



**VILLAGE OF MAGDALENA**  
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WWW.VILLAGEOFMAGDALENA.COM

**AGENDA**  
**NOTICE OF REGULAR MEETING OF THE VILLAGE OF MAGDALENA BOARD OF TRUSTEES**  
**MONDAY, DECEMBER 28, 2020**  
**VILLAGE HALL 108 N. MAIN STREET 6:00 PM**

**DUE TO THE NATIONAL, STATE AND COUNTY COVID-19 DECLARED EMERGENCY AND PUBLIC HEALTH ORDER DATED DECEMBER 2, 2020 LIMITING GATHERINGS TO 5 PERSONS OR LESS THE MEETING WILL NOT BE PHYSICALLY OPEN TO THE PUBLIC. ALL MEMBERS OF THE PUBLIC WILL BE ABLE TO ATTEND AND LISTEN TO THE MEETING VIA ZOOM AT THE FOLLOWING LINK:**

<https://us02web.zoom.us/j/4861155997?pwd=V0V6SERBNVdGNDNPaE1ZdWp1N004UT09>

**Meeting ID: 486 115 5997**

**Passcode: MAGDALENA**

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES
  - a. REGULAR MEETING – DECEMBER 14, 2020
6. APPROVAL OF CASH BALANCE REPORT
7. APPROVAL OF BILLS
8. MAYOR'S REPORT
9. CLERK'S REPORT
  
10. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF BUDGET ADJUSTMENT RESOLUTION NO. 2020-25, FISCAL YEAR 2020-2021
  
11. DISCUSSION & POSSIBLE DECISION TO DIRECT PUBLICATION OF ORDINANCE NO. 2020-03, AN ORDINANCE GRANTING TO SOCORRO ELECTRIC COOPERATIVE, INC. AND ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND FRANCHISE TO DISTRIBUTE ELECTRICAL ENERGY IN THE VILLAGE OF MAGDALENA, NEW MEXICO, AND USE OF STREETS, ALLEYS AND OTHER PUBLIC PLACES FOR SUCH PURPOSE
  
12. EXECUTIVE SESSION - THE FOLLOWING MATTERS WILL BE DISCUSSED IN CLOSED SESSION: MOTION & ROLL CALL VOTE TO GO INTO EXECUTIVE SESSION AND THAT, PURSUANT TO NEW MEXICO STATE STATUTES SECTION 10-15-1, ONLY THE FOLLOWING MATTER WILL BE DISCUSSED IN CLOSED SESSION:
  - a. JOINT UTILITY WORKER
    - MOTION & ROLL CALL VOTE TO RETURN TO REGULAR SESSION
    - MOTION & ROLL CALL VOTE THAT MATTERS DISCUSSED IN CLOSED SESSION WERE LIMITED TO THOSE SPECIFIED IN MOTION FOR CLOSURE, AND THAT NO FINAL ACTION WAS TAKEN, AS PER NEW MEXICO STATUTES SECTION 10-15-1

**13. DISCUSSION & POSSIBLE DECISION CONCERNING HIRING OF JOINT UTILITY WORKER**

**14. PUBLIC INPUT – 1 TOPIC PER PERSON - 3 MINUTE LIMIT**

**PUBLIC COMMENT MAY BE MADE VIA EMAIL AND WILL BE ENTERED AND/OR READ INTO THE MEETING MINUTES (IF LESS THAN 3 MINUTES) BY EMAILING COMMENTS TO: [mayor@villageofmagdalena.com](mailto:mayor@villageofmagdalena.com) THE DEADLINE FOR WRITTEN PUBLIC COMMENTS TO BE RECEIVED IS MONDAY, DECEMBER 28, 2020 AT 12:00 PM. EMAILED PUBLIC COMMENT MUST CONTAIN THE AUTHOR'S NAME AND PHYSICAL ADDRESS.**

**15. ADJOURNMENT**

*NOTE: THIS AGENDA IS SUBJECT TO REVISION UP TO 72 HOURS PRIOR TO THE SCHEDULED MEETING DATE AND TIME (NMSA 10-15-1 F). A COPY OF THE AGENDA MAY BE PICKED UP AT THE VILLAGE OFFICE, 108 N. MAIN STREET, MAGDALENA, NM 87825. 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 VILLAGE CLERK AT 575-854-2261 AT LEAST ONE WEEK PRIOR TO THE MEETING OR AS SOON AS POSSIBLE.*

# DRAFT

**MINUTES OF THE REGULAR MEETING OF THE VILLAGE OF MAGDALENA  
BOARD OF TRUSTEES  
HELD MONDAY, December 14, 2020 AT 6:00 PM**

**DUE TO THE NATIONAL, STATE AND COUNTY COVID-19 DECLARED EMERGENCY AND PUBLIC HEALTH ORDER DATED OCTOBER 16, 2020 LIMITING GATHERINGS TO LESS THAN 5 PERSONS OR LESS THE MEETING WILL NOT BE PHYSICALLY OPEN TO THE PUBLIC. ALL MEMBERS OF THE PUBLIC WILL BE ABLE TO ATTEND AND LISTEN TO THE MEETING VIA ZOOM AT THE FOLLOWING LINK:**

<https://us02web.zoom.us/j/4861155997?pwd=V0V6SERBNVdGNDNPaE1ZdWp1N004UT09>

**Meeting ID: 4861155997**

**Passcode: MAGDALENA**

Mayor Richard Rumpf called the meeting to order at 6:01 p.m.

**PRESENT:** Mayor Richard Rumpf, Clark Brown- Trustee, Carleen Gomez - Deputy Clerk, Kathy Stout - Attorney

**Participating via Video Conference:** Trustees: James Nelson, Harvan Conrad, Francesca Gutierrez- Clerk/Treasurer, Michael Steininger

**GUESTS:** Sabrina Aragon - Assistant Clerk

Mayor Richard Rumpf requested that all those present recite the Pledge of Allegiance.

**APPROVAL OF AGENDA:** Clark Brown made a motion to approve the agenda as presented. The motion was seconded by Harvan Conrad. The motion carried unanimously.

**APPROVAL OF MINUTES:** Jim Nelson made a motion to approve the minutes of the Regular Meeting held on November 23, 2020, as presented. The motion was seconded by Clark Brown. The motion carried unanimously.

**APPROVAL OF CASH BALANCE REPORT:** Harvan Conrad made a motion to approve the cash balance report, as presented. The motion was seconded by Jim Nelson. The motion carried unanimously.

**APPROVAL OF BILLS:** Carleen Gomez announced there was one additional bill of \$366.36 to Konika Minolta to be added to the bill list. Jim Nelson made a motion to approve the bill list with the addition. The motion was seconded by Harvan Conrad. The motion carried unanimously.

## **BILL LIST**

Beasley, Mitchell &Co	\$3511.86
Galls	\$310.70
IIMC	\$140.00
Nance, Pato & Stout	\$639.00
NAPA	\$25.18
O'Reilly Auto	\$99.98
Pitney Bowes	\$214.86
Provelocity	\$840.00
Public Safety Center	\$239.95
Quick Med Claims	\$20.89

Quill	\$125.75
REB Management	\$1646.18
Romeros Tires	\$61.24
Route 60 Trading Post	\$100.00
Sewer Equip Co	\$274.98
Sierra Propane	\$951.07
Verizon Wireless	\$919.22
Wex Bank	\$1154.44
WNM Communications	\$804.40
<b>Total</b>	<b>\$12099.70</b>

#### **MAYOR'S REPORT**

Mayor Rumpf stated that Secret Santa has started and the presents, food and helpers are working to get everything ordered and going. The Mayor said the presents will be delivered curbside on December 21st from 9-12. The food boxes will be delivered by the Fire Department on the 22<sup>nd</sup>. There are 25 food boxes being given out.

#### **CLERK'S REPORT**

Clerk/Treasurer Francesca Gutierrez had nothing to report.

#### **DEPARTMENT REPORTS**

- a. **EMS-** Jim Nelson, EMS Coordinator, reported 13 calls in November 2020.
- b. **FIRE-** Mayor Rumpf reported 2 calls in November 2020.
- c. **MARSHAL-** A report was submitted by Marshal Zamora and reviewed by the Mayor and Trustees.
- d. **JUDGE-** Judge Simon Armijo and Court Clerk Carleen Gomez submitted a report that was reviewed by the Mayor and Trustees.
- e. **PUBLIC WORKS-** Mayor Rumpf said the jetter was down, but parts have been ordered and have one sewer to address once it is working again.
- f. **LIBRARY-** Librarian Ivy Stover stated the Library closed on 11/26 but is offering curbside services. She is also partnering with the Village on Secret Santa and will have a book giveaway at the same time. She will also have a book reading with Santa on Facebook December 21<sup>st</sup> at 1pm

#### **DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF BUDGET ADJUSTMENT RESOLUTION NO. 2020-24, FISCAL YEAR 2020-2021**

Michael Steininger stated that he will be submitting the mid-year report. There is an adjustment to add internet sales line item to the budget per DFA requirements from House Bill 6. Michael also added the Airport Grants to the budget. There was an increase in Fire Department Insurance expenses and increased the Lodgers Tax advertising and promotion line item. The new Trujillo Well grant was added for interest payments to be paid from GRT.

Jim Nelson motioned to approve the Budget Adjustment Resolution No. 2020-24. Harvan Conrad seconded the motion.

Deputy Clerk Gomez requested a roll call vote:

Clark Brown- AYE

Harvan Conrad- AYE

James Nelson- AYE

Donna Dawson- Absent

The motion carried unanimously.

**PUBLIC HEARING – DISCUSSION & POSSIBLE DECISION CONCERNING SUBMISSION OF APPLICATION TO NEW MEXICO FINANCE AUTHORITY REGARDING AMBULANCE PURCHASE**

Mayor Rumpf wants to apply to the NMFA for a \$150,000 loan to purchase a new ambulance. \$10,000 will come from the ambulance fund for a total of \$160,000 on a 10 year loan. Mayor Rumpf stated the Fire funds have a \$65,000 carry over and is expecting 3 more payments to that fund by July 2021. The Mayor stated the current ambulance is 23 years old and was purchased used.

Jim Nelson motioned to approve applying for the loan. Harvan Conrad seconded the motion.

Deputy Clerk Gomez requested a roll call vote:

Harvan Conrad- AYE

James Nelson- AYE

Clark Brown-AYE

Donna Dawson- Absent

The motion carried unanimously.

**EXECUTIVE SESSION - THE FOLLOWING MATTERS WILL BE DISCUSSED IN CLOSED SESSION: MOTION & ROLL CALL VOTE TO GO INTO EXECUTIVE SESSION AND THAT, PURSUANT TO NEW MEXICO STATE STATUTES SECTION 10-15-1, ONLY THE FOLLOWING MATTER WILL BE DISCUSSED IN CLOSED SESSION:**

**a. JOINT UTILITY WORKER**

- **MOTION & ROLL CALL VOTE TO RETURN TO REGULAR SESSION**
- **MOTION & ROLL CALL VOTE THAT MATTERS DISCUSSED IN CLOSED SESSION WERE LIMITED TO THOSE SPECIFIED IN MOTION FOR CLOSURE, AND THAT NO FINAL ACTION WAS TAKEN, AS PER NEW MEXICO STATUTES SECTION 10-15-1**

Jim Nelson motioned to go into Executive Session at 6:20pm. Clark Brown seconded the motion.

Deputy Clerk Gomez requested a roll call vote:

Harvan Conrad-AYE

James Nelson-AYE

Clark Brown-AYE

Donna Dawson-Absent

The motion carried unanimously.

Harvan Conrad motioned to go return to Regular Session at 6:27pm. Clark Brown seconded the motion.

Deputy Clerk Gomez requested a roll call vote:

Harvan Conrad-AYE

Clark Brown-AYE

James Nelson-AYE

Donna Dawson-Absent

The motion carried unanimously.

## **DISCUSSION & POSSIBLE DECISION TO POST JOINT UTILITY WORKER POSITION**

Harvan Conrad motioned to approve posting the Joint Utility Worker position. Clark Brown seconded the motion.

Deputy Clerk Gomez requested a roll call vote:

Harvan Conrad-AYE

Clark Brown-AYE

James Nelson-AYE

Donna Dawson-Absent

The motion carried unanimously.

### **PUBLIC INPUT – 1 TOPIC PER PERSON – 3 MINUTE LIMIT**

**PUBLIC COMMENT MAY BE MADE VIA EMAIL AND WILL BE ENTERED AND/OR READ INTO THE MEETING MINUTES (IF LESS THAN 3 MINUTES) BY EMAILING COMMENTS TO: [mayor@villageofmagdalena.com](mailto:mayor@villageofmagdalena.com) THE DEADLINE FOR WRITTEN PUBLIC COMMENTS TO BE RECEIVED IS MONDAY, DECEMBER 14, 2020 AT 12:00 PM. EMAILED PUBLIC COMMENT MUST CONTAIN THE AUTHOR'S NAME AND PHYSICAL ADDRESS.**

Ray Martinez, Socorro County Commissioner, thanked the Mayor for all he does for the Village. Martinez said that 10<sup>th</sup> street is not on the county maintenance list and will call the Mayor on the 15<sup>th</sup> to discuss recommendations on fixing the street.

Trustee Clark Brown motioned to adjourn the meeting at 6:31pm. The motion was seconded by Harvan Conrad. The motion carried unanimously.

Respectfully Submitted,

Francesca Gutierrez  
Clerk/Treasurer

Richard Rumpf  
Mayor

**STATE OF NEW MEXICO  
VILLAGE OF MAGDALENA  
BOARD OF TRUSTEES  
BUDGET ADJUSTMENT RESOLUTION NO. 2020-25  
FY 2020-2021**

**WHEREAS**, the Board of Trustees of the Village of Magdalena met in regular session on **December 28, 2020** and proposes to make certain budget transfer(s), increase(s), or decrease(s) and

**WHEREAS**, said budget was adjusted based on need and through cooperation with all user departments, elected officials and other department supervisors, **as summarized on the attached sheet**; and

**WHEREAS**, the official meeting for review of said documents was duly advertised in compliance with the State Open Meetings Act; and

**WHEREAS**, it is the majority opinion of this Board that the adjusted budget meets the requirements as currently determined.

**NOW THEREFORE, BE IT HEREBY RESOLVED**, that the Governing Body of the Village of Magdalena, State of New Mexico, hereby adopts the budget adjustment hereinabove described and attached and respectfully requests approval from the Local Government Division of the Department of Finance and Administration.

**PASSED, ADOPTED and APPROVED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
**Francesca Gutierrez, Clerk/Treasurer**

\_\_\_\_\_  
**Richard Rumpf, Mayor**

(seal)

Department of Finance and Administration  
 Local Government Division  
 Financial Management Bureau  
**SCHEDULE OF BUDGET ADJUSTMENTS**

**REVISED 12/08/06**

ENTITY NAME: Village of Magdalena  
 FISCAL YEAR: FY2020-2021, BAR #4  
 DFA Resolution Number: \_\_\_\_\_

**For Local Government Division use only:**

(A) ENTITY RESOLUTION NUMBER	(B) LPB ACCOUNT	(B) DFA ACCOUNT	(C) REVENUE EXPENDITURE TRANSFER (TO or FROM)	(D) APPROVED BUDGET	(E) ADJUSTMENT	(F) ADJUSTED BUDGET	(G) PURPOSE
2020-25	701-00-90002 101-15-90001	11000-0001-61100 79900-0001-61200	Transfer Out Transfer In	\$0 (\$326)	\$15 (\$15)	\$15 (\$341)	Establish Budget for Transfer Out from Fund 701-Court Fines Establish Budget for Transfer Out from Fund 701-Court Fines
	404-26-41915 404-26-41916 404-26-59304	40400-0001-46900 40400-0001-46900 40400-2004-59050	NMFA Loan Proceeds NMFA Grant Proceeds Project Costs Water Well	\$0 \$0 \$0	(\$250,000) (\$750,000) \$1,000,000	(\$250,000) (\$750,000) \$1,000,000	Establish Water Well #2 Loan/Grant/Project Costs Budget Establish Water Well #2 Loan/Grant/Project Costs Budget Establish Water Well #2 Loan/Grant/Project Costs Budget
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ATTEST: \_\_\_\_\_  
 Municipal Clerk

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 (Date)



REVENUE/EXPENDITURE REPORT

Village of Magdalena

For the Period: 7/1/2020 to 12/31/2020	Original Bud.	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
<b>Fund: 101 - GENERAL FUND</b>							
Expenditures							
Dept: 14 AIRPORT							
53100 SUPPLIES-GROUNDS & ROADS	0.00	0.00	0.00	0.00	0.00	0.00	0.0
53110 SUPPLIES-OFFICE SUPPLIES	0.00	0.00	0.00	0.00	0.00	0.00	0.0
53120 SUPPLIES-OTHER	2,874.00	2,874.00	108.51	0.00	32.76	2,732.73	4.9
53130 SUPPLIES-SAFETY EQUIPMENT	0.00	0.00	0.00	0.00	0.00	0.00	0.0
53140 SUPPLIES-UNIFORM & LINEN	0.00	0.00	0.00	0.00	0.00	0.00	0.0
53150 SUPPLIES-VEHICLES	0.00	0.00	0.00	0.00	0.00	0.00	0.0
53170 UTILITIES-ELECTRIC AND PROPANE	6,084.00	6,084.00	360.79	0.00	639.21	5,084.00	16.4
55010 REPAIR & MAINT-BUILD & STRUCT	56,694.00	56,694.00	4,975.30	0.00	0.00	51,718.70	8.8
55020 REPAIR & MAINT-EQUIP & MACH	6,360.00	6,360.00	0.00	0.00	0.00	6,360.00	0.0
55030 REPAIR & MAINT-GROUNDS & ROADS	24,948.00	24,948.00	3,464.44	0.00	1,989.39	19,494.17	21.9
55040 REPAIR & MAINT-OTHER	0.00	0.00	150.00	0.00	0.00	-150.00	0.0
55050 REPAIR & MAINT-VEHICLES	0.00	0.00	0.00	0.00	0.00	0.00	0.0
57300 RENT/LEASE-LAND, BUILD, STRUCT	0.00	0.00	0.00	0.00	0.00	0.00	0.0
57310 RENT/LEASE-EQUIP AND MACHINE	0.00	0.00	0.00	0.00	0.00	0.00	0.0
57320 RENT/LEASE-VEHICLES	0.00	0.00	0.00	0.00	0.00	0.00	0.0
58150 ARCHITECT & ENGINEER SERVICES	0.00	257,900.00	114,960.38	0.00	0.00	142,939.62	44.6
58170 LEGAL SERVICES	0.00	0.00	0.00	0.00	0.00	0.00	0.0
58200 OTHER PROFESSIONAL SERVICES	0.00	0.00	4.58	0.00	0.00	-4.58	0.0
59100 LAND	0.00	0.00	0.00	0.00	0.00	0.00	0.0
59200 LAND IMPROVEMENTS	0.00	0.00	0.00	0.00	0.00	0.00	0.0
59300 BUILDING & STRUCTURE IMPROVE	0.00	0.00	0.00	0.00	0.00	0.00	0.0
59400 EQUIPMENT AND MACHINERY	0.00	0.00	0.00	0.00	0.00	0.00	0.0
59500 FURNITURE AND FIXTURES	0.00	0.00	0.00	0.00	0.00	0.00	0.0
59600 VEHICLES	0.00	0.00	0.00	0.00	0.00	0.00	0.0
<b>AIRPORT</b>	<b>123,600.00</b>	<b>381,500.00</b>	<b>125,987.75</b>	<b>0.00</b>	<b>2,661.36</b>	<b>252,850.89</b>	<b>33.7</b>
Dept: 15 OTHER - MISCELLANEOUS							
53010 BAD DEBT EXPENSE	0.00	0.00	0.00	0.00	0.00	0.00	0.0
53040 DEPRECIATION EXPENSE	0.00	0.00	0.00	0.00	0.00	0.00	0.0
80001 DEBT SERVICE-PRINCIPAL	0.00	0.00	0.00	0.00	0.00	0.00	0.0
80002 DEBT SERVICE-INTEREST	0.00	0.00	0.00	0.00	0.00	0.00	0.0
80003 DEBT SERVICE-ADMIN FEE	0.00	0.00	0.00	0.00	0.00	0.00	0.0
90001 OPERATING TRANSFER-IN	0.00	-326.00	-15.00	-15.00	0.00	-311.00	4.6
90002 OPERATING TRANSFER-OUT	38,942.00	39,268.00	10,000.00	0.00	0.00	29,268.00	25.5
<b>OTHER - MISCELLANEOUS</b>	<b>38,942.00</b>	<b>38,942.00</b>	<b>9,985.00</b>	<b>-15.00</b>	<b>0.00</b>	<b>28,957.00</b>	<b>25.6</b>
<b>Expenditures</b>	<b>1,513,893.00</b>	<b>1,759,977.00</b>	<b>343,403.29</b>	<b>13,501.80</b>	<b>66,628.51</b>	<b>1,349,945.20</b>	<b>23.3</b>
<b>Net Effect for GENERAL FUND</b>	<b>-30,071.00</b>	<b>621.00</b>	<b>-127,557.79</b>	<b>62,032.13</b>	<b>66,628.51</b>	<b>194,807.30</b>	<b>1,269.9</b>
Change in Fund Balance:			-127,557.79				

REVENUE/EXPENDITURE REPORT

Village of Magdalena

For the Period: 7/1/2020 to 12/31/2020	Original Bud.	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
<b>Fund: 701 - COURT FEES</b>							
Revenues							
Dept: 00							
47002 ADMIN OFFICE OF COURTS	11,100.00	11,100.00	426.00	36.00	0.00	10,674.00	3.8
47003 JUDICIAL EDUCATION FEE	5,550.00	5,550.00	213.00	18.00	0.00	5,337.00	3.8
Dept: 00	16,650.00	16,650.00	639.00	54.00	0.00	16,011.00	3.8
Revenues	16,650.00	16,650.00	639.00	54.00	0.00	16,011.00	3.8
Expenditures							
Dept: 00							
53030 ADMIN OFFICE OF COURTS	1,850.00	1,850.00	456.00	66.00	1,394.00	0.00	100.0
53060 JUDICIAL EDUCATION FEES	925.00	925.00	228.00	33.00	697.00	0.00	100.0
90001 OPERATING TRANSFER-IN	0.00	0.00	0.00	0.00	0.00	0.00	0.0
90002 OPERATING TRANSFER-OUT	0.00	0.00	15.00	15.00	0.00	-15.00	0.0
Dept: 00	2,775.00	2,775.00	699.00	114.00	2,091.00	-15.00	100.5
Expenditures	2,775.00	2,775.00	699.00	114.00	2,091.00	-15.00	100.5
Net Effect for COURT FEES	13,875.00	13,875.00	-60.00	-60.00	2,091.00	16,026.00	-15.5
Change in Fund Balance:			-60.00				



**DRAFT**  
**VILLAGE OF MAGDALENA**  
**ORDINANCE No. 2020-03**

**AN ORDINANCE GRANTING TO SOCORRO ELECTRIC COOPERATIVE, INC. AND ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND FRANCHISE TO DISTRIBUTE ELECTRICAL ENERGY IN THE VILLAGE OF MAGDALENA, NEW MEXICO, AND USE THE STREETS, ALLEYS AND OTHER PUBLIC PLACES FOR SUCH PURPOSE**

**WHEREAS**, NMSA 1978, Section 3-42-1 provides that municipalities have the power to grant, by ordinance, a franchise to any person, firm or corporation for the construction and operation of any public utility; and,

**WHEREAS**, Ordinance 2000-01 is over twenty (20) years old and the longest a franchise ordinance can be in effect is twenty-five (25) years.

**NOW THEREFORE, BE IT ORDAINED** that the Board of Trustees of the Village of Magdalena adopts the following Ordinance providing a franchise to Socorro Electric Cooperative, Inc. (SEC).

**Section 1.** That there is hereby granted to SEC and its successors, assigns, employees, and agents hereinafter referred to as the “Grantee”, the right, privilege and franchise to construct, maintain, and operate in the present and future roads, streets, alleys and public areas of the Village of Magdalena, Socorro County, New Mexico, hereinafter referred to as the “Village”, an electric distribution system consisting of poles and lines, with all necessary and desirable appurtenances, including underground conduits, for the purpose of supplying electrical current or internet service within and in the vicinity of the Village.

**Section 2.** The Grantee may enter in and upon the said roads, streets, alleys and public places at any time for the purpose of making excavations and removing, repairing and maintaining such poles, wires, cables and all other structures necessary or convenient in supplying such electric service. Any and all excavations shall be repaired and obstructions removed as quickly as is reasonably possible under the circumstances.

**Section 3.** The poles for such distribution system shall be placed and erected in such a manner as not to interfere with the use of the roads, streets, alleys and public places in the Village or the inhabitants or property owners along such roads, streets, or alleys.

**Section 4.** The construction, replacing and manner of erecting the poles and lines of the Grantee and all fixtures and attachments thereto shall remain in the same construction manner as originally installed thereto-and shall be at all times subject to the police power of the Board of Trustees of the Village and shall comply with all applicable industry standards and regulations.

**Section 5.** The Grantee shall during the term of this franchise hold the Village harmless against any and all damage that may be caused by reason of the construction, maintenance, and operation of the Grantee's electrical distribution system in the Village to any and every person that may be damaged by reason of the construction, maintenance, or operation of such distribution system. The Grantee shall defend or cause to be defended at its own expense, all actions that may be commenced against the Village for the damages caused by reason of the construction, maintenance, or operation of such distribution system.

**Section 6.** For and in consideration of the right, privilege and franchise herein granted, the Grantee shall pay the Village a sum equal to three percent (3%) of the gross receipts of the Grantee from electric power furnished by the Grantee to customers within the corporate limits of the Village (excluding non-profit organizations, governmental entities, and all other qualifying facilities); said sum to be paid by the Grantee to the Village on or before the fifteenth (15<sup>th</sup>) day of each month for the preceding month.

**Section 7.** In further consideration of the grant made herein, the Village may install or contract for the installation of fire alarms, police wires, fiber optic or internet cables, and other necessary equipment to the poles belonging to the Grantee which are located within the Village limits. The Village shall be responsible for the engineering analysis assessment fee and any make-ready cost resulting from the assessment. Furthermore, the Village shall assume responsibility for its own attachments and additions within the limits of the Tort Claims Act and the Village will be responsible for maintaining such attachments in a workmanlike manner consistent with any applicable industry standards with adequate clearances between Village owned equipment and facilities for the protection of life and property.

**Section 8.** This ordinance will take effect thirty (30) days after approval subject to NMSA 1978, Section 3-42-1(C) and (D) and will expire upon rescission or the passage of ten (10) years, whichever comes first. The provisions of this ordinance are severable and if any section, provision, or part shall be held invalid, the remainder shall continue in full force and effect.

**PASSED, APPROVED, and ADOPTED** this      day of      , 2020.

Approved:

\_\_\_\_\_  
Richard Rumpf, Mayor

\_\_\_\_\_  
Katherine Stout, General Counsel as to legal sufficiency

Attested:

Francesca Gutierrez, Clerk/Treasurer