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**Subject:** RE: IPRA Request (NM-OTERO-22-0304) (OC File #22PRR039)  
**Date:** Friday, April 1, 2022 at 12:38:58 PM Eastern Daylight Time  
**From:** Sylvia Tillbrook  
**To:** AO Records  
**CC:** rnichols@co.otero.nm.us  
**Attachments:** image001.jpg, REGULAR MEETING-\_01-13-2022.pdf, REGULAR MEETING-\_11-18-2021.pdf, EM-OCC-7748.pdf, Sylvia C Tillbrook.vcf

EXTERNAL SENDER

Good Morning Sarah,  
Here is the public information you had requested.  
If I can be of further assistance, please do not hesitate to contact me.



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**From:** AO Records [mailto:records@americanoversight.org]  
**Sent:** Thursday, March 31, 2022 7:59 AM  
**To:** stillbrook@co.otero.nm.us  
**Subject:** IPRA Request (NM-OTERO-22-0304)

Dear Custodian of Public Records:

Please find attached a request for records under New Mexico's Inspection of Public Records Act.

Sincerely,

--

Sarah Wishingrad  
Pronouns: she/her  
Paralegal  
American Oversight  
[records@americanoversight.org](mailto:records@americanoversight.org)  
[www.americanoversight.org](http://www.americanoversight.org) | @weareoversight

IPRA: NM-OTERO-22-0304

EchoMail, Inc.  
 701 Concord Avenue  
 Cambridge, MA 02138



Inv# EM-OCC-7748 \$24875.00  
 ECHOMAIL, INC  
 01/31/2022 # Pages 15 FP15 DOC51S16740  
 PO# 20220648

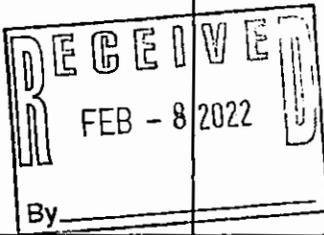
# Invoice

Date	Invoice #
1/31/2022	EM-OCC-7748

<b>Bill To</b>
RB Nichols, County Attorney Commissioners for Otero County Commission 101 Newyork Avenue Alamogordo, NM 88310

P.O.No.	TERMS
	Due on receipt

ITEM	DESCRIPTION	RATE	QTY	AMOUNT
EM-BALLOT	Upon Execution of Master Agreement and Schedule A	24,875.00	1	24,875.00



Thank you for your business.	<b>Total</b>	\$24,875.00
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Mode of Payment:

1. Transfer to Bank Account: Bank Name: People's United Bank Account Name: EchoMail, Inc Account Number: 0751007666 Routing Number: 221172186	2. Mail check to: EchoMail, Inc. 701 Concord Ave Cambridge, MA 02138
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*partial pay PO# 20220648*



February 18, 2022

V.A. Shiva Ayyadurai, PhD  
EchoMail, Inc.  
701 Concord Avenue  
Cambridge, MA 02138  
e: [vashiva@vashiva.com](mailto:vashiva@vashiva.com)  
m: 1-617-631-6874

**RE: EchoMail® Project Update Memo As of February 21, 2022**

This memorandum provides an update on the current status of the project pursuant to Schedule A executed between EchoMail, Inc. ("EchoMail") and Otero County, ("County").

v

**February 2, 2022 – EchoMail Setup of EchoMail Data Warehouse**

EchoMail has setup the EchoMail® Data Warehouse (DW) that includes hardware and software to receive and store data that may include: County's Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data. Ref. Schedule A.

**February 5, 2022 – Importing of Voter Rolls into EchoMail®/DW™**

EchoMail imported Voter Rolls received from the County via EH into the EchoMail®/DW.

**February 9, 2022 – Project Kickoff Meeting Held**

EchoMail and the County held a Project Kickoff meeting pursuant to Schedule A,

**Attendees:**

Dr. Shiva Ayyadurai, EchoMail (SA)  
Robyn Holmes, County Clerk (RH)  
Pamela Heltner, County Manager (PH)  
Erin Hughes, County Commissioned Volunteer (EH)  
John Medlar, EchoMail (JM)  
R.B. Nichols, County Attorney (RBN)

The meeting involved: a. Introductions, b. Review of the EchoMail Project Plan, c. Review of the EchoMail process, d. Review of the outstanding data elements needed for EchoMail to perform the Audit, and e. Next Steps.

**February 9 – 18, 2022 – EchoMail Awaiting Additional Data**

EchoMail and EH have had various follow up meetings to get the additional data required for Audit.

# Purchase Order

Fiscal Year 2022

Page 1 of 1

THIS NUMBER MUST APPEAR ON ALL INVOICES,  
PACKAGES AND SHIPPING PAPERS

Purchase Order # **20220648-00**

Delivery must be made within  
doors of specified destination.

BILL TO

OTERO COUNTY  
ATTN: ACCOUNTS PAYABLE  
1101 NEW YORK AVE  
ALAMOGORDO, NM 88310-6923

VENDOR

ECHOMAIL, INC  
701 CONCORD AVE  
CAMBRIDGE MA 02138  
UNITED STATES

SHIP TO

OTERO COUNTY  
1101 NEW YORK AVE  
ALAMOGORDO NM 88310

Vendor Phone Number	Vendor Fax Number	Requisition Number	Delivery Reference		
617-354-8585		166081			
Date Ordered	Vendor Number	Date Required	Freight Method/Terms	Department/Location	
02/08/2022	12689			GENERAL FUND OPERATING	
Item#	Description/Part No.	Qty	UOM	Unit Price	Extended Price
1	ANALYST FOR OTERO COUNTY 2020 ELECTION AGREEMENT: COMMISSION APPROVED 1/13/22 MTG ITEM NO. 17 110023 - 5310	1.0	EACH	\$49,750.000	\$49,750.00
					\$49,750.00

*Partial pay 24,875.00 2-8-22 CQ*



PAYMENT VOUCHER COPY

Net Total Price 0304-A-000003 49,750.00  
PO Total \$49,750.00



January 25, 2022

V.A. Shiva Ayyadurai, PhD  
EchoMail, Inc.  
701 Concord Avenue  
Cambridge, MA 02138  
e: [vashiva@vashiva.com](mailto:vashiva@vashiva.com)  
m: 1-617-631-6874

Gerald Matherly, Couy Griffin, and Vickie Marquardt  
Commissioners for Otero County Commission  
101 New York Avenue  
Alamogordo, NM 88310

**RE: Otero County Audit of 2020 Election**

Dear Honorable Commissioners:

EchoMail, Inc. ("ECHOMAIL") is pleased to serve Otero County, ("CUSTOMER") in the auditing of the November 2020 General Election ("Election"). Per our understanding, ECHOMAIL will be serve as the prime contractor and be responsible for the deployment of the EchoMail® Election Systems Integrity™ (ESI) platform to perform the audit for the Election. Based on our review of the requirements, EchoMail will provide the following:

- (1) **Integrated Data Warehouse** - Creation of an integrated data warehouse that will include such data as following: County's Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data. Ref. Schedule A.
- (2) **Data Analytics** – Data analysis will include evaluation of registrations and votes cast at the precinct level and by vote type.
- (3) **Processing of Ballot Images** - Employ EchoMail to analyze approximately up to 25,000 Ballot Images. The Ballot Images are defined to be those images that are produced from the scanning of paper ballots by the County during the Election from their election management system ("EMS") : EchoMail will perform image analysis of the Ballot Images to calculate the vote counts for the Races. These vote counts will be compared with the Cast Vote Records ("CVR"). A formal report will be submitted of the findings. Ref. Schedule B.
- (4) **Paper Ballot Scan Comparison with Ballot Images** – Perform image analysis of the Paper Ballot Scans to calculate the vote counts for the Races (Paper Ballot Scans are the images generated by the scanning of the paper ballots). These vote counts will be compared with the Cast Vote Records ("CVR"). EchoMail will perform Image processing to determine the paired Paper Ballot Scan with its Ballot Image, and then evaluate if the vote counts across the pair are the same; and if not, will denote the discrepancies. A formal report will be submitted of the findings. Ref. Schedule C.
- (5) **Return Ballot Envelope Signature Presence Detection** - Perform EchoMail® Pattern Recognition Classification to determine presence of Blanks, Scribbles, and Signature on Return Ballot Envelope Images. A formal report will be submitted of the findings. Ref. Schedule D.



- (6) **Return Ballot Envelope Signature Verification Error Determination** - Perform an independent calculation of the error rates of the Count's Signature Verification by employing EchoMail® Pattern Recognition Classification capabilities to determine how many of the signatures on unique EVB return envelopes would be classified as "Good Signatures" or "Bad Signatures" before any curing process is executed. Ref. Schedule E.
- (7) **Full Voter Registration Canvass** - Perform door-to-door canvass of Otero County voter registration database to determine accuracy of voter registration database. Canvass will be staffed by volunteers under the direction of New Mexico Audit Force ("Volunteers") with guidance from EchoMail.

Total investment for this effort from Otero County will be \$49,750 as outlined in Schedule A. The County will not be liable for payment or portions of payments of line items in Schedule A in the event certain items cannot be obtained. The Payment Schedule is as follows:

<u>Timing</u>		<u>Amount</u>
Upon execution of this letter and Master Agreement and Schedule A	-	\$24,875.00
March 1, 2022	-	\$24,875.00

Note: Schedules B through E will be funded by EchoMail's partners.

Sincerely,



Dr. Shiva Ayyadurai  
 President/CEO  
 EchoMail, Inc.

Encl: Master Agreement  
 Schedules A



## MASTER LICENSE AND SERVICES AGREEMENT

This Agreement is entered into as of January 25, 2022 ("the Effective Date") between EchoMail, Inc., a Delaware Corporation, its subsidiaries, affiliates, authorized resellers/distributors, ("ECHOMAIL") and Otero County Commission its subsidiaries and affiliates, ("CUSTOMER").

In consideration of the mutual covenants contained herein, the parties hereto hereby agree as follows:

### 1.0 Definitions

As used herein, the following terms shall have the designated meanings:

- 1.1 "Licensed Software" shall mean the software designated on any Schedule as being licensed by ECHOMAIL to CUSTOMER under this Agreement.
- 1.2 "Schedule" shall mean any schedules or exhibits, including any Statements of Work included therein, executed by the parties and attached to the Agreement as of the date hereof and any Schedules or exhibits, including any Statement of Work included therein, subsequently executed by the parties and attached to this Agreement.
- 1.3 "Services" shall mean the services designated in any Schedule as being provided by ECHOMAIL to CUSTOMER under this Agreement.

### 2.0 License

- 2.1 If the agreed-upon offering from ECHOMAIL includes Licensed Software, ECHOMAIL will grant to CUSTOMER a non-perpetual, non-exclusive, non-transferable, non-sublicensable right and license to use the Licensed Software in object code form only to receive, process, analyze, transmit and respond to digital content i.e. messages, images, email, web pages, social media posts, etc. solely for its own business purposes subject to and in accordance with the provisions of this Agreement, the terms in Schedule, and the accompanying documentation.
- 2.2 If CUSTOMER requires access of Licensed Software by any consultants or third-party entities, then CUSTOMER agrees to ensure that such consultants or third-party entities execute a separate agreement with ECHOMAIL to ensure protection of ECHOMAIL's Intellectual Property. CUSTOMER agrees that at no time will CUSTOMER allow any direct or indirect competitor of ECHOMAIL to access or to use the Licensed Software. CUSTOMER agrees to abide by ECHOMAIL's reasonable definition of competitor, should there ever come a question as to if an entity is a competitor to ECHOMAIL or not.
- 2.3 The Licensed Software and documentation provided therewith are provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the United States Government is subject to the restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable.

### 3.0 ECHOMAIL Responsibilities

- 3.1 ECHOMAIL shall be solely responsible for the proper installation of the Licensed Software in machine-readable, object code form.
- 3.2 ECHOMAIL will also provide to CUSTOMER services for implementation, training, customization, maintenance, hosting and other services related to Licensed Software as requested by CUSTOMER as outlined in the appropriate Schedule(s).
- 3.3 ECHOMAIL agrees to provide to CUSTOMER access codes for the use of the Licensed Software. On the date that CUSTOMER uses any of those access codes to use the Licensed Software in a production format, the formal delivery of the Licensed Software is complete ("Delivery Date").
- 3.4 Following the Delivery Date, ECHOMAIL shall provide software support and maintenance services under this Agreement in accordance with the terms and conditions set forth in the appropriate Schedule. ECHOMAIL shall provide the software support services set forth in Schedule for only the then current release of the Licensed Software.

3.5 ECHOMAIL will provide timely new releases and updated documentation of the Licensed Software at no additional cost to CUSTOMER.

#### 4.0 Services

4.1 All work shall be performed in a workmanlike and professional manner by ECHOMAIL having a level of skill in the area commensurate with the requirements of the scope of work to be performed.

#### 5.0 Price

The prices for all ECHOMAIL Licensed Software, Services and related maintenance and support services shall be set forth in the applicable Schedule. If CUSTOMER desires to add additional software to the Licensed Software or buy additional units, CUSTOMER shall have the right to do so during the term hereof for the prices set forth in applicable signed Schedule(s).

#### 6.0 Payment

6.1 CUSTOMER shall pay ECHOMAIL the fees for all Licensed Software and related maintenance and according to the Payment Schedule as outlined in signed applicable Schedule(s).

6.2 ECHOMAIL shall invoice CUSTOMER for all CUSTOMER pre-approved Out-of-Pocket Expenses and any other amounts due as set forth in signed applicable Schedule(s) on a monthly basis. Each invoice shall contain detailed entries of Software, Service and other items. CUSTOMER shall pay all as denoted in signed applicable Schedule(s).

6.3 If CUSTOMER does not pay for the Licensed Software within the time limits as agreed upon in signed applicable Schedule(s), ECHOMAIL will contact CUSTOMER to obtain payment and attempt to resolve any discrepancies. If after 30 days, the discrepancy cannot be solved, CUSTOMER agrees that ECHOMAIL has the right to terminate CUSTOMER'S further use of the Licensed Software until payment is received.

6.4 All payments not made within the time periods specified herein shall bear interest at the rate of one and one half percent (1.5%) per month or the maximum allowed by law, whichever is less, until paid in full.

6.5 In the event of termination, CUSTOMER is responsible for any and all amounts due to EchoMail per the terms of any signed Schedules or Statement of Work(s).

#### 7.0 Schedules

The applicable Schedule sets forth the ECHOMAIL Licensed Software and/or Services to be obtained by CUSTOMER. The parties may execute additional Schedules and such additional Schedules will be bound by the terms of this Agreement.

#### 8.0 Publicity

ECHOMAIL may use CUSTOMER'S name and identifying logo on ECHOMAIL'S customer list and web site.

#### 9.0 Transmission Difficulties

CUSTOMER acknowledges that it shall be fully and solely responsible for assuring that data sent by CUSTOMER to ECHOMAIL reach ECHOMAIL in proper condition, and ECHOMAIL shall have no liability in connection therewith.

#### 10.0 Intellectual Property Rights

ECHOMAIL possesses, and shall at all times continue to possess and own, the entire right, title and interest in and to the Licensed Software, the results or deliverables of any Services performed hereunder (which shall be deemed to be Licensed Software for purposes of this Agreement) and all intellectual property rights of any nature whatsoever with respect to the foregoing. All right, title and interest in and to any programs, systems, data and materials furnished to ECHOMAIL by CUSTOMER are and shall remain the property of CUSTOMER and will be returned to CUSTOMER at the earlier of termination of this Agreement or the completion of Services.

11.0 Confidential Information

- 11.1 During the term of this Agreement, each party shall disclose to the other party, both orally and in writing, certain information of the disclosing party which concerns the disclosing party's business plans, customers, technology or products which are or contain confidential, proprietary or trade secret information (collectively the "Information"), which is either marked in a manner to indicate that it is considered proprietary or confidential or otherwise subject to limited distribution as provided herein, or is disclosed in such a manner that a reasonable person would understand the confidential nature of the Information disclosed. In addition, future business plans, customer, customer lists and financial information, and confidential information of third parties to which a party has had access shall be deemed Information. A party receiving Information shall hold such Information in strict confidence and shall not disclose such Information to any person or entity other than to the employees, agents or consultants of such party having a need to know in order for such party to perform properly its obligations under this Agreement. Such party shall make no other use of any nature whatsoever of any such Information. The Licensed Software constitutes Information of ECHOMAIL.
- 11.2 All vendors, service providers, consultants and other third-party agents engaged by the CUSTOMER that are involved in the use of or interaction with ECHOMAIL shall sign EchoMail Mutual Non-disclosure Agreement.
- 11.3 This Agreement shall impose no obligation of confidentiality upon a recipient with respect to any portion of the Information received hereunder which is (a) now or hereafter, through no unauthorized act or failure to act on recipient's part, in the public domain; (b) known to the recipient without an obligation of confidentiality at the time recipient receives the same from the disclosing party, as evidenced by written records; (c) hereafter furnished to the recipient by a third party as a matter of right and without restriction on disclosure; (d) furnished to others by the disclosing party without restrictions on disclosure; (e) independently developed by the recipient without use of the disclosing party's Information; or (f) required to be disclosed pursuant to a requirement of a government agency or law, so long as the recipient provides prompt notice to the disclosing party of such requirement prior to any such disclosure and reasonably cooperates with the disclosing party if it elects to seek to limit or avoid such disclosure by any lawful means.
- 11.4 Each party acknowledges that in the event of any breach or threatened breach of this Section 11.0, the other party shall suffer irreparable harm and will not possess an adequate remedy at law. Accordingly, each party shall have the right to obtain injunctive relief to restrain such breach or threatened breach.
- 11.5 No right of ownership or title to any Information is transferred by either party to the other party under or pursuant to this Agreement.
- 11.6 CUSTOMER acknowledges that Licensed Software provided by ECHOMAIL is copyrighted by ECHOMAIL. The trademarks, trade names and logos under which ECHOMAIL markets the Licensed Software are the exclusive property of ECHOMAIL and this Agreement provides no rights thereto to CUSTOMER. Any copyright notice used by ECHOMAIL shall not be deemed to imply that any part of such item has been published or has been placed in the public domain.

12.0 Warranty

- 12.1 ECHOMAIL warrants for a period of sixty (60) days following the Delivery Date of the applicable Licensed Software to CUSTOMER that any Licensed Software provided by ECHOMAIL shall materially conform to ECHOMAIL'S then current documentation. In the event any Licensed Software does not so materially conform to then current documentation, ECHOMAIL shall undertake reasonable commercial efforts to correct such non-conformity. Such correction shall constitute CUSTOMER'S sole remedy and ECHOMAIL'S sole liability in the event of any breach of such warranty by ECHOMAIL.
- 12.2 EXCEPT AS OTHERWISE STATED IN THIS SECTION 12, ECHOMAIL MAKES NO WARRANTIES WITH RESPECT TO THE LICENSED SOFTWARE OR THE SERVICES PERFORMED UNDER THIS AGREEMENT AND DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, FREEDOM FROM BUGS, CORRECTNESS OR RELIABILITY, OR THAT THE LICENSED SOFTWARE'S USE WILL BE UNINTERRUPTED OR ERROR-FREE, AND ALL WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE TRADE.

### 13.0 Infringement

- 13.1 ECHOMAIL shall defend, indemnify and hold harmless CUSTOMER from all costs, expenses, damages, suits and other proceedings incurred by CUSTOMER, its officers, directors, employees or agents in connection with any claim that the Licensed Software infringes any patent, copyright, trade secret or other proprietary rights of any third party, provided that (a) CUSTOMER promptly informs ECHOMAIL of any such action, and (b) CUSTOMER furnishes to ECHOMAIL all information and assistance in connection therewith which may be reasonably requested by ECHOMAIL from time to time. ECHOMAIL shall have the sole right to settle, defend, or otherwise handle any such claim. In the event the use of any Licensed Software is enjoined, ECHOMAIL shall, at its option, either (a) procure for CUSTOMER the right to continue to use such Licensed Software, (b) replace or modify the same to make it non-infringing, or (c) terminate the license to such Licensed Software and provide a pro rata refund to CUSTOMER of all amounts paid by CUSTOMER for the allegedly infringing Licensed Software to ECHOMAIL hereunder, based upon a five (5) year life of such Licensed Software.
- 13.2 ECHOMAIL'S obligations under this Section 13.0 shall be only for the benefit of CUSTOMER. ECHOMAIL shall not be obligated to defend or to be liable under this Section 13.0 to the extent the infringement asserted arises out of (a) compliance with specification originating with CUSTOMER, (b) use or combination of Licensed Software with items not provided by ECHOMAIL to the extent such infringement would not have occurred but for such use or combination with such other items; (c) use of other than the latest unmodified version of Licensed Software if such infringement would have been avoided by the use of such later version; or (d) modification of Licensed Software other than by ECHOMAIL.
- 13.3 This Section 13.0 states the exclusive remedy of CUSTOMER and the entire liability of ECHOMAIL with respect to infringement of any patent, copyright, or other proprietary rights of third parties by items furnished by ECHOMAIL hereunder.

### 14.0 Indemnification

- 14.1 Each party shall indemnify and hold harmless the other party, its subsidiaries, their officers, directors, agents and employees from any claims for loss, cost, damage, expense or liability by reason of bodily injury (including death) or tangible property damage arising out of, as a result of, or in connection with, the indemnifying party's performance under this Agreement or the negligent actions or omissions or willful wrongdoing of the indemnifying party, provided that the indemnified party gives the indemnifying party prompt written notice of such claims and, full information, reasonable assistance and authority for the defense or settlement of such claims.

### 15.0 Limitation of Liability

EXCEPT AS EXPRESSLY PROVIDED HEREIN, ECHOMAIL'S LIABILITY UNDER THIS AGREEMENT, WHETHER FOR BREACH OF WARRANTY OR CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL IN NO EVENT EXCEED AMOUNT PAID BY CUSTOMER TO ECHOMAIL UNDER THIS AGREEMENT CONTRACT PRICE, AS SET FORTH IN SCHEDULE FOR LICENSED SOFTWARE AND/OR SERVICES, WHICH ALLEGEDLY DAMAGED CUSTOMER. THE CONTRACT PRICE, AS SET FORTH IN SCHEDULE A. IN NO EVENT SHALL ECHOMAIL HAVE ANY LIABILITY FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, WHETHER UNDER THIS AGREEMENT OR OTHERWISE, EVEN IF ECHOMAIL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS.

### 16.0 Term

Unless earlier terminated in accordance with Section 17.0 hereof, the term of this Agreement shall commence as of the date hereof and shall continue in full force and effect for three (3) years thereafter. This Agreement shall automatically renew for successive one (1) year terms, thereafter, unless terminated by either party by written notice to the other at least thirty (30) days prior to the renewal date.

## 17.0 Termination

- 17.1 In the event of a breach of this Agreement by a party hereto (including without limitation use of the Licensed Software by CUSTOMER in excess of the use limitations specified in any applicable Schedule(s), the non-breaching party shall give notice of such default to the other party and, if the breach is not cured within sixty (60) calendar days of such notice, the non-breaching party shall be entitled to terminate this Agreement immediately upon notice to the other party.
- 17.2 In the event a party hereto files a voluntary petition for bankruptcy, has an involuntary petition for bankruptcy filed against it which remains undismissed for at least sixty (60) days, makes an assignment for the benefit of its creditors, or has a receiver appointed for all or a substantial portion of its property, the other party shall have the right to terminate this Agreement immediately upon notice.
- 17.3 The rights and obligations of the parties under Sections 2.3, 6.0, 8.0, 10.0, 11.0, 12.0, 13.0, 14.0, 15.0, 17.3 and 18.0 hereof shall survive any termination of this Agreement. Except for the foregoing, immediately upon the effective date of any termination, all rights and obligations of the parties under this Agreement shall cease and terminate. CUSTOMER shall, within ten (10) days after the effective date of any termination, promptly, first, deliver to ECHOMAIL all copies of any Licensed Software provided by ECHOMAIL and all ECHOMAIL'S Information then in CUSTOMER'S possession; second, destroy any copies of Licensed Software whatsoever in CUSTOMER'S possession; third, allow ECHOMAIL access to hardware systems that contained or contain Licensed Software to verify and ensure termination of use of Licensed Software.
- 17.4 In the event of early termination, CUSTOMER is obligated to pay to ECHOMAIL any and all amounts due for Services performed through the date of termination.
- 17.5 CUSTOMER may terminate this Agreement at any time on sixty (60) days prior written notice and CUSTOMER, in such event is obligated to pay to ECHOMAIL any and all amounts due per the terms of any Schedules agreed upon by both parties.

## 18.0 Miscellaneous

- 18.1 Each party irrevocably agrees that in any court proceedings initiated by CUSTOMER, the state and federal courts located in the State of Arizona shall have exclusive jurisdiction to settle any dispute, and for any court proceedings initiated by ECHOMAIL, the state and federal courts located in the Commonwealth of Massachusetts shall have exclusive jurisdiction to settle any dispute with respect to any matters relating to this Agreement.
- 18.2 The validity, construction and performance of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts. The parties hereto submit to the non-exclusive jurisdiction of the state and federal courts located in the Commonwealth of Massachusetts with respect to any matters relating to this Agreement.
- 18.3 Neither party shall be in breach of this Agreement if there is any total or partial failure of performance by it of its duties and obligations under this Agreement occasioned by any act of God, fire, act of government or state, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labor disputes of whatever nature and any other reason beyond the reasonable control of either party.
- 18.4 In the event that any provision of this Agreement shall be held to be void or unenforceable by any court of competent jurisdiction, such determination shall not affect the remainder of this Agreement, which shall remain in full force and effect, and the void or unenforceable provision shall be enforced to the maximum extent legally permissible.
- 18.5 This Agreement shall not be transferable or assignable by CUSTOMER without the prior written consent of ECHOMAIL, such consent not to be unreasonably withheld. Notwithstanding the foregoing, upon notice to ECHOMAIL, CUSTOMER may assign this Agreement or any rights, duties or obligations hereunder to a corporation controlling, controlled by or under common control with CUSTOMER. Any assignment or transfer in violation of this provision shall be void and without effect.
- 18.6 This Agreement shall not be transferable or assignable by either party without the prior written consent of the other party. Any assignment or transfer in violation of this provision shall be void and without effect.
- 18.7 This Agreement embodies and sets forth the entire agreement and understanding of the parties and





**SCHEDULE A**

**Customer Name:** Otero County Commission ("CUSTOMER")  
**Customer Address:** 101 New York Avenue, Alamogordo, NM 88310  
**Effective Term:** January 25, 2022 – May 30, 2022  
**County:** Otero County ("County")  
**Election:** 2020 General Election ("Election")

**Title:** Integrated Data Warehouse and Analytics

**Statement of Work**

- (1) **Integrated Data Warehouse** - Creation of an integrated data warehouse that will include such data as following: County's Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data.
- (2) **Data Analytics** - Data analysis will include evaluation of registrations and votes cast at the precinct level and by vote type.

**Pricing Schedule**

Part Number	Part Description	Units	Unit Cost	One-Time	Recurring
	<b>Professional Services</b>				
EM-PS-PROJ-PLAN	Project Planning	1	\$ 3,000.00	\$ 3,000.00	\$ 0.00
EM-DW-100EPU - SETUP	Integrated EchoMail@ DataWarehouse	1	\$ 12,500.00	\$ 12,500.00	\$ 0.00
EXT-FORENSICS	Hardware Forensics	1	\$ 14,500.00	\$ 14,500.00	\$ 0.00
EM-ANALYTICS	Data Analytics and Reporting	1	\$ 7,500.00	\$ 7,500.00	\$ 0.00
			<b>Sub-Total</b>	<b>\$ 37,500.00</b>	<b>\$ 0.00</b>
	<b>Licenses</b>				
EM-DW-LICENSE	EchoMail@ DataWarehouse	1	\$ 12,250.00	\$ 12,250.00	\$ 0.00
			<b>Sub-Total</b>	<b>\$ 12,250.00</b>	<b>\$ 0.00</b>
			<b>NET-Total</b>	<b>\$ 49,750.00</b>	<b>\$ 0.00</b>

**Other Terms:**

Additional charges shall apply at the Unit Price set forth above in the event that quantity of use of the foregoing licensed Software and Services exceeds purchased amounts hereunder. Such additional charges shall be billed to the CUSTOMER on monthly basis. ECHOMAIL shall issue no credits to CUSTOMER for any licenses not used by CUSTOMER On the expiration date, and unused licenses may not be carried over into subsequent periods.

In the event CUSTOMER requests ECHOMAIL with prior written confirmation to ECHOMAIL to take specific actions, for example travel for onsite training or strategy meeting, shipping data on physical media such as tapes or disks etc., costs of shipping, telecommunications, mailing, traveling and out-of-pocket expenses incurred by EchoMail, Inc. in the performance of such actions are not included herein, and will be billed directly to CUSTOMER on a monthly basis.



This Schedule is governed by the EchoMail Software & Services Licensing Agreement. If there is any conflict between this Schedule and the EchoMail Software & Services Licensing Agreement, all terms of the EchoMail Software & Services Licensing Agreement shall control, except payment terms. Payment is due prior to start of work and use of Software and Services. Both parties agree to the foregoing as of this 25<sup>th</sup> day of January in the year of 2022, and to execute their performance obligations as set forth herein.

ECHOMAIL Authorized Representative

Signature: *Shiva Ayyadurai*

Name: Shiva Ayyadurai

Title: President/CEO

CUSTOMER Authorized Representative

Signature: *Gerald Metherly*

Name: Gerald Metherly

Title: Chairman

The Board of County Commissioners, in and for the County of Otero, State of New Mexico met in a Regular Meeting at the Administration Building in Alamogordo, County and State aforesaid. The meeting was called to order by the Chairman at 9:00 a.m., January 13, 2022; and he announced that reasonable notice for this meeting was given to the Alamogordo Daily News and radio stations, KYEE, KZZX and KINN.

**Present:**

- Gerald Matherly Chairman
- Couy Griffin Vice Chairman
- Vickie Marquardt Member
- Pamela Heltner County Manager
- R.B. Nichols County Attorney
- Sylvia Tillbrook Executive Assistant
- Julianne Hall Finance Director
- Debora Williford Deputy Clerk

**Roll Call was taken as follows:**

- Gerald Matherly Present
- Couy Griffin Present
- Vickie Marquardt Present

Commissioner Griffin gave the Invocation. Commissioner Marquardt led the Pledge of Allegiance and Salute to the Flag of the State of New Mexico.

**Approval of Agenda**

**Commissioner Matherly made a motion to approve the agenda. Commissioner Marquardt seconded the motion. A vote was taken and the motion passed unanimously.**

**1. Department Reports**

**Sheriff's Office**

**Sheriff David Black** stated that the Sheriff's Office responded to 2,368 calls for service in the month of December. **Investigative report:** 235 reports, 41 traffic citations, 80 crash investigations with 56 arrests.

**Narcotics report:** 4 search warrants, 2 arrests, 32 case reports, 1 Border Patrol Checkpoint case, 40.5 grams of meth, 1 gram of heroine, 3.23 grams of cocaine, and 6 grams of fentanyl. \$5,000 worth of illegal narcotics seized.

White Mountain Task Force seized over \$648,000 worth of narcotics. Over the 3 years the County has had the White Mountain Task Force working there have been \$3.8 million worth of narcotics seized.

The department participated in the Christmas parade and helped with the Toys for Tots program.

The department had 2 deputies participate in the Shop with a Cop program.

2 deputies are attending our pre academy program.

14 applicants received with 5 deputy positions, 1 community services officer, and 1 full time and 1 part time dispatcher position available.

Commissioner Matherly asked about all the arrests and Sheriff Black responded there is a new module called Compstat and this program will give a better report of overall statistics. The state is seeing a major increase for stolen vehicles and trailers that can be sold for narcotics.

Commissioner Griffin asked if the state of the road conditions was included in the accident reports.

Sheriff Black stated road condition documentation is in each report.

Commissioner Marquardt congratulated Sheriff Black on being nominated out of 17 western states for Sheriff of the Year.

### **Emergency Services**

**Matt Clark, Emergency Services Director** stated for December the Fire Department responded to 206 calls with 159 being EMS and 17 fire calls with 4 being structure fires and 5 fire investigations. There was a 9-acre fire in James Canyon due to high winds knocking down a power line.

23 code violation cases were opened, completed 48 follow-ups, and 18 closed cases. Building code inspections with 4 being cannabis facilities, 3 growing facilities, and 1 dispensary facility.

11 overdose calls with 2 fentanyl, 2 alcohol, 1 prescription drug, 2 unknown opioid, 2 meth, 1 heroine, and 1 oxycodone.

Commissioner Matherly asked about the code violation cases and Mr. Clark stated they are continually working on these issues including Canyon Place.

Commissioner Marquardt asked about the inspections regarding cannabis and Mr. Clark stated we are making sure the buildings are fire safe.

Commissioner Griffin asked about the Three Rivers fire. Mr. Clark emailed Travis Moseley regarding the Three Rivers fire and it was funneled up to Albuquerque PIO and the investigation is on-going.

Commissioner Griffin also stated that it's a slap in the face that Travis Moseley is ignoring the County requests to come and give updates. He encouraged Mr. Clark to keep asking for updates.

Donna Turnbull asked if it would help if county residents signed a petition.

### **Road Department**

**Tom Porter, Road Department Superintendent** stated that the County has completed the ditch pulling in the La Luz area.

Road patching in the McDonald, Goodyear, Boeing, La Luz Gate Road and Holloman Road areas.

1 major snow event resulted in removal of 20 inches in the Sun Spot area.

Commissioner Matherly asked where the county is on the La Luz gate project. Mr. Porter stated that Wilson and Wilson have finished the survey and are in the design stage along with Riata bridge. Alamo and Suzy Ann streets are on hold waiting for funding. Commissioner Griffin asked if the funding was secure and when it would be available. Mr. Porter stated the funding is not secured and will not be available until July. Pam Heltner, County Manager stated the county has to apply for funding.

Mr. Matherly also asked about the skid marks on the relief route and Mr. Porter stated he would reach out to the NM highway department to see if it can be patched.

Mr. Matherly asked about Coyote Canyon Road. Mr. Porter stated they have not had any contact regarding this. Mr. Matherly asked Mr. Porter to please contact them and keep this in the forefront and asked Ms. Heltner to send a letter.

### **Detention Center**

**Carolyn Barela, Correctional Director** stated the population today is 171 with 122 in the facility with 93 males and 29 females. There are 19 at the Otero Prison facility, 18 at Hudspeth County, 4 at the Department of Corrections, 4 are out on furlough/treatment facility, 2 at other facilities for court, and 2 out on furlough. Average population for December was 184 inmates. 1 juvenile in house as they are now 18 years old. There were 1682 inmates total for 2021.

Fourteen inmates have been moved to the Otero Prison facility so that construction can begin in the main housing area.

The Department of Health is ordering more COVID vaccines to accommodate inmates wanting the vaccine.

Attempted contraband for December was 2 mailings of 23 strips of suboxone.

The administration office construction should be completed by next week and the bathrooms will be completed at a later date.

Transports for December included: 8 females to Women's Correctional Facility, 2 females to Springer, 1 male to Clayton, 25 to Los Lunas, 7 for treatment within the state, and 3 to Las Cruces. 3 pick-ups from Bernalillo and Dona Ana County.

There are issues with the headphones for the library to be used for courts and the IT department is working on a solution.

The facility is currently down 23 employees. 19 full time detention officers, 2 part-time and 2 office staff.

Commissioner Marquardt asked what the process is with drugs coming into the facility and Ms. Barela stated that everything is turned over to the Sheriff's office for investigation.

**Commissioner Matherly moved to discuss item #16 Request approval of salary increases for the Otero County Detention Center Employees.**

Ms. Barela stated that after the approval of the employee pay increase in salaries for the 2021-2022 Budget, several employees approached her stating they did not receive their increase.

Julianne Hall, Finance Director looked into the discrepancy and determined the increase was incorrect and there was a miscommunication in the increase amount. Ms. Hall advised against going back and calculating and giving the retro pay due to the amount of time it would take to properly make all the adjustments required. Our department can do the retro but it will take time.

Commissioner Matherly stated they need to receive the back pay and increase because this was agreed upon by the board and it is the right thing to do.

Commissioner Marquardt stated this will take time and work but needs to be done correctly.

**Commissioner Matherly made a motion to approve salary increases for the Otero County Detention Center Employees. The motion was seconded by Commissioner Marquardt. A vote was taken and the motion passed unanimously.**

## **Project Manager**

**Trent Parker, Project Manager** stated that the Detention Center phase 2 is now completed except for the restrooms that will be completed at a later date. The security systems are now being installed. The renovation of the pods will be a 16-week project before complete. Mechanical, electrical and plumbing are all on going with several inspections completed. The project is 633 days in and on schedule.

The Timberon Fire Station is 247 days into this project and on track. The overhead door company is having delays with receiving parts, the building will be completed in February but the doors will not arrive until April.

CHINS phase 3 will go out to bid at the end of February.

The EOC plan review has gone out to bid being advertised in the paper.

Commissioner Matherly asked Mr. Parker about the pods at the Detention Center and he stated there has been a delay waiting on security system install.

Commissioner Marquardt asked Mr. Parker to give a Timberon Airport update. Mr. Parker stated he met with 2 of the Timberon Airport Board Members and they did not receive funding for the project they requested. The fire chief stated sometimes they utilize the airport for medivac. He spoke with the county grant writer and she will see if the county can assist the airport with some grants to help with funding.

## **2. Consent Agenda:**

Commissioner Matherly read the items on the Consent Agenda.

**Commissioner Matherly made a motion to approve the consent agenda as previously read. The motion was seconded by Commissioner Marquardt. A vote was taken and the motion passed unanimously.**

## **3. New Business:**

**a. Reorganization of the Board. Discuss and consider reorganization of the Otero County Commission Board for 2022.**

Commissioner Matherly made a motion to appoint Commissioner Marquardt as the Chairman of the Commission Board for 2022. The motion was seconded by Commissioner Griffin. A vote was taken and the motion passed unanimously.

Commissioner Griffin made a motion to appoint Commissioner Matherly as the Vice Chairman of the Commission Board for 2022. The motion was seconded by Commissioner Marquardt. A vote was taken and the motion passed unanimously.

**b. Discuss and consider discontinuing the sale of ammunition at Sidney Paul Gordon shooting range.**

Commissioner Griffin stated his concern about the small businesses that sell ammunition being in competition with the shooting range and the protection that needs to be provided to them. Mr. Griffin read an email from David of Dave's Guns with his concerns.

Commissioner Matherly stated that the little amount of ammunition sold at the gun range is beneficial to those who forget or don't take enough ammunition. The range currently sells candy, cokes, water, etc. and they are not in competition with other businesses selling the same products, so there should be no issue with selling a small amount of ammunition.

Commissioner Marquardt suggested that the small businesses supply the ammunition to the shooting range and this will be a win-win for both.

Dianna Driscoll, Walt Coffman and Bill Butler were in favor of the selling of ammunition at the shooting range.

Kerry Maupin stated as a small business owner he just wants to see a fair playing field.

Ginger Herndon, Purchasing Agent stated the county can't sell anything on consignment or put out to bid.

Commissioner Matherly tabled this item for further discussion and brainstorming.

**a. Request approval of 2020 General Election Audit contract and professional services agreement with EchoMail Inc., in the amount of \$49,750.**

R.B. Nichols, County Attorney stated that he has reservations and does not recommend moving forward with the audit. The election code has procedures and processes for audits and does not have a procedure for the type of audit that EchoMail is wanting to conduct.

The position of the state including the courts states that anything election related is mandated by the election code. A public records request is subject to IPRA which states the secrecy of the ballot must be protected.

The voting file is for election and campaign purposes only and if used for anything else they are subject to a felony.

The volunteers canvassing registered voters could be potentially seen as voter intimidation. There is not a clear process of records release and what records can be released. There is a considerable burden placed on the clerk's office as they are getting ready for the primary and this will cost overtime. There is a tax payer concern with potential additional costs.

Commissioner Matherly asked who is responsible for any issues or problems that might occur when canvassing and Erin Clement stated these are volunteers and the county would not be responsible.

Professor David and Erin Clement of Election Audit Force gave a presentation on election fraud with a report and videos. They stated that 61% of voters believe in voter fraud.

Bonnie Brainard and Donna Turnbull are in favor of the audit as they believe voters have the right to know if fraud has occurred.

Robyn Holmes, County Clerk explained the processes on the usage of the dominion machines. Three audits have already been completed after the election.

**Commissioner Matherly made a motion to approve the 2020 Election Audit contract and professional services agreement with EchoMail Inc., in the amount of \$49,750. The motion was seconded by Commissioner Marquardt. A vote was taken and the motion passed unanimously.**

**a. Commissioner Discussion/Correspondence**

**Gerald Matherly**

Commissioner Matherly stated that the Chaparral community will be having a meeting regarding the community center on February 7<sup>th</sup> at 6:00 p.m. if anyone would like to attend.

Sheriff Black is preparing research for a group to meet regarding the Tulie Creek private property problems and would like for the county attorney to attend.

He had a meeting with a resident about impassable roads with the forest service. Tim Carrol stated these are roads they will focus on first in 2022.

Bill Burt has 55% of Otero County after the redistricting and that is a blessing. Ron Griggs has been moved out of the Chaparral district.

**Couy Griffin**

Commission Griffin stated he has legal issues coming up on January 21<sup>st</sup> with Secretary of State and Jeff Swanson.

COVID hit me and I wouldn't wish it on anyone, I am glad I got through it and now I have the natural antibodies and there is no need for the vaccine.

The passing of the election audit will bring peace to the residents of Otero County to know that one day our elections will be secure.

**Vicki Marquardt**

Commissioner Marquardt stated she judged several Christmas events which were a lot of fun.

There have been several special meetings that she participated in including one with Bill Burt to brainstorm with other elected officials to work on our county together.

She spoke with Steve Kopelman of New Mexico counties and Marty Esquivel about the pending courthouse lawsuit.

She will be heading to Santa Fe for the New Mexico Association of Counties conference.

She reached out to Paul Cervantes, the Homeland Security representative for Holloman and there are currently 1200 Afghanistan's still on base. January 21<sup>st</sup> the base will know if the operation will be continued or if all Afghanistan's will have been placed somewhere else.

**County Manager**

Pamela Heltner stated that Travis Moseley's secretary reached out and a meeting has been scheduled for January 21<sup>st</sup> at 2:00 p.m. by zoom to discuss the status of the Lincoln's Land Management Plan Revision effort and the Cooperating Agency status for plan revision.

The La Luz Community Center went out to bid with no response. The head start program is held in that building. It has gone out to bid again, however during a meeting it was brought up about the possible purchase of the building and the possible purchase or lease of a building in Chaparral.

**County Attorney**

R. B. Nichols stated he has been working on the code issues and consensus from last meeting was is the codes are fine right now and the focus needs to be on enforcement and prosecution. He will be taking these cases to court and using Minute Construction as the test case.

An ordinance for the removal of structures will be presented next month. The city attorney stated they budget about \$350,000 each year for the removal of structures. Commissioner Matherly asked about the removal of the mobile homes is it the land owner or the mobile home owner responsibility. Mr. Nichols stated it would be the mobile home owner, however if they are unable or can't be found this may be an expense the county will have to incur.

The redistricting ordinance from last meeting had some errors and a corrected ordinance will be presented next month.

**Commissioner Matherly moved to go into Executive Session citing specific exemptions and state the matters to be discussed. Roll call was taken as follows:**

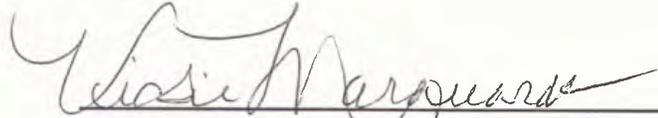
Commissioner Matherly	Present
Commissioner Griffin	Present
Commissioner Marquardt	Present

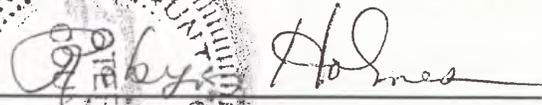
**Commissioner Matherly stated the only items that were discussed were limited only to those items specified in the move to go into Executive Session, the Board of County Commissioners. Roll call was taken as follows to come out of Executive Session:**

Commissioner Matherly	Present
Commissioner Griffin	Present
Commissioner Marquardt	Present

With no further business before the Board, the meeting was adjourned at 3:30 p.m.

APPROVED:

  
\_\_\_\_\_  
Gerald Matherly, Chairman

  
ATTEST:  
  
\_\_\_\_\_  
Robyn Holmes, County Clerk

**Regular Meeting**

**November 18, 2021**

The Board of County Commissioners, in and for the County of Otero, State of New Mexico met in a Regular Meeting at the Administration Building in Alamogordo, County and State aforesaid. The meeting was called to order by the Chairman at 9:00 a.m., November 18, 2021; and he announced that reasonable notice for this meeting was given to the Alamogordo Daily News and radio stations, KYEE, KZZX and KINN.

**Present:**

Gerald Matherly	Chairman
Couy Griffin	Vice Chairman
Vickie Marquardt	Member
Pamela Heltner	County Manager
R.B. Nichols	County Attorney
Sylvia Tillbrook	Executive Assistant
Julianne Hall	Finance Director
Debora Williford	Deputy Clerk

**Roll Call was taken as follows:**

Gerald Matherly	Present
Couy Griffin	Present
Vickie Marquardt	Present

Commissioner Griffin gave the Invocation. Commissioner Matherly led the Pledge of Allegiance and Salute to the Flag of the State of New Mexico.

**Approval of Agenda**

Commissioner Matherly made a motion to approve the agenda. Commissioner Marquardt seconded the motion. A vote was taken and the motion passed unanimously.

**1. Department Reports**

**Sheriff's Office**

**Sheriff David Black** stated that the Sheriff's Office responded to 2,522 calls for service in the month of October. **Investigative report:** 182 reports, 98 traffic citations, 64 crash investigations with 54 arrests.

**Narcotics report:** 4 arrests, 37 case reports, 5 Border Patrol Checkpoint cases, 122 grams of meth, 45 illegal prescription pills, 4 LSD pills, and 26 grams of fentanyl. There were \$15,000 worth of illegal narcotics seized.

We have four certified deputies that are ready to work with the area schools.

We attended several trunk or treat events. DARE classes are underway at several schools and taught once a week.

The Otero County Narcotics Division was a recipient of the Crimestoppers yearly award.

He said he gave a don't "Don't Meth with Us" presentation to the Tularosa Kiwanis Club in hopes of getting this program in the Tularosa schools.

They are attending various meetings throughout the state as part of the council working on the standards that are required to become an accredited agency.

All trainings are completed.

Corporal Livingston has retired.

1 full time and 2 part time dispatcher positions are available.

2 deputies are attending our pre academy program.

Commissioners Matherly and Marquardt expressed their appreciation to the Sheriff's Department and their hard work.

Commissioner Griffin encouraged Sherriff Black to please attend area meetings about mandates and school board meetings.

### **Emergency Services**

**Matt Clark, Emergency Services Director** stated for October the Fire Department responded to 224 calls with 201 being EMS and 10 fire calls with 3 being structure fires.

There were 40 code violation cases opened, completed 68 follow-ups, and closed 8 of those cases.

We had 13 overdose calls with 4 fentanyl, 1 prescription drug, 2 unknown opioid, 4 meth, 1 heroine, and 2 unknown.

AMR had 31 alcohol and drug overdose runs with 16 being alcohol, 2 over the counter and prescription 3 fentanyl, 5 opioids of undetermined source, 3 heroine, 1 oxycodone, and 1 methamphetamine. There is a rise in overdose cases.

Commissioner Matherly asked about the code violation cases and their origin. Matt stated they were mostly trash calls in Chaparral and Timberon.

Canyon Place is still an issue with code violations and we are continually working on the issues.

The 3 Rivers fire is an on-going investigation with no updates. Commissioner Griffin stated he would like someone from the Forest Service at next month's meeting to provide an update.

### **Road Department**

**Tom Porter, Road Department Superintendent** stated that the County has cleaned most of the mountain roads due to flooding this past summer.

Karr Canyon and West Side Road patching has been completed; other areas will continue to be completed.

Commissioner Griffin stated meetings were held with the State of New Mexico to discuss flooding issues on highway 54.

Commissioner Matherly stated he is concerned about the ditches and wants to get them cleaned as soon as possible. Tom stated that they do not have the equipment or man power to get to everything and cleaned before the snow season begins. One problem is there are no weeds or growth until the rains and then it is too wet to mow and clean.

Gwinna Rees stated the County has created flooding problems and now expects private home owners to pay for the problem.

### **Detention Center**

**Carolyn Barela, Correctional Director** stated the population today is 191 with 160 in the facility; with 131 males and 29 females. There are 8 at the Otero Prison facility, and 15 at Hudspeth County. There are 3 male juveniles currently at the Bernalillo County facility.

Attempted contraband for October was 3 mailings of suboxone, and 1 PCP.

They are currently down 23 employees.

Scheduled visitations have begun and is going well.

Commissioner Griffin asked if any of the inmates were illegal; Carolyn stated there were not any at this time and Sheriff Black stated it is against Federal law to ask legal status.

Commissioner Matherly stated he wants to know what we can do to get people to work. Carolyn stated that they utilized the radio but it is expensive and didn't produce any applicants.

Ms. Barela asked for a process to give them an alert in the front office lobby when someone is present. Due to construction this area is open and should be restricted.

### **Project Manager**

**Trent Parker, Project Manager** stated that the Detention Center Admin south addition is completed. There was an oversight for completion of some of the detention center projects and it will take 4 weeks instead of 2 and be completed in 2 phases. This will not extend the overall project and no days will be added to the contract.

The Detention Center kitchen is complete. The kitchen addition will be completed by the end of December.

The medical addition is in process; the whole project was extended with target completion project date of May, 2022.

The Detention Center has issues regarding court hearings taking place in 2 locations and with construction there will be a tremendous amount of noise that could cause delays.

The Timberon Fire Station exterior is complete and the project completion is scheduled for February 2022.

Sunspot is complete, CHINS phase 3 funding has been granted and received architecture drawings to begin and the EOC scheduled to receive all bid documents by January 6, 2022.

Commissioner Matherly asked about the court hearings and if there was somewhere else in the building they could be held. Mr. Parker stated until the medical addition is complete there is nowhere else for them to be held. Ms. Barela stated a portable building in the recreation yard could be fenced off and utilized.

### **2. Consent Agenda:**

Commissioner Matherly read the items on the Consent Agenda.

**Commissioner Matherly made a motion to approve the consent agenda as previously read. The motion was seconded by Commissioner Marquardt. A vote was taken and the motion passed unanimously.**

### **3. Scheduled Citizen Communications:**

- a. **Sheila Coco** – Otero County Fair Association gave an update on the 2021 fair.

There were 45,000 attendees with only 38,000 the previous year.

Junior livestock sales hit record numbers over \$300,000.

The light towers purchased by the County were used by the new pedestrian bridge and help make it safer for attendees. Lighting in the parking lot is making it safer for all attendees.

The new bathroom updates from the County were nice and appreciated.

There were 50% less vendors at the fair this year as hotels were not available.

The fair board would like to look at capital outlay for next year for the parking lot that has major pot holes and is in bad shape. The ADA came before the election and the parking lot was not in compliance. The voters were allowed to utilize the parking area right inside the gate to make it safe; however, this is not an ideal situation for pedestrians walking in that area.

The cost is \$5,500 per month to maintain the facility and we want to keep the fair free in the future. We need more participation with vendors and events.

The Sheriff's Department was present and were a tremendous help and we hope to have them each year. Sheriff Black stated they would help next year.

b. **James Wimberly** – manager of the water company at Eileen Acres representing the homeowners stated he is following up from a previous meeting with a slide show of 4 abandoned mobile homes that need to be cleaned up before someone gets hurt or something burns up.

Mr. Wimberly noted that the County has a new attorney and steps are being taken to look at what can be done legally to enact an ordinance.

Rachel Black, Chief Deputy Treasurer stated that 30 homes in 39 lots at Eileen Acres are dilapidated but only 2 are in delinquent status and available for public auction. Ms. Black stated that the Commission Board should regard the private property laws before enacting an ordinance.

Mr. Wimberly asked if the Commissioners would write a letter to the homeowners that might prompt them to take action.

Jacob Block, Code Enforcement stated this is a case to go before the County Attorney R.B. Nichols to see how to move forward. Code enforcement has made several attempts to contact property owners.

R.B. Nichols, County Attorney stated he would reach out to other counties for their process and provide a resolution to solve this issue.

c. **Gwinna Rees** – stated she was only allowed to vote for 2 items in the Local Election.

She stated “It is not fair to pay taxes and not be allowed to vote on city issues that affect the county residents. I spend my money in the city but since I live in the county, I have no say so on city issues”.

R.B. Nichols, County Attorney stated you can only vote for those issues that are in your district. Your residence determines where you vote and that is districted by the State of New Mexico.

d. **Gary Stone** – President of Otero County Cattleman’s Association discussed the Lincoln National Forest plans and draft of the Environmental Impact Statement, more specifically “lands with wilderness characteristics”. Mr. Stone read a statement regarding the issues and problems this plan and draft will create and specifically not including the County Commissioners or residents in the process.

Commissioner Griffin stated that as the board, we are allowed to comment but have no opportunity to coordinate the plan.

Mr. Joe Aday, stated he is one of the 6 allotment owners with the Forest Service and is concerned and has had meetings with Diane Prather and Travis Mosely, Supervisor, who will actually make the recommendation for the plan. There is an ordinance in place by the Commission to stop the enactment. The Forest Service plan does not meet the criteria for wilderness characteristics as there are roads and structures already in place.

Commissioner Matherly would like all cooperating agencies to meet and discuss this plan and the outcomes.

Mr. Stone is asking a Commission board member to attend the next Cattle Growers Association property session in Chaves County in December. Commissioner Griffin stated he would attend.

Mr. Cooper, an allotment owner, commented about the severity of this plan and how it will affect owners and users of the forest. Congress is the only entity that can declare this plan and once it hits Washington, it becomes political and we can’t let it get that far.

Pamela Heltner, County Manager stated they would look at the calendar and set up a special meeting to further discuss the Forest Service plan issues.

e. **Erin Clements** – New Mexico Audit Force gave a presentation on election fraud in New Mexico. Ms. Clements stated she has a 261-page report with statistics that prove fraud in New Mexico.

Ms. Clements stated there is an organization called Rock the Vote that can by-pass the Secretary of State system and manipulate the registration of voters.

Ms. Clements stated that Otero County election numbers match from the 2020 General Election, however 1/3 of the counties' investigated numbers do not match. She is asking the Commission Board to conduct a thorough forensic audit of the 2020 General Election.

Robyn Holmes – County Clerk stated that all the numbers match and there are no issues of fraud in Otero County. The County Clerk's office has many checks and balances to make sure everything matches with comparing tapes, permit sheets, and ballot totals to make sure they are the same.

Commissioner Matherly asked what is a full forensic audit. Ms. Clements stated a full forensic audit includes canvass of voter rolls, paper, ballots, images, and electronic equipment.

Ms. Clements stated that an audit will cost approximately \$30,000.

Pamela Heltner, County Manager stated the county is required to get 3 quotes for the audit.

Commissioner Marquardt and Griffin would like to see an audit completed.

**Commissioner Matherly made a motion to join efforts of the New Mexico Audit Force as well as a coalition to demand election audits on the local, county level. The motion was seconded by Commissioner Griffin. A vote was taken and the motion passed unanimously.**

**4. Unscheduled Citizen Communications:**

Sylvia Tillbrook, Executive Assistant read a letter from Raquel Morris and her concerns about the rise of COVID cases.

**5. New Business:**

**a. Discuss and consider establishing standard operating procedures for the maintenance of vegetation on bar ditches and culverts in Otero County.**

Commissioner Matherly stated there is a huge weed problem with bar ditches across the county. The county bought a new mower and we need to get everything cleaned up.

Tom Porter, Road Superintendent stated the mower has not come in as John Deere is on strike. There is also the issue of not enough man power or equipment to maintain the whole county.

Commissioner Griffin asked about spraying the weeds and vegetation and Mr. Porter stated they have to be very careful of run off getting to orchards. The large areas of growth are the main focus with mowing and some spraying.

**b. Discuss and consider establishing a Code Enforcement policy.**

Commissioner Matherly stated that the County needs to have a policy in place.

Matt Clark, Emergency Services Director has looked at other counties to see what their process is and see how we can speed up the process to get a policy in place as soon as possible.

Commissioner Matherly stated we have code enforcement personnel with no codes to enforce. The county is in a mess and a policy needs to be enacted.

Mr. Clark stated there are issues with private property rights.

**c. Discuss and consider a cooperative agreement between Otero County and the Lincoln National Forest Service, to ensure a cooperative agency status for future communications.**

Pamela Heltner, County Manager stated she will reach out to Travis Mosely to set up a meeting.

**d. Request, Discuss and consider whether the Board of County Commissioners would like to enforce the Employer Covid-19 Vaccine Mandate.**

Pamela Heltner, County Manager stated this item was placed on the agenda before the halt of the mandate. Ms. Heltner stated that department managers are concerned as they are already short handed and will lose more staff if the mandate is enforced.

Commissioner Griffin stated he toured Gerald Champion Regional Medical Center and the County will assist them as they need.

Commissioner Matherly stated it is not his right to tell anyone to put something in their body and he won't do that.

Commissioner Marquardt is in agreement with the other commissioners.

**e. Request approval to reclassify the current Courthouse Corporal Supervisory position to a Sergeants Supervisory position.**

Sheriff Black stated with the retirement of Corporal Livingston, who supervised the 6-man team at the courthouse was the only Corporal in the department and a change to a Sergeant position with extensive testing would be a better fit.

**Commissioner Matherly made a motion to request approval to reclassify the current Courthouse Corporal Supervisory position to a Sergeants Supervisory position. The motion was seconded by Commissioner Marquardt. A vote was taken and the motion passed unanimously.**

Commissioner Matherly pulled item #22, request approval to reclassify a full-time custodial position in to two part time positions and will be on the agenda for next meeting.

## **Commissioner Discussion/Correspondence**

### **Gerald Matherly**

Commissioner Matherly stated he has taken more information to Sheriff Black on the Tulie creek problems. He would like to get another meeting set up to get this issue resolved.

He went to the Afghanistan Camp at Holloman and it was very impressive at how it is running and the cleanliness.

He had a meeting with White Sands crew for a pep talk to catch up and get things moving.

Thank you to Oro Vista, La Luz and Dunigan EMS services at the BMX races, they do a super job.

He toured the jail project and it is very impressive and will be very nice.

### **Couy Griffin**

Commissioner Griffin stated he would like to thank the State of New Mexico for meeting about Highway 54 issues.

He met with Mr. Heckert, staff, Dr. Pollard, and Megan from the pharmacy, at the hospital. The biggest obstacle is the staffing shortage to run the hospital at full capacity. There are ICU beds available and no overloads throughout the hospital. There is a great appreciation for all the workers and their efforts.

We discussed the issues with suicide, depression, addiction, and children in masks.

Commissioner Griffin stated Nicole Maxwell should not be receiving an award as she proves not to be non-partisan in her views and reporting.

### **Vicki Marquardt**

Commissioner Marquardt stated she met with Pamela Heltner and Jim Maynard regarding some Cloudcroft issues.

She has attended 4 of the homeland security meetings and there are currently 3662 Afghanistans at the Holloman Camp.

She toured the camp at Holloman and was very impressed at how gracious the people are, living in a tent city in the desert. The camp is offering integration classes into our laws, driving, and schools. The military has stopped the sound barrier testing as the Afghanistans fear they are being bombed.

The Military is doing a great job and they also have U.S. Marshals in place.

**County Manager**

Pamela Heltner stated that the capital outlay is due December 8 at 10:00 a.m. and will be conducted in room 101 virtually.

A contractor was hired to work on the redistricting which is a requirement after the census was completed. No data is available yet however, in order to adopt an ordinance, a public hearing will be held with 2 weeks notice for advertising.

**County Attorney**

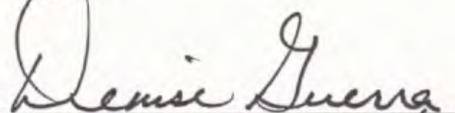
R.B. Nichols stated he has completed his second week on the job and is trying to get familiar with the job and getting to know people to make connections and networking

With no further business before the Board, the meeting was adjourned at 3:30 p.m.

APPROVED:

  
\_\_\_\_\_  
Gerald Matherly, Chairman

ATTEST:

  
\_\_\_\_\_  
Robyn Holmes, County Clerk *Chief Deputy*

