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3 **BERNALILLO COUNTY**
4 **BOARD OF COUNTY COMMISSIONERS**
5 **RESOLUTION NO. AR -2011**

6 **A RESOLUTION TO PROVIDE PROTECTION FOR BERNALILLO COUNTY RATE**
7 **PAYERS**

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9 **WHEREAS**, Bernalillo County a political subdivision of the State of New Mexico has
10 purchased and maintains public right-of-ways on behalf of the public; and

11 **WHEREAS**, Bernalillo County taxpayers provided the necessary funds to purchase and
12 maintain said right-of-ways; and

13 **WHEREAS**, public and private utilities use county right-of-ways to provide necessary
14 and desired services to the public; and

15 **WHEREAS**, the New Mexico Supreme Court has ruled that providing public and private
16 companies access to public right-of-ways at no cost for a public use is not a violation of the New
17 Mexico State Constitution's anti-donation clause; and

18 **WHEREAS**, any fee charged by the county will ultimately be passed on to the utility's
19 rate payer; and

20 **WHEREAS**, utility rate payers and county taxpayers are one and the same;

21 .
22 **NOW, THEREFORE BE IT RESOLVED:**

- 23 1. Bernalillo County shall be prohibited from charging public and private utilities
24 franchise fees or fees for use for any county owned right-of-way.
- 25 2. The county shall charge a reasonable design review fee not to exceed 1.5% of the
26 project cost, prior to commencement of construction in any county right-of-way. The
27 easement design review fee shall be charged in consideration of Bernalillo county

CONTINUATION PAGE 2, RESOLUTION NO. _____
RATE PAYER PROTECTION RESOLUTION

1 Public works Department costs for design review of construction drawings,
2 inspection, and other expenses incidental to the process and approval of construction
3 in the county right-of-way.

4 3. The county shall maintain reasonable permitting fees consistent with fees charged for
5 permits county-wide and shall not establish a separate fee schedule for access to or
6 use of county right-of-ways.

7 **DONE** this ____ day of October 2011, Bernalillo County, State of New Mexico.

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APPROVED:

BOARD OF COUNTY COMMISSIONERS

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County Attorney Date

Maggie Hart Stebbins, Chair

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Art De La Cruz, Vice Chair

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Michelle Lujan Grisham, Member

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Michael C. Wiener, Member

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Wayne A. Johnson, Member

21 **ATTEST:**

22 _____
23 Maggie Toulouse Oliver, County Clerk

24 Date: _____
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