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**TOWN OF ESTANCIA  
BOARD OF TRUSTEES  
RESOLUTION NO. R 2021-01**

**A RESOLUTION OPPOSING HOUSE BILL 40, ENACTING THE PRIVATE  
DETENTION FACILITY MORATORIUM ACT**

**WHEREAS**, since 1984, the Legislature has expressly authorized the counties to contract with independent contractors for the provision and operation of the common jails, pursuant to NMSA 1978, Section 33-3-1(B)(1984); and,

**WHEREAS**, the County of Torrance has contracted with an independent contractor, Core Civic, for the provision and operation of a private detention facility located within the Town of Estancia, and

**WHEREAS**, neither Torrance County nor the Town of Estancia were extended the courtesy of consultation prior to Representative Rubio's introduction of House Bill (HB) 40, which prohibits private entities to operate a private detention facility, and further prohibits the county from entering into, renewing or modifying an agreement for the detention of individuals in a detention facility owned, managed or operated, in whole or in part, by a private entity; and,

**WHEREAS**, Governor Lujan Grisham's Administration, through Corrections Secretary Alisha Tafoya Lucero, an eighteen-year veteran of the State Prison system, has expressed concerns about the implications of HB 40, including but not limited to, the loss of 3,000 beds for state inmates and the State's resulting inability to accommodate the proposed reduction in inmate beds; and,

**WHEREAS**, HB 40 would drive up the cost of inmate beds in the State, as the counties would be placed in direct competition with the State to identify and compete for available inmate beds; and,

**WHEREAS**, as reflected by its provisions, HB 40 has not provided adequate consideration to the lack of available inmate beds, infrastructure constraints of existing county detention centers, lack of access to medical services in rural areas for inmates, difficulties in recruiting and retaining competent detention personnel, particularly in rural areas, or the exorbitant increases in insurance premiums resulting from the immense exposure to liability, which threatens to drive counties to adopt property tax increments to cover judgments not covered by insurance;

**WHEREAS**, the counties contract with these private entities that, unlike many county detention centers, agree to comply with American Correctional Association standards, the gold standard in corrections; and,

**WHEREAS**, unlike with county detention centers, the State ensures that a private contractor's proposed standards are adequate, that the qualifications of the proposed contractor are

1 suitable, that the qualifications of the proposed contractor's employees are suitable, and that the  
2 agreement contains satisfactory and required contract provisions; and,  
3

4 **WHEREAS**, as part of the State's review, it mandates that the agreement requires the  
5 contractor to provide and pay for training for jailers to meet minimum training standards,  
6 establishes comprehensive standards for conditions of incarceration, either by setting forth such  
7 standards in full as part of the contract or by reference to known and respected compilations of  
8 those standards, and contains a termination clause for cause by the county for failure to satisfy  
9 minimum standards and conditions of incarceration and other contractual provisions that seriously  
10 affects jail operations; and  
11

12 **WHEREAS**, as part of its review, the State requires that the agreement additionally  
13 provide for the contractor's assumption of all liability caused by or arising out of all aspects of the  
14 provision and operation of jail, and including liability insurance covering the contractor and its  
15 officers, jailers, employees and agents; and  
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17 **WHEREAS**, the State does not make such similar inquiry into the operations of county  
18 detention centers; and,  
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20 **WHEREAS**, the State has not established minimum standards for training for county  
21 detention employees, nor has it established a mechanism by which counties can displace all  
22 liability caused by or arising out of all aspects of the provision and operation of county jails aside  
23 from contracting with private operators; and,  
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25 **WHEREAS**, the implementation of HB 40 would run counter to its intent, resulting in a  
26 degradation in the care presently afforded to inmates, overcrowding of facilities, and the  
27 commoditization of inmates; and,  
28

29 **WHEREAS**, CoreCivic in Torrance County, in the Town of Estancia, employs 151  
30 individuals, pays \$390,361.52 in county property taxes, and contributes significantly to the local  
31 economy; and,  
32

33 **NOW, THEREFORE, BE IT RESOLVED** by the Board of Trustees of the Town of  
34 Estancia within the County of Torrance, that we do hereby express our strong opposition to HB 40  
35 for the reasons stated herein.

36 **THIS RESOLUTION PASSED, APPROVED, AND ADOPTED THIS 22nd DAY OF**

37 **FEBRUARY, 2021.**

38   
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40 **Nathan M. Dial**  
41 **Mayor**  
42  
43

Attest:   
\_\_\_\_\_ **Michelle M. Jones**  
**Clerk/Treasurer**