Emergency Meeting **March 13, 2026**

The Board of County Commissioners, in and for the County of Otero, State of New Mexico met in an Emergency Meeting at the Administration Building in Alamogordo, County and State aforesaid. The Chairman called the meeting to order at 6:00 p.m., March 13, 2026; and she announced that reasonable notice for this meeting was given to the Alamogordo Daily News and Radio Stations, KYEE, KZZX and KINN.

Present:

IRW IRW	Chairman
IRW	Vice-Chairman
IRW IRW	Member
IRW	County Attorney
IRW	Executive Assistant
IRW	Otero County Clerk

Roll call was taken as follows:

IRW IRW	Here
IRW	Here
IRW IRW	Here

Commissioner IRW made a motion that the board adopt the findings set forth in the emergency meeting notice and declare that an emergency exists within the meeting of NMSA 1978 section 10-15-1F and open meetings resolution number 01-08-26114-41 paragraph 4. The motion was seconded by Commissioner IRW A vote was taken and the motion passed unanimously.

1. **New Business**

a. **Request approval of Resolution #03-13-26/114-62, A Resolution Authorizing Execution of Intergovernmental Service Agreement No. 70CDCR26DIG000010 with U.S. Immigration and Customs Enforcement for the Otero County Processing Center; Authorizing Litigation to Protect the County's Outstanding Revenue Bonds; Authorizing Engagement of Outside Litigation Counsel; and Providing for Related Matters.**

Mr. IRW stated we have operated the processing center under an intergovernmental service agreement with ICE since the facility opened. That agreement is the sole source of revenue that is pledged to secure the 2007 bonds that funded the building of that facility. The current IGSA or intergovernmental service agreement expires on Sunday, March 16, 2026. ICE transmitted to the county a replacement IGSA last night. It is a 5-year term from March 16, 2026 through March 15, 2031. He has reviewed the contract and it is in order. He is recommending the commission approve the agreement. We got this agreement last night and there was less than 4 days before the current one expires. They could not give the 72-hour notice for a Special Meeting. That is why they were

here under the emergency authority. The revenue bonds were issued in 2007 to finance the construction of the Otero County Processing Center and they are still outstanding. The total remaining debt service as of this afternoon is $19,300,000 in outstanding principal. The next payment, which is principal and interest, is $5,259,800 is due April 1, 2026. If the current IGSA were to expire, the county would not be able to make the payment. He was under the impression that the reserve fund that exists now could be used for that payment but it cannot because of Article 6 of our operations agreement with MTC. As long as we approve this new IGSA today, we will be carrying out our obligations and will continue. HB9 would prevent approval of this if today was May 20, 2026 or beyond. There are legal problems with HB9 under Article 2 Section 19 of the New Mexico Constitution which addresses impairment of contracts and New Mexico Statute 4-62-6C which specifically addresses the prohibition of any laws that would impair existing revenue bonds. SB273 was passed as an attempt to make us whole but it does not because it does not go into effect until the new fiscal year. It does nothing to cover the bond payment obligations between now and then. It is just shy of $6 million they approved to give us but there is another $10 million left on the bonds. Section 2 authorized the county manager to execute the contract, Section 3 authorizes the county attorney to initiate in state and federal court, and Section 4 authorizes the county attorney to engage with outside litigation council to assist in the litigation. If we default there will be a foreclosure and $68 million facility that the county put substantial maintenance and effort into would be lost.

Commissioner IRW made a motion to approve Resolution #03-13-26/114-62, A Resolution Authorizing Execution of Intergovernmental Service Agreement No. 70CDCR26DIG000010 with U.S. Immigration and Customs Enforcement for the Otero County Processing Center; Authorizing Litigation to Protect the County's Outstanding Revenue Bonds; Authorizing Engagement of outside Litigation Counsel; and Providing for Related Matters. The motion was seconded by Commissioner IRW A vote was taken and the motion passed unanimously.

There being no further business before the Board, the Chairman adjourned the meeting at 6:11 p.m.

IRW

IRW

COUNTY CLERK OTERO COUNTY NEW MEXICO