

STATE OF NEW MEXICO
COLFAX COUNTY
ORDINANCE NO. 2016-01

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE COUNTY OF COLFAX, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF [\$7,000,000], TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING: (1) THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF CAPITAL IMPROVEMENT PROJECTS WITHIN THE GOVERNMENTAL UNIT, INCLUDING THE GOVERNMENTAL UNIT'S DETENTION CENTER, COURTHOUSE AND BRIDGE PROJECTS, (2) REFUNDING THE GOVERNMENTAL UNIT'S OUTSTANDING GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2009, (3) PAYING A LOAN PROCESSING FEE, AND (4) FUNDING A LOAN AGREEMENT RESERVE ACCOUNT OR PAYING THE PREMIUM FOR A DEBT SERVICE RESERVE INSURANCE POLICY IN LIEU THEREOF; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTIONS OF THE REVENUES OF THE (1) FIRST ONE-EIGHTH OF ONE PERCENT COUNTY GROSS RECEIPTS TAX AND (2) THE ONE-TWELFTH OF ONE PERCENT COUNTY GROSS RECEIPTS TAX IMPOSED PURSUANT TO SECTION 7-20E-9, NMSA 1978; PROVIDING FOR THE DISTRIBUTIONS OF THE REVENUES OF THE GROSS RECEIPTS TAXES FROM THE STATE TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED 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; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION 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.

Capitalized terms used in the following recitals 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 Project take place by executing and delivering the Loan Agreement; and

WHEREAS, the Governmental Unit may use the Pledged Revenues to finance the Project and the Project will provide for the public health, peace and safety of the Governmental Unit and its citizens; and

WHEREAS, pursuant to the Act, the Governmental Unit has imposed a one-eighth increment and a one-twelfth increment of County Gross Receipts Tax pursuant to Sections 7-20E-1 through 7-20E-28, NMSA 1978, as amended, on the gross receipts of all persons engaging in business within the Governmental Unit, which provides for the Pledged Revenues; and

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

WHEREAS, except as described in the Term Sheet, 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 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 redirected to the Finance Authority or its assigns pursuant to an Intercept Agreement between the Governmental Unit and the Finance Authority (the "Intercept Agreement") for the payment of amounts due under the Loan Agreement; and

WHEREAS, the Loan Agreement shall be executed and delivered pursuant to Sections 4-62-1 through 4-62-10, NMSA 1978, as amended, and with an irrevocable first lien, but not necessarily an exclusive first lien, on the Pledged Revenues; and

WHEREAS, the Governing Body intends by this Ordinance to authorize the execution and delivery of the Loan Agreement and Intercept Agreement in the amount and for the purposes set forth therein; 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, there has been presented to the Governing Body the Municipal Bond Debt Service Reserve Insurance Commitment with an effective date of April __, 2016 (the "Reserve Insurance Commitment") issued to the County by Build America Mutual Insurance Company ("BAM" or the "Bond Insurer"); and

WHEREAS, the Governing Body hereby determines that it is in the best interest of the Governmental Unit and its residents that a Reserve Fund Insurance Policy be acquired from BAM, to reduce the cost of the Loan for the Governmental Unit; and

WHEREAS, the Governing Body hereby determines that the Project to be financed with 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, 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 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, Intercept Agreement, Escrow Agreement and Reserve Insurance Commitment 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 COLFAX COUNTY THAT:

Section 1. Definitions. As used in the Ordinance, the following terms 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, including Sections 4-62-1 through 4-62-10 and Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, Sections 7-20E-1 through 7-20E-28, NMSA 1978, as amended, and enactments of the Governing Body relating to the Loan Agreement and the 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 and on all Parity Obligations secured by a pledge of any of the Pledged Revenues for any one Fiscal Year.

"Authorized Officers" means the Chair of the Governing Body, County Manager, County Treasurer, and County Clerk of the Governmental Unit.

"Bonds" means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority to fund or reimburse the Loan Agreement.

"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.

"Distributing State Agency" means the department or agency of the State, as described on the Term Sheet, authorized to distribute the Pledged Revenues on behalf of the Governmental Unit.

“Escrow Account” means an account created pursuant to the terms of the Escrow Agreement to be held and maintained by the Escrow Agent.

“Escrow Agent” means BOKF, NA, Albuquerque, New Mexico.

“Escrow Agreement” means the escrow agreement relating to the refunding and defeasance of the Series 2009 Bonds among the Governmental Unit and the Escrow Agent.

“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 and the Trustee 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 established under the Indenture 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 County Commission of the Governmental Unit, or any future successor governing body of the Governmental Unit.

“Governmental Unit” means Colfax County, New Mexico.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinaabove” and “hereafter” refer to the entire Ordinance and not solely to the particular section or paragraph of the 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, 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 determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

“Intercept Agreement” means the Intercept Agreement dated the Closing Date between the Governmental Unit and Finance Authority providing for the direct payment by 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” 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 and any amendments or supplements thereto, and including the exhibits attached to the Loan Agreement.

“Loan Agreement Principal Amount” means the original principal amount of the Loan Agreement as shown on the Term Sheet.

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

“Loan Agreement Reserve Requirement” means the amount shown as the Loan Agreement Reserve Account Deposit on the Term Sheet attached as Exhibit “A” to the Loan Agreement, which amount shall not to exceed the least of (i) ten percent (10%) of the Loan Agreement Principal Amount, (ii) 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 1978” means the New Mexico Statutes Annotated, 1978 compilation, as amended and supplemented.

“Ordinance” means this Ordinance No. _____ as adopted by the Governing Body on April 12, 2016, approving the Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement, as amended from time to time.

“Parity Obligations” means the 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 on parity with the Loan Agreement, including those obligations described on the Term Sheet, if any.

“Pledged Revenues” means the revenues derived from the one-eighth of one percent (0.125%) County Gross Receipts Tax and one-twelfth of one percent (0.0833%) County Gross Receipts Tax enacted pursuant to Sections 7-20E-1 through 7-20E-28, NMSA 1978, as amended, and the Tax Ordinances, distributed to the Governmental Unit monthly by the Distributing State Agency.

“Processing Fee” means the processing fee to be paid by the Governmental Unit on the Closing Date to the Finance Authority for the costs of originating and servicing the Loan, as shown on the Term Sheet.

“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 (1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving grounds relating thereto, and (2) refinancing, paying, discharging and defeasing the Governmental

Unit's outstanding Series 2009 Bonds, or any combination of such purposes, all within the Governmental Unit, as described in the Term Sheet.

"Reserve Fund Insurance Policy" means any insurance policy, surety bond or letter of credit deposited in or credited to the Loan Agreement Reserve Account in lieu of or in partial substitution for cash or allowable investments on deposit in the Loan Agreement Reserve Account. Any such insurance policy, surety bond or letter of credit must be issued by an entity having a rating in one of the two highest rating categories assigned by any nationally recognized rating agency at the time such policy, bond or letter of credit is initially deposited in or credited to the Loan Agreement Reserve Account.

"Series 2009 Bonds" means the Colfax County, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2009.

"Tax Ordinances" means (i) Governmental Unit Ordinance No. 86-1 adopted by the Governing Body on December 3, 1986 pursuant to Section 7-20E-9, NMSA 1978, which imposes a one-eighth of one percent (0.125%) County Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit and (ii) Governmental Unit Ordinance No. 2014-04 adopted by the Governing Body on August 12, 2014 pursuant to Section 7-20E-9, NMSA 1978, which imposes a one-twelfth of one percent (0.0833%) County Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit.

"State" means the State of New Mexico.

"Term Sheet" means Exhibit "A" to the Loan Agreement.

"Trustee" means BOKF, NA, 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 action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Governing Body and officers of the Governmental Unit directed toward the Project and the execution and delivery of the Loan Agreement, the Intercept Agreement and the Escrow Agreement be, and the same hereby are, ratified, approved and confirmed.

Section 3. Authorization of the Project the Loan Agreement, the Intercept Agreement, the Escrow Agreement and the Reserve Insurance Commitment. The Project and the method of financing the Project through execution and delivery of the Loan Agreement, the Intercept Agreement, the Escrow Agreement and the Reserve Insurance Commitment are hereby authorized and ordered. The Project is for the benefit 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, execution and delivery of the Loan Agreement, Intercept Agreement, Escrow Agreement and Reserve Insurance Commitment is necessary and advisable.

- B. Moneys available and on hand for the Project from all sources other than the Loan are not sufficient to defray the cost of 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, Intercept Agreement and Escrow 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 the Governmental Unit.
- F. The Governmental Unit will finance the Project, in whole or in part, with the net proceeds of the Loan.
- G. Other than as described in the Term Sheet, the Governmental Unit does not have any outstanding obligations payable from Pledged Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement, Intercept Agreement and Escrow 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 Sections 7-20E-1 through 7-20E-28, NMSA 1978, as amended, the Governmental Unit has heretofore adopted the Tax Ordinances, which impose a one-eighth increment and a one-twelfth increment of County Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit.

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

- A. Authorization. This Ordinance has been adopted by the affirmative vote of a two-thirds 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 completing the Project, it is hereby declared necessary that the Governmental Unit, pursuant to the Act, execute and deliver the Loan Agreement, Intercept Agreement and Escrow Agreement, evidencing a special, limited obligation of the Governmental Unit to pay a principal amount of [\$7,000,000], plus interest, and the execution and delivery of the Loan Agreement, Intercept Agreement and Escrow Agreement are hereby authorized. The Governmental Unit shall use the proceeds of the Loan to (i) finance the Project, (ii) fund the Loan Agreement Reserve Account or acquire a Reserve Fund Insurance Policy, (iii) make a deposit to the Finance Authority Debt Service Account, and (iv) pay the Processing Fee and Expenses.
- B. Detail. The Loan Agreement and Intercept Agreement shall be in substantially the forms presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an aggregate principal amount of [\$7,000,000], shall be payable in

installments of principal due on August 1 of the years designated in Exhibit "B" to the Loan Agreement and bear interest payable on February 1 and August 1 of each year, commencing on August 1, 2016 at the rates designated in Exhibit "B" to the Loan Agreement.

Section 6. Approval of Loan Agreement, Intercept Agreement and Escrow Agreement. The forms of the Loan Agreement, Intercept Agreement and Escrow 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, Intercept Agreement and Escrow Agreement with such changes, insertions and omissions as are consistent with this Ordinance and 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, Intercept Agreement and Escrow Agreement and attest the same. The execution of the Loan Agreement, Intercept Agreement and Escrow 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 interest thereon and 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, 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 therefor to payments required by the Loan Agreement, in its sole and absolute discretion.

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

A. Program Account, Finance Authority Debt Service Account, Loan Agreement Reserve Account and Escrow Account. The Governmental Unit hereby consents to creation of the Finance Authority Debt Service Account to be held and maintained by the Finance Authority, the Program Account and Loan Agreement Reserve Account to be held and maintained by the Trustee pursuant to the Indenture, and the Escrow Account to be held and maintained by the Escrow Agent, 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; (ii) the deposit of a portion of the proceeds of the Loan Agreement in the Escrow Account, (iii) the deposit of funds, or a Reserve Fund Insurance Policy, in the amount of the Loan Agreement Reserve Requirement in the Loan Agreement Reserve Account as set forth

in Exhibit "A" to the Loan Agreement; and (iv) the payment of the Processing Fee to the Finance Authority, all as set forth in the Term Sheet.

The proceeds derived from the execution and delivery of the Loan Agreement shall be deposited promptly upon the receipt thereof in the Finance Authority Debt Service Account, the Program Account, the Escrow Account and Loan Agreement Reserve 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 Project in compliance with applicable law and the provisions of the Loan Agreement and the Indenture.

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

B. Completion of the Project. Upon the Completion Date, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that payment for the Project has been completed. As soon as practicable after the Completion Date, 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 Finance Authority 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, the Pledged Revenues shall be paid directly by 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, including sufficient Pledged Revenues in the Loan Agreement Reserve Account, if funded, to maintain the Loan Agreement Reserve Requirement, or, if the Loan Agreement Reserve Account is funded with a Reserve Fund Insurance Policy, sufficient Pledged Revenues to reimburse the Bond Insurer pursuant to the terms of the Loan Agreement and Reserve Fund Insurance Policy.

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, if funded with proceeds or Pledged Revenues and not with a Reserve Fund Insurance Policy, 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, any moneys remaining in the Finance Authority 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 any Parity Obligations or 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. Lien on Pledged Revenues. Pursuant to this Ordinance and 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 thereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Revenues with the lien thereon of the Parity Obligations as set forth herein and in the Loan Agreement. The Governmental Unit shall not create a lien on the Pledged Revenues superior to that of the Loan Agreement.

Section 11. 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, the Escrow 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, the Intercept Agreement and the Escrow Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance, the Loan Agreement, the Intercept Agreement and the Escrow Agreement, including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan Agreement, Intercept Agreement and Escrow Agreement, and the publication of the summary of this Ordinance set out in Section 17 of this Ordinance (with such changes, additions and deletions as may be necessary).

Section 12. Amendment of Ordinance. Prior to the date of the initial delivery of the Loan Agreement to Finance Authority, the provisions of this Ordinance may be supplemented or amended by ordinance or resolution 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 by ordinance of the Governing Body without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.

Section 13. Ordinance Irrepealable. After the Loan Agreement, Intercept Agreement and Escrow 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 provided therein.

Section 14. 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 15. 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 16. 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 Chair of the Board of County Commissioners 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 17 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 such Ordinance shall be in full force and effect thereafter, in accordance with law.

Section 17. 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)

Colfax 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. _____ duly adopted and approved by the County Commission of the County of Colfax, New Mexico, on April 12, 2016. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the County Clerk, 230 N. 3rd Street, Raton, New Mexico.

COLFAX COUNTY, NEW MEXICO
ORDINANCE NO. _____

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE COUNTY OF COLFAX, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF [\$7,000,000], TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING: (1) THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF CAPITAL IMPROVEMENT PROJECTS WITHIN THE GOVERNMENTAL UNIT, INCLUDING THE GOVERNMENTAL UNIT'S DETENTION CENTER, COURTHOUSE AND BRIDGE PROJECTS, (2) REFUNDING THE GOVERNMENTAL UNIT'S OUTSTANDING GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2009, (3) PAYING A LOAN PROCESSING FEE, AND (4) FUNDING A LOAN AGREEMENT RESERVE ACCOUNT OR PAYING THE PREMIUM FOR A DEBT SERVICE RESERVE INSURANCE POLICY IN LIEU THEREOF; PROVIDING FOR THE PAYMENT

OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTIONS OF THE REVENUES OF THE (1) FIRST ONE-EIGHTH OF ONE PERCENT COUNTY GROSS RECEIPTS TAX AND (2) THE ONE-TWELFTH OF ONE PERCENT COUNTY GROSS RECEIPTS TAX IMPOSED PURSUANT TO SECTION 7-20E-9, NMSA 1978; PROVIDING FOR THE DISTRIBUTIONS OF THE REVENUES OF THE GROSS RECEIPTS TAXES FROM THE STATE TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED 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; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION 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 summary of the subject matter of the Ordinance 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 12TH DAY OF APRIL, 2016.

BOARD OF COUNTY COMMISSIONERS
OF COLFAX COUNTY, NEW MEXICO

Bill Sauble

Bill Sauble, Chairman

James L. Newton

James "Landon" Newton, Vice-Chairman

Roy Fernandez

Roy Fernandez



ATTEST:

Rebecca Hoy
Rebecca Hoy, County Clerk