Special Meeting **March 25, 2026**

The Board of County Commissioners, in and for the County of Otero, State of New Mexico met in a Special Meeting at the Administration Building in Alamogordo, County and State aforesaid. The Chairman called the meeting to order at 6:00 p.m., March 25, 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 IRW	Vice-Chairman
IRW IRW	Member
IRW	County Manager
IRW IRW	County Attorney
IRW	County Clerk

Roll call was taken as follows:

IRW IRW	Here
IRW IRW	Here
IRW IRW	Here

Commissioner IRW made a motion to approve the Agenda. The motion was seconded by Commissioner IRW A vote was taken and the motion passed unanimously.

Commissioner IRW stated she would like to put on record that Otero County received a letter from the New Mexico Department of Justice earlier today and County Attorney IRW will address the letter.

Mr. IRW addressed the letter from DOJ, what the stakes are on what they are deciding on and what the risk is if the state ultimately prevails in its effort to void this agreement.

1. Unscheduled Citizen Communications:

a. IRW stated she came to comment on the timeline and her concern the commission who is fiscally responsible for us have not done planning or looking ahead knowing that this was likely to happen. Other planning on fiscal matter was appropriate ahead of ending up being shocked and surprised by this point.

b. IRW stated she would to let the commission know she wants to submit a letter. Her topics will be the question of states' rights over federal rights. She thinks we are in a time in

which states' rights are being eroded repeatedly and her letter will address that. She would also like to address the scale of economic considerations for Otero County compared to the Federal Government. She asked how much control the commission would have over ICE in the next 5 years. You look at Otero County Detention consistently where no one wants to work. That will not happen with ICE because they are recruiting nationally. We are not going to have local recruitment or local dynamic to deal with as county commissioners. We are talking about upscaling an experience with the Federal government over the state government. ICE is extremely self-driven and self-motivated.

c. IRW stated she recently talked about the data centers and if you recall the main thrust was lack of preparation on the part of the county. For fiscal responsibility when things fluctuate demonstrates nothing but the inadequacy of the people making those plans. It is not good enough. You had a packed room full that day of people who offered numerous suggestions, none of which, having spoken to about a dozen of those people, have been responded to. There has been zero response to the community pouring out their passion for local alternatives to revenue and income. If her children can be financially responsible then the commissioners need to be able to do it for our county and this is unacceptable. It is unacceptable to blame something taken on by yourselves with no plan for what to do if it does not work. It is not just that ICE is not nice, the whole immigration thing is not nice and it is difficult for everyday people to deal with. When you start saying that, you have money that you cannot pay back and that is the reason you need to play with an ICE facility because of our credit rating is going to be bad. We have to come up with a better solution.

2. New Business:

a. Request approval of Resolution #03-25-26/114-63, the Board will consider, discuss, and vote to independently authorize and approve Intergovernmental Service Agreement Contract No. 70CDCR26DIG000010 between Otero County and the United States Department of Homeland Security, U.S. Immigration and Customs Enforcement, covering the period March 16, 2026 through March 15, 2031, with a total contract value of $283,417,748.55, as a new and independent action of the Board taken at this properly noticed special meeting. This action is independent of and separate from the ratification in Item 2 and is effectuated by Resolution No. 03-25-26/114-63, included in this packet. The full text of the IGSA is attached as Exhibit 1. The SF 1449 federal contract form is attached as Exhibit 2.

Mr. IRW stated they will be authorizing the IGSA with ICE for the next five years. That is a legal obligation under the bonds that wre executed and agreed to in 2007. He believes that the meting Friday was valid and that they lawfully approved the contract then but for argument sake they will consider it again. The commission had public comment tonight and received some calls and emails, so with that in mind the commission will be taking a new vote.

Commissioner IRW made a motion to approve Resolution #03-25-26/114-63 Intergovernmental Service Agreement Contract No. 70CDCR26DIG000010. The motion

was seconded by Commissioner IRW A vote was taken and the motion passed unanimously.

b. Request approval of Resolution #03-25-26/114-64, the Board will consider, discuss, and vote to separately confirm and ratify Resolution No. 03-13-26/114-62, adopted at the March 13, 2026 emergency meeting, in its entirety, including without limitation: (a) the authorization and approval of IGSA Contract No. 70CDCR26DIG000010; (b) the authorization to the County Attorney to procure outside litigation counsel; and (c) all other authorizations contained therein. This ratification is taken as a precautionary measure to eliminate any residual uncertainty and does not constitute an admission that Resolution No. 03-13-26/114-62 or the March 13, 2026 emergency meeting was procedurally defective. The County expressly preserves all legal positions regarding the validity of the March 13 emergency meeting and Resolution No. 03-13-26/114-62. This action is effectuated by Resolution No. 03-25-26/114-64, included in this packet and also available for public inspection at the Otero County Attorney's Office, 1101 New York Avenue, Room 203, Alamogordo, New Mexico 88310.

Mr. IRW stated this resolution would be a ratification of the resolution from last Friday. That resolution approved the new ISGA and it approved contracting with outside legal counsel in order to explore any potential litigation that may arise over this matter. This would be reaffirming or ratifying the previous resolution.

Commissioner IRW stated on behalf of the board, this ratification is being taken as a matter of good governance and to provide the public with full opportunity to observe and weigh in on the matters acted upon at the March 13 meeting. This vote does not constitute an admission by the board that the March 13 Emergency Meeting or Resolution #03-13-26/114-62 was procedurally defective. The board expressly preserves all legal positions regarding the validity of the March 13th this vote is taken without concession that the joint powers agreement act applies to this IGSA that DFA approval was or is required or that any prior or current action of the board was void. The county attorney has stated the board's legal position on that argument on the record tonight and those positions are preserved.

Commissioner IRW made a motion to approve Resolution #03-25-26/114-64. The motion was seconded by Commissioner IRW A vote was taken and the motion passed unanimously.

c. County Attorney IRW will provide a brief report on the status of the County's response to the New Mexico Department of Justice compliance inquiry dated March 20, 2026, and related legal proceedings. Attorney-client privileged matters, if any, will be addressed in executive session.

Mr. IRW stated the New Mexico department of Justice issued a letter of concern about whether our meeting held on March 13 was legal or not. He had responded on Monday outlining his position on why it was legal and that they were not conceding anything on that position.They have held

another meeting and voted on the contracts again and ratify the actions that occurred on Mach 13. An hour and a half before the meting they received a new letter as they discussed and with new theory on whether the contract is valid or not and that position been stated.

3. Executive Session

Commissioner IRW made a motion to hold an Executive Session under NMSA 1978, 10-15-1H7,for attorney client privilege to discuss pending/threatened litigation including matters related to HB9, the ISGA, the NM DOJ compliance inquiry and the joint powers agreement act argument raised in today's NM DOJ letter. The motion was seconded by Commissioner IRW Roll Call was taken as follows:

Commissioner IRW	Yes
Commissioner IRW	Yes
Commissioner IRW	Yes

Commissioner IRW made a motion to come out of Executive Session (6:51 p.m.) and stated that the only items that were discussed were limited only to those matters specified in the prior motion for Executive Session of the Board of County Commissioners. The motion was seconded by Commissioner IRW Roll Call was taken as follows:

Commissioner IRW	Yes
Commissioner IRW	Yes
Commissioner IRW	Yes

There being no further business before the Board, the Chairman adjourned the meeting at 6:51 p.m.

IRW

IRW

COUNTY CLERK OTERO COUNTY NEW MEXICO