

TERM SHEET FOR THE JEMEZ MOUNTAIN FIRE PROTECTION PROJECT

March 7, 2023

This term sheet documents certain understandings between the **Incorporated County of Los Alamos** (the "County") and **Pajarito Recreation LP**, a Texas limited partnership registered to do business in the State of New Mexico ("Pajarito") (each a "Party" and collectively, the "Parties"), concerning their joint pursuit of the **Jemez Mountain Fire Protection Project** (the "Project") and shall inform any future agreements between the Parties as to each Party's rights, duties, and obligations regarding the Project.

1. PROJECT DESCRIPTION AND ESTIMATED COSTS.

The Project currently consists of three primary components:

- a. The installation of a new 500,000 gallon water storage tank (the "Storage Tank") at LAC Pajarito Storage Tank Site #4 [current estimated cost is \$1,500,000]. Water from the Storage Tank will be used to provide potable water service to the Pajarito Ski Area and additional fire protection.
- b. The construction of a 4.5-mile pipeline (the "Pipeline") to deliver a reliable supply of potable water to the Storage Tank and to the Pajarito Ski Area's 10-million gallon reservoir (the "Reservoir") [current estimated cost is \$10,000,000]. Water from the Reservoir will be used for regional firefighting and snow making.
- c. The decommissioning of the existing overhead high voltage electric line running along Camp May Road and the installation of a replacement underground electric line (the "New Electric Line") in conjunction with the installation of the Pipeline [current estimated cost is \$2,500,000]. The New Electric Line will reduce the risk of wildfires and provide a reliable power supply for the Pipeline.
- d. The current total estimated cost of the Project (the "Total Project Cost") is \$14,000,000.

2. FUNDING THE PROJECT.

- a. Upon final approval of the Project, the County shall establish the "Jemez Mountain Fire Protection Project" within the Department of Public Utilities to manage the construction of the Project, including receiving, holding, and disbursing funds for the Project.
- b. The County and Pajarito are jointly pursuing State and Federal funding to cover a significant portion of the Total Project Cost.

- c. Once the total amount of State and Federal funding has been determined (the "State and Federal Contribution"), the County and Pajarito will proceed as follows:
- i. Provided the amount of the State and Federal Contribution is at least \$10,000,000, the County and Pajarito shall each contribute up to \$2,000,000, on an equal basis, toward payment of the Total Project Cost.
 - ii. In the event:
 - (1) the amount of the State and Federal Contribution is less than \$10,000,000, or
 - (2) the Parties determine that the Total Project Cost will exceed \$14,000,000, or
 - (3) there is some combination of items (1) and (2),then the County and Pajarito shall negotiate in good faith in an effort to agree upon a revised scope and funding structure for the Project to accomplish the goals of the County and Pajarito. Those negotiations will include:
 - (1) additional funding to be provided by the County and/or Pajarito, and
 - (2) a modification of the scope of the Project and/or the implementation of cost saving or cost deferral measures (such as phasing the Project).
 - iii. If either the County or Pajarito determines that they are unlikely to agree upon a revised Project scope and/or funding structure, then either Party may withdraw from the Project by written notice to the other Party.
3. **CONSTRUCTION, OWNERSHIP, MAINTENANCE, AND OPERATION OF THE PROJECT.**
- a. The County will be responsible for the constructing the Project. Construction and other services will be obtained by the County in accordance with its procurement code, with only the County being in privity with the selected contractor(s).
 - b. The County shall own the Storage Tank, the Pipeline, and the New Electric Line and shall be responsible for the operation, maintenance, repair, and replacement thereof at the County's expense.

- c. Pajarito owns the 10 million gallon reservoir and relating piping and pumping infrastructure (the "Storage System").
- d. Pajarito shall contribute any easements, access rights, and licenses on its property as may be necessary for the installation and operation of the Project, including specifically the Storage System.
- e. Required easements, permits, or other legal instruments, including the Special Use Permit from the United States Forest Service and the easement necessary to reach the Storage Tank, shall be issued in the name of the County, unless otherwise agreed to by the Parties.
- f. Pajarito shall assign its design and engineering professional services agreement with Wilson and Associates, along with the design and construction documents prepared under that agreement, to the County.

4. PROJECT IMPLEMENTATION AND OPERATION.

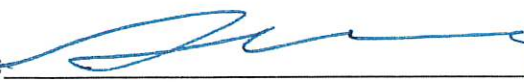
- a. Once the amount of the State and Federal Contribution is determined and the Parties have confirmed that they are willing to proceed with the construction of the Project as contemplated, they will execute and deliver the following documents:
 - i. A Project Development Agreement governing the installation of the Project's improvements and the funding thereof.
 - ii. A Project Operations Agreement governing the future operation of the Project and the Reservoir, including Pajarito's and the County's respective obligations to pay for the costs of filling the Reservoir from time to time. Under the Project Operations Agreement, Pajarito shall be responsible for maintaining the Storage System in good condition and repair, at its expense.
 - iii. A Ski Area Development Agreement detailing Pajarito's commitments for the future development of the Pajarito Ski Area, including:
 - (1) The installation of an updated snow making system,
 - (2) The installation of a high-speed ski lift, and
 - (3) Additional improvements to the Ski Area's infrastructure.

While the Parties agree to negotiate otherwise act in good faith towards the implementation of the Project on the terms and conditions outlined herein, this term sheet is non-binding and does not create any legally enforceable obligations between them. Any such obligations shall be created only by written agreements executed by the

Parties after having obtained all requisite governmental and entity approvals (including any necessary third-party approvals).

IN WITNESS WHEREOF, the County and Pajarito have executed this term sheet as of the date first written above.

Incorporated County of Los Alamos

By:  3/10/2023
Steven Lynne, County Manager

Pajarito Recreation LP

By: Pajarito Recreation GP, LLC, its General Partner

By:  3/10/2023
J. R. Murry, Authorized Agent