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 SOLID WASTE MANAGEMENT AGENCY
 JOINT POWERS BOARD MEETING
 June 27, 2013

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Approved

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Approved

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Approved

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Approved

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Approved

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2013/07/18 09:00:00 AM
 RECORDED
 07/23/2013

**SOLID WASTE MANAGEMENT AGENCY
JOINT POWERS BOARD MEETING
Legal Conference Room
Santa Fe County Courthouse
June 27, 2013**

SFC CLERK RECORDED 07/23/2013

I. CALL TO ORDER

A meeting of the City and County of Santa Fe Solid Waste Management Agency Joint Powers Board (SWMA) was called to order by Councilor Peter N. Ives, Chair, on Thursday, June 27, 2013, at approximately 12:00 noon, in the Legal Conference Room Santa Fe County Courthouse, 102 Grant Avenue, Santa Fe, New Mexico.

II. ROLL CALL

MEMBERS PRESENT:

Councilor Peter N. Ives, Chair
Councilor Bill Dimas
Commissioner Kathy Holian
Commissioner Daniel Mayfield
Councilor Christopher M. Rivera

MEMBERS EXCUSED:

Commissioner Miguel Chavez, Vice-Chair

STAFF PRESENT:

Randall Kippenbrock, Executive Director – SWMA
Angelica Salazar, SWMA
Justin Miller, Legal Counsel
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance.

III. APPROVAL OF THE AGENDA

Mr. Kippenbrock said there is an amended agenda, noting the agenda was posted in time to be on the City and the County bulletin board, but it wasn't posted in time to be on the Agency website 72 hours prior to the meeting. He said it is a minor deviation, but it can comply with the Open Meetings Act.

Mr. Miller said the Open Meetings Act requires a reasonable notice and what is reasonable is not defined, and is left to the public entity to determine. The Board's Open Meetings Act Resolution calls for distribution at the City and County and listing on the Agency website. So, Randall said it was given to the City and the County and posted in a conspicuous place but not on the website. So if the Board were to determine that was reasonable under these circumstances, then he doesn't see a problem in proceeding to consider that item, but it would be contrary to the Board's policy. If the Board would prefer to stick to policy and hold to that, then we probably shouldn't consider it."

Chair Ives asked Mr. Kippenbrock to describe the item.

Mr. Kippenbrock said the item was discussion and possible action on additional special waste categories as part of the Caja del Rio Landfill permit renewal and modification.

Chair Ives asked how critical it is to get a decision on that for the permit application.

Mr. Kippenbrock said it is not critical.

Chair Ives said he would suggest that we would be best served by sticking with our policy and postponing this item to the next meeting so we will have proper notice and there will be no question about compliance with the Open Meetings Act.

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to approve the Agenda as originally posted.

VOTE: The motion was approved unanimously on a voice vote.

IV. APPROVAL OF THE MINUTES FOR REGULAR MEETING – APRIL 18, 2013

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to approve the minutes of the regular meeting of April 18, 2013, as presented.

VOTE: The motion was approved unanimously on a voice vote.

V. MATTERS FROM THE PUBLIC

There were no matters from the public.

VI. MATTERS FROM THE EXECUTIVE DIRECTOR

(A) REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT (UNION CONTRACT) BETWEEN SANTA FE SOLID WASTE MANAGEMENT AGENCY AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) LOCAL 3999.

Mr. Kippenbrock presented information regarding this matter from his Memorandum of June 20, 2013, with attachments, to the SFSWMA Joint Powers Board, which is incorporated herewith to these minutes as Exhibit "1." Please see Exhibit "1" for specifics of this presentation.

Responding to Commissioner Mayfield, Mr. Kippenbrock said they adopted the merit and the COLA and put zero language into the Union Contract, and with this one they struck out anything relating to non-union employees. The non-union employees still have the same opportunity under Agency Policy passed in 2006.

Commissioner Mayfield asked, regarding Article 23, asked if SWMA is providing jackets and outerwear, and if that is included and/or needs to be included.

Mr. Kippenbrock said the Memo contains only changes, and if there are no changes, it still remains in the contract. He said the union employees receive heavy jackets every other year, and light jackets in the other years – based on odd and even is that in here, so they do receive outerwear.

Commissioner Mayfield asked what happens if there is damage due to heavy equipment.

Mr. Kippenbrock said generally it is pants and shirts, depending on the situation, noting both are replaceable. He has never had a situation where he needs to have jackets replaced more frequently, noting rain gear is replaced every 3 years.

Chris Francisco, Union Chief Steward, introduced Angelo Mares, noting he and Angelo were part of the negotiating team. He said they reviewed parts of the contract that needed touching up, one of which was the contestable contents. The other two changes were shoes for adm. personnel, scale house personnel or anybody inside the office, and the two pair of shoes for the employees in the field. He asked if the Board has questions pertaining to the contract.

Commissioner Mayfield asked, "Francisco, are you all comfortable with the contract."

Mr. Francisco said, "Yes sir, we are."

Mr. Francisco notified the contract was ratified last night, noting Nick Lovato, President, Local 3999, was in attendance, and the vote was unanimous.

Chair Ives thank them for coming today and confirming that.

Chair Ives and Commissioner Mayfield thanked management and the negotiating team for working together to come up with the agreement.

MOTION: Councilor Dimas moved, seconded by Commissioner Mayfield, to approve the request for approval of Collective Bargaining Agreement (Union Contract) between Santa Fe Solid Waste Management Agency and American Federation of State, County and Municipal Employees (AFSCME) Local 3999, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote.

Responding to Commissioner Mayfield, Mr. Kippenbrock said the contract will be effective July 1, 2014, and the changes will be reflected in the first full pay period in July.

(B) REQUEST FOR APPROVAL OF COST OF LIVING (COLA) FOR FISCAL YEAR 2013-14.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 21, 2013, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "2." Please see Exhibit "2" for specifics of this presentation.

Councilor Rivera said he is having a hard time with the increases, mainly because we increased rates, and the increases are more than those for the City and County employees outside of SWMA. He asked if the proposed increase is up to 4.1%.

Mr. Kippenbrock said this is correct, it is an average.

Councilor Rivera said he agrees with raises for union personnel, commenting they work hard to get them, as well as does Mr. Kippenbrock. He said, however a 2% raise for Mr. Kippenbrock is not the same as a 2% for a union employee, and 2% of Mr. Kippenbrock's salary is significantly more than 2% for the people working on the front lines. He said he doesn't agree that Mr. Kippenbrock doesn't deserve a raise. However, he is unsure whether he will be voting to approve both of these. He said COLA is the fairest way to go so that everyone receives the same across the Board and he will support that. He is unsure he can support the merit portion.

Councilor Dimas said the COLA and merit increases are separate issues, and Chair Ives said this is correct.

Councilor Dimas noted that there is no merit increase proposed for the Executive Director and Mr. Kippenbrock said this is correct.

Councilor Dimas asked Mr. Kippenbrock if he would be receiving the COLA of 4.1%.

Mr. Kippenbrock said no, he would receive the COLA at 2.1%, and not the merit.

Responding to Councilor Dimas, Councilor Rivera said he is not in favor of the merit increase, but he is in favor of the COLA, mainly because we are asking all the people we represent for more money for tipping fees and such, and he has a problem in then turning around and giving significant raises.

Commissioner Mayfield said we discussed this previously, noting the County recently went through a similar exercise. He said a 2% raise for someone with a high salary, versus those on the lower side is a significant difference, which is not to say the employees don't deserve a raise. He said the County tried to make that justification of how they did it. He said this Board asked for a separation in how the merit pay and COLA would be broken out. He said the merit will depend on the availability of funds and the performance of the employee, noting that will be left to the discretion of the supervisors. He said the County staggered the COLA based on the individual salaries. He asked Commissioner Holian to comment in this regard as to whether he is correct.

Commissioner Holian said the increase depended on which bargaining unit.

Commissioner Mayfield said, "Let's take bargaining units out of it, but as far as just our non-union employees, it still depended on where you were with your salary, on COLA." He said he doesn't know the salaries for this Agency, but he hopes no one is making less than \$35,000 to \$40,000. He said we can weigh the amount of the COLA. He was hoping he would see these figures before the Board today, and would like that salary schedule to be provided.

Mr. Kippenbrock said it still will be 2.1%.

Commissioner Mayfield said he wants to see a matrix of the salaries for COLA. He said there is nothing wrong with a sliding scale on COLA, with a higher COLA for lower paid employees and a lower COLA for higher paid employees. He said this is his perspective, commenting he doesn't want to be in a position to vote against this, "but this is kinda where I am at right now."

Councilor Dimas said he agrees. He said, "But I think we're beyond the point already with this contract to send it back. The union negotiations have already happened, and I think by doing this, we are going to hold up all the raises. I think it's something that maybe we can talk about in the future, in the next year. I have the same problem that these two gentlemen do, but I'm willing to do it this year. But I think come next year, I think we need to really take a closer look at it, especially the higher salaries with that COLA. And I agree with the Commissioner that we need to have a good breakdown on salaries, and it should be a sliding scale affecting all the salaries."

Councilor Rivera asked Mr. Miller, assuming we approve this contract, that this is language which has been ratified by the union and approved by the Board, so that would stand. He said, "So really, the COLA and merit increases are own their own. So, if we chose to disapprove one or the other, those would then go back to the table, or could go back to the table to look at what Commissioner Mayfield is talking about and do a sliding scale that would be all encompassing."

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Mr. Miller said, "The union contract and the policy on COLA and merit are in place, so it calls for the COLA increase and the process for merit increases if the Board appropriates the money or if the money is available. So I think that's where the discretion for the Board lies, in the sense that the Board may appropriate money for COLA increases and not merit increases, or COLA increases for certain sectors of employees, because I believe Randall, that's the way you have it broken out in the budget. So I think that's where the Board's discretion lies. But as far as the provisions of the contract, they're there and they're also in the Board policies."

Chair Ives said, "Because there is content in the union contract, both with regards to COLA and merit, on pages 22 and 26 respectively, with regard to COLA, it does note that the cost of living adjustment is an across the board adjustment related to changes in the cost of living as determined by the Consumer Price Index. It does also note that it calls for a salary survey every 3 years. I've no idea when the last one was done, and that's basically an opportunity to evaluate whether the salaries that are being paid are basically where they should be, if you will, common practice in the industry. So I think it would be worthwhile to take a look at the last one, figure out when it was done. I don't know when another one would be called for under the contract, but that would be a good place to start in the evaluative process."

Chair Ives continued, "Personally, I'd love to see us move forward with this, understanding that, yes, let's spend some time this year making sure we're happy with the structure and how it's working so we can make sure we understand it more fully and agree with all the salary structures that are in this. But Justin's exactly correct, at this point, our power is the power of the purse, which is to appropriate as opposed to changing the policy which would be much more involved. I think we'll have the opportunity to do that, and those types of changes will involve more in-depth discussions and potential modifications over the course of time, which we can do, but wouldn't propose that we do today."

Councilor Dimas suggested to Mr. Kippenbrock that he bring these forth a lot earlier so we can discuss how the Board might want to structure this in the future, so we have plenty of time to consider everything in this regard.

Mr. Kippenbrock said he will do so.

Chair Ives said he will work with Mr. Kippenbrock to get this done.

MOTION: Councilor Dimas moved, seconded by Commissioner Holian, to approve the request for approval of cost of living adjustment (COLA) for Fiscal Year 2013-14, as presented by staff.

DISCUSSION: Councilor Rivera asked if there was a time when the Consumer Price Index was negative.

Mr. Kippenbrock said yes, one year it was 0.4, and no increase was given that year.

Responding to Councilor Dimas, Mr. Kippenbrock said the Consumer Price Index comes from the U.S. Bureau of Labor Statistics for the Western U.S. states, which includes California, the West Coast, Arizona, Colorado, New Mexico, those areas.

Commissioner Mayfield said he will support the motion. He asked how many of the positions listed on page 1 of the Memo are senior management positions.

Mr. Kippenbrock said there are 3 senior management positions.

Commissioner Mayfield asked the combined salaries for those 3 positions.

Mr. Kippenbrock said it is roughly \$210,000.

Councilor Dimas asked if funds are available for the proposed COLA, and Mr. Kippenbrock said yes, noting it was in the original budget, but this was removed from that approval.

Councilor Dimas said, "So this isn't going to strap us or anything like that, and we're okay with this."

Mr. Kippenbrock said we're okay and funds are available.

Councilor Dimas said, "I don't want to come back later and find out we have a \$6 million shortfall."

VOTE: The motion was approved unanimously on a voice vote.

(C) REQUEST FOR APPROVAL OF COST OF MERIT INCREASE FOR FISCAL YEAR 2013-14.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 21, 2013, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "3." Please see Exhibit "3" for specifics of this presentation.

Councilor Rivera asked how many of the 32 union employees will receive the full 2% merit increase.

Mr. Kippenbrock said, if you look at a bell curve, the majority will receive 2-3%. He said only once, an employee received 0%, noting some receive 1%. He said employees who have been with the Agency less than 9 months are not eligible.

Councilor Rivera asked how many of the 32 employees are getting 4%.

Mr. Kippenbrock said the evaluations haven't been done, noting those will be done over the next two weeks. He said historically a handful could get 4%, perhaps a total of 5 people agency-wide.

Councilor Rivera said he is proposing a 2% salary increase for evaluations not yet performed.

Mr. Kippenbrock this is historical data which is used for purposes of budgeting.

Councilor Rivera asked if the two people below him are making about half of his salary.

Mr. Kippenbrock said those are in the \$40,000 range.

Councilor Rivera asked Mr. Francisco his thoughts on the merit pay process.

Chris Francisco said he has never been in favor of the merit raises. He said it does make a somewhat better employee, so he sees that management side of it. He said, "I'm more straight across the board, but I do understand that some employees do work harder, and do more than others, so there's their incentive, so I can relate to that. As far as the merit, I think it's well deserved for the ones that do get them. I can't speak for anybody else, but those employees he have talked to, they are always more in favor of straight across the board, but they settle for merit because that's what implemented here in our policy and the contract."

Councilor Rivera said it creates inequities for people doing the same job, just from performance alone.

Mr. Francisco said it does.

Councilor Dimas said we need to look at the COLA and make straight across the board to make it equal, and it still is going to based on evaluations.

Chair Ives said the union contract under the merit based system provides a structure, an evaluative process, and the person has to exceed expectations to qualify in the first instance for the merit pay. He doesn't know how you design an easily stated equitable system based on performance.

Councilor Dimas said this can happen through negotiations with the unions.

Commissioner Mayfield said both union and non-union employees benefit from the merit increase, and COLA, and non-union employees will comply with the terms set out in the contract, and it will be the same evaluation and criteria used for managers, seniors and everybody else and there won't be different standards. He said in light of what Mr. Francisco said, and Councilor Dimas said, do you take into consideration the tenure of the employee for merit pay for an employee that has been showing up every day and doing their job, never late and always consistent in doing their job.

Mr. Kippenbrock said yes.

Commissioner Mayfield asked how that factors into the merit system.

Mr. Kippenbrock said they will be recognized for 2-3%. He said for the low performer – tardiness, bad attendance, and such will be penalized at the low end at 0-1%.

Commissioner Mayfield said he is talking about someone who shows up and just does their job, nothing extra.

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Mr. Kippenbrock said those would be in the range of 2-3%.

Chair Ives said he doesn't want to get into a discussion about personnel matters outside of the context of what we are considering today, which is determining whether or not to appropriate funds up to the amount requested for purposes of the evaluations that will be conducted under the merit system, and asked the Board to focus on that, rather than the nitty gritty. He said there will be opportunities to do that in the future as we delve into any changes we want to consider.

Commissioner Mayfield said he wants to be sure that all employees are treated equitably under the system, commenting that the merit system is subjective.

Mr. Kippenbrock said he is correct, and it is subjective. He said they are using the same software that they have used for years, and it is designed to be as fair as possible, and changes have been made when an employee is worthy or on the border. He said they do it in June as opposed to the anniversary date. He said no system is perfect.

Chair Ives said Subsection E of Section 10 of the Union Contract, talks about the objectives of the performance evaluation and lists those, and it is a fairly structured process designed to build on what has happened during the year, noting there is an appeals process included. He said, "In my mind it is a pretty well defined process."

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to approve the request for approval of merit increase for fiscal year 2013-14, as presented by staff.

DISCUSSION: Commissioner Holian thanked Mr. Kippenbrock and the SWMA employees. She said it is a really well run organization, and she always uses it as an example of a well run organization. She is glad the budget is able to give the employees both a COLA and merit increase..

VOTE: The motion was approved unanimously on a voice vote.

(D) REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO AGREEMENT WITH DEL HUR INDUSTRIES, INC., OF PORT ANGELES, WA, FOR THE DEVELOPMENT AND OPERATION OF A COMMERCIAL AGGREGATE QUARRY AND CELL CONSTRUCTION FOR THE CONSTRUCTION OF CELL 5B/6B IN THE AMOUNT OF \$1,675,019.00

1. APPROVAL OF BUDGET INCREASE FROM 5507.100700 (CELL DEVELOPMENT RESERVE) TO 52510.572970 (WIP CONSTRUCTION CELL 5B/6B) IN THE AMOUNT OF \$1,675,019.00.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 16, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "4" Please see Exhibit "4" for specifics of this presentation.

Responding to Commissioner Mayfield, Mr. Kippenbrock said the first amendment had a firm termination date of May 3, 2014, in the event they don't get the next 8 year cycle. They felt it was unreasonable, because the amount of rock that has already been produced for asphalt is about 100,000 tons on the ground, and they are uncertain they can sell the rock in a timely manner. They asked us to recognize the May 3, 2014 termination date for this agreement, but give them opportunity to buy that rock and have up to 2 years to remove the rock from Agency property.

Commissioner Mayfield asked if the Procurement Code allows us to go out this many years, and are they trying to strong arm us, or have they refused to sign something. He said we can't have a contract go out that long.

Mr. Miller said that was the issue and the reason we needed to clear it up. There was some expectation in the original contract that they would have until 2016 to remove the rock, and we needed to make it clear that the termination date of this contract is May 2014. He said that raised the question of what they do with the rock they've already processed as of May 2014, and this contract indicates that the Agency will enter into an agreement for them to buy that rock by May 2014, but this contract is ending May 2014, so it doesn't go beyond the 8 years of the Procurement Code limit.

Commissioner Mayfield asked where the aggregate will stay.

Mr. Miller said if they buy it, it is theirs, and if not it stays as SWMA's. He asked if he is talking about the produced aggregate or the majority of the rock.

Commissioner Mayfield said the produced aggregate.

Mr. Justin said there are two kinds. There is the rock that has been blasted and removed, and the rock that we're talking about that they would have the option to purchase, which is the rock they removed and processed into aggregates.

Mr. Mayfield said, "I say put this back out to bid for another contract. I won't support this, and I want that to be reflected in the record."

Chair Ives said then there is an existing contract and that is what we're amending to make it comply with the law, and asked if this is a correct understanding.

Mr. Miller said, "Yes. There's an existing contract which was entered into May 2006, and that is the contract that we are amending here. In the original contract there wasn't a clear termination date saying this contract will not be extended past May 2014, and we are also putting that in the amendment here to make that clear.

Commissioner Mayfield asked if this contract has been in compliance with the law, under what has been signed with this contractor.

Mr. Miller said it has been in compliance. "You are allowed to have up to 8 year construction contract, and we are in the 7th year now, so it is in compliance with the Code. But the problem would be if it were extended beyond 8 years."

Chair Ives said there was a technical defect in the contract in that it did not specify a termination date within the 8 years.

Mr. Miller said, "Right. And there was a provision in the original contract that talked about the time that it might take for the contractor to sell the rock, and there was a May 2016 date there, and so we wanted to be clear with the contractor that was sort of a recognition that it might take a long time to sell the rock. And we wanted to clarify that this contract would not be able to be in effect until 2016."

Commissioner Mayfield said he thinks there are ambiguities as to who owns the rock, the minerals, and if they had to have a permit, and he thinks they did. He asked why all of that wasn't settled back then, noting this is an extension of the contract. He said he will be asking for an opinion on this from the County Attorney.

MOTION: Commissioner Mayfield moved to deny this request. **THE MOTION DIED FOR LACK OF A SECOND.**

Councilor Rivera said then the contract ends May 2014, then it would go out to bid again, and if they choose to buy 100,000 tons of rock that is still there, they have to do that before the contract end date. He asked if there is a time limit to remove the rock.

Mr. Miller said this is correct, and they have 2 years to remove it.

Councilor Rivera said after May 3, 2014, when it goes out for rebid, Del Hur could bid and win or it could go to somebody else, and Mr. Miller said yes. Councilor Rivera said even so, it could remain there for them to pick up during the 2 years.

Mr. Miller said yes, if they choose to buy it.

Chair Ives said the provision notes that, if they haven't removed it by the end of the two years, the aggregate becomes the property of the agency, once again.

Commissioner Mayfield asked if they are subject to fines.

Mr. Miller said we have an existing agreement with BLM to sell a certain amount of rock, and that is periodically extended by BLM, and their ability to purchase the rock is expressly contingent on that being within the authority of the agency to sell it to the BLM. So, if the BLM in May 2014 says, for whatever reason they said we can't sell that rock, we wouldn't be able to sell it.

Commissioner Mayfield asked what happens if it is sitting on our property and they say they can't sell it any more.

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Mr. Miller said now that the issue came forward, Mr. Kippenbrock has been working with the BLM to remove the rock and do something with it, so they are approving 50,000 ton approvals to sell rock, so he doesn't think there is any reason they would say, all of a sudden, you can't do anything with this rock.

Commissioner Mayfield asked if the BLM is going to start charging us more for the aggregate in the interim.

Mr. Kippenbrock said the original royalty fee to BLM of 69 cents per ton was raised to 95 cents per ton in April. He said that will stay in place until 2015, and it will be reevaluated.

Commissioner Mayfield asked if that will have any impact "on this right here."

Mr. Kippenbrock said it would have an impact, and of the \$1.50 per ton that we collect, 95 cents will go to the BLM.

Commissioner Mayfield asked, "Will that change the price of this to these contractors or any other future contractors?"

Mr. Kippenbrock said it will change the price in the future when we go out for RFP again.

Commissioner Mayfield said once we extract it from the ground, you will not have to pay the BLM any new prices.

Mr. Kippenbrock said, "No. The purpose of this job is to get the rock out in time for the next cell, 5B/6B, in a stockpile, that's crushed rock. If we produce into aggregates and sell it and it goes out the gate, that's when the BLM comes into the picture."

Commissioner Mayfield said, "Right. But if it's sitting there for 2-3 years..."

Mr. Kippenbrock said then BLM doesn't charge us anything.

Mr. Mayfield said he understands. He said, "All the same, if we don't get it out of the gate, it is just sitting there, during the two years it might go up to \$1.50, and cost us a lot of money."

Mr. Kippenbrock said, "Potentially, yes. What I'm saying by that, is in a new RFP, we're going to regress the BLM as well as the royal to the agency, etc."

Commissioner Mayfield said we negotiated with them to pull it out and get rid of it, and asked why we are letting them stockpile here. He said they bought it in the first place, and we should charge them a lease fee to keep it on the property.

Chair Ives asked when they would be required to purchase it, and Mr. Miller said May 2014.

Chair Ives asked if the payment would be made at that point in time and Mr. Miller said yes.

Chair Ives said, "We would hold the funds with which we would have to pay BLM if the rock were moved off site. Is that correct."

Mr. Miller said yes.

Chair Ives said, "So we will have a ready pool of funds to make those payments and I understand there is the future possibility that those amounts may go up to BLM, and the only way we benefit is by them not removing the rock, which presumably might provide greater opportunity for us to then sell that rock and have them pay for it potentially twice."

Commissioner Mayfield said he thinks the contractor is getting a lot of benefit, for one a free yard to stockpile the aggregate. He said any potential vendor wants free yard storage. He asked what if this stuff stays here and we have to develop another cell again and then we have more stockpile to build again. He said there isn't a market in the area right now. He doesn't want the tipping fees to continue to increase. He said we are still paying on the aggregate that goes out our door and we're letting a vendor keep it on our property for free and not making money off it. It makes no sense to him.

Chair Ives reiterated that part of what we're doing here is correcting a problem in an existing agreement which could subject the Agency to potential suit if we don't abide by the terms.

Commissioner Mayfield said he will talk with the Chair after the meeting, saying he doesn't see how we are getting fully compensated.

Chair Ives said they have to buy it by May 3, 2014, and if they don't, we're free to sell it and move it out the door.

Commissioner Mayfield said, "If they don't have a market for it right now, where do we think we're going to have a market for it later. They have a contract to take it out of the ground and to purchase it from us."

Mr. Kippenbrock said, "Yes, for the produced material."

Commissioner Mayfield said, "Right, so they're already obligated to buy it from us."

Mr. Miller said, "They're not obligated now. Part of their contract was to remove the rock from the ground, process it, market it and sell it, so those are the services they were providing in the existing agreement. So they don't own the rock, they haven't bought it, they haven't done anything except to remove it from the ground, process it, and try to sell. One of the reasons there is still a big pile of processed rock is because the market has been bad for the last several years."

Commissioner Mayfield asked if we can sell it to local governments for road construction.

Mr. Miller said he doesn't know whether or not they can do that.

Commissioner Mayfield asked why the local governments can't use it, ourselves

Chair Ives said, "The agreement in place allocated to them the first option to try and sell it, so that we didn't reserve any at the time. He said what was done 7 years ago in putting the agreement in place might be different than what we would look at doing now."

Mr. Kippenbrock said there is still a processing cost for that material and it is for the City or County to negotiate a price for that.

MOTION: Councilor Dimas moved, seconded by Commissioner Holian, to approve the request for approval of Amendment No. 2 to Agreement with Del Hur Industries, Inc., of Port Angeles, WA, for the development and operation of a commercial aggregate quarry and cell construction for the construction of Cell 5/B/6B in the amount of \$1,675,019.00, as presented by staff.

VOTE: The motion was approved on a voice vote with Councilor Dimas, Commissioner Holian and Councilor Rivera voting in favor of the motion and Commissioner Mayfield voting against.

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to approve the budget increase from 5507.100700 (Cell Development Reserve) to 52510.572970 (WIP Construction Cell 5B/6B) in the amount of \$1,675,019.00, as presented by staff.

VOTE: The motion was approved on a voice vote with Councilor Dimas, Commissioner Holian and Councilor Rivera voting in favor of the motion and Commissioner Mayfield voting against.

(E) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH PARAMETRIX, INC., OF ALBUQUERQUE, NM, FOR THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT AND A MINE PLAN FOR THE BASALT ROCK CRUSHING AND SALES OPERATION AT THE CAJA DEL RIO LANDFILL IN THE AMOUNT OF \$49,592.14.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 14, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "5." Please see Exhibit "5" for specifics of this presentation.

Commissioner Mayfield asked who was on the evaluation committee.

Mr. Kippenbrock said it was himself and the landfill manager. He said BLM gave us a full page of contractors, 12-15 firms. There were firms that were no longer in business. They were given two weeks to respond to the RFQ, noting he went with an RFQ because he felt the amount would be less than \$50,000.

Mr. Kippenbrock said he asked BLM if they could use firms which were not on the list and they suggested he go with firms on the approved list with which they have worked in the past. He said these are all new firms, including Parametrix, and they are well versed in the NEPA process.

Commissioner Mayfield asked Mr. Kippenbrock if he developed the criteria.

Mr. Kippenbrock said yes based on his meeting with BLM officials.

Commissioner Mayfield asked if he has considered getting someone from the Environment Department to sit on the Review panel.

Mr. Mayfield said normally when he does an RFQ, he does it internally.

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to approve the Professional Services Agreement with Parametrix, Inc., of Albuquerque, New Mexico, for the preparation of an environmental assessment and a mine plan for the basalt rock crushing and sales operation at the Caja del Rio Landfill in the amount of \$49,592.14, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote.

(F) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT WITH U.S. SECURITY ASSOCIATES, INC., OF ALBUQUERQUE, NM, FOR SECURITY SERVICES AT THE CAJA DEL RIO LANDFILL AND BUCKMAN ROAD RECYCLING AND TRANSFER STATION IN THE AMOUNT OF \$72,891.08

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 8, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "6." Please see Exhibit "6" for specifics of this presentation

Chair Ives recused himself from participation because his son works for this company, and he asked Commissioner Holian to assume the duties of the Chair.

MOTION: Commissioner Mayfield moved, seconded by Councilor Dimas, to approve Amendment No. 1 to Professional Services Agreement with U.S. Security Associates, Inc., of Albuquerque, NM, for Security Services at the Caja del Rio Landfill and Buckman Road Recycling and Transfer Station in the amount of \$72,891.08, as presented by staff.

VOTE: The motion was approved on a voice vote with Councilor Dimas, Councilor Rivera, Commissioner Holian and Commissioner Mayfield voting in favor of the motion, no one voting against, and Councilor Ives recused.

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(G) REQUEST FOR APPROVAL TO AWARD BID NO. 13/28/B TO THE LOW BIDDER, ROAD MACHINERY OF ALBUQUERQUE, NM, FOR A TRACK-TYPE WASTE HANDLER DOZER FOR LANDFILL APPLICATION AND WARRANTY ALTERNATE NO. 2 IN THE AMOUNT OF \$566,991.00.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 12, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "7." Please see Exhibit "7" for specifics of this presentation.

MOTION: Commissioner Mayfield moved, seconded by Councilor Dimas, to approve the award of Bid No. 13/28/B to the low bidder, Road Machinery of Albuquerque, NM, for a track-type waste handler dozer for landfill application and warranty alternate no. 2, in the amount of \$566,991.00, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote.

(H) REQUEST FOR APPROVAL TO AWARD BID NO. 13/34/B – PRICE AGREEMENT FOR OFF-ROAD HEAVY EQUIPMENT REPAIRS (PARTS AND LABOR) TO MULTIPLE VENDORS.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 12, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "8." Please see Exhibit "8" for specifics of this presentation.

MOTION: Councilor Rivera moved, seconded by Councilor Dimas to award Bid No. 13/34/B – price agreement for off-road heavy equipment repairs (parts and labor) to multiple vendors, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote.

(I) REQUEST FOR APPROVAL TO AWARD BID NO. 13/35/B – PRICE AGREEMENT FOR COMMERCIAL FLEET REPAIRS (PARTS AND LABOR) TO MULTIPLE VENDORS.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 13, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "9." Please see Exhibit "9" for specifics of this presentation.

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to approve the request for approval to award Bid No. 13/35/B, price agreement for commercial fleet repairs (parts and labor) to multiple vendors, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote.

Commissioner Mayfield asked if we have in-house fleet management.

Mr. Kippenbrock said yes, there are 4 people dedicated to the Fleet Management Program. He said we do all the minor pm's, scheduled oil changes and such. However, this is for the major components which might be related to the engine, transmission, rear end and such, and it also allows us to buy parts.

Commissioner Mayfield said then we provide training for these people, and Mr. Kippenbrock said yes.

- (J) REQUEST FOR APPROVAL TO APPROVAL TO PURCHASE A FREIGHTLINER FL-114SD SEMI-TRACTOR FROM ALBUQUERQUE FREIGHTLINER OF ALBUQUERQUE, NM, UNDER NEW MEXICO STATEWIDE PRICE AGREEMENT 22-000-00-00105 IN THE AMOUNT OF \$146,491.00.**

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 11, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "10." Please see Exhibit "10" for specifics of this presentation.

MOTION: Councilor Dimas moved, seconded by Commissioner Holian, to approve the request for approval to purchase a freightliner FL 114SD semi-tractor from Albuquerque Freightliner of Albuquerque, NM, under New Mexico Statewide Price Agreement 22-000-00-00105 in the amount of \$146,491.00, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote.

- (K) REQUEST FOR APPROVAL TO PURCHASE FIVE VEHICLES FROM MULTIPLE VENDORS UNDER NEW MEXICO STATEWIDE PRICE AGREEMENTS 30-000-12-00026 AND 30-000-13-00027 IN THE AMOUNT OF \$144,764.00**

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 10, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "11." Please see Exhibit "11" for specifics of this presentation.

Responding to Commissioner Mayfield, Mr. Kippenbrock said the Explorer will be used by the Supervisors going back and forth from BuRRT to Caja and into Santa Fe and such.

Commissioner Mayfield asked if he has considered pricing hybrids for those two.

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Mr. Kippenbrock said the hybrids are much more expensive, a few thousand dollars, considerably more expensive, and the Savin and Explorer get good mileage.

[Commissioner Mayfield's question here is inaudible]

Commissioner Holian said we would have to do a cost analysis. She understands, in terms of a truck, hybrids really don't give that much better mileage.

Commissioner Mayfield said he is speaking of the SUV's.

Chair Ives asked if there is a critical need for these at this point time, and if we could approve a few, while doing a cost analysis on hybrids and the SUVs.

Mr. Kippenbrock said he would recommend purchasing these vehicles which have been considered. He will keep hybrids in mind in the future and provide options. He said, "My goal was to keep the cost down as much as possible by acquiring these 5 vehicles."

Robert Rodarte said the cost is about \$70,000 or more on the base cost, and the build out time is 4-5 weeks. These vehicles are under a government price agreement. He said he discussed this purchase with Mr. Kippenbrock and there is a substantial difference in cost.

Councilor Dimas said there is more maintenance.

[Mr. Rodarte's remarks here are for the most part inaudible] Something about the cost and frequency of the replacement of batteries in hybrids which is quite expensive.

MOTION: Councilor Dimas moved, seconded by Commissioner Mayfield, to approve the request for approval to purchase five vehicles from multiple vendors under New Mexico Statewide Price Agreements 30-000-12-00026 and 30-000-13-00027, in the amount of \$144,764.00, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote.

(L) REQUEST FOR APPROVAL TO PURCHASE VEHICLE ACCESSORIES AND EQUIPMENT FROM CLARK TRUCK EQUIPMENT COMPANY, INC., OF ALBUQUERQUE, NM, UNDER NEW MEXICO STATEWIDE PRICE AGREEMENTS 30-000-13-00027 AND 11-000-00-00077 IN THE AMOUNT OF \$56,624.00

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 10, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "12." Please see Exhibit "12" for specifics of this presentation.

MOTION: Councilor Rivera moved, seconded by Councilor Dimas, to approve the request to purchase vehicle accessories and equipment from Clark Truck Equipment Company, Inc., of Albuquerque, New Mexico, under New Mexico Statewide Price Agreements 30-000-13-00027 and 11-000-00-00077, in the amount of \$56,624.00, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote.

(M) REQUEST FOR APPROVAL OF BUDGET INCREASE FROM 5502.100700 (EQUIPMENT REPLACEMENT RESERVE) TO BE APPORTIONED BETWEEN 52501.570500 (EQUIPMENT AND MACHINERY), 52501.570950 (VEHICLES <1.5 TON), 52501.571000 (VEHICLES >1.5 TON) AND 52504.571000 (VEHICLES >1.5 TON) IN THE TOTAL AMOUNT OF \$909,895.00.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 15, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "13." Please see Exhibit "13" for specifics of this presentation.

MOTION: Commissioner Holian moved, seconded by Commissioner Mayfield, to approve the request for a budget increase from 5502.100700 (Equipment Replacement Reserve) to be apportioned between 52501.570500 (equipment and machinery), 52501.570950 (vehicles <1.5 ton), 52501.571000 (vehicles >1.5 ton) and 52504.571000 (vehicles <1.5 ton) in the total amount of \$909,895.00, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote.

(N) REQUEST FOR APPROVAL OF POLICY NO. 2013.4 – PURCHASING PROCEDURES AND FINANCE POLICY.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 15, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "14." Please see Exhibit "14" for specifics of this presentation.

Commissioner Mayfield asked if we have procedures for sole source protests.

Mr. Rodarte said yes, it is addressed under this new procedure.

Commissioner Mayfield said Mr. Kippenbrock had an emergency situation at Caja del Rio, and wants to make sure that situation was addressed in this procedure.

Mr. Rodarte reiterated that it has been addressed. He said regarding that situation, Mr. Kippenbrock, as the director of SWMA, has the power to make those determinations, just like the City Manager. If it is a safety related risk issue, Mr. Kippenbrock has the power to make that decision. He said he also is directed to report what happened in the situation to this Board at the next meeting.

Commissioner Mayfield said it was an issue of the dollar threshold.

Chair Ives summarized that situation which, after repairs was bumped up to about \$54,000, and said this now is addressed in the policy.

Mr. Rodarte said they are going to have a training session on the new changes for the City Governing Body before the proposed changes are effective.

Commissioner Mayfield said the County falls under the State Procurement Code and asked if this Board would fall under the State Procurement Code as well.

Mr. Rodarte said this is correct, and it falls under these rules. He said yes, because it falls under the State Code.

Councilor Rivera said there is discussion on page 7 about emergency procurement, and asked if there first has to be a declaration of an emergency by this Board.

Mr. Rodarte said yes, and this Board, or any other governmental entity, would have to meet to vote to declare an emergency, noting this is covered in the Policy.

Mr. Miller said, "I think this is separate from the determination that the Agency needs to procure something on an emergency basis, as separate from any kind of national or State-declared emergency, for example for a flood." He said this language is directly from the Procurement Code and this is mostly to highlight that when you are talking about emergency purchases, you are talking about things for the public health, safety and welfare, as opposed to "we really need this right now" or something like that. So it indicates the level of serious needed to call an emergency, but it doesn't have to be declared by another body."

Councilor Rivera said, for example, if there is a fire, the City might ask Mr. Kippenbrock for a dozer to go and cut a fire line, and it would be needed for 3-4 days, that would be a significant emergency. He said unless there is a declaration at the federal level, FEMA wouldn't reimburse this agency for those costs.

Mr. Miller said that is a separate issue.

Councilor Rivera said then this is for small, on-site emergencies to be addressed immediately, and Mr. Miller said this is correct.

Chair Ives noted at the bottom of page 7 it says, "When obtaining advance approval, when the Joint Powers Board is not practicable, the Joint Powers Board shall be informed of the emergency purchase at its next scheduled meeting." So it does contemplate the circumstance where this Board might not be able to meet or act and it empowers the Executive Director to make that determination and bring it to the Board at our next meeting, which seems reasonable.

MOTION: Councilor Dimas moved, seconded by Commissioner Holian, to approve the request for approval of Policy No. 2013.4 – Purchasing Procedures and Finance Policy, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote.

(O) UPDATE ON SANTA FE SOLID WASTE ASSESSMENT AND MANAGEMENT STUDY FOR THE SANTA FE SOLID WASTE MANAGEMENT AGENCY, THE CITY OF SANTA FE AND SANTA FE COUNTY.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated June 15, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "15." Please see Exhibit "15" for specifics of this presentation.

David Yanke, SAIC, provided an update from the materials in the packet, noting they were hired to do an integrated assessment of the operations of the Agency, the City and the County.

Mr. Yanke said they are still working to obtain the needed information to begin the analysis which will take 90 to 120 days, and they will conduct more meetings as they look at key issues. He said they will have a report by Spring 2014.

The Board commented and asked questions as follows:

- Chair Ives said we are occasionally made aware of activities in the community that will play into what you are doing, such as composting. He said he would be interesting in seeing the reports.

[Ms. Padilla's remarks here are inaudible.] She said something about providing reports to Public Utilities and the Councilors as well.

Mr. Yanke said he agrees and if there is something from a City Councilor or County Commissioner, he would recommend going through the plant contact so they are aware of it and they will send it to them, noting Ms. Padilla is the contact with the City, Mr. O'Hare with the County, and Mr. Kippenbrock for the Agency.

- Commissioner Mayfield asked how we can reduce the tipping fees.

Mr. Yanke said they will be looking at the cost of service analysis and potential options with regard to the entire system.

- Commissioner Mayfield said he would like to get the people from Los Alamos and Espanola to make a presentation to this Board to see if this Board could entertain some potential clients. He said we need to be putting volume into the cells we're developing. He said they are taking their trash elsewhere for disposal, and he would like to see if they would like to dump their trash here.

Mr. Kippenbrock said he will schedule this.

- Councilor Rivera would like to hear about waste facilities in other municipalities.

Mr. Yanke said there are things they have looked at, noting it is called a waste shed, and they've done those kinds of analyses elsewhere and this is part of what they are looking at here in this study.

- Chair Ives hopes they are also looking at bio fuels as a way to reduce the waste stream to the landfill.

Ms. Padilla spoke about what Whole Foods is doing in hauling organic waste to Payne's on Agua Fria. She said we need additional information on this for the report.

Mr. Yanke said they will be looking at some of those alternative fuel issues, and will be doing a presentation for a client on conversion technologies and such.

Chair Ives thanked them for attending and for the presentation, and said we are looking forward to the report.

(P) UPDATE ON NEW MEXICO OSHA ON-SITE CONSULTATION PROGRAM

Randall Kippenbrock, Executive Director , presented information regarding this matter from his Memorandum dated June 15, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "16." Please see Exhibit "16" for specifics of this presentation.

Randy Watkins, Landfill Manager, presented an update on the OSHA on-site consultation program. He said the Training and Consultation Services of OSHA have been working with him to look at sites for the Administrative Compliance Audit. He has met with 3 members of the Department of Health and Safety to look at facility operations, landfills and transfers. He said they have provided feedback on health and safety issues, and have offered to provide training as well, noting they found nothing major. He said they found only minor issues – signage, electrical issues, trip and fall hazards and such.

Mr. Watkins said they told him they are there as consultants and not for enforcement, but if they saw something major they could halt the activity if that needed to be done. He said they have been sending them our written safety programs and training records. He will be contacted by them shortly and within a week or two, and there will be a conclusion meeting to summarize the findings.

Chair Ives would like the findings on the next agenda for a quick review.

Mr. Kippenbrock said we filled out the questionnaire they sent us. He said two teams came out, one focusing on health and the other on safety. They did give us a long list of small things they found, and a lot of them "we didn't know about." He said, "We will be negotiating and hammering out addressing these items during the exit conference."

Commissioner Holian asked, after the exit conference, if there will be a plan to make modifications to fix the findings.

Mr. Kippenbrock said we are doing this as we go forward, noting some will take longer to fix, and he is unsure what the time frame is to address these things. He said he will be preparing a spreadsheet listing all the findings, when it was done, the inspector and the date of corrective action. He said some things could be done right away, while others will take more time. He said we are still meeting with OSHA and one of the groups still needs to come out to the Transfer Station, get more data and such, noting "we are kinda halfway through it."

Chair Ives thanked him and said, "I applaud your efforts."

VII. MATTERS FROM STAFF

There were no matters from staff.

VIII. MATTERS FROM THE BOARD


There were no matters from the Board.

IX. NEXT MEETING DATE – Thursday, July 18, 2013

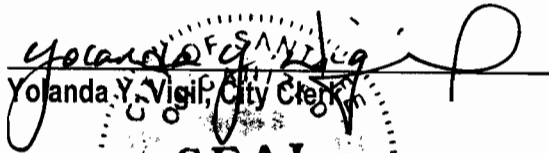
X. ADJOURNMENT

There was no further business to come before the Board, and the meeting was adjourned at approximately 2:15 p.m.

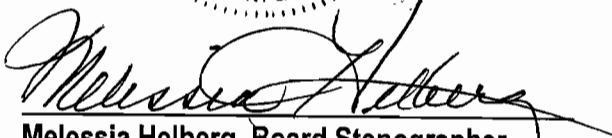
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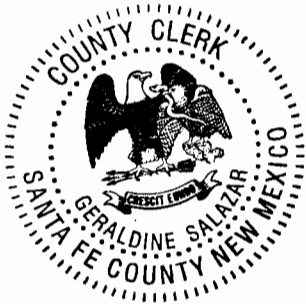

Peter N. Ives, Chair

ATTESTED TO:


Yolanda Y. Vigil, City Clerk





Melessia Helberg, Board Stenographer



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

SOLID WASTE MINUTES
PAGES: 27

I Hereby Certify That This Instrument Was Filed for
Record On The 29TH Day Of July, 2013 at 01:57:44 PM
And Was Duly Recorded as Instrument # 1713409
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy  County Clerk, Santa Fe, NM