

LUNA COUNTY, NEW MEXICO

RESOLUTION NO. 22-11

DECLARING THE INTENT OF THE BOARD OF COUNTY COMMISSIONERS (THE “GOVERNING BODY”) OF LUNA COUNTY, NEW MEXICO (THE “COUNTY”) TO CONSIDER FOR ADOPTION AN ORDINANCE AUTHORIZING ISSUANCE OF UP TO \$8,500,000 (EIGHT AND A HALF MILLION DOLLARS) OF ITS GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2022A - TAXABLE AND SERIES 2022B – TAX EXEMPT (COLLECTIVELY, THE “BONDS”), OR IN THE ALTERNATIVE, THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BY AND BETWEEN THE COUNTY AND A FINANCIAL INSTITUTION (THE “LOAN AGREEMENT”), EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE COUNTY FOR THE PURPOSE OF PROVIDING FUNDS FOR REFUNDING, REFINANCING AND DEFEASING ALL OR A PORTION OF THE OUTSTANDING \$3,245,000 CORRECTIONAL FACILITY GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2017 (THE “SERIES 2017 BONDS”) AND FOR THE PURPOSE OF PROVIDING FUNDS FOR OPERATING, MAINTAINING, CONSTRUCTING, PURCHASING, FURNISHING, EQUIPPING, REHABILITATING, EXPANDING OR IMPROVING A JUDICIAL-CORRECTIONAL OR COUNTY CORRECTIONAL FACILITY OR THE GROUNDS OF A JUDICIAL-CORRECTIONAL OR COUNTY CORRECTIONAL FACILITY, INCLUDING ACQUIRING AND IMPROVING PARKING LOTS, LANDSCAPING OR A COMBINATION OF THE FOREGOING; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST DUE UNDER THE BONDS OR LOAN AGREEMENT SOLELY FROM THE REVENUES DERIVED FROM ITS GROSS RECEIPTS TAX IMPOSED PURSUANT TO SECTION 7-20F-1 THROUGH 7-20F-6 NMSA 1978, AS AMENDED AND SUPPLEMENTED, AND COUNTY ORDINANCE NO. 60; AUTHORIZING AND DIRECTING THE PUBLICATION OF A NOTICE OF MEETING TO CONSIDER FINAL PASSAGE OF AN ORDINANCE AUTHORIZING BONDS AND A LOAN AGREEMENT IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY.

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

WHEREAS, pursuant to Section 7-20F-1 through 7-20F-6, NMSA 1978, as amended and supplemented, and County Ordinance No. 60 adopted on December 29, 2006 (the “Gross Receipts Tax”) the County is authorized to impose a County correctional facility gross receipts tax (with certain specified exemptions) of up to 1/8th of 1% of the gross receipts of persons engaging in business within all of the county (with certain specified exemptions); and;

WHEREAS, the County desires to consider for adoption an ordinance authorizing, in accordance with the Act (the “Ordinance”), the issuance of up to \$8,500,000 of its Gross Receipts Tax Revenue Bonds, Series 2022A - Taxable and Series 2022B – Tax Exempt (collectively, the “Bonds”) or, in the alternative, the execution and delivery of a loan agreement by and between a

financial institution and the County (the “Loan Agreement”) to provide funds to refund, refinance and defease all or a portion of its outstanding 2017 Bonds, which the Bonds or Loan Agreement shall be secured by a pledge of the revenues of the Gross Receipts Tax and to provide funds for operating, maintaining, constructing, purchasing, furnishing, equipping, rehabilitating, expanding or improving a judicial-correctional or county correctional facility or the grounds of a judicial-correctional or county correctional facility, including acquiring and improving parking lots, landscaping or a combination of the foregoing; and

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

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

Section 1. All action (not inconsistent with this Resolution) heretofore taken by the Board of County Commissioners of Luna County and the officers, employees and agents of the County thereof directed toward the issuance of the Bonds, or in the alternative, authorization, execution and delivery of a Loan Agreement for such purposes, be and the same is hereby ratified, approved and confirmed.

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

[Form of Notice]

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

Luna County, New Mexico, hereby gives notice of a regular Board of County Commissioners meeting for Thursday, March 10, 2022 at 10:00 a.m., in the Luna County Courthouse Building, 700 S. Silver Avenue, Deming, New Mexico. At such meeting the Board of County Commissioners will hold a public hearing concerning and will consider for adoption the Ordinance described below. Complete copies of the proposed Ordinance are available for public inspection during the normal and regular business hours of the County Clerk, 700 S. Silver Avenue, in Deming, New Mexico.

The title (subject to amendment or substitution) of the proposed Ordinance is:

**LUNA COUNTY, NEW
MEXICO ORDINANCE NO. 109**

AUTHORIZING ISSUANCE OF UP TO \$8,500,000 (EIGHT AND A HALF MILLION DOLLARS) OF ITS GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2022A – TAXABLE AND SERIES 2022B – TAX EXEMPT (COLLECTIVELY, THE “BONDS”), OR IN THE ALTERNATIVE, THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BY AND BETWEEN THE COUNTY AND A FINANCIAL INSTITUTION (THE “LOAN AGREEMENT”), EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE COUNTY FOR THE PURPOSE OF PROVIDING FUNDS FOR REFUNDING, REFINANCING AND DEFEASING ALL OR A PORTION OF THE OUTSTANDING \$3,245,000 CORRECTIONAL FACILITY GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2017 (THE “SERIES 2017 BONDS”) AND FOR THE PURPOSE OF PROVIDING FUNDS FOR OPERATING, MAINTAINING, CONSTRUCTING, PURCHASING, FURNISHING, EQUIPPING, REHABILITATING, EXPANDING OR IMPROVING A JUDICIAL-CORRECTIONAL OR COUNTY CORRECTIONAL FACILITY OR THE GROUNDS OF A JUDICIAL-CORRECTIONAL OR COUNTY CORRECTIONAL FACILITY, INCLUDING ACQUIRING AND IMPROVING PARKING LOTS, LANDSCAPING OR A COMBINATION OF THE FOREGOING; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST DUE UNDER THE BONDS OR LOAN AGREEMENT SOLELY FROM THE REVENUES DERIVED FROM ITS GROSS RECEIPTS TAX IMPOSED PURSUANT TO SECTION 7-20F-1 THROUGH 7-20F-6 NMSA 1978, AS AMENDED AND SUPPLEMENTED, AND COUNTY ORDINANCE NO. 60; DELEGATING AUTHORITY TO THE DELEGATEE TO EXECUTE AND DELIVER A BOND PURCHASE AGREEMENT AND SALE CERTIFICATE FOR THE SALE OF THE BONDS TO THE PURCHASER PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT AND ENTERING INTO CERTAIN COVENANTS AND AGREEMENTS IN THAT CONNECTION; AUTHORIZING AND DIRECTING THE PUBLICATION OF A NOTICE OF MEETING TO CONSIDER FINAL PASSAGE OF AN ORDINANCE AUTHORIZING BONDS AND A LOAN AGREEMENT IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE BONDS OR LOAN AGREEMENT; 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 2022 BONDS OR LOAN AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title. This notice constitutes compliance with Section 4-37-7, NMSA 1978, as amended.

[End of Form of Notice]

Section 3. The Bonds or Loan Agreement will provide a principal loan amount not to exceed \$8,500,000 and shall evidence a special, limited obligation to provide funds to refund, refinance and defease its 2017 Bonds, which the Bonds or Loan Agreement shall be secured by a pledge of the revenues of the Gross Receipts Tax and to provide funds for operating, maintaining, constructing, purchasing, furnishing, equipping, rehabilitating, expanding or improving a judicial-correctional or county correctional facility or the grounds of a judicial-correctional or county correctional facility, including acquiring and improving parking lots, landscaping or a combination of the foregoing.

Section 4. The Ordinance shall be filed with the County Clerk, and shall be considered by the County at a regular meeting of the County on Thursday, March 10, 2022 at 10:00 a.m., or as soon thereafter as the matter may be heard, in the Luna County Building, 700 S. Silver Avenue, Deming, New Mexico.

Section 5. Melendres & Melendres, P.C. is hereby engaged as bond counsel to the County in connection with the issuance of the Bonds. Bosque Advisors, LLC is hereby engaged as financial advisor to the County in connection with the issuance of the Bonds.

Section 6. If any section, paragraph, clause or provision of this resolution shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

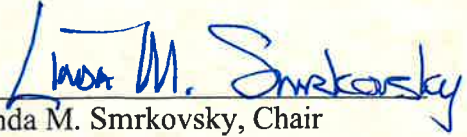
Section 7. All acts, orders and resolutions of the Issuer, and parts thereof, inconsistent with this resolution be, and the same hereby are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 8. The resolution shall in full force and effect upon its passage and approval.

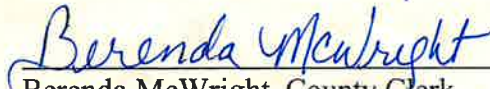
(Signature page follows)

APPROVED AND ADOPTED THIS 10th DAY OF FEBRUARY 2022.

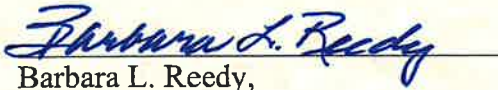
LUNA COUNTY
BOARD OF COMMISSIONERS



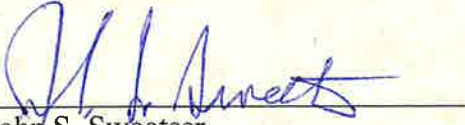
Linda M. Smrkovsky, Chair
Commissioner, District 2



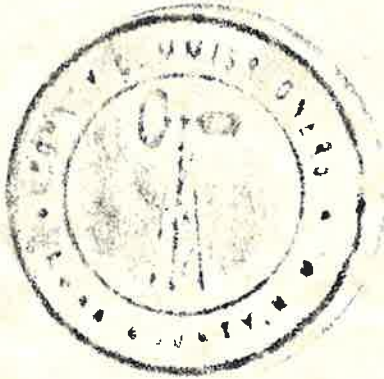
Berenda McWright, County Clerk
(SEAL)



Barbara L. Reedy,
Commissioner, District 1



John S. Sweetser,
Commissioner, District 3



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

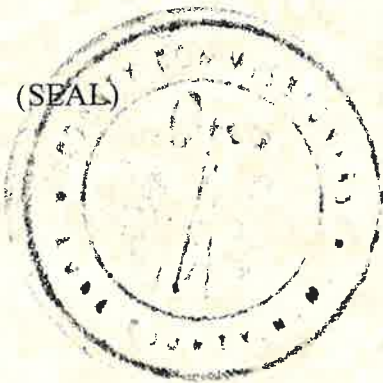
I, Berenda McWright, County Clerk of Luna County, New Mexico (the “County”), do hereby certify:

1. The foregoing pages are a true, correct and complete copy of the record of the proceedings of the Board of County Commissioners (the “Governing Body”) of the County, constituting the Governing Body of the County, had and taken at a duly called regular meeting of the Governing Body held in the Luna County Building, 700 S. Silver Avenue, in Deming, New Mexico, on February 10, 2022, at the hour of 10:00 a.m., insofar as the same relate to the publication of the title and general summary of a proposed ordinance, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Luna County, New Mexico, this February 10, 2022.



Berenda McWright

Berenda McWright, County Clerk