



LOS ALAMOS

# County of Los Alamos

Los Alamos, NM 87544  
www.losalamosnm.us

## Agenda - Final County Council - Work Session

*Sara Scott, Council Chair; Pete Sheehey, Vice-Chair; David Izraelevitz; Antonio Maggiore; James Robinson; Randall Ryti; and Katrina Schmidt, Councilors*

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Tuesday, February 5, 2019

6:00 PM

Fire Station No. 3  
129 State Road 4 - White Rock  
TELEVISED

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1. OPENING/ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. PUBLIC COMMENT
4. APPROVAL OF AGENDA
5. PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS
  - A. [11641-19](#) Los Alamos National Laboratory's RDX Groundwater Program Presentation by Danny Katzman, Technical Manager, Water Programs, N3B  
***Presenters:*** County Council - Work Session  
***Attachments:*** [A - LAC Council RDX 2-5-19 final](#)
  - B. [11630-19](#) Update to Council on the 2017 Integrated Resource Plan for Power Supply  
***Presenters:*** Steve Cummins, Deputy Utilities Manager - Power Supply  
***Attachments:*** [A - Integrated Resource Planning Preliminary Results Discussion](#)  
[B - Integrated Resource Planning Follow Up Analysis](#)
6. BUSINESS
  - A. [11640-19](#) Action to Suspend Council Rules for Work Session  
***Presenters:*** County Council - Work Session
  - B. [11639-19](#) Strategic Leadership Plan Discussion

**Presenters:** County Council - Work Session

**Attachments:** [A - Strategic Leadership Plan 2019 DRAFT 1 29 19](#)

## 7. INTRODUCTION OF ORDINANCE(S)

- A. [CO0558-19](#) Incorporated County of Los Alamos Code Ordinance No. 692, an ordinance authorizing the County Manager or his designee to execute leases for hangars at the Los Alamos County Municipal Airport.

**Presenters:** Philo Shelton, Public Works Director

**Attachments:** [A - Incorporated County of Los Alamos Code Ordinance No. 692](#)  
[B - Incorporated County of Los Alamos Code Ordinance No. 544](#)

- B. [OR0848-19](#) Incorporated County of Los Alamos Ordinance No. 691; An Ordinance Amending Ordinance No. 592, Which Adopted An Economic Development Project for Public Support of NMC, Inc., A New Mexico Non-profit Corporation Operated, Supervised or Controlled By the New Mexico University Research Consortium, Pursuant to Ordinance No. 543

**Presenters:** Harry Burgess, County Manager

**Attachments:** [A - Incorporated County of Los Alamos Ordinance No. 691](#)

## 8. PUBLIC COMMENT

## 9. ADJOURNMENT

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the County Human Resources Division at 662-8040 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the personnel in the Office of the County Manager at 663-1750 if a summary or other type of accessible format is needed.



# County of Los Alamos

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## Staff Report

February 05, 2019

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**Agenda No.:** A.

**Index (Council Goals):**

**Presenters:** County Council - Work Session

**Legislative File:** 11641-19

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### **Title**

Los Alamos National Laboratory's RDX Groundwater Program Presentation by Danny Katzman, Technical Manager, Water Programs, N3B

### **Body**

Mr. Danny Katzman, Technical Manager of Water Programs-N3B, will brief Council on the RDX Groundwater Program.

### **Attachments**

A - LAC Council\_RDX\_2-5-19\_final



U.S. DEPARTMENT OF  
**ENERGY**

OFFICE OF  
ENVIRONMENTAL  
MANAGEMENT

**RDX Project**

# Los Alamos National Laboratory's RDX Groundwater Project

## Los Alamos County Council

**Danny Katzman**  
Technical Manager, Water Programs – N3B  
February 5, 2019



ENVIRONMENTAL MANAGEMENT  
SAFETY ♦ PERFORMANCE ♦ CLEANUP ♦ CLOSURE

ATTACHMENT A



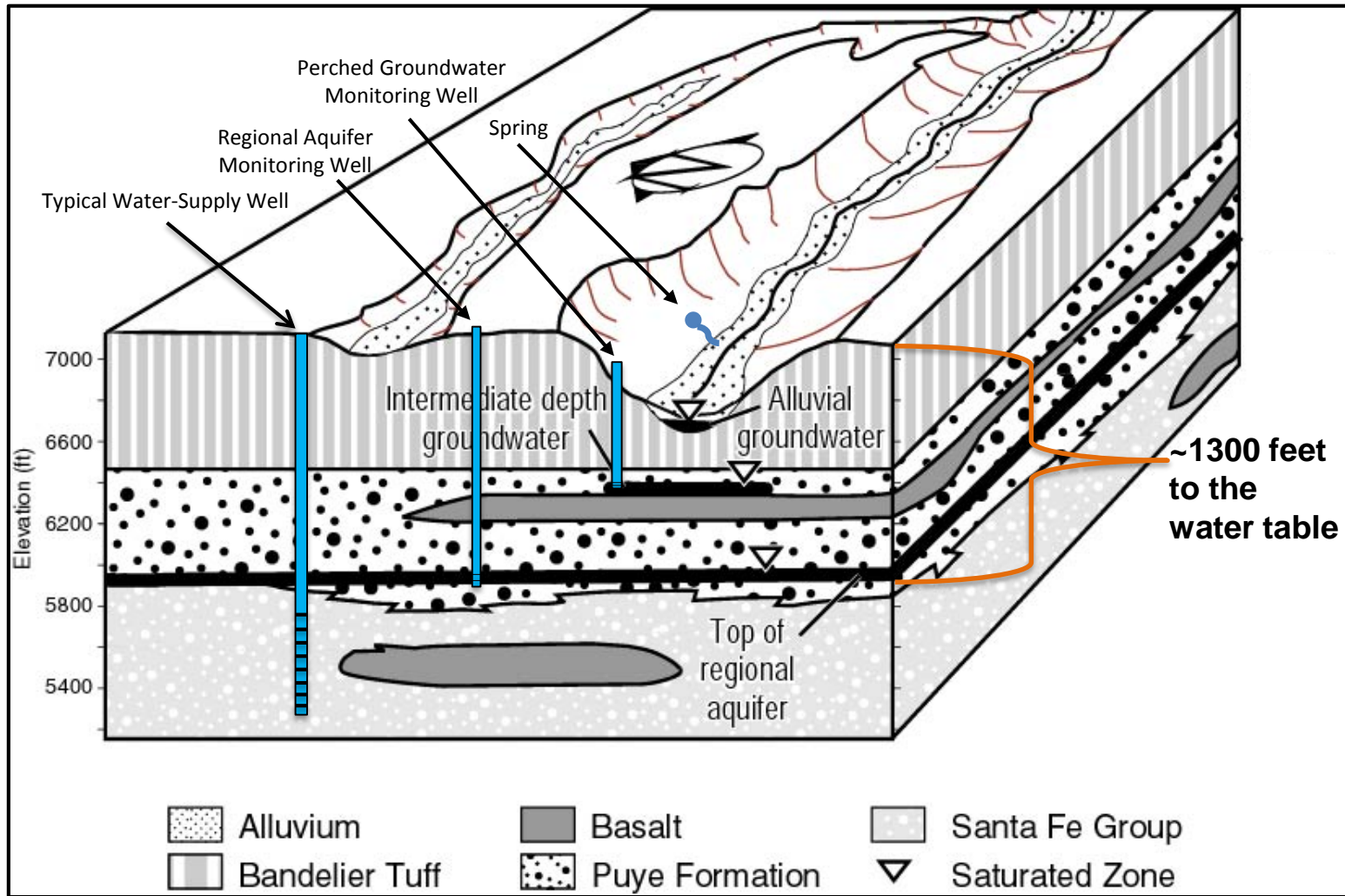
## Presentation Topics

- Background
  - Groundwater setting
  - Source and history
  - Remediation conducted to date
- Extent of RDX in groundwater
- Next Steps





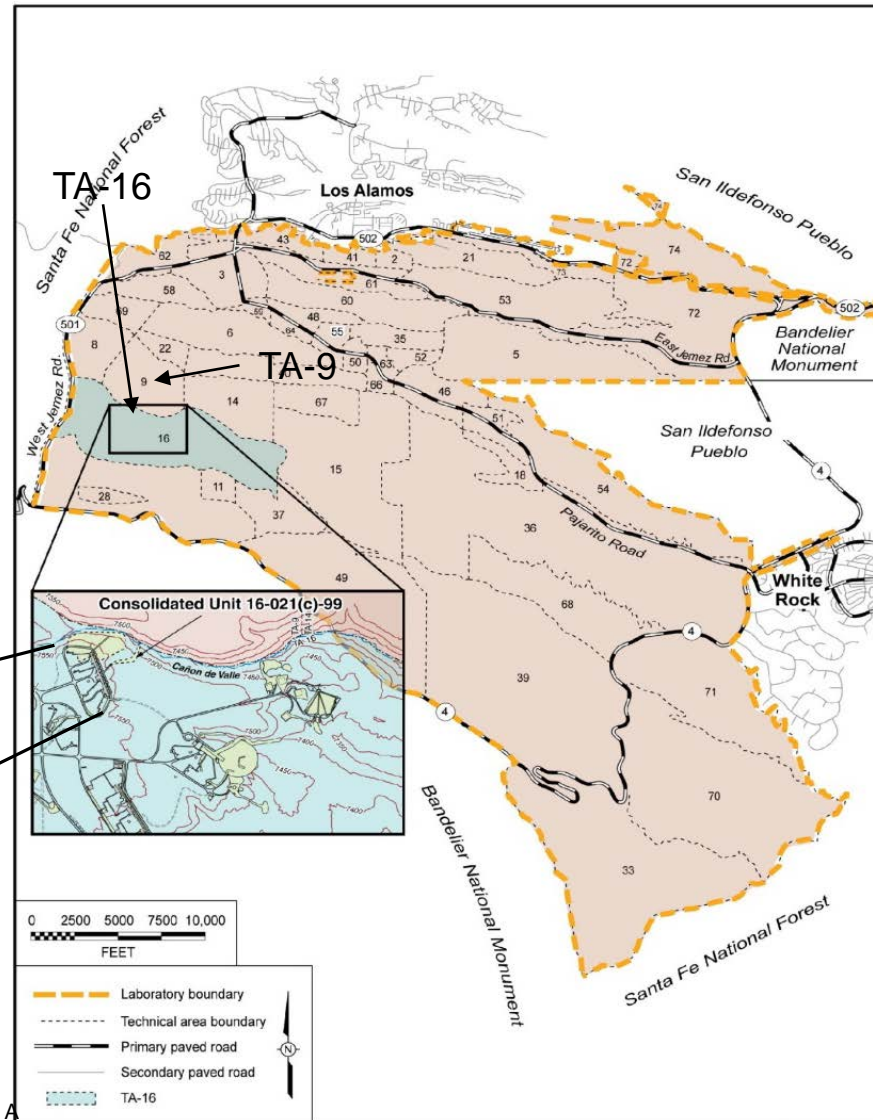
# Groundwater beneath Los Alamos





# Background

- TA-16 facilities established in early 1950s to develop high explosive (HE) formulations
  - Explosives (RDX, HMX, TNT) were casted and machined for nuclear weapons in 260 Bldg starting in 1951
  - Several million gal/yr of HE-contaminated water discharged to Cañon de Valle (CdV) between 1951 – 1996
- First investigations of RDX in soils occurred in the mid 1990s
- Groundwater investigations first identified RDX (below standard) in perched and regional groundwater in the late 1990s
- Present-day RDX contamination is low in nearby springs, surface water, and shallow groundwater
- Current estimates of RDX in environment:
  - ~ 1500 – 3600 kg total;
  - ~ 35 – 415 kg in regional aquifer



260 Outfall





- Surface soil cleanup conducted in outfall area in 2000 – 2001 under an Interim Measure, and in 2009 – 2010 under a Corrective Measures Implementation
  - More than 1500 yd<sup>3</sup> HE-contaminated soil excavated and disposed offsite
  - Significantly reduced contamination in surface soils
- Injected grout in permeable rock layers to cut off infiltration pathways
- Remedy Completion Report - 2017
  - Documentation of no further action necessary for cleanup for RDX in surface setting
  - Long-Term Monitoring Plan and reporting requirements for surface water, springs, shallow alluvial wells



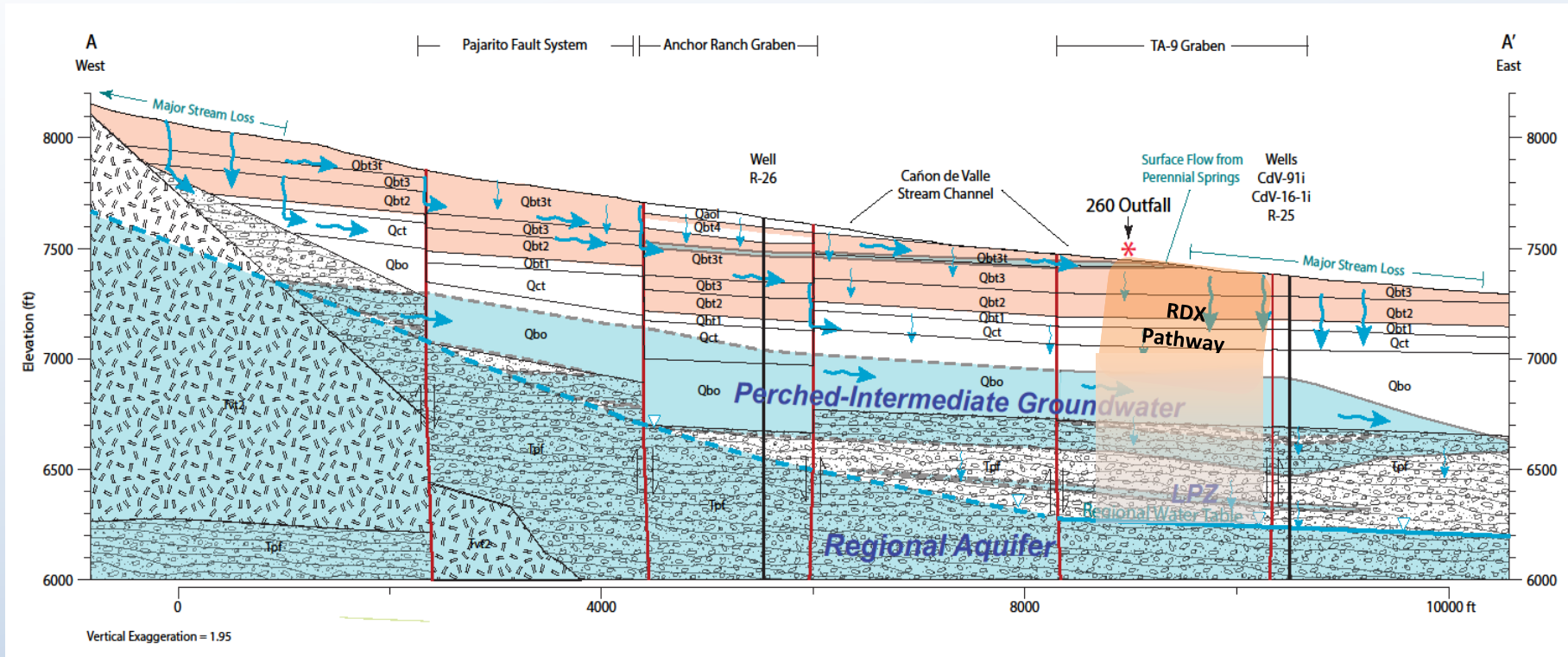


- Installation of monitoring wells to investigate “nature and extent” of contamination
  - Depth to regional aquifer is approximately 1300’ below ground surface in the TA-16 area because of the elevation of the mesas in the area
  - Including the latest monitoring well, R-69, there are 9 wells used to monitor the regional groundwater in the RDX area
  - Intermediate-depth wells screened in perched groundwater (~600-1000 ft bgs)
  - Deep wells screened in the regional aquifer (~1200-1400 ft bgs)
- Studies to understand the hydrology and “fate and transport” of contamination
  - Tracer studies
  - Aquifer tests
  - Groundwater flow ~20 – 40 ft/yr; RDX in groundwater slightly slower
- All investigation activities performed with NMED’s approval

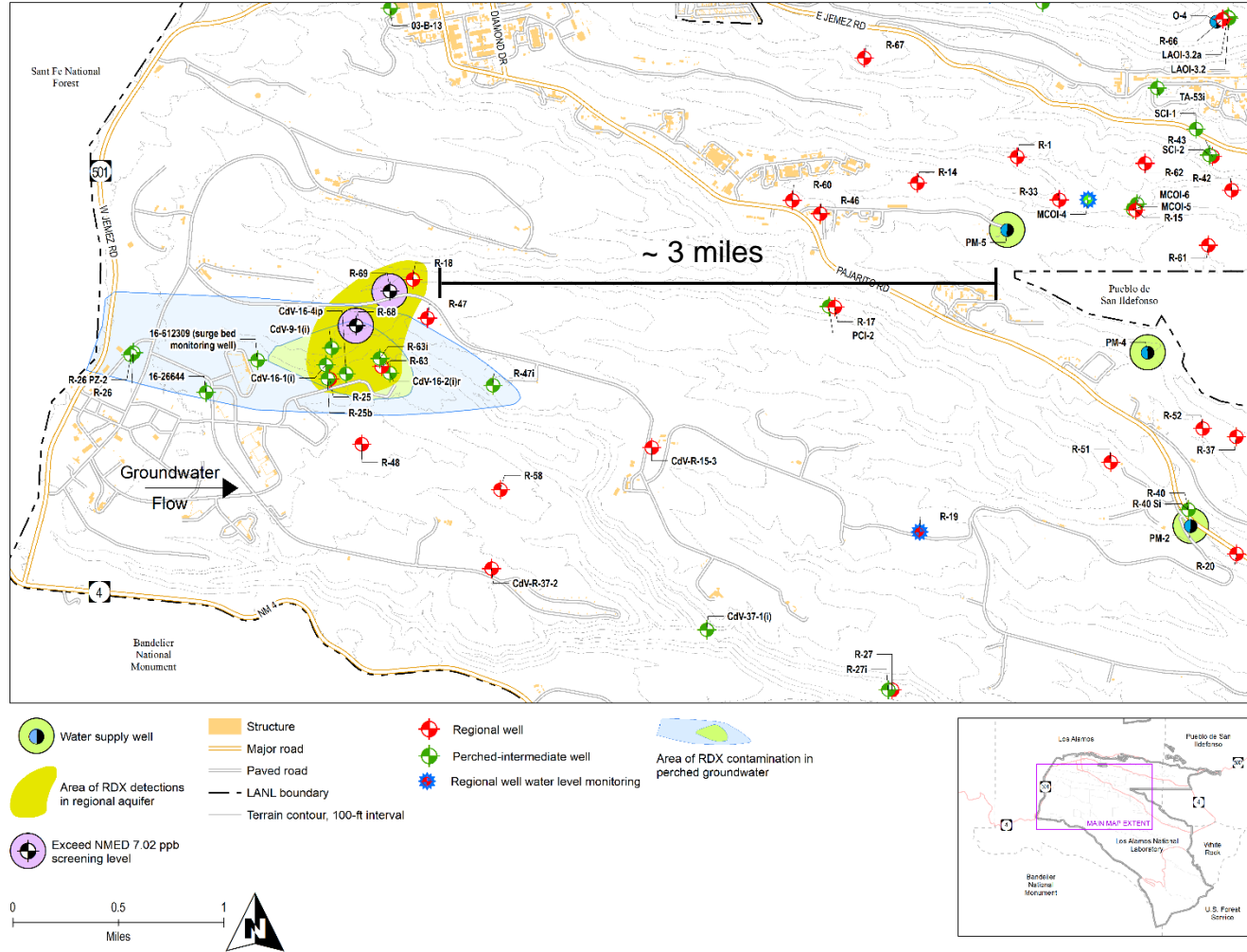




# Conceptual Model



- RDX is present in several regional groundwater monitoring wells
- Known since 1998
- Two monitoring wells (R-68 and R-69) have RDX above the NMED's 7.02 ppb tap-water screening level
  - ❖ R-68 ~ 14 ppb
  - ❖ R-69 TBD
- RDX is not present in LAC water-supply wells (approx. 3 miles away)
- DOE collects groundwater samples from water-supply wells for RDX analysis
  - sampled since 1998
  - Current semi-annual sampling supplements LAC's sampling efforts
- DOE/N3B will continue to monitor for RDX in water-supply wells and in monitoring wells closer to the RDX project site



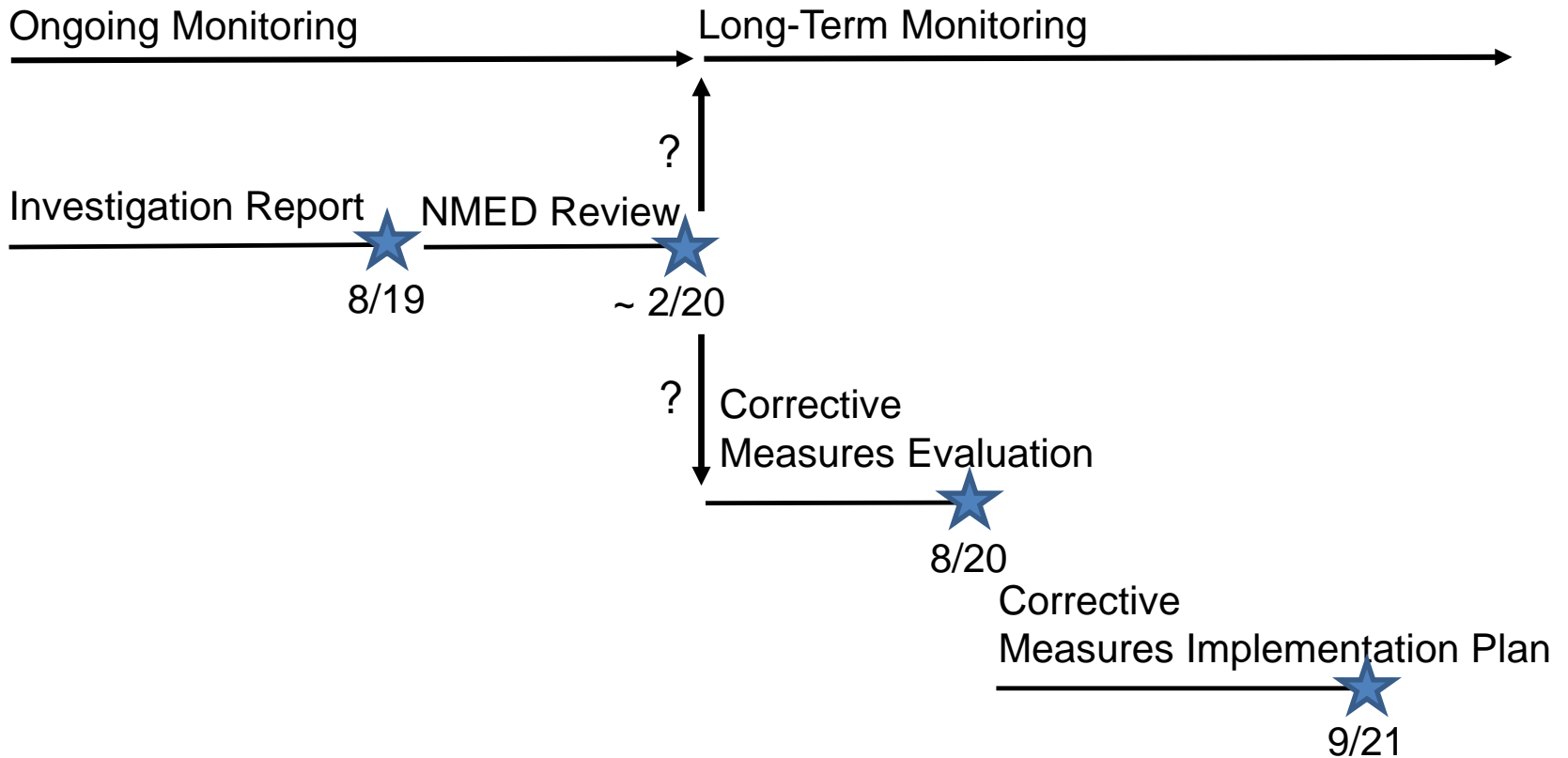


- Deep Groundwater Investigation Report (DGIR)
  - Due to NMED in August 2019
- DGIR Objectives
  - Is the contamination sufficiently characterized?
  - A groundwater model will evaluate
    - Potential for long-term migration of RDX in regional aquifer (i.e., predictions for whether the footprint could grow)
    - whether groundwater remediation is necessary
    - If remediation is necessary, a plan will be developed to propose the approach
  - Long-term monitoring to ensure protection of LAC water-supply wells will be part of any path forward
- All activities conducted under the Consent Order with NMED





# Approximate Schedule of Activities



A landscape photograph of a sunset or sunrise over a mountain range. The sky is filled with soft, wispy clouds in shades of orange, yellow, and blue. The mountains in the foreground are silhouetted against the bright horizon. The word "Questions?" is written in a large, bold, black sans-serif font in the center of the image.

**Questions?**



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## Staff Report

February 05, 2019

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**Agenda No.:** B.

**Index (Council Goals):**

**Presenters:** Steve Cummins, Deputy Utilities Manager - Power Supply

**Legislative File:** 11630-19

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### Title

Update to Council on the 2017 Integrated Resource Plan for Power Supply

### Body

Los Alamos County will be making some very significant decisions in upcoming years on future energy resources to provide power to the community. Therefore, staff is presenting to Council the findings from its contractor, Pace Global, on the 2017 Integrated Resource Plan (IRP) for the benefit of the new council members. An IRP is a tool used to arrive at a best optimal mix of generation resources to satisfy customer electrical demands, and to meet a Utility provider's goals and objectives at the best cost.

The completed IRP will serve as an important resource for the Board of Public Utilities and County Council to assist in future decision making for existing and new power generation resources to serve the Los Alamos County energy demands. The benefit of having a current IRP is to have the best information available at the time the County is faced with making a long-term commitment. The inherent risk of any plan is predicting industry trends, market conditions, technological breakthroughs, and changing regulations that will have an impact on these long-term commitments.

The IRP supports the BPU-adopted Future Energy Resource recommendations from a citizen committee and Los Alamos County Strategic Leadership Plan, specifically Environmental Stewardship by improving environmental quality and sustainability, balancing costs and benefits including County services and utilities. The 2017 IRP also supports the County's Intergovernmental Relations by coordinating and cooperating with Los Alamos National Laboratory. The IRP was developed with the assumption that the County and LANL will continue partnering with generation assets post 2025 through a new Electric Coordination Agreement.

Pace Global analyzed and prioritized recommendations based on new and existing generation resources, forecasted loads, transmission and grid considerations, and risks associated with the various portfolios. The final report is posted on DPU's website:

<<https://rebrand.ly/DPU-IRP-Rpt>>

### Alternatives

None, presentation only

### Fiscal and Staff Impact/Planned Item

None

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**Attachments**

A - Integrated Resource Planning Preliminary Results Discussion

B - Integrated Resource Planning Follow Up Analysis

# Integrated Resource Planning Preliminary Results Discussion

Presented to: Los Alamos County

June 26, 2017

# Agenda



- Executive Summary
- IRP Approach
- Stochastic Inputs
- Stochastic Portfolio Assessment
  - Cost
  - Risk
  - Environmental
  - Operational
- Appendix

# Executive Summary

ATTACHMENT A

## Key Recommendations

- The County needs not to be in any rush to commit to new resources until several uncertainties regarding Small Modular Nuclear Reactors (SMNRs), solar and storage are resolved.
- San Juan cannot compete in the current market and should be retired early. Laramie River is an economic plant as a must run unit throughout the planning horizon.
- There are benefits to the partnership post 2025 that can create a win-win situation for LANL and LAC. But the current sharing arrangement would need to change to benefit both parties to the contract.
- The most balanced portfolio that meets renewable goals and carbon reduction targets is a portfolio that relies on solar and storage (based on current indicative bids).
- A portfolio with SMNRs could be competitive, if risk mitigation measures to protect ratepayers from cost overruns and schedule delays are in place.
- Hence, the optimal approach is to preserve optionality by continuing to pursue SMNR risk mitigation measures and preserve the ability to take advantage of declining solar and storage costs.
- Beyond building new renewable/ clean energy capacities to meet the carbon neutral goal and renewable objectives, additional gas-fired generation capacity, Combined Cycle (CC) or Reciprocating Internal Combustion Engines (RICE) involves upfront capital investment in a soft market, and is not advised unless control of resources is a priority to LAPP.
- However, RICE could be considered for firming or balancing purposes.

# Balanced Score Card Summary

Criteria		Cost	Risk	Environmental	Operational	Overall
S1	CC, Solar/ Storage					
S2	CC, Solar/ Storage					
S3	RICE, Solar/ Storage					
S4	CC, RICE, Solar/ Storage					
S5	RICE, Solar/ Storage, SMNR					
S6	CC, RICE, Solar/ Storage, SMNR					
S7	CC, RICE, Solar/ Storage, SMNR					
S8	RICE, Solar PV					
S9	Solar/ Storage					
S10	Solar/ Storage, SMNR					
S11	CC, Solar / Storage (LAC not in compliance)					

Score Rating: Favorable Neutral Unfavorable

ATTACHMENT A

# Stochastic Portfolios 8, 9 and 10 Explore Renewable-Focused New Builds with Market Purchases

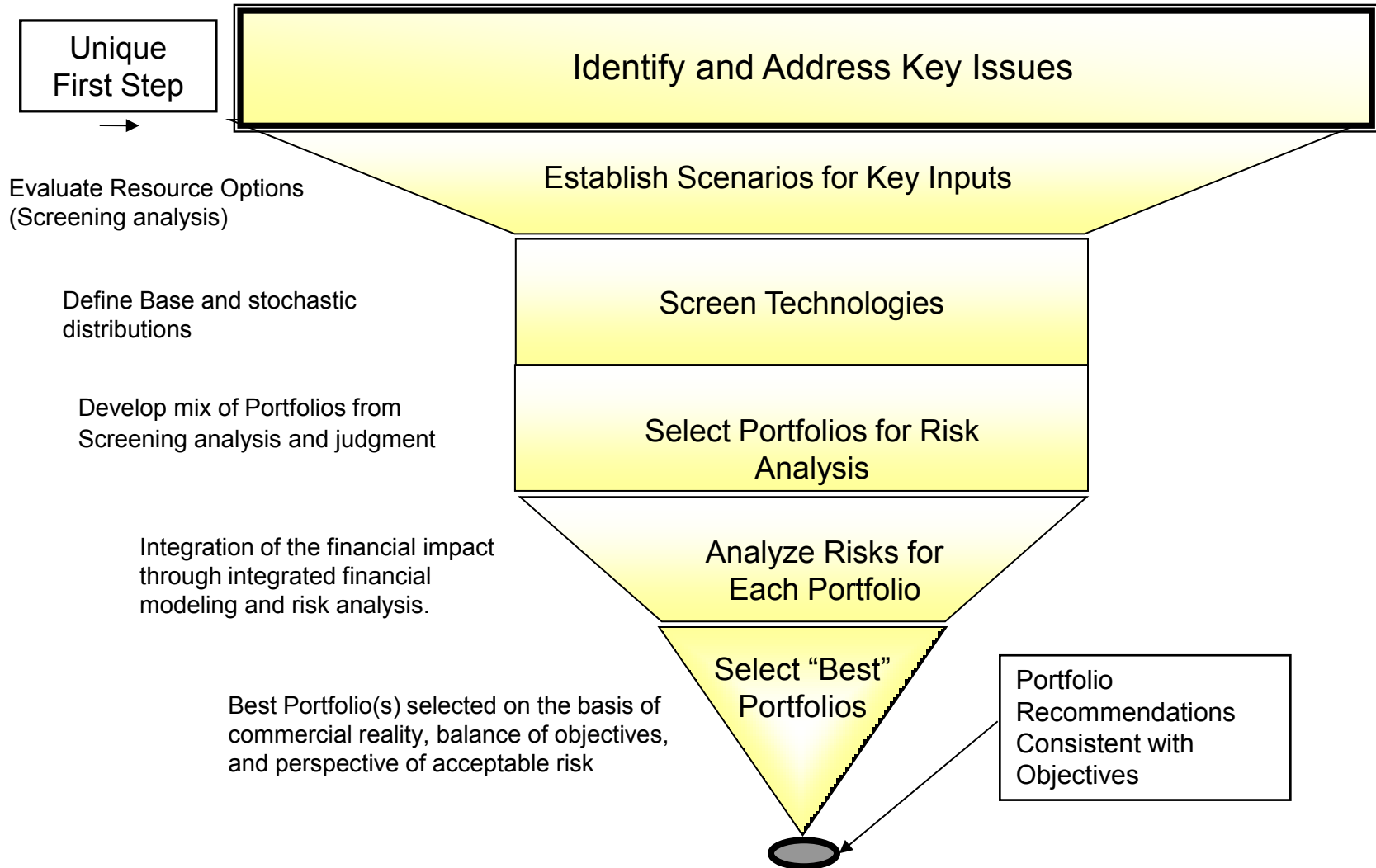
Portfolio	San Juan 4 Exit Date	LRS Exit	LAPP New Builds	Reserve Margin (2017-2036)
<b>S8:</b> Solar Firmed with RICE Short Capacity	2022	No Exit	<b>Large RICE:</b> <ul style="list-style-type: none"> <li>• 2017- 18 MW; 2025- 18 MW; 2030- 18 MW</li> </ul> <b>Solar PV:</b> <ul style="list-style-type: none"> <li>• 2017- 25 MW; 2025- 25 MW; 2030- 25 MW</li> </ul>	LAPP Summer: 9% LAPP Winter: -5%
<b>S9:</b> Solar with Storage Short Capacity	2022	No Exit	<b>Solar with Storage (onsite):</b> <ul style="list-style-type: none"> <li>• 2017- 13 MW; 2025- 8 MW</li> <li>• 2030- 6 MW</li> </ul>	LAPP Summer: -11% LAPP Winter: -26%
<b>S10:</b> SMNR, Solar with Storage Short Capacity	2022	No Exit	<b>Solar with Storage (onsite):</b> <ul style="list-style-type: none"> <li>• 2017- 13 MW; 2025- 4 MW</li> </ul> <b>Nuclear (offsite):</b> <ul style="list-style-type: none"> <li>• 2026- 16 MW</li> </ul>	LAPP Summer: -9% LAPP Winter: -23%

- Staged new build of solar capacities is best to achieve 90 percent carbon neutral by 2036 for LAC and 30 percent on-site renewable generation during 2025-2036 for LANL.
- The firming mechanism could be either battery storage or on-site RICE units. On-site RICE units are more expensive but allow more flexibility during prolonged weather events when solar PV does not generate.
- A phased approach to add smaller and incremental capacity resources on a need basis provides overall lower cost benefits for LAPP as well as maintain flexibility in the face of future uncertainties.
- If SMNR costs can be capped and development risks can be mitigated, it could be considered especially in the event that local land becomes unavailable for the amount of solar needed to achieve renewable goals.



# Risk Integrated Resource Planning (RIRP) Approach

# Pace Global's Structured RIRP Approach

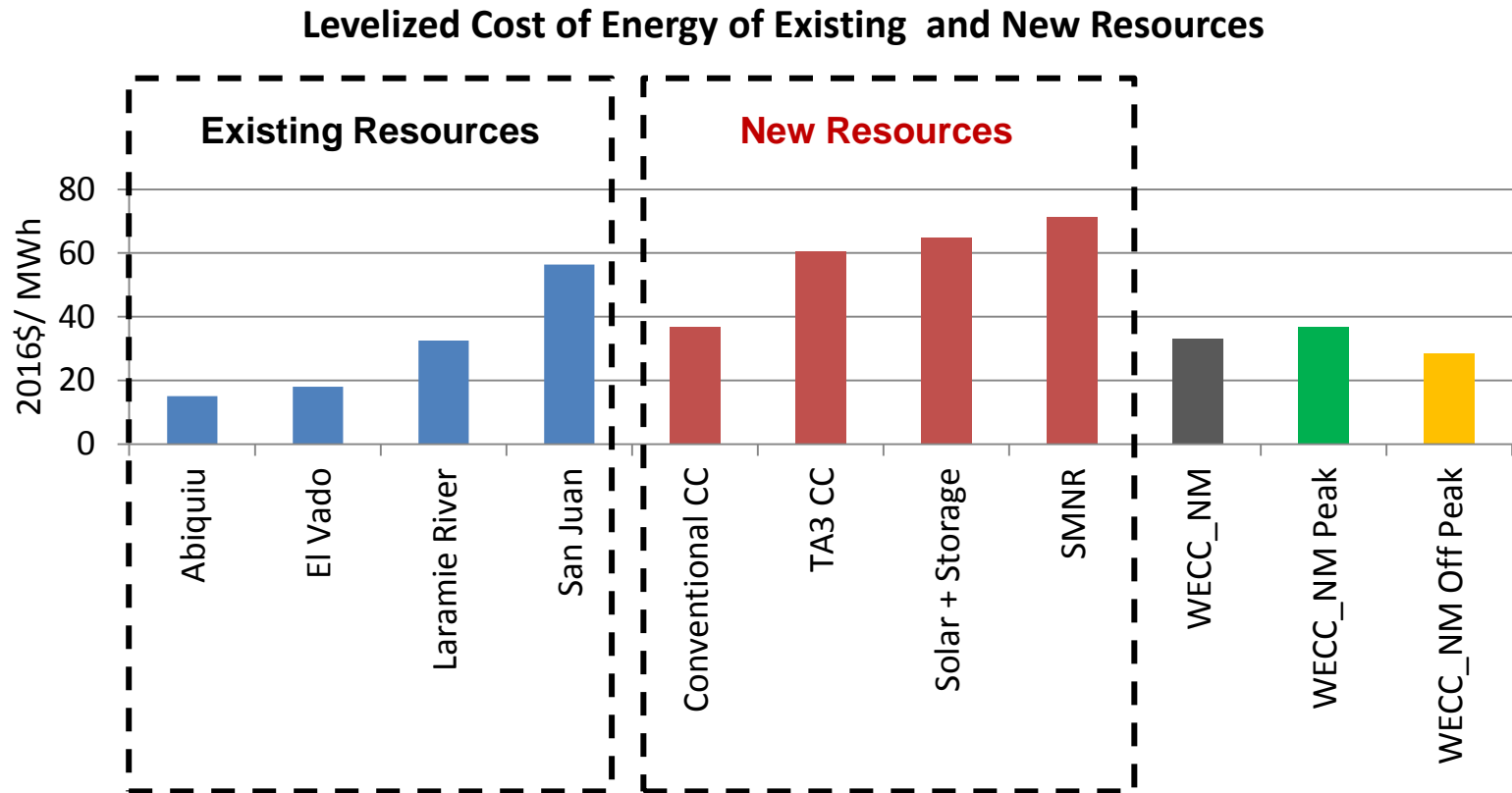


ATTACHMENT A

# Step 1: Set Planning Objectives and Metrics

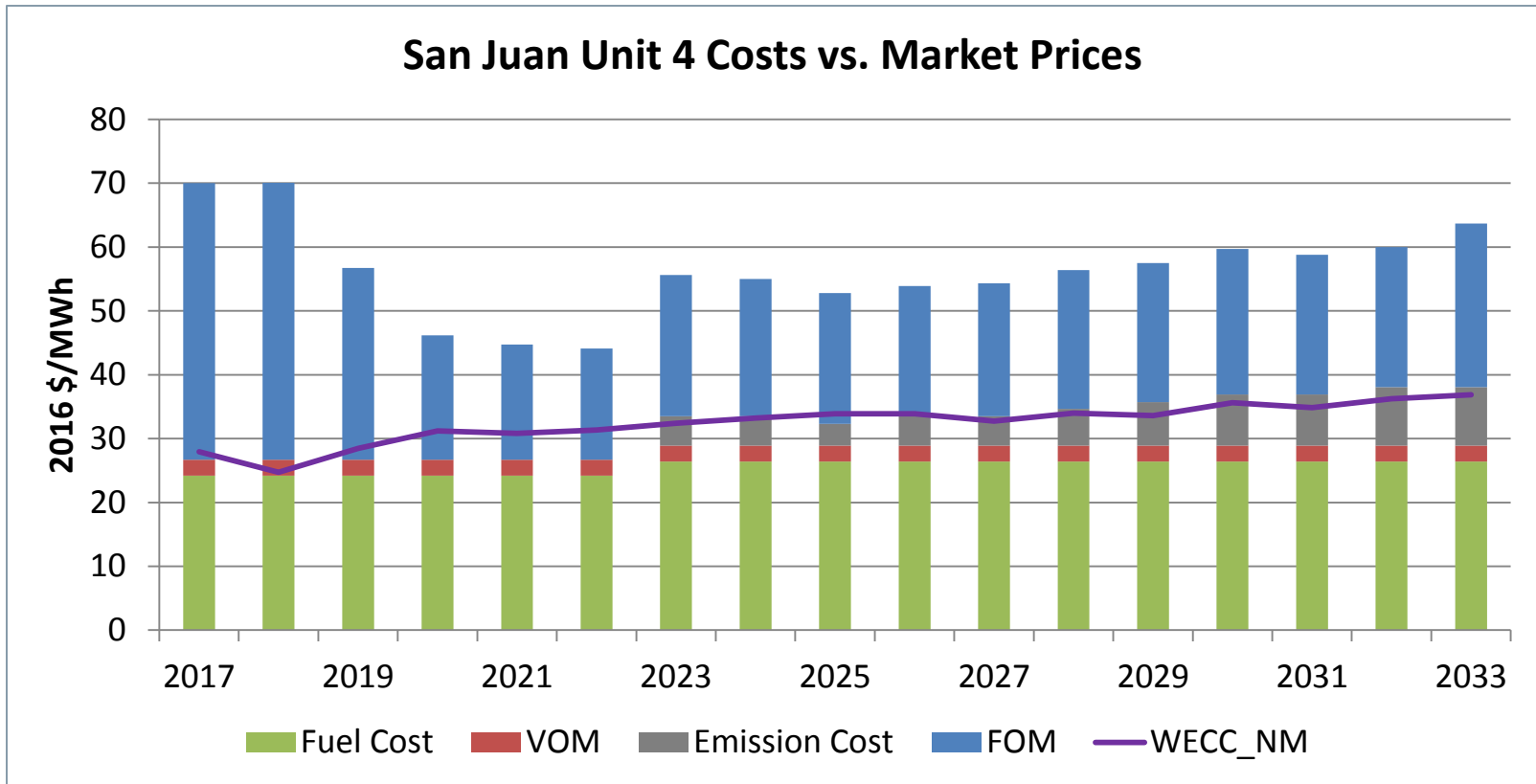
Objectives			Metrics
<b>Cost</b>	Cost	Minimize power supply costs	2017-2036 cost NPV
<b>Risk</b>	Cost Stability	Achieve cost stability	2017-2036 95 <sup>th</sup> percentile cost NPV
<b>Environmental</b>	Environmental Stewardship	Increase renewable generation	2017-2036 renewable generation percentage
<b>Operational</b>	Transmission/ Largest Contingency	Reliance on transmission	Largest generation units depending on transmission
	Development Risks	Minimize project development risks	Project development uncertainties
	Control	Ensure reliability requirements with native capacity	2017-2036 reserve margin
	Weather Dependency	Decrease weather dependency	Availability of other generation resources during prolonged weather events

# Issue 1: LCOE of Existing and New Resources shows LRS is in and SJGS 4 is out of the Money



Note: The average WECC New Mexico prices do not include any premium on block power purchases.

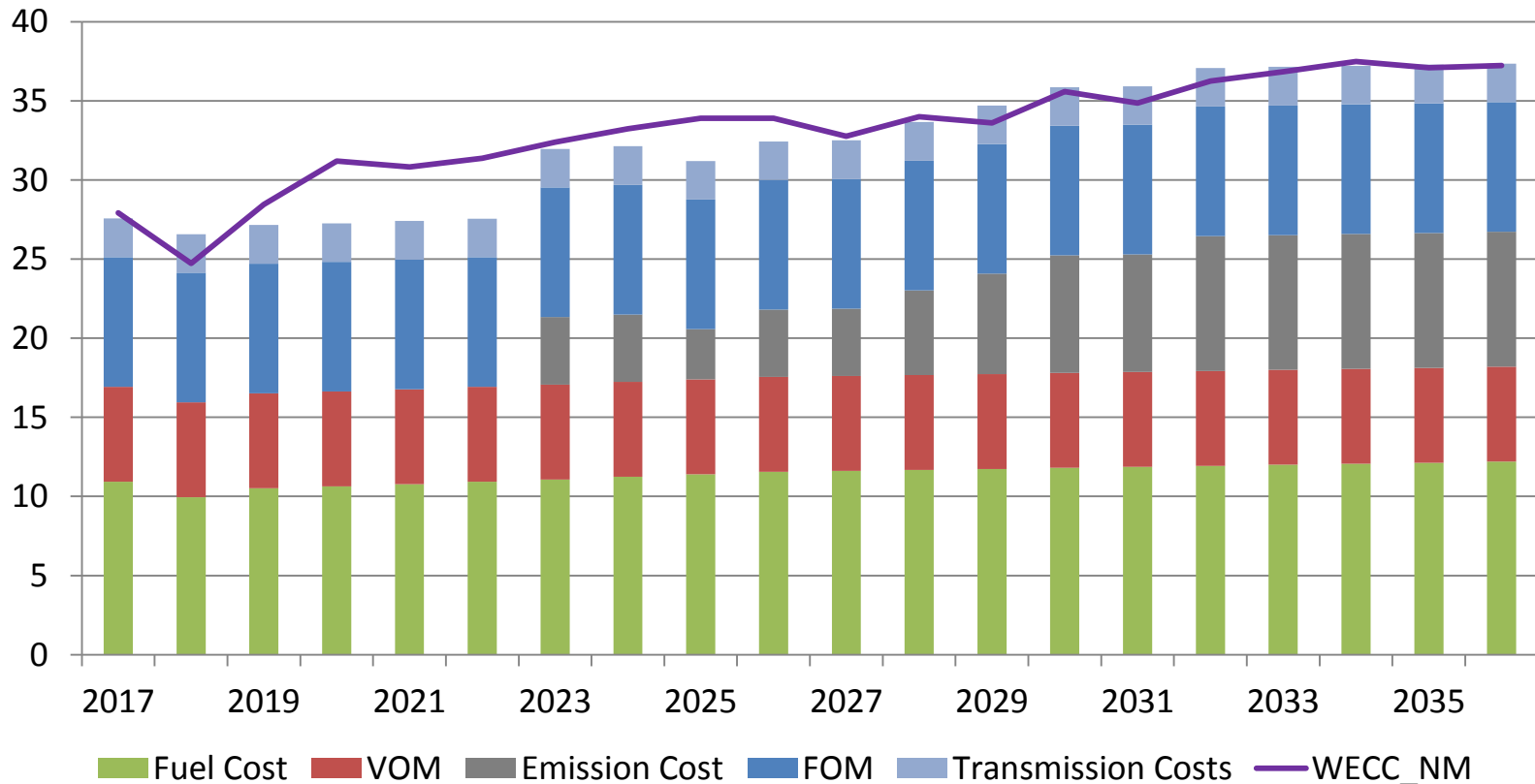
# Issue 1a: SJGS 4 Early Exit is Economic Under Average Stochastic Market Prices



Note: San Juan unit 4 runs at minimum level during 2017-2033.

# Issue 1b: LRS is Economic to Dispatch Under Average Stochastic Market Prices

## Laramie River Costs vs. Market Prices



Note: Above costs are based on LRS as a “must-run” unit during 2017-2036.

ATTACHMENT A

## Issue 2: Combined Portfolio is More Economic than Split Portfolios of LAC and LANL (Post 2025)

Portfolio	LAPP New Builds	Average Reserve Margin (2017-2036)	Total NPV Costs (\$2016 Thousand)
D6 Base Portfolio	<b>Large CC:</b> <ul style="list-style-type: none"> <li>• 2022- 50 MW</li> <li>• 2031- 30 MW</li> </ul> <b>Solar with Storage:</b> <ul style="list-style-type: none"> <li>• 2017- 13 MW; 2025- 8 MW</li> <li>• 2030- 6 MW</li> </ul>	LAPP Summer:17% LAPP Winter: 3%	LAC : \$ 63,993 LANL: \$ 346,634 <b>Total : \$ 410,627</b>
D7.1 (Split – LAC)	<b>Large CC:</b> <ul style="list-style-type: none"> <li>• 2023- 5 MW</li> </ul> <b>Solar with Storage:</b> <ul style="list-style-type: none"> <li>• 2017- 3 MW; 2030- 6 MW</li> </ul>	LAC Summer:85% LAC Winter: 9%	LAC: \$ 56,883
D7.2 (Split – LANL)	<b>Large CC:</b> <ul style="list-style-type: none"> <li>• 2023- 60 MW</li> <li>• 2031- 15 MW</li> </ul> <b>Solar with Storage:</b> <ul style="list-style-type: none"> <li>• 2017- 10 MW; 2025- 7 MW</li> </ul>	LANL Summer:2% LANL Winter: 3%	LANL: \$ 359,935
<b>D7 (LAC + LANL)</b>			LAC : \$ 56,883 LANL: \$ 359,935 <b>Total : \$ 416,819</b>

- Splitting post 2025 results in lower costs for LAC, but higher costs for LANL. This suggests potentially different allocation of costs among the two parties for a win-win solution.
- Additional analysis should be conducted once some major uncertainties are resolved, LAC and LANL have finalized the Preferred Resource Plant and are in position to negotiate the 2025 contract.

ATTACHMENT A

# Issue 4: Spinning Reserve Could be Purchased From Market or Provided through Onsite Generation Resources

- Based on Pace Global's estimates, building medium sized RICE units on site could provide spinning reserve at similar costs to market purchases.

<b>Estimated Costs of Spinning Reserve Purchase</b>		
Spinning Reserve Requirement	MW	7
Average Price	\$/MW	20
Annual Cost of Spinning Reserve	\$	\$1,226,400

Note: Price of spinning reserve for 2016 ranges \$18-22/MW.

<b>Building Medium Sized RICE Unit for Spinning Reserve</b>		
Size	MW	9
Capital Cost	2016\$/kW	1,507
Total Costs	2016\$	13,562,640
FOM	2016\$/kW-year	19
Capital Costs Recovery over 15 Year	2016\$MW-year	\$1,136,096
All-in Costs of Providing Spinning Reserve	2016\$MW-year	\$1,155,573

Note: Capital cost recovery is calculated at 3% over 15 years.

# Step 4: Construct Candidate Stochastic Portfolios to Assess Remaining Core Issues in Risk Analysis

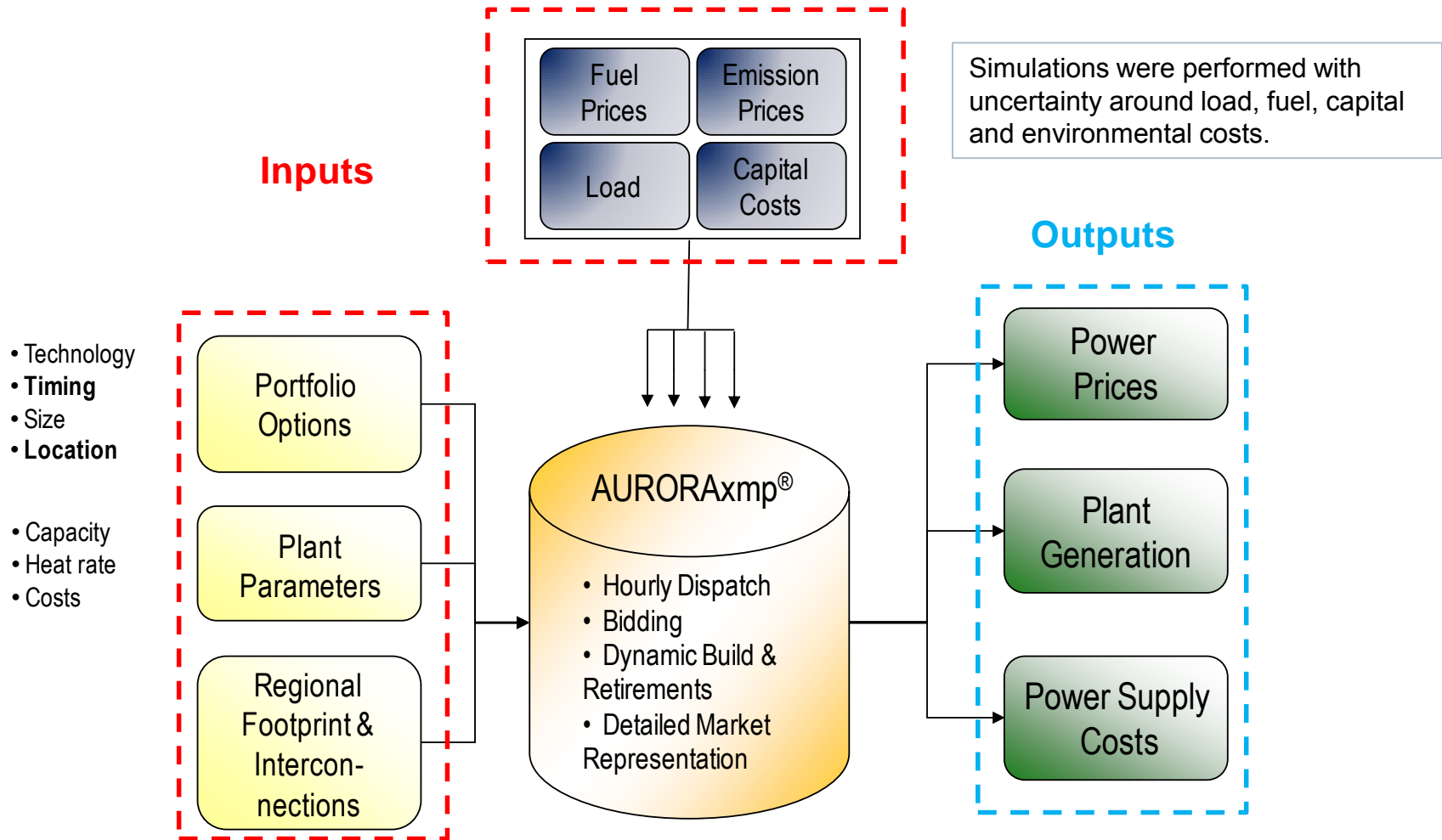
Focus	#	Capacity	New Builds
Least Cost	S1	Long	Large CC (offsite): 2023- 60 MW; 2031- 30 MW Solar with Storage (onsite): 2017- 13 MW; 2025- 8 MW; 2030- 6 MW
	S2	Short	Large CC (offsite): 2023- 50 MW Solar with Storage (onsite): 2017- 13 MW; 2025- 8 MW; 2030- 6 MW
Ownership Control	S3	At Load	Large RICE (onsite): 2023- 18 MW X 3; 2031- 18 MW Solar with Storage (onsite): 2017- 13 MW; 2025- 8 MW; 2030- 6 MW
	S4	At Load	Large CC (offsite) and RICE (onsite): 2023- 50 MW CC; 2031- 18 MW RICE Solar with Storage(onsite): 2017- 13 MW; 2025- 8 MW; 2030- 6 MW
Diversified Portfolios with SMNR	S5	At Load	Large RICE (onsite): 2023- 18 MW X 3; 2031- 18 MW; Solar with Storage (onsite): 2017- 13 MW; 2025- 4 MW Nuclear (offsite): 2026- 16 MW
	S6	At Load	Large CC (offsite) and RICE (onsite): 2023- 50 MW CC; 2031- 18 MW RICE Solar with Storage (onsite): 2017- 13 MW; 2025- 4 MW Nuclear (offsite): 2026- 16 MW
	S7	Short	Large CC (offsite) and RICE (onsite): 2023- 20 MW CC; 2031- 18 MW RICE Solar with Storage (onsite): 2017- 13 MW; 2025- 4 MW; Nuclear (offsite): 2026- 16 MW
Renewable-Focused New Builds	S8	Short	Large RICE: 2017- 18 MW; 2025- 18 MW; 2030- 18 MW Solar PV: 2017- 25 MW; 2025- 25 MW; 2030- 25 MW
	S9	Short	Solar with Storage (onsite): 2017- 13 MW; 2025- 8 MW; 2030- 6 MW
	S10	Short	Solar with Storage (onsite): 2017- 13 MW; 2025- 4 MW Nuclear (offsite): 2026- 16 MW
Cost of Compliance	S11	At Load	Large CC (offsite): 2023- 50 MW; 2031- 37 MW Solar with Storage (onsite): 2017- 10 MW; 2025- 5 MW

ATTACHMENT A

# Stochastic Portfolio Assessment

Mass-based Intrastate Trading

# Step 5: Perform Stochastic Assessment



ATTACHMENT A

# Stochastic Inputs & Relevant Driver Variables

## 1. Load

- Peak Load
- Average Load

### Driver Variables:

- Weather
- GDP / Personal Income
- DSM/ DER studies
- Data on *Quantum* events

## 2. Natural Gas

- Henry Hub
- Transco Zone 6
- CC Gate
- SoCal

### Modeling based on:

- Hist. Volatility
- Hist. Mean Reversion
- Hist. Correlation
- Expert view on low, mid & high cases

## 3. Coal

- CAPP
- NAPP
- ILB
- PRB

### Modeling based on:

- Hist. Volatility
- Hist. Mean Reversion
- Hist. Correlation
- Expert view on low, mid & high cases

## 4. CO<sub>2</sub>

- National CO<sub>2</sub>
- Regional (California and RGGI) CO<sub>2</sub>

### Modeling based on:

- Expert view on low, mid & high cases
- The 3 cases considered as 5<sup>th</sup>, 50<sup>th</sup> and 75<sup>th</sup> percentiles.

## 5. Capital Cost

- All relevant technologies included

### Modeling based on:

- Expert view on low, mid & high cases
- The 3 cases considered as 5<sup>th</sup>, 50<sup>th</sup> and 95<sup>th</sup> percentiles.

### Customization:

If client-specific load forecast is provided, we make use of it to come up with distributions around it.

To develop load projections for a specific regional footprint, we consider the customer classification, economic activity, etc. as well.

### ← Feedback and Correlation Analysis →

*A separate process to consider the effects of Coal & CO<sub>2</sub> prices on Natural Gas prices. The effects are based on historical and projected statistical relationships between gas-coal demand switching*

### Fuel Commodity Distributions:

Three sets of distributions for each of low, mid and high cases

Combine the three sets of distributions into one set using probabilities of 15%, 70% and 15% respectively

To capture high-side and low-side satisfactorily

### Distributions:

Parametric distribution is modeled as a Geometric Brownian Motion (GBM) model.

Quantum distribution is developed using the high and low cases in the expert opinion.

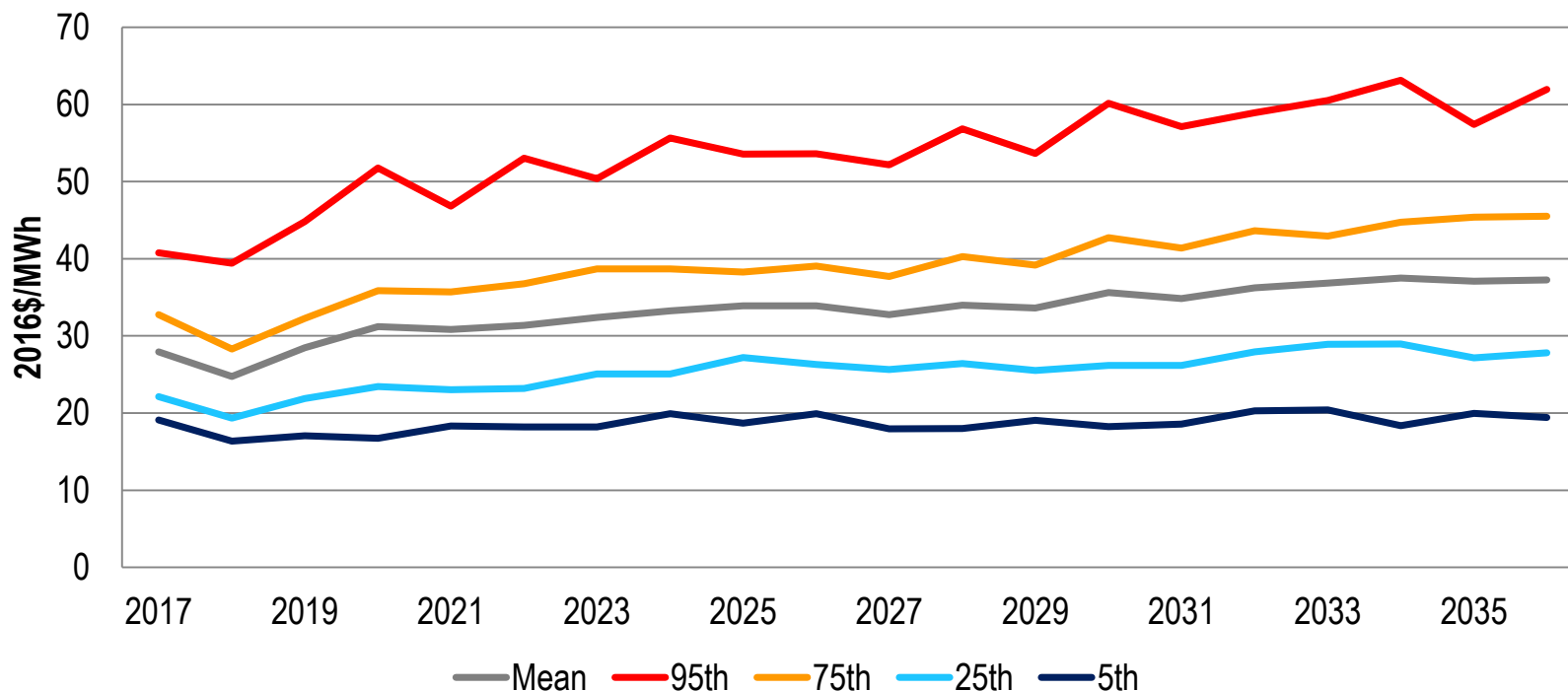
### Distributions:

The distributions developed also take into account the probability of CO<sub>2</sub> program not taking effect.

High and low expert opinions are undertaken to capture high-side and low-side satisfactorily in the final distribution.

# Pace Global Stochastic Analysis Indicates Power Prices in New Mexico Remain Below \$50/MWh by 2036 (75<sup>th</sup> Percentile)

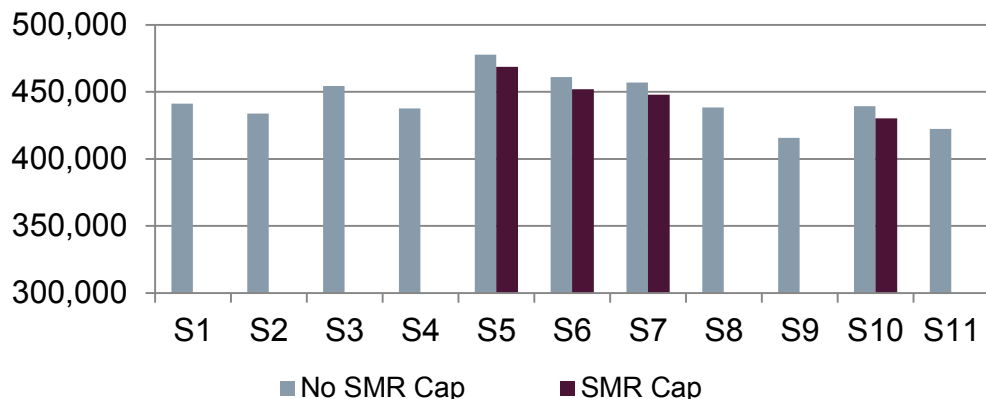
## WECC-New Mexico Power Prices - Intrastate Trading



Note: The prices are under the mass-based intrastate stochastic results for the New Mexico power zone. The prices under the mass-based interstate stochastic results are similar but on average ~2% higher than what is shown in this slide.

# Cost Metric: 20-year Cost NPV Ranking

## LAC IRP Stochastic Portfolio NPV Costs - Intrastate Trading



Stochastic Portfolios	
S1	CC, Solar with Storage
S2	CC, Solar with Storage
S3	RICE, Solar with Storage
S4	CC, RICE, Solar with Storage
S5	RICE, Solar with Storage, SMR
S6	CC, RICE, Solar with Storage, SMR
S7	CC, RICE, Solar with Storage, SMR
S8	RICE, Solar PV
S9	Solar with Storage
S10	Solar with Storage, SMR
S11	CC, Solar with Storage (LAC not in compliance)

Stochastic Portfolios - Intrastate Trading	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11
NPV Costs without SMR Cap (thousand \$2016)	441,317	433,814	454,448	437,774	477,805	461,131	456,975	438,432	415,770	439,223	422,502
Percentage Above Lowest Cost Portfolio	6.14%	4.34%	9.30%	5.29%	14.92%	10.91%	9.91%	5.45%	0.00%	5.64%	1.62%
Index Ranking without SMR Cap (0-10 Scale)	4.12	2.91	6.23	3.55	10.00	7.31	6.64	3.65	0.00	3.78	1.09
Assessment without SMR Cap	🟡	🟢	🟡	🟡	🔴	🔴	🟡	🟡	🟢	🟡	🟢
NPV Costs with SMR Cap (thousand \$2016)	441,317	433,814	454,448	437,774	468,763	452,089	447,932	438,432	415,770	430,181	422,502
Index Ranking with SMR Cap (0-10 Scale)	4.82	3.41	7.30	4.15	10.00	6.85	6.07	4.28	0.00	2.72	1.27
Assessment with SMR Cap	🟡	🟡	🟡	🟡	🔴	🔴	🟡	🟡	🟢	🟢	🟢

### 20-year Cost NPV Ranking

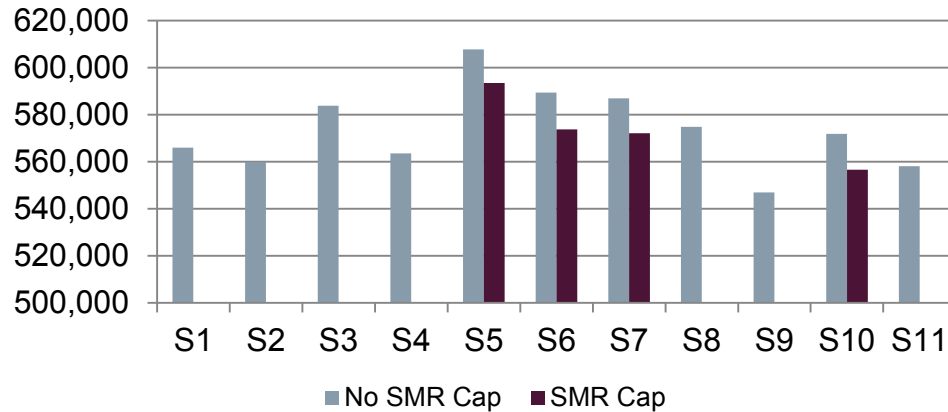
🟢 Index < 3.33

🟡 Index 3.34 – 6.67  
ATTACHMENT A

🔴 Index > 6.67

# Risk Metric: 95<sup>th</sup> Percentile 20-year Cost NPV Ranking

### LAC IRP Stochastic Portfolio 95<sup>th</sup> Percentile Cost NPV - Intrastate Trading



Stochastic Portfolios	
S1	CC, Solar with Storage
S2	CC, Solar with Storage
S3	RICE, Solar with Storage
S4	CC, RICE, Solar with Storage
S5	RICE, Solar with Storage, SMR
S6	CC, RICE, Solar with Storage, SMR
S7	CC, RICE, Solar with Storage, SMR
S8	RICE, Solar PV
S9	Solar with Storage
S10	Solar with Storage, SMR
S11	CC, Solar with Storage (LAC not in compliance)

Stochastic Portfolios - Intrastate Trading	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11
95th Percentile without SMR Cap (thousand \$2016)	565,965	559,901	583,737	563,512	607,668	589,369	586,982	574,870	546,975	571,765	558,009
Percentage Above Lowest Cost Portfolio	3.5%	2.4%	6.7%	3.0%	11.1%	7.8%	7.3%	5.1%	0.0%	4.5%	2.0%
Index Ranking without SMR Cap (0-10 Scale)	3.13	2.13	6.06	2.72	10.00	6.98	6.59	4.60	0.00	4.08	1.82
Assessment without SMR Cap	●	●	●	●	●	●	●	●	●	●	●
95th Percentile with SMR Cap (thousand \$2016)	565,965	559,901	583,737	563,512	593,428	573,680	572,084	574,870	546,975	556,616	558,009
Index Ranking with SMR Cap (0-10 Scale)	4.09	2.78	7.91	3.56	10.00	5.75	5.41	6.00	0.00	2.08	2.38
Assessment with SMR Cap	●	●	●	●	●	●	●	●	●	●	●












### 95<sup>th</sup> Percentile 20-year Cost NPV Ranking

● Index < 3.33

● Index 3.34 – 6.67  
ATTACHMENT A

● Index > 6.67

# Environmental Metric: LAC Renewable Generation Share Ranking in 2036

Stochastic Portfolios	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11
LAC RPS Level in 2036	94%	94%	94%	94%	95%	95%	95%	91%	94%	95%	30%
Assessment (Green: LAC in compliance; red: LAC out of compliance)											

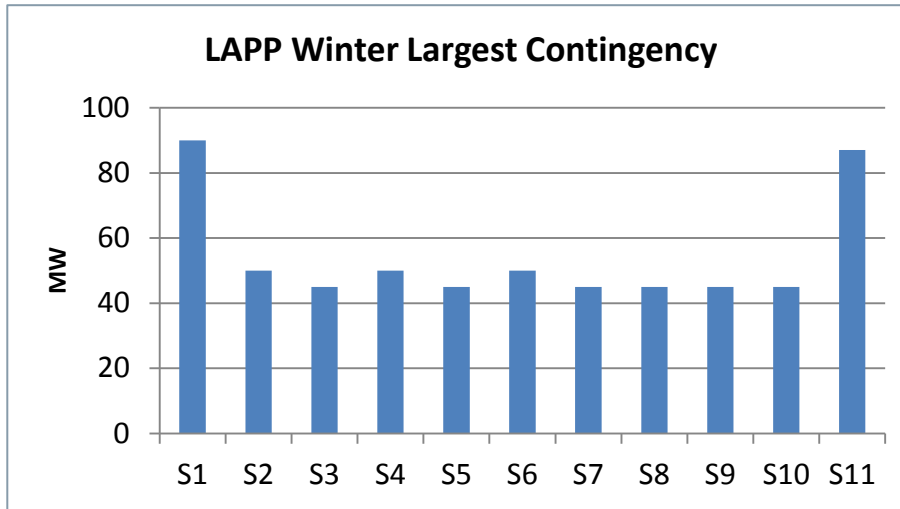
Stochastic Portfolios	
S1	CC, Solar with Storage
S2	CC, Solar with Storage
S3	RICE, Solar with Storage
S4	CC, RICE, Solar with Storage
S5	RICE, Solar with Storage, SMR
S6	CC, RICE, Solar with Storage, SMR
S7	CC, RICE, Solar with Storage, SMR
S8	RICE, Solar PV
S9	Solar with Storage
S10	Solar with Storage, SMR
S11	CC, Solar with Storage (LAC not in compliance)

## Renewable Generation Share in 2036 Ranking

 In Compliance with Interim Carbon Neutral Goal     Out of Compliance with Interim Carbon Neutral Goal

### ATTACHMENT A

# Operational Metric 1: Transmission/Largest Contingency Risk Ranking



Stochastic Portfolios	
S1	CC, Solar with Storage
S2	CC, Solar with Storage
S3	RICE, Solar with Storage
S4	CC, RICE, Solar with Storage
S5	RICE, Solar with Storage, SMR
S6	CC, RICE, Solar with Storage, SMR
S7	CC, RICE, Solar with Storage, SMR
S8	RICE, Solar PV
S9	Solar with Storage
S10	Solar with Storage, SMR
S11	CC, Solar with Storage (LAC not in compliance)

- The largest contingency captures unit level generation risk and site level transmission risks in worst case scenarios.

Stochastic Portfolios	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11
Largest Contingency	90	50	45	50	45	50	45	45	45	45	87
Percentage Above Best Portfolio	100%	11%	0%	11%	0%	11%	0%	0%	0%	0%	93%
Index Ranking (0-10 Scale)	10.00	1.11	0.00	1.11	0.00	1.11	0.00	0.00	0.00	0.00	9.33
Assessment (Green < 3.33; Yellow 3.34-6.67; Red > 6.67)	Red	Green	Green	Green	Green	Green	Green	Green	Green	Green	Red

### Transmission/ Largest Contingency Ranking

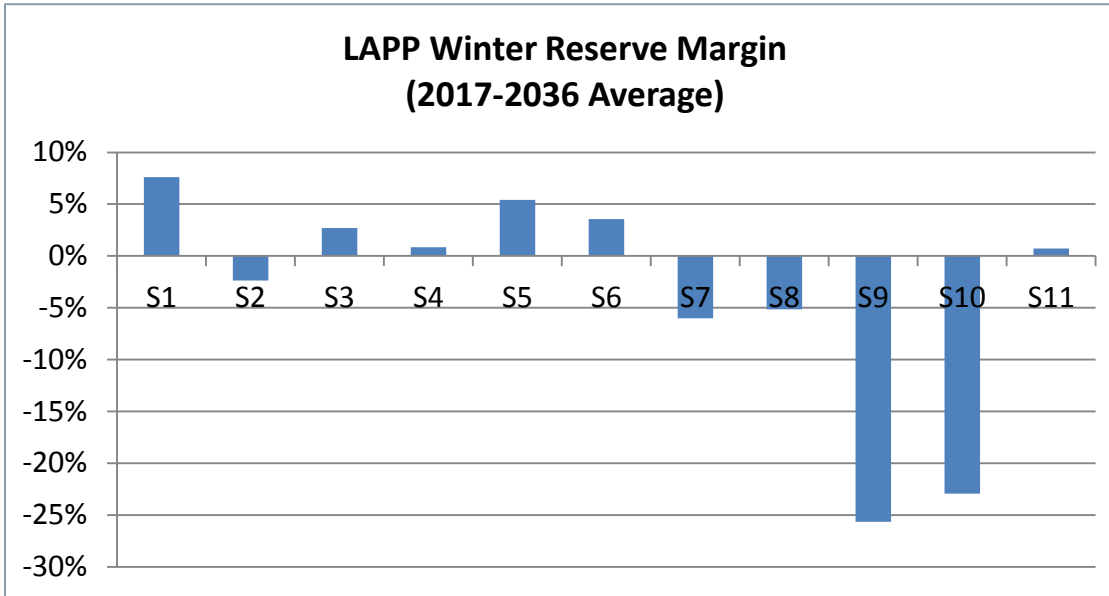
Index < 3.33

Index 3.34 – 6.67

Index > 6.67

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# Operational Metric 2: Control Risk (Average Reserve Margin Ranking)



Stochastic Portfolios	
S1	CC, Solar with Storage
S2	CC, Solar with Storage
S3	RICE, Solar with Storage
S4	CC, RICE, Solar with Storage
S5	RICE, Solar with Storage, SMR
S6	CC, RICE, Solar with Storage, SMR
S7	CC, RICE, Solar with Storage, SMR
S8	RICE, Solar PV
S9	Solar with Storage
S10	Solar with Storage, SMR
S11	CC, Solar with Storage (LAC not in compliance)

Stochastic Portfolios	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11
Winter Reserve Margin	8%	-2%	3%	1%	5%	4%	-6%	-5%	-26%	-23%	1%
Index Ranking (0-10 Scale)	0.00	3.00	1.48	2.04	0.66	1.22	4.10	3.84	10.00	9.18	2.07
Assessment (Green < 3.33; Yellow 3.34-6.67; Red > 6.67)	●	●	●	●	●	●	●	●	●	●	●

## 2017-2036 Average Reserve Margin Ranking

















● Index < 3.33

● Index 3.34 – 6.67

● Index > 6.67

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# Operational Metric 3: Development Risks Assessment

Portfolio	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11	
New Resources	Solar	Solar	Solar	Solar	Solar	Solar	Solar	Solar	Solar	Solar	Solar	
	Storage	Storage	Storage	Storage	Storage	Storage	Storage		Storage	Storage	Storage	
	CC	CC		CC		CC	CC				CC	
			RICE	RICE	RICE	RICE	RICE	RICE				
					SMNR	SMNR	SMNR			SMNR		
Development Risk Assessment						 	 	 			 	

- SMNR project adds development risk to the portfolio because of technology, regulatory, cost, financing and schedule uncertainties. Portfolios with SMNR are rated red if development risk is un-mitigated and rated yellow-green if the development risk is mitigated.
- Offsite large CC could potentially add development risk, but at a much moderate level in comparison to SMNR.
- Portfolios S3, S8 and S9 utilizes new resources with proven technology to be built on site and therefore has the lowest development risk.

Stochastic Portfolios	
S1	CC, Solar with Storage
S2	CC, Solar with Storage
S3	RICE, Solar with Storage
S4	CC, RICE, Solar with Storage
S5	RICE, Solar with Storage, SMR
S6	CC, RICE, Solar with Storage, SMR
S7	CC, RICE, Solar with Storage, SMR
S8	RICE, Solar PV
S9	Solar with Storage
S10	Solar with Storage, SMR
S11	CC, Solar with Storage (LAC not in compliance)
























































# Operational Metric 4: Weather Dependent Risks Assessment




Stochastic Portfolios	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11
New Resources	Solar	Solar	Solar	Solar	Solar	Solar	Solar	Solar	Solar	Solar	Solar
	Storage	Storage	Storage	Storage	Storage	Storage	Storage		Storage	Storage	Storage
	CC	CC		CC		CC	CC				CC
			RICE	RICE	RICE	RICE	RICE	RICE			
					SMNR	SMNR	SMNR			SMNR	
Portfolio Weather Dependent Assessment											

- Portfolio 9 adds solar with storage as new resources and is exposed to the market when there is continued cloudy or rainy days.
- All other portfolios have either fossil or nuclear generation in addition to solar and are less weather dependent.

Stochastic Portfolios	
S1	CC, Solar with Storage
S2	CC, Solar with Storage
S3	RICE, Solar with Storage
S4	CC, RICE, Solar with Storage
S5	RICE, Solar with Storage, SMR
S6	CC, RICE, Solar with Storage, SMR
S7	CC, RICE, Solar with Storage, SMR
S8	RICE, Solar PV
S9	Solar with Storage
S10	Solar with Storage, SMR
S11	CC, Solar with Storage (LAC not in compliance)


# Operational Metrics (1-4) Summary




Criteria		Transmission/Largest Contingency Risk	Control	Development Risk	Weather Risk	Operational Metrics Summary
S1	CC, Solar with Storage					
S2	CC, Solar with Storage					
S3	RICE, Solar with Storage					
S4	CC, RICE, Solar with Storage					
S5	RICE, Solar with Storage, SMNR					
S6	CC, RICE, Solar with Storage, SMNR					
S7	CC, RICE, Solar with Storage, SMNR					
S8	RICE, Solar PV					
S9	Solar with Storage					
S10	Solar with Storage, SMNR					
S11	CC, Solar with Storage (LAC not in compliance)					

Score Rating:  Favorable  Neutral  Unfavorable

ATTACHMENT A

# Balanced Score Card Summary

Criteria		Cost	Risk	Environmental	Operational	Overall
S1	CC, Solar/ Storage					
S2	CC, Solar/ Storage					
S3	RICE, Solar/ Storage					
S4	CC, RICE, Solar/ Storage					
S5	RICE, Solar/ Storage, SMNR					
S6	CC, RICE, Solar/ Storage, SMNR					
S7	CC, RICE, Solar/ Storage, SMNR					
S8	RICE, Solar PV					
S9	Solar/ Storage					
S10	Solar/ Storage, SMNR		 			 
S11	CC, Solar / Storage (LAC not in compliance)					

Score Rating:  Favorable  Neutral  Unfavorable

ATTACHMENT A

# Pivot Strategies

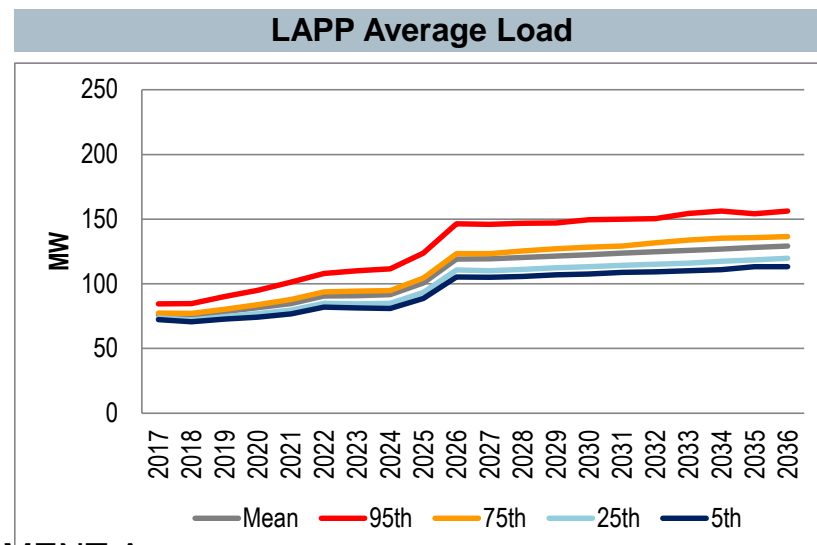
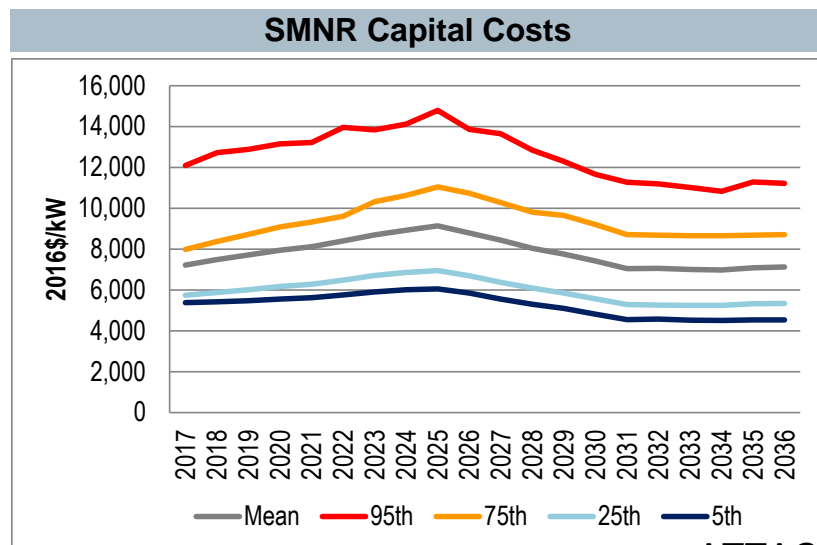
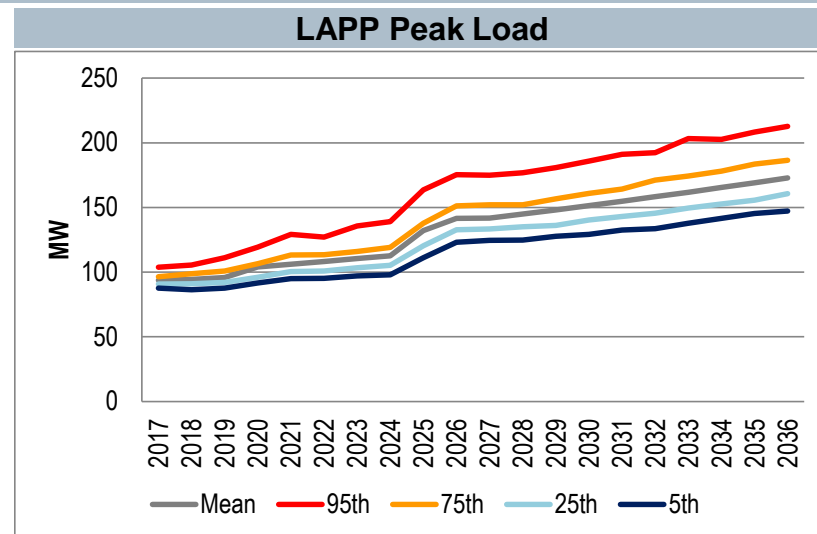
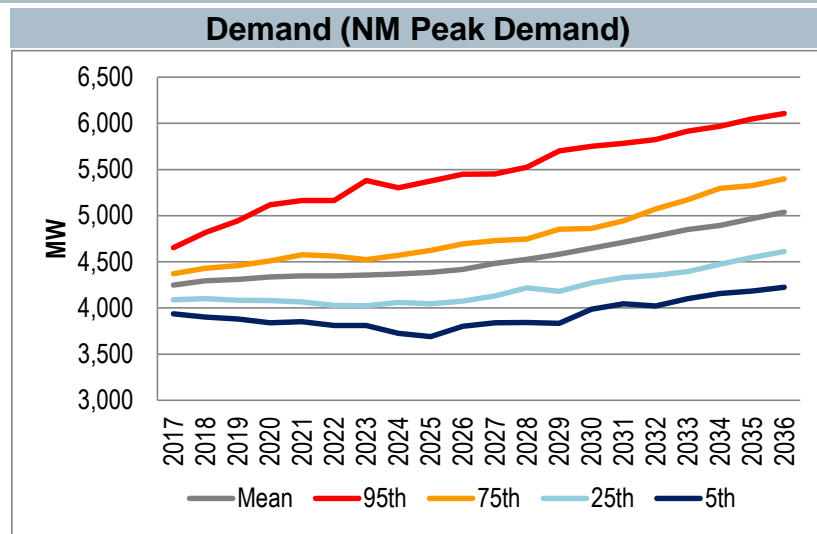
Strategy	Risk	Mitigation	Pivot Strategy
S9: Solar/Storage	Land/Storage cost	Consider SMNR or RICE	Portfolios S8 (Add RICE) or S10 (Add SMNR)
S10: SMNR	Contract/Price caps	Replace SMNR with Solar/Storage	Portfolio S9 (Solar with storage)
S8: Rice	High Gas Prices	Replace Gas with Solar/Storage	Portfolio S9 (Solar with storage)
	Need more control of resources	Building CC to fulfill load	Portfolio S2
	Land/Gas Prices	Replace Solar/Gas with SMNR	Portfolio S10
	SMNR/Gas Prices	Replace SMNR/Gas with Solar	Portfolio S9
	SMNR mitigation works	Focus on SMNR	Portfolio S10



# Appendix

ATTACHMENT A

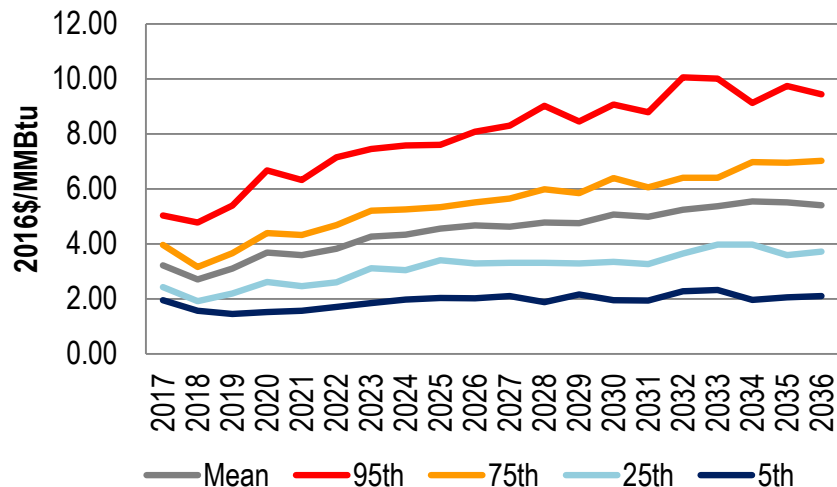
# Stochastic Market Input Drivers for the 2017 LAC IRP



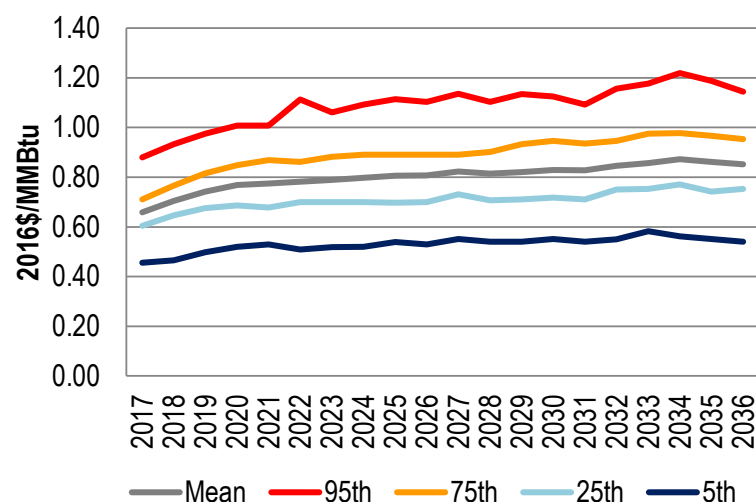
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# Stochastic Market Input Drivers for the 2017 LAC IRP

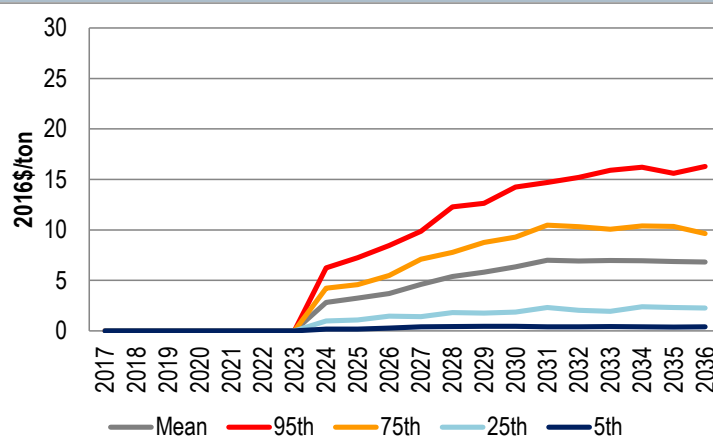
### Delivered Gas Prices



### PRB Coal Prices



### Environmental Price (Mass Based CO<sub>2</sub>)



ATTACHMENT A

# List of IRP Key Issues

1. Participation agreement in the coal-fired projects
  - a) San Juan Generation Station Unit 4 (SJGS 4) participation beyond 2022, 2028, 2033
  - b) Most economical time to exit the Laramie River Station (LRS) PPA by 2020, 2025 or no exit
2. How can Los Alamos and LANL move forward post 2025?
3. Participation in the UAMPS Carbon Free Power Project (CFPP) using Small Modular Reactor (SMNR); Transmission for the CFPP with all of the movement and discussions around a combined Independent System Operator (ISO)
4. Cost-effectively meet the requirements for reliable and economic operations inside the Balancing Area of the Public Service Company of New Mexico (PNM)
5. Possible options for DPU to meet the policies established by the adopted FER committee recommendation
6. What is the best portfolio of resources to meet DPU's goal of being carbon neutral by 2040?

# Key Findings

Factors	Key Questions and Findings
<b>Issue 1: Coal Assets Ownership</b>	<p>Decisions regarding SJGS 4 participation beyond 2022, 2028, 2033.</p> <p>Early exit of SJGS 4 is cost competitive.</p> <p>Most economical time to exit the LRS PPA by 2020, 2025 or no exit.</p> <p>Holding onto LRS PPA is cost competitive.</p>
<b>Issue 2: ECA Decisions</b>	<p>How can LAC and LANL move forward post 2025?</p> <p>ECA extension post 2025 provides lower NPV costs for LAPP during the study period.</p> <p>However, LANL benefits from joint operation while LAC benefits from separation, suggesting a win-win with a different allocation scheme.</p>
<b>Issue 3: CFPP SMNR</b>	<p>Participation in the UAMPS CFPP using Small Modular Reactor (SMNR)?</p> <p>Participation in the UAMPS CFPP using SMNR resulted in higher NPV costs in the stochastic analysis and introduces development risks. However, if the contract PPA price could be capped at acceptable levels and the development risks could be mitigated, the SMNR can be considered especially if local land becomes unavailable for solar.</p>
<b>Issue 4: Reliable and economic operations</b>	<p>Cost-effectively meet the requirements for reliable and economic operations inside the Balancing Area of the Public Service Company of New Mexico (PNM).</p> <p>LAC could either rely on market purchase for spinning reserve or build medium sized RICE units to provide.</p>

## Key Findings (2/2)

Factors	Key Findings
<b>Issue 5: Technology Options</b>	<p>Possible options for DPU to meet the policies established by the adopted FER committee recommendation</p> <ul style="list-style-type: none"> <li>• CC is cost competitive resources, but does not help advance the carbon neutral goal.</li> <li>• On-site solar firming with storage with around-the-clock green energy is desirable at current indicative PPA prices.</li> <li>• If SMNR costs can be capped and development risks can be mitigated, it can be considered especially in the event that local land becomes unavailable for solar.</li> </ul>
<b>Issue 6: Preferred Resource Plan</b>	<p>What is the best portfolio of resources to meet DPU's goal of being carbon neutral by 2040?</p> <ul style="list-style-type: none"> <li>• On-site solar firming with storage with around-the-clock green energy is desirable at current indicative PPA prices, but is exposed to market during prolonged weather events when solar does not generate.</li> <li>• On-site solar firming with large RICE units offers more dispatch control and flexibility, but at a higher cost.</li> <li>• If SMNR costs can be capped and development risks can be mitigated, it can be considered especially in the event that local land becomes unavailable for the amount of solar needed.</li> </ul>
<b>View on Capacity vs Load Projections</b>	<p>Should LAPP build resource capacities to be long, at load or short?</p> <ul style="list-style-type: none"> <li>• The current market outlook does not reward portfolios with excess capacity.</li> <li>• Short positions (e.g. purchasing some from market) is a prudent strategy considering load uncertainties due to distributed generation and weak overall market projections.</li> <li>• However, the IRP allows for new build flexibility if LANL's operation requires onsite generation and closer alignment of load and resources.</li> </ul>

# Integrated Resource Planning Follow Up Analysis

Presented to: Los Alamos County

November 8, 2017

ATTACHMENT B

# Agenda



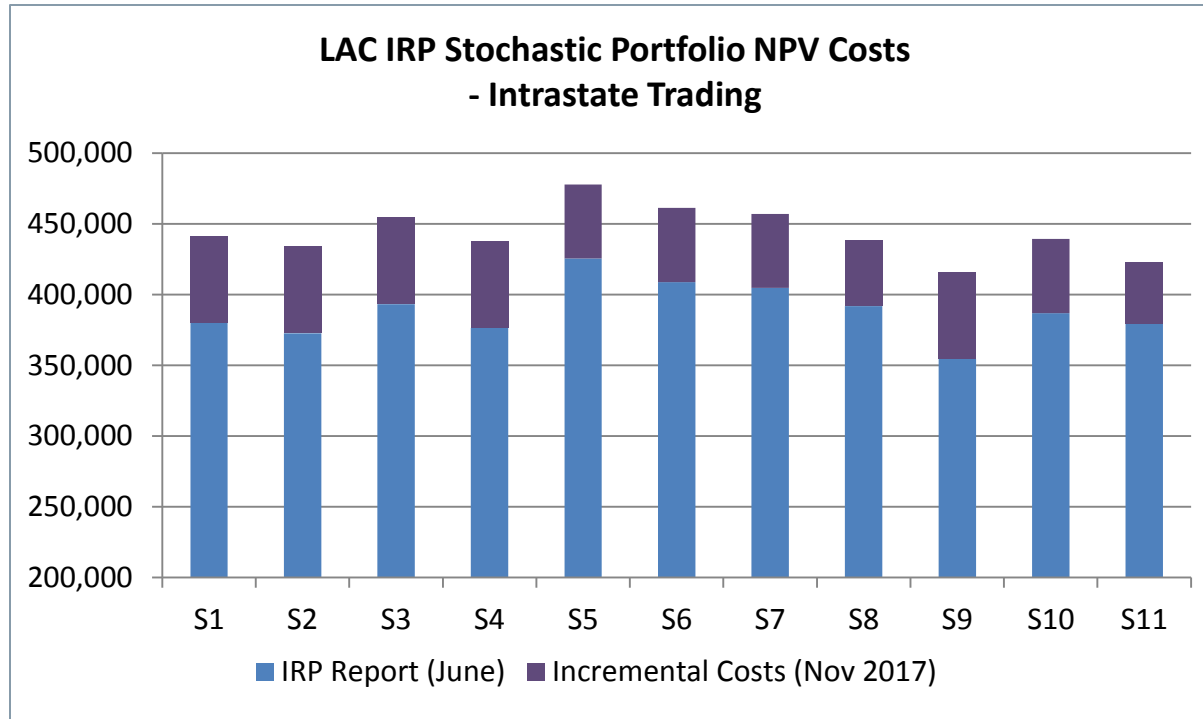
- IRP Portfolio Costs Adjustments
- Cost of Carbon Neutral Compliance
- Value of a Combined Entity Post 2025
  - Quantified Value Evaluation
  - Qualitative Assessment of Synergies




# IRP Portfolio Costs Adjustments

ATTACHMENT B

# Portfolio Costs Adjusted Upwards to More Appropriately Reflect True Solar Costs



- Pace Global adjusted the way the solar resources are modeled to capture full costs, which resulted in incremental costs for all IRP Stochastic Portfolios.
- Stochastic Portfolio 9 remains to be the most cost effective portfolio and IRP conclusions do not change.



# Issue 1: Cost of Carbon Neutral Compliance

# Cost of Carbon Neutral Compliance Estimated at \$14.3 Million Extra for LAC over the IRP Horizon

## Issue

- What is the true cost of carbon neutral compliance for LAC based on the Preferred Resource Plan (Stochastic Portfolio 9)?

## Approach

- Pace Global constructed Stochastic Portfolio 12 (non carbon neutral compliance for LAC), which builds an equivalent amount of CC generation (least cost new resource) as produced by the firmed solar/ storage new builds in the Preferred Resource Plan (Stochastic Portfolio 9, carbon neutral compliance for LAC).

## Findings

- Comparison of the NPV cost of Stochastic Portfolio 12 and Preferred Resource Plan (Stochastic Portfolio 9) indicates that the cost of carbon neutral compliance is \$14.3 million (3.4 percent) extra over the IRP horizon.

Note: All results in this analysis is based on Clean Power Plan intrastate trading.

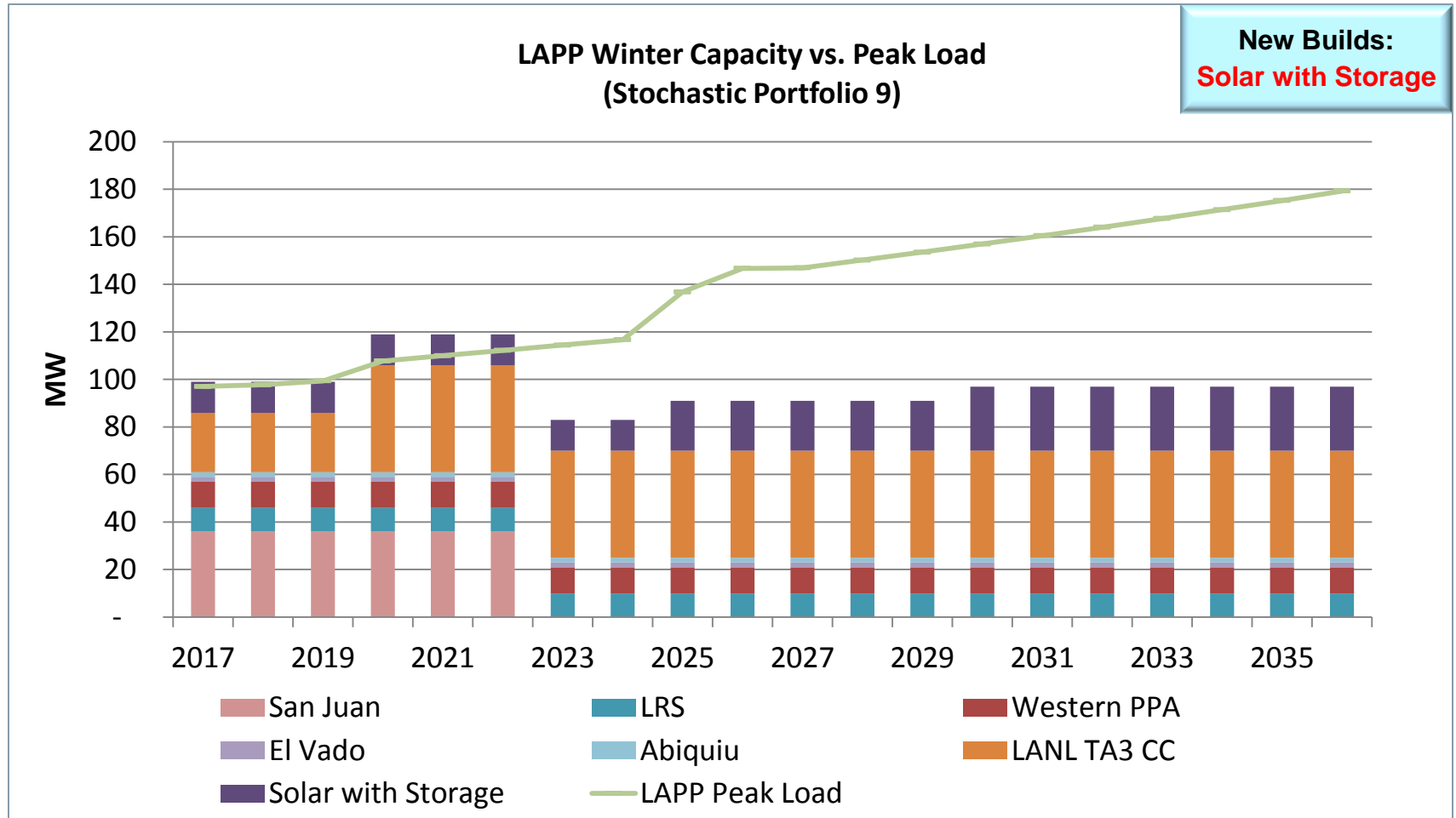
# Cost of Carbon Neutral Compliance Estimated at \$14.3 Million Extra for LAC over the IRP Horizon



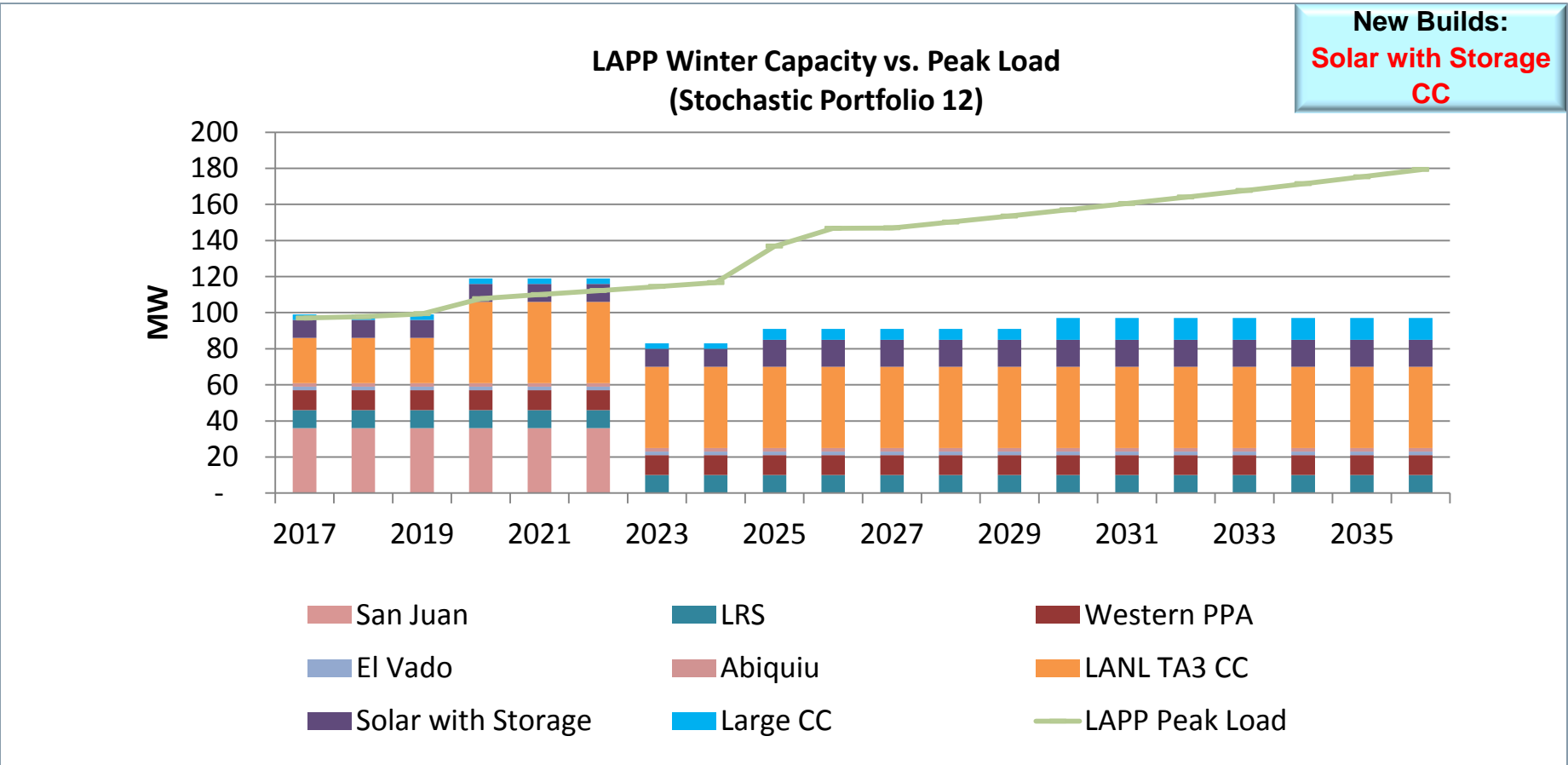
Portfolio	LAPP New Builds	Average Reserve Margin (2017-2036)	2017-2036 NPV Costs (\$2016 Thousand)
<b>S9:</b> Solar with Storage Short Capacity	<b>Solar with Storage (onsite):</b> <ul style="list-style-type: none"> <li>• 2017 - 13 MW</li> <li>• 2025 - 8 MW</li> <li>• 2030 - 6 MW</li> </ul>	LAPP Summer: -11% LAPP Winter: -26%	\$415,770
<b>S12:</b> Solar with Storage CC Short Capacity	<b>Solar with Storage (onsite):</b> <ul style="list-style-type: none"> <li>• 2017 - 10 MW</li> <li>• 2025 - 5 MW</li> </ul> <b>CC (offsite):</b> <ul style="list-style-type: none"> <li>• 2017 - 3 MW</li> <li>• 2025 - 3 MW</li> <li>• 2030 - 6 MW</li> </ul>	LAPP Summer: -11% LAPP Winter: -26%	\$401,477

- Stochastic portfolio 9 and 12 provide insight of potential costs of the carbon neutral compliance for LAC.
- No compliance portfolio falls far short of LAC’s Carbon Neutral Goal by 2040.

# Stochastic Portfolio 9 Focuses on Solar with Storage (Short Capacity)



# Stochastic Portfolio 12 Replaces Some Solar with Storage Capacity with CC



Stochastic Portfolio 12 builds solar with storage for LANL compliance and purchase shares of a large CC to maintain the same reserve margin as Stochastic Portfolio 9.



# Issue 2: Value of a Combined Entity Post 2025

## Background: Value of Combined Entity Post 2025

- The IRP (June 2017) involved a preliminary assessment of the benefit of extending the ECA based on a deterministic analysis.
  - The analysis showed that the ECA extension post 2025 provided a lower Net Present Value (NPV) costs for the combined entity than if both parties agreed to separate.
  - This deterministic portfolio however, did not turn out to be the preferred portfolio after completing the stochastic analysis.
  - Hence we need to rerun the evaluation of the ECA extension using the “preferred stochastic portfolio” rather than the deterministic least cost portfolio as the basis of the analysis.
- In addition, our preliminary analysis indicated that the current allocation method does not appear to be optimal, since LANL benefits from joint operation while LAC benefits from separation.
- Since the savings to LANL exceed the higher costs for LAC, there are opportunities for both parties to benefit from continued joint operation with a different allocation scheme.
- The order of magnitude of the savings and costs for both parties must also be updated to reflect a comparison with the Preferred Resource Plan.

# Value of a Combined Entity Post 2025 is Evident in both Savings and Synergies

## Issue

- Should LAC and LANL continue to share resources for the benefit of both LAC and LANL post 2025 (should there be an ECA renewal)?
- If so, how can LAC and LANL best share the benefits of the contract extension in an equitable way?

## Approach

- Pace Global constructed split Stochastic Portfolios, 13.1 for LAC and 13.2 for LANL to each build solar with storage for compliance.
- As a result, LAC will have long capacity and LANL will have short capacity.

## Findings

- Comparison of the NPV cost of split Stochastic Portfolios 13.1 and 13.2 and Preferred Resource Plan (Stochastic Portfolio 9, the combined portfolio) indicates that ECA extension post 2025 provides cost savings (lower NPV costs) for LAPP during the study period.
- However, LANL benefits from joint operation while LAC benefits from separation, suggesting a win-win with a different allocation scheme.

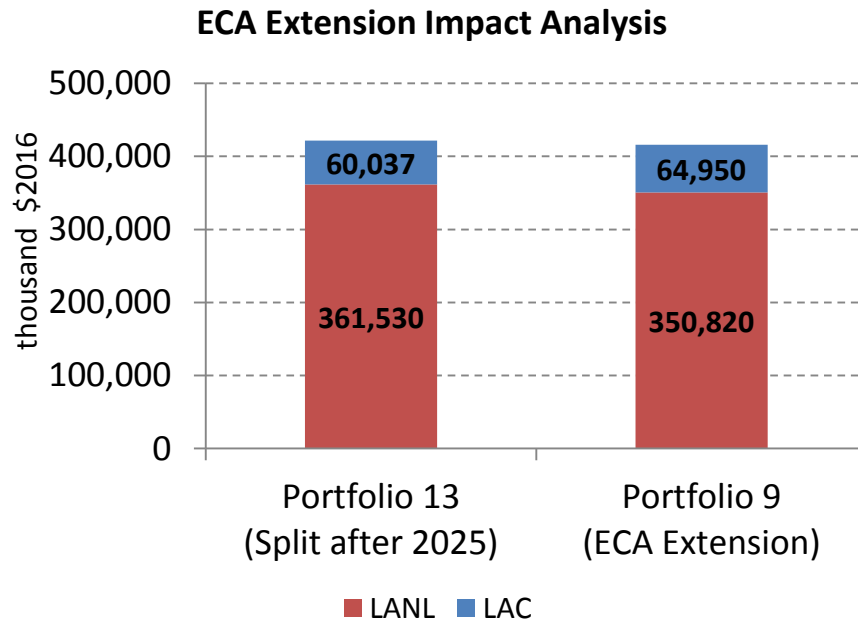
# Combined Portfolio is More Economic than Split Portfolios of LAC and LANL (Post 2025)

Portfolio	LAPP New Builds	Average Reserve Margin (2017-2036)	Total NPV Costs (\$2016 Thousand)
S9 Preferred Resource Plan	<b>Solar with Storage (onsite):</b> <ul style="list-style-type: none"> <li>• 2017 - 13 MW</li> <li>• 2025 - 8 MW</li> <li>• 2030 - 6 MW</li> </ul>	LAPP Summer: -11% LAPP Winter: -26%	LAC : \$ 64,950 LANL: \$ 350,820 <b>Total : \$ 415,770</b>
S13.1 (Split – LAC)	<b>Solar with Storage:</b> <ul style="list-style-type: none"> <li>• 2017 - 3 MW</li> <li>• 2030 - 6 MW</li> </ul>	LAC Summer: 65% LAC Winter: -11%	LAC: \$ 60,037
D13.2 (Split – LANL)	<b>Solar with Storage:</b> <ul style="list-style-type: none"> <li>• 2017 - 10 MW</li> <li>• 2025 - 8 MW</li> </ul>	LANL Summer: -47% LANL Winter: -46%	LANL: \$ 361,530
D13 (LAC + LANL)			LAC : \$ 60,037 LANL: \$ 361,530 <b>Total : \$ 421,567</b>

- Splitting post 2025 results in lower costs for LAC, but higher costs for LANL.
- This suggests potentially different allocation of costs among the two parties for a **win-win** solution.

# Splitting Post 2025 Results in Lower Costs for LAC, but Higher Costs for LANL

NPV (\$000)	Portfolio 13 (Split after 2025)	Portfolio 9 (ECA Extension)	LANL Savings (Expenses)
<b>LANL</b>	361,530	350,820	10,709
<b>LAC</b>	60,037	64,950	(4,912)
<b>LANL + LAC</b>	<b>421,567</b>	<b>415,770</b>	<b>5,797</b>



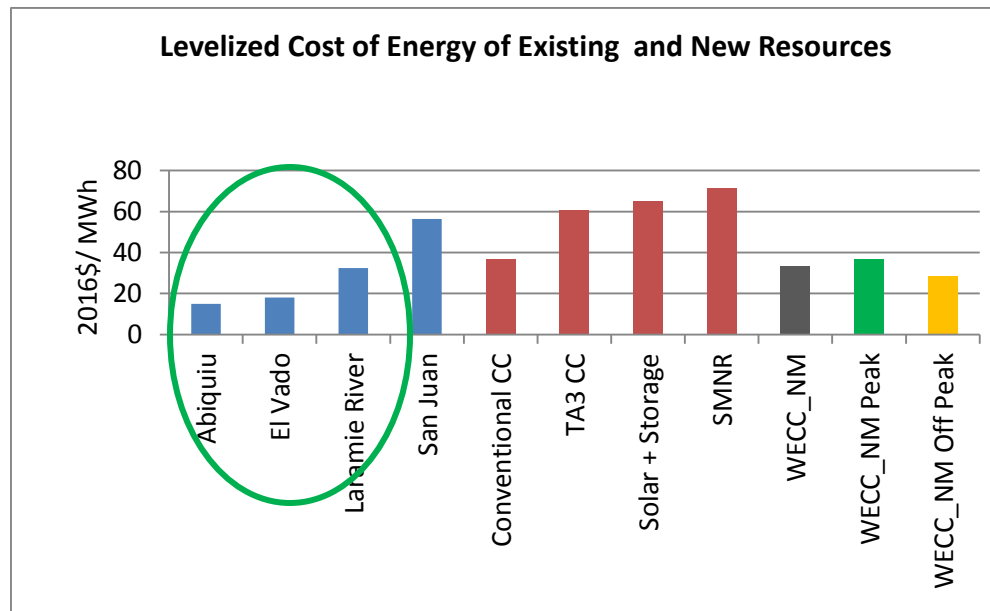
- Splitting post 2025 results in lower costs for LAC, but higher costs for LANL.
- This suggests potentially different allocation of costs among the two parties for a win-win solution.

# Compelling Synergies for the LAPP to Extend ECA Post 2025

- Maximize the value of hydro generation resources on federal land by allowing LANL to tap into double RECs.
- A split scenario increases the volume of market transactions for both parties and further exposing them to market risks, unless the parties enter into contractual PPA agreement.
- LAPP optimizes the value of LRS PPA by directly serving LAPP load. In a split scenario, LAC will likely sell excess power into the market.
- A LAPP pool allows the two parties to jointly pursue solar and storage opportunities. This could lead to cost savings through economies of scale.
- A split scenario implies potential duplicate functions in the two organizations for procuring and managing energy, capacity, and ancillary services.
- Complementary load shapes of LANL and LAC provides value to both entities, particularly in a market with increasing DER, intermittent resources, and balancing needs.

# LAC Brings Fully Amortized Low Cost Resources to the Pool

- Two local hydroelectric power plants (Abiquiu and El Vado) with a summer capacity of 23.8 MW and winter capacity of 4 MW. The debt services on both plants have been fully paid off, providing renewable and low cost power.
- A 10 MW PPA with Laramie River Station (LRS) through the life of the plant. As a must-run unit, LRS costs are on par with market prices and could be relied upon to serve its load.
- Solar facility (1 MW) and WAPA hydro PPA (1 MW)



Note: San Juan Unit 4 is expected to retire in 2022.

# A Split Scenario will Discontinue LANL's Access to LAC's Hydro and Solar Resources that Qualify for Double RECs

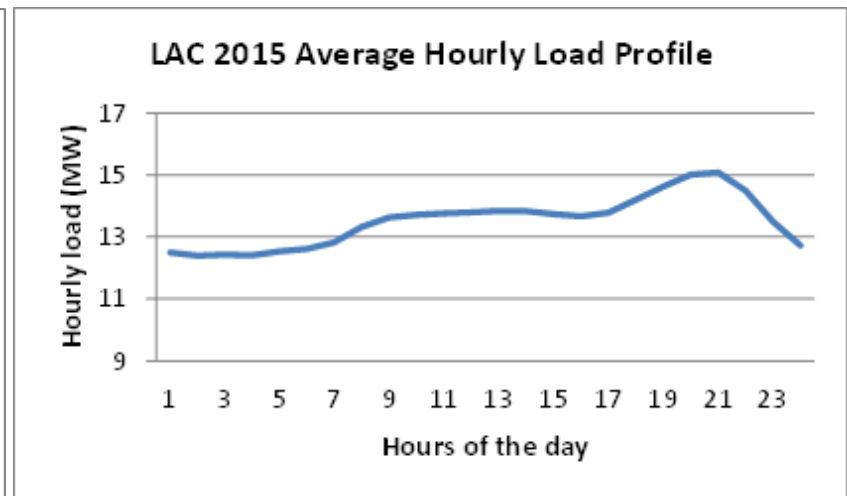
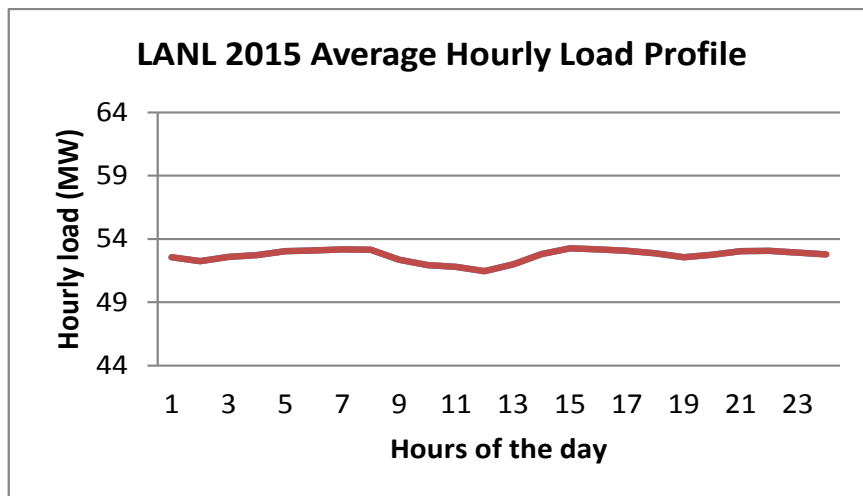
- The 1 MW Solar Project at LANL TA-61 site, together with Abiquiu Unit 3 are located on federal land and they qualify for double renewable energy credits (RECs) for LANL.
- In a split scenario, LANL will not have access to the renewable generation credits from the hydro resources and the low priced base load power from LRS, unless a separate contractual arrangement could be struck between LAC and LANL.
- To maintain its renewable generation compliance, LANL must refill these renewable resources locally. This could be challenging from a timing and cost perspective, especially considering the uncertainty of the local federal land availability for solar projects.

# On the Other Hand, LAC will Need to Be Long In Capacity in the Summer Given its Carbon Neutral Goal by 2040

- To achieve milestones towards a carbon neutral goal by 2040, LAC will need to sell the power produced in LRS to the WECC market, while building/contracting renewable capacities to meet the carbon neutral goal.
- This indicates a long capacity position in the current market outlook that does not reward building portfolios with excess capacity.
- A split scenario will mean that LAC will lose access to the only gas fired generation in the LANL pool.

# Complementary Load Shapes are Valuable in a Market with Increasing DER and Balancing Needs

- LANL and LAC load shapes complement each other.
  - LANL load typically peaks during the afternoon, when the air conditioning and the laboratory equipment are in use
  - LAC load typically peaks in the evening
- Such complementary load shapes provide value to both entities, particularly in a market with increasing DER, intermittent resources, and balancing needs.





# County of Los Alamos

Los Alamos, NM 87544  
www.losalamosnm.us

## Staff Report

February 05, 2019

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**Agenda No.:** A.  
**Index (Council Goals):**  
**Presenters:** County Council - Work Session  
**Legislative File:** 11640-19

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### **Title**

Action to Suspend Council Rules for Work Session

### **Recommended Action**

**I move that Council suspend their procedural rules for the purpose of approving County Council minutes at this work session, February 5, 2019, so that formal action may be taken.**

### **Body**

The 2019 Los Alamos County Council Procedural Rules identifies a Work Session as follows:

**"Work Session.** The Council may schedule work sessions on a regular basis under the requirements of the annual Open Meetings Resolution. Council meetings designated as work sessions shall be held for the primary purpose of discussing issues at length with staff in an informal setting without taking formal action. Public comment will generally be taken only at the beginning and ending."

This action would suspend that rule for this meeting to enable Council to take action on specific items during this work session.



# County of Los Alamos

Los Alamos, NM 87544  
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## Staff Report

February 05, 2019

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**Agenda No.:** B.  
**Index (Council Goals):**  
**Presenters:** County Council - Work Session  
**Legislative File:** 11639-19

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### **Title**

**Strategic Leadership Plan Discussion**

### **Recommended Action**

**I move that Council adopt the 2019 Strategic Leadership Plan.**

### **County Manager's Recommendation**

The County Manager recommends that Council approve the revised Strategic Leadership Plan as requested.

### **Body**

The County Council held a Strategic Planning meeting on January 22, and during this meeting the prior year's plan was discussed in the context of comparing the Strategic Leadership Plan's priorities to the goals/priorities of several other existing County plans. All meeting attendees were invited to provide their input on these various plans and their relation to current needs/goals of the County, and ultimately a list of seven priorities was developed. Since that meeting, Chair Scott and Vice-Chair Sheehey have rolled up the results of this discussion, integrated these results with the 2018 Strategic Leadership Plan, and developed a draft 2019 Strategic Leadership Plan that reflects these seven priorities, including a list of supporting actions for each priority. This draft document is attached. The intent of this agenda item is for Council to provide their feedback regarding this draft plan, and for Council to potentially adopt the Plan, which would reflect any changes to the attached draft as a result of Council discussion, as its Strategic Leadership Plan for 2019.

### **Alternatives**

Council could choose to take no action or to postpone action until all feedback is incorporated into the document.

### **Fiscal and Staff Impact/Planned Item**

There is no direct fiscal impact anticipated as a result of any action, however the adoption of a Strategic Leadership Plan could inform budgetary decisions when the Council considers next year's budget this coming April.

### **Attachments**

A - Draft 2019 Strategic Leadership Plan



LOS ALAMOS

**DRAFT**


**Los Alamos County  
Strategic Leadership Plan  
2018 Update**

In January, 2019, the Los Alamos County Council identified 7 strategic priorities; these were subsequently adopted on XX, 2019. These priorities address issues important to the community that the Council agrees to focus and make progress on in the coming year; they are hard and cross-cutting and will support and help enable multiple initiatives currently underway. This does not mean that the county will only work on and invest in these priorities; they are a tool to help assure that in the context of all of the ongoing county efforts, a focus on a few high-level, important but challenging goals is maintained.


For each of these priorities, concrete actions for addressing them will be identified. Additionally, multiple mechanisms will be used to promote engagement with the community to clearly and more broadly communicate what the priorities are and elicit ideas and creative solutions for making progress. The status of the priorities will be reviewed and reported on a regular basis.

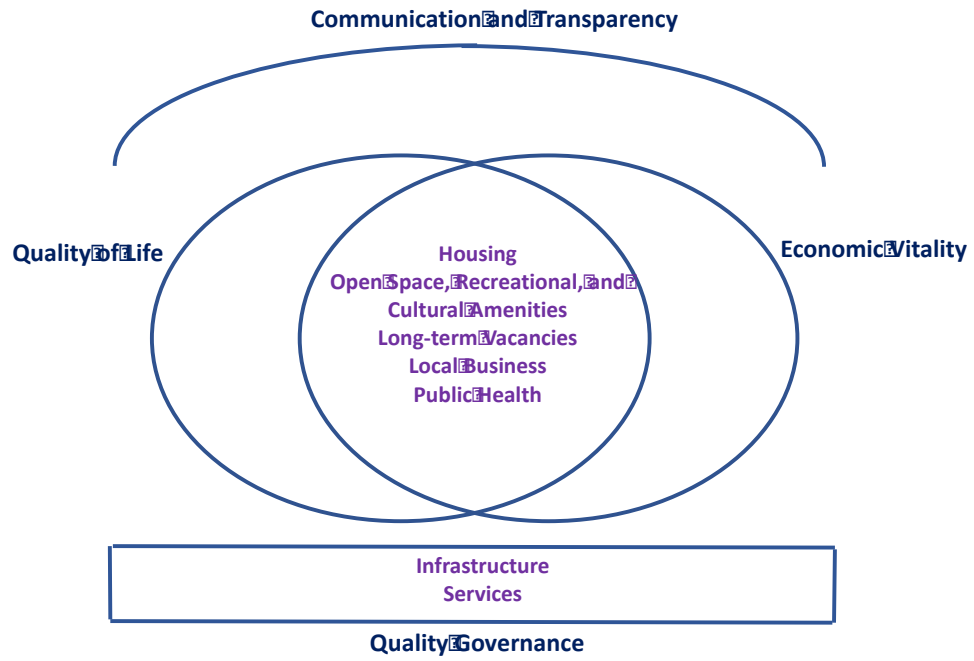
Ongoing improvement in communication and transparency in county policy setting is an overarching Council goal that will be a component of all our efforts.

These priorities were identified in the context of uncertainty regarding the County's Gross Receipts Tax revenue; it is understood that addressing priorities that require funding outlays will be contingent on the resolution of this uncertainty.



*Los Alamos is a world-renowned community where discovery and innovation are inspired by its dramatic history and magnificent mountain setting. We offer extraordinary educational, recreational, and cultural opportunities in a vibrant small town atmosphere.*





**Increasing the amount and types of housing options.** This includes a variety of housing options for all segments of the community, from affordable, entry level, and live-work housing to new options for those interested in downsizing or moving closer to central areas of the community.

**Enhancing support and opportunities for local businesses.** This includes appropriate support for retaining existing businesses, growing new businesses, and supporting technology start-ups and spin-offs.

**Addressing long-term building vacancies in key areas of our community.** Land availability in Los Alamos County, and in particular in the downtown areas, is limited and there is a desire to work towards better utilization, opportunities for new businesses, and improved aesthetics.

**Protecting and maintaining our open spaces, recreational, and cultural amenities.** Los Alamos County open spaces and cultural attractions are greatly valued by the community and provide opportunities for recreational and economic growth; assuring resources are being appropriately allocated to assure their health and support expanded and sustainable utilization is important to our citizens.

**Supporting public health improvement.** Citizen health is an important quality of life component and there are key areas where appropriate types and levels of county support could help address current needs.

**Investing in infrastructure.** Appropriately balancing maintenance of existing infrastructure with new investments in county utilities, roads, facilities and amenities will help improve environmental stewardship, sustainability, and quality of life.

**Planning for appropriate levels of county services.** Making sure we understand the level of services our citizens want will allow us to make appropriate investments in processes and staff to achieve them.

As noted, establishing these priorities is intended to help maintain focus on issues important to the community and support and help enable multiple ongoing initiatives important to the future of our community. These initiatives have benefitted from significant public involvement, time, and expertise and it is essential that we continue to work on:

- Implementation of the 2016 Comprehensive Plan, including an emphasis on neighborhoods and effectively managing commercial growth.
- Implementation of the 2018 Tourism Strategic Plan.
- Utilizing the recommendations of the Community Development Advisory Board.
- Addressing issues noted in the 2018 State of Health in Los Alamos.
- Pursuing key goals described in 2018 DRAFT Los Alamos County Economic Vitality Plan.
- Partnering with Los Alamos Public Schools and the University of New Mexico-Los Alamos, as appropriate, to support the high-quality educational opportunities in the community.
- Maintaining and improving transportation and mobility.
- Strengthening coordination and cooperation between County government, LANL, and regional and national partners.
- Collaborating with Los Alamos National Laboratory as the area's #1 employer.

Work towards the Department of Public Utilities Strategic Goals and integration of these efforts with activities in support of the County's strategic priorities will be essential for achieving desired outcomes effectively and efficiently; mechanisms for improving this integration are being implemented.



# County of Los Alamos

Los Alamos, NM 87544  
www.losalamosnm.us

## Staff Report

February 05, 2019

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**Agenda No.:** A.  
**Index (Council Goals):** \* 2018 Council Goal - N/A  
**Presenters:** Philo Shelton, Public Works Director  
**Legislative File:** CO0558-19

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### **.Title**

Incorporated County of Los Alamos Code Ordinance No. 692, an ordinance authorizing the County Manager or his designee to execute leases for hangars at the Los Alamos County Municipal Airport.

### **.Recommended Action**

**I introduce, without prejudice, Incorporated County of Los Alamos Ordinance No. 692, an ordinance authorizing the County Manager or his designee to execute leases for hangars at the Los Alamos County Municipal Airport and ask staff to assure that it is published as provided in the County Charter.**

### **...County Manager's Recommendation**

The County Manager recommends that Council introduce Incorporated County of Los Alamos Ordinance No. 692.

### **.Body**

Ordinance No. 544 authorizes the County Manager, or his designee, to execute Ground Leases for privately-owned hangars at the Los Alamos County Airport according to the lease forms attached as Attachments 1 and 2. The purpose of the proposed ordinance is to allow the County Manager to execute lease Agreements for county-owned aircraft hangars and aeronautical storage units. The County recently constructed a new aircraft hangar complex consisting of a large aircraft box hangar, three small aircraft T-hangars, and two aeronautical storage units. In addition to providing a new airport revenue source that will reduce General Fund subsidies, the hangars and storage units will also improve the airport's ability to attract and accommodate aviation-related commercial businesses, support critical emergency response services, and improve economic activity with additional based aircraft. The airport has a waiting list of 16 entities for the T-hangars and a local air medical business has submitted written interest in the large box hangar and one aeronautical storage unit.

### **.Alternatives**

Council may choose to not approve this Ordinance and require hangar and storage unit leases to be brought to Council for consideration. This is not recommended in consideration of Council's time, current practice, and staff's ability to quickly lease the hangars to maintain revenue for the Airport Fund.

### **.Fiscal and Staff Impact/New Item**

State Law requires municipal property to be leased at fair-market-value. Based on the lease rates for privately owned hangars at our airport and other airports in our area, staff proposed the following rates to Council when requesting funds for the construction of the hangar complex:

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\$1,250 per month for the large box hangar, \$400 per month for the small T-hangars, and \$200 per month for the aeronautical storage units. Staff believes these rates represent fair-market-value and will result in projected revenues of \$34,200 per year if fully leased. Rates will be adjusted annually based on the Consumer Price Index and market conditions.

**.Attachments**

A - Incorporated County of Los Alamos Code Ordinance No. 692

B - Incorporated County of Los Alamos Code Ordinance No. 544

**INCORPORATED COUNTY OF LOS ALAMOS ORDINANCE NO. 692**

**AN ORDINANCE AUTHORIZING THE COUNTY MANAGER  
OR HIS DESIGNEE TO EXECUTE LEASES FOR HANGARS  
AT THE LOS ALAMOS COUNTY MUNICIPAL AIRPORT**

**WHEREAS**, the Incorporated County of Los Alamos (“County”) is the fee simple owner of the Los Alamos County Municipal Airport (“Airport”); and

**WHEREAS**, pursuant to Article II, Chapter 14 of the Code of Ordinances of the Incorporated County of Los Alamos, the County Council is vested solely and exclusively with the legal authority to sell, lease, exchange or otherwise transfer county-owned real property and interests in county-owned real property; and

**WHEREAS**, pursuant to Article II, Chapter 14 of the Code of Ordinances of the Incorporated County of Los Alamos, the County Council may transfer a property interest in County owned real property pursuant to Section 3-54-1, N.M.S.A. (1978) because Article 10, Section 6 of the New Mexico Constitution vests County with all the powers granted to municipalities by state statute; and

**WHEREAS**, Section 3-54-1(A), N.M.S.A. (1978) provides that a municipality may lease any municipal facility or real property of any value normally leased in the regular operations of such a facility or real property without being subject to the referendum; and

**WHEREAS**, County has normally leased hangars located at the Airport in the regular operations of the Airport; and

**WHEREAS**, Ordinance No. 544, adopted October 6, 2009, authorized County Manager or his designee to execute ground leases at the Airport, whereby County leased the surface of the land to a tenant allowing the tenant to construct and own an improvement to the land, namely an airport hangar; and

**WHEREAS**, subsequent to the enactment of Ordinance No. 544, County acquired in fee simple and constructed new airport hangers located at the Airport; and

**WHEREAS**, the purpose of this Ordinance is to further delegate the County Council’s authority over certain County-owned property to the County Manager or his designee for the limited purpose of executing certain lease agreements for the airport hangers owned in fee by County; and

**WHEREAS**, Section 203 of the Los Alamos County Charter provides that any lease or authorization to lease real property owned by County shall be by ordinance; and

**WHEREAS**, the County Council desires to authorize the County Manager or his designee to enter into leases for hangars owned in fee by the County on commercially reasonable terms substantially according to the lease forms attached hereto as Attachments 1 and 2.

**NOW, THEREFORE, BE IT ORDAINED** that:

**Section 1. Finding.** County is authorized to lease real property pursuant to the provisions of Section 3-54-1(A), N.M.S.A. (1978).

**Section 2. Authorization to Lease the Premises; Execution of Lease by Authorized Officers.** The County Manager or his designee is hereby authorized to execute lease agreements for portions of the Airport on commercially reasonable terms substantially according to the lease forms attached hereto as Attachments 1 and 2.

**Section 3.** This authorization is in addition to the authority granted by Ordinance No. 544 authorizing the County Manager or his designee to execute certain ground leases for hangars at the Airport. Nothing in this Ordinance alters or amends Ordinance No. 544 or the ground leases associated therewith.

**Section 4. Effective Date.** This ordinance shall become effective thirty (30) days after publication of notice of its adoption.

**ADOPTED** this 19<sup>th</sup> day of February, 2019

**COUNCIL OF THE INCORPORATED COUNTY  
OF LOS ALAMOS**

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**Sara C. Scott,  
Council Chair**

**ATTEST: (Seal)**

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**Naomi D. Maestas,  
County Clerk**

**INCORPORATED COUNTY OF LOS ALAMOS  
LOS ALAMOS COUNTY AIRPORT  
NON-COMMERCIAL [HANGAR or STORAGE AREA] LEASE  
AGREEMENT**

This Lease (“Lease”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the Incorporated County of Los Alamos, an incorporated county of the State of New Mexico (“County”), and \_\_\_\_\_ (“Tenant”), collectively referred to herein as the “Parties”.

**1. Legal Description and Lease of Premises.**

County hereby leases to the Tenant and the Tenant hereby leases from County the following described aircraft [*hangar or storage area*] (“Premises”), being a part of the Los Alamos County Airport (“Airport”), Los Alamos County, New Mexico; to-wit:

[*Hangar or Storage Area*] No. \_\_\_\_ as shown on the Airport Property layout maintained by the Airport Manager which is incorporated here by reference.

**2. Rent.**

(a) Tenant will pay County monthly rent for the Premises as follows:

The Tenant will pay to the County a monthly rent in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) during the initial term. All rent for any partial month shall be pro-rated at the rate of 1/30<sup>th</sup> of the monthly rent for each day the Premises are occupied pursuant to this Lease. The rent for the first month is payable in full at the time of delivery to County of an executed original of this Lease and thereafter on or before the first day of any subsequent month this Lease is in force and effect.

(b) All rent and other charges become delinquent ten (10) days after the date they are due, at which time County will impose a penalty charge of interest at the rate of two percent (2 %) per month pro-rated daily from the due date until paid on the amount owing, which penalty shall be immediately due and owing. If all charges, including but not limited to the delinquent penalty, are not paid within twenty (20) days after written notice of the default in payment is sent to Tenant, County may immediately terminate this Lease and exercise all rights of default as provided herein.

(c) Tenant shall not be entitled to refund of the rent, in whole or in part, after this Lease is executed by both parties, if County terminates this Lease for cause. If Tenant terminates this Lease, then County shall refund an amount equal to the then-current monthly rent

divided by thirty (30) and multiplied by the number of calendar days remaining in the month, less a processing fee of \$50. If County terminates this Lease without cause, Tenant shall receive a refund of a part of the rent as described above.

- (d) After the Initial Term, and for each Renewal Term, the monthly rent for that Renewal Term shall be adjusted based the most recent federal CPIU, US City Average, all items (1982-84=100) as prepared by the US Bureau of Labor Statistics. County may also adjust rent based on market conditions. Tenant will be notified no later than thirty (30) days before the applicable monthly rent is due.

**3. Lease Term.**

- (a) **Initial Term.** The term of this Lease shall begin on \_\_\_\_\_, 20\_\_\_\_\_, and expire on \_\_\_\_\_, 20\_\_\_\_\_.
- (b) **Renewal Terms.** This Lease shall continue in effect from year to year, being automatically renewed after each year, unless either party gives written notice of termination, with or without cause, to the other party at least thirty (30) days prior to the end of the initial Lease term or any renewal term thereafter, or unless this Lease is terminated under any other provisions of this Lease. County does not guarantee any future renewal terms.

**4. Termination and Surrender.** The parties may terminate the Lease as provided herein, provided that the termination of this Lease shall not affect the obligations or liabilities previously incurred or accrued under this Lease.

- (a) **Mutual Termination.** This Lease may be terminated at any time by written agreement of the Parties.
- (b) **Termination by Tenant.** This Lease may be terminated at any time by Tenant upon thirty (30) days written notice. Upon the termination of this Lease, Tenant shall quietly and peacefully remove itself and its property from the Premises and surrender the possession thereof to County. Upon termination of this Lease, County may, in its discretion, declare any property that has not been removed from the Premises as abandoned property subject to removal and disposal without liability of any kind to County, and repair any resulting damage, and Tenant agrees to promptly reimburse County for any and all costs and expenses County may incur.
- (c) **Termination by County.** County may terminate this Lease at any time upon thirty (30) days written notice. If County terminates this Lease without cause, County shall refund an amount equal to the then-current monthly rent divided by thirty (30) and multiplied by the number of calendar days remaining in the month. If County terminates this Lease for cause, Tenant shall not be entitled to refund of the rent, in whole or in part.

## 5. Use of Premises.

- (a) **Authorized Use.** Tenant agrees the Premises shall only be used for those purposes directly involved with, makes possible, facilitates, is related to, assists in, or is required for the safe operation of an aircraft and/or the aeronautical activities expressly authorized in this Lease, and for no other purposes, without the express written consent of the Airport Manager.
- (b) **Occupancy.** Tenant agrees to occupy the Premises only while engaged in activities necessary to directly support the authorized use of the Premises. Tenant shall not use the Premises as a residence, office, or crew-quarters.
- (c) **Commercial Activities.** Tenant shall not use Premises to conduct commercial activities.
- (d) **Storage of Aircraft.** Tenant may store an aircraft (“Aircraft”), in the Premises, in which Tenant has an ownership or leasehold interest. Aircraft must be maintained in an airworthy condition as evidenced by a Federally issued Airworthiness Certificate and aircraft log books. County may, upon thirty (30) days written notice, remove, relocate and/or store any non-airworthy aircraft at Tenant’s sole expense. Tenant shall notify Airport Manager within ten (10) days of selling and/or replacing Aircraft.
- (e) **Storage of Support Items.** Tenant may store, in the Premises, only those supplies, materials, parts, tools, equipment, and other items necessary, and limited to quantities sufficient, to directly support the authorized use of the Premises. All hazardous substances must be labeled, stored, used and disposed of in accordance with all local, state and federal requirements. All flammables shall be stored in approved safety containers and storage cabinets. Storage of flammables, including aircraft fuel external to the Aircraft, shall be limited to a maximum of five (5) gallons without the express written approval of the Airport Manager and Fire Marshall. Storage of support items shall not create a hazard or restrict access/movement of any stored Aircraft. Support items shall not be stored outside of the Premises. A vehicle may be parked in the Premises while the Aircraft, if any, is in use.
- (f) **Aircraft Maintenance.** Aircraft maintenance shall not be performed in or around the Premises, except such minor maintenance as would normally be performed by an aircraft owner without the benefit of an aircraft mechanic and as defined in 14 CFR Part 43. Such use is conditioned on the restrictions identified herein. Aircraft engine runs, taxi operations, fueling, defueling, welding, open-flame soldering, charging batteries unattended, sanding, stripping, priming, painting, sealing, and fiberglass work in the Premises is prohibited.
- (g) **Aircraft Construction.** Aircraft construction shall not be performed in or around the Premises.

(h) **Unauthorized Use.** Any unauthorized use of the Premises by the Tenant, its employees, agents or invitees, shall be considered a Tenant Event of Default, as described herein. The determination of whether Tenant is in material default of this Lease as a result of use shall be determined in the sole discretion of the Airport Manager.

## 6. Condition and Care of Premises.

(a) **Condition of the Premises.** The Airport Manager and Tenant have inspected the Premises prior to the execution of this Lease and documented any existing defects and attached as reference to this Lease. Tenant hereby accepts the Premises in its present condition without any liability or obligation on the part of County to make any alterations, improvements or repairs of any kind which would constitute a change to the present condition of the Premises.

(b) **Tenant Responsibility for Care.** Tenant shall keep the Premises, and the area immediately adjoining the Premises, neat, clean and free of grease, oil, rags, paper and other debris. Dust, fumes, noise and refuse shall be mitigated and contained in a manner as to not create a hazard or nuisance. Cleaning up of spills or other debris thereon shall be the responsibility of Tenant. Tenant shall immediately clean up any spills of hazardous substances and notify the fire department of any flammable liquid spills in excess of one (1) gallon. After ten (10) days written notice by County of an unacceptable condition, County will remedy the condition and bill Tenant for the expenses thereof, plus fifteen (15) percent, which Tenant agrees to pay within twenty (20) days of receipt of such billing statement.

(c) **County Responsibility for Care.** County will maintain the structural components of the Premises, including doors and door mechanisms, and will maintain light fixtures, bulbs, and electrical components of the Premises, and perform normal building maintenance without additional cost to Tenant. County will provide snow removal in accordance with the Airport Rules and Regulations.

(d) **Damage and Repairs.** Tenant shall immediately report to the Airport Manager any damage or defect to the Premises. Tenant shall be responsible for the cost to repair any damage to the Premises, or other County property, resulting from Tenant's direct actions, inactions, and/or neglect. In such circumstances, Tenant agrees to pay the costs of repair, plus fifteen (15) percent, within twenty (20) days of receipt of such invoice statement.

(e) **Premises Doors and Security.** Tenant shall not place a personal lock on Premises doors and must use only the locks installed on the Premises by County. County shall provide Tenant keys for all Premises doors. Tenant shall be responsible for all costs associated with lost keys and/or damaged doors. Premises doors shall remain locked when not occupied. The large [*hangar or storage area*] door shall be operated in accordance with the following restrictions: 1) door locks and stays shall be unlocked, and the door, tracks,

and threshold shall be clear during operation and, 2) door shall be closed and locked when wind speeds are equal to or greater than 40 MPH.

7. **Fire Safety.** Smoking is prohibited in or around the Premises. Extension cords, and/or surge protectors shall not be used to gain additional outlets, attached to any part of the structure of the Premises, extended through walls, ceilings, under doors or floor coverings, daisy-chained, or positioned such in a manner that could damage the cord. Existing wiring, outlets and/or fixtures shall not be modified. Access to county-provided fire extinguishers shall not be obstructed or obscured from view. Tenant shall immediately notify the Airport Manager if the fire extinguisher is discharged at any time, or a fire extinguisher is determined to be non-serviceable.
8. **Improvements to Premises.**
  - (a) **Improvements to the Premises.** Modifications, additions, installations, attachments, painting, marking, defacing, drilling, cutting, bending, or any other type of alteration (collectively, "Improvements") to the Premises is prohibited without the express written consent of the Airport Manager, which authorization may be given or denied in County's sole discretion. Tenant shall make no Improvements other than those Improvements specifically authorized by County. Any authorized Improvements shall be made at the sole expense of Tenant.
  - (b) **Removal of Improvements.** Upon the termination of this Lease, Tenant shall remove any Improvements and repair any resulting damage to the Premises, at its sole expense. County may, with express written consent, allow the Improvements to remain on the Premises without any payment or compensation to the Tenant.
9. **County Access to Premises.** County reserves the right to enter the Premises at any time and by whatever means necessary for purposes including, but not limited to making necessary repairs and improvements, supplying necessary services, inspecting for compliance, exhibiting to workers, contractors or perspective tenants, responding to emergencies, complying with a court order, or when County reasonably believes Tenant has abandoned or surrendered the Premises.
10. **Emergency Removal of Personal Property.** In the event of an emergency, or other similar situation, and reasonable notice is not possible or practical, County may remove, relocate and/or store personal property, including Aircraft. County shall exercise reasonable care in removing, relocating and/or storing personal property, including aircraft, pursuant to this paragraph.
11. **Substitution of Premises.** County reserves the right to require the Tenant to use a substitute space, whether it has a *[hangar or storage area]*. If the substitution of the Premises is unacceptable to the Tenant, the Tenant may terminate this Lease.

## 12. Utilities and Services.

- (a) **Electricity.** County shall provide electrical utility services to the Premises, the cost of which is included in the rent. Lights, fans, compressors, or other electrical equipment, other than engine heaters installed in the Aircraft, shall not be left on unattended. Use of electric area heaters or air conditioning units is strictly prohibited. County reserves the right to assess an additional fee for high electrical consumption by the Tenant as shall be determined in the sole discretion of the County.
- (b) **Refuse.** Tenant shall supply any needed refuse containers within the Premises. County shall provide a refuse container for Tenant to use, in common with other Airport users, to dispose of refuse directly related to the support of the authorized uses of the Premises. Use of the refuse container to dispose of hazardous substances or refuse not directly related to the authorized uses of the Premises is strictly prohibited.
- (c) **Waste Oil.** County shall provide a waste oil bowser for Tenant to use, in common with other Airport users, to dispose aircraft engine oil. Use of waste oil bowser to dispose of any fluids other than aircraft engine oil is strictly prohibited.
- (d) **Aircraft Washing.** County shall provide an area for Tenant to use, in common with other Airport users, for aircraft washing. Use of the area is limited to aircraft only; washing of vehicles, equipment, parts or other personal property is strictly prohibited.

**13. Use of Airport.** Tenant shall have use, in common with other Airport users, of aircraft operating areas, public roads and parking lots during the pendency of the Lease. This Lease shall not be construed to convey to Tenant the exclusive use of any part of the Airport except the Premises described in Section 1 herein.

**14. Closure of the Airport.** County may close the Airport, or areas of the Airport, in the event of inclement weather, an emergency, at the request of the state or federal governments, as may be required by local, state or federal regulation, or as deemed necessary by the County. County will attempt, as circumstances permit, to provide reasonable advance notice of an Airport closure. Closure of the Airport by the County pursuant to this paragraph shall not abate or excuse the tenant for any duty or obligation under this lease.

**15. Required Documentation.** During the term of this Lease, Tenant shall acquire and keep current all licenses, certificates, registrations, insurances, and other documentation as required by local, state and federal regulations for the uses and activities associated with this Lease. Tenant shall submit the following documentation to the County and update any changes within ten (10) days:

- (a) **Aircraft Documents, if Storing an Aircraft:**

- i. FAA Aircraft registration and contact information for all Aircraft owners.
- ii. Evidence of ownership or leasehold of Aircraft, if not registered to Tenant.
- iii. Current FAA Airworthiness Certificate.

(b) **Proof of insurance:** Current declarations page, listing County as additional insured, with minimums required herein.

**16. Required Insurance.** During the term of this Lease, Tenant shall maintain in force and effect the following insurance, listing County as an additional insured, in such minimum amounts as are specified in the New Mexico Tort Claims Act, Sections 41-4-1 et seq., NMSA (1978), as amended from time to time:

(a) **Aircraft Liability Insurance:** One Million Dollars (\$1,000,000.00) per occurrence, if storing an aircraft.

(b) **General Liability Insurance for property damage, injury or death resulting from occurrences on the Airport:** One Million Dollars (\$1,000,000.00) per occurrence.

**17. Indemnity.** Tenant hereby releases County from any loss or damage suffered by Tenant or any third party as a result of Tenant's use of the Premises and/or Airport, and Tenant hereby agrees to indemnify and hold harmless and defend County from and against all liabilities, claims, demands, settlements, actions, costs and expenses (including reasonable attorneys' fees) of any kind or nature, legal or equitable, arising from injury or death to persons or damages to property in any way arising out of, or related to, Tenant's use of the Premises, Airport or this Lease, provided, that said indemnification shall not extend to damages resulting from the negligent acts or willful misconduct of County, its employees, contractors or agents, and provided further that any such indemnification or defense shall be limited as specified in Tenant's insurance policy.

**18. Compliance with Environmental, Health & Safety and Other Applicable Laws.** Tenant shall comply with all applicable environmental, safety and health laws and regulations. Tenant shall not interfere with the environmental clean-up or restoration actions of County, or any of their contractors. Tenant shall also comply with any and all other applicable federal and state laws, rules and regulations, all applicable provisions of the County Code, and the Airport Rules and Regulations.

**19. Required FAA Provisions.**

(a) **Exclusive Rights.** Notwithstanding anything herein contained that may be, or appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this Lease are non-exclusive and the County herein reserves the right to grant similar privileges to other Tenants.

(b) **Title VI Nondiscrimination.** The Tenant for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Tenant will use the Premises in compliance with all other requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, County will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

(c) **General Civil Rights.** The Tenant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Tenant transfers its obligation to another, the transferee is obligated in the same manner as the Tenant. This provision obligates the Tenant for the period during which the property is used by the Tenant and the airport remains obligated Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

## 20. Default.

(a) **Tenant Event of Default.** An “Tenant Event of Default” under this lease means the occurrence of any of the following:

- i. Tenant breaches any provision of or defaults under this lease, and such breach or default is not cured or remedied within thirty (30) days after written notice of such breach or default, provided that County may extend said cure-period for an additional ninety (90) days upon good cause shown, and provided further that County’s remedies for default in rent payments shall not be subject to these notice requirements.
- ii. Tenant files a petition in bankruptcy or for reorganization or for any arrangement pursuant to any present or future federal bankruptcy act or under any similar federal or state law, or shall be adjudicated a bankrupt or insolvent or shall make an assignment for the benefit of its creditors.
- iii. A receiver, trustee or liquidator of Tenant or of all or substantially all of the property of Tenant, including the leased Premises, shall be appointed in any proceeding.

(b) **Termination for Tenant Event of Default.** Upon the occurrence of any Tenant Event of Default:

- i. County may terminate this Lease and the Term hereof without any right on the part of Tenant to waive the forfeiture by payment of any sum due or by performance of any other condition, term or covenant broken or in any other manner to reinstate this Lease; upon such termination, County shall be entitled to retain and to recover: (1) all Rent that shall have accrued through the date of termination, plus (2) any other reasonable amount necessary to compensate County for all damages, if any, caused by Tenant's failure to perform its obligations under this Lease (including, without limitation, reasonable attorneys' fees, disbursements and other charges, and costs of alterations of the Leased Premises); and
- ii. The County may terminate Tenant's right of possession and may repossess the Leased Premises by legal proceedings or otherwise, with or without terminating this Lease, after reentry or retaking or recovering of the Leased Premises, whether by termination of this Lease or not, County may re-let the same or a portion thereof for such rent and upon such terms as are commercially reasonable and be deemed advisable by County; and whether or not the Leased Premises are re-let, Tenant shall be liable for the losses and damages provided for and pursuant to Lease; provided however, if County seeks to recover lost rent from Tenant, County shall attempt to mitigate its losses by using good faith efforts to re-let the Leased Premises; and
- iii. County may exercise any other right, remedy, or privilege that may be available to it under this Lease or under applicable federal, state, or local law.

(c) **Remedies.** All remedies of County shall be cumulative and the election of one shall not preclude the exercise of another, at the same time or subsequently. County shall be required hereby to mitigate any of its damages hereunder. No termination of this Lease, cure by County of any Tenant Event of Default hereunder, repossession or re-letting of the Leased Premises, exercise of any remedy or collection of any damages shall relieve Tenant of any of its obligations hereunder.

(d) **County Event of Default.** In the event that County fails to perform or observe any obligations under this Lease, and any such failure is not cured or remedied within thirty (30) days after written notice of such breach or default (provided that such cure period shall be extended by Tenant for up to an additional ninety (90) days if such breach or default cannot reasonably be cured within the initial thirty (30) days and the County demonstrates to Tenant that County is diligently attempting to cure the same), then such failure shall, unless and until cured or remedied, constitute a "**County Event of Default**" under this Lease; provided that any such breach or default shall not be on account of any action or inaction on the part of another party. Tenant shall have no claim or rights against County with respect to any failure by County unless an uncured County Event of Default shall exist. Upon such event of default, Tenant may terminate this Lease.

(e) **Force Majeure.** Neither Tenant nor County shall be in default under this Lease if such performance of any obligation, duty or act is delayed or prevented by or due to events of Force Majeure.

- i. Notwithstanding any other provision herein, the term “**Force Majeure**” shall mean any delay in completing or performing any obligation under this Lease which arises from acts of God, labor disputes, fire, freight embargos, unavoidable casualty, flood (assuming the Tenant has taken reasonable precautions), earthquake, epidemic, civil disturbance, terrorism, war, riot, sabotage (by persons other than Tenant, its agents, employees or assigns), the discovery of archeological remains or objects of antiquity, the discovery of Hazardous Materials in, on or under the Land other than those that were brought to the Land by the Tenant, its subcontractors, invitees or tenants, or other similar acts or conditions, each case only to the extent the event in question is beyond the reasonable control and without the fault or negligence of the delayed party or its respective agent, employee or assign.
- ii. In the case of delay due to Force Majeure, the time within which the Party must comply with any of the terms, covenants and conditions of this Lease shall be extended by a period of time equal to the period of time that performance by the Party is delayed or prevented by the causes specified above, provided that within thirty (30) days of the commencement of the cause of delay the Party shall have notified the other Party of the existence of such cause of delay.

**21. Notices.** Any notice required or permitted to be delivered pursuant to this Lease shall be deemed received when hand delivered to the other party or three (3) days after deposit in the United States mail, postage prepaid, addressed to County or Tenant, or emailed, as the case may be, at the address stated below:

County:  
Los Alamos County Airport  
c/o Airport Manager  
1040 Airport Road  
Los Alamos, New Mexico 87544  
E-Mail: \_\_\_\_\_

Tenant:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may give notice of change of address by following the notice procedure set out herein. Any such change of address shall be effective immediately upon receipt by the other party.

**22. Successors and Assigns.** The terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of the successors and/or assigns of the parties hereto.

### **23. Applicable Law.**

- (a) **Jurisdiction.** This Lease shall be governed by New Mexico law. Venue for any judicial action shall be either in the First Judicial District Court in Los Alamos County, New Mexico or in the U.S. District Court, District of New Mexico.
- (b) **State and Federal Law.** This Lease is subject to all applicable State and Federal laws as well as all articles and conditions of grant agreements entered into between County and the Federal Aviation Administration and the Division of Aviation, Department of Transportation of the State of New Mexico, and nothing contained herein shall be construed to prevent County from making such further commitments as it desires to make to the Federal Government or to the State of New Mexico so as to qualify for further expenditure of federal and/or state funds at the Airport.
- (c) **Local Ordinances.** This Lease shall be subject and subordinate to all ordinances of the County of Los Alamos, the Rules and Regulations of the Airport and/or the Minimum Standards for Aeronautical Business Activities at the Airport, as the same may be in effect and amended from time to time.

**24. No Waiver of Defaults.** The failure of either party to take any action with respect to any default by the other party hereunder shall not be construed as a waiver or relinquishment of the non-defaulting party's right to the future performance of any such terms, covenants or conditions and the defaulting party's obligations in respect to such future performance shall continue in full force and effect.

**25. Assignment.** Tenant shall not assign this Lease in whole or in part or sublet the Premises without the prior express written consent of the Airport Manager and any attempted unauthorized assignment or subletting shall be void.

**26. Liens, Attachments and Encumbrances.** Should Tenant permit or cause to be filed of record any encumbrance, attachment or lien against the Premises, such filing shall be deemed a Tenant Event of Default unless cured by Tenant within ninety (90) days of the filing of such encumbrance, attachment or lien or unless within such ninety (90) day period Tenant shall initiate a contest of such encumbrance, attachment or lien in a court of competent jurisdiction.

### **27. Interpretation.**

- (a) **Severability.** It is the intention of the parties hereto that the provisions of this Lease shall be severable with respect to declaration of invalidity of any provision contained herein. Should any provision be found to be void or unenforceable, the remaining provisions shall remain in full force and effect.

(b) **Headings.** The paragraph headings are for convenience only and do not define, limit or describe the contents of such paragraphs.

**28. Modification of Lease.** Any modification of this Lease shall be binding only if evidenced in writing signed by both parties.

**29. Entire Lease.** This Lease constitutes the entire Lease between the parties regarding the subject matter hereof. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease.

**IN WITNESS WHEREOF,** the parties hereto have executed this Lease on the dates indicated.

**TENANT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Date: \_\_\_\_\_

**Tenant's Telephone Numbers**

Primary: \_\_\_\_\_

Alternate: \_\_\_\_\_

**INCORPORATED COUNTY OF  
LOS ALAMOS:**

\_\_\_\_\_  
Harry Burgess Date  
County Manager

**ATTEST:**

\_\_\_\_\_  
Naomi D. Maestas  
Los Alamos County Clerk

**INCORPORATED COUNTY OF LOS ALAMOS**  
**LOS ALAMOS COUNTY AIRPORT**  
**COMMERCIAL [HANGAR or STORAGE AREA] LEASE AGREEMENT**

This Lease (“Lease”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the Incorporated County of Los Alamos, an incorporated county of the State of New Mexico (“County”), and \_\_\_\_\_ (“Tenant”), collectively referred to herein as the “Parties”.

**1. Legal Description and Lease of Premises.**

County hereby leases to the Tenant and the Tenant hereby leases from County the following described aircraft [*hangar or storage area*] (“Premises”), being a part of the Los Alamos County Airport (“Airport”), Los Alamos County, New Mexico; to-wit:

[*Hangar or Storage Area*] No. \_\_\_\_ as shown on the Airport Property layout maintained by the Airport Manager which is incorporated here by reference.

**2. Rent.**

(a) Tenant will pay County monthly rent for the Premises as follows:

The Tenant will pay to the County a monthly rent in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) during the initial term. All rent for any partial month shall be pro-rated at the rate of 1/30<sup>th</sup> of the monthly rent for each day the Premises are occupied pursuant to this Lease. The rent for the first month is payable in full at the time of delivery to County of an executed original of this Lease and thereafter on or before the first day of any subsequent month this Lease is in force and effect.

(b) All rent and other charges become delinquent ten (10) days after the date they are due, at which time County will impose a penalty charge of interest at the rate of two percent (2 %) per month pro-rated daily from the due date until paid on the amount owing, which penalty shall be immediately due and owing. If all charges, including but not limited to the delinquent penalty, are not paid within twenty (20) days after written notice of the default in payment is sent to Tenant, County may immediately terminate this Lease and exercise all rights of default as provided herein.

(c) Tenant shall not be entitled to refund of the rent, in whole or in part, after this Lease is executed by both parties, if County terminates this Lease for cause. If Tenant terminates this Lease, then County shall refund an amount equal to the then-current monthly rent divided by thirty (30) and multiplied by the number of calendar days remaining in the

month, less a processing fee of \$50. If County terminates this Lease without cause, Tenant shall receive a refund of a part of the rent as described above.

- (d) After the Initial Term, and for each Renewal Term, the monthly rent for that Renewal Term shall be adjusted based the most recent federal CPIU, US City Average, all items (1982-84=100) as prepared by the US Bureau of Labor Statistics. County may also adjust rent based on market conditions. Tenant will be notified no later than thirty (30) days before the applicable monthly rent is due.

**3. Lease Term.**

- (a) **Initial Term.** The term of this Lease shall begin on \_\_\_\_\_, 20\_\_\_\_, and expire on \_\_\_\_\_, 20\_\_\_\_\_.
- (b) **Renewal Terms.** This Lease shall continue in effect from year to year, being automatically renewed after each year, unless either party gives written notice of termination, with or without cause, to the other party at least thirty (30) days prior to the end of the initial Lease term or any renewal term thereafter, or unless this Lease is terminated under any other provisions of this Lease. County does not guarantee any future renewal terms.

**4. Termination and Surrender.** The parties may terminate the Lease as provided herein, provided that the termination of this Lease shall not affect the obligations or liabilities previously incurred or accrued under this Lease.

- (a) **Mutual Termination.** This Lease may be terminated at any time by written agreement of the Parties.
- (b) **Termination by Tenant.** This Lease may be terminated at any time by Tenant upon thirty (30) days written notice. Upon the termination of this Lease, Tenant shall quietly and peacefully remove itself and its property from the Premises and surrender the possession thereof to County. Upon termination of this Lease, County may, in its discretion, declare any property that has not been removed from the Premises as abandoned property subject to removal and disposal without liability of any kind to County, and repair any resulting damage, and Tenant agrees to promptly reimburse County for any and all costs and expenses County may incur.
- (c) **Termination by County.** County may terminate this Lease at any time upon thirty (30) days written notice. If County terminates this Lease without cause, County shall refund an amount equal to the then-current monthly rent divided by thirty (30) and multiplied by the number of calendar days remaining in the month. If County terminates this Lease for cause, Tenant shall not be entitled to refund of the rent, in whole or in part.

## 5. Use of Premises.

- (a) **Authorized Use.** Tenant agrees the Premises shall only be used for those purposes directly involved with, makes possible, facilitates, is related to, assists in, or is required for the safe operation of an aircraft and/or the aeronautical activities expressly authorized in this Lease, and for no other purposes, without the express written consent of the Airport Manager.
- (b) **Occupancy.** Tenant agrees to occupy the Premises only while engaged in activities necessary to directly support the authorized use of the Premises. Tenant shall not use the Premises as a residence, office, or crew-quarters.
- (c) **Commercial Activities.** Tenant is authorized to use the Premises to operate the following aeronautical business, as defined and stipulated by the Airport Minimum Standards: *[Business]*. Said use shall be limited to Tenant and no other persons, entities or businesses. Should the Tenant not actively be engaged in the *[business]* for a period exceeding three (3) months, the County reserves the right to rescind its approval for such activities and/or terminate this Lease.
- (d) **Storage of Aircraft.** Tenant may store an aircraft (“Aircraft”), in the Premises, in which Tenant has an ownership or leasehold interest. Aircraft must be maintained in an airworthy condition as evidenced by a Federally issued Airworthiness Certificate and aircraft log books. County may, upon thirty (30) days written notice, remove, relocate and/or store any non-airworthy aircraft at Tenant’s sole expense. Tenant shall notify Airport Manager within ten (10) days of selling and/or replacing Aircraft.
- (e) **Storage of Support Items.** Tenant may store, in the Premises, only those supplies, materials, parts, tools, equipment, and other items necessary, and limited to quantities sufficient, to directly support the authorized use of the Premises. All hazardous substances must be labeled, stored, used and disposed of in accordance with all local, state and federal requirements. All flammables shall be stored in approved safety containers and storage cabinets. Storage of flammables, including aircraft fuel external to the Aircraft, shall be limited to a maximum of five (5) gallons without the express written approval of the Airport Manager and Fire Marshall. Storage of support items shall not create a hazard or restrict access/movement of any stored Aircraft. Support items shall not be stored outside of the Premises. A vehicle may be parked in the Premises while the Aircraft, if any, is in use.
- (f) **Aircraft Maintenance.** Aircraft maintenance may be performed in the Premises. Such use is conditioned on restrictions identified herein. Aircraft engine runs, taxi operations, fueling, defueling, welding, open-flame soldering, charging batteries unattended, sanding, stripping, priming, painting, sealing, and fiberglass work in the Premises is prohibited.
- (g) **Aircraft Construction.** Aircraft construction shall not be performed in or around the Premises.

- (h) **Unauthorized Use.** Any unauthorized use of the Premises by the Tenant, its employees, agents or invitees, shall be considered a Tenant Event of Default, as described herein. The determination of whether Tenant is in material default of this Lease as a result of use shall be determined in the sole discretion of the Airport Manager.

**6. Condition and Care of Premises.**

- (a) **Condition of the Premises.** The Airport Manager and Tenant have inspected the Premises prior to the execution of this Lease and documented any existing defects and attached as reference to this Lease. Tenant hereby accepts the Premises in its present condition without any liability or obligation on the part of County to make any alterations, improvements or repairs of any kind which would constitute a change to the present condition of the Premises.
- (b) **Tenant Responsibility for Care.** Tenant shall keep the Premises, and the area immediately adjoining the Premises, neat, clean and free of grease, oil, rags, paper and other debris. Dust, fumes, noise and refuse shall be mitigated and contained in a manner as to not create a hazard or nuisance. Cleaning up of spills or other debris thereon shall be the responsibility of Tenant. Tenant shall immediately clean up any spills of hazardous substances and notify the fire department of any flammable liquid spills in excess of one (1) gallon. After ten (10) days written notice by County of an unacceptable condition, County will remedy the condition and bill Tenant for the expenses thereof, plus fifteen (15) percent, which Tenant agrees to pay within twenty (20) days of receipt of such billing statement.
- (c) **County Responsibility for Care.** County will maintain the structural components of the Premises, including doors and door mechanisms, and will maintain light fixtures, bulbs, and electrical components of the Premises, and perform normal building maintenance without additional cost to Tenant. County will provide snow removal in accordance with the Airport Rules and Regulations.
- (d) **Damage and Repairs.** Tenant shall immediately report to the Airport Manager any damage or defect to the Premises. Tenant shall be responsible for the cost to repair any damage to the Premises, or other County property, resulting from Tenant's direct actions, inactions, and/or neglect. In such circumstances, Tenant agrees to pay the costs of repair, plus fifteen (15) percent, within twenty (20) days of receipt of such invoice statement.
- (e) **Premises Doors and Security.** Tenant shall not place a personal lock on Premises doors and must use only the locks installed on the Premises by County. County shall provide Tenant keys for all Premises doors. Tenant shall be responsible for all costs associated with lost keys and/or damaged doors. Premises doors shall remain locked when not occupied. The large [*hangar or storage area*] door shall be operated in accordance with

the following restrictions: 1) door locks and stays shall be unlocked, and the door, tracks, and threshold shall be clear during operation and, 2) door shall be closed and locked when wind speeds are equal to or greater than 40 MPH.

- 7. Fire Safety.** Smoking is prohibited in or around the Premises. Extension cords, and/or surge protectors shall not be used to gain additional outlets, attached to any part of the structure of the Premises, extended through walls, ceilings, under doors or floor coverings, daisy-chained, or positioned such in a manner that could damage the cord. Existing wiring, outlets and/or fixtures shall not be modified. Access to county-provided fire extinguishers shall not be obstructed or obscured from view. Tenant shall immediately notify the Airport Manager if the fire extinguisher is discharged at any time, or a fire extinguisher is determined to be non-serviceable.
- 8. Improvements to Premises.**

  - (a) **Improvements to the Premises.** Modifications, additions, installations, attachments, painting, marking, defacing, drilling, cutting, bending, or any other type of alteration (collectively, “Improvements”) to the Premises is prohibited without the express written consent of the Airport Manager, which authorization may be given or denied in County’s sole discretion. Tenant shall make no Improvements other than those Improvements specifically authorized by County. Any authorized Improvements shall be made at the sole expense of Tenant.
  - (b) **Removal of Improvements.** Upon the termination of this Lease, Tenant shall remove any Improvements and repair any resulting damage to the Premises, at its sole expense. County may, with express written consent, allow the Improvements to remain on the Premises without any payment or compensation to the Tenant.
- 9. County Access to Premises.** County reserves the right to enter the Premises at any time and by whatever means necessary for purposes including, but not limited to making necessary repairs and improvements, supplying necessary services, inspecting for compliance, exhibiting to workers, contractors or perspective tenants, responding to emergencies, complying with a court order, or when County reasonably believes Tenant has abandoned or surrendered the Premises.
- 10. Emergency Removal of Personal Property.** In the event of an emergency, or other similar situation, and reasonable notice is not possible or practical, County may remove, relocate and/or store personal property, including Aircraft. County shall exercise reasonable care in removing, relocating and/or storing personal property, including aircraft, pursuant to this paragraph.

**11. Substitution of Premises.** County reserves the right to require the Tenant to use a substitute space, whether it has a *[hangar or storage area]*. If the substitution of the Premises is unacceptable to the Tenant, the Tenant may terminate this Lease.

**12. Utilities and Services.**

- (a) **Electricity.** Tenant shall acquire and pay for electrical service to the Premises.
- (b) **Refuse.** Tenant shall supply any needed refuse containers within the Premises. County shall provide a refuse container for Tenant to use, in common with other Airport users, to dispose of refuse directly related to the support of the authorized uses of the Premises. Use of the refuse container to dispose of hazardous substances or refuse not directly related to the authorized uses of the Premises is strictly prohibited.
- (c) **Waste Oil.** County shall provide a waste oil bowser for Tenant to use, in common with other Airport users, to dispose aircraft engine oil. Use of waste oil bowser to dispose of any fluids other than aircraft engine oil is strictly prohibited.
- (d) **Aircraft Washing.** County shall provide an area for Tenant to use, in common with other Airport users, for aircraft washing. Use of the area is limited to aircraft only; washing of vehicles, equipment, parts or other personal property is strictly prohibited.

**13. Use of Airport.** Tenant shall have use, in common with other Airport users, of aircraft operating areas, public roads and parking lots during the pendency of the Lease. This Lease shall not be construed to convey to Tenant the exclusive use of any part of the Airport except the Premises described in Section 1 herein.

**14. Closure of the Airport.** County may close the Airport, or areas of the Airport, in the event of inclement weather, an emergency, at the request of the state or federal governments, as may be required by local, state or federal regulation, or as deemed necessary by the County. County will attempt, as circumstances permit, to provide reasonable advance notice of an Airport closure. Closure of the Airport by the County pursuant to this paragraph shall not abate or excuse the tenant for any duty or obligation under this lease.

**15. Required Documentation.** During the term of this Lease, Tenant shall acquire and keep current all licenses, certificates, registrations, insurances, and other documentation as required by local, state and federal regulations for the uses and activities associated with this Lease. Tenant shall submit the following documentation to the County and update any changes within ten (10) days:

- (a) **FAA Documents:** Current Operating Certificate or License.
- (b) **Aircraft Documents, if Storing an Aircraft:**

- i. FAA Aircraft registration and contact information for all Aircraft owners.
- ii. Evidence of ownership or leasehold of Aircraft, if not registered to Tenant.
- iii. Current FAA Airworthiness Certificate.

(c) **Proof of insurance:** Current declarations page, listing County as additional insured, with minimums required herein.

**16. Required Insurance.** During the term of this Lease, Tenant shall maintain in force and effect the following insurance, listing County as an additional insured, in such minimum amounts as are specified in the New Mexico Tort Claims Act, Sections 41-4-1 et seq., NMSA (1978), as amended from time to time:

(a) **Aircraft Liability Insurance:** One Million Dollars (\$1,000,000.00) per occurrence, if storing an aircraft.

(b) **General Liability Insurance for property damage, injury or death resulting from occurrences on the Airport:** One Million Dollars (\$1,000,000.00) per occurrence.

**17. Indemnity.** Tenant hereby releases County from any loss or damage suffered by Tenant or any third party as a result of Tenant's use of the Premises and/or Airport, and Tenant hereby agrees to indemnify and hold harmless and defend County from and against all liabilities, claims, demands, settlements, actions, costs and expenses (including reasonable attorneys' fees) of any kind or nature, legal or equitable, arising from injury or death to persons or damages to property in any way arising out of, or related to, Tenant's use of the Premises, Airport or this Lease, provided, that said indemnification shall not extend to damages resulting from the negligent acts or willful misconduct of County, its employees, contractors or agents, and provided further that any such indemnification or defense shall be limited as specified in Tenant's insurance policy.

**18. Compliance with Environmental, Health & Safety and Other Applicable Laws.** Tenant shall comply with all applicable environmental, safety and health laws and regulations. Tenant shall not interfere with the environmental clean-up or restoration actions of County, or any of their contractors. Tenant shall also comply with any and all other applicable federal and state laws, rules and regulations, all applicable provisions of the County Code, and the Airport Rules and Regulations.

**19. Required FAA Provisions.**

(a) **Economic Nondiscrimination.** Tenant agrees to 1) furnish commercial services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that

the Tenant may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

- (b) **Exclusive Rights.** Notwithstanding anything herein contained that may be, or appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this Lease are non-exclusive and the County herein reserves the right to grant similar privileges to other Tenants.
- (c) **Title VI Nondiscrimination.** The Tenant for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Tenant will use the Premises in compliance with all other requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, County will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.
- (d) **General Civil Rights.** The Tenant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Tenant transfers its obligation to another, the transferee is obligated in the same manner as the Tenant. This provision obligates the Tenant for the period during which the property is used by the Tenant and the airport remains obligated Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

## 20. Default.

- (a) **Tenant Event of Default.** An “Tenant Event of Default” under this lease means the occurrence of any of the following:
  - i. Tenant breaches any provision of or defaults under this lease, and such breach or default is not cured or remedied within thirty (30) days after written notice of such breach or default, provided that County may extend said cure-period for an additional ninety (90) days upon good cause shown, and provided further that County’s remedies for default in rent payments shall not be subject to these notice requirements.

- ii. Tenant files a petition in bankruptcy or for reorganization or for any arrangement pursuant to any present or future federal bankruptcy act or under any similar federal or state law, or shall be adjudicated a bankrupt or insolvent or shall make an assignment for the benefit of its creditors.
- iii. A receiver, trustee or liquidator of Tenant or of all or substantially all of the property of Tenant, including the leased Premises, shall be appointed in any proceeding.

(b) **Termination for Tenant Event of Default.** Upon the occurrence of any Tenant Event of Default:

- i. County may terminate this Lease and the Term hereof without any right on the part of Tenant to waive the forfeiture by payment of any sum due or by performance of any other condition, term or covenant broken or in any other manner to reinstate this Lease; upon such termination, County shall be entitled to retain and to recover: (1) all Rent that shall have accrued through the date of termination, plus (2) any other reasonable amount necessary to compensate County for all damages, if any, caused by Tenant's failure to perform its obligations under this Lease (including, without limitation, reasonable attorneys' fees, disbursements and other charges, and costs of alterations of the Leased Premises); and
- ii. The County may terminate Tenant's right of possession and may repossess the Leased Premises by legal proceedings or otherwise, with or without terminating this Lease, after reentry or retaking or recovering of the Leased Premises, whether by termination of this Lease or not, County may re-let the same or a portion thereof for such rent and upon such terms as are commercially reasonable and be deemed advisable by County; and whether or not the Leased Premises are re-let, Tenant shall be liable for the losses and damages provided for and pursuant to Lease; provided however, if County seeks to recover lost rent from Tenant, County shall attempt to mitigate its losses by using good faith efforts to re-let the Leased Premises; and
- iii. County may exercise any other right, remedy, or privilege that may be available to it under this Lease or under applicable federal, state, or local law.

(c) **Remedies.** All remedies of County shall be cumulative and the election of one shall not preclude the exercise of another, at the same time or subsequently. County shall be required hereby to mitigate any of its damages hereunder. No termination of this Lease, cure by County of any Tenant Event of Default hereunder, repossession or re-letting of the Leased Premises, exercise of any remedy or collection of any damages shall relieve Tenant of any of its obligations hereunder.

(d) **County Event of Default.** In the event that County fails to perform or observe any obligations under this Lease, and any such failure is not cured or remedied within thirty (30) days after written notice of such breach or default (provided that such cure period shall be extended by Tenant for up to an additional ninety (90) days if such breach or default cannot reasonably be cured within the initial thirty (30) days and the County demonstrates

to Tenant that County is diligently attempting to cure the same), then such failure shall, unless and until cured or remedied, constitute a “**County Event of Default**” under this Lease; provided that any such breach or default shall not be on account of any action or inaction on the part of another party. Tenant shall have no claim or rights against County with respect to any failure by County unless an uncured County Event of Default shall exist. Upon such event of default, Tenant may terminate this Lease.

(e) **Force Majeure.** Neither Tenant nor County shall be in default under this Lease if such performance of any obligation, duty or act is delayed or prevented by or due to events of Force Majeure.

- i. Notwithstanding any other provision herein, the term “**Force Majeure**” shall mean any delay in completing or performing any obligation under this Lease which arises from acts of God, labor disputes, fire, freight embargos, unavoidable casualty, flood (assuming the Tenant has taken reasonable precautions), earthquake, epidemic, civil disturbance, terrorism, war, riot, sabotage (by persons other than Tenant, its agents, employees or assigns), the discovery of archeological remains or objects of antiquity, the discovery of Hazardous Materials in, on or under the Land other than those that were brought to the Land by the Tenant, its subcontractors, invitees or tenants, or other similar acts or conditions, each case only to the extent the event in question is beyond the reasonable control and without the fault or negligence of the delayed party or its respective agent, employee or assign.
- ii. In the case of delay due to Force Majeure, the time within which the Party must comply with any of the terms, covenants and conditions of this Lease shall be extended by a period of time equal to the period of time that performance by the Party is delayed or prevented by the causes specified above, provided that within thirty (30) days of the commencement of the cause of delay the Party shall have notified the other Party of the existence of such cause of delay.

**21. Notices.** Any notice required or permitted to be delivered pursuant to this Lease shall be deemed received when hand delivered to the other party or three (3) days after deposit in the United States mail, postage prepaid, addressed to County or Tenant, or emailed, as the case may be, at the address stated below:

County:  
 Los Alamos County Airport  
 c/o Airport Manager  
 1040 Airport Road  
 Los Alamos, New Mexico 87544  
 E-Mail: \_\_\_\_\_

Tenant:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Either party may give notice of change of address by following the notice procedure set out herein. Any such change of address shall be effective immediately upon receipt by the other party.

**22. Successors and Assigns.** The terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of the successors and/or assigns of the parties hereto.

**23. Applicable Law.**

- (a) **Jurisdiction.** This Lease shall be governed by New Mexico law. Venue for any judicial action shall be either in the First Judicial District Court in Los Alamos County, New Mexico or in the U.S. District Court, District of New Mexico.
- (b) **State and Federal Law.** This Lease is subject to all applicable State and Federal laws as well as all articles and conditions of grant agreements entered into between County and the Federal Aviation Administration and the Division of Aviation, Department of Transportation of the State of New Mexico, and nothing contained herein shall be construed to prevent County from making such further commitments as it desires to make to the Federal Government or to the State of New Mexico so as to qualify for further expenditure of federal and/or state funds at the Airport.
- (c) **Local Ordinances.** This Lease shall be subject and subordinate to all ordinances of the County of Los Alamos, the Rules and Regulations of the Airport and/or the Minimum Standards for Aeronautical Business Activities at the Airport, as the same may be in effect and amended from time to time.

**24. No Waiver of Defaults.** The failure of either party to take any action with respect to any default by the other party hereunder shall not be construed as a waiver or relinquishment of the non-defaulting party's right to the future performance of any such terms, covenants or conditions and the defaulting party's obligations in respect to such future performance shall continue in full force and effect.

**25. Assignment.** Tenant shall not assign this Lease in whole or in part or sublet the Premises without the prior express written consent of the Airport Manager and any attempted unauthorized assignment or subletting shall be void.

**26. Liens, Attachments and Encumbrances.** Should Tenant permit or cause to be filed of record any encumbrance, attachment or lien against the Premises, such filing shall be deemed a Tenant Event of Default unless cured by Tenant within ninety (90) days of the filing of such encumbrance, attachment or lien or unless within such ninety (90) day period Tenant shall initiate a contest of such encumbrance, attachment or lien in a court of competent jurisdiction.

**27. Interpretation.**

(a) **Severability.** It is the intention of the parties hereto that the provisions of this Lease shall be severable with respect to declaration of invalidity of any provision contained herein. Should any provision be found to be void or unenforceable, the remaining provisions shall remain in full force and effect.

(b) **Headings.** The paragraph headings are for convenience only and do not define, limit or describe the contents of such paragraphs.

**28. Modification of Lease.** Any modification of this Lease shall be binding only if evidenced in writing signed by both parties.

**29. Entire Lease.** This Lease constitutes the entire Lease between the parties regarding the subject matter hereof. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease.

(THIS SECTION INTENTIONALLY LEFT BLANK)



**INCORPORATED COUNTY OF LOS ALAMOS ORDINANCE NO. 544**

**AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR  
OR HIS DESIGNEE TO EXECUTE GROUND LEASES FOR HANGARS AT THE LOS  
ALAMOS COUNTY MUNICIPAL AIRPORT**

**WHEREAS**, the Incorporated County of Los Alamos ("the County") has heretofore operated the Los Alamos County Municipal Airport ("Airport") under lease from the United States Department of Energy ("DOE"); and

**WHEREAS**, DOE has conveyed fee title to the Airport to the County as of October 20, 2008; and

**WHEREAS**, Section 3-54-1, N.M.S.A. (1978) provides that a municipality may lease any municipal facility or real property of any value normally leased in the regular operations of the municipal facility or real property; and

**WHEREAS**, the County has normally made ground leases for hangars available as subleases in the regular operations of the Airport; and

**WHEREAS**, the County desires, as owner and operator, to continue providing ground leases for hangars; and

**WHEREAS**, Section 203 of the Los Alamos County Charter provides that any lease or authorization to lease real property owned by the County shall be by ordinance; and

**WHEREAS**, the County Council desires to authorize the County Administrator or his designee to enter into ground leases for hangars on commercially reasonable terms substantially according to the lease forms attached hereto as Attachments 1 and 2.

**NOW, THEREFORE, BE IT ORDAINED** that:

**SECTION 1. Finding.** The County is authorized to lease real property pursuant to the provisions of Section 3-54-1, N.M.S.A. (1978).

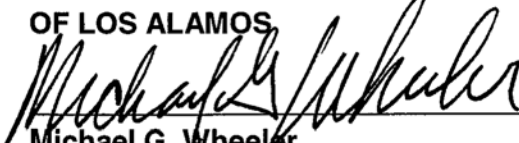
**SECTION 2. Authorization to Lease the Premises; Execution of Lease by Authorized Officers.** The County Administrator, or his designee, is hereby authorized to execute hangar ground lease agreements for portions of the Airport on commercially reasonable terms substantially according to the lease forms attached hereto as Attachments 1 and 2.

**SECTION 3. Effective Date.** This ordinance shall become effective thirty (30) days after publication of notice of its adoption.

ADOPTED this 6th day of October, 2009.



**COUNCIL OF THE INCORPORATED COUNTY  
OF LOS ALAMOS**

  
\_\_\_\_\_  
Michael G. Wheeler  
Council Chair

**ATTEST: (Seal)**

  
\_\_\_\_\_  
Janet Foster  
County Clerk

**INCORPORATED COUNTY OF LOS ALAMOS  
LOS ALAMOS AIRPORT  
LEASE OF REAL ESTATE FOR AN AIRCRAFT HANGAR**

This Lease ("Lease") is entered into this \_\_\_ day of \_\_\_\_\_, 200\_\_ by and between the Incorporated County of Los Alamos, an incorporated county of the State of New Mexico, whose address is 1040 Airport Road, Los Alamos, New Mexico 87544 ("County"), and \_\_\_\_\_ ("Tenant").

**1. Legal Description and Lease of Premises.**

- (a) County hereby leases to the Tenant and the Tenant hereby leases from County the following described real estate ("Premises"), being a part of the Los Alamos Airport, Los Alamos County, New Mexico; to-wit:

Aircraft Ramp Space No. \_\_\_ as shown on the Airport Property layout maintained by the Airport Manager.

- (b) The improvements on the premises belonging to County and provided by County for Tenant's use include only the surface of the land, whether in a natural state or paved/concrete.
- (c) The terms "facility," "hangar," "building," "structure," or similar terminology refer to construction improvements owned by Tenant on the premises.

**2. Rent.**

- (a) The Tenant will pay to the County annual rent for the parcel described in Paragraph 1 of this Lease as follows:

The Tenant will pay to the County an annual rent in the amount of five hundred dollars (\$500.00) during the initial term. The rent for the first year is payable in full at the time of delivery to County of an executed original of this Lease and thereafter on or before the same day of any subsequent year this Lease is in force and effect.

- (b) Subject to the provisions of subparagraph (e) herein, the applicable annual rent will be determined by the County and Tenant will be notified no later than thirty (30) days before the annual rent is due.
- (c) The rent for renewal terms shall be set by county at the time of renewal.
- (d) If, for any reason, the rent as set forth in this Section is not paid when due, a carrying charge of two percent (2%) per month or any portion of the month thereof shall be imposed on the amount which remains due and unpaid.

- (e) Tenant shall not be entitled to refund of the rent, in whole or in part, after this Lease is executed by both parties, if County terminates this Lease for cause. If Tenant terminates this Lease, then County shall refund an amount equal to the then-current annual rent divided by 12 and multiplied by the number of whole calendar months remaining in the Lease, less a processing fee of \$50. If County terminates this Lease without cause, Tenant shall receive a refund of a part of the rent as described above except that the processing fee shall not apply.
- (f) There shall be an annual cost of living adjustment, payable by Tenant with the annual rent, applied to each year's rent during the initial term, beginning with the second year of rent. This cost of living adjustment will be that determined by the federal CPIU, US city average, all items (1982-84=100) as prepared by the US Bureau of Labor Statistics.

### 3. Lease Term.

- (a) **Initial Term.** The term of this Lease shall begin on October 1, 2008 and shall continue for a period of twenty (20) years, expiring on September 30, 2028.
- (b) **Renewal Terms.** Lessee may renew the lease for a second term of ten (10) years, and for two subsequent terms of five (5) years each.

### 4. Expiration of Lease, Termination and Surrender.

- (a) **Expiration of Lease.** Upon expiration of the initial term or any renewal term, County may renew the lease at the request of Tenant, or may purchase the improvements as follows, provided, that if Tenant chooses at any such time not to renew the lease, the improvements shall become the property of County on the same terms as upon expiration of the final renewal as identified herein:
  - i. **Expiration of initial term.** County may purchase the improvements for fifty (50) percent of fair market value.
  - ii. **Expiration of first (10-year) renewal term.** County may purchase the improvements for twenty-five (25) percent of fair market value.
  - iii. **Expiration of second (5-year) renewal term.** County may purchase the improvements for ten (10) percent of fair market value.
  - iv. **Expiration of final (5-year) renewal term.** Tenant shall surrender the leased premises, including all buildings and site improvements constructed or installed by the Tenant, in good condition, reasonable wear and tear and damage by fire, explosion, windstorm or any other casualty excepted. All such buildings and improvements shall become the sole property of the County.
- (b) **Termination of Lease Prior to Expiration.** The parties may terminate the lease prior to expiration as provided herein, provided, that the termination of this Lease shall not affect the obligations or liabilities previously incurred or accrued under this Lease.

- i. **Mutual Termination.** This Lease may be terminated at any time by written agreement of the parties.
  - ii. **Termination by Tenant.** This lease may be terminated at any time by Tenant upon thirty (30) days written notice. Upon the termination of this Lease, Tenant shall quietly and peacefully remove itself and its property from the premises and surrender the possession thereof to County. County may, in its discretion, declare any property that has not been removed from the premises upon termination of this Lease, as abandoned property subject to use or disposal by County.
  - iii. **Termination by County.** County may terminate this lease at any time upon thirty (30) days written notice. Upon any such termination, County shall pay to Tenant the fair market value of the improvements, adjusted as follows:
 

During initial term:	Full fair market value
During first renewal term:	50 % of fair market value
During second renewal term:	25% of fair market value
During final renewal term:	10% of fair market value
- (c) **Determination of Fair Market Value.** The purchase price of the improvements shall be based on an appraisal of the fair market value of the improvements at the time of conveyance, as established by County through an appraisal paid for by Tenant. The appraiser and the appraisal instructions must be approved by county. All appraisers must possess a Certified General Appraiser Certification issued by the New Mexico Board of Real Estate Appraisers and membership in good standing in one of the following nationally recognized appraisal societies: American Institute of Appraisers; Members Appraisal Institute; Society of Real Estate Appraisers; Senior Real Property Appraisers; National Association of Independent Fee Appraisers; Independent Fee Appraiser Senior; National Society of Real Estate Appraisers; or a Certified Real Estate Appraiser. If Tenant or County does not agree with the results of an appraisal, Tenant or County may contest the results of such appraisal. In such case, Tenant and County shall each select one appraiser to be known as "Secondary Appraisers," whose costs shall be individually paid by each party. The Secondary Appraisers shall each conduct an independent appraisal of the subject improvements. If the Secondary Appraisers do not agree on the appraisal value of the subject improvements, the Secondary Appraisers shall jointly select a third appraiser known as the "Independent Appraiser." The Independent Appraiser will engage the Secondary Appraisers in a discussion regarding the Secondary Appraisers' appraisals of the subject Improvements, and the Secondary Appraisers and the Independent Appraiser shall work together to reach an agreement on the appraisal value of the subject improvements. In the event such an agreement cannot be obtained, the Independent Appraiser shall make a determination of the appraisal value of the subject improvements based upon the Independent Appraiser's review of the Secondary Appraisers' appraisals and his own analysis in accordance with certified appraisal standards. The determination by the Independent Appraiser will be final and binding upon Tenant and County. The fees and other costs of the Independent Appraiser shall be shared equally by Tenant and County.

**5. Use of Premises.**

- (a) Tenant agrees that the use of the premises shall be limited to the storage of airworthy aircraft (as specified or as may be replaced as provided in this Lease, the "aircraft") in accordance with the terms and conditions of this Lease and for related purposes specifically allowed by the Airport Rules and Regulations, and for no other purpose, including without limitation any business purpose.
- (b) Tenant's use of the premises is subject to all utilities easements and other easements that may be currently existing or granted in the future.
- (c) In the event Tenant wishes to occupy the premises for the purpose of constructing an aircraft, Tenant shall notify the Airport Manager in writing and provide a description of the aircraft to be constructed and the anticipated timeline for construction of the aircraft. Tenant shall provide, in writing, any other information the Airport Manager requests relating to the aircraft construction activities.

**6. Care of Leased Premises/County Access.**

- (a) Tenant shall keep and maintain the leased premises and all improvements of any kind, which may be erected, installed or made thereon by Tenant in good and substantial repair and condition, including the exterior condition thereof, and shall make all necessary repairs and alterations thereto. Maintenance includes, but is not limited to, any and all environmental clean-ups of the site and/or removal of the facility. Tenant agrees to hold County harmless from any responsibility or expense for any maintenance of the facilities during the lease. Tenant shall provide proper containers for trash and garbage and shall keep the premises free and clear of rubbish, debris and litter at all times.
- (b) **Access.** The County hereby reserves the right to enter upon the leased premises at reasonable times for the purpose of making inspections to determine if the conditions and requirements of this Lease are being fully complied with. Should any buildings on the leased premises become deficient in maintenance or in need of repair, Tenant shall cause repairs to be made to same within thirty (30) days after receipt of notice from County. Failure to comply shall be considered an event of default.

- 7. Building Construction Requirement.** Tenant shall be required to abide by all Fire Codes and Building Codes, as adopted by the County of Los Alamos, in the operation and alteration of the facilities on space as described herein. The type, size, style and appearance of construction must be approved by the County prior to submittal for building permits. Said approval shall not be unreasonably withheld. Tenant agrees to pay or cause to be paid, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies, utilities, furnishings, machinery or equipment which may have been furnished or ordered with Tenant's consent to be furnished to or for the Tenant in, upon or about the premises herein leased, and shall cause to be discharged any mechanic's, materialmen's or other lien against the premises herein leased or County's interest therein.

- 8. Use of Airport Facilities.** The Tenant shall have use of the Los Alamos Airport, including, but not by way of limitation, the landing areas, aprons, taxiways and vehicle parking areas during the pendency of the Lease. This Lease shall not be construed to convey to the Tenant the exclusive use of any part of the Los Alamos Airport except those premises described in Section 1 herein, or to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 47107 of Title 49 USC, Subtitle VII, as amended. The County reserves the right to lease to any other party any portion of the Los Alamos Airport not described in Paragraph 1 herein other than public facilities, and to grant to others the privilege and right of conducting any one or more activities of an aeronautical nature.
- 9. Hazardous Substances.** In no event shall Tenant use, except in quantities and for purposes consistent with the permitted use, or dispose hazardous substances, pollutants, or contaminants on the premises. Any use, except as specifically provided in this paragraph, or disposal of hazardous substances, pollutants, or contaminants on the premises shall constitute an event of default.
- 10. Historic or Archeological Sites.** In no event shall Tenant undertake any activity anywhere on the Airport Property that may adversely affect a historic or archeological property and shall cease any activity anywhere on the Airport Property immediately upon written notification from County.
- 11. Substitution of Tie-Down Space.** County reserves the right to require any Tenant using a space on which a hangar is located to use a substitute space, whether or not it has a hangar on it, for purposes of maintenance and repair of the Airport facilities. If, within five (5) days after notice is given that Tenant will be assigned a substitute space, Tenant notifies the Airport Manager in writing of unusual circumstances that render the aircraft unable to relocate, the Airport Manager will take such unusual circumstances into consideration and, to the extent reasonably practicable, allow additional time for the relocation as necessary, in the Airport Manager's sole discretion, for Tenant to relocate to the assigned substitute space.
- 12. Closure of the Airport.** In the event of an emergency declared by County, or at the request of the state or federal governments, or for any other reason as set out in the Airport Rules and Regulations, County may close the Airport and Tenant may not have access to the premises during the period the Airport is closed. In the event the Airport is closed, County will attempt, as circumstances permit, to provide reasonable advance notice to Tenant and allow Tenant access to the premises as may be allowed and reasonably practicable given the circumstances and other competing priorities.
- 13. Documentation.** Tenant shall submit to County, together with this Lease, the following documentation:

  - (a) Federal aircraft registration.
  - (b) Evidence of Tenant's ownership of or leasehold interest in the aircraft.
  - (c) Proof of Insurance.

Upon any change in aircraft, Tenant shall notify county within thirty (30) days of acquiring or removing said aircraft, and shall provide the above-specified documentation with respect to said acquired aircraft.

**14. Removal of Aircraft and Personal Property.**

- (a) Tenant shall not place or park any aircraft that is not airworthy, parts and other personal property, on the premises or elsewhere at the Airport except as provided in this Lease or as otherwise expressly authorized in writing by the Airport Manager.
- (b) Subject to the provisions of section 5(a) or as otherwise provided herein, County may, upon thirty (30) days written notice, move any aircraft that is not airworthy or any parts or other personal property located on the premises or otherwise placed or left by Tenant at the Airport from the place where they are located and may store said items in such reasonable location as County may determine on Tenant's behalf and at Tenant's sole expense and without liability to County for damage that may result. Tenant shall immediately pay to County any and all costs incurred by County in any removal, placement or storage undertaken pursuant to this paragraph.
- (c) In the event that any aircraft or other personal property of Tenant interferes with the operations or other needs of the Airport, County may provide reasonable notice to Tenant to move any such aircraft or property to such place as County may designate. Said removal shall be at Tenant's sole cost and expense. Provided, that in the event of an emergency or other similar situation necessitating removal and reasonable notice is not possible or practical, County may, with the exercise of reasonable care, remove the aircraft or property and Tenant shall have no recourse against County for any damages suffered as a result of said removal.

**15. Condition of The Premises.** Tenant has made or has had a reasonable opportunity to make an inspection of the premises, and accepts the premises "AS IS, WHERE IS." County makes no warranty, express or implied, as to the condition of the premises, the general usability of the premises, or the suitability of the premises for any particular purpose. Upon Tenant's acceptance of the premises, County shall owe Tenant the duty of quiet enjoyment. County shall also be responsible for snow removal in accordance with the county's snow-removal policy.

**16. Structures, Improvements, Alteration or Additions.**

- (a) Construction of any improvements or alterations, additions, excavations, improvements to, installations upon or other modification or alterations to the premises, including signage of any kind (the "improvements"), shall be made only upon the prior written specific authorization of County, which authorization may be given or denied in County's sole discretion, provided, that denial of approval for construction of hangar facilities such as would defeat the purposes of this lease shall entitle Tenant to termination of the lease. All improvements shall be made at the sole expense of Tenant and title to the improvements shall remain in Tenant unless and until title vests in County as expressly

provided herein. Tenant shall make no improvements other than those improvements specifically authorized by the Airport Manager.

- (b) Tenant shall repair any damage to the premises or other County property resulting from Tenant's installation, construction, or removal of such improvements, equipment, personal property or other items belonging to Tenant. County shall be entitled to remove and dispose of any improvements, personal property, and other items belonging to Tenant remaining on the premises after the termination of this Lease without the express written authorization of the Airport Manager, without liability of any kind to County, and repair any resulting damage, and Tenant agrees to promptly reimburse County for any and all costs and expenses County may incur in such removal and disposal.

**17. Sale of Improvements.** Before Tenant sells any improvements on the premises, Tenant shall provide County first right of refusal to purchase such improvements at a purchase price equal to the amount of any offer received by Tenant. County shall have thirty\_(30) days to accept said offer, after which the offer will be deemed refused. Any sale of the improvements and transfer of the lease shall be contingent upon the new owner executing an agreement to assume the remainder of the Lease in the then-current annual fee to be effective contemporaneously with said sale. The expiration, termination and surrender provisions of this lease shall be binding upon any such new owner according to the initial term and renewal provisions of this lease, and no new term shall commence. Any such Lease with a new owner shall be effective immediately upon transfer of this Lease.

**18. Utilities and Services.** County will not furnish utilities, trash or garbage collection services to the premises. Procurement of utilities to the premises shall be the sole responsibility of Tenant and Tenant shall timely pay any and all utilities bills and invoices for other services provided to the premises.

**19. Taxes.** Tenant will promptly pay such taxes, levies, fines and/or assessments, if any, as may be lawfully imposed upon Tenant's property or interests with respect to the premises, by any federal, state, county or other authority.

**20. Compliance with Environmental, Health & Safety and Other Applicable Laws.** Tenant shall comply with all applicable environmental, safety and health laws and regulations. Tenant shall not interfere with the environmental clean-up or restoration actions of County, or any of their contractors. Tenant shall also comply with any and all other applicable federal and state laws, rules and regulations, all applicable provisions of the County Code, and the Airport Rules and Regulations.

**21. Insurance.** During the term of this Lease, Tenant shall maintain in force and effect the following insurance, listing County as an additional insured, in such minimum amounts as are specified in the New Mexico Tort Claims Act, Sections 41-4-1 et seq., NMSA (1978), as amended from time to time. The insurance shall provide that County be notified no less than thirty (30) days in advance in the event of cancellation. Failure to maintain required insurance shall be considered an event of default.

- (a) Aircraft Liability Insurance: \$1,000,000.00 per occurrence.
- (b) Premise General Liability Insurance for property damage, injury or death resulting from occurrences on the Airport premises: \$1,000,000.00 per occurrence, which insurance may be provided in an endorsement or rider to Tenant's Aircraft Liability Insurance.

**22. Indemnity.** Tenant hereby releases County from any loss or damage suffered by Tenant or any third party as a result of Tenant's use of the premises, and Tenant hereby agrees to indemnify and hold harmless and defend County from and against all liabilities, claims, demands, settlements, actions, costs and expenses (including reasonable attorneys' fees) of any kind or nature, legal or equitable, arising from injury or death to persons or damages to property in any way arising out of, or related to, Tenant's use of the premises or this Lease, provided, that said indemnification shall not extend to damages resulting from the negligent acts or willful misconduct of County, its employees, contractors or agents, and provided further that any such indemnification or defense shall be limited as specified in Tenant's insurance policy.

**23. Default.**

- (a) An "Event of Default" under this lease means the occurrence of any of the following:
  - i. Tenant breaches any provision of or defaults under this lease, and such breach or default is not cured or remedied within thirty (30) days after written notice of such breach or default, provided that County may extend said cure-period for an additional ninety (90) days upon good cause shown, and provided further that County's remedies for default in rent payments shall not be subject to these notice requirements.
  - ii. Tenant files a petition in bankruptcy or for reorganization or for any arrangement pursuant to any present or future federal bankruptcy act or under any similar federal or state law, or shall be adjudicated a bankrupt or insolvent or shall make an assignment for the benefit of its creditors.
  - iii. A receiver, trustee or liquidator of Tenant or of all or substantially all of the property of Tenant, including the leased premises, shall be appointed in any proceeding.
- (b) Upon the occurrence of any Event of Default:
  - i. The County may terminate this Lease and the Term hereof without any right on the part of Tenant to waive the forfeiture by payment of any sum due or by performance of any other condition, term or covenant broken or in any other manner to reinstate this Lease; upon such termination, the County shall be entitled to retain and to recover: (i) all Rent that shall have accrued through the date of termination, plus (ii) any other reasonable amount necessary to compensate the County for all damages, if any, caused by Tenant's failure to perform its obligations under this Lease (including, without limitation, reasonable attorneys' fees, disbursements and other charges, costs of alterations of the Leased Premises, interest costs and brokers' fees incurred upon any re-letting of the Leased Premises for the remainder of the Term if the Event of Default had not occurred); and

- ii. The County may terminate Tenant's right of possession and may repossess the Leased Premises by legal proceedings or otherwise, with or without terminating this Lease, after reentry or retaking or recovering of the Leased Premises, whether by termination of this Lease or not, the County may re-let the same or a portion thereof for such rent and upon such terms as are commercially reasonable and be deemed advisable by the County; and whether or not the Leased Premises are re-let, Tenant shall be liable for the losses and damages provided for and pursuant to Lease; provided however, if the County seeks to recover lost rent from Tenant, the County shall attempt to mitigate its losses by using good faith efforts to re-let the Leased Premises; and
  - iii. The County may exercise any other right, remedy, or privilege that may be available to it under this Lease or under applicable federal, state, or local law.
- (c) All remedies of the County shall be cumulative and the election of one shall not preclude the exercise of another, at the same time or subsequently. The County shall be required hereby to mitigate any of its damages hereunder. No termination of this Lease, cure by the County of any Event of Default hereunder, repossession or re-letting of the Leased Premises, exercise of any remedy or collection of any damages shall relieve the Lessee of any of its obligations hereunder. Upon any termination due to Tenant's uncured default, all improvements shall become the property of County.
- (d) County Event of Default. In the event that the County fails to perform or observe any obligations under this Lease, and any such failure is not cured or remedied within thirty (30) days after written notice of such breach or default (provided that such cure period shall be extended by Tenant for up to an additional ninety (90) days if such breach or default cannot reasonably be cured within the initial thirty (30) days and the County demonstrates to Tenant that the County is diligently attempting to cure the same), then such failure shall, unless and until cured or remedied, constitute a "**County Event of Default**" under this Lease; provided that any such breach or default shall not be on account of any action or inaction on the part of another party. Tenant shall have no claim or rights against the County with respect to any failure by the County unless an uncured County Event of Default shall exist. Upon such event of default, Tenant may terminate this Lease. Tenant's disposal of improvements upon such termination shall be as specified in paragraph 4(b)(iii) herein, relating to County's early termination.
- (e) Neither Tenant nor the County shall be in default under this Lease if such performance of any obligation, duty or act is delayed or prevented by or due to events of Force Majeure.
- i. Notwithstanding any other provision herein, the term "**Force Majeure**" shall mean any delay in completing or performing any obligation under this Lease which arises from acts of God, labor disputes, fire, freight embargos, unavoidable casualty, flood (assuming the Lessee has taken reasonable precautions), earthquake, epidemic, civil disturbance, terrorism, war, riot, sabotage (by persons other than the Lessee, its agents, employees or assigns), the discovery of archeological remains or objects of antiquity, the discovery of Hazardous Materials in, on or under the Land other than those that were brought to the Land by the Lessee, its subcontractors, invitees or tenants, or other similar acts or conditions, each case only to the extent the event in

question is beyond the reasonable control and without the fault or negligence of the delayed party or its respective agent, employee or assign.

- ii. In the case of delay due to Force Majeure, the time within which the Party must comply with any of the terms, covenants and conditions of this Lease shall be extended by a period of time equal to the period of time that performance by the Party is delayed or prevented by the causes specified above, provided that within thirty (30) days of the commencement of the cause of delay the Party shall have notified the other Party of the existence of such cause of delay.

**24. Notice.** Any notice required or permitted to be delivered pursuant to this Lease shall be deemed received when hand delivered to the other party or three (3) days after deposit in the United States mail, postage prepaid, addressed to County or Tenant, as the case may be, at the address stated below:

County:

Airport Manager  
County Administrator's Office  
Incorporated County of Los Alamos  
1040 Airport Road  
Los Alamos, New Mexico 87544

Tenant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may give notice of change of address by following the notice procedure set out herein. Any such change of address shall be effective immediately upon receipt by the other party.

**25. Successors and Assigns.** The terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of the successors and/or assigns of the parties hereto.

**26. Applicable Law.**

(a) This lease shall be governed by New Mexico law. Venue for any judicial action shall be in the First Judicial District Court in Los Alamos County, New Mexico.

(b) State and Federal Law

This Lease is subject to all applicable State and Federal laws as well as all articles and conditions of grant agreements entered into between the County and the Federal Aviation Administration and the Division of Aviation, Department of Transportation of the State of New Mexico and nothing contained herein shall be construed to prevent the County from making such further commitments as it desires to make to the Federal Government or to the State of New Mexico so as to qualify for further expenditure of federal and/or state funds at the Los Alamos Airport.

(c) Local Ordinances

This Lease shall be subject and subordinate to all ordinances of the County of Los Alamos, the Rules and Regulations of the Los Alamos Airport and/or the Minimum Standards for Aeronautical Business Activities at the Los Alamos Airport, as the same may be in effect and amended from time to time.

- 27. No Waiver of Defaults.** The failure of either party to take any action with respect to any default by the other party hereunder shall not be construed as a waiver or relinquishment of the non-defaulting party's right to the future performance of any such terms, covenants or conditions and the defaulting party's obligations in respect to such future performance shall continue in full force and effect.
- 28. Assignment.** Tenant shall not assign this Lease in whole or in part or sublet the premises without the prior written consent of the Airport Manager and any attempted unauthorized assignment or subletting shall be void and shall be considered an event of default.
- 29. Liens, Attachments and Encumbrances.** Should Lessee permit or cause to be filed of record any encumbrance, attachment or lien against the premises, such filing shall be deemed an event of default unless cured by Lessee within ninety (90) days of the filing of such encumbrance, attachment or lien or unless within such ninety (90) day period Lessee shall initiate a contest of such encumbrance, attachment or lien in a court of competent jurisdiction.
- 30. Interpretation.**
- (a) Severability  
It is the intention of the parties hereto that the provisions of this Lease shall be severable with respect to declaration of invalidity of any provision contained herein. Should any provision be found to be void or unenforceable, the remaining provisions shall remain in full force and effect.
- (b) Headings  
The paragraph headings are for convenience only and do not define, limit or describe the contents of such paragraphs.
- 31. Modification of Lease.** Any modification of this Lease shall be binding only if evidenced in writing signed by both parties.
- 32. Entire Lease.** This Lease constitutes the entire Lease between the parties regarding the subject matter hereof. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease.



**INCORPORATED COUNTY OF LOS ALAMOS  
LOS ALAMOS AIRPORT LEASE OF REAL ESTATE  
FOR AN AIRCRAFT HANGAR AND AERONAUTICAL BUSINESS**

This Lease ("Lease") is entered into this \_\_\_ day of \_\_\_\_\_, 200\_\_ by and between the Incorporated County of Los Alamos, an incorporated county of the State of New Mexico, whose address is 1040 Airport Road, Los Alamos, New Mexico 87544 ("County"), and \_\_\_\_\_ ("Tenant").

**1. Legal Description and Lease of Premises.**

- (a) County hereby leases to the Tenant and the Tenant hereby leases from County the following described real estate ("Premises"), being a part of the Los Alamos Airport, Los Alamos County, New Mexico; to-wit:

Aircraft Ramp Space No. \_\_\_ as shown on the Airport Property layout maintained by the Airport Manager.

- (b) The improvements on the premises belonging to County and provided by County for Tenant's use include only the surface of the land, whether in a natural state or paved/concrete.
- (c) The terms "facility," "hangar," "building," "structure," or similar terminology refer to construction improvements owned by Tenant on the premises.

**2. Rent.**

- (a) The Tenant will pay to the County annual rent for the parcel described in Paragraph 1 of this Lease as follows:

The Tenant will pay to the County an annual rent in the amount of five hundred dollars (\$500.00) during the initial term. The rent for the first year is payable in full at the time of delivery to County of an executed original of this Lease and thereafter on or before the same day of any subsequent year this Lease is in force and effect.

- (b) Subject to the provisions of subparagraph (e) herein, the applicable annual rent will be determined by the County and Tenant will be notified no later than thirty (30) days before the annual rent is due.
- (c) The rent for renewal terms shall be set by county at the time of renewal.
- (d) If, for any reason, the rent as set forth in this Section is not paid when due, a carrying charge of two percent (2%) per month or any portion of the month thereof shall be imposed on the amount which remains due and unpaid.

- (e) Tenant shall not be entitled to refund of the rent, in whole or in part, after this Lease is executed by both parties, if County terminates this Lease for cause. If Tenant terminates this Lease, then County shall refund an amount equal to the then-current annual rent divided by 12 and multiplied by the number of whole calendar months remaining in the Lease, less a processing fee of \$50. If County terminates this Lease without cause, Tenant shall receive a refund of a part of the rent as described above except that the processing fee shall not apply.
- (f) There shall be an annual cost of living adjustment, payable by Tenant with the annual rent, applied to each year's rent during the initial term, beginning with the second year of rent. This cost of living adjustment will be that determined by the federal CPIU, US city average, all items (1982-84=100) as prepared by the US Bureau of Labor Statistics.

### 3. Lease Term.

- (a) **Initial Term.** The term of this Lease shall begin on October 1, 2008 and shall continue for a period of twenty (20) years, expiring on September 30, 2028.
- (b) **Renewal Terms.** Lessee may renew the lease for a second term of ten (10) years, and for two subsequent terms of five (5) years each.

### 4. Expiration of Lease, Termination and Surrender.

- (a) **Expiration of Lease.** Upon expiration of the initial term or any renewal term, County may renew the lease at the request of Tenant, or may purchase the improvements as follows, provided, that if Tenant chooses at any such time not to renew the lease, the improvements shall become the property of County on the same terms as upon expiration of the final renewal as identified herein:
  - i. **Expiration of initial term.** County may purchase the improvements for fifty (50) percent of fair market value.
  - ii. **Expiration of first (10-year) renewal term.** County may purchase the improvements for twenty-five (25) percent of fair market value.
  - iii. **Expiration of second (5-year) renewal term.** County may purchase the improvements for ten (10) percent of fair market value.
  - iv. **Expiration of final (5-year) renewal term.** Tenant shall surrender the leased premises, including all buildings and site improvements constructed or installed by the Tenant, in good condition, reasonable wear and tear and damage by fire, explosion, windstorm or any other casualty excepted. All such buildings and improvements shall become the sole property of the County.
- (b) **Termination of Lease Prior to Expiration.** The parties may terminate the lease prior to expiration as provided herein, provided, that the termination of this Lease shall not affect the obligations or liabilities previously incurred or accrued under this Lease.

- i. **Mutual Termination.** This Lease may be terminated at any time by written agreement of the parties.
- ii. **Termination by Tenant.** This lease may be terminated at any time by Tenant upon thirty (30) days written notice. Upon the termination of this Lease, Tenant shall quietly and peacefully remove itself and its property from the premises and surrender the possession thereof to County. County may, in its discretion, declare any property that has not been removed from the premises upon termination of this Lease, as abandoned property subject to use or disposal by County.
- iii. **Termination by County.** County may terminate this lease at any time upon thirty (30) days written notice. Upon any such termination, County shall pay to Tenant the fair market value of the improvements, adjusted as follows:
 

During initial term:	Full fair market value
During first renewal term:	50 % of fair market value
During second renewal term:	25% of fair market value
During final renewal term:	10% of fair market value

(c) **Determination of Fair Market Value.** The purchase price of the improvements shall be based on an appraisal of the fair market value of the improvements at the time of conveyance, as established by County through an appraisal paid for by Tenant. The appraiser and the appraisal instructions must be approved by county. All appraisers must possess a Certified General Appraiser Certification issued by the New Mexico Board of Real Estate Appraisers and membership in good standing in one of the following nationally recognized appraisal societies: American Institute of Appraisers; Members Appraisal Institute; Society of Real Estate Appraisers; Senior Real Property Appraisers; National Association of Independent Fee Appraisers; Independent Fee Appraiser Senior; National Society of Real Estate Appraisers; or a Certified Real Estate Appraiser. If Tenant or County does not agree with the results of an appraisal, Tenant or County may contest the results of such appraisal. In such case, Tenant and County shall each select one appraiser to be known as "Secondary Appraisers," whose costs shall be individually paid by each party. The Secondary Appraisers shall each conduct an independent appraisal of the subject improvements. If the Secondary Appraisers do not agree on the appraisal value of the subject improvements, the Secondary Appraisers shall jointly select a third appraiser known as the "Independent Appraiser." The Independent Appraiser will engage the Secondary Appraisers in a discussion regarding the Secondary Appraisers' appraisals of the subject Improvements, and the Secondary Appraisers and the Independent Appraiser shall work together to reach an agreement on the appraisal value of the subject improvements. In the event such an agreement cannot be obtained, the Independent Appraiser shall make a determination of the appraisal value of the subject improvements based upon the Independent Appraiser's review of the Secondary Appraisers' appraisals and his own analysis in accordance with certified appraisal standards. The determination by the Independent Appraiser will be final and binding upon Tenant and County. The fees and other costs of the Independent Appraiser shall be shared equally by Tenant and County.

**5. Use of Premises.** The use of the premises shall be limited to the following activities:

(a) Storage of aircraft.

i. Tenant may store airworthy aircraft in which Tenant has an ownership or leasehold interest.

ii. Construction of aircraft.

In the event Tenant wishes to occupy the premises for the purpose of constructing an aircraft, Tenant shall notify the Airport Manager in writing and provide a description of the aircraft to be constructed and the anticipated timeline for construction of the aircraft. Tenant shall provide, in writing, any other information the Airport Manager requests relating to the aircraft construction activities.

(b) Operation of aircraft maintenance or rental facility.

i. Tenant is authorized to utilize the premises for operation of an aircraft maintenance or rental facility. Said business activities shall be limited to Tenant, and no other activities or business shall be authorized without prior written approval from the County of Los Alamos. Any separate or affiliated person (corporation, individual, partnership, LLC, joint venture, etc.) operating from the premises without prior written approval from the County of Los Alamos shall be deemed to be in violation of this Lease Agreement. Should the Tenant not actively be engaged in any of the approved activities set forth in this paragraph for a period of time exceeding three (3) consecutive months, the County reserves the right to rescind its approval for such activity.

ii. Compliance with regulations.

a. For all aeronautical leases involving services to the public; each lease must be in conformance with Section 47107 of Title 49, USC, Subtitle VII, as amended, as follows:

“It is hereby agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right prohibited by Section 47107 of Title 49, USC, Subtitle VII, as amended, and the lessor reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature.”

b. All leases involving services to the public must contain the assurances required by Title VI of the Civil Rights Act of 1964, and by Part 21 of the regulations of the Office of the Secretary of Transportation, as follows:

“The lessee for himself, his personal representatives, successors in interest and assigns as part of the consideration hereof, does hereby covenant and agree that: 1) no person on the grounds of race, color or national origin shall be excluded for participation in, denied the benefits of or otherwise be subjected to discrimination in the use of said facilities; 2) in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; 3) the lessee shall use the premises in compliance with all the other requirements imposed by Title 49, Code

of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, nondiscrimination in Federally-assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, as amended.”

- c. All aeronautical leases involving services to the public must contain the provisions of the airport Grant Assurances, as follows:

“The lessee agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or services; PROVIDED, that the lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.”

- d. In the event of breach of any of the above covenants, Tenant shall have thirty (30) days to resolve said breach to the satisfaction of the County.
- (c) Tenant’s use of the premises is subject to all utilities easements and other easements that may be currently existing or granted in the future.

**6. Care of Leased Premises/County Access.**

- (a) Tenant shall keep and maintain the leased premises and all improvements of any kind, which may be erected, installed or made thereon by Tenant in good and substantial repair and condition, including the exterior condition thereof, and shall make all necessary repairs and alterations thereto. Maintenance includes, but is not limited to, any and all environmental clean-ups of the site and/or removal of the facility. Tenant agrees to hold County harmless from any responsibility or expense for any maintenance of the facilities during the lease. Tenant shall provide proper containers for trash and garbage and shall keep the premises free and clear of rubbish, debris and litter at all times.
- (b) **Access.** The County hereby reserves the right to enter upon the leased premises at reasonable times for the purpose of making inspections to determine if the conditions and requirements of this Lease are being fully complied with. Should any buildings on the leased premises become deficient in maintenance or in need of repair, Tenant shall cause repairs to be made to same within thirty (30) days after receipt of notice from County. Failure to comply shall be considered an event of default.

- 7. Building Construction Requirement.** Tenant shall be required to abide by all Fire Codes and Building Codes, as adopted by the County of Los Alamos, in the operation and alteration of the facilities on space as described herein. The type, size, style and appearance of construction must be approved by the County prior to submittal for building permits. Said approval shall not be unreasonably withheld. Tenant agrees to pay or cause to be paid, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies, utilities, furnishings, machinery or equipment which may have been furnished or ordered with Tenant’s consent to be furnished to or for the Tenant in, upon or about the premises herein leased, and shall cause to be discharged any mechanic’s, materialmen’s or other lien against the premises herein leased or County’s interest therein.

- 8. Use of Airport Facilities.** The Tenant shall have use of the Los Alamos Airport, including, but not by way of limitation, the landing areas, aprons, taxiways and vehicle parking areas during the pendency of the Lease. This Lease shall not be construed to convey to the Tenant the exclusive use of any part of the Los Alamos Airport except those premises described in Section 1 herein, or to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 47107 of Title 49 USC, Subtitle VII, as amended. The County reserves the right to lease to any other party any portion of the Los Alamos Airport not described in Paragraph 1 herein other than public facilities, and to grant to others the privilege and right of conducting any one or more activities of an aeronautical nature.
- 9. Hazardous Substances.** In no event shall Tenant use, except in quantities and for purposes consistent with the permitted use, or dispose hazardous substances, pollutants, or contaminants on the premises. Any use, except as specifically provided in this paragraph, or disposal of hazardous substances, pollutants, or contaminants on the premises shall constitute an event of default.
- 10. Historic or Archeological Sites.** In no event shall Tenant undertake any activity anywhere on the Airport Property that may adversely affect a historic or archeological property and shall cease any activity anywhere on the Airport Property immediately upon written notification from County.
- 11. Substitution of Tie-Down Space.** County reserves the right to require any Tenant using a space on which a hangar is located to use a substitute space, whether or not it has a hangar on it, for purposes of maintenance and repair of the Airport facilities. If, within five (5) days after notice is given that Tenant will be assigned a substitute space, Tenant notifies the Airport Manager in writing of unusual circumstances that render the aircraft unable to relocate, the Airport Manager will take such unusual circumstances into consideration and, to the extent reasonably practicable, allow additional time for the relocation as necessary, in the Airport Manager's sole discretion, for Tenant to relocate to the assigned substitute space.
- 12. Closure of the Airport.** In the event of an emergency declared by County, or at the request of the state or federal governments, or for any other reason as set out in the Airport Rules and Regulations, County may close the Airport and Tenant may not have access to the premises during the period the Airport is closed. In the event the Airport is closed, County will attempt, as circumstances permit, to provide reasonable advance notice to Tenant and allow Tenant access to the premises as may be allowed and reasonably practicable given the circumstances and other competing priorities.
- 13. Documentation.** Tenant shall submit to County, together with this Lease, the following documentation:

  - (a) Federal aircraft registration.
  - (b) Evidence of Tenant's ownership of or leasehold interest in the aircraft.
  - (c) Proof of Insurance.

- (d) Los Alamos Business Registration.
- (e) New Mexico Department of Taxation and Revenue CRS number.

Upon any change in aircraft, Tenant shall notify county within thirty (30) days of acquiring or removing said aircraft, and shall provide the above-specified documentation with respect to said acquired aircraft.

**14. Removal of Aircraft and Personal Property.**

- (a) Tenant shall not place or park any aircraft that is not airworthy, parts and other personal property, on the premises or elsewhere at the Airport except as provided in this Lease or as otherwise expressly authorized in writing by the Airport Manager.
- (b) Subject to the provisions of section 5(a) or as otherwise provided herein, County may, upon thirty (30) days written notice, move any aircraft that is not airworthy or any parts or other personal property located on the premises or otherwise placed or left by Tenant at the Airport from the place where they are located and may store said items in such reasonable location as County may determine on Tenant's behalf and at Tenant's sole expense and without liability to County for damage that may result. Tenant shall immediately pay to County any and all costs incurred by County in any removal, placement or storage undertaken pursuant to this paragraph.
- (c) In the event that any aircraft or other personal property of Tenant interferes with the operations or other needs of the Airport, County may provide reasonable notice to Tenant to move any such aircraft or property to such place as County may designate. Said removal shall be at Tenant's sole cost and expense. Provided, that in the event of an emergency or other similar situation necessitating removal and reasonable notice is not possible or practical, County may, with the exercise of reasonable care, remove the aircraft or property and Tenant shall have no recourse against County for any damages suffered as a result of said removal.

**15. Condition of the Premises.** Tenant has made or has had a reasonable opportunity to make an inspection of the premises, and accepts the premises "AS IS, WHERE IS." County makes no warranty, express or implied, as to the condition of the premises, the general usability of the premises, or the suitability of the premises for any particular purpose. Upon Tenant's acceptance of the premises, County shall owe Tenant the duty of quiet enjoyment. County shall also be responsible for snow removal in accordance with the county's snow-removal policy.

**16. Structures, Improvements, Alteration or Additions.**

- (a) Construction of any improvements or alterations, additions, excavations, improvements to, installations upon or other modification or alterations to the premises, including signage of any kind (the "improvements"), shall be made only upon the prior written specific authorization of County, which authorization may be given or denied in County's sole discretion, provided, that denial of approval for construction of hangar facilities such

as would defeat the purposes of this lease shall entitle Tenant to termination of the lease. All improvements shall be made at the sole expense of Tenant and title to the improvements shall remain in Tenant unless and until title vests in County as expressly provided herein. Tenant shall make no improvements other than those improvements specifically authorized by the Airport Manager.

- (b) Tenant shall repair any damage to the premises or other County property resulting from Tenant's installation, construction, or removal of such improvements, equipment, personal property or other items belonging to Tenant. County shall be entitled to remove and dispose of any improvements, personal property, and other items belonging to Tenant remaining on the premises after the termination of this Lease without the express written authorization of the Airport Manager, without liability of any kind to County, and repair any resulting damage, and Tenant agrees to promptly reimburse County for any and all costs and expenses County may incur in such removal and disposal.
- 17. Sale of Improvements.** Before Tenant sells any improvements on the premises, Tenant shall provide County first right of refusal to purchase such improvements at a purchase price equal to the amount of any offer received by Tenant. County shall have thirty (30) days to accept said offer, after which the offer will be deemed refused. Any sale of the improvements and transfer of the lease shall be contingent upon the new owner executing an agreement to assume the remainder of the Lease in the then-current annual fee to be effective contemporaneously with said sale. The expiration, termination and surrender provisions of this lease shall be binding upon any such new owner according to the initial term and renewal provisions of this lease, and no new term shall commence. Any such Lease with a new owner shall be effective immediately upon transfer of this Lease.
- 18. Utilities and Services.** County will not furnish utilities, trash or garbage collection services to the premises. Procurement of utilities to the premises shall be the sole responsibility of Tenant and Tenant shall timely pay any and all utilities bills and invoices for other services provided to the premises.
- 19. Taxes.** Tenant will promptly pay such taxes, levies, fines and/or assessments, if any, as may be lawfully imposed upon Tenant's property or interests with respect to the premises, by any federal, state, county or other authority.
- 20. Compliance with Environmental, Health & Safety and Other Applicable Laws.** Tenant shall comply with all applicable environmental, safety and health laws and regulations. Tenant shall not interfere with the environmental clean-up or restoration actions of County, or any of their contractors. Tenant shall also comply with any and all other applicable federal and state laws, rules and regulations, all applicable provisions of the County Code, and the Airport Rules and Regulations.
- 21. Insurance.** During the term of this Lease, Tenant shall maintain in force and effect the following insurance, listing County as an additional insured, in such minimum amounts as are specified in the New Mexico Tort Claims Act, Sections 41-4-1 et seq., NMSA (1978), as amended from time to time. The insurance shall provide that County be notified no less than

thirty (30) days in advance in the event of cancellation. Failure to maintain required insurance shall be considered an event of default.

- (a) Aircraft Liability Insurance: \$1,000,000.00 per occurrence.
- (b) Premise General Liability Insurance for property damage, injury or death resulting from occurrences on the Airport premises: \$1,000,000.00 per occurrence, which insurance may be provided in an endorsement or rider to Tenant's Aircraft Liability Insurance.
- (c) Public liability and other insurance in the amounts specified by the Los Alamos Airport Minimum Standards for Aeronautical Business Activities.
- (d) Worker's Compensation: In an amount as may be required by law.

**22. Indemnity.** Tenant hereby releases County from any loss or damage suffered by Tenant or any third party as a result of Tenant's use of the premises, and Tenant hereby agrees to indemnify and hold harmless and defend County from and against all liabilities, claims, demands, settlements, actions, costs and expenses (including reasonable attorneys' fees) of any kind or nature, legal or equitable, arising from injury or death to persons or damages to property in any way arising out of, or related to, Tenant's use of the premises or this Lease, provided, that said indemnification shall not extend to damages resulting from the negligent acts or willful misconduct of County, its employees, contractors or agents, and provided further that any such indemnification or defense shall be limited as specified in Tenant's insurance policy.

**23. Default.**

(a) An "Event of Default" under this lease means the occurrence of any of the following:

- i. Tenant breaches any provision of or defaults under this lease, and such breach or default is not cured or remedied within thirty (30) days after written notice of such breach or default, provided that County may extend said cure-period for an additional ninety (90) days upon good cause shown, and provided further that County's remedies for default in rent payments shall not be subject to these notice requirements.
- ii. Tenant files a petition in bankruptcy or for reorganization or for any arrangement pursuant to any present or future federal bankruptcy act or under any similar federal or state law, or shall be adjudicated a bankrupt or insolvent or shall make an assignment for the benefit of its creditors.
- iii. A receiver, trustee or liquidator of Tenant or of all or substantially all of the property of Tenant, including the leased premises, shall be appointed in any proceeding.

(b) Upon the occurrence of any Event of Default:

- i. The County may terminate this Lease and the Term hereof without any right on the part of Tenant to waive the forfeiture by payment of any sum due or by performance of any other condition, term or covenant broken or in any other manner to reinstate this Lease; upon such termination, the County shall be entitled to retain and to recover: (i) all Rent that shall have accrued through the date of termination, plus (ii)

- any other reasonable amount necessary to compensate the County for all damages, if any, caused by Tenant's failure to perform its obligations under this Lease (including, without limitation, reasonable attorneys' fees, disbursements and other charges, costs of alterations of the Leased Premises, interest costs and brokers' fees incurred upon any re-letting of the Leased Premises for the remainder of the Term if the Event of Default had not occurred); and
- ii. The County may terminate Tenant's right of possession and may repossess the Leased Premises by legal proceedings or otherwise, with or without terminating this Lease, after reentry or retaking or recovering of the Leased Premises, whether by termination of this Lease or not, the County may re-let the same or a portion thereof for such rent and upon such terms as are commercially reasonable and be deemed advisable by the County; and whether or not the Leased Premises are re-let, Tenant shall be liable for the losses and damages provided for and pursuant to Lease; provided however, if the County seeks to recover lost rent from Tenant, the County shall attempt to mitigate its losses by using good faith efforts to re-let the Leased Premises; and
  - iii. The County may exercise any other right, remedy, or privilege that may be available to it under this Lease or under applicable federal, state, or local law.
- (c) All remedies of the County shall be cumulative and the election of one shall not preclude the exercise of another, at the same time or subsequently. The County shall be required hereby to mitigate any of its damages hereunder. No termination of this Lease, cure by the County of any Event of Default hereunder, repossession or re-letting of the Leased Premises, exercise of any remedy or collection of any damages shall relieve the Lessee of any of its obligations hereunder. Upon any termination due to Tenant's uncured default, all improvements shall become the property of County.
- (d) County Event of Default. In the event that the County fails to perform or observe any obligations under this Lease, and any such failure is not cured or remedied within thirty (30) days after written notice of such breach or default (provided that such cure period shall be extended by Tenant for up to an additional ninety (90) days if such breach or default cannot reasonably be cured within the initial thirty (30) days and the County demonstrates to Tenant that the County is diligently attempting to cure the same), then such failure shall, unless and until cured or remedied, constitute a "**County Event of Default**" under this Lease; provided that any such breach or default shall not be on account of any action or inaction on the part of another party. Tenant shall have no claim or rights against the County with respect to any failure by the County unless an uncured County Event of Default shall exist. Upon such event of default, Tenant may terminate this Lease. Tenant's disposal of improvements upon such termination shall be as specified in paragraph 4(b)(iii) herein, relating to County's early termination.
- (e) Neither Tenant nor the County shall be in default under this Lease if such performance of any obligation, duty or act is delayed or prevented by or due to events of Force Majeure.
- i. Notwithstanding any other provision herein, the term "**Force Majeure**" shall mean any delay in completing or performing any obligation under this Lease which arises from acts of God, labor disputes, fire, freight embargos, unavoidable casualty, flood

(assuming the Lessee has taken reasonable precautions), earthquake, epidemic, civil disturbance, terrorism, war, riot, sabotage (by persons other than the Lessee, its agents, employees or assigns), the discovery of archeological remains or objects of antiquity, the discovery of Hazardous Materials in, on or under the Land other than those that were brought to the Land by the Lessee, its subcontractors, invitees or tenants, or other similar acts or conditions, each case only to the extent the event in question is beyond the reasonable control and without the fault or negligence of the delayed party or its respective agent, employee or assign.

- ii. In the case of delay due to Force Majeure, the time within which the Party must comply with any of the terms, covenants and conditions of this Lease shall be extended by a period of time equal to the period of time that performance by the Party is delayed or prevented by the causes specified above, provided that within thirty (30) days of the commencement of the cause of delay the Party shall have notified the other Party of the existence of such cause of delay.

**24. Notice.** Any notice required or permitted to be delivered pursuant to this Lease shall be deemed received when hand delivered to the other party or three (3) days after deposit in the United States mail, postage prepaid, addressed to County or Tenant, as the case may be, at the address stated below:

County:

Tenant:

Airport Manager  
County Administrator's Office  
Incorporated County of Los Alamos  
1040 Airport Road  
Los Alamos, New Mexico 87544

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may give notice of change of address by following the notice procedure set out herein. Any such change of address shall be effective immediately upon receipt by the other party.

**25. Successors and Assigns.** The terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of the successors and/or assigns of the parties hereto.

**26. Applicable Law.**

(a) This lease shall be governed by New Mexico law. Venue for any judicial action shall be in the First Judicial District Court in Los Alamos County, New Mexico.

(b) State and Federal Law

This Lease is subject to all applicable State and Federal laws as well as all articles and conditions of grant agreements entered into between the County and the Federal Aviation Administration and the Division of Aviation, Department of Transportation of the State of New Mexico and nothing contained herein shall be construed to prevent the County from making such further commitments as it desires to make to the Federal Government

or to the State of New Mexico so as to qualify for further expenditure of federal and/or state funds at the Los Alamos Airport.

(c) Local Ordinances

This Lease shall be subject and subordinate to all ordinances of the County of Los Alamos, the Rules and Regulations of the Los Alamos Airport and/or the Minimum Standards for Aeronautical Business Activities at the Los Alamos Airport, as the same may be in effect and amended from time to time.

**27. No Waiver of Defaults.** The failure of either party to take any action with respect to any default by the other party hereunder shall not be construed as a waiver or relinquishment of the non-defaulting party's right to the future performance of any such terms, covenants or conditions and the defaulting party's obligations in respect to such future performance shall continue in full force and effect.

**28. Assignment.** Tenant shall not assign this Lease in whole or in part or sublet the premises without the prior written consent of the Airport Manager and any attempted unauthorized assignment or subletting shall be void and shall be considered an event of default.

**29. Liens, Attachments and Encumbrances.** Should Lessee permit or cause to be filed of record any encumbrance, attachment or lien against the premises, such filing shall be deemed an event of default unless cured by Lessee within ninety (90) days of the filing of such encumbrance, attachment or lien or unless within such ninety (90) day period Lessee shall initiate a contest of such encumbrance, attachment or lien in a court of competent jurisdiction.

**30. Interpretation.**

(a) Severability

It is the intention of the parties hereto that the provisions of this Lease shall be severable with respect to declaration of invalidity of any provision contained herein. Should any provision be found to be void or unenforceable, the remaining provisions shall remain in full force and effect.

(b) Headings

The paragraph headings are for convenience only and do not define, limit or describe the contents of such paragraphs.

**31. Modification of Lease.** Any modification of this Lease shall be binding only if evidenced in writing signed by both parties.

**32. Entire Lease.** This Lease constitutes the entire Lease between the parties regarding the subject matter hereof. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease.





# County of Los Alamos

Los Alamos, NM 87544  
www.losalamosnm.us

## Staff Report

February 05, 2019

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**Agenda No.:** B.

**Index (Council Goals):** \* 2018 Council Goal – Economic Vitality – Financial Sustainability – Encourage the Retention of Existing Businesses and Assist in Their Opportunities for Growth

**Presenters:** Harry Burgess, County Manager

**Legislative File:** OR0848-19

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### Title

Incorporated County of Los Alamos Ordinance No. 691; An Ordinance Amending Ordinance No. 592, Which Adopted An Economic Development Project for Public Support of NMC, Inc., A New Mexico Non-profit Corporation Operated, Supervised or Controlled By the New Mexico University Research Consortium, Pursuant to Ordinance No. 543

### Recommended Action

**I introduce, without prejudice, Incorporated County of Los Alamos Ordinance No. 691; An Ordinance Amending Ordinance No. 592, Which Adopted An Economic Development Project for Public Support of NMC, Inc., A New Mexico Non-profit Corporation Operated, Supervised or Controlled By the New Mexico University Research Consortium, Pursuant to Ordinance No. 543, and ask staff to assure that it is published as provided in the County Charter.**

### County Manager's Recommendation

The County Manager recommends that Council introduce this Ordinance.

### Body

The New Mexico Consortium, Inc. (NMC) was awarded a Local Economic Development Act (LEDA) grant in 2011 consisting of both funding and land to build a facility. The terms of the LEDA grant required that NMC increase their number of employees by 32 positions and maintain at least those 32 plus their original 20 employees in "high-salary" positions for a period of 10 years. During this performance period, the collateral for the County's grant was to be the land and building in Entrada Park, and the liability for potential repayment of the grant/loan decreases over time by an established proration. At present, the remaining liability is \$264,000.

NMC has exceeded their required goal for additional employees during the past 8 years and currently employs approximately 90 persons, a fact which has resulted in a desire for a larger facility and one which has prompted the proposed action. In addition to their direct employees, the NMC facility also houses several other small start-ups, one of which has offered to purchase the current facility. NMC desires to sell the current building and move into a larger facility, and the plans for this potential have already been discussed with the Los Alamos Commerce and Development Corporation, with the potential for the construction of an additional building at Research Park to meet this need.

If the sale of the existing building is completed, the building is no longer available as collateral to

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the County, and this amendment to Ordinance No. 592 would allow for a modification to the security provided by NMC for the County's grant. The plan is to have NMC place the remaining prorated liability into an escrow account, and this escrow would serve as the required collateral for the remainder of the performance period. The attached ordinance simply makes this potential action possible, and an addendum to the existing project participation agreement enabling this change will be part of the anticipated action at the February 19 meeting when this ordinance has its public hearing.

**Alternatives**

Council could choose to not introduce this ordinance, in which case the actions described above will not be possible, or may be delayed until such changes are enabled.

**Fiscal and Staff Impact/Unplanned Item**

There is no direct fiscal nor staff impact associated with this action other than the necessary administrative steps. There is, however, potential for additional community investment if the action is approved.

**Attachments**

A - Incorporated County of Los Alamos Ordinance No. 691

**INCORPORATED COUNTY OF LOS ALAMOS ORDINANCE NO. 691**

**AN ORDINANCE AMENDING, ORDINANCE NO. 592, WHICH ADOPTED AN ECONOMIC DEVELOPMENT PROJECT FOR PUBLIC SUPPORT OF NMC, INC., A NEW MEXICO NON-PROFIT CORPORATION OPERATED, SUPERVISED OR CONTROLLED BY THE NEW MEXICO UNIVERSITY RESEARCH CONSORTIUM, PURSUANT TO ORDINANCE NO. 543**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS as follows:**

**Section 1.** On June 9, 2009 the governing body of the Incorporated County of Los Alamos ("County") adopted Ordinance No. 543, AN ORDINANCE AMENDING AND RESTATING THE ECONOMIC DEVELOPMENT PLAN OF THE COUNTY IN ACCORDANCE WITH THE LOCAL ECONOMIC DEVELOPMENT ACT, SECTIONS 5-10-1 THROUGH 5-10-13 NMSA 1978, AS AMENDED, AND SUPERSEDING ORDINANCE NO. 501.

**Section 2.** On June 7, 2011 the governing body of the Incorporated County of Los Alamos ("County") adopted Ordinance No. 586, AN ORDINANCE ADOPTING AN ECONOMIC DEVELOPMENT PROJECT FOR PUBLIC SUPPORT OF NMC, INC., A NEW MEXICO NON-PROFIT CORPORATION OPERATED, SUPERVISED OR CONTROLLED BY THE NEW MEXICO UNIVERSITY RESEARCH CONSORTIUM, PURSUANT TO ORDINANCE NO. 543.

**Section 3.** On December 6, 2011 the governing body of the Incorporated County of Los Alamos ("County") adopted Ordinance No. 592, AN ORDINANCE REPEALING, IN ITS ENTIRETY, ORDINANCE NO. 586 FOR PUBLIC SUPPORT OF NMC, INC., A NEW MEXICO NON-PROFIT CORPORATION OPERATED, SUPERVISED OR CONTROLLED BY THE NEW MEXICO UNIVERSITY RESEARCH CONSORTIUM PURSUANT TO ORDINANCE NO. 543.

**Section 4.** The purpose of this ordinance is to amend certain sections of Ordinance No. 592 to allow for modification to the kind of security provided by NMC for the County's investment in this project.

**Section 5.** Section 8 of Ordinance No. 592 is hereby amended as follows:

"NMC has requested and the Incorporated County of Los Alamos will provide the following public support as an economic development project ("Project"): TWO MILLION DOLLARS (\$2,000,000.00) cash and transfer, by quitclaim deed, fee simple title to Lot 6-B-1 at the Entrada Research Park for a Project including the construction and use of the Facility. Unless otherwise mutually agreed to by NMC and County, the fee simple transfer of Lot 6-B-1 shall be further subject to the terms and conditions of a Proceed Sharing Agreement By and Among Los Alamos National Bank, NMC, Inc., NMC Holdings, LLC, and Los Alamos County, New Mexico, as well as any other agreements deemed necessary by the County to accomplish the terms and conditions of this ordinance and relevant statutes."

**Section 6.** Section 10(e) of the Ordinance No. 592 is hereby amended as follows:

"The security provided for the County investment. Unless otherwise agreed to in a writing approved by NMC and County, the fee simple transfer of Lot 6-B-1 shall be further subject to the terms and conditions of a Proceed Sharing Agreement By and Among Los Alamos National Bank, NMC, Inc., NMC Holdings, LLC, and Los Alamos County, New Mexico, as well as any other agreements deemed necessary by the County to accomplish the terms and conditions of this ordinance and relevant statutes."

**Section 7.** The remainder of Ordinance No. 592 not expressly amended here remains in full force and effect.

**Section 8. Severability Clause.** Should any section, paragraph, clause or provision of this ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

**Section 9. Repealer.** All ordinance or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

**Section 10.** This Ordinance shall become effective thirty (30) days after notice is published following its adoption.

**ADOPTED** this 19<sup>th</sup> day of February, 2019.

**COUNCIL OF THE INCORPORATED  
COUNTY OF LOS ALAMOS**

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**Sara C. Scott,  
Council Chair**

**ATTEST: (Seal)**

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**Naomi D. Maestes,  
Los Alamos County Clerk**