

ROOSEVELT COUNTY, NEW MEXICO
ORDINANCE NO. 2014-08

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BETWEEN ROOSEVELT COUNTY (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT IN THE MAXIMUM PRINCIPAL AMOUNT OF \$2,875,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE REPAIR, REPLACEMENT, CONSTRUCTION, UPGRADING AND ACQUISITION OF THE HVAC SYSTEM IN THE COUNTY COURTHOUSE AND PAYING A LOAN PROCESSING FEE; 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; PROVIDING FOR THE DISTRIBUTION OF THE PLEDGED COUNTY GROSS RECEIPTS TAX REVENUES TO BE REDIRECTED BY THE STATE TAXATION AND REVENUE DEPARTMENT TO THE NEW MEXICO FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO THE INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND THE INTERCEPT AGREEMENT; AMENDING CERTAIN PROVISIONS OF COUNTY ORDINANCE NO. 2011-01 AND COUNTY ORDINANCE NO. 2014-06 RELATING TO PROVISIONS PROHIBITING THE CREATION OF ADDITIONAL SENIOR OBLIGATIONS; EXPRESSING THE INTENT OF THE GOVERNMENTAL UNIT TO BE REIMBURSED FOR CERTAIN EXPENSES OF THE PROJECT; 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 AND THE INTERCEPT AGREEMENT.

PREAMBLE

Capitalized terms used in the following recitals and not otherwise defined shall have the same meaning as defined in Section 1 of this Ordinance unless the context requires otherwise.

WHEREAS, the Governmental Unit is a legally and regularly created, established, organized and existing county under the general laws of the State; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts borrowed under the Loan Agreement and that it is in the best interest



of the Governmental Unit and its residents that the Loan Agreement and Intercept Agreement be executed and delivered and that the financing of the acquisition of the Project take place by executing and delivering the Loan Agreement; and

WHEREAS, pursuant to the Act, the Governmental Unit has by the Tax Ordinances imposed 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 County Gross Receipts Taxes on the gross receipts of all persons engaging in business within the Governmental Unit, which provide for a portion of the Pledged Revenues; and

WHEREAS, pursuant to Section 7-1-6.16, NMSA 1978, as amended, the Governmental Unit receives the Equalization Distribution from the Distributing State Agency, which, together with the revenues derived from the County Gross Receipts Taxes, provides for the Pledged Revenues; and

WHEREAS, the Governing Body has determined pursuant to the Act that it may lawfully pledge the Pledged Revenues for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than as described in Exhibit "A" to the Loan Agreement, the Pledged Revenues have not heretofore been pledged to secure the payment of any obligation, which is currently outstanding; and

WHEREAS, the Loan Agreement shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues, and shall not constitute a general obligation of the Governmental Unit, or a debt or pledge of the full faith and credit of the Governmental Unit or the State; and

WHEREAS, the Governmental Unit desires to provide that distributions of the Pledged Revenues be paid directly by the Governmental Unit or redirected to the Finance Authority or its assigns pursuant to the Intercept Agreement for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than the Pledged Revenues, no tax revenues collected by the Governmental Unit shall be pledged to the Loan Agreement; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the County Clerk this Ordinance and the forms of the Loan Agreement and Intercept Agreement, which are incorporated by reference and considered to be a part hereof; and

WHEREAS, the Governing Body hereby determines that the Project to be financed by the Loan is to be used for governmental purposes of the Governmental Unit and will not be used for purposes which would cause the Loan Agreement to be deemed a "private activity bond" as defined by the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Governing Body intends by this Ordinance to authorize the execution and delivery of the Loan Agreement in the amount and for the purposes set forth herein; and

WHEREAS, the Governmental Unit pursuant to its Ordinance 06-01 (the "Series 2006 Bond Ordinance") issued the Series 2006 Bonds; and



WHEREAS, Section 21.A of the Series 2006 Bond Ordinance provides that the Governmental Unit is permitted to issue obligations payable from the pledged revenues identified in the Series 2006 Bond Ordinance (the “2006 Pledged Revenues”) and constituting a lien upon said revenues on a parity with, but not prior nor superior to, the lien of the Series 2006 Bonds upon satisfaction of a parity obligations test (the “Parity Obligations Test”); and

WHEREAS, pursuant to County Ordinance No. 2011-01 (the “2011 Loan Ordinance”) and County Ordinance No. 2014-06 (the “2014 Loan Ordinance”), the Governing Body has previously covenanted that it will not create any obligations with a lien on the 2006 Pledged Revenues on parity with the Series 2006 Bonds until the outstanding Series 2006 Bonds are no longer outstanding; and

WHEREAS, the Governing Body has determined and hereby determines that it is in the best interest of the Governmental Unit and its residents that the 2011 Loan Ordinance and the 2014 Loan Ordinance and the respective related loan agreements be amended to provide that the Loan Agreement be issued with a lien superior to the lien of the Series 2011 Loan Agreement and Series 2014 Loan Agreement, but that no additional Parity Obligations be issued until the Series 2006 Bonds are no longer outstanding; and

WHEREAS, Section 12 of 2011 Loan Ordinance and Section 13 of 2014 Loan Ordinance each may be amended without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority; and

WHEREAS, the Governmental Unit has received the prior written consent of the Finance Authority to amend the 2011 Loan Ordinance and the 2014 Loan Ordinance; and

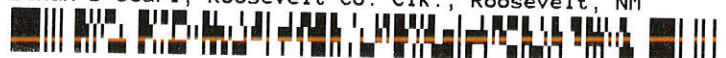
WHEREAS, all required authorizations, consents and approvals in connection with (i) the use and pledge of the Pledged Revenues to the Finance Authority (or its assigns) for the payment of the amounts due under the Loan Agreement, (ii) the use of the proceeds of the Loan Agreement to finance the Project, and (iii) the authorization, execution and delivery of the Loan Agreement and Intercept Agreement which are required to have been obtained by the date of this Ordinance, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF ROOSEVELT COUNTY, NEW MEXICO:

Section 1. Definitions. In addition to the capitalized terms defined in the Preamble of this Ordinance, the following capitalized terms, as used in this Ordinance shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

“Act” means the general laws of the State, Sections 4-62-1 through 4-62-10, NMSA 1978, as amended, Sections 7-1-6.16 and 7-20E-9, NMSA 1978, as amended, and enactments of the Governing Body relating to the Loan Agreement and Intercept Agreement, including this Ordinance.

“Aggregate Annual Debt Service Requirement” means the total principal and interest payments due and payable pursuant to the Loan Agreement, as well as all other Parity Obligations, for any one Fiscal Year.



“Authorized Officers” means the Chairman of the Board of Commissioners, the County Manager and the County Clerk.

“Bonds” means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority and specifically related to the Loan Agreement and the Loan Agreement Payments.

“Closing Date” means the date of execution, delivery and funding of the Loan Agreement.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

“Completion Date” means the date of final payment of the cost of the Project.

“County Gross Receipts Taxes” means 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 County Gross Receipts Taxes enacted pursuant to Section 7-20E-9, NMSA 1978, as amended, imposed pursuant to the Tax Ordinances, and distributed to the Governmental Unit, which is utilizing the Project and benefiting from the Loan Agreement, which distribution is made monthly by the Distributing State Agency.

“County Treasurer” means the treasurer of the Governmental Unit.

“Distributing State Agency” means the department or agency of the State, as described on the Term Sheet attached as Exhibit “A” to the Loan Agreement, authorized to distribute the Pledged Revenues on behalf of the Governmental Unit.

“Equalization Distribution” means the distribution of monies to the Governmental Unit by the Distributing State Agency pursuant to Section 7-1-6.16, NMSA 1978, as amended.

“Expenses” means the cost of execution of the Loan Agreement and the costs of issuance of the Bonds, if any, and the periodic and regular fees and expenses incurred by the Finance Authority in administering the Loan Agreement, including legal fees.

“Finance Authority” means the New Mexico Finance Authority.

“Finance Authority Debt Service Account” means the debt service account in the name of the Governmental Unit and held by the Finance Authority to pay principal and interest on the Loan Agreement as the same become due.

“Fiscal Year” means the period commencing on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

“Governing Body” means the Board of Commissioners of the Governmental Unit, or any future successor governing body of the Governmental Unit.

“Governmental Unit” means Roosevelt County, New Mexico.



“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Ordinance and not solely to the particular section or paragraph of this Ordinance in which such word is used.

“Indenture” means the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and the Trustee, as successor trustee, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Finance Authority and the Trustee, as successor trustee, as determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

“Intercept Agreement” means an Intercept Agreement, between the Governmental Unit and Finance Authority providing for the direct payment by the Governmental Unit or the Distributing State Agency to the Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest due on the Loan Agreement, and any amendments or supplements to the Intercept Agreement.

“Loan” means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to the Loan Agreement.

“Loan Agreement” or “Series 2014B Loan Agreement” means the Loan Agreement dated the Closing Date between the Finance Authority and the Governmental Unit which provides for the financing of the Project and requires payments by or on behalf of the Governmental Unit to the Finance Authority and/or the Trustee.

“Loan Agreement Principal Amount” means the original principal amount of the Loan Agreement as shown on Exhibit “A” to the Loan Agreement.

“Loan Agreement Reserve Account” means the loan agreement reserve account established in the name of the Governmental Unit, funded from the proceeds of the Loan Agreement and administered by the Trustee pursuant to the Indenture.

“Loan Agreement Reserve Requirement” means, with respect to the Loan, the amount shown as the Loan Agreement Reserve Account Deposit on Exhibit “A” to the Loan Agreement, which amount does not exceed the least of: (i) ten percent (10%) of the Loan Agreement Principal Amount; (ii) one hundred twenty-five percent (125%) of the average annual principal and interest requirements under the Loan Agreement; or (iii) the maximum annual principal and interest requirements under the Loan Agreement.

“NMSA” means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

“Ordinance” means this Ordinance No. 2014-08, adopted by the Governing Body on July 15, 2014 approving the Loan Agreement and the Intercept Agreement as amended from time to time.

“Parity Obligations” means the Loan Agreement, the Series 2006 Bonds, and any other obligations, now or hereafter issued or incurred, payable from or secured by a first lien or pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on parity with the Loan



Agreement, including those obligations described on the Term Sheet attached as Exhibit "A" to the Loan Agreement.

"Pledged Revenues" means County Gross Receipts Taxes and the Equalization Distribution.

"Processing Fee" means the processing fee to be paid on the Closing Date by the Governmental Unit to the Finance Authority for the costs of originating and servicing the Loan, as shown on Exhibit "A" to the Loan Agreement.

"Program Account" means the account in the name of the Governmental Unit established pursuant to the Indenture and held by the Trustee for the deposit of the net proceeds of the Loan Agreement for disbursement to the Governmental Unit for payment of the costs of the Project.

"Project" means the repair, replacement, construction, upgrading and acquisition of the HVAC system in the Roosevelt County, New Mexico Courthouse and paying a loan processing fee, as described in Exhibit "A" to the Loan Agreement.

"Reserve Requirement" means \$287,500.00, which is to be funded only upon the occurrence of the events described in Section 10.B of this Ordinance.

"Series 2006 Bonds" means the Roosevelt County, New Mexico Gross Receipts Tax Revenue Bonds, Series 2006 issued in the aggregate principal amount of \$3,375,000.

"Series 2011 Loan Agreement" means the Loan Agreement No. 2561-PP dated March 18, 2011 between the Governmental Unit and the Finance Authority.

"Series 2014 Loan Agreement" means the Loan Agreement No. 3115-PP dated June 13, 2014 between the Governmental Unit and the Finance Authority.

"State" means the State of New Mexico.

"Subordinate Obligations" means the Series 2011 Loan Agreement, the Series 2014 Loan Agreement, and any other obligations, now or hereafter issued or incurred, payable from or secured by a lien or pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues second and subordinate to the Loan Agreement and Series 2006 Bonds, including those obligations described on the Term Sheet attached as Exhibit "A" to the Loan Agreement.

"Tax Ordinances" means (i) An Ordinance Adopting A County Gross Receipt Tax, passed and approved by the Governmental Unit pursuant to the Act on August 1, 1983, which imposes the first one-eighth of one percent increment of the County Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit, as amended by Ordinance No. 94-2, passed and approved by the Governmental Unit pursuant to the Act on May 31, 1994, (ii) Ordinance No. 04-01, passed and approved by the Governmental Unit pursuant to the Act on July 6, 2004, which imposes the third one-eighth of one percent increment of the County Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit, and (iii) Ordinance No. 05-03, passed and approved by the Governmental Unit pursuant to the Act on June 21, 2005, which imposes the fourth one-sixteenth of one percent increment of the County Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit.



“Trustee” means BOKF, NA dba Bank of Albuquerque, Albuquerque, New Mexico, or any successor trustee company, national or state banking association or financial institution at the time appointed Trustee by the Finance Authority.

Section 2. Ratification. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Governing Body and officers of the Governmental Unit directed toward the acquisition of the Project and the execution and delivery of the Loan Agreement and the Intercept Agreement, be, and the same hereby are, ratified, approved and confirmed.

Section 3. Authorization of the Project, the Loan Agreement and the Intercept Agreement. The acquisition of the Project and the method of financing the Project through execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Governmental Unit.

Section 4. Findings. The Governmental Unit hereby declares that it has considered all relevant information and data and hereby makes the following findings:

A. The Project is needed to meet the needs of the Governmental Unit and its residents and the issuance and delivery of the Loan Agreement is necessary or advisable.

B. Moneys available and on hand for the Project from all sources other than the Loan are not sufficient to defray the costs of acquiring the Project.

C. The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.

D. It is economically feasible to defray, in whole or in part, the costs of the Project by the execution and delivery of the Loan Agreement.

E. The Project and the execution and delivery of the Loan Agreement and the Intercept Agreement pursuant to the Act to provide funds for the financing of the Project are necessary and in the interest of the public health, safety and welfare of the residents of and the public served by the Governmental Unit.

F. The Governmental Unit will acquire the Project, in whole or in part, with the net proceeds of the Loan.

G. Other than as described in Exhibit “A” to the Loan Agreement, the Governmental Unit does not have any outstanding obligations payable from the Pledged Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement and the Intercept Agreement.

H. The net effective interest rate on the Loan does not exceed twelve percent (12.0%) per annum, which is the maximum rate permitted by State law.

I. Pursuant to Section 7-20E-9, NMSA 1978, as amended, the Governmental Unit heretofore has adopted the Tax Ordinances.



J. Pursuant to Section 7-1-6.16, NMSA 1978, as amended, the Governmental Unit receives the Equalization Distribution from the Distributing State Agency.

K. Pursuant to Section 7-1-6.12, NMSA 1978, as amended, the Governmental Unit receives Pledged Revenues from the Distributing State Agency.

Section 5. Loan Agreement and Intercept Agreement - Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of at least a three fourths (3/4) majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Governmental Unit and acquiring the Project, it is hereby declared necessary that the Governmental Unit, pursuant to the Act, execute and deliver the Loan Agreement and the Intercept Agreement evidencing a special, limited obligation of the Governmental Unit to pay a principal amount of \$2,875,000, plus interest thereon, and the execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized. The Governmental Unit shall use the proceeds of the Loan to (i) finance the acquisition of the Project; (ii) pay the Processing Fee, and (iii) make a deposit to the Finance Authority Debt Service Account.

B. Detail. The Loan Agreement and the Intercept Agreement shall be in substantially the forms of the Loan Agreement and the Intercept Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an original aggregate principal amount of \$2,875,000, shall be payable in installments of principal due on May 1 of the years designated in Exhibit "B" to the Loan Agreement and bear interest payable on November 1 and May 1 of each year, beginning on November 1, 2014, at the rates designated in Exhibit "B" to the Loan Agreement.

Section 6. Approval of the Loan Agreement and the Intercept Agreement. The forms of the Loan Agreement and the Intercept Agreement, as presented at the meeting of the Governing Body at which this Ordinance was adopted are hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement and the Intercept Agreement, with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the County Clerk is hereby authorized to affix the seal of the Governmental Unit on the Loan Agreement and the Intercept Agreement and attest the same. The execution of the Loan Agreement and the Intercept Agreement by an Authorized Officer shall be conclusive evidence of such approval.

Section 7. Special Limited Obligation. The Loan Agreement shall be secured by the pledge of the Pledged Revenues as set forth in the Loan Agreement and shall be payable solely from the Pledged Revenues. The Loan Agreement, together with other obligations of the Governmental Unit thereunder, shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues as provided in this Ordinance and the Loan Agreement and shall not constitute a general obligation of the Governmental Unit or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit for payment of the obligations thereunder. Nothing contained in this Ordinance or in the Loan Agreement, or any other instruments, shall be construed as obligating the Governmental Unit (except with respect to the application of the Pledged Revenues), as incurring a pecuniary liability or a charge upon the general credit of the Governmental Unit or against its taxing power, nor shall a breach of any agreement



contained in this Ordinance and the Loan Agreement, or any other instrument impose any pecuniary liability upon the Governmental Unit or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the Governmental Unit within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Governmental Unit or a charge against its general credit or taxing power. Nothing herein shall prevent the Governmental Unit from applying other funds of the Governmental Unit legally available therefore to payments required by the Loan Agreement, in its sole and absolute discretion.

Section 8. Disposition of Proceeds: Completion of Acquisition of the Project.

A. Program Account and Finance Authority Debt Service Account. The Governmental Unit hereby consents to creation of the Finance Authority Debt Service Account to be held and maintained by the Finance Authority and to the Program Account to be held by the Trustee pursuant to the Indenture, each in connection with the Loan. The Governmental Unit hereby approves: (i) the deposit of a portion of the proceeds of the Loan Agreement in the Program Account and the Finance Authority Debt Service Account and (ii) the payment of the Processing Fee to the Finance Authority, all as set forth in Exhibit "A" to the Loan Agreement.

The proceeds derived from the execution and delivery of the Loan Agreement shall be deposited promptly upon the receipt thereof in the Program Account and the Finance Authority Debt Service Account, and the Processing Fee shall be paid to the Finance Authority, all as provided in the Loan Agreement and the Indenture.

Until the Completion Date, the money in the Program Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan Agreement and the Indenture.

The Governmental Unit will acquire the Project with all due diligence.

B. Completion of Acquisition of the Project. Upon the Completion Date, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that acquisition of and payment for the Project have been completed. As soon as practicable, and, in any event, not more than sixty (60) days from the Completion Date, any balance remaining in the Program Account shall be transferred and deposited into the Debt Service Account, as provided in the Loan Agreement and the Indenture.

C. Finance Authority and Trustee Not Responsible. The Finance Authority and the Trustee shall in no manner be responsible for the application or disposal by the Governmental Unit or by its officers of the funds derived from the Loan Agreement or of any other funds herein designated.

Section 9. Deposit of Pledged Revenues, Distributions of the Pledged Revenues and Flow of Funds.

A. Deposit of Pledged Revenues. Pursuant to the Intercept Agreement and in accordance with its terms, Pledged Revenues shall be paid directly by the Governmental Unit or the Distributing State Agency to the Finance Authority for deposit in the Finance Authority Debt



Service Account and remittance to the Trustee in an amount sufficient to pay principal, interest, premium, if any, and other amounts due under the Loan Agreement.

B. Termination on Deposits to Maturity. No payment shall be made into the Finance Authority Debt Service Account if the amounts in the Finance Authority Debt Service Account and Loan Agreement Reserve Account total a sum at least equal to the entire aggregate amount to become due as to principal and interest on, and any other amounts due under, the Loan Agreement in which case moneys in such account in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such accounts shall be transferred to the Governmental Unit and used as provided below.

C. Use of Surplus Revenues. After making all the payments hereinabove required to be made by this Section and any payments required by outstanding Parity Obligations, any moneys remaining in the Debt Service Account shall be transferred to the Governmental Unit on a timely basis and shall be applied to any other lawful purpose, including, but not limited to, the payment of bonds or obligations subordinate and junior to the Loan Agreement, or other purposes authorized by the Governmental Unit, the Constitution and laws of the State, as the Governmental Unit may from time to time determine.

Section 10. Loan Agreement Reserve Account.

A. Creation of the Account. The Governmental Unit hereby consents to creation of the Loan Agreement Reserve Account to be held by the Trustee pursuant to the Indenture, in connection with the Loan.

B. Conditional Funding. The County Treasurer, on or before the 150th day after the close of each Fiscal Year, shall prepare a certificate stating the ratio of coverage of Pledged Revenues to the Aggregate Annual Debt Service Requirement coming due in any subsequent Fiscal Year (the "Debt Service Coverage Ratio"). No deposits shall be required in the Loan Agreement Reserve Account so long as the Pledged Revenues in each Fiscal Year equal or exceed two (2.0) times the Aggregate Annual Debt Service Requirement in any subsequent Fiscal Year. If the Pledged Revenues in any Fiscal Year are insufficient to meet the test set forth in the preceding sentence, the Governmental Unit shall immediately proceed to accumulate the Reserve Requirement in the Loan Agreement Reserve Account by twelve (12) substantially equal monthly deposits made on the first day of each month commencing on the first day of the first month following such determination. Such accumulations shall be made from the Pledged Revenues, second and subordinate to the payments referred to in Section 9.A of this Ordinance.

After accumulation of the Reserve Requirement, second to the payments referred to in Section 9.A of this Ordinance, there shall be credited monthly to the Loan Agreement Reserve Account from the Pledged Revenues, such amount or amounts, if any, as are necessary to maintain the Loan Agreement Reserve Account as a continuing reserve in an amount not less than the Reserve Requirement to meet possible deficiencies in the Finance Authority Debt Service Account. The moneys in the Loan Agreement Reserve Account, if any, shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter described, only to prevent deficiencies in the payment of the principal of and interest on the Loan Agreement resulting from the failure to credit to the Finance Authority Debt Service Account sufficient funds to pay such principal and

interest as the same become due. Any amounts in the Loan Agreement Reserve Account in excess of the Reserve Requirement shall be withdrawn from the Loan Agreement Reserve Account and deposited into the Finance Authority Debt Service Account (including investment income therefrom) and shall be used to pay the principal of or interest on the Loan Agreement.

In addition, second to the payments referred to in Section 9.A of this Ordinance, and coequal and on a parity with payments into the Loan Agreement Reserve Account, there may be credited on a periodic basis of not more frequently than monthly, amounts necessary to establish, maintain or reestablish reasonable reserve funds for additional Parity Obligations or necessary to reimburse a credit facility provider for amounts due in connection with a draw on any debt service reserve surety bond or similar credit facility for any such additional Parity Obligations.

C. Reduction of the Reserve Requirement. After the funding of the Loan Agreement Reserve Account as provided in Subsection 10.B immediately above, if for two consecutive Fiscal Years based on the County Treasurer's certification, the Pledged Revenues are at least two (2.0) times the Aggregate Annual Debt Service Requirement coming due in any subsequent Fiscal Year, any money or securities in the Loan Agreement Reserve Account may be transferred to other funds or accounts of the Governmental Unit.

Section 11. Amendment to the Series 2011 Loan Ordinance and Series 2011 Loan Agreement. The Series 2011 Loan Ordinance is hereby amended by deleting Section 10, entitled "Lien on Pledged Revenues" and inserting in its place the following:

Pursuant to the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged to, and are hereby pledged, and the Governmental Unit grants a security interest therein for, the payment of the principal, interest, and any other amounts due under the Loan Agreement, subject to the uses hereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable lien, subordinate to the lien thereon of the outstanding 2006 Detention Center Bonds and the \$2,875,000 loan agreement between the Governmental Unit and the NMFA authorized by County Ordinance No. 2014-08 (the "NMFA Loan 3147-PP"). Until the 2006 Detention Center Bonds are no longer outstanding, the Governmental Unit shall not create additional Senior Lien Obligations other than NMFA Loan 3147-PP. At the time that the 2006 Detention Center Bonds are no longer outstanding, NMFA Loan 3147-PP shall be secured by an exclusive first lien on the Pledged Revenues. The Loan Agreement will also be amended to allow the creation of additional obligations payable on a priority ahead of the Loan Agreement.

Section 12. Amendment to the Series 2014 Loan Ordinance and Series 2014 Loan Agreement. The Series 2014 Loan Ordinance is hereby amended by deleting Section 10, entitled "Lien on Pledged Revenues" and inserting in its place the following:

Pursuant to the Loan Agreement and the Amended 2011 Loan Agreement, the Pledged Revenues are hereby authorized to be pledged to, and are hereby pledged, and the Governmental Unit grants a security interest therein for, the payment of the principal, interest, and any other amounts due under the Loan Agreement and the Amended 2011 Loan Agreement, subject to the uses hereof permitted by and the



priorities set forth in this Ordinance. The Loan Agreement and the Amended 2011 Loan Agreement constitute an irrevocable lien, subordinate to the lien thereon of the outstanding Series 2006 Bonds and the \$2,875,000 loan agreement between the Governmental Unit and the NMFA authorized by County Ordinance No. 2014-08 (the "NMFA Loan 3147-PP"). Until the outstanding Series 2006 Bonds are no longer outstanding, the Governmental Unit shall not create additional Senior Obligations other than NMFA Loan 3147-PP. At the time that the outstanding Series 2006 Bonds are no longer outstanding, the NMFA Loan 3147-PP shall be secured by an exclusive first lien on the Pledged Revenues. The Loan Agreement will also be amended to allow the creation of additional obligations payable on a priority ahead of the Loan Agreement.

Section 13. Lien on Pledged Revenues. Pursuant to the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged to, and are hereby pledged, and the Governmental Unit grants a security interest therein for, the payment of the principal, interest, and any other amounts due under the Loan Agreement, subject to the uses hereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable first lien, senior to the lien thereon of the outstanding Series 2011 Loan Agreement and Series 2014 Loan Agreement and on parity with the lien thereon of the outstanding Series 2006 Bonds. At the time that the outstanding Series 2006 Bonds are no longer outstanding, the Loan Agreement shall be secured by an exclusive first lien on the Pledged Revenues.

Section 14. Parity Obligations Test. In satisfaction of the Parity Obligations Test described in Section 21.A of the Series 2006 Bond Ordinance, the Governmental Unit has determined based upon the advice of its financial advisor, RBC Capital Markets, that (i) the Governmental Unit is current in all of the accumulations required to be made into the Bond Account (as defined in the Series 2006 Bond Ordinance) and Reserve Account (as defined in the Series 2006 Bond Ordinance) and (ii) the 2006 Pledged Revenues received by the Governmental Unit for the Fiscal Year immediately preceding the date of the issuance of the Loan Agreement are sufficient to pay an amount representing at least 200% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on the then outstanding Series 2006 Bonds, all other then outstanding obligations payable from and constituting a lien on the 2006 Pledged Revenues on a parity with the lien thereon of the Series 2006 Bonds and the Parity Lien Bonds (as defined in the Series 2006 Bond Ordinance) or other Parity Obligations (as defined in the Series 2006 Bond Ordinance) proposed to be issued (excluding accumulation of any reserves therefor).

Section 15. Reimbursement of Expenses. The Governmental Unit intends to reimburse itself for expenses incurred in connection with the Project prior to the Closing Date.

Section 16. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement, the Intercept Agreement, and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance, the Loan Agreement, and the Intercept Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance, the Loan Agreement, and the Intercept Agreement, including but not limited to, the execution and delivery of closing documents in connection with the



execution and delivery of the Loan Agreement and the publication of the summary of this Ordinance set out in Section 22 of this Ordinance (with such changes, additions and deletions as may be necessary).

Section 17. Amendment of Ordinance. Prior to the date of the initial delivery of the Loan Agreement to the Finance Authority, the provisions of this Ordinance may be supplemented or amended by Ordinance of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance. This Ordinance may be amended without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.

Section 18. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 19. Ordinance Irrepealable. After the Loan Agreement and the Intercept Agreement have been executed and delivered, this Ordinance shall be and remain irrepealable until all obligations due under the Loan Agreement shall be fully paid, canceled and discharged, as herein provided.

Section 20. Repealer Clause. All bylaws, orders, resolutions, and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 21. Effective Date. Upon due adoption of this Ordinance, it shall be recorded in the book of the Governmental Unit kept for that purpose, authenticated by the signatures of the Chairman of the Board of Commissioners, the County Manager and the County Clerk of the Governmental Unit, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 22 below) shall be published in a newspaper which maintains an office and is of general circulation in the Governmental Unit, or posted in accordance with law, and said Ordinance shall be in full force and effect thereafter, in accordance with law.

Section 22. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

Roosevelt County, New Mexico
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 2014-08, duly adopted and approved by the Governing Body of Roosevelt County, New Mexico, on July 15, 2014. A complete copy of the Ordinance is 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 Ordinance is:



ROOSEVELT COUNTY, NEW MEXICO
ORDINANCE NO. 2014-08

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BETWEEN ROOSEVELT COUNTY (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT IN THE MAXIMUM PRINCIPAL AMOUNT OF \$2,875,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE REPAIR, REPLACEMENT, CONSTRUCTION, UPGRADING AND ACQUISITION OF THE HVAC SYSTEM IN THE COUNTY COURTHOUSE AND PAYING A LOAN PROCESSING FEE; 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; PROVIDING FOR THE DISTRIBUTION OF THE PLEDGED COUNTY GROSS RECEIPTS TAX REVENUES TO BE REDIRECTED BY THE STATE TAXATION AND REVENUE DEPARTMENT TO THE NEW MEXICO FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO THE INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND THE INTERCEPT AGREEMENT; AMENDING CERTAIN PROVISIONS OF COUNTY ORDINANCE NO. 2011-01 AND COUNTY ORDINANCE NO. 2014-06 RELATING TO PROVISIONS PROHIBITING THE CREATION OF ADDITIONAL SENIOR OBLIGATIONS; EXPRESSING THE INTENT OF THE GOVERNMENTAL UNIT TO BE REIMBURSED OF THE PROJECT 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 AND THE INTERCEPT AGREEMENT.

A general summary of the subject matter of the Resolution is contained in its title. This notice constitutes compliance with Section 6-14-6, NMSA 1978.

(End of Form of Summary for Publication)



PASSED, APPROVED AND ADOPTED THIS 15th DAY OF JULY, 2014.

ROOSEVELT COUNTY, NEW MEXICO

By: Kendell R. Buzard
Kendell R. Buzard, Chairman of the
Board of Commissioners

[SEAL]

ATTEST:

By: DeAun D Searl
DeAun Searl, County Clerk



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Commissioner _____ then moved adoption of the foregoing Ordinance, duly seconded by Commissioner _____.

The motion to adopt said Ordinance, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye:

Those Voting Nay:

Those Absent:

_____ () members of the Governing Body having voted in favor of said motion, the Chairman of the Board of Commissioners declared said motion carried and said Ordinance adopted, whereupon the Chairman of the Board of Commissioners and the County Clerk signed the Ordinance upon the records of the minutes of the Governing Body.

After consideration of matters not relating to the Ordinance, the meeting on the motion duly made, seconded and unanimously carried, was adjourned.

ROOSEVELT COUNTY, NEW MEXICO

By: Kendell R. Buzard
Kendell R. Buzard, Chairman of the
Board of Commissioners

[SEAL]

ATTEST:

By: DeAun Searl
DeAun Searl, County Clerk

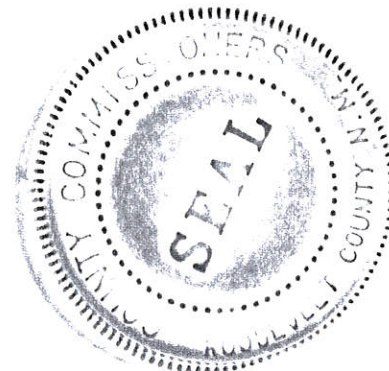


EXHIBIT "A"

Meeting Agenda
of the July 15, 2014
Board of Commissioners Meeting

(See attached)

STATE OF NEW MEXICO
ROOSEVELT COUNTY

I, DeAun Searl, the duly qualified and acting County Clerk of Roosevelt County, New Mexico (the "Governmental Unit"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of Commissioners of Roosevelt County, New Mexico (the "Governing Body"), constituting the governing body of the Governmental Unit had and taken at a duly called regular meeting held at 109 W. First Street, in Portales, New Mexico, on July 15, 2014, at the hour of 9:00 a.m., insofar as the same relate to the execution and delivery of the proposed Loan Agreement and Intercept Agreement, a copy of each 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 therein 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 regular meetings of the Governing Body as required by the Governmental Unit's open meetings standards presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of July, 2014.



ROOSEVELT COUNTY, NEW MEXICO

By: DeAun D Searl
DeAun Searl, County Clerk

STATE OF NEW MEXICO
ROOSEVELT COUNTY

The Board of Commissioners (the "Governing Body") of Roosevelt County, New Mexico, met, in regular session in full conformity with law and the rules and regulations of the Governing Body, at the Roosevelt County Courthouse, 109 W. First Street, in Portales, New Mexico, being the meeting place of the Governing Body for the regular meeting held on the 15th day of July, 2014, at the hour of 9:00 a.m. Upon roll call, the following members were found to be present:

Present:	Kendell R. Buzard, Chairman
	Scott Burton, Vice Chairman
	Rick Leal
Absent:	Bill Cathey
	Jake Lopez
Also Present:	Charlene Webb, County Manager
	Eric Harrigan, RBC Capital Market

Thereupon, there was officially filed with the County Clerk a copy of a proposed ordinance in final form.