

**STATE OF NEW MEXICO
COUNTY OF ROOSEVELT
RESOLUTION NO. 2015-40**

A Resolution Relating to the Proposed Industrial Revenue Bonds Entitled Roosevelt County, New Mexico Taxable Industrial Revenue Bonds (Milo Wind Project, LLC), Series 2015, and Declaring the Intent of Roosevelt County to Issue such Industrial Revenue Bonds in an Aggregate Principal Amount up to \$72,000,000 in Connection with a Proposed Project Located within the Boundaries of Roosevelt County, New Mexico, for the Purpose of Including Milo Wind Project, LLC to Develop the Project Site and to Construct and Install the Project.

WHEREAS, the New Mexico ("State") legislature has passed the "Industrial Revenue Bond Act" (the "Act"), NMSA 1978, Sections 4-59-1 to 4-59-16 inclusive, as amended, which authorizes Roosevelt County, New Mexico (the "County") to issue industrial revenue bonds and to acquire projects as defined in the Act; and

WHEREAS, the County desires to promote industry and develop trade by inducing manufacturing, industrial and commercial enterprises to locate in the County promoting the agricultural products and natural resources of the County and to secure and maintain a balanced and stable economy in the County and to promote public health, safety, security, and the general welfare of the citizens of the County; and

WHEREAS, on November 5, 2013, the County approved an ordinance authorizing the issuance of its Roosevelt County, New Mexico Taxable Industrial Revenue Bonds (Roosevelt Wind Project) Series 2014 (the "Original Bonds") and the execution of related documents, including an indenture, lease and bond purchase agreement (collectively the "Original Bond Documents"), for the purpose of providing funds to finance the acquisition, construction, installation, and equipping of a wind farm operated by Roosevelt Wind Project, LLC ("Roosevelt Wind") and located in Roosevelt County (the "Original Project");

WHEREAS, on December 19, 2014, the Original Bonds were issued and each of the Original Bond Documents was executed and delivered by each of the parties thereto (the "Original Closing");

WHEREAS, subsequent to the Original Closing, Roosevelt Wind informed the County that (1) Roosevelt Wind desires to reduce the size of the Roosevelt Project, (2) its affiliate Milo Wind Project, LLC, a Delaware limited liability company (the "Company"), intends to develop another wind farm (the "Milo Project"), also in Roosevelt County but separate and distinct from the Roosevelt Project, and (3) Roosevelt Wind will assign to the Company its rights to develop the Milo Project;

WHEREAS, the Company and Roosevelt Wind have made a proposal (the "Proposal") to the County whereby (1) the terms of the Original Bonds and the Original Bond Documents will be amended and restated to reflect a reduction in the size of the Roosevelt Wind Project and the proportional reduction of the maximum principal amount of the Original Bonds from \$430,000,000 to \$358,000,000, (2) the real and personal property comprising the Milo Project will be conveyed by the County to Roosevelt Wind, which will assign such property to the Company, and (3) the County will acquire the Milo Project from the Company, through acquisition of leasehold title to land, and fee title to buildings and equipment corresponding to the Milo Project; and

WHEREAS, the issuance of its industrial revenue bonds (the "Milo Bonds") by the County to finance the Milo Project will constitute one of the inducements whereby the Company will determine to proceed with the Milo Project; and



WHEREAS, the Board of County Commissioners (the "Commission") of the County constitutes the governing body of the County within the meaning of the Act; and

WHEREAS, the Milo Project has been considered by the Commission and it has been concluded that the Milo Project (A) will be located on a site that does not require County approval for the development, installation and operation of the Milo Project, and (B) will promote the health, safety, security, and general welfare of the citizens of the County, and the Commission desires to indicate its intent to consider proceeding with the issuance of the Milo Bonds for the financing of the Milo Project; and

WHEREAS, concurrently with the issuance of the Milo Bonds, the Company will enter into an installment sale, leasing or other financing agreement with the County under which the County will acquire the Milo Project and which will provide for the payment of installments, lease rentals or other payments by the Company from the revenues generated by the Milo Project or other Company funds sufficient to pay the debt service on the Milo Bonds, subject to the prior adoption by the Commission of an ordinance approving such agreement and authorizing issuance of the Milo Bonds (the "Bond Ordinance"); and

WHEREAS, the County and the Company understand that the adoption of this Resolution shall not obligate the County to issue the Milo Bonds, except in full compliance with the terms of the Bond Ordinance to be considered for adoption by the Commission prior to the issuance of the Milo Bonds and with the terms of the related bond documents.

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

Section 1. All actions (not inconsistent with the provisions hereof) heretofore taken by the Commission and the officers and employees of the County, related to the Proposal, the acquisition of the Milo Project, and the sale and issuance of the Milo Bonds therefore, be and the same hereby are ratified, approved and confirmed.

Section 2. The Commission understands that:

(A) The Milo Project will consist of leased land, buildings and equipment for a wind farm, including all turbines, blades, nacelles, rotors and supporting structures used to generate electricity from wind and related equipment and improvements for the generation and transportation of electricity;

(B) The maximum aggregate face amount of industrial revenue bonds to be issued for the Milo Project is \$72,000,000;

(C) The developer and operator of the Milo Project will be the Company, or its permitted successors or assignees;

(D) The location of the Milo Project is in Roosevelt County between Elida and Dora;

(E) The development, installation and operation of the Milo Project at the proposed site is not subject to land-use regulation or approval by the County;



(F) The Company will make all necessary arrangements with the proposed bond purchaser for the purchase of the Milo Bonds, and the County shall have no responsibility to make such arrangements; and

(G) The Company has agreed to pay or reimburse the County for all legal counsel, including independent bond counsel, and financial advisory expenses of the County directly related to adoption of this Resolution, consideration and adoption of the Bond Ordinance and issuance of the Milo Bonds. The Company has agreed to such payment or reimbursement irrespective of whether the Milo Bonds are issued.

Section 3. In order to promote the health, safety, security and general welfare of the citizens of the County, it is the Commission's intent to take all necessary and advisable steps to consider and, if appropriate, to effect the issuance of the Milo Bonds in an aggregate principal amount up to \$72,000,000 in order to defray part or all of the costs of the Milo Project. The Milo Bonds are to be entitled substantially as follows: "Roosevelt County, New Mexico Taxable Industrial Revenue Bonds (Milo Wind Project), Series 2015." This expression of the Commission's intent is subject to the provisions of Section 6 of this Resolution and conditioned upon the issuance of the Milo Bonds on or before December 31, 2015.

Section 4. The Milo Bonds shall be payable from the revenues of the Milo Project or other moneys payable by the Company with respect thereto, and shall not constitute a debt or indebtedness of the County within the meaning of any provision or limitation of the Constitution or statutes of the State of New Mexico. In addition, if the Milo Bonds are issued, the Company shall indemnify and hold harmless the County, the Commission and their respective officers, employees, designated representatives and agents (collectively, the "Indemnified Persons") from and against any liability to the Company or to any third parties that may be asserted against the County with respect to the County's ownership of or leasehold interest in the Milo Project or the issuance of the Milo Bonds. Nothing contained in this Resolution or in any other instrument shall be considered as obligating the County to any pecuniary liability or a charge upon the general credit of the County or against its taxing power, it being understood that no costs are to be borne by the County and that all costs incurred by the County in connection with the Milo Bonds are to be promptly reimbursed by the Company. The County's adoption of this Resolution shall not be deemed a conclusion or expression of approval by the County or any Indemnified Person of the Company or the Milo Project.

Section 5. The Company, as agent for the County, will acquire the Milo Project. For this purpose, by adoption of this Resolution, the County authorizes the Company to act as agent for the County for the purchase of wind generation equipment used to generate electricity from "wind generation equipment" and "related equipment" as defined in NMSA 1978, Section 7-9-54.3 (2010). For other tangible personal property relating to the Milo Project, the County will cooperate with the Company to obtain issuance by the New Mexico Taxation and Revenue Department and allow use of Type 9 Nontaxable Transaction Certificates ("Certificates") that have been properly executed for acquisition of tangible personal property relating to the Milo Project, as applicable under the New Mexico Gross Receipts and Compensating Tax Act. The Company shall not use the Certificates other than for such things as may be permitted by law, if any, nor shall the Company use such Certificates after the completion of the Milo Project. Prior to the use of such Certificates by the Company as agent for the County, the County Manager and the Company will agree to certain procedures regarding the use of the Certificates and protection of the County from any unpaid taxes determined to be due to the Taxation and Revenue Department. No costs, expenses or other monetary relief will be recoverable from the County by vendors of wind generation equipment.

Section 6. The County Commissioners and other appropriate County officials and employees are hereby authorized and empowered to take such steps and to do such things as may be necessary to achieve



the purposes of this Resolution; provided, however, the issuance of the Milo Bonds and the execution and delivery of any documents to which the County is a party in connection therewith shall be subject to the approval and authorization of the Commission pursuant to the Bond Ordinance, adopted following public notice of the Commission's intent to adopt such Bond Ordinance at least two weeks prior to the consideration of the Bond Ordinance by the Commission at a public meeting, such public notice to specify the time, date and place of the Commission's public hearing on the Bond Ordinance and the meeting at which the Bond Ordinance will be considered. In furtherance thereof, the County Clerk is hereby authorized to publish notice of the title and a general summary of the subject matter of the Bond Ordinance, in substantially the form attached hereto as Exhibit A, one time in a newspaper of general circulation within the County at least two weeks before the meeting of the Commission at which the Bond Ordinance is to be adopted. No provision of this Resolution shall in any way obligate the County or any other person to issue the Milo Bonds or any other bonds or in any way to finance the Milo Project; and the County retains full and complete discretion with respect thereto.

Section 7. If Milo Bonds are issued by the County, the documentation evidencing the obligations of the Company shall provide that the Company shall make payments in lieu of taxes to the County in an amount mutually agreeable to the Company and the County.

Section 8. This Resolution shall not give rise to a pecuniary liability of the County and shall not give rise to a charge against its general credit or taxing powers.

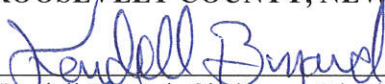
Section 9. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

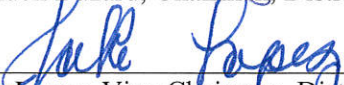
Section 10. All orders and resolutions, or parts thereof, in conflict with this Resolution are hereby repealed; provided, however, this repeal shall not be construed to revive any order, resolution or part thereof, heretofore repealed.

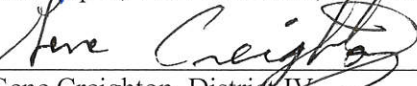
Section 11. This Resolution shall take effect immediately upon its adoption and approval by the Commission.

PASSED, ADOPTED, SIGNED AND APPROVED this 3rd day of March, 2015.


BOARD OF COUNTY COMMISSIONERS,
ROOSEVELT COUNTY, NEW MEXICO


Kendell Buzard, Chairman, District V


Jake Lopez, Vice-Chairman, District I


Gene Creighton, District IV


Rick Leal, District II


Lewis "Shane" Lee, District III

[SEAL]

ATTEST:


DeAun Searl, County Clerk



Exhibit A

(FORM OF NOTICE OF INTENT TO ADOPT ORDINANCE FOR PUBLICATION)

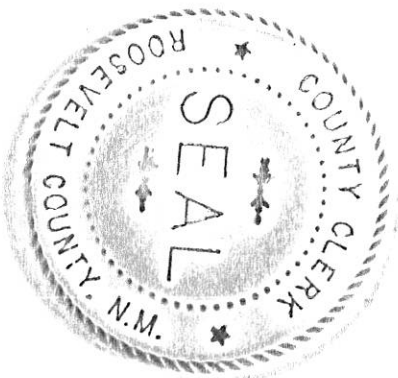
**Roosevelt County, New Mexico
Notice of Meeting
Public Hearing and Intent to Adopt Ordinance**

Roosevelt County, New Mexico hereby gives notice of a County Commission meeting for Tuesday, April 7, 2015 at 9:00 am at the Roosevelt County Courthouse, 109 West 1st Street, Portales, New Mexico. At such meeting, the County Commission 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 Roosevelt County, 109 West 1st Street, Portales, New Mexico. The title of the ordinance is:

AUTHORIZING THE ISSUANCE AND SALE OF ROOSEVELT COUNTY, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (MILO WIND PROJECT) SERIES 2015 IN THE MAXIMUM PRINCIPAL AMOUNT OF \$72,000,000 TO PROVIDE FUNDS TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A WIND FARM FOR THE PURPOSE OF GENERATING ELECTRICITY; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, A LEASE AGREEMENT, A BOND PURCHASE AGREEMENT, BOND, AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS AND THE PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE BOND AND THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND AUTHORIZING THE AMENDMENT AND RESTATEMENT OF THE ROOSEVELT COUNTY, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (ROOSEVELT WIND PROJECT) SERIES 2014 TO REDUCE THE MAXIMUM PRINCIPAL AMOUNT THEREOF TO \$358,000,000; AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED INDENTURE, LEASE AGREEMENT, BOND, AND OTHER DOCUMENTS IN CONNECTION THEREWITH, AND AMENDING ORDINANCE NO. 2014-01; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.

The title contains a general summary of the subject matter contained in the ordinance.

This notice constitutes compliance with Section 4-37-7 NMSA



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DeAnn D Searl, Roosevelt Co. Clk., Roosevelt, NM

