

ROOSEVELT COUNTY, NEW MEXICO

RESOLUTION NO. 2014-33

DECLARING THE INTENT OF THE BOARD OF COUNTY COMMISSIONERS (THE "GOVERNING BODY") OF ROOSEVELT COUNTY, NEW MEXICO (THE "GOVERNMENTAL UNIT") TO CONSIDER FOR ADOPTION AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BY AND BETWEEN THE GOVERNMENTAL UNIT AND THE NEW MEXICO FINANCE AUTHORITY OR OTHER FINANCIAL INSTITUTION, EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE COUNTY TO PAY A PRINCIPAL AMOUNT OF UP TO \$3,500,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE REPAIR, REPLACEMENT, CONSTRUCTION, UPGRADING AND ACQUISITION OF THE HVAC SYSTEM IN THE COUNTY COURTHOUSE, PAYING A LOAN PROCESSING FEE AND FUNDING A LOAN AGREEMENT RESERVE ACCOUNT; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF, AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE REVENUES DERIVED FROM (i) THE FIRST ONE-EIGHTH OF ONE PERCENT INCREMENT, THE THIRD ONE-EIGHTH OF ONE PERCENT INCREMENT AND THE FOURTH ONE-SIXTEENTH OF ONE PERCENT INCREMENT OF THE COUNTY GROSS RECEIPTS TAX IMPOSED PURSUANT TO SECTION 7-20E-9, NMSA 1978, AND (ii) THE EQUALIZATION DISTRIBUTION PURSUANT TO SECTION 7-1-6.16, NMSA 1978; AUTHORIZING AND DIRECTING THE PUBLICATION OF A NOTICE OF MEETING TO CONSIDER FINAL PASSAGE OF AN ORDINANCE AUTHORIZING THE LOAN AGREEMENT AND A PROCESSING FEE IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE GOVERNMENTAL UNIT; AND EXPRESSING THE INTENT OF THE GOVERNMENTAL UNIT TO BE REIMBURSED FOR CERTAIN EXPENSES RELATING TO THE FINANCING.

WHEREAS, Sections 4-62-1 through 4-62-10, NMSA 1978, as amended (the "Act"), authorize New Mexico counties to issue gross receipts tax revenue bonds which, pursuant to the Act, may include loan agreements; and

WHEREAS, pursuant to the Act, the Governmental Unit may secure its gross receipts tax revenue bonds with the revenues of the Governmental Unit's County Gross Receipts Tax imposed by the Governmental Unit's (i) Ordinance adopted August 1, 1983, and amended by Ordinance No. 94-2 adopted on May 31, 1994, (ii) Ordinance No. 04-01 adopted July 6, 2004, and (iii) Ordinance No. 05-03 adopted June 21, 2005, all pursuant to Section 7-20F-9, NMSA 1978 (the "County Gross Receipts Taxes"), as well as by the Governmental Unit's Equalization Distribution pursuant to Section 7-1-6.16, NMSA 1978 (the "County Equalization Distribution"); and

WHEREAS, the Governmental Unit desires to consider for adoption an ordinance authorizing, in accordance with the Act (the "Ordinance"), the execution and delivery of a Loan Agreement by and between the New Mexico Finance Authority (the "Finance Authority") or a financial institution and the Governmental Unit in a principal amount of up to \$3,500,000 (the "Loan Agreement") to provide funds to finance the repair, replacement, construction, upgrading

and acquisition of the HVAC system in the County Courthouse, which Loan Agreement shall be secured by a pledge of the revenues of the County Gross Receipts Taxes and the County Equalization Distribution; and

WHEREAS, Section 4-37-7, NMSA 1978, requires that publication of the title and general summary of the subject matter of any proposed ordinance be made in a newspaper of general circulation within the Governmental Unit at least two weeks prior to the meeting of the Governing Body at which the ordinance is proposed for final passage.

WHEREAS, the Governing Body has determined that it is necessary to make capital expenditures in connection with the financing prior to the time that the Governmental Unit arranges for the specific financing of such financing; and

WHEREAS, it is the Governmental Unit's reasonable expectation that when such financing occurs, the capital expenditures will be reimbursed with the proceeds of the financing; and

WHEREAS, in order to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), it is the Governmental Unit's desire that this resolution shall constitute the "official intent" of the Governing Body to reimburse such capital expenditures within the meaning of Treasury Regulation §1.150-2.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, THE GOVERNING BODY OF ROOSEVELT COUNTY, NEW MEXICO:

Section 1. All action (not inconsistent with this Resolution) heretofore taken by the Board of County Commissioners of Roosevelt County and the officers, employees and agents of the Governmental Unit thereof directed toward the authorization, execution and delivery of the Loan Agreement and Intercept Agreement for such purposes, be and the same is hereby ratified, approved and confirmed.

Section 2. The publication, in accordance with Section 4-37-7, NMSA 1978, as amended, in the *Portales News Tribune*, a newspaper of general circulation within the Governmental Unit, of the following Notice at least two weeks prior to the meeting at which the Board of County Commissioners will consider the Ordinance, is hereby authorized.

[Form of Notice]

Roosevelt County, New Mexico
Notice of Meeting and Intent to Adopt Ordinance

Roosevelt County, New Mexico, hereby gives notice of a regular Board of County Commissioners meeting for Tuesday, [July 15, 2014] at 9:00 a.m., in the Roosevelt County Courthouse, 109 W. First Street, in Portales, New Mexico. At such meeting the Board of County Commissioners will hold a public hearing concerning and will consider for adoption the Ordinance described below. Complete copies of the proposed Ordinance are available for public

inspection during the normal and regular business hours of the County Clerk, 109 W. First Street, in Portales, New Mexico.

The title of the proposed Ordinance is:

ROOSEVELT COUNTY, NEW MEXICO
ORDINANCE NO. 2014-08

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN ROOSEVELT COUNTY (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY OR OTHER FINANCIAL INSTITUTION, EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT IN THE MAXIMUM PRINCIPAL AMOUNT OF \$3,500,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE REPAIR, REPLACEMENT, CONSTRUCTION, UPGRADING AND ACQUISITION OF THE HVAC SYSTEM IN THE COUNTY COURTHOUSE, PAYING A LOAN PROCESSING FEE AND FUNDING A LOAN AGREEMENT RESERVE ACCOUNT; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF, AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE REVENUES DERIVED FROM (i) THE FIRST ONE-EIGHTH OF ONE PERCENT INCREMENT, THE THIRD ONE-EIGHTH OF ONE PERCENT INCREMENT AND THE FOURTH ONE-SIXTEENTH OF ONE PERCENT INCREMENT OF THE COUNTY GROSS RECEIPTS TAX IMPOSED PURSUANT TO SECTION 7-20E-9, NMSA 1978, AND (ii) THE EQUALIZATION DISTRIBUTION PURSUANT TO SECTION 7-1-6.16, NMSA 1978, AND DISTRIBUTED TO THE GOVERNMENTAL UNIT BY THE STATE TAXATION AND REVENUE DEPARTMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; EXPRESSING THE INTENT OF THE GOVERNMENTAL UNIT TO BE REIMBURSED FOR CERTAIN EXPENSES TO THE FINANCING; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title.

This Notice constitutes compliance with Section 4-37-7, NMSA 1978, as amended.

[End of Form of Notice]

Section 3. The Loan Agreement provides a principal loan amount of up to \$3,500,000 and shall evidence a special, limited obligation to pay its principal amount, together with interest due under the Loan Agreement.

Section 4. The Ordinance shall be filed with the County Clerk, and shall be considered by the County at a regular meeting of the County on Tuesday, July 15, 2014 at 9:00 a.m., or as soon thereafter as the matter may be heard, in the Roosevelt County Courthouse, 109 W. First Street, in Portales, New Mexico.

Section 5. The Governmental Unit intends to finance approximately \$3,500,000 to pay the costs of the financing, including the reimbursement of certain costs incurred by the Governmental Unit prior to the receipt of any proceeds of a financing, upon terms acceptable to the Governmental Unit, as authorized in a resolution to be hereafter adopted and to take all further action which is necessary or desirable in connection therewith.

Section 6. The officers, employees and agents of the Governmental Unit shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by the resolution.

Section 7. The officers and employees of the Governmental Unit are hereby authorized and directed to take all action necessary or appropriate to effectuate the provision of this resolution.

Section 8. The Issuer shall not use reimbursed moneys for purposes prohibited by Treasury Regulation §1.150-2(h).

Section 9. This resolution is intended to be a declaration of "official intent" to reimburse expenditures within the meaning of Treasury Regulation §1.150-2

Section 10. If any section, paragraph, clause or provision of this resolution shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

Section 11. All acts, orders and resolutions of the Issuer, and parts thereof, inconsistent with this resolution be, and the same hereby are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 12. The resolution shall in full force and effect upon its passage and approval.

(Signature page follows)

PASSED, APPROVED AND ADOPTED THIS 17th day of June, 2014.

ROOSEVELT COUNTY
BOARD OF COMMISSIONERS


Kendell R. Buzard, Chairman

[SEAL]

ATTEST:

By: _____
DeAun Searl, County Clerk

STATE OF NEW MEXICO)
) ss.
COUNTY OF ROOSEVELT)

I, DeAun Searl, County Clerk of Roosevelt County, New Mexico (the "County"), do hereby certify:

1. The foregoing pages are a true, correct and complete copy of the record of the proceedings of the Board of County Commissioners (the "Governing Body") of the County, constituting the Governing Body of the County, had and taken at a duly called regular meeting of the Governing Body held in the Roosevelt County Courthouse, 109 W. First Street, in Portales, New Mexico, on June 17, 2014, at the hour of 9:00 a.m., insofar as the same relate to the publication of the title and general summary of a proposed ordinance, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Said proceedings were duly had and taken as therein shown, the meeting thereon was duly held, and the persons therein named were present at said meeting as therein shown.

3. Notice of said meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the open meetings standards presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Roosevelt County, New Mexico, this June 17, 2014.

(SEAL)

DeAun Searl, County Clerk