



**NEW MEXICO STATE UNIVERSITY BOARD OF REGENTS
REGULAR MEETING
March 24, 2021 at 2:00pm**

Due to the public health emergency issued by the Governor, the meeting will take place via online meeting and Webcast at the following address:
<http://panopto.nmsu.edu/bor/>

Regents of New Mexico State University

Chair Dina Chacón-Reitzel, Vice Chair Ammu Devasthali, Arsenio Romero, Neal Bitsie, Christopher T. Saucedo

Non-Voting Advisory Members - ASNMSU President Mathew Madrid, Faculty Senate Chair Julia Parra, Employee Council Chair Joseph Almaguer

University Officials - Chancellor Dan E. Arvizu, Ph.D., President John D. Floros, Ph.D., Provost Carol Parker, J.D., Vice Chancellor Ruth A. Johnston, Ph.D., Senior Vice President Andrew Burke, Ed.D., General Counsel Roy Collins III, J.D.

AGENDA

The Board of Regents meeting is available by webcast through the link at <http://panopto.nmsu.edu/bor/>

A. Call to Order, Chairwoman Dina Chacón-Reitzel

Singing of National Anthem by Dzaki Sukarno

1. Introductions

Introduction of Regent Neal Bitsie, Chairwoman Dina Chacón-Reitzel

Introduction of Regent Christopher T. Saucedo, Chairwoman Dina Chacón-Reitzel

Introduction of Employee Council Chair Joseph Almaguer, Chancellor Dan Arvizu

2. Confirmation of Quorum and Roll Call, Chairwoman Dina Chacón-Reitzel

3. Approval of the Agenda, Chairwoman Dina Chacón-Reitzel

4. Public Comment, Associate Vice President Justin Bannister

B. Approval of the Minutes, Chairwoman Dina Chacón-Reitzel

1. Regular Meeting December 2, 2020

2. Special Meeting January 6, 2021

3. Special Meeting February 2, 2021

4. Special Meeting March 2, 2021

C. Awards and Recognitions, Chairwoman Dina Chacón-Reitzel

1. Proclamation in Memory of Dr. Karen Trujillo, Regent Arsenio Romero

2. Proclamation Recognizing Letty Gallegos for her Service as Chair of Employee Council, Chancellor Dan Arvizu

3. Proclamation Recognizing Debra Hicks for her Service as Regent of New Mexico State University, Chairwoman Dina Chacón-Reitzel

D. Regent Committee Reports

- 1. Real Estate Committee Report, Regent Dina Chacón-Reitzel**
- 2. Regents Audit Committee Report, Regent Ammu Devasthali**
- 3. Financial Strategies, Performance and Budget Committee Report, Regent Dina Chacón-Reitzel**
- 4. Student Success Committee Report, Regent Arsenio Romero**

E. Advisory Member Reports

- 1. NMSU Faculty Senate Report, Chair Julia Parra**
- 2. Associated Students of NMSU Report, President Mathew Madrid**
- 3. NMSU Employee Council Report, Chair Joseph Almaguer**

F. Affiliated Entity Reports

- 1. Aggie Development Inc. Report, President & CEO Scott Eschenbrenner**
- 2. NMSU Foundation Report, Vice President Derek Dictson**
- 3. Arrowhead Center Inc. Report, Director & CEO Kathryn Hansen**

G. Consent Items, Chairwoman Dina Chacón-Reitzel

- 1. Naming of Doña Ana Community College (DACC) Gadsden Center Phase III building to Roadrunner Hall, DACC President Mónica F. Torres**
- 2. Espina Street Repave, Phase II, University Architect Heather Watenpaugh**
- 3. NMSU - Alamogordo Library Safety Replacement, University Architect Heather Watenpaugh**
- 4. Corona Range and Livestock Research Center Water Well and Water Use Agreement with Red Cloud Wind, LLC, Scott Eschenbrenner**
- 5. Fiber Line Easement Request from Plateau Telecommunications at Corona Range and Livestock Research Center, Scott Eschenbrenner**
- 6. Quitclaim Deed for Property Transfer for New Mexico Space Museum Building in Alamogordo and Termination of Joint Powers Agreement with NM Department of Cultural Affairs Related to this Facility, Scott Eschenbrenner**
- 7. Carlsbad Early College High School Ground Lease, Scott Eschenbrenner**
- 8. 2021 Annual Open Meetings Notice Resolution, General Counsel Roy Collins III**
- 9. Access to Classified Information Resolution, General Counsel Roy Collins III**

BREAK (10 MINUTES)

- H. **Action Items, Chairwoman Dina Chacón-Reitzel**
 - 1. **Election of Officers, Chairwoman Dina Chacón-Reitzel**

- I. **Informational Items, Chair**
 - 1. **Appointment of Regent Committee Members, Chair**
 - 2. **Summary of Revisions to the Administrative Rules and Procedures of NMSU (ARP) for the period December 3, 2020 through March 24, 2021, General Counsel Roy Collins, III**
 - 3. **Update on Agricultural Modernization and Educational Facilities, Chancellor Dan Arvizu**

- J. **Report from the New Mexico Department of Agriculture to the Regents of New Mexico State University (Board of Agriculture), Cabinet Secretary & Director Jeff Witte**

- K. **Report from the NMSU System Chancellor to the Regents of New Mexico State University, Chancellor Dan Arvizu**

- L. **Announcements and Comments, Chair**
 - 1. **“Gun’s Up” – Good News for NMSU!**

- M. **Adjournment, Chair**



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: B-1

- Action Item
- Consent Item
- Informational Item

Presented By: Chairwoman Dina Chacón-Reitzel
Board of Regents

Agenda Item: Regular Meeting Minutes for December 2, 2020

Requested Action of the Board of Regents: Approval for Regular Meeting Minutes for December 2, 2020

Executive Summary:

As required by the New Mexico Open Meetings Act, the board shall keep written minutes of all its meetings. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted. All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the board.

References:

NM Open Meetings Act §10-15-1 G.

Prior Approvals:

N/A



**NEW MEXICO STATE UNIVERSITY BOARD OF REGENTS
REGULAR MEETING
December 2, 2020 at 8:30am**

DRAFT MINUTES *NOT OFFICIAL – SUBJECT TO APPROVAL BY THE BOARD OF REGENTS*****

Regents of New Mexico State University

Chair Dina Chacón-Reitzel, Vice Chair Ammu Devasthali, Secretary/Treasurer Luke Sanchez, Debra Hicks, Arsenio Romero

Non-Voting Advisory Members - ASNMSU President Mathew Madrid, Faculty Senate Chair Julia Parra, Employee Council Chair Letty Gallegos

University Officials - Chancellor Dan E. Arvizu, Ph.D., President John D. Floros, Ph.D., Provost Carol Parker, J.D., Vice Chancellor Ruth A. Johnston, Ph.D., Senior Vice President Andrew Burke, Ed.D., General Counsel Roy Collins III, J.D.

MINUTES

The Board of Regents meeting is available by webcast through the link at <http://panopto.nmsu.edu/bor/>

A. Call to Order, Vice Chairwoman Ammu Devasthali

Regent Devasthali called the meeting to order at 8:33am.

Pledge of Allegiance

Cadet Victoria Martinez from NMSU Air Force ROTC led everyone in the Pledge of Allegiance. Cadet Martinez is from Albuquerque, New Mexico and was raised an Air Force brat. Cadet Martinez is trying to fulfill the same goal in becoming an Air Force Officer. Cadet Martinez is in the NMSU ROTC and finishing up Level 2 Nursing School. Cadet Martinez is planning to become a nurse in the Air Force.

1. Introductions

Introduction of Ermelinda Quintela, Senior Administrator in Strategic System Services, Vice Chancellor Ruth Johnston

Vice Chancellor Johnston introduced and thanked Ermelinda Quintela for her service as Chief Audit Executive for NMSU. Ms. Quintela served as Chief Audit Executive from February 1, 2017 through October 31, 2020 reporting functionally to the Board of Regents and the Audit Risk Committee and administratively to the Chancellor. Vice Chancellor Johnston stated that Ms. Quintela is in a new position in her organization as Senior Administrator in Strategic System Services. Ms. Quintela will continue providing a variety of services and is involved with the policy revision development approach, which includes Provost Parker. Ms. Quintela began her employment at NMSU in 2005 and has worked in many different areas around the university, including Auxiliary Services, Athletics, Physical Science Lab, Foundation, and Audit Services. Ms. Quintela began her education at the NMSU Carlsbad campus where she got her degree in Pre-Business, then transferred to the main campus and completed her bachelor's in Business Administration and Accountancy. Ms. Quintela received her CPA in 1991 and obtained her master's degree in Accountancy in 1994. Vice Chancellor Johnston stated that Ms. Quintela has hit the ground running and thanked her for her work in all the different areas that she's been in.

Introduction of Carlos Lobato, Acting Chief Audit Executive, Vice Chancellor Ruth Johnston

Vice Chancellor Johnston introduced Acting Chief Audit Executive Carlos Lobato. Mr. Lobato previously served as the Privacy Officer for Cyber Security. Mr. Lobato began his professional career in 2000 as an Internal Auditor in an international mining company. Mr. Lobato has done auditing work externally and internally. Mr. Lobato came to NMSU in 2005 doing an internal quality assurance review of the department to ensure compliance with international internal auditing standards. Mr. Lobato participated in external quality assurance review. In 2008 the City of Las Cruces hired Mr. Lobato as part of the City Managers Leadership Team conducting internal audits of the various city departments and including managing the anonymous reporting line. In 2012 Chief Audit Executive Lobato was recruited back to NMSU to serve as the IT Compliance Officer. Mr. Lobato worked with ICT, then was moved over to reporting in through me, although he works closely with the Chief of Staff for the Chancellor Leonard Martinez. Mr. Lobato has performed audits externally in New Mexico, Texas, Colorado, and Arizona. Mr. Lobato speaks frequently, and writes articles about audit, privacy, and compliance issues nationally. Mr. Lobato is a Certified Public Accountant, Internal Auditor, Fraud Examiner, and Information Systems Auditor. Vice Chancellor Johnston stated that she is delighted that he's willing to take on this acting role and thanked him.

2. Confirmation of Quorum, Vice Chairwoman Ammu Devasthali

The Chief of Staff proceeded to confirm the quorum and take roll.

Regent Chacón-Reitzel – Present

Regent Devasthali – Present

Regent Sanchez – Present

Regent Hicks – Present

Regent Romero – Present

Chancellor Arvizu – Present

President Floros – Present

Provost Parker – Present

Vice Chancellor Johnston – Present

Vice President Burke – Present

General Counsel Collins – Present

ASNMSU President Madrid – Present

Faculty Senate Chair – Present

Employee Council Chair Gallegos – Present

The Chief of Staff confirmed all Board members, university administrators, and university officials were present.

3. Approval of the Agenda, Vice Chairwoman Ammu Devasthali

Vice Chair Devasthali entertained a motion to approve the agenda. Regent Hicks moved to approve the agenda as presented. Regent Sanchez seconded the motion. The Chief of Staff took a roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

4. Public Comment, Associate Vice President Justin Bannister

Associate Vice President Bannister reported that no one had signed up for public comments.

B. Approval of the Minutes, Vice Chairwoman Ammu Devasthali

1. Regular Meeting September 18, 2020

Vice Chair Devasthali entertained a motion to approve the minutes for the Regular Meeting on September 18, 2020. Regent Romero made a motion to approve the minutes. Regent Sanchez seconded the motion. The Chief of Staff took a roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel - Yes

The Chief of Staff confirmed the motion passed.

2. Special Meeting November 2, 2020

Vice Chair Devasthali entertained a motion to approve the minutes for the Special Meeting on November 2, 2020. Regent Hicks made a motion to approve the minutes. Regent Sanchez seconded the motion. The Chief of Staff took a roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel - Yes

The Chief of Staff confirmed the motion passed.

3. Work Session November 2, 2020

Vice Chair Devasthali entertained a motion to approve the minutes for the Work Session Meeting on November 2, 2020. Regent Romero made a motion to approve the minutes. Regent Sanchez seconded the motion. The Chief of Staff took a roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel - Yes

The Chief of Staff confirmed the motion passed.

4. Special Meeting November 10, 2020

Vice Chair Devasthali entertained a motion to approve the minutes for the Special Meeting on November 10, 2020. Regent Sanchez made a motion to approve the minutes. Regent Romero seconded the motion. The Chief of Staff took a roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel - Yes

The Chief of Staff confirmed the motion passed.

5. Confirmation of Prior Closed Executive Session September 18, 2020

The Chief of Staff confirmed the prior Executive Session, which occurred on September 18, 2020. The Board of Regents met in a Closed Executive Session at 2pm on Friday, September 18. This was held virtually via zoom. The closed session meeting was held to discuss bargaining strategy preliminary to collective bargaining negotiations between the Regents of New Mexico State University and the American Federation of State, County, and Municipal Employees Local 2393 in accordance with the New Mexico Open Meetings Act and MSA Section 1015-1 Subsection H 5. Those board members who are present please certify that only the matters of that nature were discussed.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel - Yes

The Chief of Staff confirmed the completion of the prior Closed Executive Session.

C. Conferral of Posthumous Honorary Degree

Vice Chair Devasthali reported that it had been planned to welcome the guests to campus, but current health orders prevented them from doing that; therefore, presentation of the posthumous degree is being done via Zoom.

1. Posthumous Honorary Degree, Provost Carol Parker

Provost Parker read the proclamation confirming a posthumous degree to Mr. Zachary Aurada. Presenter were Mr. Zachary Aurada's mother and father, Ms. Sarah Burkhalter and Mr. Eric Aurada. Also present was Academic Department Head and Director of Hotel Restaurant and Tourism Management, Dr. Jean Hertzman. The following proclamation was read into the record by Provost Parker:

"Whereas, New Mexico State University shares with the family and friends in the loss of Mr. Zachary Aurada; and

Whereas, Mr. Aurada was a student in the Bachelor of Science in the Hotel Restaurant and Tourism Program and had completed 91% of his coursework for the degree; and

Whereas, the faculty of the School of Hotel Restaurant and Tourism Management and the Dean of the College of Agriculture Consumer and Environmental Science have recommended Mr. Aurada to be granted a posthumous degree; and

Whereas, I have reviewed the recommendation and support the granting of a posthumous degree to Mr. Aurada.

Now, therefore, be it resolved in official session that the Board of Regents of New Mexico State University hereby approved granting a posthumous Bachelor of Science Hotel Restaurant and Tourism degree to Mr. Zachary Aurada today, this 22nd DAY OF DECEMBER 2020 in Las Cruces, New Mexico.”

Vice Chair Devasthali entertained a motion to adopt the resolution. Regent Sanchez made a motion to approve the resolution. Regent Romero seconded the motion. The Chief of Staff proceeded in taking the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the adoption of the resolution.

Dr. Hertzman confirmed that the resolution and materials from NMSU, Sam Society, College of ACES, and the School HRT will be sent to the family. Dr. Hertzman appreciated the support of Dean Flores, Associate Dean Connor, and Provost Parker in making this happen so quickly. Vice Chair Devasthali offered heartfelt condolences on behalf of the Board of Regents to Ms. Burkhalter. Ms. Burkhalter was grateful to everyone and expressed how much it meant to them.

D. Awards and Recognitions, Vice Chairwoman Ammu Devasthali

1. Proclamation Recognizing Elizabeth Titus for her service to NMSU as Dean of the Library, Provost Carol Parker

Provost Parker read into record the proclamation, that she and the other members of the administration who have enjoyed working with Dean Beth Titus over the years, would like the Board to consider.

“WHEREAS, Former Dean of Library Dr. Elizabeth Titus has been a visionary who has embraced diversity and opportunities, and always expressed appreciation to her staff for their hard work by supporting and encouraging their pursuit of higher education; and

WHEREAS, under Dr. Titus time at NMSU as Dean of Library she hired a total of 45 library faculty and 59 library staff, including for associate Dean's and reviewed approximately 200 promotion and tenure files; and

WHEREAS, Titus was instrumental in planning and overseeing a \$1.6 million extensive renovation of the second floor of East Grandson Library, totaling 16,000 square feet, in order to house the P.B. Dementi Papers and

hired a Political Papers Archivists to support this collection and to create visual exhibits; and

WHEREAS, Dr. Titus was instrumental in working with Herbert and Joan Zul in housing at the Zul Library assorted petrified rocks that they had gathered throughout the years. Zul Library is named in Zul's honor after NMSU received a \$3 million gift from Herbert and Joan in March 2000. Dr. Titus was a speaker at the June 16, 2000 Naming Ceremony attended by over 325 people, which nurtured the warm relationship she had with Herbert and Joan Zul throughout the years. Dr. Titus worked actively with the Zul's whenever a new piece of unique fossilized wood was available for display; and

WHEREAS, Dr. Titus at NMSU Library was honored for her efforts with donor campaigns. She was the recipient of the John Cotton Anna Dana 2001 Dynamite Campaign, a public relations award from HW Wilson that the American Library Association featured a dinosaur skull, named Stan, that is still on display in the Zul Library; and

WHEREAS, Dr. Titus was instrumental in 2013 in working with Tim Parker, whose generous support made possible the development of numerous programs and support of Sunshine Week, which every year Foster's transparency in government; and

WHEREAS, she was able to negotiate a recurring 5% library budget allocation from the research grant in direct cost recovery cost revenue to assistance supporting the collection used by the researchers; and

WHEREAS, she held leadership roles in the American Library Association Committee and served as Vice President, President Elect for the New Mexico Consortium of Academic Libraries and President of New Mexico Consortium of academic libraries; and

WHEREAS, Dr. Titus was a tireless advocate for state library legislative activities, including the legislative obligation bond; and

WHEREAS, Dr. Titus was a trailblazer for nursing mothers on campus and was the first on NMSU to offer a nursing room; and

WHEREAS, she was born teacher having insights gained from both book learning and professional interaction.

NOW, THEREFORE, BE IT PROCLAIMED in official session that the Board of Regents of New Mexico State University thanks and commends Dr. Elizabeth Titus for her dedicated service proclaimed this second day of December 2020 while in regular session."

Provost Parker added that she has had the pleasure of knowing Dean Titus since 2005 and always enjoyed working with her. Vice Chair Devasthali extended her gratitude to Dean Titus for her service and wished her the best of luck in all her future endeavors.

2. Proclamation Recognizing Susan Brown for her service to NMSU as Dean of the College of Education,
Provost Carol Parker

Provost Parker acknowledged the presence of Dean Brown and other family and friends. Provost Parker read into record the proclamation.

"WHEREAS, Dr. Susan Brown served New Mexico State University as a loving educator, researcher and

administrator for 25 years; and

WHEREAS, Dr. Brown served as a Senior Administrator in the College of Education for the last three years, serving as both Interim Dean for the College for two years and Interim Associate Dean for Research for one year; and

WHEREAS, Dr. Brown served as a Research Professor and Director of the STEM Outreach Center at New Mexico State University and was responsible for Research Awards, totaling in \$23 million in research grants over the years; and

WHEREAS, Dr. Brown's outreach and service work has served underserved and bright students in Las Cruces Hatch and Gadson school districts for decades, with more than 8,000 students served in a single year; and

WHEREAS, Dr. Brown's outreach and service work has had an overall economic impact of \$15 million since 2009 generating more than 200 jobs and contributing positively to Doná Ana County; and

WHEREAS, Dr. Brown's was often recognized for her excellence in teaching and dedication to research in STEM.

NOW, THEREFORE, let it be proclaimed on this second day of December 2020 that the Board of Regents formally acknowledges Dr. Susan Brown's accomplishments and advocacy on behalf of faculty, staff, and students have made NMSU a better place."

Provost Parker extended her gratitude to Dean Brown for her service and wished her the best in her retirement, continued advocacy and mentorship work.

Vice Chair Devasthali stated that she has known Dean Brown for many years, wished her the best of luck, a good retirement, and thanked her for her service.

Regent Romero thanked Dean Brown for her influence over NMSU, the program, entire state, and creating new teachers in STEM programs. The work Dean Brown has done over the last 25 years has provided support to every classroom, teacher, and principal.

Regent Hicks stated that she has had the pleasure to work with both Dean Brown and Dean Titus over the last six years and extended her gratitude to them both.

President Floros stated that they had been looking for someone to lead the college. President Floros offered Dean Brown the opportunity. Dean Brown knew that it would be a difficult position during a difficult time for the college and university in terms of transitioning into something different. Dean Brown accepted the challenge and for the last two years did a wonderful job of moving the college forward and keeping it together until they had permanent leadership in that role. President Floros personally thanked her on behalf of the college and NMSU.

President Parra extended her gratitude to Dean Brown for her mentorship years ago when she was teaching science. President Parra said that she made it because of her mentorship over the years.

Dean Brown commented by saying that it was an unexpected honor. It was a been a privilege and honor to be a member of the NMSU team and family. Dean Brown stated that she has been in the world of education for many years, beginning with teaching at Las Cruces High School, then continuing to earn her PhD from the prestigious university, NMSU. As a first-generation student Dean Brown knows how important everyone at

NMSU is and stated that she would not have majored in sciences, nor would she had gone on her educational path without help and guidance. Dean Brown stated that she joined the NMSU community with a grant. Dean Brown said that in her heart she wanted all of their students to know that they could be whatever they wanted to be and since she was in STEM she told her students 'you can be a mathematician, scientist, doctor, nurse, or whatever you want to be.' Dean Brown wanted all children to have access. Dean Brown stated that the STEM Outreach Center has been successful and there have been a lot of students that have gone through the in or after school program. Dean Brown stated that it would not have been as successful if she had not been located on the campus of NMSU. NMSU is dedicated to the students. Dean Brown said that her kindergarteners and elementary school children don't find it scary and think that they may go there one day. Dean Brown stated that it's been a whole community effort and with the STEM Outreach Center. It wouldn't have happened without the love, devotion, and dedication of everyone on campus. Dean Brown stated that President Floros asked her to help out by becoming Interim Dean, which worried her at first. Dean Brown saw that every part of the NMSU campus was excited. Dean Brown said that the current leadership team is more intense, where students may be able to register for classes for 2 years or 4 years, and are guiding students. Dean Brown is grateful everyone for doing what they do and feels like NMSU is the best place for faculty, staff, students, and administrative personnel. Dean Brown is proud to be an Aggie and that they felt that her contribution to the NMSU was worthy of this recognition.

E. Regent Committee Reports

1. Real Estate Committee, Regent Dina Chacón-Reitzel

Regent Chacón-Reitzel reported that the Real Estate Committee met twice since the last report at their Regular meeting that was on September 18, 2020. The last Real Estate Committee meeting was on October 29. Several items were presented for review and approval. Included in the agenda was a discussion of proposed updates to the membership of the committee by adding an additional voting member position for an Academic Administrator, such as a Dean. This makes the membership more consistent with Aggie Development Incorporated and more consistent with a composition of the public NMSU membership on all other regent committees. The committee voted to recommend this change to the board and it is an item on today's agenda, which is H-6 on the Consent agenda. Also, the committee recommended approval of an easement to El Paso Electric Company, which is part of the Campus Solar Project. This item is H-4 on the Consent Agenda. The committee recommended approval of a Right of Way Agreement with the New Mexico Department of Transportation for signage on the west campus at Valley Drive. The committee recommended approval of the electric infrastructure safety and reliability improvements, which are items H-5 and H-3 on the Consent Agenda. There was a special meeting called on November 19, where the committee was presented with ground and improvements lease and facilities leads between NMSU and Municipal Acquisitions. The committee recommended approval and requested that some additional information be gathered and presented today at this meeting, which is an Action Item on the agenda.

2. Financial Strategies, Performance and Budget Committee Report, Regent Debra Hicks

Regent Hicks stated that the Regent Financial Strategies, Performance and Budget Committee met in the latter part of October and there were several updates provided to them. Tuition revenue, scholarship expenditures, tiered tuition and fees were discussed.

3. Student Success Committee Report, Regent Arsenio Romero

Regent Romero reported that an update for the planning of the spring semester was given by Provost Parker and Vice President Scott. There are 25% courses that will be held online, 30% will be hybrid, and the rest are face to face. They will keep up to date with any new information with the pandemic. The start date for spring semester has been pushed back. There will be changes to spring break. There are many services that are offered online such as tutoring, advising, and others. Staff are ready to pivot as needed to support students on

campus. Co-curricular activities for graduate and undergraduate students are provided. They know that students are isolated and are keeping eye on issues, such as depression and anxiety. Mental Health Services is doing a good job in supporting students in that regard. They are moving forward with recruiting faculty to help make online learning better. A Faculty Fellow at each college, which will be implemented, will dramatically increase the student experience in the online environment. President Floros gave an overview and talked about how the university moved all courses online, how hard everyone worked to get it done, even with a few bumps in the road. Chancellor Arvizu reported that NMSU is supporting the community through food distribution and testing. There have been days where they had 1,000 tests done and they have shifts for coverage 24/7. NMSU has the greatest testing capacity in the state. Dean Camarena reported that he has met with faculty in regard to undergraduate research. Provost Parker discussed differential tuition and aligning it with student needs and NMSU needs, which will go towards staffing, who can run some of the needed programs to make sure they get the best staff in their programs. Vice President Scott presented on Navigate, which is collecting data to help support students in the intervention support to help improve virtual and in person learning. Also, in keeping students on track with credits and graduation, as well as engagement and success.

Regent Hicks asked that the spring semester start date be clarified. Provost Parker stated that their scientific advisors cautioned them that December through February will be the most challenging in regard to transmission of infection and advised them to push the start date for the spring semester as much as possible. They still want to end the semester at the usual time, the middle of May. Therefore, they delayed the opening of the spring semester and eliminated the traditional 5 day spring break; however, those five days will be distributed throughout the semester to provide some respite from the workload, yet not encouraging travel out of concern of contributing to further transmission of the virus.

4. Higher Education Regents Collation Report, *Regent Debra Hicks*

Regent Hicks reported that they have had two meetings and a couple of executive meetings for planning since the last Board of Regents meeting. The conversations that they had in their meeting yesterday was in regard to broadband. Broadband has been a concern, in particular, the loss of connection of more than 10,000 students in public education in the state of New Mexico. Possible initiatives and actions that the Higher Education Regions Coalition could put forth in the coming year were discussed. An executive team meeting was held. There were only four of five regions present, although it was announced to everyone. UNM, NMSU, Highlands, and others were represented to discuss broadband. There will be a CUP meeting on Friday. There will be several proposals that will be put forth and provide data in reviewing if there's something that this body can do in order to come up with a proposal to present to legislature. Rural communities are very limited. They are looking at other institutions, such as Utah, in regard to helping their state adjust to coping with COVID-19.

F. Advisory Member Reports

1. NMSU Faculty Senate Report, *Chair Julia Parra*

President Parra reported that they are working on a variety of propositions. Proposition 3 is to amend the curriculum approval process, further discussion is underway with Provost Parker. In the past, the approval process has been lengthy. They are working hard to figure out how to be more competitive in that process. This proposition has been approved. Proposition 7 is a Memorial to request the restoration of Shared Governance. There were concerns related to the reorganization of NMSU. They have been working hard in conversations amongst themselves, administration, and everyone who is part of those conversations. The proposition was approved. There are other propositions up for approval that will be voted on in their meeting tomorrow. President Parra noted that Faculty Senate is re-structuring, redoing, and re-envisioning committee structures. In that process, they are looking at the structure of the Board of Regents, student structure, and other universities in a variety of ways in how their committees can better aligned with the community and

campus. There is work being done, envisioning, and idea generating on that.

Vice Chair Devasthali asked why there was a name change for Kinesiology and Dance. It now reads, 'Department of Kinesiology.' President Parra answered by stating that the change is to align with the more common name that is used across the country. It supports their mission, what students access and what is prevalent in their field. When asked if the removal was a concern, it was noted that it was not a concern and everyone agreed to it. President Parra confirmed that dance is still a part of the department.

Vice Chair Devasthali noted that in Regent Romero's report he discussed the importance of focusing on the mental health of students. Vice Chair Devasthali stated that it is just as important to pay attention to the mental health of faculty because they have been going through intense reorganization pivoting to online instruction and asked if they are paying enough attention to that. Vice Chair Devasthali stated that the headline of the latest edition of The Chronicle was "Burnout Amongst Faculty." Vice Chair Devasthali asked if President Parra could address that. President Parra stated that she would note that 100% of problems are equally shared amongst everyone, including administrative staff. In areas of professional development that has been strong for NMSU, in particular the needs in online and digital learning support. Only some of the faculty take advantage of it. A survey was completed in regard to how faculty felt about the move online and what the challenges and barriers are to that. There were 100 responses received and good recommendations. President Parra stated that everyone is ready for Fall and Winter Break. President Parra encourages taking breaks in her updates and messages. There will be much to do in the spring as well as professional development for Faculty Fellows; therefore, it is important to take advantage of breaks so everyone can come back revitalized. President Parra is concerned that not everyone is reaching out for support.

President Floros commented that faculty have support around campus and the whole system from training people to deal with online issues, changes, and other aspects. There have been many events to address the stress factor. They have tried to monitor the overall health of faculty, staff, and students. It's difficult to get to a point where you know exactly what that looks like because many people are private and don't come forward with major issues. There is much evidence that the NMSU community is extremely supportive of each other. They see examples of people helping, reaching out to others to lend a hand and going through this together. It has a huge effect throughout the community. What is seen is that they trust people to behave properly and get through this Coronavirus Crisis. Faculty and Staff have exhibited resiliency. They have asked managers, supervisors, department heads, and deans to reach out to people on a regular basis. Some supervisors or people from a supervisor's office reaches out to others just to ask 'how they are doing?' That goes a long way to restore the trust in the university and community. Vice Chair Devasthali responded that she is encouraged to hear that. Vice Chair Devasthali continued by saying that it is a hard time for everyone; therefore, having that support and reaching out is wonderful and thanked them for that effort. President Parra stated that if anyone has any ideas or strategies to let them know. One of the things they are doing to help is providing professional development and implementing Faculty Fellows as a support. President Parra posed the questions, 'What are different ways they can approach faculty, staff, students, and everyone who needs to be a part of services and outreach?' and 'What are different ways they can do that using centralization and decentralization technology?' Navigate has been phenomenal from what is understood, for the students. Also, 'what are additional tools and strategies they can keep working on implementing over time?' There's a potential for fundamentally changing the way they do things in a positive way. Anytime anyone has any ideas, please let them know. Vice Chair Devasthali said that it's wonderful that they have the community that they do at NMSU. Not all universities have that, so they are fortunate. The usual ways to get that feeling of community, they can't do anymore. Therefore, it's very important to come up with innovative and creative ways to accomplish that.

2. Associated Students of NMSU Report, *President Mathew Madrid*

President Madrid reported that they have had some virtual events. One of the events was a Thank You Las Cruces effort where they got a collection of videos thanking the frontline workers in their community.

President Madrid will be sending them to the Chief of Staff. President Madrid stated that he was told that one of the nurses who received it nearly cried. He is glad that they are doing their part in strengthening the community. Bonds for ASNMSU Capital Outlay Projects from this past legislature were indeed sold, which includes \$130,000 for the Veterans Housing Project. They will be meeting with Facilities and Services to get that underway. Currently, they are moving forward in planning for next semester. ASNMSU is working on a re-branding for the organization. Since learning from COVID-19, they will have to be a very different student government moving forward and moving with the times. They will introduce that to students early next semester.

3. NMSU Employee Council Report, Chair Letty Gallegos

Chair Gallegos reported that nominations are underway for council members. They are encouraging employees to self-nominate. Employee Council has supported and provided input to reports and memos from the various committees and action teams that have emerged from last year's climate survey. They look forward to working with them in the administration on initiatives stemming from those reports and recommendations. They are encouraged that the administration held the climate survey and has set up Task Force groups. Chair Gallegos participated in the Budget Town Hall on November 17 and was able to represent the views of staff.

President Floros commented that over time they have seen many contacts to his office that were mostly negative. In the past 3-6 months there have been many positive messages from students, faculty, and staff thanking the university for its actions and what they're doing to help students, faculty, and staff. It's good to see the evolution of how people feel about where they are as a university. The movement is definitely there from negative to positive. Our faculty, staff, and students are doing some things well. President Floros directed to Chair Gallegos that they are doing a good job at the university.

Vice Chair Devasthali followed up on President Floros' comment by saying that they had had a conversation about wanting to create a sense of family that everyone works together, even with each other's' differences. It's testament to the university for all their hard work in trying to pull people together that they are hearing about the good things that are happening on campus.

G. Affiliated Entity Reports

1. Aggie Development Inc. Report, President & CEO Scott Eschenbrenner

Mr. Eschenbrenner reported that he is giving an update on the Aggie Uptown and the Development Project. They were supposed to have a meeting with contractors. They have been challenged with the contractors and subs because they ran into some COVID-19 issues. However, there will be substantial completion next Friday. There had not been much activity in the interest of tenants. They put a hold on that in February due to COVID. Presently, they have had a Letter of Intent. They are reviewing the Ground Lease with their senior community. They have two medical users. One is a small single tenant user, who is looking to locate a new building. The other is a larger regional medical provider that they will be meeting with next week. Also, they have a letter of intent that they have signed with a retail user and are reviewing a Ground Lease. They are working on final site selection and placement. They had a meeting yesterday with another interested retail tenant. They are very similar to the ones they are presently working on; therefore, it will be put on hold. They have had some preliminary talks with the Big Box Retail, who is showing interest again in their market. With all the challenges they are seeing with COVID-19, it's exciting to see their market begin to get some interest and have capital flowing. They are hoping to have some approvals to bring early next year.

2. NMSU Foundation Report, Vice President Derek Dictson

Vice President Dictson thanked Chairwoman Chacón Reitzel, Vice Chair Devasthali, and Chancellor Arvizu for their work to help the Foundation lay a productive groundwork for the future of their relationship between the

Foundation and the university. They hope to have the MOU ready for their vote at their next meeting, which will be early next year. NMSU Endowment is in a better position now than it had been previously. Their current market value, which was September 30, was approximately \$181.5 million. The 1 year return was approximately 5.9% and fiscal year to date was approximately the same. They continue to actively monitor their asset allocation investment strategy. The Foundation Board and the Investment Committee are currently undertaking a review of the OCIO that manages their endowment for the Foundation. They are preparing an RFP to solicit proposals from investment managers, which will probably go out early next year. The FY 20 fundraising totals are good. They have raised about \$4.6 million, compared to about \$4.4 million at this time last year. They're up approximately 5% as compared to last year at this time. Giving Tuesday was yesterday and their preliminary estimates were given this morning, which their staff were up after midnight tabulating everything that was raised. The total amount was \$253,000, which was approximately 1000 gifts. Vice President Dictson appreciated one of their local donors who made an anonymous gift of over \$1,000,000. It went directly to Athletics and Nursing and \$500,000 of that was established for a Heros of Compassion Program in the School of Nursing. This funding was immediately spendable and the donor wanted it utilized over the coming months and is considering another donation in the near future. It is for enrollment growth, student success programming, simulation center enhancements, one additional faculty member, and many student scholarships. Vice President Dictson recognized Alexa Doig in her work in being instrumental in helping with this donor, generating over 30 thank you letters, and being a wonderful partner in helping to raise that money.

Regent Hicks expressed her gratitude to the Foundation and the leadership of the Board of Regents in working diligently on the MOU that has been 3 years in the making. Regent Hicks looks forward to its completion. The outreach for Advancement and the Foundation has been incredible. Regent Hicks is appreciative for the notes from the scholarship recipients.

3. Arrowhead Center Inc. Report, Director & CEO Kathryn Hansen

Director & CEO Hansen reported that Arrowhead contributed to the Regional Entrepreneurship and Innovation Ecosystem during 2020. They have been working with DACC and NMSU branch colleges to identify ways Arrowhead can expand entrepreneurship initiatives to their colleges and communities. Collaborating with the College of ACES has been great to identify ways to leverage its statewide network for entrepreneurship and economic development. Providing investment capital to startups responding to the demand for entrepreneurship services during COVID 19 and providing entrepreneurial experiential learning opportunities for the next generation of employees and entrepreneurs K through 16 plus. Some recent highlights include receiving funding from the Daniels fund for Innoventure and Studio G for 2021. There are pictures included in the report that show the environment of pre-COVID and post-COVID activities. Arrowhead and Navajo Tech NMSU Indian Resource Department were awarded funding through the Native American AG Fund to hold an intervention for the Native Youth AG Camp. The purpose is to develop cattle and sheep ranching business management plans. They held a conference recently that was focused on university and college student entrepreneurs in Studio G across the state, as well as American Indian students in our American Indian Business Program. They had an outstanding keynote speaker Mr. Bill O'let from MIT. Mr. O'let is really well known in the entrepreneurship field and they adopted his curriculum that he uses at MIT for teaching university entrepreneurs. It has worked very well for them and their students. Another focus that continues to grow is the clean energy business technology and acceleration. They have funding from both Department of Energy and Economic Development Administration for that. They've recently formalized a partnership with the SBA, which will be a catalyst to leverage resources across providers, such as the small business development centers that they have at various colleges and universities in the state for the benefit of small businesses and entrepreneurs.

Tribute was paid to this year's NMSU Entrepreneurship Hall of Fame Inductee, Dino Cervantes. The Entrepreneur Hall of Fame honors NMSU graduate to have launched successful businesses introduced innovative entrepreneurial concepts and practices into workplaces and/or who have contributed to the

entrepreneurial climates of the regions. The Hall of Fame Advisory Council chose Mr. Cervantes to receive this year's honor. Their virtual reception will be on December 17 from 5pm – 6pm. The registration information is on their website. Director Hanson got to know him through the Ag Shark Tank. Mr. Cervantes was an investor in student businesses at the first Shark Tank and several years thereafter. Mr. Cervantes is a third generation member of a farming family. Cervantes Enterprises consists of a chili processing facility and a 1400 acre farming operation that produces crops such as chili, cotton, and alfalfa. They have grown and processed various types of chili peppers, which would then be used in the production of Louisiana style hot sauce. Mr. Cervantes is an NMSU graduate with a bachelor's degree in Business and has been dedicated to the Ag community and NMSU for many years. Mr. Cervantes is a founding member of the Chili Pepper Pass Force. Mr. Cervantes won the NMSU Line Decker Agricultural of Distinction in 2006. Mr. Cervantes' father, Orlando Cervantes, is a graduate of the College of Engineering and his mother, Gene, won the Line Duggar Award in 1996. Mr. Cervantes met his wife, Leslie, when they were both students at NMSU. Mr. Cervantes has demonstrated great success as an entrepreneur in his own business and in guiding and supporting others in their entrepreneurial path. Director Hanson is grateful to Mr. Cervantes for all he has done.

Regent Chacón Reitzel extended her congratulations to Mr. Cervantes and to his family for the Alumni Entrepreneur of the Year Award. Regent Chacón Reitzel said that people often think of agriculture as stayed, old, and traditional. Although there are traditions, they are quick to adopt innovations and think outside the box to build their agricultural businesses. This is a great example of agriculture at its best in doing what it needs to do, thinking beyond their own boundaries to extend their businesses, and provide food to the world. Regent Chacón Reitzel has worked with him and said that he is deserving of this honor.

Regent Romero extended his congratulations to him as well. Mr. Cervantes is not only a wonderful support and has done tremendous work in the community, but is a good person as well. Regent Romero looks forward to what else he does for their community.

Chancellor Arvizu added that the Cervantes family has been a pillar in the community. Chancellor Arvizu invited everyone to celebrate with them on December 17 at 5pm to acknowledge him virtually in person. Chancellor Arvizu read a quote from Sally Stallman, who is the operator from Stallman Pecan Farms, about Mr. Cervantes, "His love for agriculture and his community comes from the heart." Chancellor Arvizu thought that was wonderful, extended his congratulations, and stated that they will formally celebrate on December 17.

Regent Hicks requested that she be on the schedule for the celebration so that she can make her comments there.

Vice Chair Devasthali has known the Cervantes family for a long time and extended her congratulations to Mr. Cervantes as well.

H. Consent Items, Vice Chairwoman Ammu Devasthali

Vice Chair Devasthali entertained a motion to approve the consent agenda items as presented. Regent Romero motioned to approve. Regent Sanchez seconded the motion. Regent Hicks asked to have discussion, which Vice Chair Devasthali granted. Regent Hicks encouraged the Regents to not include the BAR on the Consent Agenda going forward. Vice Chair Devasthali thanked her for her comment.

The Chief of Staff proceeded with the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón Reitzel – Yes

The Chief of Staff confirmed the Consent Agenda was approved.

1. **Temporary Investments Report for the Quarter ended 09/30/2020**, *Senior Vice President Andrew Burke*
2. **Budget Adjustment Requests (BAR) for Fiscal Year 2020-2021**, *Senior Vice President Andrew Burke*
3. **NMSU Las Cruces: Electrical Infrastructure Safety and Reliability Improvements**, *University Architect Heather Watenpaugh*
4. **El Paso Electric Easement - Solar Project**, *Special Assistant to the President Scott Eschenbrenner*
5. **NMDOT Right of Way Agreement – West Campus Signage at Valley Drive**, *Special Assistant to the President Scott Eschenbrenner*
6. **Amendment to Regents Real Estate Committee Charter**, *Special Assistant to the President Scott Eschenbrenner*
7. **Labor Management Relations Board Resolution**, *General Counsel Roy Collins III*
8. **Fall 2020 Degree and Certificate Conferral**, *President John Floros*

Vice Chair Devasthali entertained a motion to take a break and return at 1:20pm. Regent Hicks made the motion and Regent Romero seconded the motion.

BREAK (10 MINUTES)

Vice Chair Devasthali called the meeting into order at 1:21pm.

I. Action Items, *Vice Chairwoman Ammu Devasthali*

1. **Grounds and Improvements Lease and Facilities Lease between NMSU and MACQ-NEW MEXICO I, LLC**, *Special Assistant to the President Scott Eschenbrenner*

Mr. Eschenbrenner reported that they have been presented with an opportunity to lease and eventually own 408 existing student housing beds at The Flats at Ridgeview.

Mr. Eschenbrenner introduced the following guests: Eric Jouane, representing Sodexo; Jeff Pacey, Managing Director from Municipal Acquisitions, Michael Moss, Managing Director from Municipal Acquisitions, D'Anne Stuart, Associate Vice President for Admin and Finance, Kim Huddleston, Director of Auxiliary Business Support, Reney Scott, Vice President for Student Success, and Scott Field from General Counsel office.

Mr. Eschenbrenner stated that they are putting before the board an opportunity to lease, for 30 years, The Flats at Ridge View with the opportunity to own at the end of the 30 years. It presents a strategic and economic benefit for NMSU. It is a newly constructed and purpose built facility for student housing. They have completed phase one and phase two, which is 408 beds in 252 units. Phase three includes an additional 84 beds in 48 additional units. That is a total of 492 beds in 300 units. The property is located at 2050 Wisconsin Avenue. Currently, the occupancy of The Flats at Ridgeview is made up of 98% of students who attend NMSU or Burrell College of osteopathic Medicine (BCOM.) The break up of that is 55% NMSU students and 45% BCOM students. The Flats is less than a mile from the horseshoe at NMSU and close to Corbett Center, Student Union, and other services. The first phase was completed in 2018 and the second phase of construction was completed in the summer. They've added 156 new beds and have leased 103 of those. The

total occupancy for the whole facility is 87%. They have 30 more beds to lease before they reach their stabilized occupancy of 95%. The property was appraised by a member of the Appraisal Institute from El Paso. The property is appraised at \$41 million as is, not stabilized and not in lease. Municipal Acquisitions, who will be their partner, has a purchase agreement with the owners at the same value conclusion of \$41 million. The appraiser came up with a value as complete by July 31, 2021, including 84 additional beds, at \$47,950,000. It is anticipated that they can deliver on that date. Once it reaches stabilization nine months thereafter the total value will be \$48.1 million. The appraiser's opinion of land value was at \$5 a square foot or \$2.7 million. It's important to note that this is land that they had sold to them at \$2.5 million 3 or 4 years ago; meaning that there has been an appreciation and value since that project. When they build an additional 48 units and 84 beds, Sodexo estimates the cost at \$6.7 million. They will be at \$47.7 million in costs for Municipal Acquisitions. Mr. Eschenbrenner said "that if you back out the land value from that, you're just shy of \$45 million and if you divide that by the total square footage of the project, it's about \$160 a square foot. That is a price point that is very attractive." Mr. Eschenbrenner stated that the appraiser looked at the list of properties that were actual transactions on the sales comparison report. They are all complexes between 1 and 9 years old and within walking distance of a tier one or tier two university. The price per bed value range from \$67,000 to \$163,000. The acquisition price that they're looking at for The Flats is just under \$100,000, which means that they are within the mid to lower end of that range of comparable sales. The capitalization rate is the relationship between sales price to net operating income. This ranges from 4.1% to 5.92%. The average is 5.05%. When looking at the pro forma, it means that they are acquiring the property. As of today, the capitalization rate is 5.6%, which is without it being stabilized. In year 3 and with the additional units and stabilization the capitalization rate reflects a 6.7% return rate. The higher number of the capitalization rate, the better value of investments.

Mr. Moss stated that they designed transaction in this structure with several key goals in mind. First, they wanted to make it as simple and straight forward as possible from a documentation stand point. It isn't a traditional P3 deal with hundreds of pages of documents. It's a lease. Second, they wanted to make sure that NMSU owned and operated the property as part of its own housing stock. Third, they wanted to provide NMSU with an avenue to obtain ad valorem tax exemption, which is a way that will provide the university with additional cash flow. Fourth, they wanted to make sure that all residual income flow to the university. There is no revenue split with Municipal Acquisitions or anything of that nature. Every dollar that falls to the bottom line will flow to the university. Lastly, it's a structure that they've actually implemented with several other universities across the country, as well as healthcare systems. They know it works and is easy. It is a lease based transaction and a long term lease. However, NMSU has the option to cancel or prepay the lease at any time. Municipal Acquisitions has a purchase and sale agreement currently for The Flats. The transaction would be that at closing they would cause fee title to the property to be conveyed directly to the university. In exchange they would enter into a lease lease back, they'd have a 40 year ground and improvements lease that would be prepaid. Secondly, they would have a facilities lease, which is a triple net lease from the university to Municipal Acquisitions, which is 30 years. The reason that the ground and improvements leases is a little longer is to give flexibility to the university, such that if it didn't make all the lease payments it would have an additional 10 years to do so. Even though the grounds and improvements lease is longer, it will collapse once the facilities lease is paid off. The cause fee title to be transferred into the university, then enter into a lease lease back. They will structure the transaction such that the university will be able to obtain ad valorem tax exemption. The transaction is cash flow positive to the university beginning in year one through year 30. They've estimated that the positive cash flow to the university to total around \$23 million. At the end of year 30, once all the lease obligations are met, the asset reverts lean free to the university. The university will hold the title from day one and then enter into a lease lease back once all of the lease obligations are met. The university will hold a free and clear title to the asset in year 30. The value of that asset using a conservative 7.5% cap rate on year 31 rent is about \$59 million. The university has the ability to pre pay the lease at any time. They could close the transaction tomorrow, then two days from now the university can elect to cancel or prepay the lease. These are important points that not only does it give the university economic incentive, but

also provides it with adequate flexibility. It is a straightforward transaction, unlike a lot of other P3s that have been done. There is no affiliation agreement. The transaction is not going to go in front of the rating agencies. There are no offering documents for publicly issue debt. It is a straightforward transaction. The leases are plain vanilla 30 year triple net bonded leases. The documentation consists of leases and approving resolution enforceability opinion and they want to make sure that all the real estate documents are in place. The university will hold the title to The Flats from day one and will own the lean free title after the lease obligations are met, either in year 30 or before if the leases are cancelled. The university does have control of The Flats and it will be part of the university's housing stock. It will be able to own and operate the property as it sees fit. All the residual cash flow will flow through the university. The qualitative benefits are this ability to provide the university with high quality housing in a timely manner. They anticipate the transaction closing in early 2021 once they get past all the approvals.

Mr. Eric Jouane stated that the project is connected to the Master Collaborations Agreement that was signed in September. They provided Municipal Acquisitions a report for the funding. Sodexo operates in a wide range of services, such as reporting facilities, maintenance, construction, and food. They propose to operate the construction of the additional 84 beds as Phase 3 of the program. They can finance the overall additional construction with a very good price per square foot or less than 80,000 euro per bed, which is much lower than the phase one and phase two for a total of \$6.7 million. Municipal Acquisitions and Sodexo will secure the funding and secure the contract with the contractor who built up in Phase One and Two with Crestline. The agreement is secured with them as well. They will call on independent trustees to manage all the financial institution or the financial elements related to the additional 84 bedroom construction. An independent construction company will monitor and track the work execution. They will obtain the authorization to build the additional 84 beds. It relates to funding, finance, and will commit to deliver the aspect of budget. Also, to take a risk as it relates to the overall price so it's fully capped and fully bought up the transaction as well.

Ms. Kim Huddleson reported 406 beds to rent for fiscal year 22 with 90% occupancy. Those numbers and the rent per bed number is based on what is actually happening right now at The Flats. The rent per bed per year is \$8,460. Included is a Miscellaneous Income line and vacancy rate. In fiscal year 23 there is an increase by 84 beds, which will be a total of 490 beds. They've decided to take a conservative approach with the occupancy rate of 92.5% for the first year with the additional 84 beds. With the 84 beds there is an incremental increase of \$842,000. The 84 beds is key to making this pro forma as positive as possible. In continuing the increase in occupancy to 95%, which is stabilization, in the third year. In looking down through the income level to the expense level, these are standard expenses. This will be related with the management of the property by Sodexo. One of the things that they have taken into consideration with this pro forma is the fact that there is tax abatement available because of the property being owned by the university. There is no tax being reflected in this report. There is discussion on the tax law with the tax assessor on whether or not they will be eligible for a tax abatement. They have been asked to talk with Counsel about that. Counsel will be issuing an opinion about whether or not they will be able to reflect tax abatement. They have equipment depreciation, as well as R and R or deferred maintenance for the property. With total expenses, they create an NOI with over \$2.3 million the first year. The second year they have an incremental amount of the NOI of over \$732,000. The flow through of that to the bottom line is a positive number and grows between the total cash flow in year one to year two, then a stabilization rate in year three. In the far right column there are notes regarding the assumptions made for this pro forma. One of the things noted is the different rates per bed per type. There are one bedroom and two bedroom types. This is a property that leases by the bed, so that makes it convenient for students. In the left hand corner of the pro forma there is a cash flow amount for the 10 year pro forma of \$6 million. The break even in the first year with 406 beds is 85%, which reflects the 347 beds occupied. In year two, including the 84 additional beds and the total being 490 beds, the break even amount is 80% or 392 beds rented.

Ms. D'Anne Stuart said that in addition to evaluating the economic value that The Flats could add to the university, they are looking at the strategic alignment from their housing inventory perspective and looking at

‘does this align with where they want to go to take the university to their strategic vision leads 2025?’ From a housing perspective, it expands their housing inventory without the construction risk. This project is an upper division and graduate student housing complex. They have focused their on-campus efforts primarily through their 2017 bond issuance in improving their residence halls, which has been seen through the addition of Juniper Hall, which aligned with their first year residency requirements. Their focus has been on first year students. This provides a higher standard of housing stock that can be used to support their recruitment and retention. They have an unmet demand. The major apartment units on campus are Chamisa 1, Chamisa 2, and Vista del Monte. Vista del Monte is the only apartment complex on the south campus that the university agreed to invest in in the 2017 bond improvement measures. They are at high occupancy for the last three years and the Fall of 2019 was higher than what is represented because they were preparing for the Juniper Hall opening that they weren’t sure would make. Cervantes is another south campus facility that was scheduled and slated to be DE densified and taken offline. They have moved much of their group housing, such as Greeks, LLC, and band. They are using this facility as overflow for single students, which was not planned. They have demand on campus. A question that came out of the Regents’ Real Estate was, ‘are we dependent on enrollment increases to support this project?’ The answer is, “Absolutely not.” The occupancy rate has been running at 97% since opening with the lease up. With the addition of Phase 2, they were at 87%. Half of that population are NMSU students and the other half are BCOM students. Under the housing agreement, they could lease this as is. They could lease to NMSU students and under their affiliation they could lease to BCOM students. However, there’s a great strategy in offering this to NMSU students first. The first residential status was their demographics for Fall of 2019 for their non-first year students and how many lived on and off campus. Their capture rates are small and there is a great opportunity, especially with graduate students. They only capture 3% of their grad students. As they try to grow that enrollment, there’s a great market out there that would be very interested in this property. From their housing master plan in 2015, their demographics based on their survey that was performed by Brelsford and Mr. Tim Levy shows who lived on campus and who would live on campus. There is a potential opportunity for students to live on campus. The elements that they provided, in addition to affordability, is improving the physical condition, which was important for 90% and 95% of the respondents. Providing and improving attractive amenities was important to 93% and offering attractive housing to prospective students. Not only from an inventory stock is this important, but from a student success strategy. It elevates the quality of their housing. They won’t have this type of property that sits on campus. They have the ability to attract a more diverse student population and an opportunity to retention. Currently, this operated as a student housing facility. That programming that takes place is very generic. They have the opportunity to connect those programs with NMSU strategies. Connect the facility better to campus through transportation, events, bringing students on to campus for campus life activities, athletic activities and similar activities. Making those connections is key to student success. They have a property across the street that will sell. If this falls through, the buyers have another seller. It could be another property investor that is collecting rent from half of their students. They can capitalize on the design features that support student success and support the programming. It’s a great facility. The space is equipped with study spaces, the most up to date technology, meeting rooms, printing services, program and engagement spaces, and those amenities that students say they want. There is both indoor and outdoor space for socializing and networking. It’s a very secure property and gated, which is one of the top concerns of their students. There is also a fitness center, game room, swimming pool, hot tub, and washer/dryer in unit. They started in 2017 with the addition of Juniper Hall, which was a student success measure in focusing on-campus housing for first and second year experience. They’ve done with the first year experience. Now they have the opportunity to continue that and develop that second year experience because they know that those two years are critical to student success.

Vice President Scott started by making two points. One being that there is a retention strategy that this might open up for them and the other being college affordability. Retention strategy is key in terms of residence in living on campus. One of the reasons the university committed to a first-year residency program is because oftentimes student success at a university is equal to the idea of success in the classroom, but also success

outside the classroom. There are plenty of opportunities for pitfalls outside the classroom that can derail a college student's career and now in the age of COVID there's another one. Keeping health and safety is an increased notion of stress. In the student life area, they use a Student Development Theory as the grounding theory of all of the programming for students. They're inheriting in their first-year residency programs 18 and 19 year olds. They hope that under the development theory it will begin helping students successfully develop the knowledge, skills, and dispositions to be successful and a responsible adult. The first-year residency program and their living learning communities have been vital in helping them with that co-curricular strategy. It helps keep their students out of situations, such as alcohol and social personal type issues around dating relationships and other relationships. It gives them an idea of helping and supporting their students. Something exciting and new that has come up in literature is a second-year residency requirement. Michigan State University just announced one. One of the opportunities that's available, if this facility is available to us, is moving some of their upperclassmen and graduate students to this facility. This frees up an opportunity for a second-year residency program, whether they choose to make that a requirement or not. If they can create the second-year sophomore dorm or that second year living learning community so it's more attractive verses a mandate; although not opposed to that strategy either. They can build on the student development theory and better equip sophomore students for success in academic programming. In the literature, it shows that it is helping second year to third year retention. More importantly, is the second point, which is student affordability for college. Many people think that the cost of college is tuition, fees, books, and maybe a computer. The fact that their out of state recruiting strategy is one that they are trying to grow enrollment at New Mexico State. They are being really aggressive with recruitment in Mexico. COVID derailed that, but there's some optimism with potential for vaccines now that maybe they can get more international students on campus and they're going to want opportunities to live on campus. They will need to live on campus. They've been recruiting a great deal of out of state students. They've had a 10% increase this fall of out of state students. It is a big focus because as population decreases in New Mexico. Ways for them to grow their enrollment is keeping New Mexicans in New Mexico and not going to online institutions out of state. That's where NMSU comes in. Second is to go to out of state markets and bring people here. Housing becomes more important. The recruiting factor of that has to do with safety, affordability, and proximity to campus. Operating a housing facility is about supporting their mission and their mission is to support underrepresented minority students. They're going to price in such a way that it doesn't make them money, but it's a balance between supporting their mission and making sure they break even. College affordability is very important. If college is not affordable, that's the main reason students drop out. It isn't usually academic reasons that's given to them. It's usually financial reasons and often those financial reason are not just related tuition fees and books. It's related to the cost of living and being able to be here in Las Cruces.

Mr. Eschenbrenner brought everyone up to date on their timelines. It's important to note that on October 29th they had an initial introduction to the Regents' Real Estate Committee. Then they had a Special Meeting on November 19th with the Regents' Real Estate Committee. There were four actions items. The committee made a recommendation to move this forward to this Regular Meeting. One of the action items were to explore the property tax implications. They have asked Mr. Scott Field to work on that and he may be asked to comment on where they stand with outside legal counsel's advice. Also, the housing story and how they accommodate their students. Another item is how this obligation impacts university bonding. The final item that came out of the action was the preferred option to acquire the property, as well as do the construction of the 84 additional beds. With that, they are meeting at this Regular Meeting today. The next step will be on January 13th to make this presentation to the Higher Education Department Capital Outlay. The final approval process will be the State Board of Finance in February. Mr. Eschenbrenner requested Mr. Field to provide information and updates on the property tax implication.

Mr. Field reported that at the request of the Regent's Real Estate Committee he sought outside tax counsel on the question of ad valorem taxes and their ability to get a tax abatement using this mechanism. They reached out to Tracy Sprouls from Rodey Law Firm. There isn't a case law that's directly on point. There is an old

Attorney General's opinion that is closer. Basically, it states that the tax abatement is based on the owner of the property, not the use of the property and ad valorem taxes. In this case, NMSU will be the fee owner of the property. They will become the fee owner and then immediately ground lease it to Municipal Acquisitions. Then they will become a tenant on the property. It's complicated in that regard. The indications are that they should be able to receive the tax abatement, but he can't say that it is a sure thing in the sense that they don't have case law directly on point. There's always a possibility that courts will change their mind. At this point, it hasn't been challenged and has been going on for quite a while. The university can terminate this deal early, but there is a cost to doing that. One can think of it as a defeasement fee or early termination fee. In this case, a yield maintenance fee. This is notable if they get 10 years down the line and they run into a lot of free money. There are ways to remove themselves from the transaction, but it will cost them something. Another thing to point out is that anytime one enters into a complex business transaction like this there's always a possibility that the IRS will look at the transaction, how it's characterized, and want to re-characterize the transaction. Generally when that is done it's because it will generate the tax revenue as opposed to decrease it. There's always that possibility. Mr. Field doesn't have any reason to suspect that will come up here, but he wanted to point that out to the Board because these are complex transactions. There are underlying risks and tax implications that create underlying risks.

Mr. Eschenbrenner stated that he would like a comment to be made by either Mr. Andrew Burke or Ms. Stuart on a question that was raised by the Regent's Real Estate Committee, "how does obligation impact the tax university bond rating?"

Mr. Burke stated that after the Regent's Real Estate Committee meeting, he reached out to the RBC Capital and spoke with Eric Harrigan to more formally asked him if he would look into what could be the implications for bond rating if they go through with this transaction. The transaction itself would not be rated, as was indicated earlier. It is a large transaction at \$47 million. He will reach out to Moody's and do some financial ratio calculations based on the transaction. It is a reportable transaction. In this case, after the fact to their bond agencies, it is possible with a new Governmental Accounting Standards Board pronouncement 87 leases depending on all the specifics and conditions of the lease that he has heard verbalized, but hasn't seen the fully completed document. That would be useful for analysis. Based on that, it could be that they need to record on their balance sheet or in their case in Higher Ed, a statement of net positions, a liability in the amount of \$47 million and the acid on the other side, which would be something that would be evaluated by bond rating companies going forward.

Mr. Eschenbrenner reported that the net present value of the cash flow is at \$2.6 million. In going back to the pro forma and add the 490 beds, that increases to \$4.6 million. It's a \$2 million increase in net present value of those cash flows. Some of those cash flows is \$23 million, which assumes a 95% occupancy. Revenues would be increasing at 2%, along with their operating expenses and rental payment. This is their baseline. They did some 'what if' scenarios. What happens if occupancy is only 90%? They are still in a positive cash flow in years 1 through 10. If they have zero rent growth, but still increased their operating expenses at 2% years 1 through 5, they would have a net positive cash flow of \$12.6 million. They have a 'what if' scenario of 'what if COVID continues and they have to lower rents from \$8,046 per bed to \$8,000 per bed?' They still show a positive cash flow. The annual lease payments in other entities is shown in the last 4 slides. Two of them were at 3% annually and the other two are at 2%, which is similar to what their proposal is at 2%.

Chancellor Arvizu stated that this process in this project has been in the works for more than a year and it is exemplary of the kind of innovative thinking that they had challenged both their partners to do and to challenge themselves to do. Chancellor Arvizu is extremely supportive of the project, specifically because it meets the needs of their strategic plan. It meets them in a way that is consistent with their growth strategy. It's consistent with the expectation that they have to do things differently and more creatively. It fits a particular niche and avoid while providing revenues. The reason for doing it is not because of revenues. The

reason for doing it is because it is a part of a portfolio that more effectively meets the needs that they will have going forward. It is precisely what they asked their partners to do, Sodexo and Municipal Acquisitions. This is a deal that has been in the works for a while and has come to them on the basis of the fact that people in the private sector have done something creatively and brought it to them. They don't have the luxury of saying, 'what if they would have done this on their own?' or 'what if they got another set of financing?' or 'what if they dispense with this partner and go with a different approach?' They've done their due diligence. There's still a few puts and takes that they need to worry about obviously, the tax abatement and how it affects their bond ratings. Even under the worst case conditions, it's still a good deal. In that context, Chancellor Arvizu is extremely supportive and it's something that he would strongly endorse. The rewards outweigh the risks.

Regent Romero stated that they talked about how this could affect the bond rating. Regent Romero would like to know how this will also affect the bond capacity. Also, do they see any future implications to how this could affect any future projects? How could this affect their bonding capacity and future projects? Secondly, this is a partnership with Sodexo. They will be maintaining the facility. How will they move forward in that partnership? Regent Romero would like to know about the staffing around that with maintenance and what that relationship will be between NMSU and Sodexo. Will there be an increase in staff? Will they be NMSU employees or Sodexo employees? Also, who is currently working there and if they are looking at current staff to be in on this project? Lastly, Regent Romero would like to know about the liability insurance. Where does that fall into this? Who's going to be responsible for that and this partnership? Is this something through NMSU or Sodexo?

Mr. Burke stated that there isn't a bonding capacity that the university has on revenue bonds. Bonding capacity is more related to general obligation bonds and property taxation. In this case, future bonding capacity would relate to revenue either from a housing project or potentially from student fees for those facilities that support their students. What revenue bonds can affect is the bond rating. If the bond rating were to go low enough, which is where they are trying to get counsel from RBC Capital, it may not be advantageous or possible for them to sell bonds because the market wouldn't be attracted to them. They will get Mr. Harrigon's opinion on that shortly. There's not a bonding capacity per se. They have facilities on campus that have deferred maintenance requirements, such as Garcia Hall. They will want to look into replacing that facility in the future. As far as the direct question on bonding capacity, there isn't a limitation.

Mr. Eric Jouane stated that they have been working on this project for the last 3 to 4 months. Today, they provide the main dining services at NMSU. They have some people involved in the management of housing. They work on staffing and staffing evaluations. How many people do they need to upgrade this place and run maintenance? They just collected information from the existing manager and owner of this place. Details such as, what they operate and what the subcontract is. They have done their homework on the management, estimated cost, maintenance, and management of grounds and cleaning services. They are expanding more and more around campus, such as consumer services and maintenance services. They are constantly optimizing staffing and the number of people they have brought on the location.

Ms. Stuart pointed out what is most important is the real estate transaction with Municipal Transactions and the property management with Sodexo. Because they have this collaboration agreement with Sodexo, what this allows them to do with Sodexo is make sure that NMSU has some control over what those rates are, what the entire budget is, how they will operate, and have their hand in student programming and student life component. This structure will allow NMSU to maintain much more control than what one would see in a typical housing P3 arrangement.

Ms. Kim Huddleston stated that as part of the pro forma they included an insurance cost based on what they are currently experiencing on campus. NMSU uses a state agency. All of the state is included under the

insurance program. They did this based on square footage of what they have experience on campus insurance cost. It has been included in the pro forma.

Regent Hicks stated that it is important to remember that this property was sold years ago to a private entity. Now the private entity is wanting to sell it or lease it back to the university for funds. Mr. Eschenbrenner confirmed that they sold this property about four years ago. NMSU used those funds to help with infrastructure that's gone into Aggie Uptown, certainly not knowing where this would head or this opportunity would exist. This opportunity came up in September of last year. The partnership group was interested in selling and taking advantage of some favorable market conditions. At that time, they approached them directly. When the partnership with Sodexo and Municipal Acquisitions came about, the idea of leasing the facility instead of acquiring debt to do it looked attractive. The partnership that they sold the land to are local investors. This was never a game plan as something that would happen. It is something that fell into their lap. Regent Hicks stated that she wanted to make sure there was full disclosure moving forward.

Regent Hicks stated that in looking at the occupancy rates that have been estimated, she is concerned because of the pandemic, where they are right now, and where they see themselves moving forward. There's no doubt that as an NMSU entity, they want to see students on campus, but they have to expect that this is going to change things in the future as they go and they will probably have more students who are virtual. Regent Hicks is concerned that the basis in modeling may be high in occupancy rate. Regent Hicks knows that they have looked at off campus housing for students who are in their sophomore, junior, or senior year. Regent Hicks asked if they have received feedback as they have had these proposals. The Regents' Real Estate Committee house private individuals. Regent Hicks asked if there has been expressions of going into competition with private industry. Mr. Eschenbrenner stated that that specific question has not come up in the Real Estate Committee. They are capturing students who are saying that there are other complexes around. NMSU's ownership of this facility will help mitigate some questions and concerns that Ms. Stuart and housing have had with other complexes and not having any control over how those are being run and the issues they have. Ms. Stuart stated that rather than looking at it as a competition, they have looked it as a compliment to what they do on housing and more. As was represented, the success of their students knowing that this is a student housing run facility. The concerns that they see is that they have two other apartment complexes in close proximity that are run the same way. Those aren't run with student success in mind. The perspective they are looking at this is, they know there will be students living off campus and how can they help those students be successful within the mission of the university? From the Real Estate meeting, Regent Chacón Reitzel stated that she is concerned about this because there was a lot of play in Albuquerque and in the Albuquerque Journal about COVID and the effects on students not being able to get refunds on their housing in a privately owned type of arrangement and a lease arrangement, which the university has some of its housing. Regent Chacón Reitzel feels better about this after hearing this discussion and seeing the presentation. Regent Chacón Reitzel was looking for operational control of the university on this housing. There's more protection, coming from the students' stand point, that the university will have the operational control on this housing. Hopefully, they will be more cognizant and sympathetic to student situations going forward. What was also discussed is that it is incumbent of the future Board of Regents that they are looking at those rent increases because there's a 2% increase that's formulated into the revenue. There are some reviews from students in there, so it sounds like they have already had increases. They need to make sure that they continue to do that or their revenue will be affected. The quality of this housing is outstanding and allows them to improve the quality of life issues for students, especially for their upperclassmen students. There are a lot of pluses on this arrangement. Again, they are called on to think outside the box. This lease to purchase option is a way for them to do things differently and get some of the improvements and funded by a private entity at that.

Regent Hicks would like more to be said and explained on pre-paid lease and exactly the mechanics of how that works. Mr. Moss said that in looking at it as a debt instrument, which could be a tax exempt bond issued

by NMSU or a bank loan that is taken out by NMSU or something that looks and smells like a commercial real estate lease. In the tax exempt bond world, typically people issue 30 year bonds and that debt is not callable or pre-payable before year 10. There's a 10 year lockout and after 10 years those bonds are pre-payable typically at par. However much money or debt is outstanding that's what the bank will pay and it will be paid at par. They can take advantage of interest rates if interest rates go low to restructure their debt and move on. It's a 10 year lockout with a 20 year par call thereafter. A bank loan can have several different forms. There are different ways that banks structure their pre-pays. Banks may have a couple year lockout and say, 'if you want to pre-pay this debt, then you'll have to pay a 5% premium.' That 5% premium may go down 1% every year. It's a give and take in negotiating a point with a bank, but typically there is a lockout period followed by some sort of pre-payment penalty. What they are talking here is a yield maintenance or make hole. Typically, any debt has a yield maintenance fee associated with it. It's based off a mathematical formula driven solely by interest rates. The goal of the yield maintenance is to always get back to par or something above par depending on where interest rates are. Let's say if one enters into a lease and the inherent interest rate is 3.5% and rates go up. What happens if this lease is paid off, the lender can use those proceeds and lend them out into the marketplace at a rate higher than 3.5%. From the lender's perspective that's advantageous. If interest rates go up like that, then the yield maintenance fee, the amount that NMSU would have to pre-pay this lease would be the principle amount or par amount of the lease outstanding, plus a 1% fee. That 1% fee is to pay administrative expenses and the like. Let's say interest rates go down and the market rate is 2.5%, then they take that hundred basis point difference, present value it, and it's simply the present value of that hundred basis point, plus the par amount of the lease. A yield maintenance or make hole means that the lender always gets back to that original amount that was lent. It's a mathematical calculation and a common formula in commercial real estate. It's the only formula people use when talking about pre-paying leases. Unlike bonds or bank loans, it can be done at any time. NMSU could close on this transaction tomorrow, then two days from now say they want to borrow somewhere else and pre-pay the lease. NMSU holds the title. If it did pre-pay the lease, then the leases would terminate and NMSU would own clean free title to The Flats. If it never pre-paid, in 30 years after all the lease payments were made ownership of the facility would revert to NMSU clean free. Regent Hicks asked if they pre-pay what kind of dollar figures are they looking at, roughly. Mr. Moss stated that they will follow up with a diagram with different points in time and different interest rates and what that will look like. Mr. Field pointed out that at the minimum there will be a 1% fee. The rate of the actual fee will be determined on what interest rates are at the time. If interest rates are higher and the investors can invest money and gain money, then the fee will be less. If interest rates are lower than they are now and it will be harder for those investors to get the same money, their fee will be higher. It will always be at least a 1%.

Regent Sanchez asked if The Flats will be incorporated into the existing agreements with BCOM as an option for their students. If so, then how will they navigate that in relation to providing these options to undergraduate and graduate students. Ms. Stuart stated that they currently they lease housing to BCOM students. They are part of that student housing affiliation agreement where they do certain services and buy meal plans. The switch with The Flats is that under NMSU control, they can give first rights to NMSU students and fill beds first with their students. Regent Sanchez stated that BCOM advertises BDM as an option for their students and there's some options at family housing. Regent Sanchez asked, "Is there any expectation that The Flats would also be advertised to the same extent to BCOM students and if their occupancy is factored into the rates that were estimated in the predictions?" Ms. Stuart answered by saying that into the current pro forma, assuming that occupancy level, does include the current BCOM population. NMSU advertises and BCOM does advertise The Flats to their BCOM students. It gives first rights to NMSU students. If they filled up with NMSU students, that's what their choice would be. Because they do offer beds to BCOM, if they need to fill those beds, they will offer to BCOM. It also means that they can offer different rental prices for BCOM and NMSU students because now all of that is in their control. They need to strategize on where they think they need to be. All of those strategies need to make sense. Ms. Stuart likes the idea of a higher price point for a non-NMSU affiliation if they're going to lease them out. They will control all of that and what they want that

strategy to look like and what role they want to provide to BCOM. The pro forma is based on the occupancy levels that The Flats have seen currently. There is a demand and the rental rate is based on the average rental rate that is collected. The break even point is at 80% occupancy level with the additional beds, which is impressive. All of those decisions are yet to made and can be made by the university.

Chancellor Arvizu stated that BCOM is currently in the process of leasing to their students right now. What they don't want to do is suggest that this will change that particular process because that's a business deal that they have right now, which NMSU is not part of. NMSU has a good relationship with BCOM. There's plenty of room at this point for NMSU and BCOM students. Chancellor Arvizu doesn't want to compromise what's already going on with BCOM right now in terms of leasing the next class of students coming in. There is a certain clientele for that type of housing. It's a positive thing. If NMSU is in control of that, they have a way to manage that. There will be a large demand from NMSU and BCOM. Vice Chair Devasthali agreed that they will honor whatever lease is currently in existence between BCOM and the entity they are leasing from. Giving preference to NMSU students is something that will be in the future and will be passed current leases.

Chancellor Arvizu stated that he wanted to speak to something that was brought up earlier, 'how do we manage this in a COVID world?' Chancellor Arvizu stated that if it's under NMSU control and with the caveats that were just discussed, they are in a position to manage the COVID effects and implications much better than what they've seen in the papers in Albuquerque. In this case with NMSU, if they have this in a running sort of load, they can generate a reserve that can be used to offset those challenges and costs of the future. This offers NMSU another level of flexibility in that it's not about NMSU making money. It's about serving the needs of their students. NMSU is in a position to offer discounts and those sorts of things as conditions warrant. They heard from private sector partners in the Regents' Real Estate Committee meeting that managing operations and those kinds of things with escalating rents is a good thing because they don't want to get themselves in a position where they are behind the curve on things that need to be repaired. That's all built into that pro forma.

Regent Chacón Reitzel stated that this was discussed at the Regents' Real Estate Committee meeting. It was recommended by the committee that the lease be signed and sent to the additional Board of Regents meeting with requesting some additional information, which some has been brought before them today; however, some is still lacking, such as the tax abatement and bond rating. Regent Chacón Reitzel asked what needs to be done today to be clarified. Mr. Eschenbrenner stated that they still have 2 leases that are getting finalized through legal. One is the facilities lease and the other is the grounds and approval lease. They are close to finalizing those points. They will need a second meeting, but what they would prefer is to get an approval for the project from the Board of Regents that you're in agreement where they're headed with this. It's an important message to send to Santa Fe when they have to meet with Higher Education Department and State Board Finance. Mr. Eschenbrenner stated that they will have this lease completed in fairly short order, but he envisions another meeting where they will bring the lease to them for approval, which will be the document that the Regents sign off on.

Regent Chacón Reitzel made a motion that the Board of Regents is in favor The Flats project going forward to appropriate state agencies with the additional information coming forward to review the lease agreements that will come forward from the Regents' Real Estate Committee at a future meeting.

Mr. Field suggested the additional verbiage, "The Board of Regents will consider and make a final decision on acceptance of this lease once the negotiations have been finalized and an approval has been granted by the appropriate state agencies.

The Chief of Staff read the combined statements, "The Board is in favor of The Flats projects and going forward to state entities and will consider the lease once negotiations have been finalized." Mr. Field requested to

add, "once negotiations are finalized and appropriate approvals have been granted by the various state agencies." Mr. Burke reported that the lease needs to be approved before the HED or Stated Board will consider it for approval. Mr. Eschenbrenner stated that he is looking for two asks. One being that the Board is in favor of the project going forward. Second being that when Mr. Eschenbrenner has the leases prepared, reviewed, and signed by legal that they bring those to the Board for consideration of approval. At that time the questions in regard to property tax and bonds will be answered. Regent Hicks made a point of order to use the verbage, "... agree to the project, subject to confirmation of the lease terms."

Regent Chacón Reitzel made a motion, "The Board of Regents is in support of the project for The Flats, subject to finalization of the lease terms." The motion was seconded by Regent Hicks.

The Chief of Staff took the roll call vote:

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón Reitzel – Yes

The Chief of Staff confirmed 5 votes in favor and the motion passed.

2. Recognition for Essential Employees, Chancellor Dan E. Arvizu

Chancellor Arvizu stated the next item on the agenda is to the essential personnel on campus who have been doing heroic efforts. These are people who are critical to the university's operations. They need to be available for work in the event of an emergency and in the case of COVID they have been in emergency conditions for almost 10 months. They are bringing this to the Board of Regents because any modification of policy needs to be approved by the Board of Regents. They are asking for approval of a one time and one day approved leave added to those individuals who fall under the categories of their emergency operations policy manuals as essential workers. They are asking for a Board motion that that opportunity be provided to those essential workers and would do so by delegating authority to Chancellor Arvizu under these special conditions. They would then offer that benefit addition to these essential workers over the time period December 21 through January 15 so that they can have a rest for the work that they have been doing.

Vice Chancellor Johnston stated that they have had it reviewed by legal, Gena Jones, who is the approving body of this benefit. It can be done through all of their legal processes.

Regent Romero stated that this a wonderful idea and is glad that it has been vetted through. These people are taking care of their community and NMSU facilities are deemed as essential workers.

Regent Romero made a motion to approve. Regent Sanchez seconded the motion.

The Chief of Staff made a point of order that Regent Chacón Reitzel had to leave the board room at this moment and will not participate in this vote as the roll is taken. The Chief of Staff proceeded in taking the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

J. Informational Items, Vice Chairwoman Ammu Devasthali

1. Authorization of Doña Ana Community College District General Obligation Bond Sale, President Mónica F. Torres

Vice Chair Devasthali introduced President Monica Torres, Vice President Kelly Brooks, and guests. Vice President Brooks reported that she is bringing forward an information item for the DACC that was approved by the DACC Advisory Board. It is for the authorization of the DACC Community College District General Obligation bond sale in the amount of \$8 million in early 2021 based on the issuance voters in November 2019. Additionally, for the purposes of refunding and saving on interests. They will be refinancing and decreasing DACC's General Obligation Tax Bond Series 2011, which are maturing on or after August 1. This refunding will be issued in conjunction with the \$8 million General Obligation Bond that's saving on issuance costs. Vice President Brooks introduced Vice President for RBC Capital Markets, Regina Gaysina, who is there for the DACC Bond Advisor, Eric Harrigon. Also on the line is Catherine Kenny, who is an attorney for Module Sperling and is representing the DACC Bond Council.

Vice President Gaysina reported that what is listed in the presentation is the history of the assessed evaluation for the college is a steady growth in tax base from tax year 2019 to tax 2020 maintained a steady growth of about 3% that broaden the 5 year average growth to 3% and the 10 year average growth rate to 2.4%. The history of residential and non-residential tax rates is also shown. The district has maintained a stable debt service tax rate of 75 cents and with the upcoming bond sale of \$8 million, will plan on maintaining the tax rate stable. The debt management plan is to sell the first installment of November 2019 authorization in early 2021 and maintain debt service tax rate level. The college carries an average maturity over about 13 years. This sale of the new money bonds will be in conjunction with refinancing of currently outstanding series 2011 bonds. The average rate of the series 2011 bonds is 4%. The debt is currently callable. The cold date is August 1 2020. They can be refinanced on a tax exempt basis. These bonds will have a final maturity of August 1 2024 and based on the current interest rates the college can refund the series 2011 bonds to generate approximately \$105,000 or 5% savings on a net present value basis and savings in excess of 3% are considered to be economically beneficial.

2. Summary of Revisions to the Administrative Rules and Procedures of NMSU (ARP) for the period September 9, 2020 through October 13, 2020, General Counsel Roy Collins, III

General Counsel Collins and Ms. Warren stood for questions on this informational item. There were no questions presented.

K. Report from the New Mexico Department of Agriculture to the Regents of New Mexico State University (Board of Agriculture), Cabinet Secretary & Director Jeff Witte

Director Witte extended his gratitude for his team at the NMDA. They continue to do good work across New Mexico, even in these challenging times. Field staff have been doing routine inspections. It's a tribute to them. Last month Director Witte held an all employee meeting and awarded service awards via Zoom. Director Witte thanked Regent Chacón Reitzel for attending and speaking to their staff for a few minutes. It helped and was important. The non-exempt award winner was Mr. Jorge Senegal. Mr. Senegal works in the Marketing Division. Mr. Senegal started as a student employee in the NMDA. While Mr. Senegal worked on his degree, he worked as a temporary employee. Now he is permanent staff member. Mr. Sengal was nominated by his peers and was awarded Outstanding Employee Award for non-exempt employees. For exempt employees, the award went to Mr. Michael King. Mr. King works in Albuquerque in the Standard Consumer Services Division. Mr. King was also nominated and received a Colleague Award by his colleagues around the state. Mr. King stepped up and works in rotation in and out of the State Emergency Operations Center during COVID. The Community Service Award went to Ms. Jennifer Truby. Director Witte reported that in January he will give an update on their organic program, how they operate and their path forward. They are working with USDA to transition that program so

they can be more effective for their producers.

L. Report from the NMSU System Chancellor to the Regents of New Mexico State University, Chancellor Dan E. Arvizu

Chancellor Arvizu reported that since the last Regular Board of Regents Meeting he and President Floros held two university addresses to all their stakeholders. It is on the webpage if anyone would like to view it.

President Floros proceeded with highlights from his university address. President Floros stated that although they have been in crisis mode for 10 to 11 months, faculty, staff and students have worked very hard. They are in their third year. President Floros stated that he and the Chancellor make a good team and for the second year in a row they have stabilized enrollment at the main campus. This is important when compared to what other universities have done around the state or possibly country. Also, they have stabilized many of the Student Success characteristics such as retention, graduation rates, and reducing gaps between underprivileged groups and the Caucasian students from NMSU. NMSU is the most affordable university within the state of New Mexico and probably one of the most affordable all throughout the country. They have stabilized their research enterprise, expanding research expenditures, faculty and staff are working on becoming more competitive. They are making progress towards their Strategic Plan. In regard to outreach, extension, and service, they are in the process of integrating that throughout the university and having units of faculty, staff, and students understand that they are a university that is there to help the community and industry. Also, to improve the situation and life for all New Mexicans. That part of the outreach and extension component is important to them and they are making progress in integrating that approach throughout the university as well as using those services so that they can have benefits in their students and research. They have made significant progress when it comes to improving the university and making the university a better place for staff, students, and faculty as well as making the university more efficient and a more well organized institution. They will start to see the fruits of that in another year or two when they have the processes, automations, and different types of things that they are starting to apply to their system overall.

Chancellor Arvizu stated that there are some structural things that they have done that have affected their branch campuses as well. One being that they are trying to put their integrated system of perspective across all campuses so that they are better meeting the needs of the communities in which they serve, especially in the three smaller branch campuses that they have in Grants, Alamogordo, and Carlsbad. The governance restructuring that they've been about is one that doesn't come with challenges and opportunities. Dr. Ken Vanwinkle is in charge of the three smaller branch campuses because they serve a different demographic in each of those communities than they do, for example at DACC under President Monica Torres. They looking at that from a holistic standpoint and trying to manage those in a way that does two things. One being, to provide better support, capacity, capability, and meet students where they are in the smaller rural communities, especially since they have been challenged nationally and in New Mexico at a much greater proportion than students who are pursuing four year degrees. That is apparent in their enrollment numbers. Their enrollment numbers system wide is down and some of that is the restructuring what they are doing on their own campuses. Chancellor Arvizu has been in contact with many of the legislators who will be weighing in on what happens at the next session. Obviously, they are still dealing with budget challenges that they are addressing through those initiatives, such as the strategic plan, new ways of bringing revenue, looking at new governance models that allows them to do some strategic consolidation, and looking at streamlining and efficiencies. They have instituted an early retirement program. This will provide an opportunity to faculty and staff for early retirement with an incentive. It will reduce operating expenses and give them the opportunity to restructure some, so that they are putting their budget on the key priorities that they have in order to make their budget consistent with their priorities. In this time of budget reductions, it gives them an

opportunity to do that strategically. On December 8, there will be an LFC Hearing talking about Higher Ed and a variety of other things that the Finance Committee will be doing in the next session. They will be giving a joint presentation by the Council of University Presidents as well as presentations by the community colleges, and affiliated community colleges. All three will have similar messages associated with them. Chancellor Arvizu is the Vice Chair for the Council of University Presidents. The President is Dr. Joseph Shepard. Chancellor Arvizu and President Shepard met this week with the Vice Chair of LFC Patty Langstrom. Later this week they will meet with the new LFC Chair, Senator Bobby Gonzales. Chairman Smith resigned and Senator Gonzales will take over until after the session, then it will revert to representative Patty Langstrom. In all conversations with each of them they are talking about 'how do they re-imagine higher education' and 'what kinds of things can higher education do?' They're clearly wanting them to do more collaborations that they aspire to do. Some are more challenging to do than others, such as the gen ed core curriculum approach that Trifecta and other things that can be done at the higher ed level in a collaborative fashion to help support the serious budget concerns. NMSU is positioned in a leadership position, such as everything they do in terms of changing or thinking outside the box. It isn't easy for HED or LFC to understand. They are asking them to think innovatively and creatively. Much of what NMSU does is educate them on what these things are and what they are not because they haven't seen some of these things before. They have to be engaged at the legislative level with the principles to get them to understand what challenges they face and what they can provide that is unique, different, and "what's the art of the possible?" Let's actually be creative and innovative. Those things are challenging because if they haven't seen them before, they worry a lot about what the risk is and what it will look like as they move forward. That's an understandable response. It is a challenge as they move forward, 'how do they get that information to those decision makers in a way that they can digest it and feel comfortable that these are good things for them as a state to do. He is extremely pleased with what their teams have done across their entire system. They have done remarkable work and continues to be impressed with how well they've stepped into the challenging forefront of the things that they need to do to put themselves in a sustainable position for the future. He remains optimistic that they are on the right track. They are doing the things that are necessary. This pandemic will have an end at some point. It won't be what they've grown used to in the past, but it will be different and get back to normal. In the next couple of months, they'll likely have some vaccines. NMSU is well positioned and has a cryo refrigerator on campus that holds 170,000 samples at -80 degrees Celsius. They will be a test bed for the Pfizer vaccine. They are working closely with the state on doing testing, variety contact tracing and doing some things in a leadership role in this pandemic. It's very challenging. There's sadness everywhere. They power on and continue to do their mission within the context of keeping faculty, students, and staff safe. The NMSU system is alive and well. They will weather the storm and get through it. It will be challenging, but they have demonstrated over time that they have the quality of personnel necessary to meet these challenges, and is very proud of what all they're doing.

M. Announcements and Comments, Vice Chairwoman Ammu Devasthali

1. "Gun's Up" – Good News for NMSU!

Regent Romero gave a Gun's Up to the NMSU Basketball Team. They have had two wins. He is very proud of the coaching staff and players. Regent Romero also gave a Gun's Up to Regent Sanchez and stated that the Student Regent position is very important. Regent Romero is very impressed with Regent Sanchez and the work that he has done in the community and to support students. No matter what they're talking about Regent Sanchez always reminds Regent Romero about what's best for their students. Regent Romero is very grateful to Regent Sanchez.

Regent Hicks gave a Gun's Up to the Foundation and Advancement.

Regent Sanchez gave a Gun's Up to all students who are working as essential workers and getting school done online. Also, a Gun's Up to students who are in nursing school, doing their clinicals, and working in hospitals as techs, scribes, patient care transporters or any of the numerous roles that students serve in hospitals around New Mexico. It's an incredibly stressful and emotional time to be working in the hospitals with COVID. Many of those students haven't been able to see their families as much as they wanted to or at all. They're still coming home at night and getting homework done online. Regent Sanchez is in a Spanish Speaking class for students interested in healthcare. Every single student in that class is in a clinical setting. Gun's Up to all other students who are working hard on the front lines in this pandemic.

Regent Devasthali gave a Gun's Up to Regent Sanchez. Regent Devasthali also gave a Gun's Up to their sports teams. In addition to only being able to play in one, the game was postponed, they had to play on Sunday, etc, they are away from family, friends, and being in a bubble, which is difficult.

President Floros gave a Gun's Up to faculty, staff, and essential workers. President Floros also gave a Gun's Up to the NMSU band. There was an article in the New York Times about the band. The national recognition for their band is amazing and what the faculty, students, conductors, and director have achieved during this crisis. As well as other bands across the country are simulating what they are doing. It gives a clear idea of why students are thankful for the things that they are doing throughout the time. Big Gun's Up to the students who persevere and continue to perform and work during this time of crisis. President Floros gave a Gun's Up to the Provost all the way down to the Vice Presidents and Deans. They have all stepped up to do very important work during this time. They have supported each other. They have done a tremendous job and they wouldn't be where they are today as a university without their leadership, hard work, and continued support.

Chancellor Arvizu gave a Gun's Up to the band as well. They did a free concert with the city. It's on youtube and went through NPR. It was a concert by the wind ensemble. They are outstanding and it made Chancellor Arvizu emotional. They all had their masks on and had a guest conductor. It's inspirational. Chancellor Arvizu is amazed at all the creative things students and those who support their student body do on a daily basis to get through this challenging time. The national recognition is amazing. Gun's Up to all Aggies and the programs that they have.

N. Adjournment, Vice Chairwoman Ammu Devasthali

Vice Chair Devasthali entertained a motion to adjourn the meeting.

Regent Hicks motioned to adjourn the meeting.

Regent Sanchez seconded the motion.

Vice Chair Devasthali adjourned the meeting at 12:56pm.



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: B-2

- Action Item
- Consent Item
- Informational Item

Presented By: Chairwoman Dina Chacón-Reitzel
Board of Regents

Agenda Item: Special Meeting Minutes for January 6, 2021

Requested Action of the Board of Regents: Approval for Special Meeting Minutes for January 6, 2021

Executive Summary:

As required by the New Mexico Open Meetings Act, the board shall keep written minutes of all its meetings. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted. All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the board.

References:

NM Open Meetings Act §10-15-1 G.

Prior Approvals:

N/A



**NEW MEXICO STATE UNIVERSITY BOARD OF REGENTS
SPECIAL MEETING MINUTES
January 6, 2021 at 9:00am**

DRAFT MINUTES *NOT OFFICIAL – SUBJECT TO APPROVAL
BY THE BOARD OF REGENTS*****

Regents of New Mexico State University

Chair Dina Chacón-Reitzel, Vice Chair Ammu Devasthali, Secretary/Treasurer Luke Sanchez, Debra Hicks, Arsenio Romero

Non-Voting Advisory Members - ASNMSU President Mathew Madrid, Faculty Senate Chair Julia Parra, Employee Council Chair Letty Gallegos

University Officials - Chancellor Dan E. Arvizu, Ph.D., President John D. Floros, Ph.D., Provost Carol Parker, J.D., Vice Chancellor Ruth A. Johnston, Ph.D., Senior Vice President Andrew Burke, Ed.D., General Counsel Roy Collins III, J.D.

The Board of Regents meeting is available by webcast through the link at <http://panopto.nmsu.edu/bor/>

MINUTES

A. Call to Order, Chairwoman Dina Chacón-Reitzel

1. Confirmation of Quorum and Roll Call

Chairwoman Chacón-Reitzel called the meeting to order at 9:01am.

The Chief of Staff proceeded with taking roll.

Regent Romero – Present

Regent Hicks – Present

Regents Sanchez – Present

Regent Devasthali – Present

Regent Chacón-Reitzel – Present

Chancellor Arvizu – Present

President Floros – Present

Provost Parker – Present

Vice Chancellor Johnston – Present

Vice President Burke – Present

General Counsel Collins – Present

Secretary Witte – Present

The Chief of Staff confirmed all members of the Board and university officials were present and the quorum was confirmed.

B. Approval of Agenda, Chairwoman Dina Chacón-Reitzel

Chairwoman Chacón-Reitzel entertained a motion to approve the agenda. Regent Devasthali motioned to approve the agenda. Regent Romero seconded the motion.

The Chief of Staff took a roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

C. Consent Items

1. **Appointment of Vice President of Research Luis Cifuentes to the Board of Directors of the New Mexico Consortium Incorporated, *Vice President Luis Cifuentes***

Chairwoman Chacón-Reitzel entertained a motion to approve the consent agenda as presented. Regent Devasthali motioned to approve the agenda. Regent Sanchez seconded the motion.

The Chief of Staff took the roll call vote.

Regent Romero - Yes

Regent Hicks - Yes

Regent Sanchez - Yes

Regent Devasthali - Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

D. Action Items

1. **Agricultural Modernization and Educational Facilities Phase 1, *President John D. Floros***

President Floros reported that the overall project of modernizing their agricultural facilities began 10 to 15 years ago with a plan to rebuild most, if not all, of their agricultural facilities. It has been reduced in scope since then, mostly because it was a lot of money and the realization was that they couldn't achieve that kind of large amount of investment. It has been reduced from \$100+ million to what is being presented today. What will be covered today is several buildings on the 70 acres in the south part of campus in Phase 1. It will address different facilities including classrooms, research laboratories, and areas where they interact with the public in terms of outreach and extension as well as areas that they interact with the industry. The buildings shown in the presentation address student, teaching, and outreach needs. There are a lot of places where students will be able to have hands on experiential learning from laboratories to places where they can interact with plants, animals and other agricultural related commodities. It will provide faculty, staff, and students areas educating, learning, interacting with the public, industry, leaders and support their research enterprise in terms of agricultural and food related projects. Phase one of this project includes primarily three buildings. One of the three buildings is a biomedical research building. The second is a feed mill. The third is the Food Science Learning and Safety Center, which includes a meat science and meat processing facility. With these three new buildings that they will be building, they will demolish five existing buildings. It's part of their attempt to build new things and take out of commission of old buildings that are not very functional. This is in Phase 1 of the Geo Bond 2018 that was voted on in November of 2018. Hopefully they will have final approval to move forward on January 13 of this year. Dates for Phase 2 will be conveyed as they move forward. In the second phase, the Geo Bond that was voted on last year, supports funding that was passed in November 2020. They're moving forward with the design phase. Historically, they've changed a lot of things because they couldn't cover all the needs that they have, so they had to reduce the overall project in terms of scope. Recently, they realized that because of COVID and some other issues, they've had to

put additional reductions in scope for their Phase 1 buildings.

What is shown in the presentation is the fundamental changes from what they had as part of the design before and what they're moving forward with in construction. The Biomedical Research Building will be reduced slightly by approximately 2600 square feet. The other two buildings will grow a little. They thought that the need is as justifiable. Approximately 650 square feet for each one of them. The other change that they're making, compared to what they had in their plan before, is instead of constructing the full Biomedical building, they will build the exterior and infrastructure in Phase 1. They will complete the interior in Phase 2. The overall net is approximately 1322 square feet less than what they had before. The Biomedical Research Building is part of the Ag modernization project, but also reaches out to other colleges beyond their ACES. It reaches out to Arts and Sciences, with biology, chemistry and biochemistry faculty and hopefully to additional faculty from the colleges of Health and Social Services and Engineering, depending on the work that they do in that building. It will support scientific discovery testing, and clinical trials for agriculturally very important commodities, animals as well as human health, including cancer, viruses such as the virus that they're going through right now. It's a building that NMSU has needed for a long time. Phase 1 of Ag modernization provides the opportunity to put that building together, although in a reduced scope. It's state of the art research capabilities, conventional animal housing, surgery suites and behavioral types of spaces. The bottom line is that it will help their agriculture industry in terms of animal health and New Mexico in terms of human health. In the presentation the blue space is the site for the Biomedical Research Building. It's on Espina and Frenger. Their hope is that Phase 1 and Phase 2 will be so close together that it will not be noticeable that this building will be empty on the inside for any appreciable time. They're going to start with Phase 2 as soon as they're finished with Phase 1. This was a result of what their experts called Value Engineering, which means cost cutting in many respects. The COVID-19 virus and a lot of other issues that they've faced this past year have brought about the need to value engineering of this project as well as the rest of them. That's one of the reasons that they are where they are today.

Phase 1 is \$25 million and Phase 2 was designed to also be \$25 million with some additional monies that they were going to raise. However, Phase 2 has been reduced to \$18 million and they still have to fundraise for the remaining \$6 million, if not more than that. That has had some impact on how they design the remaining of the buildings. In Phase 1, they have now over \$25 million and they have the plan and the design ready. They're going to move into construction soon. They're going to bring the five buildings down and start construction of the three new buildings. They will reconfigure some of the animal pens, new as well as some of the old ones. There'll be some site work, drainage work and remaining infrastructure around those buildings. The parts that they are scheduling for demolition is the livestock judging pavilion, and the remaining units, which some of those will be replaced during Phase 2. The buildings scheduled for demolition are very old and not very functioning. The total space that they will remove is about 13 and a half thousand square feet. What is shown are the sites of the three new buildings: Biomedical Facility, Feed Mill, and Food Science and Safety Facility. The completion of the design is very close and is going to be done by next month. They project that they can start construction by April 2021 and complete all three buildings by May of next year. That is assuming they get the approval that's coming up on January 13.

Regent Romero commented that it's important that they are on top of the square footage across of all properties within the university. This is a great opportunity to be able to make all property in square footage usable. It's also important to delete any square footage that they have that's not being used. This is a good project and it sounds like some great plans.

Regents Hicks appreciated the update. They have revised the scope significantly based on funding.

Regent Hicks asked what approvals have been received based on the revised scope.

President Floros stated that the reduced scope he was referring to happened a long time ago. When the project began 10 or 15 years ago it was very large and broad. Back then, they were talking about \$100 million dollars. They had to reduce it to roughly 75 and even that was very large to be able to go out because the maximum they can request for Geo Bonds is \$25 to \$30 million every time they come round. Eventually the scope was reduced down to two Geo Bonds, roughly \$50 million. That happened before they came on board. Two and a half years ago when President Floros and Chancellor Arvizu came on board the scope had been already reduced about \$50 million, which was \$25 million for the 2018 Geo Bond and another \$25 million for the 2020 Geo Bond. They knew that even for that reduced scope, they would need more money and they were planning to have additional fundraising for Phase 2. When they requested the \$25 million for Geo Bond 2 their plan was to add on top of that another \$5 or \$6 million from fundraising to bring it up to \$31 or \$32 million. However, LFC took that to mean that they were going to raise that money as part of the \$25 million. That's why they approved only \$18 million. Therefore, they had to readjust their scope based on that approval. As they move forward, Phase 1 hasn't changed much, except that the cost is not exactly what it used to be two or three years ago when they first planned. They had to adjust for that. Also, in Phase 2 they have less money than what they anticipated.

Regent Hicks asked if the scope that was reflected on the Geo Bond in Phase 1 and that the citizens of New Mexico voted on is what is being built now.

President Floros answered that that is correct, but with the noted changes: a slight increase in two buildings and a slight decrease in one building. Also, the Biomedical building will be built as the exterior in Phase 1 and the interior in Phase 2.

Regent Hicks also asked what body of approval will they get on January 13. University Architect, Heather Watenpaugh, answered by saying that it is on the HED agenda for approval on January 13.

Regent Hicks asked if given that it has been on the agenda for LFC with much discussion, some noted shortfalls, and missed deadlines, do they expect any difficulty in getting it approved. University Architect Watenpaugh answered that they have held a briefing with HED and have answered the questions that they are looking for for the submittal approval process. It will move to the State Board Finance following approval on January 13.

Regent Hicks asked if the architect engineer schedule with construction notes were presented. University Architect Watenpaugh stated that they have and that they have a recovery schedule to make up some time that they've missed in the last couple months and the completion date has not changed from May 2022.

Regent Hicks asked if they have gone out for bids. University Architect Watenpaugh stated that they have not gone out for bids, but will be advertising for bids in February and expect construction to start in April. They do not have a construction kit scheduled with a contractor.

Regent Hicks asked what the date of reversion of the funds are. University Architect Watenpaugh answered that it is June 2023 and that is for total project closeout. They do not expect to exceed that reversion date. The actual construction time for all three buildings that will be built at the same time is 13 months.

Regent Hicks added that she is thrilled that the demolition of buildings is included in the project. That was something that was brought up in the Real Estate Committee several years ago that they have several buildings that need to be taken care of in regard to demolishing them. Regent Hicks greatly appreciates that it is a part of the project as they continue to move forward with regard to preservation of their university. Chairwoman Chacón-Reitzel agreed with the appreciation of demolishing those buildings.

Regent Romero asked if there might be any potential savings when it comes to utilities and maintenance of the square footage is demolished. President Floros stated that there are several reasons why demolition saves money for them. They don't have to maintain, take care of, put energy into those buildings. There are other reasons that they can have savings in particular, energy. They're having conversations as to how they move forward with that. As they bring buildings out of circulation, particularly as they take them down, they don't have the responsibility of maintaining heating, cooling, and cleaning. It saves operational funds and money in general. The interesting part is that when one looks at the amount of space that New Mexico State University Las Cruces campus has, they have reduced their space over time, even though they've built quite a few new buildings. The guidance that the Regents were given for many years from the former administrations as well as this administration is paying off at this point.

Luis Campos added that they are undertaking a space utilization study currently so that they can look at their space throughout campus and they're starting with I&G. They are also updating their Facility Condition Assessment throughout campus, which is going to help set the stage which buildings need demolition, which will give them a much better view of what buildings should be taken down. They plan to have that process mostly complete by April or May of this year. Their goal this year is to be able to collect that data so that they can make informed decisions as they move forward. Along with what President Floros said and collecting some of the data, they hope to be able to bring some of that information back to everyone.

Regent Hicks stated that she appreciates Luis Campos' effort and encourages him to take it to the Real Estate Committee. Regent Hicks looks forward to seeing the data.

Regent Sanchez asked in regard to Phase 2, if there is a fundraising campaign plan to raise these additional funds, the \$6 million. Also, if they fail to raise these funds are there any implications that would hinder their Phase 2 process or hinder getting the Biomedical Research Building operational and if that affects the Geo Bond at all.

Derek Dictson stated that they have been working with the college and administration for several months to develop a fundraising plan. They have spaces identified with minimum threshold gift amounts for each of those spaces as well as target gift amounts. What they've been holding on to is certainty around what exactly they're going to build so that they don't have donors committing to names and faces that get changed significantly later. They've got some quarter million dollars in commitment for the project as well as a couple of other million-dollar solicitations out, which would be larger facility naming commitments if those go through.

Chancellor Arvizu stated that the project is one of the most important topics that they have had since President Floros and he had been there. They have had a lot of internal discussions about planning and strategizing regarding the new environment that they're in, which has highlighted some of the challenges going forward. They are a land grant Ag school and it is important that they recognize

that agriculture, mechanical arts and engineering is their core foundational competency and one that defines who they are and who they will be. They have a birthright for agriculture in the state of New Mexico based on their mission and charter. They recognize how important this project is in today's environment, which they know that they're going to be financially constrained in many different ways given the pandemic and the financial crisis that it has precipitated. What's exciting about this is that the voters of New Mexico and now government obligation bond voting opportunities have given them a strong message that this is an important part. They recognize how much of an important part of it is of their institution. It is a rare condition to have \$43 million already approved by the voters for something that is so important to their core. This will raise their profile and give them extremely important strategic opportunities for the future. The value chains that they are adamantly focused on to improve New Mexico, which is agriculture, livestock, and other things that farmers and ranchers in New Mexico care about, provide the opportunity to go to the next level. Their roots, heritage, and agriculture benefit to this. The biomedical piece, which is leveraged off of animal, medical and health sciences has implications for human health and gives them opportunities to expand their competencies. These projects are strategically important to their institution. This will be one of their highest priorities for the coming year.

They recognize the challenges that they've had coming into this. There was a lot of uncertainty as to what was going to be built, how it was going to be labeled and what were the commitments from 10 years ago, 5 years ago, and 2 years ago. There was some confusion with the LFC and themselves on how this project is going to roll out, when those costs are going to become available, and other questions. It has been part of this checkered past and somewhat secure this route that they've taken to get to where they are today. They've more or less hit the reset button. They are on a path that gets them to the next level. This is going to take a heroic effort. It's going to take an effort by internal and external people. One of the major issues they've discussed, which the Chair and Vice Chair had been adamant with them about, regarding what is important is that this is going to be a high priority for them. They believe that it's important for them to engage the stakeholder community to make sure that they understand what they're doing and have them help create the vision, momentum and where this potentially can go, beyond phase two. The fundraising is a piece of that and has already been established. It will need to be refined in the post COVID world. That gives them the opportunity, as well as challenges. They know that there's a broader community looking at them for what is important for their livelihood and how the state of New Mexico can continue to progress forward in the agricultural areas and ranching. They recognize how important it is and it will be one of their highest priorities. Making sure the buildings stay on budget, on time and provide them that opportunity to do the kinds of things that they have put into their strategic plan, Leads 2025, and the objectives that they need to achieve them are going to be dependent on them doing well on the project. What President Floros has laid out in terms of the objective.

Regent Hicks appreciated Chancellor Arvizu confirming mechanical arts and the agricultural history of New Mexico State University and they realize that all of your Regents are fully supportive of that, comments, and endeavors in making this a successful project. Regent Hicks said that she would assume that there's still going to be an opportunity presented to this successful contractor for value engineering as well and asked if that is an accurate statement. University Architect Watenpaugh reported that it is an accurate statement and there will absolutely be some ability to value engineer further if that's necessary once the bits are received.

Chairwoman Regent Chacón-Reitzel appreciated the presentations from President Floros and Chancellor Arvizu. It is the most exciting thing that's happened in many years, to have \$43 million to update the Ag enterprise, flagship college on the university, and the foundation of the land grant mission. As a constituent and stakeholder and as an agriculturalist it sends a big message to Ag

stakeholders as well as to the student body that something exciting is happening that they're investing in their education. The Food Science Center is something that has become common at other universities that they've been behind in. There're partnerships can be done with private industry that can be done and student involvement in research. There is potential for students to do research with border on food safety as well as for all stakeholders and taxpayers of NMSU. The research being done on animal health and human health is beneficial and the research on animal health relates to human health. Having a facility to be able to do that is exciting. The Board of Regents makes this high priority. The hard work in the presentation is appreciated.

WHEREAS, New Mexico voters approved General Obligation Bond D in 2018 to fund Phase 1 of the construction of the Agricultural Modernization and Education Facilities project on the campus of New Mexico State University in the amount of \$25 million; and

WHEREAS, New Mexico voters approved Phase 2 of the same project through General Obligation Bond C in 2020 in the amount of an additional \$18 million; and

WHEREAS, these facilities are essential for the NMSU College of Agricultural, Consumer, and Environmental Sciences to fulfill the educational, research, extension and outreach mission of NMSU; and

WHEREAS, the College of Agricultural, Consumer, and Environmental Sciences' programs positively affect the health, economy, and environment of New Mexicans; and

WHEREAS, the activities in these facilities support the agriculture and food processing industry, which accounts for about \$10.6 billion of New Mexico's gross domestic product; and

WHEREAS, agriculture and food processing industries also generated over 50,000 jobs for the New Mexico economy; and

WHEREAS, the global Coronavirus pandemic has served to highlight the importance of agriculture, food processing and cross-disciplinary biomedical research and teaching as drivers of the New Mexico economy and jobs, but also in feeding and caring for New Mexicans, Americans, and citizens from countries around the world,

NOW THEREFORE, BE IT RESOLVED in official session that the Board of Regents of New Mexico State University directs the Chancellor to establish an Agricultural Modernization and Educational Facilities advisory board to expressly and summarily support and advise the completion of the necessary planning, timely reporting, and stakeholder advocacy, engagement, and communication, and identify the funding required for completing the design and construction of Phase 1 and the launch of Phase 2 of the Agricultural Modernization and Educational Facilities project as approved by the New Mexico Legislature.

RESOLVED, this 6th day of January 2021, in Las Cruces, New Mexico

Regent Hicks made a motion to approve the resolution. Regent Devasthali seconded the motion.

Regent Sanchez asked to have it confirmed to review membership of the advisory board that's to be established through this resolution. Regent Chacón-Reitzel confirmed that and that Chancellor Arvizu would appoint them. Chancellor Arvizu confirmed and stated that he welcomes Regent

Sanchez' input as to how to go about that process. They will need stakeholders and representations that represent the outcomes that they are trying to achieve. Regent Hicks added that a good start is the working list they had when they had an open house for each of the colleges. Regent Hicks is happy to share that and defers to Chairwoman Chacón-Reitzel for her thoughts. Chairwoman Chacón-Reitzel agreed that that is a good place to start and stated that she has asked Secretary of Agriculture Jeff Witte to make recommendations for that. The vision for the Advisory Board is relative to everyone. All Regents as well as others can recommend people to this Advisory Board. Included in this Advisory Board will be a fundraising component. It isn't specific to agriculture and they could go to food companies or larger.

The Chief of Staff took the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

2. **NMSU Carlsbad Campus, Chancellor Dan E. Arvizu**

Chancellor Arvizu stated that no one has escaped the consequences of what the pandemic and the financial crisis has provided. In the context of that, they are facing some fairly significant challenges relative to both their financial status as well as the support that they can get from the state going forward and who they are and how they will eventually recover from what has been a very challenging year with the associated crisis that has been precipitated by the pandemic. Their plan and strategy is in the Leads 2025 Program, which has four primary goals. Those goals are front of mind in terms of how they will both position themselves and make decisions. Strategies, targets, metrics, and goals are the toolset that they use to help them make decisions in a very challenging environment. Enrollments as they've known for the last decade have been declining in the state of New Mexico for a variety of reasons, some of which are under their control and some of which are not. Every institution is faced with those major challenges. HED has been looking at ways in which they can reimagine higher education in the state of New Mexico. That's going on across the country and isn't unique to New Mexico, but New Mexico suffers from unique challenges. They have a relatively poor state in the sense of their gross domestic product per capita. They've got some challenges and education is one of those big ones, including public education and higher education.

As they look to what does the future hold, they have not given up or retreated from the goals that they want to achieve, which is to improve enrollments, retention, completion of their students, research capacity, extension, outreach, service to their communities, and to become more efficient as a system and as an educational powerhouse that can drive economic development. There are a number of ways in which these things can be done. One of those is to start looking at how can they provide a better outcome because they have a system rather than looking at their various campuses as having different campus entities that work independently. They started looking at what are the opportunities that this pandemic has brought, facing the headwinds of reduced revenues and not giving up on the goals that they need to be focused on for growth in providing better opportunities, higher impact to their students and citizens. One of those things that they're focused on in Goal 4 is their Efficiency as a System. As they look at the various components of where they are with each one of their campuses it became apparent that one of the concerns is that their branch campuses have not been performing, at least to the expectations that they wanted to have going forward relative to

the citizens that they serve. Each campus has its own personality and set of drivers. Much of those things are unique to that campus in other cases that are common. They look for the commonalities, as well as ways in which they can address some of these challenges going forward. For the three smaller branch campuses it became clear that the roles that they have been serving were ill-defined from the past or maybe have changed or evolved significantly, but it was particularly alarming that from 10 years ago the on-campus student population of their three smaller campuses has declined precipitously. Now that's true of many of the two-year branch colleges and independence across the state, so that's not unique to NMSU. But they have control of their system and that's where the attention was focused. Part of this is looking at what are the roles of those campuses and how do they serve the citizens of New Mexico, specifically the students in those communities.

Also, how do they work better as a system. In the context of that, that gave rise to the fact that it was appropriate to have a restructuring. A restructuring, not to eliminate positions, but in fact, to make their focus on what role they play and how can they best serve those communities. In the context of that, the decision was that they would move toward an Executive Director, that would be in the policy of the individual in control of the three smaller campuses providing both efficiencies at each of those campuses and a direct link to the Chancellor that could allow them to be more effective in serving those communities. That has always been the role and the goal. The goal is, how can we be better at doing what the mission objective is in the context of that to more swiftly get those objectives done now, given the fact that they've had the pandemic and a variety of other things that was the precipitating event that allowed them to think about this differently than they would have. Their Strategic plan is still their guiding light. In order for them to achieve the objectives that they want to get to they have to do that more quickly than what they had originally planned prior to the pandemic. The pandemic has changed their world. The world that they knew before is gone. It's a new norm. They've had to pivot in a way that was so dramatic that they had to explore the art of 'what is possible.' They did a lot more than they thought they could do. There is an opportunity to go back to a reasonable level of normalcy. It won't be the same, but it will be something hopefully that'll give them the opportunity to do things in a more traditional way in terms of face to face engagements. The pandemic is as bad as it has ever been, despite the fact that there's vaccines on the horizon, more tools, and they've learned a lot more. They know how to do things differently. Those things are still alive and they're still in a very challenging place both economically as well as health wise. Higher education has a very important role to play in helping New Mexico recover. Their focus has been to pivot and to work on how can they make each of their branch campuses more effective for creating jobs and meeting the needs of the traditional and non-traditional students.

Much of what's happened in terms of the decline in enrollments is the fact that people need to have jobs. They need to have an opportunity to actually make a living. The financial crisis has created an incredible strain on the economy and higher education can be a part of that solution. They've rethought what they're going to do at the three smaller campuses. Much of the student credit hours that they have served has come in the form of early college high school or dual credit. That is not necessarily what has been the focus and mission of those institutions. On-campus students in those communities has continued to decline and in the pandemic it's even more declined precipitously than even before. It's clear that they need to reset and they need to think about it very differently. Their colleagues in Carlsbad have looked at this and originally they were concerned, but they didn't have as much of a voice in terms of what that future needs to look like as they as they would like to have. They have not served the needs of those communities to the degree that they feel they should have and there is some merit and some truth to that argument. This is not something that just happened in the last six months. This is not something that happened due to the pandemic. This is something that has been ongoing for more than a decade. These new conversations and dialogues have

exposed is this notion of what do they want out of those facilities and out of those branches. How can they serve the communities in New Mexico? How can they as a university system provide greater impact, even in the face of these headwinds of lower financial support from the state, changing demographics, and recovering from a pandemic. All of these are challenges that need to be evaluated in a different way. It's in that context that they made decisions that are focused on trying to get at those answers to those very important questions. This has given rise to a re-evaluation on the part of the community of Carlsbad.

Community College President Van Winkle stated that the simple way to look at this is as the announcement was made that the three smaller campuses would be under the supervision of an executive director, the Carlsbad community became upset in feeling that without a local person running the campus there wouldn't be the communication and the necessary local input into the degree programs and workforce programs that the community would need. The mayor set up an executive higher education committee in Carlsbad to discuss their concerns about not having a campus president. In early September the Chancellor and Community College President Van Winkle had a face to face meeting with approximately 25 members of the community in the business community, even the campus was represented at that point. That started the discussion about their concerns and how they might address those concerns. The result of the first meeting was that the straw that broke the camel's back for Carlsbad was the decision to not have these campus presidents at each of the small campuses. What they discovered was that there was built up frustration over years and years of what they felt like was neglect from the main campus in decision making that they participated in for their own campus as they began to discuss how they could be helpful. Part of what has happened is over the years the branch campus has sort of been on their own, even in trying to find their own budgets because they go to Santa Fe and fight for their own budgets, just like the main campus does. From experience as a President at Almagordo, oftentimes you did what you thought was best for your community and there wasn't the interaction with the main campus that you might think a system would have. Through this process over years and years, Carlsbad has built up to the point where they became so frustrated. The decision to change the administrative structure was the straw that broke the camel's back. They got the business community, political community, and campus community together and decided that they would like to become an independent community college. Their position has always been that they want what's best for the students in the state of New Mexico, in particular Carlsbad. However, we feel that the best position for those students and the best education that those students would be through the NMSU system. Community College President Van Winkle met with their higher education committee leadership team in three face to face visits this fall. In each visit he took documents to the conversation that outlined ways that the main campus could help. The communication between Carlsbad and NMSU Las Cruces over this last fall semester is the most there has been in 30 years. They have had 4 zoom meetings and on November 24 he presented how the main campus in the system could help Carlsbad, even concerning their local issues to the point where because it seemed to be that the main concern was they just didn't have leadership from Carlsbad. They designed a plan in which they would help them search for a campus director. By the way, the campus director is in the state statutes for branch campuses. They have presidents, but they're supposed to be campus directors. They put a plan together, which would allow them to have a campus director with all of the authority and responsibility that John Gratton had as President of the campus produced some economic and workforce development ideas through Arrowhead. They talked about all the services that the main campus would help with. They may not understand how difficult it is to do it on your own. There are so many things that go into establishing your own institution. They had a really good meeting held via zoom with approximately 45 participants. The end result was a few days of silence and then a phone call from the mayor, in which they said they voted unanimously to continue the process to become an independent Community College. They had been communicating almost on a daily basis with the folks in Carlsbad and he meets with the leadership team every week by zoom. They have a

team on the main campus, an integration team, in which they talk about ways and strategies to help these smaller branch campuses. This is the first time in the history of the school in which so much attention has been paid to the branch campuses in which we're trying to help them. Community College President Van Winkle said that he feels that the Carlsbad campus should stay in NMSU system and they know that. He's been the communication outlet for them and the liaison between the main campus and Carlsbad. They're wonderful people, but they're misled to a certain degree. They feel like what he's offered is the same old thing. In fact, they've told him that. Community College President Van Winkle contends that they haven't heard this before, but understands where they're coming from.

Regent Hicks stated that one of the statements that has been made fairly recently is that NMSU main campus has changed the way that they treat registration and fees at the campus in Carlsbad. They somehow enveloped enrollment at NMSU C into our main campus enrollment and we've taken registration fees for them. Regent Hicks asked to address the changes that were made with regard to those types of things, not just the loss of a president in Carlsbad.

Community College President Van Winkle said that there's some confusion and lack of communication in a certain degree. The main campus did make the decision to not allow a student who was a main campus student to take a branch campus course. There are a lot of good reasons for that. There was some confusion that if a student is going to take courses on the main campus, then they had to transfer to the main campus, pay the tuition that the main campus charges takes those courses. Wendy Austin's daughter experienced trying to take one course at the main campus. Wendy Austin is on the committee. She was told that she had to transfer to the main campus to take that course, which is not true. They've gotten that cleared up through VP Scott's office. A student on the branch campus can take an upper division course from the main campus and still be a branch campus student, if they qualify. These are the kinds of things that are confusing if one mistake is made and then the rumor gets out. There hasn't been a change in registering for courses and paying your tuition based upon which campus that you're located in.

Regent Hicks stated that they need to be very definitive about this. These conversations are coming from leadership, not just from a citizen. They need to clarify in this meeting.

Chancellor Arvizu stated that there has been a number of changes that they have instituted as a consequence of processes that have been inherited from the past that don't meet the basic needs of their institution in the system the way they intended them to. There's a lot of unintended things that have gone on that they are trying to correct. One of those has to do with this idea of a 'swirl.' It's a local term that is used internally. What it means is a student from one campus can take courses at other campuses, which they have let evolve in a way that has been unhealthy for their institution. It was not intended that these conditions would occur, but it put them in a position where they had issues with their federal aid and a variety of other things that needed to be corrected. All these things are nuances that have some degrees of complexity to them. As a consequence, what happens is those who are affected by the correction or change in policy, then they leap to the conclusions of a number of ideas that were not what was intended. In looking at what each of the campuses have in terms of their student credit hours, they have three components. One component is the 'face to face' component, which the number of credit hours that they teach on that campus for students that are resident there. Another component is early college high school or dual credit, which is where they're teaching student credit hours, which they don't get paid for those. In the case of Carlsbad, that's a large number and a bigger number than the other ones. It has grown dramatically. It's not a bad thing for the community, but is something that is paid for by the legislature. The PED is responsible for those high school students and NMSU spends extra money to teach those courses. At

DACC they spend a million dollars and get back something like \$40,000 from the state. It's not a bad thing for the community, but not something that is supported by the state. They need to correct that at the state level. The third component is the 'swirl.' There are a number of students on the main campus that are taking courses at each of the campuses. There are two bad things about that. One is that those students on the main campus get counted when they take a course on the main campus and again on each of the branch campuses. One student taking four courses at other institutions can be counted four times. This makes the headcount incorrect. The other is that there were a number of main campus students who had no courses on the main campus and they weren't counted on the main campus. This issue was addressed by VP Scott and leadership in the community to figure out how to best address it in the best interest of the institution and the students and not get in trouble with accreditation and federal aid, which they could do because there are different tuition rates at each of the campuses. That needed to be corrected. Last year they made the decision to reset and do the proper accounting for how that's supposed to be done and put the onus on the main campus. If they've got gen ed courses or other courses that they need for a four year program, then they ought to be teaching them on the main campus or contracting with the other institutions to have them teach it on their behalf. This is something that has affected the branch campuses. Reducing the swirl reduces the amount of student credit hours that they teach, which seems like a loss to that particular community. They've made the adjustments to correct those and it has affected the student credit hours that each of those campuses teach. Leadership is looking at 'what is the role of the institution?' It's not that they are prohibited from taking classes at other institutions, but they need to have a strategy for why they should. Looking through the lens of the student, university, and compliance requirements this condition needed to be corrected.

Regent Hicks stated that they want to have solid numbers in enrollment, but don't want to be in competition with the other campuses. They know that students will go home and take a course because it's less expensive and because they need to be home to earn income. Those are the types of things that create the swirl.

Regent Romero stated that Chancellor Arvizu started to talk about how enrollment is down, especially at the branch campuses, and about how the school in these environments are forever going to be changed. Regent Romero asked that Chancellor Arvizu expand on this because as they get back to their new normal and there are some opportunities out there that within the state that they're looking at, such as the Opportunity Scholarship at the federal level, multiple programs to be able to expand to programs, and community colleges. How this is going to transpire and whether this campus is going to be part of NMSU versus an independent campus? Are they going to be structured and have the support and resources to be able to get into this next evolution of what community colleges will look like.

Chancellor Arvizu stated that each community is quite different. They all have their different personalities and aspirations. In the southeast part of the state they are oil and gas rich and that's a focus as a primary industry. There are other extractive industries that could be flourishing there. Each campus needs to be attentive to those factors to serve the communities that they reside. They need to be understanding to 'what is it that this community needs for workforce development and economic development?' They haven't paid attention to those kinds of things to the degree that the new environment now requires. In that context, there needs to be more regional strategies that have implications for those communities. The curricula and how they serve either traditional or non-traditional students needs to accommodate that. In the beginning what the intent of community colleges was focused on Associate Degrees. These were feeder pools for a transition and a transfer to the main campus for a four-year degree. You can get your two-year degree at your local campus and then go to the main campus to get your four-year degree. The dollars expended per award, per

credential, or in this case associate degrees, at their three branch campuses were the highest in the state. The reason they are the highest in the state is because they don't offer many certificates. They don't offer vocational or CTE. They don't offer as many of those as their other two-year branches of independence across the state do. If you normalize the credentials that a CNM or another institution provides per unit of taxpayer dollars invested through HED what you will find is that they are a lot lower and the reason is that they do a lot of credentials. NMSU doesn't offer a lot of credentials, other than associate degrees. That speaks to the strategy of the past that needs to pivot and change for the strategy of the future. They need to look at what does that community need and how can they provide them what they are needing to service their community. When they do the mill levies, they are investing them to on their own. Those benefits need to accrue to those institutions. NMSU needs to rethink that and part of that is 'how do we support economic recovery in each of those communities?' That was the intent when they started Arrowhead and the extension service from Ag, and all of those pieces to help with entrepreneurial services. How does NMSU create new jobs in those communities because training people to have jobs that are not resident there doesn't help those communities and you hear it across the nation. Retraining is not the secret to how they recover, but creating new jobs are. That can't happen until the community environment knows what their strategy is and where they need to go. That is what NMSU intends to pivot toward. In discussion about what is in the best interest of the community and the institution that's their new strategy for how they support branch campuses. In the context of that, the community may not fully understand that leveraging off of a system where all of those administrative costs are shared being covered for that community college allows them to take the money that they do have and put it on the mission of what they want to accomplish at that institution. That's where the disconnect lies. It's not fully understood that all of the details of what is the comparison of an independent college versus a system branch college when they look at the cost and opportunities for putting revenues on mission. Until the due diligence has been done, a conclusion that one is better than the other cannot be drawn. They've made it clear to the community that if they are convinced that if it is in the best interest of the NMSU students in Carlsbad, their system, higher education, and the community that this a better way to go then NMSU won't stand in their way. They haven't done the due diligence that's necessary to get to that point. They need to be more rigorous and deliberate about what that trade off is.

Regent Romero wants to be very clear what they're asking in the resolution and inquired to the Chancellor what the recommendation is from him.

Chancellor Arvizu said that there's a lot of entanglements in terms of having a branch campus. In addition to shared resources that leverage of centralized administration, there are additional things for New Mexico State employees. They self-insure in some cases and there are costs associated with that. Their colleagues in Carlsbad may not have understood or accounted for that. There are ways in which they have accreditation issues. They have to have a teach out. In other words, NMSU is responsible for all those that signed registered as New Mexico State University students and they are obligated to make sure that they meet the obligations and commitments that they've made to those students over time. That part of the process will take time. How long that takes is going to be something they will have to discuss. There are legal entanglements about how money flows and who makes decisions about what. There's a large reserve that is the money that they own and they have. That is under the auspices of the Regents of New Mexico State University and that transfer would have to occur under certain conditions. There are a number of additional things that are implications for which the due diligence has not been done. The resolution's intent is that they would get an independent party to help think through what are all those entanglements. There's been some precedents of things in the past where institutions have gone independent that they can draw from, but it's a new normal. There's a new set of conditions in today's environment that may change the

calculus of what has been done in the past and a variety of other things that allow them to move forward. It is the community's interest that they have it both ways. That they have all the amenities and the things that the leveraging of the larger system allows, but to have independent control. Some combination of how that might work is part of the discussion on how they would disentangle and what that means for that institution and those students. It's good to look at it through the lens of the student and what it means to higher ed as a practical matter. The expectation is that it will cost more to go independent, but they have that prerogative if that's the choice they want to make. They don't want to suggest that it will cost more or less until they do the due diligence. The intent is to understand that situation.

Community College President Ken Van Winkle stated that it is important to be very clear as Regent Romero said. Finding the facts, discovering what's best for the system, and what's best for Carlsbad is the direction to go.

Chairwoman Chacón-Reitzel stated that in reading some of the issues and grievances that the Carlsbad community has and they mentioned there is \$36 million that basically they feel like they've not been able to use for their own needs. What is the bigger issue on that? What has the campus done or what can they do to fix that problem for them?

Community College President Ken Van Winkle said that he has asked Carlsbad 'why do they have \$36 million dollars in reserve?' Their response has been that they are saving for campus housing and possibly expanding the energy building on campus. There was a study that was conducted last spring investigating the potential for campus housing that eventually made it to the Board of Regents and was denied for several reasons, including the pandemic and the oil and gas crisis. Other than that large activity that was not approved there have been some small things along the way that probably make them feel like it's difficult to spend their own money. It's some of the same frustrations they have on the main campus and it's not unusual to a large system, but there is some red tape that you have to go through to make purchases and understandably, they get frustrated at times. One of the questions is about the interest accrued on such a large amount of money. Each of the branch campuses receive some interest, but it's on their I&G and operating cash balances. It's not on these large reserves. Those large reserves are pooled. There is a possibility to spend some of that interest, but it's through request of the main. Those kinds of rules and procedures are frustrating to them and that's part of the scenario here.

Vice President Burke stated that in the past the community of Carlsbad assessed an additional local mill levy. Branch community colleges are only required to assess one mill levy; whereas Carlsbad assess three. The difference between one mill and three is several million dollars per year. They're taking it and transferring it off to unexpended plant. What are their plans to utilize that money and how can it be spent? The housing project is one of those. In terms of the cash balance and interest allocation, it is pooled in an unexpended plant, renewal, and replacement. Although interest rates aren't very high right now, there are funds that are pooled. If Carlsbad or other entities across campus needed funds to complete a funding project that would be funds that they could access that would be discretionary to help support that activity. It would be a small percentage to the \$36 million they already have. Planning and utilizing those funds is the bigger issue.

Chairwoman Chacón-Reitzel said has heard the concern of being able to access those funds easily from the County Extension offices and AG Experiment Stations. Does NMSU have processes that are a problem for them to be able to access their funds? Why is it difficult for them to get that money? Everyone who has dealt with campus has experienced this. Does the interest that's earned on the

mill levy go back to the community campuses?

Vice President Burke stated that they do get an allocation for the mill levy funds if they stay within their current operational fund balance. If they move it off to unexpended plant and those are the funds which are pooled right now. That's been a process that has been in place for decades. They can look at that if they need to. Sometimes the bureaucracy does frustrate people. In terms of the larger sums of money and putting together projects that are capital in nature, the Carlsbad administration could propose a project and bring it forward. NMSU would work with them to hire architects and move forward on the project. The housing project is an example of that.

Community College President Ken Van Winkle stated that there are some frustrations, it's generally speed and all the approvals needed. As an example, he had an 8 yr old computer and needed to get a new one. Because it was over \$1,000 it took 2 weeks to get it approved from someone on the main campus. Those kinds of things they can fix. This is an opportunity to get better in those areas. Now that they have better communication they can make some progress.

Chairwoman Chacón-Reitzel stated that in the past the pathway for students to go from the branch campus to the main campus. It was a feeder program, but they may have changed. How many students do they get from the branch campus that are transfer students? Should NMSU be doing something different to be able to make it easier or encourage more students to make that leap from the branch campus to the main campus?

Chancellor Arvizu stated that they are quite thin in those numbers. There is a much smaller flow of students coming from those students. That number has been declining for the last decade. Their intent was an associate degree and going to a four year degree. Even at that, transfers have been thin.

Regent Hicks stated that community colleges as a whole are intended to be more nimble and react to what is prominent in what is necessary for Career Technology Education (CTE.) They want to be responsive to the regions and their industry. Carlsbad has been very responsive to the industry, forest service, GIS, and energy industry. The key is that NMSU hasn't pivoted to those credentials and certifications. NMSU hasn't furthered that as much as they could. The Common Core was one of where they were trying to facilitate or readily change in the advancement from the Carlsbad campus or Alamogordo campus to the main campus by having the Common Core numbering system. Those have only happened in the last five years. Prior to that it was very difficult to transfer to the main campus because a student would lose credits due to the Common Core and inability to transfer most if not all the credits. Establishing those certifications in CTE are key. A concern is that they have been nimble within those communities to respond to what they need it and that's where most of the facility changes come from. The word from the City Clerk's office is that within the Council meeting the proposal did not pass.

Chancellor Arvizu stated that Carlsbad has the least number of credentials compared to all two year branches and independent campuses across the state. They're associate degree focused. They have been responsive to the oil and gas industry. Some of the majors in the region would be supportive of them still being in the system. That is the way in which they understand the opportunities are best. These are discussions that need to go on. There is an opportunity to improve the relationship and it has been improving already. Due diligence process is a valuable thing to do. Chancellor Arvizu is confident in Dr. Van Winkle's focus and singular attention on making sure that the branches are not an afterthought and not in any way being disadvantaged by a system that is highly leveraged off the

main campus and DACCs large size.

Chairwoman Chacón-Reitzel stated that as the Board of Regents they have operating agreements with each of their branch community campuses. The Board of Regents at New Mexico State is directly responsible for those branch campuses. They have a huge responsibility to work with all of their branch campus communities to make sure that they are doing right by that relationship. This renewed effort to that campus and all of their branch campuses is overdue, but they're looking at it now. They take it very seriously. They need to do whatever they need to fix this situation. That's reason for this resolution. From the Board of Regents perspective, the importance of working with these communities and this campus to fix the issues, mend the relationship so that it is good for the community and branch community campuses, but as well as the main campus. They don't have all the answers they need to have. This resolution address that information that they need and exploration that's necessary for them to solve this issue and be better partners.

Whereas the New Mexico State University Carlsbad Branch Community College is a component institution under the governing authority of New Mexico State University.

And Whereas the New Mexico State University Carlsbad Branch Community College was founded in 1950 as the College Instructional Center at Carlsbad under the supervision of the New Mexico College of Agriculture and Mechanic Arts and was renamed Carlsbad Community College in 1957.

And Whereas the Board of Regents of New Mexico State University values the long standing commitment of the New Mexico State University Carlsbad Branch Community College faculty and staff in helping to fulfill the New Mexico State University system mission to serve the educational needs of New Mexico's diverse population through comprehensive programs of education, research, extension, outreach and public service.

And Whereas the Board of Regents, and the New Mexico State University system are invested in the workforce and economic development of all the communities served by our land grant mission.

Whereas the Board of Regents of New Mexico State University is responsible for the financial management of the entire New Mexico State University system.

And Whereas the governing board of the city of Carlsbad has resolved to support efforts to transition NMSU.

Whereas the governing body and the city of Carlsbad has resolved to support efforts to transition the NMSU Carlsbad Branch Community College into an independent college.

And Whereas the Board of Regents intends to maintain the long standing and successful collaboration in coordinating the operation of the New Mexico State University Carl's Branch Community College.

And Whereas the Board of Regents will take care to fully and expeditiously evaluate the proposed transition to determine if it is in the best interest of the students of New Mexico State University Carlsbad Campus and the New Mexico State University system.

Now there for being resolved in official session that the Board of Regents hereby supports the

Chancellor in contracting with an independent consultant to conduct a due diligence assessment of the proposed transition and provide a report to be delivered as soon as practicable to the Board of Regents.

Resolved the sixth day of January 2021 in Las Cruces, New Mexico.

Regent Sanchez stated while bolstering the capacity of community college to do CTE needs to be continually explored, how many of these students are on a 4 year degree track or bachelor's degree track? Also, while not going to NMSU, going to somewhere else such as Texas Tech or surrounding colleges. Part of the issue that they can work on as a university is exploring ways to make something like a swirl work, but not affect their head counts. From a student perspective, one of the most immediate ways they see NMSU as a system is by being able to take college classes within the system. Regent Sanchez was able to take a community college class while a main campus student to be able to learn how to speak Spanish as an aspiring medical professional. There's many classes such as this where students want to get professional skills or work ready skills that they can use to go back and work in their communities. Maybe a swirl is something they should explore more.

Regent Romero requested to modify the resolution to read that Carlsbad has not passed their resolution.

Regent Hicks stated for clarification that not all members of the Council were able to attend. The intent is that it comes before the Council with a meeting that has more time. In other words, it isn't an emergency. It reads that the Chancellor will select the consultant. Regent Hicks suggested that they include Carlsbad in that selection process. Also, that this study provides them with what they need as well so that it is a wholesome approach. Also, because they are a land grant university the resolution should also read 'the best interest of New Mexico.'

Regent Devasthali seconded Regent Hicks in that they are the land grant institution for the state of New Mexico. They have to look at how best do they serve the students all across the state and beyond. Also, they are responsible to their taxpayers. Secondly, they need to pay more attention to the other campuses. Regents need to go to these campuses on a semi regular basis. They will plan to do this with two Regents at a time because more than that would create a quorum. They need to interact and understand what the needs are on these campuses. That is really important. It's also important to identify the needs of the communities where these campuses are located, because one size does not fit all. Doing this due diligence, regardless of what happens with the vote on Carlsbad, it's important for them to have a broader understanding of what it is they are responsible for as the Board of Regents towards these other campuses.

Chairwoman Chacón-Reitzel stated that providing this information to Carlsbad is important. This particular study should be owned by the Board of Regents at this point. Community leaders that have specific concerns can be involved as well.

Regent Hicks confirmed that it did not pass; however, there is the intention that there will be another meeting where more Council members will attend.

Chairwoman Chacón-Reitzel stated to amend the resolution. Instead of it reading, "Whereas the governing body and the city of Carlsbad has resolved to support efforts to transition the NMSU Carlsbad Branch Community College into an independent college." It would read, "whereas a segment of the Carlsbad community of Carlsbad has resolved to support efforts to transition the

NMSU Carlsbad Branch Community College into an independent college.”

Regent Hicks requested that in the last paragraph that reads, “Now, therefore, be it resolved in official session, the Board of Regents here by supports...” that the word ‘Chancellor’ be removed and leave it as, “and hereby support contracting with an independent consultant.”

The Chief of Staff read the resolution with both amendments included:

Whereas NMSU Carlsbad Branch Community College is a component institution under the governing authority of New Mexico State University.

And Whereas the NMSU Carlsbad Branch Community College was founded in 1950 as the College Instructional Center at Carlsbad under the supervision of the New Mexico College of Agriculture and Mechanic Arts and was renamed Carlsbad Community College in 1957.

And Whereas the Board of Regents of NMSU values the long standing commitment of NMSU Carlsbad Branch Community College faculty and staff and helping to fulfill the NMSU system mission to serve the educational needs of New Mexico's diverse population through comprehensive programs of education, research, extension, outreach and public service.

And Whereas the Board of Regents and the NMSU system are invested in the workforce and economic development of all the communities served by our land grant mission or as the Board of Regents of NMSU is responsible for the financial management of the entire NMSU system.

And Whereas, (amendment occurred here) a segment of the Community of Carlsbad has resolved to support efforts to transition the NMSU Carlsbad Branch Community College into an independent college.

And Whereas the Board of Regents intends to maintain the long standing and successful collaboration and coordinating the operation of the NMSU Carlsbad Branch Community College.

And Whereas the Board of Regents will take care to fully and expeditiously evaluate the proposed transition to determine if it is in the best interest of the students of the NMSU Carlsbad Campus and NMSU system.

Now, therefore, be it resolved and official session that the Board of Regents hereby supports contracting with an independent consultant to conduct a due diligence assessment of the proposed transition and provide a report delivered as practical to the Board of Regents resolved this sixth day of January 2021 in Las Cruces, New Mexico.

Regent Devasthali made a motion to approve the resolution. Regent Romero seconded the motion. The Chief of Staff took a roll call vote:

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

Regent Romero stated that as Board of Regents commit to be able to work with and listen to branch campuses that we think about some ideas in which we can on a regular basis be able to visit with those branch campuses and have them report out to us on what's going on in those communities, the wonderful things that are happening, and things that they need to be able to improve moving forward.

Regent Hicks stated that when she first came on and then started serving as chair they made a commitment to abide by the agreements that they have with each of the branch campuses. One of those is to make sure that they were meeting with them on a regular basis and actually going through the contract to make sure they were complying with the agreement. Regent Hicks stated that she has had an opportunity to meet with the Education Board in Carlsbad and they've had good exchanges over the past. That's something that needs to continue. It's been more challenging with COVID.

Chancellor Arvizu stated that the number of transfers from Carlsbad to the main campus in fall of 2020 was 14. They will continue the conversation on swirl, it's value and how they can make it more strategically valuable to the system.

E. Informational Items

1. **NMDA Organic Program Update**, *Secretary Jeff Witte*

Secretary Witte stated 2:28:39 announced that today is the birthday for the state of New Mexico. In 1912 Congress ratified our original Constitution and a special note to Article 15 in that original Constitution was a provision that created the New Mexico Department of Agriculture. Mr. Anthony Potter and Mr. Jason were recognized. They did the bulk of the work for the presentation. The following is an update of one of their programs are organic certification program that they've had in NMDA since 2011. Currently across the United States only 15 states' State Department of Agriculture conduct organic certification in inspection. It's one of the challenging programs that they've had. It's a program that's run through the National Organic Program at USDA. States can become certified just like private certification entities can do the same thing. One of the challenges that they've had since its inception of coming to NMDA from what used to be the State Organic Commodity Commission, which was disbanded when they move the program to NMDA was employee retention and running a program that was sound and consistent. Part of the reason for that is employee retention. They went to the legislature a couple years ago and changed the fee structure. When they did that, they went from 156 entities that they were inspecting across the state to 101. Because of the new fee structure most that they were expecting did not need organic certification. They had already maintained relationship with their clientele, which provided them with an issue. Employee retention has been a problem. They are in the middle of the transition for this program in New Mexico. Over the last nine years they've had to deal with eight vacancies. That have been an issue with their audit findings through the National Organic Program from the USDA. Whenever you lose employees and you have to rehire, you have to do the training and certification of those employees. Typically, as soon as they get them trained and certified they go into the private sector. Then they start all over. They have had a great issue with employee retention and it has to do with their salary structure. The private sector has much more leniency and benefits than they can offer as well as other operational matters that than what they can afford at the state level where the program has to be 100% self sufficient. When they instituted the new fee structure in 2018, 30% of their clients dropped. Now they are down to 101. They estimate that they need 120 to be revenue neutral. The legislature has refused to provide operational funds for this. When they inherited the program in

2011 Senator John Arthur Smith in the LLC left them to figure out how to handle it and wouldn't give any more state money. Since then, they have run an average deficit of about \$60,000 a year in this program. They re-evaluate all of those programs on a continual basis. The latest budget cut that they took as a department was 4% last fiscal year. On the general fund side it caused them to re-evaluate any program that was not revenue neutral, any enterprise projects. Also, they were dealing with a USDA audit that gave them some negative findings. The primary concern in the finding was that they were not conducting timely inspections and certifications because of their staff turnover. When you add it all up they have been in discussions with the USDA and convened with the Organic Advisory Committee. They've got producers from across the state. They've discussed with them some of the solutions and options that they thought might be viable. The first option was to transition the program from an inspection and certification program with the department to turning over their clients, farms, ranches and dairies that are certified by an NMDA to the private sector. There are 11 private sector certifier companies operating in state of New Mexico. One of the questions they get is, 'if you can pick up this service, why is state government competing with private industry?' It's a valid question. If operating on a fee structure that is comparable, then it might be one thing. Their fee structure is below what industry is out there. Option two is to redo their fee structure and bring their fees up to what the competition was doing in the private sector. After a couple of meetings with the Organic Advisory Committee they recommended that they transition to a program where they do market development and training, which will help grow the organic industry in the state of New Mexico. Over the years they've worked closely with New Mexico State University Cooperative Extension Service to use their expertise. They have are some great agents across the state that have helped them and will continue to help them. Currently they have one staff member left and they're using a temporary contract employee to address certification issues. Under the NLP an inspector cannot be a certifier and a certifier cannot be an inspector. Neither one of those two titles under the NLP can be an information person. It is prohibited to share or give advice to organic producers. Just because an entity is organic doesn't mean they're not using pesticides. There are organic pesticides. Their inspectors are not allowed to give their clients a list of those pesticides. They had to do that through their pesticide group or extension can help them do that. There are some quirks in the NLP that really cause operational headaches for a small entity like what they are operating under. They're going to transition. They've worked with USDA and they see this as a model for other states that are having the same kind of operational issues. They're issuing an RFP, which is already out to have these private entities become preferred providers under the New Mexico Department of Agriculture. That will provide quick and efficient inspections and certification for their clients. As part of the transition they will refund a portion of the fees that will come into the department back to those who have to transition during the certification period. Their staff member can then spend their time developing organic programs and market development across the state. The USDA has a provision that will refund up to \$750, but it may just change the \$500. It is for the cost of getting an inspection certification. Some of their small producers don't participate with that because they don't want to deal with the paperwork. Their person can then help them work through that paperwork and get fee reimbursed. It will be a much better program and it will have a greater opportunity to impact growth. By moving to this model their staff can begin developing the organic industry, instead of keeping up with the regulatory process as well as letting those 11 private certifiers in the state do what they do best. They've initiated the transition discussion with the USDA and by the end of March they will have that implemented.

Chairwoman Chacón-Reitzel stated this whole change has come about because at the time that the state started the organic inspection program there were no third party organic verification programs or independent programs or not many of them. Is that correct? Now we don't have to have it because it's being done by someone else. Regent Chacón-Reitzel is concerned about the cost of the producers. They weren't able to charge enough to support the program at the NMDA and charge the proper fees. How much do they have to pay for third party verification?

Secretary Witte stated The program started in the state of New Mexico. It predated the USDA program. When it originally passed the state set up an Organic Commodity Commission and that commission was an independent state agency that was charged with establishing the program doing the certification inspection. They ran the program under the requirements of the State law that was passed. At the federal level, they passed the National Organic Program a couple of years later. When that Act came into play it made all of the state laws irrelevant because the state program had to be equivalent or more restrictive than the federal program. Therefore, most of the states adopted the federal standards and started doing all the certifications and inspections under the federal program. There are a lot of requirements associated with that. At the time, the USDA established that private entities do that certification and inspection. They would go through the USDA process of training and certification of their staff. It evolved over that and the USDA created that when they allowed the private sector to come into the inspection certification business.

Chairwoman Chacón-Reitzel stated that at the time the industry gave up the state meat inspection program they felt like it did need to happen again. They could go to federal inspection and be better off. Since then, they have found out differently, especially during COVID, how not having a state inspection system was an exacerbated issue. One of the issues when there isn't a state inspection program, they never know who is selling meat. There was no database or handle on that. It's information that they need as an industry. Will NMDA have a list of organic producers if third party verification programs are doing that verification? Is there a formal process where they're able to know how many organic producers are in New Mexico and they know who they are?

Secretary Witte stated that yes, the USDA has a database online under their marketing program and under organics. There is a list of all of the firms that are certified organic as well as a list of who the USDA has authorized to be inspectors and certifiers.

F. Announcements and Comments

No announcements nor comments.

G. Closed Session Closed (Executive) Session

- 1. Close meeting to discussion the performance evaluation and objective statement for the 2020 – 2021 Academic Year for Chancellor Arvizu and President Floros as permitted under the personnel matters exemption the New Mexico Open Meetings Act, NMSA Section 10-15-1, subsection (H)(2).**

Chairwoman Chacón-Reitzel moved that “the Board of Regents go into close meeting for the discussion of the performance evaluation Exhibit A: A performance evaluation instrument and Exhibit B: Objective statement for the 2020-2021 academic year for Chancellor Arvizu and the President as permitted under the personnel matters exemption of the New Mexico Open Meetings Act NMSA Section 10-15-1 subsection (H)(2).”

Regent Romero seconded the motion. The Chief of Staff took the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

- 2. Reconvene in open session and take final action, if any, on such matters which shall be acted upon in open session following conclusion of the closed session.**

The Chief of Staff confirmed the closed session: “The Board of Regents met in closed executive session at 11:50am on Wednesday, January 6, 2021, which was held virtually via zoom. The closed session meeting was held to discuss the performance evaluation Exhibit A: Performance Evaluation instrument and Exhibit B: Objective Statement for the 2020-2021 academic year for Chancellor Arvizu and President Floros as permitted under the personnel matters exemption of the New Mexico Open Meetings Act and NMSA Section 10-15-1 subsection (H)(2).

The Chief of Staff proceeded to certify that only matters of that nature were discussed.

Regent Romero left.

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

H. **Adjournment**, *Chairwoman Dina Chacón-Reitzel*

Chairwoman Chacón-Reitzel entertained a motion to adjourn the meeting.

Regent Devasthali made a motion to adjourn.

Regent Hicks seconded the motion.

Meeting adjourned at 1:01pm

DRAFT



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: B-3

- Action Item
- Consent Item
- Informational Item

Presented By: Chairwoman Dina Chacón-Reitzel
Board of Regents

Agenda Item: Special Meeting Minutes for February 2, 2021

Requested Action of the Board of Regents: Approval for Special Meeting Minutes for February 2, 2021

Executive Summary:

As required by the New Mexico Open Meetings Act, the board shall keep written minutes of all its meetings. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted. All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the board.

References:

NM Open Meetings Act §10-15-1 G.

Prior Approvals:

N/A



**NEW MEXICO STATE UNIVERSITY BOARD OF REGENTS
SPECIAL MEETING MINUTES
February 2, 2021 at 2:00pm**

DRAFT MINUTES *NOT OFFICIAL – SUBJECT TO APPROVAL BY
THE BOARD OF REGENTS*****

Regents of New Mexico State University

Chair Dina Chacón-Reitzel, Vice Chair Ammu Devasthali, Secretary/Treasurer Luke Sanchez, Debra Hicks, Arsenio Romero

Non-Voting Advisory Members - ASNMSU President Mathew Madrid, Faculty Senate Chair Julia Parra, Employee Council Chair Letty Gallegos

University Officials - Chancellor Dan E. Arvizu, Ph.D., President John D. Floros, Ph.D., Provost Carol Parker, J.D., Vice Chancellor Ruth A. Johnston, Ph.D., Senior Vice President Andrew Burke, Ed.D., General Counsel Roy Collins III, J.D.

The Board of Regents meeting is available by webcast through the link at <http://panopto.nmsu.edu/bor/>

MINUTES

A. Call to Order, Chairwoman Dina Chacón-Reitzel

Chairwoman Chacón-Reitzel called the meeting to order at 2:12pm

1. Confirmation of Quorum and Roll Call

The Chief of Staff confirmed the quorum and took the roll call.

Chairwoman Chacón-Reitzel – Present

Vice Chair Devasthali – Present

Secretary Treasurer Sanchez – Present

Regent Hicks – Present

Regent Romero – Present

Chancellor Arvizu – Present

President Floros – Present

Vice Chancellor Johnston – Present

Vice President Burke – Present

General Counsel Collins – Present

2. Pledge of Allegiance

Chairwoman Chacón-Reitzel led the Pledge of Allegiance

B. Approval of Agenda, Chairwoman Dina Chacón-Reitzel

Chairwoman Chacón-Reitzel entertained a motion to approve the agenda as presented.

Regent Devasthali made a motion to approve the agenda as presented.

Regent Hicks seconded the motion.

The Chief of Staff took the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes
Regent Sanchez – Yes
Regent Devasthali – Yes
Regent Chacón-Reitzel – Yes
The Chief of Staff confirmed the motion passed.

C. Consent Items

- 1. Operating Agreement with NMSU – Alamogordo, Community College President Ken Van Winkle**
- 2. Operating Agreement with NMSU – Grants, Community College President Ken Van Winkle**

Chairwoman Chacón-Reitzel entertained a motion to approve the Consent Agenda as presented.

Regent Hicks made a motion to approve the Consent Agenda as presented.

Regent Romero seconded the motion.

The Chief of Staff took the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

D. Action Items

- 1. Collaboration Agreement between the Regents of New Mexico State University and NMSU Foundation, Vice President University Advancement Derek Dictson**

Chancellor Arvizu stated that this agreement is a very important agreement for the NMSU system, community, students and institution. It's one that they've been operating under an agreement that was put in place a number of years ago. It needed to have a little bit more refinement and updating so that it could better capture where they are and what they need to be. They have been working on this for 2 years. The previous Regents had gone through and did a few things to get started. More recently, they ended up having to delay on a couple of accounts based on the fact that they didn't have a pleaded hiring of their new president for the Foundation and the vice president of their University Advancement organization. Until they had that done they felt that it would be prudent to let the new individual who's going to be in charge of to give them the best that they could actually provide in terms of insights, structure, and strategy. That was a deliberate attempt to make sure that they were moving in a direction that was sustainable. They were fortunate that they were able to hire Vice President Dictson and his vast experience in advancement. They delayed and COVID has continued to put additional challenges on that as well as having scheduling issues and a variety of other things. The Foundation's executive leadership, Chair, and Vice Chair of their board met on a number of occasions. At the end of this process they've concluded that they have an agreement. It is a direct reflection of a couple of things that they intended to put into the agreement. The first thing that they all intended was that this document would live beyond the personalities that are presently engaged in negotiation and for that matter for a new set of regents, administration executives and members that are in the leadership positions at the Foundation. If all of those change, they wanted this agreement to continue to be the guiding light and relationship parameters around how they organize themselves and how the Foundation can help with the mission objectives of the university. That was front and center an important part of their deliberations was how this document can be essentially good for all times and personalities. That guided them a little bit in how they structured things. One thing they agreed upon and it's embedded in the agreement itself is the idea that they have a foundation that's a bit of a hybrid from the extremes that one could contemplate in terms of how you manage and or structure a

foundation for an institution. There are no right and wrong way to do this. That these are models that others have used. There's one model where the Foundation is completely independent, pays for everything itself and they use the tariff on the endowment as their revenue stream from which they use all of their operating funds. They've chosen a 50/50 model, which means that half of the Foundation's funding will come from the university (typically from ING funding) and the other half is from the tariff on the endowment. Presently, that number is 2%, but they are agreeing with the Foundation to make that number smaller because the tariffs on the Foundation endowment are best practices. The expectation is that over time it will reduce from 2% to 1 ¼ over 10 years. That will be done in concert with a number of other metrics and return on investment metrics in progress that they intend to make over time so that at the end of 10 years they will be in a 50/50 split in terms of how the Foundation is funded. Lastly, there are a number of things that are important for them to work out. Some belong in the MOU and some don't. VP Dictson and Chancellor Arvizu will prioritize those items, note which need to be revisited. They have regular reviews on an annual basis already established to do some of the things that relate to being on the right track and doing the right things to make the progress they need in order to progress down the path. An additional change is that it will no longer be known as an MOU, but rather as a collaboration agreement. That is to indicate that this is a partnership, strategic, and embracing how they all work together. It's an important change in tone and the relationship that they expect to have, cultivate, and evolve in a positive direction over time.

Vice President Dictson stated that the Foundation and the University began working on revisions of this agreement in April 2020. It's intended to replace an agreement that's been in place since 2007. When they entered into the process they began with two goals. The first goal was to build relationship and trust that will last well past the end of the negotiation and would be every bit as important as the words on the paper itself. The second goal was to utilize national best practices then tailor them to the unique aspects of NMSU so that this agreement would work for them. Vice President Dictson and Chancellor Arvizu worked closely throughout the process. They also retained Dr. Ed Davis as an outside advisor. Dr. Davis was the former president for Texas A&M Foundation where he served 25 years and was a member of the Association of Governing Boards Task Force that built a model memo of understanding for foundations and universities to use. That was put in place back in 2005. Dr Davis really helped as they went through this process as well. Also, they received MOUs from several peer and aspirational universities that they reviewed and borrowed what they considered the best aspects from those MOUs. They developed a collaboration agreement that they hope will stand the test of time and will allow for a long term relationship between the university and the Foundation. The Foundation board voted unanimously to approve this draft of the agreement at their special meeting last Friday. The high points that the collaboration agreement achieves are as follows: First, it defines the responsibilities and expectations of both the university and the Foundation. At its core the Foundation is charged with raising gifts and managing the endowment on behalf of the university. The university is charged with supporting the work of the Foundation. The agreement provides a framework for a close working relationship between the university and the Foundation. The Foundation continues to be staffed by NMSU employees, just as it is today. They've allowed for the participation of six university leaders on the Foundation board, including the Chair of the Board of Regents, Chancellor, President, Vice President and a Dean that can be appointed as well as the President of the ASNMSU. The Chancellor will be participating on the Foundation's Executive committee. They've formalized a process for communicating regularly and collaborating on things like strategic planning and priority setting for fundraising. They've also defined what they believe to be a sustainable long term plan for financial support and the sharing of unrestricted gifts. They've included annual reviews in the agreement on items that may need to be adjusted from year to year. They believe that this agreement is going to ensure the confidentiality and privacy of donors, but also enable a broad sharing and access to data from the Foundation with its university partners. They've also established a joint commitment to become and remain regionally competitive with regard to the recruitment and retention of talent in the Office Advancement. Vice

President Dictson stated that he believes that this agreement that they've put together is going to help accomplish all of these goals as they continue to work together.

Chancellor Arvizu added to his point earlier that he and Vice President Dictson will work out. Some of those things relate to HR and how they will treat NMSU employees that are loaned to the Foundation. In that case they have worked with HR to build a new approach so there can be a different kind of compensation scale that is unique to the kind of roles that they play at the Foundation. That is a work in progress and they are taking it slower than normal because they don't want to do anything that would compromise the HR system. Those kinds of things will be included in the agreement in the future, but they weren't ready to put those in the agreement now. That also includes things that have special circumstances associated with them. Donor privacy is still important. There are a number of things that they have to work through that aren't explicitly part of the arrangement, but will be in the future.

Regent Hicks stated that they have been at a full MOU, not just the beginnings of a full MOU, three times now. Regent Hicks stated that her concern is that, one, it gets highly competitive amongst the development officers and two, that takes a significant amount of money out of NMSU students' and citizens of New Mexico states' pocket. Is that purely going to be an administration and the leadership of the of the Foundation board? Who's on that committee? How are those next steps going to be taken care of? They're looking at starting fundraising that hasn't ever stopped. How are these folks going to be compensated between now and then?

Vice President Dictson stated that their proposal has not necessarily been to greatly increase the funding for the Office of Advancement Foundation. What their proposal has been is to make sure that they attract and are able to retain a core group of highly talented staff. Vice President Dictson stated that he'd rather have fewer people that are highly talented and that he can retain than more people that turnover at a 20 or 30% clip. They've largely kept their budget process level. They've tried to index it for inflation so that they can keep up with inflation over time. Their ultimate goal is to go from a current situation where we're funded at about \$51 per alum to the point that they're funded at about \$59 per alum. That's about the 25th percentile nationally, as far as funding. They're trying to reach that threshold, then index it more or less to inflation, so that they can we can keep up over time. Vice President Dictson doesn't believe they're going to be spending a great deal more money, but does want to try to build a situation where they can provide appropriate salary increases. Over the last 11 years their staff, along with all the other staff at the university has received four pay raises. A person 11 years ago that was earning \$50,000 is now earning the equivalent of \$45,000 after inflation. It's hard to retain people. It's hard to retain highly talented fundraisers, especially when they have lots of other options. They're just trying to set up a situation where they can retain them. They're not anticipating for the overall budget to grow substantially.

Chancellor Arvizu added to that statement in terms of philosophy on how they are approaching the overall budget of the Foundation. That is an item that Chancellor Arvizu is looking at from the perspective of how many ING dollars, state dollars, or university offered in dollars in terms of an investment have they provided to the Foundation as well as what return they get on that investment. In looking at it strictly through that lens at this 50/50 model, for every dollar that they put into salaries for the Foundation they get back \$6 of fundraising. It's a six to one sort of return on investment. They want more money from the Foundation going to our students and on their mission. To do that they do not put as much of a tariff on the foundation endowment for operating expenses. That is 2% and that means less money for mission. The best industry standard is like more like 1%. So, they want to move from 2% to 1%. That puts more money on the mission and on their students. Obviously, the portfolio generates a certain amount of income, and then they use that for what the donors intended. What they get in terms of return shows the efficiency of the investment that the university is making in the advancement function. The less money they take out of the endowment for operational funds, the

more money they put on the mission. Both of those things are working together in the way in which they've structured the collaboration agreement. If they keep the Foundation budget the same, then that means more money coming from the university and less money coming from the tariff endowment. Those two things are working against each other, but if they keep the Foundation budget the same what is being looked for in 2025, 'is there a bigger return on investment?' That depends on hiring the right kind of people that are productive and that will be bringing in the resources that we need. If those things aren't playing appropriately, then that return on investment for every dollar invested from the from the ING side will not come to fruition. That's what they'll look at on an annual basis. They're looking at it through the perspective of, "Let's make sure they right size the Foundation." The bigger you get, the more services you provide. They hold them accountable through the metrics of progress on return on investments of every ING dollar that's invested. Chancellor Arvizu is confident in this new approach with all the transparency and pieces that they put in place. They need to give the Foundation personnel the opportunities to succeed. That is why they've approached it in that manner.

Regent Hicks stated that NMSU Foundation is the only entity designated to receive and manage funds and so forth. Are there any unintended consequences out there right now that they are aware of where this would affect such as athletics, Aggies without Borders, or other organizations?

Vice President Dictson stated that this won't have much impact on the organizations that they are fund raising for. It'll strengthen their ability to work collaboratively with athletics to make sure that they have access to the tools that the Foundation is already invested in technology and systems, rather than having to recreate the wheel on their side in certain situations. They're also building an organization that's going to allow the student organizations on campus to have the ability to utilize technology and data more fully in order to raise money for things that they're wanting to do as well as steward those donors. In past years in some certain circumstances it's been difficult for the recipients of the of the fund, such as a student group, to know who actually donated to them. They are able to steward those donors appropriately. The donors want to hear from the kids. They're going to make sure that they're enabling that to happen in a way that that also takes care of donor confidentiality and privacy that they expect. They don't see any major changes nor downside. It's just going to be a lot more collaborative, open, and able to purchase and utilize technology that's available.

Regent Hicks gave a scenario of what she runs across on a regular basis. The consulting engineers and various organizations have conferences at the Conference Center in Las cruces. It's handy because NMSU is there and they're very closely working with NMDOT. So, if student chapter is there and they have a table set up. They're selling mugs and different things like that, but they also asked for donations for their concrete canoe or something. Those are the kinds of things that Regent Hicks is referring to. The student chapter is asking for funding, then you have to weave in all those other outposts.

Vice President Dictson responded that one thing that they can envision is that they would be able to do is that those student groups will work closely with the Foundation. They can outfit them with tablets and ipads that they have to be able to accept those types of gifts. It kind of cuts out the friction in the process. They want to be able to work with those groups as they do fundraising. If somebody walks up to their table and gives them a check, then it's in everybody's best interest to know who that was and feed that back in the central database. The donor may expect a gift receipt for their taxes. They can't get that if it doesn't come through the Foundation. It's their intention to make that work well.

Regent Hicks stated as they talk about trying to get the Department Advancement as it is, some of those employees that will separate and have a transitional type of arrangement. Regent Hicks' biggest concern what the state benefits that they receive and what that benefit package looks like. In the whole document on page 34, it reads "Once the Foundation becomes financially sustaining, the parties will

establish a separate transitional arrangement where you might have jointly assigned employees.” How would they handle the benefits in that regard?

Vice President Dictson stated that they don't envision a situation where employees become solely Foundation employees in the foreseeable future. They wanted to allow in this MOU for the situation where someday that might exist. Right now the Foundation does not have the financial ability to do that and probably won't until we're close to five or \$600 million in size in the endowment. Over a 10 year period they envision ramping down the tariff that they charge on the endowment. That may push it bigger and they may need to be a billion dollar endowment before they can really think about this. If they ever get to that point they will need to have a benefits package that is competitive with the university and that also allows people who have been in the university retirement system for a number of years to stay with that system and retire from the university. It will be a number of years before considering this and fleshing it out.

Regent Hicks stated that she wanted to know about the audit or being able to understand the fees and have someone go through the fees and those types of things and if that is within the document.

Vice President Dictson stated that they included a description of the annual audit in the packet. It states that the Foundation will continue, as it has, to use the same audit firm as the university that's required by university rules and by State law. The Foundation and the university will collaborate together to define the scope and the fees for that audit. That is the addition, they will get together with the people who are negotiating the RFP for the new audit firm. As that is being led, they will try to define of what the Foundation scope is going to be and hopefully get a separate price when the MOU is being negotiated with the new audit firm so that everyone knows up front the scope and price of the Foundation audit.

Regent Devasthali stated that in section 9B is states that it will go through the audit committee. Later this month they have an audit committee meeting, which is an exit conference for KPMG. They will be starting negotiations with whoever they get the new external audit from that they hire.

Regent Hicks stated that it's been a long time since the foundation has actually gone out for RFP with regard to the management of the funds. Regent Hicks wants to make sure that that's also a part of this discussion that that they're regularly, whatever regular means and maybe it aligns with the audit, going through a management RFP process, those that are managing the fund investments.

Vice President Dictson stated that they refer to Bank of America Merrill Lynch's outsourced chief investment officer OCIO. They are currently preparing for a review and an RFP for the OCIO, which will take place this spring. They intend to engage a firm out of Atlanta that partners with foundations to help manage that process, which is pretty complex, especially today. There are around 90 firms that provide that service in the US. They're going to go through a very comprehensive process of evaluating their current OCIO and selecting either to stay with that current firm or to engage with the new one going forward. They hope to have that finished in their firm of the future in place beginning in July is in sync with the new fiscal year.

Chairwoman Chacón-Reitzel entertained a motion to approve the collaboration agreement with the NMSU Foundation. Regent Devasthali made a motion. Regent Hicks seconded the motion.

The Chief of Staff took the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes
Regent Devasthali – Yes
Regent Chacón-Reitzel – Yes
The Chief of Staff confirmed the motion passed.

E. Closed (Executive) Session

At 3:00pm Chairwoman Chacón-Reitzel moved that moved at the Board of Regents go into close meeting for the discussion of the performance evaluation, Exhibit A Performance Evaluate Instrument and Exhibit B the Objective Statement for the 2021 academic year for Chancellor Arvizu as presented under the personnel matters exemption in the New Mexico Open Meetings Act NMSA Section 10-15-01 subsection H(2).

Regent Sanchez seconded the motion.
The Chief of Staff took the roll call vote.

Regent Romero – Yes
Regent Hicks – Yes
Regent Sanchez – Yes
Regent Devasthali – Yes
Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

- 1. Close meeting to discussion the performance evaluation and objective statement for the 2020 – 2021 Academic Year for Chancellor Arvizu as permitted under the personnel matters exemption the New Mexico Open Meetings Act, NMSA Section 10-15-1, subsection (H)(2).**
 - a. Quantitative Performance Targets and Goals (Objective Statement) for Chancellor Dan Arvizu for Fiscal Year 2020 – 2021**
- 2. Reconvene in open session and take final action, if any, on such matters which shall be acted upon in open session following conclusion of the closed session.**

At 3:46pm Chairwoman Chacón-Reitzel called the meeting back into order.

The Chief of Staff confirmed the prior closed executive session which occurred February 2nd, 2021 at 3:00pm. This was held virtually via Zoom. The closed executive session meeting was held to discuss the performance evaluation Exhibit A performance evaluation instrument in Exhibit B objective statement for the 2020-2021 academic year for Chancellor Arvizu as permitted under the personnel matters exemption in the New Mexico Open Meetings Act NMSA Section 10-15-01 subsection H(2).

The Chief of Staff proceeded with certifying that only matters of that nature were discussed.

Regent Romero – Yes
Regent Hicks – Yes
Regent Sanchez – Yes
Regent Devasthali – Yes
Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed certification.

Chairwoman Chacón-Reitzel made a motion that if they take action on Exhibit B to include it in their official binder.

Regent Romero made a motion to approve Exhibit B.

Regent Sanchez seconded the motion.

The Chief of Staff restated the motion. This is approval for Exhibit B the objective statement for Chancellor Arvizu 2020-2021 academic year exhibit.

Regent Romero - Yes

Regent Hicks - Yes

Regent Sanchez - Yes

Regent Devasthali - Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

F. **Adjournment**, *Chairwoman Dina Chacón-Reitzel*

Chairwoman Chacón-Reitzel entertained a motion to adjourn.

Regent Romero made a motion to adjourn.

Regent Sanchez seconded the motion.

The meeting was adjourned at 3:50pm.

DRAFT



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: B-4

- Action Item
- Consent Item
- Informational Item

Presented By: Chairwoman Dina Chacón-Reitzel
Board of Regents

Agenda Item: Special Meeting Minutes for March 2, 2021

Requested Action of the Board of Regents: Approval for Special Meeting Minutes for March 2, 2021

Executive Summary:

As required by the New Mexico Open Meetings Act, the board shall keep written minutes of all its meetings. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted. All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the board.

References:

NM Open Meetings Act §10-15-1 G.

Prior Approvals:

N/A



**NEW MEXICO STATE UNIVERSITY BOARD OF REGENTS
SPECIAL MEETING AGENDA
March 2, 2021 at 8:00am**

DRAFT MINUTES *NOT OFFICIAL – SUBJECT TO APPROVAL
BY THE BOARD OF REGENTS*****

Regents of New Mexico State University

Chair Dina Chacón-Reitzel, Vice Chair Ammu Devasthali, Secretary/Treasurer Luke Sanchez, Debra Hicks, Arsenio Romero

Non-Voting Advisory Members - ASNMSU President Mathew Madrid, Faculty Senate Chair Julia Parra, Employee Council Chair Letty Gallegos

University Officials - Chancellor Dan E. Arvizu, Ph.D., President John D. Floros, Ph.D., Provost Carol Parker, J.D., Vice Chancellor Ruth A. Johnston, Ph.D., Senior Vice President Andrew Burke, Ed.D., General Counsel Roy Collins III, J.D.

MINUTES

A. Call to Order, Chairwoman Dina Chacón-Reitzel

1. Confirmation of Quorum and Roll Call

Chairwoman Chacón-Reitzel called the meeting to order at 8:01am

The Chief of Staff took the roll.

Regent Romero – Present

Regent Hicks – Present

Regent Sanchez – Present

Regent Devasthali – Present

Regent Chacón-Reitzel – Present

Chancellor Arvizu – Present

President Floros – Present

Vice President Burke – Present

General Counsel Collins – Present

B. Approval of Agenda, Chairwoman Dina Chacón-Reitzel

Chairwoman Chacón-Reitzel entertained a motion to approve the agenda as presented.

Regent Devasthali made a motion to approve.

Regent Hicks seconded the motion.

The Chief of Staff took the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief Staff confirmed the motion passed.

C. Consent Items

1. Appointment of NMSU Labor Management Relations Board Member, *General Counsel Roy Collins III, J.D.*

Chairwoman Chacón-Reitzel entertained a motion to approve the Consent Agenda as presented.

Regent Sanchez made a motion to approve the Consent Agenda as presented.

Regent Romero seconded the motion.

The Chief of Staff took the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

D. Action Items

1. Amendments to Board of Regents Bylaws and Regent Committee Charters, *Chairwoman Dina Chacón-Reitzel*

Chairwoman Chacón-Reitzel gave a recap of the action item presented, “Today, the proposed revisions to the Regents’ bylaws and Regents’ committee charters presented for your approval were discussed by the Board at our November 2 work session and subsequently reviewed by the University General Counsel and Board of Regents staff. The amendments established the use of and limitations for the consent agenda for the board special and regular meetings. In addition, changes to the membership and meetings section of the Regents committee charters for each of our Board of Regent standing committees are intended to provide uniform support for meetings and standardize the process for developing committee agendas. An update to the membership section of the Regent Student Success committee is also now proposed to include formal representation from all the Community colleges. Other minor stylistic changes were also made, such as removing the word ‘shall,’ which often leads to difficult interpretations. Members of the Board, you have been provided with the red line version and clean version of the proposed changes in advance, which does include some changes that were made after our board discussion on November 2.”

Regent Hicks requested that the changes that have been made since their last meeting be verbalized.

The Chief of Staff proceeded to report the changes. Page #2 of the revision there are several grammatical changes. In Article 3, it previously read “officers,” but now reads “officers and official documents” because it contextualizes further the information contained therein. In Article 3.4 and 3.6 a phrase was added to clarify regarding the signatures on the degrees or diplomas. It reads, “along with the signatures of other members of the board.” On page three there is clarifying language that goes beyond the use of the word ‘shall.’ It clarifies approval or disapproval language. Page 4 and 5 is all of the ‘shalls’ and clarifying language with respect to grammatical structure. On page 6 there is a substantive update to the agenda item process. In Article 6.3, it establishes the consent agenda as a practice that the Board will use in the drafting of their agendas. It stipulates that the consent agenda can be used, provided that an approval of the agenda is on the agenda so that Regents can decide whether or not the consent item can stay on consent. The other matter is in reference to three particular financial approvals that are listed there, that is, the approval of tuition fees approval of the operating budgets and approval of budget adjustment requests. All of those three fiscal related items are prohibited from being on the consent agenda per this bylaw. Furthermore, if a BAR is brought forward it stipulates in here the type of backup documentation that

must be submitted in conjunction with that BAR. Page 7 is clarifying grammatical language. In 7.2 although it is intended to be clarifying language, there is a phrase that is inserted, in their capacity as a Regent as to say that members of the board are not compensated for their services for being Regents. The other portion comes within the Regents by-laws. For each of the meetings sections, for all of the charters, it is currently that the co-chairs determine the agenda. That has been changed to the Regent chair of the committee. There is also a change that Board staff call for agenda items from all members or the Board and the Chancellor or Chancellor's designee and that the Board staff are responsible for compiling, distributing it and taking any notes. Previously that was a distributed function through various different departments throughout the university depending on the committee. That is a consistent change through all of the different meeting sections for all of the charters. There is one more change to the charters. It's in the charter for the Regent Student Success committee, which is on page 14 of the red line version. The Regent Student Success membership now includes a representative from each of the community college campuses. There is no language that provides for any representation from Community colleges, but past practices has always been to have a single representative from the Community colleges. This provides that there is a representative from each of the Community colleges.

Chairwoman Chacón-Reitzel entertained a motion to approve the amendments to the Board of Regents bylaws and the committee charters, as presented. Regent Hicks made a motion to approve the amendments as presented. Regent Sanchez seconded the motion.

The Chief of Staff took the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed.

E. Closed (Executive) Session

Chairwoman Chacón-Reitzel entertained a motion to go into closed session the Board of Regents go into close meeting for the discussion to discuss threatened and pending litigation in accordance with an NMSA Section 10-15-1, H(7) of the New Mexico Open Meetings Act.

Regent Hicks made a motion to go into closed session the Board of Regents go into close meeting for the discussion to discuss threatened and pending litigation in accordance with an NMSA Section 10-15-1, H(7) of the New Mexico Open Meetings Act.

Regent Sanchez seconded the motion.

The Chief of Staff took the roll call vote.

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff confirmed the motion passed and began the process of putting everyone in the breakout room. The Board went into closed session at 8:20am.

1. Close meeting to discuss threatened litigation, in accordance with NMSA Section 10-15-1 H(7) of

the New Mexico Open Meetings Act.

2. Reconvene in open session and take final action, if any, on such matters which shall be acted upon in open session following conclusion of the closed session.

Chairwoman Chacón-Reitzel called the meeting back into order at 9:25am. The Chief of Staff confirmed the closed meeting, "This is a confirmation of prior closed executive session for today March 2, 2021. The Board of Regents met in closed executive session at 8:20am on Tuesday March 2 2021 this was held virtually via zoom. The closed executive session meeting was held to discuss threatened and pending litigation in accordance with NMSA section 10-15-1 Subsection H(7) of the New Mexico Open Meetings Act. Those Members who were present, please certify that only matters of that nature were discussed."

Regent Romero – Yes

Regent Hicks – Yes

Regent Sanchez – Yes

Regent Devasthali – Yes

Regent Chacón-Reitzel – Yes

The Chief of Staff certified the closed executive session.

F. Announcements and Comments

Chairwoman Chacón-Reitzel appreciates the NMSU Albuquerque Learning Center hosting her.

Regent Romero thanked NMSU and NMSU community for supporting the family of Dr. Karen Trujillo, who passed away this week. She was Regent Romero's friend and long time colleague. Regent Romero appreciates NMSU and everyone involved to set up the scholarship fund in her name. Chairwoman Chacón-Reitzel said to extend their condolences from the Board of Regents and she herself has known her and the family.

G. Adjournment, Chairwoman Dina Chacón-Reitzel

Chairwoman Chacón-Reitzel entertained a motion to adjourn.

Regent Hicks made a motion to adjourn.

Regent Sanchez seconded the motion.

The meeting adjourned at 9:28am.



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: E-1

- Action Item
- Consent Item
- Informational Item

Presented By: Julia Parra
Chair
NMSU Faculty Senate

Agenda Item: Faculty Senate Report

Requested Action of the Board of Regents: N/A Information only.

Executive Summary: A quarterly recurring report to the Board of Regents from Faculty Senate Report.

References:

N/A

Prior Approvals:

N/A



Faculty Senate

MSC 3445
 New Mexico State University
 P. O. Box 30001
 Las Cruces, NM 88003-8001
 575-646-2593
 facultysenate.nmsu.edu

FACULTY SENATE THIRD SUMMARY REPORT TO THE BOARD OF REGENTS FOR 2020/2021

January thru March 15, 2021

Proposition Number	Proposition Title	Summary	Action/Follow Up
<u>10-20/21</u>	Memorial to support a faculty survey about the Faculty-Talk Listserv	This is in response to the concerns about the use of the Faculty Talk Listserv.	Approved January 14, 2021
<u>11-20/21</u>	A revision to the Faculty Senate standing committees, including changes to the Faculty Senate Constitution	The NMSU faculty should play an enhanced and integrated role in shared governance. By altering the Senate standing committee structure to 6 committees, we become more aligned to existing university structures, we make the Faculty Senate into a more proactive body, we can act more rapidly in cases when quick action is required, and we enhance communication across all levels.	Approved February 4, 2021
<u>12-20/21</u>	Minor change to Senate Constitution to clean procedure on filling vacancies for Senators on leave	By this memorial, a change to the Senate Constitution is proposed, with this change then going to the faculty at large for a vote after Senate approval. This change simply cleans up an inconsistency of current language as to how vacancies for Senators on leave are filled.	Approved February 4, 2021
<u>13-20/21</u>	Revisions to the Faculty Senate Constitution	The existing constitution did not include updated election process and meeting practices. While processes and practices will be more fully explicated in revised bylaws, the proposed changes to the constitutional lay the groundwork for such.	Approved February 4, 2021
<u>14-20/21</u>	College of Health, Education and Social Transformation (HES)	Proposition for combining the College of Education, the College of Health and Social Services, and the Department of Sociology, to create a new college to be named the College of Health, Education and Social Transformation.	Submitted January 28, 2021
<u>15-20/21</u>	A revision to the Faculty Senate Standing Committees, including changes to the Faculty Senate Bylaws	Same as summary for 11-20/21.	Assigned to Long Range Planning Committee on March 4, 2021
<u>16-20/21</u>	Faculty Senate memorial objecting to library budget reductions which resulted in cutting 433 scholarly research journals	This is in response to concerns about the cut of 433 scholarly research journal subscriptions and includes a call for a sustainable funding model for the NMSU Library.	Assigned to Faculty Affairs Committee on March 4, 2021
<u>17-20/21</u>	Revisions to the Faculty Senate Bylaws	Same as summary for 13-20/21, but focused on the bylaws.	Approved March 4, 2021

<u>18-20/21</u>	A Memorial in Honor of Karen Trujillo	Signed by NMSU FS Chair, Chancellor, and President. Presented to the Family of Karen Trujillo on March 13, 2021.	Approved March 4, 2021
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UPCOMING/PLANNED/ONGOING ACTIVITIES:

- Faculty Senate has been co-hosting a series of [Faculty Town Halls](#) with the Provost.
 - February 4 Town Hall was an update for faculty on the [NMSU University Program Approval Committee \(UPAC\)](#).
 - The Faculty Town Hall that will occur on April 1 will be a faculty-focused event about Intra/Inter Faculty Communications. This is part of Faculty Senate’s ongoing conversations and work relate to faculty communications as well as the Faculty-Talk Listserv scenario. There is currently a Yes/No vote underway about faculty will to keep or not keep Faculty-Talk.
- Senate Leadership Committee is currently seeking feedback from relevant departments/divisions regarding the level of support for the merger of the Colleges of HSS, Education, and Department of Sociology which Faculty Senate is considering as Proposition 14-20/21.
- Scholastic Affairs Committee is queued to meet regarding Proposition 14-20/21 College of Health, Education, and Social Transformation.
- Faculty Affairs Committee has completed their work revising Faculty Senate Committee structure and providing the related updates of Senate documents. They are now assigned Proposition 16-20/21 Faculty Senate memorial objecting to library budget reductions...
- Long Range Planning Committee has completed their work reviewing and providing the updates of Senate documents and processes to include election and meeting process as related to emergency/pandemic times, use of virtual meeting and voting by virtual proxy, and access issues highlighted during these times. Long Range Planning Committee was assigned Proposition 15-20/21 A Revision to the Faculty Senate Standing committees...
- University Affairs continues review of faculty communication and is supporting the April 1 Faculty Town Hall.

Update Shared by:

Julia Parra, Faculty Senate Chair, juparra@nmsu.edu

Susan Beck, Faculty Senate Vice-Chair, susabeck@nmsu.edu

For more information, including committee meeting schedules and supporting documentation, please visit the [Faculty Senate](#) website.



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: F-1

- Action Item
- Consent Item
- Informational Item

Presented By: Scott Eschenbrenner
President & CEO
Aggie Development Inc.

Agenda Item: Aggie Development Inc. Report

Requested Action of the Board of Regents: N/A Information only

Executive Summary:

A quarterly recurring report to the Board of Regents from Aggie Development Incorporated.

References:

N/A

Prior Approvals:

N/A

ADI BRIEFING REPORT – BOARD OF REGENTS

March 24, 2021

Recurring Reports – Aggie Development Inc.

- Aggie Uptown – Introduction

The plan for Aggie Uptown will directly enhance the NMSU college experience by establishing a town center with amenities for all Aggies. Aggie Uptown will feature a walkable, mixed-use commercial center, public spaces, and a mix of academic, professional, and residential uses. The site will be developed east of Interstate 25 and south of University Avenue and build on University Avenue's energy as a dining, shopping, and entertainment venue extending the urban focus of University Avenue east of the interstate to Aggie Uptown.

Aggie Development is responsible for developing the site and bringing needed services and educational opportunities to the University through its affiliation with future tenants. Aggie Uptown will also provide a significant revenue stream for New Mexico State University.

The plan vision includes a block and street network to create building sites, public spaces, and protection of natural resources as shown in the illustrative plan and renderings to communicate to potential for the site. The plan depicts a new urban uptown area that is a walkable district. The district connects to the campus network and the greater Las Cruces area.

The first phase of the development project involves 36 acres of land east of I-25 near University Avenue and Telshor Boulevard and this area will serve as the primary mixed-use commercial and public space area. It will host

restaurants, cafés, coffee shops, retail, and residential spaces. The long-term vision will materialize one investment after another until it becomes the next great City center and neighborhood.



- Aggie Uptown - Infrastructure Plan Status
 - Construction is complete
 - All utilities completed along with, turn lanes, multi-use trail, ADA ramps, signage, stripping and paving.
 - Remaining items are construction closeout documents.
 - This construction now provides long term ground lease opportunities for Phase 1 land that lies between the NMSU Golf Course and University Avenue.
- Update on Aggie Uptown – Trilogy Health Services
 - Trilogy Health Services has renewed its interest in Aggie Uptown as the COVID-19 pandemic starts to slow.
 - The ADI Board previously voted to approve a Non-Binding Term Sheet with Trilogy Health Services
 - Trilogy has submitted a revised ground lease and ADI has submitted its second round of edits to Trilogy for their approval. Once the terms of the agreement are finalized, I will submit the ground lease to the ADI Board and Board of Regents for their approval.
- ADI continues to work with a second-long term ground lease tenant and has completed our second round of revisions to that document. This tenant is a retail user that looks to occupy the southeast corner of Las Alturas and University Drive.
- Due to the COVID-19 outbreak, previous discussions with potential ground lease tenants have been placed on hold until there is some certainty that the pandemic has subsided and the economy returns to some normalcy.

- Aggie Development has partnered with Dover Kohl Partners for an updated master plan for Aggie Uptown. Those efforts have been completed and are available for review and comment.
- <https://www.nmsucampusupdate.com/aggie-uptown>



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: F-2

- Action Item
- Consent Item
- Informational Item

Presented By: Vice President Derek Dictson
NMSU Foundation

Agenda Item: Foundation Report

Requested Action of the Board of Regents: N/A Information only.

Executive Summary: A quarterly recurring report to the Board of Regents from Foundation Report.

References:

N/A

Prior Approvals:

N/A



To: NMSU Board of Regents
From: Derek Dictson, VP University Advancement, President NMSU Foundation
Date: March 24, 2021
Subject: NMSU Board of Regents Update

Greetings. I am pleased to report on the following items related to University Advancement and the NMSU Foundation.

1. Endowment

As of February 2021 the Foundation portfolio was valued at \$208,341,093.

- a. The Foundation board and Investment Committee has retained Alpha Capital Management to conduct a comprehensive professional review of the Outsourced Chief Investment Officer's (OCIO) investment performance and a national OCIO search.

2. Fundraising

As of February 28, 2021 the Foundations has documented gifts, pledges and gift expectancies totaling \$12,757,550.61 in FY 2021 (post-COVID) compared with \$17,352,335.40 at the same time in FY 2020 (pre-COVID).

3. Highlights

\$2.9m – Athletics gift
\$1.4m – Planned gift

4. Year 1 Review: Building a Framework for Success

Strategic Planning

- Strategic Plan: Collaboratively defined core values, advancement and departmental mission statements, definitions and measures of success, focus areas, and individual S.M.A.R.T. goals.
- Collaboration Agreement: Negotiated a new operating MOU between the Foundation and University.
- Development Priorities: Established scholarship programs and college/unit fundraising priorities.
- Risk Management: Implemented a crisis management team/plan and enhanced insurance coverage.

Stability & Sustainability

- Staff Stability: Implementing competitive compensation and career structure to recruit/retain talent.

- Talent Assessment: Placing the right people in the right roles and removing ineffective employees.
- Financial Sustainability: Restructuring the funding model, fee structure and financial modeling process.
- Charitable Gift Annuity Portfolio: Analyzed and corrected a high risk, unsustainable CGA portfolio.

Efficiency & Effectiveness

- Talent Acquisition: Attracted experienced new staff who have worked at Auburn, Texas A&M, UNM, Kansas State, Washington Univ, Univ of Arizona, PSL and Combined Jewish Philanthropies.
- Communications: Implemented platforms and requirements for cross-team communications.
- Transparency: Improving access to information for Board members, Donors and University partners.
- Digital Operations: Transitioned to remote operations and migrating to secure cloud-based systems.
- Data Visualization & Analytics: Upgrading obsolete data warehouse and purchased Qlik data analytics.
- Data Security: Responded to a cyber attack by significantly upgrading data security and staff training.
- Endowment Performance: Benchmarked endowment performance and conducting OCIO review/search.
- Process Modernization: Automating or re-designing inefficient systems and processes.
- Cash Flow Optimization: Implemented cashflow planning to improve visibility and maximize returns.
- Fund Utilization: Providing improved reports and processes focused on better utilization of gift funds.
- Policy Review: Updated and streamlined governance and operating policies.

Resource Allocation

- Benchmarking: Conducted a peer performance and budget/staff allocation study.
- Rightsizing: Increasing investment in fundraisers and streamlining back-office staff and operations.
- ROI Focus: Allocating resources to achieve maximum return on investment for NMSU.



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: F-3

- Action Item
- Consent Item
- Informational Item

Presented By: Kathryn Hansen
Director & CEO
NMSU Arrowhead Center Inc.

Agenda Item: NMSU Arrowhead Center Incorporated Report

Requested Action of the Board of Regents: N/A Information only.

Executive Summary:

A quarterly recurring report to the Board of Regents from NMSU Arrowhead Center Incorporated.

References:

N/A

Prior Approvals:

N/A

Arrowhead Center, Inc.
Recurring Report to the NMSU Board of Regents
March 24, 2021

1.0 Goals

This report presents recent highlights and updates on Arrowhead's activities supporting the NMSU LEADS 2025 plan and goals. Arrowhead has goals which correspond to NMSU LEADS' goals and are based on an organizational mission of growing economic opportunities through enhancing entrepreneurship and innovation. Arrowhead's four goals are:

1. Enhance student experiential learning through entrepreneurship education and practice (ties to NMSU LEADS 2025 Goals 1 and 2);
2. Enhance NMSU's research, innovation, and creativity profile through engagement with public and private partners (ties to NMSU LEADS 2025 Goals 2 and 4);
3. Expand entrepreneurship and innovation services to communities and institutions across New Mexico and the region (ties to NMSU LEADS 2025 Goal 3); and
4. Operate efficiently and effectively (ties to NMSU LEADS 2025 Goal 4).

2.0 Building the Entrepreneurial and Innovation Ecosystem

Arrowhead has been tracking progress towards building an entrepreneurial and innovation ecosystem using a framework developed by the Kauffman Foundation, with the six elements of risk-taking culture; talented, diverse, and imaginative students; philanthropy and volunteerism; collaboration with industry; government support, and abundant capital.

Examples of Arrowhead's contributions to the regional entrepreneurial and innovation ecosystem to date in 2021 include:

- Working with executive leadership and various groups across the NMSU System to ensure innovation and entrepreneurship are key focus areas in strategic planning and ongoing operations;
- Providing entrepreneurial experiential learning opportunities for the next generation of workforce and entrepreneurs, K-16+ (e.g., Innoventure, Studio G);
- Ensuring a steady stream of high-growth startups to drive job and value creation in New Mexico and the region (e.g., Sprint accelerators);
- Developing, pivoting, and scaling innovative entrepreneurship support models to address the virtual and remote work environments of the pandemic and matching technical talent and/or businesses with resources and opportunities (e.g., partnerships with City of Las Cruces and El Paso County to assist local businesses in establishing/enhancing social media presence);
- Providing investment capital to address the financial needs of entrepreneurs (e.g., Arrowhead Innovation Fund I and II); and
- Pursuing funding to connect academic, government, and industry sectors in New Mexico to improve innovation pipeline (e.g., Department of Energy's Energy Program for Innovation Clusters [EPIC] program).

3.0 Recent Highlights

Student Experiential Learning

Incorporation of Entrepreneurship Learning into NMSU Classes. Arrowhead personnel are teaching entrepreneurship as part of Engineering Capstone classes and the Engineering Leadership Institute during Spring 2021 semester. We are working with the College of Agricultural, Consumer and Environmental Sciences (ACES) to provide entrepreneurial thinking and experiences in intro-level classes for the Fall 2021 semester. In addition, we are working on a plan to assess demand for similar service across the NMSU System.

Studio G University/College Student Business Accelerator. Arrowhead continues to strengthen and expand its state-and region-wide network of university student business accelerators. Recently, NMSU/Arrowhead's Studio G partnered with Southwest University of Naprapathic Medicine (SUNM; Santa Fe, New Mexico) to establish a Studio G site at that institution. This partnership will make available to SUNM students and recent graduates resources to start and grow businesses, including an entrepreneurship curriculum, access to advisors and mentors, patenting and licensing services, investment pitch competitions, and other funding opportunities. Studio G is now offered at 18 colleges and universities across New Mexico and west Texas, and at Sandia National Laboratories.

Innoventure K-12 Programming. NMSU/Arrowhead's Innoventure program is partnering with the Success Through Technology Education (STTE) Foundation (El Paso, Texas) to host the 100 Day Challenge: a business pitch competition for regional middle and high school students. The Challenge will teach competitors how to pitch a business idea, create a slide deck to communicate their idea, and build a network of problem-solving peers. The program will be running from February 7-May 22, 2021 and will be free to participants. This initiative is supported by NMSU's Hunt Center for Entrepreneurship.



American Indian Business Enterprise (AIBE) Program. NMSU/Arrowhead's AIBE program is partnering with New Mexico Community Capital to offer a series of Financial Basic Business courses. Joshua and Fabby Archuleta (shown left) are a team who planned to open their Native American and New Mexican cafe (El Roi Cafe) before the COVID pandemic. Joshua is a student at UNM and is both a Studio G and AIBE member. Josh received his education in culinary arts at Southwest Indian Polytechnic Institute, with Fabby in charge interior design. Fabby and Josh are completing the operating permit phase of opening their cafe and plan to have a ribbon cutting event in the future with AIBE. They plan to open up fully when health and safety conditions permit.

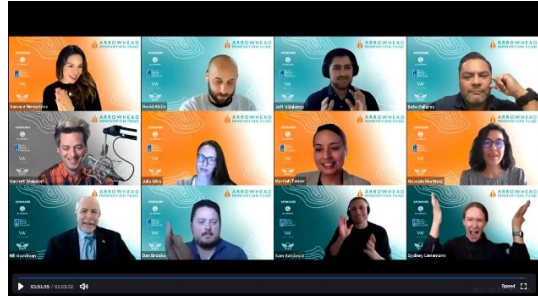
Research, Innovation, And Creativity

In celebration of World Intellectual Property Day (<https://www.wipo.int/ip-outreach/en/ipday/>), on April 26, 2021, NMSU's Office of the Vice President for Research and Arrowhead Center will announce the first annual NMSU Intellectual Property Award. This award will honor an NMSU faculty or staff member who has developed intellectual property with potential or demonstrated societal, industrial, and/or commercial benefits. The award is open to faculty and staff members from all fields and disciplines across the NMSU System. The winner of this award will receive \$500 cash. Nomination forms can be found on the Arrowhead website at <https://arrowheadcenter.nmsu.edu/program/intellectual-property/first-annual-nmsu-intellectual-property-award/> and will be accepted until midnight on March 31, 2021.

Entrepreneurship and Innovation Services

Arrowhead Innovation Fund (AIF) Pitch Competition.

AIF held its first pitch competition recently, with six of New Mexico's most promising startup businesses represented. The competition was held virtually, with 176 attendees at the live event and 200 subsequent views on Facebook. Awards for the winners included cash, Cloud credits, pro-bono services with IP law firms, and prototyping services. First place went to Sydney Lienemann, with UpCycle Power. UpCycle Power aims to bring affordable energy storage to commercial and industrial customers and clean energy developers by safely and efficiently redeploying used electric vehicle batteries for stationary storage at 30% less cost and 90% fewer greenhouse gas emissions than new batteries.



UpCycle is a prime example of how Arrowhead programs work together to bring resources to businesses; significant among those resources are NMSU faculty. UpCycle Power participated in an Arrowhead business accelerator for clean energy businesses. Through this, Sydney became acquainted with the proposal assistance offered through the NM FAST SBIR/STTR program and faculty who served as advisors during the accelerator – Drs. Olga Lavrova, and Satish Ranade. Following the accelerator, UpCycle Power submitted a proposal to the National Science Foundation under the STTR program, naming the NMSU faculty as technical advisors.

New Mexico SBIR/STTR Innovation Summit. NM FAST hosted the fourth annual NM SBIR/STTR Innovation Summit in December 2020. In its first year as a completely-online event, the Summit set new records for participation, with more than 1,000 attendees joining from 44 U.S. states, Washington, D.C., Puerto Rico, Argentina, Germany, and India. The Summit addressed federal funding opportunities for innovative technology-based businesses.

NM FAST Receives Tibbets Award. NM FAST was recently selected for a Tibbets Award by the U.S. SBA. The Tibbets Award is given to organizations, companies, and individuals who exemplify the spirit of SBIR/STTR programming – primarily, ensuring that innovative, technology-based businesses have the opportunity to grow and thrive. Since the program's inception, small businesses supported by NM FAST have been awarded \$9.4M in federal funding.

Just Health Care Secures NSF Grant. Just Health Care, a company based in Albuquerque, New Mexico, was awarded a \$250,000 SBIR grant from the National Science Foundation, with assistance from NM FAST. Just Health Care has been working to provide health care services to uninsured and low-income residents since 2003, with a recent focus in helping to address the opioid crisis. Their PainScan device assists providers in understanding patients' pain issues, and aims to help identify non-opioid strategies for pain management. NM FAST provided intensive assistance to the company throughout proposal development and submission.

Clean Energy Business Ecosystem. Arrowhead Center was awarded a grant from the U.S. SBA and the National Science and Technology Council for programming to promote inclusivity in future research and developing innovation ecosystems. Arrowhead Center will be partnering with Sandia National Laboratories to build an online platform to connect small businesses with national laboratories and research institutions to provide those venture with free technical assistance.

Entrepreneurship Partnerships with Mexico. Arrowhead Center recently signed a Memorandum of Understanding (MOU) with the government of Sonora, Mexico, to share resources and collaborate on binational entrepreneurial initiatives. Leveraged through NMSU/Arrowhead's Foster Innovation Exchange (FIX), a program funded by Paul Foster and Alejandra De La Vega Foster, the partnership offers resources to Mexico-based companies looking to relocate to the U.S., or to expand into U.S. markets.

Sprint Business Accelerator Programming. Through a partnership with the El Paso County Economic Development Department, Arrowhead offered two no-cost, six-week business accelerators that ran through late 2020. The programs work specifically with businesses interested in agricultural innovation. One successful participant received \$25,000 of Amazon Web Service credits and connected with NMSU journalism and marketing faculty members to discuss internship opportunities for NMSU students.

Arrowhead Park. Arrowhead is in discussion with two potential developers to work on a new office building planned in the Park. Construction on both the solar site and interconnecting power lines is underway, with commercial power delivery slated to begin in late September or October 2021. Design of a new waste line by the City of Las Cruces is nearly complete. Negotiations for the design scope and cost of new roadways is underway.

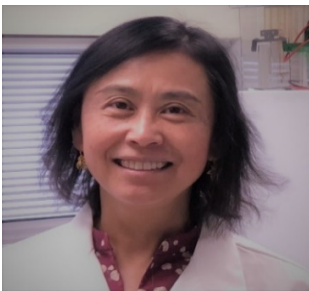


Building Our Team



Patricia Knighten, Director of Innovation Commercialization. Arrowhead Center welcomed Patricia Marquez Knighten as its new Director of Innovation Commercialization in late January 2021. Knighten brings to Arrowhead Center and NMSU extensive experience in small business development, high-tech startup enterprises, federal research laboratories, and government agencies. She will be working to expand and enhance the cross-disciplinary work of taking research and creative products developed by NMSU faculty, staff, and students to global markets and beneficiaries.

Brooke Montgomery, Director of Studio G. Arrowhead Center is pleased to announce that Brooke Montgomery, former Deputy Director of Studio G, will now be leading Studio G. Montgomery has deep experience in guiding student entrepreneurship, and is herself an entrepreneur, leading a company focused on medical devices and holding two patents. She is focused on enhancing experiential co-curricular learning modules to make entrepreneurial learning experiences for students more effective and accessible.



Dr. Yun Li, Entrepreneur in Residence. Arrowhead Center welcomes its new Entrepreneur-In-Residence Yun Li. Li, interim CEO of Filtravate and managing director of VIC Technology Venture Development's New Mexico branch. She will explore a holistic approach to get entrepreneurs to focus on creating solutions. Formerly a physicist who worked in the semiconductor industry for nine years, Li decided to explore beyond the corporate environment through entrepreneurship.



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item # G-1

- Action Item
- Consent Item
- Informational Item

Presented By: *Mónica F. Torres, Ph.D.*

DACC President

Agenda Item: Naming of Doña Ana Community College (DACC) Gadsden Center Phase III building to Roadrunner Hall

Requested Action of the Board of Regents: Approval of proposed naming of new DACC Gadsden Center building to Roadrunner Hall.

Executive Summary: As outlined in ARP 18.10 – Namings and Other Honorific Recognition, Part 4: Non-Honorific Namings; namings which are neither honorific nor involve private philanthropy fall within the reserved authority of the Board of Regents. Such requests may be proposed for consideration to the chair of the Campus Planning Committee and ad hoc advisory committee to consider the naming proposal as presented.

DACC has submitted and received support from the Campus Planning Committee to name the newly constructed building at the DACC Gadsden Campus, Roadrunner Hall. DACC has historically used building names based on location or function; however, the proposed name is based on solicited suggestions from employees and students in recognition of a very engaged student organization at the Gadsden Center, The “Roadrunners,” and in recognition of a prominent indigenous inhabitant in the desert landscape that surrounds the Gadsden Center. In the event a private donation is identified for this building, the name could be changed and would not preclude this type of support.

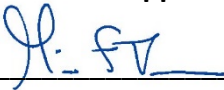
References:

CPC-Summary Report-Agenda-02.03.2021-packet-REV.pdf
2021.02.03-CPC Presentation20210201sm.pdf (pgs 12-14)

Prior Approvals:

NMSU Campus Planning Committee – February 3, 2021

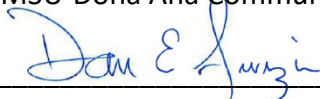
Agenda Item Approved By:



Mónica F. Torres, President
NMSU-Doña Ana Community College

3/12/2021

Date



Dan E. Arvizu, Chancellor
New Mexico State University

3/12/2021

Date



East Mesa Campus
Chaparral Center
Sunland Park Center

Espina Campus
Gadsden Center
Workforce Center

3400 South Espina Street, Las Cruces, NM 88003, (575) 528 - 7000
Toll Free 1 (800) 903 - 7503, Fax (575) 527 - 7515, dacc.nmsu.edu

MEMORANDUM

To: Ms. Letty Gallegos, Chair, NMSU Campus Planning Committee
From: Dr. Mónica Torres, President, Doña Ana Community College
Date: January 14, 2021
Re: Naming of new facility at DACC's Gadsden Education Center

A handwritten signature in blue ink, appearing to read 'M. Torres', is written over the 'From:' line.

I am pleased to share that the new addition to our Gadsden Center is complete. It is a 10,466 square-foot building that houses both traditional and computer classrooms. In anticipation of a post-COVID return to campus, I am eager to identify a name that not only allows us to clearly identify the building for students, staff, and guests but also honors the geography and culture of the region. I write this to propose a non-honorific name for DACC's new building at Gadsden. I understand that this process, as outlined in ARP 18.10 Part IV, begins with the Campus Planning Committee, proceeds to Chancellor Arvizu and an ad hoc advisory committee, and, ultimately, to the NMSU Board of Regents.

I propose that we call the new building **Roadrunner Hall**. The DACC Executive Team considered several factors in developing this proposal.

- DACC has historically used building names based on location or function: DAGC (Gadsden Center), DAEM (East Mesa), DADM (Digital Media-East Mesa), DACL (Classroom-Espina). At a small location like our Gadsden Education Center—with few buildings that are specialized—this naming convention seemed a less-than-satisfying approach.
- We started our search for a new name by soliciting suggestions from employees and students who work and study at the DACC locations in the southern part of Doña Ana County. “Roadrunner Hall,” offered as a suggestion in that part of the process, resonated. DACC's Gadsden Center has had a very engaged student organization for many years. The “Roadrunners” have worked closely with faculty, staff, and community members to coordinate student development and civic engagement activities. Of course, the name resonated for one more reason: roadrunners are prominent on the desert landscape that surrounds the Gadsden Center.

While an endowment-based, honorific naming (ARP 18.10 Part III) would benefit DACC in a variety of ways, we do not have, nor do we anticipate, a donor interested in this level of commitment. As a result, we focused on a building name that recognized the campus culture and local geography. Should a donor opportunity emerge at a later date, I would offer a new proposal at that time.

I appreciate your consideration of this request. I would be happy to provide additional information should you need that.

Respectfully submitted by Mónica F. Torres, President, Doña Ana Community College

C: Adam Cavotta, Chief of Staff, NMSU Board of Regents

6.b. Non-honorific Naming for DACC Gadsden Center expansion

- Per ARP 18.10 – Namings and Other Honorific Recognition

- **PART 4: NON-HONORIFIC NAMINGS**

Namings which are **neither honorific nor involve private philanthropy** on behalf of NMSU fall within the reserved authority of the Board of Regents. Such naming proposals may be proposed for consideration to the chair of the Campus Planning Committee, who will coordinate with the chancellor to appoint an *ad hoc* advisory committee. The advisory committee will consider the naming proposal as presented and any responses from relevant stakeholders potentially affected by the naming.

- **Campus Planning Committee initial review**



DACC Gadsden Center Expansion

- New building to be named **Roadrunner Hall**
- DACC Executive Team considered several factors in developing this proposal
 1. **DACC has historically used building names based on location or function:** DAGC (Gadsden Center), DAEM (East Mesa), DADM (Digital Media-East Mesa), DACL (Classroom-Espina). At a small location like our Gadsden Education Center—with few buildings that are specialized—this naming convention seemed a less-than-satisfying approach.
 2. **Solicited suggestions** from employees and students who work and study at the DACC locations in the southern part of Doña Ana County. “Roadrunner Hall,” offered as a suggestion in that part of the process, resonated. DACC’s Gadsden Center has had a very engaged **student organization** for many years. The “**Roadrunners**” have worked closely with faculty, staff, and community members to coordinate student development and civic engagement activities. Of course, the name resonated for one more reason: roadrunners are prominent on the desert landscape that surrounds the Gadsden Center.



6.b. Non-honorific Naming for DACC Gadsden Center Expansion



Gadsden Center Expansion exterior views



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New Mexico State University
nmsu.edu



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item # G-2

- Action Item
- Consent Item
- Informational Item

Presented By: Heather Zach Watenpaugh
University Architect

Agenda Item: Espina Street Repave, Phase II

Requested Action of the Board of Regents: Approval of the Las Cruces Espina Street Repave, Phase II project.

Executive Summary: This project will complete the repaving for Espina Street. Phase II scope of work will pick up where Phase I left off, starting at south Horseshoe Street continuing through Wells Street. This project includes:

- Installing ADA compliant curb and entrance ramps
- Adding day/night visible striping to accommodate bicycle path
- Replacement of curb and gutter as required to eliminate standing water and broken curb sections

References:

NA

Prior Approvals:

Regents Real Estate Committee on 2/25/2021

Board of Regents

LAS CRUCES: ESPINA STREET REPAVE, PHASE II

Heather Watenpaugh
University Architect

Luis Campos
Associate Vice President

Facilities and Services



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Proposed Scope of Work

Project Budget \$1,042,390

This project will complete the repaving for Espina Street. Phase II scope of work will pick up where Phase I left off, starting at south Horseshoe Street continuing through Wells Street. This project includes:

- Installing ADA compliant curb and entrance ramps
- Adding day/night visible striping to accommodate bicycle path
- Replacement of curb and gutter as required to eliminate standing water and broken curb sections

Proposed Demographics

* South Horseshoe

- **Year Built:** N/A
- **Last Update:** N/A
- **Construction Type:** Asphalt and Concrete
- **Future Use:** Vehicle, Pedestrian and Bicycle Traffic

*Phase II boundary along Espina Street



* Wells Street

Proposed Project Schedule

- Completion of Design – February 2021
- Start of Construction – April 2021
- Completion of Construction – December 2021

Funding Sources and Prior Approvals

Project Funding — \$1,042,390

- FY19-21, Building Repair and Renewal – \$982,190
- FY20 NMDOT Contribution Match – \$60,200

Prior Approval

- NMDOT and NMSU Resolution Approved – June 19, 2019

Contact Information

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Associate VP
Facilities and Services
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campos1@nmsu.edu



Thank you!
Questions?

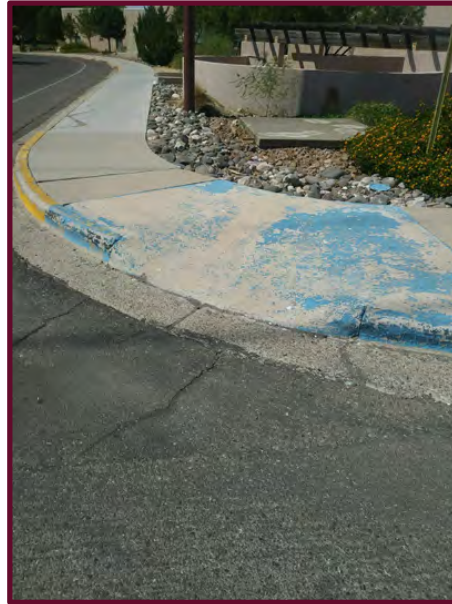


Las Cruces: Espina Street Repave, Phase II

Supplemental Information

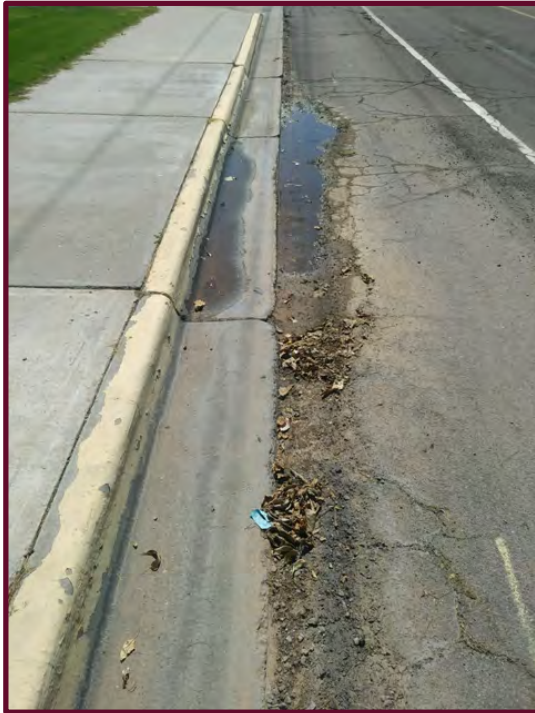


Existing Conditions



Existing crosswalk, sidewalk ramp and pavement conditions

Existing Conditions



Existing curb and pavement conditions



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item # G-3

- Action Item
- Consent Item
- Informational Item

Presented By: Heather Zach Watenpaugh
University Architect

Agenda Item: NMSU - Alamogordo Library Safety Replacement

Requested Action of the Board of Regents: Approval of Alamogordo: Townsend Library Elevator Replacement.

Executive Summary:

This project will replace one elevator and include:

- New elevator cab, controllers, and cab lighting
- Installation of new hydraulic jack and mounting hardware
- Upgrade electrical, fire alarm and associated equipment to the new elevator building codes

References:

N/A

Prior Approvals:

Regents Real Estate Committee on 2/25/2021

Board of Regents

ALAMOGORDO: TOWNSEND LIBRARY ELEVATOR REPLACEMENT

Heather Watenpaugh
University Architect

Luis Campos
Associate Vice President

Facilities and Services



BE BOLD. Shape the Future.

Proposed Scope of Work

Project Budget \$400,000

This project will replace one elevator and include:

- New elevator cab, controllers, and cab lighting
- Installation of new hydraulic jack and mounting hardware
- Upgrade electrical, fire alarm and associated equipment to the new elevator building codes

Proposed Building Demographics

- **Year Built:** 1970
- **Last Expansion:** N/A
- **Building Size:** 15,395 GSF
- **Construction Type:** Masonry
- **Existing Use:** Academic/Research



Proposed Project Schedule

- Notice to Proceed – May 2021
- Start of Construction – August 2021
- Completion of Construction – October 2021

Funding Sources and Prior Approvals

Project Funding — \$400,000

- FY 2020 Severance Tax Bond – \$400,000

Prior Approval

- N/A

Contact Information

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campos1@nmsu.edu



Thank you!
Questions?



Las Cruces: Alamogordo – Townsend Library Elevator Replacement

Supplemental Information





Existing conditions at elevator car at each floor



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: G-4

- Action Item
- Consent Item
- Informational Item

Presented By: Scott Eschenbrenner
Special Assistant to the President

Agenda Item: Corona Range and Livestock Research Center Water Well and Water Use Agreement with Red Cloud Wind, LLC

Requested Action of the Board of Regents: Approval of the Corona Range and Livestock Research Center Water Well and Water Use Agreement with Red Cloud Wind, LLC.

Executive Summary:

NMSU has received a request from Red Cloud Wind, LLC (Pattern Energy) for a water well and water use agreement on the NMSU Corona Ranch. Red Cloud Wind plans to construct an operations and maintenance building on the Corona Ranch, which was previously agreed to in our original agreement with Pattern Energy. The building will have two restrooms, sink and above ground water storage tank for fire suppression system inside the building.

The developer is seeking a reliable supply of ground water for this building and wishes to construct, maintain and operate a water well within the property for exclusive use of the developer. The term of this agreement will run concurrently with our 50-year term for the wind energy facility. The developer, at its own expense, will construct, maintain, modify, replace and operate a water well, water pumps, water storage tanks, water distribution lines and appurtenant facilities on the leased property.

The developer will pay NMSU a base rate of \$0.07 per gallon for a minimum of 10,000 gallons per month or \$700 per month. The developer will have the right to extract up to one (1) acre foot of water (325,851 gallons) per year. A water meter will be installed with quarterly pumping records submitted to the State Engineers office and be made available to NMSU upon request. If the water pumping exceeds 120,000 gallons per year, then Red Cloud Wind will true-up the difference at \$0.07 per gallon at the end of the year. Given the limited shop use it is reasonable to believe that the base water usage of 10,000 gallons per month will far exceed actual use.

Additional requirements are that NMSU cannot locate a water well within 500' of the proposed water well. Ranch Manager, Shad Cox has stated that NMSU's nearest well is approximately ½ mile away and he does not anticipate a conflict.

Regents Real Estate Committee has recommended approval of this document and we are requesting approval by the Board of Regents.

References:

Please see attached agreement

Prior Approvals:

Regents Real Estate Committee has recommended approval on February 25, 2021.

WATER WELL AND WATER USE AGREEMENT

This **WATER WELL AND WATER USE AGREEMENT** (this “**Agreement**”) is made and becomes effective on the date of the final signature below (the “**Effective Date**”), by and between **THE REGENTS OF NEW MEXICO STATE UNIVERSITY**, a New Mexico educational institution (“**Owner**”), each dealing in his/her sole and separate property, and **RED CLOUD WIND LLC**, a Delaware limited liability company (“**Developer**”).

RECITALS

A. Owner and Developer are parties to that certain Land Lease and Wind Easement dated effective October 15, 2020 (the “**Lease**”), as evidenced by that certain Notice of Exercise of Option recorded on October 15, 2020 (the “**Notice**”), as Document No. 2202800, in Book 344, Page 2706 in the official public records of Torrance County, New Mexico and as Document No. 202005746, in Book 2020, Page 5746 in the official public records of Lincoln County, New Mexico, pursuant to which Developer leases from Owner certain real property located in Torrance and Lincoln Counties, New Mexico, as more particularly described in the Lease and Notice (the “**Property**”), for the development, construction, operation and maintenance of a portion of Developer’s electrical energy generation project (the “**Project**”), including an operations and maintenance building (the “**O&M Building**”) to be located on the Property.

B. In connection with the Project, Developer wishes to obtain and purchase from Owner, and Owner wishes to sell to Developer, a reliable supply of groundwater located within the Property for water service to the O&M Building.

C. To obtain such groundwater, Developer wishes to construct, maintain and operate a water well within the Property for the exclusive use of Developer, and Owner wishes to permit Developer to do so, which water well will be in the approximate location shown on the map attached hereto as **Exhibit A**.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency are hereby acknowledged, Owner and Developer hereby agree as follows:

AGREEMENT

1. **Term**. The term of this Agreement shall commence on the Effective Date and shall expire on the expiration or termination date of the Lease (the “**Term**”). Developer may terminate this Agreement at any time during the Term by providing at least five (5) days’ prior written notice to Owner of such termination.

2. **Water Well**. Developer shall have the right, at its expense, to construct, maintain, modify, replace and operate a water well, water pumps, water storage tanks, water distribution lines and appurtenant facilities on the Property for its exclusive use (collectively, the “**Water Well**”), the approximate location of which is shown on **Exhibit A**. In no event shall Owner or any third party (except as provided in Section 7 below) be permitted to extract or use water from the Water Well. Developer’s construction, maintenance, modification, replacement and operation of

the Water Well shall be in material compliance with all applicable governmental laws, ordinances and regulations. Following the expiration of the Term or earlier termination of this Agreement, any then-existing Water Well shall be abandoned in place and capped or plugged by Developer, at its expense, within forty-five (45) days after such expiration or termination date and in compliance with all applicable laws, ordinances and regulations. Notwithstanding the foregoing, if at the expiration or termination of this Agreement, Owner notifies Developer that Owner wishes to retain the Water Well, then Developer shall have no such obligation to cap or plug the Water Well, and the Water Well shall be deemed the property of Owner.

3. Maximum Quantity of Water. Developer shall have the right to extract a maximum of one (1) acre foot of water per year during the Term, which shall be measured by a meter installed at the well (the “**Maximum Quantity**”). Per the New Mexico Office of the State Engineer requirements, pumping records shall be submitted to the District Supervisor on or before the 10th of January, April, July, and October of each year for the preceding calendar months and shall be made available to the landowner upon request.

4. Minimum Flow Rate. Developer requires the minimum flow rate of water from the Water Well to be 15 gallons per minute (the “**Minimum Flow Rate**”). If, at any time and from time to time during the Term, the Water Well does not produce the Minimum Flow Rate to the O&M Building that meets or exceeds water quality and health standards for Developer’s intended use (as determined by Developer), then Developer shall have the right, at its expense (unless due to Owner’s breach of this Agreement or its negligence or willful misconduct, in which case it shall be at Owner’s expense), to construct, maintain and operate a replacement Water Well in another location on the Property that is reasonably satisfactory to Owner and Developer. In such event, Developer shall, at its expense (unless due to Owner’s breach of this Agreement or its negligence or willful misconduct, in which case it shall be at Owner’s expense), cap or plug the abandoned Water Well in compliance with all applicable laws, ordinances and regulations.

5. Purchase Price of Water; Payment Due Dates. Developer agrees to pay \$700 a month for the use of 10,000 gallons of water, equaling \$0.07 per gallon (Price Per Gallon), per month regardless of actual amount of water used per month by Developer (Base Payment). Every twelve months, beginning twelve months after the first required submission of pumping records to the New Mexico Office of the State Engineer, Developer agrees to pay the then current Price Per Gallon for every gallon used over 120,000 gallons, according to the pumping records submitted to the New Mexico Office of the State Engineer for the preceding 12 months (Overage Payment). Base Payments will be made on a quarterly basis and must be paid no later than the tenth (10th) business day of February, May, August, and November of each year. Overage payments must be made to Owner annually based on the report to be submitted to the New Mexico Office of the State Engineer and must be paid no later than the tenth (10th) business day of the month following calculation of the Overage Payment as described above. The Price Per Gallon for each year will be: years 1-10 – \$ 0.07, years 11-20 – \$0.084, years 21-30 - \$0.10, years 31-40 - \$0.12, and years 41-50 - \$0.145. The Base Payment and Overage Payment will reflect the Price Per Gallon in any given year. Developer will be responsible for any additional cost per gallon that may be imposed by local, state or federal agencies. Nothing in this Agreement shall prevent Developer from purchasing water offsite.

6. Cooperation. Owner shall cooperate with Developer in applying for and securing any governmental permits and approvals and arranging for inspections by any governmental authority or department in connection with the Water Well, including by executing any documentation that is required to be signed by the owner of the Property, provided that all of the foregoing shall be at Developer's expense.

7. Third Party Use. Developer may permit its contractors, subcontractors, consultants and affiliates to extract and use water from the Water Well, so long as the total water usage by Developer and such third parties does not exceed the Maximum Quantity.

8. Non-Interference. Owner shall not, nor permit others to, interfere with the Water Well or Developer's use thereof or engage in any activity that could have a detrimental effect on the water quality or health standard of the water extracted from the Water Well. Owner shall not locate, or permit any other party to locate, a water well within 500 feet of the Water Well.

9. Representations and Warranties. The execution and delivery of this Agreement and Owner's performance hereunder will not violate, result in a breach of or conflict with the terms of any other agreement to which Owner is a party.

10. Event of Default. Each of the following shall constitute an "Event of Default" under this Agreement:

a. if Owner or Developer fails to make any payment hereunder by the due date for such payment and such failure continues for thirty (30) days following written notice to the defaulting party of such non-payment; and

b. if Owner or Developer fails to observe or perform any of its covenants or material duties or obligations contemplated by this Agreement, and such failure is not cured within thirty (30) days after written notice thereof from the other party; provided, however, if such cure cannot be completed within such 30-day period, and the defaulting party has commenced such cure within such 30-day period and diligently proceeds and subsequently completes such cure within an additional ninety (90) day period, then no such Event of Default shall be deemed to have occurred.

11. Financing Party Cure Rights. Owner shall send a written notice of any alleged breach or default by Developer under this Agreement to Developer's lender for the Project, if any (each, a "Lender"), at the address given for such Lender in connection with the Lease, simultaneously upon sending such notice to Developer. Any non-payment Event of Default by Developer may be cured by a Lender within an additional thirty (30) days after the expiration of any applicable cure period for Developer. Owner shall accept any such cure made or given by a Lender for Developer's Event of Default as a cure made or given by Developer.

12. Waiver of Certain Damages. **NEITHER PARTY SHALL BE ENTITLED TO, AND EACH PARTY HEREBY WAIVES ANY AND ALL RIGHTS TO RECOVER, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY**

DAMAGES, WHETHER IN CONTRACT, IN TORT, OR OTHERWISE, FOR ANY REASON WHATSOEVER UNDER OR WITH RESPECT TO ANY ACTION RELATING TO OR TAKEN IN CONNECTION WITH THIS AGREEMENT.

13. Assignment. Developer may assign (collaterally or otherwise), pledge, mortgage, transfer and/or convey this Agreement and its rights hereunder (“**Assignment**”), without the consent of Owner being required if such Assignment is to a lender or mortgagee of the Project and/or to a purchaser of the Project. Any other Assignment shall require the written consent of Owner, which will not be unreasonably withheld. Upon such assignment, Developer shall be fully released from any and all liabilities and obligations, whenever arising hereunder, provided that such assignee agrees to be bound by all the terms and conditions of this Agreement and agrees to assume all obligations of Developer hereunder.

14. Binding Effect. This Agreement shall be binding upon and inure to the benefit of Owner and Developer and their respective successors and assigns.

15. Runs with the Land. This Agreement and the terms hereof touch and concern the Property and shall be covenants running with the land.

16. Severability. The provisions of this Agreement are severable and if, for any reason, any one or more of the provisions contained in this Agreement shall be held, by a court of proper jurisdiction, to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall remain in effect and be construed as if the invalid, illegal or unenforceable provision had never been contained in the Agreement.

17. Notices. Any and all notices and other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed given (i) upon personal delivery, (ii) the next business day if sent by overnight mail, or (iii) three (3) business days after deposit in the United States Mail (certified mail, return receipt requested). All notices shall be sent to the applicable party at the following address (which a party may change by giving written notice to the other party in accordance with this Section 17):

If to Owner:

The Board of Regents of New Mexico State University
P.O. Box 3AA
University Park, NM 88003

If to Developer:

Red Cloud Wind LLC
1088 Sansome Street
San Francisco, CA 94111
Attention: General Counsel

18. Further Assurances. In furtherance of the terms and conditions of this Agreement, each of the parties shall collaborate in good faith with each other in order to achieve the performance of their respective obligations hereunder. Each party shall promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the other party may reasonably request, for carrying out the intention of or the provisions of this Agreement or to enable the other party to exercise and enforce its rights and remedies hereunder.

19. Entire Agreement. This Agreement constitutes the entire agreement between Owner and Developer with respect to the subject matter hereof and supersedes any prior understanding or written or oral agreements concerning same.

20. Governing Law. This Agreement, and the rights and obligations of the parties under or pursuant to this Agreement, shall be governed by the laws of the State of New Mexico, without regards to conflicts of law principles.

21. Counterparts. This Agreement may be executed and delivered in multiple and separate counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

22. Amendments. This Agreement may not be amended, supplemented or otherwise modified unless done so in writing signed by the parties, and no provision hereof shall be deemed waived unless such waiver is in writing and signed by the waiving party.

[Signature Page Follows this Page]

Owner and Developer have executed this Agreement to be effective as of the Effective Date.

OWNER:

THE BOARD OF REGENTS OF
NEW MEXICO STATE UNIVERSITY,
a New Mexico educational institution

By: _____

Name: _____

Title: _____

DEVELOPER:

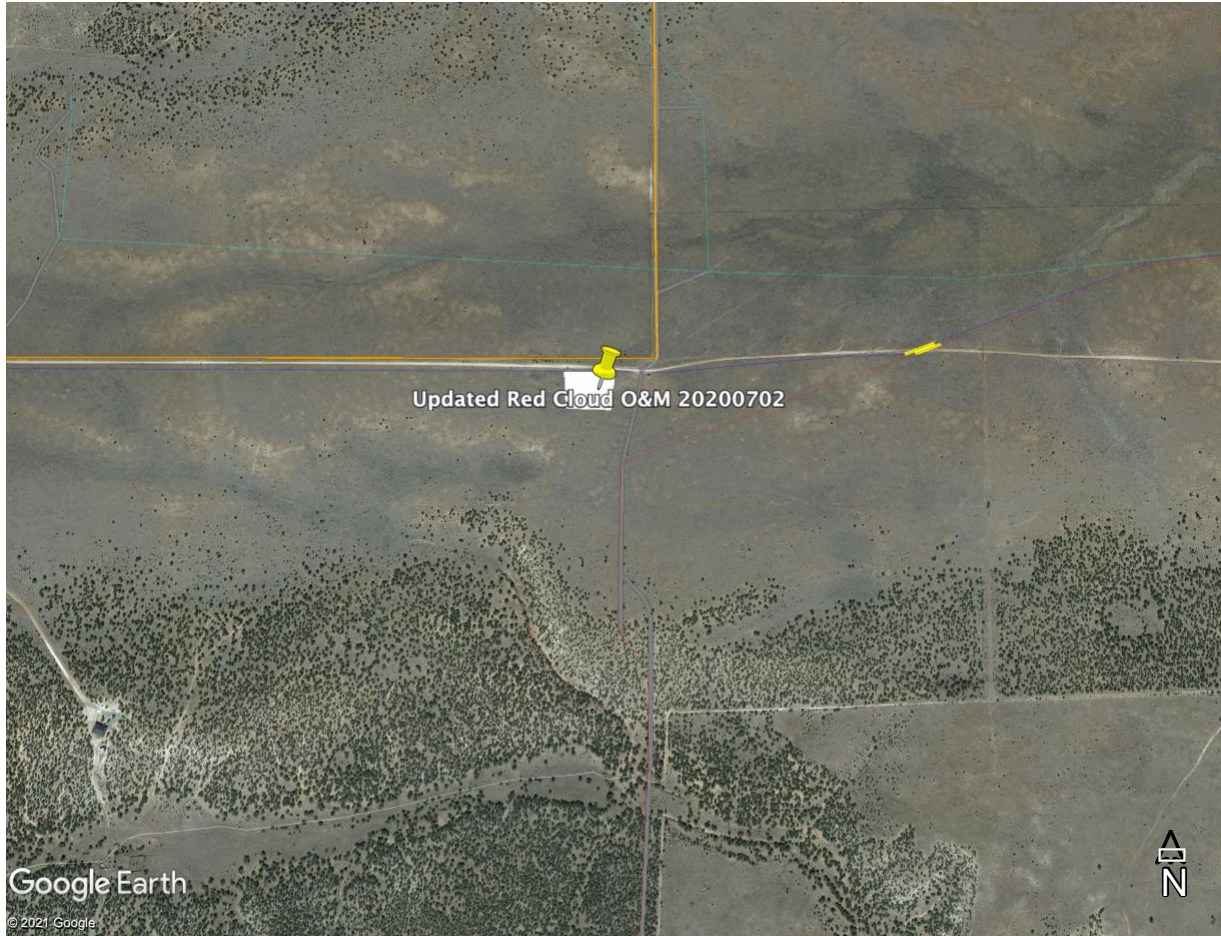
RED CLOUD WIND LLC
a Delaware limited liability company

By: _____
Blake Rasmussen, Authorized Signatory

EXHIBIT A

APPROXIMATE LOCATION OF WATER WELL

[see map on the following page]





Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: G-5

- Action Item
- Consent Item
- Informational Item

Presented By: Scott Eschenbrenner
Special Assistant to the President

Agenda Item: Fiber Line Easement Request from Plateau Telecommunications at Corona Range and Livestock Research Center

Requested Action of the Board of Regents: Approval of the Fiber Line Easement Request from Plateau Telecommunications at Corona Range and Livestock Research Center.

Executive Summary:

Plateau Communications is requesting an easement to install an underground fiber line for the Pattern Wind Energy project at the Corona Ranch. This easement will be approximately 1,300 feet in length and will parallel University Road at the Corona Ranch. NMSU is a member of the ENMR Telephone Cooperative and as such is a beneficiary of the capital credits that are paid out every year. This agreement requires members to furnish at no charge all necessary easements to construct, maintain, repair, inspect, relocate, replace and remove an underground telecommunication cable. This will be a perpetual easement as long as the fiber is being used for its original intended purpose.

Regents Real Estate Committee has recommended approval of this document and we are requesting approval by the Board of Regents.

References:

Please see attached agreement.

Prior Approvals:

Regents Real Estate Committee has recommended approval on February 25, 2021.

EASEMENT

For Telecommunications Facilities

The Regents of New Mexico State University, a New Mexico institution of higher learning (hereinafter "the grantor(s)"), hereby grant to Plateau Telecommunications, Incorporated, by statute a New Mexico Corporation (hereinafter "the Cooperative"), the right and authority to enter upon the lands described below (hereinafter "the property"), in order to construct, install, operate, maintain, repair, inspect, relocate, replace and remove an underground telecommunications system, consisting of underground cables, wire and conduits, surface pedestals, testing terminals and markers;

TOGETHER WITH the right of ingress or egress upon or across the property, as may be reasonably necessary to allow the Cooperative to exercise the rights created by this Easement.

THE PROPERTY is located in Torrance County, New Mexico, and is more particularly described as follows:

(SEE ATTACHED EXHIBIT)

A 20' wide utility corridor easement adjacent to the North ROW of University Road and then South to the Western Spirits Red Cloud Wind LLC pole on land identified by property code: 108400118069500 situated within: N2N2NE4 of Sec 36, T 1 N, R 14 E, NMPM

This Easement is executed and delivered by the grantor(s) with warranty covenants.

Nonuse of the underground telecommunications system for a substantial duration and/or failure to maintain such underground telecommunications system in good and efficient repair shall be deemed an abandonment of said easement. Abandonment constitutes grounds for termination of said easement.

THE COOPERATIVE shall have the right to designate the route, the location and the depth of any and all telecommunications facilities installed upon the property pursuant to this Easement. The Cooperative will indemnify the grantor(s) and hold them harmless from any liability or claim of liability, which may arise as a result of the exercise by the Cooperative of any rights created by this Easement.

IN WITNESS WHEREOF, this easement was signed this _____ day of _____ 20____.

The Regents of New Mexico State University

By: _____

Title: _____

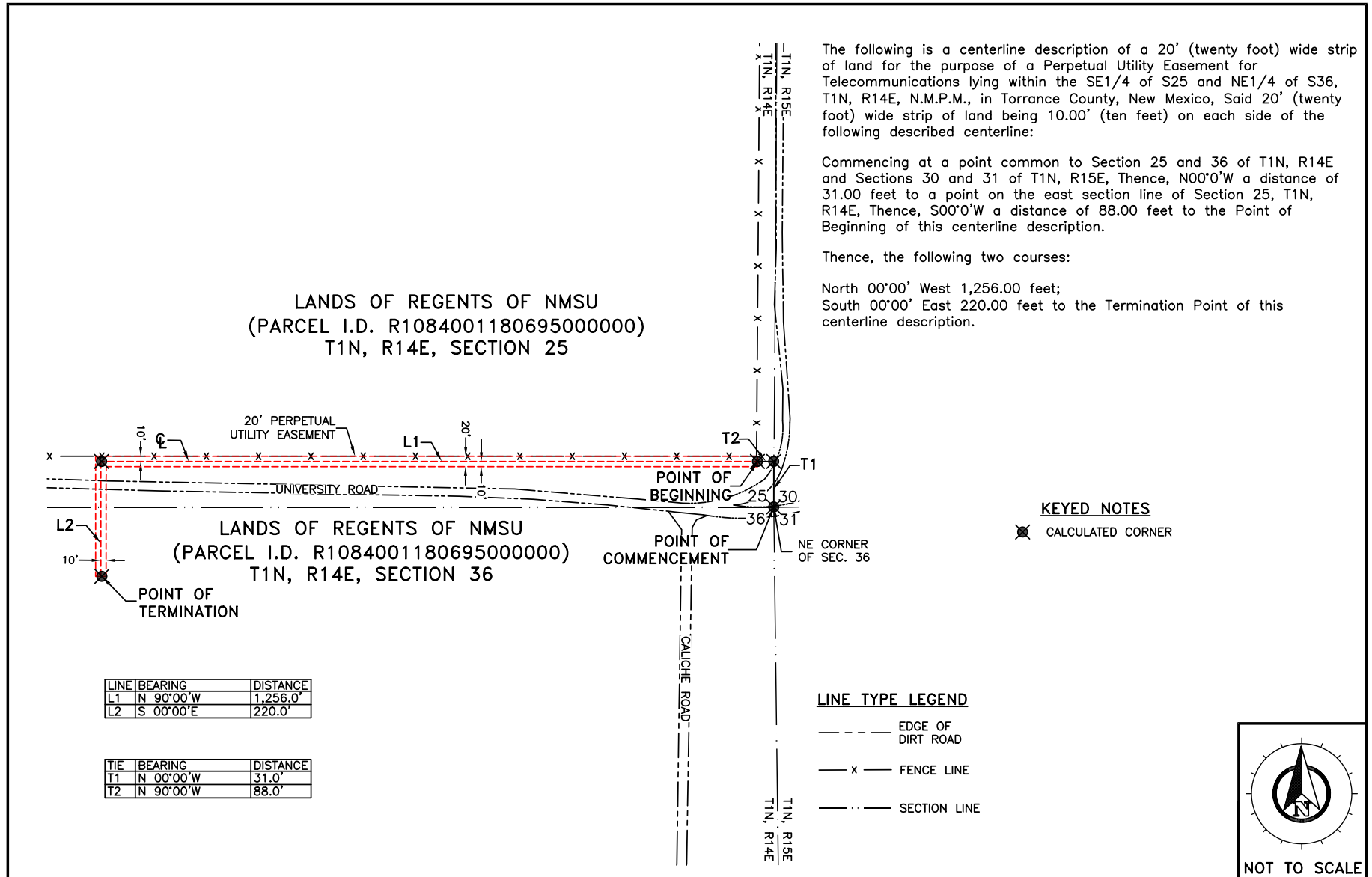
STATE OF _____ }
 }
COUNTY OF _____ }

The foregoing instrument was acknowledged before me this _____ day of _____, 20 _____, by _____ (Name) _____ of Regents of New Mexico State University, a New Mexico

Institution of higher learning, on behalf of said institution.

Notary Public

(S E A L)
My commission expires:



The following is a centerline description of a 20' (twenty foot) wide strip of land for the purpose of a Perpetual Utility Easement for Telecommunications lying within the SE1/4 of S25 and NE1/4 of S36, T1N, R14E, N.M.P.M., in Torrance County, New Mexico, Said 20' (twenty foot) wide strip of land being 10.00' (ten feet) on each side of the following described centerline:

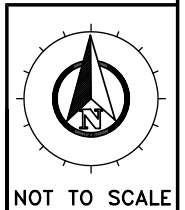
Commencing at a point common to Section 25 and 36 of T1N, R14E and Sections 30 and 31 of T1N, R15E, Thence, N00°0'W a distance of 31.00 feet to a point on the east section line of Section 25, T1N, R14E, Thence, S00°0'W a distance of 88.00 feet to the Point of Beginning of this centerline description.

Thence, the following two courses:

North 00°00' West 1,256.00 feet;
 South 00°00' East 220.00 feet to the Termination Point of this centerline description.

GALLEGUE ROAD

T1N, R14E
T1N, R15E



PREPARED BY: 	PREPARED FOR: 	LEGAL DESCRIPTION: A TRACT OF LAND, LYING IN THE SE1/4 OF S25 AND NE1/4 OF S36, TOWNSHIP 1 NORTH, RANGE 14 EAST, N.M.P.M., CURRY COUNTY, NEW MEXICO	PROJECT DATA PROJ. NAME: RED CLOUD WIND LLC WO#: 19538 EXCH.: CORONA JURISDICTION: Torrance County COUNTY: TORRANCE SHEET #: 1 OF 1
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Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: G-6

- Action Item
- Consent Item
- Informational Item

Presented By: Scott Eschenbrenner
Special Assistant to the President

Agenda Item: Quitclaim Deed for Property Transfer for New Mexico Space Museum Building in Alamogordo and Termination of Joint Powers Agreement with NM Department of Cultural Affairs Related to this Facility

Requested Action of the Board of Regents: Approval of the Quitclaim Deed for Property Transfer for New Mexico Space Museum Building in Alamogordo and Termination of Joint Powers Agreement with NM Department of Cultural Affairs Related to this Facility.

Executive Summary:

The planetarium/auditorium at NMSU-A was a joint-use project between NMSU and International Space Hall of Fame (Department of Cultural Affairs). The theater was to be used by the Space Hall of Fame and the surrounding classrooms were to be used for instruction by NMSU-A. The property was funded in 1977 through a legislative act and \$980,000 was appropriated with NMSU overseeing the construction. The title to the building and land was to be held in the name of International Space Hall of Fame (ISHF) with the joint control, use and access to both parties. Through the joint power's agreement, operating expenses were split between both entities. Over time, NMSU has moved their education to the main campus and is now moving out of the last 719 square feet of the 13,936 square foot building and will no longer have a presence in the building. NMSU's portion of operating costs in 2019 was \$35,264; 2020 was \$27,894 and though December of 2020 was \$15,295.

The joint powers agreement provides for an escape clause that if either party decides it no longer wants the right to joint control, use or access to the building, then it shall convey that right to the other party. The Department of Cultural Affairs on behalf of the ISHF has submitted a written request that they are ready, willing and able to accept the Universities relinquishment of any and all of its interest in and control of the Tombaugh Building.

A title search was performed by Alamogordo Title to make sure that proper title was previously transferred to ISHF. This transfer did not occur in 1977 and in order to move forward with the termination of this Joint Powers Agreement, NMSU will quitclaim deed the 50-acres of land that the ISHF buildings are situated on and provide a termination letter for the Joint Powers Agreement. With the Board of Regents Approval of these two documents, NMSU will be required to take this item to the Higher Education Department (HED) for final approval. HED is aware of the request and supportive of the action.

References:

Please see attached agreement.

Prior Approvals:

Regents Real Estate Committee recommended approval on February 25, 2021.

QUICK CLAIM DEED

STATE OF NEW MEXICO)
)
COUNTY OF OTERO)

KNOW ALL PERSONS BY THESE PRESENTS:

The **Regents of New Mexico State University** (Grantor) for and in consideration of the sum of TEN AND NO /100 DOLLARS (\$10.00) and for other valuable consideration to it in hand paid by **Department of Cultural Affairs, State of New Mexico** (Grantee), whose address is **407 Galisteo Street, Bataan Memorial Building, Suite 260, Santa Fe, New Mexico 87501**, the receipt and sufficiency of which is acknowledged, does hereby RELEASE AND FOREVER QUICKCLAIM unto the Grantee all of Grantor’s right, title, interest and claim to that certain parcel of land, including all improvements, situated in Otero County, New Mexico and more particularly described as follows:

SE1/4 SE1/4 and SE1/4 SW1/4SE1/4 of Section 9 Township 16 South, Range 10 East, N.M.P.M., Containing 50.00 acres, more or less (Real Property)

To have and to hold all of Grantor’s right, title and interest in and to the above described property to the Grantee, Grantee’s heirs, administrators, executors, successors and assigns forever; so that neither Grantor nor Grantor’s heirs, administrators, executors, successors and assigns will have, claim or demand any right or title to the Real Property or any part thereof. The Real Property remains subject to a revisionary interest of the Bureau of Land Management should the Real Property cease to be used for an educational purpose.

EXECUTED as of the ____ day of _____, 2021.

By: _____

STATE OF NEW MEXICO §
 §
COUNTY OF DOÑA ANA §

This Quick Claim Deed was acknowledged before me this ____ day of _____, 2021, by _____, Grantor.

Notary Public in and for
The State of New Mexico

My Commission Expires:

After Recording Return to:
Department of Cultural Affairs, 407 Galisteo Street, Bataan Memorial Building, Suite 260, Santa Fe, New Mexico 87501

Debra Garcia y Griego
Cabinet Secretary
Department of Cultural Affairs
407 Galisteo Street
Bataan Memorial Bldg., Suite 260
Santa Fe, New Mexico 87501

March 24, 2021

Re: Termination of Joint Powers Agreement

Dear Secretary Garcia y Griego:

Pursuant to your letter dated December 17, 2020, the Regents of New Mexico State University (NMSU) hereby notify the Department of Cultural Affairs and the New Mexico Space History Museum (collectively, DCA) that NMSU terminates the Joint Powers Agreement Relating to the Construction Use, and Maintenance of Planetarium/Auditorium, dated November 22, 1978 (Joint Powers Agreement) and transfer all interest and control NMSU may have under the Joint Powers Agreement to DCA. NMSU agrees, subject to DCA agreement to the conditions contain in this letter, to transfer, via the attached Quit Claim Deed, its interest in the real property and improvements subject to the Joint Powers Agreement to DCA (Real Property).

As consideration for the termination of the Joint Powers Agreement and the transfer of the Real Property, NMSU asks that DCA agrees to not change the name of the Clyde W. Tombaugh Space Instruction Center without first obtaining written approval from NMSU.

If the conditions contain in this letter are acceptable to DCA, please indicate DCA's acceptance of the termination and these conditions by your signature below.

Sincerely,

Dina Chacon-Reitzel
Regents of New Mexico State University



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item #: G-7

- Action Item
- Consent Item
- Informational Item

Presented By: Scott Eschenbrenner
Special Assistant to the President

Agenda Item: Carlsbad Early College High School Ground Lease

Requested Action of the Board of Regents: Approval of the Carlsbad Early College High School Ground Lease.

Executive Summary:

NMSU has been leasing 15,983 square feet inside of the Computer Science Building at the NMSU-Carlsbad campus to Carlsbad Municipal Schools (CMS). This agreement has been in place since July of 2018 and the current rent is \$3,750 per month. This lease automatically renews every year if both parties are satisfied with the lease terms.

Since that original lease, NMSU has received a new request from Carlsbad Municipal Schools (CMS) to lease a 64' x 68.5' (4,384 square foot) parcel of land west of the Computer Science Building. The purpose of this lease is for the expansion of the Early College High School program at NMSU-C.

The term of this lease will be for 20-years. CMS agrees to pay NMSU a monthly rent of \$3,430.00. The rental rate will cover the costs of utilities, janitorial, maintenance to the grounds, security, and fire alarm services provided by NMSU. CMS will be solely responsible for all maintenance and repairs to the roof, HVAC, windows, structural components and all plumbing and electrical inside of the premises located on the land. The rental rate will increase 2% annually.

CMS will be responsible for site preparation for the installation of a new modular building within six months of the effective date of this lease and occupy in 12-months from the beginning of site preparation.

This building will be used only for educational activities related to the Early College High School program. Upon termination of the lease, CMS will remove all improvements and structures at its expense and will return the land to pre-construction condition. NMSU will provide project development and engineering consultation as needed to ensure that the project is built to NMSU and State standards. All paving, curbs, gutters, sidewalks, street lights, or other similar improvements required by CMS will be installed and maintained by CMS at its sole expense. CMS will contract with Palomar Modular Buildings in DeSoto, Texas to construct and deliver a 68.5' x 64' educational building.

Regents Real Estate Committee has recommended approval of this document and we are requesting approval by the Board of Regents.

References:

Please see attached agreements.

Prior Approvals:

Regents Real Estate Committee has recommended approval on February 25, 2021.

**LEASE AGREEMENT BETWEEN
THE REGENTS OF NEW MEXICO STATE UNIVERSITY
AND CARLSBAD MUNICIPAL SCHOOLS**

This Lease Agreement ("Lease") is on the date of the final signature below, by and between the Regents of New Mexico State University ("NMSU") and the Carlsbad Municipal Schools ("CMS").

WITNESSETH THAT:

WHEREAS, NMSU is a constitutionally created state institution of higher education, which operates a branch campus in Carlsbad, Eddy County, New Mexico; and

WHEREAS, the CMS is a publicly funded state educational institution, responsible for the administration of public education in Carlsbad, Eddy County, New Mexico; and

WHEREAS, CMS is in need of space for the Early College High School Program, and NMSU-C has adequate space to meet their needs; and

WHEREAS, NMSU is the owner of certain property described herein: and

WHEREAS, NMSU is willing to lease this property to CMS for use as the site of the Early College High School, upon the terms and conditions set forth in this Lease.

NOW, THEREFORE, in consideration of the foregoing, the rent herein reserved, the covenants herein contained, and for other good and valuable consideration, NMSU does hereby lease to CMS the property herein described for the term and in accordance with the conditions herein set forth. The parties agree as follows:

1. LAND: NMSU hereby leases to CMS a 64' x 68.5 area west of the Computer Science Building or approximately 4,384 square feet of real property ("Land") located within Tract 1 consisting of approximately 39.9880 acres situated in the NW ¼ of Section 35 and the SW ¼ of Section 26, Township 21 S., Range 26 E., N.M.P.M., Eddy County, New Mexico, ("NMSU-C Tract"), together with all privileges, easements and appurtenances belonging or in any way pertaining to the Land. CMS accepts the Land "AS IS" and agrees that NMSU makes no representation or warranty as to the quality or condition of the Land or the feasibility of the Land for its intended use. Subject to any easements and restrictions of record on September 20, 1977, and as shown in Warranty Deed Book 232, pages 40, records of Eddy County and is incorporated herein by reference. The parties agree to work in good faith to establish the precise boundaries and location of the Land and reasonable access for ingress and egress, to be reserved by NMSU, to the remainder of the NMSU-C Tract within ninety (90) days of the date hereof. CMS agrees as a condition subsequent to this Lease, to have a boundary survey of the Land, to include said reserved ingress and egress access, prepared within six months of the date hereof. Such surveys will include all easements of record and leased

portions thereof. Upon receipt and approval of said survey by NMSU, the parties agree that survey of the Land will be labeled "Exhibit "A" and will be attached to this Lease.

2. TERM: The term of this Lease will be for a period of twenty (20) years commencing on the first calendar month following execution of this Lease by both parties.

3. RENT: CMS agrees to pay to NMSU, as rental for the Land, a monthly rent of three thousand, four hundred and thirty dollars and 00 cents (\$3,430.00), payable in advance on the first day of the month at New Mexico State University, and monthly rental payments shall be delinquent if not paid by the tenth of the month. Rent payments not received or delivered by the tenth of the month shall incur a service fee of fifty dollars (\$50.00), included as additional rent. Rental payments shall be mailed to the following contact and address:

New Mexico State University
Office of Business Affairs
MSC 3AA
P.O. Box 30001
LAS CRUCES, NM 88003-8001

The rental rate will cover the cost of utilities, janitorial, maintenance to the grounds, security, and fire alarm services provided by or on behalf of NMSU. CMS is solely responsible for all maintenance and repairs to the roof, HVAC, windows, structural components and all plumbing and electrical inside the building located on the Land. This rental rate for the Land will increase at rate of 2% annually. In further consideration for this Lease, CMS must, begin site preparation for the installation of the modular building upon the Land within six (6) months from the effective date of this Lease, and occupy the building within twelve (12) months from the beginning of site preparations.

4. USE: The premises will be used by CMS only for the conduct and operation of its educational activities related to the ECHS program, unless CMS and NMSU agree in writing to CMS conducting other educational activities. CMS will comply with all federal, state, and local governmental laws, ordinances, orders, rules, and regulations applicable to CMS's operations in its use and occupancy of the premises. In no event will the premises be used for any unlawful purpose, any purpose constituting or creating a public or private nuisance, or any purpose which is deemed to be in contradiction of the stated mission of the ECHS. The premises will not be used for any class or purpose involving hazardous substances except when permitted by a separate written agreement with NMSU.

5. CONSTRUCTION AND OWNERSHIP OF BUILDING AND IMPROVEMENTS ON THE LAND: CMS may place or erect such buildings, structures, equipment and other improvements, as approved in writing by NMSU, that it may desire for carrying out the purposes of this Lease on the Land. All such buildings, structures, equipment and other improvements and all other property of whatsoever nature made to or placed upon the Land by CMS, will be and will remain the property of CMS until

the termination of this Lease. Upon termination of this Lease, CMS will remove all improvements and structures, at its expense and will return the Land, as reasonably as possible, to its preconstruction condition, unless otherwise agreed in writing by CMS and NMSU at the time of termination of this Lease. CMS obligation to remove all improvements and structures will survive the termination of this lease.

6. NMSU Project Development and Environmental Consultation Fees: NMSU will provide project development and engineering (PD&E) consultation as needed to ensure that the project is built in accordance with NMSU and state standards, and upon request from CMS. NMSU's hourly rates for PD&E consultation are as follows: Assistant Director or University Engineer \$69.06/hr, Project Manager \$45.48/hr., and Assistant Project Manager \$37.24/hr. NMSU will charge at the same rates for travel to and from the premises. NMSU will bill CMS on a quarterly basis.

7. EASEMENTS: NMSU will have delivered to CMS such temporary or permanent, or both, easements within the NMSU-C Tract, in recordable form, as CMS deems necessary for the construction and operation of the High School. NMSU reserves the right to grant utility easements within the NMSU-C Tract, that it deems necessary or desirable that do not unreasonably interfere with the use of the Land.

8. QUIET POSSESSION: Upon CMS paying the rent hereunder and observing and performing all of the covenants, conditions and provisions on CMS's part to be observed and performed hereunder, CMS will have quiet possession of the Land for the entire term hereof, subject to all provisions of this Lease. NMSU, its authorized representatives, agents, employees and attorneys may, but will not be under duty to, enter the Land at any reasonable times and hours, subject to the rights of CMS, to inspect the Land in order to determine whether CMS is complying with its undertakings, duties and obligations under this Lease. NMSU will also have access to the Land for repair, maintenance or replacement of any and all NMSU facilities located on or adjacent to the Land.

9. LIABILITY: Each party, as subdivisions of the State of New Mexico, shall be solely responsible for its own fiscal or other sanctions occasioned as a result of its own violation or alleged violation of requirements applicable to the performance of this lease. Neither NMSU nor CMS will be responsible for liability incurred as a result of the other party's negligent, intentional, or willful acts, misconduct, or omissions in connection with this Lease. Any liability incurred by either party in connection with this Lease is subject to the immunities and limitations of the New Mexico Tort Claims. Act § 41-4-1, *et seq.*, NMSA 1978, as amended.

Liability is established for each party and the dual credit student under NMAC 6.30.7.10 and the existing Dual Credit agreements.

10. IMPROVEMENTS TO THE LAND: All paving, curbs, gutters, sidewalks, street lights, or other similar improvements required by CMS will be installed and maintained by CMS at its sole expense. CMS will contract with Palomar Modular Buildings in DeSoto, Texas to construct and deliver a 68.5' x64' educational building.

11. LIABILITY INSURANCE: CMS will carry and maintain in full force and effect during the term of this Lease and any extension thereof at CMS's expense comprehensive liability insurance in an amount at least equal to the minimum limits provided under the New Mexico Tort Claims Act. CMS will carry and maintain in full force and effect during the term of this Lease, at CMS's expense, fire and extended coverage insurance upon all buildings, alterations, additions and improvements comprising the High School in an amount equal to the then current replacement value of the buildings, alterations, additions and improvements. NMSU will be listed as an additionally named insured. The replacement value will be reappraised for insurance purposes not less often than every five (5) years. Current evidence of certificates of insurance will be furnished to NMSU. Prior to commencement of the lease and thereafter upon each renewal of insurance, CMS shall provide NMSU with a copy of the certification of insurance.

12. AMENDMENTS: All amendments to this Lease will be set forth in writing, and will be mutually agreed upon by the parties. Neither NMSU nor CMS will unreasonably withhold approval of requested amendments.

13. NO THIRD-PARTY BENEFICIARIES: Nothing in this LEASE provides any benefit or right, directly or indirectly, to third parties not a party to this Agreement. This lease was not intended to and does not create any rights in any persons or party not a party to this lease. The parties shall cooperate fully in opposing any attempt by any third person or entity to claim any right, benefit, protection, release, or other consideration under this Agreement.

14. DEFAULT BY CMS: NMSU may terminate this Lease only upon default by CMS.

A default will be any of the following events:

A. CMS's failure to pay tax or assessments and liens, if any, which CMS is obligated to pay pursuant to this Lease lawfully assessed against the Land so that it becomes delinquent for a period of thirty (30) days, unless the payment thereof is contested in good faith by CMS; or CMS's failure to pay any utility charges pertaining to the Land.

B. CMS's abandonment of the Land, failure to begin site preparation for the installation of the modular building upon the Land within six (6) months from the effective date of this Lease, or failure to occupy the building for its intended use within twelve (12) months from the beginning of site preparations.

C. CMS's breach or default of any other term covenant or condition of this Lease. In the event of a default, then NMSU may give CMS written notice by certified or registered mail specifying such event of default. Unless the event of default is remedied by CMS within sixty (60) days after its receipt of such notice, or unless within such sixty (60) day period CS will have commenced and will continue to take diligent action of the purpose of remedying such event of default, which in any event must be corrected within one hundred twenty (120) days thereafter, and CMS will have notified NMSU in writing of the nature of such action, and will thereafter in good faith prosecute such action to completion, NMSU may declare the termination of this Lease by giving CMS written notice thereof by certified or registered mail. NMSU will thereupon succeed to all of the interest of CMS in this Lease, the

Land, subject to Section 5, and this Lease will terminate. Upon receipt of such notice of forfeiture, CMS will immediately peacefully surrender the Land, except as provided otherwise herein. CMS will be liable for its obligations accruing after the date of termination if this remedy is pursued, and NMSU will have no further obligation to CMS under this Lease.

15. WAIVER: Waiver by NMSU or CMS of any breach of any term, covenant, or condition herein contained will not be deemed to be a waiver of any subsequent breach of the same term, covenant or condition nor will any practice which may become established between the parties in the administration of this Lease be construed to waive or lessen the parties' rights to performance in strict accordance with such terms, covenants or conditions.

16. NOTICES: All notices required to be given or provided for pursuant to this Lease will be in writing and will be delivered personally, by overnight courier service, by confirmed facsimile or sent by certified or registered mail, postage prepaid and return receipt requested. Notice given personally or by confirmed facsimile will be deemed to be received on delivery. Notice given by overnight courier will be deemed to be received one (1) day after deposit with a recognized overnight delivery services such as Federal Express. Notice given by certified or registered mail will be deemed to be received three (3) days after deposit with the United States Postal Service. Notices to NMSU and CMS will be addressed as follows:

To NMSU: New Mexico State University
Director of Real Estate
MSC 30RE
P.O. Box 30001
Las Cruces, NM 88003-8001
(575) 646-2356

To CMS: Early College High School
1500 University Drive
Carlsbad, NM 88220
(575) 234-9415

17. PARTIAL INVALIDITY: Any provision of this Lease which will prove to be invalid, void, or illegal will in no way affect, impair or invalidate any other provisions of this Lease and such other provisions will remain in full force and effect.

18. DRAINAGE: CMS acknowledges and agrees that it is CMS's obligation to see that all surface water which may be collected or deposited on or will traverse the Land, buildings and improvements will be properly drained in accordance with all applicable laws, regulations and codes of governmental authorities having jurisdiction over the land.

19. SITE PREPARATION: CMS understands that the site utilities come from a facility that is owned by the State of New Mexico and as such NMSU, following applicable procurement requirements, will hire an engineer to design this work and hire the contractor to connect to NMSU

utilities and permanently install a modular educational building. It is also understood that these costs will be reimbursed by CMS for these services.

20. CONDEMNATION:

A. If the entire Land or any portion thereof which is sufficient to render the remaining portion thereof unsuitable for the use being made thereof at the time of such condemnation, will in fact be taken in or by condemnation or other proceedings pursuant to law, or sold in avoidance of such condemnation or other proceedings (each of which is hereinafter in this section referred to as a "taking"), then CMS may give notice to NMSU of its intention to terminate this Lease on any date after such taking, but no more than ninety (90) days thereafter, and this Lease will thereupon terminate as of such date. In the event of a taking as aforesaid, and the termination of this Lease as a result of such taking, NMSU and CMS may pursue their respective claims.

B. If a lesser portion of the Land will be taken, or if the use or occupancy of the Land or any part thereof will be temporarily requisitioned by any governmental authority, civil or military, this Lease will nonetheless continue in full force and effect, and CMS will promptly either repair any damage caused by any such taking or by requisition to the improvements on the Land, including such repairs to such improvements as may be necessitated by the partial taking thereof or clear the Land of the remainder of any damaged improvements. In the event of such temporary requisition there will be no abatement of any rent payable hereunder and the CMS will receive the entire award or payment resulting from such temporary requisition. In the event of such lesser taking (other than a temporary taking) by condemnation or otherwise, not resulting in a termination of this Lease, NMSU and CMS may pursue their respective claims.

21. HAZARDOUS MATERIALS: As used in this Lease, the term "Hazardous Material" means any flammable items, explosives, radioactive materials, hazardous or toxic substances, material or waste or related materials, including any substance defined as or included in the definition "hazardous waste", "hazardous materials", or "toxic substances" now or subsequently regulated under any applicable federal, state or local laws or regulations., CMS will not cause or permit any Hazardous Material to be generated, produced, brought upon, used, store, treated or disposed of in or about the Land by CMS, its agents, employees, contractors, or invitees without the prior written consent of NMSU. CMS will be solely liable for any and all environmental damages under either federal or state environmental laws. CMS's liability for environmental damages will survive the termination of this Lease.

22. EQUAL OPPORTUNITY COMPLIANCE: Each party agrees to abide by all federal and state laws, rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, each party assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any activity performed under this Agreement. If a party is found not to be in compliance with these requirements during the life of this Agreement, that party agrees to take appropriate steps to correct these deficiencies.

23. APPROPRIATIONS: The terms of this Lease are contingent on sufficient appropriations and authorizations being made by the Legislature of New Mexico, the New Mexico State Department of Education, each School's Governing Board, and the Federal Government for the performance of this Agreement. If, for any reason, sufficient appropriations and authorizations are not made, this Lease shall terminate upon written notice being given by the affected Party. Such termination shall not result in any claim for damages by another Party. The decision as to whether sufficient appropriations are available shall be accepted by the other Party and shall be final. Termination for lack of appropriation does not relieve CMS of its obligation to remove all improvements and structures, at its expense and will return the Land, as reasonably as possible, to its preconstruction condition, unless otherwise agreed in writing by CMS and NMSU at the time of termination of this Lease.

24. ASSIGNMENT: NMSU may freely assign this Lease.

25. APPLICABLE LAW: This Lease will be governed by the laws of the State of New Mexico.

26. HEADINGS: Descriptive headings are for convenience only and will not control or affect the meaning or construction of any provisions of this Lease.

27. MEMORANDUM OF LEASE FOR RECORD: NMSU and CMS agree that this Lease will not be recorded. NMSU and CMS will execute a MEMORANDUM OF GROUND LEASE, attached hereto, describing the Land, reciting the Term of this Lease, which memorandum will be executed and acknowledged, and will be recorded by CMS, or, at its election, by NMSU in the office of the County Clerk of Eddy County, New Mexico.

IN WITNESS WHEREOF, NMSU and CMPS have executed this Lease on the day and year set forth below.

REGENTS OF NEW MEXICO STATE UNIVERSITY

Dan E. Arvizu, Chancellor

DATE

CARLSBAD MUNICIPAL SCHOOLS

David Shoup, Board President

DATE

EXHIBIT A

Plat of Survey

MEMORANDUM OF GROUND LEASE

Landlord: Regents of New Mexico State University

Tenant: Carlsbad Municipal Schools

Land: Approximately 4,384 square feet ("Land"), of the following described Tract 1 consisting of approximately 39.9880 acres situated in the NW ¼ of Section 35 and the SW ¼ of Section 26, Township 21 S., Range 26 E, N.M.P.M., Eddy County, New Mexico, ("NMSU-C Tract")

Date of Lease: _____, 2021

Initial Term: Twenty (20) years

Capitalized Terms used but not defined in this Memorandum of Ground Lease have the meanings given to them in the Ground Lease.

REGENTS OF NEW MEXICO STATE UNIVERSITY

By: _____

Dan E. Arvizu, Chancellor

Date: _____

CARLSBAD MUNICIPAL SCHOOLS

By: _____

David Shoup, Board President

Date: _____



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item # G-8

- Action Item
- Consent Item
- Informational Item

Presented By: Roy Collins, III
General Counsel

Agenda Item: 2021 Annual Open Meetings Notice Resolution

Requested Action of the Board of Regents: Approval of 2021 Annual Open Meetings Notice Resolution

Executive Summary:

As required by the New Mexico Open Meetings Act, the attached Open Meetings Notice Resolution establishes the public notice to be given prior to the Board's meetings. The attached resolution is similar to the Board's Resolution 2020-02 adopted last March, however it does not require the posting of notices at the Zuhl Library.

Notices for meetings are distributed to the news media and posted on the NMSU Regent's website ten days in advance for regular meetings, three days in advance for special meetings, and 24 hours or more, if possible, for emergency meetings. Meeting agendas are also made available to the public by posting them on the NMSU Regents' website, at least 72 hours in advance of regular and special meetings, and concurrent with the notice for emergency meetings. If an emergency meeting is called that is not as a result of a declared state or federal emergency, a report will also be sent to the Office of the Attorney General.

References:

NM Open Meetings Act §10-15-1 D.

Prior Approvals:

N/A

Resolution No. 2021- 03

NEW MEXICO STATE UNIVERSITY BOARD OF REGENTS

ANNUAL OPEN MEETINGS NOTICE RESOLUTION

WHEREAS, the Open Meetings Act of the State of New Mexico, §10-15-1, NMSA 1978, *et seq.* requires meetings of a quorum of the members of the Board of Regents, held for the purpose of discussing or adopting any proposed resolution, rule, regulation, or other formal action, to be conducted only after reasonable notice to the public; and

WHEREAS, the Open Meetings Act requires the Board of Regents to determine at least annually what constitutes reasonable notice of its public meetings;

NOW, THEREFORE, BE IT RESOLVED by the Board of Regents of New Mexico State University, that compliance with the following requirements shall constitute reasonable notice:

1. **Meeting Notice Content:** Each meeting notice shall indicate the date and time of the relevant meeting as well as the specific location of the Board's meeting, including city and campus (as applicable), building name, and address.
2. **Meeting Notice Method:** Each meeting notice shall be (1) transmitted by telephone, fax, electronic or other means of delivery to newspaper(s) of general circulation in the state, (b) posted on the NMSU Regents' website. In addition, each meeting notice shall be transmitted to any licensed broadcast station and any other newspaper that has made request for notification of meetings within the previous 12 months. Requests shall be directed to ucomm@nmsu.edu.
3. **Meeting Notice Timing:** Each meeting notice shall be provided in advance of the meeting, with the amount of advance notice depending upon the type of meeting:
 - a. Notice of regular meetings (scheduled at least quarterly) will be given at least 10 days in advance of the meeting date. The regular meeting agenda shall be posted on the NMSU Regents' website at least 72 hours prior to the meeting.
 - b. Notice of special meetings will be given at least three days in advance of the meeting date. The special meeting agenda shall be posted on the NMSU Regents' website at least 72 hours prior to the meeting.
 - c. Notice of an emergency meeting, called in the case of unforeseen circumstances that demand immediate attention to protect the health, safety and property of citizens, or to protect the university from substantial financial loss, will be given 24 hours in advance, unless threat of personal injury, property damage or threat of financial loss requires less notice. The emergency meeting agenda shall be posted on the NMSU Regents' website at the same time as the notice of emergency meeting.

4. **Report of Emergency Meeting:** Within 10 days of taking action on an emergency matter, the Board of Regents shall report to the Office of the New Mexico Attorney General the action taken and the circumstances creating the emergency, unless there has also been a declaration of a state or national emergency, in which case no report is required.

5. **Meeting Accessibility:** In addition to the information specified above, all notices shall include the following language:

"If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the meeting, please contact the Office of the Regents' at (575) 646-5997 at least three days prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes, may also be provided in various accessible formats. Please contact the Office of the Regents' at (575) 646-5997 if a summary or other type of accessible format is needed."

6. **Closed/Executive Session:** The Board of Regents may close a meeting to the public, and meet in executive session, only if the subject matter of such discussion or action falls within one of the exceptions in the Open Meetings Act, § 10-15-1(H).

- a. If any meeting is proposed to be closed during an open meeting, without prior notice, the closure shall be proposed by motion, stating the specific provision of law authorizing the closed meeting and the subject matter to be discussed. The motion must be approved by a majority of a quorum of the Board in attendance. The vote of each individual member on the motion proposing closure shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in the closed meeting.
- b. If a closed meeting is to be conducted when the Board is not already convened in an open meeting, the closed meeting shall not be held until public notice required for a special meeting is posted, stating the specific provision of law authorizing the closed meeting and the subject matter to be discussed.
- c. Following completion of any closed meeting, the minutes of the public meeting that was closed, or the minutes of the next public meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or the meeting notice for the special meeting.
- d. Except as provided by Section 10-15-1(H) of the Open Meetings Act and New Mexico case law interpreting same, any action taken as a result of discussions in a closed meeting shall be made by vote of the Board in an open public meeting.

ADOPTED by the Board of Regents of New Mexico State University, the 9th day of March, 2020, at its regular annual meeting held in Las Cruces, New Mexico.



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item # G-9

- Action Item
- Consent Item
- Informational Item

Presented By: Roy Collins, III
General Counsel

Agenda Item: Access to Classified Information Resolution

Requested Action of the Board of Regents: Approve Resolution Excluding Certain Officials from Access to Classified Information, and authorize Chair to include a notation or correct officers as elected on this date.

Executive Summary:

Consistent with Department of Defense regulations, and with Regents Policy 4.65, the attached draft resolution updates the current members of the Board of Regents to be excluded from access to classified information. The resolution should indicate the officers of the Board and the proposed action would allow the Chair to make corrections to the resolution as may be necessary following election of officers.

References:

National Industry Security Program, Operating Manual (NISPOM); February 2006, amended May 2016.

Prior Approvals:

N/A

Resolution No. 2021-04

Board of Regents of New Mexico State University
Resolution Excluding Certain Officials from Access to Classified Information

WHEREAS, Department of Defense regulations contain a provision requiring that the Chair of the Board of Regents, Senior Management Official and Facility Security Officer meet the requirements for eligibility for access to classified information established for a contractor facility security clearance; and

WHEREAS, said regulations permit the exclusion of personnel or board members from the requirements for access to classified information, provided that this action is recorded in the board's official minutes;

NOW, THEREFORE BE IT DECLARED that the Senior Management Official and Facility Security Officer at the present time do possess, or will be processed for, the required eligibility for access to classified information; and

IT IS HEREBY RESOLVED, that in the future, when any individual enters upon the duties as Senior Management Official, or Facility Security Officer, such individual shall immediately make application for the required eligibility for access to classified information; and

IT IS FURTHER RESOLVED AND DIRECTED that the following members and officers of the NMSU Board of Regents shall not require, shall not have, and may be effectively and formally excluded from access to all classified information disclosed to authorized personnel of the university. Additionally, the members and officers listed below shall not take action to adversely affect the performance of classified contracts for the Department of Defense or the government contracting activities (User Agencies) of the National Industrial Security Program.

Regent Dina Chacón-Reitzel, Chair
Regent Ammu Devasthali, Vice Chair
Regent Arsenio Romero, Member
Regent Christopher T. Saucedo, Member
Regent Neal Bitsie, Member

ADOPTED by the Board of Regents of New Mexico State University, on the 24th day of March, 2021, at its Regular Meeting held in Las Cruces, New Mexico.

Dina Chacón-Reitzel, Chair, NMSU Board of Regents



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item # H-1

- Action Item
- Consent Item
- Informational Item

Presented By: Dina Chacón-Reitzel
Chair
Board of Regents

Agenda Item: Election of Officers

Requested Action of the Board of Regents: Election of Officers of the Board of Regents

Executive Summary:

The Board will elect a president, a president pro tem, and a secretary-treasurer. The president and president pro tem shall be referred to as the chair and vice chair of the Board, so as to not be confused with executive administrators. The person elected as secretary-treasurer shall, before entering upon the discharge of the duties, execute a bond to the state of New Mexico, to be approved by the governor of the state, and filed with the secretary of state, as required by statute. [NMSA 1978 §21-7-5 requirement satisfied by the blanket bond provide through the New Mexico Risk Management Division, per NMSA 1978 §10-2-15]

The election of officers will proceed with a call for nominations from the floor starting with the chair, followed by the vice chair, and then the secretary-treasurer, consistent with Robert's Rules of Order.

References:

RPM 1.02-A (Article 3.2) – Bylaws of the Regents of New Mexico State University

Prior Approvals:

N/A



Board of Regents Meeting
Meeting Date: March 24, 2021
Agenda Item Cover Page

Agenda Item # I-2

- Action Item
- Consent Item
- Informational Item

Presented By: Roy Collins III, J.D.
General Counsel

Agenda Item: Summary of Revisions to the Administrative Rules and Procedures of NMSU (ARP) for the period December 3, 2020 through March 24, 2021.

Requested Action of the Board of Regents: None- Report for Board's Information.

Executive Summary:

In accordance with ARP 1.10, the attached report gives a brief synopsis for each revision to the Administrative Rules and Procedures of NMSU (ARP) approved by the Chancellor during the above-referenced time period.

References:

Rule 1.10, Part 6 G. 3. provides that a summary of the revisions to the ARP will be submitted as an informational item for the Board's regular meetings.

Agenda Item Approved By:

A handwritten signature in black ink that reads 'Roy Collins III'.

Roy Collins III, J.D.
General Counsel

18 March 2021

Date



University General Counsel
 P.O Box 30001
 MSC 3UGC
 Las Cruces, New Mexico 88003
 Telephone: 575-646-2446
 FAX: 575-646-3012

INFORMATIONAL REPORT: SUMMARY OF ARP REVISIONS 12/03/2020 – 03/24/2021

This report is submitted to the Board of Regents pursuant to ARP 1.10 (Part 6 G. 3.), to provide a summary of recent revisions to the Administrative Rules and Procedures of NMSU (ARP) (<https://arp.nmsu.edu>). The administrative rules and procedures are developed and/or amended in coordination with the policy administrator and relevant stakeholders; reviewed by university constituencies as appropriate; and vetted by the University Administrative Council, advisory to the chancellor. Occasionally, as warranted by the circumstances, the chancellor may implement or revise the ARP on a provisional basis. Additionally, as part of ongoing ARP maintenance, non-substantive revisions are made without formal review (e.g. updates to job titles or office names, correction of typographical or formatting errors, adding/deleting cross references).

Amendments to the ARP during the period December 3, 2020 through March 24, 2021 are listed below:

[ARP 18.10 - Namings and Other Honorific Recognition](#) was amended December 9, 2020 by the Chancellor, after the review and recommendation from the University Administrative Council. The revised rule provides donors with additional giving opportunities, updates minimum gift amounts to align with university priorities, and allows donor recognition once 50% of the pledge payments are received. The revised rule adds a section to address the general process applicable to non-honorific Namings. The rule was restructured to relocate material to Implementing Guidelines and to Minimum Endowment Thresholds, also amended, which are now published on the website maintained by University Advancement at <https://support.nmsu.edu/policy-documents-update/>, as well as linked directly from ARP 18.10.

[ARP 7.65 - Reductions in Force](#) was amended provisionally February 1, 2021 by the Chancellor to align it with the university's established practices, which did not include placing employees in a 90 day Leave Without Pay status upon layoff. Additionally, the revision changed the official who approves proposed personnel actions relating to reductions in force from the provost to the "appropriate executive administrator". The revision also included non-substantive reformatting and stylistic revisions. The provisional rule may be viewed at <https://arp.nmsu.edu/7-65/> and is presently pending formal review and comment.