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**TORRANCE COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. R 2022- 13**

**AUTHORIZING USE OF A PORTION OF TORRANCE COUNTY’S AMERICAN
RESCUE PLAN ACT FUNDS TO BE DEDICATED AS THE LOCAL MATCH FOR
THE EMWT REGIONAL WATER ASSOCIATION’S WATER TRUST BOARD
APPLICATION FOR THE McINTOSH WATER PROJECT, CONTINGENT ON THE
TERMS OF THIS RESOLUTION.**

WHEREAS, the Estancia Basin (Basin) is a geohydrologically closed basin in which no surface water or streams enter or leave; its water supply mostly consists entirely of groundwater with the exception of a few small springs; the Basin encompasses the majority of Torrance County and parts of Bernalillo and Santa Fe counties; and

WHEREAS, for many areas within the Basin, the Valley Fill aquifer is underlain by other geologic formations that have been designated as critical management areas (CMAs); the Estancia Underground Water Basin (UWB) guidelines adopted by the New Mexico Office of the State Engineer (NMOSE) do not allow the deepening of wells producing from the Valley Fill aquifer into an underlying CMA; and

WHEREAS, new appropriations of ground water are not permitted within the Estancia UWB; groundwater rights may be obtained by transferring a valid water right that has been put to beneficial use from an owner who is willing to transfer that right; and

WHEREAS, in 2007, EMW Gas Association, formerly created by a Joint Powers Agreement (JPA) between Estancia, Moriarty and Willard, initiated planning for a regional water system in the Estancia Basin; and

WHEREAS, on August 1, 2013, the Torrance County Board of County Commissioners passed Resolution 2013-35; this Resolution resolved that the County concurred with the appointment of elected officials, representing Moriarty, Estancia, Willard and Torrance County, with the authority to organize an association for the purpose of acquiring a water supply system, including distribution and transmission pipelines or other works, to serve the City of Moriarty, the Town of Estancia, the Village of Willard, and Torrance County; it also resolved that the development of a regional water system is vital for future development and economic sustainability within the Estancia Basin region; that a regional water association will provide additional opportunities to develop and attract funding for water infrastructure and improvements which will benefit the residents of the communities in the region; that the formation of a regional association will allow for greater flexibility in meeting regional water needs and will allow for the conservation of water resources within the Estancia Valley; and that the regional water association shall be prohibited from exporting water outside of Estancia Valley water basin; and

WHEREAS, this collaborative work of the appointed elected officials resulted in a JPA in October 2014; the JPA created the EMWT Regional Water Association (EMWT) for the purpose of acquiring or constructing a regional water supply system between the City of Moriarty, the Town of Estancia, the Village of Willard, and the County of Torrance, New Mexico; and

WHEREAS, the EMWT JPA further states that “The Regional Water Association shall be entitled to receive from Estancia, Moriarty, Willard and the County contributions, allotments, and grants as Estancia, Moriarty, Willard and the County shall be entitled to receive from any state or federal agency

1 in connection with the purposes of the Regional Water Association,”; the federal government awarded
2 Torrance County \$3 million through the American Rescue Plan Act (ARPA); the federal government
3 highly encouraged the use of ARPA funds for infrastructure projects, specifically mentioning water
4 projects; and
5

6 **WHEREAS**, in 2015, the Torrance County Board of County Commissioners approved funding in
7 the amount of \$10,000 be given to EMWT’s mission; and
8

9 **WHEREAS**, EMWT identified McIntosh as an underserved population in regards to water
10 infrastructure; the unincorporated community of McIntosh is located within the Basin south of Moriarty,
11 New Mexico; and
12

13 **WHEREAS**, a public water system in McIntosh would provide a sustainable source of water to
14 the community, while also reducing potential public health hazards from failing septic systems in
15 proximity to local domestic wells; and
16

17 **WHEREAS**, the Preliminary Engineering Report (PER) for the McIntosh Water Project was
18 prepared by Bohannon Huston, Inc. (BHI) in 2017 under contract with EMWT in accordance with the
19 United States Department of Agriculture (USDA) Rural Utilities Service Bulletin 1780-2; and
20

21 **WHEREAS**, EMWT submitted an application to the New Mexico Water Trust Board for funding
22 for the McIntosh Water Project; the total amount requested is \$7,345,735 for design and specifications,
23 water rights acquisition, construction, construction inspection, easements and right of ways (ROW),
24 project management, and, if needed, permitting; the Water Trust Board requires a local match of
25 \$981,155; this water project is estimated to provide services to the initial 100 lots; EMWT anticipates that
26 additional advantageous funding can be leveraged once this initial phase of the project is underway; it is
27 the goal of EMWT to complete the McIntosh Water Project and provide service to all available developed
28 lots; while 161 lots were identified in the PER completed in 2017, a total of 1,072 lots are actually
29 available in the McIntosh community; and
30

31 **NOW, THEREFORE BE IT RESOLVED** by the Torrance County Board of County
32 Commissioners:
33

34 1. That McIntosh is the most densely populated community in the Basin that does not currently
35 have a public water system; the residents currently either haul bulk water or have private wells, many of
36 which are not deep enough to sustain adequate water supply; these individual groundwater well systems
37 are not currently monitored for drinking water standards, nor do they have adequate fire protection; and
38

39 2. That the County Commission supports EMTW’s Water Trust Board application for the
40 McIntosh Water Project; and
41

42 3. That the County Commission has identified a portion of the County’s ARPA funds for the local
43 match participation for EMWT’s McIntosh Water Project application to the Water Trust Board; the
44 required local match of \$981,155 is approved with the following stipulations:
45

46 A. A portion of the County’s local match shall be used for the purchase of water rights
47 for the McIntosh Water Project; the Water Trust Board does not allow its funds to be used for the
48 purchase of water rights; and
49

50 B. Torrance County shall retain ownership of said purchased water rights; and

1 C. Torrance County and EMWT Regional Water Association shall enter into a lease
2 agreement with mutually agreed-upon terms for the use of the purchased water rights for the
3 McIntosh Water Project; and
4


5 D. Torrance County's local match for the McIntosh Water Project is contingent upon a
6 favorable or acceptable outcome of the funding from the Water Trust Board application process;
7 anything less than complete funding of the project shall grant the County the option to claw back
8 and not provide the local match or a portion of the local match; and
9

10 **BE IT FURTHER RESOLVED** that the Torrance County Board of County Commissioners
11 does hereby value and appreciate the entities involved in EMWT Regional Water Association's JPA,
12 including all elected officials and the EMWT Board members through the years, for their vision,
13 planning, persistence and action, all culminating in the viability of the McIntosh Water Project.
14

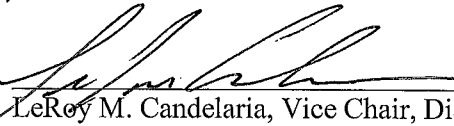
15 **DONE THIS 23rd DAY OF February, 2022.**

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17 **APPROVED AS TO FORM ONLY:**

BOARD OF COUNTY COMMISSIONERS

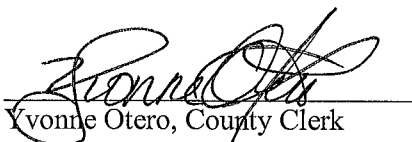
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21  2/23/2022
22 County Attorney Date
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Ryan Schwebach, Chair, District 2

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26 LeRoy M. Candelaria, Vice Chair, District 3

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Kevin McCall, Member, District 1

29 **ATTEST:**

30
31
32 
33 Yvonne Otero, County Clerk
34

35 Date: 2-23-2022
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