN: They're anticipating $2 million.

COMMISSIONER VIGIL: Annually?

MR. RUBIN: Annually, yes.

COMMISSIONER VIGIL: Thank you.

MR. RUBIN: And of course, most all of that is coming right into the Santa Fe economy too.

CHAIRMAN ANAYA: How much was that?

MR. RUBIN: $2 million annually is what their pro formas are showing.

CHAIRMAN ANAYA: Okay. Thank you.

MR. RUBIN: During the next page under the land purchase, the price stays the same as I mentioned. The purchase price is to be paid in five installments, $524,000 each. I put 30 days just to give us some time because we have to report to the County under the PPA and under the LEDA laws about the job creation, and then we would start paying down that land purchase agreement in these increments. And so you would be getting over $500,000 as each one of these increments had been met on the installment sale basis. We understand the five-year request that someone's talked about with respect to having a balloon payment on that. As long as it's tied to our time frame that's already in the PPA for the creation of jobs to build out at the studio, I don't think there's any problem with that.

CHAIRMAN ANAYA: Question? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. In talking about the payments being tied to hours of jobs and 100,000-hour increments, does that include the construction jobs as well?

MR. RUBIN: Chairman Anaya, Commissioner Holian, I believe they do under the terms of the original agreement. We are hoping once there is a building permit issued, quite honestly we're hoping for about a nine-month, as I understand it, build-out before the Certificate of Occupancy. So during that time, number one we're going to be having jobs that are unrelated to construction. Number two, we're going to be drawing productions into town, getting credit for those. Construction hours are part of the agreement but we're really looking at productions comprising as many of the hours as we can.

CHAIRMAN ANAYA: Okay.

MR. RUBIN: And of course all of the jobs are going to be above minimum wage. There's no change in any of the override provisions. We have that override parcel which as it's developed the County will continue to participate for quite a few years in the future in terms of getting a percentage of either rents or sales prices should there be lots in there that are sold. So we want to keep the County involved for a long time.

Turning to the third page, unless there's any other questions on the property purchase.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Rubin, in terms of the period of time, what is it estimated in terms of the installments? The five installments. Over what period of time are we looking at?

MR. RUBIN: Chairman Anaya, Commissioner Montoya, it all depends on quickly the work comes. As I said, for example, if we got credit, for example for these two productions that were here now we might be looking at an installment say by March or something like that. We don't have that so we're just starting as soon as we close. That's the terms of the PPA. The Hools do anticipate that they will attract business to Santa Fe County. They will get credit for these things, and the sooner the better is all I can tell you. If they aren't attracting the business here and having the productions here there are other types of problems that occur with respect to the project. That's the best I can tell you.

COMMISSIONER VIGIL: Mr. Chair, if I'm to understand your testimony correctly, you are okay with language that would say the initiation of installment payments or five years, whichever comes first?

MR. RUBIN: Chairman Anaya, Commissioner Vigil, we're okay with that. I think we had six years under the LEDA agreement because we're looking at some of the startup time. All I'm saying is that for consistency we probably ought to make the balloon payment, which is what you're talking about on the land purchase, consistent with our LEDA requirements, so whatever that is we'd be happy to stay with that.

COMMISSIONER VIGIL: Okay. And six years is not that far from five years.

MR. RUBIN: It's – I have to look at that provision again. I heard about that very recently and I didn't double-check.

COMMISSIONER VIGIL: Thank you, Mr. Chair.

MR. RUBIN: With respect to the loan, we've talked about a $6 million loan, interest rate has to be agreed upon. We're looking at the bond markets. Maybe Mr. Franklin has some comments on that, but whatever it is it's a commercially reasonable interest rate that we all have to live with. We talked about a term of 25 years on the amortization, but that again is something that we have to talk about with bond counsel just to make sure everything tracks properly. We are offering to the County this $2 million letter of credit. We've offered that the letter of credit, or it might be an escrow too. We just have to come up with the right vehicle. Whatever it is it's cash that's available to you that is there in the event of a default under the note, mortgage or loan agreement.

We've suggested that the letter of credit be phased out as the LEDA jobs goals are realized. It's kind of – as it's phased out, if it's phased out in five installments, five increments, such as you're being paid at the same time, it's phasing out the letter of credit $400,000 at a time at the same exact time that you're getting $524,000 plus interest on the installment sale.

So the loan documents would just be fairly typical commercially reasonable loan documents. Those of us in this business have dealt with them. Probably the most important item is to make sure that we have a good loan agreement, because we want to make sure that the County is looking at my client, just as you'd like to as a developer and we've got good protections in place for the County with respect to making sure the mortgage remains in first place, there's no liens against the property for subcontractors, contractors, material men etc. and I'm sure we can work out those documents.

Now, as to the Local 480 and the Hools have had a lot of conversations over the last several weeks about its role. As I understand it from Mr. Egoff who is the counsel for IATSE is that the union would be willing to step up and take over operations of the facility should there be a default, and the standard way of doing that would be to have a receiver appointed by the court handling the foreclosure. In my experience in many of these situations the debtor and the creditor are often fighting about who should be the receiver and that can tie things up for a long time. We don't want to do that. We think that IATSE would be a qualified party to step up and act as receiver so we would take that type of dispute off the table. And as I understand it the union would be willing to come in and act in that position. Of course the receiver runs the facility, tries to generate the rents, uses the monies to pay the obligations on the property, etc. to continue in force.

Outside of that, the rest of the points here I think you're fairly familiar with and I don't need to reiterate those, but I stand for any questions, as do the Hools, should you have any further questions.

CHAIRMAN ANAYA: Is there any questions of Mr. Rubin?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: You mentioned that the Hools have already brought some films, or recently brought some films to town. What were those?

MR. RUBIN: I'm sorry I have to – Chairman Anaya and Commissioner Stefanics, one is *The Resident*, and the next one is a Tommy Lee Jones films that actually filming right now. Mr. Jones and Samuel Jackson and Cormac McCarthy – I believe it's a short story or some sort of story by Cormac McCarthy, and that is being filmed right now. I know that as a fact.

COMMISSIONER STEFANICS: Thank you. And another question I have is what experience would the local have as ever having managed a film studio?

MR. RUBIN: I have to defer to Mr. Hendry or Mr. Egoff on that point.

JOHN HENDRY: Mr. Chair, Commissioners, John Hendry. I'm the business agent for IATSE Local 480. And we don't have a studio here so none of us are experienced. Our international runs – the majority of the studios in this country are union and we would bring in an experienced manager to do that. Our intention would be to continue the operations of the studio until we, in conjunction with the County can find the best operator to continue on the model you have, which is an economic development model rather than the place goes into foreclosure, and we get whoever can show up with the cash. And there are some people in the movie business, the Hools not being one of them, but there are people in the movie business that you probably don't want to do business with.

So our plan that we would bring in an experienced studio manager, a union studio manager to work with our people here locally and run it.

COMMISSIONER STEFANICS: Thank you. And Mr. Chair, while Mr. Hendry's at the podium, one of the questions that we have had is the use of local talent versus only utilizing imported talent. Could you comment on that?

MR. HENDRY: Mr. Chair, Commissioner, thank you for the question. It's important – this studio to succeed this studio needs to be a studio that is not in Santa Fe County but is of Santa Fe County and I stand in front of a number of Santa Fe County residents here who can tell you that this is where we will go to work each day, this is where we will not only raise money for the County, we will raise our children around this facility. And I have a commitment from the Hools and we will hold their feet to the fire that we will build this studio. This will be operated locally, and this will make local films whenever possible because this business model of people just bringing in pictures and we get to work on this, that's just guns for hire. We've been guns for hire for long enough. We're asking you to allow us to have that opportunity to make great movies here, and that's what we're talking about in Santa Fe Studios. We're not building a monolith in the desert in Albuquerque, where, God bless them, we make a lot of money. We want to make good movies over there.

If we did not have this commitment from the Hools, if we were not familiar with them and hadn't worked with them before I wouldn't be standing in front of you today.

COMMISSIONER STEFANICS: Thank you. That's all for right now, Mr. Chair.

CHAIRMAN ANAYA: Any other questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Hendry, regarding the preliminary discussions that we had had, there was going to be some investment by the union. Now, as I understand it, there's not?

MR. HENDRY: No, we're perfectly willing to make that investment. We're not willing to make an investment with a private company. We want to say to you, Mr. Chair and Commissioner, the point that you raise, which I think is a really valid point, is Santa Fe County is not in the business of running a studio and what happens if they ended up with a studio. We're willing to stand up for that position and say, we are. We're perfectly capable of running a studio, and frankly, we can fill that studio, because while we cannot be preferential to anyone in the picture business, we can be preferential to ourselves. And if we ended up and had that studio for a year or two years or five years we could bring projects in simply because we control the labor rates. That's what we do; we're a union. So we would make sure that we would continue to have that.

It's sort of like the public option, and you may disagree with the public option when it comes to healthcare. We would be the public option when it comes to studios. We would not have that studio overhead. It would be a direct to employ as we run the studio. Your point was well taken. We are saying that in the event of a default our main concern is will that studio continue to run and will we get someone in there who will continue to have your vision and our vision of a Santa Fe County studio. We will step up and do that. And if that costs us money to do it, then we will do that. We will make that commitment to you that we'll cover the bills, we'll make sure that that's done until the point that we say, here's another operator, or God forbid, the people own the studio that they work in? We're okay with that too.

Our position would be that in front of the $10 million from the state and the other investment, that's where we are, we're a $4 million position. We are not willing to make a commitment to any private operator because, again, that would be showing preference, but we will make a commitment to the County that that place will not close. That place will continue to operate. That place will continue to generate jobs and tax dollars for the County. I had a whole different idea and you and sat and talked about this and I think, I hope we've addressed your concerns in this. We're not saying we're going to come in and ask you for money to run your studio. That's not going to happen. We'll take that position.

COMMISSIONER MONTOYA: Okay. Then I guess again, as far as the risk, it's still on the County at this point.

MR. HENDRY: That would really depend on wherever you felt there was a risk being $4 million in front of $12 million or not. We don't. We don't feel that. We don't feel that we're taking a risk. We probably would be less willing if we were. We don't think there's a risk in there because of the equity that's already in the property and the facilities. The minute this studio goes up it will be all sorts of other places including ourselves looking to build down there, moving our offices down there, moving our training facilities down there. There will be grip companies and there will be makeup people. There'll be all sorts of things around there and you will not reach that point where you're going into foreclosure, but God forbid that you do, we'll run the studio for you.

COMMISSIONER MONTOYA: Thank you, Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. This is a question for Steve. If the Local 480 is going to serve as a receiver, should they not be a signator on the contract or the MOU?

MR. ROSS: Mr. Chair, Commissioner Stefanics, not necessarily. Two parties can designate a third party as a receiver. That person doesn't necessarily have to accept the appointment but we could designate them. Or we could put a signature line on it and have them accept it right now.

COMMISSIONER STEFANICS: Well, Mr. Chair, Mr. Ross, don't we then, for our protection, need some type of document that has the written agreement to be the receiver of this?

MR. ROSS: The acceptance of the receivership. Yes.

COMMISSIONER STEFANICS: Right. Because we're talking here about what they're offering to do but if we're wanting to protect the County, would we not want a written agreement?

MR. ROSS: If you feel strongly about the union being the receiver you'd want their acceptance up front. Yes.

COMMISSIONER STEFANICS: Thank you. Mr. Egoff, did you have a comment?

BRIAN EGOFF: Mr. Chair, Commissioner Stefanics, speaking on behalf of the Local 480, we can certainly provide that. This will fall into – you're approving the amendment to the agreement, so there's going to be a number of documents that are going to be worked out over the next few weeks. This can certainly be one of them, and IATSE Local 480 will feel certainly fine signing that to give the County assurance that they'll accept the appointment as receiver.

And this is an important – this may not be the type of arrangement that was initially contemplated but there is great potential for great value for the County in not having in the unlikely and unfortunate event of a default. The huge value that this brings to the County is that you're able to be up and operating on day one with the perfect team to bring in the labor and the productions so that the facility continues to operate and doesn't stagnate while you're searching for someone to operate or fighting over a receiver. So there is tremendous value even in this commitment to act as receiver, in the spirit of keeping the people who depend on the studio employed and moving forward with a vibrant and working facility. So that's what –

COMMISSIONER STEFANICS: Thank you, Mr. Chair, but that is a document I would request, either a signatory on the agreement or a separate document later. Thank you.

CHAIRMAN ANAYA: Okay. Any other comments? Mr. Rubin.

MR. RUBIN: Mr. Chair, Commissioner Stefanics, in the PPA there are a number of conditions present into closing and I think the best way from a drafting standpoint is just to make that one of the conditions, so that would be part of the loan documents and there would be a sign-off by the union at that point. Because we do have all these other conditions. Thank you.

CHAIRMAN ANAYA: Okay. I see a lot of people in the audience. How many here are in support? If you'd just show me a raise of hands – of the project? [Approximately 70 people raised their hands.] It must be everybody. Okay. Thank you. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I move that we go into executive session for the purpose of discussion of the acquisition or the providing of a loan to the Santa Fe Studios.

MR. ROSS: Mr. Chair, Commissioner Stefanics, it's disposition of property.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: There's been a motion by Commissioner Stefanics, second by Commissioner Holian.

The motion to go into executive session passed by unanimous [5-0] roll cal vote with Commissioners Holian, Montoya, Stefanics, Vigil and Anaya all voting in the affirmative.

[The Commission met in executive session from 9:05 to 9:35.]

COMMISSIONER HOLIAN: Mr. Chair, I move we come out of executive session where we discussed the disposition of real property.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: There's a motion by Commissioner Holian, second by Commissioner Vigil.

The motion passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I would move that we not consider the draft that was handed out to us this morning, but that we look at the third amendment to the project participation and land transfer agreement draft that was placed in our books, with a few amendments.

COMMISSIONER VIGIL: I will second that, Mr. Chair.

CHAIRMAN ANAYA: Motion by Commissioner Stefanics, second by Commissioner Vigil. Discussion.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: The issues that we – that I have concern about and perhaps some other Commissioners have concern about is the security of the loan, the phase out of the line of credit in the draft that was handed out to us this morning, the balloon payment we will take care of, the use of the word "receivership" as opposed to "assignee of debt," the debt-to-loan ratio, and the change in mix of uses. By moving back to the third amendment draft that was in our books we only need to amend page 1 at the bottom, the language that allows the payment that would say, " provided, however, if all payments have not been made within six years of the deed of execution of this amendment, the remaining payments must be made no later than September 11, 2016," that provides the six years. And the draft that we have in our books actually does use the language "assignment" not "receivership." And that is part of the rationale for going back to the draft in our books.

CHAIRMAN ANAYA: Any further discussion?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I think the other point here in looking at the document that we are proposing to approve that it's going to be subject to working out all of the final details for the transaction as well, and it's certainly something that I feel comfortable with in terms of moving forward.

CHAIRMAN ANAYA: Okay. Any further discussion? Commissioner Vigil.

COMMISSIONER VIGIL: I just hope that all the parties involved in looking at this third agreement agree to it. This is such a significantly important project to our community and it needs to happen however we can make it happen. I feel very strongly that the County has taken on a leadership role in making it happen and if we can move forward with this motion I think all the parties involved in it will know with the statement that the County is in the position to continue to support this from this perspective. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I just also want to add my support for this. I think that this project will be incredibly beneficial for Santa Fe County. It has wonderful potential for spin-offs and for our community. But I do just want to make the point that this $6 million loan is money that belongs to the people of Santa Fe County and we do need to make sure that it's well secured. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner Holian, and I just want to thank everybody that showed up today for their support on this. I think it's a good, clean industry and I look forward to seeing this take off and move.

The motion passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Mr. Rubin.

MR. RUBIN: Mr. Chair, Commissioners, I have one question for you with respect to this. I need to read the language before we know exactly what happened. But one of the amendments that we made, working with Mr. Ross was that when we were working with LLMB and we had NMFA financing in place too, this was going to be a $35 million project. We're now, in terms of the loan proceeds and the grant proceeds a $16 million project. And one of the changes that we had asked for was that the project, instead of being a minimum of two soundstages, plus 39,000 square feet of office space, we had asked whether it could be a minimum of 40,000 square feet, including at least two soundstages. And that language just got put in overnight and that's something that I don't believe is in the draft in your book. But we are held to having to construct the two soundstages plus 39,000 square feet of office space when we were talking about a $35 million project, I know that Santa Fe Studios cannot make that work for $16 million. So I would ask that you consider this particular amendment to it.

CHAIRMAN ANAYA: So, Mr. Rubin, you're saying you don't want to build the office space; you just want to build the two soundstages.

MR. RUBIN: What we want to commit to is 40,000 square feet of space, a minimum of 40,000 square feet of space in phase 1-A, including at least two soundstages, because our financing is cut by more than 50 percent. So we're trying to have that flexibility in there instead of going with probably a minimum of – we're talking about 90,000 square feet previously. Maybe it was 80,000 square feet previously.

CHAIRMAN ANAYA: Any comments?

COMMISSIONER MONTOYA: Mr. Chair, I just think that's something that, Mr. Rubin, you can negotiate and talk with our counsel about. And I think you're right; that isn't in this agreement but it's certainly something that I think we've outlined where we're willing to go at this point in terms of the security and the risk that the County's putting forward and feeling comfortable with this particular agreement. So it's certainly something that you can discuss further.

MR. RUBIN: If that's the intent of the Commission, Mr. Chair and Commissioner Montoya, then we're willing to accept that as long as that's the direction to the staff. I feel confident working with Mr. Ross and staff on that point. Thank you.

CHAIRMAN ANAYA: Thank you.

VIII. B. 2. Consideration and Authorization to Publish Title and General Summary of Ordinance No. 2009-__, an Ordinance Amending Ordinance No. 2008-07 to Provide for a Loan in the Amount of $6 Million as an Amendment to the Previously Authorized Economic Development Project with La Luz Holdings, LLC and Santa Fe Film Studios, Inc.

COMMISSIONER STEFANICS: Mr. Chair, I'll move.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Moved by Commissioner Stefanics, second by Commissioner Holian. Any discussion?

The motion passed by unanimous [5-0] voice vote.

VIII. B. 3. Consideration of and Approval of a Grant Agreement Between the State of New Mexico Department of Finance and Administration, the State of New Mexico Economic Development Department, and Santa Fe County Concerning a Grant to Support Film and Media Production Studios in Santa Fe County

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Motion by Commissioner Vigil, second by Commissioner Holian. Any discussion?

The motion passed by unanimous [5-0] voice vote.

VIII. B. 4. Consideration of Title and General Summary of an Ordinance Amending the Dedication Clause of Ordinance No. 1998-14 to Permit Use of the Proceeds of the County Infrastructure Gross Receipts Tax for Local Economic Development

COMMISSIONER HOLIAN: Move for approval.
COMMISSIONER VIGIL: Second.
CHAIRMAN ANAYA: Moved by Commissioner Holian, second by Commissioner Vigil. Any further discussion?

The motion passed by unanimous [5-0] voice vote.

VII. <u>SANTA FE COUNTY BOARD OF FINANCE</u>

CHAIRMAN ANAYA: Is there a motion to go into the Board of Finance?
COMMISSIONER MONTOYA: So moved.
CHAIRMAN ANAYA: Motion by Commissioner Montoya, second by Chairman Anaya. Any discussion?

The motion to convene as the Board of Finance passed by unanimous [5-0] roll call vote with Commissioners Holian, Montoya, Stefanics, Vigil and Anaya all voting in the affirmative.

VII. A. <u>County Treasurer</u>
1. In Accordance with Santa Fe County's Investment Policy, 2007-102, the County Treasurer Will Present the County's Investment Portfolio to the County Board of Finance for the Month Ending August 31, 2009 and the Treasurer's Investment Plan for the Fiscal Year Ending June 30, 2010

VICTOR MONTOYA (County Treasurer): Good morning, Commissioners, Mr. Chair. Well, I hope you have my memorandum or my report before you. There's a couple of small corrections to make on there. It's good morning instead of good afternoon, and it's dated September 7^{th}, but I was inadvertently left off on Tuesday so here I am before you today.

I guess the main thing that I'd like to start with is as previously discussed with the County Board of Finance, my primary objective is to ensure the County's portfolio contains safe, liquid and diversified investments, while earning a market rate of interest on all money that is not immediately required to meet County cash flow needs. As you all know, these past

18 months have been really, really tumultuous in a turmoil due to the country's economy in general.

In terms of the County's investments we have not suffered any losses to date as we do not invest in equities, collateralized mortgage obligations, mortgage-backed securities and other sub-prime lending instruments. All our investments are collateralized by the full faith and credit of the federal government or at 102 percent irrevocable letter of credit or pledge by government agencies where we require 102 percent. Now, there's one exception and that is the State Treasurer's, the Local Government Investment Pool. And I'll get back to that. I'll talk about that a little later on in my report.

So my investment plan is to diversify the portfolio and invest in all permitted investments authorized in the policy as follows: interest-bearing accounts held by our custody bank, certificates of deposit insured by the FDIC with limits up to $250,000, government agencies, bonds, Treasury bills or other debt securities issued and backed by the full faith and credit of the United States. These instruments are fully collateralized as provided for in our investment policy.

The State Treasurer's Local Government Investment Pool is not collateralized or backed by the full faith and credit of the State of New Mexico.

The County Board of Finance has approved status for the following four banks. And I'm going to start with First Community Bank because they're our custody bank, and I just want to tell you that currently we have approximately $47 million at First Community Bank, $20 million is in the CD that matures at the end of December. But in early August of this year we were advised by First Community Bank of their intentions to explore merger options. Okay? Dave Blackman from First Community Bank came over and talked to me when the Albuquerque Journal printed a news release stating that Michael Stanford had made a statement that said it was in their shareholders' best interest to consider various strategic alternatives, and that's basically merging with somebody else.

When we had our meeting – well, first of all, what I did after that is I started trying to obtain some ratings on the bank and one of the places I looked at was bankrate.com, and I found there that they have the lowest rating of all banks that we're dealing with currently, and that's a one star rating. The highest you can get is a five star rating. I then proceeded to look at their price per share on the NASDAQ and on August 25th, I believe, it was down to $1.27 a share. We presented this information to the Investment Committee at the meeting on August 26th, and they were concerned and they advised my deputy that we should get a written letter of response from First Community Bank how all of this stuff will affect us.

Now that letter, I believe, is on page 6, and it's addressed by Ron Sanchez who is the regional president of First Community Bank. Basically, we asked I think about four questions: Why is First Community Bank rated so poorly? What would the financial impact be to Santa Fe County if First Community Bank was to fail? What is the current status of all Santa Fe County accounts and the names the accounts are held under? And what effect would a merger have on Santa Fe County?

Now, he responded to all of those things and they're in the packet there. I won't read them to you but I would like to go on a little bit and say that for the record, First Community Bank responded that all on-demand deposits and investments held at First Community Bank are collateralized at 102 percent by letters of credit and government agencies and the FDIC. While they appear to be well capitalized the poor rating they received probably stems from bad commercial loans. We have not relied solely on bankrate.com to obtain a bank rating on First Community Bank. We also obtained ratings from two other rating agencies. I don't know if I got them both in there but if you turn to page 10 – on page 8 you have bankrate.com. On page 10 we have thestreet.com, and their rating indices there are a capitalization index, an asset quality index, a profitability index, a liquidity index and a stability index.

Basically, what they say, an E+ rating means that in their opinion, the institution, First Community Bank currently demonstrates what we consider to be significant weaknesses and also has failed some of the basic tests we use to identify fiscal stability. Therefore, even in a favorable economic environment it is our opinion that depositors or creditors could incur significant risk.

So at the meeting of the 26th, the Investment Committee approved the recommendation to go out for new custody bank services. First Community Bank will still be able to bid on the RFP but we're going to start putting one out on the street and see what else we get.

The next bank that's received financial depository status is the Los Alamos National Bank. They were approved in August of 2005 and currently, at the end of August I had $109,709,915 and change invested in certificates of deposit, all collateralized at 102 percent with an irrevocable letter of credit from the Federal Home Loan Bank in Dallas, and with government agencies. LANB has offered the County some very competitive rates, especially in this market environment and if you want to look at those right now, we can turn to page 12 of my report. As you can see, we have $109 million there with CD rates that start at 5.4 percent. I actually got into these about five years ago and it was perfect time because now it's really deteriorated.

So going back to page 3, the next bank is Wells Fargo. We pretty much invested in what is called brokered CDs, and at one time we had somewhere between four and five million in brokered CDs. Most of those have matured and the rates that they're yielding right now are very, very low, so currently the amount that we have invested in brokered CDs throughout the country is $2.4 million.

The fourth bank that's received financial depository institution approval is the First National Bank of Santa Fe. And we currently have a CD there of $5 million, with a yield of 2.7 percent, scheduled to mature on December 31, 2009.

Our government bond holdings or government agencies, as part of our diversification of assets, we've invested in this type of security. Our holdings currently stand at $40.7 million, and we're probably going to increase this category by another two million at the end of the month.

One of the things that – well, most of the government agencies that I'm buying right now are all callable bonds, which means most of them have anywhere from three months to a year and call protection. And they get called almost invariably within that time period or at the end of that time period.

Now, the part I wanted to discuss a little bit too is the State Treasurer's Local Government Investment Pool. This is the only place we may have some exposure in the commercial paper and money market funds that the Treasurer invests in. As I said before, the County's investments are not collateralized or secured by the State of New Mexico or the State Treasurer. In January 2009 the State Treasurer advised the County Treasurer that the LGIP investment and the reserved primary fund had broke the buck as a result of Lehman Brothers' bankruptcy. All LGIP shares in the reserve were frozen until the funds' liquidation could begin. The reserve finally published a liquidation plan for shareholders on December 2, 2008. The plan estimates a loss of 1.5 percent of invested funds until the final distribution is made. The actual loss remains unknown.

On February 27th the County Treasurer received notice from the State Treasurer that they were creating their own reserve contingency fund and would place that portion of a participant's LGIP holdings on September 15, 2008 into the contingency fund that they have there, or that they created. And that that contingency fund would not earn any interest for whatever time period it was there.

On June 2, 2009 the State Treasurer informed us that the State Treasurer's Office was participating in a lawsuit against the reserve primary fund on behalf of the State Treasurer's portfolios and the LGIP participants. As of August 31, 2009 the reserve contingency fund, at the State Treasurer's Office holds hostage $2,159,674 of Santa Fe County funds. Most of these funds are from bond issues approved for various projects within the County.

Moving on, on the top of page 4, this is the yields that we're currently getting or that we've been getting for the past six months at the Local Government Investment Pool. As you can see, they're pretty dismal. They're .29 percent and .3, .28, .26, .3 and .5. The current balance on the unearmarked funds at the pool is $6,372,514.35. And in May of this year, on May 4th, after the pool tied up all our money, I transferred the bulk of it over to Los Alamos National Bank, and that's primarily because of the dismal – well, first of all, what happened with the reserve, and second of all, they tied up some of the County's money, and third of all because the interest rates really started going down. And, finally, because they were not collateralizing any of our money. So I thought, we don't want to be there because our money's not safe there.

COMMISSIONER VIGIL: Victor, Mr. Chair.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Is it at all possible to transfer that balance to CDs, even on a temporary basis, until the State Investment Pool starts creating a larger benefit? Or what has the Investment Committee decided to do about that balance?

MR. MONTOYA: Well, the thing that I did, the balance has grown in those accounts because they're bond funds, primarily, and so now it's at $6 million. But when some of the CDs mature at the bank, I need to know how long I can invest and that information is not getting to me quick enough, so I just take the money that I had in a CD for that particular bond issue and put it back at the pool temporarily until I get that information.

When I initially transferred everything from the pool on May 4th I actually was down to a balance of $4,700, I believe. So it has grown since May 4th and mostly as a result of the CDs that have matured.

COMMISSIONER VIGIL: Okay. And while I have the floor, Mr. Chair, with regard to the contingency funds that are held hostage, has there been any commitment on the part of the state to return those in any particular timeframe?

MR. MONTOYA: Well, as I stated earlier the problem is the reserve was holding approximately $3.5 billion in total for litigation. That's where this contingency fund that the State Treasurer set up and that's how it affects us. That's our pro rata share that's there. The bad part is is that the money that the reserve is holding back, the $3.5 billion, is money that belongs to the LGIP participants, not only in our state but throughout the US. And so they're suing us, or they're defending themselves with their own money.

COMMISSIONER VIGIL: I understand there have been discussions with regard to many of the treasurers throughout the state being worried those dollars not being returned to each independent treasurer's coffers. So with that, do we have a timeframe with regard to when they will be returned. I know it is dependent on the lawsuit. I guess the appropriate question is where is the lawsuit at this point in time?

MR. MONTOYA: Well, the only thing I can tell you, Mr. Chair, Commissioner Vigil, is that the Attorney General for the State of New Mexico also filed a lawsuit on behalf of the State Treasurer. And they have, I guess, talked to, I believe it's the judge that's handling the case, and they expect some sort of resolution. I'm not exactly sure but they don't have an estimate as to the date. But initially when they created the reserve they actually tied up about $3.1 million and then released almost a million.

COMMISSIONER VIGIL: Right.

MR. MONTOYA: Okay. So to continue then with my report, I continue to look for investments that benefit our local economy here in Santa Fe County that will assist banks and credit unions with the ability to provide mortgage loans, auto loans and construction financing to our County constituents. And just to let you know, there's the Guadalupe Credit Union, the Community Bank – that's not First Community Bank; that's another bank, and Ironstone Bank, I placed the maximum insured by FDIC in each one of those banks, which is $250,000.

And in closing, I've attached a copy of our portfolio, which starts, I believe on page 11, as of the end of August. And these investments show the principal investment amount, the effective annual interest rate, the term, maturity date, and how we receive the income from the investment.

As of August 31st the total portfolio consisted of about $212,691,199 and change. The County Treasurer's Investment Committee meets regularly on a monthly basis. I present an agenda to the committee each month that includes what investments have been made, the investments that have matured, and the minutes from the prior month. I have our custody bank and financial depository institutions, make presentations to keep the committee informed as to how they intend to use County funds to improve the economy of Santa Fe County, and the financial condition of the bank under operations. We monitor the banks' ratings through the use of bankrate.com and other rating agencies, and provide commentary on the financial conditions of the banks we have.

Now, I will tell you that First National Bank has a five star rating. Los Alamos National Bank has a four star rating. So they're really well rated and I guess I'm trying to do my due diligence on all of these people that I invest money with and also try to look at how well they're doing in general as rated by these rating agencies that we look at.

I just want to thank the Investment Committee for their hard work and commitment to attend these monthly meetings. I know many of them have other commitments and obligations that they have to attend to on behalf of the County. And with that, Mr. Chair, Commissioners, that concludes my portion of the presentation and I stand for any questions.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. First of all Victor, thank you very much for all your hard work. I feel that you're very conscientious and very conservative and a really appreciate that.

MR. MONTOYA: Thank you.

COMMISSIONER HOLIAN: I have a question about First Community Bank. Let's just say hypothetically speaking the bank failed like we've been hearing about banks across the United States failing. I know that our money is secured, but what would it mean for us? What would actually happen? What would it be like?

MR. MONTOYA: Well, the real effect would be on whether or not we could function with our payment of debts that we have. But the money itself is secured, so there's no danger of us losing any money, it's just the daily operations of the County might be affected by that. In other words we may have to jump to another bank and move all the assets over and start creating new accounts and start processing checks for the payment of debt and doing wire transfers that we normally do out of another bank. However, right now that's not a really critical issue because while we have $47 million at First Community Bank we have $109 million at Los Alamos National. And I have a universal savings account set up there that's pretty well funded so that if we had to transfer money in an emergency to another custody bank or whoever, and maybe even there, we could probably set up some accounts pretty quickly.

COMMISSIONER HOLIAN: So if it did fail would we get our $109 million or whatever it is right away? Or would there be a lag time where all these details were being worked out?

MR. MONTOYA: Well, when I have a CD issued by the FDIC for example and a bank goes under, and it's just a CD for $250,000 or less, we stop earning interest on that money the date that they take over the bank, and then they remit the money to us, whatever the CD is for, but it usually takes anywhere from three to four weeks to get that. So yes, that could be a possibility.

COMMISSIONER HOLIAN: Okay. And then I also wanted to ask are the four banks that you listed in here the only ones that have been approved as financial depository institutions in our area?

MR. MONTOYA: Right. Those are the only ones. And what that means is that they have deposits in excess of $250,000 and they've come before the Board of County Commissioners. They have to go according to our Investment Policy. They have to go through an application process requesting the designation of a financial depository institution which the Commission subsequently approves, and once they approve it we use to start off with an amount that they're initially seeking and they provide rates at that time that they're willing to give us on that particular investment if we choose to make it with them. And once we give them that – but right now, there haven't been any other banks and I really haven't had a chance to go out and really solicit them and see if they're interested in taking more money from us.

One of the things right now that probably a lot of treasurers are investing with is banks because their CD rates are better than the pool rates. Because the pool can only pay around .3 percent. So banks, I think the lowest rate that I am getting right now on a CD is about 1.3 percent, but that's a really short-term investment. I need to see – I invested those amounts for 90 days and I'm waiting for information, either from Finance or from whoever handles the projects for the County as to what their expectation is before they'll need more money to draw down. But in the interim I just parked it there so we could be earning a decent rate.

COMMISSIONER HOLIAN: Okay. And also about the money that we have tied up now that we can't get to in the Local Government Investment Pool, do we have other funds – you said that that's bonds, bonding money for projects that we have coming forward. Do we have other places that we can get that money from if it's needed before we get any of that back?

MR. MONTOYA: I would say that basically yes, because our general fund – that's what I was saying, that we have a universal savings account over at Los Alamos National Bank. When I have CDs that mature and I don't invest the entire proceeds right away and this is general fund money, I put it in the universal savings account until we determine what other investments we'd like to make. But I would say that easily we could come up with enough money for the $2.1 million that's tied up, until it's released. And we may still lose a good portion of that. We may still lose; we may recover very little of that. And we're certainly not drawing any interest on that $2.1 million that the State Treasurer has obligated.

COMMISSIONER HOLIAN: Thank you, Victor.

CHAIRMAN ANAYA: Thank you. Any other questions? Thank you, Victor. Appreciate all your hard work.

MR. MONTOYA: Thank you, guys. Thank you, Commissioners.

COMMISSIONER MONTOYA: Mr. Chair, I move we adjourn as the Board of Finance and go into our regular –

COMMISSIONER VIGIL: Second.

COMMISSIONER MONTOYA: There's a motion by Commissioner Montoya to adjourn and second by Commissioner Vigil.

COMMISSIONER VIGIL: Before we do adjourn, I just – one of the things that I'd like to make a request of the County Manager at some point in time, that we just sort of do a spotlight of where we're at, because when you first look at the balance of our investments, on the other side of the equation are what has been encumbered for that with regard to projects, our debt service, our Buckman Direct Diversion commitment, our commitment to open space and trails – all of that need to be identified. I'd like to see a copy or sort of an informational backup to that at some point in time. Thanks, Mr. Chair, and with that I'm ready to vote.

The motion passed by unanimous [4-0] voice vote. [Commissioner Stefanics was not present for this action.]

VIII. A. <u>County Assessor</u>

1. Approval of Tax Rates Calculated by Department of Finance and Administration *[Exhibit 3: DFA Letter; Exhibit 4: Tax Rate Tables]*

CHAIRMAN ANAYA: Domingo, how are you?

DOMINGO MARTINEZ (County Assessor): Doing good. How about you, Mr. Chair, members of the Commission? I'm here to basically give you a synopsis on the tax rates. What we did late yesterday and early this morning is put together a spreadsheet for you that will show you what the tax rates did. As you know, the Assessor has nothing to do with tax rates. Our main issue is value. But we are continuously asked to look at these tax rates and look at them for accuracy. However, we only have part of the equation. The values. We don't know what the budgets are. So really what we do, we do a test of reasonableness and we were quite alarmed with the tax rates this year, so I called DFA because it looks like the non-residential tax rate increased tremendously.

And remember that the non-residential tax rate includes vacant land, and that's going to hard hit just about everybody here but more so Commissioner Montoya and Chairman Anaya, because you have a lot of vacant land out there that is not covered by the agricultural special method of value. So that if we have vacant land, and I think that was one of the main issues that you had, Commissioner Montoya, you were getting a lot of your constituents complaining about the tax rates, and not only the tax rate but the value going up, but now that the tax rate has really gone up it's going to affect those vacant lands quite a bit, including commercial properties and everything else.

So if you can run down the line you can see what I did here. I went through each one and really compared 2008 to 2009. It gives you a percentage change over on the right-hand column. And you can see as far as the state debt service is concerned there's a minus eight percent. In other words they need less money to pay the bonds for this year that are out there. But you go to the County, the County operational for residential increased by almost four percent. But the County operational non-residential increased by almost 13 percent. And then you keep on going down to the County debt service and those are the bonds, those dropped a little bit. But then you go to the City of Santa Fe, there you can see the operation levy on residential going up by almost four, but the operational non-residential going up by around 18 percent.

And you go down to the school districts, you'll see the same thing. The operational is at 3.47 and the operational on non-residential property is going up to 17 percent. So if you go down the line here you can almost see that every taxing authority basically took a big increase of their budgets, and I asked DFA how did that happen and they said that the decision from the taxing authorities, including Santa Fe County was to put the biggest increase on the non-residential tax rate rather than on the residential. So they accommodated that and that's why you see a big increase in the non-residential. In other words you're trying to hold harmless the residential taxpayer in masses and putting the big tax on the non-residential, which is commercial property and everything else, but it includes vacant land.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Domingo, say that again. It was based on what?

MR. MARTINEZ: From what we understood it was based on somebody made a decision to put the big increase on the non-residential part of the tax rate and leave the residential part, which is mostly homeowners, those type of things, and they didn't put a big increase on that part.

COMMISSIONER MONTOYA: So they, meaning, like –

MR. MARTINEZ: DFA.

COMMISSIONER MONTOYA: Somebody within DFA?

MR. MARTINEZ: I guess talking to the taxing authorities made that decision. We weren't privy to that.

COMMISSIONER MONTOYA: Okay. So nothing that we had in terms of staff or elected officials –

MR. MARTINEZ: I don't know, Commissioner.

COMMISSIONER MONTOYA: Saying this is something that we think we need to –

MR. MARTINEZ: No. I don't know if that happened but that's what they were told. The major increase happened on the non-residential rate because that's what the taxing authorities wanted or that's the way the equation came out with.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I'm not sure I totally understand this. Let's say under the County operating non-residential, when you have a number like 12.52, that means that it went up by 12 percent. It's not at 12 percent, it went up by 12 percent.

MR. MARTINEZ: Right. Commissioner, if you look under 2008, the mill rate there for the non-residential operation was 10.531, it went up to 11.85.

COMMISSIONER HOLIAN: I see. And so why did it increase? Was there something that passed in the legislature?

MR. MARTINEZ: No, the budgets that you all approved. In other words, the way you do these tax rates is you sit here as a Commission, the City Council as the City Council, the school board as the school board. You pass a budget. That budget goes to DFA. DFA looks at it, if they have no problem with it and you're within the parameters, they go ahead and take the budget and they divide it by the value that we have, and that delineates how much everybody is supposed to pay to pay off that budget. So by passing a budget of x-number of dollars that dictates to them that that's what you need to raise, so they divide the value that we have for that district and that's how much you pay.

COMMISSIONER HOLIAN: So this is specifically for Santa Fe County, not for the whole state?

MR. MARTINEZ: No. This is just for the Santa Fe County.

COMMISSIONER HOLIAN: Okay. Thanks.

CHAIRMAN ANAYA: But Domingo, when we sent our budget to DFA we had a balanced budget. Why wouldn't they – why did they increase the percentage if we balanced out?

MR. MARTINEZ: See, that's the problem that I have. I don't have privy to the budgets; I can only tell you value. The only thing I can tell you, just looking at the numbers is that you increased the budget over last year.

CHAIRMAN ANAYA: Oh, okay. So when we increased it that means they have to increase something so they increased vacant land and commercial.

MR. MARTINEZ: Yes, Commissioner. If you increase the amount of revenue that you need to operate the County somebody's got to pay for it. So what happens, they divide the amount you need by all the value that you have and that tells every taxpayer that pays property taxes how much you're going to pay. So if your budgets went up somebody's going to have to make up that difference and the people that make up that difference are taxpayers.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I think it's really important that the public understand, if this is being filmed that it isn't only calculated by the County's budget. It's calculated by the Community College's budget, by the public schools' budget, by the public school districts that this gets distributed to. So not being privy to whose budget was increased and by how much really the assessment is done by the increase in where these dollars are actually distributed, which is the school districts, Community College and the County. Is there anyone else that receives a share of these dollars?

MR. MARTINEZ: You have them all here. The only other taxes that have been put in here is the special district property tax based on Rancho Viejo; they get ten mills on top of everything else. There's a one mill in Edgewood having to do with the Conservancy District. And then there's a livestock and those kinds of things that don't really enter into this effect because it's basically on cows and horses and such.

COMMISSIONER VIGIL: Okay. Explain to me, Domingo, if you know, the City, as a municipality of Santa Fe has enacted an increase to the property tax for I think it's police and fire – maybe just police. Is that reflected here or is that a separate assessment?

MR. MARTINEZ: It's reflected here, but remember, every taxing authority, the County, the city school districts, they have a maximum that you can levy. And the City relies heavily on gross receipts and the amount that they can levy on property taxes is very small. The County's is 11.85 which is the maximum you have on non-residential. You went to the max there. You can't go any more than that. But if you look at the City, I think the City's maximum rate is 7.65 is what the City can go to max. The County can go to 11.85, but the City can only go to 7.65 and you can see here that the City of Santa Fe is only at 1.097, so they're way below. You'll see it there, Santa Fe City, operational-residential under 2009, 1.097. But they're non-residential is at 2.358, so they did – almost everyone, the County, the city school districts, put a smaller burden on the residential taxpayer and a larger burden on the non-residential taxpayer. Not just Santa Fe County, but every other taxing authority did the same thing.

COMMISSIONER MONTOYA: So, Mr. Chair, who will I be getting calls from? The open, non-residential taxpayer?

MR. MARTINEZ: I would say the big majority will be to the Assessor.

COMMISSIONER MONTOYA: Excuse me.

MR. MARTINEZ: The Assessor will be getting a lot of phone calls from constituents saying why did my taxes go up. You will probably get some because you always get a whole bunch.

COMMISSIONER MONTOYA: So any and everybody will be impacted then.

MR. MARTINEZ: Everybody's going to get a tax increase. As you can see the rates here, very few went down. And I was getting to the second page. If you look at the second page of the first table that I have there, these are the overall tax rates, when you take the minuses and the pluses all the way down. It's showing that the Santa Fe City residential, that's the Santa Fe School District, city and residential, the total tax burden for a person in that school district is going to be 19.619 which is a 1.2 increase. If you look at the Santa Fe City-IN, which is the Santa Fe School District in the city limits, all those properties are going to have almost a six percent increase. Those are the non-residential. Very little vacant land in that, but you have a lot of commercial, a lot of businesses. They are going to be impacted by a six percent increase in that tax rate.

If you look at City-OUT, that's mostly Eldorado and those places like that, just outside the school district, you'll see that the operational is 18.024, almost a one percent increase. However, the non-residential rate went almost five percent. That includes the county, the city, school districts, everybody. 1-NR is the Pojoaque School District I believe.

The residential is going to receive – they're getting a less than one percent decrease in the tax rate. However, if you go to the non-residential in Pojoaque, including vacant land and businesses and everything, they're going to get probably a 4.18 increase in their tax rate. And you go on down the line.

And then the last table shows you how much money will be generated when you apply the value in that district by the tax rate, that tells you how much money will be generated for each of the taxing authorities.

COMMISSIONER MONTOYA: So, Mr. Chair, those revenues generated are a percentage as reflected on the increase from the base of what we had last year. So in other words –

MR. MARTINEZ: I can do that calculation but if I remember correctly – you've got to remember, we've got to put it at a point in time because we're always adding value almost all through the year. And this point in time, when we did the certification to do these tax rates we will generate $129 million. Last year when we stopped the clock and we certified, if I remember correctly I think we generated about $126 million at that point. That's what would have generated. Even at that point in time was $126 million. So really we're increasing almost by three million.

COMMISSIONER MONTOYA: Three million. Okay. Thank you.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Can you tell me what the total value is of non-residential property is versus residential in Santa Fe County, Domingo?

MR. MARTINEZ: Do you have that in your memory?

CHAIRMAN ANAYA: Go ahead and come forward, Victor,

VICTOR BACA (Deputy Assessor): Mr. Chair, County Commissioners, when we break down for certifying to Local Government, DFA, we don't break it down – it doesn't get broken down that way. I'm certain we could come up with it but at this time we don't have that broken down in the way you're asking.

COMMISSIONER HOLIAN: It seems though that they would use that in their calculation because they made a decision to mostly raise the non-residential.

MR. MARTINEZ: Those totals are in the certification, the document called the certification, and it's available. We just don't have it here.

COMMISSIONER HOLIAN: Oh, I see. Okay. And the other question I have is you mentioned for the County operating non-residential, we're at the max of 11.85 mill levy. What is the maximum for the residential? We're at 4.67, but just out of curiosity, what would be the maximum?

MR. MARTINEZ: For the county mill rates, it's 11.85.

COMMISSIONER HOLIAN: Oh, for both. I see. Okay. Thanks.

CHAIRMAN ANAYA: Okay, any other comments? Is there a motion?

COMMISSIONER HOLIAN: Move for approval.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Motion by Commissioner Holian, second by

Commissioner Montoya. Further discussion?

The motion passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Victor, come forward.

MR. MONTOYA: I just wanted to mention, Mr. Chair, Commissioners, I just wanted to give you an update on the property tax collections that have been so far through the end of August. I've collected a $126,673,785.73. Last year at the same time we collected $115 million. So right now, for the same period over last year I am up $10 million on property tax collections. The percentage collected right now is 94.91. Last year it was 95.26 at the same time. So we're behind collection rate, percentage wise, .35 percent. But we're up $10 million. So we're scheduled to collect this year about $133 million. I still have $6 million more to collect.

CHAIRMAN ANAYA: What did we collect last year?

MR. MONTOYA: $121 million I believe.

CHAIRMAN ANAYA: $121 million and we'll go $133 million.

MR. MONTOYA: We're supposed to collect about $12 million more than we did last year. This year I don't know if it – that worksheet doesn't include the county, right? That's just the school districts? Everybody? I mean the second page. Well, then I guess we're going to collect this year than we did in the current year, for 2009.

CHAIRMAN ANAYA: I don't understand.

MR. MONTOYA: He's saying that for 2009 we're supposed to collect $129 million. For 2008, I'm supposed to collect $133 million. So that's about $4 million less.

CHAIRMAN ANAYA: Okay

MR. MARTINEZ: When he says how much he's collected it includes prior years. It includes prior years.

MR. MONTOYA: No, that's just for the current year.

MR. MARTINEZ: Just for the current year. However, remember that we still have to pick up a whole bunch of properties after we've certified these numbers. Remember that we've been working on CAMA and a whole bunch of other things. So once we put those values on the board you'll probably be collecting a lot more money. We have, with the additional five people that you gave us we've been doing other projects and one of the projects we've been doing is we put in the paper an article saying you have until January 1, 2010 to report your property to us because there's a bunch of property that's not on the tax rolls. We have had, I think, if I remember correctly, 50 property owners come in to the Assessor's Office and have reported property that's not on the tax rolls. One home alone that has been there for 20 years is probably worth a half a million dollars. So we're starting to get those properties.

The problem is we're working on protests. We haven't been able to get our people out there to appraise properties yet. But we will be adding a lot of value to this tax rate, which will cause Mr. Montoya here to generate more money.

CHAIRMAN ANAYA: Okay. Commissioner.

COMMISSIONER MONTOYA: Have you filled those positions already?

MR. MARTINEZ: Yes, we have.

COMMISSIONER MONTOYA: You have. So they're in line.

MR. MARTINEZ: They're on line, they're going. They're not producing very much because they're learning the job. It will probably take them a year, year and a half before they become really good producing individuals.

COMMISSIONER MONTOYA: Thank you, Mr. Chair.

CHAIRMAN ANAYA: Okay. Thank you all.

IX. ADJOURNMENT

Chairman Anaya declared this meeting adjourned at 10:35 a.m.

Approved by:

Board of County Commissioners
Mike Anaya, Chairman

ATTEST TO:

Valerie Espinoza VT

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Respectfully submitted:

Karen Farrell

Karen Farrell, Wordswork
227 E. Palace Avenue
Santa Fe, NM 87501

THIRD AMENDMENT TO THE PROJECT PARTICIPATION AND LAND TRANSFER AGREEMENT

THIS THIRD AMENDMENT TO THE PROJECT PARTICIPATION AND LAND TRANSFER AGREEMENT ~~("the Agreement" or "this Agreement")~~, dated this ____ day of September, 2009, is made and entered into by and between the Board of County Commissioners of Santa Fe County, New Mexico, a political subdivision of the State of New Mexico ("the County"), La Luz Holdings, LLC, a New Mexico limited liability company ("the Buyer") and Santa Fe Film and Media Studios Inc., a New Mexico corporation ("the Qualifying Entity").

WHEREAS, the parties entered into that certain Project Participation and Land Transfer Agreement ("the Agreement") on June 10, 2008;

WHEREAS, the ~~at~~ Agreement has been amended twice to extend the time for closing on the real estate that is the subject of Part I of the Agreement;

WHEREAS, the Board of County Commissioners enacted Ordinance No. 2008-07, approving the covenants in Part II of the Agreement as an economic development project pursuant to the Local Economic Development Act;

WHEREAS, the State Board of Finance approved the sale of the Real Estate as provided in NMSA 1978, Section 13-6-2.1;

WHEREAS, the Qualifying Entity now desires to obtain a loan of $6 million from the County to achieve the economic development goals set forth in Part II of the Agreement and to satisfy conditions of banks providing the bulk of capital for the project, and the County desires to further support the Qualifying Entity by providing such a loan, and the parties hereto therefore desire to amend the Agreement accordingly as set forth in this Third Amendment; ~~and~~

WHEREAS, the Board of County Commissioners enacted Ordinance No. 1998-14, creating the County Infrastructure Gross Receipts Tax, revenue ~~from~~ which is anticipated to ~~must~~ be dedicated to repayment of bonds to fund the loan provided for herein; and

WHEREAS, the provisions of the Agreement for the sale and purchase of the Real Estate, as amended by this Third Amendment, shall be subject to the approval of the State Board of Finance to the extent that such approval is required or recommended based upon the amendment to the provisions of the Agreement providing for the County's disposition of the Real Estate in connection with the Project. ~~and.~~

~~WHEREAS, the Qualifying Entity has learned during the pre-construction and pre-leasing and loan application process that less office space and more soundstage space may be needed in Phase 1A, and that flexibility in facilities planning is essential to the success of the Project.~~

IT IS THEREFORE AGREED by and between the parties to this Agreement that the Project Participation and Land Transfer Agreement, shall be and hereby is amended, as follows:

1. Part 1 ("Land Transfer to the Buyer"), Sec. 2 of the Agreement ~~,~~ shall be amended with the addition of the following additional subparagraph 2.4:

> 2.4 Payment of Purchase Price. The Purchase Price shall be paid in five equal installments of $52~~40~~,000 plus interest accrued upon the unpaid balance of the Purchase Price to the date of the installment payment. The interest rate applied to the balance of the Purchase Price shall the same interest rate as the interest rate on the loan provided for in Part 2, Sec. 7.2.5 of this Agreement. Installment payments shall be due when 100,000 hours of above-minimum wage jobs have been provided pursuant to Part 2~~II~~, Sec. 7.2.1(~~B~~b) of this Agreement, so that payments are made when 100,000, 200,000, 300,000, 400,000 and 500,000 hours have been provided pursuant to Part II, Sec. 7.2.1(b); provided, however, if all payments have not been made within five (5) years of the date of execution of this Amendment, the remaining payments must be made no later than September 11, 2015. ~~,~~
>
> ~~provided however, that once the LEDA goals of 500,000 hours of employment and Phase 1A construction have been completed as provided in Section 7.2 of the Agreement, the $2 million letter of credit or escrow account will be terminated.~~

2. Part 2 ("Project Participation") Sec. 7.2 of the Agreement shall be amended with the addition of the following additional subparagraph 7.2.5:

> 7.2.5 Loan.
>
> A. The County will assist the Buyer and the Qualifying Entity by entering into an agreement or agreements (collectively, the "Loan Agreement") to provide ~~providing~~ a loan in an amount not to exceed $6 million (the "Loan") to the Buyer and the Qualifying Entity, jointly and severally as borrower. The L~~l~~oan ~~proceeds~~ shall used by the Buyer and the Qualifying Entity for construction and/or long-term financing of capital improvements such as the construction of buildings, appurtenances and infrastructure in, on, or under the Phase 1A Land, and for equipment necessary for the studio and workforce purposes of the Project. The L~~l~~oan ~~proceeds~~ shall not under any circumstances be used to operate the facility or for any day to day operational expenses. The source of funds for the L~~l~~oan is anticipated to be ~~will in all likelihood be~~ a taxable bond issued by the County, the source of repayment of which will be payments made by the Buyer and the Qualifying Entity under the loan agreement ~~and a first lien on the County's Infrastructure Gross Receipts Tax, which will be used for repayment of the bonds if a default occurs~~. Security for repayment of the L~~l~~oan to the Buyer and the Qualifying Entity shall include the following, all of which shall be satisfactory to the County in substance and form: (AA) a mortgage on the Phase 1A land and

improvements (the "Loan Mortgage"); (BB) a $2 million letter of credit or escrow to be maintained by the Qualifying Entity during the period when the economic development goals set forth in Part II, Sec. 7.2.1 of this Agreement are unmet, which may be reduced on a pro rata basis as the economic development goals are satisfied in 100,000 hour increments on the same dates as the installments payments by Buyer under Part 1, Sec. 2.4.
~~a mortgage on the Phase 1A land and improvements~~.~~, and a personal guaranty, and a conditional assignment of this Agreement to a third party labor organization of the Qualifying Entity's obligations under this Agreement, whereby the labor organization will succeed to the obligations of the Qualifying Entity upon a default~~.

B. ~~Additionally,~~ The Qualifying Entity, the Buyer and the County all agree that in the event of a default by the Qualifying Entity of any of the terms of ~~under~~ the $6 million loan agreement, the appropriate party to act a receiver of the mortgaged property and to operate the same pending foreclosure would be IATSE Local 480, and the Qualifying Entity and the Buyer.

~~The $6 million loan shall also be secured by a $2 million letter of credit or escrow to be maintained by the Qualifying Entity during the LEDA goals period. The letter of credit or escrow will be reduced on a pro rata basis as the LEDA jobs goals are satisfied in 100,000 hour increments. Such reductions will be made on the same dates as the installments payments by Buyer under Section 2.4 above so that the County receives cash from Buyer as the letter of credit or escrow is reduced.~~

C. To the extent that the L~~l~~oan from the County is utilized as construction financing, the L~~l~~oan A~~a~~greement shall require that disbursement of loan proceeds follow demonstrated progress in constructing capital improvements on the Phase 1A Land. The term of the L~~l~~oan shall in no event exceed the term of the County Infrastructure Gross Receipts Tax ("CIGRT") bonds or the useful life of the project. The interest rate of the L~~l~~oan should be no less than the rate on the CIGRT bonds. The County's obligation to fund the Loan shall be contingent on: (1) successful negotiation of the Loan Agreement in form acceptable to the County Attorney and the County's bond counsel, and approved by the Board of County Commissioners; (2) the availability of net proceeds of bonds issued by the County to fund the Loan in an amount sufficient to fund the Loan and pay all costs of issuance of the bonds; (3) if the Loan is to be funded from other sources, adequate funding to provide the Loan; (4) execution of the Loan Agreement, Mortgage and related documentation in form and substance satisfactory to the County; (5) issuance of a lender's policy of title insurance in favor of and satisfactory to the County; (6) receipt by the County, at or before closing of the loan, of the certifications and legal opinions required in the Loan Agreement, Mortgage and related documentation or agreements; and (7) approval by the State Board of Finance of the Agreement, as amended, to the extent that such approval is required or recommended based upon the amendment to the provisions of the

Agreement providing for the County's disposition of the Real Estate in connection with the Project. ~~The County's obligation to fund the loan shall be also contingent on: (1) successful negotiation of a loan agreement (or agreements) in form acceptable to the County Attorney and the County's bond counsel, and approved by the Board of County Commissioners; (2) if the loan is to be funded through taxable County Infrastructure Gross Receipts Tax bonds, the availability of net proceeds sufficient to fund the loan and pay all costs of issuance of the CIGRT Bonds following issuance, sale and delivery of the bonds; (3) if the loan is to be funded from other sources, adequate funding to provide the loan; (4) execution of a loan agreement, mortgage, lien, personal guarantee and related documentation in form and substance satisfactory to the County; (5) issuance of a lender's policy of title insurance in favor of and satisfactory to the County (6) receipt by the County, at or before closing of the loan, of the certifications and legal opinions required in the loan agreement or agreements; and (7) approval by the State Board of Finance of the Agreement, as amended, to the extent that such approval is required or recommended based upon material changes to the terms of County's disposition of land in connection with the Project.~~

3. Part 2 ("Project Participation"), Sec. 7.3, the Agreement shall be amended with the additional sentences shown underlined below:

> 7.3. Failure to Perform; Remedies. In the event the Qualifying Entity fails to provide the job opportunities required by Section 7.2.1, above, it shall be in default hereunder. In the event of such default, the Qualifying Entity and the Buyer shall pay the County the amount of $30,000 for each acre foot of water rights actually delivered to the Property by the County, and shall reimburse all additional amounts contributed by the County or the State in support of the Project pursuant to the Act, adjusted to reflect the extent to which the Economic Development Goals have been performed at the time the partial release of the LEDA Parcel Mortgage is requested (e.g. if 50% of the hourly requirements required as Economic Development Goals have been satisfied, the Qualifying Entity and La Luz shall be obligated to reimburse 50% of the aggregate amount of public funding contributed by the County and the State). The Qualifying Entity and the Buyer shall reimburse the County and State according to the respective contributions by each within ninety (90) days after notice of such default is given. In the event the Qualifying Entity or the Buyer fails to make such payment on a timely basis, the County may pursue its rights under the LEDA Parcel Mortgage securing, among other things, performance of this Agreement and the LEDA Performance and Repurchase Agreement. The duties of the Qualifying Entity and the Buyer are further described in the LEDA Performance and Repurchase Agreement. In the event that the Buyer and the Qualifying Entity fail to satisfy the terms of the loan described in Sec. 7.2.5 of this Agreement, in whole or in part, they shall suffer the remedies set forth in Sec. 7.2.5, in this paragraph, and any additional remedies set out in the loan agreement. Satisfaction of the economic development goals and release of the LEDA mortgage shall not relieve

any obligations under the terms of the loan and loan agreement described in Sec. 7.2.5 and the mortgage lien ~~and personal guaranty require to secure the loan~~ shall be considered to be independent obligations of the Buyer and the Qualifying Entity.

4. Part I, Sec. 5.1.8 of the Agreement, concerning an industrial revenue bond, shall be and hereby is deleted, and Resolution No. ___ expressing the intent of the Board of County Commissioners to consider adoption of a bond ordinance authorizing the issuance of an industrial revenue bond in connection with the Project shall be of no further effect.

5. Part II, Sec. 7.2.1 of the Agreement shall be amended with the additional sentence shown underlined below:

7.2.1. The Qualifying Entity shall directly or indirectly provide the following job opportunities in connection with the LEDA Project:

(a) 500,000 hours of above-minimum wage jobs in connection with the Project within six (6) years after the Closing Date in connection with Phase 1A, or 800,000 hours of above-minimum wage jobs in connection with development of Phases 1A and Phase 1B of the Project, toward which hourly requirements shall be credited all construction jobs that result from construction of the LEDA Project on the Property or for offsite infrastructure for the Studio Project;

(b) work force development, including apprenticeships or other job training and career advancement programs for Santa Fe County area residents and residents of the State of New Mexico.

Such jobs under subparagraph (a) may be located onsite at the Property or elsewhere within the County, provided that the film and multi-media production is contracted for or originated through the Qualifying Entity, its subtenants or users of the Studio Project. For example, if a film or multi-media production is contracted for or originated as provided in the preceding sentence and is filmed or created at both the Property and in downtown Santa Fe, credit will be given for hours of jobs created in downtown Santa Fe; if a production is contracted for or originated by the Qualifying Entity or its subtenants before the Studio Project is ready for use, and the production is filmed or created offsite, jobs created shall be credited toward the economic goals in Section 7.2.(a) above. The Qualifying Entity shall begin creating jobs as soon as is practicably possible after Closing. Jobs created and credited against the economic development goals described in this Agreement shall, consistent with the capabilities of the local work force in Central New Mexico, prefer local workers over workers over workers from outside Central New Mexico.

Notwithstanding the time periods set forth in this Section 7.2.1, if construction of the Studio Project is delayed and the time for completion is extended as provided in Section 2(d) of the Performance Agreement, the period during which jobs are to be created shall be extended by the amount of additional time provided for completion of construction.

For purposes of this PPA and the LEDA Performance Agreement, the "minimum wage" means the minimum "living wage" then in effect in the City of Santa Fe, New Mexico pursuant to the City's Living Wage Ordinance, No. 28-1, Section 28-1.12, Santa Fe City Code 1987, as amended.

6~~5~~. Part II, Sec. 13 of the Agreement, concerning assignment, shall be and here is deleted.

7~~6~~. Part Sec. 22 of the Agreement, concerning assignment, shall be and hereby is amended to read as follows:

22. ASSIGNMENT. This Agreement shall be binding upon the parties hereto and their respective heirs, successors or representatives; provided, that this Agreement may not be assigned by any party without the prior express written consent of the other party. ~~The conditional assignment of the obligations of the Qualifying Entity to a local labor organization to repay the loan described in Part 2, Sec. 7.2.5 of this Agreement are not subject to the provisions of this Section.~~

8~~7~~. Part 1, Section 4.4 of the Agreement is amended to read as follows:

4.4. Inspection Period Extension. The Inspection Period, unless extended by mutual agreement of the parties reduced to writing and fully executed, shall expire at 5:00 p.m. on November 30, 2009.

Notwithstanding the foregoing, Buyer and Qualifying Entity may give notice prior to the end of the Inspection Period that the inspection is complete, in which event the date of such notice shall serve as the end of the Inspection Period for the purpose of establishing the Closing Date.

This amended Section 4.4 supersedes the modifications to this Section contained in the First and Second Amendments to the Agreement.

9~~8~~. ~~The PPA and Performance Agreement~~ Part 2, Sec. 9.3 of the Agreement shall be amended to read as follows:

(b) Phase 1A, consisting of Stages 1 and 2 and approximately 39,000 square feet of space to house the mill, shop, grip and lighting facilities, and the approximately 35,000 square feet of space to house production support facilities, shall

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commence within 36 months following the Closing Date, and shall be completed within 72 months after the Closing Date; provided however that if market conditions and prospective tenant requirements require a different configuration, the parties may agree to changes in the mix of improvements comprising Phase 1A without amending this Agreement so long as at least 40,000 square feet of improvements, including at least two soundstages, are constructed;

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~~contemplate that within Phase 1A two soundstages and approximately 39,000 square feet of office and other space will be built. Due to market conditions and prospective tenant requirements for the Project, the County agrees that the building "mix" for the LEDA Project may change at the discretion of the Qualifying Entity so long as at least 40,000 square feet of improvements, including at least two soundstages, are constructed to comprise the LEDA Project.~~

10~~9~~. The foregoing recitals are incorporated herein by this reference.

11. Following execution of this Third Amendment, the Agreement, as previously amended and as amended by this Third Amendment, shall compiled in amended and restated form, which shall be executed and delivered promptly by the parties hereto.

12~~0~~. This Third Amendment to the Project Participation and Land Transfer Agreement shall be approved by the New Mexico State Board of Finance prior to becoming effective, unless the State Board of Finance, or its counsel, determines that approval of this amendment by the Board of Finance is not necessary.

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COUNTY:

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

By: ______________________________ ____________________
Mike Anaya, Chair Date

ATTEST:

______________________________ ____________________
Valerie Espinoza, County Clerk Date

APPROVED AS TO FORM:

Stephen C. Ross
Santa Fe County Attorney

Date

BUYER:

La Luz Holdings, LLC
A New Mexico limited Liability Company

By: ______________________________ ______________________
Lance Hool, Manager Date

ATTEST:

______________________________ ______________________
Secretary Date

QUALIFYING ENTITY

Santa Fe Film and Media Studios Inc.,
A New Mexico corporation

By: ______________________________ ______________________
Lance Hool, President Date

ATTEST:

______________________________ ______________________
Secretary Date

Explanation of Financial Terms of Santa Fe Studios Transaction

- Santa Fe Studios Receives $10,000,000 DFA/EDD grant proceeds through the County under existing MOU
- Santa Fe Studios invests $6,000,000 loaned by Santa Fe County
- La Luz Holdings, Santa Fe Studios purchases the Media District for $2,620,000
- Santa Fe Studios delivers a $2,000,000 letter of credit to Santa Fe County
- Santa Fe Studios provides all operating capital for day-to-day operations of the project
- Total Investment in land and Improvements: $18,620,000
- Favorable Loan to Value Ratio: $6,000,000 to $18,620,000 =

  32.22%

  (LANB has proposed 58% loan to value ratio)
- County is well secured under the mortgage on the project

$\$2 \times 10^6$ in operations per year

- **Land Purchase under Profit Participation and Land Transfer Agreement**
  - Purchase Price: $2,620,000
  - Payment by SFC to State Land Office for property: $1,800,000 +/-
  - Purchase price paid in five installments tied to LEDA jobs created----$524,000 within thirty (30) days after first 100,000 hours of jobs; $524,000 upon creation of second 100,000 hours of jobs, etc.
  - Balloon payment of balance due at the end of LEDA term of six years
  - All jobs will be "*above minimum wage*" positions
- No Change in Overrides to be Paid to County upon Sales or Leases of "Override Property"
- Santa Fe Studios to provide operating capital to the project—County loan is not to be used for day-to-day operations

- **Loan to Santa Fe Studios**

  - $6,000,000 loan at rate to be agreed upon (bond market considerations); with a term of 25 years

  - ? Steve's opinion — $2,000,000 letter of credit to County as collateral; LOC phased out as LEDA jobs goals are met on the same pro rata basis as balloon payments are made on the land purchase

  - Loan documents to be in commercially reasonable form and to include
    - Note Mortgage
    - Loan Agreement including terms of construction draws, etc.
    - Draws during construction to be based upon a percentage of completion so that County does not lend money prematurely
    - Agreement re IATSE Local 480 as receiver in the event of default
      - If SFS fails to pay or otherwise defaults, the County will begin foreclosure proceedings
      - The County will seek a "receiver" to operate the studios pending a foreclosure sale
      - IATSE Local 480 will be the agreed upon receiver—Santa Fe Studios and La Luz Holdings will not object to the choice of IATSE Local 480

  - Borrower's payments to be made semi-annually during construction with interest only;

  - quarterly payments of principal and interest amortized of the remaining term of the loan after certificate of occupancy is obtained

  - Reasonable default and cure periods—

  - Source of funds: taxable bonds. Upon default, source of repayment is County Infrastructure Gross Receipts Tax

  - Upon a mortgage foreclosure sale, the County will be able to sell the LEDA project and its acreage for which La Luz Holdings has paid $2,620,000 and invested the $10,000,000 State grant and on which the $6,000,000 County loan has been used to construct the facilities

EXHIBIT
3

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION

Bataan Memorial Building, Ste 201 • Santa Fe, New Mexico 87501
Phone: (505) 827-4950 • FAX (505) 827-4948
www.nmdfa.state.nm.us

BILL RICHARDSON
GOVERNOR

KATHERINE B. MILLER
CABINET SECRETARY

ROBERT M. APODACA
DIRECTOR

September 1, 2009

Virginia Vigil, Chairperson
Santa Fe County Commission
P. O. Box 276
Santa Fe, NM 87504

Re: **Order Setting Property Tax Rates - 2009 Year**

Dear Chairman Vigil:

Pursuant to Sections 7-37-7(A) and 7-38-33(A) NMSA 1978, I issue this order setting as the 2009 property tax rates for your county the rates set forth in the attached certificate.

Section 7-38-34 NMSA 1978 requires the Board of County Commissioners (Board) to issue and deliver to the County Assessor its own order imposing these rates within five days of its receipt of this letter. (As a courtesy, I note that, because this statutory time period is less than eleven days, "a Saturday, Sunday or legal holiday is excluded from the computation". Section 12-2A-7(E) NMSA 1978.) Before the Board issues its order, appropriate elected officials and/or County staff should carefully review the attached rates to ensure their accuracy. Also, please share the attached information with the taxing entities within your county.

Effective 7-1-09 Section 73-20-46 (A) NMSA 1978 of the Soil and Water Conservation Act was revised. Based on this revision, the mill levy imposed for these districts is no longer subject to yield control (Section 7-31-7.1 NMSA 1978). The effect of this change may result in Soil and Water Conservation Districts receiving additional property tax revenue.

Any questions should be immediately brought to the attention of Isaac Montoya at 827-4333 or RoseAnn Romero at 827-8064.

Sincerely,

Katherine B. Miller, Secretary
Department of Finance & Administration

cc: Property Tax Division, Taxation & Revenue Department
County Assessor – Certified Mail
County Treasurer – Regular Mail

Attachment

CERTIFICATE OF PROPERTY TAX RATES IN MILLS
SANTA FE COUNTY
TAX YEAR 2009
NET TAXABLE VALUE:

$6,633,131,738

MUNICIPALITY:	Santa Fe	Santa Fe							Espanola
TAXABLE VALUE:	2,534,474,103	966,186,526	2,102,642,118	535,000,876	127,381,795	41,350,049	101,058,015	33,608,483	30,151,052
CATEGORY:	C IN R	C IN NR	C OUT R	C OUT NR	1 R	1/1D NR	8T R OUT	8T NR OUT	18 IN R
State Debt Service	1.150	1.150	1.150	1.150	1.150	1.150	1.150	1.150	1.150
Total State	1.150	1.150	1.150	1.150	1.150	1.150	1.150	1.150	1.150
County Operational	4.670	11.850	4.670	11.850	4.670	11.850	4.670	11.850	4.670
County Debt Service	1.930	1.930	1.930	1.930	1.930	1.930	1.930	1.930	1.930
Total County	6.600	13.780	6.600	13.780	6.600	13.780	6.600	13.780	6.600
Municipal Operational	1.097	2.358							3.101
Municipal Debt Service	0.498	0.498							
Total Municipal	1.595	2.856	0.000	0.000	0.000	0.000	0.000	0.000	3.101
School Dist. Operational	0.119	0.391	0.119	0.391	0.167	0.410	0.359 (2)	0.500 (2)	0.163 (3)
School Dist. Debt Service	3.419	3.419	3.419	3.419	9.574	9.574	8.964 (2)	8.964 (2)	4.545 (3)
School Dist. Cap. Improve.	2.000	2.000	2.000	2.000	2.000	2.000	2.000 (2)	2.000 (2)	0.000 (3)
HB33 School Building	1.500	1.500	1.500	1.500	0.000	0.000	0.000 (2)	0.000 (2)	0.000 (3)
School Dist. Educ. Tech. Debt Service	0.000	0.000	0.000	0.000	0.000	0.000	0.000 (2)	0.000 (2)	0.975 (3)
Total School District	7 038	7.310	7.038	7.310	11.741	11.984	11.323	11.464	5.683
Total State, County, Municipal, & School Dist.	16.383	25.096	14.788	22.240	19.491	26.914	19.073	26.394	16.534
Other:									
Santa Fe Comm.Col.(1)	2.190	3.000	2.190	3.000					
Santa Fe Col.Bldg.Levy (1)	1.046	1.046	1.046	1.046					
Total Other	3.236	4.046	3.236	4.046	0.000	0.000	0 000	0.000	0.000
GRAND TOTAL	**19.619**	**29.142**	**18.024**	**26.286**	**19.491**	**26.914**	**19.073**	**26.394**	**16.534**

Where Applicable:

			Res	Non-Res
Cattle Indemnity	10.000	Edgewood SWCD	1.000	1.000
Sheep and Goats	10.000			
Dairy Cattle	5.000	Rancho Viejo Sp. Assmt Dist Debt	10.00	
Bison	10.000	El Dorado Area W&S Dist Oper/Debt.:	3.06	
Horses	10.000			

(1) To Santa Fe Com. College--P.O. Box 4187, Santa Fe, NM 87502
(2) To Moriarty Board of Education
(3) To Espanola Board of Education

CERTIFICATE OF PROPERTY TAX RATES IN MILLS
SANTA FE COUNTY
TAX YEAR 2009
NET TAXABLE VALUE:

$6,633,131,738					
MUNICIPALITY:	Espanola			Edgewood	Edgewood
TAXABLE VALUE:	13,706,736	44,586,520	20,153,197	53,618,195	29,214,073
CATEGORY:	18 IN NR	18 OUT R	18 OUT NR	8T IN R	8T IN NR
State Debt Service	1.150	1.150	1.150	1.150	1.150
Total State	1.150	1.150	1.150	1.150	1.150
County Operational	11.850	4.670	11.850	4.670	11.850
County Debt Service	1.930	1.930	1.930	1.930	1.930
Total County	13.780	6.600	13.780	6.600	13.780
Municipal Operational	3.856				
Municipal Debt Service					
Total Municipal	3.856	0.000	0.000	0.000	0.000
School Dist. Operational	0.178 (3)	0.163 (3)	0.178 (3)	0.359	0.500
School Dist. Debt Service	4.545 (3)	4.545 (3)	4.545 (3)	8.964	8.964
School Dist. Cap. Improve.	0.000 (3)	0.000 (3)	0.000 (3)	2.000	2.000
HB33 School Building	0.000 (3)	0.000 (3)	0.000 (3)	0.000	0.000
School Dist. Educ. Tech. Debt Service	0.975 (3)	0.975 (3)	0.975 (3)	0.000	0.000
Total School District	5.698	5.683	5.698	11.323	11.464
Total State, County, Municipal, & School Dist.	24.484	13.433	20.628	19.073	26.394
Other:					
Santa Fe Comm.Col.(1)					
Santa Fe Col.Bldg.Levy (1)					
Total Other	0.000	0.000	0.000	0.000	0.000
GRAND TOTAL	24.484	13.433	20.628	19.073	26.394

Where Applicable:

Cattle Indemnity	10.000
Sheep and Goats	10.000
Dairy Cattle	5.000
Bison	10.000
Horses	10.000

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EXHIBIT
4

Tax Rates by Taxing Authority				
	2007	2008	2009	% Change
Total Taxable Value	18,224,672,250	19,652,725,938	19,899,395,214	0.0125514
Net Taxable Values 1/3	6,074,890,750	6,550,908,646	6,633,131,738	0.0125514
State Debt Ser	1.221	1.25	1.15	-8
Cnty Oper Res	4.415	4.507	4.67	3.6165964
Cnty Oper NRes	9.989	10.531	11.85	12.524926
Cnty Debt Ser Res	1.867	1.969	1.93	-1.9807009
Cnty Debt Ser NRes	1.867	1.969	1.93	-1.9807009
City Santa Fe Oper Res	1.026	1.055	1.097	3.9810427
City Santa Fe Oper NRes	1.945	1.998	2.358	18.018018
City Santa Fe Debt Ser Res	0	0.461	0.498	8.0260304
City Santa Fe Debt Ser NRes	0	0.461	0.498	8.0260304
City Espanola Oper Res	2.94	3.026	3.101	2.4785195
City Espanola Oper NRes	3.491	3.736	3.856	3.2119914
SF Scl Distr Oper Res	0.113	0.115	0.119	3.4782609
SF Scl Distr Oper NRes	0.319	0.334	0.391	17.065868
SF Scl Distr Debt Ser Res	3.437	3.413	3.419	0.1757984
SF Scl Distr Debt Ser NRes	3.437	3.413	3.419	0.1757984
SF Scl Distr Cap Impr Res	1.984	2	2	0
SF Scl Distr Cap Impr NRes	1.989	2	2	0
SF HB-33 Scl Bldg Res	1.426	1.454	1.5	3.1636864
SF HB-33 Scl Bldg NRes	1.492	1.5	1.5	0
Pojoaque Scl Distr Oper Res	0.154	0.158	0.167	5.6962025
Pojoaque Scl Distr Oper NRes	0.298	0.345	0.41	18.84058
Pojoaque Scl Distr Debt Ser Res	9.743	9.738	9.574	-1.6841241
Pojoaque Scl Distr Debt Ser NRes	9.743	9.738	9.574	-1.6841241
Pojoaque Scl Distr Cap Impr Res	2	2	2	0
Pojoaque Scl Distr Cap Impr NRes	2	2	2	0
Moriarty Scl Distr Oper Res	0.336	0.354	0.359	1.4124294
Moriarty Scl Distr Oper NRes	0.5	0.5	0.5	0
Moriarty Scl Distr Debt Ser Res	7.159	8.217	8.964	9.0909091
Moriarty Scl Distr Debt Ser NRes	7.159	8.217	8.964	9.0909091
Moriarty Scl Distr Cap Impr Res	1.964	2	2	0
Moriarty Scl Distr Cap Impr NRes	2	2	2	0
Espanola Scl Distr Oper Res	0.158	0.162	0.163	0.617284
Espanola Scl Distr Oper NRes	0.159	0.174	0.178	2.2988506
Espanola Scl Distr Debt Ser Res	5.159	4.942	4.545	-8.0331849
Espanola Scl Distr Debt Ser NRes	5.159	4.942	4.545	-8.0331849
Espanola Scl Distr Ed Tech Res	0	1.004	0.975	-2.8884462
Espanola Scl Distr Ed Tech NRes	0	1.004	0.975	-2.8884462
SFComm College Oper Res	2.073	2.114	2.19	3.5950804
SF Comm College Oper NRes	2.984	3	3	0
SFComm College Bldg Lvy Res	1.046	1.046	1.046	0
SFComm College Bldg Lvy NRes	1.046	1.046	1.046	0

TOTAL TAX RATES PER SCHOOL DISTRICT

				% Change
Santa Fe C IN R		19.384	19.619	1.2123401
Santa Fe C IN NR		27.502	29.142	5.9632027
City Out R		17.868	18.024	0.8730692
City Out NR		25.043	26.286	4.9634628
1 R		19.662	19.491	-0.8696979
1 NR		25.833	26.914	4.1845701
8T R OUT		19.225	19.073	-0.7906372
8T NR OUT		25.467	26.394	3.6400047
Espanola 18 In R		16.86	16.534	-1.9335706
Espanola 18 In NR		23.606	24.484	3.7193934
18 Out R		13.834	13.433	-2.8986555
18 OUT NR		19.87	20.628	3.8147962
Edgewood 8T IN R		18.297	19.073	4.2411324
Edgewood 8T IN NR		24.467	26.394	7.8759145

Total amount of REVENUE generated by the Propery Tax .

SCHOOL DISTRICT	Net Tax Value	Total tax rate	
C IN R (Santa FE)	2,534,474,103	19.619	$ 49,723,847.43
C IN NR	966,186,526	29.142	$ 28,156,607.74
C OUT R	2,102,642,118	18.024	$ 37,898,021.53
C OUT NR	127,381,795	26.286	$ 3,348,357.86
1 R (Pojoaque)	127,381,795	19.491	$ 2,482,798.57
1 NR	41,350,049	26.914	$ 1,112,895.22
8T IN R (Edgewood)	53,618,195	19.073	$ 1,022,659.83
8T IN NR	29,214,073	26.394	$ 771,076.24
8T Out R (Moriarity)	101,058,015	19.073	$ 1,927,479.52
8T Out NR (Moriarity)	33,608,483	26.394	$ 887,062.30
18 In R (Espanola)	30,151,052	16.534	$ 498,517.49
18 In NR	13,706,736	24.484	$ 335,595.72
18 OUT R	44,586,520	13.433	$ 598,930.72
18 OUT NR	20,153,197	20.628	$ 415,720.15
Grand Total			$ 129,179,570.34