

## Council Meeting Staff Report

August 31, 2021

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<b>Agenda No.:</b>	A.
<b>Indexes (Council Goals):</b>	* 2021 Council Goal - Investing in Infrastructure, DPU FY26 - 2.0 Achieve and Maintain Excellence in Financial Performance
<b>Presenters:</b>	Philo Shelton
<b>Legislative File:</b>	OR0901-21b

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### Title

Adoption of Incorporated County of Los Alamos Ordinance No. 710, An ordinance to Authorize the Refinance and Re-issuance of Amended Loan and Promissory Note Agreements with the New Mexico Finance Authority to Increase Funding For the Otowi Well #2 Pumphouse and Equipment and Otowi Well #4 MCC Replacement Project Due To Project Bids Coming in with Amounts Exceeding Funds Available Under previous Loan Agreement DW-5456.

### Recommended Action

**I move that the County Council adopt Incorporated County of Los Alamos, New Mexico Ordinance No. 710 amending and replacing ordinance No. 706 adopted by the Incorporated County of Los Alamos (The "Governmental Unit") on February 23, 2021; authorizing the execution and delivery of an amended and restated loan and subsidy agreement ("Loan Agreement") by and between the Governmental Unit and the New Mexico Finance Authority, evidencing a special limited obligation of the Governmental Unit to pay a revised principal amount of no more than \$3,709,892, together with expenses, if any, and administrative fees thereon, and to accept a loan subsidy of no more than \$79,832 for the purpose of financing the costs of (I) designing and constructing a well house, pumps, and the associated equipment for Otowi Well #2 and (II) replacing the motor control center to Otowi Well #4; providing for the pledge and payment of the principal, administrative fees and interest due under the loan agreement solely from the net revenues of the joint utility system of the Governmental Unit; setting an interest rate for the loan, approving the form of and other details concerning the loan agreement, ratifying actions heretofore taken; repealing all action inconsistent with this ordinance; and authorizing the taking of other actions in connection with the execution and delivery of the loan agreement. I further move that, upon passage, the Ordinance be published in its entirety.**

### Board, Commission or Committee Recommendation

At the August 18, 2021 meeting, the Board of Public Utilities recommended the motion before County Council be approved as presented.

### ..Body

On June 29, 2021, Council approved award of a contract with RMCI for the Otowi Well #2 Pumphouse and Equipment and Otowi Well #4 MCC. As noted in that discussion, the low bid came in significantly above the initial engineer's estimates, upon which the original loan for the project was based. The NMFA has acknowledged that they have seen similar escalation in most of the projects they have provided funding for, acknowledged that they have additional loan funds available, and are working to expedite modifying loan agreements so these important projects can proceed. They do require the governing body to adopt a revised loan ordinance and execution of new or revised loan documents.

The original estimate and loan amount was \$2,772,612.02, over a 25-year term, at an interest rate of 1%. The revised loan amount has a maximum principal amount of \$3,789,723.62, which covers the

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bids actually received plus a 10 percent contingency, NMGR, and a small additional amount to cover cost of issuance fees, as noted below, and includes a \$79,832 subsidy amount that is not required to be repaid.

Note: The initial proposed amount presented to the BPU was for an increase of "approximately" \$928,000, to provide for minor variances in calculating the required funding. The BPU in its motion authorized a variance of up to one percent (1%). There are cost of issuance fees that were not initially considered in the original loan or refinancing proposal, totaling \$37,800.32. Staff is proposing using that 1% authorized in the BPU motion to cover a portion (\$9,280) of that cost, and to absorb the remainder with contingency funds already identified and authorized and funded in the existing loan agreements.

#### **..Alternatives**

One option would be to designate American Recovery Act funding to cover this, and other project cost escalations directly related to the COVID-19 Pandemic. This option is currently under consideration by the team allocating those funds. Absent that funding, if the loan is not increased, we will have to fund the excess project costs by canceling or delaying other planned projects in the Capital Plan to make up the funding shortfall, or cancel this project indefinitely hoping for a better bid environment in which to pursue the project, in which case the existing loan would have to be cancelled and the favorable loan terms and subsidy may not be available later when re-bid.

#### **..Fiscal and Staff Impact**

Increase the loan amount by \$937,280, which will increase the annual debt service for the project by approximately \$42,558.84 per year.

#### **Attachments**

A - Ordinance No. 710

B - Revised Loan and Subsidy Agreement

C - Publication Notice for Ordinance No. 710